

By Senator Altman

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1                                   A bill to be entitled  
2       An act relating to juvenile justice; amending s.  
3       985.265, F.S.; deleting provisions requiring the court  
4       to order the delivery of a child to a jail or other  
5       facility intended or used to detain adults; amending  
6       s. 985.556, F.S.; deleting a provision that transfers  
7       and certifies a child's criminal case for trial as an  
8       adult if a parent or guardian demands his or her child  
9       to be tried as an adult; authorizing a state attorney  
10      to request, and the court to grant, a transfer and  
11      certify a child 16 years of age or older who commits  
12      specified crimes for prosecution as an adult, rather  
13      than providing for involuntary discretionary waiver or  
14      involuntary mandatory waiver for a child 14 years of  
15      age or older; revising the requirements for a waiver  
16      hearing and the procedures to be followed; prohibiting  
17      the transfer of a child to adult court under certain  
18      circumstances; authorizing, rather than requiring, the  
19      court to transfer and certify to the adult circuit  
20      court all felony cases pertaining to a child under  
21      certain circumstances; deleting a provision requiring  
22      that, under certain circumstances, a child be handled  
23      in every respect as an adult for any subsequent  
24      violation of law; requiring the Department of Juvenile  
25      Justice to collect specified information; requiring  
26      the department to annually provide a report to the  
27      Legislature analyzing the collected data; repealing s.  
28      985.557, F.S., relating to direct filing of an  
29      information; amending s. 985.56, F.S.; providing that

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30 only a child who is 16 years of age or older, rather  
31 than a child of any age, may be indicted, tried, and  
32 handled in every respect as an adult, under certain  
33 circumstances; deleting certain crimes for which a  
34 child is required to be sentenced and handled as an  
35 adult; removing a provision requiring that a child who  
36 has been indicted as an adult be treated as an adult  
37 for subsequent violations of law; authorizing, rather  
38 than requiring, a court to transfer and certify to the  
39 adult circuit court all related felony cases; amending  
40 s. 985.565, F.S.; providing that a court may impose  
41 juvenile sanctions or adult sanctions; revising the  
42 criteria a court must consider in making that  
43 determination; requiring an adult court to include  
44 specific findings and reasons for its decision in its  
45 order; providing that the order is reviewable on  
46 appeal; adding further evidence that a court must  
47 consider; providing for parties to examine the  
48 reports; authorizing and revising how a court  
49 sentences children who have been transferred for  
50 criminal prosecution and found to have committed a  
51 violation of state law; requiring a court to specify  
52 the reasons for issuing a sentence to a child;  
53 deleting provisions authorizing a court, under certain  
54 circumstances, to issue juvenile sanctions; deleting  
55 provisions authorizing adult sanctions upon failure of  
56 juvenile sanctions; authorizing a court to issue  
57 certain juvenile sanctions; amending s. 985.57, F.S.;  
58 requiring, rather than authorizing, a child to be

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59 transferred from the Department of Corrections to the  
60 Department of Juvenile Justice under certain  
61 circumstances; amending s. 985.03, F.S.; conforming a  
62 cross-reference; amending ss. 985.04 and 985.15, F.S.;  
63 conforming provisions to changes made by the act;  
64 providing an effective date.

65

66 Be It Enacted by the Legislature of the State of Florida:

67

68 Section 1. Section 985.265, Florida Statutes, is amended to  
69 read:

70 985.265 Detention transfer and release; education; ~~adult~~  
71 ~~jails.~~-

72 (1) If a child is detained under this part, the department  
73 may transfer the child from nonsecure detention care to secure  
74 detention care only if significantly changed circumstances  
75 warrant such transfer.

76 (2) If a child is on release status and not detained under  
77 this part, the child may be placed into secure or nonsecure  
78 detention care only pursuant to a court hearing in which the  
79 original risk assessment instrument and the newly discovered  
80 evidence or changed circumstances are introduced into evidence  
81 with a rescored risk assessment instrument.

82 (3) (a) When a juvenile sexual offender is placed in  
83 detention, detention staff shall provide appropriate monitoring  
84 and supervision to ensure the safety of other children in the  
85 facility.

86 (b) When a juvenile is released from secure detention or  
87 transferred to nonsecure detention, detention staff shall

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88 immediately notify the appropriate law enforcement agency,  
89 school personnel, and victim if the juvenile is charged with  
90 committing any of the following offenses or attempting to commit  
91 any of the following offenses:

- 92 1. Murder, under s. 782.04;
- 93 2. Sexual battery, under chapter 794;
- 94 3. Stalking, under s. 784.048; or
- 95 4. Domestic violence, as defined in s. 741.28.

96 (4) (a) While a child who is currently enrolled in school is  
97 in nonsecure detention care, the child shall continue to attend  
98 school unless otherwise ordered by the court.

