

ENROLLED

CS/CS/HB 885

2021 Legislature

1  
2 An act relating to juvenile justice programs and  
3 detention; amending s. 20.316, F.S.; creating the  
4 Accountability and Program Support Program within the  
5 Department of Juvenile Justice and revising the name  
6 of an existing program; amending s. 985.101, F.S.;  
7 requiring a court to consider specified information  
8 before it issues an order to take a child into custody  
9 for failing to appear; amending s. 985.435, F.S.;  
10 requiring each judicial circuit to develop, in  
11 consultation with specified persons and entities, a  
12 written plan specifying the alternative consequence  
13 component which must be based upon certain principles;  
14 providing that the alternative consequence component  
15 is designed to provide swift and appropriate  
16 consequences or incentives to a child who is alleged  
17 to be noncompliant with or in violation of probation;  
18 repealing s. 985.686, F.S., relating to the shared  
19 county and state financial support responsibility for  
20 juvenile detention; amending s. 985.6865, F.S.;  
21 deleting provisions relating to legislative findings  
22 and intent; requiring the Department of Juvenile  
23 Justice to calculate annually by a certain date and  
24 provide to each county that is not a fiscally  
25 constrained county and that does not provide its own

ENROLLED

CS/CS/HB 885

2021 Legislature

26 | detention care for juveniles its annual percentage  
27 | share of detention costs; requiring each county that  
28 | is not a fiscally constrained county and that does not  
29 | provide its own detention care for juveniles to  
30 | incorporate into its annual county budget sufficient  
31 | funds to pay its annual percentage share of detention  
32 | costs; amending s. 1003.52, F.S.; authorizing the  
33 | Department of Juvenile Justice, in consultation with  
34 | the Department of Education, to evaluate the viability  
35 | of an alternative model for providing and funding  
36 | education services for youth in detention and  
37 | residential facilities; providing requirements;  
38 | providing for expiration; reenacting ss. 960.001(1)(b)  
39 | and 985.439(2), F.S., relating to guidelines for fair  
40 | treatment of victims and witnesses in the criminal  
41 | justice and juvenile justice systems and violation of  
42 | probation or postcommitment probation, respectively,  
43 | to incorporate the amendment made to s. 985.101, F.S.,  
44 | in references thereto; reenacting s. 985.565(4)(b),  
45 | F.S., relating to sentencing alternatives, to  
46 | incorporate the amendment made to s. 985.435, F.S., in  
47 | a reference thereto; providing an effective date.

48 |  
49 | Be It Enacted by the Legislature of the State of Florida:  
50 |

ENROLLED

CS/CS/HB 885

2021 Legislature

51 Section 1. Upon the expiration and reversion of the  
 52 amendment made to section 20.316, Florida Statutes, pursuant to  
 53 section 65 of chapter 2020-114, Laws of Florida, subsections (2)  
 54 and (3) of section 20.316, Florida Statutes, are amended to  
 55 read:

56 20.316 Department of Juvenile Justice.—There is created a  
 57 Department of Juvenile Justice.

58 (2) DEPARTMENT PROGRAMS.—The following programs are  
 59 established within the Department of Juvenile Justice:

60 (a) Accountability and Program Support.

61 (d) ~~(a)~~ Prevention ~~and Victim~~ Services.

62 (c) ~~(b)~~ Intake and Detention.

63 (f) ~~(e)~~ Residential and Correctional Facilities.

64 (e) ~~(d)~~ Probation and Community Corrections.

65 (b) ~~(e)~~ Administration.

66  
 67 The secretary may establish assistant secretary positions and a  
 68 chief of staff position as necessary to administer the  
 69 requirements of this section.

70 (3) JUVENILE JUSTICE OPERATING CIRCUITS.—The department  
 71 shall plan and administer its programs through a substate  
 72 structure that conforms to the boundaries of the judicial  
 73 circuits prescribed in s. 26.021. A county may seek placement in  
 74 a juvenile justice operating circuit other than as prescribed in  
 75 s. 26.021 for participation in the Prevention ~~and Victim~~

ENROLLED

CS/CS/HB 885

2021 Legislature

76 Services Program and the Probation and Community Corrections  
 77 Program by making a request of the chief circuit judge in each  
 78 judicial circuit affected by such request. Upon a showing that  
 79 geographic proximity, community identity, or other legitimate  
 80 concern for efficiency of operations merits alternative  
 81 placement, each affected chief circuit judge may authorize the  
 82 execution of an interagency agreement specifying the alternative  
 83 juvenile justice operating circuit in which the county is to be  
 84 placed and the basis for the alternative placement. Upon the  
 85 execution of said interagency agreement by each affected chief  
 86 circuit judge, the secretary may administratively place a county  
 87 in an alternative juvenile justice operating circuit pursuant to  
 88 the agreement.

