

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 the  
16 jurisdiction of the court until an indictment is  
17 returned by the grand jury; prohibiting the transfer  
18 of a child to adult court for criminal prosecution of  
19 an indictable offense until the child's competency has  
20 been restored, if the child has a pending competency  
21 hearing or previously has been found incompetent and  
22 has not been restored to competency by a court;  
23 providing for the tolling of certain time limits;  
24 authorizing, rather than requiring, a child who is  
25 found to have committed specified crimes to be

26 sentenced according to certain provisions; amending s.  
27 985.03, F.S.; conforming a cross-reference; amending  
28 s. 985.565, F.S.; conforming provisions to changes  
29 made by the act; reenacting s. 985.265(5), F.S.,  
30 relating to detention transfer and release, education,  
31 and adult jails, to incorporate the amendments made to  
32 ss. 985.556 and 985.557, F.S., in references thereto;  
33 reenacting s. 985.15(1), F.S., relating to filing  
34 decisions, to incorporate the amendments made to ss.  
35 985.556 and 985.557, F.S., in references thereto;  
36 reenacting s. 985.26(2)(c), F.S., relating to the  
37 length of detention, to incorporate the amendments  
38 made to ss. 985.557 and 985.56, F.S., in references  
39 thereto; providing an effective date.  
40

41 Be It Enacted by the Legislature of the State of Florida:  
42

43 Section 1. Subsections (2) and (3) of section 985.556,  
44 Florida Statutes, are amended, and subsection (1) of that  
45 section is republished, to read:

46 985.556 Waiver of juvenile court jurisdiction; hearing.—

47 (1) VOLUNTARY WAIVER.—The court shall transfer and certify  
48 a child's criminal case for trial as an adult if the child is  
49 alleged to have committed a violation of law and, prior to the  
50 commencement of an adjudicatory hearing, the child, joined by a

51 | parent or, in the absence of a parent, by the guardian or  
 52 | guardian ad litem, demands in writing to be tried as an adult.  
 53 | Once a child has been transferred for criminal prosecution  
 54 | pursuant to a voluntary waiver hearing and has been found to  
 55 | have committed the presenting offense or a lesser included  
 56 | offense, the child shall be handled thereafter in every respect  
 57 | as an adult for any subsequent violation of state law, unless  
 58 | the court imposes juvenile sanctions under s. 985.565(4)(b).

59 |       (2) INVOLUNTARY DISCRETIONARY WAIVER. ~~Except as provided~~  
 60 | ~~in subsection (3),~~ The state attorney may file a motion  
 61 | requesting the court to transfer the child for criminal  
 62 | prosecution if the child was 14 years of age or older at the  
 63 | time the alleged delinquent act or violation of law was  
 64 | committed.

65 |       ~~(3) INVOLUNTARY MANDATORY WAIVER.~~

66 |       ~~(a) If the child was 14 years of age or older, and if the~~  
 67 | ~~child has been previously adjudicated delinquent for an act~~  
 68 | ~~classified as a felony, which adjudication was for the~~  
 69 | ~~commission of, attempt to commit, or conspiracy to commit~~  
 70 | ~~murder, sexual battery, armed or strong-armed robbery,~~  
 71 | ~~earjacking, home invasion robbery, aggravated battery,~~  
 72 | ~~aggravated assault, or burglary with an assault or battery, and~~  
 73 | ~~the child is currently charged with a second or subsequent~~  
 74 | ~~violent crime against a person; or~~

75 |       ~~(b) If the child was 14 years of age or older at the time~~

76 ~~of commission of a fourth or subsequent alleged felony offense~~  
77 ~~and the child was previously adjudicated delinquent or had~~  
78 ~~adjudication withheld for or was found to have committed, or to~~  
79 ~~have attempted or conspired to commit, three offenses that are~~  
80 ~~felony offenses if committed by an adult, and one or more of~~  
81 ~~such felony offenses involved the use or possession of a firearm~~  
82 ~~or violence against a person;~~

