

1 A bill to be entitled
2 An act relating to prosecuting children as adults;
3 amending s. 985.556, F.S.; deleting provisions under
4 which a state attorney must either request a court to
5 transfer and certify children of certain ages who
6 commit specified crimes for prosecution as adults or
7 provide written reasons to the court for not making
8 such a request, or must proceed under certain
9 provisions; amending s. 985.557, F.S.; revising the
10 circumstances under which a state attorney may file an
11 information in cases that involve children of certain
12 ages who commit certain crimes; amending s. 985.56,
13 F.S.; providing that children 14 years of age or
14 older, rather than children of any age, who are
15 charged with certain offenses are subject to court
16 jurisdiction until an indictment is returned;
17 prohibiting the transfer of a child to adult court for
18 criminal prosecution of an indictable offense until
19 the child's competency has been restored in certain
20 circumstances; providing for the tolling of certain
21 time limits; authorizing, rather than requiring, a
22 child who is found to have committed specified crimes
23 to be sentenced according to certain provisions;
24 amending s. 985.565, F.S.; authorizing, rather than
25 requiring, a child to be sentenced as an adult if the

26 | child is found to have committed an offense punishable
 27 | by death or life imprisonment; conforming provisions
 28 | to changes made by the act; amending s. 985.03, F.S.;
 29 | conforming a cross-reference; providing an effective
 30 | date.

31 |
 32 | Be It Enacted by the Legislature of the State of Florida:
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34 | Section 1. Subsections (2) and (3) of section 985.556,
 35 | Florida Statutes, are amended, and subsection (1) of that
 36 | section is republished, to read:

37 | 985.556 Waiver of juvenile court jurisdiction; hearing.—

38 | (1) VOLUNTARY WAIVER.—The court shall transfer and certify
 39 | a child's criminal case for trial as an adult if the child is
 40 | alleged to have committed a violation of law and, prior to the
 41 | commencement of an adjudicatory hearing, the child, joined by a
 42 | parent or, in the absence of a parent, by the guardian or
 43 | guardian ad litem, demands in writing to be tried as an adult.
 44 | Once a child has been transferred for criminal prosecution
 45 | pursuant to a voluntary waiver hearing and has been found to
 46 | have committed the presenting offense or a lesser included
 47 | offense, the child shall be handled thereafter in every respect
 48 | as an adult for any subsequent violation of state law, unless
 49 | the court imposes juvenile sanctions under s. 985.565(4) (b).

50 | (2) INVOLUNTARY DISCRETIONARY WAIVER.—~~Except as provided~~

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51 ~~in subsection (3),~~ The state attorney may file a motion
52 requesting the court to transfer the child for criminal
53 prosecution if the child was 14 years of age or older at the
54 time the alleged delinquent act or violation of law was
55 committed.

56 ~~(3) INVOLUNTARY MANDATORY WAIVER.—~~

57 ~~(a) If the child was 14 years of age or older, and if the~~
58 ~~child has been previously adjudicated delinquent for an act~~
59 ~~classified as a felony, which adjudication was for the~~
60 ~~commission of, attempt to commit, or conspiracy to commit~~
61 ~~murder, sexual battery, armed or strong-armed robbery,~~
62 ~~earjacking, home-invasion robbery, aggravated battery,~~
63 ~~aggravated assault, or burglary with an assault or battery, and~~
64 ~~the child is currently charged with a second or subsequent~~
65 ~~violent crime against a person; or~~

66 ~~(b) If the child was 14 years of age or older at the time~~
67 ~~of commission of a fourth or subsequent alleged felony offense~~
68 ~~and the child was previously adjudicated delinquent or had~~
69 ~~adjudication withheld for or was found to have committed, or to~~
70 ~~have attempted or conspired to commit, three offenses that are~~
71 ~~felony offenses if committed by an adult, and one or more of~~
72 ~~such felony offenses involved the use or possession of a firearm~~
73 ~~or violence against a person;~~