99 (b) While a child is in secure detention care, the child  
100 shall receive education commensurate with his or her grade level  
101 and educational ability.

102 ~~(5) The court shall order the delivery of a child to a jail~~  
103 ~~or other facility intended or used for the detention of adults:~~

104 ~~(a) When the child has been transferred or indicted for~~  
105 ~~criminal prosecution as an adult under part X, except that the~~  
106 ~~court may not order or allow a child alleged to have committed a~~  
107 ~~misdemeanor who is being transferred for criminal prosecution~~  
108 ~~pursuant to either s. 985.556 or s. 985.557 to be detained or~~  
109 ~~held in a jail or other facility intended or used for the~~  
110 ~~detention of adults; however, such child may be held temporarily~~  
111 ~~in a detention facility; or~~

112 ~~(b) When a child taken into custody in this state is wanted~~  
113 ~~by another jurisdiction for prosecution as an adult.~~

114

115 ~~The child shall be housed separately from adult inmates to~~  
116 ~~prohibit a child from having regular contact with incarcerated~~

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117 ~~adults, including trusties. "Regular contact" means sight and~~  
118 ~~sound contact. Separation of children from adults shall permit~~  
119 ~~no more than haphazard or accidental contact. The receiving jail~~  
120 ~~or other facility shall contain a separate section for children~~  
121 ~~and shall have an adequate staff to supervise and monitor the~~  
122 ~~child's activities at all times. Supervision and monitoring of~~  
123 ~~children includes physical observation and documented checks by~~  
124 ~~jail or receiving facility supervisory personnel at intervals~~  
125 ~~not to exceed 10 minutes. This subsection does not prohibit~~  
126 ~~placing two or more children in the same cell. Under no~~  
127 ~~circumstances shall a child be placed in the same cell with an~~  
128 ~~adult.~~

129 Section 2. Section 985.556, Florida Statutes, is amended to  
130 read:

131 (Substantial rewording of section. See  
132 s. 985.556, F.S., for present text.)

133 985.556 Waiver of juvenile court jurisdiction; hearing.-

134 (1) JUDICIAL WAIVER.-A state attorney may request, and the  
135 court may grant, a waiver of juvenile court jurisdiction and  
136 transfer and certify a child's case for prosecution as an adult  
137 for any of the following reasons:

138 (a) If a child was 16 years of age or older at the time of  
139 the charged offense; has been previously adjudicated delinquent  
140 for an act classified as a felony, which adjudication was for  
141 the commission of, or attempt to commit, murder, sexual battery,  
142 armed robbery, carjacking, home-invasion robbery, aggravated  
143 battery resulting in great bodily harm, permanent disability, or  
144 permanent disfigurement, aggravated assault with a firearm, or  
145 burglary with an assault or battery; and is currently charged

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146 with a second or subsequent violent felony against a person.

147 (b) If a child was 16 years of age or older at the time of  
148 commission of a fourth or subsequent alleged felony offense and  
149 the child was previously adjudicated delinquent or had  
150 adjudication withheld for, or was found to have committed or to  
151 have attempted to commit, three separate, nonrelated incidents  
152 that are felony offenses when committed by an adult, and one or  
153 more of such felony offenses involved the use or possession of a  
154 firearm or violence against a person.

155 (c) If a child is charged with, and was 16 years of age or  
156 older at the time of the alleged commission of, or attempt to  
157 commit:

- 158 1. Arson;
- 159 2. Sexual battery;
- 160 3. Armed robbery;
- 161 4. Kidnapping;
- 162 5. Aggravated child abuse;
- 163 6. Aggravated assault with a firearm;
- 164 7. Aggravated stalking;
- 165 8. Murder;
- 166 9. Manslaughter;
- 167 10. Unlawful throwing, placing, or discharging of a  
168 destructive device or bomb;
- 169 11. Armed burglary in violation of s. 810.02(2)(b),  
170 specified burglary of a dwelling or structure in violation of s.  
171 810.02(2)(c), or burglary with an assault or battery in  
172 violation of s. 810.02(2)(a);
- 173 12. Aggravated battery resulting in great bodily harm,  
174 permanent disability, or permanent disfigurement;

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175 13. Carrying, displaying, or using or threatening or  
176 attempting to use, a weapon or firearm during the commission of  
177 a felony;

178 14. Possessing or discharging any weapon or firearm at a  
179 school-sponsored event or on school property in violation of s.  
180 790.115;

181 15. Home-invasion robbery; or

182 16. Carjacking.

183 (2) TRANSFER PROCEDURE.—

184 (a) After considering the recommendation of the juvenile  
185 probation officer, but before an adjudicatory hearing, the state  
186 attorney may file a motion requesting the court to transfer a  
187 child to adult court for criminal prosecution within 7 business  
188 days after the date a petition alleging that the child has  
189 committed a delinquent act or violation of law is filed, or  
190 later with the approval of the court.

