

1
2 An act relating to children and family health
3 and safety; creating the "Marriage Preparation
4 and Preservation Act"; providing legislative
5 findings; amending s. 232.246, F.S.;
6 prescribing a high school graduation
7 requirement; amending s. 741.01, F.S.;
8 providing for a reduction of the marriage
9 license fee under certain circumstances;
10 creating a waiting period before a marriage
11 license is issued; creating s. 741.0305, F.S.;
12 providing for a premarital preparation course;
13 providing for modification of marriage license
14 fees; specifying course providers; providing
15 course contents; providing for a review of such
16 courses; providing for compilation of
17 information and report of findings; providing
18 for pilot programs; creating s. 741.0306, F.S.;
19 providing for creation of a marriage law
20 handbook created by the Family Law Section of
21 The Florida Bar; amending s. 741.04, F.S.;
22 prohibiting issuance of a marriage license
23 until petitioners verify certain facts and
24 complete a questionnaire; providing for a
25 waiting period; amending s. 741.05, F.S.;
26 conforming provisions; amending s. 61.043,
27 F.S.; providing for completion of an
28 informational questionnaire upon filing for
29 dissolution of marriage; amending s. 61.21,
30 F.S.; revising provisions relating to the
31 authorized parenting course offered to educate,

1 train, and assist divorcing parents in regard
2 to the consequences of divorce on parents and
3 children; providing legislative findings and
4 purpose; requiring judicial circuits to approve
5 a parenting course; requiring parties to a
6 dissolution proceeding with a minor child to
7 attend a court-approved parenting family
8 course; providing procedures and guidelines and
9 course objectives; requiring parties to file
10 proof of compliance with the court; authorizing
11 the court to require parties to a modification
12 of a final judgment of dissolution to take the
13 course under certain circumstances; amending s.
14 28.101, F.S.; providing a fee for filing for
15 dissolution of marriage; providing an
16 appropriation; reorganizing and revising ch.
17 39, F.S.; providing for pt. I of said chapter,
18 entitled "General Provisions"; amending ss.
19 39.001, 39.002, and 415.501, F.S.; revising
20 purposes and intent; providing for personnel
21 standards and screening and for drug testing;
22 amending s. 39.01, F.S.; revising definitions;
23 renumbering and amending s. 39.455, F.S.,
24 relating to immunity from liability for agents
25 of the Department of Children and Family
26 Services or a social service agency; amending
27 s. 39.012, F.S., and creating s. 39.0121, F.S.;
28 providing authority and requirements for
29 department rules; renumbering and amending s.
30 39.40, F.S., relating to procedures and
31 jurisdiction; providing for right to counsel;

1 renumbering s. 39.4057, F.S., relating to
2 permanent mailing address designation;
3 renumbering and amending s. 39.411, F.S.,
4 relating to oaths, records, and confidential
5 information; renumbering s. 39.414, F.S.,
6 relating to court and witness fees; renumbering
7 and amending ss. 39.415 and 39.474, F.S.,
8 relating to compensation of appointed counsel;
9 renumbering and amending s. 39.418, F.S.,
10 relating to the Operations and Maintenance
11 Trust Fund; renumbering and amending s.
12 415.5015, F.S., relating to child abuse
13 prevention training in the district school
14 system; providing for pt. II of ch. 39, F.S.,
15 entitled "Reporting Child Abuse"; renumbering
16 and amending s. 415.504, F.S., relating to
17 mandatory reports of child abuse, abandonment,
18 or neglect; amending and renumbering s. 415.51,
19 F.S.; revising provisions relating to
20 confidentiality of Department of Children and
21 Family Services reports and records of cases of
22 child abuse and neglect; requiring certain
23 recordkeeping and preservation by the
24 department; renumbering and amending s.
25 415.511, F.S., relating to immunity from
26 liability in cases of child abuse, abandonment,
27 or neglect; renumbering and amending s.
28 415.512, F.S., relating to abrogation of
29 privileged communications in cases of child
30 abuse, abandonment, or neglect; renumbering and
31 amending s. 415.513, F.S.; providing penalties

1 relating to reporting of child abuse,
2 abandonment, or neglect; deleting the
3 requirement for the Department of Children and
4 Family Services to provide information to the
5 state attorney; providing for the Department of
6 Children and Family Services to report annually
7 to the Legislature the number of reports
8 referred to law enforcement agencies; providing
9 for investigation by local law enforcement
10 agencies of possible false reports; providing
11 for law enforcement agencies to refer certain
12 reports to the state attorney for prosecution;
13 providing for law enforcement entities to
14 handle certain reports of abuse, abandonment,
15 or neglect during the pendency of such an
16 investigation; providing procedures; specifying
17 the penalty for knowingly and willfully making,
18 or advising another to make, a false report;
19 providing for state attorneys to report
20 annually to the Legislature the number of
21 complaints that have resulted in informations
22 or indictments and the disposition of those
23 complaints; renumbering and amending s.
24 415.5131, F.S., increasing an administrative
25 fine for false reporting; providing for civil
26 damages; providing for pt. III of ch. 39, F.S.,
27 entitled "Protective Investigations"; creating
28 s. 39.301, F.S.; providing for child protective
29 investigations; creating s. 39.302, F.S.;
30 providing for protective investigations of
31 institutional child abuse, abandonment, or

1 neglect; renumbering and amending s. 415.5055,
2 F.S., relating to child protection teams and
3 services and eligible cases; creating s.
4 39.3035, F.S.; providing standards for child
5 advocacy centers eligible for state funding;
6 renumbering and amending s. 415.507, F.S.,
7 relating to photographs, medical examinations,
8 X rays, and medical treatment of an abused,
9 abandoned, or neglected child; renumbering and
10 amending s. 415.5095, F.S., relating to a model
11 plan for intervention and treatment in sexual
12 abuse cases; creating s. 39.306, F.S.;
13 providing for working agreements with local law
14 enforcement to perform criminal investigations;
15 renumbering and amending s. 415.50171, F.S.,
16 relating to reports of child-on-child sexual
17 abuse; providing for pt. IV of ch. 39, F.S.,
18 entitled "Family Builders Program"; renumbering
19 and amending s. 415.515, F.S., relating to
20 establishment of the program; renumbering and
21 amending s. 415.516, F.S., relating to goals of
22 the program; renumbering and amending s.
23 415.517, F.S., relating to contracts for
24 services; renumbering and amending s. 415.518,
25 F.S., relating to family eligibility;
26 renumbering s. 415.519, F.S., relating to
27 delivery of services; renumbering and amending
28 s. 415.520, F.S., relating to qualifications of
29 program workers; renumbering s. 415.521, F.S.,
30 relating to outcome evaluation; renumbering and
31 amending s. 415.522, F.S., relating to funding;

1 providing for pt. V of ch. 39, F.S., entitled
2 "Taking Children into Custody and Shelter
3 Hearings"; creating s. 39.395, F.S.; providing
4 for medical or hospital personnel taking a
5 child into protective custody; amending s.
6 39.401, F.S.; providing for law enforcement
7 officers or authorized agents of the department
8 taking a child alleged to be dependent into
9 custody; amending s. 39.402, F.S., relating to
10 placement in a shelter; amending s. 39.407,
11 F.S., relating to physical and mental
12 examination and treatment of a child and
13 physical or mental examination of a person
14 requesting custody; renumbering and amending s.
15 39.4033, F.S., relating to referral of a
16 dependency case to mediation; providing for pt.
17 VI of ch. 39, F.S., entitled "Petition,
18 Arraignment, Adjudication, and Disposition";
19 renumbering and amending s. 39.404, F.S.,
20 relating to petition for dependency;
21 renumbering and amending s. 39.405, F.S.,
22 relating to notice, process, and service;
23 renumbering and amending s. 39.4051, F.S.,
24 relating to procedures when the identity or
25 location of the parent, legal custodian, or
26 caregiver is unknown; renumbering and amending
27 s. 39.4055, F.S., relating to injunction
28 pending disposition of a petition for detention
29 or dependency; renumbering and amending s.
30 39.406, F.S., relating to answers to petitions
31 or other pleadings; renumbering and amending s.

1 39.408(1), F.S., relating to arraignment
2 hearings; renumbering and amending ss.
3 39.408(2) and 39.409, F.S., relating to
4 adjudicatory hearings and orders; renumbering
5 and amending ss. 39.408(3) and (4) and 39.41,
6 F.S., relating to disposition hearings and
7 powers of disposition; creating s. 39.5085,
8 F.S.; directing the Department of Children and
9 Family Services to establish and operate the
10 Relative Caregiver Program; providing financial
11 assistance within available resources to
12 relatives caring for children; providing for
13 financial assistance and support services to
14 relatives caring for children placed with them
15 by the child protection system; providing for
16 rules establishing eligibility guidelines,
17 caregiver benefits, and payment schedule;
18 renumbering and amending s. 39.4105, F.S.,
19 relating to grandparents rights; renumbering
20 and amending s. 39.413, F.S., relating to
21 appeals; providing for pt. VII of ch. 39, F.S.,
22 entitled "Case Plans"; renumbering and amending
23 ss. 39.4031 and 39.451, F.S., relating to case
24 plan requirements and case planning for
25 children in out-of-home care; renumbering and
26 amending s. 39.452(1)-(4), F.S., relating to
27 case planning for children in out-of-home care
28 when the parents, legal custodians, or
29 caregivers do not participate; renumbering and
30 amending s. 39.452(5), F.S., relating to court
31 approvals of case planning; providing for pt.

1 VIII of ch. 39, F.S., entitled "Judicial
2 Reviews"; renumbering and amending s. 39.453,
3 F.S., relating to judicial review of the status
4 of a child; renumbering and amending s.
5 39.4531, F.S., relating to citizen review
6 panels; renumbering and amending s. 39.454,
7 F.S., relating to initiation of proceedings for
8 termination of parental rights; renumbering and
9 amending s. 39.456, F.S.; revising exemptions
10 from judicial review; providing for pt. IX of
11 ch. 39, F.S., entitled "Termination of Parental
12 Rights"; renumbering and amending ss. 39.46 and
13 39.462, F.S., relating to procedures,
14 jurisdiction, and service of process;
15 renumbering and amending ss. 39.461 and
16 39.4611, F.S., relating to petition for
17 termination of parental rights, and filing and
18 elements thereof; creating s. 39.803, F.S.;
19 providing procedures when the identity or
20 location of the parent is unknown after filing
21 a petition for termination of parental rights;
22 renumbering s. 39.4627, F.S., relating to
23 penalties for false statements of paternity;
24 renumbering and amending s. 39.463, F.S.,
25 relating to petitions and pleadings for which
26 no answer is required; renumbering and amending
27 s. 39.464, F.S., relating to grounds for
28 termination of paternal rights; renumbering and
29 amending s. 39.465, F.S., relating to right to
30 counsel and appointment of a guardian ad litem;
31 renumbering and amending s. 39.466, F.S.,

1 relating to advisory hearings; renumbering and
2 amending s. 39.467, F.S., relating to
3 adjudicatory hearings; renumbering and amending
4 s. 39.4612, F.S., relating to the manifest best
5 interests of the child; renumbering and
6 amending s. 39.469, F.S., relating to powers of
7 disposition and order of disposition;
8 renumbering and amending s. 39.47, F.S.,
9 relating to post disposition relief; creating
10 s. 39.813, F.S.; providing for continuing
11 jurisdiction of the court which terminates
12 parental rights over all matters pertaining to
13 the child's adoption; renumbering s. 39.471,
14 F.S., relating to oaths, records, and
15 confidential information; renumbering and
16 amending s. 39.473, F.S., relating to appeal;
17 creating s. 39.816, F.S.; authorizing certain
18 pilot and demonstration projects contingent on
19 receipt of federal grants or contracts;
20 creating s. 39.817, F.S.; providing for a
21 foster care demonstration pilot project;
22 providing for pt. X of ch. 39, F.S., entitled
23 "Guardians Ad Litem and Guardian Advocates";
24 creating s. 39.820, F.S.; providing
25 definitions; renumbering s. 415.5077, F.S.,
26 relating to qualifications of guardians ad
27 litem; renumbering and amending s. 415.508,
28 F.S., relating to appointment of a guardian ad
29 litem for an abused, abandoned, or neglected
30 child; renumbering and amending s. 415.5082,
31 F.S., relating to guardian advocates for drug

1 dependent newborns; renumbering and amending s.
2 415.5083, F.S., relating to procedures and
3 jurisdiction; renumbering s. 415.5084, F.S.,
4 relating to petition for appointment of a
5 guardian advocate; renumbering s. 415.5085,
6 F.S., relating to process and service;
7 renumbering and amending s. 415.5086, F.S.,
8 relating to hearing for appointment of a
9 guardian advocate; renumbering and amending s.
10 415.5087, F.S., relating to grounds for
11 appointment of a guardian advocate; renumbering
12 s. 415.5088, F.S., relating to powers and
13 duties of the guardian advocate; renumbering
14 and amending s. 415.5089, F.S., relating to
15 review and removal of a guardian advocate;
16 providing for pt. XI of ch. 39, F.S., entitled
17 "Domestic Violence"; renumbering s. 415.601,
18 F.S., relating to legislative intent regarding
19 treatment and rehabilitation of victims and
20 perpetrators; renumbering and amending s.
21 415.602, F.S., relating to definitions;
22 renumbering and amending s. 415.603, F.S.,
23 relating to duties and functions of the
24 department; renumbering and amending s.
25 415.604, F.S., relating to an annual report to
26 the Legislature; renumbering and amending s.
27 415.605, F.S., relating to domestic violence
28 centers; renumbering s. 415.606, F.S., relating
29 to referral to such centers and notice of
30 rights; renumbering s. 415.608, F.S., relating
31 to confidentiality of information received by

1 the department or a center; amending ss. 20.43,
2 61.13, 61.401, 61.402, 63.052, 63.092, 90.5036,
3 154.067, 216.136, 232.50, 318.21, 384.29,
4 392.65, 393.063, 395.1023, 400.4174, 400.556,
5 402.165, 402.166, 409.1672, 409.176, 409.2554,
6 409.912, 409.9126, 414.065, 447.401, 464.018,
7 490.014, 491.014, 741.30, 744.309, 784.075,
8 933.18, 944.401, 944.705, 984.03, 984.10,
9 984.15, 984.24, 985.03, and 985.303, F.S.;
10 correcting cross references; conforming related
11 provisions and references; amending s. 20.19,
12 F.S.; providing for certification programs for
13 family safety and preservation employees of the
14 department; providing for rules; amending s.
15 119.07, F.S., to conform to the act; amending
16 ss. 213.053 and 409.2577, F.S.; authorizing
17 disclosure of certain confidential taxpayer and
18 parent locator information for diligent search
19 activities under ch. 39, F.S.; creating s.
20 435.045, F.S.; providing background screening
21 requirements for prospective foster or adoptive
22 parents; amending s. 943.045, F.S.; providing
23 that the protective investigation component of
24 the Department of Children and Family Services
25 is a "criminal justice agency" for purposes of
26 the criminal justice information system;
27 providing appropriations; repealing s. 39.0195,
28 F.S., relating to sheltering unmarried minors
29 and aiding unmarried runaways; repealing s.
30 39.0196, F.S., relating to children locked out
31 of the home; repealing ss. 39.39, 39.449, and

1 39.459, F.S., relating to definition of
2 "department"; repealing s. 39.403, F.S.,
3 relating to protective investigation; repealing
4 s. 39.4032, F.S., relating to multidisciplinary
5 case staffing; repealing s. 39.4052, F.S.,
6 relating to affirmative duty of written notice
7 to adult relatives; repealing s. 39.4053, F.S.,
8 relating to diligent search after taking a
9 child into custody; repealing s. 39.45, F.S.,
10 relating to legislative intent regarding foster
11 care; repealing s. 39.457, F.S., relating to a
12 pilot program in Leon County to provide
13 additional benefits to children in foster care;
14 repealing s. 39.4625, F.S., relating to
15 identity or location of parent unknown after
16 filing of petition for termination of parental
17 rights; repealing s. 39.472, F.S., relating to
18 court and witness fees; repealing s. 39.475,
19 F.S., relating to rights of grandparents;
20 repealing ss. 415.5016, 415.50165, 415.5017,
21 415.50175, 415.5018, 415.50185, and 415.5019,
22 F.S., relating to purpose and legislative
23 intent, definitions, procedures,
24 confidentiality of records, district authority
25 and responsibilities, outcome evaluation, and
26 rules for the family services response system;
27 repealing s. 415.502, F.S., relating to
28 legislative intent for comprehensive protective
29 services for abused or neglected children;
30 repealing s. 415.503, F.S., relating to
31 definitions; repealing s. 415.505, F.S.,

1 relating to child protective investigations and
2 investigations of institutional child abuse or
3 neglect; repealing s. 415.506, F.S., relating
4 to taking a child into protective custody;
5 repealing s. 415.5075, F.S., relating to rules
6 for medical screening and treatment of
7 children; repealing s. 415.509, F.S., relating
8 to public agencies' responsibilities for
9 prevention, identification, and treatment of
10 child abuse and neglect; repealing s. 415.514,
11 F.S., relating to rules for protective
12 services; providing effective dates.
13

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

16 Section 1. Sections 1-16 of this act may be cited as
17 the "Marriage Preparation and Preservation Act of 1998."

18 Section 2. (1) It is the finding of the Legislature
19 based on reliable research that:

20 (1) The divorce rate has been accelerating.

21 (2) Just as the family is the foundation of society,
22 the marital relationship is the foundation of the family.

23 Consequently, strengthening marriages can only lead to
24 stronger families, children, and communities, as well as a
25 stronger economy.

26 (3) An inability to cope with stress from both
27 internal and external sources leads to significantly higher
28 incidents of domestic violence, child abuse, absenteeism,
29 medical costs, learning and social deficiencies, and divorce.

30 (4) Relationship skills can be learned.
31

1 (5) Once learned, relationship skills can facilitate
2 communication between parties to a marriage and assist couples
3 in avoiding conflict.

4 (6) Once relationship skills are learned, they are
5 generalized to parenting, the workplace, schools,
6 neighborhoods, and civic relationships.

7 (7) By reducing conflict and increasing communication,
8 stressors can be diminished and coping can be furthered.

9 (8) When effective coping exists, domestic violence,
10 child abuse, and divorce and its effect on children, such as
11 absenteeism, medical costs, and learning and social
12 deficiencies, are diminished.

13 (9) The state has a compelling interest in educating
14 its citizens with regard to marriage and, if contemplated, the
15 effects of divorce.

16 (2) This section shall take effect January 1, 1999.

17 Section 3. Effective January 1, 1999, paragraph (i) of
18 subsection (1) of section 232.246, Florida Statutes, is
19 amended to read:

20 232.246 General requirements for high school
21 graduation.--

22 (1) Graduation requires successful completion of
23 either a minimum of 24 academic credits in grades 9 through 12
24 or an International Baccalaureate curriculum. The 24 credits
25 shall be distributed as follows:

26 (i) One-half credit in life management skills to
27 include consumer education, positive emotional development,
28 marriage and relationship skill-based education, nutrition,
29 prevention of human immunodeficiency virus infection and
30 acquired immune deficiency syndrome and other sexually
31 transmissible diseases, benefits of sexual abstinence and

1 consequences of teenage pregnancy, information and instruction
2 on breast cancer detection and breast self-examination,
3 cardiopulmonary resuscitation, drug education, and the hazards
4 of smoking. Such credit shall be given for a course to be
5 taken by all students in either the 9th or 10th grade.

6
7 School boards may award a maximum of one-half credit in social
8 studies and one-half elective credit for student completion of
9 nonpaid voluntary community or school service work. Students
10 choosing this option must complete a minimum of 75 hours of
11 service in order to earn the one-half credit in either
12 category of instruction. Credit may not be earned for service
13 provided as a result of court action. School boards that
14 approve the award of credit for student volunteer service
15 shall develop guidelines regarding the award of the credit,
16 and school principals are responsible for approving specific
17 volunteer activities. A course designated in the Course Code
18 Directory as grade 9 through grade 12 which is taken below the
19 9th grade may be used to satisfy high school graduation
20 requirements or Florida Academic Scholar's Certificate Program
21 requirements as specified in a district's pupil progression
22 plan.

23 Section 4. Effective January 1, 1999, subsection (5)
24 is added to section 741.01, Florida Statutes, to read:

25 741.01 County court judge or clerk of the circuit
26 court to issue marriage license; fee.--

27 (5) The fee charged for each marriage license issued
28 in the state shall be reduced by a sum of \$32.50 for all
29 couples who present valid certificates of completion of a
30 premarital preparation course from a qualified course provider
31 registered under s. 741.0305(5) for a course taken no more

1 than 1 year prior to the date of application for a marriage
2 license. For each license issued that is subject to the fee
3 reduction of this subsection, the clerk is not required to
4 transfer the sum of \$7.50 to the State Treasury for deposit in
5 the Displaced Homemaker Trust Fund pursuant to subsection (3)
6 or to transfer the sum of \$25 to the Supreme Court for deposit
7 in the Family Courts Trust Fund.

8 Section 5. Effective January 1, 1999, section
9 741.0305, Florida Statutes, is created to read:

10 741.0305 Marriage fee reduction for completion of
11 premarital preparation course.--

12 (1) A man and a woman who intend to apply for a
13 marriage license under s. 741.04 may, together or separately,
14 complete a premarital preparation course of not less than 4
15 hours. Each individual shall verify completion of the course
16 by filing with the application a valid certificate of
17 completion from the course provider, which certificate shall
18 specify whether the course was completed by personal
19 instruction, videotape instruction, instruction via other
20 electronic medium, or a combination of those methods. All
21 individuals who complete a premarital preparation course
22 pursuant to this section must be issued a certificate of
23 completion at the conclusion of the course by their course
24 provider. Upon furnishing such certificate when applying for a
25 marriage license, the individuals shall have their marriage
26 license fee reduced by \$32.50.

27 (2) The premarital preparation course may include
28 instruction regarding:

29 (a) Conflict management.

30 (b) Communication skills.

31 (c) Financial responsibilities.

- 1 (d) Children and parenting responsibilities.
2 (e) Data compiled from available information relating
3 to problems reported by married couples who seek marital or
4 individual counseling.
- 5 (3)(a) All individuals electing to participate in a
6 premarital preparation course shall choose from the following
7 list of qualified instructors:
- 8 1. A psychologist licensed under chapter 490.
9 2. A clinical social worker licensed under chapter
10 491.
- 11 3. A marriage and family therapist licensed under
12 chapter 491.
- 13 4. A mental health counselor licensed under chapter
14 491.
- 15 5. An official representative of a religious
16 institution which is recognized under s. 496.404(20), if the
17 representative has relevant training.
- 18 6. Any other provider designated by a judicial
19 circuit, including, but not limited to, school counselors who
20 are certified to offer such courses. Each judicial circuit may
21 establish a roster of area course providers, including those
22 who offer the course on a sliding fee scale or for free.
- 23 (b) The costs of such premarital preparation course
24 shall be paid by the applicant.
- 25 (4) Each premarital preparation course provider shall
26 furnish each participant who completes the course with a
27 certificate of completion specifying the name of the
28 participant and the date of completion and whether the course
29 was conducted by personal instruction, videotape instruction,
30 or instruction via other electronic medium, or by a
31 combination of these methods.

1 (5) All area course providers shall register with the
2 clerk of the circuit court by filing an affidavit in writing
3 attesting to the provider's compliance with the premarital
4 preparation course requirements as set forth in this section
5 and including the course instructor's name and qualifications,
6 including the license number, if any, or, if an official
7 representative of a religious institution, a statement as to
8 relevant training. The affidavit shall also include the
9 addresses where the provider may be contacted.

10 Section 6. (1) (1) Premarital preparation courses
11 offered and completed by individuals across the state shall be
12 reviewed by researchers from the Florida State University
13 Center for Marriage and Family in order to determine the
14 efficacy of such premarital preparation courses.

15 (2) Premarital preparation pilot programs may be
16 created by the Florida State University Center for Marriage
17 and Family, which will be administered by course providers or
18 by qualified instructors as provided in s. 741.0305(3),
19 Florida Statutes. These pilot programs shall offer a
20 premarital preparation course based on statistical information
21 and data obtained by researchers from the Florida State
22 University Center for Marriage and Family.

23 (3) The Florida State University Center for Marriage
24 and Family shall develop a questionnaire and create a
25 curriculum based on data collected by its researchers. Any
26 curriculum developed by The Florida State University Center
27 for Marriage and Family researchers shall be the sole property
28 of the center.

29 (2) This section shall take effect January 1, 1999.

30 Section 7. Effective January 1, 1999, section
31 741.0306, Florida Statutes, is created to read:

- 1 741.0306 Creation of a family law handbook.--
2 (1) Based upon their willingness to undertake this
3 project, there shall be created by the Family Law Section of
4 The Florida Bar a handbook explaining those sections of
5 Florida law pertaining to the rights and responsibilities
6 under Florida law of marital partners to each other and to
7 their children, both during a marriage and upon dissolution.
8 The material in the handbook or other suitable electronic
9 media shall be reviewed for accuracy by the Family Court
10 Steering Committee of the Florida Supreme Court prior to
11 publication and distribution.
- 12 (2) Such handbooks shall be available from the clerk
13 of the circuit court upon application for a marriage license.
14 The clerks may also make the information in the handbook
15 available on videotape or other electronic media and are
16 encouraged to provide a list of course providers and sites at
17 which marriage and relationship skill-building classes are
18 available.
- 19 (3) The information contained in the handbook or other
20 electronic media presentation may be reviewed and updated
21 annually, and may include, but need not be limited to:
- 22 (a) Prenuptial agreements; as a contract and as an
23 opportunity to structure financial arrangements and other
24 aspects of the marital relationship.
- 25 (b) Shared parental responsibility for children; the
26 determination of primary residence or custody and secondary
27 residence or routine visitation, holiday, summer, and vacation
28 visitation arrangements, telephone access, and the process for
29 notice for changes.
- 30 (c) Permanent relocation restrictions on parents with
31 primary residential responsibility.

1 (d) Child support for minor children; both parents are
2 obligated for support in accordance with applicable child
3 support guidelines.

4 (e) Property rights, including equitable distribution,
5 special equity, premarital property, and nonmarital property.

6 (f) Alimony, including temporary, permanent
7 rehabilitative, and lump sum.

8 (g) Domestic violence and child abuse and neglect,
9 including penalties and other ramifications of false
10 reporting.

11 (h) Court process for dissolution with or without
12 legal assistance, including who may attend, the recording of
13 proceedings, how to access those records, and the cost of such
14 access.

15 (i) Parent education course requirements for divorcing
16 parents with children.

17 (j) Community resources that are available for
18 separating or divorcing persons and their children.

19 (k) Women's rights specified in the Battered Women's
20 Bill of Rights.

21 (4) The material contained in such a handbook may also
22 be provided through videotape or other suitable electronic
23 media. The information contained in the handbook or other
24 electronic media presentation shall be reviewed and updated
25 annually.

26 Section 8. Effective January 1, 1999, section 741.04,
27 Florida Statutes, is amended to read:

28 741.04 Marriage license issued.--

29 (1) No county court judge or clerk of the circuit
30 court in this state shall issue a license for the marriage of
31 any person unless there shall be first presented and filed

1 with him or her an affidavit in writing, signed by both
2 parties to the marriage, providing the social security numbers
3 of each party, made and subscribed before some person
4 authorized by law to administer an oath, reciting the true and
5 correct ages of such parties; unless both such parties shall
6 be over the age of 18 years, except as provided in s.
7 741.0405; and unless one party is a male and the other party
8 is a female. Pursuant to the federal Personal Responsibility
9 and Work Opportunity Reconciliation Act of 1996, each party is
10 required to provide his or her social security number in
11 accordance with this section. Disclosure of social security
12 numbers obtained through this requirement shall be limited to
13 the purpose of administration of the Title IV-D program for
14 child support enforcement.

15 (2) No county court judge or clerk of the circuit
16 court in this state shall issue a license for the marriage of
17 any person unless there shall be first presented and filed
18 with him or her:

19 (a) A statement in writing, signed by both parties,
20 which specifies whether the parties, separately or together,
21 have completed a premarital preparation course.

22 (b) A statement that verifies that both parties have
23 obtained and read or otherwise accessed the information
24 contained in the handbook or other electronic media
25 presentation of the rights and responsibilities of parties to
26 a marriage specified in s. 741.0306.

27 (3) If a couple has not submitted to the clerk valid
28 certificates of completion of a premarital preparation course,
29 the effective date of the marriage license shall be delayed 3
30 days from the date of application. The effective date shall be
31 printed on the marriage license in bold print. If a couple has

1 submitted valid certificates of completion of a premarital
2 preparation course, the effective date of the marriage license
3 shall not be delayed. Exceptions to the delayed effective date
4 must be granted to non-Florida residents seeking a marriage
5 license from the state and for individuals asserting hardship.
6 Marriage license fee waivers shall continue to be available to
7 all eligible individuals. For state residents, a county court
8 judge issuing a marriage license may waive the delayed
9 effective date for good cause.

10 Section 9. (1) When applying for a marriage license,
11 an applicant may complete and file with the clerk of the
12 circuit court an unsigned anonymous informational
13 questionnaire which shall be provided by the clerk. The clerk
14 shall, for purposes of anonymity, keep all such questionnaires
15 in a separate file for later distribution by the clerk to
16 researchers from The Florida State University Center for
17 Marriage and Family. These questionnaires must be made
18 available to researchers from the center at their request.
19 Researchers from the center shall develop the questionnaire
20 and distribute them to the clerk of the circuit court in each
21 county.

22 (2) This section shall take effect January 1, 1999.

23 Section 10. Effective January 1, 1999, section 741.05,
24 Florida Statutes, is amended to read:

25 741.05 Penalty for violation of ss. 741.03,
26 741.04(1).--Any county court judge, clerk of the circuit
27 court, or other person who shall violate any provision of ss.
28 741.03 and 741.04(1) shall be guilty of a misdemeanor of the
29 first degree, punishable as provided in s. 775.082 or s.
30 775.083.

31

1 Section 11. Effective January 1, 1999, section 61.043,
2 Florida Statutes, is amended to read:

3 61.043 Commencement of a proceeding for dissolution of
4 marriage or for alimony and child support.--

5 (1) A proceeding for dissolution of marriage or a
6 proceeding under s. 61.09 shall be commenced by filing in the
7 circuit court a petition entitled "In re the marriage of,
8 husband, and, wife." A copy of the petition together
9 with a copy of a summons shall be served upon the other party
10 to the marriage in the same manner as service of papers in
11 civil actions generally.

12 (2) Upon filing for dissolution of marriage, the
13 petitioner must complete and file with the clerk of the
14 circuit court an unsigned anonymous informational
15 questionnaire. For purposes of anonymity, completed
16 questionnaires must be kept in a separate file for later
17 distribution by the clerk to researchers from The Florida
18 State University Center for Marriage and Family. These
19 questionnaires must be made available to researchers from The
20 Florida State University Center for Marriage and Family at
21 their request. The actual questionnaire shall be formulated by
22 researchers from Florida State University who shall distribute
23 them to the clerk of the circuit court in each county.

24 Section 12. Effective January 1, 1999, subsection (2)
25 of section 61.052, Florida Statutes, is amended to read:

26 61.052 Dissolution of marriage.--

27 (2) Based on the evidence at the hearing, which
28 evidence need not be corroborated except to establish that the
29 residence requirements of s. 61.021 are met which may be
30 corroborated by a valid Florida driver's license, a Florida
31 voter's registration card, a valid Florida identification card

1 issued under ss. 322.051, or the testimony or affidavit of a
2 third party, the court shall dispose of the petition for
3 dissolution of marriage when the petition is based on the
4 allegation that the marriage is irretrievably broken as
5 follows:

6 (a) If there is no minor child of the marriage and if
7 the responding party does not, by answer to the petition for
8 dissolution, deny that the marriage is irretrievably broken,
9 the court shall enter a judgment of dissolution of the
10 marriage if the court finds that the marriage is irretrievably
11 broken.

12 (b) When there is a minor child of the marriage, or
13 when the responding party denies by answer to the petition for
14 dissolution that the marriage is irretrievably broken, the
15 court may:

16 1. Order either or both parties to consult with a
17 marriage counselor, psychologist, psychiatrist, minister,
18 priest, rabbi, or any other person deemed qualified by the
19 court and acceptable to the party or parties ordered to seek
20 consultation; or

21 2. Continue the proceedings for a reasonable length of
22 time not to exceed 3 months, to enable the parties themselves
23 to effect a reconciliation; or

24 3. Take such other action as may be in the best
25 interest of the parties and the minor child of the marriage.

26
27 If, at any time, the court finds that the marriage is
28 irretrievably broken, the court shall enter a judgment of
29 dissolution of the marriage. If the court finds that the
30 marriage is not irretrievably broken, it shall deny the
31 petition for dissolution of marriage.

1 Section 13. Effective January 1, 1999, section 61.21,
2 Florida Statutes, is amended to read:

3 61.21 Parenting course authorized; fees; required
4 attendance authorized; contempt.--

5 (1) LEGISLATIVE FINDINGS; PURPOSE.--It is the finding
6 of the Legislature that:

7 (a) A large number of children experience the
8 separation or divorce of their parents each year. Parental
9 conflict related to divorce is a societal concern because
10 children suffer potential short-term and long-term detrimental
11 economic, emotional, and educational effects during this
12 difficult period of family transition. This is particularly
13 true when parents engage in lengthy legal conflict.

14 (b) Parents are more likely to consider the best
15 interests of their children when determining parental
16 arrangements if courts provide families with information
17 regarding the process by which courts make decisions on issues
18 affecting their children and suggestions as to how parents may
19 ease the coming adjustments in family structure for their
20 children.

21 (c) It has been found to be beneficial to parents who
22 are separating or divorcing to have available an educational
23 program that will provide general information regarding:

24 1. The issues and legal procedures for resolving
25 custody and child support disputes.

26 2. The emotional experiences and problems of divorcing
27 adults.

28 3. The family problems and the emotional concerns and
29 needs of the children.

30 4. The availability of community services and
31 resources.

1 (d) Parents who are separating or divorcing are more
2 likely to receive maximum benefit from a program if they
3 attend such program at the earliest stages of their dispute,
4 before extensive litigation occurs and adversarial positions
5 are assumed or intensified.

6 (2)~~(1)~~ All judicial circuits in the state shall ~~may~~
7 approve a parenting course which shall be a course of a
8 minimum of 4 hours designed to educate, train, and assist
9 divorcing parents in regard to the consequences of divorce on
10 parents and children.

11 (a) The parenting course referred to in this section
12 shall be named the Parent Education and Family Stabilization
13 Course and may include, but need not be limited to, the
14 following topics as they relate to court actions between
15 parents involving custody, care, visitation, and support of a
16 child or children:

17 1. Legal aspects of deciding child-related issues
18 between parents.

19 2. Emotional aspects of separation and divorce on
20 adults.

21 3. Emotional aspects of separation and divorce on
22 children.

23 4. Family relationships and family dynamics.

24 5. Financial responsibilities to a child or children.

25 6. Issues regarding spousal or child abuse and
26 neglect.

27 7. Skill-based relationship education that may be
28 generalized to parenting, workplace, school, neighborhood, and
29 civic relationships.

30 (b) Information regarding spousal and child abuse and
31 neglect shall be included in every parent education and family

1 stabilization course. A list of local agencies that provide
2 assistance with such issues shall also be provided.

3 (c) The parent education and family stabilization
4 course shall be educational in nature and shall not be
5 designed to provide individual mental health therapy for
6 parents or children, or individual legal advice to parents or
7 children.

8 (d) Course providers shall not solicit participants
9 from the sessions they conduct to become private clients or
10 patients.

11 (e) Course providers shall not give individual legal
12 advice or mental health therapy.

13 (3)(2) All parties to a dissolution of marriage
14 proceeding with minor children or a paternity action which
15 involves issues of parental responsibility shall or a
16 modification of a final judgment action involving shared
17 parental responsibilities, custody, or visitation may be
18 required to complete the Parent Education and Family
19 Stabilization a court-approved parenting Course prior to the
20 entry by the court of a final judgment or order modifying the
21 final judgment. The court may excuse a party from attending
22 the parenting course for good cause.

23 (4)(3) All parties required to complete a parenting
24 course under this section shall begin the course as
25 expeditiously as possible after filing for dissolution of
26 marriage and shall file proof of compliance with the court
27 prior to the entry of the final judgment or order modifying
28 the final judgment.

29 (5) All parties to a modification of a final judgment
30 involving shared parental responsibilities, custody, or
31 visitation may be required to complete a court-approved

1 parenting course prior to the entry of an order modifying the
2 final judgment.

3 (6) Each judicial circuit may establish a registry of
4 course providers and sites at which the parent education and
5 family stabilization course required by this section may be
6 completed. The court shall also include within the registry of
7 course providers and sites at least one site in each circuit
8 at which the parent education and family stabilization course
9 may be completed on a sliding fee scale, if available.

10 (7)~~(4)~~ A reasonable fee may be charged to each parent
11 attending the course.

12 (8)~~(5)~~ Information obtained or statements made by the
13 parties at any educational session required under this statute
14 shall not be considered in the adjudication of a pending or
15 subsequent action, nor shall any report resulting from such
16 educational session become part of the record of the case
17 unless the parties have stipulated in writing to the contrary.

18 (9)~~(6)~~ The court may hold any parent who fails to
19 attend a required parenting course in contempt or that parent
20 may be denied shared parental responsibility or visitation or
21 otherwise sanctioned as the court deems appropriate.

22 (10)~~(7)~~ Nothing in this section shall be construed to
23 require the parties to a dissolution of marriage to attend a
24 court-approved parenting course together.

25 (11) The court may, without motion of either party,
26 prohibit the parenting course from being taken together, if
27 there is a history of domestic violence between the parties.

28 Section 14. Effective January 1, 1999, paragraph (d)
29 is added to subsection (1) of section 28.101, Florida
30 Statutes, to read:

31

1 28.101 Petitions and records of dissolution of
2 marriage; additional charges.--

3 (1) When a party petitions for a dissolution of
4 marriage, in addition to the filing charges in s. 28.241, the
5 clerk shall collect and receive:

6 (d) A charge of \$32.50. On a monthly basis the clerk
7 shall transfer the moneys collected pursuant to this paragraph
8 as follows:

9 1. An amount of \$7.50 to the State Treasury for
10 deposit in the Displaced Homemaker Trust Fund.

11 2. An amount of \$25 to the Supreme Court for deposit
12 in the Family Courts Trust Fund.

13 Section 15. Effective January 1, 1999, section 25.388,
14 Florida Statutes, is amended to read:

15 25.388 Family Courts Trust Fund.--

16 (1)(a) The trust fund moneys in the Family Courts
17 Trust Fund, administered by the Supreme Court, shall be used
18 to implement family court plans in all judicial circuits of
19 this state.

20 (b) The Supreme Court, through the Office of the State
21 Courts Administrator, shall adopt a comprehensive plan for the
22 operation of the trust fund and the expenditure of any moneys
23 deposited into the trust fund. The plan shall provide for a
24 comprehensive integrated response to families in litigation,
25 including domestic violence matters, guardian ad litem
26 programs, mediation programs, legal support, training,
27 automation, and other related costs incurred to benefit the
28 citizens of the state and the courts in relation to family law
29 cases. The trust fund shall be used to fund the publication of
30 the handbook created pursuant to s. 741.0306.

31

1 (2) As part of its comprehensive plan, the Supreme
2 Court shall evaluate the necessity for an installment plan or
3 a waiver for any or all of the fees based on financial
4 necessity and report such findings to the Legislature.

5 (3) The trust fund shall be funded with moneys
6 generated from fees assessed pursuant to ss. 28.101 and s-
7 741.01(4).

8 Section 16. Effective January 1, 1999, there is hereby
9 appropriated in fiscal year 1998-1999 the sum of \$75,000 from
10 the General Revenue Fund to the Florida State University
11 Center for Marriage and Family for review of premarital
12 preparation courses, development of premarital preparation
13 pilot programs, and development of a questionnaire and
14 creation of a curriculum based on data collected by its
15 researchers.

16 Section 17. Part I of chapter 39, Florida Statutes,
17 consisting of sections 39.001, 39.01, 39.011, 39.012, 39.0121,
18 39.013, 39.0131, 39.0132, 39.0133, 39.0134, and 39.0135,
19 Florida Statutes, shall be entitled to read:

20 PART I

21 GENERAL PROVISIONS

22 Section 18. Section 39.001, Florida Statutes, is
23 amended, subsection (3) of said section is renumbered as
24 subsection (9), section 39.002, Florida Statutes, is
25 renumbered as subsections (3), (4), and (5) of said section
26 and amended, and section 415.501, Florida Statutes, is
27 renumbered as subsections (6), (7), and (8) of said section
28 and amended, to read:

29 39.001 Purposes and intent; personnel standards and
30 screening.--

31

1 (1) PURPOSES OF CHAPTER.--The purposes of this chapter
2 are:

3 ~~(a)(b)~~ To provide for the care, safety, and protection
4 of children in an environment that fosters healthy social,
5 emotional, intellectual, and physical development; to ensure
6 secure and safe custody; and to promote the health and
7 well-being of all children under the state's care.

8 (b) To recognize that most families desire to be
9 competent caregivers and providers for their children and that
10 children achieve their greatest potential when families are
11 able to support and nurture the growth and development of
12 their children. Therefore, the Legislature finds that policies
13 and procedures that provide for intervention through the
14 department's child protection system should be based on the
15 following principles:

16 1. The health and safety of the children served shall
17 be of paramount concern.

18 2. The intervention should engage families in
19 constructive, supportive, and nonadversarial relationships.

20 3. The intervention should intrude as little as
21 possible into the life of the family, be focused on clearly
22 defined objectives, and take the most parsimonious path to
23 remedy a family's problems.

24 4. The intervention should be based upon outcome
25 evaluation results that demonstrate success in protecting
26 children and supporting families.

27 (c) To provide a child protection system that reflects
28 a partnership between the department, other agencies, and
29 local communities.

30 (d) To provide a child protection system that is
31 sensitive to the social and cultural diversity of the state.

1 (e) To provide procedures which allow the department
2 to respond to reports of child abuse, abandonment, or neglect
3 in the most efficient and effective manner that ensures the
4 health and safety of children and the integrity of families.

5 ~~(c) To ensure the protection of society, by providing~~
6 ~~for a comprehensive standardized assessment of the child's~~
7 ~~needs so that the most appropriate control, discipline,~~
8 ~~punishment, and treatment can be administered consistent with~~
9 ~~the seriousness of the act committed, the community's~~
10 ~~long-term need for public safety, the prior record of the~~
11 ~~child and the specific rehabilitation needs of the child,~~
12 ~~while also providing whenever possible restitution to the~~
13 ~~victim of the offense.~~

14 (f)(d) To preserve and strengthen the child's family
15 ties whenever possible, removing the child from parental
16 custody only when his or her welfare ~~or the safety and~~
17 ~~protection of the public~~ cannot be adequately safeguarded
18 without such removal. ~~;~~ and, ~~when the child is removed from his~~
19 ~~or her own family, to secure for the child custody, care, and~~
20 ~~discipline as nearly as possible equivalent to that which~~
21 ~~should have been given by the parents; and to assure, in all~~
22 ~~cases in which a child must be permanently removed from~~
23 ~~parental custody, that the child be placed in an approved~~
24 ~~family home, adoptive home, independent living program, or~~
25 ~~other placement that provides the most stable and permanent~~
26 ~~living arrangement for the child, as determined by the court.~~

27 (g) To ensure that the parent or guardian from whose
28 custody the child has been taken assists the department to the
29 fullest extent possible in locating relatives suitable to
30 serve as caregivers for the child.

31

1 (h) To ensure that permanent placement with the
2 biological or adoptive family is achieved as soon as possible
3 for every child in foster care and that no child remains in
4 foster care longer than 1 year.

5 (i) To secure for the child, when removal of the child
6 from his or her own family is necessary, custody, care, and
7 discipline as nearly as possible equivalent to that which
8 should have been given by the parents; and to ensure, in all
9 cases in which a child must be removed from parental custody,
10 that the child is placed in an approved relative home,
11 licensed foster home, adoptive home, or independent living
12 program that provides the most stable and potentially
13 permanent living arrangement for the child, as determined by
14 the court. All placements shall be in a safe environment where
15 drugs and alcohol are not abused.

16 (j) To ensure that, when reunification or adoption is
17 not possible, the child will be prepared for alternative
18 permanency goals or placements, to include, but not be limited
19 to, long-term foster care, independent living, custody to a
20 relative on a permanent basis with or without legal
21 guardianship, or custody to a foster parent or caregiver on a
22 permanent basis with or without legal guardianship.

23 (k) To make every possible effort, when two or more
24 children who are in the care or under the supervision of the
25 department are siblings, to place the siblings in the same
26 home; and in the event of permanent placement of the siblings,
27 to place them in the same adoptive home or, if the siblings
28 are separated, to keep them in contact with each other.

29 (l)(a) To provide judicial and other procedures to
30 assure due process through which children, parents, and
31 guardians and other interested parties are assured fair

1 hearings by a respectful and respected court or other tribunal
2 and the recognition, protection, and enforcement of their
3 constitutional and other legal rights, while ensuring that
4 public safety interests and the authority and dignity of the
5 courts are adequately protected.

6 (m) To ensure that children under the jurisdiction of
7 the courts are provided equal treatment with respect to goals,
8 objectives, services, and case plans, without regard to the
9 location of their placement. It is the further intent of the
10 Legislature that, when children are removed from their homes,
11 disruption to their education be minimized to the extent
12 possible.

13 ~~(e)1. To assure that the adjudication and disposition~~
14 ~~of a child alleged or found to have committed a violation of~~
15 ~~Florida law be exercised with appropriate discretion and in~~
16 ~~keeping with the seriousness of the offense and the need for~~
17 ~~treatment services, and that all findings made under this~~
18 ~~chapter be based upon facts presented at a hearing that meets~~
19 ~~the constitutional standards of fundamental fairness and due~~
20 ~~process.~~

21 ~~2. To assure that the sentencing and placement of a~~
22 ~~child tried as an adult be appropriate and in keeping with the~~
23 ~~seriousness of the offense and the child's need for~~
24 ~~rehabilitative services, and that the proceedings and~~
25 ~~procedures applicable to such sentencing and placement be~~
26 ~~applied within the full framework of constitutional standards~~
27 ~~of fundamental fairness and due process.~~

28 ~~(f) To provide children committed to the Department of~~
29 ~~Juvenile Justice with training in life skills, including~~
30 ~~career education.~~

31

1 (2) DEPARTMENT CONTRACTS.--The department ~~of Juvenile~~
2 ~~Justice or the Department of Children and Family Services, as~~
3 ~~appropriate,~~ may contract with the Federal Government, other
4 state departments and agencies, county and municipal
5 governments and agencies, public and private agencies, and
6 private individuals and corporations in carrying out the
7 purposes of, and the responsibilities established in, this
8 chapter.

9 (a) When the department ~~of Juvenile Justice or the~~
10 ~~Department of Children and Family Services~~ contracts with a
11 provider for any program for children, all personnel,
12 including owners, operators, employees, and volunteers, in the
13 facility must be of good moral character. A volunteer who
14 assists on an intermittent basis for less than 40 hours per
15 month need not be screened if the volunteer is under direct
16 and constant supervision by persons who meet the screening
17 requirements.

18 (b) The department ~~of Juvenile Justice and the~~
19 ~~Department of Children and Family Services~~ shall require
20 employment screening, and rescreening no less frequently than
21 once every 5 years, pursuant to chapter 435, using the level 2
22 standards set forth in that chapter for personnel in programs
23 for children or youths.

24 (c) The department ~~of Juvenile Justice or the~~
25 ~~Department of Children and Family Services~~ may grant
26 exemptions from disqualification from working with children as
27 provided in s. 435.07.

28 (d) The department shall require all job applicants,
29 current employees, volunteers, and contract personnel who
30 currently perform or are seeking to perform child protective
31 investigations to be drug tested pursuant to the procedures

1 and requirements of s. 112.0455, the Drug-Free Workplace Act.
2 The department is authorized to adopt rules, policies, and
3 procedures necessary to implement this paragraph.

4 (e) The department shall develop and implement a
5 written and performance-based testing and evaluation program
6 pursuant to s. 20.19(4), to ensure measurable competencies of
7 all employees assigned to manage or supervise cases of child
8 abuse, abandonment, and neglect.

9 ~~39.002 Legislative intent.~~

10 (3)(1) GENERAL PROTECTIONS FOR CHILDREN.--It is a
11 purpose of the Legislature that the children of this state be
12 provided with the following protections:

13 (a) Protection from abuse, abandonment, neglect, and
14 exploitation.

15 (b) A permanent and stable home.

16 (c) A safe and nurturing environment which will
17 preserve a sense of personal dignity and integrity.

18 (d) Adequate nutrition, shelter, and clothing.

19 (e) Effective treatment to address physical, social,
20 and emotional needs, regardless of geographical location.

21 (f) Equal opportunity and access to quality and
22 effective education, which will meet the individual needs of
23 each child, and to recreation and other community resources to
24 develop individual abilities.

25 (g) Access to preventive services.

26 (h) An independent, trained advocate, when
27 intervention is necessary and a skilled guardian or caregiver
28 ~~caretaker~~ in a safe environment when alternative placement is
29 necessary.

30 (4)(2) SUBSTANCE ABUSE SERVICES.--The Legislature
31 finds that children in the care of the state's dependency

1 ~~system and delinquency systems~~ need appropriate health care
2 services, that the impact of substance abuse on health
3 indicates the need for health care services to include
4 substance abuse services to children and parents where
5 appropriate, and that it is in the state's best interest that
6 such children be provided the services they need to enable
7 them to become and remain independent of state care. In order
8 to provide these services, the state's dependency system ~~and~~
9 ~~delinquency systems~~ must have the ability to identify and
10 provide appropriate intervention and treatment for children
11 with personal or family-related substance abuse problems. It
12 is therefore the purpose of the Legislature to provide
13 authority for the state to contract with community substance
14 abuse treatment providers for the development and operation of
15 specialized support and overlay services for the dependency
16 system ~~and delinquency systems~~, which will be fully
17 implemented and utilized as resources permit.

18 (5)~~(3)~~ PARENTAL, CUSTODIAL, AND GUARDIAN
19 RESPONSIBILITIES.--Parents, custodians, and guardians are
20 deemed by the state to be responsible for providing their
21 children with sufficient support, guidance, and supervision ~~to~~
22 ~~deter their participation in delinquent acts~~. The state
23 further recognizes that the ability of parents, custodians,
24 and guardians to fulfill those responsibilities can be greatly
25 impaired by economic, social, behavioral, emotional, and
26 related problems. It is therefore the policy of the
27 Legislature that it is the state's responsibility to ensure
28 that factors impeding the ability of caregivers ~~caretakers~~ to
29 fulfill their responsibilities are identified through the
30 dependency ~~delinquency intake~~ process and that appropriate
31

1 recommendations and services to address those problems are
2 considered in any judicial or nonjudicial proceeding.

3 ~~415.501 Prevention of abuse and neglect of children;~~
4 ~~state plan.--~~

5 (6)(1) LEGISLATIVE INTENT FOR THE PREVENTION OF ABUSE,
6 ABANDONMENT, AND NEGLECT OF CHILDREN.--The incidence of known
7 child abuse, abandonment,and ~~child~~ neglect has increased
8 rapidly over the past 5 years. The impact that abuse,
9 abandonment,or neglect has on the victimized child, siblings,
10 family structure, and inevitably on all citizens of the state
11 has caused the Legislature to determine that the prevention of
12 child abuse, abandonment,and neglect shall be a priority of
13 this state. To further this end, it is the intent of the
14 Legislature that a comprehensive approach for the prevention
15 of abuse, abandonment,and neglect of children be developed
16 for the state and that this planned, comprehensive approach be
17 used as a basis for funding.