83  
84 ~~the state attorney shall request the court to transfer and~~  
85 ~~certify the child for prosecution as an adult or shall provide~~  
86 ~~written reasons to the court for not making such request, or~~  
87 ~~proceed under s. 985.557(1). Upon the state attorney's request,~~  
88 ~~the court shall either enter an order transferring the case and~~  
89 ~~certifying the case for trial as if the child were an adult or~~  
90 ~~provide written reasons for not issuing such an order.~~

91 Section 2. Section 985.557, Florida Statutes, is amended  
92 to read:

93 985.557 Prosecuting children as adults ~~Direct filing of an~~  
94 ~~information;~~ discretionary criteria.-

95 (1) DISCRETIONARY PROSECUTION OF CHILDREN AS ADULTS ~~DIRECT~~  
96 ~~FILE.~~-

97 ~~(a) With respect to any child who was 14 or 15 years of~~  
98 ~~age at the time the alleged offense was committed, the state~~  
99 ~~attorney may file an information when in the state attorney's~~  
100 ~~judgment and discretion the public interest requires that adult~~

101 ~~sanctions be considered or imposed and when the offense charged~~  
 102 ~~is for the commission of, attempt to commit, or conspiracy to~~  
 103 ~~commit:~~

- 104 ~~1. Arson;~~
- 105 ~~2. Sexual battery;~~
- 106 ~~3. Robbery;~~
- 107 ~~4. Kidnapping;~~
- 108 ~~5. Aggravated child abuse;~~
- 109 ~~6. Aggravated assault;~~
- 110 ~~7. Aggravated stalking;~~
- 111 ~~8. Murder;~~
- 112 ~~9. Manslaughter;~~
- 113 ~~10. Unlawful throwing, placing, or discharging of a~~  
 114 ~~destructive device or bomb;~~
- 115 ~~11. Armed burglary in violation of s. 810.02(2)(b) or~~  
 116 ~~specified burglary of a dwelling or structure in violation of s.~~  
 117 ~~810.02(2)(c), or burglary with an assault or battery in~~  
 118 ~~violation of s. 810.02(2)(a);~~
- 119 ~~12. Aggravated battery;~~
- 120 ~~13. Any lewd or lascivious offense committed upon or in~~  
 121 ~~the presence of a person less than 16 years of age;~~
- 122 ~~14. Carrying, displaying, using, threatening, or~~  
 123 ~~attempting to use a weapon or firearm during the commission of a~~  
 124 ~~felony;~~
- 125 ~~15. Grand theft in violation of s. 812.014(2)(a);~~

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

128 ~~17. Home invasion robbery;~~

129 ~~18. Carjacking; or~~

130 ~~19. Grand theft of a motor vehicle in violation of s.~~  
131 ~~812.014(2)(c)6. or grand theft of a motor vehicle valued at~~  
132 ~~\$20,000 or more in violation of s. 812.014(2)(b) if the child~~  
133 ~~has a previous adjudication for grand theft of a motor vehicle~~  
134 ~~in violation of s. 812.014(2)(c)6. or s. 812.014(2)(b).~~

135 ~~(b)~~ With respect to any child who was 16 or 17 years of  
136 age at the time the alleged violent felony offense was  
137 committed, the state attorney may file an information when in  
138 the state attorney's judgment and discretion the public interest  
139 requires that adult sanctions be considered or imposed. However,  
140 the state attorney may not file an information on a child  
141 charged with a misdemeanor, unless the child has had at least  
142 two previous adjudications or adjudications withheld for  
143 delinquent acts, one of which involved an offense classified as  
144 a violent felony under state law.

145 (2) EFFECT OF PROSECUTION OF CHILDREN AS ADULTS ~~DIRECT~~  
146 ~~FILE.~~

147 (a) Once a child has been transferred for criminal  
148 prosecution pursuant to an information and has been found to  
149 have committed the presenting offense or a lesser included  
150 offense, the child shall be handled thereafter in every respect

151 as if an adult for any subsequent violation of state law, unless  
152 the court imposes juvenile sanctions under s. 985.565.