74
75 ~~the state attorney shall request the court to transfer and~~

76 ~~certify the child for prosecution as an adult or shall provide~~
 77 ~~written reasons to the court for not making such request, or~~
 78 ~~proceed under s. 985.557(1). Upon the state attorney's request,~~
 79 ~~the court shall either enter an order transferring the case and~~
 80 ~~certifying the case for trial as if the child were an adult or~~
 81 ~~provide written reasons for not issuing such an order.~~

82 Section 2. Section 985.557, Florida Statutes, is amended
 83 to read:

84 985.557 Prosecuting children as adults ~~Direct filing of an~~
 85 ~~information; discretionary criteria.-~~

86 (1) DISCRETIONARY PROSECUTION OF CHILDREN AS ADULTS DIRECT
 87 FILE.-

88 ~~(a) With respect to any child who was 14 or 15 years of~~
 89 ~~age at the time the alleged offense was committed, the state~~
 90 ~~attorney may file an information when in the state attorney's~~
 91 ~~judgment and discretion the public interest requires that adult~~
 92 ~~sanctions be considered or imposed and when the offense charged~~
 93 ~~is for the commission of, attempt to commit, or conspiracy to~~
 94 ~~commit:~~

- 95 1. ~~Arson;~~
- 96 2. ~~Sexual battery;~~
- 97 3. ~~Robbery;~~
- 98 4. ~~Kidnapping;~~
- 99 5. ~~Aggravated child abuse;~~
- 100 6. ~~Aggravated assault;~~

- 101 ~~7. Aggravated stalking;~~
- 102 ~~8. Murder;~~
- 103 ~~9. Manslaughter;~~
- 104 ~~10. Unlawful throwing, placing, or discharging of a~~
- 105 ~~destructive device or bomb;~~
- 106 ~~11. Armed burglary in violation of s. 810.02(2)(b) or~~
- 107 ~~specified burglary of a dwelling or structure in violation of s.~~
- 108 ~~810.02(2)(c), or burglary with an assault or battery in~~
- 109 ~~violation of s. 810.02(2)(a);~~
- 110 ~~12. Aggravated battery;~~
- 111 ~~13. Any lewd or lascivious offense committed upon or in~~
- 112 ~~the presence of a person less than 16 years of age;~~
- 113 ~~14. Carrying, displaying, using, threatening, or~~
- 114 ~~attempting to use a weapon or firearm during the commission of a~~
- 115 ~~felony;~~
- 116 ~~15. Grand theft in violation of s. 812.014(2)(a);~~
- 117 ~~16. Possessing or discharging any weapon or firearm on~~
- 118 ~~school property in violation of s. 790.115;~~
- 119 ~~17. Home invasion robbery;~~
- 120 ~~18. Carjacking; or~~
- 121 ~~19. Grand theft of a motor vehicle in violation of s.~~
- 122 ~~812.014(2)(c)6. or grand theft of a motor vehicle valued at~~
- 123 ~~\$20,000 or more in violation of s. 812.014(2)(b) if the child~~
- 124 ~~has a previous adjudication for grand theft of a motor vehicle~~
- 125 ~~in violation of s. 812.014(2)(c)6. or s. 812.014(2)(b).~~

126 ~~(b)~~ With respect to any child who was 16 or 17 years of
 127 age at the time the alleged forcible felony, as defined in s.
 128 776.08, offense was committed, the state attorney may file an
 129 information when in the state attorney's judgment and discretion
 130 the public interest requires that adult sanctions be considered
 131 or imposed. However, the state attorney may not file an
 132 information on a child charged with a misdemeanor, unless the
 133 child has had at least two previous adjudications or
 134 adjudications withheld for delinquent acts, one of which
 135 involved an offense classified as a forcible felony under state
 136 law.

137 (2) EFFECT OF PROSECUTION OF CHILDREN AS ADULTS ~~DIRECT~~
 138 ~~FILE~~.—

139 (a) Once a child has been transferred for criminal
 140 prosecution pursuant to an information and has been found to
 141 have committed the presenting offense or a lesser included
 142 offense, the child shall be handled thereafter in every respect
 143 as if an adult for any subsequent violation of state law, unless
 144 the court imposes juvenile sanctions under s. 985.565.