191 (b) After the filing of the motion of the state attorney, a  
192 summons must be issued and served pursuant to s. 985.319. A copy  
193 of the motion and a copy of the delinquency petition, if not  
194 already served, must be attached to the summons.

195 (c) The court shall conduct a hearing on all transfer  
196 request motions for the purpose of determining whether a child  
197 should be transferred. In making its determination, the court  
198 shall consider:

199 1. The seriousness of the alleged offense and whether the  
200 safety of the community would be best served by juvenile or  
201 adult sanctions.

202 2. Whether the alleged offense was committed in an  
203 aggressive, violent, premeditated, or willful manner.

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- 204       3. The extent of the child's alleged participation or role  
205 in the offense.
- 206       4. The effect, if any, of familial or peer pressure on the  
207 child's alleged actions.
- 208       5. Whether the alleged offense was against persons or  
209 against property, with greater weight given to offenses against  
210 persons, especially if personal injury resulted from the alleged  
211 offense.
- 212       6. The probable cause as found in the report, affidavit, or  
213 complaint.
- 214       7. The sophistication and maturity of the child, including:
- 215       a. The age, intellectual capacity, and mental and emotional  
216 health at the time of the alleged offense.
- 217       b. The background, including his or her family, home, and  
218 community environment.
- 219       c. The effect, if any, of immaturity, impetuosity, or  
220 failure to appreciate the risks and consequences on the child's  
221 participation in the alleged offense.
- 222       d. The effect, if any, of characteristics attributable to  
223 the child's age on the child's judgment.
- 224       e. Any history of abuse, abandonment, or neglect suffered  
225 by the child; foster care placements; failed adoption; fetal  
226 alcohol syndrome; exposure to controlled substances at or before  
227 birth; and below-average intellectual functioning.
- 228       f. If the child has been identified as having a disability.
- 229       g. If the child has previously received mental health  
230 services or treatment.
- 231       8. The court record and criminal history of the child,  
232 including:

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233 a. Previous contacts with the department, the Department of  
234 Corrections, law enforcement agencies, the courts, the former  
235 Department of Health and Rehabilitative Services, and the  
236 Department of Children and Families, and the adequacy and  
237 appropriateness of the services provided to address the child's  
238 needs.

239 b. Previous periods of probation.

240 c. Previous adjudications that the child committed a  
241 delinquent act or violation of law, with greater weight given if  
242 the child has previously been found by a court to have committed  
243 a delinquent act or violation of law involving an offense  
244 classified as a felony or if the child has been found twice  
245 previously to have committed a delinquent act or violation of  
246 law involving an offense classified as a misdemeanor.

247 d. Previous commitments to institutions, and the adequacy  
248 and appropriateness of the services provided by those  
249 institutions to address the child's needs.

250 9. The prospects for adequate protection of the public and  
251 the likelihood of reasonable habilitation or rehabilitation of  
252 the child, if the child is found to have committed the alleged  
253 offense, by the use of procedures, services, and facilities  
254 currently available to the court.

255 (d) Before a hearing on the transfer request motion by the  
256 state attorney, an authorized agent of the department must  
257 submit to the court a written study and report that are relevant  
258 to the factors identified in paragraph (c). At the hearing, the  
259 child, the child's parent or guardian or legal custodian, the  
260 child's counsel, and the state attorney have the right to  
261 examine and to question the parties responsible for the study

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262 and report. There is a rebuttable presumption that the case will  
263 remain in juvenile court unless the state proves by clear and  
264 convincing evidence that a transfer to adult court is necessary.

265 (e) The court shall also consider any other reports that  
266 may assist it, including, but not limited to, a predisposition  
267 report, psychosocial assessment, individualized education plan,  
268 developmental assessment, school record, abuse or neglect  
269 report, home study, protective investigation, and psychological  
270 or psychiatric evaluation. At the hearing, the child, the  
271 child's parent or guardian or legal custodian, the child's  
272 counsel, and the state attorney have the right to examine and to  
273 question the parties responsible for these records.

274 (f) Any order to transfer a child for criminal prosecution  
275 must be in writing and must consider, and find facts with  
276 respect to, the factors identified in paragraph (c). The order  
277 must also include a specific finding of fact concerning the  
278 reasons that led the court to transfer the case for adult  
279 prosecution. The order is reviewable on appeal pursuant to s.  
280 985.534 and the Florida Rules of Appellate Procedure.

281 (3) WAIVER LIMITATION.—Notwithstanding any provision to the  
282 contrary, a child who may be subject to a waiver of juvenile  
283 court jurisdiction under subsection (1) and who has a competency  
284 hearing pending in juvenile court, or has been previously found  
285 to be incompetent and has not been restored to competency by a  
286 court, may not be transferred to adult court for criminal  
287 prosecution.

