

By Representative Wise

1 A bill to be entitled
2 An act relating to families and children;
3 amending s. 39.001, F.S.; providing legislative
4 intent; amending s. 39.01, F.S.; revising
5 definitions; amending s. 39.012, F.S.;
6 providing rules for implementation by the
7 Department of Children and Family Services;
8 amending s. 39.0145, F.S.; providing
9 requirements with respect to certain children
10 who are in contempt of court; amending s.
11 39.038, F.S.; providing for the release of
12 certain children to a shelter; amending s.
13 39.044, F.S.; providing for the conduct of a
14 hearing with respect to certain children who
15 are detained; directing the Department of
16 Children and Family Services to document
17 savings and losses resulting from the enactment
18 of the act; providing for the submission of
19 such documentation to certain entities;
20 providing that certain professionals who report
21 child abuse or neglect must identify
22 themselves; providing that the central abuse
23 hotline must be operated in such a manner as to
24 ensure that reports may be tracked
25 electronically; amending s. 39.39, F.S.;
26 revising a definition; amending s. 39.40, F.S.;
27 providing that proceedings in dependency cases
28 shall be conducted in accordance with the
29 Florida Rules of Criminal Procedure; revising
30 language with respect to procedures; providing
31 timeframes for resolution of placement and

1 judicial handling of cases involving children
2 placed in shelters, under certain
3 circumstances; amending s. 39.401, F.S.;
4 revising language with respect to taking a
5 child alleged to be dependent into custody;
6 creating s. 39.4015, F.S.; creating the "Family
7 Bill of Rights Act"; requiring a court order
8 before taking a child into custody; requiring
9 an affidavit stating that the child is in
10 immediate danger; defining the term "immediate
11 danger"; providing penalties; providing for the
12 audio-recording or videotaping of all meetings
13 with children in the absence of the parents;
14 providing requirements and procedures with
15 respect to abuse cases; providing for
16 procedures consistent with the Florida Rules of
17 Criminal Procedure; amending s. 39.402, F.S.;
18 revising language with respect to placement in
19 a shelter; authorizing a protective
20 investigator or a law enforcement officer to
21 take a child into custody without a court order
22 under certain circumstances; providing
23 penalties for failure to meet the arraignment
24 deadline; amending s. 39.403, F.S.; prohibiting
25 the filing of certain anonymous reports with
26 respect to protective investigations; amending
27 s. 39.4031, F.S.; revising language with
28 respect to case plan requirements; amending s.
29 39.4032, F.S.; providing for the development of
30 an initial case plan by the case staffing
31 committee under certain circumstances; amending

1 s. 39.4033, F.S.; providing reference to
2 certain attorneys with respect to referral of a
3 dependency case to mediation; amending s.
4 39.404, F.S.; providing for a single time
5 period for the filing of a petition alleging
6 dependency; amending s. 39.405, F.S.; requiring
7 notice to the parent's attorney of proceedings
8 involving a child; amending s. 39.4055, F.S.;
9 providing for reference to the Florida Rules of
10 Criminal Procedure with respect to an
11 injunction pending disposition of a petition
12 for detention or dependency; amending s.
13 39.407, F.S.; prohibiting the department from
14 having a medical screening performed on a child
15 under certain circumstances; requiring certain
16 professionals used to evaluate a child must be
17 licensed professionals; providing for the
18 removal of a child from the home under certain
19 circumstances; amending s. 39.408, F.S.;
20 revising timeframes and language with respect
21 to hearings for dependency cases and notice
22 thereof; amending s. 39.409, F.S.; providing
23 for attorney's fees and costs if the court
24 finds that the child named in the petition is
25 not dependent; amending s. 39.41, F.S.;
26 directing the court to obtain the estimated
27 costs for required treatment and services prior
28 to ordering such treatment and services;
29 providing that when a placement is not in the
30 child's home, the facility must have a
31 drug-free workplace provision; requiring drug

1 testing of certain individuals before placement
2 of child in long-term custody; deleting
3 provisions authorizing the commitment of child
4 to temporary legal custody of the department;
5 providing for a report on cost of services;
6 amending s. 39.4105, F.S.; revising language
7 with respect to grandparents' rights; amending
8 s. 39.415, F.S.; providing for the amount of
9 compensation for appointed counsel in a
10 dependency proceeding; amending s. 39.437,
11 F.S.; providing for placement in a staff-secure
12 shelter of certain children in contempt of
13 court; amending s. 39.44, F.S.; providing for
14 reference to the Florida Rules of Criminal
15 Procedure with respect to hearings for
16 child-in-need-of-services cases; amending s.
17 39.441, F.S.; revising language with respect to
18 orders of adjudication; amending s. 39.4451,
19 F.S.; revising language with respect to oaths,
20 records, and confidential information;
21 providing that in dependency proceedings, the
22 ultimate prevailing party shall be entitled to
23 attorney's fees and costs; amending s. 39.446,
24 F.S.; providing for medical screening of
25 certain children by the department under
26 certain circumstances; authorizing a judge to
27 order substance abuse screening as appropriate;
28 providing for the removal of a child from the
29 home under certain circumstances; amending s.
30 39.447, F.S.; providing for the rate of
31 compensation for certain appointed counsel;

1 amending s. 39.451, F.S.; revising language
2 with respect to case planning for children in
3 foster care; amending s. 39.452, F.S.;
4 providing that certain case plans must include
5 estimated costs to provide services; providing
6 for notice to the attorney of a parent under
7 certain circumstances; amending s. 39.453,
8 F.S.; revising language with respect to
9 judicial review to delete reference to social
10 service agencies and to provide for reference
11 to the department; amending s. 39.454, F.S.;
12 revising language with respect to the
13 initiation of termination of parental rights
14 proceedings; amending s. 39.455, F.S.; revising
15 language with respect to immunity from
16 liability; repealing s. 39.457, F.S., relating
17 to the Leon County pilot program for additional
18 benefits to children in foster care; amending
19 s. 39.459, F.S.; revising a definition;
20 amending ss. 39.46 and 39.461, F.S.; providing
21 for reference to the Florida Rules of Criminal
22 Procedure with respect to procedures and
23 jurisdiction and with respect to petitions for
24 termination of parental rights; amending s.
25 39.4612, F.S.; providing that any suitable
26 permanent custody arrangement with a relative
27 of the child should be the first priority;
28 amending s. 39.462, F.S.; providing for notice
29 to the attorney for the parents for process and
30 services with respect to termination of
31 parental rights; amending s. 39.465, F.S.;

1 conforming to the act with respect to the
2 Florida Rules of Criminal Procedure; providing
3 for a report to be filed within an additional
4 time period before the disposition hearing;
5 amending s. 39.469, F.S.; revising language
6 with respect to the order of disposition
7 concerning the termination of parental rights
8 to exclude reference to a licensed
9 child-placing agency; amending s. 39.471, F.S.;
10 providing that certain court records may be
11 admissible in evidence in any other civil or
12 criminal proceeding; amending s. 39.473, F.S.;
13 providing for representation upon appeal by the
14 Attorney General or the Attorney General's
15 staff; providing for compensation rates for
16 certain attorney's fees; amending s. 397.6758,
17 F.S.; revising language with respect to the
18 release of a client from certain custody if the
19 client is a minor; amending s. 415.501, F.S.;
20 revising language with respect to the
21 comprehensive plan for the prevention of abuse
22 and neglect of children; requiring annual
23 submission of plan; repealing s. 415.5015,
24 F.S., relating to the Child Abuse Prevention
25 Training Act of 1985; amending s. 415.5016,
26 F.S.; revising language with respect to purpose
27 and legislative intent; amending s. 415.50165,
28 F.S.; revising definitions; amending s.
29 415.5017, F.S.; providing procedures to be used
30 by all agencies of the department, and other
31 state and local law enforcement and child

1 welfare agencies when requesting family
2 assistance with respect to reports alleging
3 child abuse or neglect; revising timeframes;
4 providing for family services plans to be
5 furnished to the caregiver; providing for the
6 duration of certain services; amending s.
7 415.50175, F.S.; providing for the destruction
8 of certain records; amending s. 415.5018, F.S.;
9 deleting obsolete language; providing reference
10 to formative and summative evaluations;
11 deleting certain requirements with respect to
12 proposals for family services response systems;
13 revising language with respect to child
14 protective investigations and flexibility
15 authorization; amending s. 415.50185, F.S.;
16 providing for summative evaluation and deleting
17 reference to outcome evaluation; amending s.
18 415.502, F.S.; revising legislative intent with
19 respect to comprehensive protective services
20 for abused or neglected children; amending s.
21 415.503, F.S.; revising definitions; amending
22 s. 415.504, F.S.; revising language with
23 respect to requirements for the central abuse
24 hotline; amending s. 415.505, F.S.; providing
25 for reference to the right of a child's parent
26 or guardian to audio-record or videotape all
27 activities with respect to certain
28 investigations; requiring the department to
29 show cause to the court that it is necessary to
30 examine and interview the child; amending s.
31 415.5055, F.S.; revising language with respect

1 to child protection teams and services;
2 providing for testing and evaluation; repealing
3 s. 415.506, F.S., relating to taking a child
4 into protective custody; amending s. 415.507,
5 F.S.; revising language with respect to
6 photographs, medical examinations, X rays, and
7 medical treatment of abused or neglected
8 children; creating s. 415.5081, F.S.; providing
9 for powers and authority of guardian advocates
10 and guardians ad litem; creating s. 415.50813,
11 F.S.; requiring guardians ad litem to maintain
12 the confidentiality of certain information and
13 documents; creating s. 415.50815, F.S.;
14 providing legislative intent with regard to
15 training and standards for guardians ad litem;
16 directing the Supreme Court to establish a
17 training program for guardians ad litem;
18 amending ss. 415.5084 and 415.5086, F.S.;
19 conforming to the act with respect to the
20 Florida Rules of Criminal Procedure; amending
21 s. 415.51, F.S.; revising language with respect
22 to confidentiality of reports and records in
23 cases of child abuse or neglect; amending s.
24 415.5131, F.S.; increasing the maximum fine for
25 false reports of abuse or neglect of a child;
26 amending s. 415.516, F.S.; revising language
27 with respect to the goals of the Family
28 Builders Program; amending s. 415.517, F.S.;
29 revising language with respect to the
30 contracting of services; amending s. 415.519,
31 F.S.; providing for the collection of data with

1 respect to the Family Builders Program;
2 amending s. 415.520, F.S.; revising
3 qualifications with respect to workers in the
4 Family Builders Program; amending s. 415.521,
5 F.S.; providing for summative rather than
6 outcome evaluation; amending s. 933.18, F.S.;
7 deleting a provision authorizing a law
8 enforcement officer to remove a child from a
9 private dwelling; amending s. 39.038, F.S.,
10 relating to the release of a child from
11 custody; conforming cross references; amending
12 ss. 39.015, 39.052, 39.058, 39.061, 39.423,
13 232.19, 744.309, and 784.075, F.S.; correcting
14 cross references; repealing s. 415.5088, F.S.,
15 relating to powers and duties of guardian
16 advocates; providing an effective date.

17

18 Be It Enacted by the Legislature of the State of Florida:

19

20 Section 1. Paragraphs (a) and (d) of subsection (1) of
21 section 39.001, Florida Statutes, 1996 Supplement, are amended
22 to read:

23 39.001 Purposes and intent; personnel standards and
24 screening.--

25 (1) The purposes of this chapter are:

26 (a) To provide judicial and other procedures to assure
27 due process through which children, their families, and other
28 interested parties are assured fair hearings by a respectful
29 and respected court or other tribunal and the recognition,
30 protection, and enforcement of their constitutional and other
31 legal rights, while ensuring that public safety interests and

1 the authority and dignity of the courts are adequately
2 protected.

3 (d) To preserve and strengthen the child's family ties
4 whenever possible, removing the child from parental custody
5 only when his or her welfare or the safety and protection of
6 the public cannot be adequately safeguarded without such
7 removal; and, when the child is removed from his or her own
8 family, to secure for the child custody, care, and discipline
9 as nearly as possible equivalent to that which should have
10 been given by the parents; and to assure, in all cases in
11 which a child must be permanently removed from parental
12 custody, that the child be placed in an approved drug-free
13 family home, adoptive home, independent living program, or
14 other placement that provides the most stable and permanent
15 living arrangement for the child, as determined by the court.

16 Section 2. Section 39.01, Florida Statutes, 1996
17 Supplement, is amended to read:

18 39.01 Definitions.--When used in this chapter:

19 (1) "Abandoned" means a situation in which the parent
20 or legal custodian of a child or, in the absence of a parent
21 or legal custodian, the person responsible for the child's
22 welfare, while being able, makes no provision for the child's
23 support and makes no effort to communicate with the child,
24 which situation is sufficient to evince a willful rejection of
25 parental obligations. If the efforts of such parent or legal
26 custodian, or person primarily responsible for the child's
27 welfare to support and communicate with the child are, in the
28 opinion of the court, only marginal efforts that do not evince
29 a settled purpose to assume all parental duties, the court may
30 declare the child to be abandoned. The term "abandoned" does
31 not include a "child in need of services" as defined in

1 subsection (12) or a "family in need of services" as defined
2 in subsection (30). The incarceration of a parent, legal
3 custodian, or person responsible for a child's welfare does
4 not constitute a bar to a finding of abandonment.

5 (2) "Abuse" means any willful act that results in any
6 physical, ~~mental~~, or sexual injury that causes or is likely to
7 cause the child's physical, ~~mental~~, or ~~emotional~~ health to be
8 significantly impaired and necessitates immediate treatment.
9 Corporal discipline of a child by a parent or guardian for
10 disciplinary purposes does not in itself constitute abuse when
11 it does not result in harm to the child as defined in s.
12 415.503.

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

15 (4) "Adjudicatory hearing" means a hearing for the
16 court to determine whether or not the facts support the
17 allegations stated in the petition as is provided for under s.
18 39.052(1), in delinquency cases; s. 39.408(2), in dependency
19 cases; s. 39.44(2), in child-in-need-of-services cases; or s.
20 39.467, in termination of parental rights cases.

21 (5) "Adult" means any natural person other than a
22 child.

23 (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 (7) "Authorized agent" or "designee" of the department
29 means a person or agency assigned or designated by the
30 Department of Juvenile Justice or the Department of Children
31 and Family ~~Health and Rehabilitative~~ Services, as appropriate,

1 to perform duties or exercise powers pursuant to this chapter
2 and includes contract providers and their employees for
3 purposes of providing services to and managing cases of
4 children in need of services and families in need of services.

5 (8) "Caretaker/homemaker" means an authorized agent of
6 the Department of Health and Rehabilitative Services who shall
7 remain in the child's home with the child until a parent,
8 legal guardian, or relative of the child enters the home and
9 is capable of assuming and agrees to assume charge of the
10 child.

11 (9) "Case plan" or "plan" means a document, as
12 described in s. 39.4031, prepared by the Department of
13 Children and Family Services, that follows the child from the
14 provision of voluntary services through any dependency, foster
15 care, or termination of parental rights proceeding or related
16 activity or process under part III, part V, or part VI.

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

24 (11) "Child eligible for an intensive residential
25 treatment program for offenders less than 13 years of age"
26 means a child who has been found to have committed a
27 delinquent act or a violation of law in the case currently
28 before the court and who meets at least one of the following
29 criteria:

30
31

1 (a) The child is less than 13 years of age at the time
2 of the disposition for the current offense and has been
3 adjudicated on the current offense for:

- 4 1. Arson;
- 5 2. Sexual battery;
- 6 3. Robbery;
- 7 4. Kidnapping;
- 8 5. Aggravated child abuse;
- 9 6. Aggravated assault;
- 10 7. Aggravated stalking;
- 11 8. Murder;
- 12 9. Manslaughter;
- 13 10. Unlawful throwing, placing, or discharging of a
14 destructive device or bomb;
- 15 11. Armed burglary;
- 16 12. Aggravated battery;
- 17 13. Lewd or lascivious assault or act in the presence
18 of a child; or
- 19 14. Carrying, displaying, using, threatening, or
20 attempting to use a weapon or firearm during the commission of
21 a felony.

22 (b) The child is less than 13 years of age at the time
23 of the disposition, the current offense is a felony, and the
24 child has previously been committed at least once to a
25 delinquency commitment program.

26 (c) The child is less than 13 years of age and is
27 currently committed for a felony offense and transferred from
28 a moderate-risk or high-risk residential commitment placement.

29 (12) "Child in need of services" means a child for
30 whom there is no pending investigation into an allegation or
31 suspicion of abuse, neglect, or abandonment; no pending

1 referral alleging the child is delinquent; or no current
2 supervision by the Department of Juvenile Justice or the
3 Department of Children and Family ~~Health and Rehabilitative~~
4 Services for an adjudication of dependency or delinquency. The
5 child must also, pursuant to this chapter, be found by the
6 court:

7 (a) To have persistently run away from the child's
8 parents or legal custodians despite reasonable efforts of the
9 child, the parents or legal custodians, and appropriate
10 agencies to remedy the conditions contributing to the
11 behavior. Reasonable efforts shall include voluntary
12 participation by the child's parents or legal custodians and
13 the child in family mediation, services, and treatment ~~offered~~
14 ~~by the Department of Juvenile Justice or the Department of~~
15 ~~Health and Rehabilitative Services;~~

16 (b) To be habitually truant from school, while subject
17 to compulsory school attendance, despite reasonable efforts to
18 remedy the situation pursuant to s. 232.19 and through
19 voluntary participation by the child's parents or legal
20 custodians and by the child in family mediation, services, and
21 treatment ~~offered by the Department of Juvenile Justice or the~~
22 ~~Department of Health and Rehabilitative Services;~~ or

23 (c) To have persistently disobeyed the reasonable and
24 lawful demands of the child's parents or legal custodians, and
25 to be beyond their control despite efforts by the child's
26 parents or legal custodians and appropriate agencies to remedy
27 the conditions contributing to the behavior. Reasonable
28 efforts may include such things as good faith participation in
29 family or individual counseling.

30 (13) "Child who has been found to have committed a
31 delinquent act" means a child who, pursuant to the provisions

1 of this chapter, is found by a court to have committed a
2 violation of law or to be in direct or indirect contempt of
3 court, ~~except that this definition shall not include an act~~
4 ~~constituting contempt of court arising out of a dependency~~
5 ~~proceeding or a proceeding pursuant to part IV of this~~
6 ~~chapter.~~

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

9 (a) To have been abandoned, abused, or neglected by
10 the child's parents or other custodians.

11 (b) To have been surrendered to the Department of
12 Children and Family ~~Health and Rehabilitative~~ Services or a
13 licensed child-placing agency for purpose of adoption.

14 (c) To have been voluntarily placed with a licensed
15 child-caring agency, a licensed child-placing agency, an adult
16 relative, or the Department of Children and Family ~~Health and~~
17 ~~Rehabilitative~~ Services, after which placement, under the
18 requirements of part V of this chapter, a case plan has
19 expired and the parent or parents have failed to substantially
20 comply with the requirements of the plan.

21 (d) To have been voluntarily placed with a licensed
22 child-placing agency for the purposes of subsequent adoption
23 and a natural parent or parents signed a consent pursuant to
24 the Florida Rules of Criminal ~~Juvenile~~ Procedure.

25 (e) To have no parent, legal custodian, or responsible
26 adult relative to provide supervision and care.

27 (f) To be at substantial risk of imminent abuse or
28 neglect by the parent or parents or the custodian.

29 (15) "Child support" means a court-ordered obligation,
30 enforced under chapter 61 and ss. 409.2551-409.2597, for
31

1 monetary support for the care, maintenance, training, and
2 education of a child.

3 (16) "Community control" means the legal status of
4 probation created by law and court order in cases involving a
5 child who has been found to have committed a delinquent act.
6 Community control is an individualized program in which the
7 freedom of the child is limited and the child is restricted to
8 noninstitutional quarters or restricted to the child's home in
9 lieu of commitment to the custody of the Department of
10 Juvenile Justice.

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

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

23 (19)(a) "Delinquency program" means any intake,
24 community control and furlough, or similar program; regional
25 detention center or facility; or community-based program,
26 whether owned and operated by or contracted by the Department
27 of Juvenile Justice, or institution owned and operated by or
28 contracted by the Department of Juvenile Justice, which
29 provides intake, supervision, or custody and care of children
30 who are alleged to be or who have been found to be delinquent
31 pursuant to part II.

1 (b) "Delinquency program staff" means supervisory and
2 direct care staff of a delinquency program as well as support
3 staff who have direct contact with children in a delinquency
4 program.

5 (c) "Delinquency prevention programs" means programs
6 designed for the purpose of reducing the occurrence of
7 delinquency, including youth and street gang activity, and
8 juvenile arrests. The term excludes arbitration, diversionary
9 or mediation programs, and community service work or other
10 treatment available subsequent to a child committing a
11 delinquent act.

12 (20) "Department," as used in parts III, V, and VI,
13 means the Department of Children and Family Health and
14 ~~Rehabilitative~~ Services. As used in parts II and IV, the term
15 means the Department of Juvenile Justice.

16 (21) "Designated facility" or "designated treatment
17 facility" means any facility designated by the Department of
18 Juvenile Justice to provide treatment to juvenile offenders.

19 (22) "Detention care" means the temporary care of a
20 child in secure, nonsecure, or home detention, pending a court
21 adjudication or disposition or execution of a court order.
22 There are three types of detention care, as follows:

23 (a) "Secure detention" means temporary custody of the
24 child while the child is under the physical restriction of a
25 detention center or facility pending adjudication,
26 disposition, or placement.

27 (b) "Nonsecure detention" means temporary custody of
28 the child while the child is in a residential home in the
29 community in a physically nonrestrictive environment under the
30 supervision of the Department of Juvenile Justice pending
31 adjudication, disposition, or placement.

1 (c) "Home detention" means temporary custody of the
2 child while the child is released to the custody of the
3 parent, guardian, or custodian in a physically nonrestrictive
4 environment under the supervision of the Department of
5 Juvenile Justice staff pending adjudication, disposition, or
6 placement.

7 (23) "Detention center or facility" means a facility
8 used pending court adjudication or disposition or execution of
9 court order for the temporary care of a child alleged or found
10 to have committed a violation of law. A detention center or
11 facility may provide secure or nonsecure custody. A facility
12 used for the commitment of adjudicated delinquents shall not
13 be considered a detention center or facility.

14 (24) "Detention hearing" means a hearing for the court
15 to determine if a child should be placed in temporary custody,
16 as provided for under ss. 39.042 and 39.044, in delinquency
17 cases, or s. 39.402, in dependency cases.

18 (25) "Diligent efforts by a parent" means a course of
19 conduct which results in a reduction in risk to the child in
20 the child's home that would allow the child to be safely
21 placed permanently back in the home as set forth in the case
22 plan.

23 (26) "Diligent efforts of social service agency" means
24 reasonable efforts to provide social services or reunification
25 services made by any social service agency as defined in this
26 section that is a party to a case plan.

27 (27) "Diligent search" means the efforts of a social
28 service agency in accordance with the requirements of s.
29 39.4051(6) to locate a parent or prospective parent whose
30 identity or location is unknown, initiated as soon as the
31 agency is made aware of the existence of such a parent, with

1 the search progress reported at each court hearing until the
2 parent is either identified and located or the court excuses
3 further search.

4 (28) "Disposition hearing" means a hearing in which
5 the court determines the most appropriate dispositional
6 services in the least restrictive available setting provided
7 for under s. 39.052(4), in delinquency cases; s. 39.408(3), in
8 dependency cases; s. 39.44(3), in child-in-need-of-services
9 cases; or s. 39.469, in termination of parental rights cases.

10 (29) "Family" means a collective body of persons,
11 consisting of a child and a parent, guardian, adult custodian,
12 or adult relative, in which:

13 (a) The persons reside in the same house or living
14 unit; or

15 (b) The parent, guardian, adult custodian, or adult
16 relative has a legal responsibility by blood, marriage, or
17 court order to support or care for the child.

18 (30) "Family bill of rights" means the provisions of
19 s. 39.4015, the Family Bill of Rights Act.

20 (31)~~(30)~~ "Family in need of services" means a family
21 that has a child for whom there is no pending investigation
22 into an allegation of abuse, neglect, or abandonment or no
23 current supervision by the Department of Juvenile Justice or
24 the Department of Health and Rehabilitative Services for an
25 adjudication of dependency or delinquency. The child must also
26 have been referred to a law enforcement agency or the
27 Department of Juvenile Justice for:

28 (a) Running away from parents or legal custodians;

29 (b) Persistently disobeying reasonable and lawful
30 demands of parents or legal custodians, and being beyond their
31 control; or

1 (c) Habitual truancy from school.

2 (32)~~(31)~~ "Foster care" means care provided a child in
3 a foster family or boarding home, group home, agency boarding
4 home, child care institution, or any combination thereof.

5 (33)~~(32)~~ "Halfway house" means a community-based
6 residential program for 10 or more committed delinquents at
7 the moderate-risk restrictiveness level that is operated or
8 contracted by the Department of Juvenile Justice.

9 (34) "Immediate danger" means abuse of such nature as
10 defined in s. 39.4015, including that which would likely
11 result in the child's suffering serious physical injury,
12 serious bodily injury that necessitates immediate medical
13 treatment, imminent danger of death, or rape.

14 (a) The parents or legal guardian shall be notified of
15 the initial hearing after a diligent search, and proof of said
16 notice or an affidavit shall be filed with the court at the
17 time of the hearing. The proof shall consist of a signed
18 acknowledgement of the petition and notice of hearing which
19 was delivered to the parents or guardian at least 72 hours
20 prior to the hearing.

21 (b) If the parents or legal guardian are present, they
22 shall have the right to have their attorney present and shall
23 be able to present evidence establishing that the injuries the
24 child has are not, as a matter of law, evidence of child
25 abuse.

26 (35)~~(33)~~ "Intake" means the initial acceptance and
27 screening by the Department of Juvenile Justice of a complaint
28 or a law enforcement report or probable cause affidavit of
29 delinquency, family in need of services, or child in need of
30 services to determine the recommendation to be taken in the
31 best interests of the child, the family, and the community.

1 The emphasis of intake is on diversion and the least
2 restrictive available services. Consequently, intake includes
3 such alternatives as:

4 (a) The disposition of the complaint, report, or
5 probable cause affidavit without court or public agency action
6 or judicial handling when appropriate.

7 (b) The referral of the child to another public or
8 private agency when appropriate.

9 (c) The recommendation by the intake counselor or case
10 manager of judicial handling when appropriate and warranted.

11 (36)~~(34)~~ "Intake counselor" or "case manager" means
12 the authorized agent of the Department of Juvenile Justice
13 performing the intake or case management function for a child
14 alleged to be delinquent or in need of services, or from a
15 family in need of services.

16 (37)~~(35)~~ "Judge" means the circuit judge exercising
17 jurisdiction pursuant to this chapter.

18 (38)~~(36)~~ "Juvenile sexual offender" means:

19 (a) A juvenile who has been found by the court
20 pursuant to s. 39.053 to have committed a violation of chapter
21 794, chapter 796, chapter 800, s. 827.071, or s. 847.0133;

22 (b) A juvenile found to have committed any violation
23 of law or delinquent act involving juvenile sexual abuse.