18 (7)(2) PLAN FOR COMPREHENSIVE APPROACH.--

19 (a) The department ~~of Children and Family Services~~
20 shall develop a state plan for the prevention of abuse,
21 abandonment,and neglect of children and shall submit the plan
22 to the Speaker of the House of Representatives, the President
23 of the Senate, and the Governor no later than January 1, 1983.
24 The Department of Education and the Division of Children's
25 Medical Services of the Department of Health shall participate
26 and fully cooperate in the development of the state plan at
27 both the state and local levels. Furthermore, appropriate
28 local agencies and organizations shall be provided an
29 opportunity to participate in the development of the state
30 plan at the local level. Appropriate local groups and
31 organizations shall include, but not be limited to, community

1 mental health centers; guardian ad litem programs for children
2 under the circuit court; the school boards of the local school
3 districts; the district human rights advocacy committees;
4 private or public organizations or programs with recognized
5 expertise in working with children who are sexually abused,
6 physically abused, emotionally abused, abandoned, or neglected
7 and with expertise in working with the families of such
8 children; private or public programs or organizations with
9 expertise in maternal and infant health care;
10 multidisciplinary child protection teams; child day care
11 centers; law enforcement agencies, and the circuit courts,
12 when guardian ad litem programs are not available in the local
13 area. The state plan to be provided to the Legislature and
14 the Governor shall include, as a minimum, the information
15 required of the various groups in paragraph (b).

16 (b) The development of the comprehensive state plan
17 shall be accomplished in the following manner:

18 1. The department ~~of Children and Family Services~~
19 shall establish an interprogram task force comprised of the
20 Assistant Secretary for Children and Family Services, or a
21 designee, a representative from the Children and Families
22 Program Office, a representative from the Alcohol, Drug Abuse,
23 and Mental Health Program Office, a representative from the
24 Developmental Services Program Office, a representative from
25 the Office of Standards and Evaluation, and a representative
26 from the Division of Children's Medical Services of the
27 Department of Health. Representatives of the Department of
28 Law Enforcement and of the Department of Education shall serve
29 as ex officio members of the interprogram task force. The
30 interprogram task force shall be responsible for:

31

1 a. Developing a plan of action for better coordination
2 and integration of the goals, activities, and funding
3 pertaining to the prevention of child abuse, abandonment, and
4 neglect conducted by the department in order to maximize staff
5 and resources at the state level. The plan of action shall be
6 included in the state plan.

7 b. Providing a basic format to be utilized by the
8 districts in the preparation of local plans of action in order
9 to provide for uniformity in the district plans and to provide
10 for greater ease in compiling information for the state plan.

11 c. Providing the districts with technical assistance
12 in the development of local plans of action, if requested.

13 d. Examining the local plans to determine if all the
14 requirements of the local plans have been met and, if they
15 have not, informing the districts of the deficiencies and
16 requesting the additional information needed.

17 e. Preparing the state plan for submission to the
18 Legislature and the Governor. Such preparation shall include
19 the collapsing of information obtained from the local plans,
20 the cooperative plans with the Department of Education, and
21 the plan of action for coordination and integration of
22 departmental activities into one comprehensive plan. The
23 comprehensive plan shall include a section reflecting general
24 conditions and needs, an analysis of variations based on
25 population or geographic areas, identified problems, and
26 recommendations for change. In essence, the plan shall
27 provide an analysis and summary of each element of the local
28 plans to provide a statewide perspective. The plan shall also
29 include each separate local plan of action.

30
31

1 f. Working with the specified state agency in
2 fulfilling the requirements of subparagraphs 2., 3., 4., and
3 5.

4 2. The department, the Department of Education, ~~the~~
5 ~~Department of Children and Family Services,~~ and the Department
6 of Health shall work together in developing ways to inform and
7 instruct parents of school children and appropriate district
8 school personnel in all school districts in the detection of
9 child abuse, abandonment, and neglect and in the proper action
10 that should be taken in a suspected case of child abuse,
11 abandonment, or neglect, and in caring for a child's needs
12 after a report is made. The plan for accomplishing this end
13 shall be included in the state plan.

14 3. The department, the Department of Law Enforcement,
15 ~~the Department of Children and Family Services,~~ and the
16 Department of Health shall work together in developing ways to
17 inform and instruct appropriate local law enforcement
18 personnel in the detection of child abuse, abandonment, and
19 neglect and in the proper action that should be taken in a
20 suspected case of child abuse, abandonment, or neglect.

21 4. Within existing appropriations, the department ~~of~~
22 ~~Children and Family Services~~ shall work with other appropriate
23 public and private agencies to emphasize efforts to educate
24 the general public about the problem of and ways to detect
25 child abuse, abandonment, and neglect and in the proper action
26 that should be taken in a suspected case of child abuse,
27 abandonment, or neglect. The plan for accomplishing this end
28 shall be included in the state plan.

29 5. The department, the Department of Education, ~~the~~
30 ~~Department of Children and Family Services,~~ and the Department
31 of Health shall work together on the enhancement or adaptation

1 of curriculum materials to assist instructional personnel in
2 providing instruction through a multidisciplinary approach on
3 the identification, intervention, and prevention of child
4 abuse, abandonment, and neglect. The curriculum materials
5 shall be geared toward a sequential program of instruction at
6 the four progressional levels, K-3, 4-6, 7-9, and 10-12.
7 Strategies for encouraging all school districts to utilize the
8 curriculum are to be included in the comprehensive state plan
9 for the prevention of child abuse, abandonment, and ~~child~~
10 neglect.

11 6. Each district of the department of ~~Children and~~
12 ~~Family Services~~ shall develop a plan for its specific
13 geographical area. The plan developed at the district level
14 shall be submitted to the interprogram task force for
15 utilization in preparing the state plan. The district local
16 plan of action shall be prepared with the involvement and
17 assistance of the local agencies and organizations listed in
18 paragraph (a), as well as representatives from those
19 departmental district offices participating in the treatment
20 and prevention of child abuse, abandonment, and neglect. In
21 order to accomplish this, the district administrator in each
22 district shall establish a task force on the prevention of
23 child abuse, abandonment, and neglect. The district
24 administrator shall appoint the members of the task force in
25 accordance with the membership requirements of this section.
26 In addition, the district administrator shall ensure that each
27 subdistrict is represented on the task force; and, if the
28 district does not have subdistricts, the district
29 administrator shall ensure that both urban and rural areas are
30 represented on the task force. The task force shall develop a
31 written statement clearly identifying its operating

1 procedures, purpose, overall responsibilities, and method of
2 meeting responsibilities. The district plan of action to be
3 prepared by the task force shall include, but shall not be
4 limited to:

5 a. Documentation of the magnitude of the problems of
6 child abuse, including sexual abuse, physical abuse, and
7 emotional abuse, and child abandonment and neglect in its
8 geographical area.

9 b. A description of programs currently serving abused,
10 abandoned,and neglected children and their families and a
11 description of programs for the prevention of child abuse,
12 abandonment,and neglect, including information on the impact,
13 cost-effectiveness, and sources of funding of such programs.

14 c. A continuum of programs and services necessary for
15 a comprehensive approach to the prevention of all types of
16 child abuse, abandonment,and neglect as well as a brief
17 description of such programs and services.

18 d. A description, documentation, and priority ranking
19 of local needs related to child abuse, abandonment,and
20 neglect prevention based upon the continuum of programs and
21 services.

22 e. A plan for steps to be taken in meeting identified
23 needs, including the coordination and integration of services
24 to avoid unnecessary duplication and cost, and for alternative
25 funding strategies for meeting needs through the reallocation
26 of existing resources, utilization of volunteers, contracting
27 with local universities for services, and local government or
28 private agency funding.

29 f. A description of barriers to the accomplishment of
30 a comprehensive approach to the prevention of child abuse,
31 abandonment,and neglect.

1 g. Recommendations for changes that can be
2 accomplished only at the state program level or by legislative
3 action.

4 ~~(8)(3)~~ FUNDING AND SUBSEQUENT PLANS.--

5 (a) All budget requests submitted by the department of
6 ~~Children and Family Services~~, the Department of Education, or
7 any other agency to the Legislature for funding of efforts for
8 the prevention of child abuse, abandonment, and neglect shall
9 be based on the state plan developed pursuant to this section.

10 (b) The department of ~~Children and Family Services~~ at
11 the state and district levels and the other agencies listed in
12 paragraph ~~(7)(2)~~(a) shall readdress the plan and make
13 necessary revisions every 5 years, at a minimum. Such
14 revisions shall be submitted to the Speaker of the House of
15 Representatives and the President of the Senate no later than
16 June 30 of each year divisible by 5. An annual progress
17 report shall be submitted to update the plan in the years
18 between the 5-year intervals. In order to avoid duplication
19 of effort, these required plans may be made a part of or
20 merged with other plans required by either the state or
21 Federal Government, so long as the portions of the other state
22 or Federal Government plan that constitute the state plan for
23 the prevention of child abuse, abandonment, and neglect are
24 clearly identified as such and are provided to the Speaker of
25 the House of Representatives and the President of the Senate
26 as required above.

27 ~~(9)(3)~~ LIBERAL CONSTRUCTION.--It is the intent of the
28 Legislature that this chapter be liberally interpreted and
29 construed in conformity with its declared purposes.

30
31

1 Section 19. Section 415.5015, Florida Statutes, is
2 renumbered as section 39.0015, Florida Statutes, and amended
3 to read:

4 39.0015 ~~415.5015~~ Child abuse prevention training in
5 the district school system.--

6 (1) SHORT TITLE.--This section may be cited as the
7 "Child Abuse Prevention Training Act of 1985."

8 (2) LEGISLATIVE INTENT.--It is the intent of the
9 Legislature that primary prevention training for all children
10 in kindergarten through grade 12 be encouraged in the district
11 school system through the training of school teachers,
12 guidance counselors, parents, and children.

13 (3) DEFINITIONS.--As used in this section:

14 (a) "Department" means the Department of Education.

15 (b) "Child abuse" means those acts as defined in ss.
16 39.01, ~~415.503~~, and 827.04.

17 (c) "Primary prevention and training program" means a
18 training and educational program for children, parents, and
19 teachers which is directed toward preventing the occurrence of
20 child abuse, including sexual abuse, physical abuse, child
21 abandonment, child neglect, and drug and alcohol abuse, and
22 toward reducing the vulnerability of children through training
23 of children and through including coordination with, and
24 training for, parents and school personnel.

25 (d) "Prevention training center" means a center as
26 described in subsection (5).

27 (4) PRIMARY PREVENTION AND TRAINING PROGRAM.--A
28 primary prevention and training program shall include all of
29 the following, as appropriate for the persons being trained:

30 (a) Information provided in a clear and nonthreatening
31 manner, describing the problem of sexual abuse, physical

- 1 abuse, abandonment, neglect, and alcohol and drug abuse, and
2 the possible solutions.
- 3 (b) Information and training designed to counteract
4 common stereotypes about victims and offenders.
- 5 (c) Crisis counseling techniques.
- 6 (d) Available community resources and ways to access
7 those resources.
- 8 (e) Physical and behavioral indicators of abuse.
- 9 (f) Rights and responsibilities regarding reporting.
- 10 (g) School district procedures to facilitate
11 reporting.
- 12 (h) Caring for a child's needs after a report is made.
- 13 (i) How to disclose incidents of abuse.
- 14 (j) Child safety training and age-appropriate
15 self-defense techniques.
- 16 (k) The right of every child to live free of abuse.
- 17 (l) The relationship of child abuse to handicaps in
18 young children.
- 19 (m) Parenting, including communication skills.
- 20 (n) Normal and abnormal child development.
- 21 (o) Information on recognizing and alleviating family
22 stress caused by the demands required in caring for a
23 high-risk or handicapped child.
- 24 (p) Supports needed by school-age parents in caring
25 for a young child.
- 26 (5) PREVENTION TRAINING CENTERS; FUNCTIONS; SELECTION
27 PROCESS; MONITORING AND EVALUATION.--
- 28 (a) Each training center shall perform the following
29 functions:
- 30 1. Act as a clearinghouse to provide information on
31 prevention curricula which meet the requirements of this

1 section and the requirements of ss. 39.001,231.17, and
2 ~~236.0811, and 415.501.~~

3 2. Assist the local school district in selecting a
4 prevention program model which meets the needs of the local
5 community.

6 3. At the request of the local school district, design
7 and administer training sessions to develop or expand local
8 primary prevention and training programs.

9 4. Provide assistance to local school districts,
10 including, but not limited to, all of the following:
11 administration, management, program development, multicultural
12 staffing, and community education, in order to better meet the
13 requirements of this section and of ss. 39.001,231.17, and
14 ~~236.0811, and 415.501.~~

15 5. At the request of the department ~~of Education~~ or
16 the local school district, provide ongoing program development
17 and training to achieve all of the following:

18 a. Meet the special needs of children, including, but
19 not limited to, the needs of disabled and high-risk children.

20 b. Conduct an outreach program to inform the
21 surrounding communities of the existence of primary prevention
22 and training programs and of funds to conduct such programs.

23 6. Serve as a resource to the Department of Children
24 and Family Services and its districts.

25 (b) The department, in consultation with the
26 Department of Children and Family ~~Health and Rehabilitative~~
27 Services, shall select and award grants by January 1, 1986,
28 for the establishment of three private, nonprofit prevention
29 training centers: one located in and serving South Florida,
30 one located in and serving Central Florida, and one located in
31 and serving North Florida. The department, in consultation

1 with the Department of Children and Family Health and
2 ~~Rehabilitative~~ Services, shall select an agency or agencies to
3 establish three training centers which can fulfill the
4 requirements of this section and meet the following
5 requirements:

- 6 1. Have demonstrated experience in child abuse
7 prevention training.
- 8 2. Have shown capacity for training primary prevention
9 and training programs as provided for in subsections (3) and
10 ~~defined in subsection~~ (4).
- 11 3. Have provided training and organizing technical
12 assistance to the greatest number of private prevention and
13 training programs.
- 14 4. Have employed the greatest number of trainers with
15 experience in private child abuse prevention and training
16 programs.
- 17 5. Have employed trainers which represent the cultural
18 diversity of the area.
- 19 6. Have established broad community support.

20 (c) The department shall monitor and evaluate primary
21 prevention and training programs utilized in the local school
22 districts and shall monitor and evaluate the impact of the
23 prevention training centers on the implementation of primary
24 prevention programs and their ability to meet the required
25 responsibilities of a center as described in this section.

26 (6) The department ~~of Education~~ shall administer this
27 section act and in so doing is authorized to adopt rules and
28 standards necessary to implement the specific provisions of
29 this section act.

30
31

1 Section 20. Section 39.01, Florida Statutes, as
2 amended by chapter 97-276, Laws of Florida, is amended to
3 read:

4 39.01 Definitions.--When used in this chapter, unless
5 the context otherwise requires:

6 (1) "Abandoned" means a situation in which the parent
7 or legal custodian of a child or, in the absence of a parent
8 or legal custodian, the caregiver ~~person~~ responsible for the
9 child's welfare, while being able, makes no provision for the
10 child's support and makes no effort to communicate with the
11 child, which situation is sufficient to evince a willful
12 rejection of parental obligations. If the efforts of such
13 parent or legal custodian, or caregiver ~~person~~ primarily
14 responsible for the child's welfare, to support and
15 communicate with the child are, in the opinion of the court,
16 only marginal efforts that do not evince a settled purpose to
17 assume all parental duties, the court may declare the child to
18 be abandoned. The term "abandoned" does not include a "child
19 in need of services" as defined in chapter 984 or a "family in
20 need of services" as defined in chapter 984. The incarceration
21 of a parent, legal custodian, or caregiver ~~person~~ responsible
22 for a child's welfare may support ~~does not constitute a bar to~~
23 a finding of abandonment.

24 (2) "Abuse" means any willful act or threatened act
25 that results in any physical, mental, or sexual injury or harm
26 that causes or is likely to cause the child's physical,
27 mental, or emotional health to be significantly impaired. For
28 the purpose of protective investigations, abuse of a child
29 includes the acts or omissions of the parent, legal custodian,
30 caregiver, or other person responsible for the child's
31 welfare. Corporal discipline of a child by a parent, legal

1 custodian, or caregiver ~~guardian~~ for disciplinary purposes
2 does not in itself constitute abuse when it does not result in
3 harm to the child ~~as defined in s. 415.503.~~

4 (3) "Addictions receiving facility" means a substance
5 abuse service provider as defined in chapter 397.

6 (4) "Adjudicatory hearing" means a hearing for the
7 court to determine whether or not the facts support the
8 allegations stated in the petition ~~as is provided for under s.~~
9 ~~39.408(2),~~ in dependency cases, ~~or s. 39.467,~~ in termination
10 of parental rights cases.

11 (5) "Adult" means any natural person other than a
12 child.

13 (6) "Adoption" means the act of creating the legal
14 relationship between parent and child where it did not exist,
15 thereby declaring the child to be legally the child of the
16 adoptive parents and their heir at law, and entitled to all
17 the rights and privileges and subject to all the obligations
18 of a child born to such adoptive parents in lawful wedlock.

19 (7) "Alleged juvenile sexual offender" means:

20 (a) A child 12 years of age or younger who is alleged
21 to have committed a violation of chapter 794, chapter 796,
22 chapter 800, s. 827.071, or s. 847.0133; or

23 (b) A child who is alleged to have committed any
24 violation of law or delinquent act involving juvenile sexual
25 abuse. "Juvenile sexual abuse" means any sexual behavior which
26 occurs without consent, without equality, or as a result of
27 coercion. For purposes of this paragraph, the following
28 definitions apply:

29 1. "Coercion" means the exploitation of authority or
30 the use of bribes, threats of force, or intimidation to gain
31 cooperation or compliance.

1 2. "Equality" means two participants operating with
2 the same level of power in a relationship, neither being
3 controlled nor coerced by the other.

4 3. "Consent" means an agreement, including all of the
5 following:

6 a. Understanding what is proposed based on age,
7 maturity, developmental level, functioning, and experience.

8 b. Knowledge of societal standards for what is being
9 proposed.

10 c. Awareness of potential consequences and
11 alternatives.

12 d. Assumption that agreement or disagreement will be
13 accepted equally.

14 e. Voluntary decision.

15 f. Mental competence.

16
17 Juvenile sexual offender behavior ranges from noncontact
18 sexual behavior such as making obscene phone calls,
19 exhibitionism, voyeurism, and the showing or taking of lewd
20 photographs to varying degrees of direct sexual contact, such
21 as frottage, fondling, digital penetration, rape, fellatio,
22 sodomy, and various other sexually aggressive acts.

23 ~~(8)(6)~~ "Arbitration" means a process whereby a neutral
24 third person or panel, called an arbitrator or an arbitration
25 panel, considers the facts and arguments presented by the
26 parties and renders a decision which may be binding or
27 nonbinding.

28 ~~(9)(7)~~ "Authorized agent" or "designee" of the
29 department means an employee, volunteer, or other person or
30 agency determined by the state to be eligible for state-funded
31 risk management coverage, that is ~~a person or agency~~ assigned

1 or designated by the department of ~~Juvenile Justice or the~~
2 ~~Department of Children and Family Services, as appropriate, to~~
3 perform duties or exercise powers pursuant to this chapter and
4 ~~includes contract providers and their employees for purposes~~
5 ~~of providing services to and managing cases of children in~~
6 ~~need of services and families in need of services.~~

7 (10) "Caregiver" means the parent, legal custodian,
8 adult household member, or other person responsible for a
9 child's welfare as defined in subsection (47).

10 ~~(8) "Caretaker/homemaker" means an authorized agent of~~
11 ~~the Department of Children and Family Services who shall~~
12 ~~remain in the child's home with the child until a parent,~~
13 ~~legal guardian, or relative of the child enters the home and~~
14 ~~is capable of assuming and agrees to assume charge of the~~
15 ~~child.~~

16 (11)(9) "Case plan" or "plan" means a document, as
17 described in s. 39.601 39.4031, prepared by the department
18 with input from all parties, including parents, guardians ad
19 litem, legal custodians, caregivers, and the child. The case
20 plan, that follows the child from the provision of voluntary
21 services through any dependency, foster care, or termination
22 of parental rights proceeding or related activity or process.

23 (12)(10) "Child" or "juvenile" or "youth" means any
24 unmarried person under the age of 18 years who has not been
25 emancipated by order of the court and who has been alleged or
26 found or alleged to be dependent, in need of services, or from
27 a family in need of services; or any married or unmarried
28 person who is charged with a violation of law occurring prior
29 to the time that person reached the age of 18 years.

30 (13) "Child protection team" means a team of
31 professionals established by the department to receive

1 referrals from the protective investigators and protective
2 supervision staff of the department and to provide specialized
3 and supportive services to the program in processing child
4 abuse, abandonment, or neglect cases. A child protection team
5 shall provide consultation to other programs of the department
6 and other persons regarding child abuse, abandonment, or
7 neglect cases.

8 (14)~~(11)~~ "Child who is found to be dependent" means a
9 child who, pursuant to this chapter, is found by the court:

10 (a) To have been abandoned, abused, or neglected by
11 the child's parent or parents, legal custodians, or
12 caregivers;~~or other custodians.~~

13 (b) To have been surrendered to the department ~~of~~
14 ~~Children and Family Services~~, the former Department of Health
15 and Rehabilitative Services, or a licensed child-placing
16 agency for purpose of adoption;~~;~~

17 (c) To have been voluntarily placed with a licensed
18 child-caring agency, a licensed child-placing agency, an adult
19 relative, the department ~~of Children and Family Services~~, or
20 the former Department of Health and Rehabilitative Services,
21 after which placement, under the requirements of ~~part II of~~
22 this chapter, a case plan has expired and the parent or
23 parents, legal custodians, or caregivers have failed to
24 substantially comply with the requirements of the plan;~~;~~

25 (d) To have been voluntarily placed with a licensed
26 child-placing agency for the purposes of subsequent adoption,
27 and a natural parent or parents has signed a consent pursuant
28 to the Florida Rules of Juvenile Procedure;~~;~~

29 (e) To have no parent, legal custodian, or caregiver
30 ~~responsible adult relative~~ to provide supervision and care;
31 or~~;~~

1 (f) To be at substantial risk of imminent abuse,
2 abandonment, or neglect by the parent or parents, legal
3 custodians, or caregivers ~~or the custodian.~~

4 (15)~~(12)~~ "Child support" means a court-ordered
5 obligation, enforced under chapter 61 and ss.
6 409.2551-409.2597, for monetary support for the care,
7 maintenance, training, and education of a child.

8 (16)~~(13)~~ "Circuit" means any of the 20 judicial
9 circuits as set forth in s. 26.021.

10 (17)~~(14)~~ "Comprehensive assessment" or "assessment"
11 means the gathering of information for the evaluation of a
12 ~~juvenile offender's or a child's~~ and caregiver's physical,
13 psychiatric, psychological or mental health, educational,
14 vocational, and social condition and family environment as
15 they relate to the child's and caregiver's need for
16 rehabilitative and treatment services, including substance
17 abuse treatment services, mental health services,
18 developmental services, literacy services, medical services,
19 family services, and other specialized services, as
20 appropriate.

21 (18)~~(15)~~ "Court," unless otherwise expressly stated,
22 means the circuit court assigned to exercise jurisdiction
23 under this chapter.

24 (19)~~(16)~~ "Department," ~~as used in this chapter,~~ means
25 the Department of Children and Family Services.

26 (20)~~(17)~~ "Diligent efforts by a parent, legal
27 custodian, or caregiver" means a course of conduct which
28 results in a reduction in risk to the child in the child's
29 home that would allow the child to be safely placed
30 permanently back in the home as set forth in the case plan.

31

1 (21)~~(18)~~ "Diligent efforts of social service agency"
2 means reasonable efforts to provide social services or
3 reunification services made by any social service agency ~~as~~
4 ~~defined in this section that is a party to a case plan.~~

5 (22)~~(19)~~ "Diligent search" means the efforts of a
6 social service agency to locate a parent or prospective parent
7 whose identity or location is unknown, ~~or a relative made~~
8 ~~known to the social services agency by the parent or custodian~~
9 ~~of a child. When the search is for a parent, prospective~~
10 ~~parent, or relative of a child in the custody of the~~
11 ~~department, this search must be initiated as soon as the~~
12 social service agency is made aware of the existence of such
13 parent, with the search progress reported at each court
14 hearing until the parent is either identified and located or
15 the court excuses further search.~~prospective parent, or~~
16 ~~relative. A diligent search shall include interviews with~~
17 ~~persons who are likely to have information about the identity~~
18 ~~or location of the person being sought, comprehensive database~~
19 ~~searches, and records searches, including searches of~~
20 ~~employment, residence, utilities, Armed Forces, vehicle~~
21 ~~registration, child support enforcement, law enforcement, and~~
22 ~~corrections records, and any other records likely to result in~~
23 ~~identifying and locating the person being sought. The initial~~
24 ~~diligent search must be completed within 90 days after a child~~
25 ~~is taken into custody. After the completion of the initial~~
26 ~~diligent search, the department, unless excused by the court,~~
27 ~~shall have a continuing duty to search for relatives with whom~~
28 ~~it may be appropriate to place the child, until such relatives~~
29 ~~are found or until the child is placed for adoption.~~

30 (23)~~(20)~~ "Disposition hearing" means a hearing in
31 which the court determines the most appropriate family support

1 ~~dispositional~~ services in the least restrictive available
2 setting ~~provided for under s. 39.408(3)~~, in dependency cases,
3 or ~~s. 39.469~~, in termination of parental rights cases.

4 (24) "District" means any one of the 15 service
5 districts of the department established pursuant to s. 20.19.

6 ~~(25)(21)~~ "District administrator" means the chief
7 operating officer of each service district of the department
8 ~~of Children and Family Services~~ as defined in s. 20.19 ~~(7)(6)~~
9 and, where appropriate, includes any ~~each~~ district
10 administrator whose service district falls within the
11 boundaries of a judicial circuit.

12 (26) "Expedited termination of parental rights" means
13 proceedings wherein a case plan with the goal of reunification
14 is not being offered.

15 (27) "False report" means a report of abuse, neglect,
16 or abandonment of a child to the central abuse hotline, which
17 report is maliciously made for the purpose of:

18 (a) Harassing, embarrassing, or harming another
19 person;

20 (b) Personal financial gain for the reporting person;

21 (c) Acquiring custody of a child; or

22 (d) Personal benefit for the reporting person in any
23 other private dispute involving a child.

24
25 The term "false report" does not include a report of abuse,
26 neglect, or abandonment of a child made in good faith to the
27 central abuse hotline.

28 ~~(28)(22)~~ "Family" means a collective body of persons,
29 consisting of a child and a parent, legal guardian, ~~adult~~
30 custodian, caregiver, or adult relative, in which:

31

1 (a) The persons reside in the same house or living
2 unit; or

3 (b) The parent, legal guardian, ~~adult custodian,~~
4 caregiver, or adult relative has a legal responsibility by
5 blood, marriage, or court order to support or care for the
6 child.

7 ~~(29)~~⁽²³⁾ "Foster care" means care provided a child in
8 a foster family or boarding home, group home, agency boarding
9 home, child care institution, or any combination thereof.

10 (30) "Harm" to a child's health or welfare can occur
11 when the parent, legal custodian, or caregiver responsible for
12 the child's welfare:

13 (a) Inflicts or allows to be inflicted upon the child
14 physical, mental, or emotional injury. In determining whether
15 harm has occurred, the following factors must be considered in
16 evaluating any physical, mental, or emotional injury to a
17 child: the age of the child; any prior history of injuries to
18 the child; the location of the injury on the body of the
19 child; the multiplicity of the injury; and the type of trauma
20 inflicted. Such injury includes, but is not limited to:

21 1. Willful acts that produce the following specific
22 injuries:

23 a. Sprains, dislocations, or cartilage damage.

24 b. Bone or skull fractures.

25 c. Brain or spinal cord damage.

26 d. Intracranial hemorrhage or injury to other internal
27 organs.

28 e. Asphyxiation, suffocation, or drowning.

29 f. Injury resulting from the use of a deadly weapon.

30 g. Burns or scalding.

31 h. Cuts, lacerations, punctures, or bites.

- 1 i. Permanent or temporary disfigurement.
2 j. Permanent or temporary loss or impairment of a body
3 part or function.

4
5 As used in this subparagraph, the term "willful" refers to the
6 intent to perform an action, not to the intent to achieve a
7 result or to cause an injury.

8 2. Purposely giving a child poison, alcohol, drugs, or
9 other substances that substantially affect the child's
10 behavior, motor coordination, or judgment or that result in
11 sickness or internal injury. For the purposes of this
12 subparagraph, the term "drugs" means prescription drugs not
13 prescribed for the child or not administered as prescribed,
14 and controlled substances as outlined in Schedule I or
15 Schedule II of s. 893.03.

16 3. Leaving a child without adult supervision or
17 arrangement appropriate for the child's age or mental or
18 physical condition, so that the child is unable to care for
19 the child's own needs or another's basic needs or is unable to
20 exercise good judgment in responding to any kind of physical
21 or emotional crisis.

22 4. Inappropriate or excessively harsh disciplinary
23 action that is likely to result in physical injury, mental
24 injury as defined in this section, or emotional injury. The
25 significance of any injury must be evaluated in light of the
26 following factors: the age of the child; any prior history of
27 injuries to the child; the location of the injury on the body
28 of the child; the multiplicity of the injury; and the type of
29 trauma inflicted. Corporal discipline may be considered
30 excessive or abusive when it results in any of the following
31 or other similar injuries:

- 1 a. Sprains, dislocations, or cartilage damage.
2 b. Bone or skull fractures.
3 c. Brain or spinal cord damage.
4 d. Intracranial hemorrhage or injury to other internal
5 organs.
6 e. Asphyxiation, suffocation, or drowning.
7 f. Injury resulting from the use of a deadly weapon.
8 g. Burns or scalding.
9 h. Cuts, lacerations, punctures, or bites.
10 i. Permanent or temporary disfigurement.
11 j. Permanent or temporary loss or impairment of a body
12 part or function.
13 k. Significant bruises or welts.
14 (b) Commits, or allows to be committed, sexual
15 battery, as defined in chapter 794, or lewd or lascivious
16 acts, as defined in chapter 800, against the child.
17 (c) Allows, encourages, or forces the sexual
18 exploitation of a child, which includes allowing, encouraging,
19 or forcing a child to:
20 1. Solicit for or engage in prostitution; or
21 2. Engage in a sexual performance, as defined by
22 chapter 827.
23 (d) Exploits a child, or allows a child to be
24 exploited, as provided in s. 450.151.
25 (e) Abandons the child. Within the context of the
26 definition of "harm," the term "abandons the child" means that
27 the parent or legal custodian of a child or, in the absence of
28 a parent or legal custodian, the person responsible for the
29 child's welfare, while being able, makes no provision for the
30 child's support and makes no effort to communicate with the
31 child, which situation is sufficient to evince a willful

1 rejection of parental obligation. If the efforts of such a
2 parent or legal custodian or person primarily responsible for
3 the child's welfare to support and communicate with the child
4 are only marginal efforts that do not evince a settled purpose
5 to assume all parental duties, the child may be determined to
6 have been abandoned.

7 (f) Neglects the child. Within the context of the
8 definition of "harm," the term "neglects the child" means that
9 the parent or other person responsible for the child's welfare
10 fails to supply the child with adequate food, clothing,
11 shelter, or health care, although financially able to do so or
12 although offered financial or other means to do so. However,
13 a parent, legal custodian, or caregiver who, by reason of the
14 legitimate practice of religious beliefs, does not provide
15 specified medical treatment for a child may not be considered
16 abusive or neglectful for that reason alone, but such an
17 exception does not:

18 1. Eliminate the requirement that such a case be
19 reported to the department;

20 2. Prevent the department from investigating such a
21 case; or

22 3. Preclude a court from ordering, when the health of
23 the child requires it, the provision of medical services by a
24 physician, as defined in this section, or treatment by a duly
25 accredited practitioner who relies solely on spiritual means
26 for healing in accordance with the tenets and practices of a
27 well-recognized church or religious organization.

28 (g) Exposes a child to a controlled substance or
29 alcohol. Exposure to a controlled substance or alcohol is
30 established by:

31

1 1. Use by the mother of a controlled substance or
2 alcohol during pregnancy when the child, at birth, is
3 demonstrably adversely affected by such usage; or

4 2. Continued chronic and severe use of a controlled
5 substance or alcohol by a parent when the child is
6 demonstrably adversely affected by such usage.

7
8 As used in this paragraph, the term "controlled substance"
9 means prescription drugs not prescribed for the parent or not
10 administered as prescribed and controlled substances as
11 outlined in Schedule I or Schedule II of s. 893.03.

12 (h) Uses mechanical devices, unreasonable restraints,
13 or extended periods of isolation to control a child.

14 (i) Engages in violent behavior that demonstrates a
15 wanton disregard for the presence of a child and could
16 reasonably result in serious injury to the child.

17 (j) Negligently fails to protect a child in his or her
18 care from inflicted physical, mental, or sexual injury caused
19 by the acts of another.

20 (k) Has allowed a child's sibling to die as a result
21 of abuse, abandonment, or neglect.

22 ~~(31)(24)~~ "Health and human services board" means the
23 body created in each service district of the department of
24 ~~Children and Family Services~~ pursuant to the provisions of s.
25 20.19~~(8)(7)~~.

26 (32) "Institutional child abuse or neglect" means
27 situations of known or suspected child abuse or neglect in
28 which the person allegedly perpetrating the child abuse or
29 neglect is an employee of a private school, public or private
30 day care center, residential home, institution, facility, or

31

1 agency or any other person at such institution responsible for
2 the child's care.

3 (33)~~(25)~~ "Judge" means the circuit judge exercising
4 jurisdiction pursuant to this chapter.

5 (34)~~(26)~~ "Legal custody" means a legal status created
6 by court order or letter of guardianship which vests in a
7 custodian of the person or guardian, whether an agency or an
8 individual, the right to have physical custody of the child
9 and the right and duty to protect, train, and discipline the
10 child and to provide him or her with food, shelter, education,
11 and ordinary medical, dental, psychiatric, and psychological
12 care. The legal custodian is the person or entity in whom the
13 legal right to custody is vested.

14 (35) "Legal guardianship" means a judicially created
15 relationship between the child and caregiver which is intended
16 to be permanent and self-sustaining and is provided pursuant
17 to the procedures in chapter 744.

18 (36)~~(27)~~ "Licensed child-caring agency" means a
19 person, society, association, or agency licensed by the
20 department of ~~Children and Family Services~~ to care for,
21 receive, and board children.

22 (37)~~(28)~~ "Licensed child-placing agency" means a
23 person, society, association, or institution licensed by the
24 department of ~~Children and Family Services~~ to care for,
25 receive, or board children and to place children in a licensed
26 child-caring institution or a foster or adoptive home.

27 (38)~~(29)~~ "Licensed health care professional" means a
28 physician licensed under chapter 458, an osteopathic physician
29 licensed under chapter 459, a nurse licensed under chapter
30 464, a physician assistant certified under chapter 458 or
31 chapter 459, or a dentist licensed under chapter 466.

1 ~~(39)(30)~~ "Likely to injure oneself" means that, as
2 evidenced by violent or other actively self-destructive
3 behavior, it is more likely than not that within a 24-hour
4 period the child will attempt to commit suicide or inflict
5 serious bodily harm on himself or herself.

6 ~~(40)(31)~~ "Likely to injure others" means that it is
7 more likely than not that within a 24-hour period the child
8 will inflict serious and unjustified bodily harm on another
9 person.

10 ~~(41)(32)~~ "Long-term relative custodian" means an adult
11 relative who is a party to a long-term custodial relationship
12 created by a court order pursuant to this chapter ~~s.~~
13 ~~39.41(2)(a)5~~.

14 ~~(42)(33)~~ "Long-term relative custody" or "long-term
15 custodial relationship" means the relationship that a juvenile
16 court order creates between a child and an adult relative of
17 the child or other caregiver ~~an adult nonrelative~~ approved by
18 the court when the child cannot be placed in the custody of a
19 natural parent and termination of parental rights is not
20 deemed to be in the best interest of the child. Long-term
21 relative custody confers upon the long-term relative or other
22 caregiver ~~nonrelative custodian~~ the right to physical custody
23 of the child, a right which will not be disturbed by the court
24 except upon request of the caregiver ~~custodian~~ or upon a
25 showing that a material change in circumstances necessitates a
26 change of custody for the best interest of the child. A
27 long-term relative or other caregiver ~~nonrelative custodian~~
28 shall have all of the rights and duties of a natural parent,
29 including, but not limited to, the right and duty to protect,
30 train, and discipline the child and to provide the child with
31 food, shelter, and education, and ordinary medical, dental,

1 psychiatric, and psychological care, unless these rights and
2 duties are otherwise enlarged or limited by the court order
3 establishing the long-term custodial relationship.

4 (43)~~(34)~~ "Mediation" means a process whereby a neutral
5 third person called a mediator acts to encourage and
6 facilitate the resolution of a dispute between two or more
7 parties. It is an informal and nonadversarial process with
8 the objective of helping the disputing parties reach a
9 mutually acceptable and voluntary agreement. ~~In mediation,~~
10 ~~decisionmaking authority rests with the parties.~~ The role of
11 the mediator includes, but is not limited to, assisting the
12 parties in identifying issues, fostering joint problem
13 solving, and exploring settlement alternatives.

14 (44) "Mental injury" means an injury to the
15 intellectual or psychological capacity of a child as evidenced
16 by a discernible and substantial impairment in the ability to
17 function within the normal range of performance and behavior.

18 (45)~~(35)~~ "Necessary medical treatment" means care
19 which is necessary within a reasonable degree of medical
20 certainty to prevent the deterioration of a child's condition
21 or to alleviate immediate pain of a child.

22 (46)~~(36)~~ "Neglect" occurs when the parent or legal
23 custodian of a child or, in the absence of a parent or legal
24 custodian, the caregiver ~~person primarily responsible for the~~
25 ~~child's welfare~~ deprives a child of, or allows a child to be
26 deprived of, necessary food, clothing, shelter, or medical
27 treatment or permits a child to live in an environment when
28 such deprivation or environment causes the child's physical,
29 mental, or emotional health to be significantly impaired or to
30 be in danger of being significantly impaired. The foregoing
31 circumstances shall not be considered neglect if caused

1 primarily by financial inability unless actual services for
2 relief have been offered to and rejected by such person. A
3 parent, legal custodian, or caregiver ~~guardian~~ legitimately
4 practicing religious beliefs in accordance with a recognized
5 church or religious organization who thereby does not provide
6 specific medical treatment for a child shall not, for that
7 reason alone, be considered a negligent parent, legal
8 custodian, or caregiver ~~guardian~~; however, such an exception
9 does not preclude a court from ordering the following services
10 to be provided, when the health of the child so requires:

11 (a) Medical services from a licensed physician,
12 dentist, optometrist, podiatrist, or other qualified health
13 care provider; or

14 (b) Treatment by a duly accredited practitioner who
15 relies solely on spiritual means for healing in accordance
16 with the tenets and practices of a well-recognized church or
17 religious organization.

18

19 For the purpose of protective investigations, neglect of a
20 child includes the acts or omissions of the parent, legal
21 custodian, or caregiver.

22 (47) "Other person responsible for a child's welfare"
23 includes the child's legal guardian, legal custodian, or
24 foster parent; an employee of a private school, public or
25 private child day care center, residential home, institution,
26 facility, or agency; or any other person legally responsible
27 for the child's welfare in a residential setting; and also
28 includes an adult sitter or relative entrusted with a child's
29 care. For the purpose of departmental investigative
30 jurisdiction, this definition does not include law enforcement
31 officers, or employees of municipal or county detention

1 facilities or the Department of Corrections, while acting in
2 an official capacity.

3 (48)~~(37)~~ "Next of kin" means an adult relative of a
4 child who is the child's brother, sister, grandparent, aunt,
5 uncle, or first cousin.

6 (49)~~(38)~~ "Parent" means a woman who gives birth to a
7 child and a man whose consent to the adoption of the child
8 would be required under s. 63.062(1)(b). If a child has been
9 legally adopted, the term "parent" means the adoptive mother
10 or father of the child. The term does not include an
11 individual whose parental relationship to the child has been
12 legally terminated, or an alleged or prospective parent,
13 unless the parental status falls within the terms of ~~either s.~~
14 ~~39.4051(7) or s. 63.062(1)(b).~~

15 (50)~~(39)~~ "Participant," for purposes of a shelter
16 proceeding, dependency proceeding, or termination of parental
17 rights proceeding, means any person who is not a party but who
18 should receive notice of hearings involving the child,
19 including foster parents or caregivers, identified prospective
20 parents, grandparents entitled to priority for adoption
21 consideration under s. 63.0425, actual custodians of the
22 child, and any other person whose participation may be in the
23 best interest of the child. Participants may be granted leave
24 by the court to be heard without the necessity of filing a
25 motion to intervene.

26 (51)~~(40)~~ "Party," ~~for purposes of a shelter~~
27 ~~proceeding, dependency proceeding, or termination of parental~~
28 ~~rights proceeding,~~ means the parent or legal custodian of the
29 child, the petitioner, the department, the guardian ad litem
30 or the representative of the guardian ad litem program when
31 the program ~~one~~ has been appointed, and the child. The

1 presence of the child may be excused by order of the court
2 when presence would not be in the child's best interest.
3 Notice to the child may be excused by order of the court when
4 the age, capacity, or other condition of the child is such
5 that the notice would be meaningless or detrimental to the
6 child.

7 (52) "Physical injury" means death, permanent or
8 temporary disfigurement, or impairment of any bodily part.

9 (53) "Physician" means any licensed physician,
10 dentist, podiatrist, or optometrist and includes any intern or
11 resident.

12 (54)~~(41)~~ "Preliminary screening" means the gathering
13 of preliminary information to be used in determining a child's
14 need for further evaluation or assessment or for referral for
15 other substance abuse services through means such as
16 psychosocial interviews; urine and breathalyzer screenings;
17 and reviews of available educational, delinquency, and
18 dependency records of the child.

19 (55)~~(42)~~ "Preventive services" means social services
20 and other supportive and rehabilitative services provided to
21 the parent of the child, the legal custodian ~~guardian~~ of the
22 child, or the caregiver ~~custodian~~ of the child and to the
23 child for the purpose of averting the removal of the child
24 from the home or disruption of a family which will or could
25 result in the placement of a child in foster care. Social
26 services and other supportive and rehabilitative services
27 shall promote the child's need for physical, mental, and
28 emotional health and a safe, continuous, stable, living
29 environment, ~~and shall promote family autonomy,~~ and shall
30 strengthen family life, ~~as the first priority~~ whenever
31 possible.

1 (56)~~(43)~~ "Prospective parent" means a person who
2 claims to be, or has been identified as, a person who may be a
3 mother or a father of a child.

4 (57)~~(44)~~ "Protective investigation" means the
5 acceptance of a report alleging child abuse, abandonment, or
6 neglect, as defined in this chapter ~~s. 415.503~~, by the central
7 abuse hotline or the acceptance of a report of other
8 dependency by the department ~~local children, youth, and~~
9 ~~families office of the Department of Children and Family~~
10 ~~Services~~; the investigation ~~and classification~~ of each report;
11 the determination of whether action by the court is warranted;
12 the determination of the disposition of each report without
13 court or public agency action when appropriate; and the
14 referral of a child to another public or private agency when
15 appropriate; ~~and the recommendation by the protective~~
16 ~~investigator of court action when appropriate.~~

17 (58)~~(45)~~ "Protective investigator" means an authorized
18 agent of the department ~~of Children and Family Services~~ who
19 receives and, ~~investigates, and classifies~~ reports of child
20 abuse, abandonment, or neglect ~~as defined in s. 415.503~~; who,
21 as a result of the investigation, may recommend that a
22 dependency petition be filed for the child ~~under the criteria~~
23 ~~of paragraph (11)(a)~~; and who performs other duties necessary
24 to carry out the required actions of the protective
25 investigation function.

26 (59)~~(46)~~ "Protective supervision" means a legal status
27 in dependency cases, ~~child-in-need-of-services cases, or~~
28 ~~family-in-need-of-services cases~~ which permits the child to
29 remain safely in his or her own home or other placement under
30 the supervision of an agent of the department ~~and which must~~
31 be reviewed by ~~Department of Juvenile Justice or the~~

1 ~~Department of Children and Family Services, subject to being~~
2 ~~returned to the court during the period of supervision.~~

3 ~~(47) "Protective supervision case plan" means a~~
4 ~~document that is prepared by the protective supervision~~
5 ~~counselor of the Department of Children and Family Services,~~
6 ~~is based upon the voluntary protective supervision of a case~~
7 ~~pursuant to s. 39.403(2)(b), or a disposition order entered~~
8 ~~pursuant to s. 39.41(2)(a)3., and that:~~

9 ~~(a) Is developed in conference with the parent,~~
10 ~~guardian, or custodian of the child and, if appropriate, the~~
11 ~~child and any court-appointed guardian ad litem.~~

12 ~~(b) Is written simply and clearly in the principal~~
13 ~~language, to the extent possible, of the parent, guardian, or~~
14 ~~custodian of the child and in English.~~

15 ~~(c) Is subject to modification based on changing~~
16 ~~circumstances and negotiations among the parties to the plan~~
17 ~~and includes, at a minimum:~~

18 ~~1. All services and activities ordered by the court.~~

19 ~~2. Goals and specific activities to be achieved by all~~
20 ~~parties to the plan.~~

21 ~~3. Anticipated dates for achieving each goal and~~
22 ~~activity.~~

23 ~~4. Signatures of all parties to the plan.~~

24 ~~(d) Is submitted to the court in cases where a~~
25 ~~dispositional order has been entered pursuant to s.~~
26 ~~39.41(2)(a)3.~~

27 (60)~~(48)~~ "Relative" means a grandparent,
28 great-grandparent, sibling, first cousin, aunt, uncle,
29 great-aunt, great-uncle, niece, or nephew, whether related by
30 the whole or half blood, by affinity, or by adoption. The term
31 does not include a stepparent.

1 ~~(61)(49)~~ "Reunification services" means social
2 services and other supportive and rehabilitative services
3 provided to the parent of the child, the legal custodian
4 ~~guardian~~ of the child, or the caregiver custodian of the
5 child, whichever is applicable, to the child, and where
6 appropriate to the foster parents of the child, ~~for the~~
7 purpose of enabling a child who has been placed in out-of-home
8 ~~foster~~ care to safely return to his or her family at the
9 earliest possible time. The health and safety of the child
10 shall be the paramount goal of social services and other
11 supportive and rehabilitative services. Such services shall
12 promote the child's need for physical, mental, and emotional
13 health and a safe, continuous, stable, living environment, ~~and~~
14 shall promote family autonomy, and shall strengthen family
15 life, ~~as a first priority~~ whenever possible.

16 (62) "Secretary" means the Secretary of Children and
17 Family Services.

18 (63) "Sexual abuse of a child" means one or more of
19 the following acts:

20 (a) Any penetration, however slight, of the vagina or
21 anal opening of one person by the penis of another person,
22 whether or not there is the emission of semen.

23 (b) Any sexual contact between the genitals or anal
24 opening of one person and the mouth or tongue of another
25 person.

26 (c) Any intrusion by one person into the genitals or
27 anal opening of another person, including the use of any
28 object for this purpose, except that this does not include any
29 act intended for a valid medical purpose.

30 (d) The intentional touching of the genitals or
31 intimate parts, including the breasts, genital area, groin,

1 inner thighs, and buttocks, or the clothing covering them, of
2 either the child or the perpetrator, except that this does not
3 include:

4 1. Any act which may reasonably be construed to be a
5 normal caregiver responsibility, any interaction with, or
6 affection for a child; or

7 2. Any act intended for a valid medical purpose.

8 (e) The intentional masturbation of the perpetrator's
9 genitals in the presence of a child.

10 (f) The intentional exposure of the perpetrator's
11 genitals in the presence of a child, or any other sexual act
12 intentionally perpetrated in the presence of a child, if such
13 exposure or sexual act is for the purpose of sexual arousal or
14 gratification, aggression, degradation, or other similar
15 purpose.

16 (g) The sexual exploitation of a child, which includes
17 allowing, encouraging, or forcing a child to:

18 1. Solicit for or engage in prostitution; or

19 2. Engage in a sexual performance, as defined by
20 chapter 827.

21 ~~(64)(50)~~ "Shelter" means a place for the temporary
22 care of a child who is alleged to be or who has been found to
23 be dependent, ~~a child from a family in need of services, or a~~
24 ~~child in need of services,~~ pending court disposition before or
25 after adjudication ~~or after execution of a court order.~~
26 ~~"Shelter" may include a facility which provides 24-hour~~
27 ~~continual supervision for the temporary care of a child who is~~
28 ~~placed pursuant to s. 984.14.~~

29 ~~(65)(51)~~ "Shelter hearing" means a hearing in which
30 the court determines whether probable cause exists to keep a
31 child in shelter status pending further investigation of the

1 ~~case provided for under s. 984.14 in~~
2 ~~family-in-need-of-services cases or child-in-need-of-services~~
3 ~~cases.~~

4 (66)~~(52)~~ "Social service agency" means the department
5 ~~of Children and Family Services~~, a licensed child-caring
6 agency, or a licensed child-placing agency.

7 ~~(53)~~ "Staff-secure shelter" means a facility in which
8 a child is supervised 24 hours a day by staff members who are
9 awake while on duty. The facility is for the temporary care
10 and assessment of a child who has been found to be dependent,
11 who has violated a court order and been found in contempt of
12 court, or whom the Department of Children and Family Services
13 is unable to properly assess or place for assistance within
14 the continuum of services provided for dependent children.

15 (67)~~(54)~~ "Substance abuse" means using, without
16 medical reason, any psychoactive or mood-altering drug,
17 including alcohol, in such a manner as to induce impairment
18 resulting in dysfunctional social behavior.

19 (68)~~(55)~~ "Substantial compliance" means that the
20 circumstances which caused the creation of the case plan
21 ~~placement in foster care~~ have been significantly remedied to
22 the extent that the well-being and safety of the child will
23 not be endangered upon the child's remaining with or being
24 returned to the child's parent, legal custodian, or caregiver
25 ~~or guardian~~.

26 (69)~~(56)~~ "Taken into custody" means the status of a
27 child immediately when temporary physical control over the
28 child is attained by a person authorized by law, pending the
29 child's release or placement, ~~detention, placement, or other~~
30 ~~disposition as authorized by law.~~

31

1 ~~(70)(57)~~ "Temporary legal custody" means the
2 relationship that a juvenile court creates between a child and
3 an adult relative of the child, legal custodian, or caregiver
4 ~~adult nonrelative~~ approved by the court, or other person until
5 a more permanent arrangement is ordered. Temporary legal
6 custody confers upon the custodian the right to have temporary
7 physical custody of the child and the right and duty to
8 protect, train, and discipline the child and to provide the
9 child with food, shelter, and education, and ordinary medical,
10 dental, psychiatric, and psychological care, unless these
11 rights and duties are otherwise enlarged or limited by the
12 court order establishing the temporary legal custody
13 relationship.

14 (71) "Victim" means any child who has sustained or is
15 threatened with physical, mental, or emotional injury
16 identified in a report involving child abuse, neglect, or
17 abandonment, or child-on-child sexual abuse.

18 Section 21. Section 39.455, Florida Statutes, is
19 renumbered as section 39.011, Florida Statutes, and amended to
20 read:

21 39.011 ~~39.455~~ Immunity from liability.--

22 (1) In no case shall employees or agents of the
23 department or a social service agency acting in good faith be
24 liable for damages as a result of failing to provide services
25 agreed to under the case plan ~~or permanent placement plan~~
26 unless the failure to provide such services occurs as a result
27 of bad faith or malicious purpose or occurs in a manner
28 exhibiting wanton and willful disregard of human rights,
29 safety, or property.

30 (2) The inability or failure of the department or of a
31 social service agency or the employees or agents of the social

1 service agency to provide the services agreed to under the
2 case plan ~~or permanent placement plan~~ shall not render the
3 state or the social service agency liable for damages unless
4 such failure to provide services occurs in a manner exhibiting
5 wanton or willful disregard of human rights, safety, or
6 property.