288 (4) EFFECT OF ORDER WAIVING JURISDICTION.—When a child's  
289 case is transferred for criminal prosecution as an adult, the  
290 court may transfer and certify to the adult circuit court all

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291 related felony cases pertaining to the child which have not yet  
292 resulted in a plea of guilty or nolo contendere or in which a  
293 finding of guilt has not been made. If the child is acquitted of  
294 all charged offenses or lesser included offenses contained in  
295 the original case transferred to adult court, any felony case  
296 that was transferred to adult court under this subsection  
297 carries the same penalties that it carried before being  
298 transferred to adult court.

299 (5) DATA COLLECTION RELATING TO JUDICIAL WAIVER.-

300 (a) The department shall collect data regarding children  
301 who meet the requirements for a waiver of juvenile court  
302 jurisdiction under subsection (1), including, but not limited  
303 to, the following:

304 1. Age.

305 2. Race and ethnicity.

306 3. Gender.

307 4. Circuit and county of residence.

308 5. Circuit and county of offense.

309 6. Previous adjudicated offenses.

310 7. Previous periods of probation.

311 8. Previous contacts with law enforcement agencies or the  
312 courts.

313 9. Initial charges.

314 10. Charges at disposition.

315 11. Whether adult codefendants were involved.

316 12. Whether child codefendants were involved who were  
317 transferred to adult court.

318 13. Whether the child was represented by counsel.

319 14. Whether the child waived counsel.

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- 320 15. Risk assessment and Positive Achievement Change Tool  
321 score.
- 322 16. The child's medical, mental health, substance abuse, or  
323 trauma history.
- 324 17. The child's history of physical or mental impairment or  
325 disability-related accommodations.
- 326 18. The child's history of abuse or neglect.
- 327 19. The child's history of foster care placements,  
328 including the number of previous placements.
- 329 20. Whether the child has experienced a failed adoption.
- 330 21. Whether the child has fetal alcohol syndrome or was  
331 exposed to controlled substances at birth.
- 332 22. Whether the child has below-average intellectual  
333 functioning or is eligible for exceptional student education  
334 services.
- 335 23. Whether the child has received mental health services  
336 or treatment.
- 337 24. Whether the child has been the subject of a children-  
338 in-need-of-services or families-in-need-of-services case in the  
339 program administered under chapter 984 or has been the subject  
340 of a dependency petition.
- 341 25. Plea offers made by the state and the outcome of any  
342 plea offers.
- 343 26. Whether the child was transferred for criminal  
344 prosecution as an adult.
- 345 27. The case resolution in juvenile court.
- 346 28. The case resolution in adult court.
- 347 (b) When a child is transferred for criminal prosecution as  
348 an adult, the department shall also collect disposition data,

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349 including, but not limited to, whether the child received adult  
350 sanctions, juvenile sanctions, diversion, and, if the child is  
351 sentenced to prison, the length of the prison sentence or  
352 enhanced sentence.

353 (c) The department shall annually provide a report  
354 analyzing these aggregated data to the President of the Senate  
355 and the Speaker of the House of Representatives.

356 Section 3. Section 985.557, Florida Statutes, is repealed.

357 Section 4. Section 985.56, Florida Statutes, is amended to  
358 read:

359 985.56 Indictment of a juvenile.-

360 (1) A child who is 16 years of age or older ~~of any age~~ who  
361 is charged with a violation of state law punishable by death or  
362 by life imprisonment is subject to the jurisdiction of the court  
363 as set forth in s. 985.0301(2) unless and until an indictment on  
364 the charge is returned by the grand jury. When the ~~such~~  
365 indictment is returned, the petition for delinquency, if any,  
366 must be dismissed and the child must be tried and handled in  
367 every respect as an adult:

368 (a) On the offense punishable by death or by life  
369 imprisonment; and

370 (b) On all other felonies or misdemeanors charged in the  
371 indictment which are based on the same act or transaction as the  
372 offense punishable by death or by life imprisonment or on one or  
373 more acts or transactions connected with the offense punishable  
374 by death or by life imprisonment.

375 (2) An adjudicatory hearing may not be held until 21 days  
376 after the child is taken into custody and charged with having  
377 committed an offense punishable by death or by life

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378 imprisonment, unless the state attorney advises the court in  
379 writing that he or she does not intend to present the case to  
380 the grand jury, or has presented the case to the grand jury and  
381 the grand jury has not returned an indictment. If the court  
382 receives such a notice from the state attorney, or if the grand  
383 jury fails to act within the 21-day period, the court may  
384 proceed as otherwise authorized under this part.