145 (b) When a child is transferred for criminal prosecution
 146 as an adult, the court shall immediately transfer and certify to
 147 the adult circuit court all felony cases pertaining to the
 148 child, for prosecution of the child as an adult, which have not
 149 yet resulted in a plea of guilty or nolo contendere or in which
 150 a finding of guilt has not been made. If a child is acquitted of

151 all charged offenses or lesser included offenses contained in
 152 the original case transferred to adult court, all felony cases
 153 that were transferred to adult court as a result of this
 154 paragraph shall be subject to the same penalties to which such
 155 cases would have been subject before being transferred to adult
 156 court.

157 (c) When a child has been transferred for criminal
 158 prosecution as an adult and has been found to have committed a
 159 violation of state law, the disposition of the case may be made
 160 under s. 985.565 and may include the enforcement of any
 161 restitution ordered in any juvenile proceeding.

162 (3) CHARGES INCLUDED ON INFORMATION.—An information filed
 163 pursuant to this section may include all charges that are based
 164 on the same act, criminal episode, or transaction as the primary
 165 offenses.

166 Section 3. Section 985.56, Florida Statutes, is amended to
 167 read:

168 985.56 Indictment of a juvenile.—

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

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176 | respect as an adult:

177 | (a) On the indictable offense punishable by death or by
178 | life imprisonment; and

179 | (b) On all other felonies or misdemeanors charged in the
180 | indictment which are based on the same act or transaction as the
181 | indictable offense punishable by death or by life imprisonment
182 | or on one or more acts or transactions connected with the
183 | offense punishable by death or by life imprisonment.

184 | (2) An adjudicatory hearing may not be held until 21 days
185 | after the child is taken into custody and charged with having
186 | committed an indictable offense punishable by death or by life
187 | imprisonment, unless the state attorney advises the court in
188 | writing that he or she does not intend to present the case to
189 | the grand jury, or has presented the case to the grand jury and
190 | the grand jury has not returned an indictment. If the court
191 | receives such a notice from the state attorney, or if the grand
192 | jury fails to act within the 21-day period, the court may
193 | proceed as otherwise authorized under this part.

194 | (3) Notwithstanding any other law, a child who commits an
195 | offense for which he or she may be indicted and who has a
196 | pending competency hearing in juvenile court or who previously
197 | has been found to be incompetent and has not been restored to
198 | competency by a court may not be transferred to adult court for
199 | criminal prosecution until the child's competency is restored. A
200 | pending competency hearing or a finding of incompetency tolls

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201 the time limits in subsection (2). If the child is found to have
202 committed the offense punishable by death or by life
203 imprisonment, the child may ~~shall~~ be sentenced pursuant to s.
204 985.565 ~~as an adult~~. If the juvenile is not found to have
205 committed the indictable offense but is found to have committed
206 a lesser included offense or any other offense for which he or
207 she was indicted as a part of the criminal episode, the court
208 may sentence under s. 985.565.

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

215 (b) If ~~When~~ a child has been indicted pursuant to this
216 section, the court must ~~shall~~ immediately transfer and certify
217 to the adult circuit court all felony cases pertaining to the
218 child, for prosecution of the child as an adult, which have not
219 yet resulted in a plea of guilty or nolo contendere or in which
220 a finding of guilt has not been made. If the child is acquitted
221 of all charged offenses or lesser included offenses contained in
222 the indictment case, all felony cases that were transferred to
223 adult court pursuant to this paragraph must ~~shall~~ be subject to
224 the same penalties such cases were subject to before being
225 transferred to adult court.