89 Section 2. Paragraph (c) of subsection (1) of section  
 90 985.101, Florida Statutes, is amended to read:

91 985.101 Taking a child into custody.—

92 (1) A child may be taken into custody under the following  
 93 circumstances:

94 (c) By a law enforcement officer for failing to appear at  
 95 a court hearing after being properly noticed. However, before a  
 96 court issues an order to take a child into custody for failing  
 97 to appear, it must consider all of the following information  
 98 relating to whether the child's nonappearance was willful:

99 1. Whether notice was sent to the child's address included  
 100 in the official court record.

ENROLLED

CS/CS/HB 885

2021 Legislature

101 2. Whether any person provided notice to the child in any  
 102 format.

103 3. If the child is represented by counsel, whether counsel  
 104 for the child has information that the nonappearance was not  
 105 willful or was otherwise beyond the child's control.

106 4. Whether a department representative had contact or  
 107 attempted to have contact with the child.

108 5. Whether the department has any other specific  
 109 information to assist the court in making the determination.

110  
 111 Nothing in this subsection shall be construed to allow the  
 112 detention of a child who does not meet the detention criteria in  
 113 part V.

114 Section 3. Subsection (4) of section 985.435, Florida  
 115 Statutes, is amended to read:

116 985.435 Probation and postcommitment probation; community  
 117 service.—

118 (4) A probation program may also include an alternative  
 119 consequence component to address instances in which a child is  
 120 noncompliant with technical conditions of his or her probation  
 121 but has not committed any new violations of law. Each judicial  
 122 circuit shall develop, in consultation with judges, the state  
 123 attorney, the public defender, the regional counsel, relevant  
 124 law enforcement agencies, and the department, a written plan  
 125 specifying the alternative consequence component which must be

ENROLLED

CS/CS/HB 885

2021 Legislature

126 | based upon the principle that sanctions must reflect the  
127 | seriousness of the violation, the assessed criminogenic needs  
128 | and risks of the child, the child's age and maturity level, and  
129 | how effective the sanction or incentive will be in moving the  
130 | child to compliant behavior. The alternative consequence  
131 | component is designed to provide swift and appropriate  
132 | consequences or incentives to a child who is alleged to be  
133 | noncompliant with or in violation of ~~to any noncompliance with~~  
134 | ~~technical conditions of~~ probation. If the probation program  
135 | includes this component, specific consequences that apply to  
136 | noncompliance with specific technical conditions of probation,  
137 | as well as incentives used to move the child toward compliant  
138 | behavior, must be detailed in the disposition order.

139 | Section 4. Section 985.686, Florida Statutes, is repealed.

140 | Section 5. Subsections (1) through (6) of section  
141 | 985.6865, Florida Statutes, are amended to read:

142 | 985.6865 Juvenile detention.—

143 | ~~(1) The Legislature finds that various counties and the~~  
144 | ~~Department of Juvenile Justice have engaged in a multitude of~~  
145 | ~~legal proceedings regarding detention cost sharing for~~  
146 | ~~juveniles. Such litigation has largely focused on how the~~  
147 | ~~Department of Juvenile Justice calculates the detention costs~~  
148 | ~~that the counties are responsible for paying, leading to the~~  
149 | ~~overbilling of counties for a period of years. Additionally,~~  
150 | ~~litigation pending in 2016 is a financial burden on the~~