153 (b) When a child is transferred for criminal prosecution  
154 as an adult, the court shall immediately transfer and certify to  
155 the adult circuit court all felony cases pertaining to the  
156 child, for prosecution of the child as an adult, which have not  
157 yet resulted in a plea of guilty or nolo contendere or in which  
158 a finding of guilt has not been made. If a child is acquitted of  
159 all charged offenses or lesser included offenses contained in  
160 the original case transferred to adult court, all felony cases  
161 that were transferred to adult court as a result of this  
162 paragraph shall be subject to the same penalties to which such  
163 cases would have been subject before being transferred to adult  
164 court.

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

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

174 Section 3. Section 985.56, Florida Statutes, is amended to  
175 read:

176 985.56 Indictment of a juvenile.—

177 (1) A child 14 years of age or older ~~of any age~~ who is  
178 charged with a violation of state law punishable by death or by  
179 life imprisonment is subject to the jurisdiction of the court as  
180 set forth in s. 985.0301(2) unless and until an indictment on  
181 the charge is returned by the grand jury. When such indictment  
182 is returned, the petition for delinquency, if any, must be  
183 dismissed and the child must be tried and handled in every  
184 respect as an adult:

185 (a) On the indictable offense punishable by death or by  
186 life imprisonment; and

187 (b) On all other felonies or misdemeanors charged in the  
188 indictment which are based on the same act or transaction as the  
189 indictable offense punishable by death or by life imprisonment  
190 or on one or more acts or transactions connected with the  
191 offense punishable by death or by life imprisonment.

192 (2) An adjudicatory hearing may not be held until 21 days  
193 after the child is taken into custody and charged with having  
194 committed an indictable offense punishable by death or by life  
195 imprisonment, unless the state attorney advises the court in  
196 writing that he or she does not intend to present the case to  
197 the grand jury, or has presented the case to the grand jury and  
198 the grand jury has not returned an indictment. If the court  
199 receives such a notice from the state attorney, or if the grand  
200 jury fails to act within the 21-day period, the court may



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201 proceed as otherwise authorized under this part.

202       (3) Notwithstanding any other law, a child who commits an  
203 offense for which he or she may be indicted and who has a  
204 pending competency hearing in juvenile court or who previously  
205 has been found to be incompetent and has not been restored to  
206 competency by a court may not be transferred to adult court for  
207 criminal prosecution until the child's competency is restored. A  
208 pending competency hearing or a finding of incompetency tolls  
209 the time limits in subsection (2). If the child is found to have  
210 committed the offense punishable by death or by life  
211 imprisonment, the child may ~~shall~~ be sentenced pursuant to s.  
212 985.565 ~~as an adult~~. If the juvenile is not found to have  
213 committed the indictable offense but is found to have committed  
214 a lesser included offense or any other offense for which he or  
215 she was indicted as a part of the criminal episode, the court  
216 may sentence under s. 985.565.

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

223       (b) If ~~When~~ a child has been indicted pursuant to this  
224 section, the court must ~~shall~~ immediately transfer and certify  
225 to the adult circuit court all felony cases pertaining to the

226 child, for prosecution of the child as an adult, which have not  
 227 yet resulted in a plea of guilty or nolo contendere or in which  
 228 a finding of guilt has not been made. If the child is acquitted  
 229 of all charged offenses or lesser included offenses contained in  
 230 the indictment case, all felony cases that were transferred to  
 231 adult court pursuant to this paragraph must ~~shall~~ be subject to  
 232 the same penalties such cases were subject to before being  
 233 transferred to adult court.

