

1                                   A bill to be entitled  
2           An act relating to prosecuting children as adults;  
3           amending s. 985.265, F.S.; prohibiting a jail or other  
4           facility intended or used for the detention of adults  
5           from holding a child who has been transferred to adult  
6           court for criminal prosecution before a specified  
7           hearing is held to determine if the child should be  
8           prosecuted as an adult, unless the child waives his or  
9           her right to such hearing; amending s. 985.556, F.S.;  
10          deleting provisions requiring a state attorney to  
11          request a court to transfer and certify a child for  
12          prosecution as an adult or to provide written reasons  
13          to the court for not making such request, or to  
14          proceed under a specified provision; amending s.  
15          985.557, F.S.; deleting references to the state  
16          attorney's discretion to direct file a juvenile;  
17          revising discretionary direct file criteria; requiring  
18          a court to advise a child and his or her parent or  
19          legal guardian of the child's right to a due process  
20          evidentiary hearing before a judge upon the filing by  
21          a state attorney of an information transferring the  
22          child to adult court; requiring that the child or the  
23          child's parent or legal guardian be afforded such  
24          hearing; requiring the judge to conduct the hearing  
25          within a certain timeframe; requiring the judge to

26 consider specified information and factors during such  
27 hearing; authorizing the judge to consider, and  
28 certain parties to the action to examine, certain  
29 reports; providing for continued jurisdiction of the  
30 adult court with regard to the child unless the court  
31 makes a specified finding by a preponderance of the  
32 evidence; requiring the adult court to render an order  
33 that includes certain findings of fact; authorizing  
34 immediate review of the order; providing that the  
35 order is reviewable on appeal under specified rules;  
36 amending ss. 985.15 and 985.565, F.S.; conforming  
37 provisions to changes made by the act; amending s.  
38 985.03, F.S.; conforming a cross-reference; providing  
39 an effective date.

40  
41 Be It Enacted by the Legislature of the State of Florida:

42  
43 **Section 1. Subsection (5) of section 985.265, Florida**  
44 **Statutes, is amended to read:**

45 985.265 Detention transfer and release; education; adult  
46 jails.—

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

50 (a) When the child has been transferred or indicted for

51 criminal prosecution as an adult under part X, except that:

52 1. The court may not order or allow a child alleged to  
53 have committed a misdemeanor who is being transferred for  
54 criminal prosecution pursuant to either s. 985.556 or s. 985.557  
55 to be detained or held in a jail or other facility intended or  
56 used for the detention of adults; however, such child may be  
57 held temporarily in a detention facility; and

58 2. A child who has been transferred for criminal  
59 prosecution as an adult pursuant to s. 985.557 may not be held  
60 in a jail or other facility intended or used for the detention  
61 of adults before a court finding, as a result of a hearing  
62 provided for under s. 985.557(3), that the child should be  
63 prosecuted as an adult, unless the child waives his or her right  
64 to such hearing; or

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

67  
68 The child shall be housed separately from adult inmates to  
69 prohibit a child from having regular contact with incarcerated  
70 adults, including trustees. "Regular contact" means sight and  
71 sound contact. Separation of children from adults shall permit  
72 no more than haphazard or accidental contact. The receiving jail  
73 or other facility shall contain a separate section for children  
74 and shall have an adequate staff to supervise and monitor the  
75 child's activities at all times. Supervision and monitoring of

76 children includes physical observation and documented checks by  
 77 jail or receiving facility supervisory personnel at intervals  
 78 not to exceed 10 minutes. This subsection does not prohibit  
 79 placing two or more children in the same cell. Under no  
 80 circumstances shall a child be placed in the same cell with an  
 81 adult.

82 **Section 2. Subsections (2) and (3) of section 985.556,**  
 83 **Florida Statutes, are amended to read:**

84 985.556 Waiver of juvenile court jurisdiction; hearing.—

85 (2) INVOLUNTARY DISCRETIONARY WAIVER.—~~Except as provided~~  
 86 ~~in subsection (3),~~ The state attorney may file a motion  
 87 requesting the court to transfer the child for criminal  
 88 prosecution if the child was 14 years of age or older at the  
 89 time the alleged delinquent act or violation of law was  
 90 committed.