7 (3) A member or agent of a citizen review panel acting
8 in good faith is not liable for damages as a result of any
9 review or recommendation with regard to a foster care or
10 shelter care matter unless such member or agent exhibits
11 wanton and willful disregard of human rights or safety, or
12 property.

13 Section 22. Section 39.012, Florida Statutes, is
14 amended to read:

15 39.012 Rules for implementation.--The department ~~of~~
16 ~~Children and Family Services~~ shall adopt rules for the
17 efficient and effective management of all programs, services,
18 facilities, and functions necessary for implementing this
19 chapter. Such rules may not conflict with the Florida Rules of
20 Juvenile Procedure. All rules and policies must conform to
21 accepted standards of care and treatment.

22 Section 23. Section 39.0121, Florida Statutes, is
23 created to read:

24 39.0121 Specific rulemaking authority.--Pursuant to
25 the requirements of s. 120.536, the department is specifically
26 authorized to adopt, amend, and repeal administrative rules
27 which implement or interpret law or policy, or describe the
28 procedure and practice requirements necessary to implement
29 this chapter, including, but not limited to, the following:

30 (1) Background screening of department employees and
31 applicants; criminal records checks of prospective foster and

- 1 adoptive parents; and drug testing of protective
2 investigators.
- 3 (2) Reporting of child abuse, neglect, and
4 abandonment; reporting of child-on-child sexual abuse; false
5 reporting; child protective investigations; taking a child
6 into protective custody; and shelter procedures.
- 7 (3) Confidentiality and retention of department
8 records; access to records; and record requests.
- 9 (4) Department and client trust funds.
- 10 (5) Child protection teams and services, and eligible
11 cases.
- 12 (6) Consent to and provision of medical care and
13 treatment for children in the care of the department.
- 14 (7) Federal funding requirements and procedures;
15 foster care and adoption subsidies; subsidized independent
16 living; and subsidized child care.
- 17 (8) Agreements with law enforcement and other state
18 agencies; access to the National Crime Information Center
19 (NCIC); and access to the parent locator service.
- 20 (9) Licensing, registration, and certification of
21 child day care providers, shelter and foster homes, and
22 residential child-caring and child-placing agencies.
- 23 (10) The Family Builders Program, the Intensive Crisis
24 Counseling Program, and any other early intervention programs
25 and kinship care assistance programs.
- 26 (11) Department contracts, pilot programs, and
27 demonstration projects.
- 28 (12) Legal and casework procedures, including, but not
29 limited to, mediation, diligent search, stipulations,
30 consents, surrenders, and default, with respect to dependency,
31

1 termination of parental rights, adoption, guardianship, and
2 kinship care proceedings.

3 (13) Legal and casework management of cases involving
4 in-home supervision and out-of-home care, including judicial
5 reviews, administrative reviews, case plans, and any other
6 documentation or procedures required by federal or state law.

7 (14) Injunctions and other protective orders,
8 domestic-violence-related cases, and certification of domestic
9 violence centers.

10 Section 24. Section 39.40, Florida Statutes, is
11 renumbered as section 39.013, Florida Statutes, and amended to
12 read:

13 39.013 ~~39.40~~ Procedures and jurisdiction; right to
14 counsel.--

15 (1) All procedures, including petitions, pleadings,
16 subpoenas, summonses, and hearings, in this chapter ~~dependency~~
17 ~~cases~~ shall be according to the Florida Rules of Juvenile
18 Procedure unless otherwise provided by law. Parents must be
19 informed by the court of their right to counsel in dependency
20 proceedings at each stage of the dependency proceedings.
21 Parents who are unable to afford counsel ~~and who are~~
22 ~~threatened with criminal charges based on the facts underlying~~
23 ~~the dependency petition or a permanent loss of custody of~~
24 ~~their children~~ must be appointed counsel.

25 (2) The circuit court shall have exclusive original
26 jurisdiction of all proceedings under ~~parts III, IV, V, and VI~~
27 ~~of this chapter~~, of a child voluntarily placed with a licensed
28 child-caring agency, a licensed child-placing agency, or the
29 department, and of the adoption of children whose parental
30 rights have been terminated pursuant to this chapter.

31 Jurisdiction attaches when the initial shelter petition,

1 dependency petition, or termination of parental rights
2 petition is filed or when a child is taken into the custody of
3 the department. The circuit court may assume jurisdiction over
4 any such proceeding regardless of whether the child was in the
5 physical custody of both parents, was in the sole legal or
6 physical custody of only one parent, caregiver, or ~~of~~ some
7 other person, or was in the physical or legal custody of no
8 person when the event or condition occurred that brought the
9 child to the attention of the court. When the court obtains
10 jurisdiction of any child who has been found to be dependent
11 ~~is obtained~~, the court shall retain jurisdiction, unless
12 relinquished by its order, until the child reaches 18 years of
13 age.

14 (3) When a child is under the jurisdiction of the
15 circuit court pursuant to the provisions of this chapter, the
16 juvenile court, as a division of the circuit court, may
17 exercise the general and equitable jurisdiction over
18 guardianship proceedings pursuant to the provisions of chapter
19 744, and proceedings for temporary custody of minor children
20 by extended family pursuant to the provisions of chapter 751.

21 ~~(4)(3)~~ The court shall expedite the resolution of the
22 placement issue in cases involving a child who ~~under 4 years~~
23 ~~of age when the child~~ has been removed from the family and
24 placed in a shelter.

25 ~~(5)(4)~~ The court shall expedite the judicial handling
26 of all cases when the child has been removed from the family
27 and placed in a shelter, ~~and of all cases involving a child~~
28 ~~under 4 years of age.~~

29 ~~(6)(5)~~ It is the intent of the Legislature that
30 Children removed from their homes shall be provided equal
31 treatment with respect to goals, objectives, services, and

1 case plans, without regard to the location of their
2 placement., and that placement shall be in a safe environment
3 where drugs and alcohol are not abused. It is the further
4 intent of the Legislature that, when children are removed from
5 their homes, disruption to their education be minimized to the
6 extent possible.

7 (7) For any child who remains in the custody or under
8 the supervision of the department, the court shall, within the
9 6-month period before the child's 18th birthday, hold a
10 hearing to review the progress of the child while in the
11 custody or under the supervision of the department.

12 (8)(a) At each stage of the proceedings under this
13 chapter, the court shall advise the parent, legal custodian,
14 or caregiver of the right to counsel. The court shall appoint
15 counsel for indigent persons. The court shall ascertain
16 whether the right to counsel is understood. When right to
17 counsel is waived, the court shall determine whether the
18 waiver is knowing and intelligent. The court shall enter its
19 findings in writing with respect to the appointment or waiver
20 of counsel for indigent parties or the waiver of counsel by
21 nonindigent parties.

22 (b) Once counsel has entered an appearance or been
23 appointed by the court to represent the parent of the child,
24 the attorney shall continue to represent the parent throughout
25 the proceedings. If the attorney-client relationship is
26 discontinued, the court shall advise the parent of the right
27 to have new counsel retained or appointed for the remainder of
28 the proceedings.

29 (c)1. No waiver of counsel may be accepted if it
30 appears that the parent, legal custodian, or caregiver is
31 unable to make an intelligent and understanding choice because

1 of mental condition, age, education, experience, the nature or
2 complexity of the case, or other factors.

3 2. A waiver of counsel made in court must be of
4 record.

5 3. If a waiver of counsel is accepted at any hearing
6 or proceeding, the offer of assistance of counsel must be
7 renewed by the court at each subsequent stage of the
8 proceedings at which the parent, legal custodian, or caregiver
9 appears without counsel.

10 (d) This subsection does not apply to any parent who
11 has voluntarily executed a written surrender of the child and
12 consents to the entry of a court order terminating parental
13 rights.

14 (9) The time limitations in this chapter do not
15 include:

16 (a) Periods of delay resulting from a continuance
17 granted at the request or with the consent of the child's
18 counsel or the child's guardian ad litem, if one has been
19 appointed by the court, or, if the child is of sufficient
20 capacity to express reasonable consent, at the request or with
21 the consent of the child.

22 (b) Periods of delay resulting from a continuance
23 granted at the request of the attorney for the department, if
24 the continuance is granted:

25 1. Because of an unavailability of evidence material
26 to the case when the attorney for the department has exercised
27 due diligence to obtain such evidence and there are
28 substantial grounds to believe that such evidence will be
29 available within 30 days. However, if the department is not
30 prepared to present its case within 30 days, the parent or
31 guardian may move for issuance of an order to show cause or

1 the court on its own motion may impose appropriate sanctions,
2 which may include dismissal of the petition.

3 2. To allow the attorney for the department additional
4 time to prepare the case and additional time is justified
5 because of an exceptional circumstance.

6 (c) Reasonable periods of delay necessary to
7 accomplish notice of the hearing to the child's parents;
8 however, the petitioner shall continue regular efforts to
9 provide notice to the parents during such periods of delay.

10 (d) Reasonable periods of delay resulting from a
11 continuance granted at the request of the parent or legal
12 custodian of a subject child.

13 (10) Court-appointed counsel representing indigent
14 parents or legal guardians at shelter hearings shall be paid
15 from state funds appropriated by general law.

16 Section 25. Section 39.4057, Florida Statutes, is
17 renumbered as section 39.0131, Florida Statutes.

18 Section 26. Section 39.411, Florida Statutes, is
19 renumbered as section 39.0132, Florida Statutes, and
20 subsections (3) and (4) of said section are amended to read:

21 39.0132 ~~39.411~~ Oaths, records, and confidential
22 information.--

23 (3) The clerk shall keep all court records required by
24 this part separate from other records of the circuit court.
25 All court records required by this part shall not be open to
26 inspection by the public. All records shall be inspected only
27 upon order of the court by persons deemed by the court to have
28 a proper interest therein, except that, subject to the
29 provisions of s. 63.162, a child and the parents, or legal
30 custodians, or caregivers of the child and their attorneys,
31 guardian ad litem, law enforcement agencies, and the

1 department and its designees shall always have the right to
2 inspect and copy any official record pertaining to the child.
3 The court may permit authorized representatives of recognized
4 organizations compiling statistics for proper purposes to
5 inspect and make abstracts from official records, under
6 whatever conditions upon their use and disposition the court
7 may deem proper, and may punish by contempt proceedings any
8 violation of those conditions.

9 (4) All information obtained pursuant to this part in
10 the discharge of official duty by any judge, employee of the
11 court, authorized agent of the department, correctional
12 probation officer, or law enforcement agent shall be
13 confidential and exempt from the provisions of s. 119.07(1)
14 and shall not be disclosed to anyone other than the authorized
15 personnel of the court, the department and its designees,
16 correctional probation officers, law enforcement agents,
17 guardian ad litem, and others entitled under this chapter to
18 receive that information, except upon order of the court.

19 Section 27. Section 39.414, Florida Statutes, is
20 renumbered as section 39.0133, Florida Statutes.

21 Section 28. Sections 39.415 and 39.474, Florida
22 Statutes, are renumbered as section 39.0134, Florida Statutes,
23 and amended to read:

24 39.0134 ~~39.415~~ Appointed counsel; compensation.--

25 (1) If counsel is entitled to receive compensation for
26 representation pursuant to a court appointment in a dependency
27 proceeding pursuant to this chapter, such compensation shall
28 be established by each county ~~not exceed \$1,000 at the trial~~
29 ~~level and \$2,500 at the appellate level.~~

30 ~~39.474 Appointed counsel; compensation.--~~

31

1 (b) Health or mental health professional other than
2 one listed in paragraph (a);
3 (c) Practitioner who relies solely on spiritual means
4 for healing;
5 (d) School teacher or other school official or
6 personnel;
7 (e) Social worker, day care center worker, or other
8 professional child care, foster care, residential, or
9 institutional worker; or
10 (f) Law enforcement officer,
11
12 who knows, or has reasonable cause to suspect, that a child is
13 an abused, abandoned, or neglected child shall report such
14 knowledge or suspicion to the department in the manner
15 prescribed in subsection (2).
16 (2)(a) Each report of known or suspected child abuse,
17 abandonment, or neglect pursuant to this section, except those
18 solely under s. 827.04~~(3)(4)~~, shall be made immediately to the
19 department's central abuse hotline on the single statewide
20 toll-free telephone number, and, if the report is of an
21 instance of known or suspected child abuse by a noncaretaker,
22 the call shall be immediately electronically transferred to
23 the appropriate county sheriff's office by the central abuse
24 hotline. If the report is of an instance of known or
25 suspected child abuse involving impregnation of a child under
26 16 years of age by a person 21 years of age or older solely
27 under s. 827.04~~(3)(4)~~, the report shall be made immediately to
28 the appropriate county sheriff's office or other appropriate
29 law enforcement agency. If the report is of an instance of
30 known or suspected child abuse solely under s. 827.04~~(3)(4)~~,
31 the reporting provisions of this subsection do not apply to

1 health care professionals or other persons who provide medical
2 or counseling services to pregnant children when such
3 reporting would interfere with the provision of medical
4 services.

5 (b) Reporters in occupation categories designated in
6 subsection (1) are required to provide their names to the
7 hotline staff. The names of reporters shall be entered into
8 the record of the report, but shall be held confidential as
9 provided in s. 39.202 ~~415.51~~.

10 (c) Reports involving known or suspected institutional
11 child abuse or neglect shall be made and received in the same
12 manner as all other reports made pursuant to this section.

13 (d) Reports involving a known or suspected juvenile
14 sexual offender shall be made and received by the department.

15 1. The department shall determine the age of the
16 alleged juvenile sexual offender if known.

17 2. When the alleged juvenile sexual offender is 12
18 years of age or younger, the department shall proceed with an
19 investigation of the report pursuant to this part ~~HH~~,
20 immediately electronically transfer the call to the
21 appropriate law enforcement agency office by the central abuse
22 hotline, and send a written report of the allegation to the
23 appropriate county sheriff's office within 48 hours after the
24 initial report is made to the central abuse hotline.

25 3. When the alleged juvenile sexual offender is 13
26 years of age or older, the department shall immediately
27 electronically transfer the call to the appropriate county
28 sheriff's office by the central abuse hotline, and send a
29 written report to the appropriate county sheriff's office
30 within 48 hours after the initial report to the central abuse
31 hotline.

1 (e) Hotline counselors shall receive periodic training
2 in encouraging reporters to provide their names when reporting
3 abuse, abandonment, or neglect. Callers shall be advised of
4 the confidentiality provisions of s. 39.202 ~~415.51~~. The
5 department shall secure and install electronic equipment that
6 automatically provides to the hotline the number from which
7 the call is placed. This number shall be entered into the
8 report of abuse, abandonment, or neglect and become a part of
9 the record of the report, but shall enjoy the same
10 confidentiality as provided to the identity of the caller
11 pursuant to s. 39.202 ~~415.51~~.

12 (3) Any person required to report or investigate cases
13 of suspected child abuse, abandonment, or neglect who has
14 reasonable cause to suspect that a child died as a result of
15 child abuse, abandonment, or neglect shall report his or her
16 suspicion to the appropriate medical examiner. The medical
17 examiner shall accept the report for investigation ~~pursuant to~~
18 ~~s. 406.11~~ and shall report his or her findings, in writing, to
19 the local law enforcement agency, the appropriate state
20 attorney, and the department. Autopsy reports maintained by
21 the medical examiner are not subject to the confidentiality
22 requirements provided for in s. 39.202 ~~415.51~~.

23 (4)~~(a)~~ The department shall establish and maintain a
24 central abuse hotline to receive all reports made pursuant to
25 this section in writing or through a single statewide
26 toll-free telephone number, which any person may use to report
27 known or suspected child abuse, abandonment, or neglect at any
28 hour of the day or night, any day of the week. The central
29 abuse hotline shall be operated in such a manner as to enable
30 the department to:

31

1 (a)1. Immediately identify and locate prior reports or
2 cases of child abuse, abandonment, or neglect through
3 utilization of the department's automated tracking system.

4 (b)2. Monitor and evaluate the effectiveness of the
5 department's program for reporting and investigating suspected
6 abuse, abandonment, or neglect of children through the
7 development and analysis of statistical and other information.

8 (c)3. Track critical steps in the investigative
9 process to ensure compliance with all requirements for any
10 report of abuse, abandonment, or neglect.

11 (d)4. Maintain and produce aggregate statistical
12 reports monitoring patterns of ~~both~~ child abuse, child
13 abandonment, and child neglect. The department shall collect
14 and analyze child-on-child sexual abuse reports and include
15 the information in aggregate statistical reports.

16 (e)5. Serve as a resource for the evaluation,
17 management, and planning of preventive and remedial services
18 for children who have been subject to abuse, abandonment, or
19 neglect.

20 (f)6. Initiate and enter into agreements with other
21 states for the purpose of gathering and sharing information
22 contained in reports on child maltreatment to further enhance
23 programs for the protection of children.

24 ~~(b) Upon receiving an oral or written report of known
25 or suspected child abuse or neglect, the central abuse hotline
26 shall determine if the report requires an immediate onsite
27 protective investigation. For reports requiring an immediate
28 onsite protective investigation, the central abuse hotline
29 shall immediately notify the department's designated children
30 and families district staff responsible for protective
31 investigations to ensure that an onsite investigation is~~

1 ~~promptly initiated. For reports not requiring an immediate~~
2 ~~onsite protective investigation, the central abuse hotline~~
3 ~~shall notify the department's designated children and families~~
4 ~~district staff responsible for protective investigations in~~
5 ~~sufficient time to allow for an investigation, or if the~~
6 ~~district determines appropriate, a family services response~~
7 ~~system approach to be commenced within 24 hours. When a~~
8 ~~district decides to respond to a report of child abuse or~~
9 ~~neglect with a family services response system approach, the~~
10 ~~provisions of part III apply. If, in the course of assessing~~
11 ~~risk and services or at any other appropriate time,~~
12 ~~responsible district staff determines that the risk to the~~
13 ~~child requires a child protective investigation, then the~~
14 ~~department shall suspend its family services response system~~
15 ~~activities and shall proceed with an investigation as~~
16 ~~delineated in this part. At the time of notification of~~
17 ~~district staff with respect to the report, the central abuse~~
18 ~~hotline shall also provide information on any previous report~~
19 ~~concerning a subject of the present report or any pertinent~~
20 ~~information relative to the present report or any noted~~
21 ~~earlier reports.~~

22 ~~(c) Upon commencing an investigation under this part,~~
23 ~~the child protective investigator shall inform any subject of~~
24 ~~the investigation of the following:~~

- 25 ~~1. The names of the investigators and identifying~~
26 ~~credentials from the department.~~
27 ~~2. The purpose of the investigation.~~
28 ~~3. The right to obtain his or her own attorney and~~
29 ~~ways that the information provided by the subject may be used.~~

30 ~~(d) The department shall make and keep records of all~~
31 ~~cases brought before it pursuant to this part and shall~~

1 ~~preserve the records pertaining to a child and family until 7~~
2 ~~years after the last entry was made or until the child is 18~~
3 ~~years of age. The department shall then destroy the records,~~
4 ~~except where the child has been placed under the protective~~
5 ~~supervision of the department, the court has made a finding of~~
6 ~~dependency, or a criminal conviction has resulted from the~~
7 ~~facts associated with the report and there is a likelihood~~
8 ~~that future services of the department may be required.~~

9 (5) The department shall be capable of receiving and
10 investigating reports of known or suspected child abuse,
11 abandonment, or neglect 24 hours a day, 7 days a week. If it
12 appears that the immediate safety or well-being of a child is
13 endangered, that the family may flee or the child will be
14 unavailable for purposes of conducting a child protective
15 investigation, or that the facts otherwise so warrant, the
16 department shall commence an investigation immediately,
17 regardless of the time of day or night. In all other child
18 abuse, abandonment, or neglect cases, a child protective
19 investigation shall be commenced within 24 hours after receipt
20 of the report. In an institutional investigation, the alleged
21 perpetrator may be represented by an attorney, at his or her
22 own expense, or accompanied by another person, if the person
23 or the attorney executes an affidavit of understanding with
24 the department and agrees to comply with the confidentiality
25 provisions of s. 39.202. The absence of an attorney or other
26 person does not prevent the department from proceeding with
27 other aspects of the investigation, including interviews with
28 other persons. In institutional child abuse cases when the
29 institution is not operating and the child cannot otherwise be
30 located, the investigation shall commence immediately upon the
31 resumption of operation. If requested by a state attorney or

1 local law enforcement agency, the department shall furnish all
2 investigative reports to that agency.

3 (6)(e) Information in the central abuse hotline may
4 not be used for employment screening, except as provided in s.
5 39.202(2)(a) and (h). Information in the central abuse hotline
6 and the department's automated abuse information system may be
7 used by the department, its authorized agents or contract
8 providers, the Department of Health, or county agencies as
9 part of the licensure or registration process pursuant to ss.
10 402.301-402.319 and ss. 409.175-409.176. ~~Access to the~~
11 ~~information shall only be granted as set forth in s. 415.51.~~

12 (7)(5) This section does not require a professional
13 who is hired by or enters into a contract with the department
14 for the purpose of treating or counseling any person, as a
15 result of a report of child abuse, abandonment, or neglect, to
16 again report to the central abuse hotline the abuse,
17 abandonment, or neglect that was the subject of the referral
18 for treatment.

19 Section 32. Section 415.51, Florida Statutes, is
20 renumbered as section 39.202, Florida Statutes, and amended to
21 read:

22 39.202 ~~415.51~~ Confidentiality of reports and records
23 in cases of child abuse or neglect.--

24 (1)(a) In order to protect the rights of the child and
25 the child's parents or other persons responsible for the
26 child's welfare, all records held by the department concerning
27 reports of child abuse or neglect, including reports made to
28 the central abuse hotline and all records generated as a
29 result of such reports, shall be confidential and exempt from
30 the provisions of s. 119.07(1) and shall not be disclosed
31 except as specifically authorized by this chapter ~~ss.~~

1 ~~415.502-415.514~~. Such exemption from s. 119.07(1) applies to
2 information in the possession of those entities granted access
3 as set forth in this section.

4 (b) Except for information identifying individuals,
5 all records involving the death of a child determined to be a
6 result of abuse, abandonment, or neglect shall be released to
7 the public within 10 days after completion of the
8 investigation.

9 (2) Access to such records, excluding the name of the
10 reporter which shall be released only as provided in
11 subsection (4)~~(9)~~, shall be granted only to the following
12 persons, officials, and agencies:

13 (a) Employees, authorized or agents, or contract
14 providers of the department, the Department of Health, or
15 county agencies responsible for carrying out child or adult
16 protective investigations, ongoing child or adult protective
17 services, Healthy Start services, or licensure or approval of
18 adoptive homes, foster homes, or child care facilities, or
19 family day care homes or informal child care providers who
20 receive subsidized child care funding, or other homes used to
21 provide for the care and welfare of children. Also, employees
22 or agents of the Department of Juvenile Justice responsible
23 for the provision of services to children, pursuant to ~~parts~~
24 ~~II and IV of~~ chapter 985 39.

25 (b) Criminal justice agencies of appropriate
26 jurisdiction.

27 (c) The state attorney of the judicial circuit in
28 which the child resides or in which the alleged abuse or
29 neglect occurred.

30 (d) The parent, caregiver, or legal custodian of any
31 child who is alleged to have been abused, abandoned, or

1 neglected, and the child, and their attorneys ~~or abandoned~~.

2 This access shall be made available no later than 30 days
3 after the department receives the initial report of abuse,
4 neglect, or abandonment. However, any information otherwise
5 made confidential or exempt by law shall not be released
6 pursuant to this paragraph.

7 (e) Any person alleged in the report as having caused
8 the abuse, abandonment, or neglect, ~~or abandonment~~ of a child.
9 This access shall be made available no later than 30 days
10 after the department receives the initial report of abuse,
11 abandonment, or neglect, ~~or abandonment~~. However, any
12 information otherwise made confidential or exempt by law shall
13 not be released pursuant to this paragraph.

14 (f) A court upon its finding that access to such
15 records may be necessary for the determination of an issue
16 before the court; however, such access shall be limited to
17 inspection in camera, unless the court determines that public
18 disclosure of the information contained therein is necessary
19 for the resolution of an issue then pending before it.

20 (g) A grand jury, by subpoena, upon its determination
21 that access to such records is necessary in the conduct of its
22 official business.

23 (h) Any appropriate official of the department
24 responsible for:

25 1. Administration or supervision of the department's
26 program for the prevention, investigation, or treatment of
27 child abuse, abandonment, or neglect, or abuse, neglect, or
28 exploitation of a disabled adult or elderly person, when
29 carrying out his or her official function; ~~or~~

30 2. Taking appropriate administrative action concerning
31 an employee of the department alleged to have perpetrated

1 ~~institutional~~ child abuse, abandonment, or neglect, or abuse,
2 neglect, or exploitation of a disabled adult or elderly
3 person; or-

4 3. Employing and continuing employment of personnel of
5 the department.

6 (i) Any person engaged in the use of such records or
7 information for bona fide research, statistical, or audit
8 purposes. However, no information identifying the subjects of
9 the report shall be made available to the researcher.

10 (j) The Division of Administrative Hearings for
11 purposes of any administrative challenge.

12 (k) Any appropriate official of the human rights
13 advocacy committee investigating a report of known or
14 suspected child abuse, abandonment, or neglect, the Auditor
15 General for the purpose of conducting preliminary or
16 compliance reviews pursuant to s. 11.45, or the guardian ad
17 litem for the child ~~as defined in s. 415.503.~~

18 (l) Employees or agents of an agency of another state
19 that has comparable jurisdiction to the jurisdiction described
20 in paragraph (a).

21 (m) The Public Employees Relations Commission for the
22 sole purpose of obtaining evidence for appeals filed pursuant
23 to s. 447.207. Records may be released only after deletion of
24 all information which specifically identifies persons other
25 than the employee.

26 (n) Employees or agents of the Department of Revenue
27 responsible for child support enforcement activities.

28 (3) The department may release to professional persons
29 such information as is necessary for the diagnosis and
30 treatment of the child or the person perpetrating the abuse or
31 neglect.

1 (4) The name of any person reporting child abuse,
2 abandonment, or neglect may not be released to any person
3 other than employees of the department responsible for child
4 protective services, ~~or~~ the central abuse hotline, law
5 enforcement, ~~or~~ the appropriate state attorney ~~or law~~
6 ~~enforcement agency~~, without the written consent of the person
7 reporting. This does not prohibit the subpoenaing of a person
8 reporting child abuse, abandonment, or neglect when deemed
9 necessary by the court, the state attorney, or the department,
10 provided the fact that such person made the report is not
11 disclosed. Any person who reports a case of child abuse or
12 neglect may, at the time he or she makes the report, request
13 that the department notify him or her that a child protective
14 investigation occurred as a result of the report. The
15 department shall mail such a notice to the reporter within 10
16 days after completing the child protective investigation.

17 (5) All records and reports of the child protection
18 team are confidential and exempt from the provisions of ss.
19 119.07(1) and 455.667 ~~455.241~~, and shall not be disclosed,
20 except, upon request, to the state attorney, law enforcement,
21 the department, and necessary professionals, in furtherance of
22 the treatment or additional evaluative needs of the child or
23 by order of the court.

24 (6) The department shall make and keep reports and
25 records of all cases under this chapter relating to child
26 abuse, abandonment, and neglect and shall preserve the records
27 pertaining to a child and family until 7 years after the last
28 entry was made or until the child is 18 years of age,
29 whichever date is first reached, and may then destroy the
30 records. Department records required by this chapter relating
31

1 to child abuse, abandonment, and neglect may be inspected only
2 upon order of the court or as provided for in this section.

3 (7)(6) A person who knowingly or willfully makes
4 public or discloses to any unauthorized person any
5 confidential information contained in the central abuse
6 hotline is subject to the penalty provisions of s. 39.205
7 ~~415.513~~. This notice shall be prominently displayed on the
8 first sheet of any documents released pursuant to this
9 section.

10 Section 33. Section 415.511, Florida Statutes, is
11 renumbered as section 39.203, Florida Statutes, and amended to
12 read:

13 39.203 ~~415.511~~ Immunity from liability in cases of
14 child abuse, abandonment, or neglect.--

15 (1)(a) Any person, official, or institution
16 participating in good faith in any act authorized or required
17 by this chapter ~~ss. 415.502-415.514~~, or reporting in good
18 faith any instance of child abuse, abandonment, or neglect to
19 any law enforcement agency, shall be immune from any civil or
20 criminal liability which might otherwise result by reason of
21 such action.

22 (b) Except as provided in this chapter ~~s.~~
23 ~~415.503(10)(f)~~, nothing contained in this section shall be
24 deemed to grant immunity, civil or criminal, to any person
25 suspected of having abused, abandoned, or neglected a child,
26 or committed any illegal act upon or against a child.

27 (2)(a) No resident or employee of a facility serving
28 children may be subjected to reprisal or discharge because of
29 his or her actions in reporting abuse, abandonment, or neglect
30 pursuant to the requirements of this section.

31

1 (b) Any person making a report under this section
2 shall have a civil cause of action for appropriate
3 compensatory and punitive damages against any person who
4 causes detrimental changes in the employment status of such
5 reporting party by reason of his or her making such report.
6 Any detrimental change made in the residency or employment
7 status of such person, including, but not limited to,
8 discharge, termination, demotion, transfer, or reduction in
9 pay or benefits or work privileges, or negative evaluations
10 within a prescribed period of time shall establish a
11 rebuttable presumption that such action was retaliatory.

12 Section 34. Section 415.512, Florida Statutes, is
13 renumbered as section 39.204, Florida Statutes, and amended to
14 read:

15 39.204 ~~415.512~~ Abrogation of privileged communications
16 in cases involving child abuse, abandonment, or neglect.--The
17 privileged quality of communication between husband and wife
18 and between any professional person and his or her patient or
19 client, and any other privileged communication except that
20 between attorney and client or the privilege provided in s.
21 90.505, as such communication relates both to the competency
22 of the witness and to the exclusion of confidential
23 communications, shall not apply to any communication involving
24 the perpetrator or alleged perpetrator in any situation
25 involving known or suspected child abuse, abandonment, or
26 neglect and shall not constitute grounds for failure to report
27 as required by s. 39.201 ~~415.504~~ regardless of the source of
28 the information requiring the report, failure to cooperate
29 with the department in its activities pursuant to this chapter
30 ~~ss. 415.502-415.514~~, or failure to give evidence in any

31

1 judicial proceeding relating to child abuse, abandonment, or
2 neglect.

3 Section 35. Section 415.513, Florida Statutes, is
4 renumbered as section 39.205, Florida Statutes, and amended to
5 read:

6 39.205 ~~415.513~~ Penalties relating to ~~abuse~~ reporting
7 of child abuse, abandonment, or neglect.--

8 (1) A person who is required ~~by s. 415.504~~ to report
9 known or suspected child abuse, abandonment, or neglect and
10 who knowingly and willfully fails to do so, or who knowingly
11 and willfully prevents another person from doing so, is guilty
12 of a misdemeanor of the second degree, punishable as provided
13 in s. 775.082 or s. 775.083.

14 (2) A person who knowingly and willfully makes public
15 or discloses any confidential information contained in the
16 central abuse hotline registry and tracking system or in the
17 records of any child abuse, abandonment, or neglect case,
18 except as provided in this chapter ~~ss. 415.502-415.514~~, is
19 guilty of a misdemeanor of the second degree, punishable as
20 provided in s. 775.082 or s. 775.083.

21 (3) The department shall establish procedures for
22 determining whether a false report of child abuse,
23 abandonment, or neglect has been made and for submitting all
24 identifying information relating to such a report to the
25 appropriate law enforcement agency and shall report annually
26 to the Legislature the number of reports referred ~~the state~~
27 ~~attorney for prosecution.~~

28 (4) If the department or its authorized agent has
29 determined after its investigation that a report is false, the
30 department shall, with the consent of the alleged perpetrator,
31 refer the report to the local law enforcement agency having

1 jurisdiction for an investigation to determine whether
2 sufficient evidence exists to refer the case for prosecution
3 for filing a false report as defined in s. 39.01(27). During
4 the pendency of the investigation by the local law enforcement
5 agency, the department must notify the local law enforcement
6 agency of, and the local law enforcement agency must respond
7 to all subsequent reports concerning children in that same
8 family in accordance with s. 39.301. If the law enforcement
9 agency believes that there are indicators of abuse,
10 abandonment, or neglect, it must immediately notify the
11 department, which must assure the safety of the children. If
12 the law enforcement agency finds sufficient evidence for
13 prosecution for filing a false report, it must refer the case
14 to the appropriate state attorney for prosecution.

15 (5)(4) A person who knowing and willfully makes a
16 false report of child abuse, abandonment, or neglect, or who
17 advises another to make a false report, is guilty of a felony
18 of the third ~~misdemeanor of the second~~ degree, punishable as
19 provided in s. 775.082 or s. 775.083. Anyone making a report
20 who is acting in good faith is immune from any liability under
21 this subsection.

22 (6)(5) Each state attorney shall establish written
23 procedures to facilitate the prosecution of persons under this
24 section, and shall report to the Legislature annually the
25 number of complaints that have resulted in the filing of an
26 information or indictment and the disposition of those
27 complaints under this section.

28 Section 36. Section 415.5131, Florida Statutes, is
29 renumbered as section 39.206, Florida Statutes, and amended to
30 read:

31

1 39.206 ~~415.5131~~ Administrative fines for false report
2 of abuse, abandonment, or neglect of a child; civil damages.--

3 (1) In addition to any other penalty authorized by
4 this section, chapter 120, or other law, the department may
5 impose a fine, not to exceed \$10,000 ~~\$1,000~~ for each
6 violation, upon a person who knowingly and willfully makes a
7 false report of abuse, abandonment, or neglect of a child, or
8 a person who counsels another to make a false report.

9 (2) If the department alleges that a person has filed
10 a false report with the central abuse hotline ~~registry and~~
11 ~~tracking system~~, the department must file a Notice of Intent
12 which alleges the name, age, and address of the individual,
13 the facts constituting the allegation that the individual made
14 a false report, and the administrative fine the department
15 proposes to impose on the person. Each time that a false
16 report is made constitutes a separate violation.

17 (3) The Notice of Intent to impose the administrative
18 fine must be served upon the person alleged to have filed the
19 false report and the person's legal counsel, if any. Such
20 Notice of Intent must be given by certified mail, return
21 receipt requested.

22 (4) Any person alleged to have filed the false report
23 is entitled to an administrative hearing, pursuant to chapter
24 120, before the imposition of the fine becomes final. The
25 person must request an administrative hearing within 60 days
26 after receipt of the Notice of Intent by filing a request with
27 the department. Failure to request an administrative hearing
28 within 60 days after receipt of the Notice of Intent
29 constitutes a waiver of the right to a hearing, making the
30 administrative fine final.

31

1 (5) At the hearing, the department must prove by a
2 preponderance of the ~~clear and convincing~~ evidence that the
3 person filed a false report with the central abuse hotline
4 ~~registry and tracking system~~. The court shall advise any
5 person against whom a fine may be imposed of that person's
6 right to be represented by counsel at the hearing.

7 (6) In determining the amount of fine to be imposed,
8 if any, the following factors shall be considered:

9 (a) The gravity of the violation, including the
10 probability that serious physical or emotional harm to any
11 person will result or has resulted, the severity of the actual
12 or potential harm, and the nature of the false allegation.

13 (b) Actions taken by the false reporter to retract the
14 false report as an element of mitigation, or, in contrast, to
15 encourage an investigation on the basis of false information.

16 (c) Any previous false reports filed by the same
17 individual.

18 (7) A decision by the department, following the
19 administrative hearing, to impose an administrative fine for
20 filing a false report constitutes final agency action within
21 the meaning of chapter 120. Notice of the imposition of the
22 administrative fine must be served upon the person and the
23 person's legal counsel, by certified mail, return receipt
24 requested, and must state that the person may seek judicial
25 review of the administrative fine pursuant to s. 120.68.

26 (8) All amounts collected under this section shall be
27 deposited into an appropriate trust fund of the department.

28 (9) A person who is determined to have filed a false
29 report of abuse, abandonment, or neglect is not entitled to
30 confidentiality. Subsequent to the conclusion of all
31 administrative or other judicial proceedings concerning the

1 filing of a false report, the name of the false reporter and
2 the nature of the false report shall be made public, pursuant
3 to s. 119.01(1). Such information shall be admissible in any
4 civil or criminal proceeding.

5 (10) A person who knowingly and willfully makes a
6 false report of abuse, abandonment, or neglect of a child, or
7 a person who counsels another to make a false report may be
8 civilly liable for damages suffered, including reasonable
9 attorney fees and costs, as a result of the filing of the
10 false report. If the name of the person who filed the false
11 report or counseled another to do so has not been disclosed
12 under subsection (9), the department as custodian of the
13 records may be named as a party in the suit until the
14 dependency court determines in a written order upon an in
15 camera inspection of the records and report that there is a
16 reasonable basis for believing that the report was false and
17 that the identity of the reporter may be disclosed for the
18 purpose of proceeding with a lawsuit for civil damages
19 resulting from the filing of the false report. The alleged
20 perpetrator may submit witness affidavits to assist the court
21 in making this initial determination.

22 ~~(11)~~(10) Any person making a report who is acting in
23 good faith is immune from any liability under this section and
24 shall continue to be entitled to have the confidentiality of
25 their identity maintained.

26 Section 37. Part III of chapter 39, Florida Statutes,
27 consisting of sections 39.301, 39.302, 39.303, 39.3035,
28 39.304, 39.305, 39.306, and 39.307, Florida Statutes, shall be
29 entitled to read:

30 PART III

31 PROTECTIVE INVESTIGATIONS

1 Section 38. Section 39.301, Florida Statutes, is
2 created to read:

3 39.301 Initiation of protective investigations.--

4 (1) Upon receiving an oral or written report of known
5 or suspected child abuse, abandonment, or neglect, the central
6 abuse hotline shall determine if the report requires an
7 immediate onsite protective investigation. For reports
8 requiring an immediate onsite protective investigation, the
9 central abuse hotline shall immediately notify the
10 department's designated children and families district staff
11 responsible for protective investigations to ensure that an
12 onsite investigation is promptly initiated. For reports not
13 requiring an immediate onsite protective investigation, the
14 central abuse hotline shall notify the department's designated
15 children and families district staff responsible for
16 protective investigations in sufficient time to allow for an
17 investigation. At the time of notification of district staff
18 with respect to the report, the central abuse hotline shall
19 also provide information on any previous report concerning a
20 subject of the present report or any pertinent information
21 relative to the present report or any noted earlier reports.

22 (2)(a) Upon commencing an investigation under this
23 part, the child protective investigator shall inform any
24 subject of the investigation of the following:

- 25 1. The names of the investigators and identifying
26 credentials from the department.
- 27 2. The purpose of the investigation.
- 28 3. The right to obtain his or her own attorney and
29 ways that the information provided by the subject may be used.
- 30 4. The possible outcomes and services of the
31 department's response shall be explained to the caregiver.

1 5. The right of the parent, legal custodian, or
2 caregiver to be involved to the fullest extent possible in
3 determining the nature of the allegation and the nature of any
4 identified problem.

5 (b) The department's training program shall ensure
6 that protective investigators know how to fully inform
7 parents, guardians, and caregivers of their rights and
8 options, including opportunities for audio or video recording
9 of investigators' interviews with parents, guardians,
10 caretakers, or children.

11 (3) An assessment of risk and the perceived needs for
12 the child and family shall be conducted in a manner that is
13 sensitive to the social, economic, and cultural environment of
14 the family.

15 (4) Protective investigations shall be performed by
16 the department or its agent.

17 (5) The person responsible for the investigation shall
18 make a preliminary determination as to whether the report or
19 complaint is complete, consulting with the attorney for the
20 department when necessary. In any case in which the person
21 responsible for the investigation finds that the report or
22 complaint is incomplete, he or she shall return it without
23 delay to the person or agency originating the report or
24 complaint or having knowledge of the facts, or to the
25 appropriate law enforcement agency having investigative
26 jurisdiction, and request additional information in order to
27 complete the report or complaint; however, the confidentiality
28 of any report filed in accordance with this chapter shall not
29 be violated.

30 (a) If it is determined that the report or complaint
31 is complete, after determining that such action would be in

1 the best interests of the child, the attorney for the
2 department shall file a petition for dependency.

3 (b) If it is determined that the report or complaint
4 is complete, but the interests of the child and the public
5 will be best served by providing the child care or other
6 treatment voluntarily accepted by the child and the parents,
7 caregivers, or legal custodians, the protective investigator
8 may refer the child for such care or other treatment.

9 (c) If the person conducting the investigation refuses
10 to request the attorney for the department to file a petition
11 for dependency, the complainant shall be advised of the right
12 to file a petition pursuant to this part.

13 (6) For each report it receives, the department shall
14 perform an onsite child protective investigation to:

15 (a) Determine the composition of the family or
16 household, including the name, address, date of birth, social
17 security number, sex, and race of each child named in the
18 report; any siblings or other children in the same household
19 or in the care of the same adults; the parents, legal
20 custodians, or caregivers; and any other adults in the same
21 household.

22 (b) Determine whether there is indication that any
23 child in the family or household has been abused, abandoned,
24 or neglected; the nature and extent of present or prior
25 injuries, abuse, or neglect, and any evidence thereof; and a
26 determination as to the person or persons apparently
27 responsible for the abuse, abandonment, or neglect, including
28 the name, address, date of birth, social security number, sex,
29 and race of each such person.

30 (c) Determine the immediate and long-term risk to each
31 child by conducting state and federal records checks on the

1 parents, legal custodians, or caregivers, and any other
2 persons in the same household. This information shall be used
3 solely for purposes supporting the detection, apprehension,
4 prosecution, pretrial release, post-trial release, or
5 rehabilitation of criminal offenders or persons accused of the
6 crimes of child abuse, abandonment, or neglect and shall not
7 be further disseminated or used for any other purpose. The
8 department's child protection investigators are hereby
9 designated a criminal justice agency for the purpose of
10 accessing criminal justice information to be used for
11 enforcing this state's laws concerning the crimes of child
12 abuse, abandonment, and neglect.

13 (d) Determine the immediate and long-term risk to each
14 child through utilization of standardized risk assessment
15 instruments.

16 (e) Based on the information obtained from the
17 caregiver, complete the risk-assessment instrument within 48
18 hours after the initial contact and, if needed, develop a case
19 plan.

20 (f) Determine the protective, treatment, and
21 ameliorative services necessary to safeguard and ensure the
22 child's safety and well-being and development, and cause the
23 delivery of those services through the early intervention of
24 the department or its agent.

25 (7) If the department or its agent is denied
26 reasonable access to a child by the parents, legal custodians,
27 or caregivers and the department deems that the best interests
28 of the child so require, it shall seek an appropriate court
29 order or other legal authority prior to examining and
30 interviewing the child.

31

1 (8) If the department or its agent determines that a
2 child requires immediate or long-term protection through:

3 (a) Medical or other health care;

4 (b) Homemaker care, day care, protective supervision,
5 or other services to stabilize the home environment, including
6 intensive family preservation services through the Family
7 Builders Program, the Intensive Crisis Counseling Program, or
8 both; or

9 (c) Foster care, shelter care, or other substitute
10 care to remove the child from the custody of the parents,
11 legal guardians, or caregivers,

12
13 such services shall first be offered for voluntary acceptance
14 unless there are high-risk factors that may impact the ability
15 of the parents, legal guardians, or caregivers to exercise
16 judgment. Such factors may include the parents', legal
17 guardians', or caregivers' young age or history of substance
18 abuse or domestic violence. The parents, legal custodians, or
19 caregivers shall be informed of the right to refuse services,
20 as well as the responsibility of the department to protect the
21 child regardless of the acceptance or refusal of services. If
22 the services are refused and the department deems that the
23 child's need for protection so requires, the department shall
24 take the child into protective custody or petition the court
25 as provided in this chapter.

26 (9) When a child is taken into custody pursuant to
27 this section, the authorized agent of the department shall
28 request that the child's parent, caregiver, or legal custodian
29 disclose the names, relationships, and addresses of all
30 parents and prospective parents and all next of kin, so far as
31 are known.

1 (10) No later than 30 days after receiving the initial
2 report, the local office of the department shall complete its
3 investigation.

4 (11) Immediately upon receipt of a report alleging, or
5 immediately upon learning during the course of an
6 investigation, that:

7 (a) The immediate safety or well-being of a child is
8 endangered;

9 (b) The family is likely to flee;

10 (c) A child died as a result of abuse, abandonment, or
11 neglect;

12 (d) A child is a victim of aggravated child abuse as
13 defined in s. 827.03; or

14 (e) A child is a victim of sexual battery or of sexual
15 abuse,

16
17 the department shall orally notify the jurisdictionally
18 responsible state attorney, and county sheriff's office or
19 local police department, and, as soon as practicable, transmit
20 the report to those agencies. The law enforcement agency
21 shall review the report and determine whether a criminal
22 investigation needs to be conducted and shall assume lead
23 responsibility for all criminal fact-finding activities. A
24 criminal investigation shall be coordinated, whenever
25 possible, with the child protective investigation of the
26 department. Any interested person who has information
27 regarding an offense described in this subsection may forward
28 a statement to the state attorney as to whether prosecution is
29 warranted and appropriate.

30 (12) In a child protective investigation or a criminal
31 investigation, when the initial interview with the child is

1 conducted at school, the department or the law enforcement
2 agency may allow, notwithstanding the provisions of s.
3 39.0132(4), a school instructional staff member who is known
4 by the child to be present during the initial interview if:

5 (a) The department or law enforcement agency believes
6 that the school instructional staff member could enhance the
7 success of the interview by his or her presence; and

8 (b) The child requests or consents to the presence of
9 the school instructional staff member at the interview.

10
11 School instructional staff may only be present when authorized
12 by this subsection. Information received during the interview
13 or from any other source regarding the alleged abuse or
14 neglect of the child shall be confidential and exempt from the
15 provisions of s. 119.07(1), except as otherwise provided by
16 court order. A separate record of the investigation of the
17 abuse, abandonment, or neglect shall not be maintained by the
18 school or school instructional staff member. Violation of this
19 subsection constitutes a misdemeanor of the second degree,
20 punishable as provided in s. 775.082 or s. 775.083.

21 (13) Within 15 days after the completion of the
22 investigation of cases reported to him or her pursuant to this
23 section, the state attorney shall report his or her findings
24 to the department and shall include in such report a
25 determination of whether or not prosecution is justified and
26 appropriate in view of the circumstances of the specific case.

27 Section 39. Section 39.302, Florida Statutes, is
28 created to read:

29 39.302 Protective investigations of institutional
30 child abuse, abandonment, or neglect.--

31

1 (1) The department shall conduct a child protective
2 investigation of each report of institutional child abuse,
3 abandonment, or neglect. Upon receipt of a report which
4 alleges that an employee or agent of the department, or any
5 other entity or person covered by s. 39.01(32) or (47), acting
6 in an official capacity, has committed an act of child abuse,
7 abandonment, or neglect, the department shall immediately
8 initiate a child protective investigation and orally notify
9 the appropriate state attorney, law enforcement agency, and
10 licensing agency. These agencies shall immediately conduct a
11 joint investigation, unless independent investigations are
12 more feasible. When a facility is exempt from licensing, the
13 department shall inform the owner or operator of the facility
14 of the report. Each agency conducting a joint investigation
15 shall be entitled to full access to the information gathered
16 by the department in the course of the investigation. In all
17 cases, the department shall make a full written report to the
18 state attorney within 3 days after making the oral report. A
19 criminal investigation shall be coordinated, whenever
20 possible, with the child protective investigation of the
21 department. Any interested person who has information
22 regarding the offenses described in this subsection may
23 forward a statement to the state attorney as to whether
24 prosecution is warranted and appropriate. Within 15 days after
25 the completion of the investigation, the state attorney shall
26 report the findings to the department and shall include in
27 such report a determination of whether or not prosecution is
28 justified and appropriate in view of the circumstances of the
29 specific case.

30 (2)(a) If in the course of the child protective
31 investigation, the department finds that a subject of a

1 report, by continued contact with children in care,
2 constitutes a threatened harm to the physical health, mental
3 health, or welfare of the children, the department may
4 restrict a subject's access to the children pending the
5 outcome of the investigation. The department or its agent
6 shall employ the least restrictive means necessary to
7 safeguard the physical health, mental health, and welfare of
8 the children in care. This authority shall apply only to
9 child protective investigations in which there is some
10 evidence that child abuse, abandonment, or neglect has
11 occurred. A subject of a report whose access to children in
12 care has been restricted is entitled to petition the circuit
13 court for judicial review. The court shall enter written
14 findings of fact based upon the preponderance of evidence that
15 child abuse, abandonment, or neglect did occur and that the
16 department's restrictive action against a subject of the
17 report was justified in order to safeguard the physical
18 health, mental health, and welfare of the children in care.
19 The restrictive action of the department shall be effective
20 for no more than 90 days without a judicial finding supporting
21 the actions of the department.

22 (b) Upon completion of the department's child
23 protective investigation, the department may make application
24 to the circuit court for continued restrictive action against
25 any person necessary to safeguard the physical health, mental
26 health, and welfare of the children in care.

27 (3) Pursuant to the restrictive actions described in
28 subsection (2), in cases of institutional abuse, abandonment,
29 or neglect in which the removal of a subject of a report will
30 result in the closure of the facility, and when requested by
31 the owner of the facility, the department may provide

1 appropriate personnel to assist in maintaining the operation
2 of the facility. The department may provide assistance when
3 it can be demonstrated by the owner that there are no
4 reasonable alternatives to such action. The length of the
5 assistance shall be agreed upon by the owner and the
6 department; however, the assistance shall not be for longer
7 than the course of the restrictive action imposed pursuant to
8 subsection (2). The owner shall reimburse the department for
9 the assistance of personnel provided.

10 (4) The department shall notify the human rights
11 advocacy committee in the appropriate district of the
12 department as to every report of institutional child abuse,
13 abandonment, or neglect in the district in which a client of
14 the department is alleged or shown to have been abused,
15 abandoned, or neglected, which notification shall be made
16 within 48 hours after the department commences its
17 investigation.

18 (5) The department shall notify the state attorney and
19 the appropriate law enforcement agency of any other child
20 abuse, abandonment, or neglect case in which a criminal
21 investigation is deemed appropriate by the department.

22 (6) In cases of institutional child abuse,
23 abandonment, or neglect in which the multiplicity of reports
24 of abuse, abandonment, or neglect or the severity of the
25 allegations indicates the need for specialized investigation
26 by the department in order to afford greater safeguards for
27 the physical health, mental health, and welfare of the
28 children in care, the department shall provide a team of
29 persons specially trained in the areas of child abuse,
30 abandonment, and neglect investigations, diagnosis, and
31 treatment to assist the local office of the department in

1 expediting its investigation and in making recommendations for
2 restrictive actions and to assist in other ways deemed
3 necessary by the department in order to carry out the
4 provisions of this section. The specially trained team shall
5 also provide assistance to any investigation of the
6 allegations by local law enforcement and the Department of Law
7 Enforcement.

8 Section 40. Section 415.5055, Florida Statutes, is
9 renumbered as section 39.303, Florida Statutes, and amended to
10 read:

11 39.303 ~~415.5055~~ Child protection teams; services;
12 eligible cases.--The department shall develop, maintain, and
13 coordinate the services of one or more multidisciplinary child
14 protection teams in each of the service districts of the
15 department. Such teams may be composed of representatives of
16 appropriate health, mental health, social service, legal
17 service, and law enforcement agencies. The Legislature finds
18 that optimal coordination of child protection teams and sexual
19 abuse treatment programs requires collaboration between the
20 Department of Health and the Department of Children and Family
21 Services. The two departments shall maintain an interagency
22 agreement that establishes protocols for oversight and
23 operations of child protection teams and sexual abuse
24 treatment programs. The Secretary of Health and the Director
25 of the Division of Children's Medical Services, in
26 consultation with the Secretary of Children and Family
27 Services, shall maintain the responsibility for the screening,
28 employment, and, if necessary, the termination of child
29 protection team medical directors, at headquarters and in the
30 15 districts. Child protection team medical directors shall be
31 responsible for oversight of the teams in the districts.

