

By the Committee on Judiciary and Senator Dudley

308-2092-98

1 A bill to be entitled
2 An act relating to protection of children;
3 reorganizing and revising ch. 39, F.S.;
4 providing for part I of that chapter, entitled
5 "General Provisions"; amending s. 39.001, F.S.;
6 revising purposes and intent; providing for
7 personnel standards and screening and for drug
8 testing; renumbering and amending s. 415.5015,
9 F.S., relating to child abuse prevention
10 training in the district school system;
11 amending s. 39.01, F.S.; revising definitions;
12 renumbering and amending s. 39.455, F.S.,
13 relating to immunity from liability for agents
14 of the Department of Children and Family
15 Services or a social service agency; amending
16 s. 39.012, F.S., and creating s. 39.0121, F.S.;
17 providing authority and requirements for
18 department rules; renumbering and amending s.
19 39.40, F.S., relating to procedures and
20 jurisdiction; providing for right to counsel;
21 renumbering s. 39.4057, F.S., relating to
22 permanent mailing address designation;
23 renumbering and amending s. 39.411, F.S.,
24 relating to oaths, records, and confidential
25 information; renumbering s. 39.414, F.S.,
26 relating to court and witness fees; renumbering
27 and amending s. 39.415, F.S., relating to
28 providing for compensation of appointed
29 counsel; renumbering and amending s. 39.418,
30 F.S., relating to the Operations and
31 Maintenance Trust Fund; providing for part II

1 of ch. 39, F.S., entitled "Reporting Child
2 Abuse"; renumbering and amending s. 415.504,
3 F.S., relating to mandatory reports of child
4 abuse, abandonment, or neglect; renumbering and
5 amending s. 415.511, F.S., relating to immunity
6 from liability in cases of child abuse,
7 abandonment, or neglect; renumbering and
8 amending s. 415.512, F.S., relating to
9 abrogation of privileged communications in
10 cases of child abuse, abandonment, or neglect;
11 renumbering and amending s. 415.513, F.S.;
12 providing penalties relating to reporting of
13 child abuse, abandonment, or neglect;
14 renumbering and amending s. 415.5131, F.S.;
15 increasing an administrative fine for false
16 reporting; providing for part III of ch. 39,
17 F.S., entitled "Protective Investigations";
18 creating s. 39.301, F.S.; providing for child
19 protective investigations; creating s. 39.302,
20 F.S.; providing for protective investigations
21 of institutional child abuse, abandonment, or
22 neglect; renumbering and amending s. 415.5055,
23 F.S., relating to child protection teams and
24 services and eligible cases; creating s.
25 39.3035, F.S.; providing standards for child
26 advocacy centers eligible for state funding;
27 renumbering and amending s. 415.507, F.S.,
28 relating to photographs, medical examinations,
29 X rays, and medical treatment of an abused,
30 abandoned, or neglected child; renumbering and
31 amending s. 415.5095, F.S., relating to a model

1 plan for intervention and treatment in sexual
2 abuse cases; creating s. 39.306, F.S.;
3 providing for working agreements with local law
4 enforcement to perform criminal investigations;
5 renumbering and amending s. 415.50171, F.S.,
6 relating to reports of child-on-child sexual
7 abuse; providing for part IV of ch. 39, F.S.,
8 entitled "Family Builders Program"; renumbering
9 and amending s. 415.515, F.S., relating to
10 establishment of the program; renumbering and
11 amending s. 415.516, F.S., relating to goals of
12 the program; renumbering and amending s.
13 415.517, F.S., relating to contracts for
14 services; renumbering and amending s. 415.518,
15 F.S., relating to family eligibility;
16 renumbering s. 415.519, F.S., relating to
17 delivery of services; renumbering and amending
18 s. 415.520, F.S., relating to qualifications of
19 program workers; renumbering s. 415.521, F.S.,
20 relating to outcome evaluation; renumbering and
21 amending s. 415.522, F.S., relating to funding;
22 providing for part V of ch. 39, F.S., entitled
23 "Taking Children into Custody and Shelter
24 Hearings"; creating s. 39.395, F.S.; providing
25 for medical or hospital personnel taking a
26 child into protective custody; amending s.
27 39.401, F.S.; providing for law enforcement
28 officers or authorized agents of the department
29 taking a child alleged to be dependent into
30 custody; amending s. 39.402, F.S., relating to
31 placement in a shelter; amending s. 39.407,

1 F.S., relating to physical and mental
2 examination and treatment of a child and
3 physical or mental examination of a person
4 requesting custody; renumbering and amending s.
5 39.4033, F.S., relating to referral of a
6 dependency case to mediation; providing for
7 part VI of ch. 39, F.S., entitled "Petition,
8 Arraignment, Adjudication, and Disposition";
9 renumbering and amending s. 39.404, F.S.,
10 relating to petition for dependency;
11 renumbering and amending s. 39.405, F.S.,
12 relating to notice, process, and service;
13 renumbering and amending s. 39.4051, F.S.,
14 relating to procedures when the identity or
15 location of the parent, legal custodian, or
16 caregiver is unknown; renumbering and amending
17 s. 39.4055, F.S., relating to injunction
18 pending disposition of a petition for detention
19 or dependency; renumbering and amending s.
20 39.406, F.S., relating to answers to petitions
21 or other pleadings; renumbering and amending s.
22 39.408, F.S., relating to arraignment hearings;
23 renumbering and amending s. 39.409, F.S.,
24 relating to adjudicatory hearings and orders;
25 renumbering and amending s. 39.41, F.S.,
26 relating to disposition hearings and powers of
27 disposition; creating s. 39.5085, F.S.;
28 establishing the Relative-Caregiver Program;
29 directing the Department of Children and Family
30 Services to establish and operate the
31 Relative-Caregiver Program; providing financial

1 assistance within available resources to
2 relatives caring for children; providing for
3 financial assistance and support services to
4 relatives caring for children placed with them
5 by the child protection system; providing for
6 rules establishing eligibility guidelines,
7 caregiver benefits, and payment schedule;
8 renumbering and amending s. 39.4105, F.S.,
9 relating to grandparents' rights; renumbering
10 and amending s. 39.413, F.S., relating to
11 appeals; providing for part VII of ch. 39,
12 F.S., entitled "Case Plans"; renumbering and
13 amending s. 39.4031, F.S., relating to case
14 plan requirements and case planning for
15 children in out-of-home care; renumbering and
16 amending s. 39.452, F.S., relating to case
17 planning for children in out-of-home care when
18 the parents, legal custodians, or caregivers do
19 not participate; creating s. 39.603, F.S.;
20 providing for court approvals of case planning;
21 providing for part VIII of ch. 39, F.S.,
22 entitled "Judicial Reviews"; renumbering and
23 amending s. 39.453, F.S., relating to judicial
24 review of the status of a child; renumbering
25 and amending s. 39.4531, F.S., relating to
26 citizen review panels; renumbering and amending
27 s. 39.454, F.S., relating to initiation of
28 proceedings for termination of parental rights;
29 renumbering and amending s. 39.456, F.S.;
30 revising exemptions from judicial review;
31 providing for part IX of ch. 39, F.S., entitled

1 "Termination of Parental Rights"; renumbering
2 and amending s. 39.46, F.S., relating to
3 procedures, jurisdiction, and service of
4 process; renumbering and amending s. 39.461,
5 F.S., relating to petition for termination of
6 parental rights, and filing and elements
7 thereof; creating s. 39.803, F.S.; providing
8 procedures when the identity or location of the
9 parent is unknown after filing a petition for
10 termination of parental rights; renumbering s.
11 39.4627, F.S., relating to penalties for false
12 statements of paternity; renumbering and
13 amending s. 39.463, F.S., relating to petitions
14 and pleadings for which no answer is required;
15 renumbering and amending s. 39.464, F.S.,
16 relating to grounds for termination of paternal
17 rights; renumbering and amending s. 39.465,
18 F.S., relating to right to counsel and
19 appointment of a guardian ad litem; renumbering
20 and amending s. 39.466, F.S., relating to
21 advisory hearings; renumbering and amending s.
22 39.467, F.S., relating to adjudicatory
23 hearings; renumbering and amending s. 39.4612,
24 F.S., relating to the manifest best interests
25 of the child; renumbering and amending s.
26 39.469, F.S., relating to powers of disposition
27 and order of disposition; renumbering and
28 amending s. 39.47, F.S., relating to
29 post-disposition relief; creating s. 39.813,
30 F.S.; providing for continuing jurisdiction of
31 the court that terminates parental rights over

1 all matters pertaining to the child's adoption;
2 renumbering s. 39.471, F.S., relating to oaths,
3 records, and confidential information;
4 renumbering and amending s. 39.473, F.S.,
5 relating to appeal; creating s. 39.816, F.S.;
6 authorizing certain pilot and demonstration
7 projects contingent on receipt of federal
8 grants or contracts; creating s. 39.817, F.S.;
9 providing for a foster care demonstration pilot
10 project; providing for part X of ch. 39, F.S.,
11 entitled "Guardians Ad Litem and Guardian
12 Advocates"; creating s. 39.820, F.S.; providing
13 definitions; renumbering s. 415.5077, F.S.,
14 relating to qualifications of guardians ad
15 litem; renumbering and amending s. 415.508,
16 F.S., relating to appointment of a guardian ad
17 litem for an abused, abandoned, or neglected
18 child; renumbering and amending s. 415.5082,
19 F.S., relating to guardian advocates for drug
20 dependent newborns; renumbering and amending s.
21 415.5083, F.S., relating to procedures and
22 jurisdiction; renumbering s. 415.5084, F.S.,
23 relating to petition for appointment of a
24 guardian advocate; renumbering s. 415.5085,
25 F.S., relating to process and service;
26 renumbering and amending s. 415.5086, F.S.,
27 relating to hearing for appointment of a
28 guardian advocate; renumbering and amending s.
29 415.5087, F.S., relating to grounds for
30 appointment of a guardian advocate; renumbering
31 s. 415.5088, F.S., relating to powers and

1 duties of the guardian advocate; renumbering
2 and amending s. 415.5089, F.S., relating to
3 review and removal of a guardian advocate;
4 providing for part XI of ch. 39, F.S., entitled
5 "Domestic Violence"; renumbering s. 415.601,
6 F.S., relating to legislative intent regarding
7 treatment and rehabilitation of victims and
8 perpetrators; renumbering and amending s.
9 415.602, F.S., relating to definitions;
10 renumbering and amending s. 415.603, F.S.,
11 relating to duties and functions of the
12 department; renumbering and amending s.
13 415.604, F.S., relating to an annual report to
14 the Legislature; renumbering and amending s.
15 415.605, F.S., relating to domestic violence
16 centers; renumbering s. 415.606, F.S., relating
17 to referral to such centers and notice of
18 rights; renumbering s. 415.608, F.S., relating
19 to confidentiality of information received by
20 the department or a center; amending s. 20.19,
21 F.S.; providing for certification programs for
22 family safety and preservation employees of the
23 department; providing for rules; amending ss.
24 20.43, 61.13, 61.401, 61.402, 63.052, 63.092,
25 90.5036, 154.067, 216.136, 232.50, 318.21,
26 384.29, 392.65, 393.063, 395.1023, 400.4174,
27 400.556, 402.165, 402.166, 409.1672, 409.176,
28 409.2554, 409.912, 409.9126, 414.065, 447.401,
29 464.018, 490.014, 491.014, 741.30, 744.309,
30 784.075, 933.18, 944.401, 944.705, 984.03,
31 984.10, 984.15, 984.24, 985.03, 985.303, F.S.;

1 correcting cross-references; conforming related
2 provisions and references; amending ss. 213.053
3 and 409.2577, F.S.; authorizing disclosure of
4 certain confidential taxpayer and parent
5 locator information for diligent search
6 activities under ch. 39, F.S.; creating s.
7 435.045, F.S.; providing background screening
8 requirements for prospective foster or adoptive
9 parents; amending s. 943.045, F.S.; providing
10 that the Department of Children and Family
11 Services is a "criminal justice agency" for
12 purposes of the criminal justice information
13 system; repealing s. 39.002, F.S., relating to
14 intent; repealing s. 39.0195, F.S., relating to
15 sheltering unmarried minors and aiding
16 unmarried runaways; repealing s. 39.0196, F.S.,
17 relating to children locked out of the home;
18 repealing ss. 39.39, 39.449, and 39.459, F.S.,
19 relating to definition of "department";
20 repealing s. 39.403, F.S., relating to
21 protective investigation; repealing s. 39.4032,
22 F.S., relating to multidisciplinary case
23 staffing; repealing s. 39.4052, F.S., relating
24 to affirmative duty of written notice to adult
25 relatives; repealing s. 39.4053, F.S., relating
26 to diligent search after taking a child into
27 custody; repealing s. 39.408(3), (4), F.S.,
28 relating to disposition hearings and notice of
29 hearings; repealing s. 39.45, F.S., relating to
30 legislative intent regarding foster care;
31 repealing s. 39.451, F.S., relating to case

1 planning; repealing s. 39.457, F.S., relating
2 to a pilot program in Leon County to provide
3 additional benefits to children in foster care;
4 repealing s. 39.4611, F.S., relating to
5 elements of petitions; repealing s. 39.462,
6 F.S., relating to process and services;
7 repealing s. 39.4625, F.S., relating to
8 identity or location of parent unknown after
9 filing of petition for termination of parental
10 rights; repealing s. 39.472, F.S., relating to
11 court and witness fees; repealing s. 39.474,
12 F.S., relating to compensation of counsel;
13 repealing s. 39.475, F.S., relating to rights
14 of grandparents; repealing s. 415.501, F.S.,
15 relating to the state plan for prevention of
16 abuse and neglect; repealing ss. 415.5016,
17 415.50165, 415.5017, 415.50175, 415.5018,
18 415.50185, and 415.5019, F.S., relating to
19 purpose and legislative intent, definitions,
20 procedures, confidentiality of records,
21 district authority and responsibilities,
22 outcome evaluation, and rules for the family
23 services response system; repealing s. 415.502,
24 F.S., relating to legislative intent for
25 comprehensive protective services for abused or
26 neglected children; repealing s. 415.503, F.S.,
27 relating to definitions; repealing s. 415.505,
28 F.S., relating to child protective
29 investigations and investigations of
30 institutional child abuse or neglect; repealing
31 s. 415.506, F.S., relating to taking a child

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

10

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

12

13 Section 1. Part I of chapter 39, Florida Statutes,
14 consisting of sections 39.001, 39.01, 39.011, 39.012, 39.0121,
15 39.013, 39.0131, 39.0132, 39.0133, 39.0134, and 39.0135,
16 Florida Statutes, shall be entitled to read:

17

PART I

18

GENERAL PROVISIONS

19

Section 2. Section 39.001, Florida Statutes, is
20 amended to read:

21

39.001 Purposes and intent; personnel standards and
22 screening.--

23

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

25

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

30

(b) To recognize that most families desire to be
31 competent caregivers and providers for their children and that

1 children achieve their greatest potential when families are
2 able to support and nurture the growth and development of
3 their children. Therefore, the Legislature finds that policies
4 and procedures that provide for intervention through the
5 department's child protection system should be based on the
6 following principles:

7 1. The health and safety of the children served shall
8 be of paramount concern.

9 2. The intervention should engage families in
10 constructive, supportive, and nonadversarial relationships.

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

15 4. The intervention should be based upon outcome
16 evaluation results that demonstrate success in protecting
17 children and supporting families.

18 (c) To provide a child protection system that reflects
19 a partnership between the department, other agencies, and
20 local communities.

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

23 (e) To provide procedures that allow the department to
24 respond to reports of child abuse, abandonment, or neglect in
25 the most efficient and effective manner and that ensure the
26 health and safety of children and the integrity of families.

27 ~~(c) To ensure the protection of society, by providing~~
28 ~~for a comprehensive standardized assessment of the child's~~
29 ~~needs so that the most appropriate control, discipline,~~
30 ~~punishment, and treatment can be administered consistent with~~
31 ~~the seriousness of the act committed, the community's~~

1 ~~long-term need for public safety, the prior record of the~~
2 ~~child and the specific rehabilitation needs of the child,~~
3 ~~while also providing whenever possible restitution to the~~
4 ~~victim of the offense.~~

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

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

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

26 (i) To secure for the child, when removal of the child
27 from his or her own family is necessary, custody, care, and
28 discipline as nearly as possible equivalent to that which
29 should have been given by the parents; and to ensure, in all
30 cases in which a child must be removed from parental custody,
31 that the child is placed in an approved relative home,

1 licensed foster home, adoptive home, or independent living
2 program that provides the most stable and potentially
3 permanent living arrangement for the child, as determined by
4 the court. All placements shall be in a safe environment where
5 drugs and alcohol are not abused.

6 (j) To ensure that, when reunification or adoption is
7 not possible, the child will be prepared for alternative
8 permanency goals or placements, to include, but not be limited
9 to, long-term foster care, independent living, custody with a
10 relative on a permanent basis with or without legal
11 guardianship, or custody with a foster parent or caregiver on
12 a permanent basis with or without legal guardianship.

13 (k) To make every possible effort, when two or more
14 children who are in the care or under the supervision of the
15 department are siblings, to place the siblings in the same
16 home; and in the event of permanent placement of the siblings,
17 to place them in the same adoptive home or, if the siblings
18 are separated, to keep them in contact with each other.

19 (l)(a) To provide judicial and other procedures to
20 assure due process through which children, parents, and
21 guardians and other interested parties are assured fair
22 hearings by a respectful and respected court or other tribunal
23 and the recognition, protection, and enforcement of their
24 constitutional and other legal rights, while ensuring that
25 public safety interests and the authority and dignity of the
26 courts are adequately protected.

27 (m) To ensure that children under the jurisdiction of
28 the courts are provided equal treatment with respect to goals,
29 objectives, services, and case plans, without regard to the
30 location of their placement. It is the further intent of the
31 Legislature that, when children are removed from their homes,

1 disruption to their education be minimized to the extent
2 possible.

3 ~~(e)1. To assure that the adjudication and disposition~~
4 ~~of a child alleged or found to have committed a violation of~~
5 ~~Florida law be exercised with appropriate discretion and in~~
6 ~~keeping with the seriousness of the offense and the need for~~
7 ~~treatment services, and that all findings made under this~~
8 ~~chapter be based upon facts presented at a hearing that meets~~
9 ~~the constitutional standards of fundamental fairness and due~~
10 ~~process.~~

11 ~~2. To assure that the sentencing and placement of a~~
12 ~~child tried as an adult be appropriate and in keeping with the~~
13 ~~seriousness of the offense and the child's need for~~
14 ~~rehabilitative services, and that the proceedings and~~
15 ~~procedures applicable to such sentencing and placement be~~
16 ~~applied within the full framework of constitutional standards~~
17 ~~of fundamental fairness and due process.~~

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

21 (2) DEPARTMENT CONTRACTS.--~~The department of Juvenile~~
22 ~~Justice or the Department of Children and Family Services, as~~
23 ~~appropriate,~~may contract with the Federal Government, other
24 state departments and agencies, county and municipal
25 governments and agencies, public and private agencies, and
26 private individuals and corporations in carrying out the
27 purposes of, and the responsibilities established in, this
28 chapter.

29 (a) ~~When the department of Juvenile Justice or the~~
30 ~~Department of Children and Family Services~~ contracts with a
31 provider for any program for children, all personnel,

1 including owners, operators, employees, and volunteers, in the
2 facility must be of good moral character. A volunteer who
3 assists on an intermittent basis for less than 40 hours per
4 month need not be screened if the volunteer is under direct
5 and constant supervision by persons who meet the screening
6 requirements.

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

13 ~~(c) The department of Juvenile Justice or the~~
14 ~~Department of Children and Family Services~~ may grant
15 exemptions from disqualification from working with children as
16 provided in s. 435.07.

17 (d) The department shall require all job applicants,
18 current employees, volunteers, and contract personnel who
19 currently perform or are seeking to perform child protective
20 investigations to be drug-tested pursuant to the procedures
21 and requirements of s. 112.0455, the Drug-Free Workplace Act.
22 The department is authorized to adopt rules, policies, and
23 procedures necessary to implement this paragraph.

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

29 (3) GENERAL PROTECTIONS FOR CHILDREN.--It is a purpose
30 of the Legislature that the children of this state be provided
31 with the following protections:

1 (a) Protection from abuse, abandonment, neglect, and
2 exploitation.

3 (b) A permanent and stable home.

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

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

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

9 (f) Equal opportunity and access to quality and
10 effective education, which will meet the individual needs of
11 each child, and to recreation and other community resources to
12 develop individual abilities.

13 (g) Access to preventive services.

14 (h) An independent, trained advocate, when
15 intervention is necessary and a skilled guardian or caregiver
16 in a safe environment when alternative placement is necessary.

17 (4) SUBSTANCE ABUSE SERVICES.--The Legislature finds
18 that children in the care of the state's dependency system
19 need appropriate health care services, that the impact of
20 substance abuse on health indicates the need for health care
21 services to include substance abuse services to children and
22 parents where appropriate, and that it is in the state's best
23 interest that such children be provided the services they need
24 to enable them to become and remain independent of state care.
25 In order to provide these services, the state's dependency
26 system must have the ability to identify and provide
27 appropriate intervention and treatment for children with
28 personal or family-related substance abuse problems. It is
29 therefore the purpose of the Legislature to provide authority
30 for the state to contract with community substance abuse
31 treatment providers for the development and operation of

1 specialized support and overlay services for the dependency
2 system, which will be fully implemented and utilized as
3 resources permit.

4 (5) PARENTAL, CUSTODIAL, AND GUARDIAN
5 RESPONSIBILITIES.--Parents, custodians, and guardians are
6 deemed by the state to be responsible for providing their
7 children with sufficient support, guidance, and supervision.
8 The state further recognizes that the ability of parents,
9 custodians, and guardians to fulfill those responsibilities
10 can be greatly impaired by economic, social, behavioral,
11 emotional, and related problems. It is therefore the policy of
12 the Legislature that it is the state's responsibility to
13 ensure that factors impeding the ability of caregivers to
14 fulfill their responsibilities are identified through the
15 dependency process and that appropriate recommendations and
16 services to address those problems are considered in any
17 judicial or nonjudicial proceeding.

18 (6) LEGISLATIVE INTENT FOR THE PREVENTION OF ABUSE,
19 ABANDONMENT, AND NEGLECT OF CHILDREN.--The incidence of known
20 child abuse, abandonment, and neglect has increased rapidly
21 over the past 5 years. The impact that abuse, abandonment, or
22 neglect has on the victimized child, siblings, family
23 structure, and inevitably on all citizens of the state has
24 caused the Legislature to determine that the prevention of
25 child abuse, abandonment, and neglect shall be a priority of
26 this state. To further this end, it is the intent of the
27 Legislature that a comprehensive approach for the prevention
28 of abuse, abandonment, and neglect of children be developed
29 for the state and that this planned, comprehensive approach be
30 used as a basis for funding.

31 (7) PLAN FOR COMPREHENSIVE APPROACH.--

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

29 (b) The development of the comprehensive state plan
30 shall be accomplished in the following manner:
31

1 1. The department shall establish an interprogram task
2 force comprised of the Assistant Secretary for Children and
3 Family Services, or a designee, a representative from the
4 Children and Families Program Office, a representative from
5 the Alcohol, Drug Abuse, and Mental Health Program Office, a
6 representative from the Developmental Services Program Office,
7 a representative from the Office of Standards and Evaluation,
8 and a representative from the Division of Children's Medical
9 Services of the Department of Health. Representatives of the
10 Department of Law Enforcement and of the Department of
11 Education shall serve as ex officio members of the
12 interprogram task force. The interprogram task force shall be
13 responsible for:

14 a. Developing a plan of action for better coordination
15 and integration of the goals, activities, and funding
16 pertaining to the prevention of child abuse, abandonment, and
17 neglect conducted by the department in order to maximize staff
18 and resources at the state level. The plan of action shall be
19 included in the state plan.

20 b. Providing a basic format to be utilized by the
21 districts in the preparation of local plans of action in order
22 to provide for uniformity in the district plans and to provide
23 for greater ease in compiling information for the state plan.

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

26 d. Examining the local plans to determine if all the
27 requirements of the local plans have been met and, if they
28 have not, informing the districts of the deficiencies and
29 requesting the additional information needed.

30 e. Preparing the state plan for submission to the
31 Legislature and the Governor. Such preparation shall include

1 the collapsing of information obtained from the local plans,
2 the cooperative plans with the Department of Education, and
3 the plan of action for coordination and integration of
4 departmental activities into one comprehensive plan. The
5 comprehensive plan shall include a section reflecting general
6 conditions and needs, an analysis of variations based on
7 population or geographic areas, identified problems, and
8 recommendations for change. In essence, the plan shall
9 provide an analysis and summary of each element of the local
10 plans to provide a statewide perspective. The plan shall also
11 include each separate local plan of action.

12 f. Working with the specified state agency in
13 fulfilling the requirements of subparagraphs 2., 3., 4., and
14 5.

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

24 3. The department, the Department of Law Enforcement,
25 and the Department of Health shall work together in developing
26 ways to inform and instruct appropriate local law enforcement
27 personnel in the detection of child abuse, abandonment, and
28 neglect and in the proper action that should be taken in a
29 suspected case of child abuse, abandonment, or neglect.

30 4. Within existing appropriations, the department
31 shall work with other appropriate public and private agencies

1 to emphasize efforts to educate the general public about the
2 problem of and ways to detect child abuse, abandonment, and
3 neglect and in the proper action that should be taken in a
4 suspected case of child abuse, abandonment, or neglect. The
5 plan for accomplishing this end shall be included in the state
6 plan.

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

19 6. Each district of the department shall develop a
20 plan for its specific geographical area. The plan developed
21 at the district level shall be submitted to the interprogram
22 task force for utilization in preparing the state plan. The
23 district local plan of action shall be prepared with the
24 involvement and assistance of the local agencies and
25 organizations listed in paragraph (a), as well as
26 representatives from those departmental district offices
27 participating in the treatment and prevention of child abuse,
28 abandonment, and neglect. In order to accomplish this, the
29 district administrator in each district shall establish a task
30 force on the prevention of child abuse, abandonment, and
31 neglect. The district administrator shall appoint the members

1 of the task force in accordance with the membership
2 requirements of this section. In addition, the district
3 administrator shall ensure that each subdistrict is
4 represented on the task force; and, if the district does not
5 have subdistricts, the district administrator shall ensure
6 that both urban and rural areas are represented on the task
7 force. The task force shall develop a written statement
8 clearly identifying its operating procedures, purpose, overall
9 responsibilities, and method of meeting responsibilities. The
10 district plan of action to be prepared by the task force shall
11 include, but shall not be limited to:

12 a. Documentation of the magnitude of the problems of
13 child abuse, including sexual abuse, physical abuse, and
14 emotional abuse, and child abandonment and neglect in its
15 geographical area.

16 b. A description of programs currently serving abused,
17 abandoned, and neglected children and their families and a
18 description of programs for the prevention of child abuse,
19 abandonment, and neglect, including information on the impact,
20 cost-effectiveness, and sources of funding of such programs.

21 c. A continuum of programs and services necessary for
22 a comprehensive approach to the prevention of all types of
23 child abuse, abandonment, and neglect as well as a brief
24 description of such programs and services.