385 ~~(3) If the child is found to have committed the offense~~  
386 ~~punishable by death or by life imprisonment, the child shall be~~  
387 ~~sentenced as an adult. If the juvenile is not found to have~~  
388 ~~committed the indictable offense but is found to have committed~~  
389 ~~a lesser included offense or any other offense for which he or~~  
390 ~~she was indicted as a part of the criminal episode, the court~~  
391 ~~may sentence under s. 985.565.~~

392 ~~(4) (a) Once a child has been indicted pursuant to this~~  
393 ~~section and has been found to have committed any offense for~~  
394 ~~which he or she was indicted as a part of the criminal episode,~~  
395 ~~the child shall be handled thereafter in every respect as if an~~  
396 ~~adult for any subsequent violation of state law, unless the~~  
397 ~~court imposes juvenile sanctions under s. 985.565.~~

398 ~~(3) (b)~~ When a child has been indicted pursuant to this  
399 section, the court may ~~shall immediately~~ transfer and certify to  
400 the adult circuit court all related felony cases pertaining to  
401 the child, for prosecution of the child as an adult, which have  
402 not yet resulted in a plea of guilty or nolo contendere or in  
403 which a finding of guilt has not been made. If the child is  
404 acquitted of all charged offenses or lesser included offenses  
405 contained in the indictment case, any ~~all~~ felony cases that were  
406 transferred to adult court pursuant to this subsection carry

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407 ~~paragraph shall be subject to the same penalties the such cases~~  
408 ~~carried were subject to~~ before being transferred to adult court.

409 Section 5. Section 985.565, Florida Statutes, is amended to  
410 read:

411 985.565 Sentencing powers; procedures; alternatives for  
412 juveniles prosecuted as adults.-

413 (1) POWERS OF DISPOSITION.-

414 (a) A child who is found to have committed a violation of  
415 law may, as an alternative to adult dispositions, be committed  
416 to the department for treatment in an appropriate program for  
417 children outside the adult correctional system or be placed on  
418 juvenile probation.

419 (b) In determining whether to impose juvenile or ~~sanctions~~  
420 ~~instead of~~ adult sanctions, the court shall consider the  
421 following criteria:

422 1. The seriousness of the offense to the community and  
423 whether the community would best be protected by juvenile or  
424 adult sanctions.

425 2. The extent of the child's participation in the offense  
426 ~~Whether the offense was committed in an aggressive, violent,~~  
427 ~~premeditated, or willful manner.~~

428 3. The effect, if any, of familial or peer pressure on the  
429 child's actions ~~Whether the offense was against persons or~~  
430 ~~against property, with greater weight being given to offenses~~  
431 ~~against persons, especially if personal injury resulted.~~

432 4. The sophistication and maturity of the child, including:  
433 ~~offender.~~

434 a. The child's age, maturity, intellectual capacity, and  
435 mental and emotional health at the time of the offense.

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436 b. The child's background, including his or her family,  
437 home, and community environment.

438 c. The effect, if any, of immaturity, impetuosity, or  
439 failure to appreciate the risks and consequences on the child's  
440 participation in the offense.

441 d. The effect, if any, of characteristics attributable to  
442 the child's age on the child's judgment.

443 5. The record and previous history of the child offender,  
444 including:

445 a. Previous contacts with the Department of Corrections,  
446 the Department of Juvenile Justice, the former Department of  
447 Health and Rehabilitative Services, and the Department of  
448 Children and Families, and the adequacy and appropriateness of  
449 the services provided to address the child's needs ~~law~~  
450 ~~enforcement agencies, and the courts.~~

451 b. Prior periods of probation.

452 c. Prior adjudications that the offender committed a  
453 delinquent act or violation of law as a child.

454 d. Prior commitments to the Department of Juvenile Justice,  
455 law enforcement agencies, the courts, the former Department of  
456 Health and Rehabilitative Services, the Department of Children  
457 and Families, or other facilities or institutions and the  
458 adequacy and appropriateness of the services provided to address  
459 the child's needs.

460 e. Any history of abuse, abandonment, or neglect suffered  
461 by the child; foster care placements; failed adoption; fetal  
462 alcohol syndrome; exposure to controlled substances at birth;  
463 and below-average intellectual functioning.

464 f. If the child has been identified as having a disability

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465 or having previously received mental health services or  
466 treatment.

467 6. The prospects for adequate protection of the public and  
468 the likelihood of deterrence and reasonable rehabilitation of  
469 the offender if assigned to services and facilities of the  
470 Department of Juvenile Justice.

471 ~~7. Whether the Department of Juvenile Justice has~~  
472 ~~appropriate programs, facilities, and services immediately~~  
473 ~~available.~~

474 ~~7.8.~~ Whether adult sanctions would provide more appropriate  
475 punishment and deterrence to further violations of law than the  
476 imposition of juvenile sanctions.

477 8. Whether the Department of Corrections has appropriate  
478 programs, facilities, and services immediately available.

479 (c) The adult court shall render an order including  
480 specific findings of fact and the reasons for its decision. The  
481 order shall be reviewed on appeal under s. 985.534 and the  
482 Florida Rules of Appellate Procedure.

