

By the Committee on Criminal Justice; and Senators Altman, Soto, and Gibson

591-02779-15

20151082c1

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. 985.557, F.S.; revising the circumstances under
7 which the state attorney is authorized to file an
8 information when a child of a certain age range
9 commits or attempts to commit specified crimes;
10 deleting a requirement that a state attorney file an
11 information under certain circumstances; revising the
12 effects of the direct filing of a child; prohibiting
13 the transfer of a child under certain circumstances
14 based on the child's competency; requiring the court
15 to consider certain factors after a written request is
16 made for a hearing; authorizing the court, based on
17 these factors, to waive the case back to juvenile
18 court; requiring the Department of Juvenile Justice to
19 collect specified data under certain circumstances;
20 requiring the department to provide an annual report
21 to the Legislature; amending s. 985.56, F.S.; revising
22 the age of a child who is subject to the jurisdiction
23 of a court for certain crimes; prohibiting the
24 transfer of a child under certain circumstances based
25 on the child's competency; removing provisions
26 regarding sentencing of a child; authorizing, rather
27 than requiring, a court to transfer a child indicted
28 under certain circumstances; amending s. 985.565,
29 F.S.; revising the criteria in determining whether to

591-02779-15

20151082c1

30 impose juvenile or adult sanctions; requiring the
31 adult court to render an order including specific
32 findings of fact and the reasons for its decision;
33 providing that the order is reviewable on appeal;
34 requiring the court to consider any reports that may
35 assist it; providing for the examination of the
36 reports; revising how a child may be sanctioned under
37 certain circumstances; removing a provision which
38 requires a court to impose adult sanctions under
39 certain circumstances; requiring the court to explain
40 the basis for imposing adult sanctions; revising when
41 juvenile sanctions may be imposed; amending s.
42 985.556, F.S.; conforming a cross-reference;
43 reenacting s. 985.04(2), F.S., relating to oaths,
44 records, and confidential information, to incorporate
45 the amendments made to ss. 985.557, 985.56, and
46 985.565, F.S., in a reference thereto; reenacting ss.
47 985.15(1), 985.265(5), and 985.556(3), F.S., relating
48 to filing decisions; detention transfer and release,
49 education, and adult jails; and waiver of juvenile
50 court jurisdiction and hearings, respectively, to
51 incorporate the amendment made to s. 985.557, F.S., in
52 references thereto; reenacting ss. 985.514(3) and
53 985.556(5)(a), F.S., relating to responsibility for
54 cost of care and fees, and waiver of juvenile court
55 jurisdiction and hearings, respectively, to
56 incorporate the amendment made to s. 985.565, F.S., in
57 references thereto; providing an effective date.

58

591-02779-15

20151082c1

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

60
61 Section 1. Section 985.265, Florida Statutes, is amended to
62 read:

63 985.265 Detention transfer and release; education; ~~adult~~
64 ~~jails.~~—

65 (1) If a child is detained under this part, the department
66 may transfer the child from nonsecure detention care to secure
67 detention care only if significantly changed circumstances
68 warrant such transfer.

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

75 (3) (a) When a juvenile sexual offender is placed in
76 detention, detention staff shall provide appropriate monitoring
77 and supervision to ensure the safety of other children in the
78 facility.

79 (b) When a juvenile is released from secure detention or
80 transferred to nonsecure detention, detention staff shall
81 immediately notify the appropriate law enforcement agency,
82 school personnel, and victim if the juvenile is charged with
83 committing any of the following offenses or attempting to commit
84 any of the following offenses:

- 85 1. Murder, under s. 782.04;
- 86 2. Sexual battery, under chapter 794;
- 87 3. Stalking, under s. 784.048; or

591-02779-15

20151082c1

88 4. Domestic violence, as defined in s. 741.28.