25 d. A description, documentation, and priority ranking
26 of local needs related to child abuse, abandonment, and
27 neglect prevention based upon the continuum of programs and
28 services.

29 e. A plan for steps to be taken in meeting identified
30 needs, including the coordination and integration of services
31 to avoid unnecessary duplication and cost, and for alternative

1 funding strategies for meeting needs through the reallocation
2 of existing resources, utilization of volunteers, contracting
3 with local universities for services, and local government or
4 private agency funding.

5 f. A description of barriers to the accomplishment of
6 a comprehensive approach to the prevention of child abuse,
7 abandonment, and neglect.

8 g. Recommendations for changes that can be
9 accomplished only at the state program level or by legislative
10 action.

11 (8) FUNDING AND SUBSEQUENT PLANS.--

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

17 (b) The department at the state and district levels
18 and the other agencies listed in paragraph (7)(a) shall
19 readdress the plan and make necessary revisions every 5 years,
20 at a minimum. Such revisions shall be submitted to the Speaker
21 of the House of Representatives and the President of the
22 Senate no later than June 30 of each year divisible by 5. An
23 annual progress report shall be submitted to update the plan
24 in the years between the 5-year intervals. In order to avoid
25 duplication of effort, these required plans may be made a part
26 of or 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, abandonment, and neglect are
30 clearly identified as such and are provided to the Speaker of

31

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

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

6 Section 3. Section 415.5015, Florida Statutes, is
7 renumbered as section 39.0015, Florida Statutes, and amended
8 to read:

9 39.0015 ~~415.5015~~ Child abuse prevention training in
10 the district school system.--

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

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

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

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

20 (b) "Child abuse" means those acts as defined in ss.
21 39.01, ~~415.503~~, and 827.04.

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

30 (d) "Prevention training center" means a center as
31 described in subsection (5).

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

1 (5) PREVENTION TRAINING CENTERS; FUNCTIONS; SELECTION
2 PROCESS; MONITORING AND EVALUATION.--

3 (a) Each training center shall perform the following
4 functions:

5 1. Act as a clearinghouse to provide information on
6 prevention curricula which meet the requirements of this
7 section and the requirements of ss. 39.001,231.17, and
8 ~~236.0811, and 415.501.~~

9 2. Assist the local school district in selecting a
10 prevention program model which meets the needs of the local
11 community.

12 3. At the request of the local school district, design
13 and administer training sessions to develop or expand local
14 primary prevention and training programs.

15 4. Provide assistance to local school districts,
16 including, but not limited to, all of the following:
17 administration, management, program development, multicultural
18 staffing, and community education, in order to better meet the
19 requirements of this section and of ss. 39.001,231.17, and
20 ~~236.0811, and 415.501.~~

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

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

26 b. Conduct an outreach program to inform the
27 surrounding communities of the existence of primary prevention
28 and training programs and of funds to conduct such programs.

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

31

1 (b) The department, in consultation with the
2 Department of Children and Family ~~Health and Rehabilitative~~
3 Services, shall select and award grants by January 1, 1986,
4 for the establishment of three private, nonprofit prevention
5 training centers: one located in and serving South Florida,
6 one located in and serving Central Florida, and one located in
7 and serving North Florida. The department, in consultation
8 with the Department of Children and Family ~~Health and~~
9 ~~Rehabilitative~~ Services, shall select an agency or agencies to
10 establish three training centers which can fulfill the
11 requirements of this section and meet the following
12 requirements:

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

27 (c) The department shall monitor and evaluate primary
28 prevention and training programs utilized in the local school
29 districts and shall monitor and evaluate the impact of the
30 prevention training centers on the implementation of primary
31

1 prevention programs and their ability to meet the required
2 responsibilities of a center as described in this section.

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

7 Section 4. Section 39.01, Florida Statutes, as amended
8 by chapter 97-276, Laws of Florida, is amended to read:

9 39.01 Definitions.--When used in this chapter, unless
10 the context otherwise requires:

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

29 (2) "Abuse" means any willful act or threatened act
30 that results in any physical, mental, or sexual injury or harm
31 that causes or is likely to cause the child's physical,

1 mental, or emotional health to be significantly impaired. For
2 the purpose of protective investigations, abuse of a child
3 includes the acts or omissions of the parent, legal custodian,
4 caregiver, or other person responsible for the child's
5 welfare. Corporal discipline of a child by a parent, legal
6 custodian, or caregiver guardian for disciplinary purposes
7 does not in itself constitute abuse when it does not result in
8 harm to the child ~~as defined in s. 415.503.~~

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

11 (4) "Adjudicatory hearing" means a hearing for the
12 court to determine whether or not the facts support the
13 allegations stated in the petition ~~as is provided for under s.~~
14 ~~39.408(2),~~ in dependency cases, ~~or s. 39.467,~~ in termination
15 of parental rights cases.

16 (5) "Adult" means any natural person other than a
17 child.

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

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

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

28 (b) A child who is alleged to have committed any
29 violation of law or delinquent act involving juvenile sexual
30 abuse. "Juvenile sexual abuse" means any sexual behavior that
31 occurs without consent, without equality, or as a result of

1 coercion. For purposes of this paragraph, the following
2 definitions apply:
3 1. "Coercion" means the exploitation of authority or
4 the use of bribes, threats of force, or intimidation to gain
5 cooperation or compliance.
6 2. "Equality" means two participants operating with
7 the same level of power in a relationship, neither being
8 controlled nor coerced by the other.
9 3. "Consent" means an agreement, including all of the
10 following:
11 a. Understanding what is proposed based on age,
12 maturity, developmental level, functioning, and experience.
13 b. Knowledge of societal standards for what is being
14 proposed.
15 c. Awareness of potential consequences and
16 alternatives.
17 d. Assumption that agreement or disagreement will be
18 accepted equally.
19 e. Voluntary decision.
20 f. Mental competence.
21
22 Juvenile sexual offender behavior ranges from noncontact
23 sexual behavior such as making obscene phone calls,
24 exhibitionism, voyeurism, and the showing or taking of lewd
25 photographs to varying degrees of direct sexual contact, such
26 as frottage, fondling, digital penetration, rape, fellatio,
27 sodomy, and various other sexually aggressive acts.
28 (8)(6) "Arbitration" means a process whereby a neutral
29 third person or panel, called an arbitrator or an arbitration
30 panel, considers the facts and arguments presented by the
31

1 parties and renders a decision which may be binding or
2 nonbinding.

3 (9)~~(7)~~ "Authorized agent" or "designee" of the
4 department means an employee, volunteer, or other person or
5 agency determined by the state to be eligible for state-funded
6 risk management coverage, which is a person or agency assigned
7 or designated by the department of ~~Juvenile Justice or the~~
8 ~~Department of Children and Family Services, as appropriate, to~~
9 perform duties or exercise powers pursuant to this chapter ~~and~~
10 ~~includes contract providers and their employees for purposes~~
11 ~~of providing services to and managing cases of children in~~
12 ~~need of services and families in need of services.~~

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

16 ~~(8)~~ "Caretaker/homemaker" means ~~an authorized agent of~~
17 ~~the Department of Children and Family Services who shall~~
18 ~~remain in the child's home with the child until a parent,~~
19 ~~legal guardian, or relative of the child enters the home and~~
20 ~~is capable of assuming and agrees to assume charge of the~~
21 ~~child.~~

22 (11)~~(9)~~ "Case plan" or "plan" means a document, as
23 described in s. 39.601 ~~39.403~~, prepared by the department
24 with input from all parties, including parents, guardians ad
25 litem, legal custodians, caregivers, and the child. The case
26 plan, ~~that~~ follows the child from the provision of voluntary
27 services through any dependency, foster care, or termination
28 of parental rights proceeding or related activity or process.

29 (12)~~(10)~~ "Child" or ~~"juvenile"~~ or "youth" means any
30 unmarried person under the age of 18 years who has not been
31 emancipated by order of the court and who has been alleged or

1 found ~~or alleged~~ to be dependent, ~~in need of services, or from~~
2 ~~a family in need of services; or any married or unmarried~~
3 ~~person who is charged with a violation of law occurring prior~~
4 ~~to the time that person reached the age of 18 years.~~

5 (13) "Child protection team" means a team of
6 professionals established by the department to receive
7 referrals from the protective investigators and protective
8 supervision staff of the department and to provide specialized
9 and supportive services to the program in processing child
10 abuse, abandonment, or neglect cases. A child protection team
11 shall provide consultation to other programs of the department
12 and other persons regarding child abuse, abandonment, or
13 neglect cases.

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

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

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

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

31

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

5 (e) To have no parent, legal custodian, or caregiver
6 ~~responsible adult relative~~ to provide supervision and care;
7 or;

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

11 (15)~~(12)~~ "Child support" means a court-ordered
12 obligation, enforced under chapter 61 and ss.
13 409.2551-409.2597, for monetary support for the care,
14 maintenance, training, and education of a child.

15 (16)~~(13)~~ "Circuit" means any of the 20 judicial
16 circuits as set forth in s. 26.021.

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

27 (18)~~(15)~~ "Court," unless otherwise expressly stated,
28 means the circuit court assigned to exercise jurisdiction
29 under this chapter.

30 (19)~~(16)~~ "Department," ~~as used in this chapter,~~ means
31 the Department of Children and Family Services.

1 ~~(20)(17)~~ "Diligent efforts by a parent, legal
2 custodian, or caregiver" means a course of conduct which
3 results in a reduction in risk to the child in the child's
4 home that would allow the child to be safely placed
5 permanently back in the home as set forth in the case plan.

6 ~~(21)(18)~~ "Diligent efforts of social service agency"
7 means reasonable efforts to provide social services or
8 reunification services made by any social service agency ~~as~~
9 ~~defined in this section~~ that is a party to a case plan.

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

1 ~~shall have a continuing duty to search for relatives with whom~~
2 ~~it may be appropriate to place the child, until such relatives~~
3 ~~are found or until the child is placed for adoption.~~

4 (23)(20) "Disposition hearing" means a hearing in
5 which the court determines the most appropriate family support
6 dispositional services in the least restrictive available
7 setting ~~provided for under s. 39.408(3),~~ in dependency cases,
8 or ~~s. 39.469,~~ in termination of parental rights cases.

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

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

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

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

23 (a) Harassing, embarrassing, or harming another
24 person;

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

26 (c) Acquiring custody of a child; or

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

29
30
31

1 The term "false report" does not include a report of abuse,
2 neglect, or abandonment of a child made in good faith to the
3 central abuse hotline.

4 (28)(22) "Family" means a collective body of persons,
5 consisting of a child and a parent, legal guardian, ~~adult~~
6 custodian, caregiver, or adult relative, in which:

7 (a) The persons reside in the same house or living
8 unit; or

9 (b) The parent, legal guardian, ~~adult~~ custodian,
10 caregiver, or adult relative has a legal responsibility by
11 blood, marriage, or court order to support or care for the
12 child.

13 (29)(23) "Foster care" means care provided a child in
14 a foster family or boarding home, group home, agency boarding
15 home, child care institution, or any combination thereof.

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

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

27 1. Willful acts that produce the following specific
28 injuries:

29 a. Sprains, dislocations, or cartilage damage.

30 b. Bone or skull fractures.

31 c. Brain or spinal cord damage.

1 d. Intracranial hemorrhage or injury to other internal
2 organs.

3 e. Asphyxiation, suffocation, or drowning.

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

5 g. Burns or scalding.

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

7 i. Permanent or temporary disfigurement.

8 j. Permanent or temporary loss or impairment of a body
9 part or function.

10

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

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

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

28 4. Inappropriate or excessively harsh disciplinary
29 action that is likely to result in physical injury, mental
30 injury as defined in this section, or emotional injury. The
31 significance of any injury must be evaluated in light of the

1 following factors: the age of the child; any prior history of
2 injuries to the child; the location of the injury on the body
3 of the child; the multiplicity of the injury; and the type of
4 trauma inflicted. Corporal discipline may be considered
5 excessive or abusive when it results in any of the following
6 or other similar injuries:
7 a. Sprains, dislocations, or cartilage damage.
8 b. Bone or skull fractures.
9 c. Brain or spinal cord damage.
10 d. Intracranial hemorrhage or injury to other internal
11 organs.
12 e. Asphyxiation, suffocation, or drowning.
13 f. Injury resulting from the use of a deadly weapon.
14 g. Burns or scalding.
15 h. Cuts, lacerations, punctures, or bites.
16 i. Permanent or temporary disfigurement.
17 j. Permanent or temporary loss or impairment of a body
18 part or function.
19 k. Significant bruises or welts.
20 (b) Commits, or allows to be committed, sexual
21 battery, as defined in chapter 794, or lewd or lascivious
22 acts, as defined in chapter 800, against the child.
23 (c) Allows, encourages, or forces the sexual
24 exploitation of a child, which includes allowing, encouraging,
25 or forcing a child to:
26 1. Solicit for or engage in prostitution; or
27 2. Engage in a sexual performance, as defined by
28 chapter 827.
29 (d) Exploits a child, or allows a child to be
30 exploited, as provided in s. 450.151.
31

1 (e) Abandons the child. Within the context of the
2 definition of "harm," the term "abandons the child" means that
3 the parent or legal custodian of a child or, in the absence of
4 a parent or legal custodian, the person responsible for the
5 child's welfare, while being able, makes no provision for the
6 child's support and makes no effort to communicate with the
7 child, which situation is sufficient to evince a willful
8 rejection of parental obligation. If the efforts of such a
9 parent or legal custodian or person primarily responsible for
10 the child's welfare to support and communicate with the child
11 are only marginal efforts that do not evince a settled purpose
12 to assume all parental duties, the child may be determined to
13 have been abandoned.

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

- 25 1. Eliminate the requirement that such a case be
26 reported to the department;
- 27 2. Prevent the department from investigating such a
28 case; or
- 29 3. Preclude a court from ordering, when the health of
30 the child requires it, the provision of medical services by a
31 physician, as defined in this section, or treatment by a duly

1 accredited practitioner who relies solely on spiritual means
2 for healing in accordance with the tenets and practices of a
3 well-recognized church or religious organization.

4 (g) Exposes a child to a controlled substance or
5 alcohol. Exposure to a controlled substance or alcohol is
6 established by:

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

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

13
14 As used in this paragraph, the term "controlled substance"
15 means prescription drugs not prescribed for the parent or not
16 administered as prescribed and controlled substances as
17 outlined in Schedule I or Schedule II of s. 893.03.

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

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

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

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

28 (31)(24) "Health and human services board" means the
29 body created in each service district of the department of
30 Children and Family Services pursuant to the provisions of s.
31 20.19(8)(7).

1 (32) "Institutional child abuse or neglect" means
2 situations of known or suspected child abuse or neglect in
3 which the person allegedly perpetrating the child abuse or
4 neglect is an employee of a private school, public or private
5 day care center, residential home, institution, facility, or
6 agency or any other person at such institution responsible for
7 the child's care.

8 ~~(33)(25)~~ "Judge" means the circuit judge exercising
9 jurisdiction pursuant to this chapter.

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

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

23 ~~(36)(27)~~ "Licensed child-caring agency" means a
24 person, society, association, or agency licensed by the
25 department of ~~Children and Family Services~~ to care for,
26 receive, and board children.

27 ~~(37)(28)~~ "Licensed child-placing agency" means a
28 person, society, association, or institution licensed by the
29 department of ~~Children and Family Services~~ to care for,
30 receive, or board children and to place children in a licensed
31 child-caring institution or a foster or adoptive home.

1 ~~(38)(29)~~ "Licensed health care professional" means a
2 physician licensed under chapter 458, an osteopathic physician
3 licensed under chapter 459, a nurse licensed under chapter
4 464, a physician assistant certified under chapter 458 or
5 chapter 459, or a dentist licensed under chapter 466.

6 ~~(39)(30)~~ "Likely to injure oneself" means that, as
7 evidenced by violent or other actively self-destructive
8 behavior, it is more likely than not that within a 24-hour
9 period the child will attempt to commit suicide or inflict
10 serious bodily harm on himself or herself.

11 ~~(40)(31)~~ "Likely to injure others" means that it is
12 more likely than not that within a 24-hour period the child
13 will inflict serious and unjustified bodily harm on another
14 person.

15 ~~(41)(32)~~ "Long-term relative custodian" means an adult
16 relative who is a party to a long-term custodial relationship
17 created by a court order pursuant to this chapter ~~s.~~
18 ~~39.41(2)(a)5.~~

19 ~~(42)(33)~~ "Long-term relative custody" or "long-term
20 custodial relationship" means the relationship that a juvenile
21 court order creates between a child and an adult relative of
22 the child or other caregiver ~~an adult nonrelative~~ approved by
23 the court when the child cannot be placed in the custody of a
24 natural parent and termination of parental rights is not
25 deemed to be in the best interest of the child. Long-term
26 relative custody confers upon the long-term relative or other
27 caregiver ~~nonrelative custodian~~ the right to physical custody
28 of the child, a right which will not be disturbed by the court
29 except upon request of the caregiver ~~custodian~~ or upon a
30 showing that a material change in circumstances necessitates a
31 change of custody for the best interest of the child. A

1 long-term relative or other caregiver ~~nonrelative custodian~~
2 shall have all of the rights and duties of a natural parent,
3 including, but not limited to, the right and duty to protect,
4 train, and discipline the child and to provide the child with
5 food, shelter, and education, and ordinary medical, dental,
6 psychiatric, and psychological care, unless these rights and
7 duties are otherwise enlarged or limited by the court order
8 establishing the long-term custodial relationship.

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

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

23 (45)~~(35)~~ "Necessary medical treatment" means care
24 which is necessary within a reasonable degree of medical
25 certainty to prevent the deterioration of a child's condition
26 or to alleviate immediate pain of a child.

27 (46)~~(36)~~ "Neglect" occurs when the parent or legal
28 custodian of a child or, in the absence of a parent or legal
29 custodian, the caregiver ~~person primarily responsible for the~~
30 ~~child's welfare~~ deprives a child of, or allows a child to be
31 deprived of, necessary food, clothing, shelter, or medical

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

16 (a) Medical services from a licensed physician,
17 dentist, optometrist, podiatrist, or other qualified health
18 care provider; or

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

23

24 For the purpose of protective investigations, neglect of a
25 child includes the acts or omissions of the parent, legal
26 custodian, or caregiver.

27 (47) "Other person responsible for a child's welfare"
28 includes the child's legal guardian, legal custodian, or
29 foster parent; an employee of a private school, public or
30 private child day care center, residential home, institution,
31 facility, or agency; or any other person legally responsible

1 for the child's welfare in a residential setting; and also
2 includes an adult sitter or relative entrusted with a child's
3 care. For the purpose of departmental investigative
4 jurisdiction, this definition does not include law enforcement
5 officers, or employees of municipal or county detention
6 facilities or the Department of Corrections, while acting in
7 an official capacity.

8 (48)~~(37)~~ "Next of kin" means an adult relative of a
9 child who is the child's brother, sister, grandparent, aunt,
10 uncle, or first cousin.

11 (49)~~(38)~~ "Parent" means a woman who gives birth to a
12 child and a man whose consent to the adoption of the child
13 would be required under s. 63.062(1)(b). If a child has been
14 legally adopted, the term "parent" means the adoptive mother
15 or father of the child. The term does not include an
16 individual whose parental relationship to the child has been
17 legally terminated, or an alleged or prospective parent,
18 unless the parental status falls within the terms of ~~either s.~~
19 ~~39.4051(7) or~~ s. 63.062(1)(b).

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

31

1 ~~(51)(40)~~ "Party," ~~for purposes of a shelter~~
2 ~~proceeding, dependency proceeding, or termination of parental~~
3 ~~rights proceeding,~~ means the parent or legal custodian of the
4 child, the petitioner, the department, the guardian ad litem
5 or the representative of the guardian ad litem program when
6 the program ~~one~~ has been appointed, and the child. The
7 presence of the child may be excused by order of the court
8 when presence would not be in the child's best interest.
9 Notice to the child may be excused by order of the court when
10 the age, capacity, or other condition of the child is such
11 that the notice would be meaningless or detrimental to the
12 child.

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

15 (53) "Physician" means any licensed physician,
16 dentist, podiatrist, or optometrist and includes any intern or
17 resident.

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

25 ~~(55)(42)~~ "Preventive services" means social services
26 and other supportive and rehabilitative services provided to
27 the parent of the child, the legal custodian ~~guardian~~ of the
28 child, or the caregiver ~~custodian~~ of the child and to the
29 child for the purpose of averting the removal of the child
30 from the home or disruption of a family which will or could
31 result in the placement of a child in foster care. Social

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

7 (56)~~(43)~~ "Prospective parent" means a person who
8 claims to be, or has been identified as, a person who may be a
9 mother or a father of a child.

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

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

1 ~~(59)(46)~~ "Protective supervision" means a legal status
2 in dependency cases, ~~child-in-need-of-services cases, or~~
3 ~~family-in-need-of-services cases~~ which permits the child to
4 remain safely in his or her own home or other placement under
5 the supervision of an agent of the department and which must
6 be reviewed by ~~Department of Juvenile Justice or the~~
7 ~~Department of Children and Family Services,~~ subject to being
8 returned to the court during the period of supervision.

9 ~~(47)~~ "Protective supervision case plan" means a
10 document that is prepared by the protective supervision
11 counselor of the Department of Children and Family Services,
12 is based upon the voluntary protective supervision of a case
13 pursuant to s. 39.403(2)(b), or a disposition order entered
14 pursuant to s. 39.41(2)(a)3., and that:

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

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

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

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

25 ~~2. Goals and specific activities to be achieved by all~~
26 ~~parties to the plan.~~

27 ~~3. Anticipated dates for achieving each goal and~~
28 ~~activity.~~

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

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

4 (60)(48) "Relative" means a grandparent,
5 great-grandparent, sibling, first cousin, aunt, uncle,
6 great-aunt, great-uncle, niece, or nephew, whether related by
7 the whole or half blood, by affinity, or by adoption. The term
8 does not include a stepparent.

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

24 (62) "Secretary" means the Secretary of Children and
25 Family Services.

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

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

31

1 (b) Any sexual contact between the genitals or anal
2 opening of one person and the mouth or tongue of another
3 person.

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

8 (d) The intentional touching of the genitals or
9 intimate parts, including the breasts, genital area, groin,
10 inner thighs, and buttocks, or the clothing covering them, of
11 either the child or the perpetrator, except that this does not
12 include:

13 1. Any act which may reasonably be construed to be a
14 normal caregiver responsibility, any interaction with, or
15 affection for a child; or

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

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

19 (f) The intentional exposure of the perpetrator's
20 genitals in the presence of a child, or any other sexual act
21 intentionally perpetrated in the presence of a child, if such
22 exposure or sexual act is for the purpose of sexual arousal or
23 gratification, aggression, degradation, or other similar
24 purpose.

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

27 1. Solicit for or engage in prostitution; or

28 2. Engage in a sexual performance, as defined by
29 chapter 827.

30 (64)(50) "Shelter" means a place for the temporary
31 care of a child who is alleged to be or who has been found to

1 ~~be dependent, a child from a family in need of services, or a~~
2 ~~child in need of services,~~ pending court disposition before or
3 after adjudication ~~or after execution of a court order.~~

4 ~~"Shelter" may include a facility which provides 24-hour~~
5 ~~continual supervision for the temporary care of a child who is~~
6 ~~placed pursuant to s. 984.14.~~

7 (65)~~(51)~~ "Shelter hearing" means a hearing in which
8 the court determines whether probable cause exists to keep a
9 child in shelter status pending further investigation of the
10 case provided for under s. 984.14 in
11 ~~family in need of services cases or child in need of services~~
12 ~~cases.~~

13 (66)~~(52)~~ "Social service agency" means the department
14 ~~of Children and Family Services,~~ a licensed child-caring
15 agency, or a licensed child-placing agency.

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

24 (67)~~(54)~~ "Substance abuse" means using, without
25 medical reason, any psychoactive or mood-altering drug,
26 including alcohol, in such a manner as to induce impairment
27 resulting in dysfunctional social behavior.

28 (68)~~(55)~~ "Substantial compliance" means that the
29 circumstances which caused the creation of the case plan
30 ~~placement in foster care~~ have been significantly remedied to
31 the extent that the well-being and safety of the child will

1 not be endangered upon the child's remaining with or being
2 returned to the child's parent, legal custodian, or caregiver
3 ~~or guardian.~~

4 (69)(56) "Taken into custody" means the status of a
5 child immediately when temporary physical control over the
6 child is attained by a person authorized by law, pending the
7 child's release or placement, ~~detention, placement, or other~~
8 ~~disposition as authorized by law.~~

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

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

26 Section 5. Section 39.455, Florida Statutes, is
27 renumbered as section 39.011, Florida Statutes, and amended to
28 read:

29 39.011 ~~39.455~~ Immunity from liability.--

30 (1) In no case shall employees or agents of the
31 department or a social service agency acting in good faith be

1 liable for damages as a result of failing to provide services
2 agreed to under the case plan ~~or permanent placement plan~~
3 unless the failure to provide such services occurs as a result
4 of bad faith or malicious purpose or occurs in a manner
5 exhibiting wanton and willful disregard of human rights,
6 safety, or property.

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

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

21 Section 6. Section 39.012, Florida Statutes, is
22 amended to read:

23 39.012 Rules for implementation.--The department ~~of~~
24 ~~Children and Family Services~~ shall adopt rules for the
25 efficient and effective management of all programs, services,
26 facilities, and functions necessary for implementing this
27 chapter. Such rules may not conflict with the Florida Rules of
28 Juvenile Procedure. All rules and policies must conform to
29 accepted standards of care and treatment.

30 Section 7. Section 39.0121, Florida Statutes, is
31 created to read:

1 39.0121 Specific rulemaking authority.--Pursuant to
2 the requirements of s. 120.536, the department is specifically
3 authorized to adopt, amend, and repeal administrative rules
4 that implement or interpret law or policy, or describe the
5 procedure and practice requirements necessary to implement
6 this chapter, including, but not limited to, the following:

7 (1) Background screening of department employees and
8 applicants; criminal records checks of prospective foster and
9 adoptive parents; and drug testing of protective
10 investigators.

11 (2) Reporting of child abuse, neglect, and
12 abandonment; reporting of child-on-child sexual abuse; false
13 reporting; child protective investigations; taking a child
14 into protective custody; and shelter procedures.

15 (3) Confidentiality and retention of department
16 records; access to records; and record requests.

17 (4) Department and client trust funds.

18 (5) Child protection teams and services, and eligible
19 cases.

20 (6) Consent to and provision of medical care and
21 treatment for children in the care of the department.

22 (7) Federal funding requirements and procedures;
23 foster care and adoption subsidies; subsidized independent
24 living; and subsidized child care.

25 (8) Agreements with law enforcement and other state
26 agencies; access to the National Crime Information Center
27 (NCIC); and access to the parent locator service.

28 (9) Licensing, registration, and certification of
29 child day care providers, shelter and foster homes, and
30 residential child-caring and child-placing agencies.

31

1 (10) The Family Builders Program, the Intensive Crisis
2 Counseling Program, and any other early-intervention programs
3 and kinship care assistance programs.

4 (11) Department contracts, pilot programs, and
5 demonstration projects.

6 (12) Legal and casework procedures, including, but not
7 limited to, mediation, diligent search, stipulations,
8 consents, surrenders, and default, with respect to dependency,
9 termination of parental rights, adoption, guardianship, and
10 kinship care proceedings.

