



---

BE the change

### Our Policy Team's HB 1391 Analysis

Utilizes the definitions from Florida Statute:

- **985.03 (7):** “Child” or “juvenile” or “youth” means any person under the age of 18 or any person who is alleged to have committed a violation of law occurring prior to the time that person reached the age of 18 years.”, and
- **39.01 (15):** “Child who is found to be dependent” means a child who, pursuant to this chapter, is found by the court:(a) To have been abandoned, abused, or neglected by the child’s parent or parents or legal custodians; (b) To have been surrendered to the department, the former Department of Health and Rehabilitative Services, or a licensed child-placing agency for purpose of adoption; (c) To have been voluntarily placed with a licensed child-caring agency, a licensed child-placing agency, an adult relative, the department, or the former Department of Health and Rehabilitative Services, after which placement, under the requirements of this chapter, a case plan has expired and the parent or parents or legal custodians have failed to substantially comply with the requirements of the plan; (d) To have been voluntarily placed with a licensed child-placing agency for the purposes of subsequent adoption, and a parent or parents have signed a consent pursuant to the Florida Rules of Juvenile Procedure; (e) To have no parent or legal custodians capable of providing supervision and care; (f) To be at substantial risk of imminent abuse, abandonment, or neglect by the parent or parents or legal custodians; or (g) To have been sexually exploited and to have no parent, legal custodian, or responsible adult relative currently known and capable of providing the necessary and appropriate supervision and care.
- **39.6251 (1) & (2):** As used in this section, the term “child” means an individual who has not attained 21 years of age, and the term “young adult” means an individual who has attained 18 years of age but who has not attained 21 years of age. (2) The primary goal for a child in care is permanency. A child who is living in licensed care on his or her 18th birthday and who has not achieved permanency under s. 39.621 is eligible to remain in licensed care under the jurisdiction of the court and in the care of the department. A child is eligible to remain in licensed care if he or she is: (a) Completing secondary education or a program leading to an equivalent credential; (b) Enrolled in an institution that provides postsecondary or vocational education; (c) Participating in a program or activity designed to promote or eliminate barriers to employment; (d) Employed for at least 80 hours per month; or (e) Unable to participate in programs or activities listed in paragraphs (a)-(d) full time due to a physical, intellectual, emotional, or psychiatric condition that limits participation. Any such barrier to participation must be supported by

documentation in the child's case file or school or medical records of a physical, intellectual, or psychiatric condition that impairs the child's ability to perform one or more life activities.

**Summary:** Amends statutes to remove the requirement that children and young adults eligible for continued care need to apply for indigent status to be granted counsel, and automatically grants indigent status without payment of fee. Repeals the requirement for parents or legal guardians to pay for legal fees for children and young adults eligible for continued care. Exempts children, and young adults eligible for continued care from paying court related fines and fees including: application fee, delinquency fee, processing fees, service charge for reinstatement of license, court costs after conviction, additional costs for traffic offense, operating trust fund, attorney's fees, monitoring and supervision costs, program fees, emergency medical care while in custody. Reinstates drivers licenses of children and young adults eligible for continued care who have had their licenses suspended due to failure to pay court fines and fees. Removes a child and their parent/guardian's ability to refuse counsel. Makes court ordered costs unenforceable and uncollectible by January 1st 2021, the judgment enforcing the costs vacated by January 1st 2022, voids civil judgments that remain unsatisfied by court costs by July 2021, voids all warrants issued due to a failure of a child to pay or appear for a court date called for court payments by July 1st 2022, and immediately reinstates drivers licenses of juveniles who have had them suspended due to unpaid fines and fees.

**Effect of Proposed Changes:**

**Section 1:** Cites the act as the Debt Free Justice for Children Act

**Section 2:** Amends s. 27.52 to remove the requirement for children and young adults eligible for continued care to apply for indigent status to be granted counsel, and automatically grants indigent status without payment of fee. It also removes the requirement for the parents of minors or tax dependent young adults to furnish the costs of legal fees- making them no longer liable for the fees, charges, or costs incurred by their children.

**Section 3:** Amends s. 318.15 to exclude children and young adults eligible for continued care from receiving consequences if they fail to comply with civil penalties. Removes the fees for the processing fee for an 18 percent reduction or a service charge for the reinstatement of a driver's license. It also excludes children and young adults eligible for continued care from having their drivers licenses suspended by the Department of Highway Safety and Motor Vehicles for failing to comply with the terms of a penalty payment plan, failing to attend driver improvement school, or failing to appear at a scheduled hearing. Reinstates the licenses of children and young eligible for continued care who had their drivers' license suspended solely for nonpayment of fees under this section.