1 (1) The department shall utilize and convene the teams
2 to supplement the assessment and protective supervision
3 activities of ~~the children, youth, and families program~~ of the
4 department. Nothing in this section shall be construed to
5 remove or reduce the duty and responsibility of any person to
6 report pursuant to this chapter ~~s. 415.504~~ all suspected or
7 actual cases of child abuse, abandonment, or neglect or sexual
8 abuse of a child. The role of the teams shall be to support
9 activities of the program and to provide services deemed by
10 the teams to be necessary and appropriate to abused,
11 abandoned, and neglected children upon referral. The
12 specialized diagnostic assessment, evaluation, coordination,
13 consultation, and other supportive services that a child
14 protection team shall be capable of providing include, but are
15 not limited to, the following:

16 (a) Medical diagnosis and evaluation services,
17 including provision or interpretation of X rays and laboratory
18 tests, and related services, as needed, and documentation of
19 findings relative thereto.

20 (b) Telephone consultation services in emergencies and
21 in other situations.

22 (c) Medical evaluation related to abuse, abandonment,
23 or neglect, as defined by department policy or rule.

24 (d) Such psychological and psychiatric diagnosis and
25 evaluation services for the child or the child's parent or
26 parents, legal custodian or custodians ~~guardian or guardians~~,
27 or other caregivers, or any other individual involved in a
28 child abuse, abandonment, or neglect case, as the team may
29 determine to be needed.

30 (e) Short-term psychological treatment. It is the
31 intent of the Legislature that short-term psychological

1 treatment be limited to no more than 6 months' duration after
2 treatment is initiated, except that the appropriate district
3 administrator may authorize such treatment for individual
4 children beyond this limitation if the administrator deems it
5 appropriate.

6 (f) Expert medical, psychological, and related
7 professional testimony in court cases.

8 (g) Case staffings to develop, implement, and monitor
9 treatment plans for children whose cases have been referred to
10 the team. A child protection team may provide consultation
11 with respect to a child who has not been referred to the team,
12 but who is alleged or is shown to be abused, abandoned, or
13 neglected, which consultation shall be provided at the request
14 of a representative of the children, youth, and families
15 program or at the request of any other professional involved
16 with a child or the child's parent or parents, legal custodian
17 or custodians ~~guardian or guardians~~, or other caregivers. In
18 every such child protection team case staffing, consultation,
19 or staff activity involving a child, a children, youth, and
20 families program representative shall attend and participate.

21 (h) Case service coordination and assistance,
22 including the location of services available from other public
23 and private agencies in the community.

24 (i) Such training services for program and other
25 department employees as is deemed appropriate to enable them
26 to develop and maintain their professional skills and
27 abilities in handling child abuse, abandonment, and neglect
28 cases.

29 (j) Educational and community awareness campaigns on
30 child abuse, abandonment, and neglect in an effort to enable
31

1 citizens more successfully to prevent, identify, and treat
2 child abuse, abandonment, and neglect in the community.

3 (2) The child abuse, abandonment, and neglect cases
4 that are appropriate for referral by the children, youth, and
5 families program to child protection teams for support
6 services as set forth in subsection (1) include, but are not
7 limited to, cases involving:

8 (a) Bruises, burns, or fractures in a child under the
9 age of 3 years or in a nonambulatory child of any age.

10 (b) Unexplained or implausibly explained bruises,
11 burns, fractures, or other injuries in a child of any age.

12 (c) Sexual abuse of a child in which vaginal or anal
13 penetration is alleged or in which other unlawful sexual
14 conduct has been determined to have occurred.

15 (d) Venereal disease, or any other sexually
16 transmitted disease, in a prepubescent child.

17 (e) Reported malnutrition of a child and failure of a
18 child to thrive.

19 (f) Reported medical, physical, or emotional neglect
20 of a child.

21 (g) Any family in which one or more children have been
22 pronounced dead on arrival at a hospital or other health care
23 facility, or have been injured and later died, as a result of
24 suspected abuse, abandonment, or neglect, when any sibling or
25 other child remains in the home.

26 (h) Symptoms of serious emotional problems in a child
27 when emotional or other abuse, abandonment, or neglect is
28 suspected.

29 ~~(3) All records and reports of the child protection~~
30 ~~team are confidential and exempt from the provisions of ss.~~
31 ~~119.07(1) and 455.241, and shall not be disclosed, except,~~

1 ~~upon request, to the state attorney, law enforcement, the~~
2 ~~department, and necessary professionals, in furtherance of the~~
3 ~~treatment or additional evaluative needs of the child or by~~
4 ~~order of the court.~~

5 (3) In all instances in which a child protection team
6 is providing certain services to abused, abandoned, or
7 neglected children, other offices and units of the department
8 shall avoid duplicating the provision of those services.

9 Section 41. Section 39.3035, Florida Statutes, is
10 created to read:

11 39.3035 Child advocacy centers; standards; state
12 funding.--

13 (1) In order to become eligible for a full membership
14 in the Florida Network of Children's Advocacy Centers, Inc., a
15 child advocacy center in this state shall:

16 (a) Be a private, nonprofit incorporated agency or a
17 governmental entity.

18 (b) Be a child protection team with established
19 community protocols which meet all of the requirements of the
20 National Network of Children's Advocacy Centers, Inc.

21 (c) Have a neutral, child-focused facility where joint
22 department and law enforcement interviews take place with
23 children in appropriate cases of suspected child sexual abuse
24 or physical abuse. All multidisciplinary agencies shall have
25 a place to interact with the child as investigative or
26 treatment needs require.

27 (d) Have a minimum designated staff that is supervised
28 and approved by the local board of directors or governmental
29 entity.

30 (e) Have a multidisciplinary case review team that
31 meets on a regularly scheduled basis or as the caseload of the

1 community requires. The team shall consist of representatives
2 from the Office of the State Attorney, the department, the
3 child protection team, mental health services, law
4 enforcement, and the child advocacy center staff. Medical
5 personnel and a victim's advocate may be part of the team.

6 (f) Provide case tracking of child abuse cases seen
7 through the center. A center shall also collect data on the
8 number of child abuse cases seen at the center, by sex, race,
9 age, and other relevant data; the number of cases referred for
10 prosecution; and the number of cases referred for mental
11 health therapy. Case records shall be subject to the
12 confidentiality provisions of s. 39.202.

13 (g) Provide referrals for medical exams and mental
14 health therapy. The center shall provide followup on cases
15 referred for mental health therapy.

16 (h) Provide training for various disciplines in the
17 community that deal with child abuse.

18 (i) Have an interagency commitment, in writing,
19 covering those aspects of agency participation in a
20 multidisciplinary approach to the handling of child sexual
21 abuse and serious physical abuse cases.

22 (2) Provide assurance that child advocacy center
23 employees and volunteers at the center are trained and
24 screened in accordance with s. 39.001(2).

25 (3) Any child advocacy center within this state that
26 meets the standards of subsection (1) and is certified by the
27 Florida Network of Children's Advocacy Centers, Inc., as being
28 a full member in the organization shall be eligible to receive
29 state funds that are appropriated by the Legislature.

30
31

1 Section 42. Section 415.507, Florida Statutes, is
2 renumbered as section 39.304, Florida Statutes, and amended to
3 read:

4 39.304 ~~415.507~~ Photographs, medical examinations, X
5 rays, and medical treatment of abused, abandoned, or neglected
6 child.--

7 (1) Any person required to investigate cases of
8 suspected child abuse, abandonment, or neglect may take or
9 cause to be taken photographs of the areas of trauma visible
10 on a child who is the subject of a report. If the areas of
11 trauma visible on a child indicate a need for a medical
12 examination, or if the child verbally complains or otherwise
13 exhibits distress as a result of injury through suspected
14 child abuse, abandonment, or neglect, or is alleged to have
15 been sexually abused, the person required to investigate may
16 cause the child to be referred for diagnosis to a licensed
17 physician or an emergency department in a hospital without the
18 consent of the child's parents, caregiver ~~legal guardian~~, or
19 legal custodian. Such examination may be performed by an
20 advanced registered nurse practitioner licensed pursuant to
21 chapter 464. Any licensed physician, or advanced registered
22 nurse practitioner licensed pursuant to chapter 464, who has
23 reasonable cause to suspect that an injury was the result of
24 child abuse, abandonment, or neglect may authorize a
25 radiological examination to be performed on the child without
26 the consent of the child's parent, caregiver ~~legal guardian~~,
27 or legal custodian.

28 (2) Consent for any medical treatment shall be
29 obtained in the following manner.

30 (a)1. Consent to medical treatment shall be obtained
31 from a parent or legal custodian ~~guardian~~ of the child; or

1 2. A court order for such treatment shall be obtained.

2 (b) If a parent or legal custodian ~~guardian~~ of the
3 child is unavailable and his or her whereabouts cannot be
4 reasonably ascertained, and it is after normal working hours
5 so that a court order cannot reasonably be obtained, an
6 authorized agent of the department shall have the authority to
7 consent to necessary medical treatment for the child. The
8 authority of the department to consent to medical treatment in
9 this circumstance shall be limited to the time reasonably
10 necessary to obtain court authorization.

11 (c) If a parent or legal custodian ~~guardian~~ of the
12 child is available but refuses to consent to the necessary
13 treatment, a court order shall be required unless the
14 situation meets the definition of an emergency in s. 743.064
15 or the treatment needed is related to suspected abuse,
16 abandonment, or neglect of the child by a parent or legal
17 custodian ~~guardian~~. In such case, the department shall have
18 the authority to consent to necessary medical treatment. This
19 authority is limited to the time reasonably necessary to
20 obtain court authorization.

21
22 In no case shall the department consent to sterilization,
23 abortion, or termination of life support.

24 (3) Any facility licensed under chapter 395 shall
25 provide to the department, its agent, or a child protection
26 team that contracts with the department any photograph or
27 report on examinations made or X rays taken pursuant to this
28 section, or copies thereof, for the purpose of investigation
29 or assessment of cases of abuse, abandonment, neglect, or
30 exploitation of children.

31

1 ~~(4)~~(3) Any photograph or report on examinations made
2 or X rays taken pursuant to this section, or copies thereof,
3 shall be sent to the department as soon as possible.

4 ~~(5)~~(4) The county in which the child is a resident
5 shall bear the initial costs of the examination of the
6 allegedly abused, abandoned, or neglected child; however, the
7 parents, caregiver ~~legal guardian~~, or legal custodian of the
8 child shall be required to reimburse the county for the costs
9 of such examination, other than an initial forensic physical
10 examination as provided in s. 960.28, and to reimburse the
11 department of ~~Children and Family Services~~ for the cost of the
12 photographs taken pursuant to this section. A medical
13 provider may not bill a child victim, directly or indirectly,
14 for the cost of an initial forensic physical examination.

15 ~~(5)~~ The court shall order a defendant or juvenile
16 offender who pleads guilty or nolo contendere to, or who is
17 convicted of or adjudicated delinquent for, a violation of
18 chapter 794 or chapter 800 to make restitution to the Crimes
19 Compensation Trust Fund or to the county, whichever paid for
20 the initial forensic physical examination, in an amount equal
21 to the compensation paid to the medical provider for the cost
22 of the initial forensic physical examination. The order may
23 be enforced by the department in the same manner as a judgment
24 in a civil action.

25 Section 43. Section 415.5095, Florida Statutes, is
26 renumbered as section 39.305, Florida Statutes, and amended to
27 read:

28 39.305 ~~415.5095~~ Intervention and treatment in sexual
29 abuse cases; model plan.--

30 ~~(1)~~ The impact of sexual abuse on the child and family
31 has caused the Legislature to determine that special

1 ~~intervention and treatment must be offered in certain cases so~~
2 ~~that the child can be protected from further abuse, the family~~
3 ~~can be kept together, and the abuser can benefit from~~
4 ~~treatment. To further this end, it is the intent of the~~
5 ~~Legislature that special funding shall be available in those~~
6 ~~communities where agencies and professionals are able to work~~
7 ~~cooperatively to effectuate intervention and treatment in~~
8 ~~intrafamily sexual abuse cases.~~

9 ~~(2) The department of Children and Family Services~~
10 shall develop a model plan for community intervention and
11 treatment of intrafamily sexual abuse in conjunction with the
12 Department of Law Enforcement, the Department of Health, the
13 Department of Education, the Attorney General, the state
14 Guardian Ad Litem Program, the Department of Corrections,
15 representatives of the judiciary, and professionals and
16 advocates from the mental health and child welfare community.

17 Section 44. Section 39.306, Florida Statutes, is
18 created to read:

19 39.306 Child protective investigations; working
20 agreements with local law enforcement.--The department shall
21 enter into agreements with the jurisdictionally responsible
22 county sheriffs' offices and local police departments that
23 will assume the lead in conducting any potential criminal
24 investigations arising from allegations of child abuse,
25 abandonment, or neglect. The written agreement must specify
26 how the requirements of this chapter will be met. For the
27 purposes of such agreement, the jurisdictionally responsible
28 law enforcement entity is authorized to share Florida criminal
29 history information that is not otherwise exempt from s.
30 119.07(1) with the district personnel, authorized agent, or
31 contract provider directly responsible for the child

1 protective investigation and emergency child placement. The
2 agencies entering into such agreement must comply with s.
3 943.0525. Criminal justice information provided by such law
4 enforcement entity shall be used only for the purposes
5 specified in the agreement and shall be provided at no charge.
6 Notwithstanding any other provision of law, the Department of
7 Law Enforcement shall provide to the department electronic
8 access to Florida criminal justice information which is
9 lawfully available and not exempt from s. 119.07(1), only for
10 the purpose of child protective investigations and emergency
11 child placement. As a condition of access to such
12 information, the department shall be required to execute an
13 appropriate user agreement addressing the access, use,
14 dissemination, and destruction of such information and to
15 comply with all applicable laws and regulations, and rules of
16 the Department of Law Enforcement.

17 Section 45. Section 415.50171, Florida Statutes, is
18 renumbered as section 39.307, Florida Statutes, and subsection
19 (1), paragraph (a) of subsection (2), and subsection (6) of
20 said section are amended to read:

21 39.307 ~~415.50171~~ ~~Family services response system;~~
22 Reports of child-on-child sexual abuse.--

23 (1) ~~Subject to specific appropriation,~~ Upon receiving
24 a report alleging juvenile sexual abuse as defined in s.
25 39.01(7)(b), the department shall assist the family in
26 receiving appropriate services ~~415.50165(7), district staff~~
27 ~~shall, unless caregiver abuse or neglect is involved, use a~~
28 ~~family services response system approach~~ to address the
29 allegations of the report.

30 (2) District staff, at a minimum, shall adhere to the
31 following procedures:

1 (a) The purpose of the response to a report alleging
2 juvenile sexual abuse behavior shall be explained to the
3 caregiver.

4 1. The purpose of the response shall be explained in a
5 manner consistent with legislative purpose and intent provided
6 in this chapter ~~part~~.

7 2. The name and office telephone number of the person
8 responding shall be provided to the caregiver of the alleged
9 juvenile sexual offender and victim's caregiver.

10 3. The possible consequences of the department's
11 response, including outcomes and services, shall be explained
12 to the caregiver of the alleged juvenile sexual offender and
13 the victim's family or caregiver.

14 (6) At any time, as a result of additional
15 information, findings of facts, or changing conditions, the
16 department may pursue a child protective investigation as
17 provided in this chapter ~~part IV~~.

18 Section 46. Part IV of chapter 39, Florida Statutes,
19 consisting of sections 39.311, 39.312, 39.313, 39.314, 39.315,
20 39.316, 39.317, and 39.318, Florida Statutes, shall be
21 entitled to read:

22 PART IV

23 FAMILY BUILDERS PROGRAM

24 Section 47. Section 415.515, Florida Statutes, is
25 renumbered as section 39.311, Florida Statutes, and amended to
26 read:

27 39.311 ~~415.515~~ Establishment of Family Builders
28 Program.--

29 (1) Any Family Builders Program that is established by
30 the department ~~of Children and Family Services or the~~
31 ~~Department of Juvenile Justice~~ shall provide family

1 preservation services to families whose children are at risk
2 of imminent out-of-home placement because they are dependent
3 ~~or delinquent or are children in need of services~~, to reunite
4 families whose children have been removed and placed in foster
5 care, and to maintain adoptive families intact who are at risk
6 of fragmentation. The Family Builders Program shall provide
7 programs to achieve long-term changes within families that
8 will allow children to remain with their families as an
9 alternative to the more expensive and potentially
10 psychologically damaging program of out-of-home placement.

11 (2) ~~The department of Children and Family Services and~~
12 ~~the Department of Juvenile Justice~~ may adopt rules to
13 implement the Family Builders Program.

14 Section 48. Section 415.516, Florida Statutes, is
15 renumbered as section 39.312, Florida Statutes, and amended to
16 read:

17 39.312 ~~415.516~~ Goals.--The goals of any Family
18 Builders Program shall be to:

19 (1) Ensure child health and safety while working with
20 the family.

21 (2)~~(1)~~ Help parents to improve their relationships
22 with their children and to provide better care, nutrition,
23 hygiene, discipline, protection, instruction, and supervision.

24 (3)~~(2)~~ Help parents to provide a better household
25 environment for their children by improving household
26 maintenance, budgeting, and purchasing.

27 (4)~~(3)~~ Provide part-time child care when parents are
28 unable to do so or need temporary relief.

29 (5)~~(4)~~ Perform household maintenance, budgeting, and
30 purchasing when parents are unable to do so on their own or
31 need temporary relief.

1 (6)~~(5)~~ Assist parents and children to manage and
2 resolve conflicts.

3 (7)~~(6)~~ Assist parents to meet the special physical,
4 mental, or emotional needs of their children and help parents
5 to deal with their own special physical, mental, or emotional
6 needs that interfere with their ability to care for their
7 children and to manage their households.

8 (8)~~(7)~~ Help families to discover and gain access to
9 community resources to which the family or children might be
10 entitled and which would assist the family in meeting its
11 needs and the needs of the children, including the needs for
12 food, clothing, housing, utilities, transportation,
13 appropriate educational opportunities, employment, respite
14 care, and recreational and social activities.

15 (9)~~(8)~~ Help families by providing cash or in-kind
16 assistance to meet their needs for food, clothing, housing, or
17 transportation when such needs prevent or threaten to prevent
18 parents from caring for their children, and when such needs
19 are not met by other sources in the community in a timely
20 fashion.

21 ~~(9) Emphasize parental responsibility and facilitate~~
22 ~~counseling for children at high risk of delinquent behavior~~
23 ~~and their parents.~~

24 (10) Provide such additional reasonable services for
25 the prevention of maltreatment and unnecessary foster care as
26 may be needed in order to strengthen a family at risk.

27 Section 49. Section 415.517, Florida Statutes, is
28 renumbered as section 39.313, Florida Statutes, and amended to
29 read:

30 39.313 ~~415.517~~ Contracting of services.--The
31 department may contract for the delivery of Family Builders

1 Program services by professionally qualified persons or local
2 governments when it determines that it is in the family's best
3 interest. The service provider or program operator must
4 submit to the department monthly activity reports covering any
5 services rendered. These activity reports must include
6 project evaluation in relation to individual families being
7 served, as well as statistical data concerning families
8 referred for services who are not served due to the
9 unavailability of resources. The costs of program evaluation
10 are an allowable cost consideration in any service contract
11 negotiated in accordance with this section ~~subsection~~.

12 Section 50. Section 415.518, Florida Statutes, is
13 renumbered as section 39.314, Florida Statutes, and amended to
14 read:

15 39.314 ~~415.518~~ Eligibility for Family Builders Program
16 services.--Family Builders Program services must be made
17 available to a family at risk on a voluntary basis, provided
18 the family meets the eligibility requirements as established
19 by rule and there is space available in the program. All
20 members of the families who accept such services are
21 responsible for cooperating fully with the family preservation
22 plan developed for each family under s. 39.315 ~~this section~~.
23 Families in which children are at imminent risk of sexual
24 abuse or physical endangerment perpetrated by a member of
25 their immediate household are not eligible to receive family
26 preservation services unless the perpetrator is in, or has
27 agreed to enter, a program for treatment and the safety of the
28 children may be enhanced through participation in the Family
29 Builders Program.

30 Section 51. Section 415.519, Florida Statutes, is
31 renumbered as section 39.315, Florida Statutes.

AND SHELTER HEARINGS

1
2 Section 56. Section 39.395, Florida Statutes, is
3 created to read:

4 39.395 Detaining a child; medical or hospital
5 personnel.--Any person in charge of a hospital or similar
6 institution, or any physician or licensed health care
7 professional treating a child may detain that child without
8 the consent of the parents, caregiver, or legal custodian,
9 whether or not additional medical treatment is required, if
10 the circumstances are such, or if the condition of the child
11 is such that returning the child to the care or custody of the
12 parents, caregiver, or legal custodian presents an imminent
13 danger to the child's life or physical or mental health. Any
14 such person detaining a child shall immediately notify the
15 department, whereupon the department shall immediately begin a
16 child protective investigation in accordance with the
17 provisions of this chapter and shall make every reasonable
18 effort to immediately notify the parents, caregiver, or legal
19 custodian that such child has been detained. If the
20 department determines, according to the criteria set forth in
21 this chapter, that the child should be detained longer than 24
22 hours, it shall petition the court through the attorney
23 representing the Department of Children and Family Services as
24 quickly as possible and not to exceed 24 hours, for an order
25 authorizing such custody in the same manner as if the child
26 were placed in a shelter. The department shall attempt to
27 avoid the placement of a child in an institution whenever
28 possible.

29 Section 57. Section 39.401, Florida Statutes, as
30 amended by chapter 97-276, Laws of Florida, is amended to
31 read:

1 39.401 Taking a child alleged to be dependent into
2 custody; law enforcement officers and authorized agents of the
3 department.--

4 (1) A child may only be taken into custody:

5 (a) Pursuant to the provisions of this part, based
6 upon sworn testimony, either before or after a petition is
7 filed; or--

8 (b) By a law enforcement officer, or an authorized
9 agent of the department, if the officer or authorized agent
10 has probable cause to support a finding or reasonable grounds
11 for removal and that removal is necessary to protect the
12 child. Reasonable grounds for removal are as follows:

13 1. That the child has been abused, neglected, or
14 abandoned, or is suffering from or is in imminent danger of
15 illness or injury as a result of abuse, neglect, or
16 abandonment;

17 2. That the parent, legal custodian, caregiver, or
18 responsible adult relative ~~custodian~~ of the child has
19 materially violated a condition of placement imposed by the
20 court; or

21 3. That the child has no parent, legal custodian,
22 caregiver, or responsible adult relative immediately known and
23 available to provide supervision and care.

24 (2) If the law enforcement officer takes ~~person taking~~
25 the child into custody ~~is not an authorized agent of the~~
26 ~~department,~~ that officer ~~person~~ shall:

27 (a) Release the child to:

28 1. The parent, caregiver, or guardian, legal custodian
29 of the child;--

30 2. A responsible adult approved by the court when
31 limited to temporary emergency situations;--

1 3. A responsible adult relative who shall be given
2 priority consideration over a nonrelative placement when this
3 is in the best interests of the child;~~or~~

4 4. A responsible adult approved by the department;
5 ~~within 3 days following such release, the person taking the~~
6 ~~child into custody shall make a full written report to the~~
7 ~~department for cases involving allegations of abandonment,~~
8 ~~abuse, or neglect or other dependency cases, or~~

9 (b) Deliver the child to an authorized agent of the
10 department, stating the facts by reason of which the child was
11 taken into custody and sufficient information to establish
12 probable cause that the child is abandoned, abused, or
13 neglected, or otherwise dependent ~~and make a full written~~
14 ~~report to the department within 3 days.~~

15
16 For cases involving allegations of abandonment, abuse, or
17 neglect, or other dependency cases, within 3 days after such
18 release or within 3 days after delivering the child to an
19 authorized agent of the department, the law enforcement
20 officer who took the child into custody shall make a full
21 written report to the department.

22 (3) If the child is taken into custody by, or is
23 delivered to, an authorized agent of the department, the
24 authorized agent shall review the facts supporting the removal
25 with an attorney representing the department ~~legal staff prior~~
26 ~~to the emergency shelter hearing.~~ The purpose of this review
27 shall be to determine whether probable cause exists for the
28 filing of a ~~an emergency~~ shelter petition ~~pursuant to s.~~
29 ~~39-402(1)~~. If the facts are not sufficient to support the
30 filing of a shelter petition, the child shall immediately be
31 returned to the custody of the parent, caregiver, or legal

1 custodian. If the facts are sufficient to support the filing
2 of the shelter hearing the attorney representing the
3 Department of Children and Family Services shall request
4 ~~pursuant to s. 39.402(1)~~, such hearing to be held as quickly
5 as possible and not to exceed ~~within~~ 24 hours after the
6 removal of the child. While awaiting the ~~emergency~~ shelter
7 hearing, the authorized agent of the department may place the
8 child in licensed shelter care or may release the child to a
9 parent, ~~guardian~~, legal custodian, caregiver, or responsible
10 adult relative who shall be given priority consideration over
11 a licensed nonrelative placement, or responsible adult
12 approved by the department when this is in the best interests
13 of the child. Any placement of a child which is not in a
14 licensed shelter must be preceded by a local and state
15 criminal records check, as well as a search of the
16 department's automated abuse information system, on all
17 members of the household, to assess the child's safety within
18 the home. In addition, the department may authorize placement
19 of a housekeeper/homemaker in the home of a child alleged to
20 be dependent until the parent or legal custodian assumes care
21 of the child.

22 (4) When a child is taken into custody pursuant to
23 this section, the department ~~of Children and Family Services~~
24 shall request that the child's parent, caregiver, or legal
25 custodian disclose the names, relationships, and addresses of
26 all parents and prospective parents and all next of kin of the
27 child, so far as are known.

28 Section 58. Section 39.402, Florida Statutes, as
29 amended by chapter 97-276, Laws of Florida, is amended to
30 read:

31 39.402 Placement in a shelter.--

1 (1) Unless ordered by the court under this chapter, a
2 child taken into custody shall not be placed in a shelter
3 prior to a court hearing unless there are reasonable grounds
4 for removal and removal is necessary to protect the child.
5 Reasonable grounds for removal are as follows:

6 (a) The child has been abused, neglected, or
7 abandoned, or is suffering from or is in imminent danger of
8 illness or injury as a result of abuse, neglect, or
9 abandonment;

10 (b) The custodian of the child has materially violated
11 a condition of placement imposed by the court; or

12 (c) The child has no parent, legal custodian,
13 caregiver, or responsible adult relative immediately known and
14 available to provide supervision and care.

15 (2) A child taken into custody may be placed or
16 continued in a shelter only if one or more of the criteria in
17 subsection (1) applies and the court has made a specific
18 finding of fact regarding the necessity for removal of the
19 child from the home and has made a determination that the
20 provision of appropriate and available services will not
21 eliminate the need for placement.

22 (3) Whenever a child is taken into custody, the
23 department shall immediately notify the parents or legal
24 custodians, shall provide the parents or legal custodians with
25 a statement setting forth a summary of procedures involved in
26 dependency cases, and shall notify them of their right to
27 obtain their own attorney.

28 (4) If the department determines that placement in a
29 shelter is necessary under subsections (1) and (2), the
30 authorized agent of the department shall authorize placement
31 of the child in a shelter.

1 (5)(a) The parents or legal custodians of the child
2 shall be given actual notice of the date, time, and location
3 of the ~~emergency~~ shelter hearing. If the parents or legal
4 custodians are outside the jurisdiction of the court, are not
5 known, or cannot be located or refuse or evade service, they
6 shall be given such notice as best ensures their actual
7 knowledge of the date, time, and location of the ~~emergency~~
8 shelter hearing. The person providing or attempting to
9 provide notice to the parents or legal custodians shall, if
10 the parents or legal custodians are not present at the
11 hearing, advise the court either in person or by sworn
12 affidavit, of the attempts made to provide notice and the
13 results of those attempts.

14 (b) The parents or legal custodians shall be given
15 written notice that:

16 ~~(b) At the emergency shelter hearing, the department~~
17 ~~must establish probable cause that reasonable grounds for~~
18 ~~removal exist and that the provision of appropriate and~~
19 ~~available services will not eliminate the need for placement.~~

20 1.(c) They will ~~The parents or legal custodians shall~~
21 be given an opportunity to be heard and to present evidence at
22 the ~~emergency~~ shelter hearing; ~~and~~.

23 2. They have the right to be represented by counsel,
24 and, if indigent, the right to be represented by appointed
25 counsel, at the shelter hearing and at each subsequent hearing
26 or proceeding, pursuant to the procedures set forth in s.
27 39.013.

28 (6)(5)(a) The circuit court, or the county court, if
29 previously designated by the chief judge of the circuit court
30 for such purpose, shall hold the shelter hearing.

31

1 (b) The shelter petition filed with the court must
2 address each condition required to be determined by the court
3 in paragraphs (8)(a) and (b)~~subsection (7)~~.

4 ~~(7)(6)~~ A child may not be removed from the home or
5 continued out of the home pending disposition if, with the
6 provision of appropriate and available early intervention or
7 preventive services, including services provided in the home,
8 the child could safely remain at home. If the child's safety
9 and well-being are in danger, the child shall be removed from
10 danger and continue to be removed until the danger has passed.
11 If the child has been removed from the home and the reasons
12 for his or her removal have been remedied, the child may be
13 returned to the home. If the court finds that the prevention
14 or reunification efforts of the department will allow the
15 child to remain safely at home, the court shall allow the
16 child to remain in the home.

17 ~~(8)(7)(a)~~ A child may not be held in a shelter longer
18 than 24 hours unless an order so directing is entered by the
19 court after a ~~an emergency~~ shelter hearing. In the interval
20 until the shelter hearing is held, the decision to place the
21 child in a shelter or release the child from a shelter lies
22 with the protective investigator.~~At the emergency shelter~~
23 ~~hearing, the court shall appoint a guardian ad litem to~~
24 ~~represent the child unless the court finds that such~~
25 ~~representation is unnecessary.~~

26 (b) The parents or legal custodians of the child shall
27 be given such notice as best ensures their actual knowledge of
28 the time and place of the shelter hearing ~~and shall be given~~
29 ~~an opportunity to be heard and to present evidence at the~~
30 emergency shelter hearing. The failure to provide notice to a
31 party or participant does not invalidate an order placing a

1 child in a shelter if the court finds that the petitioner has
2 made a good faith effort to provide such notice. The court
3 shall require the parents or legal custodians present at the
4 hearing to provide to the court on the record the names,
5 addresses, and relationships of all parents, prospective
6 parents, and next of kin of the child, so far as are known.

7 (c) At the shelter hearing, the court shall:

8 1. Appoint a guardian ad litem to represent the child,
9 unless the court finds that such representation is
10 unnecessary;

11 2. Inform the parents or legal custodians of their
12 right to counsel to represent them at the shelter hearing and
13 at each subsequent hearing or proceeding, and the right of the
14 parents to appointed counsel, pursuant to the procedures set
15 forth in s. 39.013; and

16 3. Give the parents or legal custodians an opportunity
17 to be heard and to present evidence.

18 (d) At the shelter hearing, the department must
19 establish probable cause that reasonable grounds for removal
20 exist and that the provision of appropriate and available
21 services will not eliminate the need for placement.

22 (e) At the shelter hearing, each party shall provide
23 to the court a permanent mailing address. The court shall
24 advise each party that this address will be used by the court
25 and the petitioner for notice purposes unless and until the
26 party notifies the court and the petitioner in writing of a
27 new mailing address.

28 (f)~~(b)~~ The order for placement of a child in shelter
29 care must identify the parties present at the hearing and must
30 contain written findings:
31

- 1 1. That placement in shelter care is necessary based
2 on the criteria in subsections (1) and (2).
- 3 2. That placement in shelter care is in the best
4 interest of the child.
- 5 3. That continuation of the child in the home is
6 contrary to the welfare of the child because the home
7 situation presents a substantial and immediate danger to the
8 child's physical, mental, or emotional health or safety ~~child~~
9 which cannot be mitigated by the provision of preventive
10 services.
- 11 4. That based upon the allegations of the petition for
12 placement in shelter care, there is probable cause to believe
13 that the child is dependent.
- 14 5. That the department has made reasonable efforts to
15 prevent or eliminate the need for removal of the child from
16 the home. A finding of reasonable effort by the department to
17 prevent or eliminate the need for removal may be made and the
18 department is deemed to have made reasonable efforts to
19 prevent or eliminate the need for removal if:
- 20 a. The first contact of the department with the family
21 occurs during an emergency.
- 22 b. The appraisal of the home situation by the
23 department indicates that the home situation presents a
24 substantial and immediate danger to the child's physical,
25 mental, or emotional health or safety ~~child~~ which cannot be
26 mitigated by the provision of preventive services.
- 27 c. The child cannot safely remain at home, either
28 because there are no preventive services that can ensure the
29 health and safety of the child or because, even with
30 appropriate and available services being provided, the health
31 and safety of the child cannot be ensured.

1 6. That the court notified the parents or legal
2 custodians of the subsequent dependency proceedings, including
3 scheduled hearings, and of the importance of the active
4 participation of the parents or legal custodians in those
5 subsequent proceedings and hearings.

6 7. That the court notified the parents or legal
7 custodians of their right to counsel to represent them at the
8 shelter hearing and at each subsequent hearing or proceeding,
9 and the right of the parents to appointed counsel, pursuant to
10 the procedures set forth in s. 39.013.

11 ~~(c) The failure to provide notice to a party or~~
12 ~~participant does not invalidate an order placing a child in a~~
13 ~~shelter if the court finds that the petitioner has made a good~~
14 ~~faith effort to provide such notice.~~

15 ~~(d) In the interval until the shelter hearing is held~~
16 ~~under paragraph (a), the decision to place the child in a~~
17 ~~shelter or release the child from a shelter lies with the~~
18 ~~protective investigator in accordance with subsection (3).~~

19 (9) At any shelter hearing, the court shall determine
20 visitation rights absent a clear and convincing showing that
21 visitation is not in the best interest of the child.

22 (10) The shelter hearing order shall contain a written
23 determination as to whether the department has made a
24 reasonable effort to prevent or eliminate the need for removal
25 or continued removal of the child from the home. If the
26 department has not made such an effort, the court shall order
27 the department to provide appropriate and available services
28 to ensure the protection of the child in the home when such
29 services are necessary for the child's health and safety.

30 ~~(8) A child may not be held in a shelter under an~~
31 ~~order so directing for more than 21 days unless an order of~~

1 ~~adjudication for the case has been entered by the court. The~~
2 ~~parent, guardian, or custodian of the child must be notified~~
3 ~~of any order directing placement of the child in an emergency~~
4 ~~shelter and, upon request, must be afforded a hearing within~~
5 ~~48 hours, excluding Sundays and legal holidays, to review the~~
6 ~~necessity for continued placement in the shelter for any time~~
7 ~~periods as provided in this section. At any arraignment~~
8 ~~hearing or determination of emergency shelter care, the court~~
9 ~~shall determine visitation rights absent a clear and~~
10 ~~convincing showing that visitation is not in the best interest~~
11 ~~of the child, and the court shall make a written determination~~
12 ~~as to whether the department has made a reasonable effort to~~
13 ~~prevent or eliminate the need for removal or continued removal~~
14 ~~of the child from the home. If the department has not made~~
15 ~~such an effort, the court shall order the department to~~
16 ~~provide appropriate and available services to assure the~~
17 ~~protection of the child in the home when such services are~~
18 ~~necessary for the child's safety. Within 7 days after the~~
19 ~~child is taken into custody, a petition alleging dependency~~
20 ~~must be filed and, within 14 days after the child is taken~~
21 ~~into custody, an arraignment hearing must be held for the~~
22 ~~child's parent, guardian, or custodian to admit, deny, or~~
23 ~~consent to the findings of dependency alleged in the petition.~~

24 ~~(11)(12)~~ If a ~~When~~ any child is placed in a shelter
25 pursuant to ~~under~~ a court order following a shelter hearing,
26 the court shall prepare a shelter hearing order requiring the
27 parents of the child, or the guardian of the child's estate,
28 if possessed of assets which under law may be disbursed for
29 the care, support, and maintenance of the child, to pay, to
30 the department or institution having custody of the child,
31 fees as established by the department. When the order affects

1 the guardianship estate, a certified copy of the order shall
2 be delivered to the judge having jurisdiction of the
3 guardianship estate.

4 (12) In the event the shelter hearing is conducted by
5 a judge other than the juvenile court judge, the juvenile
6 court judge shall hold a shelter review on the status of the
7 child within 2 working days after the shelter hearing.

8 (13)(9) A child may not be held in a shelter under an
9 order so directing for more than 60 days without an
10 adjudication of dependency.A child may not be held in a
11 shelter for more than 30 days after the entry of an order of
12 adjudication unless an order of disposition ~~under s. 39.41~~ has
13 been entered by the court.

14 (14)(10) The time limitations in this section
15 ~~subsection (8)~~do not include:

16 (a) Periods of delay resulting from a continuance
17 granted at the request or with the consent of the child's
18 counsel or the child's guardian ad litem, if one has been
19 appointed by the court, or, if the child is of sufficient
20 capacity to express reasonable consent, at the request or with
21 the consent of the child's attorney or the child's guardian ad
22 litem, if one has been appointed by the court, and the child.

23 (b) Periods of delay resulting from a continuance
24 granted at the request of the attorney for the department, if
25 the continuance is granted:

26 1. Because of an unavailability of evidence material
27 to the case when the attorney for the department has exercised
28 due diligence to obtain such evidence and there are
29 substantial grounds to believe that such evidence will be
30 available within 30 days. However, if the department is not
31 prepared to present its case within 30 days, the parent or

1 legal custodian ~~guardian~~ may move for issuance of an order to
2 show cause or the court on its own motion may impose
3 appropriate sanctions, which may include dismissal of the
4 petition.

5 2. To allow the attorney for the department additional
6 time to prepare the case and additional time is justified
7 because of an exceptional circumstance.

8 (c) Reasonable periods of delay necessary to
9 accomplish notice of the hearing to the child's parents or
10 legal custodians; however, the petitioner shall continue
11 regular efforts to provide notice to the parents or legal
12 custodians during such periods of delay.

13 (d) Reasonable periods of delay resulting from a
14 continuance granted at the request of the parent or legal
15 custodian of a subject child.

16 (15) At the conclusion of a shelter hearing, the court
17 shall notify all parties in writing of the next scheduled
18 hearing to review the shelter placement. Such hearing shall be
19 held no later than 30 days after placement of the child in
20 shelter status, in conjunction with the arraignment hearing.

21 ~~(11) The court shall review the necessity for a~~
22 ~~child's continued placement in a shelter in the same manner as~~
23 ~~the initial placement decision was made and shall make a~~
24 ~~determination regarding the continued placement:~~

25 ~~(a) Within 24 hours after any violation of the time~~
26 ~~requirements for the filing of a petition or the holding of an~~
27 ~~arraignment hearing as prescribed in subsection (8); or~~

28 ~~(b) Prior to the court's granting any delay as~~
29 ~~specified in subsection (10).~~

30 Section 59. Section 39.407, Florida Statutes, is
31 amended to read:

1 39.407 Medical, psychiatric, and psychological
2 examination and treatment of child; physical or mental
3 examination of parent, ~~guardian~~, or person requesting custody
4 of child.--

5 (1) When any child is taken into custody and is to be
6 detained in shelter care, the department is authorized to have
7 a medical screening performed on the child without
8 authorization from the court and without consent from a parent
9 or legal custodian ~~guardian~~. Such medical screening shall be
10 performed by a licensed health care professional and shall be
11 to examine the child for injury, illness, and communicable
12 diseases and to determine the need for immunization. The
13 department shall by rule establish the invasiveness of the
14 medical procedures authorized to be performed under this
15 subsection. In no case does this subsection authorize the
16 department to consent to medical treatment for such children.

17 (2) When the department has performed the medical
18 screening authorized by subsection (1), or when it is
19 otherwise determined by a licensed health care professional
20 that a child who is in the custody of the department, but who
21 has not been committed to the department ~~pursuant to s. 39.41~~,
22 is in need of medical treatment, including the need for
23 immunization, consent for medical treatment shall be obtained
24 in the following manner:

25 (a)1. Consent to medical treatment shall be obtained
26 from a parent or legal custodian ~~guardian~~ of the child; or
27 2. A court order for such treatment shall be obtained.
28 (b) If a parent or legal custodian ~~guardian~~ of the
29 child is unavailable and his or her whereabouts cannot be
30 reasonably ascertained, and it is after normal working hours
31 so that a court order cannot reasonably be obtained, an

1 authorized agent of the department shall have the authority to
2 consent to necessary medical treatment, including
3 immunization, for the child. The authority of the department
4 to consent to medical treatment in this circumstance shall be
5 limited to the time reasonably necessary to obtain court
6 authorization.

7 (c) If a parent or legal custodian ~~guardian~~ of the
8 child is available but refuses to consent to the necessary
9 treatment, including immunization, a court order shall be
10 required unless the situation meets the definition of an
11 emergency in s. 743.064 or the treatment needed is related to
12 suspected abuse, abandonment, or neglect of the child by a
13 parent, caregiver, or legal custodian ~~or guardian~~. In such
14 case, the department shall have the authority to consent to
15 necessary medical treatment. This authority is limited to the
16 time reasonably necessary to obtain court authorization.

17

18 In no case shall the department consent to sterilization,
19 abortion, or termination of life support.

20 (3) A judge may order a child in the physical custody
21 of the department to be examined by a licensed health care
22 professional. The judge may also order such child to be
23 evaluated by a psychiatrist or a psychologist, by a district
24 school board educational needs assessment team, or, if a
25 developmental disability is suspected or alleged, by the
26 developmental disability diagnostic and evaluation team of the
27 department. If it is necessary to place a child in a
28 residential facility for such evaluation, then the criteria
29 and procedure established in s. 394.463(2) or chapter 393
30 shall be used, whichever is applicable. The educational needs
31 assessment provided by the district school board educational

1 needs assessment team shall include, but not be limited to,
2 reports of intelligence and achievement tests, screening for
3 learning disabilities and other handicaps, and screening for
4 the need for alternative education as defined in s. 230.23
5 ~~230.2315(2)~~.

6 (4) A judge may order a child in the physical custody
7 of the department to be treated by a licensed health care
8 professional based on evidence that the child should receive
9 treatment. The judge may also order such child to receive
10 mental health or retardation services from a psychiatrist,
11 psychologist, or other appropriate service provider. If it is
12 necessary to place the child in a residential facility for
13 such services, then the procedures and criteria established in
14 s. 394.467 or chapter 393 shall be used, whichever is
15 applicable. A child may be provided mental health or
16 retardation services in emergency situations, pursuant to the
17 procedures and criteria contained in s. 394.463(1) or chapter
18 393, whichever is applicable.

19 (5) When a child is in the physical custody of the
20 department, a licensed health care professional shall be
21 immediately called if there are indications of physical injury
22 or illness, or the child shall be taken to the nearest
23 available hospital for emergency care.

24 (6) Except as otherwise provided herein, nothing in
25 this section shall be deemed to eliminate the right of a
26 parent, legal custodian ~~guardian~~, or the child to consent to
27 examination or treatment for the child.

28 (7) Except as otherwise provided herein, nothing in
29 this section shall be deemed to alter the provisions of s.
30 743.064.

31

1 (8) A court shall not be precluded from ordering
2 services or treatment to be provided to the child by a duly
3 accredited practitioner who relies solely on spiritual means
4 for healing in accordance with the tenets and practices of a
5 church or religious organization, when required by the child's
6 health and when requested by the child.

7 (9) Nothing in this section shall be construed to
8 authorize the permanent sterilization of the child unless such
9 sterilization is the result of or incidental to medically
10 necessary treatment to protect or preserve the life of the
11 child.

12 (10) For the purpose of obtaining an evaluation or
13 examination, or receiving treatment as authorized pursuant to
14 this section ~~subsection~~, no child alleged to be or found to be
15 dependent shall be placed in a detention home or other program
16 used primarily for the care and custody of children alleged or
17 found to have committed delinquent acts.

18 (11) The parents or legal custodian ~~guardian~~ of a
19 child in the physical custody of the department remain
20 financially responsible for the cost of medical treatment
21 provided to the child even if either one or both of the
22 parents or if the legal custodian ~~guardian~~ did not consent to
23 the medical treatment. After a hearing, the court may order
24 the parents or legal custodian ~~guardian~~, if found able to do
25 so, to reimburse the department or other provider of medical
26 services for treatment provided.

27 (12) Nothing in this section alters the authority of
28 the department to consent to medical treatment for a dependent
29 child when the child has been committed to the department
30 ~~pursuant to s. 39.41~~, and the department has become the legal
31 custodian of the child.

1 (13) At any time after the filing of a shelter
2 petition or petition for dependency, when the mental or
3 physical condition, including the blood group, of a parent,
4 caregiver, legal custodian ~~guardian~~, or other person
5 requesting custody of a child is in controversy, the court may
6 order the person to submit to a physical or mental examination
7 by a qualified professional. The order may be made only upon
8 good cause shown and pursuant to notice and procedures as set
9 forth by the Florida Rules of Juvenile Procedure.

10 Section 60. Section 39.4033, Florida Statutes, is
11 renumbered as section 39.4075, Florida Statutes, and amended
12 to read:

13 39.4075 ~~39.4033~~ Referral of a dependency case to
14 mediation.--

15 (1) At any stage in a dependency proceeding, ~~the case~~
16 ~~staffing committee~~ or any party may request the court to refer
17 the parties to mediation in accordance with chapter 44 and
18 rules and procedures developed by the Supreme Court.

19 (2) A court may refer the parties to mediation. When
20 such services are available, the court must determine whether
21 it is in the best interests of the child to refer the parties
22 to mediation.

23 (3) The department shall advise the parties ~~parents~~ or
24 ~~legal guardians~~ that they are responsible for contributing to
25 the cost of the dependency ~~family~~ mediation to the extent of
26 their ability to pay.

27 (4) This section applies only to courts in counties in
28 which dependency mediation programs have been established and
29 does not require the establishment of such programs in any
30 county.

31

1 (c) The petition must specifically set forth the acts
2 or omissions upon which the petition is based and the identity
3 of the person or persons alleged to have committed the acts or
4 omissions, if known. The petition need not contain allegations
5 of acts or omissions by both parents.

6 (d) The petitioner must state in the petition, if
7 known, whether:

8 1. A parent, legal custodian, or caregiver person
9 ~~responsible for the child's welfare~~ named in the petition has
10 previously unsuccessfully participated in voluntary services
11 offered by the department;

12 2. A parent or, legal custodian, ~~or person responsible~~
13 ~~for the child's welfare~~ named in the petition has participated
14 in mediation and whether a mediation agreement exists;

15 3. A parent or, legal custodian, ~~or person responsible~~
16 ~~for the child's welfare~~ has rejected the voluntary services
17 offered by the department; or

18 4. The department has determined that voluntary
19 services are not appropriate for this family and the reasons
20 for such determination.

21 (4) When a child has been placed in shelter status by
22 order of the court ~~the child has been taken into custody~~, a
23 petition alleging dependency must be filed within 7 days upon
24 demand of a party, but no later than 21 days after the shelter
25 hearing after the date the child is taken into custody. In all
26 other cases, the petition must be filed within a reasonable
27 time after the date the child was referred to protective
28 investigation ~~under s. 39.403~~. The child's parent, guardian,
29 or custodian must be served with a copy of the petition at
30 least 72 hours before the arraignment hearing.

31

1 (5) A petition for termination of parental rights
2 ~~under s. 39.464~~ may be filed at any time.

3 Section 63. Section 39.405, Florida Statutes, as
4 amended by chapter 97-276, Laws of Florida, is renumbered as
5 section 39.502, Florida Statutes, and amended to read:

6 39.502 ~~39.405~~ Notice, process, and service.--

7 (1) Unless parental rights have been terminated, all
8 parents and legal custodians must be notified of all
9 proceedings or hearings involving the child. Notice in cases
10 involving shelter hearings and hearings resulting from medical
11 emergencies must be that most likely to result in actual
12 notice to the parents and legal custodians. In all other
13 dependency proceedings, notice must be provided in accordance
14 with subsections (4) through (9).

15 (2) Personal appearance of any person in a hearing
16 before the court obviates the necessity of serving process on
17 that person.

18 (3) Upon the filing of a petition containing
19 allegations of facts which, if true, would establish that the
20 child is a dependent child, and upon the request of the
21 petitioner, the clerk or deputy clerk shall issue a summons.

22 (4) The summons shall require the person on whom it is
23 served to appear for a hearing at a time and place specified,
24 not less than 24 hours after service of the summons. A copy
25 of the petition shall be attached to the summons.

26 (5) The summons shall be directed to, and shall be
27 served upon, all parties other than the petitioner.

28 (6) It is the duty of the petitioner or moving party
29 to notify all participants and parties known to the petitioner
30 or moving party of all hearings subsequent to the initial
31 hearing unless notice is contained in prior court orders and

1 these orders were provided to the participant or party. Proof
2 of notice or provision of orders may be provided by certified
3 mail with a signed return receipt.

4 (7) Service of the summons and service of pleadings,
5 papers, and notices subsequent to the summons on persons
6 outside this state must be made pursuant to s. 61.1312.

7 (8) It is not necessary to the validity of a
8 proceeding covered by this part that the parents, caregivers,
9 or legal custodians be present if their identity or residence
10 is unknown after a diligent search has been made, but in this
11 event the petitioner shall file an affidavit of diligent
12 search prepared by the person who made the search and inquiry,
13 and the court may appoint a guardian ad litem for the child.

14 (9) When an affidavit of diligent search has been
15 filed under subsection (8), the petitioner shall continue to
16 search for and attempt to serve the person sought until
17 excused from further search by the court. The petitioner shall
18 report on the results of the search at each court hearing
19 until the person is identified or located or further search is
20 excused by the court.

21 (10)~~(9)~~ Service by publication shall not be required
22 for dependency hearings and the failure to serve a party or
23 give notice to a participant shall not affect the validity of
24 an order of adjudication or disposition if the court finds
25 that the petitioner has completed a diligent search for that
26 party or participant.

27 (11)~~(10)~~ Upon the application of a party or the
28 petitioner, the clerk or deputy clerk shall issue, and the
29 court on its own motion may issue, subpoenas requiring
30 attendance and testimony of witnesses and production of
31 records, documents, and other tangible objects at any hearing.

1 (12)~~(11)~~ All process and orders issued by the court
2 shall be served or executed as other process and orders of the
3 circuit court and, in addition, may be served or executed by
4 authorized agents of the department or the guardian ad litem.

5 (13)~~(12)~~ Subpoenas may be served within the state by
6 any person over 18 years of age who is not a party to the
7 proceeding and, in addition, may be served by authorized
8 agents of the department.

9 (14)~~(13)~~ No fee shall be paid for service of any
10 process or other papers by an agent of the department or the
11 guardian ad litem. If any process, orders, or any other papers
12 are served or executed by any sheriff, the sheriff's fees
13 shall be paid by the county.

14 ~~(14) Failure of a person served with notice to respond~~
15 ~~or appear at the arraignment hearing constitutes the person's~~
16 ~~consent to a dependency adjudication. The document containing~~
17 ~~the notice to respond or appear must contain, in type at least~~
18 ~~as large as the balance of the document, the following or~~
19 ~~substantially similar language: "FAILURE TO RESPOND TO THIS~~
20 ~~NOTICE OR TO APPEAR AT THIS HEARING CONSTITUTES CONSENT TO THE~~
21 ~~ADJUDICATION OF THIS CHILD (OR THESE CHILDREN) AS DEPENDENT~~
22 ~~CHILDREN AND MAY ULTIMATELY RESULT IN LOSS OF CUSTODY OF THIS~~
23 ~~CHILD."~~

24 (15) A party who is identified as a person with mental
25 illness or with a developmental disability ~~developmentally~~
26 ~~disabled person~~ must be informed by the court of the
27 availability of advocacy services through the department, the
28 Association for Retarded Citizens, or other appropriate mental
29 health or developmental disability advocacy groups and
30 encouraged to seek such services.