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

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

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

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

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

107
108 ~~The child shall be housed separately from adult inmates to
109 prohibit a child from having regular contact with incarcerated
110 adults, including trustees. "Regular contact" means sight and
111 sound contact. Separation of children from adults shall permit
112 no more than haphazard or accidental contact. The receiving jail
113 or other facility shall contain a separate section for children
114 and shall have an adequate staff to supervise and monitor the
115 child's activities at all times. Supervision and monitoring of
116 children includes physical observation and documented checks by~~

591-02779-15

20151082c1

117 ~~jail or receiving facility supervisory personnel at intervals~~
118 ~~not to exceed 10 minutes. This subsection does not prohibit~~
119 ~~placing two or more children in the same cell. Under no~~
120 ~~circumstances shall a child be placed in the same cell with an~~
121 ~~adult.~~

122 Section 2. Section 985.557, Florida Statutes, is amended to
123 read:

124 (Substantial rewording of section. See
125 s. 985.557, F.S., for present text.)
126 985.557 Direct filing of an information.-

127 (1) DIRECT FILE.-

128 (a) With respect to a child who was 16 years of age or
129 older or less than 18 years of age at the time the alleged
130 offense was committed, the state attorney may file an
131 information if, in the state attorney's judgment and discretion,
132 the public interest requires that adult sanctions be considered
133 and the offense charged is for the commission of or attempt to
134 commit:

135 1. Murder;

136 2. Manslaughter;

137 3. Sexual battery as defined in s. 794.011(3);

138 4. Armed robbery;

139 5. Aggravated assault with a firearm;

140 6. Aggravated child abuse;

141 7. Arson in violation of S. 806.031;

142 8. Kidnapping;

143 9. Unlawful throwing, placing, or discharging of a
144 destructive device or bomb;

145 10. Aggravated battery resulting in great bodily harm,

591-02779-15

20151082c1

146 permanent disability, or permanent disfigurement;

147 11. Carrying, displaying, using, or threatening or
148 attempting to use a weapon or firearm in furtherance of the
149 commission of a felony, if the use or threatened use does not
150 include the mere acquisition of a deadly weapon or firearm
151 during the felony;

152 12. Possessing or discharging a firearm on school property
153 in violation of s. 790.115;

154 13. Home invasion robbery;

155 14. Aggravated stalking;

156 15. Carjacking;

157 16. Aggravated animal cruelty by intentional acts; or

158 17. DUI resulting in fatality, great bodily harm, permanent
159 disability, or permanent disfigurement to a person.

160 (b) With respect to a child who was 14 or 15 years of age
161 at the time the alleged offense was committed, the state
162 attorney may file an information if, in the state attorney's
163 judgment and discretion, the public interest requires that adult
164 sanctions be considered and the offense charged is for the
165 commission of or attempt to commit:

166 1. Murder;

167 2. Manslaughter; or

168 3. Sexual battery in violation of S. 794.011(3).

169 (2) EFFECT OF DIRECT FILE.—

170 (a) When a child is transferred for criminal prosecution as
171 an adult, the court may transfer and certify to the adult
172 circuit court for prosecution of the child as an adult all
173 related felony cases pertaining to the child which have not yet
174 resulted in a plea of guilty or nolo contendere or in which a

591-02779-15

20151082c1

175 finding of guilt has not been made. If the child is acquitted of
176 all charged offenses or lesser included offenses contained in
177 the original case transferred to adult court, any felony cases
178 that were transferred to adult court under this subsection are
179 subject to the same penalties they were subject to before their
180 transfer.

181 (b) Once a child has been convicted and sentenced to adult
182 sanctions pursuant to this section, he or she shall be handled
183 as an adult for any subsequent violation of state law, unless
184 the court imposes juvenile sanctions under s. 985.565.

185 (3) TRANSFER PROHIBITION.—Notwithstanding any other law, a
186 child who is eligible for direct file and who is pending a
187 competency hearing in juvenile court or has previously been
188 found to be incompetent and has not been restored to competency
189 by a court may not be transferred to adult court for criminal
190 prosecution.

191 (4) REVERSE WAIVER.—A child who is transferred to adult
192 court pursuant to this section may request, in writing, a
193 hearing to determine whether he or she shall remain in adult
194 court. The adult court, in determining whether public safety
195 would be best served by retaining jurisdiction, shall consider
196 the seriousness of the offense, the extent of the child's
197 alleged participation or role in the offense, the sophistication
198 and maturity of the child, and any prior offenses the child has
199 committed. The adult court may, based on these considerations,
200 waive the case back to juvenile court.

