



FLORIDA DEPARTMENT OF JUVENILE JUSTICE

July 9, 2024

Dear law enforcement, judicial partners, and school district leadership:

The Florida Department of Juvenile Justice takes very seriously its mission to enhance public safety while providing exceptional rehabilitative services to Florida's youth, and we are proud of the significant reductions in juvenile crime that we have achieved together with our partners over the past several decades. To this end and to build upon our strong outcomes, the department collaborated with our law enforcement partners to develop and pass HB 1181, a landmark piece of legislation that brings an array of systematic improvements to Florida's juvenile justice continuum. HB 1181 was signed into law on April 26, 2024, and became effective on July 1, 2024. The spirit of this legislation focuses on enhancing swift accountability throughout the juvenile system and across our service continuum.

Another department bill, HB 1425, brings needed updates to Chapter 985, F.S. to align with operational practice. HB 1425 was also signed into law on April 26, 2024, and took effect July 1, 2024. As both bills combined will usher in a great number of important changes, please read through the following letter to understand the impacts this legislation brings to our communities and juvenile justice system.

Prevention

Because truancy is often the basis for a child being deemed a "child in need of services," the ability to obtain otherwise confidential education records (including attendance) is essential. If a parent does not authorize the release of these records in writing, then section 1002.221(2), F.S., prohibits their introduction in court even if the department has the records. The bill removes this impediment by allowing the release of education records without parental consent if done pursuant to an interagency agreement between the department and school authorities. This can also be used to ensure compliance with the terms of probation or conditional release. (Section 23)

The department is also directed to develop a class on the consequences of juvenile firearm offending, including the legal consequences and the tragic consequences gun violence has on families and communities. The course will be offered as part of the rehabilitation services provided by the department to juveniles who have been adjudicated delinquent or had adjudication withheld for a firearm offense. (Section 21)

2737 Centerview Drive • Tallahassee, Florida 32399-3100 • (850) 488-1850

Ron DeSantis, Governor

Eric S. Hall, Secretary

The mission of the Florida Department of Juvenile Justice is to enhance public safety through high-quality effective services for youth and families delivered by world-class professionals dedicated to building a stronger, safer Florida.

Prearrest and Postarrest Diversion

Prearrest civil citation programs are renamed “prearrest delinquency citation programs.” The name change conveys that it is delinquent behavior that is addressed, and not merely non-offending civil infractions. Prearrest citations have been shown to provide swift accountability for delinquent behavior by immediately administering consequences for violations of the law. Existing citation programs have been shown to successfully prevent recidivism over 95% of the time among youth who complete the program. Despite the name change, the program is substantively identical, and existing civil citation programs that have been approved by the state attorney will continue to operate. Firearm offenses, which are already ineligible in most areas, will now be specifically excluded from prearrest delinquency citations. Participating youth may be required to complete classes established by the department or by the program. (Section 5)

Postarrest diversion programs are treated separately in section 985.125, though their substantive requirements are largely unchanged. School districts are no longer authorized to operate a postarrest diversion program. (Section 6)

The bill subtly adjusts the requirements in section 985.126 governing prearrest and postarrest diversion reporting. Prearrest and postarrest diversion programs are still required to provide the same details about their participating youth populations. Law enforcement agency reports are simplified so that, instead of identifying every minor who was otherwise eligible for diversion but was instead referred to the department or arrested, they will now more simply report any youth who is arrested or referred for the first time when the offense is a misdemeanor. For its part, the department will be required to provide a quarterly report of entities that use prearrest delinquency citations at a rate of less than 70 percent for first-time misdemeanants. (Section 7)

Secure Detention

Significant changes are made to the use of detention in section 985.255, F.S. At the detention hearing, the court is authorized to continue a youth’s detention status upon finding probable cause that the youth committed any listed serious offense, including armed robbery or burglary with a firearm, armed carjacking, having a firearm while committing a felony, and being a delinquent in possession of a firearm. In these cases, a youth who would ordinarily score for secure detention is presumed to pose a risk to public safety and must be held in secure detention until the adjudicatory hearing. A youth so held can only be placed on supervised release with electronic monitoring if the court enters a written order based on clear and convincing evidence that no threat exists, and such findings must reflect the youth’s prior adjudications, dispositions, and prior violations of pretrial release orders. After 60 days of secure detention, review hearings must be held every 7 days until the adjudicatory hearing. Any order releasing youth in this category must be provided to the victim, the arresting law enforcement agency, and to the law enforcement agency with jurisdiction over the child’s primary residence.

Section 985.255, F.S., is also amended to require courts to “consider” the results of the detention risk assessment when deciding the need for continued detention. Currently, the court is directed to “use” the risk assessment for this purpose. Subsection (3) is also amended to more clearly invite the court to order a detention placement that is more or less restrictive than that reflected in the detention risk assessment, though such a deviation must be in writing. (Sections 10 and 11)

Youth placed on supervised release with or without electronic monitoring, and who are arrested for violating that status, will be held in secure detention at least until a detention hearing is held. (Section 9)

Minor in Possession of a Firearm

The bill amends section 985.441(2), F.S., which generally prohibits commitment for misdemeanors. As amended, the first-degree misdemeanor for a juvenile in possession of a firearm is excepted from the statute, thus permitting residential commitment for this specific misdemeanor. (Section 16)

The bill amends section 901.15, F.S., to allow a law enforcement officer to arrest a youth without a warrant when the officer has probable cause to believe that the youth is in possession of a firearm in violation of section 790.22(3). (Section 3)