31

1 (16) If the party to whom an order is directed is
2 present or represented at the final hearing, service of the
3 order is not required.

4 (17) The parent or legal custodian of the child, the
5 attorney for the department, the guardian ad litem, and all
6 other parties and participants shall be given reasonable
7 notice of all hearings provided for under this part.

8 (18) In all proceedings under this chapter, the court
9 shall provide to the parent or legal custodian of the child,
10 at the conclusion of any hearing, a written notice containing
11 the date of the next scheduled hearing. The court shall also
12 include the date of the next hearing in any order issued by
13 the court.

14 Section 64. Section 39.4051, Florida Statutes, as
15 amended by chapter 97-276, Laws of Florida, is renumbered as
16 section 39.503, Florida Statutes, and amended to read:

17 39.503 ~~39.4051~~ Identity or location of parent or legal
18 custodian unknown; special procedures.--

19 (1) If the identity or location of a parent or legal
20 custodian is unknown and a petition for dependency or shelter
21 is filed, the court shall conduct the following inquiry of the
22 parent or legal custodian who is available, or, if no parent
23 or legal custodian is available, of any relative or custodian
24 of the child who is present at the hearing and likely to have
25 the information:

26 (a) Whether the mother of the child was married at the
27 probable time of conception of the child or at the time of
28 birth of the child.

29 (b) Whether the mother was cohabiting with a male at
30 the probable time of conception of the child.

31

1 (c) Whether the mother has received payments or
2 promises of support with respect to the child or because of
3 her pregnancy from a man who claims to be the father.

4 (d) Whether the mother has named any man as the father
5 on the birth certificate of the child or in connection with
6 applying for or receiving public assistance.

7 (e) Whether any man has acknowledged or claimed
8 paternity of the child in a jurisdiction in which the mother
9 resided at the time of or since conception of the child, or in
10 which the child has resided or resides.

11 (2) The information required in subsection (1) may be
12 supplied to the court or the department in the form of a sworn
13 affidavit by a person having personal knowledge of the facts.

14 (3) If the inquiry under subsection (1) identifies any
15 person as a parent or prospective parent, the court shall
16 require notice of the hearing to be provided to that person.

17 (4) If the inquiry under subsection (1) fails to
18 identify any person as a parent or prospective parent, the
19 court shall so find and may proceed without further notice.

20 (5) If the inquiry under subsection (1) identifies a
21 parent or prospective parent, and that person's location is
22 unknown, the court shall direct the department to ~~shall~~
23 conduct a diligent search for that person before ~~the~~
24 scheduling of a disposition hearing regarding the dependency
25 of the child unless the court finds that the best interest of
26 the child requires proceeding without notice to the person
27 whose location is unknown.

28 (6) The diligent search required by subsection (5)
29 must include, at a minimum, inquiries of all relatives of the
30 parent or prospective parent made known to the petitioner,
31 inquiries of all offices of program areas of the department

1 likely to have information about the parent or prospective
2 parent, inquiries of other state and federal agencies likely
3 to have information about the parent or prospective parent,
4 inquiries of appropriate utility and postal providers, and
5 inquiries of appropriate law enforcement agencies. Pursuant to
6 s. 453 of the Social Security Act, 42 U.S.C. 653(c)(B)(4), the
7 department, as the state agency administering Titles IV-B and
8 IV-E of the act, shall be provided access to the federal and
9 state parent locator service for diligent search activities.

10 (7) Any agency contacted by a petitioner with a
11 request for information pursuant to subsection (6) shall
12 release the requested information to the petitioner without
13 the necessity of a subpoena or court order.

14 (8) If the inquiry and diligent search identifies a
15 prospective parent, that person must be given the opportunity
16 to become a party to the proceedings by completing a sworn
17 affidavit of parenthood and filing it with the court or the
18 department. A prospective parent who files a sworn affidavit
19 of parenthood while the child is a dependent child but no
20 later than at the time of or prior to the adjudicatory hearing
21 in any termination of parental rights proceeding for the child
22 shall be considered a parent for all purposes under this
23 section unless the other parent contests the determination of
24 parenthood. If the known parent contests the recognition of
25 the prospective parent as a parent, the prospective parent
26 shall not be recognized as a parent until proceedings under
27 chapter 742 have been concluded. However, the prospective
28 parent shall continue to receive notice of hearings as a
29 participant pending results of the chapter 742 proceedings.

30
31

1 Section 65. Section 39.4055, Florida Statutes, is
2 renumbered as section 39.504, Florida Statutes, and
3 subsections (2) and (4) of said section are amended to read:

4 39.504 ~~39.4055~~ Injunction pending disposition of
5 petition for ~~detention or dependency~~; penalty.--

6 (2)~~(a)~~ Notice shall be provided to the parties as set
7 forth in the Florida Rules of Juvenile Procedure, unless the
8 child is reported to be in imminent danger, in which case the
9 court may issue an injunction immediately. A judge may issue
10 an emergency injunction pursuant to this section without
11 notice at times when the court is closed for the transaction
12 of judicial business. When such an immediate injunction is
13 issued, the court shall hold a hearing on the next day of
14 judicial business either to dissolve the injunction or to
15 continue or modify it in accordance with the other provisions
16 of this section.

17 ~~(b) A judge may issue an emergency injunction pursuant~~
18 ~~to this section at times when the court is closed for the~~
19 ~~transaction of judicial business. The court shall hold a~~
20 ~~hearing on the next day of judicial business either to~~
21 ~~dissolve the emergency injunction or to continue or modify it~~
22 ~~in accordance with the other provisions of this section.~~

23 (4) A copy of any injunction issued pursuant to this
24 section shall be delivered to the protected party, or a parent
25 or caregiver or ~~an~~ individual acting in the place of a parent
26 who is not the respondent, and to any law enforcement agency
27 having jurisdiction to enforce such injunction. Upon delivery
28 of the injunction to the appropriate law enforcement agency,
29 the agency shall have the duty and responsibility to enforce
30 the injunction.

31

1 Section 66. Section 39.406, Florida Statutes, is
2 renumbered as section 39.505, Florida Statutes, and amended to
3 read:

4 39.505 ~~39.406~~ No answer required.--No answer to the
5 petition or any other pleading need be filed by any child,
6 parent, or legal custodian, but any matters which might be set
7 forth in an answer or other pleading may be pleaded orally
8 before the court or filed in writing as any such person may
9 choose. Notwithstanding the filing of an answer or any
10 pleading, the respondent ~~child or parent~~ shall, prior to an
11 adjudicatory hearing, be advised by the court of the right to
12 counsel and shall be given an opportunity to deny the
13 allegations in the petition for dependency or to enter a plea
14 to allegations in the petition before the court.

15 Section 67. Subsection (1) of section 39.408, Florida
16 Statutes, is renumbered as section 39.506, Florida Statutes,
17 and amended to read:

18 39.506 ~~39.408~~ Arrest ~~hearing~~ ~~for dependency~~
19 ~~cases.~~--

20 (1) ~~ARRAIGNMENT HEARING.~~--

21 ~~(a)~~ When a child has been detained by order of the
22 court, an arraignment hearing must be held, within 7 days
23 after the date of filing of the dependency petition ~~14 days~~
24 ~~from the date the child is taken into custody~~, for the parent,
25 ~~guardian,~~ or legal custodian to admit, deny, or consent to
26 findings of dependency alleged in the petition. If the parent,
27 ~~guardian,~~ or legal custodian admits or consents to the
28 findings in the petition, the court shall proceed as set forth
29 in the Florida Rules of Juvenile Procedure. However, if the
30 parent, ~~guardian,~~ or legal custodian denies any of the
31 allegations of the petition, the court shall hold an

1 adjudicatory hearing within 30 days after ~~7 days from~~ the date
2 of the arraignment hearing unless a continuance is granted
3 pursuant to this chapter s. 39.402(11).

4 (2)(b) When a child is in the custody of the parent,
5 ~~guardian,~~ or legal custodian, upon the filing of a petition
6 the clerk shall set a date for an arraignment hearing within a
7 reasonable time after the date of the filing. If the parent,
8 ~~guardian,~~ or legal custodian admits or consents to an
9 adjudication, the court shall proceed as set forth in the
10 Florida Rules of Juvenile Procedure. However, if the parent,
11 ~~guardian,~~ or legal custodian denies any of the allegations of
12 dependency, the court shall hold an adjudicatory hearing
13 within a reasonable time after the date of the arraignment
14 hearing.

15 (3) Failure of a person served with notice to respond
16 or appear at the arraignment hearing constitutes the person's
17 consent to a dependency adjudication. The document containing
18 the notice to respond or appear must contain, in type at least
19 as large as the balance of the document, the following or
20 substantially similar language: "FAILURE TO RESPOND TO THIS
21 NOTICE OR TO PERSONALLY APPEAR AT THE ARRAIGNMENT HEARING
22 CONSTITUTES CONSENT TO THE ADJUDICATION OF THIS CHILD (OR
23 CHILDREN) AS A DEPENDENT CHILD (OR CHILDREN) AND MAY
24 ULTIMATELY RESULT IN LOSS OF CUSTODY OF THIS CHILD (OR
25 CHILDREN)."

26 (4) At the arraignment hearing, each party shall
27 provide to the court a permanent mailing address. The court
28 shall advise each party that this address will be used by the
29 court and the petitioner for notice purposes unless and until
30 the party notifies the court and the petitioner in writing of
31 a new mailing address.

1 ~~(5)(c)~~ If at the arraignment hearing the parent,
2 ~~guardian,~~ or legal custodian consents or admits to the
3 allegations in the petition, the court shall proceed to hold a
4 dispositional hearing no more than 15 days after the date of
5 the arraignment hearing unless a continuance is necessary ~~at~~
6 ~~the earliest practicable time that will allow for the~~
7 ~~completion of a predisposition study.~~

8 (6) At any arraignment hearing, the court shall order
9 visitation rights absent a clear and convincing showing that
10 visitation is not in the best interest of the child.

11 (7) The court shall review whether the department has
12 made a reasonable effort to prevent or eliminate the need for
13 removal or continued removal of the child from the home. If
14 the court determines that the department has not made such an
15 effort, the court shall order the department to provide
16 appropriate and available services to assure the protection of
17 the child in the home when such services are necessary for the
18 child's physical, mental, or emotional health and safety.

19 (8) At the arraignment hearing, and no more than 15
20 days thereafter, the court shall review the necessity for the
21 child's continued placement in the shelter. The court shall
22 also make a written determination regarding the child's
23 continued placement in shelter within 24 hours after any
24 violation of the time requirements for the filing of a
25 petition or prior to the court's granting any continuance as
26 specified in subsection (5).

27 (9) At the conclusion of the arraignment hearing, all
28 parties shall be notified in writing by the court of the date,
29 time, and location for the next scheduled hearing.
30
31

1 Section 68. Subsection (2) of section 39.408, Florida
2 Statutes, and section 39.409, Florida Statutes, are renumbered
3 as section 39.507, Florida Statutes, and amended to read:

4 39.507 ~~39.408~~ Adjudicatory hearings; orders of
5 adjudication ~~Hearings for dependency cases.--~~

6 ~~(2) ADJUDICATORY HEARING.--~~

7 (1)(a) The adjudicatory hearing shall be held as soon
8 as practicable after the petition for dependency is filed and
9 in accordance with the Florida Rules of Juvenile Procedure,
10 but no later than 30 days after the arraignment.~~reasonable~~
11 ~~delay for the purpose of investigation, discovery, or~~
12 ~~procuring counsel or witnesses shall, whenever practicable, be~~
13 ~~granted. If the child is in custody, the time limitations~~
14 ~~provided in s. 39.402 and subsection (1) of this section~~
15 ~~apply.~~

16 (b) Adjudicatory hearings shall be conducted by the
17 judge without a jury, applying the rules of evidence in use in
18 civil cases and adjourning the hearings from time to time as
19 necessary. In a hearing on a petition in which it is alleged
20 that the child is dependent, a preponderance of evidence will
21 be required to establish the state of dependency. Any evidence
22 presented in the dependency hearing which was obtained as the
23 result of an anonymous call must be independently
24 corroborated. In no instance shall allegations made in an
25 anonymous report of abuse, abandonment, or neglect be
26 sufficient to support an adjudication of dependency in the
27 absence of corroborating evidence.

28 (2)~~(c)~~ All hearings, except as provided in this
29 section, shall be open to the public, and a person may not be
30 excluded except on special order of the judge, who may close
31 any hearing to the public upon determining that the public

1 interest or the welfare of the child is best served by so
2 doing. However, the parents shall be allowed to obtain
3 discovery pursuant to the Florida Rules of Juvenile Procedure.
4 However, nothing in this subsection ~~paragraph~~ shall be
5 construed to affect the provisions of s. 39.202 ~~415.51(9)~~.
6 Hearings involving more than one child may be held
7 simultaneously when the children involved are related to each
8 other or were involved in the same case. The child and the
9 parents, caregivers, or legal custodians of the child may be
10 examined separately and apart from each other.

11 (3) Except as otherwise specifically provided, nothing
12 in this section prohibits the publication of the proceedings
13 in a hearing.

14 ~~39.409 Orders of adjudication.--~~

15 (4)(1) If the court finds at the adjudicatory hearing
16 that the child named in a petition is not dependent, it shall
17 enter an order so finding and dismissing the case.

18 (5)(2) If the court finds that the child named in the
19 petition is dependent, but finds that no action other than
20 supervision in the child's home is required, it may enter an
21 order briefly stating the facts upon which its finding is
22 based, but withholding an order of adjudication and placing
23 the child's home under the supervision of the department. If
24 the court later finds that the parents, caregivers, or legal
25 custodians of the child have not complied with the conditions
26 of supervision imposed, the court may, after a hearing to
27 establish the noncompliance, but without further evidence of
28 the state of dependency, enter an order of adjudication and
29 shall thereafter have full authority under this chapter to
30 provide for the child as adjudicated.

31

1 ~~(6)(3)~~ If the court finds that the child named in a
2 petition is dependent, but shall elect not to proceed under
3 subsection~~(5)(2)~~, it shall incorporate that finding in an
4 order of adjudication entered in the case, briefly stating the
5 facts upon which the finding is made, and the court shall
6 thereafter have full authority under this chapter to provide
7 for the child as adjudicated.

8 (7) At the conclusion of the adjudicatory hearing, if
9 the child named in the petition is found dependent, the court
10 shall schedule the disposition hearing within 30 days after
11 the filing of the adjudicatory order. All parties shall be
12 notified in writing by the court of the date, time, and
13 location of the disposition hearing.

14 ~~(8)(4)~~ An order of adjudication by a court that a
15 child is dependent shall not be deemed a conviction, nor shall
16 the child be deemed to have been found guilty or to be a
17 criminal by reason of that adjudication, nor shall that
18 adjudication operate to impose upon the child any of the civil
19 disabilities ordinarily imposed by or resulting from
20 conviction or disqualify or prejudice the child in any civil
21 service application or appointment.

22 Section 69. Subsections (3) and (4) of section 39.408,
23 Florida Statutes, and section 39.41, Florida Statutes, as
24 amended by chapter 97-276, Laws of Florida, are renumbered as
25 section 39.508, Florida Statutes, and amended to read:

26 39.508 39.408 Disposition hearings; powers of
27 disposition ~~Hearings for dependency cases.--~~

28 ~~(1)(3) DISPOSITION HEARING.--~~At the disposition
29 hearing, if the court finds that the facts alleged in the
30 petition for dependency were proven in the adjudicatory
31 hearing, or if the parents, caregivers, or legal custodians

1 have consented to the finding of dependency or admitted the
2 allegations in the petition, have failed to appear for the
3 arraignment hearing after proper notice, or have not been
4 located despite a diligent search having been conducted, the
5 court shall receive and consider a case plan and a
6 predisposition study, which must be in writing and presented
7 by an authorized agent of the department.

8 (2)~~(a)~~ The predisposition study shall cover for any
9 dependent child all factors specified in s. 61.13(3), and must
10 also provide the court with the following documented
11 information:

12 (a)~~1~~. An assessment defining the dangers and risks of
13 returning the child home, including a description of the
14 changes in and resolutions to the initial risks.

15 (b)~~2~~. A description of what risks are still present
16 and what resources are available and will be provided for the
17 protection and safety of the child.

18 (c)~~3~~. A description of the benefits of returning the
19 child home.

20 (d)~~4~~. A description of all unresolved issues.

21 (e)~~5~~. An abuse registry history and criminal records
22 check for all caregivers ~~caretakers~~, family members, and
23 individuals residing within the household.

24 (f)~~6~~. The complete child protection team report and
25 recommendation or, if no report exists, a statement reflecting
26 that no report has been made.

27 (g)~~7~~. All opinions or recommendations from other
28 professionals or agencies that provide evaluative, social,
29 reunification, or other services to the family.

30 (h)~~8~~. The availability of appropriate prevention and
31 reunification services for the family to prevent the removal

1 of the child from the home or to reunify the child with the
2 family after removal, including the availability of family
3 preservation services through the Family Builders Program, the
4 Intensive Crisis Counseling Program, or both.

5 (i)~~9~~. The inappropriateness of other prevention and
6 reunification services that were available.

7 (j)~~10~~. The efforts by the department to prevent
8 out-of-home placement of the child or, when applicable, to
9 reunify the family if appropriate services were available,
10 including the application of intensive family preservation
11 services through the Family Builders Program, the Intensive
12 Crisis Counseling Program, or both.

13 (k)~~11~~. Whether the services were provided to the
14 family and child.

15 (l)~~12~~. If the services were provided, whether they
16 were sufficient to meet the needs of the child and the family
17 and to enable the child to remain safely at home or to be
18 returned home.

19 (m)~~13~~. If the services were not provided, the reasons
20 for such lack of action.

21 (n)~~14~~. The need for, or appropriateness of, continuing
22 the services if the child remains in the custody of the family
23 or if the child is placed outside the home.

24 (o)~~15~~. Whether family mediation was provided.

25 ~~16. Whether a multidisciplinary case staffing was~~
26 ~~conducted and, if so, the results.~~

27 (p)~~17~~. If the child has been removed from the home and
28 there is a parent, caregiver, or legal custodian who may be
29 considered for custody pursuant to this section ~~s. 39.41(1)~~, a
30 recommendation as to whether placement of the child with that
31

1 parent, caregiver, or legal custodian would be detrimental to
2 the child.

3 (g) If the child has been removed from the home and
4 will be remaining with a relative or caregiver, a home study
5 report shall be included in the predisposition report.

6
7 Any other relevant and material evidence, including other
8 written or oral reports, may be received by the court in its
9 effort to determine the action to be taken with regard to the
10 child and may be relied upon to the extent of its probative
11 value, even though not competent in an adjudicatory hearing.
12 Except as otherwise specifically provided, nothing in this
13 section prohibits the publication of proceedings in a hearing.

14 (3)(a) Prior to recommending to the court any
15 out-of-home placement for a child other than placement in a
16 licensed shelter or foster home, the department shall conduct
17 a study of the home of the proposed caregivers, which must
18 include, at a minimum:

19 1. An interview with the proposed adult caregivers to
20 assess their ongoing commitment and ability to care for the
21 child.

22 2. Records checks through the department's automated
23 abuse information system, and local and statewide criminal and
24 juvenile records checks through the Department of Law
25 Enforcement, on all household members 12 years of age or older
26 and any other persons made known to the department who are
27 frequent visitors in the home.

28 3. An assessment of the physical environment of the
29 home.

30 4. A determination of the financial security of the
31 proposed caregivers.

1 5. A determination of suitable child care arrangements
2 if the proposed caregivers are employed outside of the home.

3 6. Documentation of counseling and information
4 provided to the proposed caregivers regarding the dependency
5 process and possible outcomes.

6 7. Documentation that information regarding support
7 services available in the community has been provided to the
8 caregivers.

9 (b) The department shall not place the child or
10 continue the placement of the child in the home of the
11 proposed caregivers if the results of the home study are
12 unfavorable.

13 (4)(b) If placement of the child with anyone other
14 than the child's parent, caregiver, or legal custodian is
15 being considered, the predisposition study shall include the
16 designation of a specific length of time as to when custody by
17 the parent, caregiver, or legal custodian will be
18 reconsidered.

19 ~~(c) A copy of the predisposition study must be~~
20 ~~furnished to all parties no later than 48 hours before the~~
21 ~~disposition hearing.~~

22 (5)(d) The predisposition study may not be made before
23 the adjudication of dependency unless the parents, caregivers,
24 or legal custodians of the child consent.

25 (6) A case plan and predisposition study must be filed
26 with the court and served upon the parents, caregivers, or
27 legal custodians of the child, provided to the representative
28 of the guardian ad litem program, if the program has been
29 appointed, and provided to all other parties not less than 72
30 hours before the disposition hearing. All such case plans must
31 be approved by the court. If the court does not approve the

1 case plan at the disposition hearing, the court must set a
2 hearing within 30 days after the disposition hearing to review
3 and approve the case plan.

4 (7) The initial judicial review must be held no later
5 than 90 days after the date of the disposition hearing or
6 after the date of the hearing at which the court approves the
7 case plan, but in no event shall the review be held later than
8 6 months after the date of the child's removal from the home.

9
10 ~~Any other relevant and material evidence, including other~~
11 ~~written or oral reports, may be received by the court in its~~
12 ~~effort to determine the action to be taken with regard to the~~
13 ~~child and may be relied upon to the extent of its probative~~
14 ~~value, even though not competent in an adjudicatory hearing.~~
15 ~~Except as provided in paragraph (2)(c), nothing in this~~
16 ~~section prohibits the publication of proceedings in a hearing.~~

17 ~~(4) NOTICE OF HEARINGS.--The parent or legal custodian~~
18 ~~of the child, the attorney for the department, the guardian ad~~
19 ~~litem, and all other parties and participants shall be given~~
20 ~~reasonable notice of all hearings provided for under this~~
21 ~~section.~~

22 ~~39.41 Powers of disposition.--~~

23 (8)(1) When any child is adjudicated by a court to be
24 dependent, and the court finds that removal of the child from
25 the custody of a parent, legal custodian, or caregiver is
26 necessary, the court shall first determine whether there is a
27 parent with whom the child was not residing at the time the
28 events or conditions arose that brought the child within the
29 jurisdiction of the court who desires to assume custody of the
30 child and, if such parent requests custody, the court shall
31 place the child with the parent unless it finds that such

1 placement would endanger the safety,~~and~~ well-being, or
2 physical, mental, or emotional health of the child. Any party
3 with knowledge of the facts may present to the court evidence
4 regarding whether the placement will endanger the safety,~~and~~
5 well-being, or physical, mental, or emotional health of the
6 child. If the court places the child with such parent, it may
7 do either of the following:

8 (a) Order that the parent become the legal and
9 physical custodian of the child. The court may also provide
10 for reasonable visitation by the noncustodial parent. The
11 court shall then terminate its jurisdiction over the child.
12 The custody order shall continue unless modified by a
13 subsequent order of the court. The order of the juvenile court
14 shall be filed in any dissolution or other custody action or
15 proceeding between the parents.

16 (b) Order that the parent assume custody subject to
17 the jurisdiction of the juvenile court. The court may order
18 that reunification services be provided to the parent,
19 caregiver, or legal custodian ~~or guardian~~ from whom the child
20 has been removed, that services be provided solely to the
21 parent who is assuming physical custody in order to allow that
22 parent to retain later custody without court jurisdiction, or
23 that services be provided to both parents, in which case the
24 court shall determine at every review hearing ~~hearings held~~
25 ~~every 6 months~~ which parent, if either, shall have custody of
26 the child. The standard for changing custody of the child from
27 one parent to another or to a relative or caregiver must meet
28 the home study criteria and court approval pursuant to this
29 chapter ~~at the review hearings shall be the same standard as~~
30 ~~applies to changing custody of the child in a custody hearing~~
31 ~~following a decree of dissolution of marriage.~~

1 ~~(9)(2)~~(a) When any child is adjudicated by a court to
2 be dependent, the court having jurisdiction of the child has
3 the power, by order, to:

4 1. Require the parent, caregiver, or legal guardian,
5 ~~or~~ custodian, and the child when appropriate, to participate
6 in treatment and services identified as necessary.

7 2. Require the parent, caregiver, or legal guardian,
8 ~~or~~ custodian, and the child when appropriate, to participate
9 in mediation if the parent, caregiver, or legal guardian, ~~or~~
10 custodian refused to participate in mediation ~~under s.~~

11 ~~39-4033.~~

12 3. Place the child under the protective supervision of
13 an authorized agent of the department, either in the child's
14 own home or, the prospective custodian being willing, in the
15 home of a relative of the child or of a caregiver ~~an adult~~
16 ~~nonrelative~~ approved by the court, or in some other suitable
17 place under such reasonable conditions as the court may
18 direct. ~~Whenever the child is placed under protective~~
19 ~~supervision pursuant to this section, the department shall~~
20 ~~prepare a case plan and shall file it with the court.~~

21 Protective supervision continues until the court terminates it
22 or until the child reaches the age of 18, whichever date is
23 first. Protective supervision shall ~~may~~ be terminated by the
24 court whenever the court determines that permanency has been
25 achieved for the child ~~the child's placement~~, whether with a
26 parent, another relative, a legal custodian, or a caregiver,
27 ~~or a nonrelative,~~ ~~is stable~~ and that protective supervision is
28 no longer needed. The termination of supervision may be with
29 or without retaining jurisdiction, at the court's discretion,
30 and shall in either case be considered a permanency option for
31 the child. The order terminating supervision by the

1 department ~~of Children and Family Services~~ shall set forth the
2 powers of the custodian of the child and shall include the
3 powers ordinarily granted to a guardian of the person of a
4 minor unless otherwise specified.

5 4. Place the child in the temporary legal custody of
6 an adult relative or caregiver ~~an adult nonrelative~~ approved
7 by the court who is willing to care for the child.

8 5.a. When the parents have failed to comply with a
9 case plan and the court determines at a judicial review
10 hearing, or at an adjudication hearing held pursuant to s.
11 ~~39.453, or at a hearing held pursuant to subparagraph (1)(a)7.~~
12 ~~of this section~~, that neither reunification, termination of
13 parental rights, nor adoption is in the best interest of the
14 child, the court may place the child in the long-term custody
15 of an adult relative or caregiver ~~adult nonrelative~~ approved
16 by the court willing to care for the child, if the following
17 conditions are met:

18 (I) A case plan describing the responsibilities of the
19 relative or caregiver ~~nonrelative~~, the department, and any
20 other party must have been submitted to the court.

21 (II) The case plan for the child does not include
22 reunification with the parents or adoption by the relative or
23 caregiver.

24 (III) The child and the relative or caregiver
25 ~~nonrelative custodian~~ are determined not to need protective
26 supervision or preventive services to ensure the stability of
27 the long-term custodial relationship, or the department
28 assures the court that protective supervision or preventive
29 services will be provided in order to ensure the stability of
30 the long-term custodial relationship.

31

1 (IV) Each party to the proceeding agrees that a
2 long-term custodial relationship does not preclude the
3 possibility of the child returning to the custody of the
4 parent at a later date.

5 (V) The court has considered the reasonable preference
6 of the child if the court has found the child to be of
7 sufficient intelligence, understanding, and experience to
8 express a preference.

9 (VI) The court has considered the recommendation of
10 the guardian ad litem if one has been appointed.

11 b. The court shall retain jurisdiction over the case,
12 and the child shall remain in the long-term custody of the
13 relative or caregiver ~~nonrelative~~ approved by the court until
14 the order creating the long-term custodial relationship is
15 modified by the court. The court may relieve the department of
16 the responsibility for supervising the placement of the child
17 whenever the court determines that the placement is stable and
18 that such supervision is no longer needed. Notwithstanding
19 the retention of jurisdiction, the placement shall be
20 considered a permanency option for the child when the court
21 relieves the department of the responsibility for supervising
22 the placement. The order terminating supervision by the
23 department of ~~Children and Family Services~~ shall set forth the
24 powers of the custodian of the child and shall include the
25 powers ordinarily granted to a guardian of the person of a
26 minor unless otherwise specified. The court may modify the
27 order terminating supervision of the long-term relative or
28 caregiver ~~nonrelative~~ placement if it finds that a party to
29 the proceeding has shown a material change in circumstances
30 which causes the long-term relative or caregiver ~~nonrelative~~
31 placement to be no longer in the best interest of the child.

1 6.a. Approve placement of the child in long-term
2 out-of-home ~~foster~~ care, when the following conditions are
3 met:

4 (I) The foster child is 16 years of age or older,
5 unless the court determines that the history or condition of a
6 younger child makes long-term out-of-home ~~foster~~ care the most
7 appropriate placement.

8 (II) The child demonstrates no desire to be placed in
9 an independent living arrangement pursuant to this subsection.

10 (III) The department's social services study pursuant
11 to part VIII ~~s. 39.453(6)(a)~~ recommends long-term out-of-home
12 ~~foster~~ care.

13 b. Long-term out-of-home ~~foster~~ care under the above
14 conditions shall not be considered a permanency option.

15 c. The court may approve placement of the child in
16 long-term out-of-home ~~foster~~ care, as a permanency option,
17 when all of the following conditions are met:

18 (I) The child is 14 years of age or older,

19 (II) The child is living in a licensed home and the
20 foster parents desire to provide care for the child on a
21 permanent basis and the foster parents and the child do not
22 desire adoption,

23 (III) The foster family has made a commitment to
24 provide for the child until he or she reaches the age of
25 majority and to prepare the child for adulthood and
26 independence, and

27 (IV) The child has remained in the home for a
28 continuous period of no less than 12 months.

29 (V) The foster parents and the child view one another
30 as family and consider living together as the best place for
31 the child to be on a permanent basis.

1 (VI) The department's social services study recommends
2 such placement and finds the child's well-being has been
3 promoted through living with the foster parents.

4 d. Notwithstanding the retention of jurisdiction and
5 supervision by the department, long-term out-of-home ~~foster~~
6 care placements made pursuant to ~~sub-subparagraph (2)(a)6.c.~~
7 ~~of~~ this section shall be considered a permanency option for
8 the child. For purposes of this subsection, supervision by
9 the department shall be defined as a minimum of semiannual
10 visits. The order placing the child in long-term out-of-home
11 ~~foster~~ care as a permanency option shall set forth the powers
12 of the custodian of the child and shall include the powers
13 ordinarily granted to a guardian of the person of a minor
14 unless otherwise specified. The court may modify the
15 permanency option of long-term out-of-home ~~foster~~ care if it
16 finds that a party to the proceeding has shown a material
17 change in circumstances which causes the placement to be no
18 longer in the best interests of the child.

19 e. Approve placement of the child in an independent
20 living arrangement for any foster child 16 years of age or
21 older, if it can be clearly established that this type of
22 alternate care arrangement is the most appropriate plan and
23 that the health, safety, and well-being of the child will not
24 be jeopardized by such an arrangement. While in independent
25 living situations, children whose legal custody has been
26 awarded to the department or a licensed child-caring or
27 child-placing agency, or who have been voluntarily placed with
28 such an agency by a parent, guardian, relative, or adult
29 nonrelative approved by the court, continue to be subject to
30 court review provisions.

31

1 ~~7. Commit the child to a licensed child-caring agency~~
2 ~~willing to receive the child. Continued commitment to the~~
3 ~~licensed child-caring agency, as well as all other proceedings~~
4 ~~under this section pertaining to the child, are also governed~~
5 ~~by part V of this chapter.~~

6 ~~7.8.~~ Commit the child to the temporary legal custody
7 of the department. Such commitment invests in the department
8 all rights and responsibilities of a legal custodian. The
9 department shall not return any child to the physical care and
10 custody of the person from whom the child was removed, except
11 for short visitation periods, without the approval of the
12 court. The term of such commitment continues until terminated
13 by the court or until the child reaches the age of 18. After
14 the child is committed to the temporary custody of the
15 department, all further proceedings under this section are
16 also governed by ~~part V~~ of this chapter.

17 ~~8.9-a.~~ Change the temporary legal custody or the
18 conditions of protective supervision at a postdisposition
19 hearing subsequent to the initial detention hearing, without
20 the necessity of another adjudicatory hearing. A child who has
21 been placed in the child's own home under the protective
22 supervision of an authorized agent of the department, in the
23 home of a relative, in the home of a legal custodian or
24 caregiver ~~nonrelative~~, or in some other place may be brought
25 before the court by the agent of the department who is
26 supervising the placement or by any other interested person,
27 upon the filing of a petition alleging a need for a change in
28 the conditions of protective supervision or the placement. If
29 the parents or other custodians deny the need for a change,
30 the court shall hear all parties in person or by counsel, or
31 both. Upon the admission of a need for a change or after such

1 hearing, the court shall enter an order changing the
2 placement, modifying the conditions of protective supervision,
3 or continuing the conditions of protective supervision as
4 ordered. The standard for changing custody of the child from
5 one parent to another or to a relative or caregiver must meet
6 the home study criteria and court approval pursuant to this
7 chapter.

8 b. In cases where the issue before the court is
9 whether a child should be reunited with a parent, the court
10 shall determine whether the parent has substantially complied
11 with the terms of the case plan to the extent that the
12 well-being and safety, well-being, and physical, mental, and
13 emotional health of the child is not endangered by the return
14 of the child to the home.

15 ~~i0. Approve placement of the child in an independent~~
16 ~~living arrangement for any foster child 16 years of age or~~
17 ~~older, if it can be clearly established that this type of~~
18 ~~alternate care arrangement is the most appropriate plan and~~
19 ~~that the safety and welfare of the child will not be~~
20 ~~jeopardized by such an arrangement. While in independent~~
21 ~~living situations, children whose legal custody has been~~
22 ~~awarded to the department or a licensed child-caring or~~
23 ~~child-placing agency, or who have been voluntarily placed with~~
24 ~~such an agency by a parent, guardian, relative, or adult~~
25 ~~nonrelative approved by the court, continue to be subject to~~
26 ~~the court review provisions of s. 39.453.~~

27 (b) The court shall, in its written order of
28 disposition, include all of the following:

- 29 1. The placement or custody of the child as provided
30 in paragraph (a).
- 31 2. Special conditions of placement and visitation.

1 3. Evaluation, counseling, treatment activities, and
2 other actions to be taken by the parties, if ordered.

3 4. The persons or entities responsible for supervising
4 or monitoring services to the child and family.

5 5. Continuation or discharge of the guardian ad litem,
6 as appropriate.

7 6. The date, time, and location of the next scheduled
8 review hearing, which must occur within 90 days after the
9 disposition hearing or within the earlier of:

10 a. Six months after the date of the last review
11 hearing; or

12 b. Six months after the date of the child's removal
13 from his or her home, if no review hearing has been held since
14 the child's removal from the home.~~The period of time or date~~
15 ~~for any subsequent case review required by law.~~

16 7. Other requirements necessary to protect the health,
17 safety, and well-being of the child, to preserve the stability
18 of the child's educational placement,and to promote family
19 preservation or reunification whenever possible.

20 (c) If the court finds that the prevention or
21 reunification efforts of the department will allow the child
22 to remain safely at home or be safely returned to the home,
23 the court shall allow the child to remain in or return to the
24 home after making a specific finding of fact that the reasons
25 for removal have been remedied to the extent that the child's
26 safety,and well-being, and physical, mental, and emotional
27 health will not be endangered.

28 ~~(d)(5)(a)~~ If the court commits the child to the
29 temporary legal custody of the department, the disposition
30 order must include a written determination that the child
31 cannot safely remain at home with reunification or family

1 preservation services and that removal of the child is
2 necessary to protect the child. If the child has been removed
3 before the disposition hearing, the order must also include a
4 written determination as to whether, after removal, the
5 department has made a reasonable effort to reunify the family.
6 The department has the burden of demonstrating that it has
7 made reasonable efforts under this paragraph ~~subsection~~.

8 ~~1.(b)~~ For the purposes of this paragraph ~~subsection~~,
9 the term "reasonable effort" means the exercise of reasonable
10 diligence and care by the department to provide the services
11 delineated in the case plan.

12 ~~2.(c)~~ In support of its determination as to whether
13 reasonable efforts have been made, the court shall:

14 ~~a.1.~~ Enter written findings as to whether or not
15 prevention or reunification efforts were indicated.

16 ~~b.2.~~ If prevention or reunification efforts were
17 indicated, include a brief written description of what
18 appropriate and available prevention and reunification efforts
19 were made.

20 ~~c.3.~~ Indicate in writing why further efforts could or
21 could not have prevented or shortened the separation of the
22 family.

23 ~~3.(d)~~ A court may find that the department has made a
24 reasonable effort to prevent or eliminate the need for removal
25 if:

26 ~~a.1.~~ The first contact of the department with the
27 family occurs during an emergency.

28 ~~b.2.~~ The appraisal by the department of the home
29 situation indicates that it presents a substantial and
30 immediate danger to the child's safety or physical, mental, or

31

1 emotional health ~~child~~ which cannot be mitigated by the
2 provision of preventive services.

3 ~~c.3.~~ The child cannot safely remain at home, either
4 because there are no preventive services that can ensure the
5 health and safety of the child or, even with appropriate and
6 available services being provided, the health and safety of
7 the child cannot be ensured.

8 ~~4.(e)~~ A reasonable effort by the department for
9 reunification of the family has been made if the appraisal of
10 the home situation by the department indicates that the
11 severity of the conditions of dependency is such that
12 reunification efforts are inappropriate. The department has
13 the burden of demonstrating to the court that reunification
14 efforts were inappropriate.

15 ~~5.(f)~~ If the court finds that the prevention or
16 reunification effort of the department would not have
17 permitted the child to remain safely at home, the court may
18 commit the child to the temporary legal custody of the
19 department or take any other action authorized by this chapter
20 part.

21 ~~(10)(3)~~(a) When any child is adjudicated by the court
22 to be dependent and temporary legal custody of the child has
23 been placed with an adult relative, legal custodian, or
24 caregiver ~~or adult nonrelative~~ approved by the court ~~willing~~
25 ~~to care for the child~~, a licensed child-caring agency, or the
26 department, the court shall, unless a parent has voluntarily
27 executed a written surrender for purposes of adoption, order
28 the parents, or the guardian of the child's estate if
29 possessed of assets which under law may be disbursed for the
30 care, support, and maintenance of the child, to pay child
31 support to the adult relative, legal custodian, or caregiver

1 ~~or nonrelative~~ caring for the child, the licensed child-caring
2 agency, or the department. The court may exercise jurisdiction
3 over all child support matters, shall adjudicate the financial
4 obligation, including health insurance, of the child's parents
5 or guardian, and shall enforce the financial obligation as
6 provided in chapter 61. The state's child support enforcement
7 agency shall enforce child support orders under this section
8 in the same manner as child support orders under chapter 61.

9 (b) Placement of the child pursuant to subsection (8)
10 ~~(1)~~ shall not be contingent upon issuance of a support order.

11 (11)(4)(a) If the court does not commit the child to
12 the temporary legal custody of an adult relative, legal
13 custodian, or caregiver ~~or adult nonrelative~~ approved by the
14 court, the disposition order shall include the reasons for
15 such a decision and shall include a determination as to
16 whether diligent efforts were made by the department to locate
17 an adult relative, legal custodian, or caregiver willing to
18 care for the child in order to present that placement option
19 to the court instead of placement with the department.

20 (b) If diligent efforts are ~~a diligent search is~~ made
21 to locate an adult relative willing and able to care for the
22 child but, because no suitable relative is found, the child is
23 placed with the department or a legal custodian or caregiver
24 ~~nonrelative custodian~~, both the department and the court shall
25 consider transferring temporary legal custody to an a willing
26 ~~adult relative or adult nonrelative~~ approved by the court at a
27 later date, but neither the department nor the court is
28 obligated to so place the child if it is in the child's best
29 interest to remain in the current placement. For the purposes
30 of this paragraph, "diligent efforts to locate an adult
31 relative" means a search similar to the diligent search for a

1 parent, but without the continuing obligation to search after
2 an initial adequate search is completed.

3 (12)~~(6)~~ An agency granted legal custody shall have the
4 right to determine where and with whom the child shall live,
5 but an individual granted legal custody shall exercise all
6 rights and duties personally unless otherwise ordered by the
7 court.

8 (13)~~(7)~~ In carrying out the provisions of this
9 chapter, the court may order the natural parents, caregivers,
10 or legal custodians ~~guardian~~ of a child who is found to be
11 dependent to participate in family counseling and other
12 professional counseling activities deemed necessary for the
13 rehabilitation of the child.

14 (14)~~(8)~~ With respect to a child who is the subject in
15 proceedings under ~~part V of~~ this chapter, the court shall
16 issue to the department an order to show cause why it should
17 not return the child to the custody of the natural parents,
18 legal custodians, or caregivers upon expiration of the case
19 plan, or sooner if the parents, legal custodians, or
20 caregivers have substantially complied with the case plan.

21 (15)~~(9)~~ The court may at any time enter an order
22 ending its jurisdiction over any child, except that, when a
23 child has been returned to the parents under subsection (14)
24 ~~(8)~~, the court shall not terminate its jurisdiction over the
25 child until 6 months after the child's return. Based on a
26 report of the department or agency or the child's guardian ad
27 litem, and any other relevant factors, the court shall then
28 determine whether its jurisdiction should be continued or
29 terminated in such a case; if its jurisdiction is to be
30 terminated, the court shall enter an order to that effect.

31

1 Section 70. Section 39.5085, Florida Statutes, is
2 created to read:

3 39.5085 Relative Caregiver Program.--

4 (1) It is the intent of the Legislature in enacting
5 this section to:

6 (a) Recognize family relationships in which a
7 grandparent or other relative is the head of a household that
8 includes a child otherwise at risk of foster care placement.

9 (b) Enhance family preservation and stability by
10 recognizing that most children in such placements with
11 grandparents and other relatives do not need intensive
12 supervision of the placement by the courts or by the
13 department.

14 (c) Provide additional placement options and
15 incentives that will achieve permanency and stability for many
16 children who are otherwise at risk of foster care placement
17 because of abuse, abandonment, or neglect, but who may
18 successfully be able to be placed by the dependency court in
19 the care of such relatives.

20 (d) Reserve the limited casework and supervisory
21 resources of the courts and the department for those cases in
22 which children do not have the option for safe, stable care
23 within the family.

24 (2)(a) The Department of Children and Family Services
25 shall establish and operate the Relative Caregiver Program
26 pursuant to eligibility guidelines established in this section
27 as further implemented by rule of the department. The
28 Relative Caregiver Program shall, within the limits of
29 available funding, provide financial assistance to relatives
30 who are within the fifth degree by blood or marriage to the
31 parent or stepparent of a child and who are caring full-time

1 for that child in the role of substitute parent as a result of
2 a departmental determination of child abuse, neglect, or
3 abandonment and subsequent placement with the relative
4 pursuant to chapter 39. Such placement may be either
5 court-ordered temporary legal custody to the relative pursuant
6 to s. 39.508(9), or court-ordered placement in the home of a
7 relative under protective supervision of the department
8 pursuant to s. 39.508(9). The Relative Caregiver Program
9 shall offer financial assistance to caregivers who are
10 relatives and who would be unable to serve in that capacity
11 without the relative caregiver payment because of financial
12 burden, thus exposing the child to the trauma of placement in
13 a shelter or in foster care.

14 (b) Caregivers who are relatives and who receive
15 assistance under this section must be capable, as determined
16 by a home study, of providing a physically safe environment
17 and a stable, supportive home for the children under their
18 care, and must assure that the children's well-being is met,
19 including, but not limited to, the provision of immunizations,
20 education, and mental health services as needed.

21 (c) Relatives who qualify for and participate in the
22 Relative Caregiver Program are not required to meet foster
23 care licensing requirements under s. 409.175.

24 (d) Relatives who are caring for children placed with
25 them by the child protection system shall receive a special
26 monthly relative caregiver benefit established by rule of the
27 department. The amount of the special benefit payment shall
28 be based on the child's age within a payment schedule
29 established by rule of the department and subject to
30 availability of funding. The statewide average monthly rate
31 for children judicially placed with relatives who are not

1 licensed as foster homes may not exceed 82 percent of the
2 statewide average foster care rate, nor may the cost of
3 providing the assistance described in this section to any
4 relative caregiver exceed the cost of providing out-of-home
5 care in emergency shelter or foster care.

6 (e) Children receiving cash benefits under this
7 section are not eligible to simultaneously receive WAGES cash
8 benefits under chapter 414.

9 (f) Within available funding, the Relative Caregiver
10 Program shall provide relative caregivers with family support
11 and preservation services, flexible funds in accordance with
12 s. 409.165, subsidized child care, and other available
13 services in order to support the child's safety, growth, and
14 healthy development. Children living with relative caregivers
15 who are receiving assistance under this section shall be
16 eligible for medicaid coverage.

17 (g) The department may use appropriate available
18 state, federal, and private funds to operate the Relative
19 Caregiver Program.

20 Section 71. Section 39.4105, Florida Statutes, is
21 renumbered as section 39.509, Florida Statutes, and amended to
22 read:

23 39.509 ~~39.4105~~ Grandparents rights.--Notwithstanding
24 any other provision of law, a maternal or paternal grandparent
25 as well as a stepgrandparent is entitled to reasonable
26 visitation with his or her grandchild who has been adjudicated
27 a dependent child and taken from the physical custody of the
28 ~~his or her~~ parent, custodian, legal guardian, or caregiver
29 unless the court finds that such visitation is not in the best
30 interest of the child or that such visitation would interfere
31 with the goals of the case plan pursuant to ~~s. 39.451~~.

1 Reasonable visitation may be unsupervised and, where
2 appropriate and feasible, may be frequent and continuing.

3 (1) Grandparent visitation may take place in the home
4 of the grandparent unless there is a compelling reason for
5 denying such a visitation. The department's caseworker shall
6 arrange the visitation to which a grandparent is entitled
7 pursuant to this section. The state shall not charge a fee
8 for any costs associated with arranging the visitation.
9 However, the grandparent shall pay for the child's cost of
10 transportation when the visitation is to take place in the
11 grandparent's home. The caseworker shall document the reasons
12 for any decision to restrict a grandparent's visitation.

13 (2) A grandparent entitled to visitation pursuant to
14 this section shall not be restricted from appropriate displays
15 of affection to the child, such as appropriately hugging or
16 kissing his or her grandchild. Gifts, cards, and letters from
17 the grandparent and other family members shall not be denied
18 to a child who has been adjudicated a dependent child.

19 (3) Any attempt by a grandparent to facilitate a
20 meeting between the child who has been adjudicated a dependent
21 child and the child's parent, custodian, legal guardian, or
22 caregiver in violation of a court order shall automatically
23 terminate future visitation rights of the grandparent.

24 (4) When the child has been returned to the physical
25 custody of his or her parent or permanent custodian, legal
26 guardian, or caregiver, the visitation rights granted pursuant
27 to this section shall terminate.

28 (5) The termination of parental rights does not affect
29 the rights of grandparents unless the court finds that such
30 visitation is not in the best interest of the child or that
31

1 such visitation would interfere with the goals of permanency
2 planning for the child.

3 (6)~~(5)~~ In determining whether grandparental visitation
4 is not in the child's best interest, consideration may be
5 given to the finding of guilt, regardless of adjudication, or
6 entry or plea of guilty or nolo contendere to charges under
7 the following statutes, or similar statutes of other
8 jurisdictions: s. 787.04, relating to removing minors from
9 the state or concealing minors contrary to court order; s.
10 794.011, relating to sexual battery; s. 798.02, relating to
11 lewd and lascivious behavior; chapter 800, relating to
12 lewdness and indecent exposure; or chapter 827, relating to
13 the abuse of children. Consideration may also be given to a
14 finding of confirmed abuse, abandonment, or neglect under ss.
15 415.101-415.113 or this chapter and ~~ss. 415.502-415.514.~~

16 Section 72. Section 39.413, Florida Statutes, is
17 renumbered as section 39.510, Florida Statutes, and subsection
18 (1) of said section is amended to read:

19 39.510 ~~39.413~~ Appeal.--

20 (1) Any child, ~~any~~ parent, guardian ad litem,
21 caregiver, or legal custodian of any child, any other party to
22 the proceeding who is affected by an order of the court, or
23 the department may appeal to the appropriate district court of
24 appeal within the time and in the manner prescribed by the
25 Florida Rules of Appellate Procedure. Appointed counsel shall
26 be compensated as provided in this chapter ~~s. 39.415.~~

27 Section 73. Part VII of chapter 39, Florida Statutes,
28 consisting of sections 39.601, 39.602, and 39.603, Florida
29 Statutes, shall be entitled to read:

30 PART VII
31 CASE PLANS

1 Section 74. Sections 39.4031 and 39.451, Florida
2 Statutes, are renumbered as section 39.601, Florida Statutes,
3 and amended to read:

4 39.601 ~~39.4031~~ Case plan requirements.--

5 (1) The department or agent of the department shall
6 develop a case plan for each child or child's family receiving
7 services pursuant to this chapter ~~who is a party to any~~
8 ~~dependency proceeding, activity, or process under this part.~~
9 A parent, caregiver, or legal guardian, ~~or~~ custodian of a
10 child may not be required nor coerced through threat of loss
11 of custody or parental rights to admit in the case plan to
12 abusing, neglecting, or abandoning a child. Where dependency
13 mediation services are available and appropriate to the best
14 interests of the child, the court may refer the case to
15 mediation for development of a case plan. This section does
16 not change the provisions of s. 39.807 ~~39.464~~.

17 ~~(2) The case plan must be:~~

18 (a) The case plan must be developed in conference with
19 the parent, caregiver, or legal guardian, ~~or~~ custodian of the
20 child ~~and, if appropriate, the child and any court-appointed~~
21 guardian ad litem and, if appropriate, the child. ~~Any parent~~
22 ~~who believes that his or her perspective has not been~~
23 ~~considered in the development of a case plan may request~~
24 ~~referral to mediation pursuant to s. 39.4033 when such~~
25 ~~services are available.~~

26 (b) The case plan must be written simply and clearly
27 in English and, if English is not the principal language of
28 the child's parent, caregiver, or legal guardian, ~~or~~
29 custodian, to the extent possible in such principal language.

30 (c) The case plan must describe the minimum number of
31 face-to-face meetings to be held each month between the

1 parents, caregivers, or legal custodians and the department's
2 caseworkers to review progress of the plan, to eliminate
3 barriers to progress, and to resolve conflicts or
4 disagreements.

5 (d)(e) The case plan must be subject to modification
6 based on changing circumstances.

7 (e)(d) The case plan must be signed by all parties.

8 (f)(e) The case plan must be reasonable, accurate, and
9 in compliance with the requirements of other court orders.

10 (2)(3) When the child or family is receiving services
11 in the child's home, the case plan must be developed within 30
12 days from the date of the department's initial contact with
13 the child, or within 30 days of the date of a disposition
14 order placing the child under the protective supervision of
15 the department in the child's own home, and must include, in
16 addition to the requirements in subsection(1)(2), at a
17 minimum:

18 (a) A description of the problem being addressed that
19 includes the behavior or act of a parent, legal custodian, or
20 caregiver resulting in risk to the child and the reason for
21 the department's intervention.

22 (b) A description of the services to be provided to
23 the family and child specifically addressing the identified
24 problem, including:

- 25 1. Type of services or treatment.
- 26 2. Frequency of services or treatment.
- 27 3. Location of the delivery of the services.
- 28 4. The accountable department staff or service
29 provider.

30 ~~5. The need for a multidisciplinary case staffing~~
31 ~~under s. 39.4032.~~

1 (c) A description of the measurable objectives,
2 including timeframes for achieving objectives, addressing the
3 identified problem.