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

15 (14) Injunctions and other protective orders,
16 domestic-violence-related cases, and certification of domestic
17 violence centers.

18 Section 8. Section 39.40, Florida Statutes, is
19 renumbered as section 39.013, Florida Statutes, and amended to
20 read:

21 39.013 ~~39.40~~ Procedures and jurisdiction; right to
22 counsel.--

23 (1) All procedures, including petitions, pleadings,
24 subpoenas, summonses, and hearings, in this chapter ~~dependency~~
25 ~~cases~~ shall be according to the Florida Rules of Juvenile
26 Procedure unless otherwise provided by law. Parents must be
27 informed by the court of their right to counsel in dependency
28 proceedings at each stage of the dependency proceedings.
29 Parents who are unable to afford counsel and who are
30 threatened with criminal charges based on the facts underlying
31

1 the dependency petition or a permanent loss of custody of
2 their children must be appointed counsel.

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

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

23 (3) When a child is under the jurisdiction of the
24 circuit court pursuant to the provisions of this chapter, the
25 juvenile court, as a division of the circuit court, may
26 exercise the general and equitable jurisdiction over
27 guardianship proceedings pursuant to the provisions of chapter
28 744, and proceedings for temporary custody of minor children
29 by extended family pursuant to the provisions of chapter 751.

30 ~~(4)(3)~~ The court shall expedite the resolution of the
31 placement issue in cases involving a child who ~~under 4 years~~

1 ~~of age when the child~~ has been removed from the family and
2 placed in a shelter.

3 (5)~~(4)~~ The court shall expedite the judicial handling
4 of all cases when the child has been removed from the family
5 and placed in a shelter, ~~and of all cases involving a child~~
6 ~~under 4 years of age.~~

7 (6)~~(5)~~ ~~It is the intent of the Legislature that~~
8 Children removed from their homes shall be provided equal
9 treatment with respect to goals, objectives, services, and
10 case plans, without regard to the location of their
11 placement, ~~and that placement shall be in a safe environment~~
12 ~~where drugs and alcohol are not abused. It is the further~~
13 ~~intent of the Legislature that, when children are removed from~~
14 ~~their homes, disruption to their education be minimized to the~~
15 ~~extent possible.~~

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

21 (8)(a) At each stage of the proceedings under this
22 chapter, the court shall advise the parent, legal custodian,
23 or caregiver of the right to counsel. The court shall appoint
24 counsel for indigent persons. The court shall ascertain
25 whether the right to counsel is understood. When right to
26 counsel is waived, the court shall determine whether the
27 waiver is knowing and intelligent. The court shall enter its
28 findings in writing with respect to the appointment or waiver
29 of counsel for indigent parties or the waiver of counsel by
30 nonindigent parties.

31

1 (b) Once counsel has entered an appearance or been
2 appointed by the court to represent the parent of the child,
3 the attorney shall continue to represent the parent throughout
4 the proceedings. If the attorney-client relationship is
5 discontinued, the court shall advise the parent of the right
6 to have new counsel retained or appointed for the remainder of
7 the proceedings.

8 (c)1. No waiver of counsel may be accepted if it
9 appears that the parent, legal custodian, or caregiver is
10 unable to make an intelligent and understanding choice because
11 of mental condition, age, education, experience, the nature or
12 complexity of the case, or other factors.

13 2. A waiver of counsel made in court must be of
14 record.

15 3. If a waiver of counsel is accepted at any hearing
16 or proceeding, the offer of assistance of counsel must be
17 renewed by the court at each subsequent stage of the
18 proceedings at which the parent, legal custodian, or caregiver
19 appears without counsel.

20 (d) This subsection does not apply to any parent who
21 has voluntarily executed a written surrender of the child and
22 consents to the entry of a court order terminating parental
23 rights.

24 (9) The time limitations in this chapter do not
25 include:

26 (a) Periods of delay resulting from a continuance
27 granted at the request or with the consent of the child's
28 counsel or the child's guardian ad litem, if one has been
29 appointed by the court, or, if the child is of sufficient
30 capacity to express reasonable consent, at the request or with
31 the consent of the child.

1 (b) Periods of delay resulting from a continuance
2 granted at the request of the attorney for the department, if
3 the continuance is granted:

4 1. Because of an unavailability of evidence material
5 to the case when the attorney for the department has exercised
6 due diligence to obtain such evidence and there are
7 substantial grounds for believing that such evidence will be
8 available within 30 days. However, if the department is not
9 prepared to present its case within 30 days, the parent or
10 guardian may move for issuance of an order to show cause or
11 the court on its own motion may impose appropriate sanctions,
12 which may include dismissal of the petition.

13 2. To allow the attorney for the department additional
14 time to prepare the case and additional time is justified
15 because of an exceptional circumstance.

16 (c) Reasonable periods of delay necessary to
17 accomplish notice of the hearing to the child's parents;
18 however, the petitioner shall continue regular efforts to
19 provide notice to the parents during such periods of delay.

20 (d) Reasonable periods of delay resulting from a
21 continuance granted at the request of the parent or legal
22 custodian of a subject child.

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

26 Section 9. Section 39.4057, Florida Statutes, is
27 renumbered as section 39.0131, Florida Statutes.

28 Section 10. Section 39.411, Florida Statutes, is
29 renumbered as section 39.0132, Florida Statutes, and amended
30 to read:

31

1 39.0132 ~~39.411~~ Oaths, records, and confidential
2 information.--

3 (1) The judge, clerks or deputy clerks, or authorized
4 agents of the department shall each have the power to
5 administer oaths and affirmations.

6 (2) The court shall make and keep records of all cases
7 brought before it pursuant to this chapter and shall preserve
8 the records pertaining to a dependent child until 10 years
9 after the last entry was made, or until the child is 18 years
10 of age, whichever date is first reached, and may then destroy
11 them, except that records of cases where orders were entered
12 permanently depriving a parent of the custody of a juvenile
13 shall be preserved permanently. The court shall make official
14 records, consisting of all petitions and orders filed in a
15 case arising pursuant to this part and any other pleadings,
16 certificates, proofs of publication, summonses, warrants, and
17 other writs which may be filed therein.

18 (3) The clerk shall keep all court records required by
19 this part separate from other records of the circuit court.
20 All court records required by this part shall not be open to
21 inspection by the public. All records shall be inspected only
22 upon order of the court by persons deemed by the court to have
23 a proper interest therein, except that, subject to the
24 provisions of s. 63.162, a child and the parents, ~~or~~ legal
25 custodians, or caregivers of the child and their attorneys,
26 guardian ad litem, law enforcement agencies, and the
27 department and its designees shall always have the right to
28 inspect and copy any official record pertaining to the child.
29 The court may permit authorized representatives of recognized
30 organizations compiling statistics for proper purposes to
31 inspect and make abstracts from official records, under

1 whatever conditions upon their use and disposition the court
2 may deem proper, and may punish by contempt proceedings any
3 violation of those conditions.

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

14 (5) All orders of the court entered pursuant to this
15 chapter shall be in writing and signed by the judge, except
16 that the clerk or deputy clerk may sign a summons or notice to
17 appear.

18 (6) No court record of proceedings under this chapter
19 shall be admissible in evidence in any other civil or criminal
20 proceeding, except that:

21 (a) Orders permanently terminating the rights of a
22 parent and committing the child to a licensed child-placing
23 agency or the department for adoption shall be admissible in
24 evidence in subsequent adoption proceedings relating to the
25 child.

26 (b) Records of proceedings under this part forming a
27 part of the record on appeal shall be used in the appellate
28 court in the manner hereinafter provided.

29 (c) Records necessary therefor shall be admissible in
30 evidence in any case in which a person is being tried upon a
31 charge of having committed perjury.

1 (d) Records of proceedings under this part may be used
2 to prove disqualification pursuant to s. 435.06 and for proof
3 regarding such disqualification in a chapter 120 proceeding.

4 Section 11. Section 39.414, Florida Statutes, is
5 renumbered as section 39.0133, Florida Statutes.

6 Section 12. Section 39.415, Florida Statutes, is
7 renumbered as section 39.0134, Florida Statutes, and amended
8 to read:

9 39.0134 ~~39.415~~ Appointed counsel; compensation.--

10 (1) If counsel is entitled to receive compensation for
11 representation pursuant to a court appointment in a dependency
12 proceeding pursuant to this chapter, such compensation shall
13 be established by each county not exceed \$1,000 at the trial
14 level and \$2,500 at the appellate level.

15 (2) If counsel is entitled to receive compensation for
16 representation pursuant to court appointment in a termination
17 of parental rights proceeding, such compensation shall not
18 exceed \$1,000 at the trial level and \$2,500 at the appellate
19 level.

20 Section 13. Section 39.418, Florida Statutes, is
21 renumbered as section 39.0135, Florida Statutes, and amended
22 to read:

23 39.0135 ~~39.418~~ Operations and Maintenance Trust
24 Fund.--~~Effective July 1, 1996, The department of Children and~~
25 ~~Family Services~~ shall deposit all child support payments made
26 to the department pursuant to this chapter ~~s. 39.41(2)~~ into
27 the Operations and Maintenance Trust Fund. The purpose of
28 this funding is to care for children who are committed to the
29 temporary legal custody of the department ~~pursuant to s.~~
30 ~~39.41(2)(a)8.~~

1 Section 14. Part II of chapter 39, Florida Statutes,
2 consisting of sections 39.201, 39.202, 39.203, 39.204, 39.205,
3 and 39.206, Florida Statutes, shall be entitled to read:

4 PART II

5 REPORTING CHILD ABUSE

6 Section 15. Section 415.504, Florida Statutes, is
7 renumbered as section 39.201, Florida Statutes, and amended to
8 read:

9 39.201 ~~415.504~~ Mandatory reports of child abuse,
10 abandonment, or neglect; mandatory reports of death; central
11 abuse hotline.--

12 (1) Any person, including, but not limited to, any:

13 (a) Physician, osteopathic physician, medical
14 examiner, chiropractor, nurse, or hospital personnel engaged
15 in the admission, examination, care, or treatment of persons;

16 (b) Health or mental health professional other than
17 one listed in paragraph (a);

18 (c) Practitioner who relies solely on spiritual means
19 for healing;

20 (d) School teacher or other school official or
21 personnel;

22 (e) Social worker, day care center worker, or other
23 professional child care, foster care, residential, or
24 institutional worker; or

25 (f) Law enforcement officer,

26
27 who knows, or has reasonable cause to suspect, that a child is
28 an abused, abandoned, or neglected child shall report such
29 knowledge or suspicion to the department in the manner
30 prescribed in subsection (2).
31

1 (2)(a) Each report of known or suspected child abuse,
2 abandonment, or neglect pursuant to this section, except those
3 solely under s. 827.04(3)~~(4)~~, shall be made immediately to the
4 department's central abuse hotline on the single statewide
5 toll-free telephone number, and, if the report is of an
6 instance of known or suspected child abuse by a noncaretaker,
7 the call shall be immediately electronically transferred to
8 the appropriate county sheriff's office by the central abuse
9 hotline. If the report is of an instance of known or
10 suspected child abuse involving impregnation of a child under
11 16 years of age by a person 21 years of age or older solely
12 under s. 827.04(3)~~(4)~~, the report shall be made immediately to
13 the appropriate county sheriff's office or other appropriate
14 law enforcement agency. If the report is of an instance of
15 known or suspected child abuse solely under s. 827.04(3)~~(4)~~,
16 the reporting provisions of this subsection do not apply to
17 health care professionals or other persons who provide medical
18 or counseling services to pregnant children when such
19 reporting would interfere with the provision of medical
20 services.

21 (b) Reporters in occupation categories designated in
22 subsection (1) are required to provide their names to the
23 hotline staff. The names of reporters shall be entered into
24 the record of the report, but shall be held confidential as
25 provided in s. 39.202 ~~415-51~~.

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

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

31

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

3 2. When the alleged juvenile sexual offender is 12
4 years of age or younger, the department shall proceed with an
5 investigation of the report pursuant to this part ~~FF~~,
6 immediately electronically transfer the call to the
7 appropriate law enforcement agency office by the central abuse
8 hotline, and send a written report of the allegation to the
9 appropriate county sheriff's office within 48 hours after the
10 initial report is made to the central abuse hotline.

11 3. When the alleged juvenile sexual offender is 13
12 years of age or older, the department shall immediately
13 electronically transfer the call to the appropriate county
14 sheriff's office by the central abuse hotline, and send a
15 written report to the appropriate county sheriff's office
16 within 48 hours after the initial report to the central abuse
17 hotline.

18 (e) Hotline counselors shall receive periodic training
19 in encouraging reporters to provide their names when reporting
20 abuse, abandonment, or neglect. Callers shall be advised of
21 the confidentiality provisions of s. 39.202 ~~415.51~~. The
22 department shall secure and install electronic equipment that
23 automatically provides to the hotline the number from which
24 the call is placed. This number shall be entered into the
25 report of abuse, abandonment, or neglect and become a part of
26 the record of the report, but shall enjoy the same
27 confidentiality as provided to the identity of the caller
28 pursuant to s. 39.202 ~~415.51~~.

29 (3) Any person required to report or investigate cases
30 of suspected child abuse, abandonment, or neglect who has
31 reasonable cause to suspect that a child died as a result of

1 child abuse, abandonment, or neglect shall report his or her
2 suspicion to the appropriate medical examiner. The medical
3 examiner shall accept the report for investigation ~~pursuant to~~
4 ~~s. 406.11~~ and shall report his or her findings, in writing, to
5 the local law enforcement agency, the appropriate state
6 attorney, and the department. Autopsy reports maintained by
7 the medical examiner are not subject to the confidentiality
8 requirements provided for in s. 39.202 ~~415.51~~.

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

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

20 (b)~~2~~. Monitor and evaluate the effectiveness of the
21 department's program for reporting and investigating suspected
22 abuse, abandonment, or neglect of children through the
23 development and analysis of statistical and other information.

24 (c)~~3~~. Track critical steps in the investigative
25 process to ensure compliance with all requirements for any
26 report of abuse, abandonment, or neglect.

27 (d)~~4~~. Maintain and produce aggregate statistical
28 reports monitoring patterns of ~~both~~ child abuse, child
29 abandonment, and child neglect. The department shall collect
30 and analyze child-on-child sexual abuse reports and include
31 the information in aggregate statistical reports.

1 (e)5. Serve as a resource for the evaluation,
2 management, and planning of preventive and remedial services
3 for children who have been subject to abuse, abandonment, or
4 neglect.

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

9 ~~(b) Upon receiving an oral or written report of known
10 or suspected child abuse or neglect, the central abuse hotline
11 shall determine if the report requires an immediate onsite
12 protective investigation. For reports requiring an immediate
13 onsite protective investigation, the central abuse hotline
14 shall immediately notify the department's designated children
15 and families district staff responsible for protective
16 investigations to ensure that an onsite investigation is
17 promptly initiated. For reports not requiring an immediate
18 onsite protective investigation, the central abuse hotline
19 shall notify the department's designated children and families
20 district staff responsible for protective investigations in
21 sufficient time to allow for an investigation, or if the
22 district determines appropriate, a family services response
23 system approach to be commenced within 24 hours. When a
24 district decides to respond to a report of child abuse or
25 neglect with a family services response system approach, the
26 provisions of part III apply. If, in the course of assessing
27 risk and services or at any other appropriate time,
28 responsible district staff determines that the risk to the
29 child requires a child protective investigation, then the
30 department shall suspend its family services response system
31 activities and shall proceed with an investigation as~~

1 ~~delineated in this part. At the time of notification of~~
2 ~~district staff with respect to the report, the central abuse~~
3 ~~hotline shall also provide information on any previous report~~
4 ~~concerning a subject of the present report or any pertinent~~
5 ~~information relative to the present report or any noted~~
6 ~~earlier reports.~~

7 ~~(c) Upon commencing an investigation under this part,~~
8 ~~the child protective investigator shall inform any subject of~~
9 ~~the investigation of the following:~~

10 ~~1. The names of the investigators and identifying~~
11 ~~credentials from the department.~~

12 ~~2. The purpose of the investigation.~~

13 ~~3. The right to obtain his or her own attorney and~~
14 ~~ways that the information provided by the subject may be used.~~

15 ~~(d) The department shall make and keep records of all~~
16 ~~cases brought before it pursuant to this part and shall~~
17 ~~preserve the records pertaining to a child and family until 7~~
18 ~~years after the last entry was made or until the child is 18~~
19 ~~years of age. The department shall then destroy the records,~~
20 ~~except where the child has been placed under the protective~~
21 ~~supervision of the department, the court has made a finding of~~
22 ~~dependency, or a criminal conviction has resulted from the~~
23 ~~facts associated with the report and there is a likelihood~~
24 ~~that future services of the department may be required.~~

25 (5) The department shall be capable of receiving and
26 investigating reports of known or suspected child abuse,
27 abandonment, or neglect 24 hours a day, 7 days a week. If it
28 appears that the immediate safety or well-being of a child is
29 endangered, that the family may flee or the child will be
30 unavailable for purposes of conducting a child protective
31 investigation, or that the facts otherwise so warrant, the

1 department shall commence an investigation immediately,
2 regardless of the time of day or night. In all other child
3 abuse, abandonment, or neglect cases, a child protective
4 investigation shall be commenced within 24 hours after receipt
5 of the report. In an institutional investigation, the alleged
6 perpetrator may be represented by an attorney, at his or her
7 own expense, or accompanied by another person, if the person
8 or the attorney executes an affidavit of understanding with
9 the department and agrees to comply with the confidentiality
10 provisions of s. 39.202. The absence of an attorney or other
11 person does not prevent the department from proceeding with
12 other aspects of the investigation, including interviews with
13 other persons. In institutional child abuse cases when the
14 institution is not operating and the child cannot otherwise be
15 located, the investigation shall commence immediately upon the
16 resumption of operation. If requested by a state attorney or
17 local law enforcement agency, the department shall furnish all
18 investigative reports to that agency.

19 (6)(e) Information in the central abuse hotline may
20 not be used for employment screening except as provided in s.
21 39.202(2)(a) and (h). Information in the central abuse hotline
22 and the department's automated abuse information system may be
23 used by the department, its authorized agents or contract
24 providers, the Department of Health, or county agencies as
25 part of the licensure or registration process pursuant to ss.
26 402.301-402.319 and ss. 409.175-409.176. Access to the
27 information shall only be granted as set forth in s. 415.51.

28 (7)(5) This section does not require a professional
29 who is hired by or enters into a contract with the department
30 for the purpose of treating or counseling any person, as a
31 result of a report of child abuse, abandonment, or neglect, to

1 again report to the central abuse hotline the abuse,
2 abandonment, or neglect that was the subject of the referral
3 for treatment.

4 Section 16. Section 415.511, Florida Statutes, is
5 renumbered as section 39.203, Florida Statutes, and amended to
6 read:

7 39.203 ~~415.511~~ Immunity from liability in cases of
8 child abuse, abandonment, or neglect.--

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

16 (b) Except as provided in this chapter ~~s.~~
17 ~~415.503(10)(f)~~, nothing contained in this section shall be
18 deemed to grant immunity, civil or criminal, to any person
19 suspected of having abused, abandoned, or neglected a child,
20 or committed any illegal act upon or against a child.

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

25 (b) Any person making a report under this section
26 shall have a civil cause of action for appropriate
27 compensatory and punitive damages against any person who
28 causes detrimental changes in the employment status of such
29 reporting party by reason of his or her making such report.
30 Any detrimental change made in the residency or employment
31 status of such person, including, but not limited to,

1 discharge, termination, demotion, transfer, or reduction in
2 pay or benefits or work privileges, or negative evaluations
3 within a prescribed period of time shall establish a
4 rebuttable presumption that such action was retaliatory.

5 Section 17. Section 415.512, Florida Statutes, is
6 renumbered as section 39.204, Florida Statutes, and amended to
7 read:

8 39.204 ~~415.512~~ Abrogation of privileged communications
9 in cases involving child abuse, abandonment, or neglect.--The
10 privileged quality of communication between husband and wife
11 and between any professional person and his or her patient or
12 client, and any other privileged communication except that
13 between attorney and client or the privilege provided in s.
14 90.505, as such communication relates both to the competency
15 of the witness and to the exclusion of confidential
16 communications, shall not apply to any communication involving
17 the perpetrator or alleged perpetrator in any situation
18 involving known or suspected child abuse, abandonment, or
19 neglect and shall not constitute grounds for failure to report
20 as required by s. 39.201 ~~415.504~~ regardless of the source of
21 the information requiring the report, failure to cooperate
22 with the department in its activities pursuant to this chapter
23 ~~ss. 415.502-415.514~~, or failure to give evidence in any
24 judicial proceeding relating to child abuse, abandonment, or
25 neglect.

26 Section 18. Section 415.513, Florida Statutes, is
27 renumbered as section 39.205, Florida Statutes, and amended to
28 read:

29 39.205 ~~415.513~~ Penalties relating to ~~abuse~~ reporting
30 of child abuse, abandonment, or neglect.--

31

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

7 (2) A person who knowingly and willfully makes public
8 or discloses any confidential information contained in the
9 central abuse hotline registry and tracking system or in the
10 records of any child abuse, abandonment, or neglect case,
11 except as provided in this chapter ss. 415.502-415.514, is
12 guilty of a misdemeanor of the second degree, punishable as
13 provided in s. 775.082 or s. 775.083.

14 (3) The department shall establish procedures for
15 determining whether a false report of child abuse,
16 abandonment, or neglect has been made and for submitting all
17 identifying information relating to such a report to the
18 appropriate law enforcement agency and the state attorney for
19 prosecution.

20 (4) A person who knowingly and willfully makes a false
21 report of child abuse, abandonment, or neglect, or who advises
22 another to make a false report, is guilty of a misdemeanor of
23 the second degree, punishable as provided in s. 775.082 or s.
24 775.083. Anyone making a report who is acting in good faith is
25 immune from any liability under this subsection.

26 (5) Each state attorney shall establish procedures to
27 facilitate the prosecution of persons under this section.

28 Section 19. Section 415.5131, Florida Statutes, is
29 renumbered as section 39.206, Florida Statutes, and amended to
30 read:

31

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

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

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

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

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

31

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

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

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

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

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

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

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

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

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

5 (10) Any person making a report who is acting in good
6 faith is immune from any liability under this section and
7 shall continue to be entitled to have the confidentiality of
8 their identity maintained.

9 Section 20. Part III of chapter 39, Florida Statutes,
10 consisting of sections 39.301, 39.302, 39.303, 39.3035,
11 39.304, 39.305, 39.306, and 39.307, Florida Statutes, shall be
12 entitled to read:

13 PART III

14 PROTECTIVE INVESTIGATIONS

15 Section 21. Section 39.301, Florida Statutes, is
16 created to read:

17 39.301 Initiation of protective investigations.--

18 (1) Upon receiving an oral or written report of known
19 or suspected child abuse, abandonment, or neglect, the central
20 abuse hotline shall determine if the report requires an
21 immediate onsite protective investigation. For reports
22 requiring an immediate onsite protective investigation, the
23 central abuse hotline shall immediately notify the
24 department's designated children and families district staff
25 responsible for protective investigations to ensure that an
26 onsite investigation is promptly initiated. For reports not
27 requiring an immediate onsite protective investigation, the
28 central abuse hotline shall notify the department's designated
29 children and families district staff responsible for
30 protective investigations in sufficient time to allow for an
31 investigation. At the time of notification of district staff

1 with respect to the report, the central abuse hotline shall
2 also provide information on any previous report concerning a
3 subject of the present report or any pertinent information
4 relative to the present report or any noted earlier reports.

5 (2)(a) Upon commencing an investigation under this
6 part, the child protective investigator shall inform any
7 subject of the investigation of the following:

8 1. The names of the investigators and identifying
9 credentials from the department.

10 2. The purpose of the investigation.

11 3. The right to obtain his or her own attorney and
12 ways that the information provided by the subject may be used.

13 4. The possible outcomes and services of the
14 department's response shall be explained to the caregiver.

15 5. The right of the parent, legal custodian, or
16 caregiver to be involved to the fullest extent possible in
17 determining the nature of the allegation and the nature of any
18 identified problem.

19 (b) The department's training program shall ensure
20 that protective investigators know how to fully inform
21 parents, guardians, and caregivers of their rights and
22 options, including opportunities for audio or video recording
23 of investigators' interviews with parents, guardians,
24 caretakers, or children.

25 (3) An assessment of risk and the perceived needs of
26 the child and family shall be conducted in a manner that is
27 sensitive to the social, economic, and cultural environment of
28 the family.

29 (4) Protective investigations shall be performed by
30 the department or its agent.

31

1 (5) The person responsible for the investigation shall
2 make a preliminary determination as to whether the report or
3 complaint is complete, consulting with the attorney for the
4 department when necessary. In any case in which the person
5 responsible for the investigation finds that the report or
6 complaint is incomplete, he or she shall return it without
7 delay to the person or agency originating the report or
8 complaint or having knowledge of the facts, or to the
9 appropriate law enforcement agency having investigative
10 jurisdiction, and request additional information in order to
11 complete the report or complaint; however, the confidentiality
12 of any report filed in accordance with this chapter shall not
13 be violated.

14 (a) If it is determined that the report or complaint
15 is complete, after determining that such action would be in
16 the best interests of the child, the attorney for the
17 department shall file a petition for dependency.

18 (b) If it is determined that the report or complaint
19 is complete, but the interests of the child and the public
20 will be best served by providing the child care or other
21 treatment voluntarily accepted by the child and the parents,
22 caregivers, or legal custodians, the protective investigator
23 may refer the child for such care or other treatment.

24 (c) If the person conducting the investigation refuses
25 to request that the attorney for the department file a
26 petition for dependency, the complainant shall be advised of
27 the right to file a petition pursuant to this part.

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

30 (a) Determine the composition of the family or
31 household, including the name, address, date of birth, social

1 security number, sex, and race of each child named in the
2 report; any siblings or other children in the same household
3 or in the care of the same adults; the parents, legal
4 custodians, or caregivers; and any other adults in the same
5 household.

6 (b) Determine whether there is indication that any
7 child in the family or household has been abused, abandoned,
8 or neglected; the nature and extent of present or prior
9 injuries, abuse, or neglect, and any evidence thereof; and a
10 determination as to the person or persons apparently
11 responsible for the abuse, abandonment, or neglect, including
12 the name, address, date of birth, social security number, sex,
13 and race of each such person.

14 (c) Determine the immediate and long-term risk to each
15 child by conducting state and federal records checks on the
16 parents, legal custodians, or caregivers, and any other
17 persons in the same household. This information shall be used
18 solely for purposes supporting the detection, apprehension,
19 prosecution, pretrial release, post-trial release, or
20 rehabilitation of criminal offenders or persons accused of the
21 crimes of child abuse, abandonment, or neglect and shall not
22 be further disseminated or used for any other purpose. The
23 department's child protection investigators are hereby
24 designated a criminal justice agency for the purpose of
25 accessing criminal justice information to be used for
26 enforcing this state's laws concerning the crimes of child
27 abuse, abandonment, and neglect.

28 (d) Determine the immediate and long-term risk to each
29 child through utilization of standardized risk-assessment
30 instruments.

31

1 (e) Based on the information obtained from the
2 caregiver, complete the risk-assessment instrument within 48
3 hours after the initial contact and, if needed, develop a case
4 plan.