201 (5) DATA COLLECTION RELATING TO DIRECT FILE.—

202 (a) The department shall collect data regarding children
203 who qualify for direct file under subsection (1), including, but

591-02779-15

20151082c1

204 not limited to:

205 1. Age;

206 2. Race and ethnicity;

207 3. Gender;

208 4. Circuit and county of residence;

209 5. Circuit and county of offense;

210 6. Prior adjudicated offenses;

211 7. Prior periods of probation;

212 8. Previous contacts with law enforcement agencies or the

213 courts;

214 9. Initial charges;

215 10. Charges at disposition;

216 11. Whether adult codefendants were involved;

217 12. Whether child codefendants were involved who were

218 transferred to adult court;

219 13. Whether the child was represented by counsel;

220 14. Whether the child has waived counsel;

221 15. Risk assessment instrument score;

222 16. The child's medical, mental health, substance abuse, or

223 trauma history;

224 17. The child's history of physical or mental impairment or

225 disability-related accommodations;

226 18. The child's history of abuse or neglect;

227 19. The child's history of foster care placements,

228 including the number of prior placements;

229 20. Whether the child has fetal alcohol syndrome or was

230 exposed to controlled substances at birth;

231 21. Whether the child has below-average intellectual

232 functioning or is eligible for exceptional student education

591-02779-15

20151082c1

233 services;

234 22. Whether the child has received mental health services
235 or treatment;

236 23. Whether the child has been the subject of a CINS/FINS
237 or dependency petition;

238 24. Plea offers made by the state and the outcome of any
239 plea offers;

240 25. Whether the child was transferred for criminal
241 prosecution as an adult;

242 26. The case resolution in juvenile court; or

243 27. The case resolution in adult court.

244 (b) When a child is transferred for criminal prosecution as
245 an adult, the department shall also collect disposition data,
246 including, but not limited to, whether the child received adult
247 sanctions, juvenile sanctions, or diversion, and, if sentenced
248 to prison, length of prison sentence or enhanced sentence.

249 (c) The department shall annually provide a report
250 analyzing this aggregated data to the President of the Senate
251 and the Speaker of the House of Representatives.

252 Section 3. Section 985.56, Florida Statutes, is amended to
253 read:

254 985.56 Indictment of a juvenile.-

255 (1) A child 14 years of age or older ~~of any age~~ who is
256 charged with a violation of state law punishable by death or by
257 life imprisonment is subject to the jurisdiction of the court as
258 set forth in s. 985.0301(2) unless and until an indictment on
259 the charge is returned by the grand jury. When such indictment
260 is returned, the petition for delinquency, if any, must be
261 dismissed and the child must be tried ~~and handled in every~~

591-02779-15

20151082c1

262 ~~respect~~ as an adult:

263 (a) On the indicting offense ~~punishable by death or by life~~
264 ~~imprisonment~~; and

265 (b) On all other felonies or misdemeanors charged in the
266 indictment which are based on the same act or transaction as the
267 indicting offense ~~punishable by death or by life imprisonment or~~
268 ~~on one or more acts or transactions connected with the offense~~
269 ~~punishable by death or by life imprisonment.~~

270 (2) An adjudicatory hearing may not be held until 21 days
271 after the child is taken into custody and charged with having
272 committed an indictable offense ~~punishable by death or by life~~
273 ~~imprisonment~~, unless the state attorney advises the court in
274 writing that he or she does not intend to present the case to
275 the grand jury, or has presented the case to the grand jury and
276 the grand jury has not returned an indictment. If the court
277 receives such a notice from the state attorney, or if the grand
278 jury fails to act within the 21-day period, the court may
279 proceed as otherwise authorized under this part.

280 (3) Notwithstanding any other law, a child who is eligible
281 for indictment and who is pending a competency hearing in
282 juvenile court or has been previously found to be incompetent
283 and has not been restored to competency by a court may not be
284 transferred to adult court for criminal prosecution ~~If the child~~
285 ~~is found to have committed the offense punishable by death or by~~
286 ~~life imprisonment, the child shall be sentenced as an adult. If~~
287 ~~the juvenile is not found to have committed the indictable~~
288 ~~offense but is found to have committed a lesser included offense~~
289 ~~or any other offense for which he or she was indicted as a part~~
290 ~~of the criminal episode, the court may sentence under s.~~

591-02779-15

20151082c1

291 ~~985.565.~~

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

298 (b) When a child has been indicted pursuant to this
299 section, the court may ~~shall immediately~~ transfer and certify to
300 the adult circuit court all related felony cases pertaining to
301 the child, for prosecution of the child as an adult, which have
302 not yet resulted in a plea of guilty or nolo contendere or in
303 which a finding of guilt has not been made. If the child is
304 acquitted of all charged offenses or lesser included offenses
305 contained in the indictment case, any ~~all~~ felony cases that were
306 transferred to adult court pursuant to this paragraph shall be
307 subject to the same penalties such cases were subject to before
308 being transferred to adult court.