234 Section 4. Subsection (54) of section 985.03, Florida  
 235 Statutes, is amended to read:

236 985.03 Definitions.—As used in this chapter, the term:

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

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

241 985.565 Sentencing powers; procedures; alternatives for  
 242 juveniles prosecuted as adults.—

243 (4) SENTENCING ALTERNATIVES.—

244 (a) *Adult sanctions*.—

245 1. Cases prosecuted on indictment.—If the child is found  
 246 to have committed the offense punishable by death or life  
 247 imprisonment, the child shall be sentenced as an adult. If the  
 248 juvenile is not found to have committed the indictable offense  
 249 but is found to have committed a lesser included offense or any  
 250 other offense for which he or she was indicted as a part of the

251 criminal episode, the court may sentence as follows:

252 a. As an adult;

253 b. Under chapter 958; or

254 c. As a juvenile under this section.

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

261 a. As an adult;

262 b. Under chapter 958; or

263 c. As a juvenile under this section.

264 3. ~~Notwithstanding any other provision to the contrary, if~~  
265 ~~the state attorney is required to file a motion to transfer and~~  
266 ~~certify the juvenile for prosecution as an adult under s.~~  
267 ~~985.556(3) and that motion is granted, the court must impose~~  
268 ~~adult sanctions.~~

269 4. Any sentence imposing adult sanctions is presumed  
270 appropriate, and the court is not required to set forth specific  
271 findings or enumerate the criteria in this subsection as any  
272 basis for its decision to impose adult sanctions.

273 4.5. When a child has been transferred for criminal  
274 prosecution as an adult and has been found to have committed a  
275 violation of state law, the disposition of the case may include

276 the enforcement of any restitution ordered in any juvenile  
 277 proceeding.

278 (b) *Juvenile sanctions.*—For juveniles transferred to adult  
 279 court ~~but who do not qualify for such transfer under s.~~  
 280 ~~985.556(3)~~, the court may impose juvenile sanctions under this  
 281 paragraph. If juvenile sentences are imposed, the court shall,  
 282 under this paragraph, adjudge the child to have committed a  
 283 delinquent act. Adjudication of delinquency may not be deemed a  
 284 conviction, nor shall it operate to impose any of the civil  
 285 disabilities ordinarily resulting from a conviction. The court  
 286 shall impose an adult sanction or a juvenile sanction and may  
 287 not sentence the child to a combination of adult and juvenile  
 288 punishments. An adult sanction or a juvenile sanction may  
 289 include enforcement of an order of restitution or probation  
 290 previously ordered in any juvenile proceeding. However, if the  
 291 court imposes a juvenile sanction and the department determines  
 292 that the sanction is unsuitable for the child, the department  
 293 shall return custody of the child to the sentencing court for  
 294 further proceedings, including the imposition of adult  
 295 sanctions. Upon adjudicating a child delinquent under subsection  
 296 (1), the court may:

- 297 1. Place the child in a probation program under the  
 298 supervision of the department for an indeterminate period of  
 299 time until the child reaches the age of 19 years or sooner if  
 300 discharged by order of the court.

301           2. Commit the child to the department for treatment in an  
302 appropriate program for children for an indeterminate period of  
303 time until the child is 21 or sooner if discharged by the  
304 department. The department shall notify the court of its intent  
305 to discharge no later than 14 days before discharge. Failure of  
306 the court to timely respond to the department's notice shall be  
307 considered approval for discharge.

308           3. Order disposition under ss. 985.435, 985.437, 985.439,  
309 985.441, 985.45, and 985.455 as an alternative to youthful  
310 offender or adult sentencing if the court determines not to  
311 impose youthful offender or adult sanctions.

312

313 It is the intent of the Legislature that the criteria and  
314 guidelines in this subsection are mandatory and that a  
315 determination of disposition under this subsection is subject to  
316 the right of the child to appellate review under s. 985.534.