24 "Juvenile sexual abuse" means any sexual behavior which occurs
25 without consent, without equality, or as a result of coercion.
26 For purposes of this subsection, the following definitions
27 apply:

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

31

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 ~~(39)~~(37) "Legal custody" means a legal status created
24 by court order or letter of guardianship which vests in a
25 custodian of the person or guardian, whether an agency or an
26 individual, the right to have physical custody of the child
27 and the right and duty to protect, train, and discipline the
28 child and to provide him or her with food, shelter, education,
29 and ordinary medical, dental, psychiatric, and psychological
30 care.

31

1 ~~(40)~~(38) "Licensed child-caring agency" means a
2 person, society, association, or agency licensed by the
3 Department of Children and Family ~~Health and Rehabilitative~~
4 Services to care for, receive, and board children.

5 ~~(41)~~(39) "Licensed child-placing agency" means a
6 person, society, association, or institution licensed by the
7 Department of Children and Family ~~Health and Rehabilitative~~
8 Services to care for, receive, or board children and to place
9 children in a licensed child-caring institution or a foster or
10 adoptive home.

11 ~~(42)~~(40) "Licensed health care professional" means a
12 physician licensed under chapter 458, an osteopathic physician
13 licensed under chapter 459, a nurse licensed under chapter
14 464, a physician assistant certified under chapter 458, or a
15 dentist licensed under chapter 466.

16 ~~(43)~~(41) "Likely to injure oneself" means that, as
17 evidenced by violent or other actively self-destructive
18 behavior, it is more likely than not that within a 24-hour
19 period the child will attempt to commit suicide or inflict
20 serious bodily harm on himself or herself.

21 ~~(44)~~(42) "Likely to injure others" means that it is
22 more likely than not that within a 24-hour period the child
23 will inflict serious and unjustified bodily harm on another
24 person.

25 ~~(45)~~(43) "Long-term relative custodian" means an adult
26 who is a party to a long-term custodial relationship created
27 by a court order pursuant to s. 39.41(1)(a)3.a.

28 ~~(46)~~(44) "Long-term relative custody" or "long-term
29 custodial relationship" means the relationship that a juvenile
30 court order creates between a child and an adult relative of
31 the child or an adult nonrelative approved by the court when

1 the child cannot be placed in the custody of a natural parent
2 and termination of parental rights is not deemed to be in the
3 best interest of the child. Long-term relative custody confers
4 upon the long-term relative or nonrelative custodian the right
5 to physical custody of the child, a right which will not be
6 disturbed by the court except upon request of the custodian or
7 upon a showing that a material change in circumstances
8 necessitates a change of custody for the best interest of the
9 child. A long-term relative or nonrelative custodian shall
10 have all of the rights of a natural parent, including, but not
11 limited to, the right and duty to protect, train, and
12 discipline the child and to provide the child with food,
13 shelter, and education, and ordinary medical, dental,
14 psychiatric, and psychological care, unless these rights and
15 duties are otherwise enlarged or limited by the court order
16 establishing the long-term custodial relationship.

17 (47)~~(45)~~ "Mediation" means a process whereby a neutral
18 third person called a mediator acts to encourage and
19 facilitate the resolution of a dispute between two or more
20 parties. It is an informal and nonadversarial process with
21 the objective of helping the disputing parties reach a
22 mutually acceptable and voluntary agreement. In mediation,
23 decisionmaking authority rests with the parties. The role of
24 the mediator includes, but is not limited to, assisting the
25 parties in identifying issues, fostering joint problem
26 solving, and exploring settlement alternatives.

27 (48)~~(46)~~ "Necessary medical treatment" means care
28 which is necessary within a reasonable degree of medical
29 certainty to prevent the deterioration of a child's condition
30 or to alleviate immediate pain of a child.

31

1 ~~(49)(47)~~ "Neglect" occurs when the parent or legal
2 custodian of a child or, in the absence of a parent or legal
3 custodian, the person primarily responsible for the child's
4 welfare deprives a child of, or allows a child to be deprived
5 of, necessary food, clothing, shelter, or medical treatment or
6 permits a child to live in an environment when such
7 deprivation or environment causes the child's physical,
8 ~~mental, or emotional~~ health to be significantly impaired or to
9 be in danger of being significantly impaired. ~~The foregoing~~
10 ~~circumstances shall not be considered neglect if caused~~
11 ~~primarily by financial inability unless actual services for~~
12 ~~relief have been offered to and rejected by such person.~~ A
13 parent or guardian legitimately practicing religious beliefs
14 in accordance with a recognized church or religious
15 organization who thereby does not provide specific medical
16 treatment for a child shall not, for that reason alone, be
17 considered a negligent parent or guardian; however, such an
18 exception does not preclude a court from ordering the
19 following services to be provided, when the health of the
20 child so requires:

21 (a) Medical services from a licensed physician,
22 dentist, optometrist, podiatrist, or other qualified licensed
23 or certified health care provider; or

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

28 ~~(50)(48)~~ "Parent" means a woman who gives birth to a
29 child and a man whose consent to the adoption of the child
30 would be required under s. 63.062(1)(b). If a child has been
31 legally adopted, the term "parent" means the adoptive mother

1 or father of the child. The term does not include an
2 individual whose parental relationship to the child has been
3 legally terminated, or an alleged or prospective parent,
4 unless the parental status falls within the terms of either s.
5 39.4051(7) or s. 63.062(1)(b).

6 (51)~~(49)~~ "Participant," for purposes of a shelter
7 proceeding, dependency proceeding, or termination of parental
8 rights proceeding, means any person who is not a party but who
9 should receive notice of hearings involving the child,
10 including foster parents, identified prospective parents,
11 grandparents entitled to priority for adoption consideration
12 under s. 63.0425, actual custodians of the child, and any
13 other person whose participation may be in the best interest
14 of the child. Participants may be granted leave by the court
15 to be heard without the necessity of filing a motion to
16 intervene.

17 (52)~~(50)~~ "Party," for purposes of a shelter
18 proceeding, dependency proceeding, or termination of parental
19 rights proceeding, means the parent of the child, the
20 petitioner, the department, the guardian ad litem when one has
21 been appointed, and the child. The presence of the child may
22 be excused by order of the court when presence would not be in
23 the child's best interest. Notice to the child may be excused
24 by order of the court when the age, capacity, or other
25 condition of the child is such that the notice would be
26 meaningless or detrimental to the child.

27 (53)~~(51)~~ "Preliminary screening" means the gathering
28 of preliminary information to be used in determining a child's
29 need for further evaluation or assessment or for referral for
30 other substance abuse services through means such as
31 psychosocial interviews; urine and breathalyzer screenings;

1 and reviews of available educational, delinquency, and
2 dependency records of the child.

3 (54)~~(52)~~ "Preventive services" means social services
4 and other supportive and rehabilitative services provided to
5 the parent of the child, the legal guardian of the child, or
6 the custodian of the child and to the child for the purpose of
7 averting the removal of the child from the home or disruption
8 of a family which will or could result in the placement of a
9 child in foster care. Social services and other supportive
10 and rehabilitative services shall promote the child's need for
11 a safe, continuous, stable, living environment and shall
12 promote family autonomy and shall strengthen family life as
13 the first priority whenever possible.

14 (55)~~(53)~~ "Prospective parent" means a person who
15 claims to be, or has been identified as, a person who may be a
16 mother or a father of a child.

17 (56)~~(54)~~ "Protective investigation" means the review
18 acceptance of a report alleging child abuse or neglect, as
19 defined in this section or s. 415.503, by the central abuse
20 registry and tracking system or the review and acceptance of a
21 report of other dependency by the ~~local children, youth, and~~
22 ~~families office of the~~ Department of Children and Family
23 ~~Health and Rehabilitative Services; the investigation and~~
24 ~~classification of each report;~~ the determination of whether
25 action by the court is warranted; the determination of whether
26 the disposition of each report without court or public agency
27 action is ~~when~~ appropriate; ~~the referral of a child to another~~
28 ~~public or private agency when appropriate;~~ and the
29 recommendation by the protective investigator of court action
30 when appropriate.

31

1 (57)~~(55)~~ "Protective investigator" means an authorized
2 agent of the Department of Children and Family ~~Health and~~
3 ~~Rehabilitative~~ Services who receives, investigates, and
4 classifies reports of child abuse or neglect as defined in
5 this section or s. 415.503; who, as a result of the
6 investigation, may recommend that a dependency petition be
7 filed for the child under the criteria of paragraph (14)(a);
8 and who performs other duties necessary to carry out the
9 required actions of the protective investigation function.

10 (58)~~(56)~~ "Protective supervision" means a legal status
11 in dependency cases, child-in-need-of-services cases, or
12 family-in-need-of-services cases which permits the child to
13 remain in his or her own home or other placement under the
14 supervision of an agent of the Department of Juvenile Justice
15 or the Department of Children and Family ~~Health and~~
16 ~~Rehabilitative~~ Services, subject to being returned to the
17 court during the period of supervision.

18 (59)~~(57)~~ "Protective supervision case plan" means a
19 document that is prepared by the protective supervision
20 counselor of the Department of Children and Family ~~Health and~~
21 ~~Rehabilitative~~ Services, is based upon the voluntary
22 protective supervision of a case pursuant to s. 39.403(2)(b),
23 or a disposition order entered pursuant to s.
24 39.41(2)(a)3.~~(1)(a)1.~~, and that:

25 (a) Is developed in conference with the parent,
26 guardian, or custodian of the child and, if appropriate, the
27 child and any court-appointed guardian ad litem.

28 (b) Is written simply and clearly in the principal
29 language, to the extent possible, of the parent, guardian, or
30 custodian of the child and in English, only for the purpose of
31 correcting the deficiencies cited.

1 (c) Is subject to modification based on changing
2 circumstances and negotiations among the parties to the plan
3 and includes, at a minimum:

4 1. All services and activities ordered by the court
5 and their estimated cost.

6 2. Goals and specific activities to be achieved by all
7 parties to the plan.

8 3. Anticipated dates for achieving each goal and
9 activity.

10 4. Signatures of all parties to the plan.

11 (d) Is submitted to the court in cases where a
12 dispositional order has been entered pursuant to s.

13 39.41(2)(a)3(1)(a)1.

14 (60)(58) "Relative" means a grandparent,
15 great-grandparent, sibling, first cousin, aunt, uncle,
16 great-aunt, great-uncle, niece, or nephew, whether related by
17 the whole or half blood, by affinity, or by adoption. The term
18 does not include a stepparent.

19 (61)(59) "Restrictiveness level" means the level of
20 custody provided by programs that service the custody and care
21 needs of committed children. There shall be five
22 restrictiveness levels:

23 (a) Minimum-risk nonresidential.--Youth assessed and
24 classified for placement in programs at this restrictiveness
25 level represent a minimum risk to themselves and public safety
26 and do not require placement and services in residential
27 settings. Programs or program models in this restrictiveness
28 level include: community counselor supervision programs,
29 special intensive group programs, nonresidential marine
30 programs, nonresidential training and rehabilitation centers,
31 and other local community nonresidential programs.

1 (b) Low-risk residential.--Youth assessed and
2 classified for placement in programs at this level represent a
3 low risk to themselves and public safety and do require
4 placement and services in residential settings. Programs or
5 program models in this restrictiveness level include: Short
6 Term Offender Programs (STOP), group treatment homes, family
7 group homes, proctor homes, and Short Term Environmental
8 Programs (STEP).

9 (c) Moderate-risk residential.--Youth assessed and
10 classified for placement in programs in this restrictiveness
11 level represent a moderate risk to public safety. Programs
12 are designed for children who require close supervision but do
13 not need placement in facilities that are physically secure.
14 Programs in the moderate-risk residential restrictiveness
15 level provide 24-hour awake supervision, custody, care, and
16 treatment. Upon specific appropriation, a facility at this
17 restrictiveness level may have a security fence around the
18 perimeter of the grounds of the facility and may be
19 hardware-secure or staff-secure. The staff at a facility at
20 this restrictiveness level may seclude a child who is a
21 physical threat to himself or others. Mechanical restraint
22 may also be used when necessary. Programs or program models in
23 this restrictiveness level include: halfway houses, START
24 Centers, the Dade Intensive Control Program, licensed
25 substance abuse residential programs, and moderate-term
26 wilderness programs designed for committed delinquent youth
27 that are operated or contracted by the Department of Juvenile
28 Justice. Section 39.061 applies to children in moderate-risk
29 residential programs.

30 (d) High-risk residential.--Youth assessed and
31 classified for this level of placement require close

1 supervision in a structured residential setting that provides
2 24-hour-per-day secure custody, care, and supervision.
3 Placement in programs in this level is prompted by a concern
4 for public safety that outweighs placement in programs at
5 lower restrictiveness levels. Programs or program models in
6 this level are staff or physically secure residential
7 commitment facilities and include: training schools, intensive
8 halfway houses, residential sex offender programs, long-term
9 wilderness programs designed exclusively for committed
10 delinquent youth, boot camps, secure halfway house programs,
11 and the Broward Control Treatment Center. Section 39.061
12 applies to children placed in programs in this restrictiveness
13 level.

14 (e) Maximum-risk residential.--Youth assessed and
15 classified for this level of placement require close
16 supervision in a maximum security residential setting that
17 provides 24-hour-per-day secure custody, care, and
18 supervision. Placement in a program in this level is prompted
19 by a demonstrated need to protect the public. Programs or
20 program models in this level are maximum-secure-custody,
21 long-term residential commitment facilities that are intended
22 to provide a moderate overlay of educational, vocational, and
23 behavioral-modification services. Section 39.061 applies to
24 children placed in programs in this restrictiveness level.

25 (62)~~(60)~~ "Reunification services" means social
26 services and other supportive and rehabilitative services
27 provided to the parent of the child, the legal guardian of the
28 child, or the custodian of the child, whichever is applicable,
29 the child, and where appropriate the foster parents of the
30 child for the purpose of enabling a child who has been placed
31 in foster care to return to his or her family at the earliest

1 possible time. Social services and other supportive and
2 rehabilitative services shall promote the child's need for a
3 safe, continuous, stable, living environment and shall promote
4 family autonomy and strengthen family life as a first priority
5 whenever possible.

6 (63)~~(61)~~ "Secure detention center or facility" means a
7 physically restricting facility for the temporary care of
8 children, pending adjudication, disposition, or placement.

9 (64)~~(62)~~ "Serious or habitual juvenile offender," for
10 purposes of commitment to a residential facility and for
11 purposes of records retention, means a child who has been
12 found to have committed a delinquent act or a violation of
13 law, in the case currently before the court, and who meets at
14 least one of the following criteria:

15 (a) The youth is at least 13 years of age at the time
16 of the disposition for the current offense and has been
17 adjudicated on the current offense for:

- 18 1. Arson;
- 19 2. Sexual battery;
- 20 3. Robbery;
- 21 4. Kidnapping;
- 22 5. Aggravated child abuse;
- 23 6. Aggravated assault;
- 24 7. Aggravated stalking;
- 25 8. Murder;
- 26 9. Manslaughter;
- 27 10. Unlawful throwing, placing, or discharging of a
28 destructive device or bomb;
- 29 11. Armed burglary;
- 30 12. Aggravated battery;

31

1 13. Lewd or lascivious assault or act in the presence
2 of a child; or

3 14. Carrying, displaying, using, threatening, or
4 attempting to use a weapon or firearm during the commission of
5 a felony.

6 (b) The youth is at least 13 years of age at the time
7 of the disposition, the current offense is a felony, and the
8 child has previously been committed at least two times to a
9 delinquency commitment program.

10 (c) The youth is at least 13 years of age and is
11 currently committed for a felony offense and transferred from
12 a moderate-risk or high-risk residential commitment placement.

13 (65)~~(63)~~ "Serious or habitual juvenile offender
14 program" means the program established in s. 39.058.

15 (66)~~(64)~~ "Shelter" means a place for the temporary
16 care of a child who is alleged to be or who has been found to
17 be dependent, a child from a family in need of services, or a
18 child in need of services, pending court disposition before or
19 after adjudication or after execution of a court order.
20 "Shelter" may include a facility which provides 24-hour
21 continual supervision for the temporary care of a child who is
22 placed pursuant to s. 39.422.

23 (67)~~(65)~~ "Shelter hearing" means a hearing provided
24 for under s. 39.422 in family-in-need-of-services cases or
25 child-in-need-of-services cases.

26 (68)~~(66)~~ "Social service agency" means the Department
27 of Children and Family ~~Health and Rehabilitative~~ Services, a
28 licensed child-caring agency, or a licensed child-placing
29 agency.

30 (69)~~(67)~~ "Staff-secure shelter" means a facility in
31 which a child is supervised 24 hours a day by staff members

1 who are awake while on duty. The facility is for the temporary
2 care and assessment of a child who has been found to be
3 dependent, who has violated a court order and been found in
4 contempt of court, or whom the Department of Children and
5 Family Health and Rehabilitative Services is unable to
6 properly assess or place for assistance within the continuum
7 of services provided for dependent children.

8 (70)~~(68)~~ "Substance abuse" means using, without
9 medical reason, any psychoactive or mood-altering drug,
10 including alcohol, in such a manner as to induce impairment
11 resulting in dysfunctional social behavior.

12 (71)~~(69)~~ "Substantial compliance" means that the
13 circumstances which caused the placement in foster care have
14 been significantly remedied to the extent that the well-being
15 and safety of the child will not be endangered upon the
16 child's being returned to the child's parent or guardian.

17 (72)~~(70)~~ "Taken into custody" means the status of a
18 child immediately when temporary physical control over the
19 child is attained by a person authorized by law, pending the
20 child's release, detention, placement, or other disposition as
21 authorized by law.

22 (73)~~(71)~~ "Temporary legal custody" means the
23 relationship that a juvenile court creates between a child and
24 an adult relative of the child, adult nonrelative approved by
25 the court, or other person until a more permanent arrangement
26 is ordered. Temporary legal custody confers upon the custodian
27 the right to have temporary physical custody of the child and
28 the right and duty to protect, train, and discipline the child
29 and to provide the child with food, shelter, and education,
30 and ordinary medical, dental, psychiatric, and psychological
31 care, unless these rights and duties are otherwise enlarged or

1 limited by the court order establishing the temporary legal
2 custody relationship.

3 (74)~~(72)~~ "Temporary release" means the terms and
4 conditions under which a child is temporarily released from a
5 commitment facility or allowed home visits. If the temporary
6 release is from a moderate-risk residential facility, a
7 high-risk residential facility, or a maximum-risk residential
8 facility, the terms and conditions of the temporary release
9 must be approved by the child, the court, and the facility.
10 The term includes periods during which the child is supervised
11 pursuant to a reentry program or an aftercare program or a
12 period during which the child is supervised by a case manager
13 or other nonresidential staff of the department or staff
14 employed by an entity under contract with the department. A
15 child placed in a postcommitment community control program by
16 order of the court is not considered to be on temporary
17 release and is not subject to the terms and conditions of
18 temporary release.

19 (75)~~(73)~~ "To be habitually truant" means that:

20 (a) The child has 15 unexcused absences within 90 days
21 with or without the knowledge or justifiable consent of the
22 child's parent or legal guardian and is not exempt from
23 attendance by virtue of being over the age of compulsory
24 school attendance or by meeting the criteria in s. 232.06, s.
25 232.09, or any other exemptions specified by law or the rules
26 of the State Board of Education;

27 (b) In addition to the actions described in s. 232.17,
28 the school administration has completed the following
29 escalating activities to determine the cause, and to attempt
30 the remediation, of the child's truant behavior:

31

1 1. After a minimum of 3 and prior to 15 unexcused
2 absences within 90 days, one or more meetings have been held,
3 either in person or by phone, between a school attendance
4 assistant or school official ~~social worker~~, the child's parent
5 or guardian, and the child, if necessary, to report and to
6 attempt to solve the truancy problem. However, if the school
7 attendance assistant or school official ~~social worker~~ has
8 documented the refusal of the parent or guardian or child to
9 participate in the meetings, then this requirement has been
10 met;

11 2. Educational counseling has been provided to
12 determine whether curriculum changes would help solve the
13 truancy problem, and, if any changes were indicated, such
14 changes were instituted but proved unsuccessful in remedying
15 the truant behavior. Such curriculum changes may include
16 enrollment of the child in an alternative education program
17 that meets the specific educational and behavioral needs of
18 the child, including a second chance school, as provided for
19 in s. 230.2316, designed to resolve truant behavior;

20 3. Educational evaluation, pursuant to the
21 requirements of s. 232.19(3)(b)3., has been provided; and

22 4. The school official ~~social worker~~, the attendance
23 assistant, or the school superintendent's designee ~~if there is~~
24 ~~no school social worker or attendance assistant~~ has referred
25 the student and family to the children-in-need-of-services and
26 families-in-need-of-services provider or the case staffing
27 committee, established pursuant to s. 39.426, as determined by
28 the cooperative agreement required in s. 232.19(3). The case
29 staffing committee may request the department or its designee
30 to file a child-in-need-of-services petition based upon the
31 report and efforts of the school district or other community

1 agency or may seek to resolve the truancy behavior through the
2 school or community-based organizations or agencies.

3
4 If a child within the compulsory school attendance age is
5 responsive to the interventions described in this paragraph
6 and has completed the necessary requirements to pass the
7 current grade as indicated in the district pupil progression
8 plan, the child shall not be determined to be habitually
9 truant. If a child within the compulsory school attendance age
10 has 15 unexcused absences or fails to enroll in school, the
11 State Attorney may file a child-in-need-of-services petition.
12 Prior to filing a petition, the child must be referred to the
13 appropriate agency for evaluation. After consulting with the
14 evaluating agency, the State Attorney may elect to file a
15 child-in-need-of-services petition.

16 (c) A school official ~~social worker~~ or other person
17 designated by the school administration, if the school does
18 not have a school social worker, and an intake counselor or
19 case manager of the Department of Juvenile Justice have
20 jointly investigated the truancy problem or, if that was not
21 feasible, have performed separate investigations to identify
22 conditions which may be contributing to the truant behavior;
23 and if, after a joint staffing of the case to determine the
24 necessity for services, such services were determined to be
25 needed, the persons who performed the investigations met
26 jointly with the family and child to discuss any referral to
27 appropriate community agencies for economic services, family
28 or individual counseling, or other services required to remedy
29 the conditions that are contributing to the truant behavior;
30 and

31

1 (d) The failure or refusal of the parent or legal
2 guardian or the child to participate, or make a good faith
3 effort to participate, in the activities prescribed to remedy
4 the truant behavior, or the failure or refusal of the child to
5 return to school after participation in activities required by
6 this subsection, or the failure of the child to stop the
7 truant behavior after the school administration and the
8 Department of Juvenile Justice have worked with the child as
9 described in s. 232.19(3) shall be handled as prescribed in s.
10 232.19.

11 (76)~~(74)~~ "Training school" means one of the following
12 facilities: the Arthur G. Dozier School or the Eckerd Youth
13 Development Center.

14 (77)~~(75)~~ "Violation of law" or "delinquent act" means
15 a violation of any law of this state, the United States, or
16 any other state which is a misdemeanor or a felony or a
17 violation of a county or municipal ordinance which would be
18 punishable by incarceration if the violation were committed by
19 an adult.

20 (78)~~(76)~~ "Waiver hearing" means a hearing provided for
21 under s. 39.052(2).

22 Section 3. Section 39.012, Florida Statutes, is
23 amended to read:

24 39.012 Rules for implementation.--The Department of
25 Juvenile Justice shall adopt rules for the efficient and
26 effective management of all programs, services, facilities,
27 and functions necessary for implementing parts II and IV of
28 this chapter, and the Department of Children and Family Health
29 ~~and Rehabilitative~~ Services shall implement only the rules and
30 procedures as set forth in chapters 39 and 415 in cases
31 involving child abuse. No rules or directives will be

1 established by any regional office or suboffice which might
2 supersede or lessen the authority set forth in this section
3 ~~adopt rules for the efficient and effective management of all~~
4 ~~programs, services, facilities, and functions necessary for~~
5 ~~implementing parts III, V, and VI of this chapter.~~ Such rules
6 may not conflict with the Florida Rules of Juvenile Procedure.
7 All rules and policies must conform to accepted standards of
8 care and treatment.

9 Section 4. Paragraph (c) is added to subsection (2) of
10 section 39.0145, Florida Statutes, to read:

11 39.0145 Punishment for contempt of court; alternative
12 sanctions.--

13 (2) PLACEMENT IN A SECURE FACILITY.--A child may be
14 placed in a secure facility for purposes of punishment for
15 contempt of court if alternative sanctions are unavailable or
16 inappropriate, or if the child has already been ordered to
17 serve an alternative sanction but failed to comply with the
18 sanction.

19 (c) A child who is alleged or found to be dependent
20 and who is found, in a hearing that affords the child all due
21 process rights as provided in subsection (4), to be in direct
22 contempt of court or to be in indirect contempt of a valid
23 court order may be placed in a staff-secure shelter that is
24 not a correctional facility, a detention facility for
25 delinquent children, or a shelter facility intended solely for
26 children in need of services, if such placement for children
27 adjudicated dependent is available, for a maximum of 3 days
28 following the hearing for the first occurrence of contempt of
29 court; for a maximum of 21 days following the hearing for a
30 second occurrence of contempt of court; and for a maximum of 6
31 months following the hearing for a third or subsequent

1 occurrence of contempt of court, while the child remains a
2 dependent child.

3 1. It is the intent of the Legislature that the court
4 restrict and limit the use of contempt powers in dependency
5 cases as applied to children.

6 2. A dependent child believed to be in contempt of
7 court may be taken into custody and placed in a staff-secure
8 shelter by order of the court pursuant to the provisions of s.
9 39.401.

10 3. The court must hold an initial hearing within 24
11 hours after a child alleged or found to be dependent under
12 part III of this chapter is charged with an indirect contempt
13 of court and placed in a staff-secure shelter.

14 a. The purpose of the initial hearing is to determine
15 whether probable cause exists to continue the placement of the
16 child in staff-secure shelter until an evidentiary hearing can
17 be held on the contempt issue.

18 b. At the initial hearing, the child must be provided
19 with the due process rights described in subparagraphs
20 (4)(b)1., 2., 3., and 7.

21 c. The court may order the continued placement of the
22 child in a staff-secure shelter for up to 48 hours after the
23 initial hearing if the court finds that:

24 (I) There is a need for such placement;

25 (II) Reasonable efforts to address the problem outside
26 such placement were attempted and failed; and

27 (III) There is no less restrictive alternative
28 available that is appropriate to address the needs of the
29 community.

30
31

1 4. The order for the placement must be in writing and
2 must contain specific findings of fact to support the
3 conclusions of law.

4 5. The timeframes set forth in this paragraph are to
5 be strictly followed without exception.