309 Section 4. Subsection (1), paragraph (c) of subsection (3),
310 and subsection (4) of section 985.565, Florida Statutes, are
311 amended to read:

312 985.565 Sentencing powers; procedures; alternatives for
313 juveniles prosecuted as adults.—

314 (1) POWERS OF DISPOSITION.—

315 (a) A child who is found to have committed a violation of
316 law may, as an alternative to adult dispositions, be committed
317 to the department for treatment in an appropriate program for
318 children outside the adult correctional system or be placed on
319 juvenile probation.

591-02779-15

20151082c1

320 (b) In determining whether to impose juvenile or ~~sanctions~~
321 ~~instead of~~ adult sanctions, the court shall consider the
322 following criteria:

323 1. The seriousness of the offense to the community and
324 whether the protection of the community would be best served ~~be~~
325 ~~protected~~ by juvenile or adult sanctions.

326 2. The extent of the child's participation in the offense.

327 3. The effect, if any, of familial or peer pressure on the
328 child's actions.

329 4.2. Whether the offense was committed in an aggressive,
330 violent, premeditated, or willful manner.

331 5.3. Whether the offense was against persons or against
332 property, with greater weight being given to offenses against
333 persons, especially if personal injury resulted.

334 6.4. The sophistication and maturity of the child,
335 including: offender

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

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

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

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

345 7.5. The record and previous history of the child ~~offender,~~
346 including:

347 a. Previous contacts with the Department of Corrections,
348 the Department of Juvenile Justice, the former Department of

591-02779-15

20151082c1

349 Health and Rehabilitative Services, the Department of Children
350 and Families, ~~law enforcement agencies, and the courts~~ and the
351 adequacy and appropriateness of the services provided to address
352 the child's needs.

353 b. Prior periods of probation.

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

356 d. Prior commitments to the Department of Juvenile Justice,
357 the former Department of Health and Rehabilitative Services, the
358 Department of Children and Families, or other facilities or
359 institutions and the adequacy and appropriateness of the
360 services provided to address the child's needs.

361 e. Previous contacts with law enforcement agencies and the
362 courts.

363 f. History of abuse, abandonment or neglect, foster care
364 placements, failed adoption, fetal alcohol syndrome, exposure to
365 controlled substances at birth, and below-average intellectual
366 functioning.

367 g. Identification of the child as having a disability or
368 having previously received mental health services or treatment.

369 ~~8.6.~~ The prospects for adequate protection of the public
370 and the likelihood of deterrence and reasonable rehabilitation
371 of the offender if assigned to services and facilities of the
372 Department of Juvenile Justice.

373 ~~9.7.~~ Whether the Department of Juvenile Justice has
374 appropriate programs, facilities, and services immediately
375 available.

376 ~~8. Whether adult sanctions would provide more appropriate~~
377 ~~punishment and deterrence to further violations of law than the~~

591-02779-15

20151082c1

378 ~~imposition of juvenile sanctions.~~

379 10. Whether the Department of Corrections has appropriate
380 programs, facilities, and services immediately available.

381 (c) The adult court shall render an order including
382 specific findings of fact and the reasons for its decision. The
383 order shall be reviewable on appeal under s. 985.534 and the
384 Florida Rules of Appellate Procedure.

385 (3) SENTENCING HEARING.—

386 (c) The court may receive and consider any other relevant
387 and material evidence, including other reports, written or oral,
388 in its effort to determine the action to be taken with regard to
389 the child, and may rely upon such evidence to the extent of its
390 probative value even if the evidence would not be competent in
391 an adjudicatory hearing. The court shall consider any reports
392 that may assist it, including prior predisposition reports,
393 psycho-social assessments, individualized educational programs,
394 developmental assessments, school records, abuse or neglect
395 reports, home studies, protective investigations, and
396 psychological and psychiatric evaluations. The child, the
397 child's defense counsel, and the state attorney, have the right
398 to examine these reports and to question the parties responsible
399 for them at the hearing.

