

1 A bill to be entitled
 2 An act relating to direct filing of an information;
 3 amending s. 985.557, F.S.; deleting references to the
 4 state attorney's discretion to direct file a juvenile;
 5 revising discretionary direct file criteria; providing
 6 for an opportunity for a hearing to reverse a
 7 discretionary direct file before an information is
 8 filed in adult court; revising mandatory direct file
 9 criteria; providing for an opportunity for a hearing
 10 to reverse a mandatory direct file before an
 11 information is filed in adult court; revising
 12 provisions relating to the effect of a direct file;
 13 providing an effective date.

14
 15 Be It Enacted by the Legislature of the State of Florida:

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 17 Section 1. Subsection (1), paragraphs (b) and (d) of
 18 subsection (2), and paragraphs (a) and (b) of subsection (3) of
 19 section 985.557, Florida Statutes, are amended, and paragraph
 20 (e) is added to subsection (2) of that section, to read:

21 985.557 Direct filing of an information; discretionary and
 22 mandatory criteria.—

23 (1) DISCRETIONARY DIRECT FILE.—

24 (a) With respect to any child who was 14 or 15 years of
 25 age at the time the alleged offense was committed, the state

26 attorney may file an information when ~~in the state attorney's~~
 27 ~~judgment and discretion~~ the public interest requires that adult
 28 sanctions be considered or imposed and when the offense charged
 29 is for the commission of or, attempt to commit, ~~or conspiracy to~~
 30 ~~commit~~:

- 31 1. Arson;
- 32 2. Sexual battery;
- 33 3. Robbery;
- 34 4. Kidnapping;
- 35 5. Aggravated child abuse;
- 36 6. Aggravated assault;
- 37 7. Aggravated stalking;
- 38 8. Murder;
- 39 9. Manslaughter;
- 40 10. Unlawful throwing, placing, or discharging of a
 41 destructive device or bomb;
- 42 11. Armed burglary in violation of s. 810.02(2)(b) or
 43 specified burglary of a dwelling or structure in violation of s.
 44 810.02(2)(c), or burglary with an assault or battery in
 45 violation of s. 810.02(2)(a);
- 46 12. Aggravated battery;
- 47 13. Any lewd or lascivious offense committed upon or in
 48 the presence of a person less than 16 years of age;
- 49 14. Carrying, displaying, using, threatening, or
 50 attempting to use a weapon or firearm during the commission of a

- 51 felony;
- 52 15. Grand theft in violation of s. 812.014(2) (a);
- 53 16. Possessing or discharging any weapon or firearm on
- 54 school property in violation of s. 790.115;
- 55 17. Home invasion robbery;
- 56 18. Carjacking; or
- 57 19. Grand theft of a motor vehicle in violation of s.
- 58 812.014(2) (c) 6. or grand theft of a motor vehicle valued at
- 59 \$20,000 or more in violation of s. 812.014(2) (b) if the child
- 60 has a previous adjudication for grand theft of a motor vehicle
- 61 in violation of s. 812.014(2) (c) 6. or s. 812.014(2) (b).

62 (b) With respect to any child who was 16 or 17 years of

63 age at the time the alleged offense was committed, the state

64 attorney may file an information when ~~in the state attorney's~~

65 ~~judgment and discretion~~ the public interest requires that adult

66 sanctions be considered or imposed. However, the state attorney

67 may not file an information on a child charged with a

68 misdemeanor, unless the child has had at least two previous

69 adjudications ~~or adjudications withheld~~ for delinquent acts, one

70 of which involved an offense classified as a felony under state

71 law.

72 (c) Notwithstanding any other law, and in all cases, any

73 child charged with a crime under this subsection is entitled to

74 an evidentiary hearing, before the state attorney's filing of an

75 information in adult court. The court may reverse a decision to

76 | file an information in the adult court and order the case be
77 | handled in the juvenile court system, for just cause. Court-
78 | appointed counsel shall be provided, pursuant to s. 29.007, for
79 | an indigent juvenile defendant.

80 | (2) MANDATORY DIRECT FILE.—

81 | (b) With respect to any child 16 or 17 years of age at the
82 | time an offense classified as a forcible felony, as defined in
83 | s. 776.08, was committed, the state attorney shall file an
84 | information if the child has previously been adjudicated
85 | delinquent ~~or had adjudication withheld~~ for three acts
86 | classified as felonies each of which occurred at least 45 days
87 | apart from each other. This paragraph does not apply when the
88 | state attorney has good cause to believe that exceptional
89 | circumstances exist which preclude the just prosecution of the
90 | juvenile in adult court.

91 | (d)1. With respect to any child who was 16 or 17 years of
92 | age at the time the alleged offense was committed, the state
93 | attorney shall file an information if the child has been charged
94 | with committing or attempting to commit an offense listed in s.
95 | 775.087(2)(a)1.a.-p., and, during the commission of or attempt
96 | to commit the offense, the child:

97 | a. Actually possessed a firearm or destructive device, as
98 | those terms are defined in s. 790.001.

99 | b. Discharged a firearm or destructive device, as
100 | described in s. 775.087(2)(a)2.

101 c. Discharged a firearm or destructive device, as
102 described in s. 775.087(2)(a)3., and, as a result of the
103 discharge, death or great bodily harm was inflicted upon any
104 person.

105 2. Upon transfer, any child who is:

106 a. Charged under sub-subparagraph 1.a. and who has been
107 previously adjudicated ~~or had adjudication withheld~~ for a
108 forcible felony offense or any offense involving a firearm, or
109 who has been previously placed in a residential commitment
110 program, shall be subject to sentencing under s. 775.087(2)(a),
111 notwithstanding s. 985.565.

112 b. Charged under sub-subparagraph 1.b. or sub-subparagraph
113 1.c., shall be subject to sentencing under s. 775.087(2)(a),
114 notwithstanding s. 985.565.

115 3. Upon transfer, any child who is charged under this
116 paragraph, but who does not meet the requirements specified in
117 subparagraph 2., shall be sentenced under s. 985.565; however,
118 if the court imposes a juvenile sanction, the court must commit
119 the child to a high-risk or maximum-risk juvenile facility.

120 4. This paragraph shall not apply if the state attorney
121 has good cause to believe that exceptional circumstances exist
122 that preclude the just prosecution of the child in adult court.

123 5. The Department of Corrections shall make every
124 reasonable effort to ensure that any child 16 or 17 years of age
125 who is convicted and sentenced under this paragraph be

126 completely separated such that there is no physical contact with
127 adult offenders in the facility, to the extent that it is
128 consistent with chapter 958.

129 (e) Notwithstanding any other law, and in all cases, any
130 child charged with a crime under this subsection is entitled to
131 an evidentiary hearing, before the state attorney's filing of an
132 information in adult court. The court may reverse a decision to
133 file an information in the adult court and order the case be
134 handled in the juvenile court system, for just cause. Court-
135 appointed counsel shall be provided, pursuant to s. 29.007, for
136 an indigent juvenile defendant.

137 (3) EFFECT OF DIRECT FILE.—

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

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

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

156 Section 2. This act shall take effect July 1, 2019.