6 Section 5. Paragraph (b) of subsection (2) of section
7 39.038, Florida Statutes, is amended to read:

8 39.038 Release or delivery from custody.--

9 (2) Unless otherwise ordered by the court pursuant to
10 s. 39.044, and unless there is a need to hold the child, a
11 person taking a child into custody shall attempt to release
12 the child as follows:

13 (b) Contingent upon specific appropriation, to a
14 shelter approved by the department ~~or to a protective~~
15 ~~investigator pursuant to s. 39.401(2)(b).~~

16 Section 6. Subsection (2) of section 39.044, Florida
17 Statutes, 1996 Supplement, is amended to read:

18 39.044 Detention.--

19 (2) Subject to the provisions of subsection (1), a
20 child taken into custody and placed into nonsecure or home
21 detention care or detained in secure detention care prior to a
22 detention hearing may continue to be detained by the court if:

23 (a) The child is alleged to be an escapee or an
24 absconder from a commitment program, a community control
25 program, furlough, or aftercare supervision, or is alleged to
26 have escaped while being lawfully transported to or from such
27 program or supervision;

28 (b) The child is wanted in another jurisdiction for an
29 offense which, if committed by an adult, would be a felony;

30 (c) The child is charged with a delinquent act or
31 violation of law and requests in writing through legal counsel

1 to be detained for protection from an imminent physical threat
2 to his or her personal safety;

3 (d) The child is charged with committing an offense of
4 domestic violence as defined in s. 741.28(1) and is detained
5 as provided in s. 39.042(2)(b)3.;

6 (e) The child is charged with a capital felony, a life
7 felony, a felony of the first degree, a felony of the second
8 degree that does not involve a violation of chapter 893, or a
9 felony of the third degree that is also a crime of violence,
10 including any such offense involving the use or possession of
11 a firearm; or

12 (f) The child is charged with any second degree or
13 third degree felony involving a violation of chapter 893 or
14 any third degree felony that is not also a crime of violence,
15 and the child:

16 1. Has a record of failure to appear at court hearings
17 after being properly notified in accordance with the Rules of
18 Juvenile Procedure;

19 2. Has a record of law violations prior to court
20 hearings;

21 3. Has already been detained or has been released and
22 is awaiting final disposition of the case;

23 4. Has a record of violent conduct resulting in
24 physical injury to others; or

25 5. Is found to have been in possession of a firearm.
26

27 A child who meets any of these criteria and who is ordered to
28 be detained pursuant to this subsection shall be given a
29 hearing within 24 hours after being taken into custody. The
30 hearing may be conducted by means of closed circuit television
31 if the child has immediate access to his or her legal

1 representative and is given the opportunity to confer
2 privately with his or her legal representative.The purpose of
3 the detention hearing is to determine the existence of
4 probable cause that the child has committed the delinquent act
5 or violation of law with which he or she is charged and the
6 need for continued detention. Unless a child is detained under
7 paragraph (d), the court shall utilize the results of the risk
8 assessment performed by the intake counselor or case manager
9 and, based on the criteria in this subsection, shall determine
10 the need for continued detention. A child placed into secure,
11 nonsecure, or home detention care may continue to be so
12 detained by the court pursuant to this subsection. If the
13 court orders a placement more restrictive than indicated by
14 the results of the risk assessment instrument, the court shall
15 state, in writing, clear and convincing reasons for such
16 placement. Except as provided in s. 790.22(8) or in
17 subparagraph (10)(a)2., paragraph (10)(b), paragraph (10)(c),
18 or paragraph (10)(d), when a child is placed into secure or
19 nonsecure detention care, or into a respite home or other
20 placement pursuant to a court order following a hearing, the
21 court order must include specific instructions that direct the
22 release of the child from such placement no later than 5 p.m.
23 on the last day of the detention period specified in paragraph
24 (5)(b) or paragraph (5)(c), or subparagraph (10)(a)1.,
25 whichever is applicable, unless the requirements of such
26 applicable provision have been met or an order of continuance
27 has been granted pursuant to paragraph (5)(d).

28 Section 7. The Department of Children and Family
29 Services shall document the savings and losses resulting from
30 the enactment of this act and shall submit that documentation
31 to the Executive Office of the Governor, Office of Planning

1 and Budget, and to the chairs of the Fiscal Responsibility
2 Council of the House of Representatives and the Senate Ways
3 and Means Committee. If the requirements of s. 415.51(4),
4 Florida Statutes, result in the loss of federal funds in
5 excess of the amount of savings resulting from the enactment
6 of this act, the amendment of that subsection by this act is
7 void, and further legislation is required to effect the
8 changes made to that subsection by this act. In accordance
9 with chapter 216, Florida Statutes, the department may
10 redirect funds from agency savings achieved through decreased
11 workload resulting from the enactment of this act to cover any
12 increased costs incurred by the department in implementing it.

13 Section 8. (1) The professionals specifically
14 designated in s. 415.504(1), Florida Statutes, who report
15 child abuse or neglect under that section must identify
16 themselves when making the report.

17 (2) The central abuse hotline must be operated in such
18 a manner as to enable the reports to be traced electronically.

19 Section 9. Section 39.39, Florida Statutes, is amended
20 to read:

21 39.39 Definition.--As used in ss. 39.40-39.418, the
22 term "department" means the Department of Children and Family
23 ~~Health and Rehabilitative~~ Services.

24 Section 10. Subsections (1), (3), and (4) of section
25 39.40, Florida Statutes, are amended to read:

26 39.40 Procedures and jurisdiction.--

27 (1) All procedures, including petitions, pleadings,
28 subpoenas, summonses, and hearings, in dependency cases shall
29 be according to the Florida Rules of Criminal Juvenile
30 Procedure unless otherwise provided by law. Parents must be
31 informed by the court of their right to counsel in dependency

1 proceedings at each stage of the dependency proceedings.
2 Parents who are unable to afford counsel and who are
3 threatened with criminal charges based on the facts underlying
4 the dependency petition or a permanent loss of custody of
5 their children must be appointed counsel.

6 (3) The court within 15 days shall resolve ~~expedite~~
7 ~~the resolution of~~ the placement issue in cases involving a
8 child under 4 years of age when the child has been removed
9 from the family and placed in a shelter.

10 (4) The court within 30 days shall resolve ~~expedite~~
11 the judicial handling of all cases when the child has been
12 removed from the family and placed in a shelter, and of all
13 cases involving a child under 4 years of age within 15 days.

14 Section 11. Section 39.401, Florida Statutes, is
15 amended to read:

16 39.401 Taking a child alleged to be dependent into
17 custody.--

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

19 (a) Pursuant to an order of the circuit court issued
20 pursuant to the provisions of ss. 39.4015 and 39.402 ~~this~~
21 ~~part, based upon sworn testimony, either before or after a~~
22 ~~petition is filed.~~

23 (b) By a law enforcement officer, or an authorized
24 agent of the department, pursuant to the provisions of ss.
25 39.4015 and 39.402 ~~if the officer or agent has probable cause~~
26 ~~to support a finding of reasonable grounds for removal and~~
27 ~~that removal is necessary to protect the child. Reasonable~~
28 ~~grounds for removal are as follows:~~

29 1. ~~That the child has been abused, neglected, or~~
30 ~~abandoned, or is suffering from or is in imminent danger of~~
31

1 ~~illness or injury as a result of abuse, neglect, or~~
2 ~~abandonment;~~

3 ~~2. That the custodian of the child has materially~~
4 ~~violated a condition of placement imposed by the court; or~~

5 ~~3. That the child has no parent, legal custodian, or~~
6 ~~responsible adult relative immediately known and available to~~
7 ~~provide supervision and care.~~

8 ~~(2) If the person taking the child into custody is not~~
9 ~~an authorized agent of the department, that person shall:~~

10 ~~(a) Release the child to a parent, guardian, legal~~
11 ~~custodian, responsible adult approved by the court when~~
12 ~~limited to temporary emergency situations, responsible adult~~
13 ~~relative who shall be given priority consideration over a~~
14 ~~nonrelative placement, or responsible adult approved by the~~
15 ~~department; within 3 days following such release, the person~~
16 ~~taking the child into custody shall make a full written report~~
17 ~~to the department for cases involving allegations of~~
18 ~~abandonment, abuse, or neglect or other dependency cases; or~~

19 ~~(b) Deliver the child to an authorized agent of the~~
20 ~~department, stating the facts by reason of which the child was~~
21 ~~taken into custody and sufficient information to establish~~
22 ~~probable cause that the child is abandoned, abused, or~~
23 ~~neglected, or otherwise dependent and make a full written~~
24 ~~report to the department within 3 days.~~

25 (2)(3) If, after a petition has been filed with the
26 court, the child is taken into custody by, or is delivered to,
27 an authorized agent of the department, that the authorized
28 agent shall review the facts supporting the removal with the
29 department legal staff prior to the emergency shelter hearing.
30 The purpose of this review shall be to determine whether there
31 are grounds to file a probable cause exists for the filing of

1 ~~an emergency shelter~~ petition for continuation of emergency
2 shelter pursuant to s. 39.402(2)(~~1~~). If the facts are not
3 sufficient to support the filing of a petition, the child
4 shall immediately be returned to the custody of the parent or
5 legal custodian. If the facts are sufficient to support the
6 filing of the petition, and the child has not been returned to
7 the custody of the parent or legal custodian, the department
8 shall file the petition and schedule a hearing pursuant to s.
9 39.402(2)(~~1~~), such hearing to be held within 24 hours after
10 the removal of the child. While awaiting the emergency shelter
11 hearing, the authorized agent of the department may place the
12 child in licensed shelter care or may release the child to a
13 parent, guardian, legal custodian, responsible adult relative
14 who shall be given priority consideration over a nonrelative
15 placement, or responsible adult approved by the department.
16 In addition, the department may authorize placement of a
17 housekeeper/homemaker in the home of a child alleged to be
18 dependent until the parent or legal custodian assumes care of
19 the child.

20 (3)(a) Notwithstanding subsection (1), a protective
21 investigator or law enforcement officer may take a child into
22 custody without a court order if it is necessary to remove the
23 child from the home due to a medical emergency. The court
24 shall hold an emergency shelter hearing within 24 hours after
25 issuing the emergency order to determine whether the removal
26 should continue.

27 (b) In the case of a nonmedical emergency, the
28 protective investigator may petition the court for an
29 emergency order to allow the removal of a child from the home.
30 The order is effective immediately upon issuance, but the
31 court must hold an emergency shelter hearing within 24 hours

1 after issuing the emergency order to determine whether the
2 removal should continue. At the time the child is removed
3 from the home, the child's parent or guardian must be
4 personally served with notice of the date, time, and place of
5 the emergency shelter hearing. The court shall require the
6 person serving notice to provide proof of service as otherwise
7 required for a shelter hearing under s. 39.402(4)(c).

8 Section 12. Section 39.4015, Florida Statutes, is
9 created to read:

10 39.4015 Court order required to take child into
11 custody; penalties.--

12 (1) This section may be cited as the "Family Bill of
13 Rights Act."

14 (2)(a) Except as provided under s. 39.402(2), a
15 protective investigator of the Department of Children and
16 Family Services may not take a child into custody unless the
17 circuit court issues an order permitting the child to be taken
18 into custody. The court's order must be based on a sworn
19 affidavit stating that the child is in immediate danger and
20 setting forth reasons why the department's protective
21 investigator supports the allegations.

22 (b) As used in this section, the term "immediate
23 danger" means that the child is likely to suffer serious
24 injury or is in imminent danger of death or sexual abuse.

25 (3) A person who knowingly makes, or assists another
26 person in making, a false statement in the sworn affidavit
27 stating that a child is in immediate danger is guilty of a
28 felony of the third degree, punishable as provided in s.
29 775.082, s. 775.083, or s. 775.084.

30 (4) Except as provided under s. 39.402(2), a person
31 who takes a child into custody without a valid court order is

1 guilty of a misdemeanor of the first degree, punishable as
2 provided in s. 775.082 or s. 775.083.

3 (5)(a) The Department of Children and Family Services
4 shall audio-record or videotape all meetings with children in
5 the absence of their parents. The accused or spouse of the
6 accused shall be allowed to audio-record or videotape any
7 department-related activity at home. All audiotapes,
8 videotapes, and applicable files shall be accessible to the
9 defendant and be admissible in court.

10 (b) Any individual accused of child abuse of a
11 relative shall have all the procedural and substantive rights
12 that are afforded to the accused in criminal investigations,
13 including the presumption of innocence and the right to face
14 one's accuser.

15 (c) A report of abuse may not be made anonymously, but
16 must be handled according to the applicable provisions for
17 confidentiality. When brought to court, the confidentiality
18 provisions must be waived.

19 (d) In all dependency proceedings, the ultimate
20 prevailing party shall be entitled to attorney's fees and
21 costs. Funds payable by the Department of Children and Family
22 Services shall come from the existing budget of the
23 department.

24 (e) The state has an obligation to guarantee that the
25 child will not be abused in its custody. If the child is
26 abused in state custody, all persons involved in the abuse may
27 be held personally and civilly liable, and sovereign immunity
28 shall be waived. All foster parents shall, without notice, be
29 required to take a drug test at least once a year.

30 (f) A court order must be obtained before removing any
31 child from custody of a parent or legal guardian. The state

1 must sign an affidavit detailing clear and convincing evidence
2 that the child is in immediate danger if allowed to remain
3 with the parents or legal guardian. The aforementioned
4 affidavit carries with it a penalty of perjury.

5 (g) If the state is unable to prove that the child is
6 in immediate danger, then the child must be returned to the
7 parents or legal guardian. The rules of evidence and
8 constitutional due process rights shall apply, and the accused
9 shall have all the rights accorded to accused defendants in
10 criminal cases.

11 (h) If the parents do not have an attorney in any
12 situation where loss of parental rights or custody may result,
13 and cannot afford one, the court shall appoint an attorney for
14 them. The attorney fees shall be at the existing hourly rate
15 paid attorneys appointed in criminal cases.

16 (i) Hearsay statements are not admissible in juvenile
17 courts. The rules of procedure in juvenile court for child
18 abuse and dependency cases shall be the same as those used in
19 the Florida Rules of Criminal Procedure.

20 Section 13. Section 39.402, Florida Statutes, is
21 amended to read:

22 39.402 Placement in a shelter.--

23 (1) Except as provided in subsection (2) and unless
24 ordered by the court under this chapter, a child may not be
25 taken into custody ~~or shall not be~~ placed in a shelter prior
26 to a court hearing. ~~unless there are reasonable grounds for~~
27 ~~removal and removal is necessary to protect the child.~~

28 ~~Reasonable grounds for removal are as follows:~~

29 ~~(a) The child has been abused, neglected, or~~
30 ~~abandoned, or is suffering from or is in imminent danger of~~

31

1 ~~illness or injury as a result of abuse, neglect, or~~
2 ~~abandonment;~~

3 ~~(b) The custodian of the child has materially violated~~
4 ~~a condition of placement imposed by the court; or~~

5 ~~(c) The child has no parent, legal custodian, or~~
6 ~~responsible adult relative immediately known and available to~~
7 ~~provide supervision and care.~~

8 (2)(a) Notwithstanding subsection (1), a protective
9 investigator or law enforcement officer may take a child into
10 custody without a court order if it is necessary to remove the
11 child from the home due to a medical emergency or if, in the
12 reasonable judgment of the protective investigator or law
13 enforcement officer, the child is subject to imminent harm or
14 danger. In addition, a law enforcement officer may take a
15 child into custody without a court order if the officer
16 believes that the child is a runaway or is truant from school.
17 The court shall hold an emergency hearing within 24 hours
18 after the child is removed from the home to determine whether
19 the emergency removal should continue.

20 (b) In the case of a nonmedical emergency, the
21 protective investigator may petition the court for an
22 emergency order to allow the removal of a child from the home.
23 The order is effective immediately upon issuance, but the
24 court must hold an emergency shelter hearing within 24 hours
25 after issuing the emergency order to determine whether the
26 removal should continue. At the time the child is removed from
27 the home, the child's parent or guardian must be personally
28 served with notice of the date, time, and place of the
29 emergency shelter hearing as provided in chapter 48. The
30 department shall file an affidavit with the court stating that
31 reasonable efforts were made to personally serve the child's

1 parent or guardian with notice of the emergency shelter
2 hearing.

3 ~~(3)(2)~~ A child ~~taken into custody~~ may be placed ~~or~~
4 ~~continued~~ in a shelter only if ~~one or more of the criteria in~~
5 ~~subsection (1) applies~~ and the court has made a specific
6 finding of fact regarding the necessity for removal of the
7 child from the home and has made a determination that the
8 provision of appropriate and available services will not
9 eliminate the need for placement.

10 ~~(3)~~ ~~Whenever a child is taken into custody, the~~
11 ~~department shall immediately notify the parents or legal~~
12 ~~custodians, shall provide the parents or legal custodians with~~
13 ~~a statement setting forth a summary of procedures involved in~~
14 ~~dependency cases, and shall notify them of their right to~~
15 ~~obtain their own attorney.~~

16 ~~(4)~~ ~~If the department determines that placement in a~~
17 ~~shelter is necessary under subsections (1) and (2), the~~
18 ~~authorized agent of the department shall authorize placement~~
19 ~~of the child in a shelter.~~

20 ~~(a)~~ ~~The parents or legal custodians of the child shall~~
21 ~~be given actual notice of the date, time, and location of the~~
22 ~~emergency shelter hearing. If the parents are outside the~~
23 ~~jurisdiction of the court, are not known, or cannot be located~~
24 ~~or refuse or evade service, they shall be given such notice as~~
25 ~~best ensures their actual knowledge of the date, time, and~~
26 ~~location of the emergency shelter hearing. The person~~
27 ~~providing or attempting to provide notice to the parents or~~
28 ~~legal custodians shall, if the parents or legal custodians are~~
29 ~~not present at the hearing, advise the court either in person~~
30 ~~or by sworn affidavit, of the attempts made to provide notice~~
31 ~~and the results of those attempts.~~

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

5 ~~(c) The parents or legal custodians shall be given an~~
6 ~~opportunity to be heard and to present evidence at the~~
7 ~~emergency shelter hearing.~~

8 ~~(4)(5)~~(a) The circuit court, or the county court, if
9 previously designated by the chief judge of the circuit court
10 for such purpose, shall hold the shelter hearing.

11 (b) The shelter petition filed with the court must
12 address each condition required to be determined by the court
13 in subsection~~(6)(7)~~.

14 (c) The child's parent or guardian must be personally
15 served by an agent of the department as soon as reasonably
16 possible with notice of the date, time, and place of the
17 shelter hearing. The notice must be served as provided in
18 chapter 48 and must include a detailed explanation that
19 contains the reasons for the child's removal from the home, a
20 summary of the procedures involved in the dependency cases,
21 and the parent's or guardian's right to obtain an attorney.
22 The court shall require proof of service of process. The
23 person serving notice shall sign an affidavit, under penalty
24 of perjury, which states the time, manner, and place of
25 service of process, or, if the parent or guardian refuses to
26 accept service or evaded service, states that the person
27 serving notice was unable to effect notice after due
28 diligence.

29 ~~(5)(6)~~ A child may not be removed from the home
30 without a written court order or continued out of the home
31 pending disposition if, with the provision of appropriate and

1 available services, including services provided in the home,
2 the child could safely remain at home. If the child's safety
3 and well-being are in danger, and a written court order has
4 been obtained, the child shall be removed from danger and
5 continue to be removed until the danger has passed. ~~If the~~
6 ~~child has been removed from the home and the reasons for his~~
7 ~~removal have been remedied, the child may be returned to the~~
8 ~~home.~~ If the court finds at the initial hearing that the
9 prevention or reunification efforts of the department will
10 allow the child to remain safely at home, the court shall
11 allow the child to remain in the home after making a specific
12 finding of fact that the child's safety and well-being will
13 not be endangered.

14 (6)(7)(a) A child may not be held in a shelter longer
15 than 24 hours unless an order so directing is entered by the
16 court after an emergency shelter hearing. At the emergency
17 shelter hearing, the court shall appoint a guardian ad litem
18 to represent the child unless the court finds that such
19 representation is unnecessary. The parents or legal custodians
20 of the child shall be given such notice as best ensures their
21 actual knowledge of the time and place of the hearing and
22 shall be given an opportunity to be heard and to present
23 evidence at the emergency shelter hearing.

24 (b) The order for placement of a child in shelter care
25 must identify the parties present at the hearing and must
26 contain written findings that, based upon the allegations of
27 the petition for placement in shelter care, there is probable
28 cause to believe that the child is in immediate danger.+

29 ~~1. That placement in shelter care is necessary based~~
30 ~~on the criteria in subsections (1) and (2).~~

31

1 ~~2. That placement in shelter care is in the best~~
2 ~~interest of the child.~~

3 ~~3. That continuation of the child in the home is~~
4 ~~contrary to the welfare of the child because the home~~
5 ~~situation presents a substantial and immediate danger to the~~
6 ~~child which cannot be mitigated by the provision of preventive~~
7 ~~services.~~

8 ~~4. That based upon the allegations of the petition for~~
9 ~~placement in shelter care, there is probable cause to believe~~
10 ~~that the child is dependent.~~

11 ~~5. That the department has made reasonable efforts to~~
12 ~~prevent or eliminate the need for removal of the child from~~
13 ~~the home. A finding of reasonable effort by the department to~~
14 ~~prevent or eliminate the need for removal may be made and the~~
15 ~~department is deemed to have made reasonable efforts to~~
16 ~~prevent or eliminate the need for removal if:~~

17 ~~a. The first contact of the department with the family~~
18 ~~occurs during an emergency.~~

19 ~~b. The appraisal of the home situation by the~~
20 ~~department indicates that the home situation presents a~~
21 ~~substantial and immediate danger to the child which cannot be~~
22 ~~mitigated by the provision of preventive services.~~

23 ~~c. The child cannot safely remain at home, either~~
24 ~~because there are no preventive services that can ensure the~~
25 ~~safety of the child or because, even with appropriate and~~
26 ~~available services being provided, the safety of the child~~
27 ~~cannot be ensured.~~

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

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

5 (7)(8) A child may not be held in a shelter under an
6 order so directing for more than 14 ~~21~~ days unless an order of
7 adjudication for the case has been entered by the court. The
8 parent, guardian, or custodian of the child must be notified
9 of any order directing placement of the child in an emergency
10 shelter and, upon request, must be afforded a hearing within
11 48 hours, excluding Sundays and legal holidays, to review the
12 necessity for continued placement in the shelter for any time
13 periods as provided in this section. At any arraignment
14 hearing or determination of emergency shelter care, the court
15 shall determine visitation rights absent a clear and
16 convincing showing that visitation is not in the best interest
17 of the child, and the court shall make a written determination
18 as to whether the department has made a reasonable effort to
19 prevent or eliminate the need for removal or continued removal
20 of the child from the home. If the department has not made
21 such an effort, the court shall order the department to
22 provide appropriate and available services to assure the
23 protection of the child in the home when such services are
24 necessary for the child's safety. Within 7 days after the
25 child is taken into custody, a petition alleging dependency
26 must be filed and, within 14 days after the child is taken
27 into custody, an arraignment hearing must be held for the
28 child's parent, guardian, or custodian to admit, deny, or
29 consent to the findings of dependency alleged in the petition.
30 Failure to meet the deadline for the arraignment is a second
31

1 degree misdemeanor, punishable as provided in s. 775.082 or s.
2 775.083.

3 (8)(9) A child may not be held in a shelter for more
4 than 30 days after the entry of an order of adjudication
5 unless an order of disposition under s. 39.41 has been entered
6 by the court.

7 (9)(10) The time limitation ~~limitations~~ in subsection
8 (7) does~~(8) do~~ not include:

9 (a) Periods of delay resulting from a continuance
10 granted at the request or with the consent of the child's
11 counsel or the child's guardian ad litem, if one has been
12 appointed by the court, or, if the child is of sufficient
13 capacity to express reasonable consent, at the request or with
14 the consent of the child's attorney or the child's guardian ad
15 litem, if one has been appointed by the court, and the child.

16 (b) Periods of delay resulting from a continuance
17 granted at the request of the attorney for the department, if
18 the continuance is granted:

19 1. Because of an unavailability of evidence material
20 to the case when the attorney for the department has exercised
21 due diligence to obtain such evidence and there are
22 substantial grounds to believe that such evidence will be
23 available within 30 days. However, if the department is not
24 prepared to present its case within 30 days, the parent or
25 guardian may move for issuance of an order to show cause or
26 the court on its own motion may impose appropriate sanctions,
27 which may include dismissal of the petition.

28 2. To allow the attorney for the department additional
29 time to prepare the case and additional time is justified
30 because of an exceptional circumstance.

31

1 (c) Reasonable periods of delay necessary to
2 accomplish notice of the hearing to the child's parents and
3 the parent's attorney; however, the petitioner shall continue
4 regular efforts to provide notice to the parents and the
5 parent's attorney during such periods of delay.

6 (d) Reasonable periods of delay resulting from a
7 continuance granted at the request of the parent or legal
8 custodian of a subject child.

9 ~~(10)(11)~~ The court shall review the necessity for a
10 child's continued placement in a shelter in the same manner as
11 the initial placement decision was made, with the goal being
12 reunification of the family, and shall make a determination
13 regarding the continued placement:

14 (a) Within 24 hours after ~~any violation of the time~~
15 ~~requirements for the filing of a petition or the holding of an~~
16 arraignment hearing as prescribed in subsection ~~(7)(8)~~; or

17 (b) Prior to the court's granting any delay as
18 specified in subsection ~~(9)(10)~~.

19 ~~(11)(12)~~ When any child is placed in a shelter under a
20 court order following a shelter hearing, the court shall order
21 the parents of the child, or the guardian of the child's
22 estate, if possessed of assets which under law may be
23 disbursed for the care, support, and maintenance of the child,
24 to pay, to the department or institution having custody of the
25 child, fees as established by the department. When the order
26 affects the guardianship estate, a certified copy of the order
27 shall be delivered to the judge having jurisdiction of the
28 guardianship estate.

29 Section 14. Section 39.403, Florida Statutes, is
30 amended to read:

31 39.403 Protective investigation.--

1 (1) Protective investigation shall be performed by the
2 department. A report or complaint alleging that a child is
3 dependent as a result of child abuse or neglect as defined in
4 this chapter and in s. 415.503 shall be made to the central
5 abuse registry and tracking system. Complaints alleging that
6 a child is dependent on any basis other than as a result of
7 child abuse or neglect as defined in s. 415.503 shall be made
8 to the local children, youth, and families office of the
9 department operating in the county in which the child is found
10 or in which the case arose. Any person or agency having
11 knowledge of the facts may make a report or complaint. The
12 report shall not be made anonymously.The complainant must
13 shall furnish to the protective investigation office ~~or the~~
14 ~~appropriate service unit of the local children, youth, and~~
15 ~~families office of the department, whichever is appropriate,~~
16 facts sufficient to establish the jurisdiction of the court
17 and to support a finding by the court that the child is
18 dependent.

19 (2) The protective investigator shall make a
20 preliminary determination as to whether the report or
21 complaint is complete, consulting with the attorney for the
22 department when necessary. In any case in which the
23 protective investigator finds that the report or complaint is
24 incomplete, the protective investigator shall return it
25 without delay to the person or agency originating the report
26 or complaint or having knowledge of the facts, or to the
27 appropriate law enforcement agency having investigative
28 jurisdiction, and request additional information in order to
29 complete the report or complaint; however, the confidentiality
30 of any report filed in accordance with ss. 415.502-415.514
31 shall not be violated. A report shall not be made anonymously.

1 (a) If the protective investigator determines that the
2 report or complaint is complete, he or she may, after
3 determining that such action would be in the best interests of
4 the child, request the attorney for the department to file a
5 petition for dependency.