400 (4) SENTENCING ALTERNATIVES.—

401 (a) ~~Adult Sanctions.~~—

402 ~~1. Cases prosecuted on indictment. If the child is found to~~
403 ~~have committed the offense punishable by death or life~~
404 ~~imprisonment, the child shall be sentenced as an adult. If the~~
405 ~~juvenile is not found to have committed the indictable offense~~
406 ~~but is found to have committed a lesser included offense or any~~

591-02779-15

20151082c1

407 ~~other offense for which he or she was indicted as a part of the~~
408 ~~criminal episode, the court may sentence as follows:~~

409 ~~a. As an adult;~~

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

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

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

418 ~~1.a.~~ As an adult;

419 ~~2.b.~~ As a youthful offender under chapter 958; or

420 ~~3.e.~~ As a juvenile under this section.

421 ~~3. Notwithstanding any other provision to the contrary, if~~
422 ~~the state attorney is required to file a motion to transfer and~~
423 ~~certify the juvenile for prosecution as an adult under s.~~
424 ~~985.556(3) and that motion is granted, or if the state attorney~~
425 ~~is required to file an information under s. 985.557(2)(a) or~~
426 ~~(b), the court must impose adult sanctions.~~

427 ~~(b)4. Findings.~~ The court must ~~Any sentence imposing adult~~
428 ~~sanctions is presumed appropriate, and the court is not required~~
429 ~~to~~ set forth specific findings or enumerate the criteria in this
430 subsection as any basis for its decision to impose adult
431 sanctions.

432 ~~(c)5.~~ Restitution. When a child has been transferred for
433 criminal prosecution as an adult and has been found to have
434 committed a violation of state law, the disposition of the case
435 may include the enforcement of any restitution ordered in any

591-02779-15

20151082c1

436 juvenile proceeding.

437 (d) ~~(b)~~ *Juvenile sanctions.*—If a juvenile sentence is ~~For~~
438 ~~juveniles transferred to adult court but who do not qualify for~~
439 ~~such transfer under s. 985.556(3) or s. 985.557(2) (a) or (b),~~
440 ~~the court may impose juvenile sanctions under this paragraph. If~~
441 ~~juvenile sentences are imposed, the court shall, under this~~
442 ~~paragraph, adjudge the child to have committed a delinquent act.~~
443 ~~Adjudication of delinquency shall not be deemed a conviction,~~
444 ~~nor shall it operate to impose any of the civil disabilities~~
445 ~~ordinarily resulting from a conviction. The court shall impose~~
446 ~~an adult sanction or a juvenile sanction and may not sentence~~
447 ~~the child to a combination of adult and juvenile punishments. An~~
448 ~~adult sanction or a juvenile sanction may include enforcement of~~
449 ~~an order of restitution or probation previously ordered in any~~
450 ~~juvenile proceeding. However, if the court imposes a juvenile~~
451 ~~sanction and the department determines that the sanction is~~
452 ~~unsuitable for the child, the department shall return custody of~~
453 ~~the child to the sentencing court for further proceedings,~~
454 ~~including the imposition of adult sanctions. Upon adjudicating a~~
455 ~~child delinquent under subsection (1), the court may:~~

456 1. Place the child in a probation program under the
457 supervision of the department for an indeterminate period of
458 time until the child reaches the age of 19 years or sooner if
459 discharged by order of the court.

460 2. Commit the child to the department for treatment in an
461 appropriate program for children for an indeterminate period of
462 time until the child is 21 or sooner if discharged by the
463 department. The department shall notify the court of its intent
464 to discharge no later than 14 days prior to discharge. Failure

591-02779-15

20151082c1

465 of the court to timely respond to the department's notice shall
466 be considered approval for discharge.

467 3. Order disposition under ss. 985.435, 985.437, 985.439,
468 985.441, 985.45, and 985.455 as an alternative to youthful
469 offender or adult sentencing if the court determines not to
470 impose youthful offender or adult sanctions.

471 (e)~~(e)~~ *Adult sanctions upon failure of juvenile sanctions.*—
472 If a child proves not to be suitable to a commitment program,
473 juvenile probation program, or treatment program under paragraph
474 (d)~~(b)~~, the department shall provide the sentencing court with a
475 written report outlining the basis for its objections to the
476 juvenile sanction and shall simultaneously provide a copy of the
477 report to the state attorney and the defense counsel. The
478 department shall schedule a hearing within 30 days. Upon
479 hearing, the court may revoke the previous adjudication, impose
480 an adjudication of guilt, and impose any sentence which it may
481 lawfully impose, giving credit for all time spent by the child
482 in the department. The court may also classify the child as a
483 youthful offender under s. 958.04, if appropriate. For purposes
484 of this paragraph, a child may be found not suitable to a
485 commitment program, community control program, or treatment
486 program under paragraph (d)~~(b)~~ if the child commits a new
487 violation of law while under juvenile sanctions, if the child
488 commits any other violation of the conditions of juvenile
489 sanctions, or if the child's actions are otherwise determined by
490 the court to demonstrate a failure of juvenile sanctions.