5 (f) Determine the protective, treatment, and
6 ameliorative services necessary to safeguard and ensure the
7 child's safety and well-being and development, and cause the
8 delivery of those services through the early intervention of
9 the department or its agent.

10 (7) If the department or its agent is denied
11 reasonable access to a child by the parents, legal custodians,
12 or caregivers and the department deems that the best interests
13 of the child so require, it shall seek an appropriate court
14 order or other legal authority prior to examining and
15 interviewing the child. The department must show cause to the
16 court that it is necessary to examine and interview the child.
17 If the department interviews a child, the interview must be
18 audio recorded or videotaped, unless the court orders
19 otherwise for good cause. The court shall consider the best
20 interests and safety of the child in making such a
21 determination. If the department interviews a child, the
22 interview must be audio recorded or videotaped.

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

25 (a) Medical or other health care;

26 (b) Homemaker care, day care, protective supervision,
27 or other services to stabilize the home environment, including
28 intensive family preservation services through the Family
29 Builders Program, the Intensive Crisis Counseling Program, or
30 both; or

31

1 (c) Foster care, shelter care, or other substitute
2 care to remove the child from the custody of the parents,
3 legal guardians, or caregivers,
4
5 such services shall first be offered for voluntary acceptance
6 unless there are high-risk factors that may impact the ability
7 of the parents, legal guardians, or caregivers to exercise
8 judgment. Such factors may include the parents', legal
9 guardians', or caregivers' young age or history of substance
10 abuse or domestic violence. The parents, legal custodians, or
11 caregivers shall be informed of the right to refuse services,
12 as well as the responsibility of the department to protect the
13 child regardless of the acceptance or refusal of services. If
14 the services are refused and the department deems that the
15 child's need for protection so requires, the department shall
16 take the child into protective custody or petition the court
17 as provided in this chapter.

18 (9) When a child is taken into custody pursuant to
19 this section, the authorized agent of the department shall
20 request that the child's parent, caregiver, or legal custodian
21 disclose the names, relationships, and addresses of all
22 parents and prospective parents and all next of kin, so far as
23 are known.

24 (10) No later than 30 days after receiving the initial
25 report, the local office of the department shall complete its
26 investigation.

27 (11) Immediately upon receipt of a report alleging, or
28 immediately upon learning during the course of an
29 investigation, that:

30 (a) The immediate safety or well-being of a child is
31 endangered;

1 (b) The family is likely to flee;
2 (c) A child has died as a result of abuse,
3 abandonment, or neglect;
4 (d) A child is a victim of aggravated child abuse as
5 defined in s. 827.03; or
6 (e) A child is a victim of sexual battery or of sexual
7 abuse,
8
9 the department shall orally notify the jurisdictionally
10 responsible state attorney and county sheriff's office or
11 local police department and, as soon as practicable, transmit
12 the report to those agencies. The law enforcement agency
13 shall review the report and determine whether a criminal
14 investigation needs to be conducted and shall assume lead
15 responsibility for all criminal fact-finding activities. A
16 criminal investigation shall be coordinated, whenever
17 possible, with the child protective investigation of the
18 department. Any interested person who has information
19 regarding an offense described in this subsection may forward
20 a statement to the state attorney as to whether prosecution is
21 warranted and appropriate.
22 (12) In a child protective investigation or a criminal
23 investigation, when the initial interview with the child is
24 conducted at school, the department or the law enforcement
25 agency may allow, notwithstanding the provisions of s.
26 39.0132(4), a school instructional staff member who is known
27 by the child to be present during the initial interview if:
28 (a) The department or law enforcement agency believes
29 that the school instructional staff member could enhance the
30 success of the interview by his or her presence; and
31

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

3
4 School instructional staff may be present only when authorized
5 by this subsection. Information received during the interview
6 or from any other source regarding the alleged abuse or
7 neglect of the child shall be confidential and exempt from the
8 provisions of s. 119.07(1), except as otherwise provided by
9 court order. A separate record of the investigation of the
10 abuse, abandonment, or neglect shall not be maintained by the
11 school or school instructional staff member. Violation of this
12 subsection constitutes a misdemeanor of the second degree,
13 punishable as provided in s. 775.082 or s. 775.083.

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

20 Section 22. Section 39.302, Florida Statutes, is
21 created to read:

22 39.302 Protective investigations of institutional
23 child abuse, abandonment, or neglect.--

24 (1) The department shall conduct a child protective
25 investigation of each report of institutional child abuse,
26 abandonment, or neglect. Upon receipt of a report that
27 alleges that an employee or agent of the department, or any
28 other entity or person covered by s. 39.01(32) or (47), acting
29 in an official capacity, has committed an act of child abuse,
30 abandonment, or neglect, the department shall immediately
31 initiate a child protective investigation and orally notify

1 the appropriate state attorney, law enforcement agency, and
2 licensing agency. These agencies shall immediately conduct a
3 joint investigation, unless independent investigations are
4 more feasible. When a facility is exempt from licensing, the
5 department shall inform the owner or operator of the facility
6 of the report. Each agency conducting a joint investigation
7 shall be entitled to full access to the information gathered
8 by the department in the course of the investigation. In all
9 cases, the department shall make a full written report to the
10 state attorney within 3 days after making the oral report. A
11 criminal investigation shall be coordinated, whenever
12 possible, with the child protective investigation of the
13 department. Any interested person who has information
14 regarding the offenses described in this subsection may
15 forward a statement to the state attorney as to whether
16 prosecution is warranted and appropriate. Within 15 days after
17 the completion of the investigation, the state attorney shall
18 report the findings to the department and shall include in
19 such report a determination of whether or not prosecution is
20 justified and appropriate in view of the circumstances of the
21 specific case.

22 (2)(a) If in the course of the child protective
23 investigation, the department finds that a subject of a
24 report, by continued contact with children in care,
25 constitutes a threatened harm to the physical health, mental
26 health, or welfare of the children, the department may
27 restrict the subject's access to the children pending the
28 outcome of the investigation. The department or its agent
29 shall employ the least restrictive means necessary to
30 safeguard the physical health, mental health, and welfare of
31 the children in care. This authority shall apply only to

1 child protective investigations in which there is some
2 evidence that child abuse, abandonment, or neglect has
3 occurred. A subject of a report whose access to children in
4 care has been restricted is entitled to petition the circuit
5 court for judicial review. The court shall enter written
6 findings of fact based upon the preponderance of evidence that
7 child abuse, abandonment, or neglect did occur and that the
8 department's restrictive action against a subject of the
9 report was justified in order to safeguard the physical
10 health, mental health, and welfare of the children in care.
11 The restrictive action of the department shall be effective
12 for no more than 90 days without a judicial finding supporting
13 the actions of the department.

14 (b) Upon completion of the department's child
15 protective investigation, the department may make application
16 to the circuit court for continued restrictive action against
17 any person necessary to safeguard the physical health, mental
18 health, and welfare of the children in care.

19 (3) Pursuant to the restrictive actions described in
20 subsection (2), in cases of institutional abuse, abandonment,
21 or neglect in which the removal of a subject of a report will
22 result in the closure of the facility, and when requested by
23 the owner of the facility, the department may provide
24 appropriate personnel to assist in maintaining the operation
25 of the facility. The department may provide assistance when
26 it can be demonstrated by the owner that there are no
27 reasonable alternatives to such action. The length of the
28 assistance shall be agreed upon by the owner and the
29 department; however, the assistance shall not be for longer
30 than the course of the restrictive action imposed pursuant to
31

1 subsection (2). The owner shall reimburse the department for
2 the assistance of personnel provided.

3 (4) The department shall notify the human rights
4 advocacy committee in the appropriate district of the
5 department as to every report of institutional child abuse,
6 abandonment, or neglect in the district in which a client of
7 the department is alleged or shown to have been abused,
8 abandoned, or neglected, which notification shall be made
9 within 48 hours after the department commences its
10 investigation.

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

15 (6) In cases of institutional child abuse,
16 abandonment, or neglect in which the multiplicity of reports
17 of abuse, abandonment, or neglect or the severity of the
18 allegations indicates the need for specialized investigation
19 by the department in order to afford greater safeguards for
20 the physical health, mental health, and welfare of the
21 children in care, the department shall provide a team of
22 persons specially trained in the areas of child abuse,
23 abandonment, and neglect investigations, diagnosis, and
24 treatment to assist the local office of the department in
25 expediting its investigation and in making recommendations for
26 restrictive actions and to assist in other ways deemed
27 necessary by the department in order to carry out the
28 provisions of this section. The specially trained team shall
29 also provide assistance to any investigation of the
30 allegations by local law enforcement and the Department of Law
31 Enforcement.

1 Section 23. Section 415.5055, Florida Statutes, is
2 renumbered as section 39.303, Florida Statutes, and amended to
3 read:

4 39.303 ~~415.5055~~ Child protection teams; services;
5 eligible cases.--The department shall develop, maintain, and
6 coordinate the services of one or more multidisciplinary child
7 protection teams in each of the service districts of the
8 department. Such teams may be composed of representatives of
9 appropriate health, mental health, social service, legal
10 service, and law enforcement agencies. The Legislature finds
11 that optimal coordination of child protection teams and sexual
12 abuse treatment programs requires collaboration between the
13 Department of Health and the Department of Children and Family
14 Services. The two departments shall maintain an interagency
15 agreement that establishes protocols for oversight and
16 operations of child protection teams and sexual abuse
17 treatment programs. The Secretary of Health and the Director
18 of the Division of Children's Medical Services, in
19 consultation with the Secretary of Children and Family
20 Services, shall maintain the responsibility for the screening,
21 employment, and, if necessary, the termination of child
22 protection team medical directors, at headquarters and in the
23 15 districts. Child protection team medical directors shall be
24 responsible for oversight of the teams in the districts.

25 (1) The department shall utilize and convene the teams
26 to supplement the assessment and protective supervision
27 activities of ~~the children, youth, and families program~~ of the
28 department. Nothing in this section shall be construed to
29 remove or reduce the duty and responsibility of any person to
30 report pursuant to this chapter ~~s. 415.504~~ all suspected or
31 actual cases of child abuse, abandonment, or neglect or sexual

1 abuse of a child. The role of the teams shall be to support
2 activities of the program and to provide services deemed by
3 the teams to be necessary and appropriate to abused,
4 abandoned, and neglected children upon referral. The
5 specialized diagnostic assessment, evaluation, coordination,
6 consultation, and other supportive services that a child
7 protection team shall be capable of providing include, but are
8 not limited to, the following:

9 (a) Medical diagnosis and evaluation services,
10 including provision or interpretation of X rays and laboratory
11 tests, and related services, as needed, and documentation of
12 findings relative thereto.

13 (b) Telephone consultation services in emergencies and
14 in other situations.

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

17 (d) Such psychological and psychiatric diagnosis and
18 evaluation services for the child or the child's parent or
19 parents, legal custodian or custodians ~~guardian or guardians~~,
20 or other caregivers, or any other individual involved in a
21 child abuse, abandonment, or neglect case, as the team may
22 determine to be needed.

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

30 (f) Expert medical, psychological, and related
31 professional testimony in court cases.

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

14 (h) Case service coordination and assistance,
15 including the location of services available from other public
16 and private agencies in the community.

17 (i) Such training services for program and other
18 department employees as is deemed appropriate to enable them
19 to develop and maintain their professional skills and
20 abilities in handling child abuse, abandonment, and neglect
21 cases.

22 (j) Educational and community awareness campaigns on
23 child abuse, abandonment, and neglect in an effort to enable
24 citizens more successfully to prevent, identify, and treat
25 child abuse, abandonment, and neglect in the community.

26 (2) The child abuse, abandonment, and neglect cases
27 that are appropriate for referral by the children, youth, and
28 families program to child protection teams for support
29 services as set forth in subsection (1) include, but are not
30 limited to, cases involving:

31

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

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

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

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

10 (e) Reported malnutrition of a child and failure of a
11 child to thrive.

12 (f) Reported medical, physical, or emotional neglect
13 of a child.

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

19 (h) Symptoms of serious emotional problems in a child
20 when emotional or other abuse, abandonment, or neglect is
21 suspected.

22 ~~(3) All records and reports of the child protection~~
23 ~~team are confidential and exempt from the provisions of ss.~~
24 ~~119.07(1) and 455.241, and shall not be disclosed, except,~~
25 ~~upon request, to the state attorney, law enforcement, the~~
26 ~~department, and necessary professionals, in furtherance of the~~
27 ~~treatment or additional evaluative needs of the child or by~~
28 ~~order of the court.~~

29 (3) In all instances in which a child protection team
30 is providing certain services to abused, abandoned, or
31

1 neglected children, other offices and units of the department
2 shall avoid duplicating the provision of those services.

3 Section 24. Section 39.3035, Florida Statutes, is
4 created to read:

5 39.3035 Child advocacy centers; standards; state
6 funding.--

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

10 (a) Be a private, nonprofit incorporated agency or a
11 governmental entity.

12 (b) Be a child protection team with established
13 community protocols that meet all of the requirements of the
14 National Network of Children's Advocacy Centers, Inc.

15 (c) Have a neutral, child-focused facility where joint
16 department and law enforcement interviews take place with
17 children in appropriate cases of suspected child sexual abuse
18 or physical abuse. All multidisciplinary agencies shall have
19 a place to interact with the child as investigative or
20 treatment needs require.

21 (d) Have a minimum designated staff that is supervised
22 and approved by the local board of directors or governmental
23 entity.

24 (e) Have a multidisciplinary case review team that
25 meets on a regularly scheduled basis or as the caseload of the
26 community requires. The team shall consist of representatives
27 from the Office of the State Attorney, the department, the
28 child protection team, mental health services, law
29 enforcement, and the child advocacy center staff. Medical
30 personnel and a victim's advocate may be part of the team.

31

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

8 (g) Provide referrals for medical exams and mental
9 health therapy. The center shall provide followup on cases
10 referred for mental health therapy.

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

13 (i) Have an interagency commitment, in writing,
14 covering those aspects of agency participation in a
15 multidisciplinary approach to the handling of child sexual
16 abuse and serious physical abuse cases.

17 (2) Provide assurance that child advocacy center
18 employees and volunteers at the center are trained and
19 screened in accordance with s. 39.001(2).

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

25 Section 25. Section 415.507, Florida Statutes, is
26 renumbered as section 39.304, Florida Statutes, and amended to
27 read:

28 39.304 ~~415.507~~ Photographs, medical examinations, X
29 rays, and medical treatment of abused, abandoned, or neglected
30 child.--
31

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

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

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

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

27 (b) If a parent or legal custodian ~~guardian~~ of the
28 child is unavailable and his or her whereabouts cannot be
29 reasonably ascertained, and it is after normal working hours
30 so that a court order cannot reasonably be obtained, an
31 authorized agent of the department shall have the authority to

1 consent to necessary medical treatment for the child. The
2 authority of the department to consent to medical treatment in
3 this circumstance shall be limited to the time reasonably
4 necessary to obtain court authorization.

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

15
16 In no case shall the department consent to sterilization,
17 abortion, or termination of life support.

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

25 (4)~~(3)~~ Any photograph or report on examinations made
26 or X rays taken pursuant to this section, or copies thereof,
27 shall be sent to the department as soon as possible.

28 (5)~~(4)~~ The county in which the child is a resident
29 shall bear the initial costs of the examination of the
30 allegedly abused, abandoned, or neglected child; however, the
31 parents, caregiver ~~legal guardian~~, or legal custodian of the

1 child shall be required to reimburse the county for the costs
2 of such examination, other than an initial forensic physical
3 examination as provided in s. 960.28, and to reimburse the
4 department of ~~Children and Family Services~~ for the cost of the
5 photographs taken pursuant to this section. A medical
6 provider may not bill a child victim, directly or indirectly,
7 for the cost of an initial forensic physical examination.

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

18 Section 26. Section 415.5095, Florida Statutes, is
19 renumbered as section 39.305, Florida Statutes, and amended to
20 read:

21 39.305 ~~415.5095~~ Intervention and treatment in sexual
22 abuse cases; model plan.--

23 ~~(1) The impact of sexual abuse on the child and family~~
24 ~~has caused the Legislature to determine that special~~
25 ~~intervention and treatment must be offered in certain cases so~~
26 ~~that the child can be protected from further abuse, the family~~
27 ~~can be kept together, and the abuser can benefit from~~
28 ~~treatment. To further this end, it is the intent of the~~
29 ~~Legislature that special funding shall be available in those~~
30 ~~communities where agencies and professionals are able to work~~

31

1 ~~cooperatively to effectuate intervention and treatment in~~
2 ~~intrafamily sexual abuse cases.~~

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

11 Section 27. Section 39.306, Florida Statutes, is
12 created to read:

13 39.306 Child protective investigations; working
14 agreements with local law enforcement.--The department shall
15 enter into agreements with the jurisdictionally responsible
16 county sheriffs' offices and local police departments that
17 will assume the lead in conducting any potential criminal
18 investigations arising from allegations of child abuse,
19 abandonment, or neglect. The written agreement must specify
20 how the requirements of this chapter will be met. For the
21 purposes of such agreement, the jurisdictionally responsible
22 law enforcement entity is authorized to share Florida criminal
23 history information that is not otherwise exempt from s.
24 119.07(1) with the district personnel, authorized agent, or
25 contract provider directly responsible for the child
26 protective investigation and emergency child placement. The
27 agencies entering into such agreement must comply with s.
28 943.0525. Criminal justice information provided by such law
29 enforcement entity shall be used only for the purposes
30 specified in the agreement and shall be provided at no charge.
31 Notwithstanding any other provision of law, the Department of

1 Law Enforcement shall provide to the department electronic
2 access to Florida criminal justice information that is
3 lawfully available and not exempt from s. 119.07(1), only for
4 the purpose of child protective investigations and emergency
5 child placement. As a condition of access to such
6 information, the department shall be required to execute an
7 appropriate user agreement addressing the access, use,
8 dissemination, and destruction of such information and to
9 comply with all applicable laws and regulations and with rules
10 of the Department of Law Enforcement.

11 Section 28. Section 415.50171, Florida Statutes, is
12 renumbered as section 39.307, Florida Statutes, and amended to
13 read:

14 39.307 ~~415.50171~~ ~~Family services response system;~~
15 Reports of child-on-child sexual abuse.--

16 (1) ~~Subject to specific appropriation,~~ Upon receiving
17 a report alleging juvenile sexual abuse as defined in s.
18 39.01(7)(b), the department shall assist the family in
19 receiving appropriate services ~~415.50165(7), district staff~~
20 ~~shall, unless caregiver abuse or neglect is involved, use a~~
21 ~~family services response system approach~~ to address the
22 allegations of the report.

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

25 (a) The purpose of the response to a report alleging
26 juvenile sexual abuse behavior shall be explained to the
27 caregiver.

28 1. The purpose of the response shall be explained in a
29 manner consistent with legislative purpose and intent provided
30 in this chapter ~~part~~.

31

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

4 3. The possible consequences of the department's
5 response, including outcomes and services, shall be explained
6 to the caregiver of the alleged juvenile sexual offender and
7 the victim's family or caregiver.

8 (b) The caregiver of the alleged juvenile sexual
9 offender and the caregiver of the victim shall be involved to
10 the fullest extent possible in determining the nature of the
11 allegation and the nature of any problem or risk to other
12 children.

13 (c) The assessment of risk and the perceived treatment
14 needs of the alleged juvenile sexual offender, the victim, and
15 respective caregivers shall be conducted by the district
16 staff, the child protection team, and other providers under
17 contract with the department to provide services to the
18 caregiver of the alleged offender, the victim, and the
19 victim's caregiver.

20 (d) The assessment shall be conducted in a manner that
21 is sensitive to the social, economic, and cultural environment
22 of the family.

23 (e) When necessary, the child protection team shall
24 conduct an evidence-gathering physical examination of the
25 victim.

26 (f) Based on the information obtained from the alleged
27 juvenile sexual offender, the alleged juvenile sexual
28 offender's caregiver, the victim, and the victim's caregiver,
29 an assessment service and treatment needs report must be
30 completed within 7 days and, if needed, a case plan developed
31 within 30 days.

1 (g) The department shall classify the outcome of its
2 initial assessment of the report as follows:

3 1. Report closed. Services were not offered to the
4 alleged juvenile sexual offender because the department
5 determined that there was no basis for intervention.

6 2. Services accepted by alleged offender. Services
7 were offered to the alleged juvenile sexual offender and
8 accepted by the caregiver.

9 3. Report closed. Services were offered to the
10 alleged juvenile sexual offender, but were rejected by the
11 caregiver.

12 4. Notification to law enforcement. Either the risk
13 to the victim's safety and well-being cannot be reduced by the
14 provision of services or the family rejected services, and
15 notification of the alleged delinquent act or violation of law
16 to the appropriate law enforcement agency was initiated.

17 5. Services accepted by victim. Services were offered
18 to the victim of the alleged juvenile sexual offender and
19 accepted by the caregiver.

20 6. Report closed. Services were offered to the victim
21 of the alleged juvenile sexual offender, but were rejected by
22 the caregiver.

23 (3) When services have been accepted by the alleged
24 juvenile sexual offender, victim, and respective caregivers or
25 family, the department shall designate a case manager and
26 develop a specific case plan.

27 (a) Upon receipt of the plan, the caregiver or family
28 shall indicate its acceptance of the plan in writing.

29 (b) The case manager shall periodically review the
30 progress toward achieving the objectives of the plan in order
31 to:

1 1. Make adjustments to the plan or take additional
2 action as provided in this part; or

3 2. Terminate the case when indicated by successful or
4 substantial achievement of the objectives of the plan.

5 (4) In the event the family or caregiver of the
6 alleged juvenile sexual offender fails to adequately
7 participate or allow for the adequate participation of the
8 juvenile sexual offender in the services or treatment
9 delineated in the case plan, the case manager may recommend
10 that the department:

11 (a) Close the case;

12 (b) Refer the case to mediation or arbitration, if
13 available; or

14 (c) Notify the appropriate law enforcement agency of
15 failure to comply.

16 (5) Services to the alleged juvenile sexual offender,
17 the victim, and respective caregivers or family under this
18 section shall be voluntary and of necessary duration.

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

23 (7) The department is authorized to develop rules and
24 other policy directives necessary to implement the provisions
25 of this section.

26 Section 29. Part IV of chapter 39, Florida Statutes,
27 consisting of sections 39.311, 39.312, 39.313, 39.314, 39.315,
28 39.316, 39.317, and 39.318, Florida Statutes, shall be
29 entitled to read:

30 PART IV

31 FAMILY BUILDERS PROGRAM

1 Section 30. Section 415.515, Florida Statutes, is
2 renumbered as section 39.311, Florida Statutes, and amended to
3 read:

4 39.311 ~~415.515~~ Establishment of Family Builders
5 Program.--

6 (1) Any Family Builders Program that is established by
7 the department of ~~Children and Family Services~~ or the
8 ~~Department of Juvenile Justice~~ shall provide family
9 preservation services to families whose children are at risk
10 of imminent out-of-home placement because they are dependent
11 ~~or delinquent or are children in need of services~~, to reunite
12 families whose children have been removed and placed in foster
13 care, and to maintain adoptive families intact who are at risk
14 of fragmentation. The Family Builders Program shall provide
15 programs to achieve long-term changes within families that
16 will allow children to remain with their families as an
17 alternative to the more expensive and potentially
18 psychologically damaging program of out-of-home placement.

19 (2) The department of ~~Children and Family Services~~ and
20 ~~the Department of Juvenile Justice~~ may adopt rules to
21 implement the Family Builders Program.

22 Section 31. Section 415.516, Florida Statutes, is
23 renumbered as section 39.312, Florida Statutes, and amended to
24 read:

25 39.312 ~~415.516~~ Goals.--The goals of any Family
26 Builders Program shall be to:

27 (1) Ensure child health and safety while working with
28 the family.

29 (2) ~~(1)~~ Help parents to improve their relationships
30 with their children and to provide better care, nutrition,
31 hygiene, discipline, protection, instruction, and supervision.

1 (3)~~(2)~~ Help parents to provide a better household
2 environment for their children by improving household
3 maintenance, budgeting, and purchasing.

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

6 (5)~~(4)~~ Perform household maintenance, budgeting, and
7 purchasing when parents are unable to do so on their own or
8 need temporary relief.

9 (6)~~(5)~~ Assist parents and children to manage and
10 resolve conflicts.

11 (7)~~(6)~~ Assist parents to meet the special physical,
12 mental, or emotional needs of their children and help parents
13 to deal with their own special physical, mental, or emotional
14 needs that interfere with their ability to care for their
15 children and to manage their households.

16 (8)~~(7)~~ Help families to discover and gain access to
17 community resources to which the family or children might be
18 entitled and which would assist the family in meeting its
19 needs and the needs of the children, including the needs for
20 food, clothing, housing, utilities, transportation,
21 appropriate educational opportunities, employment, respite
22 care, and recreational and social activities.

23 (9)~~(8)~~ Help families by providing cash or in-kind
24 assistance to meet their needs for food, clothing, housing, or
25 transportation when such needs prevent or threaten to prevent
26 parents from caring for their children, and when such needs
27 are not met by other sources in the community in a timely
28 fashion.

29 ~~(9) Emphasize parental responsibility and facilitate~~
30 ~~counseling for children at high risk of delinquent behavior~~
31 ~~and their parents.~~

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

4 Section 32. Section 415.517, Florida Statutes, is
5 renumbered as section 39.313, Florida Statutes, and amended to
6 read:

7 39.313 ~~415.517~~ Contracting of services.--The
8 department may contract for the delivery of Family Builders
9 Program services by professionally qualified persons or local
10 governments when it determines that it is in the family's best
11 interest. The service provider or program operator must
12 submit to the department monthly activity reports covering any
13 services rendered. These activity reports must include
14 project evaluation in relation to individual families being
15 served, as well as statistical data concerning families
16 referred for services who are not served due to the
17 unavailability of resources. The costs of program evaluation
18 are an allowable cost consideration in any service contract
19 negotiated in accordance with this section ~~subsection~~.

20 Section 33. Section 415.518, Florida Statutes, is
21 renumbered as section 39.314, Florida Statutes, and amended to
22 read:

23 39.314 ~~415.518~~ Eligibility for Family Builders Program
24 services.--Family Builders Program services must be made
25 available to a family at risk on a voluntary basis, provided
26 the family meets the eligibility requirements as established
27 by rule and there is space available in the program. All
28 members of the families who accept such services are
29 responsible for cooperating fully with the family preservation
30 plan developed for each family under s. 39.315 ~~this section~~.
31 Families in which children are at imminent risk of sexual

1 abuse or physical endangerment perpetrated by a member of
2 their immediate household are not eligible to receive family
3 preservation services unless the perpetrator is in, or has
4 agreed to enter, a program for treatment and the safety of the
5 children may be enhanced through participation in the Family
6 Builders Program.

7 Section 34. Section 415.519, Florida Statutes, is
8 renumbered as section 39.315, Florida Statutes.

9 Section 35. Section 415.520, Florida Statutes, is
10 renumbered as section 39.316, Florida Statutes, and amended to
11 read:

12 39.316 ~~415.520~~ Qualifications of Family Builders
13 Program workers.--

14 (1) A public or private agency staff member who
15 provides direct service to an eligible family must possess a
16 bachelor's degree in a human-service-related field and 2
17 years' experience providing direct services to children,
18 youth, or their families or possess a master's degree in a
19 human-service-related field with 1 year of experience. A
20 person who supervises caseworkers who provide direct services
21 to eligible families must possess a master's degree in a
22 human-service-related field and have at least 2 years of
23 experience in social work or counseling or must possess a
24 bachelor's degree in a human-service-related field and have at
25 least 3 years' experience in social work or counseling.