6 (b) If the protective investigator determines that the
7 report or complaint is complete, but that in his or her
8 judgment the interest of the child and the public will be best
9 served by providing the child care or other treatment
10 voluntarily accepted by the child and the parents or legal
11 custodians, the protective investigator may refer the child
12 for such care or other treatment.

13 (c) If the protective investigator refuses to request
14 the attorney for the department to file a petition for
15 dependency, the complainant shall be advised of the right to
16 file a petition pursuant to this part.

17 Section 15. Subsection (1), paragraphs (h), (i), and
18 (j) of subsection (4), and subsections (5) and (6) of section
19 39.4031, Florida Statutes, are amended to read:

20 39.4031 Case plan requirements.--

21 (1) The department is responsible for developing or
22 ~~agent of the department shall develop~~ a case plan for each
23 child or child's family receiving services who is a party to
24 any dependency proceeding, activity, or process under this
25 part. A parent, guardian, or custodian of a child may not be
26 required nor coerced through threat of loss of custody or
27 parental rights to admit in the case plan to abusing,
28 neglecting, or abandoning a child. This section does not
29 change the provisions of s. 39.464.

30 (4) When the child is receiving services in a
31 placement outside the child's home or in foster care, the case

1 plan must be prepared within 30 days after placement and also
2 be approved by the court and must include, in addition to the
3 requirements in subsections (2) and (3), at a minimum:

4 (h) A description of the plan for assuring that proper
5 and necessary services as outlined in the case plan are
6 provided to the child and the child's parent or parents to
7 address the needs of the child and a discussion of the
8 appropriateness of the services.

9 (i) A description of the plan for assuring that proper
10 and necessary services are provided to the child and the
11 child's parents and the foster parents to address the needs of
12 the child while in foster care.

13 (j) A written certified notice to the parent and to
14 the parent's attorney that failure of the parent to
15 substantially comply with the case plan may result in the
16 termination of parental rights, and that a material failure to
17 substantially comply may result in the filing of a petition
18 for termination of parental rights sooner than the compliance
19 periods set forth in the case plan itself. The child
20 protection team shall coordinate its effort with the case
21 staffing committee.

22 (5) In the event that the parents are unwilling or
23 unable to participate in the development of a case plan, the
24 department shall document that unwillingness or inability and
25 provide in writing to the parent and the parent's attorney
26 when available for the court record and then the department
27 shall prepare a case plan conforming as nearly as possible
28 with the requirements set forth in this section. The
29 unwillingness or inability of the parents to participate in
30 the development of a case plan shall not in itself bar the
31 filing of a petition for dependency or for termination of

1 parental rights. The parents and the parent's attorney, if
2 available, must be provided a copy of the case plan and be
3 advised that they may at any time prior to the filing of
4 petition for termination of parental rights enter into a case
5 plan and that they may request judicial review of any
6 provision of the case plan with which they disagree at any
7 court review hearing set for the child.

8 (6) The services delineated in the case plan must be
9 designed only to improve the conditions in the family home and
10 aid in maintaining the child in the home, to facilitate the
11 return of the child to the family home, or to facilitate the
12 permanent placement of the child. The service intervention
13 must be the least intrusive possible into the life of the
14 family, must focus on clearly defined objectives, and must
15 provide the most efficient path to quick reunification or
16 permanent placement. To the extent possible, the service
17 intervention must be grounded in outcome evaluation results
18 that demonstrate success in the reunification or permanent
19 placement process. In designing service interventions,
20 generally recognized standards of the professions involved in
21 the process must be taken into consideration.

22 Section 16. Subsection (2) of section 39.4032, Florida
23 Statutes, is amended to read:

24 39.4032 Multidisciplinary case staffing.--

25 (2) The case staffing committee shall perform a
26 comprehensive assessment, as defined in s. 39.01, and may
27 further develop an initial case plan for which the complaint
28 was originally filed ~~if needed or may amend an existing case~~
29 ~~plan subject to the approval of the parties~~. Court approval of
30 the plan and any amendments is also required if the child has
31 been removed from the home.

1 Section 17. Subsection (3) of section 39.4033, Florida
2 Statutes, is amended to read:

3 39.4033 Referral of a dependency case to mediation.--

4 (3) The department shall advise the parents or legal
5 guardians and their attorney that they are responsible for
6 contributing to the cost of the family mediation to the extent
7 of their ability to pay.

8 Section 18. Subsection (4) of section 39.404, Florida
9 Statutes, is amended to read:

10 39.404 Petition for dependency.--

11 (4) When the child has been taken into custody, a
12 petition alleging dependency must be filed within 5 ~~7~~ days
13 after the date the child is taken into custody. The parents
14 must be served with a copy of the petition at least 48 hours
15 before the arraignment hearing. ~~In all other cases, the~~
16 ~~petition must be filed within a reasonable time after the date~~
17 ~~the child was referred to protective investigation under s.~~
18 ~~39.403.~~

19 Section 19. Subsection (1) of section 39.405, Florida
20 Statutes, is amended to read:

21 39.405 Notice, process, and service.--

22 (1) Unless parental rights have been terminated, all
23 parents and the parents' attorney must be notified of all
24 proceedings involving the child. Notice in cases involving
25 shelter hearings and hearings resulting from medical
26 emergencies must be that most likely to result in actual
27 notice to the parents and the parents' attorney. In all other
28 dependency proceedings, notice must be provided in accordance
29 with subsections (4) through (9).

30
31

1 Section 20. Paragraph (a) of subsection (2) and
2 paragraph (a) of subsection (3) of section 39.4055, Florida
3 Statutes, are amended to read:

4 39.4055 Injunction pending disposition of petition for
5 detention or dependency; penalty.--

6 (2)(a) Notice shall be provided to the parties as set
7 forth in the Florida Rules of Criminal ~~Juvenile~~ Procedure,
8 unless the child is reported to be in imminent danger, in
9 which case the court may issue an injunction immediately. When
10 such an immediate injunction is issued, the court shall hold a
11 hearing on the next day of judicial business either to
12 dissolve the injunction or to continue or modify it in
13 accordance with the other provisions of this section.

14 (3)(a) In every instance in which an injunction is
15 issued under this section, the purpose of the injunction shall
16 be primarily to protect and promote the best interests of the
17 child and the family, taking the preservation of the child's
18 immediate family into consideration. The effective period of
19 the injunction shall be determined by the court, except that
20 the injunction will expire at the time of the disposition of
21 the petition for detention or dependency.

22 Section 21. Section 39.407, Florida Statutes, is
23 amended to read:

24 39.407 Medical, psychiatric, and psychological
25 examination and treatment of child; physical or mental
26 examination of parent, guardian, or person requesting custody
27 of child.--

28 (1) When any child is taken into custody by order of
29 the court and is to be detained in shelter care, the
30 department is not authorized to have a medical screening
31 performed on the child without authorization from the court

1 and without consent from a parent or guardian. Such medical
2 screening shall only be performed by a licensed health care
3 professional and shall only be to examine the child for
4 injury, illness, and communicable diseases and to determine
5 the need for immunization. The department shall by rule
6 establish the invasiveness of the medical procedures
7 authorized to be performed under this subsection. In no case
8 does this subsection authorize the department to consent to
9 medical treatment for such children.

10 (2) When the department has performed the medical
11 screening authorized by subsection (1), or when it is
12 otherwise determined by a licensed health care professional
13 that a child who is in the custody of the department, but who
14 has not been committed to the department pursuant to s. 39.41,
15 is in need of medical treatment, including the need for
16 immunization, consent for medical treatment shall be obtained
17 in the following manner:

18 (a)1. Consent to medical treatment shall be obtained
19 from a parent or guardian of the child; or

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

21 (b) If a parent or guardian of the child is
22 unavailable and his or her whereabouts cannot be reasonably
23 ascertained, ~~and it is after normal working hours so that a~~
24 ~~court order cannot reasonably be obtained, an authorized agent~~
25 ~~of the department shall have the authority to consent to~~
26 ~~necessary medical treatment, including immunization, for the~~
27 ~~child.~~ the authority of the department to consent to medical
28 treatment in this circumstance shall be limited to the time
29 reasonably necessary to obtain court authorization.

30 (c) If a parent or guardian of the child is available
31 but refuses to consent to the necessary treatment, including

1 immunization, a court order shall be required unless the
2 situation meets the definition of an emergency in s. 743.064
3 or the treatment needed is related to suspected abuse or
4 neglect of the child by a parent or guardian. In such case,
5 the department shall have the authority to consent to
6 necessary medical treatment. This authority is limited to the
7 time reasonably necessary to obtain court authorization.

8
9 In no case shall the department consent to sterilization,
10 abortion, or termination of life support.

11 (3) A judge may order a child in the physical custody
12 of the department to be examined by a licensed health care
13 professional. The judge may also order such child to be
14 evaluated by a licensed psychiatrist or a licensed
15 psychologist, by a district school board educational needs
16 assessment team, or, if a developmental disability is
17 suspected or alleged, by the developmental disability
18 diagnostic and evaluation team of the department. If it is
19 necessary to place a child in a residential facility for such
20 evaluation, then the criteria and procedure established in s.
21 394.463(2) or chapter 393 shall be used, whichever is
22 applicable. The educational needs assessment provided by the
23 district school board educational needs assessment team shall
24 include, but not be limited to, reports of intelligence and
25 achievement tests, screening for learning disabilities and
26 other handicaps, and screening for the need for alternative
27 education as defined in s. 230.2315(2).

28 (4) A judge may order a child in the physical custody
29 of the department to be treated by a licensed health care
30 professional only after clear and convincing ~~based on~~ evidence
31 is provided that the child should receive treatment. The

1 judge may also order such child to receive mental health or
2 retardation services from a licensed psychiatrist, licensed
3 psychologist, or other appropriate licensed service provider.
4 If it is necessary to place the child in a residential
5 facility for such services, then the procedures and criteria
6 established in s. 394.467 or chapter 393 shall be used,
7 whichever is applicable. A child may be provided mental health
8 or retardation services in emergency situations, pursuant to
9 the procedures and criteria contained in s. 394.463(1) or
10 chapter 393, whichever is applicable.

11 (5) When a child is in the physical custody of the
12 department, a licensed health care professional shall be
13 immediately called if there are indications of physical injury
14 or illness, or the child shall be taken to the nearest
15 available hospital for emergency care.

16 (6) Except as otherwise provided herein, nothing in
17 this section shall be deemed to eliminate the right of a
18 parent, guardian, or the child to consent to examination or
19 treatment for the child.

20 (7) Except as otherwise provided herein, nothing in
21 this section shall be deemed to alter the provisions of s.
22 743.064.

23 (8) If the lifestyle of the parents represents a clear
24 and present danger to the child, the state shall exercise the
25 right to remove the child from the home until the danger is
26 removed.~~A court shall not be precluded from ordering services~~
27 ~~or treatment to be provided to the child by a duly accredited~~
28 ~~practitioner who relies solely on spiritual means for healing~~
29 ~~in accordance with the tenets and practices of a church or~~
30 ~~religious organization, when required by the child's health~~
31 ~~and when requested by the child.~~

1 (9) Nothing in this section shall be construed to
2 authorize the permanent sterilization of the child unless such
3 sterilization is the result of or incidental to medically
4 necessary treatment to protect or preserve the life of the
5 child.

6 (10) For the purpose of obtaining an evaluation or
7 examination, or receiving treatment as authorized pursuant to
8 this subsection, no child alleged to be or found to be
9 dependent shall be placed in a detention home or other program
10 used primarily for the care and custody of children alleged or
11 found to have committed delinquent acts.

12 (11) The parents or guardian of a child in the
13 physical custody of the department remain financially
14 responsible for the cost of medical treatment provided to the
15 child even if either one or both of the parents or if the
16 guardian did not consent to the medical treatment. After a
17 hearing, the court may order the parents or guardian, if found
18 able to do so, to reimburse the department or other provider
19 of medical services for treatment provided.

20 (12) Nothing in this section alters the authority of
21 the department to consent to medical treatment for a dependent
22 child when the child has been committed to the department
23 pursuant to s. 39.41, and the department has become the legal
24 custodian of the child.

25 (13) At any time after the filing of a petition for
26 dependency, when the mental or physical condition, including
27 the blood group, of a parent, guardian, or other person
28 requesting custody of a child is in controversy, the court may
29 order the person to submit to a physical or mental examination
30 by a qualified licensed professional. The order may be made
31 only upon good cause shown and pursuant to notice and

1 procedures as set forth by the Florida Rules of Criminal
2 ~~Juvenile~~ Procedure.

3 Section 22. Section 39.408, Florida Statutes, is
4 amended to read:

5 39.408 Hearings for dependency cases.--

6 (1) ARRAIGNMENT HEARING.--

7 (a) When a child has been detained by order of the
8 court, an arraignment hearing must be held, within 7 ~~14~~ days
9 after ~~from the date~~ the child is taken into custody, for the
10 parent, guardian, or custodian to admit, deny, or consent to
11 findings of dependency alleged in the petition. If the parent,
12 guardian, or custodian admits or consents to the findings in
13 the petition, the court shall proceed as set forth in the
14 Florida Rules of Criminal ~~Juvenile~~ Procedure. However, if the
15 parent, guardian, or custodian denies any of the allegations
16 of the petition, the court shall hold an adjudicatory hearing
17 within 7 days after ~~from~~ the date of the arraignment hearing
18 unless a continuance is granted under s. 39.402(9) ~~pursuant to~~
19 ~~s. 39.402(11)~~.

20 (b) When a child is in the custody of the parent,
21 guardian, or custodian, upon the filing of a petition the
22 clerk shall set a date for an arraignment hearing within a
23 reasonable time after the date of the filing. If the parent,
24 guardian, or custodian admits or consents to an adjudication,
25 the court shall proceed as set forth in the Florida Rules of
26 Criminal ~~Juvenile~~ Procedure. However, if the parent, guardian,
27 or custodian denies any of the allegations of dependency, the
28 court shall hold an adjudicatory hearing within a reasonable
29 time after the date of the arraignment hearing.

30 (c) If at the arraignment hearing the parent,
31 guardian, or custodian consents or admits to the allegations

1 in the petition, the court shall proceed to hold a
2 dispositional hearing at the earliest practicable time that
3 will allow for the completion of a predisposition study.

4 (2) ADJUDICATORY HEARING.--

5 (a) The adjudicatory hearing shall be held as soon as
6 practicable after the petition for dependency is filed and in
7 accordance with the Florida Rules of Criminal Juvenile
8 Procedure, but reasonable delay for the purpose of
9 investigation, discovery, or procuring counsel or witnesses
10 shall, whenever practicable, be granted. If the child is in
11 custody, the time limitations provided in s. 39.402 and
12 subsection (1) of this section apply.

13 (b) Adjudicatory hearings shall be conducted by the
14 judge without a jury, applying the rules of evidence in use in
15 civil cases and adjourning the hearings from time to time as
16 necessary. In a hearing on a petition in which it is alleged
17 that the child is dependent, clear and convincing a
18 ~~preponderance of~~ evidence will be required to establish the
19 state of dependency. Any evidence presented in the dependency
20 hearing which was obtained as the result of an anonymous call
21 must be independently corroborated. In no instance shall
22 allegations made in one or more an anonymous reports ~~report~~ of
23 abuse be sufficient to support an adjudication of dependency
24 in the absence of corroborating evidence from a known source.

25 (c) All hearings, except as provided in this section,
26 shall be open to the public, and a person may not be excluded
27 except on special order of the judge, who may close any
28 hearing to the public upon determining that the public
29 interest or the welfare of the child is best served by so
30 doing. However, the parents and the parent's attorney shall be
31 allowed to obtain discovery pursuant to the Florida Rules of

1 ~~Criminal Juvenile~~ Procedure. However, nothing in this
2 paragraph shall be construed to affect the provisions of s.
3 415.51(9). Hearings involving more than one child may be held
4 simultaneously when the children involved are related to each
5 other or were involved in the same case. The child and the
6 parents or legal custodians of the child may be examined
7 separately and apart from each other.

8 (3) DISPOSITION HEARING.--At the disposition hearing,
9 if the court finds that the facts alleged in the petition for
10 dependency were proven in the adjudicatory hearing, or if the
11 parents have consented to the finding of dependency or
12 admitted the allegations in the petition, have failed to
13 appear for the arraignment hearing after proper notice, or
14 have not been located despite a diligent search having been
15 conducted, the court shall receive and consider a
16 predisposition study, which must be in writing and presented
17 by an authorized agent of the department.

18 (a) The predisposition study shall cover for any
19 dependent child all factors specified in s. 61.13(3), and must
20 also provide the court with the following documented
21 information:

22 1. An assessment defining the dangers and risks of
23 returning the child home, including a description of the
24 changes in and resolutions to the initial risks.

25 2. A description of what initial risks are still
26 present and what resources are available and will be provided
27 for the protection and safety of the child.

28 3. A description of the benefits of returning the
29 child home.

30 4. A description of all unresolved issues.
31

1 5. An abuse registry history for all caretakers,
2 family members, and individuals residing within the household.

3 6. The complete child protection team report and
4 recommendation or, if no report exists, a statement reflecting
5 that no report has been made.

6 7. All opinions or recommendations from other
7 professionals or agencies that provide evaluative, social,
8 reunification, or other services to the family.

9 8. The availability of appropriate prevention and
10 reunification services for the family to prevent the removal
11 of the child from the home or to reunify the child with the
12 family after removal, including the availability of family
13 preservation services through the Family Builders Program, the
14 Intensive Crisis Counseling Program, or both.

15 9. The appropriateness or inappropriateness of other
16 prevention and reunification services that were available.

17 10. The efforts by the department to prevent
18 out-of-home placement of the child or, when applicable, to
19 reunify the family if appropriate services were available,
20 including the application of intensive family preservation
21 services through the Family Builders Program, the Intensive
22 Crisis Counseling Program, or both.

23 11. Whether the services were provided to the family
24 and child.

25 12. If the services were provided, whether they were
26 sufficient to meet the needs of the child and the family and
27 to enable the child to remain at home or to be returned home.

28 13. If the services were not provided, the reasons for
29 such lack of action.

30
31

1 14. The need for, or appropriateness of, continuing
2 the services if the child remains in the custody of the family
3 ~~or if the child is placed outside the home.~~

4 15. Whether family mediation was provided.

5 16. Whether a multidisciplinary case staffing was
6 conducted and, if so, the results.

7 17. If the child has been removed from the home and
8 there is a parent who may be considered for custody pursuant
9 to s. 39.41(1), a recommendation as to whether placement of
10 the child with that parent would be detrimental to the child.

11 (b) If placement of the child with anyone other than
12 the child's parent or custodian is being considered, the study
13 shall include the designation of a specific length of time as
14 to when custody by the parent or custodian will be
15 reconsidered.

16 (c) A copy of the predisposition study must be
17 furnished to all parties no later than 48 hours before the
18 disposition hearing.

19 (d) The predisposition study may not be made before
20 the adjudication of dependency unless the parents or
21 custodians of the child consent.

22
23 Any other relevant and material evidence, including other
24 written or oral reports, may be received by the court in its
25 effort to determine the action to be taken with regard to the
26 child and may be relied upon to the extent of its probative
27 value, even though not competent in an adjudicatory hearing.
28 Except as provided in paragraph (2)(c), nothing in this
29 section prohibits the publication of proceedings in a hearing.

30 (4) NOTICE OF HEARINGS.--The parent or legal custodian
31 of the child, the attorney for the department, the guardian ad

1 litem, and all other parties and participants shall be given a
2 minimum of 72 hours ~~reasonable~~ notice of all hearings provided
3 for under this section.

4 Section 23. Subsections (1) and (2) of section 39.409,
5 Florida Statutes, are amended to read:

6 39.409 Orders of adjudication.--

7 (1) If the court finds that the child named in a
8 petition is not dependent, it shall enter an order so finding
9 and dismissing the case and awarding reasonable attorney's
10 fees and costs to the parent or guardian of the child or the
11 county if the parent or guardian was represented by a
12 court-appointed attorney. Attorney's fees and costs shall be
13 paid from the department's budget.

14 (2) If the court finds that the child named in the
15 petition is dependent, but finds that no action other than
16 supervision in the child's home is required, it may enter an
17 order briefly stating the facts upon which its finding is
18 based, ~~but withholding an order of adjudication and placing~~
19 ~~the child's home under the supervision of the department. If~~
20 ~~the court later finds that the custodians of the child have~~
21 ~~not complied with the conditions of supervision imposed, the~~
22 ~~court may, after a hearing to establish the noncompliance, but~~
23 ~~without further evidence of the state of dependency, enter an~~
24 ~~order of adjudication and shall thereafter have full authority~~
25 ~~under this chapter to provide for the child as adjudicated.~~

26 Section 24. Paragraph (a) of subsection (2),
27 paragraphs (a) and (d) of subsection (5), and subsections (7)
28 and (9) of section 39.41, Florida Statutes, are amended to
29 read:

30 39.41 Powers of disposition.--

31

1 (2)(a) When any child is adjudicated by a court to be
2 dependent, the court having jurisdiction of the child has the
3 power, by order, to:

4 1. Require the parent, guardian, or custodian, and the
5 child when appropriate to participate in treatment and
6 services identified as necessary. The court shall obtain the
7 estimated costs for such treatment and services prior to
8 ordering the treatment or services.

9 2. Require the parent, guardian, or custodian, and the
10 child when appropriate to participate in mediation if the
11 parent, guardian, or custodian refused to participate in
12 mediation under s. 39.4033 and to identify the costs of the
13 mediation to the participants.

14 3. Place the child under the protective supervision of
15 an authorized agent of the department, either in the child's
16 own home or, the prospective custodian being willing, in the
17 home of a relative of the child or of an adult nonrelative
18 approved by the court, or in some other suitable place under
19 such reasonable conditions as the court may direct. If the
20 placement is not in the child's home, the facility must have a
21 drug-free workplace provision.Whenever the child is placed
22 under protective supervision pursuant to this section, the
23 department shall prepare a case plan and shall file it with
24 the court. Protective supervision continues until the court
25 terminates it or until the child reaches the age of 18,
26 whichever date is first. Protective supervision may be
27 terminated by the court whenever the court determines that the
28 child's placement, whether with a parent, another relative, or
29 a nonrelative, is stable and that protective supervision is no
30 longer needed. The termination of supervision may be with or
31 without retaining jurisdiction, at the court's discretion, and

1 shall in either case be considered a permanency option for the
2 child. The order terminating supervision by the Department of
3 Health and Rehabilitative Services shall set forth the powers
4 of the custodian of the child and shall include the powers
5 ordinarily granted to a guardian of the person of a minor
6 unless otherwise specified.

7 4. Place the child in the temporary legal custody of
8 an adult relative or an adult nonrelative approved by the
9 court who is willing to care for the child.

10 5.a. When the parents have failed to comply with a
11 case plan and the court determines at a judicial review
12 hearing held pursuant to s. 39.453, or at a hearing held
13 pursuant to subparagraph (1)(a)7. of this section, that
14 neither reunification, termination of parental rights, nor
15 adoption is in the best interest of the child, the court may
16 place the child in the long-term custody of an adult relative
17 or adult nonrelative approved by the court willing to care for
18 the child, if the following conditions are met:

19 (I) A case plan describing the responsibilities of the
20 relative or nonrelative, the department, and any other party
21 must have been submitted to the court.

22 (II) The case plan for the child does not include
23 reunification with the parents or adoption by the relative.

24 (III) The child and the relative or nonrelative
25 custodian are determined not to need protective supervision or
26 preventive services to ensure the stability of the long-term
27 custodial relationship, or the department assures the court
28 that protective supervision or preventive services will be
29 provided in order to ensure the stability of the long-term
30 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) A drug test has been done on the relative or
10 nonrelative and the results of the test are negative.

11 (VII) Drug testing shall not be limited to foster care
12 guardians, but shall include all individuals who work with the
13 child, including department workers and guardians ad litem.

14 b. The court shall retain jurisdiction over the case,
15 and the child shall remain in the long-term custody of the
16 relative or nonrelative approved by the court until the order
17 creating the long-term custodial relationship is modified by
18 the court. The court may relieve the department of the
19 responsibility for supervising the placement of the child
20 whenever the court determines that the placement is stable and
21 that such supervision is no longer needed. Notwithstanding
22 the retention of jurisdiction, the placement shall be
23 considered a permanency option for the child when the court
24 relieves the department of the responsibility for supervising
25 the placement. The order terminating supervision by the
26 Department of Health and Rehabilitative Services shall set
27 forth the powers of the custodian of the child and shall
28 include the powers ordinarily granted to a guardian of the
29 person of a minor unless otherwise specified. The court may
30 modify the order terminating supervision of the long-term
31 relative or nonrelative placement if it finds that a party to

1 the proceeding has shown a material change in circumstances
2 which causes the long-term relative or nonrelative placement
3 to be no longer in the best interest of the child.

4 6.a. Approve placement of the child in long-term
5 foster care, when the following conditions are met:

6 (I) The foster child is 16 years of age or older,
7 unless the court determines that the history or condition of a
8 younger child makes long-term foster care the most appropriate
9 placement.

10 (II) The child demonstrates no desire to be placed in
11 an independent living arrangement pursuant to this subsection.

12 (III) The department's social services study pursuant
13 to s. 39.453(6)(a) recommends long-term foster care.

14 b. Long-term foster care under the above conditions
15 shall not be considered a permanency option.

16 c. The court may approve placement of the child in
17 long-term foster care, as a permanency option, when all of the
18 following conditions are met:

19 (I) The child is 14 years of age or older,

20 (II) The child is living in a licensed home and the
21 foster parents desire to provide care for the child on a
22 permanent basis and the foster parents and the child do not
23 desire adoption,

24 (III) The foster family has made a commitment to
25 provide for the child until he reaches the age of majority and
26 to prepare the child for adulthood and 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 foster care
6 placements made pursuant to sub-subparagraph (2)(a)6.c. of
7 this section shall be considered a permanency option for the
8 child. For purposes of this subsection, supervision by the
9 department shall be defined as a minimum of semiannual visits.
10 The order placing the child in long-term foster care as a
11 permanency option shall set forth the powers of the custodian
12 of the child and shall include the powers ordinarily granted
13 to a guardian of the person of a minor unless otherwise
14 specified. The court may modify the permanency option of
15 long-term foster care if it finds that a party to the
16 proceeding has shown a material change in circumstances which
17 causes the placement to be no longer in the best interests of
18 the child.

19 7. Commit the child to a licensed child-caring agency
20 willing to receive the child. Continued commitment to the
21 licensed child-caring agency, as well as all other proceedings
22 under this section pertaining to the child, are also governed
23 by part V of this chapter.

24 ~~8. Commit the child to the temporary legal custody of~~
25 ~~the department. Such commitment invests in the department all~~
26 ~~rights and responsibilities of a legal custodian. The~~
27 ~~department shall not return any child to the physical care and~~
28 ~~custody of the person from whom the child was removed, except~~
29 ~~for short visitation periods, without the approval of the~~
30 ~~court. The term of such commitment continues until terminated~~
31 ~~by the court or until the child reaches the age of 18. After~~

1 ~~the child is committed to the temporary custody of the~~
2 ~~department, all further proceedings under this section are~~
3 ~~also governed by part V of this chapter.~~

4 8.9.a. Change the temporary legal custody or the
5 conditions of protective supervision at a postdisposition
6 hearing subsequent to the initial detention hearing, without
7 the necessity of another adjudicatory hearing. A child who has
8 been placed in the child's own home under the protective
9 supervision of an authorized agent of the department, in the
10 home of a relative, in the home of a nonrelative, or in some
11 other place may be brought before the court by the agent of
12 the department who is supervising the placement or by any
13 other interested person, upon the filing of a petition
14 alleging a need for a change in the conditions of protective
15 supervision or the placement. If the parents or other
16 custodians deny the need for a change, the court shall hear
17 all parties in person or by counsel, or both. Upon the
18 admission of a need for a change or after such hearing, the
19 court shall enter an order changing the placement, modifying
20 the conditions of protective supervision, or continuing the
21 conditions of protective supervision as ordered.