**Section 4:** Amends s. 322.245 to exclude children and young adults eligible for continued care from the requirement to pay the delinquency fee for failure to comply with the directives of the

court within the allotted time or pay child support. It also excludes children and young adults eligible for continued care from having their licenses suspended for failing to comply with the directives of the court within the 30-day period, in non-IV-D cases, failing to comply with the requirements of s. 61.13016 within the period specified, or failing to pay the delinquency fee. Reinstates the licenses of children who have had their license suspended for failing to pay the fees outlined within this section.

**Section 5:** Amends s. 775.083 to remove the requirement for children and young adults eligible for continued care who have been convicted of an offense other than a capital felony from being required to pay a fine in addition to any punishment described in s. 775.082 or in lieu of a punishment described in s. 775.082. It also prevents the courts from assessing a fine every time a child or young adults eligible for continued care pleads nolo contendere to, or is convicted of a felony, a misdemeanor, or a criminal traffic offense under state law, or a violation of any municipal or county ordinance if the violation constitutes a misdemeanor under state law.

**Section 6:** Amends s. 938.01 to exempt children and young adults eligible for continued care who were convicted and who had an adjudication withheld from paying the \$3 court cost for violation of a state penal, criminal statute, or municipal/county ordinance violation.

**Section 7:** Amends s. 938.03 to exempt children and young adults eligible for continued care from paying an additional cost of \$50 any case where the child/young adult is convicted, pleading guilty, or pleading no contest to a felony, misdemeanor, criminal traffic offense, or the violation of any municipal/county ordinance.

**Section 8:** Amends s. 938.05 to exempt children and young adults eligible for continued care who plead nolo contendere to a misdemeanor or criminal traffic offense, or pleads guilty or nolo contendere to, or been found guilty of any felony, misdemeanor, or criminal traffic offense from paying the cost of the level of crime cost. (\$225 felony, \$60 misdemeanor, \$60 criminal traffic offense).

**Section 9:** Amends s. 938.055 to exempt children and young adults eligible for continued care who plead nolo contendere to a misdemeanor or criminal traffic offense, or pleads guilty or nolo contendere to, or been convicted of, or if adjudication has been withheld for, a violation of chapter 775-896 from paying the additional \$100 fee to the Department of Law Enforcement Trust Fund.

**Section 10:** Amends s. 938.06 to exempt children and young adults eligible for continued care convicted of a criminal offense from paying \$20 in court costs.

**Section 11:** Amends s. 938.08 to exempt children and young adults eligible for continued care who violated an offense of domestic violence from being imposed a \$201 surcharge.

**Section 12:** Amends s. 938.085 to exempt children and young adults eligible for continued care who plead guilty or nolo contendere to, or are found guilty of, regardless of adjudication, certain violent crimes from paying a surcharge of \$151.

**Section 13:** Amends s. 938.10 to exempt children and young adults eligible for continued care who plead guilty or nolo contendere to, or are found guilty of, regardless of adjudication, any offense against a minor from paying the court cost of \$151.

**Section 14:** Amends s. 938.13 to exempt children and young adults eligible for continued care who are found guilty of any misdemeanor in which the unlawful use of drugs or alcohol is involved from having an additional \$15 imposed on them.

**Section 15:** Amends s.938.15 to exempt children and young adults eligible for continued care from being able to be assessed the additional \$2 for expenditures for criminal justice education degree programs and training courses a municipality and county may assess.

**Section 16:** Amends s. 938.19 to make court costs assessed in specific cases in teen court from not mandatory. Exempts children and young adults eligible for continued care from being assessed any costs that are assessed as well as the \$3 court cost assessed to individuals who pleads guilty or nolo contendere to, or is convicted of, a violation of criminal law.

**Section 17:** Amends s. 938.23 to keep children and young adults eligible for continued care who have committed an alcohol or drug criminal violation from having an additional assessment, in an amount up to the amount of any fine authorized for the offense, from being imposed on them.

**Section 18:** Amends s. 938.27 to exempt children and young adults eligible for continued care who have been convicted and are in violation of probation or community control from being liable for payment of the costs of prosecution, including investigative costs. Exempts children and young adults eligible for continued care placed on probation or community control from being assessed the costs as a condition of probation and community control.