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

92 ~~(a) If the child was 14 years of age or older, and if the~~  
 93 ~~child has been previously adjudicated delinquent for an act~~  
 94 ~~classified as a felony, which adjudication was for the~~  
 95 ~~commission of, attempt to commit, or conspiracy to commit~~  
 96 ~~murder, sexual battery, armed or strong-armed robbery,~~  
 97 ~~earjacking, home-invasion robbery, aggravated battery,~~  
 98 ~~aggravated assault, or burglary with an assault or battery, and~~  
 99 ~~the child is currently charged with a second or subsequent~~  
 100 ~~violent crime against a person; or~~

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101 ~~(b) If the child was 14 years of age or older at the time~~  
102 ~~of commission of a fourth or subsequent alleged felony offense~~  
103 ~~and the child was previously adjudicated delinquent or had~~  
104 ~~adjudication withheld for or was found to have committed, or to~~  
105 ~~have attempted or conspired to commit, three offenses that are~~  
106 ~~felony offenses if committed by an adult, and one or more of~~  
107 ~~such felony offenses involved the use or possession of a firearm~~  
108 ~~or violence against a person;~~

109  
110 ~~the state attorney shall request the court to transfer and~~  
111 ~~certify the child for prosecution as an adult or shall provide~~  
112 ~~written reasons to the court for not making such request, or~~  
113 ~~proceed under s. 985.557(1). Upon the state attorney's request,~~  
114 ~~the court shall either enter an order transferring the case and~~  
115 ~~certifying the case for trial as if the child were an adult or~~  
116 ~~provide written reasons for not issuing such an order.~~

117 **Section 3. Section 985.557, Florida Statutes, is amended**  
118 **to read:**

119 985.557 Prosecuting children as adults ~~Direct filing of an~~  
120 ~~information; discretionary criteria.-~~

121 (1) DISCRETIONARY PROSECUTION OF CHILDREN AS ADULTS ~~DIRECT~~  
122 ~~FILE.-~~

123 ~~(a) With respect to any child who was 14 or 15 years of~~  
124 ~~age at the time the alleged offense was committed, the state~~  
125 ~~attorney may file an information when in the state attorney's~~

126 ~~judgment and discretion the public interest requires that adult~~  
 127 ~~sanctions be considered or imposed and when the offense charged~~  
 128 ~~is for the commission of, attempt to commit, or conspiracy to~~  
 129 ~~commit:~~

- 130 ~~1. Arson;~~
- 131 ~~2. Sexual battery;~~
- 132 ~~3. Robbery;~~
- 133 ~~4. Kidnapping;~~
- 134 ~~5. Aggravated child abuse;~~
- 135 ~~6. Aggravated assault;~~
- 136 ~~7. Aggravated stalking;~~
- 137 ~~8. Murder;~~
- 138 ~~9. Manslaughter;~~
- 139 ~~10. Unlawful throwing, placing, or discharging of a~~  
 140 ~~destructive device or bomb;~~
- 141 ~~11. Armed burglary in violation of s. 810.02(2)(b) or~~  
 142 ~~specified burglary of a dwelling or structure in violation of s.~~  
 143 ~~810.02(2)(c), or burglary with an assault or battery in~~  
 144 ~~violation of s. 810.02(2)(a);~~
- 145 ~~12. Aggravated battery;~~
- 146 ~~13. Any lewd or lascivious offense committed upon or in~~  
 147 ~~the presence of a person less than 16 years of age;~~
- 148 ~~14. Carrying, displaying, using, threatening, or~~  
 149 ~~attempting to use a weapon or firearm during the commission of a~~  
 150 ~~felony;~~

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151 ~~15. Grand theft in violation of s. 812.014(2) (a);~~

152 ~~16. Possessing or discharging any weapon or firearm on~~  
153 ~~school property in violation of s. 790.115;~~