22 b. In cases where the issue before the court is
23 whether a child should be reunited with a parent, the court
24 shall determine whether the parent has substantially complied
25 with the terms of the case plan to the extent that the
26 well-being and safety of the child is not endangered by the
27 return of the child to the home.

28 ~~9.10~~. Approve placement of the child in an independent
29 living arrangement for any foster child 16 years of age or
30 older, if it can be clearly established that this type of
31 alternate care arrangement is the most appropriate plan and

1 that the safety and welfare of the child will not be
2 jeopardized by such an arrangement. While in independent
3 living situations, children whose legal custody has been
4 awarded to the department or a licensed child-caring or
5 child-placing agency, or who have been voluntarily placed with
6 such an agency by a parent, guardian, relative, or adult
7 nonrelative approved by the court, continue to be subject to
8 the court review provisions of s. 39.453.

9 (5)(a) If the court commits the child to the temporary
10 legal custody of the department, the disposition order must
11 include a written determination that the child cannot remain
12 at home with reunification or family preservation services and
13 that removal of the child is necessary to protect the safety
14 of the child. If the child has been removed before the
15 disposition hearing, the order must also include a written
16 determination as to whether, after removal, the department has
17 made a reasonable effort to reunify the family. The department
18 has the burden of demonstrating that it has made reasonable
19 efforts under this subsection.

20 (d) A court may find that the department has made a
21 reasonable effort to prevent or eliminate the need for removal
22 if:

23 1. The first contact of the department with the family
24 occurs during an emergency which has put the child's life in
25 immediate danger.

26 2. The appraisal by the department of the home
27 situation indicates that it presents a substantial and
28 immediate danger to the child which cannot be mitigated by the
29 provision of preventive services.

30 3. The child cannot safely remain at home, either
31 because there are no preventive services that can ensure the

1 safety of the child or, even with appropriate and available
2 services being provided, the safety of the child cannot be
3 ensured.

4 (7) In carrying out the provisions of this chapter,
5 the court may order the natural parents or legal guardian of a
6 child who is found to be dependent to participate in family
7 counseling and other professional counseling activities from
8 licensed professionals deemed necessary for the rehabilitation
9 of the child, and such services must be identified as to
10 projected cost to both the department and the parent. A
11 written report must be presented to the court on the cost of
12 services provided since the last court appearance.

13 (9) The court may at any time enter an order ending
14 its jurisdiction over any child, except that, when a child has
15 been returned to the parents under subsection (8), the court
16 shall not terminate its jurisdiction over the child until 6
17 months after the return. The court shall consider ~~Based on a~~
18 ~~report of the department or agency and all any~~ other relevant
19 factors, in making the determination as to ~~the court shall~~
20 ~~then determine~~ whether its jurisdiction should be ~~continued or~~
21 ~~terminated in such a case.~~ If its jurisdiction is to be
22 terminated, the court shall enter an order to that effect.

23 Section 25. Section 39.4105, Florida Statutes, is
24 amended to read:

25 39.4105 Grandparents rights.--Notwithstanding any
26 other provision of law, a maternal or paternal grandparent as
27 well as a stepgrandparent is entitled to reasonable visitation
28 with his or her grandchild who has been adjudicated a
29 dependent child and taken from the physical custody of his or
30 her parent, custodian, legal guardian, or caregiver unless the
31 court finds that such visitation is not in the best interest

1 of the child or that such visitation would interfere with the
2 goals of the performance agreement pursuant to s. 39.451.
3 Reasonable visitation may be unsupervised and, where
4 appropriate and feasible, may be frequent and continuing.

5 (1) Grandparent visitation may take place in the home
6 of the grandparent unless there is a compelling reason for
7 denying such a visitation. The department's caseworker may, if
8 appropriate, shall arrange the visitation to which a
9 grandparent is entitled pursuant to this section. The state
10 shall not charge a fee for any costs associated with arranging
11 the visitation. However, the grandparent shall pay for the
12 child's cost of transportation when the visitation is to take
13 place in the grandparent's home. ~~The caseworker shall~~
14 ~~document the reasons for any decision to restrict a~~
15 ~~grandparent's visitation.~~

16 (2) A grandparent entitled to visitation pursuant to
17 this section shall not be restricted from appropriate displays
18 of affection to the child, such as appropriately hugging or
19 kissing his or her grandchild. Gifts, cards, and letters from
20 the grandparent and other family members shall not be denied
21 to a child who has been adjudicated a dependent child.

22 (3) Any attempt by a grandparent to facilitate a
23 meeting between the child who has been adjudicated a dependent
24 child and the child's parent in violation of a court order
25 shall automatically terminate future visitation rights of the
26 grandparent unless restored by the courts.

27 ~~(4) When the child has been returned to the physical~~
28 ~~custody of his or her parent or permanent custodian, legal~~
29 ~~guardian, or caregiver, the vis visitation rights granted~~
30 ~~pursuant to this section shall terminate.~~

31

1 (4)(5) In determining whether grandparental visitation
2 is not in the child's best interest, consideration may be
3 given to the finding of guilt, regardless of adjudication, or
4 entry or plea of guilty or nolo contendere to charges under
5 the following statutes, or similar statutes of other
6 jurisdictions: s. 787.04, relating to removing minors from
7 the state or concealing minors contrary to court order; s.
8 794.011, relating to sexual battery; s. 798.02, relating to
9 lewd and lascivious behavior; chapter 800, relating to
10 lewdness and indecent exposure; or chapter 827, relating to
11 the abuse of children. Consideration may also be given to a
12 finding of confirmed abuse under ss. 415.101-415.113 and ss.
13 415.502-415.514.

14 Section 26. Section 39.415, Florida Statutes, is
15 amended to read:

16 39.415 Appointed counsel; compensation.--If counsel is
17 entitled to receive compensation for representation pursuant
18 to court appointment in a dependency proceeding, such
19 compensation must equal the rate established by the chief
20 judge of the circuit under chapter 925 for attorney's fees in
21 criminal cases and shall be paid from the department's
22 operating budget shall not exceed \$1,000 at the trial level
23 and \$2,500 at the appellate level.

24 Section 27. Subsection (11) is added to section
25 39.437, Florida Statutes, 1996 Supplement, to read:

26 39.437 Process and service.--

27 (11) If a child summoned by the court is declared to
28 be in contempt of court-ordered services, the child may be
29 placed in a staff-secure shelter pursuant to s. 39.0145.
30
31

1 Section 28. Paragraph (a) of subsection (1) and
2 paragraph (a) of subsection (2) of section 39.44, Florida
3 Statutes, 1996 Supplement, are amended to read:

4 39.44 Hearings for child-in-need-of-services cases.--

5 (1) ARRAIGNMENT HEARING.--

6 (a) When a child has been taken into custody by order
7 of the court, an arraignment hearing shall be held within 7
8 days after the date the child is taken into custody. The
9 hearing shall be held for the child and the parent, guardian,
10 or custodian to admit, deny, or consent to findings that a
11 child is in need of services as alleged in the petition. If
12 the child and the parent, guardian, or custodian admit or
13 consent to the findings in the petition, the court shall
14 proceed as set forth in the Florida Rules of Criminal Juvenile
15 Procedure. However, if either the child or the parent,
16 guardian, or custodian denies any of the allegations of the
17 petition, the court shall hold an adjudicatory hearing within
18 7 days after the date of the arraignment hearing.

19 (2) ADJUDICATORY HEARING.--

20 (a) The adjudicatory hearing shall be held as soon as
21 practicable after the petition for a child in need of services
22 is filed and in accordance with the Florida Rules of Criminal
23 ~~Juvenile~~ Procedure, but reasonable delay for the purpose of
24 investigation, discovery, or procuring counsel or witnesses
25 shall, whenever practicable, be granted. If the child is in
26 custody, the adjudicatory hearing shall be held within 14 days
27 after the date the child was taken into custody.

28 Section 29. Subsection (2) of section 39.441, Florida
29 Statutes, is amended to read:

30 39.441 Orders of adjudication.--

31

1 (2) If the court finds that the child named in the
2 petition is a child in need of services, but finds that no
3 action other than supervision in the home is required, it may
4 enter an order briefly stating the facts upon which its
5 finding is based, but withholding an order of adjudication.
6 The court may ~~and placing the child and family under the~~
7 ~~supervision of the department. If the court later finds that~~
8 ~~the parent, guardian, or custodian of the child have not~~
9 ~~complied with the conditions of supervision imposed, the court~~
10 ~~may, after a hearing to establish the noncompliance, but~~
11 ~~without further evidence of the state of the child in need of~~
12 ~~services, enter an order of adjudication and shall thereafter~~
13 have full authority under this part to provide for the child
14 as adjudicated.

15 Section 30. Subsection (6) of section 39.4451, Florida
16 Statutes, 1996 Supplement, is amended, and subsection (7) is
17 added to said section, to read:

18 39.4451 Oaths, records, and confidential
19 information.--

20 (6) A court record of proceedings under this chapter
21 is not admissible in evidence in any other civil or criminal
22 proceedings ~~proceeding, except that:~~

23 ~~(a) Records of proceedings under this part forming a~~
24 ~~part of the record on appeal shall be used in the appellate~~
25 ~~court.~~

26 ~~(b) Records that are necessary in any case in which a~~
27 ~~person is being tried upon a charge of having committed~~
28 ~~perjury are admissible in evidence in that case.~~

29 (7) In all dependency proceedings, the ultimate
30 prevailing party shall be entitled to attorney's fees and
31

1 costs. Funds payable by the department shall come from the
2 existing budget of the department.

3 Section 31. Section 39.446, Florida Statutes, 1996
4 Supplement, is amended to read:

5 39.446 Medical, psychiatric, and psychological
6 examination and treatment of child; physical or mental
7 examination of parent, guardian, or person requesting custody
8 of child.--

9 (1) When any child is to be placed in shelter care,
10 the department is authorized only when appropriate and
11 necessary to have a medical screening performed on the child
12 ~~without authorization from the court and without consent from~~
13 ~~a parent or guardian.~~ Such medical screening shall be
14 performed by a licensed health care professional and shall be
15 to examine the child for injury, illness, ~~and~~ communicable
16 diseases, and for determination of substance abuse. In no
17 case does this subsection authorize the department to consent
18 to medical treatment for such children.

19 (2) When the department has performed the medical
20 screening authorized by subsection (1) or when it is otherwise
21 determined by a licensed health care professional that a child
22 is in need of medical treatment, consent for medical treatment
23 shall be obtained in the following manner:

24 (a)1. Consent to medical treatment shall be obtained
25 from a parent or guardian of the child; or

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

27 (b) If a parent or guardian of the child is
28 unavailable and his or her whereabouts cannot be reasonably
29 ascertained or a parent of the child is available but refuses
30 to consent to the necessary treatment, a court order is
31 required ~~and it is after normal working hours so that a court~~

1 ~~order cannot reasonably be obtained, an authorized agent of~~
2 ~~the department or its provider has the authority to consent to~~
3 ~~necessary medical treatment for the child. The authority of~~
4 ~~the department to consent to medical treatment in this~~
5 ~~circumstance is limited to the time reasonably necessary to~~
6 ~~obtain court authorization.~~

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

16
17 In no case may the department consent to sterilization,
18 abortion, or termination of life support.

19 (3) A judge may order that a child alleged to be or
20 adjudicated a child in need of services be examined by a
21 licensed health care professional. The judge may also order
22 such child to be evaluated by a licensed psychiatrist or a
23 licensed psychologist, by a district school board educational
24 needs assessment team, or, if a developmental disability is
25 suspected or alleged, by the developmental disability
26 diagnostic and evaluation team of the Department of Health and
27 Rehabilitative Services. The judge may order a family
28 assessment if that assessment was not completed at an earlier
29 time. If it is necessary to place a child in a residential
30 facility for such evaluation, then the criteria and procedure
31 established in s. 394.463(2) or chapter 393 shall be used,

1 whichever is applicable. The educational needs assessment
2 provided by the district school board educational needs
3 assessment team shall include, but not be limited to, reports
4 of intelligence and achievement tests, screening for learning
5 disabilities and other handicaps, and screening for the need
6 for alternative education pursuant to s. 230.2316.

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

20 (5) When there are indications of physical injury or
21 illness, a licensed health care professional shall be
22 immediately called 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, a guardian, or the child to consent to examination or
27 treatment for the child.

28 (7) A judge may order substance abuse screening, as
29 appropriate.
30
31

1 (8)~~(7)~~ Except as otherwise provided herein, nothing in
2 this section shall be deemed to alter the provisions of s.
3 743.064.

4 (9) If the behavior of the parents presents a clear
5 and present danger to the child, the state shall exercise the
6 right to remove the child from the home until the danger is
7 removed.

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

14 (10)~~(9)~~ Nothing in this section shall be construed to
15 authorize the permanent sterilization of the child, unless
16 such sterilization is the result of or incidental to medically
17 necessary treatment to protect or preserve the life of the
18 child.

19 (11)~~(10)~~ For the purpose of obtaining an evaluation or
20 examination or receiving treatment as authorized pursuant to
21 this section, no child alleged to be or found to be a child
22 from a family in need of services or a child in need of
23 services shall be placed in a detention facility or other
24 program used primarily for the care and custody of children
25 alleged or found to have committed delinquent acts.

26 (12)~~(11)~~ The parents or guardian of a child alleged to
27 be or adjudicated a child in need of services remain
28 financially responsible for the cost of medical treatment
29 provided to the child even if one or both of the parents or if
30 the guardian did not consent to the medical treatment. After
31 a hearing, the court may order the parents or guardian, if

1 found able to do so, to reimburse the department or other
2 provider of medical services for treatment provided.

3 (13)~~(12)~~ Nothing in this section alters the authority
4 of the department to consent to medical treatment for a child
5 who has been committed to the department pursuant to s.
6 39.442(3) and (4) and of whom the department has become the
7 legal custodian.

8 (14)~~(13)~~ At any time after the filing of a petition
9 for a child in need of services, when the mental or physical
10 condition, including the blood group, of a parent, guardian,
11 or other person requesting custody of a child is in
12 controversy, the court may order the person to submit to a
13 physical or mental examination by a qualified professional.
14 The order may be made only upon good cause shown and pursuant
15 to notice and procedures as set forth by the Florida Rules of
16 Juvenile Procedure.

17 Section 32. Section 39.447, Florida Statutes, is
18 amended to read:

19 39.447 Appointed counsel; compensation.--If counsel is
20 entitled to receive compensation for representation pursuant
21 to court appointment in a ~~child-in-need-of-services~~
22 proceeding, such compensation must equal the rate established
23 by the chief judge of the circuit under chapter 925 for
24 attorney's fees in criminal cases shall not exceed \$1,000 at
25 the trial level and \$2,500 at the appellate level.

26 Section 33. Subsections (4) and (6) of section 39.451,
27 Florida Statutes, are amended to read:

28 39.451 Case planning for children in foster care.--

29 (4)(a) In each case in which the custody of a child
30 has been vested, either voluntarily or involuntarily, in the
31 department and the child has been placed in temporary foster

1 care, a case plan must be prepared within 30 days after the
2 department removes the child from the home, and shall be
3 submitted to the court, with a hearing scheduled for the court
4 to review and accept or modify the plan within an additional
5 30 days. If the preparation of a case plan, in conference with
6 the parents, the parent's attorney, and other pertinent
7 parties, cannot be accomplished within 30 days, for good cause
8 shown, the court may grant an extension not to exceed 30 days.

9 ~~(b) The parent or parents may receive assistance from~~
10 ~~any person, or social service agency in the preparation of the~~
11 ~~case plan. The social service agency and the court, when~~
12 ~~applicable, shall inform the parent or parents of the right to~~
13 ~~receive such assistance, including the right to assistance of~~
14 ~~counsel.~~

15 ~~(b)(c)~~ Before the signing of the case plan, the
16 authorized agent of the department shall explain it to all
17 persons involved in its implementation, including, when
18 appropriate, the child.

19 ~~(c)(d)~~ After the case plan has been agreed upon and
20 signed by the parties involved, a copy of the plan must be
21 given immediately to the natural parents, the parent's
22 attorney, the department or agency, the foster parents, and
23 any other parties identified by the court, including the
24 child, if appropriate.

25 ~~(d)(e)~~ The case plan may be amended at any time if all
26 parties are in agreement regarding the revisions to the plan
27 submitted to the court for approval 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(c)(d).

3 (6) A case plan must be prepared, but need not be
4 submitted to the court, for a child who will be in care no
5 longer than 30 days unless that child is placed in temporary
6 foster care a second time within a 12-month period.

7 Section 34. Subsection (3) and paragraph (a) of
8 subsection (4) of section 39.452, Florida Statutes, are
9 amended to read:

10 39.452 Case planning when parents do not participate
11 and the child is in foster care.--

12 (3) The plan must include, but need not be limited to,
13 the specific services to be provided by the department, the
14 goals and plans for the child, the estimated costs to provide
15 these services, and the time for accomplishing the provisions
16 of the plan and for accomplishing permanence for the child.

17 (4)(a) Seventy-two hours prior to the filing of a
18 plan, each parent and his or her attorney must be provided
19 with a copy of the plan developed by the department. If the
20 location of one or both parents is unknown, this must be
21 documented in writing and included in the plan submitted to
22 the court. After the filing of the plan, if the location of
23 an absent parent becomes known, that parent must be served
24 with a copy of the plan.

25 Section 35. Paragraphs (b) and (c) of subsection (1),
26 paragraphs (b) and (f) of subsection (3), subsection (4),
27 paragraphs (a) and (c) of subsection (5), paragraphs (a) and
28 (c) of subsection (6), paragraph (g) of subsection (7), and
29 paragraphs (a), (c), and (e) of subsection (8) of section
30 39.453, Florida Statutes, are amended to read:

31 39.453 Judicial review.--

1 (1)

2 (b) The court shall retain jurisdiction over a child
3 returned to its parents or legal guardians for a period of 6
4 months, but, at that time, based on a report of the department
5 ~~social service agency~~ and any other relevant factors, the
6 court shall make a determination as to whether its
7 jurisdiction shall continue or be terminated.

8 (c) After termination of parental rights, the court
9 shall retain jurisdiction over any child for whom custody is
10 given to the department ~~a social service agency~~ until the
11 child is adopted. The jurisdiction of the court after
12 termination of parental rights and custody is given to the
13 department ~~agency~~ is for the purpose of reviewing the status
14 of the child and the progress being made toward permanent
15 adoptive placement. As part of this continuing jurisdiction,
16 for good cause shown by the guardian ad litem for the child,
17 the court may review the appropriateness of the adoptive
18 placement of the child.

19 (3)

20 (b) If the court extends the case plan beyond 18
21 months, judicial reviews must be held at least every 6 months
22 for every child ~~children under the age of 13 and at least~~
23 ~~annually for children age 13 and older.~~

24 (f) In each case in which a child has been voluntarily
25 placed with the licensed child-placing agency, the agency
26 shall notify the clerk of the court in the circuit where the
27 child resides of such placement within 5 working days.
28 Notification of the court is not required for any child who
29 will be in temporary foster care no longer than 30 days unless
30 that child is placed in temporary foster care a second time
31 within a 12-month period. If the child is returned to the

1 custody of the parents or guardian before the scheduled review
2 hearing or if the child is placed for adoption, the
3 child-placing agency shall notify the court of the child's
4 return or placement within 5 working days, and the clerk of
5 the court shall cancel the review hearing.

6 (4) The department ~~social service agency~~ shall file a
7 petition for review with the court within 10 calendar days
8 after the judicial review hearing. The petition must include a
9 statement of the dispositional alternatives available to the
10 court. The petition must accompany the notice of the hearing
11 served upon persons specified in subsection (5).

12 (5) Notice of the hearing and a copy of the petition,
13 including a statement of the dispositional alternatives
14 available to the court, must be served by the court upon:

15 (a) The department which is ~~social service agency~~
16 charged with the supervision of care, custody, or guardianship
17 of the child, if the department ~~that agency~~ is not the
18 petitioner.

19 (c) The parent, guardian, or relative, and the
20 attorney, from whom the care and custody of the child have
21 been transferred.

22 (6)(a) The department ~~social service agency~~ shall make
23 an investigation and social study concerning all pertinent
24 details relating to the child and shall furnish to the court
25 or citizen review panel a written report that includes, but is
26 not limited to:

27 1. A description of the type of placement the child is
28 in at the time of the hearing.

29 2. Documentation of the diligent efforts made by all
30 parties to the case plan to comply with each applicable
31 provision of the plan.

1 3. The amount of fees assessed and collected during
2 the period of time being reported.

3 4. The services provided to the foster family or
4 caretakers in an effort to address the needs of the child as
5 indicated in the case plan.

6 5. A statement concerning whether the parent or
7 guardian, though able to do so, did not comply substantially
8 with the provisions of the case plan and the agency
9 recommendations or a statement that the parent or guardian did
10 substantially comply with such provisions.

11 6. A statement from the foster parent or parents or
12 caretakers providing any material evidence concerning the
13 return of the child to the parent or parents.

14 (c) In a case in which the child has been permanently
15 placed with the department ~~social service agency~~, the
16 department ~~agency~~ shall furnish to the court a written report
17 concerning the progress being made to place the child for
18 adoption. If, as stated in s. 39.451(1), the child cannot be
19 placed for adoption, a report on the progress made by the
20 child in alternative permanency goals or placements,
21 including, but not limited to, long-term foster care,
22 independent living, custody to a relative or adult nonrelative
23 approved by the court on a permanent basis with or without
24 legal guardianship, or custody to a foster parent on a
25 permanent basis with or without legal guardianship, must be
26 submitted to the court. The report must be submitted to the
27 court at least 48 hours before each scheduled judicial review.

28 (7) The court, and any citizen review panel
29 established under s. 39.4531, shall take into consideration
30 the information contained in the social services study and
31 investigation and all medical, psychological, and educational

1 records that support the terms of the case plan; testimony by
2 the social services agency, the parent or guardian, the foster
3 parent or caretakers, the guardian ad litem if one has been
4 appointed for the child, and any other person deemed
5 appropriate; and any relevant and material evidence submitted
6 to the court, including written and oral reports to the extent
7 of their probative value. In its deliberations, the court, and
8 any citizen review panel established under s. 39.4531, shall
9 seek to determine:

10 (g) The appropriateness of the child's current
11 placement, including whether the child is in a setting which
12 is as family-like and as close to the parent's home as
13 possible, consistent with the child's best interests and
14 special needs and educational needs.

15 (8)(a) Based upon the criteria set forth in subsection
16 (7) and the recommended order of the citizen review panel, if
17 established under s. 39.4531, the court shall determine
18 whether or not the department ~~social service agency~~ shall
19 initiate proceedings to have a child declared a dependent
20 child, return the child to the parent, continue the child in
21 temporary foster care for a specified period of time, or
22 initiate termination of parental rights proceedings for
23 subsequent placement in an adoptive home. Modifications to the
24 plan must be handled as prescribed in s. 39.451. If the court
25 finds that the prevention or reunification efforts of the
26 department will allow the child to remain safely at home or be
27 safely returned to the home, the court shall allow the child
28 to remain in or return to the home after making a specific
29 finding of fact that the reasons for removal have been
30 remedied to the extent that the child's safety and well-being
31 will not be endangered.

1 (c) If, in the opinion of the court, the department
2 ~~social service agency~~ has not complied with its obligations as
3 specified in the written case plan, the court may find the
4 department ~~social service agency~~ in contempt, shall order the
5 department ~~social service agency~~ to submit its plans for
6 compliance with the agreement, and shall require the
7 department ~~social service agency~~ to show why the child should
8 not be returned immediately to the home of the parents or
9 legal guardian.

10 (e) If, at any judicial review, the court finds that
11 the parents have failed to substantially comply with the case
12 plan to the degree that further reunification efforts are
13 without merit and not in the best interest of the child or the
14 family, it may authorize the filing of a petition for
15 termination of parental rights, whether or not the time period
16 as contained in the case plan for substantial compliance has
17 elapsed.

18 Section 36. Section 39.454, Florida Statutes, is
19 amended to read:

20 39.454 Initiation of termination of parental rights
21 proceedings.--

22 ~~(1)~~ If, in preparation for any judicial review hearing
23 under this part, it is the opinion of the department ~~social~~
24 ~~service agency~~ that the parents or legal guardian of the child
25 have not complied with their responsibilities as specified in
26 the written case plan although able to do so, the department
27 ~~social service agency~~ shall state its intent to initiate
28 proceedings to terminate parental rights, ~~unless the social~~
29 ~~service agency can demonstrate to the court that such a~~
30 ~~recommendation would not be in the child's best interests.~~ If
31 it is the intent of the department ~~or licensed child-placing~~

1 agency to initiate proceedings to terminate parental rights,
2 the department ~~or licensed child-placing agency~~ shall file a
3 petition for termination of parental rights no later than 3
4 months after the date of the previous judicial review hearing.
5 ~~If the petition cannot be filed within 3 months, the~~
6 ~~department or licensed child-placing agency shall provide a~~
7 ~~written report to the court outlining the reasons for delay,~~
8 ~~the progress made in the termination of parental rights~~
9 ~~process, and the anticipated date of completion of the~~
10 ~~process.~~

11 ~~(2) If, at the time of the 18-month judicial review~~
12 ~~hearing, a child is not returned to the physical custody of~~
13 ~~the natural parents, the social service agency shall initiate~~
14 ~~termination of parental rights proceedings under part VI of~~
15 ~~this chapter within 30 days. Only if the court finds that the~~
16 ~~situation of the child is so extraordinary and that the best~~
17 ~~interests of the child will be met by such action at the time~~
18 ~~of the judicial review may the case plan be extended. If the~~
19 ~~court decides to extend the plan, the court shall enter~~
20 ~~detailed findings justifying the decision to extend, as well~~
21 ~~as the length of the extension. Failure to initiate~~
22 ~~termination of parental rights proceedings at the time of the~~
23 ~~18-month judicial review or within 30 days after such review~~
24 ~~does not prohibit initiating termination of parental rights~~
25 ~~proceedings at any other time.~~

26 Section 37. Section 39.455, Florida Statutes, is
27 amended to read:

28 39.455 Immunity from liability.--

29 ~~(1) In no case shall employees or agents of the social~~
30 ~~service agency acting in good faith be liable for damages as a~~
31 ~~result of failing to provide services agreed to under the~~

1 ~~performance agreement or permanent placement plan unless the~~
2 ~~failure to provide such services occurs as a result of bad~~
3 ~~faith or malicious purpose or occurs in a manner exhibiting~~
4 ~~wanton and willful disregard of human rights, safety, or~~
5 ~~property.~~

6 ~~(2) The inability or failure of the social service~~
7 ~~agency or the employees or agents of the social service agency~~
8 ~~to provide the services agreed to under the performance~~
9 ~~agreement or permanent placement plan shall not render the~~
10 ~~state or the social service agency liable for damages unless~~
11 ~~such failure to provide services occurs in a manner exhibiting~~
12 ~~wanton or willful disregard of human rights, safety, or~~
13 ~~property.~~

14 ~~(3) A member or agent of a citizen review panel acting~~
15 ~~in good faith is not liable for damages as a result of any~~
16 ~~review or recommendation with regard to a foster care or~~
17 ~~shelter care matter unless such member or agent exhibits~~
18 ~~wanton and willful disregard of human rights or safety, or~~
19 ~~property.~~

20 Section 38. Section 39.457, Florida Statutes, as
21 created by chapter 96-402, Laws of Florida, is hereby
22 repealed.