26 (2) A person who provides paraprofessional aide
27 services to families must possess a valid high school diploma
28 or a Graduate Equivalency Diploma and must have a minimum of 2
29 years' experience in working with families with children.
30 Experience in a volunteer capacity while working with families
31 may be included in the 2 years of required experience.

1 (3) Caseworkers must successfully complete at least 40
2 hours of intensive training prior to providing direct services
3 ~~service~~ under this program. Paraprofessional aides and
4 supervisors must, within 90 days after hiring, complete a
5 training program prescribed by the department on child abuse,
6 abandonment, and neglect and an overview of the children,
7 youth, and families program components and service delivery
8 system. Program supervisors and caseworkers must thereafter
9 complete at least 40 hours of additional training each year in
10 accordance with standards established by the department.

11 Section 36. Section 415.521, Florida Statutes, is
12 renumbered as section 39.317, Florida Statutes.

13 Section 37. Section 415.522, Florida Statutes, is
14 renumbered as section 39.318, Florida Statutes, and amended to
15 read:

16 39.318 ~~415.522~~ Funding.--The department is authorized
17 to use appropriate state, federal, and private funds within
18 its budget for operating the Family Builders Program. For
19 each child served, the cost of providing home-based services
20 described in this part ~~act~~ must not exceed the costs of
21 out-of-home care which otherwise would be incurred.

22 Section 38. Part V of chapter 39, Florida Statutes,
23 consisting of sections 39.395, 39.401, 39.402, 39.407, and
24 39.4075, Florida Statutes, shall be entitled to read:

25 PART V

26 TAKING CHILDREN INTO CUSTODY

27 AND SHELTER HEARINGS

28 Section 39. Section 39.395, Florida Statutes, is
29 created to read:

30 39.395 Taking a child into protective custody; medical
31 or hospital personnel.--Any person in charge of a hospital or

1 similar institution or any physician or licensed health care
2 professional treating a child may keep that child in his or
3 her custody without the consent of the parents, caregiver, or
4 legal custodian, whether or not additional medical treatment
5 is required, if the circumstances are such, or if the
6 condition of the child is such, that continuing the child in
7 the child's place of residence or in the care or custody of
8 the parents, caregiver, or legal custodian presents an
9 imminent danger to the child's life or physical or mental
10 health. Any such person taking a child into protective custody
11 shall immediately notify the department, whereupon the
12 department shall immediately begin a child protective
13 investigation in accordance with the provisions of this
14 chapter and shall make every reasonable effort to immediately
15 notify the parents, caregiver, or legal custodian that such
16 child has been taken into protective custody. If the
17 department determines, according to the criteria set forth in
18 this chapter, that the child should remain in protective
19 custody longer than 24 hours, it shall petition the court for
20 an order authorizing such custody in the same manner as if the
21 child were placed in a shelter. The department shall attempt
22 to avoid the placement of a child in an institution whenever
23 possible.

24 Section 40. Section 39.401, Florida Statutes, as
25 amended by chapter 97-276, Laws of Florida, is amended to
26 read:

27 39.401 Taking a child alleged to be dependent into
28 custody; law enforcement officers and authorized agents of the
29 department.--

30 (1) A child may only be taken into custody:
31

1 (a) Pursuant to an order of the circuit court issued
2 pursuant to the provisions of this part, based upon sworn
3 testimony, either before or after a petition is filed; ~~or~~

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

9 1. That the child has been abused, neglected, or
10 abandoned, or is suffering from or is in imminent danger of
11 illness or injury as a result of abuse, neglect, or
12 abandonment;

13 2. That the parent, legal custodian, caregiver, or
14 responsible adult relative ~~custodian~~ of the child has
15 materially violated a condition of placement imposed by the
16 court; or

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

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

23 (a) Release the child to:

24 1. The parent, caregiver, or guardian, legal custodian
25 of the child; ~~or~~

26 2. A responsible adult approved by the court when
27 limited to temporary emergency situations; ~~or~~

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

31

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

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

12
13 For cases involving allegations of abandonment, abuse, or
14 neglect, or other dependency cases, within 3 days after such
15 release or within 3 days after delivering the child to an
16 authorized agent of the department, the law enforcement
17 officer who took the child into custody shall make a full
18 written report to the department.

19 (3) If the child is taken into custody by, or is
20 delivered to, an authorized agent of the department, the
21 authorized agent shall review the facts supporting the removal
22 with an attorney representing the department ~~legal staff prior~~
23 ~~to the emergency shelter hearing.~~ The purpose of this review
24 shall be to determine whether probable cause exists for the
25 filing of a an emergency shelter petition ~~pursuant to s.~~
26 ~~39.402(1)~~. If the facts are not sufficient to support the
27 filing of a shelter petition, the child shall immediately be
28 returned to the custody of the parent, caregiver, or legal
29 custodian. If the facts are sufficient to support the filing
30 of the shelter petition, and the child has not been returned
31 to the custody of the parent, caregiver, or legal custodian,

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

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

25 Section 41. Section 39.402, Florida Statutes, as
26 amended by chapter 97-276, Laws of Florida, is amended to
27 read:

28 39.402 Placement in a shelter.--

29 (1) Unless ordered by the court under this chapter, a
30 child taken into custody shall not be placed in a shelter
31 prior to a court hearing unless there are reasonable grounds

1 for removal and removal is necessary to protect the child.

2 Reasonable grounds for removal are as follows:

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

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

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

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

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

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

29 (5)(a) The parents or legal custodians of the child
30 shall be given actual notice of the date, time, and location
31 of the ~~emergency~~ shelter hearing. If the parents or legal

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

11 (b) The parents or legal custodians shall be given
12 written notice that:

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

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

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

25 ~~(6)(5)(a)~~ The circuit court, or the county court, if
26 previously designated by the chief judge of the circuit court
27 for such purpose, shall hold the shelter hearing.

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

31

1 (7)(6) A child may not be removed from the home or
2 continued out of the home pending disposition if, with the
3 provision of appropriate and available early-intervention or
4 preventive services, including services provided in the home,
5 the child could safely remain at home. If the child's safety
6 and well-being are in danger, the child shall be removed from
7 danger and continue to be removed until the danger has passed.
8 If the child has been removed from the home and the reasons
9 for his or her removal have been remedied, the child may be
10 returned to the home. If the court finds that the prevention
11 or reunification efforts of the department will allow the
12 child to remain safely at home, the court shall allow the
13 child to remain in the home.

14 (8)(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 a ~~an emergency~~ shelter hearing. In the interval
17 until the shelter hearing is held, the decision to place the
18 child in a shelter or release the child from a shelter lies
19 with the protective investigator.~~At the emergency shelter~~
20 ~~hearing, the court shall appoint a guardian ad litem to~~
21 ~~represent the child unless the court finds that such~~
22 ~~representation is unnecessary.~~

23 (b) The parents or legal custodians of the child shall
24 be given such notice as best ensures their actual knowledge of
25 the time and place of the shelter hearing ~~and shall be given~~
26 ~~an opportunity to be heard and to present evidence at the~~
27 ~~emergency shelter hearing.~~ The failure to provide notice to a
28 party or participant does not invalidate an order placing a
29 child in a shelter if the court finds that the petitioner has
30 made a good-faith effort to provide such notice.The court
31 shall require the parents or legal custodians present at the

1 hearing to provide to the court on the record the names,
2 addresses, and relationships of all parents, prospective
3 parents, and next of kin of the child, so far as are known.

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

5 1. Appoint a guardian ad litem to represent the child,
6 unless the court finds that such representation is
7 unnecessary;

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

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

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

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

25 (f)~~(b)~~ The order for placement of a child in shelter
26 care must identify the parties present at the hearing and must
27 contain written findings:

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

30 2. That placement in shelter care is in the best
31 interest of the child.

1 3. That continuation of the child in the home is
2 contrary to the welfare of the child because the home
3 situation presents a substantial and immediate danger to the
4 child's physical, mental, or emotional health or safety ~~child~~
5 which cannot be mitigated by the provision of preventive
6 services.

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

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

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

18 b. The appraisal of the home situation by the
19 department indicates that the home situation presents a
20 substantial and immediate danger to the child's physical,
21 mental, or emotional health or safety ~~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 health and safety of the child or because, even with
26 appropriate and available services being provided, the health
27 and safety of the child cannot be ensured.

28 6. That the court notified the parents or legal
29 custodians of the subsequent dependency proceedings, including
30 scheduled hearings, and of the importance of the active
31

1 participation of the parents or legal custodians in those
2 subsequent proceedings and hearings.

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

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

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

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

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

27 ~~(8) A child may not be held in a shelter under an~~
28 ~~order so directing for more than 21 days unless an order of~~
29 ~~adjudication for the case has been entered by the court. The~~
30 ~~parent, guardian, or custodian of the child must be notified~~
31 ~~of any order directing placement of the child in an emergency~~

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

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

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

5 (13)(9) A child may not be held in a shelter under an
6 order so directing for more than 60 days without an
7 adjudication of dependency.A child may not be held in a
8 shelter for more than 30 days after the entry of an order of
9 adjudication unless an order of disposition ~~under s. 39.41~~ has
10 been entered by the court.

11 (14)(10) The time limitations in this section
12 ~~subsection (8)~~do not include:

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

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

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

1 appropriate sanctions, which may include dismissal of the
2 petition.

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

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

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

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

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

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

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

28 Section 42. Section 39.407, Florida Statutes, is
29 amended to read:

30 39.407 Medical, psychiatric, and psychological
31 examination and treatment of child; physical or mental

1 examination of parent, ~~guardian~~, or person requesting custody
2 of child.--

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

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

23 (a)1. Consent to medical treatment shall be obtained
24 from a parent or legal custodian ~~guardian~~ of the child; or
25 2. A court order for such treatment shall be obtained.

26 (b) If a parent or legal custodian ~~guardian~~ of the
27 child is unavailable and his or her whereabouts cannot be
28 reasonably ascertained, and it is after normal working hours
29 so that a court order cannot reasonably be obtained, an
30 authorized agent of the department shall have the authority to
31 consent to necessary medical treatment, including

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

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

15

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

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

1 learning disabilities and other handicaps, and screening for
2 the need for alternative education as defined in s. 230.23
3 ~~230.2315(2)~~.

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

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

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

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

29 (8) A court shall not be precluded from ordering
30 services or treatment to be provided to the child by a duly
31 accredited practitioner who relies solely on spiritual means

1 for healing in accordance with the tenets and practices of a
2 church or religious organization, when required by the child's
3 health and when requested by the child.

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

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

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

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

29 (13) At any time after the filing of a shelter
30 petition or petition for dependency, when the mental or
31 physical condition, including the blood group, of a parent,

1 caregiver, legal custodian ~~guardian~~, or other person
2 requesting custody of a child is in controversy, the court may
3 order the person to submit to a physical or mental examination
4 by a qualified professional. The order may be made only upon
5 good cause shown and pursuant to notice and procedures as set
6 forth by the Florida Rules of Juvenile Procedure.

7 Section 43. Section 39.4033, Florida Statutes, is
8 renumbered as section 39.4075, Florida Statutes, and amended
9 to read:

10 39.4075 ~~39.4033~~ Referral of a dependency case to
11 mediation.--

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

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

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

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

28 Section 44. Part VI of chapter 39, Florida Statutes,
29 consisting of sections 39.501, 39.502, 39.503, 39.504, 39.505,
30 39.506, 39.507, 39.508, 39.5085, 39.509, and 39.5101, Florida
31 Statutes, shall be entitled to read:

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PART VI
PETITION, ARRAIGNMENT, ADJUDICATION,
AND DISPOSITION

Section 45. Section 39.404, Florida Statutes, is renumbered as section 39.501, Florida Statutes, and amended to read:

39.501 ~~39.404~~ Petition for dependency.--

(1) All proceedings seeking an adjudication that a child is dependent shall be initiated by the filing of a petition by an attorney for the department, or any other person who has knowledge of the facts alleged or is informed of them and believes that they are true.

(2) The purpose of a petition seeking the adjudication of a child as a dependent child is the protection of the child and not the punishment of the person creating the condition of dependency.

(3)(a) The petition shall be in writing, shall identify and list all parents, if known, and all current caregivers or legal custodians of the child, and shall be signed by the petitioner under oath stating the petitioner's good faith in filing the petition. When the petition is filed by the department, it shall be signed by an attorney for the department.

(b) The form of the petition and its contents shall be determined by rules of juvenile procedure adopted by the Supreme Court.

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

1 (d) The petitioner must state in the petition, if
2 known, whether:

3 1. A parent, legal custodian, or caregiver person
4 ~~responsible for the child's welfare~~ named in the petition has
5 previously unsuccessfully participated in voluntary services
6 offered by the department;

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

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

13 4. The department has determined that voluntary
14 services are not appropriate for this family and the reasons
15 for such determination.

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

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

28 Section 46. Section 39.405, Florida Statutes, as
29 amended by chapter 97-276, Laws of Florida, is renumbered as
30 section 39.502, Florida Statutes, and amended to read:

31 39.502 ~~39.405~~ Notice, process, and service.--

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

9 (2) Personal appearance of any person in a hearing
10 before the court obviates the necessity of serving process on
11 that person.

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

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

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

22 (6) It is the duty of the petitioner or moving party
23 to notify all participants and parties known to the petitioner
24 or moving party of all hearings subsequent to the initial
25 hearing unless notice is contained in prior court orders and
26 these orders were provided to the participant or party. Proof
27 of notice or provision of orders may be provided by certified
28 mail with a signed return receipt.

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

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

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

15 (10)~~(9)~~ Service by publication shall not be required
16 for dependency hearings and the failure to serve a party or
17 give notice to a participant shall not affect the validity of
18 an order of adjudication or disposition if the court finds
19 that the petitioner has completed a diligent search for that
20 party or participant.

21 (11)~~(10)~~ Upon the application of a party or the
22 petitioner, the clerk or deputy clerk shall issue, and the
23 court on its own motion may issue, subpoenas requiring
24 attendance and testimony of witnesses and production of
25 records, documents, and other tangible objects at any hearing.

26 (12)~~(11)~~ All process and orders issued by the court
27 shall be served or executed as other process and orders of the
28 circuit court and, in addition, may be served or executed by
29 authorized agents of the department or the guardian ad litem.

30 (13)~~(12)~~ Subpoenas may be served within the state by
31 any person over 18 years of age who is not a party to the

1 proceeding and, in addition, may be served by authorized
2 agents of the department.

3 (14)~~(13)~~ No fee shall be paid for service of any
4 process or other papers by an agent of the department or the
5 guardian ad litem. If any process, orders, or any other papers
6 are served or executed by any sheriff, the sheriff's fees
7 shall be paid by the county.

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

18 (15) A party who is identified as a person with mental
19 illness or with a developmental disability ~~developmentally~~
20 ~~disabled person~~ must be informed by the court of the
21 availability of advocacy services through the department, the
22 Association for Retarded Citizens, or other appropriate mental
23 health or developmental disability advocacy groups and
24 encouraged to seek such services.

25 (16) If the party to whom an order is directed is
26 present or represented at the final hearing, service of the
27 order is not required.

28 (17) The parent or legal custodian of the child, the
29 attorney for the department, the guardian ad litem, and all
30 other parties and participants shall be given reasonable
31 notice of all hearings provided for under this part.

1 (18) In all proceedings under this chapter, the court
2 shall provide to the parent or legal custodian of the child,
3 at the conclusion of any hearing, a written notice containing
4 the date of the next scheduled hearing. The court shall also
5 include the date of the next hearing in any order issued by
6 the court.

7 Section 47. Section 39.4051, Florida Statutes, as
8 amended by chapter 97-276, Laws of Florida, is renumbered as
9 section 39.503, Florida Statutes, and amended to read:

10 39.503 ~~39.4051~~ Identity or location of parent or legal
11 custodian unknown; special procedures.--

12 (1) If the identity or location of a parent or legal
13 custodian is unknown and a petition for dependency or shelter
14 is filed, the court shall conduct the following inquiry of the
15 parent or legal custodian who is available, or, if no parent
16 or legal custodian is available, of any relative or custodian
17 of the child who is present at the hearing and likely to have
18 the information:

19 (a) Whether the mother of the child was married at the
20 probable time of conception of the child or at the time of
21 birth of the child.

22 (b) Whether the mother was cohabiting with a male at
23 the probable time of conception of the child.

24 (c) Whether the mother has received payments or
25 promises of support with respect to the child or because of
26 her pregnancy from a man who claims to be the father.

27 (d) Whether the mother has named any man as the father
28 on the birth certificate of the child or in connection with
29 applying for or receiving public assistance.

30 (e) Whether any man has acknowledged or claimed
31 paternity of the child in a jurisdiction in which the mother

1 | resided at the time of or since conception of the child, or in
2 | which the child has resided or resides.

3 | (2) The information required in subsection (1) may be
4 | supplied to the court or the department in the form of a sworn
5 | affidavit by a person having personal knowledge of the facts.

6 | (3) If the inquiry under subsection (1) identifies any
7 | person as a parent or prospective parent, the court shall
8 | require notice of the hearing to be provided to that person.

9 | (4) If the inquiry under subsection (1) fails to
10 | identify any person as a parent or prospective parent, the
11 | court shall so find and may proceed without further notice.

12 | (5) If the inquiry under subsection (1) identifies a
13 | parent or prospective parent, and that person's location is
14 | unknown, the court shall direct the department to ~~shall~~
15 | conduct a diligent search for that person before ~~the~~
16 | scheduling ~~of~~ a disposition hearing regarding the dependency
17 | of the child unless the court finds that the best interest of
18 | the child requires proceeding without notice to the person
19 | whose location is unknown.

20 | (6) The diligent search required by subsection (5)
21 | must include, at a minimum, inquiries of all relatives of the
22 | parent or prospective parent made known to the petitioner,
23 | inquiries of all offices of program areas of the department
24 | likely to have information about the parent or prospective
25 | parent, inquiries of other state and federal agencies likely
26 | to have information about the parent or prospective parent,
27 | inquiries of appropriate utility and postal providers, and
28 | inquiries of appropriate law enforcement agencies. Pursuant to
29 | s. 453 of the Social Security Act, 42 U.S.C. 653(c)(B)(4), the
30 | department, as the state agency administering Titles IV-B and
31 |

1 IV-E of the act, shall be provided access to the federal and
2 state parent locator service for diligent search activities.

3 (7) Any agency contacted by a petitioner with a
4 request for information pursuant to subsection (6) shall
5 release the requested information to the petitioner without
6 the necessity of a subpoena or court order.

7 (8) If the inquiry and diligent search identifies a
8 prospective parent, that person must be given the opportunity
9 to become a party to the proceedings by completing a sworn
10 affidavit of parenthood and filing it with the court or the
11 department. A prospective parent who files a sworn affidavit
12 of parenthood while the child is a dependent child but no
13 later than at the time of or prior to the adjudicatory hearing
14 in any termination of parental rights proceeding for the child
15 shall be considered a parent for all purposes under this
16 section unless the other parent contests the determination of
17 parenthood. If the known parent contests the recognition of
18 the prospective parent as a parent, the prospective parent
19 shall not be recognized as a parent until proceedings under
20 chapter 742 have been concluded. However, the prospective
21 parent shall continue to receive notice of hearings as a
22 participant pending results of the chapter 742 proceedings.

23 Section 48. Section 39.4055, Florida Statutes, is
24 renumbered as section 39.504, Florida Statutes, and amended to
25 read:

26 39.504 ~~39.4055~~ Injunction pending disposition of
27 petition for detention or dependency; penalty.--

28 (1)(a) When a petition for detention or a petition for
29 dependency has been filed or when a child has been taken into
30 custody and reasonable cause, as defined in paragraph (b),
31 exists, the court, upon the request of the department, a law

1 enforcement officer, the state attorney, or other responsible
2 person, or upon its own motion, shall have the authority to
3 issue an injunction to prevent any act of child abuse or any
4 unlawful sexual offense involving a child.

5 (b) Reasonable cause for the issuance of an injunction
6 exists if there is evidence of child abuse or an unlawful
7 sexual offense involving a child or if there is a reasonable
8 likelihood of such abuse or offense occurring based upon a
9 recent overt act or failure to act.

10 (2)(a) Notice shall be provided to the parties as set
11 forth in the Florida Rules of Juvenile Procedure, unless the
12 child is reported to be in imminent danger, in which case the
13 court may issue an injunction immediately. A judge may issue
14 an emergency injunction pursuant to this section without
15 notice at times when the court is closed for the transaction
16 of judicial business. When such an immediate injunction is
17 issued, the court shall hold a hearing on the next day of
18 judicial business either to dissolve the injunction or to
19 continue or modify it in accordance with the other provisions
20 of this section.

21 ~~(b) A judge may issue an emergency injunction pursuant~~
22 ~~to this section at times when the court is closed for the~~
23 ~~transaction of judicial business. The court shall hold a~~
24 ~~hearing on the next day of judicial business either to~~
25 ~~dissolve the emergency injunction or to continue or modify it~~
26 ~~in accordance with the other provisions of this section.~~

27 (3)(a) In every instance in which an injunction is
28 issued under this section, the purpose of the injunction shall
29 be primarily to protect and promote the best interests of the
30 child, taking the preservation of the child's immediate family
31 into consideration. The effective period of the injunction

1 shall be determined by the court, except that the injunction
2 will expire at the time of the disposition of the petition for
3 detention or dependency.

4 (b) The injunction shall apply to the alleged or
5 actual offender in a case of child abuse or an unlawful sexual
6 offense involving a child. The conditions of the injunction
7 shall be determined by the court, which conditions may include
8 ordering the alleged or actual offender to:

9 1. Refrain from further abuse or unlawful sexual
10 activity involving a child.

11 2. Participate in a specialized treatment program.

12 3. Limit contact or communication with the child
13 victim, other children in the home, or any other child.

14 4. Refrain from contacting the child at home, school,
15 work, or wherever the child may be found.

16 5. Have limited or supervised visitation with the
17 child.

18 6. Pay temporary support for the child or other family
19 members; the costs of medical, psychiatric, and psychological
20 treatment for the child victim incurred as a result of the
21 offenses; and similar costs for other family members.

22 7. Vacate the home in which the child resides.

23 (c) At any time prior to the disposition of the
24 petition, the alleged or actual offender may offer the court
25 evidence of changed circumstances as a ground to dissolve or
26 modify the injunction.

27 (4) A copy of any injunction issued pursuant to this
28 section shall be delivered to the protected party, or a parent
29 or caregiver or ~~an~~ individual acting in the place of a parent
30 who is not the respondent, and to any law enforcement agency
31 having jurisdiction to enforce such injunction. Upon delivery

1 of the injunction to the appropriate law enforcement agency,
2 the agency shall have the duty and responsibility to enforce
3 the injunction.

4 (5) Any person who fails to comply with an injunction
5 issued pursuant to this section is guilty of a misdemeanor of
6 the first degree, punishable as provided in s. 775.082 or s.
7 775.083.

8 Section 49. Section 39.406, Florida Statutes, is
9 renumbered as section 39.505, Florida Statutes, and amended to
10 read:

11 39.505 ~~39.406~~ No answer required.--No answer to the
12 petition or any other pleading need be filed by any child,
13 parent, or legal custodian, but any matters which might be set
14 forth in an answer or other pleading may be pleaded orally
15 before the court or filed in writing as any such person may
16 choose. Notwithstanding the filing of an answer or any
17 pleading, the respondent ~~child or parent~~ shall, prior to an
18 adjudicatory hearing, be advised by the court of the right to
19 counsel and shall be given an opportunity to deny the
20 allegations in the petition for dependency or to enter a plea
21 to allegations in the petition before the court.

22 Section 50. Section 39.408, Florida Statutes, is
23 renumbered as section 39.506, Florida Statutes, and amended to
24 read:

25 39.506 ~~39.408~~ Arrest ~~Arrest~~ hearings for dependency
26 ~~cases.--~~

27 (1) ~~ARRAIGNMENT HEARING.--~~

28 (a) When a child has been detained by order of the
29 court, an arraignment hearing must be held, within 7 days
30 after the date of filing of the dependency petition ~~14 days~~
31 ~~from the date the child is taken into custody, for the parent,~~

1 ~~guardian,~~or legal custodian to admit, deny, or consent to
2 findings of dependency alleged in the petition. If the parent,
3 ~~guardian,~~or legal custodian admits or consents to the
4 findings in the petition, the court shall proceed as set forth
5 in the Florida Rules of Juvenile Procedure. However, if the
6 parent,~~guardian,~~or legal custodian denies any of the
7 allegations of the petition, the court shall hold an
8 adjudicatory hearing within 30 days after ~~7 days from~~ the date
9 of the arraignment hearing unless a continuance is granted
10 pursuant to this chapter s. 39.402(11).

11 (2)(b) When a child is in the custody of the parent,
12 ~~guardian,~~or legal custodian, upon the filing of a petition
13 the clerk shall set a date for an arraignment hearing within a
14 reasonable time after the date of the filing. If the parent,
15 ~~guardian,~~or legal custodian admits or consents to an
16 adjudication, the court shall proceed as set forth in the
17 Florida Rules of Juvenile Procedure. However, if the parent,
18 ~~guardian,~~or legal custodian denies any of the allegations of
19 dependency, the court shall hold an adjudicatory hearing
20 within a reasonable time after the date of the arraignment
21 hearing.

22 (3) Failure of a person served with notice to respond
23 or appear at the arraignment hearing constitutes the person's
24 consent to a dependency adjudication. The document containing
25 the notice to respond or appear must contain, in type at least
26 as large as the balance of the document, the following or
27 substantially similar language: "FAILURE TO RESPOND TO THIS
28 NOTICE OR TO PERSONALLY APPEAR AT THE ARRAIGNMENT HEARING
29 CONSTITUTES CONSENT TO THE ADJUDICATION OF THIS CHILD (OR
30 CHILDREN) AS A DEPENDENT CHILD (OR CHILDREN) AND MAY

31

1 ULTIMATELY RESULT IN LOSS OF CUSTODY OF THIS CHILD (OR
2 CHILDREN)."

3 (4) At the arraignment hearing, each party shall
4 provide to the court a permanent mailing address. The court
5 shall advise each party that this address will be used by the
6 court and the petitioner for notice purposes unless and until
7 the party notifies the court and the petitioner in writing of
8 a new mailing address.

9 (5)(c) If at the arraignment hearing the parent,
10 guardian, or legal custodian consents or admits to the
11 allegations in the petition, the court shall proceed to hold a
12 dispositional hearing no more than 15 days after the date of
13 the arraignment hearing unless a continuance is necessary at
14 the earliest practicable time that will allow for the
15 completion of a predisposition study.

16 (6) At any arraignment hearing, the court shall order
17 visitation rights absent a clear and convincing showing that
18 visitation is not in the best interest of the child.

19 (7) The court shall review whether the department has
20 made a reasonable effort to prevent or eliminate the need for
21 removal or continued removal of the child from the home. If
22 the court determines that the department has not made such an
23 effort, the court shall order the department to provide
24 appropriate and available services to assure the protection of
25 the child in the home when such services are necessary for the
26 child's physical, mental, or emotional health and safety.