4 ~~(3)(4)~~ When the child is receiving services in a
5 placement outside the child's home or in foster care, the case
6 plan must be submitted to the court for approval at the
7 disposition hearing prepared within 30 days after placement
8 ~~and also be approved by the court~~ and must include, in
9 addition to the requirements in subsections (1) and (2) ~~and~~
10 ~~(3)~~, at a minimum:

11 (a) A description of the permanency goal for the
12 child, including the type of placement. Reasonable efforts to
13 place a child for adoption or with a legal guardian may be
14 made concurrently with reasonable efforts to prevent removal
15 of the child from the home or make it possible for the child
16 to return safely home.

17 (b) A description of the type of home or institution
18 in which the child is to be placed.

19 (c) A description of the financial support obligation
20 to the child, including health insurance, of the child's
21 parent, parents, caregiver, or legal custodian ~~or guardian~~.

22 (d) A description of the visitation rights and
23 obligations of the parent or parents, caregiver, or legal
24 custodian during the period the child is in care.

25 (e) A discussion of the safety and appropriateness of
26 the child's placement, which placement is intended to be safe,
27 ~~in~~ the least restrictive and most family-like setting
28 available consistent with the best interest and special needs
29 of the child, and in as close proximity as possible to the
30 child's home. The plan must also establish the role for the
31 foster parents or custodians in the development of the

1 services which are to be provided to the child, foster
2 parents, or legal custodians. It must also address the child's
3 need for services while under the jurisdiction of the court
4 and implementation of these services in the case plan.

5 (f) A description of the efforts to be undertaken to
6 maintain the stability of the child's educational placement.

7 (g)~~(f)~~ A discussion of the department's plans to carry
8 out the judicial determination made by the court, with respect
9 to the child, in accordance with this chapter and applicable
10 federal regulations.

11 (h)~~(g)~~ A description of the plan for assuring that
12 services outlined in the case plan are provided to the child
13 and the child's parent or parents, legal custodians, or
14 caregivers, to improve the conditions in the family home and
15 facilitate either the safe return of the child to the home or
16 the permanent placement of the child.

17 (i)~~(h)~~ A description of the plan for assuring that
18 services as outlined in the case plan are provided to the
19 child and the child's parent or parents, legal custodians, or
20 caregivers, to address the needs of the child and a discussion
21 of the appropriateness of the services.

22 (j)~~(i)~~ A description of the plan for assuring that
23 services are provided to the child and foster parents to
24 address the needs of the child while in foster care, which
25 shall include an itemized list of costs to be borne by the
26 parent or caregiver associated with any services or treatment
27 that the parent and child are expected to receive.

28 (k)~~(j)~~ A written notice to the parent that failure of
29 the parent to substantially comply with the case plan may
30 result in the termination of parental rights, and that a
31 material failure to substantially comply may result in the

1 filing of a petition for termination of parental rights sooner
2 than the compliance periods set forth in the case plan itself.
3 The child protection team shall coordinate its effort with the
4 case staffing committee.

5 (1) In the case of a child for whom the permanency
6 plan is adoption or placement in another permanent home,
7 documentation of the steps the agency is taking to find an
8 adoptive family or other permanent living arrangement for the
9 child, to place the child with an adoptive family, with a fit
10 and willing relative, with a legal guardian, or in another
11 planned permanent living arrangement, and to finalize the
12 adoption or legal guardianship. At a minimum, such
13 documentation shall include child-specific recruitment efforts
14 such as the use of state, regional, and national adoption
15 exchanges, including electronic exchange systems.

16 (4)(5) In the event that the parents, legal
17 custodians, or caregivers are unwilling or unable to
18 participate in the development of a case plan, the department
19 shall document that unwillingness or inability to participate.
20 Such documentation must be provided and provide in writing to
21 the parent, legal custodians, or caregivers when available for
22 the court record, and then the department shall prepare a case
23 plan conforming as nearly as possible with the requirements
24 set forth in this section. The unwillingness or inability of
25 the parents, legal custodians, or caregivers to participate in
26 the development of a case plan shall not in itself bar the
27 filing of a petition for dependency or for termination of
28 parental rights. The parents, legal custodians, or caregivers,
29 if available, must be provided a copy of the case plan and be
30 advised that they may, at any time prior to the filing of a
31 petition for termination of parental rights, enter into a case

1 plan and that they may request judicial review of any
2 provision of the case plan with which they disagree at any
3 court review hearing set for the child.

4 ~~(5)(6)~~ The services delineated in the case plan must
5 be designed to improve the conditions in the family home and
6 aid in maintaining the child in the home, to facilitate the
7 safe return of the child to the family home, or to facilitate
8 the permanent placement of the child. The service intervention
9 must be the least intrusive possible into the life of the
10 family, must focus on clearly defined objectives, and must
11 provide the most efficient path to quick reunification or
12 permanent placement, with the child's health and safety being
13 paramount. To the extent possible, the service intervention
14 must be grounded in outcome evaluation results that
15 demonstrate success in the reunification or permanent
16 placement process. In designing service interventions,
17 generally recognized standards of the professions involved in
18 the process must be taken into consideration.

19 (6) After jurisdiction attaches, all case plans must
20 be filed with the court and a copy provided to the parents,
21 caregivers, or legal custodians of the child, to the
22 representative of the guardian ad litem program if the program
23 has been appointed, and to all other parties, not less than 72
24 hours before the disposition hearing. All such case plans must
25 be approved by the court. The department shall also file with
26 the court all case plans prepared before jurisdiction of the
27 court attached. If the court does not accept the case plan,
28 the court shall require the parties to make necessary
29 modifications to the plan. An amended plan must be submitted
30 to the court for review and approval within 30 days after the
31 hearing on the case plan.

1 ~~39.451 Case planning for children in foster care.--~~
2 ~~(1) In presenting the case plan to the court, the~~
3 ~~purpose of a case plan is to ensure permanency for children~~
4 ~~through recording the actions to be taken by the parties~~
5 ~~involved in order to quickly assure the safe return of the~~
6 ~~child to the parents or, if this is not possible, the~~
7 ~~termination of parental rights and the placement of the child~~
8 ~~with the department or a licensed child-placing agency for the~~
9 ~~purpose of finding a permanent adoptive home. Permanent~~
10 ~~adoptive placement is the primary permanency goal when a child~~
11 ~~is permanently placed with the department or a licensed~~
12 ~~child-placing agency. If it is not possible to find a~~
13 ~~permanent adoptive home, the case plan must record the actions~~
14 ~~taken for preparing the child for alternative permanency goals~~
15 ~~or placements such as long-term foster care or independent~~
16 ~~living.~~
17 ~~(7)(2)~~ The case plan must be limited to as short a
18 period as possible for the accomplishment of its provisions.
19 Unless extended ~~under s. 39.453(8)~~, the plan expires no later
20 than 12 ~~18~~ months after the date the child was initially
21 removed from the home or the date the case plan was accepted
22 by the court, whichever comes first.
23 ~~(8)(3)~~ The case plan must meet applicable federal and
24 state requirements ~~as provided in s. 39.4031.~~
25 ~~(9)(4)(a)~~ In each case in which the custody of a child
26 has been vested, either voluntarily or involuntarily, in the
27 department and the child has been placed in out-of-home foster
28 care, a case plan must be prepared within 60 ~~30~~ days after the
29 department removes the child from the home, and shall be
30 submitted to the court before the disposition hearing, ~~with a~~
31 ~~hearing scheduled~~ for the court to review and accept ~~or modify~~

1 ~~the plan within an additional 30 days.~~ If the preparation of a
2 case plan, in conference with the parents and other pertinent
3 parties, cannot be completed before the disposition hearing
4 ~~accomplished within 30 days,~~ for good cause shown, the court
5 may grant an extension not to exceed 30 days and set a hearing
6 to review and accept the case plan.

7 (b) The parent or parents, legal custodians, or
8 caregivers may receive assistance from any person, or social
9 service agency in the preparation of the case plan.

10 (c) The social service agency, the department, and the
11 court, when applicable, shall inform the parent or parents,
12 legal custodians, or caregivers of the right to receive such
13 assistance, including the right to assistance of counsel.

14 ~~(d)(c)~~ Before the signing of the case plan, the
15 authorized agent of the department shall explain it to all
16 persons involved in its implementation, including, when
17 appropriate, the child.

18 ~~(e)(d)~~ After the case plan has been agreed upon and
19 signed by the parties involved, a copy of the plan must be
20 given immediately to the ~~natural~~ parents, the department or
21 agency, the foster parents or caregivers, the legal custodian,
22 the caregiver, the representative of the guardian ad litem
23 program if the program is appointed, and any other parties
24 identified by the court, including the child, if appropriate.

25 ~~(f)(e)~~ The case plan may be amended at any time if all
26 parties are in agreement regarding the revisions to the plan
27 and the plan is submitted to the court with a memorandum of
28 explanation. The case plan may also be amended by the court or
29 upon motion of any party at a hearing, based on competent
30 evidence demonstrating the need for the amendment. A copy of
31

1 the amended plan must be immediately given to the parties
2 specified in paragraph (e) ~~(d)~~.

3 ~~(5) The case plan must be submitted to the court and~~
4 ~~all parties for review and acceptance or modification at least~~
5 ~~72 hours prior to a court hearing. If the court does not~~
6 ~~accept any of the requirements of the case plan, the court~~
7 ~~shall require the parties to make necessary modifications to~~
8 ~~the plan. An amended plan must be submitted to the court for~~
9 ~~review and approval within a time certain specified by the~~
10 ~~court.~~

11 (10) ~~(6)~~ A case plan must be prepared, but need not be
12 submitted to the court, for a child who will be in care no
13 longer than 30 days unless that child is placed in out-of-home
14 ~~foster~~ care a second time within a 12-month period.

15 Section 75. Subsections (1), (2), (3), and (4) of
16 section 39.452, Florida Statutes, are renumbered as section
17 39.602, Florida Statutes, and amended to read:

18 39.602 ~~39.452~~ Case planning when parents, legal
19 custodians, or caregivers do not participate and the child is
20 in out-of-home ~~foster~~ care.--

21 (1) ~~(a)~~ In the event the parents, legal custodians, or
22 caregivers will not or cannot participate in preparation of a
23 case plan, the department shall submit a full explanation of
24 the circumstances and ~~a plan for the permanent placement of~~
25 ~~the child to the court within 30 days after the child has been~~
26 ~~removed from the home and placed in temporary foster care and~~
27 ~~schedule a court hearing within 30 days after submission of~~
28 ~~the plan to the court to review and accept or modify the plan.~~
29 ~~If preparation cannot be accomplished within 30 days, for good~~
30 ~~cause shown, the court may grant extensions not to exceed 15~~

31

1 ~~days each for the filing, the granting of which shall be for~~
2 ~~similar reason to that contained in s. 39.451(4)(a).~~

3 ~~(b) In the full explanation of the circumstances~~
4 ~~submitted to the court, the department shall state the nature~~
5 ~~of its efforts to secure such persons'parental participation~~
6 ~~in the preparation of a case plan.~~

7 (2) In a case in which the physical, emotional, or
8 mental condition or physical location of the parent is the
9 basis for the parent's nonparticipation, it is the burden of
10 the department to provide substantial evidence to the court
11 that such condition or location has rendered the parent unable
12 or unwilling to participate in the preparation of a case plan,
13 either pro se or through counsel. The supporting documentation
14 must be submitted to the court at the time the plan is filed.

15 (3) The plan must include, but need not be limited to,
16 the specific services to be provided by the department, the
17 goals and plans for the child, and the time for accomplishing
18 the provisions of the plan and for accomplishing permanence
19 for the child.

20 (4)(a) At least 72 ~~Seventy-two~~ hours prior to the
21 filing of a plan, all parties ~~each parent~~ must be provided
22 with a copy of the plan developed by the department. If the
23 location of one or both parents is unknown, this must be
24 documented in writing and included in the plan submitted to
25 the court. After the filing of the plan, if the location of
26 an absent parent becomes known, that parent must be served
27 with a copy of the plan.

28 (b) Before the filing of the plan, the department
29 shall advise each parent, both orally and in writing, that the
30 failure of the parents to substantially comply with a plan
31 ~~which has reunification as its primary goal~~ may result in the

1 termination of parental rights, but only after notice and
2 hearing as provided in this chapter ~~part VI~~. If, after the
3 plan has been submitted to the court, an absent parent is
4 located, the department shall advise the parent, both orally
5 and in writing, that the failure of the parents to
6 substantially comply with a plan ~~which has reunification as~~
7 ~~its goal~~ may result in termination of parental rights, but
8 only after notice and hearing as provided in this chapter ~~part~~
9 ~~VI~~. Proof of written notification must be filed with the
10 court.

11 Section 76. Subsection (5) of section 39.452, Florida
12 Statutes, is renumbered as section 39.603, Florida Statutes,
13 and amended to read:

14 39.603 ~~39.452~~ Court approvals of case planning when
15 ~~parents do not participate and the child is in foster care.--~~

16 ~~(5)(a) The court shall set a hearing, with notice to~~
17 ~~all parties, on the plan or any provisions of the plan, within~~
18 ~~30 days after the plan has been received by the court. If the~~
19 ~~location of a parent is unknown, the notice must be directed~~
20 ~~to the last permanent address of record.~~

21 (1)(b) At the hearing on the plan, which shall occur
22 in conjunction with the disposition hearing unless otherwise
23 directed by the court, the court shall determine:

24 (a)~~i~~. All parties who were notified and are in
25 attendance at the hearing, either in person or through a legal
26 representative. The court shall appoint a guardian ad litem
27 under Rule 1.210, Florida Rules of Civil Procedure, to
28 represent the interests of any parent, if the location of the
29 parent is known but the parent is not present at the hearing
30 and the development of the plan is based upon the physical,
31

1 emotional, or mental condition or physical location of the
2 parent.

3 (b)~~2~~. If the plan is consistent with previous orders
4 of the court placing the child in care.

5 (c)~~3~~. If the plan is consistent with the requirements
6 for the content of a plan as specified in this chapter
7 ~~subsection (3)~~.

8 (d)~~4~~. In involuntary placements, whether each parent
9 was notified of the right to counsel at each stage of the
10 dependency proceedings, in accordance with the Florida Rules
11 of Juvenile Procedure.

12 (e)~~5~~. Whether each parent whose location was known was
13 notified of the right to participate in the preparation of a
14 case plan and of the right to receive assistance from any
15 other person in the preparation of the case plan.

16 (f)~~6~~. Whether the plan is meaningful and designed to
17 address facts and circumstances upon which the court based the
18 finding of dependency in involuntary placements or the plan is
19 meaningful and designed to address facts and circumstances
20 upon which the child was placed in out-of-home ~~foster~~ care
21 voluntarily.

22 (2)~~(e)~~ When the court determines any of the elements
23 considered at the hearing related to the plan have not been
24 met, the court shall require the parties to make necessary
25 amendments to the plan. The amended plan must be submitted to
26 the court for review and approval within a time certain
27 specified by the court. A copy of the amended plan must also
28 be provided to each parent, if the location of the parent is
29 known.

30 (3)~~(d)~~ A parent who has not participated in the
31 development of a case plan must be served with a copy of the

1 plan developed by the department, if the parent can be
2 located, at least 48 ~~72~~ hours prior to the court hearing. Any
3 parent is entitled to, and may seek, a court review of the
4 plan prior to the initial ~~6 months~~ review and must be
5 informed of this right by the department at the time the
6 department serves the parent with a copy of the plan. If the
7 location of an absent parent becomes known to the department,
8 the department shall inform the parent of the right to a court
9 review at the time the department serves the parent with a
10 copy of the case plan.

11 Section 77. Part VIII of chapter 39, Florida Statutes,
12 consisting of sections 39.701, 39.702, 39.703, and 39.704,
13 Florida Statutes, shall be entitled to read:

14 PART VIII

15 JUDICIAL REVIEWS

16 Section 78. Section 39.453, Florida Statutes, is
17 renumbered as section 39.701, Florida Statutes, and amended to
18 read:

19 39.701 ~~39.453~~ Judicial review.--

20 (1)(a) The court shall have continuing jurisdiction in
21 accordance with this section and shall review the status of
22 the child as required by this subsection or more frequently if
23 the court deems it necessary or desirable.

24 (b) The court shall retain jurisdiction over a child
25 returned to its parents, caregivers, or legal guardians for a
26 period of 6 months, but, at that time, based on a report of
27 the social service agency and the guardian ad litem, if one
28 has been appointed, and any other relevant factors, the court
29 shall make a determination as to whether its jurisdiction
30 shall continue or be terminated.

31

1 ~~(c) After termination of parental rights, the court~~
2 ~~shall retain jurisdiction over any child for whom custody is~~
3 ~~given to a social service agency until the child is adopted.~~
4 ~~The jurisdiction of the court after termination of parental~~
5 ~~rights and custody is given to the agency is for the purpose~~
6 ~~of reviewing the status of the child and the progress being~~
7 ~~made toward permanent adoptive placement. As part of this~~
8 ~~continuing jurisdiction, for good cause shown by the guardian~~
9 ~~ad litem for the child, the court may review the~~
10 ~~appropriateness of the adoptive placement of the child.~~

11 (2)(a) The court shall review the status of the child
12 and shall hold a hearing as provided in this part subsection
13 ~~(7)~~. The court may dispense with the attendance of the child
14 at the hearing, but may not dispense with the hearing or the
15 presence of other parties to the review unless before the
16 review a hearing is held before a citizen review panel.

17 (b) Citizen review panels may ~~be established under s.~~
18 ~~39.4531 to conduct hearings to a review of the status of a~~
19 ~~child. The court shall select the cases appropriate for~~
20 referral to the citizen review panels and may order the
21 attendance of the parties at the review panel hearings.
22 However, any party may object to the referral of a case to a
23 citizen review panel. Whenever such an objection has been
24 filed with the court, the court shall review the substance of
25 the objection and may conduct the review itself or refer the
26 review to a citizen review panel. All parties retain the right
27 to take exception to the findings or recommended orders of a
28 citizen review panel in accordance with Rule 1.490(h), Florida
29 Rules of Civil Procedure.

30 (c) Notice of a hearing by a citizen review panel must
31 be provided as set forth in subsection (5). At the conclusion

1 of a citizen review panel hearing, each party may propose a
2 recommended order to the chairperson of the panel. Thereafter,
3 the citizen review panel shall submit its report, copies of
4 the proposed recommended orders, and a copy of the panel's
5 recommended order to the court. The citizen review panel's
6 recommended order must be limited to the dispositional options
7 available to the court in subsection (8). Each party may file
8 exceptions to the report and recommended order of the citizen
9 review panel in accordance with Rule 1.490, Florida Rules of
10 Civil Procedure.

11 (3)(a) The initial judicial review must be held no
12 later than 90 days after the date of the disposition hearing
13 or after the date of the hearing at which the court approves
14 the case plan, but in no event shall the review be held later
15 than 6 months after the date the child was removed from the
16 home. Citizen review panels shall not conduct more than two
17 consecutive reviews without the child and the parties coming
18 before the court for a judicial review.~~if the child remains~~
19 ~~in shelter or foster care, subsequent judicial reviews must be~~
20 ~~held at least every 6 months after the date of the most recent~~
21 ~~judicial review until the child is 13 years old and has been~~
22 ~~in foster care at least 18 months.~~

23 (b) If the court extends any the case plan beyond 12
24 ~~18~~ months, judicial reviews must be held at least every 6
25 months ~~for children under the age of 13 and at least annually~~
26 ~~for children age 13 and older.~~

27 (c) If the child is placed in the custody of the
28 department or a licensed child-placing agency for the purpose
29 of adoptive placement, judicial reviews must be held at least
30 every 6 months until adoptive placement, to determine the
31

1 appropriateness of the current placement and the progress made
2 toward adoptive placement.

3 (d) If the department and the court have established a
4 formal agreement that includes specific authorization for
5 particular cases, the department may conduct administrative
6 reviews instead of the judicial reviews for children in
7 out-of-home foster care. Notices of such administrative
8 reviews must be provided to all parties. However, an
9 administrative review may not be substituted for the first
10 judicial review, and in every case the court must conduct a
11 judicial review at least every 6 ~~12~~ months. Any party
12 dissatisfied with the results of an administrative review may
13 petition for a judicial review.

14 (e) The clerk of the circuit court shall schedule
15 judicial review hearings in order to comply with the mandated
16 times cited in this section ~~paragraphs (a)-(d)~~.

17 (f) In each case in which a child has been voluntarily
18 placed with the licensed child-placing agency, the agency
19 shall notify the clerk of the court in the circuit where the
20 child resides of such placement within 5 working days.
21 Notification of the court is not required for any child who
22 will be in out-of-home foster care no longer than 30 days
23 unless that child is placed in out-of-home foster care a
24 second time within a 12-month period. If the child is returned
25 to the custody of the parents, caregiver, or legal custodian
26 ~~or guardian~~ before the scheduled review hearing or if the
27 child is placed for adoption, the child-placing agency shall
28 notify the court of the child's return or placement within 5
29 working days, and the clerk of the court shall cancel the
30 review hearing.

31

1 (4) The court shall schedule the date, time, and
2 location of the next judicial review in the judicial review
3 order.~~The social service agency shall file a petition for~~
4 ~~review with the court within 10 calendar days after the~~
5 ~~judicial review hearing. The petition must include a statement~~
6 ~~of the dispositional alternatives available to the court. The~~
7 ~~petition must accompany the notice of the hearing served upon~~
8 ~~persons specified in subsection (5).~~

9 (5) Notice of a judicial review hearing or a citizen
10 review panel ~~the hearing,~~ and a copy of the motion for
11 judicial review ~~petition~~, including a statement of the
12 dispositional alternatives available to the court, must be
13 served by the court upon:

14 (a) The social service agency charged with the
15 supervision of care, custody, or guardianship of the child, if
16 that agency is not the movant ~~petitioner~~.

17 (b) The foster parent or parents or caregivers
18 ~~caretakers~~ in whose home the child resides.

19 (c) The parent, caregiver, or legal custodian
20 ~~guardian, or relative~~ from whom the care and custody of the
21 child have been transferred.

22 (d) The guardian ad litem for the child, or the
23 representative of the guardian ad litem program if the program
24 ~~one~~ has been appointed.

25 (e) Any preadoptive parent.

26 (f)~~(e)~~ Such other persons as the court may in its
27 discretion direct.

28 (6)(a) Prior to every judicial review hearing or
29 citizen review panel hearing, the social service agency shall
30 make an investigation and social study concerning all
31 pertinent details relating to the child and shall furnish to

- 1 the court or citizen review panel a written report that
2 includes, but is not limited to:
- 3 1. A description of the type of placement the child is
4 in at the time of the hearing, including the safety of the
5 child and the continuing necessity for and appropriateness of
6 the placement.
 - 7 2. Documentation of the diligent efforts made by all
8 parties to the case plan to comply with each applicable
9 provision of the plan.
 - 10 3. The amount of fees assessed and collected during
11 the period of time being reported.
 - 12 4. The services provided to the foster family or
13 caregivers ~~caretakers~~ in an effort to address the needs of the
14 child as indicated in the case plan.
 - 15 5. A statement that ~~concerning whether~~ the parent or
16 legal custodian ~~guardian~~, though able to do so, did not comply
17 substantially with the provisions of the case plan and the
18 agency recommendations or a statement that the parent or legal
19 custodian ~~guardian~~ did substantially comply with such
20 provisions.
 - 21 6. A statement from the foster parent or parents or
22 caregivers ~~caretakers~~ providing any material evidence
23 concerning the return of the child to the parent or parents or
24 legal custodians.
 - 25 7. A statement concerning the frequency, duration, and
26 results of the parent-child visitation, if any, and the agency
27 recommendations for an expansion or restriction of future
28 visitation.
 - 29 8. The number of times a child has been removed from
30 his or her home and placed elsewhere, the number and types of
31

1 placements that have occurred, and the reason for the changes
2 in placement.

3 9. The number of times a child's educational placement
4 has been changed, the number and types of educational
5 placements which have occurred, and the reason for any change
6 in placement.

7 (b) A copy of the social service agency's written
8 report must be provided to the attorney of record of the
9 parent, parents, or legal custodians ~~guardian~~; to the parent,
10 parents, or legal custodians ~~guardian~~; to the foster parents
11 or caregivers ~~caretakers~~; to each citizen review panel
12 ~~established under s. 39.4531~~; and to the guardian ad litem for
13 the child, or the representative of the guardian ad litem
14 program if the program ~~one~~ has been appointed by the court, at
15 least 48 hours before the judicial review hearing, or citizen
16 review panel hearing ~~if such a panel has been established~~
17 ~~under s. 39.4531~~. The requirement for providing parents or
18 legal custodians ~~guardians~~ with a copy of the written report
19 does not apply to those parents or legal custodians ~~guardians~~
20 who have voluntarily surrendered their child for adoption.

21 (c) In a case in which the child has been permanently
22 placed with the social service agency, the agency shall
23 furnish to the court a written report concerning the progress
24 being made to place the child for adoption. If, ~~as stated in~~
25 ~~s. 39.451(1)~~, the child cannot be placed for adoption, a
26 report on the progress made by the child in alternative
27 permanency goals or placements, including, but not limited to,
28 long-term foster care, independent living, custody to a
29 relative or caregiver ~~adult nonrelative~~ approved by the court
30 on a permanent basis with or without legal guardianship, or
31 custody to a foster parent or caregiver on a permanent basis

1 with or without legal guardianship, must be submitted to the
2 court. The report must be submitted to the court at least 48
3 hours before each scheduled judicial review.

4 (d) In addition to or in lieu of any written statement
5 provided to the court, the foster parent or caregivers, or any
6 preadoptive parent, caretakers shall be given the opportunity
7 to address the court with any information relevant to the best
8 interests of the child at any judicial review hearing.

9 (7) The court, and any citizen review panel
10 ~~established under s. 39.4531,~~ shall take into consideration
11 the information contained in the social services study and
12 investigation and all medical, psychological, and educational
13 records that support the terms of the case plan; testimony by
14 the social services agency, the parent or legal custodian
15 guardian, the foster parent or caregivers ~~caretakers~~, the
16 guardian ad litem if one has been appointed for the child, and
17 any other person deemed appropriate; and any relevant and
18 material evidence submitted to the court, including written
19 and oral reports to the extent of their probative value. In
20 its deliberations, the court, and any citizen review panel
21 ~~established under s. 39.4531,~~ shall seek to determine:

22 (a) If the parent or legal custodian ~~guardian~~ was
23 advised of the right to receive assistance from any person or
24 social service agency in the preparation of the case plan.

25 (b) If the parent or legal custodian ~~guardian~~ has been
26 advised of the right to have counsel present at the judicial
27 review or citizen review hearings. If not so advised, the
28 court or citizen review panel shall advise the parent or legal
29 custodian ~~guardian~~ of such right.

30 (c) If a guardian ad litem needs to be appointed for
31 the child in a case in which a guardian ad litem has not

1 previously been appointed or if there is a need to continue a
2 guardian ad litem in a case in which a guardian ad litem has
3 been appointed.

4 (d) The compliance or lack of compliance of all
5 parties with applicable items of the case plan, including the
6 parents' compliance with child support orders.

7 (e) The compliance or lack of compliance with a
8 visitation contract between the parent, caregiver, or legal
9 custodian ~~or guardian~~ and the social service agency for
10 contact with the child, including the frequency, duration, and
11 results of the parent-child visitation and the reason for any
12 noncompliance.

13 (f) The compliance or lack of compliance of the
14 parent, caregiver, or legal custodian ~~or guardian~~ in meeting
15 specified financial obligations pertaining to the care of the
16 child, including the reason for failure to comply if such is
17 the case.

18 (g) The appropriateness of the child's current
19 placement, including whether the child is in a setting which
20 is as family-like and as close to the parent's home as
21 possible, consistent with the child's best interests and
22 special needs, and including maintaining stability in the
23 child's educational placement.

24 (h) A projected date likely for the child's return
25 home or other permanent placement.

26 (i) When appropriate, the basis for the unwillingness
27 or inability of the parent, caregiver, or legal custodian ~~or~~
28 ~~guardian~~ to become a party to a case plan. The court and the
29 citizen review panel shall determine if ~~the nature of the~~
30 ~~location or the condition of the parent and the efforts of the~~
31

1 social service agency to secure party ~~parental~~ participation
2 in a case plan were sufficient.

3 (8)(a) Based upon the criteria set forth in subsection
4 (7) and the recommended order of the citizen review panel, if
5 any ~~established under s. 39.4531~~, the court shall determine
6 whether or not the social service agency shall initiate
7 proceedings to have a child declared a dependent child, return
8 the child to the parent, legal custodian, or caregiver,
9 continue the child in out-of-home ~~foster~~ care for a specified
10 period of time, or initiate termination of parental rights
11 proceedings for subsequent placement in an adoptive home.
12 Modifications to the plan must be handled as prescribed in s.
13 39.601 ~~39.451~~. If the court finds that the prevention or
14 reunification efforts of the department will allow the child
15 to remain safely at home or be safely returned to the home,
16 the court shall allow the child to remain in or return to the
17 home after making a specific finding of fact that the reasons
18 for removal have been remedied to the extent that the child's
19 safety, and well-being, and physical, mental, and emotional
20 health will not be endangered.

21 (b) The court shall return the child to the custody of
22 the parents, legal custodians, or caregivers at any time it
23 determines that they have substantially complied with the
24 plan, if the court is satisfied that reunification will not be
25 detrimental to the child's safety, and well-being, and
26 physical, mental, and emotional health.

27 (c) If, in the opinion of the court, the social
28 service agency has not complied with its obligations as
29 specified in the written case plan, the court may find the
30 social service agency in contempt, shall order the social
31 service agency to submit its plans for compliance with the

1 agreement, and shall require the social service agency to show
2 why the child could ~~should~~ not safely be returned ~~immediately~~
3 to the home of the parents, legal custodians, or caregivers ~~or~~
4 ~~legal guardian~~.

5 (d) The court may extend the time limitation of the
6 case plan, or may modify the terms of the plan, based upon
7 information provided by the social service agency, and the
8 guardian ad litem, if one has been appointed, the natural
9 parent or parents, and the foster parents, and any other
10 competent information on record demonstrating the need for the
11 amendment. If the court extends the time limitation of the
12 case plan, the court must make specific findings concerning
13 the frequency of past parent-child visitation, if any, and the
14 court may authorize the expansion or restriction of future
15 visitation. Modifications to the plan must be handled as
16 prescribed in s. 39.601 ~~39.451~~. Any extension of a case plan
17 must comply with the time requirements and other requirements
18 specified by this chapter ~~part~~.

19 (e) If, at any judicial review, the court finds that
20 the parents have failed to substantially comply with the case
21 plan to the degree that further reunification efforts are
22 without merit and not in the best interest of the child, it
23 may authorize the filing of a petition for termination of
24 parental rights, whether or not the time period as contained
25 in the case plan for substantial compliance has elapsed.

26 (f) No later than 12 months after the date that the
27 child was placed in shelter care, the court shall conduct a
28 judicial review. At this hearing, if the child is not returned
29 to the physical custody of the parents, caregivers, or legal
30 custodians, the case plan may be extended with the same goals
31 only if the court finds that the situation of the child is so

1 extraordinary that the plan should be extended. The case plan
2 must document steps the department is taking to find an
3 adoptive parent or other permanent living arrangement for the
4 child.~~If, at the time of the 18-month judicial review or~~
5 ~~citizen review, the child is not returned to the physical~~
6 ~~custody of the natural parents, the case plan may be extended~~
7 ~~only if, at the time of the judicial review or citizen review,~~
8 ~~the court finds that the situation of the child is so~~
9 ~~extraordinary that the plan should be extended. The extension~~
10 ~~must be in accordance with subsection (3).~~

11 (g) The court may issue a protective order in
12 assistance, or as a condition, of any other order made under
13 this part. In addition to the requirements included in the
14 case plan, the protective order may set forth requirements
15 relating to reasonable conditions of behavior to be observed
16 for a specified period of time by a person or agency who is
17 before the court; and such order may require any such person
18 or agency to make periodic reports to the court containing
19 such information as the court in its discretion may prescribe.

20 Section 79. Section 39.4531, Florida Statutes, is
21 renumbered as section 39.702, Florida Statutes, and amended to
22 read:

23 39.702 ~~39.4531~~ Citizen review panels.--

24 (1) Citizen review panels may be established in each
25 judicial circuit and shall be authorized by an administrative
26 order executed by the chief judge of each circuit. The court
27 shall administer an oath of office to each citizen review
28 panel member which shall authorize the panel member to
29 participate in citizen review panels and make recommendations
30 to the court pursuant to the provisions of this section.

31

1 (2) Citizen review panels shall be administered by an
2 independent not-for-profit agency. For the purpose of this
3 section, an organization that has filed for nonprofit status
4 under the provisions of s. 501(c)(3) of the United States
5 Internal Revenue Code is an independent not-for-profit agency
6 for a period of 1 year after the date of filing. At the end
7 of that 1-year period, in order to continue conducting citizen
8 reviews, the organization must have qualified for nonprofit
9 status under s. 501(c)(3) of the United States Internal
10 Revenue Code and must submit to the chief judge of the circuit
11 court a consumer's certificate of exemption that was issued to
12 the organization by the Florida Department of Revenue and a
13 report of the organization's progress. If the agency has not
14 qualified for nonprofit status, the court must rescind its
15 administrative order that authorizes the agency to conduct
16 citizen reviews. All independent not-for-profit agencies
17 conducting citizen reviews must submit citizen review annual
18 reports to the court.

19 (3) For the purpose of this section, a citizen review
20 panel shall be composed of five volunteer members and shall
21 conform with the requirements of this chapter ~~section~~. The
22 presence of three members at a panel hearing shall constitute
23 a quorum. Panel members shall serve without compensation.

24 (4)~~(3)~~ Based on the information provided to each
25 citizen review panel pursuant to s. 39.701 ~~39.453~~, each
26 citizen review panel shall provide the court with a report and
27 recommendations regarding the placement and dispositional
28 alternatives the court shall consider before issuing a
29 judicial review order.

30 (5)~~(4)~~ The ~~An~~ independent not-for-profit agency
31 authorized to administer each citizen review panel shall:

1 (a) In collaboration with the department, develop
2 policies to assure that citizen review panels comply with all
3 applicable state and federal laws.

4 (b) Establish policies for the recruitment, selection,
5 retention, and terms of volunteer panel members. Final
6 selection of citizen review panel members shall, to the extent
7 possible, reflect the multicultural composition of the
8 community which they serve. A criminal background check and
9 personal reference check shall be conducted on each citizen
10 review panel member prior to the member serving on a citizen
11 review panel.

12 (c) In collaboration with the department, develop,
13 implement, and maintain a training program for citizen review
14 volunteers and provide training for each panel member prior to
15 that member serving on a review panel. Such training may
16 include, but shall not be limited to, instruction on
17 dependency laws, departmental policies, and judicial
18 procedures.

19 (d) Ensure that all citizen review panel members have
20 read, understood, and signed an oath of confidentiality
21 relating to ~~the citizen review hearings and~~ written or verbal
22 information provided to the panel members for review hearings.

23 (e) Establish policies to avoid actual or perceived
24 conflicts of interest by panel members during the review
25 process and to ensure accurate, fair reviews of each child
26 dependency case.

27 (f) Establish policies to ensure ongoing communication
28 with the department and the court.

29 (g) Establish policies to ensure adequate
30 communication with the parent, caregiver, or legal custodian

31

1 ~~or guardian~~, the foster parent or caregiver, the guardian ad
2 litem, and any other person deemed appropriate.

3 (h) Establish procedures that encourage attendance and
4 participation of interested persons and parties, including the
5 biological parents, foster parents or caregivers, or a
6 relative or nonrelative with whom the child is placed, at
7 citizen review hearings.

8 (i) Coordinate with existing citizen review panels to
9 ensure consistency of operating procedures, data collection,
10 ~~and analysis~~, and report generation.

11 (j) Make recommendations as necessary to the court
12 concerning attendance of essential persons at the review and
13 other issues pertinent to an effective review process.

14 (k) Ensure consistent methods of identifying barriers
15 to the permanent placement of the child and delineation of
16 findings and recommendations to the court.

17 ~~(6)(5)~~ The department and agents of the department
18 shall submit information to the citizen review panel when
19 requested and shall address questions asked by the citizen
20 review panel to identify barriers to the permanent placement
21 of each child.

22 Section 80. Section 39.454, Florida Statutes, is
23 renumbered as section 39.703, Florida Statutes, and amended to
24 read:

25 39.703 ~~39.454~~ Initiation of termination of parental
26 rights proceedings.--

27 (1) If, in preparation for any judicial review hearing
28 under this chapter part, it is the opinion of the social
29 service agency that the parents ~~or legal guardian~~ of the child
30 have not complied with their responsibilities as specified in
31 the written case plan although able to do so, the social

1 service agency shall state its intent to initiate proceedings
2 to terminate parental rights, unless the social service agency
3 can demonstrate to the court that such a recommendation would
4 not be in the child's best interests. If it is the intent of
5 the department or licensed child-placing agency to initiate
6 proceedings to terminate parental rights, the department or
7 licensed child-placing agency shall file a petition for
8 termination of parental rights no later than 3 months after
9 the date of the previous judicial review hearing. If the
10 petition cannot be filed within 3 months, the department or
11 licensed child-placing agency shall provide a written report
12 to the court outlining the reasons for delay, the progress
13 made in the termination of parental rights process, and the
14 anticipated date of completion of the process.

15 (2) If, at the time of the 12-month ~~18-month~~ judicial
16 review hearing, a child is not returned to the physical
17 custody of the ~~natural~~ parents, caregivers, or legal
18 custodians, the social service agency shall initiate
19 termination of parental rights proceedings under ~~part VI of~~
20 this chapter within 30 days. Only if the court finds that the
21 situation of the child is so extraordinary and that the best
22 interests of the child will be met by such action at the time
23 of the judicial review may the case plan be extended. If the
24 court decides to extend the plan, the court shall enter
25 detailed findings justifying the decision to extend, as well
26 as the length of the extension. A termination of parental
27 rights petition need not be filed if: the child is being
28 cared for by a relative who chooses not to adopt the child;
29 the court determines that filing such a petition would not be
30 in the best interests of the child; or the state has not
31 provided the child's family, when reasonable efforts to return

1 a child are required, consistent with the time period in the
2 state's case plan, such services as the state deems necessary
3 for the safe return of the child to his or her home. Failure
4 to initiate termination of parental rights proceedings at the
5 time of the 12-month ~~18-month~~ judicial review or within 30
6 days after such review does not prohibit initiating
7 termination of parental rights proceedings at any other time.

8 Section 81. Section 39.456, Florida Statutes, is
9 renumbered as section 39.704, Florida Statutes, and amended to
10 read:

11 39.704 ~~39.456~~ Exemptions from judicial
12 review.--Judicial review ~~This part~~ does not apply to:

13 (1) Minors who have been placed in adoptive homes by
14 the department or by a licensed child-placing agency; or

15 (2) Minors who are refugees or entrants to whom
16 federal regulations apply and who are in the care of a social
17 service agency. ~~or~~

18 ~~(3) Minors who are the subjects of termination of~~
19 ~~parental rights cases pursuant to s. 39.464.~~

20 Section 82. Part IX of chapter 39, Florida Statutes,
21 consisting of sections 39.801, 39.802, 39.803, 39.804, 39.805,
22 39.806, 39.807, 39.808, 39.809, 39.810, 39.811, 39.812,
23 39.813, 39.814, 39.815, 39.816, and 39.817, Florida Statutes,
24 shall be entitled to read:

25 PART IX

26 TERMINATION OF PARENTAL RIGHTS

27 Section 83. Sections 39.46 and 39.462, Florida
28 Statutes, are renumbered as section 39.801, Florida Statutes,
29 and amended to read:

30 39.801 ~~39.46~~ Procedures and jurisdiction; notice;
31 service of process.--

1 (1) All procedures, including petitions, pleadings,
2 subpoenas, summonses, and hearings, in termination of parental
3 rights proceedings shall be according to the Florida Rules of
4 Juvenile Procedure unless otherwise provided by law.

5 (2) The circuit court shall have exclusive original
6 jurisdiction of a proceeding involving termination of parental
7 rights.

8 ~~39.462 Process and services.~~

9 (3)~~(1)~~ Before the court may terminate parental rights,
10 in addition to the other requirements set forth in this part,
11 the following requirements must be met:

12 (a) Notice of the date, time, and place of the
13 advisory hearing for the petition to terminate parental rights
14 and a copy of the petition must be personally served upon the
15 following persons, specifically notifying them that a petition
16 has been filed:

17 1. The parents of the child.

18 2. The caregivers or legal custodians ~~or guardian~~ of
19 the child.

20 3. If the parents who would be entitled to notice are
21 dead or unknown, a living relative of the child, unless upon
22 diligent search and inquiry no such relative can be found.

23 4. Any person who has physical custody of the child.

24 5. Any grandparent entitled to priority for adoption
25 under s. 63.0425.

26 6. Any prospective parent who has been identified
27 under s. 39.503 or s. 39.803 ~~s. 39.4051 or s. 39.4625~~.

28 7. The guardian ad litem for the child or the
29 representative of the guardian ad litem program, if the
30 program ~~one~~ has been appointed.

31

1 The document containing the notice to respond or appear must
2 contain, in type at least as large as the type in the balance
3 of the document, the following or substantially similar
4 language: "FAILURE TO PERSONALLY ~~RESPOND TO THIS NOTICE OR TO~~
5 APPEAR AT THIS ADVISORY HEARING CONSTITUTES CONSENT TO THE
6 TERMINATION OF PARENTAL RIGHTS OF THIS CHILD (OR ~~THESE~~
7 CHILDREN)."

8 (b) If a person required to be served with notice as
9 prescribed in paragraph (a) cannot be served, notice of
10 hearings must be given as prescribed by the rules of civil
11 procedure, and service of process must be made as specified by
12 law or civil actions.

13 (c) Notice as prescribed by this section may be
14 waived, in the discretion of the judge, with regard to any
15 person to whom notice must be given under this subsection if
16 the person executes, before two witnesses and a notary public
17 or other officer authorized to take acknowledgments, a written
18 surrender of the child to a licensed child-placing agency or
19 the department.

20 (d) If the person served with notice under this
21 section fails to ~~respond or~~ appear at the advisory hearing,
22 the failure to ~~respond or~~ appear shall constitute consent for
23 termination of parental rights by the person given notice.

24 ~~(4)(2)~~ Upon the application of any party, the clerk or
25 deputy clerk shall issue, and the court on its own motion may
26 issue, subpoenas requiring the attendance and testimony of
27 witnesses and the production of records, documents, or other
28 tangible objects at any hearing.

29 ~~(5)(3)~~ All process and orders issued by the court must
30 be served or executed as other process and orders of the
31

1 circuit court and, in addition, may be served or executed by
2 authorized agents of the department or the guardian ad litem.

3 (6)~~(4)~~ Subpoenas may be served within the state by any
4 person over 18 years of age who is not a party to the
5 proceeding.

6 (7)~~(5)~~ A fee may not be paid for service of any
7 process or other papers by an agent of the department or the
8 guardian ad litem. If any process, orders, or other papers are
9 served or executed by any sheriff, the sheriff's fees must be
10 paid by the county.

11 Section 84. Sections 39.461 and 39.4611, Florida
12 Statutes, are renumbered as section 39.802, Florida Statutes,
13 and amended to read:

14 39.802 ~~39.461~~ Petition for termination of parental
15 rights; filing; elements.--

16 (1) All proceedings seeking an adjudication to
17 terminate parental rights pursuant to this chapter must be
18 initiated by the filing of an original petition by the
19 department, the guardian ad litem, or a licensed child-placing
20 agency or by any other person who has knowledge of the facts
21 alleged or is informed of them and believes that they are
22 true.

23 (2) The form of the petition is governed by the
24 Florida Rules of Juvenile Procedure. The petition must be in
25 writing and signed by the petitioner under oath stating the
26 petitioner's good faith in filing the petition.

27 (3) When a petition for termination of parental rights
28 has been filed, the clerk of the court shall set the case
29 before the court for an advisory hearing.

30 ~~39.4611 Elements of petition for termination of~~
31 ~~parental rights.--~~

1 ~~(4)(1)~~ A petition for termination of parental rights
2 filed under this chapter must contain facts supporting the
3 following allegations:

4 (a) That at least one of the grounds listed in s.
5 39.806 ~~39.464~~ has been met.

6 (b) That the parents of the child were informed of
7 their right to counsel at all hearings that they attend and
8 that a dispositional order adjudicating the child dependent
9 was entered in any prior dependency proceeding relied upon in
10 offering a parent a case plan as described in s. 39.806
11 ~~39.464~~.

12 (c) That the manifest best interests of the child, in
13 accordance with s. 39.810 ~~39.4612~~, would be served by the
14 granting of the petition.

15 ~~(5)(2)~~ When a petition for termination of parental
16 rights is filed under s. 39.806(1)~~39.464(1)~~, a separate
17 petition for dependency need not be filed and the department
18 need not offer the parents a case plan with a goal of
19 reunification, but may instead file with the court a case plan
20 with a goal of termination of parental rights to allow
21 continuation of services until the termination is granted or
22 until further orders of the court are issued.

23 ~~(6)(3)~~ The fact that a child has been previously
24 adjudicated dependent as alleged in a petition for termination
25 of parental rights may be proved by the introduction of a
26 certified copy of the order of adjudication or the order of
27 disposition of dependency.

28 ~~(7)(4)~~ The fact that the parent of a child was
29 informed of the right to counsel in any prior dependency
30 proceeding as alleged in a petition for termination of
31 parental rights may be proved by the introduction of a

1 certified copy of the order of adjudication or the order of
2 disposition of dependency containing a finding of fact that
3 the parent was so advised.

4 ~~(8)(5)~~ Whenever the department has entered into a case
5 plan with a parent with the goal of reunification, and a
6 petition for termination of parental rights based on the same
7 facts as are covered in the case plan is filed prior to the
8 time agreed upon in the case plan for the performance of the
9 case plan, the petitioner must allege and prove by clear and
10 convincing evidence that the parent has materially breached
11 the provisions of the case plan.

12 Section 85. Section 39.803, Florida Statutes, is
13 created to read:

14 39.803 Identity or location of parent unknown after
15 filing of termination of parental rights petition; special
16 procedures.--

17 (1) If the identity or location of a parent is unknown
18 and a petition for termination of parental rights is filed,
19 the court shall conduct the following inquiry of the parent
20 who is available, or, if no parent is available, of any
21 relative, caregiver, or legal custodian of the child who is
22 present at the hearing and likely to have the information:

23 (a) Whether the mother of the child was married at the
24 probable time of conception of the child or at the time of
25 birth of the child.

26 (b) Whether the mother was cohabiting with a male at
27 the probable time of conception of the child.

28 (c) Whether the mother has received payments or
29 promises of support with respect to the child or because of
30 her pregnancy from a man who claims to be the father.

31

1 (d) Whether the mother has named any man as the father
2 on the birth certificate of the child or in connection with
3 applying for or receiving public assistance.

4 (e) Whether any man has acknowledged or claimed
5 paternity of the child in a jurisdiction in which the mother
6 resided at the time of or since conception of the child, or in
7 which the child has resided or resides.

8 (2) The information required in subsection (1) may be
9 supplied to the court or the department in the form of a sworn
10 affidavit by a person having personal knowledge of the facts.

11 (3) If the inquiry under subsection (1) identifies any
12 person as a parent or prospective parent, the court shall
13 require notice of the hearing to be provided to that person.

14 (4) If the inquiry under subsection (1) fails to
15 identify any person as a parent or prospective parent, the
16 court shall so find and may proceed without further notice.

17 (5) If the inquiry under subsection (1) identifies a
18 parent or prospective parent, and that person's location is
19 unknown, the court shall direct the department to conduct a
20 diligent search for that person before scheduling an
21 adjudicatory hearing regarding the dependency of the child
22 unless the court finds that the best interest of the child
23 requires proceeding without actual notice to the person whose
24 location is unknown.

25 (6) The diligent search required by subsection (5)
26 must include, at a minimum, inquiries of all known relatives
27 of the parent or prospective parent, inquiries of all offices
28 of program areas of the department likely to have information
29 about the parent or prospective parent, inquiries of other
30 state and federal agencies likely to have information about
31 the parent or prospective parent, inquiries of appropriate

1 utility and postal providers, and inquiries of appropriate law
2 enforcement agencies.

3 (7) Any agency contacted by petitioner with a request
4 for information pursuant to subsection (6) shall release the
5 requested information to the petitioner without the necessity
6 of a subpoena or court order.

7 (8) If the inquiry and diligent search identifies a
8 prospective parent, that person must be given the opportunity
9 to become a party to the proceedings by completing a sworn
10 affidavit of parenthood and filing it with the court or the
11 department. A prospective parent who files a sworn affidavit
12 of parenthood while the child is a dependent child but no
13 later than at the time of or prior to the adjudicatory hearing
14 in the termination of parental rights proceeding for the child
15 shall be considered a parent for all purposes under this
16 section.

17 Section 86. Section 39.4627, Florida Statutes, is
18 renumbered as section 39.804, Florida Statutes.

19 Section 87. Section 39.463, Florida Statutes, is
20 renumbered as section 39.805, Florida Statutes, and amended to
21 read:

22 39.805 ~~39.463~~ No answer required.--No answer to the
23 petition or any other pleading need be filed by any child,
24 parent, caregiver, or legal custodian, but any matters which
25 might be set forth in an answer or other pleading may be
26 pleaded orally before the court or filed in writing as any
27 such person may choose. Notwithstanding the filing of any
28 answer or any pleading, the child or parent shall, prior to
29 the adjudicatory hearing, be advised by the court of the right
30 to counsel and shall be given an opportunity to deny the
31 allegations in the petition for termination of parental rights

1 or to enter a plea to allegations in the petition before the
2 court.

3 Section 88. Section 39.464, Florida Statutes, as
4 amended by chapter 97-276, Laws of Florida, is renumbered as
5 section 39.806, Florida Statutes, and amended to read:

6 39.806 ~~39.464~~ Grounds for termination of parental
7 rights.--

8 (1) The department, the guardian ad litem, a licensed
9 child-placing agency, or any person who has knowledge of the
10 facts alleged or who is informed of said facts and believes
11 that they are true, may petition for the termination of
12 parental rights under any of the following circumstances:

13 (a) When the parent or parents voluntarily executed a
14 written surrender of the child and consented to the entry of
15 an order giving custody of the child to the department or to a
16 licensed child-placing agency for subsequent adoption and the
17 department or licensed child-placing agency is willing to
18 accept custody of the child.

19 1. The surrender document must be executed before two
20 witnesses and a notary public or other person authorized to
21 take acknowledgments.

22 2. The surrender and consent may be withdrawn after
23 acceptance by the department or licensed child-placing agency
24 only after a finding by the court that the surrender and
25 consent were obtained by fraud or duress.

26 (b) When the identity or location of the parent or
27 parents is unknown and, ~~if the court requires a diligent~~
28 ~~search pursuant to s. 39.4625,~~ cannot be ascertained by
29 diligent search ~~as provided in s. 39.4625~~ within 90 days.

30 (c) When the parent or parents engaged in conduct
31 toward the child or toward other children that demonstrates

1 that the continuing involvement of the parent or parents in
2 the parent-child relationship threatens the life, safety ~~or~~
3 well-being, or physical, mental, or emotional health of the
4 child irrespective of the provision of services. Provision of
5 services may be ~~is~~ evidenced by proof that services were
6 provided through a previous plan or offered as a case plan
7 from a child welfare agency.

8 (d) When the parent of a child is incarcerated in a
9 state or federal correctional institution and:

10 1. The period of time for which the parent is expected
11 to be incarcerated will constitute a substantial portion of
12 the period of time before the child will attain the age of 18
13 years;

14 2. The incarcerated parent has been determined by the
15 court to be a violent career criminal as defined in s.
16 775.084, a habitual violent felony offender as defined in s.
17 775.084, or a sexual predator as defined in s. 775.21; has
18 been convicted of first degree or second degree murder in
19 violation of s. 782.04 or a sexual battery that constitutes a
20 capital, life, or first degree felony violation of s. 794.011;
21 or has been convicted of an offense in another jurisdiction
22 which is substantially similar to one of the offenses listed
23 in this paragraph. As used in this section, the term
24 "substantially similar offense" means any offense that is
25 substantially similar in elements and penalties to one of
26 those listed in this paragraph, and that is in violation of a
27 law of any other jurisdiction, whether that of another state,
28 the District of Columbia, the United States or any possession
29 or territory thereof, or any foreign jurisdiction; and

30 3. The court determines by clear and convincing
31 evidence that continuing the parental relationship with the

1 incarcerated parent would be harmful to the child and, for
2 this reason, that termination of the parental rights of the
3 incarcerated parent is in the best interest of the child.