23 Section 39. Section 39.459, Florida Statutes, is
24 amended to read:

25 39.459 Definition.--As used in ss. 39.46-39.474, the
26 term "department" means the Department of Children and Family
27 ~~Health and Rehabilitative~~ Services.

28 Section 40. Subsection (1) of section 39.46, Florida
29 Statutes, is amended to read:

30 39.46 Procedures and jurisdiction.--

31

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 Criminal Juvenile Procedure unless otherwise provided by law.

5 Section 41. Subsection (2) of section 39.461, Florida
6 Statutes, is amended to read:

7 39.461 Petition for termination of parental rights.--

8 (2) The form of the petition is governed by the
9 Florida Rules of Criminal Juvenile Procedure. The petition
10 must be in writing and signed by the petitioner under oath
11 stating the petitioner's good faith in filing the petition.

12 Section 42. Subsections (1) and (2) of section
13 39.4612, Florida Statutes, are amended to read:

14 39.4612 Manifest best interests of the child.--In a
15 hearing on a petition for termination of parental rights, the
16 court shall consider the manifest best interests of the child.
17 This consideration shall not include a comparison between the
18 attributes of the parents and those of any persons providing a
19 present or potential placement for the child. For the purpose
20 of determining the manifest best interests of the child, the
21 court shall consider and evaluate all relevant factors,
22 including, but not limited to:

23 (1) Any suitable permanent custody arrangement with a
24 relative of the child should be the first priority.

25 (2) The ability and disposition of the parent or
26 parents to provide the child with food, clothing, medical care
27 or other remedial care ~~recognized and permitted under state~~
28 ~~law instead of medical care, and other material needs of the~~
29 ~~child.~~

30 Section 43. Paragraph (a) of subsection (1) of section
31 39.462, Florida Statutes, is amended to read:

1 39.462 Process and services.--

2 (1) Before the court may terminate parental rights, in
3 addition to the other requirements set forth in this part, the
4 following requirements must be met:

5 (a) Notice of the date, time, and place of the
6 advisory hearing for the petition to terminate parental rights
7 and copy of the petition must be personally served upon the
8 following persons, specifically notifying them that a petition
9 has been filed:

10 1. The parents of the child.

11 2. The attorney for the parents.

12 ~~3.2.~~ The legal custodians or guardian of the child.

13 ~~4.3.~~ If the parents who would be entitled to notice
14 are dead or unknown, a living relative of the child, unless
15 upon diligent search and inquiry no such relative can be
16 found.

17 ~~5.4.~~ Any person who has physical custody of the child.

18 ~~6.5.~~ Any grandparent entitled to priority for adoption
19 under s. 63.0425.

20 ~~7.6.~~ Any prospective parent who has been identified
21 under s. 39.4051 or s. 39.4625.

22 ~~8.7.~~ The guardian ad litem for the child, if one has
23 been appointed.

24

25 The document containing the notice to respond or appear must
26 contain, in type at least as large as the balance of the
27 document, the following or substantially similar language:

28 "FAILURE TO RESPOND TO THIS NOTICE OR TO APPEAR AT THIS
29 HEARING CONSTITUTES CONSENT TO THE TERMINATION OF PARENTAL
30 RIGHTS OF THIS CHILD (OR THESE CHILDREN)."

31

1 Section 44. Paragraphs (b) and (d) of subsection (2)
2 of section 39.465, Florida Statutes, are amended to read:

3 39.465 Right to counsel; guardian ad litem.--

4 (2)

5 (b) The guardian ad litem has the following
6 responsibilities:

7 1. To investigate the allegations of the petition and
8 any subsequent matters arising in the case and, unless excused
9 by the court, to file a written report. This report must
10 include a statement of the wishes of the child and the
11 recommendations of the guardian ad litem and must be provided
12 to all parties and the court at least 72 ~~48~~ hours before the
13 disposition hearing.

14 2. To be present at all court hearings unless excused
15 by the court.

16 3. To represent the interests of the child until the
17 jurisdiction of the court over the child terminates or until
18 excused by the court.

19 4. To perform such other duties and undertake such
20 other responsibilities as the court may direct.

21 (d) A guardian ad litem is entitled to receive service
22 of pleadings and papers as provided by the Florida Rules of
23 Criminal Juvenile Procedure.

24 Section 45. Subsection (6) of section 39.469, Florida
25 Statutes, is amended to read:

26 39.469 Powers of disposition; order of disposition.--

27 (6) If the court terminates parental rights, it shall,
28 in its order of disposition, provide for a hearing, to be
29 scheduled no later than 30 days after the date of disposition,
30 in which the department ~~or the licensed child-placing agency~~
31 shall provide to the court a plan for permanency for the

1 child. Thereafter, until the adoption of the child is
2 finalized or the child reaches the age of 18 years, whichever
3 occurs first, the court shall hold hearings at 6-month
4 intervals to review the progress being made toward permanency
5 for the child.

6 Section 46. Subsection (6) of section 39.471, Florida
7 Statutes, 1996 Supplement, is amended to read:

8 39.471 Oaths, records, and confidential information.--

9 (6) A ~~No~~ court record of proceedings under this part
10 may ~~shall~~ be admissible in evidence in any other civil or
11 criminal proceeding, ~~except that:~~

12 ~~(a) Orders terminating the rights of a parent and~~
13 ~~committing the child to a licensed child-placing agency or the~~
14 ~~department for adoption shall be admissible in evidence in~~
15 ~~subsequent adoption proceedings relating to the child.~~

16 ~~(b) Records of proceedings under this part forming a~~
17 ~~part of the record on appeal shall be used in the appellate~~
18 ~~court in the manner hereinafter provided.~~

19 ~~(c) Records necessary therefor shall be admissible in~~
20 ~~evidence in any case in which a person is being tried upon a~~
21 ~~charge of having committed perjury.~~

22 Section 47. Subsection (2) of section 39.473, Florida
23 Statutes, is amended, and subsection (6) is added to said
24 section, to read:

25 39.473 Appeal.--

26 (2) The Attorney General or the Attorney General's
27 staff ~~An attorney for the department~~ shall represent the state
28 upon appeal. When a notice of appeal is filed in the circuit
29 court, the clerk shall notify the attorney for the department,
30 together with the attorney for the parent, the guardian ad
31 litem, and any attorney for the child.

1 (6) If counsel is entitled to receive compensation for
2 representation pursuant to court appointment in a termination
3 of parental rights proceeding, such compensation must equal
4 the rate established by the chief judge of the circuit under
5 chapter 925 for attorney's fees in criminal cases.

6 Section 48. Section 397.6758, Florida Statutes, is
7 amended to read:

8 397.6758 Release of client from protective custody,
9 emergency admission, involuntary assessment, involuntary
10 treatment, and alternative involuntary assessment of a
11 minor.--A client involuntarily admitted to a licensed service
12 provider may be released without further order of the court
13 only by a qualified professional in a hospital, a
14 detoxification facility, an addictions receiving facility, or
15 any less restrictive treatment component. Notice of the
16 release must be provided to the applicant in the case of an
17 emergency admission or an alternative involuntary assessment
18 for a minor, or to the petitioner and the court if the
19 involuntary assessment or treatment was court ordered. In the
20 case of a minor client, the release must be:

- 21 (1) To the client's parent, legal guardian, or legal
22 custodian or the authorized designee thereof; or
23 ~~(2) To the department pursuant to s. 39.03;~~
24 ~~(3) To the department pursuant to s. 39.401; or~~
25 (2)~~(4)~~ To the department pursuant to s. 39.421.

26 Section 49. Subsections (2) and (3) of section
27 415.501, Florida Statutes, are amended to read:

28 415.501 Prevention of abuse and neglect of children;
29 state plan.--

- 30 (2) PLAN FOR COMPREHENSIVE APPROACH.--

31

1 (a) The Department of Children and Family Health and
2 ~~Rehabilitative~~ Services shall develop a state plan for the
3 prevention of abuse and neglect of children and shall submit
4 the plan to the Speaker of the House of Representatives, the
5 President of the Senate, and the Governor no later than
6 January 1 of each year, ~~1983~~. The Department of Education
7 shall participate and fully cooperate in the development of
8 the state plan at both the state and local levels.
9 Furthermore, appropriate local agencies and organizations
10 shall be provided an opportunity to participate in the
11 development of the state plan at the local level. Appropriate
12 local groups and organizations shall include, but not be
13 limited to, community mental health centers; guardian ad litem
14 programs for children under the circuit court; the school
15 boards of the local school districts; the district human
16 rights advocacy committees; private or public organizations or
17 programs with recognized expertise in working with children
18 who are sexually abused, physically abused, emotionally
19 abused, or neglected and with expertise in working with the
20 families of such children; private or public programs or
21 organizations with expertise in maternal and infant health
22 care; multidisciplinary child protection teams; child day care
23 centers; law enforcement agencies, and the circuit courts,
24 when guardian ad litem programs are not available in the local
25 area. ~~The state plan to be provided to the Legislature and~~
26 ~~the Governor shall include, as a minimum, the information~~
27 ~~required of the various groups in paragraph (b).~~
28 ~~(b) The development of the comprehensive state plan~~
29 ~~shall be accomplished in the following manner:~~
30 1. ~~The Department of Health and Rehabilitative~~
31 ~~Services shall establish an interprogram task force comprised~~

1 ~~of the Deputy Assistant Secretary for Health or his designee~~
2 ~~and representatives from the Children, Youth, and Families~~
3 ~~Program Office, the Children's Medical Services Program~~
4 ~~Office, the Alcohol, Drug Abuse, and Mental Health Program~~
5 ~~Office, the Developmental Services Program Office, and the~~
6 ~~Office of Evaluation. Representatives of the Department of Law~~
7 ~~Enforcement and of the Department of Education shall serve as~~
8 ~~ex officio members of the interprogram task force. The~~
9 ~~interprogram task force shall be responsible for:~~
10 ~~a. Developing a plan of action for better coordination~~
11 ~~and integration of the goals, activities, and funding~~
12 ~~pertaining to the prevention of child abuse and neglect~~
13 ~~conducted by the department in order to maximize staff and~~
14 ~~resources at the state level. The plan of action shall be~~
15 ~~included in the state plan.~~
16 ~~b. Providing a basic format to be utilized by the~~
17 ~~districts in the preparation of local plans of action in order~~
18 ~~to provide for uniformity in the district plans and to provide~~
19 ~~for greater ease in compiling information for the state plan.~~
20 ~~c. Providing the districts with technical assistance~~
21 ~~in the development of local plans of action, if requested.~~
22 ~~d. Examining the local plans to determine if all the~~
23 ~~requirements of the local plans have been met and, if they~~
24 ~~have not, informing the districts of the deficiencies and~~
25 ~~requesting the additional information needed.~~
26 ~~e. Preparing the state plan for submission to the~~
27 ~~Legislature and the Governor. Such preparation shall include~~
28 ~~the collapsing of information obtained from the local plans,~~
29 ~~the cooperative plans with the Department of Education, and~~
30 ~~the plan of action for coordination and integration of~~
31 ~~departmental activities into one comprehensive plan. The~~

1 ~~comprehensive plan shall include a section reflecting general~~
2 ~~conditions and needs, an analysis of variations based on~~
3 ~~population or geographic areas, identified problems, and~~
4 ~~recommendations for change. In essence, the plan shall~~
5 ~~provide an analysis and summary of each element of the local~~
6 ~~plans to provide a statewide perspective. The plan shall also~~
7 ~~include each separate local plan of action.~~

8 ~~f. Working with the specified state agency in~~
9 ~~fulfilling the requirements of subparagraphs 2., 3., 4., and~~
10 ~~5.~~

11 ~~2. The Department of Education and the Department of~~
12 ~~Health and Rehabilitative Services shall work together in~~
13 ~~developing ways to inform and instruct parents of school~~
14 ~~children and appropriate district school personnel in all~~
15 ~~school districts in the detection of child abuse and neglect~~
16 ~~and in the proper action that should be taken in a suspected~~
17 ~~case of child abuse or neglect, and in caring for a child's~~
18 ~~needs after a report is made. The plan for accomplishing this~~
19 ~~end shall be included in the state plan.~~

20 ~~3. The Department of Law Enforcement and the~~
21 ~~Department of Health and Rehabilitative Services shall work~~
22 ~~together in developing ways to inform and instruct appropriate~~
23 ~~local law enforcement personnel in the detection of child~~
24 ~~abuse and neglect and in the proper action that should be~~
25 ~~taken in a suspected case of child abuse or neglect.~~

26 ~~4. Within existing appropriations, the Department of~~
27 ~~Health and Rehabilitative Services shall work with other~~
28 ~~appropriate public and private agencies to emphasize efforts~~
29 ~~to educate the general public about the problem of and ways to~~
30 ~~detect child abuse and neglect and in the proper action that~~
31 ~~should be taken in a suspected case of child abuse or neglect.~~

1 ~~The plan for accomplishing this end shall be included in the~~
2 ~~state plan.~~

3 ~~5. The Department of Education and the Department of~~
4 ~~Health and Rehabilitative Services shall work together on the~~
5 ~~enhancement or adaptation of curriculum materials to assist~~
6 ~~instructional personnel in providing instruction through a~~
7 ~~multidisciplinary approach on the identification,~~
8 ~~intervention, and prevention of child abuse and neglect. The~~
9 ~~curriculum materials shall be geared toward a sequential~~
10 ~~program of instruction at the four progressional levels, K-3,~~
11 ~~4-6, 7-9, and 10-12. Strategies for encouraging all school~~
12 ~~districts to utilize the curriculum are to be included in the~~
13 ~~comprehensive state plan for the prevention of child abuse and~~
14 ~~child neglect.~~

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

1 ~~have subdistricts, the district administrator shall ensure~~
2 ~~that both urban and rural areas are represented on the task~~
3 ~~force. The task force shall develop a written statement~~
4 ~~clearly identifying its operating procedures, purpose, overall~~
5 ~~responsibilities, and method of meeting responsibilities. The~~
6 ~~district plan of action to be prepared by the task force shall~~
7 ~~include, but shall not be limited to:~~

8 ~~a. Documentation of the magnitude of the problems of~~
9 ~~child abuse, including sexual abuse, physical abuse, and~~
10 ~~emotional abuse, and child neglect in its geographical area.~~

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

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

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

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

30
31

1 f. ~~A description of barriers to the accomplishment of~~
2 ~~a comprehensive approach to the prevention of child abuse and~~
3 ~~neglect.~~

4 g. ~~Recommendations for changes that can be~~
5 ~~accomplished only at the state program level or by legislative~~
6 ~~action.~~

7
8 ~~The district local plan of action shall be submitted to the~~
9 ~~interprogram task force by November 1, 1982.~~

10 ~~(3) FUNDING AND SUBSEQUENT PLANS.--~~

11 ~~(a) All budget requests submitted by the Department of~~
12 ~~Health and Rehabilitative Services, the Department of~~
13 ~~Education, or any other agency to the Legislature for funding~~
14 ~~of efforts for the prevention of child abuse and neglect shall~~
15 ~~be based on the state plan developed pursuant to this section.~~

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

31

1 ~~House of Representatives and the President of the Senate as~~
2 ~~required above.~~

3 Section 50. Section 415.5015, Florida Statutes, is
4 hereby repealed.

5 Section 51. Subsections (1) and (3) of section
6 415.5016, Florida Statutes, are amended, and paragraphs (h)
7 and (i) are added to subsection (4) of said section, to read:

8 415.5016 Purpose and legislative intent.--

9 (1) The purpose of this part is to provide procedures
10 which allow the Department of Health and Rehabilitative
11 Services to respond to reports of child abuse or neglect by
12 providing, when appropriate, services to families without the
13 need for protective investigations, classification of reports,
14 or other procedures required in part IV. To achieve this
15 purpose, a family services response system is established
16 under this part. It is the intent of the Legislature that the
17 department respond to reports of child abuse or neglect in the
18 most efficient and effective manner that ensures the safety of
19 children and that the integrity of families is protected.

20 (3) The Legislature finds that policies and procedures
21 that provide for intervention through the department's family
22 services response system should be based on the following
23 principles:

24 (a) The intervention should ensure the safety of
25 children and protect the rights of the parents.

26 (b) The intervention should engage families in
27 constructive, supportive, and nonadversarial relationships and
28 intrude as little as possible in the life of the family.

29 ~~(c) The intervention should intrude as little as~~
30 ~~possible into the life of the family, be focused on clearly~~

31

1 ~~defined objectives, and take the most parsimonious path to~~
2 ~~remedy a family's problems.~~

3 (c)~~(d)~~ The intervention should be based upon outcome
4 evaluation results that have demonstrated ~~demonstrate~~ success
5 in supporting families and protecting children and their
6 families.

7 (4) It is the intent of the Legislature:

8 (h) That prior to receiving a divorce, married couples
9 with children be informed as to the potential trauma inflicted
10 upon children when their children are used to punish the
11 spouse.

12 (i) That incidents of domestic violence when a child
13 is present are a cause for the family to receive assistance
14 for the protection of the child.

15 Section 52. Subsections (3), (5), and (6) of section
16 415.50165, Florida Statutes, are amended to read:

17 415.50165 Definitions.--As used in this part:

18 (3) "Family services response system" means a
19 nonadversarial response to reports of child abuse and neglect,
20 through a process of assessing ~~the risk to the child and~~
21 ~~family and, when appropriate, delivering services to remove~~
22 ~~the risk to the child and~~ supporting ~~support~~ the integrity of
23 the ~~a~~ family.

24 (5) "Secretary" means the Secretary of Children and
25 Family ~~Health and Rehabilitative~~ Services.

26 (6) "Caregiver" means the biological or adoptive
27 parent, adult household member, or other person responsible
28 for a child's welfare as defined in s. 415.503~~(11)~~~~(13)~~.

29 Section 53. Section 415.5017, Florida Statutes, is
30 amended to read:

31

1 415.5017 Family services response system;
2 procedures.--

3 (1) Upon receiving a report alleging child abuse or
4 neglect, district staff shall when possible use a family
5 services response system approach to assist the family in
6 addressing the family problem.

7 (2) All agencies of the department and other state and
8 local law enforcement and child welfare agencies ~~District~~
9 ~~staff~~, at a minimum, shall adhere to the following procedures
10 when requesting family assistance:

11 (a) The purpose of the response shall be explained.

12 (b) The name of the person responding and their office
13 telephone number shall be provided to the caregiver.

14 (c) The possible outcomes and services of the
15 department's response shall be explained to the caregiver.

16 (d) The caregiver shall be involved to the fullest
17 extent possible in determining the nature of the allegation
18 and the nature of any identified problem.

19 (e) An assessment of risk and the perceived needs for
20 the child and family shall be conducted in a manner that is
21 sensitive to the social, economic, and cultural environment of
22 the family.

23 (f) Based on the information obtained from the
24 caregiver, the risk assessment instrument must be completed
25 within 48 hours and, if needed, a case plan developed within
26 15 calendar ~~a maximum of 30~~ days.

27 (g) The department shall document the outcome of its
28 initial assessment of risk as follows:

29 1. Report closed. Services were not offered to the
30 family.

31

1 2. Services were offered to and accepted by the
2 family.

3 3. Services were offered to, but were rejected by, the
4 family.

5 4. Either the risk to the child's safety and
6 well-being cannot be reduced by the provision of services or
7 the family rejected services, and a protective investigation
8 under part IV is needed.

9 (h) When interviewing children in an alleged child
10 abuse case, all interviews with the child shall be
11 audio-recorded or videotaped.

12 (i) The caregiver shall be allowed to audio-record or
13 videotape all activity in the home related to the response by
14 the district staff to a report alleging abuse or neglect.

15 (3) The department shall designate a case manager and
16 develop a family services plan within 10 days for families who
17 ~~that~~ have accepted services. A copy of such family services
18 plan shall be furnished to the caregiver, who shall
19 acknowledge receipt by signature.

20 (4) Services to the family members ~~child and~~
21 ~~caregivers~~ under this section shall be voluntary and of a
22 limited duration, the length of which shall not exceed 90 days
23 after the date services are ordered.

24 ~~(5) At any time, as a result of additional~~
25 ~~information, findings of facts, or changing conditions, the~~
26 ~~department may pursue a child protective investigation as~~
27 ~~provided in part IV.~~

28 (5)(6) The department shall establish procedures for
29 determining whether a false report of child abuse or neglect
30 has been made and for submitting all identifying information
31

1 relating to such report to the state attorney pursuant to s.
2 415.513.

3 Section 54. The catchline and subsection (1) of
4 section 415.50175, Florida Statutes, 1996 Supplement, are
5 amended to read:

6 415.50175 Confidentiality of records for family
7 services response system.--

8 (1) The department shall make and keep records of all
9 cases brought before it pursuant to this part and shall
10 preserve the records pertaining to a child and family until 7
11 years after the last entry was made or until the child is 18
12 years of age, whichever date is first reached, and shall ~~may~~
13 then destroy the records.

14 Section 55. Section 415.5018, Florida Statutes, 1996
15 Supplement, is amended to read:

16 415.5018 District authority and responsibilities for
17 family services response system.--

18 (1) IMPLEMENTATION.--

19 (a) Within existing resources, the department may
20 implement the family services response system in districts
21 using the criteria provided in this section. The secretary or
22 the secretary's designee shall evaluate and select the
23 programs and sites. ~~The initial approval must be made no~~
24 ~~later than October 1, 1994.~~

25 (b) Districts, with the approval of district health
26 and human services boards and within the intent and purpose of
27 this part, shall have the discretion to determine which
28 services will be available for a family services response
29 system.

30 (c) A district, with the approval of the district
31 health and human services board, may develop specific capacity

1 in policy and resources to address the needs of defined
2 priority segments of abuse and neglect reports in the
3 community needing a family services response system approach.

4 (d) The department shall develop procedures for
5 assessing and approving a district's policy under this section
6 to determine compliance with the intent and provisions of this
7 part and part IV.

8 (2) REQUIREMENTS.--Proposals for family services
9 response systems shall be submitted by the district health and
10 human services boards to the secretary and shall include, at a
11 minimum, the following information and assurances:

12 (a) Creation of a local advisory board and process for
13 reviewing specific formative and summative evaluations ~~outcome~~
14 ~~information on all reports to be handled in a different~~
15 ~~manner.~~

16 (b) Description of how the family services response
17 system will significantly enhance the district's ability to
18 protect children and preserve families.

19 (c) Evidence of balanced representation of community
20 support for the alternative child protection/family
21 preservation demonstration project.

22 (d) Evidence as to how the principles of
23 family-centered involvement and support will be implemented in
24 the family services response system.

25 ~~(e) Methods for a broadened risk assessment instrument~~
26 ~~or process to include more factors that evaluate the severity~~
27 ~~of a report for purposes of determining the appropriate~~
28 ~~response.~~

29 ~~(e)(f)~~ Description of differential community and
30 departmental responses, ~~including clarifying and strengthening~~
31 ~~the role of law enforcement and other social service agencies.~~

1 (f)~~(g)~~ Process for the identification of reports
2 requiring an immediate response, ~~rather than response within~~
3 ~~24 hours.~~

4 (g)~~(h)~~ Assurance that documentation of actions taken
5 on services referrals will be completed.

6 (h)~~(i)~~ Provisions for a simple and straightforward
7 process to reassign reports to different levels of response,
8 based on additional information, documented findings or facts,
9 changing conditions, or the acceptance of services.

10 ~~(j) Assurance that for all cases, case closure will be~~
11 ~~reported to the central abuse registry and tracking system.~~

12 (i)~~(k)~~ Mechanism for evaluating the outcomes of the
13 family services response systems.

14 (3) CHILD PROTECTIVE INVESTIGATION; COUNTY SHERIFF'S
15 OFFICE OR LOCAL POLICE DEPARTMENT OPTION. ~~--within existing~~
16 ~~resources, a district, with the approval of the district~~
17 ~~health and human services board, and The secretary of the~~
18 department shall enter into an agreement with a county
19 sheriff's office or local police department that is
20 jurisdictionally responsible to allow such law enforcement
21 entity to assume a lead in conducting any potential criminal
22 investigations as well as partial or full responsibility for
23 conducting certain components of protective investigations
24 under ss. 415.502-415.514 ~~that are related to cases involving~~
25 ~~a criminal investigation.~~ The written agreement must specify
26 how the requirements of ss. 415.502-415.514 will be met.

27 (a) The agreement between the district and the county
28 sheriff's office or local police department must include the
29 following assurances and information:

30
31

- 1 1. Assurance that the county sheriff's office or local
2 police department will be in compliance with the procedural
3 requirements of ss. 415.502-415.514.
- 4 2. Description of a protocol between the district and
5 the county sheriff's office or local police department that at
6 a minimum addresses the following:
- 7 a. Response to reports of abuse and neglect.
8 b. Investigations.
9 c. Assessment of risk.
10 d. Evidence gathering.
11 ~~e. Classification of reports.~~
12 ~~f. Appeals of classifications.~~
13 e.g. Communication and involvement with the state
14 attorney.
15 ~~f.h.~~ Confidentiality of reports and access to
16 information.
17 ~~g.i.~~ Utilization of the child protection team.
18 ~~h.j.~~ Storage and maintenance of records and other
19 information.
- 20 3. Description of the transition of responsibility
21 that assures the integrity and continuity of protective
22 investigations.
- 23 4. Description of any necessary changes to department
24 rules.
- 25 (b) County sheriff's office or local police department
26 personnel assuming responsibility for conducting certain
27 ~~components of~~ protective investigations shall be appropriately
28 trained receive training from the department relevant to child
29 ~~protective investigations and services.~~
- 30 ~~(c) The secretary of the department shall dispose of a~~
31 ~~proposed agreement by approving or disapproving the agreement~~

1 ~~between a district and the county sheriff's office or local~~
2 ~~police department within 60 days after receipt. The secretary~~
3 ~~may negotiate modifications within this 60-day period.~~

4 (4) FLEXIBILITY AUTHORIZATION.--

5 (a) For family services response system proposals that
6 the secretary determines require waiver of federal law, the
7 secretary may submit such waivers to the applicable federal
8 agency.

