

1 **LEGAL NEEDS OF CHILDREN COMMITTEE**

2 **POSITION STATEMENT ON DIRECT FILE**

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4 The Legal Needs of Children Committee of The Florida Bar opposes the direct filing of children
5 to adult court in Florida and believes that the decision to prosecute children as adults should be
6 made solely by the judiciary.

7 If direct filing is not abolished in this state, it is the position of the Legal Needs of Children
8 Committee that the following principles be applied when drafting new legislation concerning
9 direct filing (currently F.S. §985.557):

- 10 A. Mandatory direct filing should be abolished.
- 11 B. Children with no prior felonies should only be direct filed if the child is charged with
12 homicide or the child is at least 16 years of age at the time of the offense and has been
13 charged with a felony crime involving violence against a person in which the offense was
14 heinous and premeditated and a written explanation as to why the child was direct filed
15 has been filed with the court.
- 16 C. Children with prior felonies should only be direct filed if the child is at least 16 years of
17 age at the time of the offense and has been charged with a felony crime of violence
18 against a person.
- 19 D. Children should not be direct filed on misdemeanor offenses.
- 20 E. Children who have been adjudicated incompetent to proceed should not be direct filed
21 unless they meet the criteria listed above and have been restored to competency.
- 22 F. Children who have been direct filed should be entitled to a pre-adjudication reverse
23 waiver hearing, *i.e.* a judicial review hearing as to whether the child should be prosecuted
24 in adult court or transferred back to juvenile court.