27 (8) At the arraignment hearing, and no more than 15
28 days thereafter, the court shall review the necessity for the
29 child's continued placement in the shelter. The court shall
30 also make a written determination regarding the child's
31 continued placement in the shelter within 24 hours after any

1 violation of the time requirements for the filing of a
2 petition or prior to the court's granting any continuance as
3 specified in subsection (5).

4 (9) At the conclusion of the arraignment hearing, all
5 parties shall be notified in writing by the court of the date,
6 time, and location for the next scheduled hearing.

7 ~~(2) ADJUDICATORY HEARING.--~~

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

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

28 ~~(c) All hearings, except as provided in this section,~~
29 ~~shall be open to the public, and a person may not be excluded~~
30 ~~except on special order of the judge, who may close any~~
31 ~~hearing to the public upon determining that the public~~

1 ~~interest or the welfare of the child is best served by so~~
2 ~~doing. However, the parents shall be allowed to obtain~~
3 ~~discovery pursuant to the Florida Rules of Juvenile Procedure.~~
4 ~~However, nothing in this paragraph shall be construed to~~
5 ~~affect the provisions of s. 415.51(9). Hearings involving more~~
6 ~~than one child may be held simultaneously when the children~~
7 ~~involved are related to each other or were involved in the~~
8 ~~same case. The child and the parents or legal custodians of~~
9 ~~the child may be examined separately and apart from each~~
10 ~~other.~~

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

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

25 ~~1. An assessment defining the dangers and risks of~~
26 ~~returning the child home, including a description of the~~
27 ~~changes in and resolutions to the initial risks.~~

28 ~~2. A description of what risks are still present and~~
29 ~~what resources are available and will be provided for the~~
30 ~~protection and safety of the child.~~

31

- 1 ~~3. A description of the benefits of returning the~~
- 2 ~~child home.~~
- 3 ~~4. A description of all unresolved issues.~~
- 4 ~~5. An abuse registry history for all caretakers,~~
- 5 ~~family members, and individuals residing within the household.~~
- 6 ~~6. The complete child protection team report and~~
- 7 ~~recommendation or, if no report exists, a statement reflecting~~
- 8 ~~that no report has been made.~~
- 9 ~~7. All opinions or recommendations from other~~
- 10 ~~professionals or agencies that provide evaluative, social,~~
- 11 ~~reunification, or other services to the family.~~
- 12 ~~8. The availability of appropriate prevention and~~
- 13 ~~reunification services for the family to prevent the removal~~
- 14 ~~of the child from the home or to reunify the child with the~~
- 15 ~~family after removal, including the availability of family~~
- 16 ~~preservation services through the Family Builders Program, the~~
- 17 ~~Intensive Crisis Counseling Program, or both.~~
- 18 ~~9. The inappropriateness of other prevention and~~
- 19 ~~reunification services that were available.~~
- 20 ~~10. The efforts by the department to prevent~~
- 21 ~~out-of-home placement of the child or, when applicable, to~~
- 22 ~~reunify the family if appropriate services were available,~~
- 23 ~~including the application of intensive family preservation~~
- 24 ~~services through the Family Builders Program, the Intensive~~
- 25 ~~Crisis Counseling Program, or both.~~
- 26 ~~11. Whether the services were provided to the family~~
- 27 ~~and child.~~
- 28 ~~12. If the services were provided, whether they were~~
- 29 ~~sufficient to meet the needs of the child and the family and~~
- 30 ~~to enable the child to remain at home or to be returned home.~~
- 31

1 ~~13. If the services were not provided, the reasons for~~
2 ~~such lack of action.~~

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

6 ~~15. Whether family mediation was provided.~~

7 ~~16. Whether a multidisciplinary case staffing was~~
8 ~~conducted and, if so, the results.~~

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

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

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

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

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

1 ~~(4) NOTICE OF HEARINGS. -- The parent or legal custodian~~
2 ~~of the child, the attorney for the department, the guardian ad~~
3 ~~litem, and all other parties and participants shall be given~~
4 ~~reasonable notice of all hearings provided for under this~~
5 ~~section.~~

6 Section 51. Section 39.409, Florida Statutes, is
7 renumbered as section 39.507, Florida Statutes, and amended to
8 read:

9 39.507 39.409 Adjudicatory hearings;orders of
10 adjudication.--

11 (1)(a) The adjudicatory hearing shall be held as soon
12 as practicable after the petition for dependency is filed and
13 in accordance with the Florida Rules of Juvenile Procedure,
14 but no later than 30 days after the arraignment, for the
15 purpose of investigation, discovery, or procuring counsel or
16 witnesses.

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

29 (2) All hearings, except as provided in this section,
30 shall be open to the public, and a person may not be excluded
31 except on special order of the judge, who may close any

1 hearing to the public upon determining that the public
2 interest or the welfare of the child is best served by so
3 doing. However, the parents shall be allowed to obtain
4 discovery pursuant to the Florida Rules of Juvenile Procedure.
5 However, nothing in this subsection shall be construed to
6 affect the provisions of s. 39.202. Hearings involving more
7 than one child may be held simultaneously when the children
8 involved are related to each other or were involved in the
9 same case. The child and the parents, caregivers, or legal
10 custodians of the child may be examined separately and apart
11 from each other.

12 (3) Except as otherwise specifically provided, nothing
13 in this section prohibits the publication of the proceedings
14 in a hearing.

15 (4)~~(1)~~ If the court finds at the adjudicatory hearing
16 that the child named in a petition is not dependent, it shall
17 enter an order so finding and dismissing the case.

18 (5)~~(2)~~ If the court finds that the child named in the
19 petition is dependent, but finds that no action other than
20 supervision in the child's home is required, it may enter an
21 order briefly stating the facts upon which its finding is
22 based, but withholding an order of adjudication and placing
23 the child's home under the supervision of the department. If
24 the court later finds that the parents, caregivers, or legal
25 custodians of the child have not complied with the conditions
26 of supervision imposed, the court may, after a hearing to
27 establish the noncompliance, but without further evidence of
28 the state of dependency, enter an order of adjudication and
29 shall thereafter have full authority under this chapter to
30 provide for the child as adjudicated.

31

1 ~~(6)(3)~~ If the court finds that the child named in a
2 petition is dependent, but shall elect not to proceed under
3 subsection~~(5)(2)~~, it shall incorporate that finding in an
4 order of adjudication entered in the case, briefly stating the
5 facts upon which the finding is made, and the court shall
6 thereafter have full authority under this chapter to provide
7 for the child as adjudicated.

8 (7) At the conclusion of the adjudicatory hearing, if
9 the child named in the petition is found dependent, the court
10 shall schedule the disposition hearing within 30 days after
11 the filing of the adjudicatory order. All parties shall be
12 notified in writing by the court of the date, time, and
13 location of the disposition hearing.

14 ~~(8)(4)~~ An order of adjudication by a court that a
15 child is dependent shall not be deemed a conviction, nor shall
16 the child be deemed to have been found guilty or to be a
17 criminal by reason of that adjudication, nor shall that
18 adjudication operate to impose upon the child any of the civil
19 disabilities ordinarily imposed by or resulting from
20 conviction or disqualify or prejudice the child in any civil
21 service application or appointment.

22 Section 52. Section 39.41, Florida Statutes, as
23 amended by chapter 97-276, Laws of Florida, is renumbered as
24 section 39.508, Florida Statutes, and amended to read:

25 39.508 ~~39.41~~ Powers of disposition.--

26 (1) At the disposition hearing, if the court finds
27 that the facts alleged in the petition for dependency were
28 proven in the adjudicatory hearing, or if the parents,
29 caregivers, or legal custodians have consented to the finding
30 of dependency or admitted the allegations in the petition,
31 have failed to appear for the arraignment hearing after proper

1 notice, or have not been located despite a diligent search
2 having been conducted, the court shall receive and consider a
3 case plan and a predisposition study, which must be in writing
4 and presented by an authorized agent of the department.

5 (2) The predisposition study shall cover for any
6 dependent child all factors specified in s. 61.13(3), and must
7 also provide the court with the following documented
8 information:

9 (a) An assessment defining the dangers and risks of
10 returning the child home, including a description of the
11 changes in and resolutions to the initial risks.

12 (b) A description of what risks are still present and
13 what resources are available and will be provided for the
14 protection and safety of the child.

15 (c) A description of the benefits of returning the
16 child home.

17 (d) A description of all unresolved issues.

18 (e) An abuse registry history and criminal records
19 check for all caregivers, family members, and individuals
20 residing within the household.

21 (f) The complete child protection team report and
22 recommendation or, if no report exists, a statement reflecting
23 that no report has been made.

24 (g) All opinions or recommendations from other
25 professionals or agencies that provide evaluative, social,
26 reunification, or other services to the family.

27 (h) The availability of appropriate prevention and
28 reunification services for the family to prevent the removal
29 of the child from the home or to reunify the child with the
30 family after removal, including the availability of family
31

1 preservation services through the Family Builders Program, the
2 Intensive Crisis Counseling Program, or both.

3 (i) The inappropriateness of other prevention and
4 reunification services that were available.

5 (j) The efforts by the department to prevent
6 out-of-home placement of the child or, when applicable, to
7 reunify the family if appropriate services were available,
8 including the application of intensive family preservation
9 services through the Family Builders Program, the Intensive
10 Crisis Counseling Program, or both.

11 (k) Whether the services were provided to the family
12 and child.

13 (l) If the services were provided, whether they were
14 sufficient to meet the needs of the child and the family and
15 to enable the child to remain safely at home or to be returned
16 home.

17 (m) If the services were not provided, the reasons for
18 such lack of action.

19 (n) The need for, or appropriateness of, continuing
20 the services if the child remains in the custody of the family
21 or if the child is placed outside the home.

22 (o) Whether family mediation was provided.

23 (p) If the child has been removed from the home and
24 there is a parent, caregiver, or legal custodian who may be
25 considered for custody pursuant to this section, a
26 recommendation as to whether placement of the child with that
27 parent, caregiver, or legal custodian would be detrimental to
28 the child.

29 (q) If the child has been removed from the home and
30 will be remaining with a relative or caregiver, a home study
31 report shall be included in the predisposition report.

1
2 Any other relevant and material evidence, including other
3 written or oral reports, may be received by the court in its
4 effort to determine the action to be taken with regard to the
5 child and may be relied upon to the extent of its probative
6 value, even though not competent in an adjudicatory hearing.
7 Except as otherwise specifically provided, nothing in this
8 section prohibits the publication of proceedings in a hearing.

9 (3)(a) Prior to recommending to the court any
10 out-of-home placement for a child other than placement in a
11 licensed shelter or foster home, the department shall conduct
12 a study of the home of the proposed caregivers, which must
13 include, at a minimum:

14 1. An interview with the proposed adult caregivers to
15 assess their ongoing commitment and ability to care for the
16 child.

17 2. Records checks through the department's automated
18 abuse information system, and local and statewide criminal and
19 juvenile records checks through the Department of Law
20 Enforcement, on all household members 12 years of age or older
21 and any other persons made known to the department who are
22 frequent visitors in the home.

23 3. An assessment of the physical environment of the
24 home.

25 4. A determination of the financial security of the
26 proposed caregivers.

27 5. A determination of suitable child care arrangements
28 if the proposed caregivers are employed outside of the home.

29 6. Documentation of counseling and information
30 provided to the proposed caregivers regarding the dependency
31 process and possible outcomes.

1 7. Documentation that information regarding support
2 services available in the community has been provided to the
3 caregivers.

4 (b) The department shall not place the child or
5 continue the placement of the child in the home of the
6 proposed caregivers if the results of the home study are
7 unfavorable.

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

14 (5) The predisposition study may not be made before
15 the adjudication of dependency unless the parents, caregivers,
16 or legal custodians of the child consent.

17 (6) A case plan and predisposition study must be filed
18 with the court and served upon the parents, caregivers, or
19 legal custodians of the child, provided to the representative
20 of the guardian ad litem program, if the program has been
21 appointed, and provided to all other parties not less than 48
22 hours before the disposition hearing. All such case plans must
23 be approved by the court. If the court does not approve the
24 case plan at the disposition hearing, the court must set a
25 hearing within 30 days after the disposition hearing to review
26 and approve the case plan.

27 (7) The initial judicial review must be held no later
28 than 90 days after the date of the disposition hearing or
29 after the date of the hearing at which the court approves the
30 case plan, but in no event shall the review be held later than
31 6 months after the date of the child's removal from the home.

1 ~~(8)(1)~~ When any child is adjudicated by a court to be
2 dependent, and the court finds that removal of the child from
3 the custody of a parent, legal custodian, or caregiver is
4 necessary, the court shall first determine whether there is a
5 parent with whom the child was not residing at the time the
6 events or conditions arose that brought the child within the
7 jurisdiction of the court who desires to assume custody of the
8 child and, if such parent requests custody, the court shall
9 place the child with the parent unless it finds that such
10 placement would endanger the safety, ~~and~~ well-being, or
11 physical, mental, or emotional health of the child. Any party
12 with knowledge of the facts may present to the court evidence
13 regarding whether the placement will endanger the safety, ~~and~~
14 well-being, or physical, mental, or emotional health of the
15 child. If the court places the child with such parent, it may
16 do either of the following:

17 (a) Order that the parent become the legal and
18 physical custodian of the child. The court may also provide
19 for reasonable visitation by the noncustodial parent. The
20 court shall then terminate its jurisdiction over the child.
21 The custody order shall continue unless modified by a
22 subsequent order of the court. The order of the juvenile court
23 shall be filed in any dissolution or other custody action or
24 proceeding between the parents.

25 (b) Order that the parent assume custody subject to
26 the jurisdiction of the juvenile court. The court may order
27 that reunification services be provided to the parent,
28 caregiver, or legal custodian ~~or guardian~~ from whom the child
29 has been removed, that services be provided solely to the
30 parent who is assuming physical custody in order to allow that
31 parent to retain later custody without court jurisdiction, or

1 that services be provided to both parents, in which case the
2 court shall determine at the review hearing held within 90
3 days after the disposition or the hearing approving the case
4 plan, and at the review hearings held every 6 months
5 thereafter, which parent, if either, shall have custody of the
6 child. The standard for changing custody of the child from one
7 parent to another or to a relative or caregiver must meet the
8 home study criteria and court approval pursuant to this
9 chapter at the review hearings shall be the same standard as
10 applies to changing custody of the child in a custody hearing
11 following a decree of dissolution of marriage.

12 (9)(2)(a) When any child is adjudicated by a court to
13 be dependent, the court having jurisdiction of the child has
14 the power, by order, to:

15 1. Require the parent, caregiver, or legal guardian,
16 or custodian, and the child when appropriate, to participate
17 in treatment and services identified as necessary.

18 2. Require the parent, caregiver, or legal guardian,
19 or custodian, and the child when appropriate, to participate
20 in mediation if the parent, caregiver, or legal guardian, or
21 custodian refused to participate in mediation under s.
22 39.4033.

23 3. Place the child under the protective supervision of
24 an authorized agent of the department, either in the child's
25 own home or, the prospective custodian being willing, in the
26 home of a relative of the child or of a caregiver ~~an adult~~
27 ~~nonrelative~~ approved by the court, or in some other suitable
28 place under such reasonable conditions as the court may
29 direct. ~~Whenever the child is placed under protective~~
30 ~~supervision pursuant to this section, the department shall~~
31 ~~prepare a case plan and shall file it with the court.~~

1 Protective supervision continues until the court terminates it
2 or until the child reaches the age of 18, whichever date is
3 first. Protective supervision shall ~~may~~ be terminated by the
4 court whenever the court determines that permanency has been
5 achieved for the child ~~the child's placement~~, whether with a
6 parent, another relative, a legal custodian, or a caregiver,
7 ~~or a nonrelative, is stable~~ and that protective supervision is
8 no longer needed. The termination of supervision may be with
9 or without retaining jurisdiction, at the court's discretion,
10 and shall in either case be considered a permanency option for
11 the child. The order terminating supervision by the
12 department ~~of Children and Family Services~~ shall set forth the
13 powers of the custodian of the child and shall include the
14 powers ordinarily granted to a guardian of the person of a
15 minor unless otherwise specified.

16 4. Place the child in the temporary legal custody of
17 an adult relative or caregiver ~~an adult nonrelative~~ approved
18 by the court who is willing to care for the child.

19 5.a. When the parents have failed to comply with a
20 case plan and the court determines at a judicial review
21 hearing, or at an adjudication hearing held pursuant to ~~s.~~
22 ~~39.453, or at a hearing held pursuant to subparagraph (1)(a)7.~~
23 ~~of~~ this section, that neither reunification, termination of
24 parental rights, nor adoption is in the best interest of the
25 child, the court may place the child in the long-term custody
26 of an adult relative or caregiver ~~adult nonrelative~~ approved
27 by the court willing to care for the child, if the following
28 conditions are met:

29 (I) A case plan describing the responsibilities of the
30 relative or caregiver ~~nonrelative~~, the department, and any
31 other party must have been submitted to the court.

1 (II) The case plan for the child does not include
2 reunification with the parents or adoption by the relative or
3 caregiver.

4 (III) The child and the relative or caregiver
5 ~~nonrelative custodian~~ are determined not to need protective
6 supervision or preventive services to ensure the stability of
7 the long-term custodial relationship, or the department
8 assures the court that protective supervision or preventive
9 services will be provided in order to ensure the stability of
10 the long-term custodial relationship.

11 (IV) Each party to the proceeding agrees that a
12 long-term custodial relationship does not preclude the
13 possibility of the child returning to the custody of the
14 parent at a later date.

15 (V) The court has considered the reasonable preference
16 of the child if the court has found the child to be of
17 sufficient intelligence, understanding, and experience to
18 express a preference.

19 (VI) The court has considered the recommendation of
20 the guardian ad litem if one has been appointed.

21 b. The court shall retain jurisdiction over the case,
22 and the child shall remain in the long-term custody of the
23 relative or caregiver ~~nonrelative~~ approved by the court until
24 the order creating the long-term custodial relationship is
25 modified by the court. The court may relieve the department of
26 the responsibility for supervising the placement of the child
27 whenever the court determines that the placement is stable and
28 that such supervision is no longer needed. Notwithstanding
29 the retention of jurisdiction, the placement shall be
30 considered a permanency option for the child when the court
31 relieves the department of the responsibility for supervising

1 the placement. The order terminating supervision by the
2 department of ~~Children and Family Services~~ shall set forth the
3 powers of the custodian of the child and shall include the
4 powers ordinarily granted to a guardian of the person of a
5 minor unless otherwise specified. The court may modify the
6 order terminating supervision of the long-term relative or
7 caregiver ~~nonrelative~~ placement if it finds that a party to
8 the proceeding has shown a material change in circumstances
9 which causes the long-term relative or caregiver ~~nonrelative~~
10 placement to be no longer in the best interest of the child.

11 6.a. Approve placement of the child in long-term
12 out-of-home ~~foster~~ care, when the following conditions are
13 met:

14 (I) The foster child is 16 years of age or older,
15 unless the court determines that the history or condition of a
16 younger child makes long-term out-of-home ~~foster~~ care the most
17 appropriate placement.

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

20 (III) The department's social services study pursuant
21 to part VIII ~~s. 39.453(6)(a)~~ recommends long-term out-of-home
22 ~~foster~~ care.

23 b. Long-term out-of-home ~~foster~~ care under the above
24 conditions shall not be considered a permanency option.

25 c. The court may approve placement of the child in
26 long-term out-of-home ~~foster~~ care, as a permanency option,
27 when all of the following conditions are met:

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

29 (II) The child is living in a licensed home and the
30 foster parents desire to provide care for the child on a
31

1 permanent basis and the foster parents and the child do not
2 desire adoption,

3 (III) The foster family has made a commitment to
4 provide for the child until he or she reaches the age of
5 majority and to prepare the child for adulthood and
6 independence, and

7 (IV) The child has remained in the home for a
8 continuous period of no less than 12 months.

9 (V) The foster parents and the child view one another
10 as family and consider living together as the best place for
11 the child to be on a permanent basis.

12 (VI) The department's social services study recommends
13 such placement and finds the child's well-being has been
14 promoted through living with the foster parents.

15 d. Notwithstanding the retention of jurisdiction and
16 supervision by the department, long-term out-of-home foster
17 care placements made pursuant to ~~sub-subparagraph (2)(a)6.c.~~
18 ~~of~~ this section shall be considered a permanency option for
19 the child. For purposes of this subsection, supervision by
20 the department shall be defined as a minimum of semiannual
21 visits. The order placing the child in long-term out-of-home
22 ~~foster~~ care as a permanency option shall set forth the powers
23 of the custodian of the child and shall include the powers
24 ordinarily granted to a guardian of the person of a minor
25 unless otherwise specified. The court may modify the
26 permanency option of long-term out-of-home foster care if it
27 finds that a party to the proceeding has shown a material
28 change in circumstances which causes the placement to be no
29 longer in the best interests of the child.

30 e. Approve placement of the child in an independent
31 living arrangement for any foster child 16 years of age or

1 older, if it can be clearly established that this type of
2 alternate care arrangement is the most appropriate plan and
3 that the health, safety, and well-being of the child will not
4 be jeopardized by such an arrangement. While in independent
5 living situations, children whose legal custody has been
6 awarded to the department or a licensed child-caring or
7 child-placing agency, or who have been voluntarily placed with
8 such an agency by a parent, guardian, relative, or adult
9 nonrelative approved by the court, continue to be subject to
10 court review provisions.

11 ~~7. Commit the child to a licensed child-caring agency~~
12 ~~willing to receive the child. Continued commitment to the~~
13 ~~licensed child-caring agency, as well as all other proceedings~~
14 ~~under this section pertaining to the child, are also governed~~
15 ~~by part V of this chapter.~~

16 ~~7.8.~~ Commit the child to the temporary legal custody
17 of the department. Such commitment invests in the department
18 all rights and responsibilities of a legal custodian. The
19 department shall not return any child to the physical care and
20 custody of the person from whom the child was removed, except
21 for short visitation periods, without the approval of the
22 court. The term of such commitment continues until terminated
23 by the court or until the child reaches the age of 18. After
24 the child is committed to the temporary custody of the
25 department, all further proceedings under this section are
26 also governed by ~~part V of~~ this chapter.

27 ~~8.9.a.~~ Change the temporary legal custody or the
28 conditions of protective supervision at a postdisposition
29 hearing subsequent to the initial detention hearing, without
30 the necessity of another adjudicatory hearing. A child who has
31 been placed in the child's own home under the protective

1 supervision of an authorized agent of the department, in the
2 home of a relative, in the home of a legal custodian or
3 caregiver ~~nonrelative~~, or in some other place may be brought
4 before the court by the agent of the department who is
5 supervising the placement or by any other interested person,
6 upon the filing of a petition alleging a need for a change in
7 the conditions of protective supervision or the placement. If
8 the parents or other custodians deny the need for a change,
9 the court shall hear all parties in person or by counsel, or
10 both. Upon the admission of a need for a change or after such
11 hearing, the court shall enter an order changing the
12 placement, modifying the conditions of protective supervision,
13 or continuing the conditions of protective supervision as
14 ordered. The standard for changing custody of the child from
15 one parent to another or to a relative or caregiver must meet
16 the home study criteria and court approval pursuant to this
17 chapter.

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

25 ~~10. Approve placement of the child in an independent~~
26 ~~living arrangement for any foster child 16 years of age or~~
27 ~~older, if it can be clearly established that this type of~~
28 ~~alternate care arrangement is the most appropriate plan and~~
29 ~~that the safety and welfare of the child will not be~~
30 ~~jeopardized by such an arrangement. While in independent~~
31 ~~living situations, children whose legal custody has been~~

1 ~~awarded to the department or a licensed child-caring or~~
2 ~~child-placing agency, or who have been voluntarily placed with~~
3 ~~such an agency by a parent, guardian, relative, or adult~~
4 ~~nonrelative approved by the court, continue to be subject to~~
5 ~~the court review provisions of s. 39.453.~~

6 (b) The court shall, in its written order of
7 disposition, include all of the following:

8 1. The placement or custody of the child as provided
9 in paragraph (a).

10 2. Special conditions of placement and visitation.

11 3. Evaluation, counseling, treatment activities, and
12 other actions to be taken by the parties, if ordered.

13 4. The persons or entities responsible for supervising
14 or monitoring services to the child and family.

15 5. Continuation or discharge of the guardian ad litem,
16 as appropriate.

17 6. The date, time, and location of the next scheduled
18 review hearing, which must occur within 90 days after the
19 disposition hearing or within the earlier of:

20 a. Six months after the date of the last review
21 hearing; or

22 b. Six months after the date of the child's removal
23 from his or her home, if no review hearing has been held since
24 the child's removal from the home.~~The period of time or date~~
25 ~~for any subsequent case review required by law.~~

26 7. Other requirements necessary to protect the health,
27 safety, and well-being of the child, to preserve the stability
28 of the child's educational placement,and to promote family
29 preservation or reunification whenever possible.

30 (c) If the court finds that the prevention or
31 reunification efforts of the department will allow the child

1 to remain safely at home or be safely returned to the home,
2 the court shall allow the child to remain in or return to the
3 home after making a specific finding of fact that the reasons
4 for removal have been remedied to the extent that the child's
5 safety, and well-being, and physical, mental, and emotional
6 health will not be endangered.

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

18 1.(b) For the purposes of this paragraph subsection,
19 the term "reasonable effort" means the exercise of reasonable
20 diligence and care by the department to provide the services
21 delineated in the case plan.

22 2.(c) In support of its determination as to whether
23 reasonable efforts have been made, the court shall:

24 a.1. Enter written findings as to whether or not
25 prevention or reunification efforts were indicated.

26 b.2. If prevention or reunification efforts were
27 indicated, include a brief written description of what
28 appropriate and available prevention and reunification efforts
29 were made.

30
31

1 ~~c.3.~~ Indicate in writing why further efforts could or
2 could not have prevented or shortened the separation of the
3 family.

4 ~~3.(d)~~ A court may find that the department has made a
5 reasonable effort to prevent or eliminate the need for removal
6 if:

7 ~~a.1.~~ The first contact of the department with the
8 family occurs during an emergency.

9 ~~b.2.~~ The appraisal by the department of the home
10 situation indicates that it presents a substantial and
11 immediate danger to the child's safety or physical, mental, or
12 emotional health ~~child~~ which cannot be mitigated by the
13 provision of preventive services.

14 ~~c.3.~~ The child cannot safely remain at home, either
15 because there are no preventive services that can ensure the
16 health and safety of the child or, even with appropriate and
17 available services being provided, the health and safety of
18 the child cannot be ensured.

19 ~~4.(e)~~ A reasonable effort by the department for
20 reunification of the family has been made if the appraisal of
21 the home situation by the department indicates that the
22 severity of the conditions of dependency is such that
23 reunification efforts are inappropriate. The department has
24 the burden of demonstrating to the court that reunification
25 efforts were inappropriate.

26 ~~5.(f)~~ If the court finds that the prevention or
27 reunification effort of the department would not have
28 permitted the child to remain safely at home, the court may
29 commit the child to the temporary legal custody of the
30 department or take any other action authorized by this chapter
31 part.