226 Section 4. Paragraphs (a) and (b) of subsection (4) of
 227 section 985.565, Florida Statutes, are amended to read:
 228 985.565 Sentencing powers; procedures; alternatives for
 229 juveniles prosecuted as adults.—
 230 (4) SENTENCING ALTERNATIVES.—
 231 (a) *Adult sanctions*.—
 232 1. Cases prosecuted on indictment.—If the child is found
 233 to have committed the offense punishable by death or life
 234 imprisonment, the child may ~~shall~~ be sentenced as an adult. If
 235 the juvenile is not found to have committed the indictable
 236 offense but is found to have committed a lesser included offense
 237 or any other offense for which he or she was indicted as a part
 238 of the criminal episode, the court may sentence as follows:
 239 a. As an adult;
 240 b. Under chapter 958; or
 241 c. As a juvenile under this section.
 242 2. Other cases.—If a child who has been transferred for
 243 criminal prosecution pursuant to information or waiver of
 244 juvenile court jurisdiction is found to have committed a
 245 violation of state law or a lesser included offense for which he
 246 or she was charged as a part of the criminal episode, the court
 247 may sentence as follows:
 248 a. As an adult;
 249 b. Under chapter 958; or
 250 c. As a juvenile under this section.

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251 ~~3. Notwithstanding any other provision to the contrary, if~~
252 ~~the state attorney is required to file a motion to transfer and~~
253 ~~certify the juvenile for prosecution as an adult under s.~~
254 ~~985.556(3) and that motion is granted, the court must impose~~
255 ~~adult sanctions.~~

256 3.4. Any sentence imposing adult sanctions is presumed
257 appropriate, and the court is not required to set forth specific
258 findings or enumerate the criteria in this subsection as any
259 basis for its decision to impose adult sanctions.

260 ~~4.5.~~ When a child has been transferred for criminal
261 prosecution as an adult and has been found to have committed a
262 violation of state law, the disposition of the case may include
263 the enforcement of any restitution ordered in any juvenile
264 proceeding.

265 (b) *Juvenile sanctions.*—For juveniles transferred to adult
266 court ~~but who do not qualify for such transfer under s.~~
267 ~~985.556(3)~~, the court may impose juvenile sanctions under this
268 paragraph. If juvenile sentences are imposed, the court shall,
269 under this paragraph, adjudge the child to have committed a
270 delinquent act. Adjudication of delinquency may not be deemed a
271 conviction, nor shall it operate to impose any of the civil
272 disabilities ordinarily resulting from a conviction. The court
273 shall impose an adult sanction or a juvenile sanction and may
274 not sentence the child to a combination of adult and juvenile
275 punishments. An adult sanction or a juvenile sanction may

276 include enforcement of an order of restitution or probation
277 previously ordered in any juvenile proceeding. However, if the
278 court imposes a juvenile sanction and the department determines
279 that the sanction is unsuitable for the child, the department
280 shall return custody of the child to the sentencing court for
281 further proceedings, including the imposition of adult
282 sanctions. Upon adjudicating a child delinquent under subsection
283 (1), the court may:

284 1. Place the child in a probation program under the
285 supervision of the department for an indeterminate period of
286 time until the child reaches the age of 19 years or sooner if
287 discharged by order of the court.

288 2. Commit the child to the department for treatment in an
289 appropriate program for children for an indeterminate period of
290 time until the child is 21 or sooner if discharged by the
291 department. The department shall notify the court of its intent
292 to discharge no later than 14 days before discharge. Failure of
293 the court to timely respond to the department's notice shall be
294 considered approval for discharge.

295 3. Order disposition under ss. 985.435, 985.437, 985.439,
296 985.441, 985.45, and 985.455 as an alternative to youthful
297 offender or adult sentencing if the court determines not to
298 impose youthful offender or adult sanctions.

299

300 It is the intent of the Legislature that the criteria and

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301 guidelines in this subsection are mandatory and that a
302 determination of disposition under this subsection is subject to
303 the right of the child to appellate review under s. 985.534.

304 Section 5. Subsection (54) of section 985.03, Florida
305 Statutes, is amended to read:

306 985.03 Definitions.—As used in this chapter, the term:

307 (54) "Waiver hearing" means a hearing provided for under
308 s. 985.556(3) ~~s. 985.556(4)~~.

309 Section 6. This act shall take effect July 1, 2022.