ENROLLED

CS/CS/HB 885

2021 Legislature

151 ~~taxpayers of this state.~~

152 ~~(2) It is the intent of the Legislature that all counties~~  
153 ~~that are not fiscally constrained counties and that have pending~~  
154 ~~administrative or judicial claims or challenges file a notice of~~  
155 ~~voluntary dismissal with prejudice to dismiss all actions~~  
156 ~~pending on or before February 1, 2016, against the state or any~~  
157 ~~state agency related to juvenile detention cost sharing.~~  
158 ~~Furthermore, all counties that are not fiscally constrained~~  
159 ~~shall execute a release and waiver of any existing or future~~  
160 ~~claims and actions arising from detention cost share prior to~~  
161 ~~the 2016-2017 fiscal year. The department may not seek~~  
162 ~~reimbursement from counties complying with this subsection for~~  
163 ~~any underpayment for any cost sharing requirements before the~~  
164 ~~2016-2017 fiscal year.~~

165 (1)~~(3)~~ As used in this section, the term:

166 (a) "Detention care" means secure detention and respite  
167 beds for juveniles charged with a domestic violence crime.

168 (b) "Fiscally constrained county" means a county within a  
169 rural area of opportunity as designated by the Governor pursuant  
170 to s. 288.0656 or each county for which the value of a mill will  
171 raise no more than \$5 million in revenue, based on the certified  
172 school taxable value certified pursuant to s. 1011.62(4)(a)1.a.,  
173 from the previous July 1.

174 (c) "Total shared detention costs" means the amount of  
175 funds expended by the department for the costs of detention care

ENROLLED

CS/CS/HB 885

2021 Legislature

176 | for the prior fiscal year. This amount includes the most recent  
 177 | actual certify forward amounts minus any funds it expends on  
 178 | detention care for juveniles residing in fiscally constrained  
 179 | counties or out of state.

180 |       ~~(2)(4) Annually Notwithstanding s. 985.686, for the 2017-~~  
 181 | ~~2018 fiscal year, and each fiscal year thereafter, each county~~  
 182 | ~~that is not a fiscally constrained county and that has taken the~~  
 183 | ~~action fulfilling the intent of this section as described in~~  
 184 | ~~subsection (2) shall pay its annual percentage share of 50~~  
 185 | ~~percent of the total shared detention costs. by July 15, 2017,~~  
 186 | ~~and each year thereafter,~~ the department shall calculate and  
 187 | provide to each county that is not a fiscally constrained county  
 188 | and that does not provide its own detention care for juveniles  
 189 | its annual percentage share by dividing the total number of  
 190 | detention days for juveniles residing in the county for the most  
 191 | recently completed 12-month period by the total number of  
 192 | detention days for juveniles in all counties that are not  
 193 | fiscally constrained counties during the same period. The annual  
 194 | percentage share of each county that is not a fiscally  
 195 | constrained county and that does not provide its own detention  
 196 | care for juveniles must be multiplied by 50 percent of the total  
 197 | shared detention costs to determine that county's share of  
 198 | detention costs. Beginning August 1, each such county shall pay  
 199 | to the department its share of detention costs, which shall be  
 200 | paid in 12 equal payments due on the first day of each month.

ENROLLED

CS/CS/HB 885

2021 Legislature

201 The state shall pay the remaining actual costs of detention  
 202 care.

203 (3)~~(5)~~ The state shall pay all costs of detention care for  
 204 juveniles residing in a fiscally constrained county and for  
 205 juveniles residing out of state. The state shall pay all costs  
 206 of detention care for juveniles housed in state detention  
 207 centers from counties that provide their own detention care for  
 208 juveniles.

209 (4)~~(6)~~ Each county that is not a fiscally constrained  
 210 county and that does not provide its own detention care for  
 211 juveniles ~~has taken the action fulfilling the intent of this~~  
 212 ~~section as described in subsection (2)~~ shall incorporate into  
 213 its annual county budget sufficient funds to pay its annual  
 214 percentage share of the total shared detention costs required by  
 215 subsection (2) ~~(4)~~.

216 Section 6. Subsection (23) is added to section 1003.52,  
 217 Florida Statutes, to read:

218 1003.52 Educational services in Department of Juvenile  
 219 Justice programs.—

220 (23) Notwithstanding this section, during fiscal year  
 221 2021-2022, the Department of Juvenile Justice, in consultation  
 222 with the Department of Education, is authorized to evaluate the  
 223 viability of an alternative model for providing and funding  
 224 educational services for youth in detention and residential  
 225 facilities. This evaluation must include material gathered

ENROLLED

CS/CS/HB 885

2021 Legislature

226 | through a request for information process. Such model must  
 227 | provide for assessments and direct educational services,  
 228 | including, but not limited to, special education and career and  
 229 | technical educational services; transition planning; educational  
 230 | program accountability standards; research-based best practices  
 231 | for educating justice-involved youth; and the recruiting,  
 232 | hiring, and training of teachers. This subsection expires June  
 233 | 1, 2022.