491 (f)~~(d)~~ *Further proceedings heard in adult court.*—When a
492 child is sentenced to juvenile sanctions, further proceedings
493 involving those sanctions shall continue to be heard in the

591-02779-15

20151082c1

494 adult court.

495 (g)~~(e)~~ *School attendance.*—If the child is attending or is
496 eligible to attend public school and the court finds that the
497 victim or a sibling of the victim in the case is attending or
498 may attend the same school as the child, the court placement
499 order shall include a finding pursuant to the proceeding
500 described in s. 985.455(2), regardless of whether adjudication
501 is withheld.

502

503 It is the intent of the Legislature that the criteria and
504 guidelines in this subsection are mandatory and that a
505 determination of disposition under this subsection is subject to
506 the right of the child to appellate review under s. 985.534.

507 Section 5. Subsection (1) of section 985.556, Florida
508 Statutes, is amended to read:

509 985.556 Waiver of juvenile court jurisdiction; hearing.—

510 (1) VOLUNTARY WAIVER.—The court shall transfer and certify
511 a child's criminal case for trial as an adult if the child is
512 alleged to have committed a violation of law and, prior to the
513 commencement of an adjudicatory hearing, the child, joined by a
514 parent or, in the absence of a parent, by the guardian or
515 guardian ad litem, demands in writing to be tried as an adult.
516 Once a child has been transferred for criminal prosecution
517 pursuant to a voluntary waiver hearing and has been found to
518 have committed the presenting offense or a lesser included
519 offense, the child shall be handled thereafter in every respect
520 as an adult for any subsequent violation of state law, unless
521 the court imposes juvenile sanctions under s. 985.565(4)(d) ~~s.~~
522 ~~985.565(4)(b)~~.

591-02779-15

20151082c1

523 Section 6. For the purpose of incorporating the amendment
524 made by this act to sections 985.557, 985.56, and 985.565,
525 Florida Statutes, in a reference thereto, subsection (2) of
526 section 985.04, Florida Statutes, is reenacted to read:

527 985.04 Oaths; records; confidential information.—

528 (2) Notwithstanding any other provisions of this chapter,
529 the name, photograph, address, and crime or arrest report of a
530 child:

531 (a) Taken into custody if the child has been taken into
532 custody by a law enforcement officer for a violation of law
533 which, if committed by an adult, would be a felony;

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

537 (c) Transferred to the adult system under s. 985.557,
538 indicted under s. 985.56, or waived under s. 985.556;

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

541 (e) Transferred to the adult system but sentenced to the
542 juvenile system under s. 985.565

543

544 shall not be considered confidential and exempt from s.
545 119.07(1) solely because of the child's age.

546 Section 7. For the purpose of incorporating the amendment
547 made by this act to section 985.557, Florida Statutes, in a
548 reference thereto, subsection (1) of section 985.15, Florida
549 Statutes, is reenacted to read:

550 985.15 Filing decisions.—

551 (1) The state attorney may in all cases take action

591-02779-15

20151082c1

552 independent of the action or lack of action of the juvenile
553 probation officer and shall determine the action that is in the
554 best interest of the public and the child. If the child meets
555 the criteria requiring prosecution as an adult under s. 985.556,
556 the state attorney shall request the court to transfer and
557 certify the child for prosecution as an adult or shall provide
558 written reasons to the court for not making such a request. In
559 all other cases, the state attorney may:

- 560 (a) File a petition for dependency;
- 561 (b) File a petition under chapter 984;
- 562 (c) File a petition for delinquency;
- 563 (d) File a petition for delinquency with a motion to
564 transfer and certify the child for prosecution as an adult;
- 565 (e) File an information under s. 985.557;
- 566 (f) Refer the case to a grand jury;
- 567 (g) Refer the child to a diversionary, pretrial
568 intervention, arbitration, or mediation program, or to some
569 other treatment or care program if such program commitment is
570 voluntarily accepted by the child or the child's parents or
571 legal guardian; or
- 572 (h) Decline to file.