154 ~~17. Home invasion robbery;~~

155 ~~18. Carjacking; or~~

156 ~~19. Grand theft of a motor vehicle in violation of s.~~  
157 ~~812.014(2) (c)6. or grand theft of a motor vehicle valued at~~  
158 ~~\$20,000 or more in violation of s. 812.014(2) (b) if the child~~  
159 ~~has a previous adjudication for grand theft of a motor vehicle~~  
160 ~~in violation of s. 812.014(2) (c)6. or s. 812.014(2) (b).~~

161 ~~(b)~~ With respect to any child who was 16 or 17 years of  
162 age at the time the alleged forcible felony as defined in s.  
163 776.08 ~~offense~~ was committed, the state attorney may file an  
164 information when ~~in the state attorney's judgment and discretion~~  
165 the public interest requires that adult sanctions be considered  
166 or imposed. However, the state attorney may not file an  
167 information on a child charged with a misdemeanor, unless the  
168 child has had at least two previous adjudications ~~or~~  
169 ~~adjudications withheld~~ for delinquent acts, one of which  
170 involved an offense classified as a forcible felony as defined  
171 in s. 776.08 ~~under state law.~~

172 (2) NOTIFICATION TO PARENT OR GUARDIAN.—Upon the filing by  
173 the state attorney of an information transferring a child to  
174 adult court, the court must advise the child and his or her  
175 parent or legal guardian that the child has the right to a due

176 process evidentiary hearing before a judge.

177 (3) DUE PROCESS EVIDENTIARY HEARING.—Notwithstanding any  
178 other law, and in all cases, a child charged with a crime or his  
179 or her parent or legal guardian must be afforded a due process  
180 evidentiary hearing before a judge after the state attorney  
181 files an information in adult court under this section.

182 (a) The judge shall conduct the hearing within 30 days  
183 after the request, excluding Saturdays, Sundays, and legal  
184 holidays, unless the child or the child's attorney shows good  
185 cause for a delay. The purpose of the hearing is for the court  
186 to determine whether it is necessary for the community's  
187 protection that the child be prosecuted in adult court. The  
188 judge shall consider all of the following:

189 1. Evaluations and assessments completed by the  
190 department.

191 2. The sophistication and maturity of the child,  
192 including:

193 a. The effect, if any, of immaturity, impetuosity, or  
194 failure to appreciate risks and consequences on the child's  
195 participation in the alleged offense.

196 b. The child's age, maturity, intellectual capacity, and  
197 mental and emotional health at the time of the alleged offense.

198 c. The effect, if any, of characteristics attributable to  
199 the child's youth on his or her judgment.

200 3. The record and previous history of the child,



201 including:

202 a. Previous contacts with the department, the Department  
203 of Corrections, the Department of Children and Families, other  
204 law enforcement agencies, and the courts.

205 b. Prior periods of probation.

206 c. Prior adjudications that the child committed a  
207 delinquent act or violation of law, with greater weight being  
208 given if a court previously found that the child committed a  
209 delinquent act or violation of law involving violence to  
210 persons.

211 d. Prior commitments to institutions of the department,  
212 the Department of Corrections, or agencies under contract with  
213 either department.

214 e. Any history of trauma, abuse or neglect, foster care  
215 placements, failed adoption, fetal alcohol syndrome, exposure to  
216 controlled substances at birth, or below-average intellectual  
217 functioning.

218 f. Identification of the child as a student requiring  
219 exceptional student education or having previously received  
220 psychological services.

221 4. The nature of the alleged offense and the child's  
222 participation in it, including:

223 a. Whether the alleged offense is punishable by death or  
224 life imprisonment.

225 b. Whether the alleged offense was against persons or

226 property.

227 c. Whether the alleged offense is alleged to have been  
228 committed in an aggressive, violent, or premeditated manner.

229 d. The extent of the child's participation in the alleged  
230 offense.

231 e. The effect, if any, of familial pressure or peer  
232 pressure on the child's actions.

233 5. The prospects for adequate protection of the public and  
234 the likelihood of reasonable rehabilitation of the child, if the  
235 child is found to have committed the alleged offense:

236 a. By the use of procedures, services, and facilities  
237 currently available to the juvenile court.