234 | Section 7. For the purpose of incorporating the amendment  
 235 | made by this act to section 985.101, Florida Statutes, in  
 236 | references thereto, paragraph (b) of subsection (1) of section  
 237 | 960.001, Florida Statutes, is reenacted to read:

238 | 960.001 Guidelines for fair treatment of victims and  
 239 | witnesses in the criminal justice and juvenile justice systems.—

240 | (1) The Department of Legal Affairs, the state attorneys,  
 241 | the Department of Corrections, the Department of Juvenile  
 242 | Justice, the Florida Commission on Offender Review, the State  
 243 | Courts Administrator and circuit court administrators, the  
 244 | Department of Law Enforcement, and every sheriff's department,  
 245 | police department, or other law enforcement agency as defined in  
 246 | s. 943.10(4) shall develop and implement guidelines for the use  
 247 | of their respective agencies, which guidelines are consistent  
 248 | with the purposes of this act and s. 16(b), Art. I of the State  
 249 | Constitution and are designed to implement s. 16(b), Art. I of  
 250 | the State Constitution and to achieve the following objectives:

ENROLLED

CS/CS/HB 885

2021 Legislature

251           (b) *Information for purposes of notifying victim or*  
252 *appropriate next of kin of victim or other designated contact of*  
253 *victim.*—In the case of a homicide, pursuant to chapter 782; or a  
254 sexual offense, pursuant to chapter 794; or an attempted murder  
255 or sexual offense, pursuant to chapter 777; or stalking,  
256 pursuant to s. 784.048; or domestic violence, pursuant to s.  
257 25.385:

258           1. The arresting law enforcement officer or personnel of  
259 an organization that provides assistance to a victim or to the  
260 appropriate next of kin of the victim or other designated  
261 contact must request that the victim or appropriate next of kin  
262 of the victim or other designated contact complete a victim  
263 notification card. However, the victim or appropriate next of  
264 kin of the victim or other designated contact may choose not to  
265 complete the victim notification card.

266           2. Unless the victim or the appropriate next of kin of the  
267 victim or other designated contact waives the option to complete  
268 the victim notification card, a copy of the victim notification  
269 card must be filed with the incident report or warrant in the  
270 sheriff's office of the jurisdiction in which the incident  
271 report or warrant originated. The notification card shall, at a  
272 minimum, consist of:

273           a. The name, address, and phone number of the victim; or  
274           b. The name, address, and phone number of the appropriate  
275 next of kin of the victim; or

ENROLLED

CS/CS/HB 885

2021 Legislature

276 c. The name, address, and telephone number of a designated  
277 contact other than the victim or appropriate next of kin of the  
278 victim; and

279 d. Any relevant identification or case numbers assigned to  
280 the case.

281 3. The chief administrator, or a person designated by the  
282 chief administrator, of a county jail, municipal jail, juvenile  
283 detention facility, or residential commitment facility shall  
284 make a reasonable attempt to notify the alleged victim or  
285 appropriate next of kin of the alleged victim or other  
286 designated contact within 4 hours following the release of the  
287 defendant on bail or, in the case of a juvenile offender, upon  
288 the release from residential detention or commitment. If the  
289 chief administrator, or designee, is unable to contact the  
290 alleged victim or appropriate next of kin of the alleged victim  
291 or other designated contact by telephone, the chief  
292 administrator, or designee, must send to the alleged victim or  
293 appropriate next of kin of the alleged victim or other  
294 designated contact a written notification of the defendant's  
295 release.

296 4. Unless otherwise requested by the victim or the  
297 appropriate next of kin of the victim or other designated  
298 contact, the information contained on the victim notification  
299 card must be sent by the chief administrator, or designee, of  
300 the appropriate facility to the subsequent correctional or

ENROLLED

CS/CS/HB 885

2021 Legislature

301 residential commitment facility following the sentencing and  
302 incarceration of the defendant, and unless otherwise requested  
303 by the victim or the appropriate next of kin of the victim or  
304 other designated contact, he or she must be notified of the  
305 release of the defendant from incarceration as provided by law.