The bill amends some of the add-on penalty provisions in section 790.22, F.S., that apply to the initial and subsequent offenses of a juvenile in possession of a firearm. For a first offense, the youth must serve up to five days in secure detention, though credit may be given for time served prior to disposition. For a second offense, the youth must serve up to 21 days in secure detention, again being given credit for time served prior to disposition. A third or subsequent offense requires adjudication and commitment to a residential facility. Any withhold of adjudication for the offense of juvenile firearm possession is considered a prior offense for the purpose of determining a second, third, or subsequent offense. The suspension or withholding of driving privileges is extended for up to one year for a first offense and up to two years for a second or subsequent offense. (Section 2)

If driving privileges are suspended or revoked, the court may direct the Department of Highway Safety, upon finding compelling circumstances to warrant mitigation, to restrict driving privileges to business or employment purposes. (Section 17)

For offenses involving the use or possession of a firearm, other than a minor's simple possession, the bill mandates specific penalties in the event the court decides against residential commitment. The youth must serve 30 days in secure detention, with credit for time served prior to disposition. One hundred hours of community service or paid work is also required, as is a term of probation for at least 1 year with electronic monitoring at times and under terms set by the department. Though not mandated, the court may impose restrictions upon the youth's driving privileges for up to one year. (Section 12)

Residential Services

New to Chapter 985 is a provision prohibiting withholding adjudication for specified forms of serious reoffending with firearms. Section 985.433, F.S., is amended so that a youth who has already had an adjudication withheld for a listed offense (armed robbery, armed carjacking or armed burglary, with firearms, or having a firearm while committing a felony, being a delinquent in possession of a firearm, or attempting to commit any of these offenses) must be committed the next time he or she commits the same or any other listed offense. (Section 12)

To standardize the classification of the different levels of residential commitment programs, the "nonsecure" classification is renamed "moderate-risk". Likewise, "juvenile correctional facilities or juvenile prison" is standardized and identified as "maximum risk". (HB 1425)

Postcommitment Probation and Conditional Release

The bill extensively amends provisions governing probation and violations of probation. Post-commitment probation (PCP) is eliminated, which makes conditional release (CR) the only post-commitment community supervision option statewide. Department jurisdiction currently ends at age 19 for PCP, whereas department jurisdiction ends at age 21 for a youth on CR. As youth on CR remain committed to the department throughout the duration of the CR period, not only will CR facilitate a swift transfer to a residential program in response to noncompliance, but it provides prosecutors an option for a longer period of supervision in the juvenile system as an alternative to direct file.

Probation and Community Supervision

The bill also modifies probation to enhance accountability for unsanctioned noncompliance to a youth's terms of probation. The graduated response matrix promises swift accountability for technical noncompliance. When noncompliance escalates to the point where court involvement is necessary, the bill requires the state attorney, upon receiving notice of violation from the department, to file the violation within 5 days or provide the department and the court a written explanation for the delay. (Section 15)

Any child adjudicated and committed for any offense or attempted offense involving a firearm must be placed on CR for a period of one year following release from commitment. The first 6 months of CR must include electronic monitoring at times and under terms set by the department. (Section 12)

A youth on probation for an underlying felony firearm offense, who is taken into custody for a technical violation, must be held in secure detention to allow the state attorney to review the violation. If, within 21 days, the state attorney notifies the court that commitment will be sought, the youth will remain in secure detention until the 21-day period expires. Upon the state attorney's request, the youth can be held for an additional 21-day period if the court finds that the totality of the circumstances, including the preservation of public safety, warrants an extension. A youth released from secure detention must be placed on supervised release with electronic monitoring pending proceedings on the VOP. (Section 9).

"Minimum-risk nonresidential" is also removed from statute as a commitment option. (HB 1425).

Release From Custody and Detention Transfer

The bill clarifies that a juvenile assessment center is not a location which a child in the custody of law enforcement may be released to under certain circumstances. If the child needs medical treatment, is under the influence of substances or alcohol, or is experiencing a mental health crisis. These specific circumstances and authorized facilities where a youth in custody may be released are detailed in s. 985.115 (2), F.S. (HB 1425, Section 11).

In order for a child to be transferred to or from secure detention, with or without electronic monitoring, a motion must be made by either the court, the child, or the state. (HB 1425, Section 14).

Contraband in Juvenile Facilities

For securely detained or residentially committed youth, the bill authorizes a new means for further enhancing security. The department is authorized to use canine units in detention centers and residential facilities to locate and seize contraband. Currency and tobacco products are added to the items/substances listed as contraband. The introduction of any contraband in a juvenile facility will now be a second-degree felony. (Section 22)

While these changes to the juvenile justice system are extensive, they will continue to secure Florida's place as the national leader in public safety by reducing juvenile crime in Florida's communities and ensuring youth who need rehabilitation services receive them before adulthood. The department is committed to working alongside every law enforcement and judicial partner during the implementation of this legislation to best serve the youth and families of this great state.

Sincerely,



Eric S. Hall, Ed.D.
Secretary

cc: John Milla, General Counsel
Heather DiGiacomo, Chief of Staff
Timothy Niermann, Deputy Secretary
Adrienne Campbell, Deputy Secretary
Alice Sims, Assistant Secretary for Prevention Services
Ruel "Sonny" Peacock, Assistant Secretary of Probation and Community Supervision
Cina Wilson-Johnson, Assistant Secretary of Detention Services
Lori Jernigan, Assistant Secretary of Residential Services
Dodie Garye, Assistant Secretary of Administration
Chancer Teel, Legislative Affairs Director
Julie Orange, Director of Education Services