9 (b) The following statutory mandates may not be
10 subject to change or modification as part of a family services
11 response system;+

12 ~~1. All reports and tracking data of child abuse,~~
13 ~~neglect, or abandonment reports must be collected by continue~~
14 ~~to be received at the central abuse registry and tracking~~
15 ~~system.~~

16 ~~2. All initial responses must continue to be completed~~
17 ~~as currently mandated in order to ensure face-to-face contact~~
18 ~~with the child victim.~~

19 ~~3. The department retains responsibility for notifying~~
20 ~~the state attorney and law enforcement agency, as required by~~
21 ~~s. 415.505, immediately upon receipt of a report alleging, or~~
22 ~~immediately upon learning in the course of providing services,~~
23 ~~that+~~

24 ~~a. A child died as a result of abuse or neglect;~~

25 ~~b. A child is a victim of aggravated child abuse as~~
26 ~~defined in s. 827.03;~~

27 ~~c. A child is a victim of sexual battery or of sexual~~
28 ~~abuse as defined in s. 415.503; or~~

29 ~~d. A child is a victim of institutional abuse as~~
30 ~~defined in s. 415.503.~~

31

1 (5) APPROVAL PROCESS.--The secretary shall review the
2 family services response system plans for each district
3 ~~proposals~~ and approve them, disapprove them, or approve them
4 with changes.

5 (6) MEASUREMENTS.--Prior to implementing a family
6 services response system, the district health and human
7 services boards shall develop measurable and valid objectives
8 with both formative and summative evaluations.

9 Section 56. Section 415.50185, Florida Statutes, is
10 amended to read:

11 415.50185 Summative Outcome evaluation.--

12 (1) Pursuant to the provisions of s. 20.19, the
13 department shall evaluate the impact and effectiveness of the
14 family services response system in meeting the purpose and
15 intent of the system, as provided in s. 415.5016, and prepare
16 a summative ~~an outcome~~ evaluation report.

17 (2) The summative outcome evaluation report shall
18 include, but is not limited to, the following information,
19 which the contract providers must maintain and provide:

20 (a) The number of families receiving services.

21 **(b) The number of single-parent homes receiving**
22 **services.**

23 **(c) The number of intact families receiving services.**

24 **(d) The number of children in families with**
25 **stepparents receiving services.**

26 **(e)** ~~(b)~~ The number of children placed in emergency
27 shelters, foster care, group homes, or other facilities
28 outside their homes and families from the categories provided
29 in paragraphs (b), (c), and (d). A record of social security
30 numbers shall be kept on each child who is removed from the
31 home for the purposes of a longitudinal study.

1 (f)~~(c)~~ The average cost of the services provided to
2 families receiving services.

3 (g)~~(d)~~ The ~~An overall statement of the progress of the~~
4 ~~program, along with~~ recommendations for improvements and
5 recordkeeping.

6 ~~(e) The effect of the family services response system~~
7 ~~in reducing the number of children placed outside the home and~~
8 ~~reducing the number of child protective investigations under~~
9 ~~part IV.~~

10 ~~(3) In addition to the report required in subsection~~
11 ~~(1), the department shall provide three status reports to the~~
12 ~~appropriate substantive committees of the House of~~
13 ~~Representatives and the Senate on the department's efforts,~~
14 ~~and the results to date of specific district practices, to~~
15 ~~implement the family services response system. The reports~~
16 ~~shall be submitted annually for 3 years beginning January 1,~~
17 ~~1995.~~

18 Section 57. Section 415.502, Florida Statutes, is
19 amended to read:

20 415.502 Comprehensive protective services for abused
21 or neglected children; legislative intent.--The intent of ss.
22 415.502-415.514 is to provide for comprehensive protective
23 services for abused or neglected children found in the state
24 by requiring that reports of each abused or neglected child be
25 made to the Department of Health and Rehabilitative Services
26 in an effort to prevent further harm to the child or any other
27 children living in the home and to preserve the family life of
28 the parents and children, to the maximum extent possible, by
29 enhancing the parental capacity for adequate child care. Each
30 child should have a social security number and be tracked

31

1 through the system for a longitudinal study from the initial
2 report until the date such study is initiated.

3 Section 58. Subsections (1), (3), (5), (6), and (7),
4 paragraph (a) of subsection (9), and subsections (11) and (12)
5 of section 415.503, Florida Statutes, 1996 Supplement, are
6 amended to read:

7 415.503 Definitions of terms used in ss.
8 415.502-415.514.--As used in ss. 415.502-415.514:

9 (1) "Abused or neglected child" means a child whose
10 physical ~~or mental~~ health ~~or welfare~~ is harmed, ~~or threatened~~
11 ~~with harm~~, by the acts or omissions of the parent or other
12 person responsible for the child's welfare or, for purposes of
13 reporting requirements, by any person.

14 (3) "Child abuse or neglect" means harm or threatened
15 harm to a child's physical ~~or mental~~ health ~~or welfare~~ by the
16 acts or omissions of a parent, adult household member, or
17 other person responsible for the child's welfare, or, for
18 purposes of reporting requirements, by any person.

19 (5) "Child protection team" means a team of
20 professionals established ~~by the department~~ to receive
21 referrals from the protective investigators and protective
22 supervision staff of the children, youth, and families program
23 and to provide specialized and supportive services to the
24 child and the child's family program in processing child abuse
25 and neglect cases. A child protection team ~~may~~ shall provide
26 consultation to other department programs ~~of the department~~
27 ~~and other persons on child abuse and neglect cases pursuant to~~
28 ~~s. 415.5055(1)(g)~~.

29 (6) "Department" means the Department of Children and
30 Family Health and Rehabilitative Services.

31

1 (7) "False report" means a report of abuse or neglect
2 of a child to the central abuse hotline, which report is
3 maliciously made for the purpose of:

4 (a) Harassing, embarrassing, or harming another
5 person;

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

7 (c) Acquiring custody of a child; or

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

10

11 ~~The term "false report" does not include a report of abuse,~~
12 ~~neglect, or abandonment of a child made in good faith to the~~
13 ~~central abuse hotline.~~

14 (9) "Harm" to a child's health or welfare can occur
15 when the parent or other person responsible for the child's
16 welfare:

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

25 1. Willful acts that produce the following specific
26 injuries:

27 a. Sprains, dislocations, or cartilage damage.

28 b. Bone or skull fractures.

29 c. Brain or spinal cord damage.

30 d. Intracranial hemorrhage or injury to other internal
31 organs.

- 1 e. Asphyxiation, suffocation, or drowning.
- 2 f. Injury resulting from the use of a deadly weapon.
- 3 g. Burns or scalding.
- 4 h. Cuts, lacerations, punctures, or bites.
- 5 i. Permanent or temporary disfigurement.
- 6 j. Permanent or temporary loss or impairment of a body
- 7 part or function.

8
9 As used in this subparagraph, the term "willful" refers to the
10 intent to perform an action, not to the intent to achieve a
11 result or to cause an injury.

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

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

26 4. Inappropriate or excessively harsh disciplinary
27 action that is likely to result in physical injury, ~~mental~~
28 ~~injury~~ as defined in this section, ~~or emotional injury~~. The
29 significance of any injury must be evaluated in light of the
30 following factors: the age of the child, any prior history of
31 injuries to the child, the location of the injury on the body

1 of the child, the multiplicity of the injury, and the type of
2 trauma inflicted. Corporal discipline may be considered
3 excessive or abusive when it results in any of the following
4 or other similar injuries:

- 5 a. Sprains, dislocations, or cartilage damage.
- 6 b. Bone or skull fractures.
- 7 c. Brain or spinal cord damage.
- 8 d. Intracranial hemorrhage or injury to other internal
9 organs.
- 10 e. Asphyxiation, suffocation, or drowning.
- 11 f. Injury resulting from the use of a deadly weapon.
- 12 g. Burns or scalding.
- 13 h. Cuts, lacerations, punctures, or bites.
- 14 i. Permanent or temporary disfigurement.
- 15 j. Permanent or temporary loss or impairment of a body
16 part or function.
- 17 k. Significant bruises or welts.

18 ~~(11) "Mental injury" means an injury to the~~
19 ~~intellectual or psychological capacity of a child as evidenced~~
20 ~~by a discernible and substantial impairment in the ability to~~
21 ~~function within the normal range of performance and behavior,~~
22 ~~with due regard to his culture.~~

23 (11)(12) "Other person responsible for a child's
24 welfare" includes the child's legal guardian, legal custodian,
25 or foster parent; an employee of a private school, public or
26 private child day care center, residential home, institution,
27 facility, or agency; or any other person legally responsible
28 for the child's welfare in a residential setting; and also
29 includes an adult sitter or relative entrusted with a child's
30 care. ~~For the purpose of departmental investigative~~
31 ~~jurisdiction,~~This definition does not include law enforcement

1 officers or employees of municipal or county detention
2 facilities or the Department of Corrections while acting in an
3 official capacity.

4 Section 59. Subsection (4) of section 415.504, Florida
5 Statutes, 1996 Supplement, is amended to read:

6 415.504 Mandatory reports of child abuse or neglect;
7 mandatory reports of death; central abuse hotline.--

8 (4)(a) The department shall establish and maintain a
9 central abuse hotline to receive all reports made pursuant to
10 this section in writing or through a single statewide
11 toll-free telephone number, which any person may use to report
12 known or suspected child abuse, abandonment, or neglect at any
13 hour of the day or night, any day of the week. The central
14 abuse hotline shall be operated in such a manner as to enable
15 the department to:

16 1. Immediately identify and locate prior reports or
17 cases of child abuse or neglect through utilization of the
18 department's automated tracking system.

19 2. Provide statistical analysis of child abuse victims
20 and individuals convicted of such crimes. ~~Monitor and evaluate~~
21 ~~the effectiveness of the department's program for reporting~~
22 ~~and investigating suspected abuse or neglect of children~~
23 ~~through the development and analysis of statistical and other~~
24 ~~information.~~

25 3. Provide data for longitudinal studies of victims.
26 ~~Track critical steps in the investigative process to ensure~~
27 ~~compliance with all requirements for any report of abuse or~~
28 ~~neglect.~~

29 4. ~~Maintain and produce aggregate statistical reports~~
30 ~~monitoring patterns of both child abuse and child neglect. The~~
31 ~~department shall~~ Collect and analyze child-on-child sexual

1 abuse reports ~~and include the~~ information the department shall
2 include in aggregate statistical reports.

3 5. Serve as a resource for both formative and
4 summative ~~the~~ evaluation reports, management, and planning of
5 preventive and remedial services for children who have been
6 subject to abuse or neglect and for assistance for these
7 families.

8 6. Initiate and enter into agreements with other
9 states for the purpose of gathering and sharing information
10 contained in reports on child maltreatment to further enhance
11 programs for the protection of children.

12 (b) Upon receiving a ~~an oral or~~ written electronic
13 data transmission report of known or suspected child abuse or
14 neglect, the central abuse hotline shall determine if the
15 report requires an immediate onsite protective investigation.
16 For reports requiring an immediate onsite protective
17 investigation, the central abuse hotline shall immediately
18 notify the department's designated children and families
19 district staff responsible for protective investigations to
20 ensure that an onsite investigation is promptly initiated.
21 For reports received anonymously, those reports determined to
22 require an immediate protective investigation shall be
23 referred to the districts for investigation within 24 hours.
24 The investigation must be limited in scope to the original
25 allegations reported; however, nothing in this section
26 precludes the investigator from reporting additional evidence
27 of other abuse observed while conducting the investigation.
28 For reports not requiring an immediate onsite protective
29 investigation, the central abuse hotline shall notify the
30 department's designated children and families district staff
31 responsible for protective investigations in sufficient time

1 to allow for an investigation, or if the district determines
2 appropriate, a family services response system approach to be
3 commenced within 24 hours. When a district decides to respond
4 to a report of child abuse or neglect with a family services
5 response system approach, the provisions of part III apply.
6 If, in the course of assessing risk and services or at any
7 other appropriate time, responsible district staff determines
8 that the risk to the child requires a child protective
9 investigation, then the department shall suspend its family
10 services response system activities and shall proceed with an
11 investigation as delineated in this part. At the time of
12 notification of district staff with respect to the report, the
13 central abuse hotline shall also provide information on any
14 previous report concerning a subject of the present report or
15 any pertinent information relative to the present report or
16 any noted earlier reports.

17 (c) Upon commencing an investigation under this part,
18 the child protective investigator shall inform any subject of
19 the investigation of the following:

- 20 1. The names of the investigators and identifying
21 credentials from the department.
- 22 2. The purpose of the investigation.
- 23 3. The right to obtain his or her own attorney and
24 ways that the information provided by the subject may be used.

25 (d) The child's parent or guardian has the right to
26 audio-record or videotape all activity related to the
27 investigations.

28 (e)~~(d)~~ The department shall make and keep records of
29 all cases brought before it pursuant to this part and shall
30 preserve the records pertaining to a child and family until 7
31 years after the last entry was made or until the child is 18

1 years of age. The department shall then destroy the records,
2 except where the child has been placed under the protective
3 supervision of the department, the court has made a finding of
4 dependency, or a criminal conviction has resulted from the
5 facts associated with the report and there is a likelihood
6 that future services of the department may be required.

7 (f)~~(e)~~ Information in the central abuse hotline may
8 not be used for employment screening. Access to the
9 information shall only be granted as set forth in s. 415.51.

10 Section 60. Paragraphs (b), (c), and (d) of subsection
11 (1), paragraphs (a) and (b) of subsection (2), and subsection
12 (4) of section 415.505, Florida Statutes, 1996 Supplement, are
13 amended to read:

14 415.505 Child protective investigations; institutional
15 child abuse or neglect investigations.--

16 (1)

17 (b) For each report it receives, the department shall
18 perform an onsite child protective investigation to:

19 1. Determine the composition of the family or
20 household, including the name, address, date of birth, social
21 security number, sex, and race of each child named in the
22 report; any siblings or other children in the same household
23 or in the care of the same adults; the parents or other
24 persons responsible for the child's welfare; and any other
25 adults in the same household.

26 2. Determine whether there is indication that any
27 child in the family or household is abused, abandoned, or
28 neglected; the nature and extent of present or prior injuries,
29 abuse, or neglect, and any evidence thereof; and a
30 determination as to the person or persons apparently
31 responsible for the abuse, abandonment, or neglect, including

1 the name, address, date of birth, social security number, sex,
2 and race of each such person.

3 3. Determine the immediate and long-term risk to each
4 child through utilization of standardized risk assessment
5 instruments.

6 4. Determine the protective, treatment, and
7 ameliorative services necessary to safeguard and ensure the
8 child's well-being and development and cause the delivery of
9 those services through the early intervention of the
10 departmental worker responsible for provision and management
11 of identified services in order to preserve and stabilize
12 family life, if possible.

13 5. That the child's parent or guardian has the right
14 to audio-record or videotape all activities related to the
15 investigation.

16 (c) If the department is denied reasonable access to a
17 child by the parents or other persons responsible for the
18 child's welfare and the department deems that the best
19 interests of the child so require, it shall seek an
20 appropriate court order or other legal authority prior to
21 examining ~~examine~~ and interviewing ~~interview~~ the child. The
22 department must show cause to the court that it is necessary
23 to examine and interview the child. If the department
24 interviews a child in the absence of the child's parent or
25 guardian, the interview must be audio-recorded or videotaped.

26 (d) If the department determines that a child requires
27 immediate or long-term protection through:

28 1. Medical or other health care;

29 2. Homemaker care, day care, protective supervision,
30 or other services to stabilize the home environment, including
31 intensive family preservation services through the Family

1 Builders Program, the Intensive Crisis Counseling Program, or
2 both; or

3 3. Foster care, shelter care, or other substitute care
4 to remove the child from the parents' custody,
5
6 such services shall first be offered for the voluntary
7 acceptance of the parents or other person responsible for the
8 child's welfare, who shall be informed of the right to refuse
9 services as well as the responsibility of the department to
10 protect the child regardless of the acceptance or refusal of
11 services. If the services are refused or the department deems
12 that the child's need for protection so requires, the
13 department shall ~~take the child into protective custody or~~
14 petition the court as provided in chapter 39.

15 (2)(a) The department shall conduct a child protective
16 investigation of each report of institutional child abuse or
17 neglect. Upon receipt of a report which alleges that an
18 employee or agent of the department, or any other entity or
19 person covered by s. 415.503(10) or (11) ~~or (13)~~, acting in an
20 official capacity, has committed an act of child abuse or
21 neglect, the department shall immediately initiate a child
22 protective investigation and orally notify the appropriate
23 state attorney, law enforcement agency, and licensing agency.
24 These agencies shall immediately conduct a joint
25 investigation, unless independent investigations are more
26 feasible. When a facility is exempt from licensing, the
27 department shall inform the owner or operator of the facility
28 of the report. Each agency conducting a joint investigation
29 shall be entitled to full access to the information gathered
30 by the department in the course of the investigation. In all
31 cases, the department shall make a full written report to the

1 state attorney within 3 days after making the oral report. A
2 criminal investigation shall be coordinated, whenever
3 possible, with the child protective investigation of the
4 department. Any interested person who has information
5 regarding the offenses described in this subsection may
6 forward a statement to the state attorney as to whether
7 prosecution is warranted and appropriate. Within 15 days after
8 the completion of the investigation, the state attorney shall
9 report the findings to the department and shall include in
10 such report a determination of whether or not prosecution is
11 justified and appropriate in view of the circumstances of the
12 specific case.

13 (b)1. If in the course of the child protective
14 investigation, the department finds that a subject of a
15 report, by continued contact with children in care,
16 constitutes a threatened harm to the physical health, ~~mental~~
17 ~~health, or welfare~~ of the children, the department may
18 restrict a subject's access to the children pending the
19 outcome of the investigation. The department shall employ the
20 least restrictive means necessary to safeguard the physical
21 health, ~~mental health, and welfare~~ of the children in care.
22 This authority shall apply only to child protective
23 investigations in which there is some evidence that child
24 abuse or neglect has occurred. A subject of a report whose
25 access to children in care has been restricted is entitled to
26 petition the circuit court for judicial review. The court
27 shall enter written findings of fact based upon the
28 preponderance of evidence that child abuse or neglect did
29 occur and that the department's restrictive action against a
30 subject of the report was justified in order to safeguard the
31 physical health, ~~mental health, and welfare~~ of the children in

1 care. The restrictive action of the department shall be
2 effective for no more than 90 days without a judicial finding
3 supporting the actions of the department.

4 2. Upon completion of the department's child
5 protective investigation, the department may make application
6 to the circuit court for continued restrictive action against
7 any person necessary to safeguard the physical health, mental
8 health, and welfare of the children in care.

9 (4) In cases of institutional abuse in which the
10 multiplicity of the numbers of reports of child abuse or
11 neglect or the severity of the allegations of child abuse or
12 neglect indicates the need for specialized investigation by
13 the department in order to afford greater safeguards for the
14 physical health, ~~mental health, and welfare~~ of the children in
15 care, the department shall provide a team of persons specially
16 trained in the areas of child abuse and neglect
17 investigations, diagnosis, and treatment to assist the local
18 office of the department in expediting its investigation,
19 recommendations for restrictive actions, and to assist in
20 other ways deemed necessary by the department in order to
21 carry out the provisions of this section. The specially
22 trained team shall provide assistance to any investigation
23 efforts of the allegation or allegations by local law
24 enforcement and the Department of Law Enforcement.

25 Section 61. Paragraphs (d), (e), (f), and (i) of
26 subsection (1), paragraph (h) of subsection (2), and
27 subsection (3) of section 415.5055, Florida Statutes, 1996
28 Supplement, are amended to read:

29 415.5055 Child protection teams; services; eligible
30 cases.--The department shall develop, maintain, and coordinate
31 the services of one or more multidisciplinary child protection

1 teams in each of the service districts of the department.
2 Such teams may be composed of representatives of appropriate
3 health, mental health, social service, legal service, and law
4 enforcement agencies.

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

19 (d) Such psychological and psychiatric diagnosis and
20 evaluation services for the child or his parent or parents,
21 guardian or guardians, or other caregivers, or any other
22 individual involved in a child abuse or neglect case, as the
23 team may determine to be needed by licensed professionals
24 only.

25 (e) Short-term psychological treatment. It is the
26 intent of the Legislature that short-term psychological
27 treatment be limited to no more than 3 6 months' duration
28 after treatment is initiated, ~~except that the appropriate~~
29 ~~district administrator may authorize such treatment for~~
30 ~~individual children beyond this limitation if the~~
31 ~~administrator deems it appropriate.~~

1 (f) Expert medical, licensed psychological, and
2 related professional testimony in court cases.

3 (i) Such training services for program and other
4 department employees as is deemed appropriate to enable them
5 to develop and maintain their professional skills and
6 abilities in handling child abuse and neglect cases. The
7 department shall develop a substantial testing and annual
8 evaluation program to ensure measurable competency of all
9 employees assigned to manage or supervise child abuse cases.

10 (2) The child abuse and neglect cases that are
11 appropriate for referral by the children, youth, and families
12 program to child protection teams for support services as set
13 forth in subsection (1) include, but are not limited to, cases
14 involving:

15 (h) Symptoms of serious emotional problems in a child
16 ~~when emotional or other abuse or neglect is suspected.~~

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

24
25 In all instances in which a child protection team is providing
26 certain services to abused or neglected children, other
27 offices and units of the department shall avoid duplicating
28 the provision of those services.

29 Section 62. Section 415.506, Florida Statutes, is
30 hereby repealed.

31

1 Section 63. Section 415.507, Florida Statutes, is
2 amended to read:

3 415.507 Photographs, medical examinations, X rays, and
4 medical treatment of abused or neglected child.--

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

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

28 (a)1. Consent to medical treatment shall be obtained
29 from a parent or guardian of the child; or

30 2. A court order for such treatment shall be obtained.
31

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

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

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

22 (3) Any photograph or report on examinations made or X
23 rays taken pursuant to this section, or copies thereof, shall
24 be sent to the department investigator as soon as possible.

25 (4) The county in which the child is a resident shall
26 bear the initial costs of the examination of the allegedly
27 abused child; however, the parents, legal guardian, or legal
28 custodian of the child shall be required to reimburse the
29 county for all the costs of such examination and photographs
30 taken pursuant to this section, ~~other than an initial forensic~~
31 ~~physical examination as provided in s. 960.28, and to~~

1 ~~reimburse the Department of Health and Rehabilitative Services~~
2 ~~for the cost of the photographs taken pursuant to this~~
3 ~~section.~~ A medical provider may not bill a child victim,
4 directly or indirectly, for the cost of an initial forensic
5 physical examination.

6 (5) The court shall order a defendant or juvenile
7 offender who pleads guilty or nolo contendere to, or who is
8 convicted of or adjudicated delinquent for, a violation of
9 chapter 794 or chapter 800 to make restitution to the Crimes
10 Compensation Trust Fund or to the county, whichever paid for
11 the initial forensic physical examination, in an amount equal
12 to the compensation paid to the medical provider for the cost
13 of the initial forensic physical examination. The order may
14 be enforced by the department in the same manner as a judgment
15 in a civil action.

16 Section 64. Section 415.5081, Florida Statutes, is
17 created to read:

18 415.5081 Guardian advocate and guardians ad litem;
19 powers and authority.--

20 (1) It is the duty of the guardian advocate to oversee
21 the care, health, and medical treatment of the child; to
22 advise the court regarding any change in the status of the
23 child; and to respond to any medical crisis of the child,
24 including providing consent to any needed medical treatment.
25 The guardian advocate shall report to the department if the
26 natural parents abandon the child or if the natural parents
27 reclaim custody of the child.

28 (2) A guardian ad litem shall act as a representative
29 of the child and shall be an advocate for the child's best
30 interest. A guardian ad litem shall have the powers,
31 privileges, and responsibilities to the extent necessary to

1 advance the best interest of the child, including, but not
2 limited to, the following:

3 (a) The guardian ad litem may investigate the
4 allegations of the pleadings affecting the child, collect
5 relevant information about the child's situation, and, after
6 proper notice to interested parties to the litigation and
7 subject to conditions set by the court, may interview the
8 child, witnesses, or any other person having information
9 concerning the welfare of the child.

10 (b) The guardian ad litem shall have access to all
11 information and records available to the department in the
12 case. Upon presentation of the order of appointment by the
13 guardian ad litem, any person, agency, or organization,
14 including, but not limited to, schools, hospitals, medical
15 doctors, dentists, psychologists, and psychiatrists, mental
16 health clinics, or divisions or departments of state or local
17 government shall permit the guardian ad litem to inspect and
18 copy any records and documents which relate to the minor child
19 or to the child's parents or other custodial persons or
20 household members with whom the child resides, without consent
21 of the child's parents or guardian.

22 (c) In the event any person, agency, or organization
23 refuses the guardian ad litem access to the child's records or
24 documents, the guardian ad litem, acting through counsel or as
25 otherwise authorized by the court, may petition the court for
26 an order directed to a specified person, agency, or
27 organization, which order directs that the guardian ad litem
28 be allowed to inspect and copy any records and documents which
29 relate to the minor child or to the child's parents or other
30 custodial persons or household members with whom the child

31

1 resides. Such order shall be obtained only after notice to
2 all parties and hearing thereon.

3 (d) The guardian ad litem, through counsel, or as
4 otherwise authorized by the court, may request the court to
5 order expert examinations of the child, the child's parents,
6 or other interested parties in the action, by medical doctors,
7 dentists, and other providers of health care, including
8 psychiatrists, psychologists, or other mental health
9 professionals.

10 (e) The guardian ad litem may assist the court in
11 obtaining impartial expert examinations.

12 (f) The guardian ad litem may address the court and
13 make written or oral recommendations to the court. The
14 guardian ad litem shall file a written report which may
15 include recommendations and a statement of the wishes of the
16 child. The report must be filed and served on all parties at
17 least 20 days prior to the hearing at which it will be
18 presented unless the court waives such time limit. The
19 guardian ad litem must be provided with copies of all
20 pleadings, notices, and other documents filed in the action
21 and is entitled to reasonable notice before any action
22 affecting the child is taken by either of the parties, their
23 counsel, or the court.

24 (g) A guardian ad litem, acting through counsel, or as
25 otherwise authorized by the court, may file such pleadings,
26 motions, or petitions for relief as the guardian ad litem
27 deems appropriate or necessary and may request and provide
28 discovery. The guardian ad litem, through counsel, or as
29 otherwise authorized by the court, is entitled to be present
30 and to participate in all depositions, hearings, and other
31 proceedings in the action, to examine or cross-examine

1 witnesses, and to present evidence and, through counsel, may
2 compel the attendance of witnesses.

3 (h) The guardian ad litem shall submit the guardian's
4 recommendations to the court regarding any stipulation or
5 agreement, whether incidental, temporary, or permanent, which
6 affects the interest or welfare of the minor child, within 10
7 days after the date such stipulation or agreement is served
8 upon the guardian ad litem.

9 Section 65. Section 415.50813, Florida Statutes, is
10 created to read:

11 415.50813 Guardians ad litem; confidentiality.--The
12 guardian ad litem shall maintain as confidential all
13 information and documents received from any source described
14 in s. 415.5081(2)(b) and may not disclose such information or
15 documents except, in the guardian ad litem's discretion, in a
16 report to the court, served upon both parties to the action
17 and their counsel or as directed by the court.