4 (e)~~(f)~~ A petition for termination of parental rights
5 may also be filed when a child has been adjudicated dependent,
6 a case plan has been filed with the court, and the child
7 continues to be abused, neglected, or abandoned by the
8 parents. In this case, the failure of the parents to
9 substantially comply for a period of 12 months after an
10 adjudication of the child as a dependent child constitutes
11 evidence of continuing abuse, neglect, or abandonment unless
12 the failure to substantially comply with the case plan was due
13 either to the lack of financial resources of the parents or to
14 the failure of the department to make reasonable efforts to
15 reunify the family. Such 12-month period may begin to run only
16 after the entry of a disposition order placing the custody of
17 the child with the department or a person other than the
18 parent and the approval by ~~subsequent filing with~~ the court of
19 a case plan with a goal of reunification with the parent.

20 (f)~~(e)~~ When the parent or parents engaged in egregious
21 conduct or had the opportunity and capability to prevent and
22 knowingly failed to prevent egregious conduct that threatens
23 the life, safety, or physical, mental, or emotional health
24 ~~that endangers the life, health, or safety~~ of the child or the
25 child's sibling ~~or had the opportunity and capability to~~
26 ~~prevent egregious conduct that threatened the life, health, or~~
27 ~~safety of the child or the child's sibling and knowingly~~
28 ~~failed to do so.~~

29 1. As used in this subsection, the term "sibling"
30 means another child who resides with or is cared for by the
31

1 parent or parents regardless of whether the child is related
2 legally or by consanguinity.

3 2. As used in this subsection, the term "egregious
4 conduct abuse" means abuse, abandonment, neglect, or any other
5 conduct of the parent or parents that is deplorable, flagrant,
6 or outrageous by a normal standard of conduct. Egregious
7 conduct abuse may include an act or omission that occurred
8 only once but was of such intensity, magnitude, or severity as
9 to endanger the life of the child.

10 (g) When the parent or parents have subjected the
11 child to aggravated child abuse as defined in s. 827.03,
12 sexual battery or sexual abuse as defined in s. 39.01, or
13 chronic abuse.

14 (h) When the parent or parents have committed murder
15 or voluntary manslaughter of another child of the parent, or a
16 felony assault that results in serious bodily injury to the
17 child or another child of the parent, or aided or abetted,
18 attempted, conspired, or solicited to commit such a murder or
19 voluntary manslaughter or felony assault.

20 (i) When the parental rights of the parent to a
21 sibling have been terminated involuntarily.

22 (2) Reasonable efforts to preserve and reunify
23 families shall not be required if a court of competent
24 jurisdiction has determined that any of the events described
25 in paragraphs (1)(e)-(i) have occurred.

26 ~~(3)~~(2) When a petition for termination of parental
27 rights is filed under subsection (1), a separate petition for
28 dependency need not be filed and the department need not offer
29 the parents a case plan with a goal of reunification, but may
30 instead file with the court a case plan with a goal of
31 termination of parental rights to allow continuation of

1 services until the termination is granted or until further
2 orders of the court are issued.

3 (4) When an expedited termination of parental rights
4 petition is filed, reasonable efforts shall be made to place
5 the child in a timely manner in accordance with the permanency
6 plan, and to complete whatever steps are necessary to finalize
7 the permanent placement of the child.

8 Section 89. Section 39.465, Florida Statutes, is
9 renumbered as section 39.807, Florida Statutes, and amended to
10 read:

11 39.807 ~~39.465~~ Right to counsel; guardian ad litem.--

12 (1)(a) At each stage of the proceeding under this
13 part, the court shall advise the parent, ~~guardian, or~~
14 ~~custodian~~ of the right to have counsel present. The court
15 shall appoint counsel for indigent ~~insolvent~~ persons. The
16 court shall ascertain whether the right to counsel is
17 understood and, where appropriate, is knowingly and
18 intelligently waived. The court shall enter its findings in
19 writing with respect to the appointment or waiver of counsel
20 for indigent ~~insolvent~~ parties.

21 (b) Once counsel has been retained or, in appropriate
22 circumstances, appointed to represent the parent of the child,
23 the attorney shall continue to represent the parent throughout
24 the proceedings or until the court has approved discontinuing
25 the attorney-client relationship. If the attorney-client
26 relationship is discontinued, the court shall advise the
27 parent of the right to have new counsel retained or appointed
28 for the remainder of the proceedings.

29 (c)(b)1. No waiver of counsel may be accepted if it
30 appears that the parent, ~~guardian, or custodian~~ is unable to
31 make an intelligent and understanding choice because of mental

1 condition, age, education, experience, the nature or
2 complexity of the case, or other factors.

3 2. A waiver of counsel made in court must be of
4 record. A waiver made out of court must be in writing with not
5 less than two attesting witnesses and must be filed with the
6 court. The witnesses shall attest to the voluntary execution
7 of the waiver.

8 3. If a waiver of counsel is accepted at any stage of
9 the proceedings, the offer of assistance of counsel must be
10 renewed by the court at each subsequent stage of the
11 proceedings at which the parent, ~~guardian, or custodian~~
12 appears without counsel.

13 (d)~~(c)~~ This subsection does not apply to any parent
14 who has voluntarily executed a written surrender of the child
15 and consent to the entry of a court order therefor and who
16 does not deny the allegations of the petition.

17 (2)(a) The court shall appoint a guardian ad litem to
18 represent the child in any termination of parental rights
19 proceedings and shall ascertain at each stage of the
20 proceedings whether a guardian ad litem has been appointed.

21 (b) The guardian ad litem has the following
22 responsibilities:

23 1. To investigate the allegations of the petition and
24 any subsequent matters arising in the case and, unless excused
25 by the court, to file a written report. This report must
26 include a statement of the wishes of the child and the
27 recommendations of the guardian ad litem and must be provided
28 to all parties and the court at least 48 hours before the
29 disposition hearing.

30 2. To be present at all court hearings unless excused
31 by the court.

1 3. To represent the interests of the child until the
2 jurisdiction of the court over the child terminates or until
3 excused by the court.

4 ~~4. To perform such other duties and undertake such
5 other responsibilities as the court may direct.~~

6 (c) A guardian ad litem is not required to post bond
7 but shall file an acceptance of the office.

8 (d) A guardian ad litem is entitled to receive service
9 of pleadings and papers as provided by the Florida Rules of
10 Juvenile Procedure.

11 (e) This subsection does not apply to any voluntary
12 relinquishment of parental rights proceeding.

13 Section 90. Section 39.466, Florida Statutes, is
14 renumbered as section 39.808, Florida Statutes, and amended to
15 read:

16 39.808 ~~39.466~~ Advisory hearing; pretrial status
17 conference.--

18 (1) An advisory hearing on the petition to terminate
19 parental rights must be held as soon as possible after all
20 parties have been served with a copy of the petition and a
21 notice of the date, time, and place of the advisory hearing
22 for the petition.

23 (2) At the hearing the court shall inform the parties
24 of their rights under s. 39.807 ~~39.465~~, shall appoint counsel
25 for the parties in accordance with legal requirements, and
26 shall appoint a guardian ad litem to represent the interests
27 of the child if one has not already been appointed.

28 (3) The court shall set a date for an adjudicatory
29 hearing to be held within 45 days after the advisory hearing,
30 unless all of the necessary parties agree to some other
31 hearing date.

1 (4) An advisory hearing may not be held if a petition
2 is filed seeking an adjudication voluntarily to terminate
3 parental rights. Adjudicatory hearings for petitions for
4 voluntary termination must be held within 21 days after the
5 filing of the petition. Notice of the use of this subsection
6 must be filed with the court at the same time as the filing of
7 the petition to terminate parental rights.

8 (5) Not less than 10 days before the adjudicatory
9 hearing, the court shall conduct a prehearing status
10 conference to determine the order in which each party may
11 present witnesses or evidence, the order in which
12 cross-examination and argument shall occur, and any other
13 matters that may aid in the conduct of the adjudicatory
14 hearing to prevent any undue delay in the conduct of the
15 adjudicatory hearing.

16 Section 91. Section 39.467, Florida Statutes, is
17 renumbered as section 39.809, Florida Statutes, and
18 subsections (1) and (4) of said section are amended to read:

19 39.809 ~~39.467~~ Adjudicatory hearing.--

20 (1) In a hearing on a petition for termination of
21 parental rights, the court shall consider the elements
22 required for termination ~~as set forth in s. 39.4611~~. Each of
23 these elements must be established by clear and convincing
24 evidence before the petition is granted.

25 (4) All hearings involving termination of parental
26 rights are confidential and closed to the public. Hearings
27 involving more than one child may be held simultaneously when
28 the children involved are related to each other or were
29 involved in the same case. The child and the parents ~~or legal~~
30 ~~custodians~~ may be examined separately and apart from each
31 other.

1 Section 92. Section 39.4612, Florida Statutes, is
2 renumbered as section 39.810, Florida Statutes, and subsection
3 (3) of said section is amended to read:

4 39.810 ~~39.4612~~ Manifest best interests of the
5 child.--In a hearing on a petition for termination of parental
6 rights, the court shall consider the manifest best interests
7 of the child. This consideration shall not include a
8 comparison between the attributes of the parents and those of
9 any persons providing a present or potential placement for the
10 child. For the purpose of determining the manifest best
11 interests of the child, the court shall consider and evaluate
12 all relevant factors, including, but not limited to:

13 (3) The capacity of the parent or parents to care for
14 the child to the extent that the child's safety, well-being,
15 and physical, mental, and emotional health ~~and well-being~~ will
16 not be endangered upon the child's return home.

17 Section 93. Section 39.469, Florida Statutes, is
18 renumbered as section 39.811, Florida Statutes, and amended to
19 read:

20 39.811 ~~39.469~~ Powers of disposition; order of
21 disposition.--

22 (1) If the court finds that the grounds for
23 termination of parental rights have not been established by
24 clear and convincing evidence, the court shall:

25 (a) If grounds for dependency have been established,
26 adjudicate or readjudicate the child dependent and:

27 1. Enter an order placing or continuing the child in
28 out-of-home ~~foster~~ care under a case plan; or

29 2. Enter an order returning the child to the parent or
30 parents. The court shall retain jurisdiction over a child
31 returned to the parent or parents ~~or legal guardians~~ for a

1 period of 6 months, but, at that time, based on a report of
2 the social service agency and any other relevant factors, the
3 court shall make a determination as to whether its
4 jurisdiction shall continue or be terminated.

5 (b) If grounds for dependency have not been
6 established, dismiss the petition.

7 (2) If the child is in out-of-home ~~foster~~ care custody
8 of the department and the court finds that the grounds for
9 termination of parental rights have been established by clear
10 and convincing evidence, the court shall, by order, place the
11 child in the custody of the department for the purpose of
12 adoption or place the child in the custody of a licensed
13 child-placing agency for the purpose of adoption.

14 (3) If the child is in the custody of one parent and
15 the court finds that the grounds for termination of parental
16 rights have been established for the remaining parent by clear
17 and convincing evidence, the court shall enter an order
18 terminating the rights of the parent for whom the grounds have
19 been established and placing the child in the custody of the
20 remaining parent, granting that parent sole parental
21 responsibility for the child.

22 (4) If the child is neither in the custody of the
23 department ~~of Children and Family Services~~ nor in the custody
24 of a parent and the court finds that the grounds for
25 termination of parental rights have been established for
26 either or both parents, the court shall enter an order
27 terminating parental rights for the parent or parents for whom
28 the grounds for termination have been established and placing
29 the child with an appropriate custodian. If the parental
30 rights of both parents have been terminated, or if the
31 parental rights of only one parent have been terminated and

1 the court makes specific findings based on evidence presented
2 that placement with the remaining parent is likely to be
3 harmful to the child, the court may order that the child be
4 placed with a custodian other than the department after
5 hearing evidence of the suitability of such intended
6 placement. Suitability of the intended placement includes the
7 fitness and capabilities of the proposed ~~intended placement,~~
8 ~~with primary consideration being given to the welfare of the~~
9 ~~child; the fitness and capabilities of the proposed~~ custodian
10 to function as the primary caregiver ~~caretaker~~ for a
11 particular child; and the compatibility of the child with the
12 home in which the child is intended to be placed. If the
13 court orders that a child be placed with a custodian under
14 this subsection, the court shall appoint such custodian as the
15 guardian for the child as provided in s. 744.3021. The court
16 may modify the order placing the child in the custody of the
17 custodian and revoke the guardianship established under s.
18 744.3021 if the court subsequently finds that a party to the
19 proceeding other than a parent whose rights have been
20 terminated has shown a material change in circumstances which
21 causes the placement to be no longer in the best interest of
22 the child.

23 (5) If the court terminates parental rights, the court
24 shall enter a written order of disposition briefly stating the
25 facts upon which its decision to terminate the parental rights
26 is made. An order of termination of parental rights, whether
27 based on parental consent or after notice served as prescribed
28 in this part, permanently deprives the parents ~~or legal~~
29 ~~guardian~~ of any right to the child.

30
31

1 (6) The parental rights of one parent may be severed
2 without severing the parental rights of the other parent only
3 under the following circumstances:

4 (a) If the child has only one surviving parent;

5 (b) If the identity of a prospective parent has been
6 established as unknown after sworn testimony;

7 (c) If the parent whose rights are being terminated
8 became a parent through a single-parent adoption;

9 (d) If the protection of the child demands termination
10 of the rights of a single parent; or

11 (e) If the parent whose rights are being terminated
12 meets the criteria specified in s. 39.806(1)(d)~~39.464(1)(d)~~.

13 (7)(a) The termination of parental rights does not
14 affect the rights of grandparents unless the court finds that
15 continued visitation is not in the best interests of the child
16 or that such visitation would interfere with the goals of
17 permanency planning for the child.

18 (b) If the court terminates parental rights, it may
19 order that the parents or relatives of the parent whose rights
20 are terminated be allowed to maintain some contact with the
21 child pending adoption if the best interests of the child
22 support this continued contact, except as provided in
23 paragraph (a). If the court orders such continued contact, the
24 nature and frequency of the contact must be set forth in
25 written order and may be reviewed upon motion of any party,
26 including a prospective adoptive parent if a child has been
27 placed for adoption. If a child is placed for adoption, the
28 nature and frequency of the contact must be reviewed by the
29 court at the time the child is adopted.

30 (8) If the court terminates parental rights, it shall,
31 in its order of disposition, provide for a hearing, to be

1 scheduled no later than 30 days after the date of disposition,
2 in which the department or the licensed child-placing agency
3 shall provide to the court a plan for permanency for the
4 child. Reasonable efforts must be made to place the child in a
5 timely manner in accordance with the permanency plan, and to
6 complete whatever steps are necessary to finalize the
7 permanent placement of the child. Thereafter, until the
8 adoption of the child is finalized or the child reaches the
9 age of 18 years, whichever occurs first, the court shall hold
10 hearings at 6-month intervals to review the progress being
11 made toward permanency for the child.

12 (9) After termination of parental rights, the court
13 shall retain jurisdiction over any child for whom custody is
14 given to a social service agency until the child is adopted.
15 The court shall review the status of the child's placement and
16 the progress being made toward permanent adoptive placement.
17 As part of this continuing jurisdiction, for good cause shown
18 by the guardian ad litem for the child, the court may review
19 the appropriateness of the adoptive placement of the child.

20 Section 94. Section 39.47, Florida Statutes, is
21 renumbered as section 39.812, Florida Statutes, and amended to
22 read:

23 39.812 ~~39.47~~ Post disposition relief.--

24 (1) A licensed child-placing agency or the department
25 which is given custody of a child for subsequent adoption in
26 accordance with this chapter may place the child in a family
27 home for prospective subsequent adoption and the licensed
28 child-placing agency or the department may thereafter become a
29 party to any proceeding for the legal adoption of the child
30 and appear in any court where the adoption proceeding is
31

1 pending and consent to the adoption; and that consent alone
2 shall in all cases be sufficient.

3 (2) In any subsequent adoption proceeding, the parents
4 ~~and legal guardian~~ shall not be entitled to any notice
5 thereof, nor shall they be entitled to knowledge at any time
6 after the order terminating parental rights is entered of the
7 whereabouts of the child or of the identity or location of any
8 person having the custody of or having adopted the child,
9 except as provided by order of the court pursuant to this
10 chapter or chapter 63; and in any habeas corpus or other
11 proceeding involving the child brought by any parent ~~or legal~~
12 ~~guardian~~ of the child, no agent or contract provider of the
13 licensed child-placing agency or department shall be compelled
14 to divulge that information, but may be compelled to produce
15 the child before a court of competent jurisdiction if the
16 child is still subject to the guardianship of the licensed
17 child-placing agency or department.

18 (3) The entry of the custody order to the department
19 or licensed child-placing agency shall not entitle the
20 licensed child-placing agency or department to guardianship of
21 the estate or property of the child, but the licensed
22 child-placing agency or department shall be the guardian of
23 the person of the child.

24 (4) The court shall retain jurisdiction over any child
25 for whom custody is given to a licensed child-placing agency
26 or to the department until the child is adopted. After custody
27 of a child for subsequent adoption has been given to an agency
28 or the department, the court has jurisdiction for the purpose
29 of reviewing the status of the child and the progress being
30 made toward permanent adoptive placement. As part of this
31 continuing jurisdiction, for good cause shown by the guardian

1 ad litem for the child, the court may review the
2 appropriateness of the adoptive placement of the child.

3 ~~(5) The Legislature finds that children are most~~
4 ~~likely to realize their potential when they have the ability~~
5 ~~provided by good permanent families rather than spending long~~
6 ~~periods of time in temporary placements or unnecessary~~
7 ~~institutions. It is the intent of the Legislature that~~
8 ~~decisions be consistent with the child's best interests and~~
9 ~~that the department make proper adoptive placements as~~
10 ~~expeditiously as possible following a final judgment~~
11 ~~terminating parental rights.~~

12 Section 95. Section 39.813, Florida Statutes, is
13 created to read:

14 39.813 Continuing jurisdiction.--The court which
15 terminates the parental rights of a child who is the subject
16 of termination proceedings pursuant to this chapter shall
17 retain exclusive jurisdiction in all matters pertaining to the
18 child's adoption pursuant to chapter 63.

19 Section 96. Section 39.471, Florida Statutes, is
20 renumbered as section 39.814, Florida Statutes.

21 Section 97. Section 39.473, Florida Statutes, is
22 renumbered as section 39.815, Florida Statutes, and subsection
23 (1) of said section is amended to read:

24 39.815 ~~39.473~~ Appeal.--

25 (1) Any child, any parent ~~or~~ guardian ad litem, ~~or~~
26 ~~legal custodian~~ of any child, any other party to the
27 proceeding who is affected by an order of the court, or the
28 department may appeal to the appropriate district court of
29 appeal within the time and in the manner prescribed by the
30 Florida Rules of Appellate Procedure. The district court of
31 appeal shall give an appeal from an order terminating parental

1 rights priority in docketing and shall render a decision on
2 the appeal as expeditiously as possible. Appointed counsel
3 shall be compensated as provided in s. 39.0134 ~~39.474~~.

4 Section 98. Section 39.816, Florida Statutes, is
5 created to read:

6 39.816 Authorization for pilot and demonstration
7 projects.--

8 (1) Contingent upon receipt of a federal grant or
9 contract pursuant to s. 473A(i) of the Social Security Act, 42
10 U.S.C. 673A(i), enacted November 19, 1997, the department is
11 authorized to establish one or more pilot projects for the
12 following purposes:

13 (a) The development of best practice guidelines for
14 expediting termination of parental rights.

15 (b) The development of models to encourage the use of
16 concurrent planning.

17 (c) The development of specialized units and expertise
18 in moving children toward adoption as a permanency goal.

19 (d) The development of risk-assessment tools to
20 facilitate early identification of the children who will be at
21 risk of harm if returned home.

22 (e) The development of models to encourage the
23 fast-tracking of children who have not attained 1 year of age,
24 into preadoptive placements.

25 (f) The development of programs that place children
26 into preadoptive families without waiting for termination of
27 parental rights.

28 (2) Contingent upon receipt of federal authorization
29 and funding pursuant to s. 1130(a) of the Social Security Act,
30 42 U.S.C. 1320a-9, enacted November 19, 1997, the department
31

1 is authorized to establish one or more demonstration projects
2 for the following purposes:

3 (a) Identifying and addressing barriers that result in
4 delays to adoptive placements for children in out-of-home
5 care.

6 (b) Identifying and addressing parental substance
7 abuse problems that endanger children and result in the
8 placement of children in out-of-home care. This purpose may be
9 accomplished through the placement of children with their
10 parents in residential treatment facilities, including
11 residential treatment facilities for post-partum depression,
12 that are specifically designed to serve parents and children
13 together, in order to promote family reunification, and that
14 can ensure the health and safety of the children.

15 (c) Addressing kinship care.

16 Section 99. Section 39.817, Florida Statutes, is
17 created to read:

18 39.817 Foster care privatization demonstration pilot
19 project.--A pilot project shall be established through The
20 Ounce of Prevention Fund of Florida to contract with a private
21 entity for a foster care privatization demonstration project.
22 No more than 30 children with a goal of family reunification
23 shall be accepted into the program on a no-eject-or-reject
24 basis as identified by the department. Sibling groups shall be
25 kept together in one placement in their own communities.
26 Foster care parents shall be paid employees of the program.
27 The program shall provide for public/private partnerships,
28 community collaboration, counseling, and medical and legal
29 assistance, as needed. For purposes of identifying measurable
30 outcomes, the pilot project shall be located in a department
31 district with an integrated district management which was

1 selected as a family transition program site, has a population
2 of less than 500,000, has a total caseload of no more than
3 400, with and without board payment, and has a total foster
4 care case load of no more than 250.

5 Section 100. Part X of chapter 39, Florida Statutes,
6 consisting of sections 39.820, 39.821, 39.822, 39.823, 39.824,
7 39.825, 39.826, 39.827, 39.828, 39.829, and 39.8295, Florida
8 Statutes, shall be entitled to read:

9 PART X

10 GUARDIANS AD LITEM AND GUARDIAN ADVOCATES

11 Section 101. Section 39.820, Florida Statutes, is
12 created to read:

13 39.820 Definitions.--As used in this part, the term:

14 (1) "Guardian ad litem" as referred to in any civil or
15 criminal proceeding includes the following: a certified
16 guardian ad litem program, a duly certified volunteer, a staff
17 attorney, contract attorney, or certified pro bono attorney
18 working on behalf of a guardian ad litem or the program; staff
19 members of a program office; a court-appointed attorney; or a
20 responsible adult who is appointed by the court to represent
21 the best interests of a child in a proceeding as provided for
22 by law, including, but not limited to, this chapter, who is a
23 party to any judicial proceeding as a representative of the
24 child, and who serves until discharged by the court.

25 (2) "Guardian advocate" means a person appointed by
26 the court to act on behalf of a drug dependent newborn
27 pursuant to the provisions of this part.

28 Section 102. Section 415.5077, Florida Statutes, is
29 renumbered as section 39.821, Florida Statutes.

30
31

1 Section 103. Section 415.508, Florida Statutes, is
2 renumbered as section 39.822, Florida Statutes, and amended to
3 read:

4 39.822 ~~415.508~~ Appointment of guardian ad litem for
5 abused, abandoned, or neglected child.--

6 (1) A guardian ad litem shall be appointed by the
7 court at the earliest possible time to represent the child in
8 any child abuse, abandonment, or neglect judicial proceeding,
9 whether civil or criminal. Any person participating in a
10 civil or criminal judicial proceeding resulting from such
11 appointment shall be presumed prima facie to be acting in good
12 faith and in so doing shall be immune from any liability,
13 civil or criminal, that otherwise might be incurred or
14 imposed.

15 (2) In those cases in which the parents are
16 financially able, the parent or parents of the child shall
17 reimburse the court, in part or in whole, for the cost of
18 provision of guardian ad litem services. Reimbursement to the
19 individual providing guardian ad litem services shall not be
20 contingent upon successful collection by the court from the
21 parent or parents.

22 (3) The guardian ad litem or the program
23 representative shall review all disposition recommendations
24 and changes in placements, and must be present at all critical
25 stages of the dependency proceeding or submit a written report
26 of recommendations to the court.

27 Section 104. Section 415.5082, Florida Statutes, is
28 renumbered as section 39.823, Florida Statutes, and amended to
29 read:

30 39.823 ~~415.5082~~ Guardian advocates for drug dependent
31 newborns.--The Legislature finds that increasing numbers of

1 drug dependent children are born in this state. Because of
2 the parents' continued dependence upon drugs, the parents may
3 temporarily leave their child with a relative or other adult
4 or may have agreed to voluntary family services under s.
5 39.301(8)~~415.505(1)(e)~~. The relative or other adult may be
6 left with a child who is likely to require medical treatment
7 but for whom they are unable to obtain medical treatment. The
8 purpose of this section is to provide an expeditious method
9 for such relatives or other responsible adults to obtain a
10 court order which allows them to provide consent for medical
11 treatment and otherwise advocate for the needs of the child
12 and to provide court review of such authorization.

13 Section 105. Section 415.5083, Florida Statutes, is
14 renumbered as section 39.824, Florida Statutes, and amended to
15 read:

16 39.824 ~~415.5083~~ Procedures and jurisdiction.--

17 (1) The Supreme Court is requested to adopt rules of
18 juvenile procedure by October 1, 1989, to implement this part
19 ~~ss. 415.5082-415.5089~~. All procedures, including petitions,
20 pleadings, subpoenas, summonses, and hearings in cases for the
21 appointment of a guardian advocate shall be according to the
22 Florida Rules of Juvenile Procedure unless otherwise provided
23 by law.

24 (2) The circuit court shall have exclusive original
25 jurisdiction of a proceeding in which appointment of a
26 guardian advocate is sought. The court shall retain
27 jurisdiction over a child for whom a guardian advocate is
28 appointed until specifically relinquished by court order.

29 Section 106. Section 415.5084, Florida Statutes, is
30 renumbered as section 39.825, Florida Statutes.

31

1 Section 107. Section 415.5085, Florida Statutes, is
2 renumbered as section 39.826, Florida Statutes.

3 Section 108. Section 415.5086, Florida Statutes, is
4 renumbered as section 39.827, Florida Statutes, and amended to
5 read:

6 39.827 ~~415.5086~~ Hearing for appointment of a guardian
7 advocate.--

8 (1) When a petition for appointment of a guardian
9 advocate has been filed with the circuit court, the hearing
10 shall be held within 14 days unless all parties agree to a
11 continuance. If a child is in need of necessary medical
12 treatment as defined in s. 39.01, the court shall hold a
13 hearing within 24 hours.

14 (2) At the hearing, the parents have the right to be
15 present, to present testimony, to call and cross-examine
16 witnesses, to be represented by counsel at their own expense,
17 and to object to the appointment of the guardian advocate.

18 (3) The hearing shall be conducted by the judge
19 without a jury, applying the rules of evidence in use in civil
20 cases. In a hearing on a petition for appointment of a
21 guardian advocate, the moving party shall prove all the
22 elements in s. 39.828 ~~415.5087~~ by a preponderance of the
23 evidence.

24 (4) The hearing under this section shall remain
25 confidential and closed to the public. The clerk shall keep
26 all court records required by this part ~~ss. 415.5082-415.5089~~
27 separate from other records of the circuit court. All court
28 records required by this part ~~ss. 415.5082-415.5089~~ shall be
29 confidential and exempt from the provisions of s. 119.07(1).
30 All records shall be inspected only upon order of the court by
31 persons deemed by the court to have a proper interest therein,

1 except that a child and the parents or custodians of the child
2 and their attorneys and the department and its designees shall
3 always have the right to inspect and copy any official record
4 pertaining to the child. The court may permit authorized
5 representatives of recognized organizations compiling
6 statistics for proper purposes to inspect and make abstracts
7 from official records, under whatever conditions upon their
8 use and disposition the court may deem proper, and may punish
9 by contempt proceedings any violation of those conditions.

10 All information obtained pursuant to this part ~~ss.~~
11 ~~415.5082-415.5089~~ in the discharge of official duty by any
12 judge, employee of the court, or authorized agent of the
13 department, shall be confidential and exempt from the
14 provisions of s. 119.07(1) and shall not be disclosed to
15 anyone other than the authorized personnel of the court or the
16 department and its designees, except upon order of the court.

17 Section 109. Section 415.5087, Florida Statutes, is
18 renumbered as section 39.828, Florida Statutes, and amended to
19 read:

20 39.828 ~~415.5087~~ Grounds for appointment of a guardian
21 advocate.--

22 (1) The court shall appoint the person named in the
23 petition as a guardian advocate with all the powers and duties
24 specified in s. 39.829 ~~415.5088~~ for an initial term of 1 year
25 upon a finding that:

26 (a) The child named in the petition is or was a drug
27 dependent newborn as described in s. 39.01(30)(g).
28 ~~415.503(10)(a)2.~~;

29 (b) The parent or parents of the child have
30 voluntarily relinquished temporary custody of the child to a
31 relative or other responsible adult;

1 (c) The person named in the petition to be appointed
2 the guardian advocate is capable of carrying out the duties as
3 provided in s. 39.829 ~~415.5088~~; and

4 (d) A petition to adjudicate the child dependent
5 pursuant to this chapter ~~39~~ has not been filed.

6 (2) The appointment of a guardian advocate does not
7 remove from the parents the right to consent to medical
8 treatment for their child. The appointment of a guardian
9 advocate does not prevent the filing of a subsequent petition
10 under this chapter ~~39~~ to have the child adjudicated dependent.

11 Section 110. Section 415.5088, Florida Statutes, is
12 renumbered as section 39.829, Florida Statutes.

13 Section 111. Section 415.5089, Florida Statutes, is
14 renumbered as section 39.8295, Florida Statutes, and amended
15 to read:

16 39.8295 ~~415.5089~~ Review and removal of guardian
17 advocate.--

18 (1) At the end of the initial 1-year appointment, the
19 court shall review the status of the child's care, health, and
20 medical condition for the purpose of determining whether to
21 reauthorize the appointment of the guardian advocate. If the
22 court finds that all of the elements of s. 39.828 ~~415.5087~~ are
23 still met the court shall reauthorize the guardian advocate
24 for another year.

25 (2) At any time, the court may, upon its own motion,
26 or upon the motion of the department, a family member, or
27 other interested person remove a guardian advocate. A
28 guardian advocate shall be removed if the court finds that the
29 guardian advocate is not properly discharging his or her
30 responsibilities or is acting in a manner inconsistent with
31 his or her appointment, that the parents have assumed parental

1 responsibility to provide for the child, or that the child has
2 been adjudicated dependent pursuant to this chapter ~~39~~.

3 Section 112. Part XI of chapter 39, Florida Statutes,
4 consisting of sections 39.901, 39.902, 39.903, 39.904, 39.905,
5 39.906, and 39.908, Florida Statutes, shall be entitled to
6 read:

7 PART XI

8 DOMESTIC VIOLENCE

9 Section 113. Section 415.601, Florida Statutes, is
10 renumbered as section 39.901, Florida Statutes.

11 Section 114. Section 415.602, Florida Statutes, is
12 renumbered as section 39.902, Florida Statutes, and amended to
13 read:

14 39.902 ~~415.602~~ Definitions of terms used in ~~ss.~~
15 ~~415.601-415.608.~~--As used in this part ~~ss. 415.601-415.608,~~
16 the term:

17 ~~(1) "Department" means the Department of Children and~~
18 ~~Family Services.~~

19 ~~(2) "District" means a service district of the~~
20 ~~department as created in s. 20.19.~~

21 (1)~~(3)~~ "Domestic violence" means any assault, battery,
22 sexual assault, sexual battery, or any criminal offense
23 resulting in physical injury or death of one family or
24 household member by another who is or was residing in the same
25 single dwelling unit.

26 (2)~~(4)~~ "Domestic violence center" means an agency that
27 provides services to victims of domestic violence, as its
28 primary mission.

29 (3)~~(5)~~ "Family or household member" means spouses,
30 former spouses, adults related by blood or marriage, persons
31 who are presently residing together as if a family or who have

1 resided together in the past as if a family, and persons who
2 have a child in common regardless of whether they have been
3 married or have resided together at any time.

4 Section 115. Section 415.603, Florida Statutes, is
5 renumbered as section 39.903, Florida Statutes, and subsection
6 (1) of said section is amended to read:

7 39.903 ~~415.603~~ Duties and functions of the department
8 with respect to domestic violence.--

9 (1) The department shall:

10 (a) Develop by rule criteria for the approval or
11 rejection of certification or funding of domestic violence
12 centers.

13 (b) Develop by rule minimum standards for domestic
14 violence centers to ensure the health and safety of the
15 clients in the centers.

16 (c) Receive and approve or reject applications for
17 certification of domestic violence centers, and receive and
18 approve or reject applications for funding of domestic
19 violence centers. When approving funding for a newly certified
20 domestic violence center, the department shall make every
21 effort to minimize any adverse economic impact on existing
22 certified centers or services provided within the same
23 district. In order to minimize duplication of services, the
24 department shall make every effort to encourage subcontracting
25 relationships with existing centers within the district. If
26 any of the required services are exempted by the department
27 under s. 39.905(1)(c)~~415.605(1)(c)~~, the center shall not
28 receive funding for those services.

29 (d) Evaluate each certified domestic violence center
30 annually to ensure compliance with the minimum standards. The
31 department has the right to enter and inspect the premises of

1 certified domestic violence centers at any reasonable hour in
2 order to effectively evaluate the state of compliance of these
3 centers with this part ~~ss. 415.601-415.608~~ and rules relating
4 to this part ~~those sections~~.

5 (e) Adopt rules to implement this part ~~ss.~~
6 ~~415.601-415.608~~.

7 (f) Promote the involvement of certified domestic
8 violence centers in the coordination, development, and
9 planning of domestic violence programming in the districts and
10 the state.

11 Section 116. Section 415.604, Florida Statutes, is
12 renumbered as section 39.904, Florida Statutes, and amended to
13 read:

14 39.904 ~~415.604~~ Report to the Legislature on the status
15 of domestic violence cases.--On or before January 1 of each
16 year, the department of ~~Children and Family Services~~ shall
17 furnish to the President of the Senate and the Speaker of the
18 House of Representatives a report on the status of domestic
19 violence in this state, which report shall include, but is not
20 limited to, the following:

21 (1) The incidence of domestic violence in this state.

22 (2) An identification of the areas of the state where
23 domestic violence is of significant proportions, indicating
24 the number of cases of domestic violence officially reported,
25 as well as an assessment of the degree of unreported cases of
26 domestic violence.

27 (3) An identification and description of the types of
28 programs in the state that assist victims of domestic violence
29 or persons who commit domestic violence, including information
30 on funding for the programs.

31

1 (4) The number of persons who are treated by or
2 assisted by local domestic violence programs that receive
3 funding through the department.

4 (5) A statement on the effectiveness of such programs
5 in preventing future domestic violence.

6 (6) An inventory and evaluation of existing prevention
7 programs.

8 (7) A listing of potential prevention efforts
9 identified by the department; the estimated annual cost of
10 providing such prevention services, both for a single client
11 and for the anticipated target population as a whole; an
12 identification of potential sources of funding; and the
13 projected benefits of providing such services.

14 Section 117. Section 415.605, Florida Statutes, is
15 renumbered as section 39.905, Florida Statutes, and
16 subsections (1) and (2) and paragraph (a) of subsection (6) of
17 said section are amended, to read:

18 39.905 ~~415.605~~ Domestic violence centers.--

19 (1) Domestic violence centers certified under this
20 part ~~ss. 415.601-415.608~~ must:

21 (a) Provide a facility which will serve as a center to
22 receive and house persons who are victims of domestic
23 violence. For the purpose of this part ~~ss. 415.601-415.608~~,
24 minor children and other dependents of a victim, when such
25 dependents are partly or wholly dependent on the victim for
26 support or services, may be sheltered with the victim in a
27 domestic violence center.

28 (b) Receive the annual written endorsement of local
29 law enforcement agencies.

30 (c) Provide minimum services which include, but are
31 not limited to, information and referral services, counseling

1 and case management services, temporary emergency shelter for
2 more than 24 hours, a 24-hour hotline, training for law
3 enforcement personnel, assessment and appropriate referral of
4 resident children, and educational services for community
5 awareness relative to the incidence of domestic violence, the
6 prevention of such violence, and the care, treatment, and
7 rehabilitation for persons engaged in or subject to domestic
8 violence. If a 24-hour hotline, professional training, or
9 community education is already provided by a certified
10 domestic violence center within a district, the department may
11 exempt such certification requirements for a new center
12 serving the same district in order to avoid duplication of
13 services.

14 (d) Participate in the provision of orientation and
15 training programs developed for law enforcement officers,
16 social workers, and other professionals and paraprofessionals
17 who work with domestic violence victims to better enable such
18 persons to deal effectively with incidents of domestic
19 violence.

20 (e) Establish and maintain a board of directors
21 composed of at least three citizens, one of whom must be a
22 member of a local, municipal, or county law enforcement
23 agency.

24 (f) Comply with rules adopted pursuant to this part
25 ~~ss. 415.601-415.608~~.

26 (g) File with the department a list of the names of
27 the domestic violence advocates who are employed or who
28 volunteer at the domestic violence center who may claim a
29 privilege under s. 90.5036 to refuse to disclose a
30 confidential communication between a victim of domestic
31 violence and the advocate regarding the domestic violence

1 inflicted upon the victim. The list must include the title of
2 the position held by the advocate whose name is listed and a
3 description of the duties of that position. A domestic
4 violence center must file amendments to this list as
5 necessary.

6 (h) Demonstrate local need and ability to sustain
7 operations through a history of 18 consecutive months'
8 operation as a domestic violence center, including 12 months'
9 operation of an emergency shelter as provided in paragraph (c)
10 ~~defined in paragraph (1)(a)~~, and a business plan which
11 addresses future operations and funding of future operations.

12 (i) If its center is a new center applying for
13 certification, demonstrate that the services provided address
14 a need identified in the most current statewide needs
15 assessment approved by the department.

16 (2) If the department finds that there is failure by a
17 center to comply with the requirements established under this
18 part ss. 415.601-415.608 or with the rules adopted pursuant
19 thereto, the department may deny, suspend, or revoke the
20 certification of the center.

21 (6) In order to receive state funds, a center must:

22 (a) Obtain certification pursuant to this part ss.
23 ~~415.601-415.608~~. However, the issuance of a certificate will
24 not obligate the department to provide funding.

25 Section 118. Section 415.606, Florida Statutes, is
26 renumbered as section 39.906, Florida Statutes.

27 Section 119. Section 415.608, Florida Statutes, is
28 renumbered as section 39.908, Florida Statutes.

29 Section 120. Subsections (4) through (20) of section
30 20.19, Florida Statutes, are renumbered as subsections (5)
31 through (21), respectively, paragraph (b) of present

1 subsection (4), paragraph (o) of present subsection (7), and
2 paragraph (c) of present subsection (20) are amended, and a
3 new subsection (4) is added to said section, to read:

4 20.19 Department of Children and Family
5 Services.--There is created a Department of Children and
6 Family Services.

7 (4) CERTIFICATION PROGRAMS FOR DEPARTMENT EMPLOYEES.--
8 The department is authorized to create certification programs
9 for family safety and preservation employees and agents to
10 ensure that only qualified employees and agents provide child
11 protection services. The department is authorized to develop
12 rules that include qualifications for certification, including
13 training and testing requirements, continuing education
14 requirements for ongoing certification, and decertification
15 procedures to be used to determine when an individual no
16 longer meets the qualifications for certification and to
17 implement the decertification of an employee or agent.

18 ~~(5)~~~~(4)~~ PROGRAM OFFICES.--

19 (b) The following program offices are established and
20 may be consolidated, restructured, or rearranged by the
21 secretary; provided any such consolidation, restructuring, or
22 rearranging is for the purpose of encouraging service
23 integration through more effective and efficient performance
24 of the program offices or parts thereof:

25 1. Economic Self-Sufficiency Program Office.--The
26 responsibilities of this office encompass income support
27 programs within the department, such as temporary assistance
28 to families with dependent children, food stamps, welfare
29 reform, and state supplementation of the supplemental security
30 income (SSI) program.

31

1 2. Developmental Services Program Office.--The
2 responsibilities of this office encompass programs operated by
3 the department for developmentally disabled persons.
4 Developmental disabilities include any disability defined in
5 s. 393.063.

6 3. Children and Families Program Office.--The
7 responsibilities of this program office encompass early
8 intervention services for children and families at risk;
9 intake services for protective investigation of abandoned,
10 abused, and neglected children; interstate compact on the
11 placement of children programs; adoption; child care;
12 out-of-home care programs and other specialized services to
13 families; and child protection and sexual abuse treatment
14 teams created under chapter 39 ~~415~~, excluding medical
15 direction functions.

16 4. Alcohol, Drug Abuse, and Mental Health Program
17 Office.--The responsibilities of this office encompass all
18 alcohol, drug abuse, and mental health programs operated by
19 the department.

20 (7) HEALTH AND HUMAN SERVICES BOARDS.--

21 (o) Health and human services boards have the
22 following responsibilities, with respect to those programs and
23 services assigned to the districts, as developed jointly with
24 the district administrator:

25 1. Establish district outcome measures consistent with
26 statewide outcomes.

27 2. Conduct district needs assessments using
28 methodologies consistent with those established by the
29 secretary.

30 3. Negotiate with the secretary a district performance
31 agreement that:

- 1 a. Identifies current resources and services
2 available;
- 3 b. Identifies unmet needs and gaps in services;
- 4 c. Establishes service and funding priorities;
- 5 d. Establishes outcome measures for the district; and
- 6 e. Identifies expenditures and the number of clients
7 to be served, by service.
- 8 4. Provide budget oversight, including development and
9 approval of the district's legislative budget request.
- 10 5. Provide policy oversight, including development and
11 approval of district policies and procedures.
- 12 6. Act as a focal point for community participation in
13 department activities such as:
- 14 a. Assisting in the integration of all health and
15 social services within the community;
- 16 b. Assisting in the development of community
17 resources;
- 18 c. Advocating for community programs and services;
- 19 d. Receiving and addressing concerns of consumers and
20 others; and
- 21 e. Advising the district administrator on the
22 administration of service programs throughout the district.
- 23 7. Advise the district administrator on ways to
24 integrate the delivery of family and health care services at
25 the local level.
- 26 8. Make recommendations which would enhance district
27 productivity and efficiency, ensure achievement of performance
28 standards, and assist the district in improving the
29 effectiveness of the services provided.
- 30 9. Review contract provider performance reports.
- 31

1 10. Immediately upon appointment of the membership,
2 develop bylaws that clearly identify and describe operating
3 procedures for the board. At a minimum, the bylaws must
4 specify notice requirements for all regular and special
5 meetings of the board, the number of members required to
6 constitute a quorum, and the number of affirmative votes of
7 members present and voting that are required to take official
8 and final action on a matter before the board.

9 11.a. Determine the board's internal organizational
10 structure, including the designation of standing committees.
11 In order to foster the coordinated and integrated delivery of
12 family services in its community, a local board shall use a
13 committee structure that is based on issues, such as children,
14 housing, transportation, or health care. Each such committee
15 must include consumers, advocates, providers, and department
16 staff from every appropriate program area. In addition, each
17 board and district administrator shall jointly identify
18 community entities, including, but not limited to, the Area
19 Agency on Aging, and resources outside the department to be
20 represented on the committees of the board.

21 b. The district juvenile justice boards established in
22 s. 985.413 ~~39.025~~ constitute the standing committee on issues
23 relating to planning, funding, or evaluation of programs and
24 services relating to the juvenile justice continuum.

25 12. Participate with the secretary in the selection of
26 a district administrator according to the provisions of
27 paragraph (10) ~~(9)~~ (b).

28 13. Complete an annual evaluation of the district and
29 review the evaluation at a meeting of the board at which the
30 public has an opportunity to comment.

31

1 14. Provide input to the secretary on the annual
2 evaluation of the district administrator. The board may
3 request that the secretary submit a written report on the
4 actions to be taken to address negative aspects of the
5 evaluation. At any time, the board may recommend to the
6 secretary that the district administrator be discharged. Upon
7 receipt of such a recommendation, the secretary shall make a
8 formal reply to the board stating the action to be taken with
9 respect to the board's recommendation.

10 15. Elect a chair and other officers, as specified in
11 the bylaws, from among the members of the board.

12 (20) INNOVATION ZONES.--The health and human services
13 board may propose designation of an innovation zone for any
14 experimental, pilot, or demonstration project that furthers
15 the legislatively established goals of the department. An
16 innovation zone is a defined geographic area such as a
17 district, county, municipality, service delivery area, school
18 campus, or neighborhood providing a laboratory for the
19 research, development, and testing of the applicability and
20 efficacy of model programs, policy options, and new
21 technologies for the department.

22 (c) The Statewide Health and Human Services Board, in
23 conjunction with the secretary, shall develop a family
24 services innovation transfer network for the purpose of
25 providing information on innovation zone research and projects
26 or other effective initiatives in family services to the
27 health and human services boards established under subsection
28 (8)~~(7)~~.

29 Section 121. Paragraph (h) of subsection (1) of
30 section 20.43, Florida Statutes, is amended to read:

31

1 20.43 Department of Health.--There is created a
2 Department of Health.

3 (1) The purpose of the Department of Health is to
4 promote and protect the health of all residents and visitors
5 in the state through organized state and community efforts,
6 including cooperative agreements with counties. The
7 department shall:

8 (h) Provide medical direction for child protection
9 team and sexual abuse treatment functions created under
10 chapter 39 ~~415~~.

11 Section 122. Paragraph (b)2. of subsection (2) of
12 section 61.13, Florida Statutes, is amended to read:

13 61.13 Custody and support of children; visitation
14 rights; power of court in making orders.--

15 (2)

16 (b)

17 2. The court shall order that the parental
18 responsibility for a minor child be shared by both parents
19 unless the court finds that shared parental responsibility
20 would be detrimental to the child. Evidence that a parent has
21 been convicted of a felony of the third degree or higher
22 involving domestic violence, as defined in s. 741.28 and
23 chapter 775, or meets the criteria of s. 39.806(1)(d)
24 ~~39.464(1)(d)~~, creates a rebuttable presumption of detriment to
25 the child. If the presumption is not rebutted, shared parental
26 responsibility, including visitation, residence of the child,
27 and decisions made regarding the child, may not be granted to
28 the convicted parent. However, the convicted parent is not
29 relieved of any obligation to provide financial support. If
30 the court determines that shared parental responsibility would
31 be detrimental to the child, it may order sole parental

1 responsibility and make such arrangements for visitation as
2 will best protect the child or abused spouse from further
3 harm. Whether or not there is a conviction of any offense of
4 domestic violence or child abuse or the existence of an
5 injunction for protection against domestic violence, the court
6 shall consider evidence of domestic violence or child abuse as
7 evidence of detriment to the child.

8 a. In ordering shared parental responsibility, the
9 court may consider the expressed desires of the parents and
10 may grant to one party the ultimate responsibility over
11 specific aspects of the child's welfare or may divide those
12 responsibilities between the parties based on the best
13 interests of the child. Areas of responsibility may include
14 primary residence, education, medical and dental care, and any
15 other responsibilities that the court finds unique to a
16 particular family.

17 b. The court shall order "sole parental
18 responsibility, with or without visitation rights, to the
19 other parent when it is in the best interests of" the minor
20 child.

21 c. The court may award the grandparents visitation
22 rights with a minor child if it is in the child's best
23 interest. Grandparents have legal standing to seek judicial
24 enforcement of such an award. This section does not require
25 that grandparents be made parties or given notice of
26 dissolution pleadings or proceedings, nor do grandparents have
27 legal standing as "contestants" as defined in s. 61.1306. A
28 court may not order that a child be kept within the state or
29 jurisdiction of the court solely for the purpose of permitting
30 visitation by the grandparents.

31

1 Section 123. Section 61.401, Florida Statutes, is
2 amended to read:

3 61.401 Appointment of guardian ad litem.--In an action
4 for dissolution of marriage, modification, parental
5 responsibility, custody, or visitation, if the court finds it
6 is in the best interest of the child, the court may appoint a
7 guardian ad litem to act as next friend of the child,
8 investigator or evaluator, not as attorney or advocate. The
9 court in its discretion may also appoint legal counsel for a
10 child to act as attorney or advocate; however, the guardian
11 and the legal counsel shall not be the same person. In such
12 actions which involve an allegation of child abuse,
13 abandonment, or neglect as defined in s. 39.01 ~~415.503(3)~~,
14 which allegation is verified and determined by the court to be
15 well-founded, the court shall appoint a guardian ad litem for
16 the child. The guardian ad litem shall be a party to any
17 judicial proceeding from the date of the appointment until the
18 date of discharge.

19 Section 124. Section 61.402, Florida Statutes, is
20 amended to read:

21 61.402 Qualifications of guardians ad litem.--A
22 guardian ad litem must be either a citizen certified by the
23 Guardian Ad Litem Program to act in family law cases or an
24 attorney who is a member in good standing of The Florida Bar.
25 Prior to certifying a guardian ad litem to be appointed under
26 this chapter, the Guardian Ad Litem Program must conduct a
27 security background investigation as provided in s. 39.821
28 ~~415.5077~~.

29 Section 125. Subsection (4) of section 63.052, Florida
30 Statutes, is amended to read:

31 63.052 Guardians designated; proof of commitment.--

1 (4) If a child is voluntarily surrendered to an
2 intermediary for subsequent adoption and the adoption does not
3 become final within 180 days, the intermediary must report to
4 the court on the status of the child and the court may at that
5 time proceed under s. 39.701 ~~39.453~~ or take action reasonably
6 necessary to protect the best interest of the child.

7 Section 126. Paragraph (b) of subsection (2) of
8 section 63.092, Florida Statutes, is amended to read:

9 63.092 Report to the court of intended placement by an
10 intermediary; preliminary study.--

11 (2) PRELIMINARY HOME STUDY.--Before placing the minor
12 in the intended adoptive home, a preliminary home study must
13 be performed by a licensed child-placing agency, a licensed
14 professional, or agency described in s. 61.20(2), unless the
15 petitioner is a stepparent, a spouse of the birth parent, or a
16 relative. The preliminary study shall be completed within 30
17 days after the receipt by the court of the intermediary's
18 report, but in no event may the child be placed in the
19 prospective adoptive home prior to the completion of the
20 preliminary study unless ordered by the court. If the
21 petitioner is a stepparent, a spouse of the birth parent, or a
22 relative, the preliminary home study may be required by the
23 court for good cause shown. The department is required to
24 perform the preliminary home study only if there is no
25 licensed child-placing agency, licensed professional, or
26 agency described in s. 61.20(2), in the county where the
27 prospective adoptive parents reside. The preliminary home
28 study must be made to determine the suitability of the
29 intended adoptive parents and may be completed prior to
30 identification of a prospective adoptive child. A favorable
31 preliminary home study is valid for 1 year after the date of

1 its completion. A child must not be placed in an intended
2 adoptive home before a favorable preliminary home study is
3 completed unless the adoptive home is also a licensed foster
4 home under s. 409.175. The preliminary home study must
5 include, at a minimum:

6 (b) Records checks of the department's central abuse
7 registry ~~under chapter 415~~ and ~~statewide~~ criminal records
8 correspondence checks pursuant to s. 435.045 through the
9 Department of Law Enforcement on the intended adoptive
10 parents;

11
12 If the preliminary home study is favorable, a minor may be
13 placed in the home pending entry of the judgment of adoption.
14 A minor may not be placed in the home if the preliminary home
15 study is unfavorable. If the preliminary home study is
16 unfavorable, the intermediary or petitioner may, within 20
17 days after receipt of a copy of the written recommendation,
18 petition the court to determine the suitability of the
19 intended adoptive home. A determination as to suitability
20 under this subsection does not act as a presumption of
21 suitability at the final hearing. In determining the
22 suitability of the intended adoptive home, the court must
23 consider the totality of the circumstances in the home.