483 (2) PRESENTENCE INVESTIGATION REPORT.—

484 (a) Upon a plea of guilty, the court may refer the case to  
485 the department for investigation and recommendation as to the  
486 suitability of its programs for the child.

487 (b) Upon completion of the presentence investigation  
488 report, it must be made available to the child's counsel and the  
489 state attorney by the department prior to the sentencing  
490 hearing.

491 (3) SENTENCING HEARING.—

492 (a) At the sentencing hearing the court shall receive and  
493 consider a presentence investigation report by the Department of

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494 Corrections regarding the suitability of the offender for  
495 disposition as an adult or as a juvenile. The presentence  
496 investigation report must include a comments section prepared by  
497 the Department of Juvenile Justice, with its recommendations as  
498 to disposition. This report requirement may be waived by the  
499 offender.

500 (b) After considering the presentence investigation report,  
501 the court shall give all parties present at the hearing an  
502 opportunity to comment on the issue of sentence and any proposed  
503 rehabilitative plan. Parties to the case include the parent,  
504 guardian, or legal custodian of the offender; the offender's  
505 counsel; the state attorney; representatives of the Department  
506 of Corrections and the Department of Juvenile Justice; the  
507 victim or victim's representative; representatives of the school  
508 system; and the law enforcement officers involved in the case.

509 (c) The court may receive and consider any other relevant  
510 and material evidence, including other reports, written or oral,  
511 in its effort to determine the action to be taken with regard to  
512 the child, and may rely upon such evidence to the extent of its  
513 probative value even if the evidence would not be competent in  
514 an adjudicatory hearing. The court may receive, and shall  
515 consider if it receives, a prior predisposition report,  
516 psychosocial assessment, individual education plan,  
517 developmental assessment, school record, abuse or neglect  
518 report, home study, protective investigation, and psychological  
519 or psychiatric evaluation. The child; the child's parent,  
520 guardian, or legal custodian; the child's counsel; and the state  
521 attorney have the right to examine these records and to question  
522 the parties responsible for them at the hearing.

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523 (d) The court shall notify any victim of the offense of the  
524 hearing and shall notify, or subpoena if appropriate, the  
525 parents, guardians, or legal custodians of the child to attend  
526 the disposition hearing.

527 (4) SENTENCING ALTERNATIVES.—

528 (a) Sanctions.—If a child has been transferred for criminal  
529 prosecution as an adult and is found to have committed a  
530 violation of state law, the court may sentence the child as  
531 follows:

532 1. As an adult, except that mandatory minimum sentences do  
533 not apply;

534 2. As a youthful offender under chapter 958; or

535 3. As a juvenile under this section. ~~Adult sanctions.~~

536 ~~1. Cases prosecuted on indictment. If the child is found to~~  
537 ~~have committed the offense punishable by death or life~~  
538 ~~imprisonment, the child shall be sentenced as an adult. If the~~  
539 ~~juvenile is not found to have committed the indictable offense~~  
540 ~~but is found to have committed a lesser included offense or any~~  
541 ~~other offense for which he or she was indicted as a part of the~~  
542 ~~criminal episode, the court may sentence as follows:~~

543 ~~a. As an adult;~~

544 ~~b. Under chapter 958; or~~

545 ~~c. As a juvenile under this section.~~

546 ~~2. Other cases. If a child who has been transferred for~~  
547 ~~criminal prosecution pursuant to information or waiver of~~  
548 ~~juvenile court jurisdiction is found to have committed a~~  
549 ~~violation of state law or a lesser included offense for which he~~  
550 ~~or she was charged as a part of the criminal episode, the court~~  
551 ~~may sentence as follows:~~

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552 ~~a. As an adult;~~

553 ~~b. Under chapter 958; or~~

554 ~~e. As a juvenile under this section.~~

555 ~~3. Notwithstanding any other provision to the contrary, if~~  
556 ~~the state attorney is required to file a motion to transfer and~~  
557 ~~certify the juvenile for prosecution as an adult under s.~~  
558 ~~985.556(3) and that motion is granted, or if the state attorney~~  
559 ~~is required to file an information under s. 985.557(2) (a) or~~  
560 ~~(b), the court must impose adult sanctions.~~

561 ~~4. Any sentence imposing adult sanctions is presumed~~  
562 ~~appropriate, and the court is not required to set forth specific~~  
563 ~~findings or enumerate the criteria in this subsection as any~~  
564 ~~basis for its decision to impose adult sanctions.~~

565 ~~5. When a child has been transferred for criminal~~  
566 ~~prosecution as an adult and has been found to have committed a~~  
567 ~~violation of state law, the disposition of the case may include~~  
568 ~~the enforcement of any restitution ordered in any juvenile~~  
569 ~~proceeding.~~