1 (10)~~(3)~~(a) When any child is adjudicated by the court
2 to be dependent and temporary legal custody of the child has
3 been placed with an adult relative, legal custodian, or
4 caregiver ~~or adult nonrelative~~ approved by the court ~~willing~~
5 ~~to care for the child~~, a licensed child-caring agency, or the
6 department, the court shall, unless a parent has voluntarily
7 executed a written surrender for purposes of adoption, order
8 the parents, or the guardian of the child's estate if
9 possessed of assets which under law may be disbursed for the
10 care, support, and maintenance of the child, to pay child
11 support to the adult relative, legal custodian, or caregiver
12 ~~or nonrelative~~ caring for the child, the licensed child-caring
13 agency, or the department. The court may exercise jurisdiction
14 over all child support matters, shall adjudicate the financial
15 obligation, including health insurance, of the child's parents
16 or guardian, and shall enforce the financial obligation as
17 provided in chapter 61. The state's child support enforcement
18 agency shall enforce child support orders under this section
19 in the same manner as child support orders under chapter 61.

20 (b) Placement of the child pursuant to subsection(8)
21 ~~(1)~~ shall not be contingent upon issuance of a support order.

22 (11)~~(4)~~(a) If the court does not commit the child to
23 the temporary legal custody of an adult relative, legal
24 custodian, or caregiver ~~or adult nonrelative~~ approved by the
25 court, the disposition order shall include the reasons for
26 such a decision and shall include a determination as to
27 whether diligent efforts were made by the department to locate
28 an adult relative, legal custodian, or caregiver willing to
29 care for the child in order to present that placement option
30 to the court instead of placement with the department.

31

1 (b) If diligent efforts are ~~a diligent search is~~ made
2 to locate an adult relative willing and able to care for the
3 child but, because no suitable relative is found, the child is
4 placed with the department or a legal custodian or caregiver
5 ~~nonrelative custodian~~, both the department and the court shall
6 consider transferring temporary legal custody to an ~~a willing~~
7 adult relative ~~or adult nonrelative~~ approved by the court at a
8 later date, but neither the department nor the court is
9 obligated to so place the child if it is in the child's best
10 interest to remain in the current placement. For the purposes
11 of this paragraph, "diligent efforts to locate an adult
12 relative" means a search similar to the diligent search for a
13 parent, but without the continuing obligation to search after
14 an initial adequate search is completed.

15 (12)(6) An agency granted legal custody shall have the
16 right to determine where and with whom the child shall live,
17 but an individual granted legal custody shall exercise all
18 rights and duties personally unless otherwise ordered by the
19 court.

20 (13)(7) In carrying out the provisions of this
21 chapter, the court may order the natural parents, caregivers,
22 or legal custodians ~~guardian~~ of a child who is found to be
23 dependent to participate in family counseling and other
24 professional counseling activities deemed necessary for the
25 rehabilitation of the child.

26 (14)(8) With respect to a child who is the subject in
27 proceedings under ~~part V of~~ this chapter, the court shall
28 issue to the department an order to show cause why it should
29 not return the child to the custody of the natural parents,
30 legal custodians, or caregivers upon expiration of the case
31

1 plan, or sooner if the parents, legal custodians, or
2 caregivers have substantially complied with the case plan.
3 ~~(15)~~~~(9)~~ The court may at any time enter an order
4 ending its jurisdiction over any child, except that, when a
5 child has been returned to the parents under subsection~~(14)~~
6 ~~(8)~~, the court shall not terminate its jurisdiction over the
7 child until 6 months after the child's return. Based on a
8 report of the department or agency or the child's guardian ad
9 litem, and any other relevant factors, the court shall then
10 determine whether its jurisdiction should be continued or
11 terminated in such a case; if its jurisdiction is to be
12 terminated, the court shall enter an order to that effect.

13 Section 53. Section 39.5085, Florida Statutes, is
14 created to read:

15 39.5085 Relative-Caregiver Program.--

16 (1) It is the intent of the Legislature in enacting
17 this section to:

18 (a) Recognize family relationships in which a
19 grandparent or other relative is the head of a household that
20 includes a child otherwise at risk of foster care placement.

21 (b) Enhance family preservation and stability by
22 recognizing that most children in such placements with
23 grandparents and other relatives do not need intensive
24 supervision of the placement by the courts or by the
25 department.

26 (c) Provide additional placement options and
27 incentives that will achieve permanency and stability for many
28 children who are otherwise at risk of foster care placement
29 because of abuse, abandonment, or neglect, but who may
30 successfully be able to be placed by the dependency court in
31 the care of such relatives.

1 (d) Reserve the limited casework and supervisory
2 resources of the courts and the department for those cases in
3 which children do not have the option for safe, stable care
4 within the family.

5 (2)(a) The Department of Children and Family Services
6 shall establish and operate the Relative-Caregiver Program
7 pursuant to eligibility guidelines established in this section
8 as further implemented by rule of the department. The
9 Relative-Caregiver Program shall, within the limits of
10 available funding, provide financial assistance to relatives
11 who are within the fifth degree by blood or marriage to the
12 parent or stepparent of a child and who are caring full-time
13 for that child in the role of substitute parent as a result of
14 a departmental determination of child abuse, neglect, or
15 abandonment and subsequent placement with the relative
16 pursuant to chapter 39. Such placement may be either
17 court-ordered temporary legal custody to the relative pursuant
18 to s. 39.508(9) or court-ordered placement in the home of a
19 relative under protective supervision of the department
20 pursuant to s. 39.508(9). The Relative-Caregiver Program shall
21 offer financial assistance to caregivers who are relatives and
22 who would be unable to serve in that capacity without the
23 relative-caregiver payment because of financial burden, thus
24 exposing the child to the trauma of placement in a shelter or
25 in foster care.

26 (b) Caregivers who are relatives and who receive
27 assistance under this section must be capable, as determined
28 by a home study, of providing a physically safe environment
29 and a stable, supportive home for the children under their
30 care, and must assure that the children's well-being is met,
31

1 including, but not limited to, the provision of immunizations,
2 education, and mental health services as needed.

3 (c) Relatives who qualify for and participate in the
4 Relative-Caregiver Program are not required to meet foster
5 care licensing requirements under s. 409.175.

6 (d) Relatives who are caring for children placed with
7 them by the child protection system shall receive a special
8 monthly relative-caregiver benefit established by rule of the
9 department. The amount of the special benefit payment shall be
10 based on the child's age within a payment schedule established
11 by rule of the department and subject to availability of
12 funding. The statewide average monthly rate for children
13 judicially placed with relatives who are not licensed as
14 foster homes may not exceed 82 percent of the statewide
15 average foster care rate, nor may the cost of providing the
16 assistance described in this section to any relative-caregiver
17 exceed the cost of providing out-of-home care in emergency
18 shelter or foster care.

19 (e) Children receiving cash benefits under this
20 section are not eligible to simultaneously receive WAGES cash
21 benefits under chapter 414.

22 (f) Within available funding, the Relative-Caregiver
23 Program shall provide relative-caregivers with family support
24 and preservation services, flexible funds in accordance with
25 s. 409.165, subsidized child care, and other available
26 services in order to support the child's safety, growth, and
27 healthy development. Children living with relative-caregivers
28 who are receiving assistance under this section shall be
29 eligible for medicaid coverage.

30
31

1 (g) The department may use appropriate available
2 state, federal, and private funds to operate the
3 Relative-Caregiver Program.

4 Section 54. Section 39.4105, Florida Statutes, is
5 renumbered as section 39.509, Florida Statutes, and amended to
6 read:

7 39.509 ~~39.4105~~ Grandparents rights.--Notwithstanding
8 any other provision of law, a maternal or paternal grandparent
9 as well as a stepgrandparent is entitled to reasonable
10 visitation with his or her grandchild who has been adjudicated
11 a dependent child and taken from the physical custody of the
12 ~~his or her~~ parent, custodian, legal guardian, or caregiver
13 unless the court finds that such visitation is not in the best
14 interest of the child or that such visitation would interfere
15 with the goals of the case plan ~~pursuant to s. 39.451.~~
16 Reasonable visitation may be unsupervised and, where
17 appropriate and feasible, may be frequent and continuing.

18 (1) Grandparent visitation may take place in the home
19 of the grandparent unless there is a compelling reason for
20 denying such a visitation. The department's caseworker shall
21 arrange the visitation to which a grandparent is entitled
22 pursuant to this section. The state shall not charge a fee
23 for any costs associated with arranging the visitation.
24 However, the grandparent shall pay for the child's cost of
25 transportation when the visitation is to take place in the
26 grandparent's home. The caseworker shall document the reasons
27 for any decision to restrict a grandparent's visitation.

28 (2) A grandparent entitled to visitation pursuant to
29 this section shall not be restricted from appropriate displays
30 of affection to the child, such as appropriately hugging or
31 kissing his or her grandchild. Gifts, cards, and letters from

1 the grandparent and other family members shall not be denied
2 to a child who has been adjudicated a dependent child.

3 (3) Any attempt by a grandparent to facilitate a
4 meeting between the child who has been adjudicated a dependent
5 child and the child's parent, custodian, legal guardian, or
6 caregiver in violation of a court order shall automatically
7 terminate future visitation rights of the grandparent.

8 (4) When the child has been returned to the physical
9 custody of his or her parent or permanent custodian, legal
10 guardian, or caregiver, the visitation rights granted pursuant
11 to this section shall terminate.

12 (5) The termination of parental rights does not affect
13 the rights of grandparents unless the court finds that such
14 visitation is not in the best interest of the child or that
15 such visitation would interfere with the goals of permanency
16 planning for the child.

17 ~~(6)(5)~~ In determining whether grandparental visitation
18 is not in the child's best interest, consideration may be
19 given to the finding of guilt, regardless of adjudication, or
20 entry or plea of guilty or nolo contendere to charges under
21 the following statutes, or similar statutes of other
22 jurisdictions: s. 787.04, relating to removing minors from
23 the state or concealing minors contrary to court order; s.
24 794.011, relating to sexual battery; s. 798.02, relating to
25 lewd and lascivious behavior; chapter 800, relating to
26 lewdness and indecent exposure; or chapter 827, relating to
27 the abuse of children. Consideration may also be given to a
28 finding of confirmed abuse, abandonment, or neglect under ss.
29 415.101-415.113 or this chapter and ~~ss. 415.502-415.514~~.

30
31

1 Section 55. Section 39.413, Florida Statutes, is
2 renumbered as section 39.5101, Florida Statutes, and
3 subsection (1) of said section is amended to read:

4 39.5101 ~~39.413~~ Appeal.--

5 (1) Any child, ~~any~~ parent, guardian ad litem,
6 caregiver, or legal custodian of any child, any other party to
7 the proceeding who is affected by an order of the court, or
8 the department may appeal to the appropriate district court of
9 appeal within the time and in the manner prescribed by the
10 Florida Rules of Appellate Procedure. Appointed counsel shall
11 be compensated as provided in this chapter ~~s. 39.415~~.

12 Section 56. Part VII of chapter 39, Florida Statutes,
13 consisting of sections 39.601, 39.602, and 39.603, Florida
14 Statutes, shall be entitled to read:

15 PART VII

16 CASE PLANS

17 Section 57. Section 39.4031, Florida Statutes, are
18 renumbered as section 39.601, Florida Statutes, and amended to
19 read:

20 39.601 ~~39.4031~~ Case plan requirements.--

21 (1) The department or agent of the department shall
22 develop a case plan for each child or child's family receiving
23 services pursuant to this chapter ~~who is a party to any~~
24 ~~dependency proceeding, activity, or process under this part.~~
25 A parent, caregiver, or legal guardian, ~~or~~ custodian of a
26 child may not be required or ~~not~~ coerced through threat of
27 loss of custody or parental rights to admit in the case plan
28 to abusing, neglecting, or abandoning a child. Where
29 dependency mediation services are available and appropriate to
30 the best interests of the child, the court may refer the case
31

1 to mediation for development of a case plan. This section does
2 not change the provisions of s. 39.807 ~~39.464~~.

3 ~~(2) The case plan must be:~~

4 (a) The case plan must be developed in conference with
5 the parent, caregiver, or legal guardian, or custodian of the
6 child ~~and, if appropriate, the child and any court-appointed~~
7 guardian ad litem and, if appropriate, the child. ~~Any parent~~
8 ~~who believes that his or her perspective has not been~~
9 ~~considered in the development of a case plan may request~~
10 ~~referral to mediation pursuant to s. 39.4033 when such~~
11 ~~services are available.~~

12 (b) The case plan must be written simply and clearly
13 in English and, if English is not the principal language of
14 the child's parent, caregiver, or legal guardian, or
15 custodian, to the extent possible in such principal language.

16 (c) The case plan must describe the minimum number of
17 face-to-face meetings to be held each month between the
18 parents, caregivers, or legal custodians and the department's
19 caseworkers to review progress of the plan, to eliminate
20 barriers to progress, and to resolve conflicts or
21 disagreements.

22 ~~(d)(e)~~ The case plan must be subject to modification
23 based on changing circumstances.

24 ~~(e)(d)~~ The case plan must be signed by all parties.

25 ~~(f)(e)~~ The case plan must be reasonable, accurate, and
26 in compliance with the requirements of other court orders.

27 ~~(2)(3)~~ When the child or family is receiving services
28 ~~in the child's home, the case plan must be developed within 30~~
29 ~~days from the date of the department's initial contact with~~
30 ~~the child, or within 30 days of the date of a disposition~~
31 ~~order placing the child under the protective supervision of~~

1 ~~the department in the child's own home, and must~~ include, in
2 addition to the requirements in subsection ~~(1)(2)~~, at a
3 minimum:

4 (a) A description of the problem being addressed that
5 includes the behavior or act of a parent, legal custodian, or
6 caregiver resulting in risk to the child and the reason for
7 the department's intervention.

8 (b) A description of the services to be provided to
9 the family and child specifically addressing the identified
10 problem, including:

- 11 1. Type of services or treatment.
- 12 2. Frequency of services or treatment.
- 13 3. Location of the delivery of the services.
- 14 4. The accountable department staff or service
15 provider.

16 ~~5. The need for a multidisciplinary case staffing~~
17 ~~under s. 39.4032.~~

18 (c) A description of the measurable objectives,
19 including timeframes for achieving objectives, addressing the
20 identified problem.

21 ~~(3)(4)~~ When the child is receiving services in a
22 placement outside the child's home or in foster care, the case
23 plan must be submitted to the court for approval at the
24 disposition hearing prepared within 30 days after placement
25 ~~and also be approved by the court~~ and must include, in
26 addition to the requirements in subsections (1) and (2) ~~and~~
27 ~~(3)~~, at a minimum:

28 (a) A description of the permanency goal for the
29 child, including the type of placement. Reasonable efforts to
30 place a child for adoption or with a legal guardian may be
31 made concurrently with reasonable efforts to prevent removal

1 of the child from the home or make it possible for the child
2 to return safely home.

3 (b) A description of the type of home or institution
4 in which the child is to be placed.

5 (c) A description of the financial support obligation
6 to the child, including health insurance, of the child's
7 parent, parents, caregiver, or legal custodian ~~or guardian~~.

8 (d) A description of the visitation rights and
9 obligations of the parent or parents, caregiver, or legal
10 custodian during the period the child is in care.

11 (e) A discussion of the safety and appropriateness of
12 the child's placement, which placement is intended to be safe,
13 ~~in~~ the least restrictive and most family-like setting
14 available consistent with the best interest and special needs
15 of the child, and in as close proximity as possible to the
16 child's home. The plan must also establish the role for the
17 foster parents or custodians in the development of the
18 services that are to be provided to the child, foster parents,
19 or legal custodians. It must also address the child's need for
20 services while under the jurisdiction of the court and
21 implementation of these services in the case plan.

22 (f) A description of the efforts to be undertaken to
23 maintain the stability of the child's educational placement.

24 ~~(g)~~(f) A discussion of the department's plans to carry
25 out the judicial determination made by the court, with respect
26 to the child, in accordance with this chapter and applicable
27 federal regulations.

28 ~~(h)~~(g) A description of the plan for assuring that
29 services outlined in the case plan are provided to the child
30 and the child's parent or parents, legal custodians, or
31 caregivers, to improve the conditions in the family home and

1 facilitate either the safe return of the child to the home or
2 the permanent placement of the child.

3 (i)~~(h)~~ A description of the plan for assuring that
4 services as outlined in the case plan are provided to the
5 child and the child's parent or parents, legal custodians, or
6 caregivers, to address the needs of the child and a discussion
7 of the appropriateness of the services.

8 (j)~~(i)~~ A description of the plan for assuring that
9 services are provided to the child and foster parents to
10 address the needs of the child while in foster care, which
11 shall include an itemized list of costs to be borne by the
12 parent or caregiver associated with any services or treatment
13 that the parent and child are expected to receive.

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

22 (l) In the case of a child for whom the permanency
23 plan is adoption or placement in another permanent home,
24 documentation of the steps the agency is taking to find an
25 adoptive family or other permanent living arrangement for the
26 child; to place the child with an adoptive family, with a fit
27 and willing relative, with a legal guardian, or in another
28 planned permanent living arrangement; and to finalize the
29 adoption or legal guardianship. At a minimum, such
30 documentation shall include child-specific recruitment efforts
31

1 such as the use of state, regional, and national adoption
2 exchanges, including electronic exchange systems.

3 (4)(5) In the event that the parents, legal
4 custodians, or caregivers are unwilling or unable to
5 participate in the development of a case plan, the department
6 shall document that unwillingness or inability to participate.
7 Such documentation must be provided ~~and provide~~ in writing to
8 the parent, legal custodians, or caregivers when available for
9 the court record, and then the department shall prepare a case
10 plan conforming as nearly as possible with the requirements
11 set forth in this section. The unwillingness or inability of
12 the parents, legal custodians, or caregivers to participate in
13 the development of a case plan shall not in itself bar the
14 filing of a petition for dependency or for termination of
15 parental rights. The parents, legal custodians, or caregivers,
16 if available, must be provided a copy of the case plan and be
17 advised that they may, at any time prior to the filing of a
18 petition for termination of parental rights, enter into a case
19 plan and that they may request judicial review of any
20 provision of the case plan with which they disagree at any
21 court review hearing set for the child.

22 (5)(6) The services delineated in the case plan must
23 be designed to improve the conditions in the family home and
24 aid in maintaining the child in the home, to facilitate the
25 safe return of the child to the family home, or to facilitate
26 the permanent placement of the child. The service intervention
27 must be the least intrusive possible into the life of the
28 family, must focus on clearly defined objectives, and must
29 provide the most efficient path to quick reunification or
30 permanent placement, with the child's health and safety being
31 paramount. To the extent possible, the service intervention

1 must be grounded in outcome evaluation results that
2 demonstrate success in the reunification or permanent
3 placement process. In designing service interventions,
4 generally recognized standards of the professions involved in
5 the process must be taken into consideration.

6 (6) After jurisdiction attaches, all case plans must
7 be filed with the court and a copy provided to the parents,
8 caregivers, or legal custodians of the child, to the
9 representative of the guardian ad litem program if the program
10 has been appointed, and to all other parties, not less than 48
11 hours before the disposition hearing. All such case plans must
12 be approved by the court. The department shall also file with
13 the court all case plans prepared before jurisdiction of the
14 court attached. If the court does not accept the case plan,
15 the court shall require the parties to make necessary
16 modifications to the plan. An amended plan must be submitted
17 to the court for review and approval within 30 days after the
18 hearing on the case plan.

19 (7) The case plan must be limited to as short a period
20 as possible for the accomplishment of its provisions. Unless
21 extended, the plan expires no later than 12 months after the
22 date the child was initially removed from the home or the date
23 the case plan was accepted by the court, whichever comes
24 first.

25 (8) The case plan must meet applicable federal and
26 state requirements.

27 (9)(a) In each case in which the custody of a child
28 has been vested, either voluntarily or involuntarily, in the
29 department and the child has been placed in out-of-home care,
30 a case plan must be prepared within 60 days after the
31 department removes the child from the home, and shall be

1 submitted to the court before the disposition hearing, for the
2 court to review and accept. If the preparation of a case plan,
3 in conference with the parents and other pertinent parties,
4 cannot be completed before the disposition hearing, for good
5 cause shown, the court may grant an extension not to exceed 30
6 days and set a hearing to review and accept the case plan.

7 (b) The parent or parents, legal custodians, or
8 caregivers may receive assistance from any person, or social
9 service agency in the preparation of the case plan.

10 (c) The social service agency, the department, and the
11 court, when applicable, shall inform the parent or parents,
12 legal custodians, or caregivers of the right to receive such
13 assistance, including the right to assistance of counsel.

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

18 (e) After the case plan has been agreed upon and
19 signed by the parties involved, a copy of the plan must be
20 given immediately to the parents, the department or agency,
21 the foster parents or caregivers, the legal custodian, the
22 caregiver, the representative of the guardian ad litem program
23 if the program is appointed, and any other parties identified
24 by the court, including the child, if appropriate.

25 (f) The case plan may be amended at any time if all
26 parties are in agreement regarding the revisions to the plan
27 and the plan is submitted to the court with a memorandum of
28 explanation. The case plan may also be amended by the court or
29 upon motion of any party at a hearing, based on competent
30 evidence demonstrating the need for the amendment. A copy of
31

1 the amended plan must be immediately given to the parties
2 specified in paragraph (e).

3 (10) 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 out-of-home
6 care a second time within a 12-month period.

7 Section 58. Section 39.452, Florida Statutes, is
8 renumbered as section 39.602, Florida Statutes, and amended to
9 read:

10 39.602 39.452 Case planning when parents, legal
11 custodians, or caregivers do not participate and the child is
12 in out-of-home foster care.--

13 (1)(a) In the event the parents, legal custodians, or
14 caregivers will not or cannot participate in preparation of a
15 case plan, the department shall submit a full explanation of
16 the circumstances and a plan for the permanent placement of
17 the child to the court within 30 days after the child has been
18 removed from the home and placed in temporary foster care and
19 schedule a court hearing within 30 days after submission of
20 the plan to the court to review and accept or modify the plan.
21 If preparation cannot be accomplished within 30 days, for good
22 cause shown, the court may grant extensions not to exceed 15
23 days each for the filing, the granting of which shall be for
24 similar reason to that contained in s. 39.451(4)(a).

25 (b) In the full explanation of the circumstances
26 submitted to the court, the department shall state the nature
27 of its efforts to secure such persons' parental participation
28 in the preparation of a case plan.

29 (2) In a case in which the physical, emotional, or
30 mental condition or physical location of the parent is the
31 basis for the parent's nonparticipation, it is the burden of

1 the department to provide substantial evidence to the court
2 that such condition or location has rendered the parent unable
3 or unwilling to participate in the preparation of a case plan,
4 either pro se or through counsel. The supporting documentation
5 must be submitted to the court at the time the plan is filed.

6 (3) The plan must include, but need not be limited to,
7 the specific services to be provided by the department, the
8 goals and plans for the child, and the time for accomplishing
9 the provisions of the plan and for accomplishing permanence
10 for the child.

11 (4)(a) At least 48 ~~Seventy-two~~ hours prior to the
12 filing of a plan, all parties ~~each parent~~ must be provided
13 with a copy of the plan developed by the department. If the
14 location of one or both parents is unknown, this must be
15 documented in writing and included in the plan submitted to
16 the court. After the filing of the plan, if the location of
17 an absent parent becomes known, that parent must be served
18 with a copy of the plan.

19 (b) Before the filing of the plan, the department
20 shall advise each parent, both orally and in writing, that the
21 failure of the parents to substantially comply with a plan
22 ~~which has reunification as its primary goal~~ may result in the
23 termination of parental rights, but only after notice and
24 hearing as provided in this chapter ~~part VI~~. If, after the
25 plan has been submitted to the court, an absent parent is
26 located, the department shall advise the parent, both orally
27 and in writing, that the failure of the parents to
28 substantially comply with a plan ~~which has reunification as~~
29 ~~its goal~~ may result in termination of parental rights, but
30 only after notice and hearing as provided in this chapter ~~part~~
31

1 ~~VI.~~ Proof of written notification must be filed with the
2 court.

3 ~~(5)(a) The court shall set a hearing, with notice to~~
4 ~~all parties, on the plan or any provisions of the plan, within~~
5 ~~30 days after the plan has been received by the court. If the~~
6 ~~location of a parent is unknown, the notice must be directed~~
7 ~~to the last permanent address of record.~~

8 ~~(b) At the hearing on the plan, the court shall~~
9 ~~determine:~~

10 ~~1. All parties who were notified and are in attendance~~
11 ~~at the hearing, either in person or through a legal~~
12 ~~representative. The court shall appoint a guardian ad litem~~
13 ~~under Rule 1.210, Florida Rules of Civil Procedure, to~~
14 ~~represent the interests of any parent, if the location of the~~
15 ~~parent is known but the parent is not present at the hearing~~
16 ~~and the development of the plan is based upon the physical,~~
17 ~~emotional, or mental condition or physical location of the~~
18 ~~parent.~~

19 ~~2. If the plan is consistent with previous orders of~~
20 ~~the court placing the child in care.~~

21 ~~3. If the plan is consistent with the requirements for~~
22 ~~the content of a plan as specified in subsection (3).~~

23 ~~4. In involuntary placements, whether each parent was~~
24 ~~notified of the right to counsel at each stage of the~~
25 ~~dependency proceedings, in accordance with the Florida Rules~~
26 ~~of Juvenile Procedure.~~

27 ~~5. Whether each parent whose location was known was~~
28 ~~notified of the right to participate in the preparation of a~~
29 ~~case plan and of the right to receive assistance from any~~
30 ~~other person in the preparation of the case plan.~~

31

1 ~~6. Whether the plan is meaningful and designed to~~
2 ~~address facts and circumstances upon which the court based the~~
3 ~~finding of dependency in involuntary placements or the plan is~~
4 ~~meaningful and designed to address facts and circumstances~~
5 ~~upon which the child was placed in foster care voluntarily.~~

6 ~~(c) When the court determines any of the elements~~
7 ~~considered at the hearing related to the plan have not been~~
8 ~~met, the court shall require the parties to make necessary~~
9 ~~amendments to the plan. The amended plan must be submitted to~~
10 ~~the court for review and approval within a time certain~~
11 ~~specified by the court. A copy of the amended plan must also~~
12 ~~be provided to each parent, if the location of the parent is~~
13 ~~known.~~

14 ~~(d) A parent who has not participated in the~~
15 ~~development of a case plan must be served with a copy of the~~
16 ~~plan developed by the department if the parent can be located~~
17 ~~at least 72 hours prior to the court hearing. Any parent is~~
18 ~~entitled to, and may seek, a court review of the plan prior to~~
19 ~~the initial 6 months' review and must be informed of this~~
20 ~~right by the department at the time the department serves the~~
21 ~~parent with a copy of the plan. If the location of an absent~~
22 ~~parent becomes known to the department, the department shall~~
23 ~~inform the parent of the right to a court review at the time~~
24 ~~the department serves the parent with a copy of the case plan.~~

25 Section 59. Section 39.603, Florida Statutes, is
26 created to read:

27 39.603 Court approvals of case planning.

28 (1) At the hearing on the plan, which shall occur in
29 conjunction with the disposition hearing unless otherwise
30 directed by the court, the court shall determine:
31

1 (a) All parties who were notified and are in
2 attendance at the hearing, either in person or through a legal
3 representative. The court shall appoint a guardian ad litem
4 under Rule 1.210, Florida Rules of Civil Procedure, to
5 represent the interests of any parent, if the location of the
6 parent is known but the parent is not present at the hearing
7 and the development of the plan is based upon the physical,
8 emotional, or mental condition or physical location of the
9 parent.