573 Section 8. For the purpose of incorporating the amendment
574 made by this act to section 985.557, Florida Statutes, in a
575 reference thereto, subsection (5) of section 985.265, Florida
576 Statutes, is reenacted to read:

577 985.265 Detention transfer and release; education; adult
578 jails.-

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

591-02779-15

20151082c1

581 (a) When the child has been transferred or indicted for
582 criminal prosecution as an adult under part X, except that the
583 court may not order or allow a child alleged to have committed a
584 misdemeanor who is being transferred for criminal prosecution
585 pursuant to either s. 985.556 or s. 985.557 to be detained or
586 held in a jail or other facility intended or used for the
587 detention of adults; however, such child may be held temporarily
588 in a detention facility; or

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

591
592 The child shall be housed separately from adult inmates to
593 prohibit a child from having regular contact with incarcerated
594 adults, including trusties. "Regular contact" means sight and
595 sound contact. Separation of children from adults shall permit
596 no more than haphazard or accidental contact. The receiving jail
597 or other facility shall contain a separate section for children
598 and shall have an adequate staff to supervise and monitor the
599 child's activities at all times. Supervision and monitoring of
600 children includes physical observation and documented checks by
601 jail or receiving facility supervisory personnel at intervals
602 not to exceed 10 minutes. This subsection does not prohibit
603 placing two or more children in the same cell. Under no
604 circumstances shall a child be placed in the same cell with an
605 adult.

606 Section 9. For the purpose of incorporating the amendment
607 made by this act to section 985.557, Florida Statutes, in a
608 reference thereto, subsection (3) of section 985.556, Florida
609 Statutes, is reenacted to read:

591-02779-15

20151082c1

610 985.556 Waiver of juvenile court jurisdiction; hearing.—

611 (3) INVOLUNTARY MANDATORY WAIVER.—

612 (a) If the child was 14 years of age or older, and if the
613 child has been previously adjudicated delinquent for an act
614 classified as a felony, which adjudication was for the
615 commission of, attempt to commit, or conspiracy to commit
616 murder, sexual battery, armed or strong-armed robbery,
617 carjacking, home-invasion robbery, aggravated battery,
618 aggravated assault, or burglary with an assault or battery, and
619 the child is currently charged with a second or subsequent
620 violent crime against a person; or

621 (b) If the child was 14 years of age or older at the time
622 of commission of a fourth or subsequent alleged felony offense
623 and the child was previously adjudicated delinquent or had
624 adjudication withheld for or was found to have committed, or to
625 have attempted or conspired to commit, three offenses that are
626 felony offenses if committed by an adult, and one or more of
627 such felony offenses involved the use or possession of a firearm
628 or violence against a person;

629

630 the state attorney shall request the court to transfer and
631 certify the child for prosecution as an adult or shall provide
632 written reasons to the court for not making such request, or
633 proceed under s. 985.557(1). Upon the state attorney's request,
634 the court shall either enter an order transferring the case and
635 certifying the case for trial as if the child were an adult or
636 provide written reasons for not issuing such an order.

637 Section 10. For the purpose of incorporating the amendment
638 made by this act to section 985.565, Florida Statutes, in a

591-02779-15

20151082c1

639 reference thereto, subsection (3) of section 985.514, Florida
640 Statutes, is reenacted to read:

641 985.514 Responsibility for cost of care; fees.—

642 (3) When the court under s. 985.565 orders any child
643 prosecuted as an adult to be supervised by or committed to the
644 department for treatment in any of the department's programs for
645 children, the court shall order the child's parents to pay fees
646 as provided in s. 985.039.

647 Section 11. For the purpose of incorporating the amendment
648 made by this act to section 985.565, Florida Statutes, in a
649 reference thereto, paragraph (a) of subsection (5) of section
650 985.556, Florida Statutes, is reenacted to read:

651 985.556 Waiver of juvenile court jurisdiction; hearing.—

652 (5) EFFECT OF ORDER WAIVING JURISDICTION.—

653 (a) Once a child has been transferred for criminal
654 prosecution pursuant to an involuntary waiver hearing and has
655 been found to have committed the presenting offense or a lesser
656 included offense, the child shall thereafter be handled in every
657 respect as an adult for any subsequent violation of state law,
658 unless the court imposes juvenile sanctions under s. 985.565.

659 Section 12. This act shall take effect July 1, 2015.