24 Section 127. Subsection (2) of section 90.5036,
25 Florida Statutes, is amended to read:

26 90.5036 Domestic violence advocate-victim privilege.--

27 (2) A victim has a privilege to refuse to disclose,
28 and to prevent any other person from disclosing, a
29 confidential communication made by the victim to a domestic
30 violence advocate or any record made in the course of
31 advising, counseling, or assisting the victim. The privilege

1 applies to confidential communications made between the victim
2 and the domestic violence advocate and to records of those
3 communications only if the advocate is registered under s.
4 39.905 ~~415.605~~ at the time the communication is made. This
5 privilege includes any advice given by the domestic violence
6 advocate in the course of that relationship.

7 Section 128. Paragraphs (a), (b), (c), and (d) of
8 subsection (7) of section 119.07, Florida Statutes, are
9 amended to read:

10 119.07 Inspection, examination, and duplication of
11 records; exemptions.--

12 (7)(a) Any person or organization, including the
13 Department of Children and Family ~~Health and Rehabilitative~~
14 Services, may petition the court for an order making public
15 the records of the Department of Children and Family ~~Health~~
16 ~~and Rehabilitative~~ Services that pertain to investigations of
17 alleged abuse, neglect, abandonment, or exploitation of a
18 child, a disabled adult, or an elderly person. The court shall
19 determine if good cause exists for public access to the
20 records sought or a portion thereof. In making this
21 determination, the court shall balance the best interest of
22 the disabled adult, elderly person, or child who is the focus
23 of the investigation, and in the case of the child, the
24 interest of that child's siblings, together with the privacy
25 right of other persons identified in the reports against the
26 public interest. The public interest in access to such records
27 is reflected in s. 119.01(1), and includes the need for
28 citizens to know of and adequately evaluate the actions of the
29 Department of Children and Family ~~Health and Rehabilitative~~
30 Services and the court system in providing disabled adults,
31 elderly persons, and children of this state with the

1 protections enumerated in ss. 39.001 and 415.101 ~~and 415.502~~.
2 However, nothing in this subsection shall contravene the
3 provisions of ss. 39.202 ~~415.51~~ and 415.107, which protect the
4 name of any person reporting the abuse, neglect, or
5 exploitation of a child, a disabled adult, or an elderly
6 person.

7 (b)1. In cases involving the death of a disabled adult
8 or an elderly person as the result of abuse, neglect, or
9 exploitation, there shall be a presumption that the best
10 interest of the disabled adult or elderly person and the
11 public interest will be served by full public disclosure of
12 the circumstances of the investigation of the death and any
13 other investigation concerning the disabled adult or elderly
14 person.

15 2. In cases involving the death of a child as the
16 result of abuse, neglect, or abandonment, there shall be a
17 presumption that the best interest of the child and the
18 child's siblings and the public interest will be served by
19 full public disclosure of the circumstances of the
20 investigation of the death of the child and any other
21 investigation concerning the child and the child's siblings.

22 (c) In cases involving serious bodily injury to a
23 child, a disabled adult or an elderly person, the Department
24 of Children and Family ~~Health and Rehabilitative~~ Services may
25 petition the court for an order for the immediate public
26 release of records of the department which pertain to the
27 investigation of abuse, neglect, abandonment, or exploitation
28 of the child, disabled adult, or elderly person who suffered
29 serious bodily injury. The petition must be personally served
30 upon the child, disabled adult, or elderly person, the child's
31 parents or guardian, the legal guardian of that person, if

1 any, and any person named as an alleged perpetrator in the
2 report of abuse, neglect, abandonment, or exploitation. The
3 court must determine if good cause exists for the public
4 release of the records sought no later than 24 hours,
5 excluding Saturdays, Sundays, and legal holidays, from the
6 date the department filed the petition with the court. If the
7 court has neither granted nor denied the petition within the
8 24-hour time period, the department may release to the public
9 summary information including:

10 1. A confirmation that an investigation has been
11 conducted concerning the alleged victim.

12 2. The dates and brief description of procedural
13 activities undertaken during the department's investigation.

14 3. The date of each judicial proceeding, a summary of
15 each participant's recommendations made at the judicial
16 proceedings, and the rulings of the court.

17
18 The summary information may not include the name of, or other
19 identifying information with respect to, any person identified
20 in any investigation. In making a determination to release
21 confidential information, the court shall balance the best
22 interests of the disabled adult or elderly person or child who
23 is the focus of the investigation and, in the case of the
24 child, the interests of that child's siblings, together with
25 the privacy rights of other persons identified in the reports
26 against the public interest for access to public records.

27 However, nothing in this paragraph shall contravene the
28 provisions of ss. 39.202 ~~415.51~~ and 415.107, which protect the
29 name of any person reporting abuse, neglect, or exploitation
30 of a child, a disabled adult, or an elderly person.

31

1 (d) In cases involving the death of a child or a
2 disabled adult or an elderly person, the Department of
3 Children and Family ~~Health and Rehabilitative~~ Services may
4 petition the court for an order for the immediate public
5 release of records of the department which pertain to the
6 investigation of abuse, neglect, abandonment, or exploitation
7 of the child, disabled adult, or elderly person who died. The
8 department must personally serve the petition upon the child's
9 parents or guardian, the legal guardian of the disabled adult
10 or elderly person, if any, and any person named as an alleged
11 perpetrator in the report of abuse, neglect, abandonment, or
12 exploitation. The court must determine if good cause exists
13 for the public release of the records sought no later than 24
14 hours, excluding Saturdays, Sundays, and legal holidays, from
15 the date the department filed the petition with the court. If
16 the court has neither granted nor denied the petition within
17 the 24-hour time period, the department may release to the
18 public summary information including:

- 19 1. A confirmation that an investigation has been
20 conducted concerning the alleged victim.
- 21 2. The dates and brief description of procedural
22 activities undertaken during the department's investigation.
- 23 3. The date of each judicial proceeding, a summary of
24 each participant's recommendations made at the judicial
25 proceedings, and the ruling of the court.

26
27 In making a determination to release confidential information,
28 the court shall balance the best interests of the disabled
29 adult or elderly person or child who is the focus of the
30 investigation and, in the case of the child, the interest of
31 that child's siblings, together with the privacy right of

1 other persons identified in the reports against the public
2 interest. However, nothing in this paragraph shall contravene
3 the provisions of ss. 39.202 ~~415.51~~ and 415.107, which protect
4 the name of any person reporting abuse, neglect, or
5 exploitation of a child, a disabled adult, or an elderly
6 person.

7 Section 129. Section 154.067, Florida Statutes, is
8 amended to read:

9 154.067 Child abuse and neglect cases; duties.--The
10 Department of Health shall adopt a rule requiring every county
11 health department, as described in s. 154.01, to adopt a
12 protocol that, at a minimum, requires the county health
13 department to:

14 (1) Incorporate in its health department policy a
15 policy that every staff member has an affirmative duty to
16 report, pursuant to chapter 39 ~~415~~, any actual or suspected
17 case of child abuse, abandonment, or neglect; and

18 (2) In any case involving suspected child abuse,
19 abandonment, or neglect, designate, at the request of the
20 department, a staff physician to act as a liaison between the
21 county health department and the Department of Children and
22 Family Services office that is investigating the suspected
23 abuse, abandonment, or neglect, and the child protection team,
24 as defined in s. 39.01 ~~415.503~~, when the case is referred to
25 such a team.

26 Section 130. Subsection (15) of section 213.053,
27 Florida Statutes, is amended to read:

28 213.053 Confidentiality and information sharing.--

29 (15) The department may disclose confidential taxpayer
30 information contained in returns, reports, accounts, or
31 declarations filed with the department by persons subject to

1 any state or local tax to the child support enforcement
2 program, to assist in the location of parents who owe or
3 potentially owe a duty of support pursuant to Title IV-D of
4 the Social Security Act, their assets, their income, and their
5 employer, and to the Department of Children and Family
6 Services for the purpose of diligent search activities
7 pursuant to chapter 39. Nothing in this subsection authorizes
8 the disclosure of information if such disclosure is prohibited
9 by federal law. Employees of the child support enforcement
10 program and of the Department of Children and Family Services
11 are bound by the same requirements of confidentiality and the
12 same penalties for violation of the requirements as the
13 department.

14 Section 131. Paragraph (a) of subsection (8) of
15 section 216.136, Florida Statutes, is amended to read:

16 216.136 Consensus estimating conferences; duties and
17 principals.--

18 (8) CHILD WELFARE SYSTEM ESTIMATING CONFERENCE.--

19 (a) Duties.--The Child Welfare System Estimating
20 Conference shall develop the following information relating to
21 the child welfare system:

22 1. Estimates and projections of the number of initial
23 and additional reports of child abuse, abandonment, or neglect
24 made to the central abuse hotline registry and tracking system
25 maintained by the Department of Children and Family Health and
26 Rehabilitative Services as established in s. 39.201(4)
27 ~~415.504(4)(a)~~.

28 2. Estimates and projections of the number of children
29 who are alleged to be victims of child abuse, abandonment, or
30 neglect and are in need of placement in a an emergency
31 shelter.

1
2 In addition, the conference shall develop other official
3 information relating to the child welfare system of the state
4 which the conference determines is needed for the state
5 planning and budgeting system. The Department of Children and
6 Family ~~Health and Rehabilitative~~ Services shall provide
7 information on the child welfare system requested by the Child
8 Welfare System Estimating Conference, or individual conference
9 principals, in a timely manner.

10 Section 132. Section 232.50, Florida Statutes, is
11 amended to read:

12 232.50 Child abuse, abandonment, and neglect
13 policy.--Every school board shall by March 1, 1985:

14 (1) Post in a prominent place in each school a notice
15 that, pursuant to chapter 39 ~~415~~, all employees or agents of
16 the district school board have an affirmative duty to report
17 all actual or suspected cases of child abuse, abandonment, or
18 neglect, have immunity from liability if they report such
19 cases in good faith, and have a duty to comply with child
20 protective investigations and all other provisions of law
21 relating to child abuse, abandonment, and neglect. The notice
22 shall also include the statewide toll-free telephone number of
23 the state abuse registry.

24 (2) Provide that the superintendent, or the
25 superintendent's designee, at the request of the Department of
26 Children and Family ~~Health and Rehabilitative~~ Services, will
27 act as a liaison to the Department of Children and Family
28 ~~Health and Rehabilitative~~ Services and the child protection
29 team, as defined in s. 39.01 ~~415.503~~, when in a case of
30 suspected child abuse, abandonment, or neglect or an unlawful
31 sexual offense involving a child the case is referred to such

1 a team; except that this subsection may in no instance be
2 construed as relieving or restricting the Department of
3 Children and Family ~~Health and Rehabilitative~~ Services from
4 discharging its duty and responsibility under the law to
5 investigate and report every suspected or actual case of child
6 abuse, abandonment, or neglect or unlawful sexual offense
7 involving a child.

8
9 Each district school board shall comply with the provisions of
10 this section, and such board shall notify the Department of
11 Education and the Department of Children and Family ~~Health and~~
12 ~~Rehabilitative~~ Services of its compliance by March 1, 1985.

13 Section 133. Paragraph (a) of subsection (2) of
14 section 318.21, Florida Statutes, as amended by section 2(1)
15 of chapter 97-235, Laws of Florida, is amended to read:

16 318.21 Disposition of civil penalties by county
17 courts.--All civil penalties received by a county court
18 pursuant to the provisions of this chapter shall be
19 distributed and paid monthly as follows:

20 (2) Of the remainder:

21 (a) Fifteen and six-tenths percent shall be paid to
22 the General Revenue Fund of the state, except that the first
23 \$300,000 shall be deposited into the Grants and Donations
24 Trust Fund in the Department of Children and Family Services
25 for administrative costs, training costs, and costs associated
26 with the implementation and maintenance of Florida foster care
27 citizen review panels as provided for in s. 39.702 ~~39.4531~~.

28 Section 134. Effective July 1, 1999, paragraph (a) of
29 subsection (2) of section 318.21, as amended by section 3(1)
30 of chapter 97-235, Laws of Florida, is amended to read:

31

1 318.21 Disposition of civil penalties by county
2 courts.--All civil penalties received by a county court
3 pursuant to the provisions of this chapter shall be
4 distributed and paid monthly as follows:

5 (2) Of the remainder:

6 (a) Ten and six-tenths percent shall be paid to the
7 General Revenue Fund of the state, except that the first
8 \$300,000 shall be deposited into the Grants and Donations
9 Trust Fund in the Department of Children and Family Services
10 for administrative costs, training costs, and costs associated
11 with the implementation and maintenance of Florida foster care
12 citizen review panels as provided for in s. 39.702 ~~39.4531~~.

13 Section 135. Effective July 1, 2000, paragraph (a) of
14 subsection (2) of section 318.21, Florida Statutes, as amended
15 by section 4(1) of chapter 97-235, Laws of Florida, is amended
16 to read:

17 318.21 Disposition of civil penalties by county
18 courts.--All civil penalties received by a county court
19 pursuant to the provisions of this chapter shall be
20 distributed and paid monthly as follows:

21 (2) Of the remainder:

22 (a) Five and six-tenths percent shall be paid to the
23 General Revenue Fund of the state, except that the first
24 \$300,000 shall be deposited into the Grants and Donations
25 Trust Fund in the Department of Children and Family Services
26 for administrative costs, training costs, and costs associated
27 with the implementation and maintenance of Florida foster care
28 citizen review panels as provided for in s. 39.702 ~~39.4531~~.

29 Section 136. Effective July 1, 2001, paragraph (a) of
30 subsection (2) of section 318.21, Florida Statutes, as amended
31

1 by section 5(1) of chapter 97-235, Laws of Florida, is amended
2 to read:

3 318.21 Disposition of civil penalties by county
4 courts.--All civil penalties received by a county court
5 pursuant to the provisions of this chapter shall be
6 distributed and paid monthly as follows:

7 (2) Of the remainder:

8 (a) Twenty and six-tenths percent shall be paid to the
9 County Article V Trust Fund, except that the first \$300,000
10 shall be deposited into the Grants and Donations Trust Fund in
11 the Department of Children and Family Services for
12 administrative costs, training costs, and costs associated
13 with the implementation and maintenance of Florida foster care
14 citizen review panels as provided for in s. 39.702 ~~39.4531~~.

15 Section 137. Effective July 1, 2002, paragraph (a) of
16 subsection (2) of section 318.21, Florida Statutes, as amended
17 by section 6 of chapter 97-235, Laws of Florida, is amended to
18 read:

19 318.21 Disposition of civil penalties by county
20 courts.--All civil penalties received by a county court
21 pursuant to the provisions of this chapter shall be
22 distributed and paid monthly as follows:

23 (2) Of the remainder:

24 (a) Twenty and six-tenths percent shall be paid to the
25 General Revenue Fund of the state, except that the first
26 \$300,000 shall be deposited into the Grants and Donations
27 Trust Fund in the Department of Children and Family Services
28 for administrative costs, training costs, and costs associated
29 with the implementation and maintenance of Florida foster care
30 citizen review panels as provided for in s. 39.702 ~~39.4531~~.

31

1 Section 138. Paragraph (e) of subsection (1) of
2 section 384.29, Florida Statutes, is amended to read:

3 384.29 Confidentiality.--

4 (1) All information and records held by the department
5 or its authorized representatives relating to known or
6 suspected cases of sexually transmissible diseases are
7 strictly confidential and exempt from the provisions of s.
8 119.07(1). Such information shall not be released or made
9 public by the department or its authorized representatives, or
10 by a court or parties to a lawsuit upon revelation by
11 subpoena, except under the following circumstances:

12 (e) When made to the proper authorities as required by
13 chapter 39 or chapter 415.

14 Section 139. Paragraph (e) of subsection (1) of
15 section 392.65, Florida Statutes, is amended to read:

16 392.65 Confidentiality.--

17 (1) All information and records held by the department
18 or its authorized representatives relating to known or
19 suspected cases of tuberculosis or exposure to tuberculosis
20 shall be strictly confidential and exempt from s. 119.07(1).
21 Such information shall not be released or made public by the
22 department or its authorized representatives or by a court or
23 parties to a lawsuit, except that release may be made under
24 the following circumstances:

25 (e) When made to the proper authorities as required by
26 chapter 39 or chapter 415.

27 Section 140. The introductory paragraph of subsection
28 (14) of section 393.063, Florida Statutes, is amended to read:

29 393.063 Definitions.--For the purposes of this
30 chapter:

31

1 (14) "Direct service provider," also known as
2 "caregiver" in chapters 39 and ~~chapter~~ 415 or "caretaker" in
3 provisions relating to employment security checks, means a
4 person 18 years of age or older who has direct contact with
5 individuals with developmental disabilities and is unrelated
6 to the individuals with developmental disabilities.

7 Section 141. Section 395.1023, Florida Statutes, is
8 amended to read:

9 395.1023 Child abuse and neglect cases; duties.--Each
10 licensed facility shall adopt a protocol that, at a minimum,
11 requires the facility to:

12 (1) Incorporate a facility policy that every staff
13 member has an affirmative duty to report, pursuant to chapter
14 39 ~~415~~, any actual or suspected case of child abuse,
15 abandonment, or neglect; and

16 (2) In any case involving suspected child abuse,
17 abandonment, or neglect, designate, at the request of the
18 department, a staff physician to act as a liaison between the
19 hospital and the Department of Children and Family Services
20 office which is investigating the suspected abuse,
21 abandonment, or neglect, and the child protection team, as
22 defined in s. 39.01 ~~415.503~~, when the case is referred to such
23 a team.

24
25 Each general hospital and appropriate specialty hospital shall
26 comply with the provisions of this section and shall notify
27 the agency and the department of its compliance by sending a
28 copy of its policy to the agency and the department as
29 required by rule. The failure by a general hospital or
30 appropriate specialty hospital to comply shall be punished by
31 a fine not exceeding \$1,000, to be fixed, imposed, and

1 collected by the agency. Each day in violation is considered
2 a separate offense.

3 Section 142. Section 400.4174, Florida Statutes, is
4 amended to read:

5 400.4174 Reports of abuse in facilities.--When an
6 employee, volunteer, administrator, or owner of a facility has
7 a confirmed report of adult abuse, neglect, or exploitation,
8 as defined in s. 415.102, or a judicially determined report of
9 child abuse, abandonment, or neglect, as defined in s. 39.01
10 ~~415.503~~, and the protective investigator knows that the
11 individual is an employee, volunteer, administrator, or owner
12 of a facility, the agency shall be notified of the ~~confirmed~~
13 report.

14 Section 143. Paragraph (c) of subsection (2) of
15 section 400.556, Florida Statutes, is amended to read:

16 400.556 Denial, suspension, revocation of license;
17 administrative fines; investigations and inspections.--

18 (2) Each of the following actions by the owner of an
19 adult day care center or by its operator or employee is a
20 ground for action by the agency against the owner of the
21 center or its operator or employee:

22 (c) A confirmed report of adult abuse, neglect, or
23 exploitation, as defined in s. 415.102, or a report of child
24 abuse, abandonment, or neglect, as defined in s. 39.01
25 ~~415.503~~, which report has been upheld following a hearing held
26 pursuant to chapter 120 or a waiver of such hearing.

27 Section 144. Paragraph (a) of subsection (8) of
28 section 402.165, Florida Statutes, is amended to read:

29 402.165 Statewide Human Rights Advocacy Committee;
30 confidential records and meetings.--

31

1 (8)(a) In the performance of its duties, the Statewide
2 Human Rights Advocacy Committee shall have:

3 1. Authority to receive, investigate, seek to
4 conciliate, hold hearings on, and act on complaints which
5 allege any abuse or deprivation of constitutional or human
6 rights of clients.

7 2. Access to all client records, files, and reports
8 from any program, service, or facility that is operated,
9 funded, licensed, or regulated by the Department of Children
10 and Family ~~Health and Rehabilitative~~ Services and any records
11 which are material to its investigation and which are in the
12 custody of any other agency or department of government. The
13 committee's investigation or monitoring shall not impede or
14 obstruct matters under investigation by law enforcement or
15 judicial authorities. Access shall not be granted if a
16 specific procedure or prohibition for reviewing records is
17 required by federal law and regulation which supersedes state
18 law. Access shall not be granted to the records of a private
19 licensed practitioner who is providing services outside
20 agencies and facilities and whose client is competent and
21 refuses disclosure.

22 3. Standing to petition the circuit court for access
23 to client records which are confidential as specified by law.
24 The petition shall state the specific reasons for which the
25 committee is seeking access and the intended use of such
26 information. The court may authorize committee access to such
27 records upon a finding that such access is directly related to
28 an investigation regarding the possible deprivation of
29 constitutional or human rights or the abuse of a client.
30 Original client files, records, and reports shall not be
31 removed from the Department of Children and Family ~~Health and~~

1 ~~Rehabilitative~~ Services or agency facilities. Under no
2 circumstance shall the committee have access to confidential
3 adoption records in accordance with the provisions of ss.
4 39.0132 ~~39.411~~, 63.022, and 63.162. Upon completion of a
5 general investigation of practices and procedures of the
6 Department of Children and Family ~~Health and Rehabilitative~~
7 Services, the committee shall report its findings to that
8 department.

9 Section 145. Paragraph (a) of subsection (8) of
10 section 402.166, Florida Statutes, is amended to read:

11 402.166 District human rights advocacy committees;
12 confidential records and meetings.--

13 (8)(a) In the performance of its duties, a district
14 human rights advocacy committee shall have:

15 1. Access to all client records, files, and reports
16 from any program, service, or facility that is operated,
17 funded, licensed, or regulated by the Department of Children
18 and Family ~~Health and Rehabilitative~~ Services and any records
19 which are material to its investigation and which are in the
20 custody of any other agency or department of government. The
21 committee's investigation or monitoring shall not impede or
22 obstruct matters under investigation by law enforcement or
23 judicial authorities. Access shall not be granted if a
24 specific procedure or prohibition for reviewing records is
25 required by federal law and regulation which supersedes state
26 law. Access shall not be granted to the records of a private
27 licensed practitioner who is providing services outside
28 agencies and facilities and whose client is competent and
29 refuses disclosure.

30 2. Standing to petition the circuit court for access
31 to client records which are confidential as specified by law.

1 The petition shall state the specific reasons for which the
2 committee is seeking access and the intended use of such
3 information. The court may authorize committee access to such
4 records upon a finding that such access is directly related to
5 an investigation regarding the possible deprivation of
6 constitutional or human rights or the abuse of a client.
7 Original client files, records, and reports shall not be
8 removed from Department of Children and Family ~~Health and~~
9 ~~Rehabilitative~~ Services or agency facilities. Upon no
10 circumstances shall the committee have access to confidential
11 adoption records in accordance with the provisions of ss.
12 39.0132 ~~39.411~~, 63.022, and 63.162. Upon completion of a
13 general investigation of practices and procedures of the
14 Department of Children and Family ~~Health and Rehabilitative~~
15 Services, the committee shall report its findings to that
16 department.

17 Section 146. Section 409.1672, Florida Statutes, is
18 amended to read:

19 409.1672 Incentives for department employees.--In
20 order to promote accomplishing the goal of family
21 preservation, family reunification, or permanent placement of
22 a child in an adoptive home, the department may, pursuant to
23 s. 110, chapter 92-142, Laws of Florida, or subsequent
24 legislative authority and within existing resources, develop
25 monetary performance incentives such as bonuses, salary
26 increases, and educational enhancements for department
27 employees engaged in positions and activities related to the
28 child welfare system under chapter 39, ~~chapter 415~~, or this
29 chapter who demonstrate outstanding work in these areas.
30
31

1 Section 147. Subsection (8) and paragraph (c) of
2 subsection (9) of section 409.176, Florida Statutes, are
3 amended to read:

4 409.176 Registration of residential child-caring
5 agencies and family foster homes.--

6 (8) The provisions of chapters 39 ~~415~~ and 827
7 regarding child abuse, abandonment, and neglect and the
8 provisions of s. 409.175 and chapter 435 regarding screening
9 apply to any facility registered under this section.

10 (9) The qualified association may deny, suspend, or
11 revoke the registration of a Type II facility which:

12 (c) Violates the provisions of chapter 39 ~~415~~ or
13 chapter 827 regarding child abuse, abandonment, and neglect or
14 the provisions of s. 409.175 or chapter 435 regarding
15 screening.

16
17 The qualified association shall notify the department within
18 10 days of the suspension or revocation of the registration of
19 any Type II facility registered under this section.

20 Section 148. Paragraph (b) of subsection (10) of
21 section 409.2554, Florida Statutes, is amended to read:

22 409.2554 Definitions.--As used in ss.
23 409.2551-409.2598, the term:

24 (10) "Support" means:

25 (b) Support for a child who is placed under the
26 custody of someone other than the custodial parent pursuant to
27 s. 39.508 ~~39.41~~.

28 Section 149. Section 409.2577, Florida Statutes, is
29 amended to read:

30 409.2577 Parent locator service.--The department shall
31 establish a parent locator service to assist in locating

1 parents who have deserted their children and other persons
2 liable for support of dependent children. The department
3 shall use all sources of information available, including the
4 Federal Parent Locator Service, and may request and shall
5 receive information from the records of any person or the
6 state or any of its political subdivisions or any officer
7 thereof. Any agency as defined in s. 120.52, any political
8 subdivision, and any other person shall, upon request, provide
9 the department any information relating to location, salary,
10 insurance, social security, income tax, and employment history
11 necessary to locate parents who owe or potentially owe a duty
12 of support pursuant to Title IV-D of the Social Security Act.
13 This provision shall expressly take precedence over any other
14 statutory nondisclosure provision which limits the ability of
15 an agency to disclose such information, except that law
16 enforcement information as provided in s. 119.07(3)(i) is not
17 required to be disclosed, and except that confidential
18 taxpayer information possessed by the Department of Revenue
19 shall be disclosed only to the extent authorized in s.
20 213.053(15). Nothing in this section requires the disclosure
21 of information if such disclosure is prohibited by federal
22 law. Information gathered or used by the parent locator
23 service is confidential and exempt from the provisions of s.
24 119.07(1). Additionally, the department is authorized to
25 collect any additional information directly bearing on the
26 identity and whereabouts of a person owing or asserted to be
27 owing an obligation of support for a dependent child.
28 Information gathered or used by the parent locator service is
29 confidential and exempt from the provisions of s. 119.07(1).
30 The department may make such information available only to
31 public officials and agencies of this state; political

1 subdivisions of this state; the custodial parent, legal
2 guardian, attorney, or agent of the child; and other states
3 seeking to locate parents who have deserted their children and
4 other persons liable for support of dependents, for the sole
5 purpose of establishing, modifying, or enforcing their
6 liability for support, and shall make such information
7 available to the Department of Children and Family Services
8 for the purpose of diligent search activities pursuant to
9 chapter 39. If the department has reasonable evidence of
10 domestic violence or child abuse and the disclosure of
11 information could be harmful to the custodial parent or the
12 child of such parent, the child support program director or
13 designee shall notify the Department of Children and Family
14 Services and the Secretary of the United States Department of
15 Health and Human Services of this evidence. Such evidence is
16 sufficient grounds for the department to disapprove an
17 application for location services.

18 Section 150. Subsection (29) of section 409.912,
19 Florida Statutes, is amended to read:

20 409.912 Cost-effective purchasing of health care.--The
21 agency shall purchase goods and services for Medicaid
22 recipients in the most cost-effective manner consistent with
23 the delivery of quality medical care. The agency shall
24 maximize the use of prepaid per capita and prepaid aggregate
25 fixed-sum basis services when appropriate and other
26 alternative service delivery and reimbursement methodologies,
27 including competitive bidding pursuant to s. 287.057, designed
28 to facilitate the cost-effective purchase of a case-managed
29 continuum of care. The agency shall also require providers to
30 minimize the exposure of recipients to the need for acute
31

1 inpatient, custodial, and other institutional care and the
2 inappropriate or unnecessary use of high-cost services.

3 (29) Each managed care plan that is under contract
4 with the agency to provide health care services to Medicaid
5 recipients shall annually conduct a background check with the
6 Florida Department of Law Enforcement of all persons with
7 ownership interest of 5 percent or more or executive
8 management responsibility for the managed care plan and shall
9 submit to the agency information concerning any such person
10 who has been found guilty of, regardless of adjudication, or
11 has entered a plea of nolo contendere or guilty to, any of the
12 offenses listed in s. 435.03 or has a confirmed report of
13 abuse, neglect, or exploitation pursuant to ~~part I of~~ chapter
14 415.

15 Section 151. Paragraph (a) of subsection (1) of
16 section 409.9126, Florida Statutes, is amended to read:

17 409.9126 Children with special health care needs.--

18 (1) As used in this section:

19 (a) "Children's Medical Services network" means an
20 alternative service network that includes health care
21 providers and health care facilities specified in chapter 391
22 and ss. 39.303, 383.15-383.21, and 383.216, ~~and 415.5055~~.

23 Section 152. Paragraph (f) of subsection (5) of
24 section 414.065, Florida Statutes, is amended to read:

25 414.065 Work requirements.--

26 (5) CONTINUATION OF TEMPORARY CASH ASSISTANCE FOR
27 CHILDREN; PROTECTIVE PAYEES.--

28 (f) If the department is unable to designate a
29 qualified protective payee or authorized representative, a
30 referral shall be made under the provisions of chapter 39 ~~415~~
31 for protective intervention.

1 Section 153. Section 435.045, Florida Statutes, is
2 created to read:

3 435.045 Requirements for prospective foster or
4 adoptive parents.--

5 (1) Unless an election provided for in subsection (2)
6 is made with respect to the state, the department shall
7 conduct criminal records checks equivalent to the level 2
8 screening required in s. 435.04(1) for any prospective foster
9 or adoptive parent before the foster or adoptive parent may be
10 finally approved for placement of a child on whose behalf
11 foster care maintenance payments or adoption assistance
12 payments under s. 471 of the Social Security Act, 42 U.S.C.
13 671, are to be made. Approval shall not be granted:

14 (a) In any case in which a record check reveals a
15 felony conviction for child abuse, abandonment, or neglect;
16 for spousal abuse; for a crime against children, including
17 child pornography, or for a crime involving violence,
18 including rape, sexual assault, or homicide but not including
19 other physical assault or battery, if the department finds
20 that a court of competent jurisdiction has determined that the
21 felony was committed at any time; and

22 (b) In any case in which a record check reveals a
23 felony conviction for physical assault, battery, or a
24 drug-related offense, if the department finds that a court of
25 competent jurisdiction has determined that the felony was
26 committed within the past 5 years.

27 (2) For purposes of this section, and ss. 39.401(3)
28 and 39.508(9)(b) and (10)(a), the department and its
29 authorized agents or contract providers are hereby designated
30 a criminal justice agency for the purposes of accessing
31 criminal justice information, including National Crime

1 Information Center information, to be used for enforcing
2 Florida's laws concerning the crimes of child abuse,
3 abandonment, and neglect. This information shall be used
4 solely for purposes supporting the detection, apprehension,
5 prosecution, pretrial release, posttrial release, or
6 rehabilitation of criminal offenders or persons accused of the
7 crimes of child abuse, abandonment, or neglect and shall not
8 be further disseminated or used for any other purposes.

9 (3) Subsection (2) shall not apply if the Governor has
10 notified the Secretary of the United States Department of
11 Health and Human Services in writing that the state has
12 elected to make subsection (2) inapplicable to the state, or
13 if the Legislature, by law, has elected to make subsection (2)
14 inapplicable to the state.

15 Section 154. Section 447.401, Florida Statutes, is
16 amended to read:

17 447.401 Grievance procedures.--Each public employer
18 and bargaining agent shall negotiate a grievance procedure to
19 be used for the settlement of disputes between employer and
20 employee, or group of employees, involving the interpretation
21 or application of a collective bargaining agreement. Such
22 grievance procedure shall have as its terminal step a final
23 and binding disposition by an impartial neutral, mutually
24 selected by the parties; however, when the issue under appeal
25 is an allegation of abuse, abandonment, or neglect by an
26 employee under s. 39.201 or s. 415.1075 ~~or s. 415.504~~, the
27 grievance may not be decided until the abuse, abandonment, or
28 neglect of a child has been judicially determined or until a
29 confirmed report of abuse or neglect of a disabled adult or
30 elderly person has been upheld pursuant to the procedures for
31 appeal in ~~s. ss-415.1075 and 415.504~~. However, an arbiter or

1 other neutral shall not have the power to add to, subtract
2 from, modify, or alter the terms of a collective bargaining
3 agreement. If an employee organization is certified as the
4 bargaining agent of a unit, the grievance procedure then in
5 existence may be the subject of collective bargaining, and any
6 agreement which is reached shall supersede the previously
7 existing procedure. All public employees shall have the right
8 to a fair and equitable grievance procedure administered
9 without regard to membership or nonmembership in any
10 organization, except that certified employee organizations
11 shall not be required to process grievances for employees who
12 are not members of the organization. A career service
13 employee shall have the option of utilizing the civil service
14 appeal procedure, an unfair labor practice procedure, or a
15 grievance procedure established under this section, but such
16 employee is precluded from availing himself or herself to more
17 than one of these procedures.

18 Section 155. Paragraph (d) of subsection (1) of
19 section 464.018, Florida Statutes, is amended to read:

20 464.018 Disciplinary actions.--

21 (1) The following acts shall be grounds for
22 disciplinary action set forth in this section:

23 (d) Being found guilty, regardless of adjudication, of
24 any of the following offenses:

25 1. A forcible felony as defined in chapter 776.

26 2. A violation of chapter 812, relating to theft,
27 robbery, and related crimes.

28 3. A violation of chapter 817, relating to fraudulent
29 practices.

30 4. A violation of chapter 800, relating to lewdness
31 and indecent exposure.

1 5. A violation of chapter 784, relating to assault,
2 battery, and culpable negligence.

3 6. A violation of chapter 827, relating to child
4 abuse.

5 7. A violation of chapter 415, relating to protection
6 from abuse, neglect, and exploitation.

7 8. A violation of chapter 39, relating to child abuse,
8 abandonment, and neglect.

9 Section 156. Paragraph (a) of subsection (2) of
10 section 490.014, Florida Statutes, is amended to read:

11 490.014 Exemptions.--

12 (2) No person shall be required to be licensed or
13 provisionally licensed under this chapter who:

14 (a) Is a salaried employee of a government agency;
15 developmental services program, mental health, alcohol, or
16 drug abuse facility operating pursuant to chapter 393, chapter
17 394, or chapter 397; subsidized child care program, subsidized
18 child care case management program, or child care resource and
19 referral program operating pursuant to chapter 402;
20 child-placing or child-caring agency licensed pursuant to
21 chapter 409; domestic violence center certified pursuant to
22 chapter 39 ~~415~~; accredited academic institution; or research
23 institution, if such employee is performing duties for which
24 he or she was trained and hired solely within the confines of
25 such agency, facility, or institution.

26 Section 157. Paragraph (a) of subsection (4) of
27 section 491.014, Florida Statutes, is amended to read:

28 491.014 Exemptions.--

29 (4) No person shall be required to be licensed,
30 provisionally licensed, registered, or certified under this
31 chapter who:

1 (a) Is a salaried employee of a government agency;
2 developmental services program, mental health, alcohol, or
3 drug abuse facility operating pursuant to chapter 393, chapter
4 394, or chapter 397; subsidized child care program, subsidized
5 child care case management program, or child care resource and
6 referral program operating pursuant to chapter 402;
7 child-placing or child-caring agency licensed pursuant to
8 chapter 409; domestic violence center certified pursuant to
9 chapter 39 ~~415~~; accredited academic institution; or research
10 institution, if such employee is performing duties for which
11 he or she was trained and hired solely within the confines of
12 such agency, facility, or institution.

13 Section 158. Paragraph (b) of subsection (3) of
14 section 741.30, Florida Statutes, is amended to read:

15 741.30 Domestic violence; injunction; powers and
16 duties of court and clerk; petition; notice and hearing;
17 temporary injunction; issuance of injunction; statewide
18 verification system; enforcement.--

19 (3)

20 (b) The sworn petition shall be in substantially the
21 following form:

22

23

PETITION FOR

24

INJUNCTION FOR PROTECTION

25

AGAINST DOMESTIC VIOLENCE

26

27 Before me, the undersigned authority, personally appeared
28 Petitioner ...(Name)..., who has been sworn and says that the
29 following statements are true:

30

(a) Petitioner resides at: ...(address)...

31

1 (Petitioner may furnish address to the court in a
 2 separate confidential filing if, for safety reasons, the
 3 petitioner requires the location of the current residence to
 4 be confidential.)

5 (b) Respondent resides at: ...(last known address)...

6 (c) Respondent's last known place of employment:
 7 ...(name of business and address)...

8 (d) Physical description of respondent:

9 Race....

10 Sex....

11 Date of birth....

12 Height....

13 Weight....

14 Eye color....

15 Hair color....

16 Distinguishing marks or scars....

17 (e) Aliases of respondent:

18 (f) Respondent is the spouse or former spouse of the
 19 petitioner or is any other person related by blood or marriage
 20 to the petitioner or is any other person who is or was
 21 residing within a single dwelling unit with the petitioner, as
 22 if a family, or is a person with whom the petitioner has a
 23 child in common, regardless of whether the petitioner and
 24 respondent are or were married or residing together, as if a
 25 family.

26 (g) The following describes any other cause of action
 27 currently pending between the petitioner and respondent:

28

29 The petitioner should also describe any previous or
 30 pending attempts by the petitioner to obtain an injunction for

31

1 protection against domestic violence in this or any other
2 circuit, and the results of that attempt.....
3
4 Case numbers should be included if available.

5 (h) Petitioner has suffered or has reasonable cause to
6 fear imminent domestic violence because respondent has:
7 (i) Petitioner alleges the following additional
8 specific facts: (mark appropriate sections)
9Petitioner is the custodian of a minor child or
10 children whose names and ages are as follows:
11Petitioner needs the exclusive use and possession
12 of the dwelling that the parties share.
13Petitioner is unable to obtain safe alternative
14 housing because:
15Petitioner genuinely fears that respondent
16 imminently will abuse, remove, or hide the minor child or
17 children from petitioner because:
18
19 (j) Petitioner genuinely fears imminent domestic
20 violence by respondent.
21 (k) Petitioner seeks an injunction: (mark appropriate
22 section or sections)
23Immediately restraining the respondent from
24 committing any acts of domestic violence.
25Restraining the respondent from committing any acts
26 of domestic violence.
27Awarding to the petitioner the temporary exclusive
28 use and possession of the dwelling that the parties share or
29 excluding the respondent from the residence of the petitioner.
30Awarding temporary custody of, or temporary
31 visitation rights with regard to, the minor child or children

1 of the parties, or prohibiting or limiting visitation to that
2 which is supervised by a third party.

3 Establishing temporary support for the minor child
4 or children or the petitioner.

5 Directing the respondent to participate in a
6 batterers' intervention program or other treatment pursuant to
7 s. 39.901 ~~415.601~~.

8 Providing any terms the court deems necessary for
9 the protection of a victim of domestic violence, or any minor
10 children of the victim, including any injunctions or
11 directives to law enforcement agencies.

12 Section 159. Subsection (3) of section 744.309,
13 Florida Statutes, is amended to read:

14 744.309 Who may be appointed guardian of a resident
15 ward.--

16 (3) DISQUALIFIED PERSONS.--No person who has been
17 convicted of a felony or who, from any incapacity or illness,
18 is incapable of discharging the duties of a guardian, or who
19 is otherwise unsuitable to perform the duties of a guardian,
20 shall be appointed to act as guardian. Further, no person who
21 has been judicially determined to have committed abuse,
22 abandonment, or neglect against a child as defined in s.
23 ~~39.01(2) and (47)~~, or who has a confirmed report of abuse,
24 neglect, or exploitation which has been uncontested or upheld
25 pursuant to the provisions of ss. 415.104 and 415.1075 shall
26 be appointed to act as a guardian. Except as provided in
27 subsection (5) or subsection (6), a person who provides
28 substantial services to the proposed ward in a professional or
29 business capacity, or a creditor of the proposed ward, may not
30 be appointed guardian and retain that previous professional or
31 business relationship. A person may not be appointed a

1 guardian if he or she is in the employ of any person, agency,
2 government, or corporation that provides service to the
3 proposed ward in a professional or business capacity, except
4 that a person so employed may be appointed if he or she is the
5 spouse, adult child, parent, or sibling of the proposed ward
6 or the court determines that the potential conflict of
7 interest is insubstantial and that the appointment would
8 clearly be in the proposed ward's best interest. The court
9 may not appoint a guardian in any other circumstance in which
10 a conflict of interest may occur.

11 Section 160. Section 784.075, Florida Statutes, is
12 amended to read:

13 784.075 Battery on detention or commitment facility
14 staff.--A person who commits a battery on an intake counselor
15 or case manager, as defined in s. 984.03(31)~~39.01(34)~~, on
16 other staff of a detention center or facility as defined in s.
17 984.03(19)~~39.01(23)~~, or on a staff member of a commitment
18 facility as defined in s. 985.03(45)~~39.01(59)(c)~~, ~~(d)~~, or
19 ~~(e)~~, commits a felony of the third degree, punishable as
20 provided in s. 775.082, s. 775.083, or s. 775.084. For
21 purposes of this section, a staff member of the facilities
22 listed includes persons employed by the Department of Juvenile
23 Justice, persons employed at facilities licensed by the
24 Department of Juvenile Justice, and persons employed at
25 facilities operated under a contract with the Department of
26 Juvenile Justice.

27 Section 161. Section 933.18, Florida Statutes, is
28 amended to read:

29 933.18 When warrant may be issued for search of
30 private dwelling.--No search warrant shall issue under this
31

1 chapter or under any other law of this state to search any
2 private dwelling occupied as such unless:

3 (1) It is being used for the unlawful sale,
4 possession, or manufacture of intoxicating liquor;

5 (2) Stolen or embezzled property is contained therein;

6 (3) It is being used to carry on gambling;

7 (4) It is being used to perpetrate frauds and
8 swindles;

9 (5) The law relating to narcotics or drug abuse is
10 being violated therein;

11 (6) A weapon, instrumentality, or means by which a
12 felony has been committed, or evidence relevant to proving
13 said felony has been committed, is contained therein;

14 (7) One or more of the following misdemeanor child
15 abuse offenses is being committed there:

16 (a) Interference with custody, in violation of s.
17 787.03.

18 (b) Commission of an unnatural and lascivious act with
19 a child, in violation of s. 800.02.

20 (c) Exposure of sexual organs to a child, in violation
21 of s. 800.03.

22 (8) It is in part used for some business purpose such
23 as a store, shop, saloon, restaurant, hotel, or boardinghouse,
24 or lodginghouse;

25 (9) It is being used for the unlawful sale,
26 possession, or purchase of wildlife, saltwater products, or
27 freshwater fish being unlawfully kept therein; or

28 (10) The laws in relation to cruelty to animals have
29 been or are being violated therein, except that no search
30 pursuant to such a warrant shall be made in any private
31 dwelling after sunset and before sunrise unless specially

1 authorized by the judge issuing the warrant, upon a showing of
2 probable cause. Property relating to the violation of such
3 laws may be taken on a warrant so issued from any private
4 dwelling in which it is concealed or from the possession of
5 any person therein by whom it shall have been used in the
6 commission of such offense or from any person therein in whose
7 possession it may be.

8
9 If, during a search pursuant to a warrant issued under this
10 section, a child is discovered and appears to be in imminent
11 danger, the law enforcement officer conducting such search may
12 remove the child from the private dwelling and take the child
13 into protective custody pursuant to chapter 39 ~~s. 415.506~~.
14 The term "private dwelling" shall be construed to include the
15 room or rooms used and occupied, not transiently but solely as
16 a residence, in an apartment house, hotel, boardinghouse, or
17 lodginghouse. No warrant shall be issued for the search of
18 any private dwelling under any of the conditions hereinabove
19 mentioned except on sworn proof by affidavit of some
20 creditable witness that he or she has reason to believe that
21 one of said conditions exists, which affidavit shall set forth
22 the facts on which such reason for belief is based.

23 Section 162. Subsection (10) of section 943.045,
24 Florida Statutes, is amended to read:

25 943.045 Definitions; ss. 943.045-943.08.--The
26 following words and phrases as used in ss. 943.045-943.08
27 shall have the following meanings:

- 28 (10) "Criminal justice agency" means:
29 (a) A court.
30 (b) The department.
31 (c) The Department of Juvenile Justice.

1 (d) The protective investigations component of the
2 Department of Children and Family Services, which investigates
3 the crimes of abuse and neglect.

4 ~~(e)(d)~~ Any other governmental agency or subunit
5 thereof which performs the administration of criminal justice
6 pursuant to a statute or rule of court and which allocates a
7 substantial part of its annual budget to the administration of
8 criminal justice.

9 Section 163. Section 944.401, Florida Statutes, is
10 amended to read:

11 944.401 Escapes from secure detention or residential
12 commitment facility.--An escape from any secure detention
13 facility maintained for the temporary detention of children,
14 pending adjudication, disposition, or placement; an escape
15 from any residential commitment facility defined in s.
16 985.03(45)~~39-01(59)~~, maintained for the custody, treatment,
17 punishment, or rehabilitation of children found to have
18 committed delinquent acts or violations of law; or an escape
19 from lawful transportation thereto or therefrom constitutes
20 escape within the intent and meaning of s. 944.40 and is a
21 felony of the third degree, punishable as provided in s.
22 775.082, s. 775.083, or s. 775.084.

23 Section 164. Subsection (3) of section 944.705,
24 Florida Statutes, is amended to read:

25 944.705 Release orientation program.--

26 (3) Any inmate who claims to be a victim of domestic
27 violence as defined in s. 741.28 shall receive, as part of the
28 release orientation program, referral to the nearest domestic
29 violence center certified under chapter 39 ~~ss.~~
30 ~~415.601-415.608.~~

31

1 Section 165. Subsections (2) and (41) of section
2 984.03, Florida Statutes, as amended by chapter 97-276, Laws
3 of Florida, are amended to read:

4 984.03 Definitions.--When used in this chapter, the
5 term:

6 (2) "Abuse" means any willful act that results in any
7 physical, mental, or sexual injury that causes or is likely to
8 cause the child's physical, mental, or emotional health to be
9 significantly impaired. Corporal discipline of a child by a
10 parent or guardian for disciplinary purposes does not in
11 itself constitute abuse when it does not result in harm to the
12 child as defined in s. 39.01 ~~415.503~~.

13 (41) "Parent" means a woman who gives birth to a child
14 and a man whose consent to the adoption of the child would be
15 required under s. 63.062(1)(b). If a child has been legally
16 adopted, the term "parent" means the adoptive mother or father
17 of the child. The term does not include an individual whose
18 parental relationship to the child has been legally
19 terminated, or an alleged or prospective parent, unless the
20 parental status falls within the terms of either s. 39.503
21 ~~39.4051(7)~~ or s. 63.062(1)(b).

22 Section 166. Subsection (4) of section 984.10, Florida
23 Statutes, is amended to read:

24 984.10 Intake.--

25 (4) If the department has reasonable grounds to
26 believe that the child has been abandoned, abused, or
27 neglected, it shall proceed pursuant to the provisions of ~~s.~~
28 ~~415.505~~ and chapter 39.

29 Section 167. Paragraphs (a) and (c) of subsection (3)
30 of section 984.15, Florida Statutes, are amended to read:

31 984.15 Petition for a child in need of services.--

1 (3)(a) The parent, guardian, or legal custodian may
2 file a petition alleging that a child is a child in need of
3 services if:

4 1. The department waives the requirement for a case
5 staffing committee.

6 2. The department fails to convene a meeting of the
7 case staffing committee within 7 days, excluding weekends and
8 legal holidays, after receiving a written request for such a
9 meeting from the child's parent, guardian, or legal custodian.

10 3. The parent, guardian, or legal custodian does not
11 agree with the plan for services offered by the case staffing
12 committee.

13 4. The department fails to provide a written report
14 within 7 days after the case staffing committee meets, as
15 required under s. 984.12(8)~~39.426(8)~~.

16 (c) The petition must be in writing and must set forth
17 specific facts alleging that the child is a child in need of
18 services as defined in s. 984.03(9)~~39.01~~. The petition must
19 also demonstrate that the parent, guardian, or legal custodian
20 has in good faith, but unsuccessfully, participated in the
21 services and processes described in ss. 984.11 and 984.12
22 ~~39.424 and 39.426~~.

23 Section 168. Section 984.24, Florida Statutes, is
24 amended to read:

25 984.24 Appeal.--The state, any child, or the family,
26 guardian ad litem, or legal custodian of any child who is
27 affected by an order of the court pursuant to this chapter
28 ~~part~~ may appeal to the appropriate district court of appeal
29 within the time and in the manner prescribed by the Florida
30 Rules of Appellate Procedure ~~and pursuant to s. 39.413~~.

31

1 Section 169. Subsection (42) of section 985.03,
2 Florida Statutes, as amended by chapter 97-276, Laws of
3 Florida, is amended to read:

4 985.03 Definitions.--When used in this chapter, the
5 term:

6 (42) "Parent" means a woman who gives birth to a child
7 and a man whose consent to the adoption of the child would be
8 required under s. 63.062(1)(b). If a child has been legally
9 adopted, the term "parent" means the adoptive mother or father
10 of the child. The term does not include an individual whose
11 parental relationship to the child has been legally
12 terminated, or an alleged or prospective parent, unless the
13 parental status falls within the terms of either s. 39.503
14 ~~39.4051(7)~~ or s. 63.062(1)(b).

15 Section 170. Paragraph (c) of subsection (4) of
16 section 985.303, Florida Statutes, is amended to read:

17 985.303 Neighborhood restorative justice.--

18 (4) DEFERRED PROSECUTION PROGRAM; PROCEDURES.--

19 (c) The board shall require the parent or legal
20 guardian of the juvenile who is referred to a Neighborhood
21 Restorative Justice Center to appear with the juvenile before
22 the board at the time set by the board. In scheduling board
23 meetings, the board shall be cognizant of a parent's or legal
24 guardian's other obligations. The failure of a parent or
25 legal guardian to appear at the scheduled board meeting with
26 his or her child or ward may be considered by the juvenile
27 court as an act of child neglect as defined by s. 39.01
28 ~~415.503(3)~~, and the board may refer the matter to the
29 Department of Children and Family Services for investigation
30 under the provisions of chapter 39 ~~415~~.

31

1 Section 171. There is hereby appropriated to the
2 Department of Children and Family Services, in a lump sum,
3 \$11,000,000 from the Federal Grants Trust Fund to implement
4 the Relative Caregiver Program. The source of funding shall
5 be the Temporary Assistance to Needy Families Block
6 Grant. Any expenditures from the Temporary Assistance for
7 Needy Families block grant shall be expended in accordance
8 with the requirements and limitations of part A of Title IV of
9 the Social Security Act, as amended, or any other applicable
10 federal requirement or limitation.

11 Section 172. There is hereby appropriated to the
12 Justice Administration Commission \$3,500,000 from the General
13 Revenue Fund for the purpose of implementing sections 24, 57,
14 and 88 of this act, relating to right to and appointment of
15 counsel for certain persons.

16 Section 173. Sections 39.0195, 39.0196, 39.39, 39.403,
17 39.4032, 39.4052, 39.4053, 39.449, 39.45, 39.457, 39.459,
18 39.4625, 39.472, 39.475, 415.5016, 415.50165, 415.5017,
19 415.50175, 415.5018, 415.50185, 415.5019, 415.502, 415.503,
20 415.505, 415.506, 415.5075, 415.509, and 415.514, Florida
21 Statutes, are repealed.

22 Section 174. Except as otherwise provided herein, this
23 act shall take effect October 1 of the year in which enacted.
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