317           Section 6. For the purpose of incorporating the amendments  
318 made by this act to sections 985.556 and 985.557, Florida  
319 Statutes, in references thereto, subsection (5) of section  
320 985.265, Florida Statutes, is reenacted to read:

321           985.265 Detention transfer and release; education; adult  
322 jails.—

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

326 (a) When the child has been transferred or indicted for  
327 criminal prosecution as an adult under part X, except that the  
328 court may not order or allow a child alleged to have committed a  
329 misdemeanor who is being transferred for criminal prosecution  
330 pursuant to either s. 985.556 or s. 985.557 to be detained or  
331 held in a jail or other facility intended or used for the  
332 detention of adults; however, such child may be held temporarily  
333 in a detention facility; or

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

336

337 The child shall be housed separately from adult inmates to  
338 prohibit a child from having regular contact with incarcerated  
339 adults, including trustees. "Regular contact" means sight and  
340 sound contact. Separation of children from adults shall permit  
341 no more than haphazard or accidental contact. The receiving jail  
342 or other facility shall contain a separate section for children  
343 and shall have an adequate staff to supervise and monitor the  
344 child's activities at all times. Supervision and monitoring of  
345 children includes physical observation and documented checks by  
346 jail or receiving facility supervisory personnel at intervals  
347 not to exceed 10 minutes. This subsection does not prohibit  
348 placing two or more children in the same cell. Under no  
349 circumstances shall a child be placed in the same cell with an  
350 adult.

351 Section 7. For the purpose of incorporating the amendments  
352 made by this act to sections 985.556 and 985.557, Florida  
353 Statutes, in references thereto, subsection (1) of section  
354 985.15, Florida Statutes, is reenacted to read:

355 985.15 Filing decisions.—

356 (1) The state attorney may in all cases take action  
357 independent of the action or lack of action of the juvenile  
358 probation officer and shall determine the action that is in the  
359 best interest of the public and the child. If the child meets  
360 the criteria requiring prosecution as an adult under s. 985.556,  
361 the state attorney shall request the court to transfer and  
362 certify the child for prosecution as an adult or shall provide  
363 written reasons to the court for not making such a request. In  
364 all other cases, the state attorney may:

- 365 (a) File a petition for dependency;  
366 (b) File a petition under chapter 984;  
367 (c) File a petition for delinquency;  
368 (d) File a petition for delinquency with a motion to  
369 transfer and certify the child for prosecution as an adult;  
370 (e) File an information under s. 985.557;  
371 (f) Refer the case to a grand jury;  
372 (g) Refer the child to a diversionary, pretrial  
373 intervention, arbitration, or mediation program, or to some  
374 other treatment or care program if such program commitment is  
375 voluntarily accepted by the child or the child's parents or

376 | legal guardian; or

377 |       (h) Decline to file.

378 |       Section 8. For the purpose of incorporating the amendments  
379 | made by this act to sections 985.557 and 985.56, Florida  
380 | Statutes, in references thereto, paragraph (c) of subsection (2)  
381 | of section 985.26, Florida Statutes, is reenacted to read:

382 |       985.26 Length of detention.—

383 |       (2)

384 |       (c) A prolific juvenile offender under s. 985.255(1)(f)  
385 | shall be placed on supervised release detention care with  
386 | electronic monitoring or in secure detention care under a  
387 | special detention order until disposition. If secure detention  
388 | care is ordered by the court, it must be authorized under this  
389 | part and may not exceed:

390 |       1. Twenty-one days unless an adjudicatory hearing for the  
391 | case has been commenced in good faith by the court or the period  
392 | is extended by the court pursuant to paragraph (b); or

393 |       2. Fifteen days after the entry of an order of  
394 | adjudication.

395 |  
396 | As used in this paragraph, the term "disposition" means a  
397 | declination to file under s. 985.15(1)(h), the entry of nolle  
398 | prosequi for the charges, the filing of an indictment under s.  
399 | 985.56 or an information under s. 985.557, a dismissal of the  
400 | case, or an order of final disposition by the court.



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401 | Section 9. This act shall take effect July 1, 2021. |