238 b. By the use of procedures, services, and facilities  
239 currently available to the adult court, including whether the  
240 lowest permissible sentence under the Criminal Punishment Code  
241 is a nonstate prison sanction.

242 6. Whether the child could obtain habilitative or  
243 rehabilitative services available in the juvenile justice  
244 system.

245 7. Whether the child could receive a sentence in juvenile  
246 court which would provide adequate safety and protection for the  
247 community.

248 8. Whether the child's best interests would be served by  
249 prosecuting the child in juvenile court.

250 (b) The judge may consider any reports that may assist the

251 court, including prior predisposition reports, psychosocial  
252 assessments, individual educational plans, developmental  
253 assessments, school records, abuse or neglect reports, home  
254 studies, protective investigations, and psychological and  
255 psychiatric evaluations. The child, the child's parent or legal  
256 guardian, his or her defense counsel, and the state attorney may  
257 examine these reports and, at the hearing, question the parties  
258 responsible for creating them.

259 (c) The adult court shall retain jurisdiction unless the  
260 court finds by a preponderance of the evidence that the factors  
261 listed in paragraph (a) support returning the child to juvenile  
262 court.

263 (d) The adult court shall render an order that includes  
264 specific findings of fact and the reasons for its decision. The  
265 prosecution or defense may seek immediate review of the order  
266 through interlocutory appeal. The order is reviewable on appeal  
267 under the Florida Rules of Appellate Procedure.

268 (4)-(2) EFFECT OF PROSECUTING CHILDREN AS ADULTS ~~DIRECT~~  
269 FILE.-

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

276 (b) When a child is transferred for criminal prosecution  
277 as an adult, the court shall immediately transfer and certify to  
278 the adult circuit court all felony cases pertaining to the  
279 child, for prosecution of the child as an adult, which have not  
280 yet resulted in a plea of guilty or nolo contendere or in which  
281 a finding of guilt has not been made. If a child is acquitted of  
282 all charged offenses or lesser included offenses contained in  
283 the original case transferred to adult court, all felony cases  
284 that were transferred to adult court as a result of this  
285 paragraph shall be subject to the same penalties to which such  
286 cases would have been subject before being transferred to adult  
287 court.

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

293 (5)~~(3)~~ CHARGES INCLUDED IN INFORMATION.—An information  
294 filed pursuant to this section may include all charges that are  
295 based on the same act, criminal episode, or transaction as the  
296 primary offenses.

297 **Section 4. Subsection (1) of section 985.15, Florida**  
298 **Statutes, is amended to read:**

299 985.15 Filing decisions.—

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

301 independent of the action or lack of action of the juvenile  
 302 probation officer and shall determine the action that is in the  
 303 best interest of the public and the child. ~~If the child meets~~  
 304 ~~the criteria requiring prosecution as an adult under s. 985.556,~~  
 305 ~~the state attorney shall request the court to transfer and~~  
 306 ~~certify the child for prosecution as an adult or shall provide~~  
 307 ~~written reasons to the court for not making such a request. In~~  
 308 ~~all other cases,~~ The state attorney may:

- 309 (a) File a petition for dependency;
- 310 (b) File a petition under chapter 984;
- 311 (c) File a petition for delinquency;
- 312 (d) File a petition for delinquency with a motion to  
 313 transfer and certify the child for prosecution as an adult;
- 314 (e) File an information under s. 985.557;
- 315 (f) Refer the case to a grand jury;
- 316 (g) Refer the child to a diversionary, pretrial  
 317 intervention, arbitration, or mediation program, or to some  
 318 other treatment or care program if such program commitment is  
 319 voluntarily accepted by the child or the child's parents or  
 320 legal guardian; or
- 321 (h) Decline to file.