306 5. If the defendant was arrested pursuant to a warrant  
307 issued or taken into custody pursuant to s. 985.101 in a  
308 jurisdiction other than the jurisdiction in which the defendant  
309 is being released, and the alleged victim or appropriate next of  
310 kin of the alleged victim or other designated contact does not  
311 waive the option for notification of release, the chief  
312 correctional officer or chief administrator of the facility  
313 releasing the defendant shall make a reasonable attempt to  
314 immediately notify the chief correctional officer of the  
315 jurisdiction in which the warrant was issued or the juvenile was  
316 taken into custody pursuant to s. 985.101, and the chief  
317 correctional officer of that jurisdiction shall make a  
318 reasonable attempt to notify the alleged victim or appropriate  
319 next of kin of the alleged victim or other designated contact,  
320 as provided in this paragraph, that the defendant has been or  
321 will be released.

322 Section 8. For the purpose of incorporating the amendment  
323 made by this act to section 985.101, Florida Statutes, in a  
324 reference thereto, subsection (2) of section 985.439, Florida  
325 Statutes, is reenacted to read:

ENROLLED

CS/CS/HB 885

2021 Legislature

326 985.439 Violation of probation or postcommitment  
 327 probation.—

328 (2) A child taken into custody under s. 985.101 for  
 329 violating the conditions of probation shall be screened and  
 330 detained or released based on his or her risk assessment  
 331 instrument score.

332 Section 9. For the purpose of incorporating the amendment  
 333 made by this act to section 985.435, Florida Statutes, in a  
 334 reference thereto, paragraph (b) of subsection (4) of section  
 335 985.565, Florida Statutes, is reenacted to read:

336 985.565 Sentencing powers; procedures; alternatives for  
 337 juveniles prosecuted as adults.—

338 (4) SENTENCING ALTERNATIVES.—

339 (b) *Juvenile sanctions*.—For juveniles transferred to adult  
 340 court but who do not qualify for such transfer under s.  
 341 985.556(3), the court may impose juvenile sanctions under this  
 342 paragraph. If juvenile sentences are imposed, the court shall,  
 343 under this paragraph, adjudge the child to have committed a  
 344 delinquent act. Adjudication of delinquency may not be deemed a  
 345 conviction, nor shall it operate to impose any of the civil  
 346 disabilities ordinarily resulting from a conviction. The court  
 347 shall impose an adult sanction or a juvenile sanction and may  
 348 not sentence the child to a combination of adult and juvenile  
 349 punishments. An adult sanction or a juvenile sanction may  
 350 include enforcement of an order of restitution or probation

ENROLLED

CS/CS/HB 885

2021 Legislature

351 | previously ordered in any juvenile proceeding. However, if the  
352 | court imposes a juvenile sanction and the department determines  
353 | that the sanction is unsuitable for the child, the department  
354 | shall return custody of the child to the sentencing court for  
355 | further proceedings, including the imposition of adult  
356 | sanctions. Upon adjudicating a child delinquent under subsection  
357 | (1), the court may:

358 |       1. Place the child in a probation program under the  
359 | supervision of the department for an indeterminate period of  
360 | time until the child reaches the age of 19 years or sooner if  
361 | discharged by order of the court.

362 |       2. Commit the child to the department for treatment in an  
363 | appropriate program for children for an indeterminate period of  
364 | time until the child is 21 or sooner if discharged by the  
365 | department. The department shall notify the court of its intent  
366 | to discharge no later than 14 days before discharge. Failure of  
367 | the court to timely respond to the department's notice shall be  
368 | considered approval for discharge.

369 |       3. Order disposition under ss. 985.435, 985.437, 985.439,  
370 | 985.441, 985.45, and 985.455 as an alternative to youthful  
371 | offender or adult sentencing if the court determines not to  
372 | impose youthful offender or adult sanctions.

373 |

374 | It is the intent of the Legislature that the criteria and  
375 | guidelines in this subsection are mandatory and that a

ENROLLED

CS/CS/HB 885

2021 Legislature

376 | determination of disposition under this subsection is subject to  
377 | the right of the child to appellate review under s. 985.534.  
378 |       Section 10. This act shall take effect July 1, 2021.