**Section 19:** Amends s. 938.29 to exempt children, or their parents/legal guardians, and young adults eligible for continued care who has been convicted a criminal act or a violation of probation or community control and received assistance from the public defender's office from being liable for payment of application fees, attorney's fees and costs. Removes the ability to place a lien against a parent even if the child is emancipated or reached the age of majority.

**Section 20:** Amends s. 939.185 to to exempt children and young adults eligible for continued care who plead guilty or nolo contendere to, or are found guilty of, regardless of adjudication, any felony, misdemeanor, or criminal traffic offense under the laws of this state from paying an additional court cost set by the Board of County Commissioners of up to \$65. Exempts children and young adults eligible for continued care who plead guilty or nolo contendere to, or are found guilty of, regardless of adjudication, any felony, misdemeanor, or criminal traffic offense under

the laws of this state from being assessed the \$85 ordinance surcharge. Prohibits courts from ordering children and young adults eligible for continued care from paying additional court costs if determined indigent.

**Section 21:** Amends s. 943.0515 to remove the \$75 processing fee when applying for juvenile expungement.

**Section 22:** Amends 948.09 to exempt children, or their parents/legal guardians, and young adults eligible for continued care from paying fees associated with supervision and monitoring.

**Section 23:** Amends s. 960.28 to exempt children and young adults eligible for continued care who plead guilty or nolo contendere to, or are found guilty of, regardless of adjudication, sexual battery or lewdness from making restitution to the Crime Compensation Trust Fund.

**Section 24:** Amends s. 985.032 to exempt juveniles who have been adjudicated delinquent or have adjudication of delinquency withheld from being assessed the cost of prosecution, probation, and diversion services.

**Section 25.** Amends s. 985.033 to appoint a legal counsel if counsel is not employed by the parent or child. Prohibits children or their parents/legal guardian the right to waive counsel. Children, parents/legal guardians who have been appointed counsel are not required to pay fees, costs, attorney costs, and application fee for an indigency determination.

**Section 26:** Amends s. 985.039 to remove all fees for children in juvenile justice and their parents/legal guardians including probation supervision fees, or court administration fees, including the cost of court-appointed attorneys or public defenders, the cost of prosecution, and other administrative costs of the court.

**Section 27:** Amends s. 985.12 to prohibit a judicial circuit's civil citation or similar pre-arrest diversion program from specifying a program fee.

**Section 28.** Amends s. 985.145 to remove the requirement for parents and guardians upon intake to provide the department with identifying information including; name, address, date of birth, social security number, driver's license number or identification card number, in order to be charged the cost of care.

**Section 29:** Amends s. 985.155 to prohibit a Restorative Justice Board from requiring juveniles to surrender their driver's license, from suspending a juvenile's license, and from restricting travel for the juvenile. Removes the ability to include a bond paid by a parent or guardian to secure the performance of any sanction imposed upon the juvenile.

**Section 30:** Amends s. 985.18 to require costs of medical services provided to a child being taken into custody to be paid for by the approved provider with sufficient state or federal funding

or compensated by public or private medical insurance. Prohibits the court from imposing these costs onto the child's custodial parent, parents, guardian or other custodian.

**Section 31:** Amends s. 985.331 to prohibit witness fees from being charged to any party to a delinquency petition or any parent or legal guardian or custodian or child named in a summons. Removes requirement for witnesses to be paid the witness fees fixed by law.

**Section 32:** Repeals s. 985.514, removing the fees for supervision, probation, and fees for programs for children from being paid by the juvenile's parents or guardians.

**Section 33:** Creates a new statute, 985.038 to render any balance of court-ordered costs (in general and for rendering legal services), attorney fees, all unsatisfied civil judgements or portions of judgments (based on unpaid costs, fees, reimbursements), or other financial obligations imposed on a child, or their parent/legal guardian, and young adults eligible for continued care unenforceable and uncollectible after July 1st 2021. After January 1st, 2022, those costs will be vacated. All warrants issued based on the inability of the child, dependent child, adult eligible for continued care, or their parent/legal guardian to pay or appear for a court date set for the sole purpose of payment of costs, fees, reimbursements, or other financial obligations to be null and void. Vacates and discharges these judgements as well. Prohibits procedures in order to do this from requiring action on the part of any delinquent child or parent or guardian subject to the judgement. The discharge and vacatures shall occur by January 1st, 2022. Reinstates drivers licenses to any child, or their parent/legal guardian, and young adults eligible for continued care who have had their license suspended for nonpayment of court costs and fees.

**Section 34:** Requires the Division of Law Revision to replace the phrase "this act" with the chapter law number assigned.

**Section 35:** The act shall take effect July 1, 2021