322 **Section 5. Paragraphs (a) and (b) of subsection (4) of**  
 323 **section 985.565, Florida Statutes, are amended to read:**

324 985.565 Sentencing powers; procedures; alternatives for  
 325 juveniles prosecuted as adults.—

326 (4) SENTENCING ALTERNATIVES.—

327 (a) *Adult sanctions*.—

328 1. Cases prosecuted on indictment.—If the child is found  
 329 to have committed the offense punishable by death or life  
 330 imprisonment, the child shall be sentenced as an adult. If the  
 331 juvenile is not found to have committed the indictable offense  
 332 but is found to have committed a lesser included offense or any  
 333 other offense for which he or she was indicted as a part of the  
 334 criminal episode, the court may sentence as follows:

- 335 a. As an adult;
- 336 b. Under chapter 958; or
- 337 c. As a juvenile under this section.

338 2. Other cases.—If a child who has been transferred for  
 339 criminal prosecution pursuant to information or waiver of  
 340 juvenile court jurisdiction is found to have committed a  
 341 violation of state law or a lesser included offense for which he  
 342 or she was charged as a part of the criminal episode, the court  
 343 may sentence as follows:

- 344 a. As an adult;
- 345 b. Under chapter 958; or
- 346 c. As a juvenile under this section.

347 3. ~~Notwithstanding any other provision to the contrary, if~~  
 348 ~~the state attorney is required to file a motion to transfer and~~  
 349 ~~certify the juvenile for prosecution as an adult under s.~~  
 350 ~~985.556(3) and that motion is granted, the court must impose~~

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351 ~~adult sanctions.~~

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

356 ~~4.5.~~ When a child has been transferred for criminal  
357 prosecution as an adult and has been found to have committed a  
358 violation of state law, the disposition of the case may include  
359 the enforcement of any restitution ordered in any juvenile  
360 proceeding.

361 (b) *Juvenile sanctions.*—For juveniles transferred to adult  
362 court ~~but who do not qualify for such transfer under s.~~  
363 ~~985.556(3)~~, the court may impose juvenile sanctions under this  
364 paragraph. If juvenile sentences are imposed, the court shall,  
365 under this paragraph, adjudge the child to have committed a  
366 delinquent act. Adjudication of delinquency may not be deemed a  
367 conviction, nor shall it operate to impose any of the civil  
368 disabilities ordinarily resulting from a conviction. The court  
369 shall impose an adult sanction or a juvenile sanction and may  
370 not sentence the child to a combination of adult and juvenile  
371 punishments. An adult sanction or a juvenile sanction may  
372 include enforcement of an order of restitution or probation  
373 previously ordered in any juvenile proceeding. However, if the  
374 court imposes a juvenile sanction and the department determines  
375 that the sanction is unsuitable for the child, the department

376 shall return custody of the child to the sentencing court for  
 377 further proceedings, including the imposition of adult  
 378 sanctions. Upon adjudicating a child delinquent under subsection  
 379 (1), the court may:

380 1. Place the child in a probation program under the  
 381 supervision of the department for an indeterminate period of  
 382 time until the child reaches the age of 19 years or sooner if  
 383 discharged by order of the court.

384 2. Commit the child to the department for treatment in an  
 385 appropriate program for children for an indeterminate period of  
 386 time until the child is 21 or sooner if discharged by the  
 387 department. The department shall notify the court of its intent  
 388 to discharge no later than 14 days before discharge. Failure of  
 389 the court to timely respond to the department's notice shall be  
 390 considered approval for discharge.

391 3. Order disposition under ss. 985.435, 985.437, 985.439,  
 392 985.441, 985.45, and 985.455 as an alternative to youthful  
 393 offender or adult sentencing if the court determines not to  
 394 impose youthful offender or adult sanctions.

395  
 396 It is the intent of the Legislature that the criteria and  
 397 guidelines in this subsection are mandatory and that a  
 398 determination of disposition under this subsection is subject to  
 399 the right of the child to appellate review under s. 985.534.

400 **Section 6. Subsection (55) of section 985.03, Florida**



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401 **Statutes, is amended to read:**

402 985.03 Definitions.—As used in this chapter, the term:

403 (55) "Waiver hearing" means a hearing provided for under

404 s. 985.556(3) ~~s. 985.556(4)~~.

405 **Section 7.** This act shall take effect July 1, 2025.