18 Section 66. Section 415.50815, Florida Statutes, is
19 created to read:

20 415.50815 Training and standards for guardians ad
21 litem.--

22 (1) In order to enable the state to provide a
23 systematic approach to development and training for juvenile
24 court judges, child welfare attorneys, and guardians ad litem
25 which will meet the needs of the guardians ad litem in the
26 discharge of their duties, it is the intent of the Legislature
27 to request that the Supreme Court establish, maintain, and
28 oversee the program training for guardians ad litem in the
29 state. The purpose of the training programs is to better
30 prepare attorneys preparing to serve as guardians ad litem, as
31 well as other participants of the child dependency system; to

1 positively impact the health and safety of children in the
2 child dependency system; and to afford greater protection of
3 the public through an improved level of services delivered by
4 professionally trained guardians ad litem to children who are
5 alleged to be or who have been found to be dependent.

6 (2) On or before January 1, 1998, the Supreme Court
7 shall establish a program for training pursuant to the
8 provisions of this section, and all attorneys chosen as
9 guardians ad litem shall be required to participate in and
10 successfully complete the program of training pertinent to
11 their areas of responsibility. Judges and child welfare
12 attorneys may participate in such training program.

13 Section 67. Section 415.5084, Florida Statutes, is
14 amended to read:

15 415.5084 Petition for appointment of a guardian
16 advocate.--A petition for appointment of a guardian advocate
17 may be filed by the department, any relative of the child, any
18 licensed health care professional, or any other interested
19 person. The petition shall be in writing and shall be signed
20 by the petitioner under oath stating his good faith in filing
21 the petition. The form of the petition and its contents shall
22 be determined by the Florida Rules of Criminal Juvenile
23 Procedure.

24 Section 68. Subsection (3) of section 415.5086,
25 Florida Statutes, 1996 Supplement, is amended to read:

26 415.5086 Hearing for appointment of a guardian
27 advocate.--

28 (3) The hearing shall be conducted by the judge
29 without a jury, applying the rules of evidence in use in
30 criminal ~~civil~~ cases. In a hearing on a petition for
31 appointment of a guardian advocate, the moving party shall

1 prove all the elements in s. 415.5087 by a preponderance of
2 the evidence.

3 Section 69. Subsections (3) and (4) of section 415.51,
4 Florida Statutes, 1996 Supplement, are amended to read:

5 415.51 Confidentiality of reports and records in cases
6 of child abuse or neglect.--

7 (3) The department may release to professional persons
8 such information as is necessary for the diagnosis and
9 treatment of the child or the person perpetrating the abuse.
10 However, the reporting person may be cross-examined in a court
11 of law.

12 (4) The name of any person reporting child abuse,
13 abandonment, or neglect may not be released to any person
14 other than employees of the department responsible for child
15 protective services, the central abuse hotline, or the
16 appropriate state attorney without the written consent of the
17 person reporting. This does not prohibit the subpoenaing of a
18 person reporting child abuse, abandonment, or neglect when
19 deemed necessary by the court, the state attorney, or the
20 department, provided the fact that such person made the report
21 is not disclosed. The alleged perpetrator identified in a
22 false report may petition the court to be informed of the name
23 of the person who reported the child abuse or neglect and be
24 given a copy of the department's file of information
25 concerning the report. The court shall order that the name
26 and a copy of the file be released to the alleged perpetrator
27 if the court determines that there is no danger to the person
28 who reported the child abuse or neglect or to the child. Any
29 person who reports a case of child abuse or neglect may, at
30 the time he makes the report, request that the department
31 notify him that a child protective investigation occurred as a

1 result of the report. The department shall mail such a notice
2 to the reporter within 10 days after completing the child
3 protective investigation.

4 Section 70. Subsection (1) of section 415.5131,
5 Florida Statutes, is amended to read:

6 415.5131 Administrative fines for false report of
7 abuse or neglect of a child.--

8 (1) In addition to any other penalty authorized by
9 this section, chapter 120, or other law, the department may
10 impose a fine, not to exceed \$2,000~~\$1,000~~ for each violation,
11 upon a person who knowingly and willfully makes a false report
12 of abuse or neglect of a child, or a person who counsels
13 another to make a false report.

14 Section 71. Subsections (9) and (10) of section
15 415.516, Florida Statutes, are amended to read:

16 415.516 Goals.--The goals of any Family Builders
17 Program shall be to:

18 (9) Emphasize parental rights and responsibilities in
19 managing responsibility and facilitate counseling for children
20 at high risk of delinquent behavior and their parents.

21 (10) Provide ~~such additional~~ reasonable services for
22 parents whose children are out of control, truant, or
23 otherwise at risk in order to strengthen the family the
24 ~~prevention of maltreatment and unnecessary foster care as may~~
25 ~~be needed in order to strengthen a family at risk.~~

26 Section 72. Section 415.517, Florida Statutes, is
27 amended to read:

28 415.517 Contracting of services.--The department may
29 contract for the delivery of Family Builders Program services
30 by professionally qualified persons or local governments when
31 it determines that it is in the family's best interest. The

1 service provider or program operator must submit to the
2 department monthly activity reports covering any services
3 rendered. These activity reports must include project
4 evaluation in relation to individual families being served as
5 well as statistical data concerning families referred for
6 services who are not served due to the unavailability of
7 resources. The program costs of both formative and summative
8 evaluations ~~program evaluation~~ are an allowable cost
9 consideration in any service contract negotiated in accordance
10 with this subsection.

11 Section 73. Subsection (5) is added to section
12 415.519, Florida Statutes, to read:

13 415.519 Delivery of Family Builders Program
14 services.--Family Builders Program services delivered to
15 eligible families must be provided in accordance with the
16 following requirements:

17 (5) Appropriate data shall be collected in order to
18 evaluate the long-term effects of the program and to track the
19 success or failure of the individual members served by the
20 program.

21 Section 74. Subsection (2) of section 415.520, Florida
22 Statutes, is amended to read:

23 415.520 Qualifications of Family Builders Program
24 workers.--

25 (2) A person who provides paraprofessional aide
26 services to families must possess a valid high school diploma
27 or a Graduate Equivalency Diploma and must have a minimum of 2
28 years' experience in working with families with children. An
29 associate degree in the human services curriculum with 1 year
30 of experience in working with families with children shall be
31 given priority. Experience in a volunteer capacity while

1 working with families may be included in the ~~2 years~~ of
2 required experience.

3 Section 75. Section 415.521, Florida Statutes, is
4 amended to read:

5 415.521 Summative ~~Outcome~~ evaluation.--The summative
6 ~~outcome~~ evaluation report of the department shall include, but
7 is not limited to, the following information, which the
8 contract providers must maintain and provide:

9 (1) The number of families receiving services.

10 (2) The number of single-parent homes receiving
11 services.

12 (3) The number of intact families receiving services.

13 (4) The number of children in families with
14 stepparents receiving services.

15 (5) The number of families with special needs children
16 receiving services.

17 (6)(2) The number of children placed in emergency
18 shelters, foster care, group homes, or other facilities
19 outside their homes and families from the categories provided
20 in subsections (2)-(5). Social security numbers must be kept
21 on children removed from the home for a longitudinal study.

22 (7)(3) The average cost of the services provided to
23 families receiving services.

24 (8)(4) The ~~An overall statement of the progress of the~~
25 ~~program along with~~ recommendations for improvements and
26 recordkeeping.

27 Section 76. 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 s. 415.506.~~The term
14 "private dwelling" shall be construed to include the room or
15 rooms used and occupied, not transiently but solely as a
16 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 has reason to believe that one of
21 said conditions exists, which affidavit shall set forth the
22 facts on which such reason for belief is based.

23 Section 77. Paragraph (b) of subsection (2) of section
24 39.038, Florida Statutes, is amended to read:

25 39.038 Release or delivery from custody.--

26 (2) Unless otherwise ordered by the court pursuant to
27 s. 39.044, and unless there is a need to hold the child, a
28 person taking a child into custody shall attempt to release
29 the child as follows:

1 (b) Contingent upon specific appropriation, to a
2 shelter approved by the department ~~or to a protective~~
3 ~~investigator pursuant to s. 39.401(2)(b).~~

4 Section 78. Section 39.015, Florida Statutes, is
5 amended to read:

6 39.015 Rules relating to habitual truants; adoption by
7 Department of Education and Department of Juvenile
8 Justice.--The Department of Juvenile Justice and the
9 Department of Education shall work together on the development
10 of, and shall adopt, rules for the implementation of ss.
11 39.01(75)~~(73)~~, 39.403(2), and 232.19(3) and (6)(a).

12 Section 79. Subsections (3) and (6) of section 39.052,
13 Florida Statutes, 1996 Supplement, is amended to read:

14 39.052 Hearings.--

15 (3) TRANSFER OF A CHILD FOR PROSECUTION AS AN ADULT.--

16 (a)1. The court shall transfer and certify a child's
17 criminal case for trial as an adult if the child is alleged to
18 have committed a violation of law and, prior to the
19 commencement of an adjudicatory hearing, the child, joined by
20 a parent or, in the absence of a parent, by the guardian or
21 guardian ad litem, demands in writing to be tried as an adult.
22 Once a child has been transferred for criminal prosecution
23 pursuant to a voluntary waiver hearing and has been found to
24 have committed the presenting offense or a lesser included
25 offense, the child shall be handled thereafter in every
26 respect as an adult for any subsequent violation of state law,
27 unless the court imposes juvenile sanctions under s.
28 39.059(4)(b) or (c).

29 2.a. The state attorney may file a motion requesting
30 the court to transfer the child for criminal prosecution if
31 the child was 14 years of age or older at the time the alleged

1 delinquent act or violation of law was committed. If the child
2 has been previously adjudicated delinquent for murder, sexual
3 battery, armed or strong-armed robbery, carjacking,
4 home-invasion robbery, aggravated battery, or aggravated
5 assault, and is currently charged with a second or subsequent
6 violent crime against a person, the state attorney shall file
7 a motion requesting the court to transfer and certify the
8 juvenile for prosecution as an adult, or proceed pursuant to
9 subparagraph 5.

10 b. If the child was 14 years of age or older at the
11 time of commission of a fourth or subsequent alleged felony
12 offense and the child was previously adjudicated delinquent or
13 had adjudication withheld for or was found to have committed,
14 or to have attempted or conspired to commit, three offenses
15 that are felony offenses if committed by an adult, and one or
16 more of such felony offenses involved the use or possession of
17 a firearm or violence against a person, the state attorney
18 shall request the court to transfer and certify the child for
19 prosecution as an adult or shall provide written reasons to
20 the court for not making such request, or proceed pursuant to
21 subparagraph 5. Upon the state attorney's request, the court
22 shall either enter an order transferring the case and
23 certifying the case for trial as if the child were an adult or
24 provide written reasons for not issuing such an order.

25 3. If the court finds, after a waiver hearing under
26 subsection (2), that a juvenile who was 14 years of age or
27 older at the time the alleged violation of state law was
28 committed should be charged and tried as an adult, the court
29 shall enter an order transferring the case and certifying the
30 case for trial as if the child were an adult. The child shall
31 thereafter be subject to prosecution, trial, and sentencing as

1 if the child were an adult but subject to the provisions of s.
2 39.059(7). Once a child has been transferred for criminal
3 prosecution pursuant to an involuntary waiver hearing and has
4 been found to have committed the presenting offense or a
5 lesser included offense, the child shall thereafter be handled
6 in every respect as an adult for any subsequent violation of
7 state law, unless the court imposes juvenile sanctions under
8 s. 39.059(4)(b) or (c).

9 4.a. A child of any age who is charged with a
10 violation of state law punishable by death or by life
11 imprisonment is subject to the jurisdiction of the court as
12 set forth in s. 39.049(7) unless and until an indictment on
13 the charge is returned by the grand jury. When such indictment
14 is returned, the petition for delinquency, if any, must be
15 dismissed and the child must be tried and handled in every
16 respect as an adult:

17 (I) On the offense punishable by death or by life
18 imprisonment; and

19 (II) On all other felonies or misdemeanors charged in
20 the indictment which are based on the same act or transaction
21 as the offense punishable by death or by life imprisonment or
22 on one or more acts or transactions connected with the offense
23 punishable by death or by life imprisonment.

24 b. An adjudicatory hearing may not be held until 21
25 days after the child is taken into custody and charged with
26 having committed an offense punishable by death or by life
27 imprisonment, unless the state attorney advises the court in
28 writing that he or she does not intend to present the case to
29 the grand jury, or has presented the case to the grand jury
30 and the grand jury has not returned an indictment. If the
31 court receives such a notice from the state attorney, or if

1 the grand jury fails to act within the 21-day period, the
2 court may proceed as otherwise authorized under this part.

3 c. If the child is found to have committed the offense
4 punishable by death or by life imprisonment, the child shall
5 be sentenced as an adult. If the juvenile is not found to have
6 committed the indictable offense but is found to have
7 committed a lesser included offense or any other offense for
8 which he or she was indicted as a part of the criminal
9 episode, the court may sentence as follows:

10 (I) Pursuant to s. 39.059;

11 (II) Pursuant to chapter 958, notwithstanding any
12 other provisions of that chapter to the contrary; or

13 (III) As an adult, pursuant to s. 39.059(7)(c).

14 d. Once a child has been indicted pursuant to this
15 subsection and has been found to have committed any offense
16 for which he or she was indicted as a part of the criminal
17 episode, the child shall be handled thereafter in every
18 respect as if an adult for any subsequent violation of state
19 law, unless the court imposes juvenile sanctions under s.
20 39.059.

21 5.a. Effective January 1, 1995, with respect to any
22 child who was 14 or 15 years of age at the time the alleged
23 offense was committed, the state attorney may file an
24 information when in the state attorney's judgment and
25 discretion the public interest requires that adult sanctions
26 be considered or imposed and when the offense charged is:

27 (I) Arson;

28 (II) Sexual battery;

29 (III) Robbery;

30 (IV) Kidnapping;

31 (V) Aggravated child abuse;

- 1 (VI) Aggravated assault;
2 (VII) Aggravated stalking;
3 (VIII) Murder;
4 (IX) Manslaughter;
5 (X) Unlawful throwing, placing, or discharging of a
6 destructive device or bomb;
7 (XI) Armed burglary in violation of s. 810.02(2)(b) or
8 specified burglary of a dwelling or structure in violation of
9 s. 810.02(2)(c);
10 (XII) Aggravated battery;
11 (XIII) Lewd or lascivious assault or act in the
12 presence of a child;
13 (XIV) Carrying, displaying, using, threatening, or
14 attempting to use a weapon or firearm during the commission of
15 a felony; or
16 (XV) Grand theft in violation of s. 812.014(2)(a).
17 b. With respect to any child who was 16 or 17 years of
18 age at the time the alleged offense was committed, the state
19 attorney:
20 (I) May file an information when in the state
21 attorney's judgment and discretion the public interest
22 requires that adult sanctions be considered or imposed.
23 However, the state attorney may not file an information on a
24 child charged with a misdemeanor, unless the child has had at
25 least two previous adjudications or adjudications withheld for
26 delinquent acts, one of which involved an offense classified
27 as a felony under state law.
28 (II) Shall file an information if the child has been
29 previously adjudicated delinquent for murder, sexual battery,
30 armed or strong-armed robbery, carjacking, home-invasion
31 robbery, aggravated battery, or aggravated assault, and is

1 currently charged with a second or subsequent violent crime
2 against a person.

3 c. Effective January 1, 1995, notwithstanding
4 sub-subparagraphs a. and b.~~subparagraphs 1. and 2.~~,
5 regardless of the child's age at the time the alleged offense
6 was committed, the state attorney must file an information
7 with respect to any child who previously has been adjudicated
8 for offenses which, if committed by an adult, would be
9 felonies and such adjudications occurred at three or more
10 separate delinquency adjudicatory hearings, and three of which
11 resulted in residential commitments as defined in s.
12 39.01(57)~~(59)~~.

13 d. Once a child has been transferred for criminal
14 prosecution pursuant to information and has been found to have
15 committed the presenting offense or a lesser included offense,
16 the child shall be handled thereafter in every respect as if
17 an adult for any subsequent violation of state law, unless the
18 court imposes juvenile sanctions under s. 39.059(6).

19 e. Each state attorney shall develop and annually
20 update written policies and guidelines to govern
21 determinations for filing an information on a juvenile, to be
22 submitted to the Executive Office of the Governor, the
23 President of the Senate, the Speaker of the House of
24 Representatives, and the Juvenile Justice Advisory Board not
25 later than January 1 of each year.

26 f. The state attorney must file an information if a
27 child, regardless of the child's age at the time the alleged
28 offense was committed, is alleged to have committed an act
29 that would be a violation of law if the child were an adult,
30 that involves stealing a motor vehicle, including, but not
31 limited to, a violation of s. 812.133, relating to carjacking,

1 or s. 812.014(2)(c)6., relating to grand theft of a motor
2 vehicle, and while the child was in possession of the stolen
3 motor vehicle the child caused serious bodily injury to or the
4 death of a person who was not involved in the underlying
5 offense. For purposes of this section, the driver and all
6 willing passengers in the stolen motor vehicle at the time
7 such serious bodily injury or death is inflicted shall also be
8 subject to mandatory transfer to adult court. "Stolen motor
9 vehicle," for the purposes of this section, means a motor
10 vehicle that has been the subject of any criminal wrongful
11 taking. For purposes of this section, "willing passengers"
12 means all willing passengers who have participated in the
13 underlying offense.

14 (b) When a child has been transferred for criminal
15 prosecution as an adult and has been found to have committed a
16 violation of state law, the disposition of the case may be
17 made under s. 39.059 and may include the enforcement of any
18 restitution ordered in any juvenile proceeding.

19 (c) This section does not deprive the court of any
20 jurisdiction or relieve it of any duty conferred upon the
21 court by law.

22 (d) Notwithstanding any provision of this section or
23 any other law to the contrary, if a child is transferred for
24 criminal prosecution pursuant to this section, a nonindigent
25 or indigent but able to contribute parent or legal guardian of
26 the child pursuant to s. 27.52 is liable for necessary legal
27 fees and costs incident to the criminal prosecution of the
28 child as an adult.

29 (6) PLACEMENT OF A SERIOUS OR HABITUAL JUVENILE
30 OFFENDER.--Following a delinquency adjudicatory hearing
31 pursuant to subsection (1) and a delinquency disposition

1 hearing pursuant to subsection (4) which results in a
2 commitment determination, the court shall, on its own or upon
3 request by the state or the department, determine whether the
4 protection of the public requires that the child be placed in
5 a program for serious or habitual juvenile offenders and
6 whether the particular needs of the child would be best served
7 by a program for serious or habitual juvenile offenders as
8 provided in s. 39.058. The determination shall be made
9 pursuant to s. 39.01(64)~~(62)~~and paragraph (4)(e).

10 Section 80. Paragraph (e) of subsection (3) and
11 paragraph (a) of subsection (4) of section 39.058, Florida
12 Statutes, 1996 Supplement, are amended to read:

13 39.058 Serious or habitual juvenile offender.--

14 (3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND
15 TREATMENT.--

16 (e) After a child has been adjudicated delinquent
17 pursuant to s. 39.053(3), the court shall determine whether
18 the child meets the criteria for a serious or habitual
19 juvenile offender pursuant to s. 39.01(64)~~(62)~~. If the court
20 determines that the child does not meet such criteria, the
21 provisions of s. 39.054 shall apply.

22 (4) ASSESSMENTS, TESTING, RECORDS, AND INFORMATION.--

23 (a) Pursuant to the provisions of this section, the
24 department shall implement the comprehensive assessment
25 instrument for the treatment needs of serious or habitual
26 juvenile offenders and for the assessment, which assessment
27 shall include the criteria under s. 39.01(64)~~(62)~~and shall
28 also include, but not be limited to, evaluation of the
29 child's:

- 30 1. Amenability to treatment.
- 31 2. Proclivity toward violence.

- 1 3. Tendency toward gang involvement.
- 2 4. Substance abuse or addiction and the level thereof.
- 3 5. History of being a victim of child abuse or sexual
- 4 abuse, or indication of sexual behavior dysfunction.
- 5 6. Number and type of previous adjudications, findings
- 6 of guilt, and convictions.
- 7 7. Potential for rehabilitation.

8 Section 81. Section 39.061, Florida Statutes, 1996
9 Supplement, is amended to read:

10 39.061 Escapes from secure detention or residential
11 commitment facility.--An escape from any secure detention
12 facility maintained for the temporary detention of children,
13 pending adjudication, disposition, or placement; an escape
14 from any residential commitment facility defined in s.
15 39.01(61)~~(59)~~, maintained for the custody, treatment,
16 punishment, or rehabilitation of children found to have
17 committed delinquent acts or violations of law; or an escape
18 from lawful transportation thereto or therefrom constitutes
19 escape within the intent and meaning of s. 944.40 and is a
20 felony of the third degree, punishable as provided in s.
21 775.082, s. 775.083, or s. 775.084.

22 Section 82. Subsection (2) of section 39.423, Florida
23 Statutes, 1996 Supplement, is amended to read:

24 39.423 Intake.--

25 (2) A representative of the department shall make a
26 preliminary determination as to whether the report or
27 complaint is complete. The criteria for the completeness of a
28 report or complaint with respect to a child alleged to be from
29 a family in need of services while subject to compulsory
30 school attendance shall be governed by s. 39.01(75)~~(73)~~. In
31 any case in which the representative of the department finds

1 that the report or complaint is incomplete, the representative
2 of the department shall return the report or complaint without
3 delay to the person or agency originating the report or
4 complaint or having knowledge of the facts or to the
5 appropriate law enforcement agency having investigative
6 jurisdiction and request additional information in order to
7 complete the report or complaint.

8 Section 83. Paragraph (c) of subsection (3) of section
9 232.19, Florida Statutes, 1996 Supplement, is amended to read:
10 232.19 Court procedure and penalties.--The court
11 procedure and penalties for the enforcement of the provisions
12 of this chapter, relating to compulsory school attendance,
13 shall be as follows:

14 (3) HABITUAL TRUANCY CASES.--The school social worker,
15 the attendance assistant, or the school superintendent's
16 designee if there is no school social worker or attendance
17 assistant shall refer a student who is habitually truant and
18 the student's family to the children-in-need-of-services and
19 families-in-need-of-services provider or the case staffing
20 committee, established pursuant to s. 39.426, as determined by
21 the cooperative agreement required in this section. The case
22 staffing committee may request the Department of Juvenile
23 Justice or its designee to file a child-in-need-of-services
24 petition based upon the report and efforts of the school
25 district or other community agency or may seek to resolve the
26 truancy behavior through the school or community-based
27 organizations or agencies. Prior to and subsequent to the
28 filing of a child-in-need-of-services petition due to habitual
29 truancy, the appropriate governmental agencies must allow a
30 reasonable time to complete actions required by this
31 subsection to remedy the conditions leading to the truant

1 behavior. The following criteria must be met and documented in
2 writing prior to the filing of a petition:

3 (c) The district manager of the Department of Juvenile
4 Justice or the district manager's designee and the
5 superintendent of the local school district or the
6 superintendent's designee must have developed a cooperative
7 interagency agreement which clearly defines each department's
8 role, responsibility, and function in working with habitual
9 truants and their families. The interagency agreement shall
10 specify that the participants address issues of streamlining
11 service delivery, the appropriateness of legal intervention,
12 case management, the role and responsibility of the case
13 staffing committee, student and parental intervention and
14 involvement, and community action plans. The interagency
15 agreement shall delineate timeframes for implementation and
16 identify a mechanism for reporting results by the district
17 juvenile justice manager or the district manager's designee
18 and the superintendent of schools or the superintendent's
19 designee to the Department of Juvenile Justice and the
20 Department of Education and other governmental entities as
21 needed. The cooperative agreement may designate which agency
22 shall be responsible for the intervention steps in s.
23 39.01(75)~~(73)~~, or this section, if such designation shall
24 yield more effective and efficient intervention services.

25 Section 84. Subsection (3) of section 744.309, Florida
26 Statutes, 1996 Supplement, is amended to read:

27 744.309 Who may be appointed guardian of a resident
28 ward.--

29 (3) DISQUALIFIED PERSONS.--No person who has been
30 convicted of a felony or who, from any incapacity or illness,
31 is incapable of discharging the duties of a guardian, or who

1 is otherwise unsuitable to perform the duties of a guardian,
2 shall be appointed to act as guardian. Further, no person who
3 has been judicially determined to have committed abuse or
4 neglect against a child as defined in s. 39.01(2) and
5 (49)~~(47)~~, or who has a confirmed report of abuse, neglect, or
6 exploitation which has been uncontested or upheld pursuant to
7 the provisions of ss. 415.104 and 415.1075 shall be appointed
8 to act as a guardian. Except as provided in subsection (5) or
9 subsection (6), a person who provides substantial services to
10 the proposed ward in a professional or business capacity, or a
11 creditor of the proposed ward, may not be appointed guardian
12 and retain that previous professional or business
13 relationship. A person may not be appointed a guardian if he
14 is in the employ of any person, agency, government, or
15 corporation that provides service to the proposed ward in a
16 professional or business capacity, except that a person so
17 employed may be appointed if he is the spouse, adult child,
18 parent, or sibling of the proposed ward or the court
19 determines that the potential conflict of interest is
20 insubstantial and that the appointment would clearly be in the
21 proposed ward's best interest. The court may not appoint a
22 guardian in any other circumstance in which a conflict of
23 interest may occur.

24 Section 85. Section 784.075, Florida Statutes, is
25 amended to read:

26 784.075 Battery on detention or commitment facility
27 staff.--A person who commits a battery on an intake counselor
28 or case manager, as defined in s. 39.01(36)~~(34)~~, on other
29 staff of a detention center or facility as defined in s.
30 39.01(23), or on a staff member of a commitment facility as
31 defined in s. 39.01(61)~~(59)~~(c), (d), or (e), commits a felony

1 of the third degree, punishable as provided in s. 775.082, s.
2 775.083, or s. 775.084. For purposes of this section, a staff
3 member of the facilities listed includes persons employed by
4 the Department of Juvenile Justice, persons employed at
5 facilities licensed by the Department of Juvenile Justice, and
6 persons employed at facilities operated under a contract with
7 the Department of Juvenile Justice.

8 Section 86. Section 415.5088, Florida Statutes, is
9 hereby repealed.

10 Section 87. This act shall take effect October 1,
11 1997.

12 *****

13 HOUSE SUMMARY

14
15 Creates the Family Bill of Rights Act. Prohibits a
16 protective investigator of the Department of Children and
17 Family Services from taking a child into custody unless
18 the circuit court issues an order therefor, based on a
19 finding of imminent danger to the child. Provides that
20 making a false statement in a sworn affidavit alleging
21 imminent danger to a child is a third degree felony.
Provides that taking a child into custody without a valid
court order or in the absence of a medical emergency or
in the presence of imminent harm or danger is a third
degree felony.

22 Revises the provisions of chapters 39 and 415, F.S., to
23 conform to the act and to:

- 24 1. Change the name of the Department of Health and
Rehabilitative Services to the Department of Children and
Family Services where appropriate.
- 25 2. Provide for documentation of savings and losses
resulting from the enactment of the act.
- 26 3. Require notification to the parent, guardian,
and attorney of the parent or guardian with respect to
described action taken concerning the child.
- 27 4. Generally provide that procedures shall follow
the Florida Rules of Criminal Procedure rather than the
28 Florida Rules of Juvenile Procedure.
- 29 5. Provide for a consistent rate for attorney's
fees.
- 30 6. Provide for formative and summative evaluations.

31 See bill for details.