570 ~~(b) Court findings.—The court must set forth specific~~  
571 ~~findings or discuss the criteria in this section as the basis~~  
572 ~~for its decision to impose adult, youthful offender, or juvenile~~  
573 ~~sanctions. Juvenile sanctions.—For juveniles transferred to~~  
574 ~~adult court but who do not qualify for such transfer under s.~~  
575 ~~985.556(3) or s. 985.557(2) (a) or (b), the court may impose~~  
576 ~~juvenile sanctions under this paragraph. If juvenile sentences~~  
577 ~~are imposed, the court shall, under this paragraph, adjudge the~~  
578 ~~child to have committed a delinquent act. Adjudication of~~  
579 ~~delinquency shall not be deemed a conviction, nor shall it~~  
580 ~~operate to impose any of the civil disabilities ordinarily~~

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581 ~~resulting from a conviction. The court shall impose an adult~~  
582 ~~sanction or a juvenile sanction and may not sentence the child~~  
583 ~~to a combination of adult and juvenile punishments. An adult~~  
584 ~~sanction or a juvenile sanction may include enforcement of an~~  
585 ~~order of restitution or probation previously ordered in any~~  
586 ~~juvenile proceeding. However, if the court imposes a juvenile~~  
587 ~~sanction and the department determines that the sanction is~~  
588 ~~unsuitable for the child, the department shall return custody of~~  
589 ~~the child to the sentencing court for further proceedings,~~  
590 ~~including the imposition of adult sanctions. Upon adjudicating a~~  
591 ~~child delinquent under subsection (1), the court may:~~

592       1. ~~Place the child in a probation program under the~~  
593 ~~supervision of the department for an indeterminate period of~~  
594 ~~time until the child reaches the age of 19 years or sooner if~~  
595 ~~discharged by order of the court.~~

596       2. ~~Commit the child to the department for treatment in an~~  
597 ~~appropriate program for children for an indeterminate period of~~  
598 ~~time until the child is 21 or sooner if discharged by the~~  
599 ~~department. The department shall notify the court of its intent~~  
600 ~~to discharge no later than 14 days prior to discharge. Failure~~  
601 ~~of the court to timely respond to the department's notice shall~~  
602 ~~be considered approval for discharge.~~

603       3. ~~Order disposition under ss. 985.435, 985.437, 985.439,~~  
604 ~~985.441, 985.45, and 985.455 as an alternative to youthful~~  
605 ~~offender or adult sentencing if the court determines not to~~  
606 ~~impose youthful offender or adult sanctions.~~

607       (c) Restitution.—When a child has been transferred for  
608 criminal prosecution as an adult and has been found to have  
609 committed a violation of state law, the disposition of the case

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610 may include the enforcement of any restitution ordered in any  
611 juvenile proceeding ~~Adult sanctions upon failure of juvenile~~  
612 ~~sanctions. If a child proves not to be suitable to a commitment~~  
613 ~~program, juvenile probation program, or treatment program under~~  
614 ~~paragraph (b), the department shall provide the sentencing court~~  
615 ~~with a written report outlining the basis for its objections to~~  
616 ~~the juvenile sanction and shall simultaneously provide a copy of~~  
617 ~~the report to the state attorney and the defense counsel. The~~  
618 ~~department shall schedule a hearing within 30 days. Upon~~  
619 ~~hearing, the court may revoke the previous adjudication, impose~~  
620 ~~an adjudication of guilt, and impose any sentence which it may~~  
621 ~~lawfully impose, giving credit for all time spent by the child~~  
622 ~~in the department. The court may also classify the child as a~~  
623 ~~youthful offender under s. 958.04, if appropriate. For purposes~~  
624 ~~of this paragraph, a child may be found not suitable to a~~  
625 ~~commitment program, community control program, or treatment~~  
626 ~~program under paragraph (b) if the child commits a new violation~~  
627 ~~of law while under juvenile sanctions, if the child commits any~~  
628 ~~other violation of the conditions of juvenile sanctions, or if~~  
629 ~~the child's actions are otherwise determined by the court to~~  
630 ~~demonstrate a failure of juvenile sanctions.~~

631 (d) Juvenile sanctions. ~~If a juvenile sentence is imposed,~~  
632 the court shall adjudge the child to have committed a delinquent  
633 act. Adjudication of delinquency is not a conviction and does  
634 not impose any civil disability that ordinarily results from a  
635 conviction. A juvenile sanction may include enforcement of an  
636 order of restitution or probation previously ordered in any  
637 juvenile proceeding. Upon adjudicating a child delinquent, the  
638 court may do any of the following:

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639 1. Place the child in a probation program under the  
640 supervision of the department for an indeterminate period until  
641 the child is 19 years of age, or sooner if discharged by order  
642 of the court.

643 2. Commit the child to the department for treatment in an  
644 appropriate program for children for an indeterminate period  
645 until the child is 21 years of age, or sooner if discharged by  
646 the department. The department shall notify the court of its  
647 intent to discharge no later than 14 days before the discharge.  
648 Failure of the court to timely respond to the department's  
649 notice is deemed approval for discharge.

650 3. Order disposition under ss. 985.435, 985.437, 985.439,  
651 985.441, 985.45, and 985.455 as an alternative to youthful  
652 offender or adult sentencing if the court does not impose  
653 youthful offender or adult sanctions.

654 (e)~~(d)~~ *Further proceedings heard in adult court.*—When a  
655 child is sentenced to juvenile sanctions, further proceedings  
656 involving those sanctions shall continue to be heard in the  
657 adult court.

658 (f)~~(e)~~ *School attendance.*—If the child is attending or is  
659 eligible to attend public school and the court finds that the  
660 victim or a sibling of the victim in the case is attending or  
661 may attend the same school as the child, the court placement  
662 order shall include a finding pursuant to the proceeding  
663 described in s. 985.455(2), regardless of whether adjudication  
664 is withheld.

665 (g) Legislative intent.—It is the intent of the Legislature  
666 that the criteria and guidelines in this subsection are  
667 mandatory and that a determination of disposition under this

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668 subsection is subject to the right of the child to appellate  
669 review under s. 985.534.

670 Section 6. Subsection (1) of section 985.57, Florida  
671 Statutes, is amended to read:

672 985.57 Transfer of children from the Department of  
673 Corrections to the Department of Juvenile Justice.—

674 (1) When any child under the age of 18 years is sentenced  
675 by any court of competent jurisdiction to the Department of  
676 Corrections, the Secretary of Juvenile Justice shall ~~may~~  
677 transfer the ~~such~~ child to the department to serve the ~~for the~~  
678 ~~remainder of the~~ sentence, or until his or her 21st birthday,  
679 whichever results in the shorter term. If, upon such person's  
680 attaining his or her 21st birthday, the sentence has not  
681 terminated, he or she shall be transferred to the Department of  
682 Corrections for placement in a youthful offender program,  
683 transferred to the supervision of the department, or be given  
684 any other transfer that may lawfully be made.

685 Section 7. Subsection (54) of section 985.03, Florida  
686 Statutes, is amended to read:

687 985.03 Definitions.—As used in this chapter, the term:

688 (54) "Waiver hearing" means a hearing provided for under s.  
689 985.556~~(4)~~.

690 Section 8. Subsection (2) of section 985.04, Florida  
691 Statutes, is amended to read:

692 985.04 Oaths; records; confidential information.—

693 (2) Notwithstanding any other provisions of this chapter,  
694 the name, photograph, address, and crime or arrest report of a  
695 child:

696 (a) Taken into custody if the child has been taken into

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697 custody by a law enforcement officer for a violation of law  
698 which, if committed by an adult, would be a felony;

699 (b) Found by a court to have committed three or more  
700 violations of law which, if committed by an adult, would be  
701 misdemeanors; or

702 ~~(c) Transferred to the adult system under s. 985.557,~~  
703 Indicted under s. 985.56~~7~~ or waived under s. 985.556~~7~~

704 ~~(d) Taken into custody by a law enforcement officer for a~~  
705 ~~violation of law subject to s. 985.557(2)(b) or (d); or~~

706 ~~(e) Transferred to the adult system but sentenced to the~~  
707 ~~juvenile system under s. 985.565~~

708  
709 may ~~shall~~ not be considered confidential and exempt from s.  
710 119.07(1) solely because of the child's age.

711 Section 9. Subsection (1) of section 985.15, Florida  
712 Statutes, is amended to read:

713 985.15 Filing decisions.—

714 (1) The state attorney may in all cases take action  
715 independent of the action or lack of action of the juvenile  
716 probation officer and shall determine the action that is in the  
717 best interest of the public and the child. If the child meets  
718 the criteria authorizing ~~requiring~~ prosecution as an adult under  
719 s. 985.556, the state attorney may ~~shall~~ request the court to  
720 transfer and certify the child for prosecution as an adult ~~or~~  
721 ~~shall provide written reasons to the court for not making such a~~  
722 ~~request~~. In all other cases, the state attorney may:

723 (a) File a petition for dependency;

724 (b) File a petition under chapter 984;

725 (c) File a petition for delinquency;

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726 (d) File a petition for delinquency with a motion to  
727 transfer and certify the child for prosecution as an adult;  
728 ~~(e) File an information under s. 985.557;~~  
729 (e)~~(f)~~ Refer the case to a grand jury;  
730 (f)~~(g)~~ Refer the child to a diversionary, pretrial  
731 intervention, arbitration, or mediation program, or to some  
732 other treatment or care program if such program commitment is  
733 voluntarily accepted by the child or the child's parents or  
734 legal guardian; or  
735 (g)~~(h)~~ Decline to file.  
736 Section 10. This act shall take effect July 1, 2015.