10 (b) If the plan is consistent with previous orders of
11 the court placing the child in care.

12 (c) If the plan is consistent with the requirements
13 for the content of a plan as specified in this chapter.

14 (d) In involuntary placements, whether each parent was
15 notified of the right to counsel at each stage of the
16 dependency proceedings, in accordance with the Florida Rules
17 of Juvenile Procedure.

18 (e) Whether each parent whose location was known was
19 notified of the right to participate in the preparation of a
20 case plan and of the right to receive assistance from any
21 other person in the preparation of the case plan.

22 (f) Whether the plan is meaningful and designed to
23 address facts and circumstances upon which the court based the
24 finding of dependency in involuntary placements or the plan is
25 meaningful and designed to address facts and circumstances
26 upon which the child was placed in out-of-home care
27 voluntarily.

28 (2) When the court determines any of the elements
29 considered at the hearing related to the plan have not been
30 met, the court shall require the parties to make necessary
31 amendments to the plan. The amended plan must be submitted to

1 the court for review and approval within a time certain
2 specified by the court. A copy of the amended plan must also
3 be provided to each parent, if the location of the parent is
4 known.

5 (3) A parent who has not participated in the
6 development of a case plan must be served with a copy of the
7 plan developed by the department, if the parent can be
8 located, at least 48 hours prior to the court hearing. Any
9 parent is entitled to, and may seek, a court review of the
10 plan prior to the initial review and must be informed of this
11 right by the department at the time the department serves the
12 parent with a copy of the plan. If the location of an absent
13 parent becomes known to the department, the department shall
14 inform the parent of the right to a court review at the time
15 the department serves the parent with a copy of the case plan.

16 Section 60. Part VIII of chapter 39, Florida Statutes,
17 consisting of sections 39.701, 39.702, 39.703, and 39.704,
18 Florida Statutes, shall be entitled to read:

19 PART VIII

20 JUDICIAL REVIEWS

21 Section 61. Section 39.453, Florida Statutes, is
22 renumbered as section 39.701, Florida Statutes, and amended to
23 read:

24 39.701 ~~39.453~~ Judicial review.--

25 (1)(a) The court shall have continuing jurisdiction in
26 accordance with this section and shall review the status of
27 the child as required by this subsection or more frequently if
28 the court deems it necessary or desirable.

29 (b) The court shall retain jurisdiction over a child
30 returned to its parents, caregivers, or legal guardians for a
31 period of 6 months, but, at that time, based on a report of

1 the social service agency and the guardian ad litem, if one
2 has been appointed, and any other relevant factors, the court
3 shall make a determination as to whether its jurisdiction
4 shall continue or be terminated.

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

15 (2)(a) The court shall review the status of the child
16 and shall hold a hearing as provided in this part subsection
17 ~~(7)~~. The court may dispense with the attendance of the child
18 at the hearing, but may not dispense with the hearing or the
19 presence of other parties to the review unless before the
20 review a hearing is held before a citizen review panel.

21 (b) Citizen review panels may be established under s.
22 39.4531 to conduct hearings to a review of the status of a
23 child. The court shall select the cases appropriate for
24 referral to the citizen review panels and may order the
25 attendance of the parties at the review panel hearings.
26 However, any party may object to the referral of a case to a
27 citizen review panel. Whenever such an objection has been
28 filed with the court, the court shall review the substance of
29 the objection and may conduct the review itself or refer the
30 review to a citizen review panel. All parties retain the right
31 to take exception to the findings or recommended orders of a

1 citizen review panel in accordance with Rule 1.490(h), Florida
2 Rules of Civil Procedure.

3 (c) Notice of a hearing by a citizen review panel must
4 be provided as set forth in subsection (5). At the conclusion
5 of a citizen review panel hearing, each party may propose a
6 recommended order to the chairperson of the panel. Thereafter,
7 the citizen review panel shall submit its report, copies of
8 the proposed recommended orders, and a copy of the panel's
9 recommended order to the court. The citizen review panel's
10 recommended order must be limited to the dispositional options
11 available to the court in subsection (8). Each party may file
12 exceptions to the report and recommended order of the citizen
13 review panel in accordance with Rule 1.490, Florida Rules of
14 Civil Procedure.

15 (3)(a) The initial judicial review must be held no
16 later than 90 days after the date of the disposition hearing
17 or after the date of the hearing at which the court approves
18 the case plan, but in no event shall the review be held later
19 than 6 months after the date the child was removed from the
20 home. Citizen review panels shall not conduct more than two
21 consecutive reviews without the child and the parties coming
22 before the court for a judicial review.~~If the child remains~~
23 ~~in shelter or foster care, subsequent judicial reviews must be~~
24 ~~held at least every 6 months after the date of the most recent~~
25 ~~judicial review until the child is 13 years old and has been~~
26 ~~in foster care at least 18 months.~~

27 (b) If the court extends any the case plan beyond 12
28 ~~18~~ months, judicial reviews must be held at least every 6
29 months ~~for children under the age of 13 and at least annually~~
30 ~~for children age 13 and older.~~

31

1 (c) If the child is placed in the custody of the
2 department or a licensed child-placing agency for the purpose
3 of adoptive placement, judicial reviews must be held at least
4 every 6 months until adoptive placement, to determine the
5 appropriateness of the current placement and the progress made
6 toward adoptive placement.

7 (d) If the department and the court have established a
8 formal agreement that includes specific authorization for
9 particular cases, the department may conduct administrative
10 reviews instead of the judicial reviews for children in
11 out-of-home foster care. Notices of such administrative
12 reviews must be provided to all parties. However, an
13 administrative review may not be substituted for the first
14 judicial review, and in every case the court must conduct a
15 judicial review at least every 6 ~~12~~ months. Any party
16 dissatisfied with the results of an administrative review may
17 petition for a judicial review.

18 (e) The clerk of the circuit court shall schedule
19 judicial review hearings in order to comply with the mandated
20 times cited in this section ~~paragraphs (a)-(d)~~.

21 (f) In each case in which a child has been voluntarily
22 placed with the licensed child-placing agency, the agency
23 shall notify the clerk of the court in the circuit where the
24 child resides of such placement within 5 working days.
25 Notification of the court is not required for any child who
26 will be in out-of-home foster care no longer than 30 days
27 unless that child is placed in out-of-home foster care a
28 second time within a 12-month period. If the child is returned
29 to the custody of the parents, caregiver, or legal custodian
30 ~~or guardian~~ before the scheduled review hearing or if the
31 child is placed for adoption, the child-placing agency shall

1 notify the court of the child's return or placement within 5
2 working days, and the clerk of the court shall cancel the
3 review hearing.

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

12 (5) Notice of a judicial review hearing or a citizen
13 review panel ~~the hearing,~~ and a copy of the motion for
14 judicial review ~~petition~~, including a statement of the
15 dispositional alternatives available to the court, must be
16 served by the court upon:

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

20 (b) The foster parent or parents or caregivers
21 ~~caretakers~~ in whose home the child resides.

22 (c) The parent, caregiver, or legal custodian
23 ~~guardian, or relative~~ from whom the care and custody of the
24 child have been transferred.

25 (d) The guardian ad litem for the child, or the
26 representative of the guardian ad litem program if the program
27 ~~one~~ has been appointed.

28 (e) Any preadoptive parent.

29 (f) ~~(e)~~ Such other persons as the court may in its
30 discretion direct.

31

1 (6)(a) Prior to every judicial review hearing or
2 citizen review panel hearing, the social service agency shall
3 make an investigation and social study concerning all
4 pertinent details relating to the child and shall furnish to
5 the court or citizen review panel a written report that
6 includes, but is not limited to:

7 1. A description of the type of placement the child is
8 in at the time of the hearing, including the safety of the
9 child and the continuing necessity for and appropriateness of
10 the placement.

11 2. Documentation of the diligent efforts made by all
12 parties to the case plan to comply with each applicable
13 provision of the plan.

14 3. The amount of fees assessed and collected during
15 the period of time being reported.

16 4. The services provided to the foster family or
17 caregivers ~~caretakers~~ in an effort to address the needs of the
18 child as indicated in the case plan.

19 5. A statement that ~~concerning whether~~ the parent or
20 legal custodian ~~guardian~~, though able to do so, did not comply
21 substantially with the provisions of the case plan and the
22 agency recommendations or a statement that the parent or legal
23 custodian ~~guardian~~ did substantially comply with such
24 provisions.

25 6. A statement from the foster parent or parents or
26 caregivers ~~caretakers~~ providing any material evidence
27 concerning the return of the child to the parent or parents or
28 legal custodians.

29 7. A statement concerning the frequency, duration, and
30 results of the parent-child visitation, if any, and the agency
31

1 recommendations for an expansion or restriction of future
2 visitation.

3 8. The number of times a child has been removed from
4 his or her home and placed elsewhere, the number and types of
5 placements that have occurred, and the reason for the changes
6 in placement.

7 9. The number of times a child's educational placement
8 has been changed, the number and types of educational
9 placements that have occurred, and the reason for any change
10 in placement.

11 (b) A copy of the social service agency's written
12 report must be provided to the attorney of record of the
13 parent, parents, or legal custodians ~~guardian~~; to the parent,
14 parents, or legal custodians ~~guardian~~; to the foster parents
15 or caregivers ~~caretakers~~; to each citizen review panel
16 ~~established under s. 39.4531~~; and to the guardian ad litem for
17 the child, or the representative of the guardian ad litem
18 program if the program ~~one~~ has been appointed by the court, at
19 least 48 hours before the judicial review hearing, ~~or~~ citizen
20 review panel hearing ~~if such a panel has been established~~
21 ~~under s. 39.4531~~. The requirement for providing parents or
22 legal custodians ~~guardians~~ with a copy of the written report
23 does not apply to those parents or legal custodians ~~guardians~~
24 who have voluntarily surrendered their child for adoption.

25 (c) In a case in which the child has been permanently
26 placed with the social service agency, the agency shall
27 furnish to the court a written report concerning the progress
28 being made to place the child for adoption. ~~If, as stated in~~
29 ~~s. 39.451(1),~~ the child cannot be placed for adoption, a
30 report on the progress made by the child in alternative
31 permanency goals or placements, including, but not limited to,

1 long-term foster care, independent living, custody to a
2 relative or caregiver ~~adult nonrelative~~ approved by the court
3 on a permanent basis with or without legal guardianship, or
4 custody to a foster parent or caregiver on a permanent basis
5 with or without legal guardianship, must be submitted to the
6 court. The report must be submitted to the court at least 48
7 hours before each scheduled judicial review.

8 (d) In addition to or in lieu of any written statement
9 provided to the court, the foster parent or caregivers, or any
10 preadoptive parent, ~~caretakers~~ shall be given the opportunity
11 to address the court with any information relevant to the best
12 interests of the child at any judicial review hearing.

13 (7) The court, and any citizen review panel
14 ~~established under s. 39.4531~~, shall take into consideration
15 the information contained in the social services study and
16 investigation and all medical, psychological, and educational
17 records that support the terms of the case plan; testimony by
18 the social services agency, the parent or legal custodian
19 guardian, the foster parent or caregivers ~~caretakers~~, the
20 guardian ad litem if one has been appointed for the child, and
21 any other person deemed appropriate; and any relevant and
22 material evidence submitted to the court, including written
23 and oral reports to the extent of their probative value. In
24 its deliberations, the court, and any citizen review panel
25 ~~established under s. 39.4531~~, shall seek to determine:

26 (a) If the parent or legal custodian ~~guardian~~ was
27 advised of the right to receive assistance from any person or
28 social service agency in the preparation of the case plan.

29 (b) If the parent or legal custodian ~~guardian~~ has been
30 advised of the right to have counsel present at the judicial
31 review or citizen review hearings. If not so advised, the

1 court or citizen review panel shall advise the parent or legal
2 custodian ~~guardian~~ of such right.

3 (c) If a guardian ad litem needs to be appointed for
4 the child in a case in which a guardian ad litem has not
5 previously been appointed or if there is a need to continue a
6 guardian ad litem in a case in which a guardian ad litem has
7 been appointed.

8 (d) The compliance or lack of compliance of all
9 parties with applicable items of the case plan, including the
10 parents' compliance with child support orders.

11 (e) The compliance or lack of compliance with a
12 visitation contract between the parent, caregiver, or legal
13 custodian ~~or guardian~~ and the social service agency for
14 contact with the child, including the frequency, duration, and
15 results of the parent-child visitation and the reason for any
16 noncompliance.

17 (f) The compliance or lack of compliance of the
18 parent, caregiver, or legal custodian ~~or guardian~~ in meeting
19 specified financial obligations pertaining to the care of the
20 child, including the reason for failure to comply if such is
21 the case.

22 (g) The appropriateness of the child's current
23 placement, including whether the child is in a setting which
24 is as family-like and as close to the parent's home as
25 possible, consistent with the child's best interests and
26 special needs, and including maintaining stability in the
27 child's educational placement.

28 (h) A projected date likely for the child's return
29 home or other permanent placement.

30 (i) When appropriate, the basis for the unwillingness
31 or inability of the parent, caregiver, or legal custodian ~~or~~

1 ~~guardian~~ to become a party to a case plan. The court and the
2 citizen review panel shall determine if ~~the nature of the~~
3 ~~location or the condition of the parent and~~ the efforts of the
4 social service agency to secure party ~~parental~~ participation
5 in a case plan were sufficient.

6 (8)(a) Based upon the criteria set forth in subsection
7 (7) and the recommended order of the citizen review panel, if
8 any established under s. 39.4531, the court shall determine
9 whether or not the social service agency shall initiate
10 proceedings to have a child declared a dependent child, return
11 the child to the parent, legal custodian, or caregiver,
12 continue the child in out-of-home ~~foster~~ care for a specified
13 period of time, or initiate termination of parental rights
14 proceedings for subsequent placement in an adoptive home.
15 Modifications to the plan must be handled as prescribed in s.
16 39.601 ~~39.451~~. If the court finds that the prevention or
17 reunification efforts of the department will allow the child
18 to remain safely at home or be safely returned to the home,
19 the court shall allow the child to remain in or return to the
20 home after making a specific finding of fact that the reasons
21 for removal have been remedied to the extent that the child's
22 safety, and well-being, and physical, mental, and emotional
23 health will not be endangered.

24 (b) The court shall return the child to the custody of
25 the parents, legal custodians, or caregivers at any time it
26 determines that they have substantially complied with the
27 plan, if the court is satisfied that reunification will not be
28 detrimental to the child's safety, and well-being, and
29 physical, mental, and emotional health.

30 (c) If, in the opinion of the court, the social
31 service agency has not complied with its obligations as

1 specified in the written case plan, the court may find the
2 social service agency in contempt, shall order the social
3 service agency to submit its plans for compliance with the
4 agreement, and shall require the social service agency to show
5 why the child could ~~should~~ not safely be returned ~~immediately~~
6 to the home of the parents, legal custodians, or caregivers ~~or~~
7 ~~legal guardian~~.

8 (d) The court may extend the time limitation of the
9 case plan, or may modify the terms of the plan, based upon
10 information provided by the social service agency, and the
11 guardian ad litem, if one has been appointed, the natural
12 parent or parents, and the foster parents, and any other
13 competent information on record demonstrating the need for the
14 amendment. If the court extends the time limitation of the
15 case plan, the court must make specific findings concerning
16 the frequency of past parent-child visitation, if any, and the
17 court may authorize the expansion or restriction of future
18 visitation. Modifications to the plan must be handled as
19 prescribed in s. 39.601 ~~39.451~~. Any extension of a case plan
20 must comply with the time requirements and other requirements
21 specified by this chapter ~~part~~.

22 (e) If, at any judicial review, the court finds that
23 the parents have failed to substantially comply with the case
24 plan to the degree that further reunification efforts are
25 without merit and not in the best interest of the child, it
26 may authorize the filing of a petition for termination of
27 parental rights, whether or not the time period as contained
28 in the case plan for substantial compliance has elapsed.

29 (f) No later than 12 months after the date that the
30 child was placed in shelter care, the court shall conduct a
31 judicial review. At this hearing, if the child is not returned

1 to the physical custody of the parents, caregivers, or legal
2 custodians, the case plan may be extended with the same goals
3 only if the court finds that the situation of the child is so
4 extraordinary that the plan should be extended. The case plan
5 must document steps the department is taking to find an
6 adoptive parent or other permanent living arrangement for the
7 child.~~If, at the time of the 18-month judicial review or~~
8 ~~citizen review, the child is not returned to the physical~~
9 ~~custody of the natural parents, the case plan may be extended~~
10 ~~only if, at the time of the judicial review or citizen review,~~
11 ~~the court finds that the situation of the child is so~~
12 ~~extraordinary that the plan should be extended. The extension~~
13 ~~must be in accordance with subsection (3).~~

14 (g) The court may issue a protective order in
15 assistance, or as a condition, of any other order made under
16 this part. In addition to the requirements included in the
17 case plan, the protective order may set forth requirements
18 relating to reasonable conditions of behavior to be observed
19 for a specified period of time by a person or agency who is
20 before the court; and such order may require any such person
21 or agency to make periodic reports to the court containing
22 such information as the court in its discretion may prescribe.

23 Section 62. Section 39.4531, Florida Statutes, is
24 renumbered as section 39.702, Florida Statutes, and amended to
25 read:

26 39.702 ~~39.4531~~ Citizen review panels.--

27 (1) Citizen review panels may be established in each
28 judicial circuit and shall be authorized by an administrative
29 order executed by the chief judge of each circuit. The court
30 shall administer an oath of office to each citizen review
31 panel member which shall authorize the panel member to

1 participate in citizen review panels and make recommendations
2 to the court pursuant to the provisions of this section.

3 (2) Citizen review panels shall be administered by an
4 independent not-for-profit agency. For the purpose of this
5 section, an organization that has filed for nonprofit status
6 under the provisions of s. 501(c)(3) of the United States
7 Internal Revenue Code is an independent not-for-profit agency
8 for a period of 1 year after the date of filing. At the end
9 of that 1-year period, in order to continue conducting citizen
10 reviews, the organization must have qualified for nonprofit
11 status under s. 501(c)(3) of the United States Internal
12 Revenue Code and must submit to the chief judge of the circuit
13 court a consumer's certificate of exemption that was issued to
14 the organization by the Florida Department of Revenue and a
15 report of the organization's progress. If the agency has not
16 qualified for nonprofit status, the court must rescind its
17 administrative order that authorizes the agency to conduct
18 citizen reviews. All independent not-for-profit agencies
19 conducting citizen reviews must submit citizen review annual
20 reports to the court.

21 (3) For the purpose of this section, a citizen review
22 panel shall be composed of five volunteer members and shall
23 conform with the requirements of this chapter ~~section~~. The
24 presence of three members at a panel hearing shall constitute
25 a quorum. Panel members shall serve without compensation.

26 (4)~~(3)~~ Based on the information provided to each
27 citizen review panel pursuant to s. 39.701 ~~39.453~~, each
28 citizen review panel shall provide the court with a report and
29 recommendations regarding the placement and dispositional
30 alternatives the court shall consider before issuing a
31 judicial review order.

1 (5)(4) ~~The An~~ independent not-for-profit agency
2 authorized to administer each citizen review panel shall:

3 (a) In collaboration with the department, develop
4 policies to assure that citizen review panels comply with all
5 applicable state and federal laws.

6 (b) Establish policies for the recruitment, selection,
7 retention, and terms of volunteer panel members. Final
8 selection of citizen review panel members shall, to the extent
9 possible, reflect the multicultural composition of the
10 community which they serve. A criminal background check and
11 personal reference check shall be conducted on each citizen
12 review panel member prior to the member serving on a citizen
13 review panel.

14 (c) In collaboration with the department, develop,
15 implement, and maintain a training program for citizen review
16 volunteers and provide training for each panel member prior to
17 that member serving on a review panel. Such training may
18 include, but shall not be limited to, instruction on
19 dependency laws, departmental policies, and judicial
20 procedures.

21 (d) Ensure that all citizen review panel members have
22 read, understood, and signed an oath of confidentiality
23 relating to ~~the citizen review hearings and~~ written or verbal
24 information provided to the panel members for review hearings.

25 (e) Establish policies to avoid actual or perceived
26 conflicts of interest by panel members during the review
27 process and to ensure accurate, fair reviews of each child
28 dependency case.

29 (f) Establish policies to ensure ongoing communication
30 with the department and the court.

31

1 (g) Establish policies to ensure adequate
2 communication with the parent, caregiver, or legal custodian
3 ~~or guardian~~, the foster parent or caregiver, the guardian ad
4 litem, and any other person deemed appropriate.

5 (h) Establish procedures that encourage attendance and
6 participation of interested persons and parties, including the
7 biological parents, foster parents or caregivers, or a
8 relative or nonrelative with whom the child is placed, at
9 citizen review hearings.

10 (i) Coordinate with existing citizen review panels to
11 ensure consistency of operating procedures, data collection,
12 ~~and analysis,~~ and report generation.

13 (j) Make recommendations as necessary to the court
14 concerning attendance of essential persons at the review and
15 other issues pertinent to an effective review process.

16 (k) Ensure consistent methods of identifying barriers
17 to the permanent placement of the child and delineation of
18 findings and recommendations to the court.

19 ~~(6)(5)~~ The department and agents of the department
20 shall submit information to the citizen review panel when
21 requested and shall address questions asked by the citizen
22 review panel to identify barriers to the permanent placement
23 of each child.

24 Section 63. Section 39.454, Florida Statutes, is
25 renumbered as section 39.703, Florida Statutes, and amended to
26 read:

27 39.703 ~~39.454~~ Initiation of termination of parental
28 rights proceedings.--

29 (1) If, in preparation for any judicial review hearing
30 under this chapter part, it is the opinion of the social
31 service agency that the parents ~~or legal guardian~~ of the child

1 have not complied with their responsibilities as specified in
2 the written case plan although able to do so, the social
3 service agency shall state its intent to initiate proceedings
4 to terminate parental rights, unless the social service agency
5 can demonstrate to the court that such a recommendation would
6 not be in the child's best interests. If it is the intent of
7 the department or licensed child-placing agency to initiate
8 proceedings to terminate parental rights, the department or
9 licensed child-placing agency shall file a petition for
10 termination of parental rights no later than 3 months after
11 the date of the previous judicial review hearing. If the
12 petition cannot be filed within 3 months, the department or
13 licensed child-placing agency shall provide a written report
14 to the court outlining the reasons for delay, the progress
15 made in the termination of parental rights process, and the
16 anticipated date of completion of the process.

17 (2) If, at the time of the 12-month ~~18-month~~ judicial
18 review hearing, a child is not returned to the physical
19 custody of the ~~natural~~ parents, caregivers, or legal
20 custodians, the social service agency shall initiate
21 termination of parental rights proceedings under ~~part VI of~~
22 this chapter within 30 days. Only if the court finds that the
23 situation of the child is so extraordinary and that the best
24 interests of the child will be met by such action at the time
25 of the judicial review may the case plan be extended. If the
26 court decides to extend the plan, the court shall enter
27 detailed findings justifying the decision to extend, as well
28 as the length of the extension. A termination of parental
29 rights petition need not be filed if: the child is being
30 cared for by a relative who chooses not to adopt the child;
31 the court determines that filing such a petition would not be

1 in the best interests of the child; or the state has not
2 provided the child's family, when reasonable efforts to return
3 a child are required, consistent with the time period in the
4 state's case plan, such services as the state deems necessary
5 for the safe return of the child to his or her home. Failure
6 to initiate termination of parental rights proceedings at the
7 time of the 12-month ~~18-month~~ judicial review or within 30
8 days after such review does not prohibit initiating
9 termination of parental rights proceedings at any other time.

10 Section 64. Section 39.456, Florida Statutes, is
11 renumbered as section 39.704, Florida Statutes, and amended to
12 read:

13 39.704 ~~39.456~~ Exemptions from judicial
14 review. --Judicial review ~~This part~~ does not apply to:

15 (1) Minors who have been placed in adoptive homes by
16 the department or by a licensed child-placing agency; or

17 (2) Minors who are refugees or entrants to whom
18 federal regulations apply and who are in the care of a social
19 service agency. ~~or~~

20 ~~(3) Minors who are the subjects of termination of~~
21 ~~parental rights cases pursuant to s. 39.464.~~

22 Section 65. Part IX of chapter 39, Florida Statutes,
23 consisting of sections 39.801, 39.802, 39.803, 39.804, 39.805,
24 39.806, 39.807, 39.808, 39.809, 39.810, 39.811, 39.812,
25 39.813, 39.814, 39.815, 39.816, and 39.817, Florida Statutes,
26 shall be entitled to read:

27 PART IX

28 TERMINATION OF PARENTAL RIGHTS

29 Section 66. Section 39.46, Florida Statutes, is
30 renumbered as section 39.801, Florida Statutes, and amended to
31 read:

1 39.801 ~~39.46~~ Procedures and jurisdiction; notice;
2 service of process.--

3 (1) All procedures, including petitions, pleadings,
4 subpoenas, summonses, and hearings, in termination of parental
5 rights proceedings shall be according to the Florida Rules of
6 Juvenile Procedure unless otherwise provided by law.

7 (2) The circuit court shall have exclusive original
8 jurisdiction of a proceeding involving termination of parental
9 rights.

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

13 (a) Notice of the date, time, and place of the
14 advisory hearing for the petition to terminate parental rights
15 and a copy of the petition must be personally served upon the
16 following persons, specifically notifying them that a petition
17 has been filed:

18 1. The parents of the child.

19 2. The caregivers or legal custodians of the child.

20 3. If the parents who would be entitled to notice are
21 dead or unknown, a living relative of the child, unless upon
22 diligent search and inquiry no such relative can be found.

23 4. Any person who has physical custody of the child.

24 5. Any grandparent entitled to priority for adoption
25 under s. 63.0425.

26 6. Any prospective parent who has been identified
27 under s. 39.503 or s. 39.803.

28 7. The guardian ad litem for the child or the
29 representative of the guardian ad litem program, if the
30 program has been appointed.

31

1 The document containing the notice to respond or appear must
2 contain, in type at least as large as the type in the balance
3 of the document, the following or substantially similar
4 language: "FAILURE TO PERSONALLY APPEAR AT THIS ADVISORY
5 HEARING CONSTITUTES CONSENT TO THE TERMINATION OF PARENTAL
6 RIGHTS OF THIS CHILD (OR CHILDREN)."

7 (b) If a person required to be served with notice as
8 prescribed in paragraph (a) cannot be served, notice of
9 hearings must be given as prescribed by the rules of civil
10 procedure, and service of process must be made as specified by
11 law or civil actions.

12 (c) Notice as prescribed by this section may be
13 waived, in the discretion of the judge, with regard to any
14 person to whom notice must be given under this subsection if
15 the person executes, before two witnesses and a notary public
16 or other officer authorized to take acknowledgments, a written
17 surrender of the child to a licensed child-placing agency or
18 the department.

19 (d) If the person served with notice under this
20 section fails to appear at the advisory hearing, the failure
21 to appear shall constitute consent for termination of parental
22 rights by the person given notice.

23 (4) Upon the application of any party, the clerk or
24 deputy clerk shall issue, and the court on its own motion may
25 issue, subpoenas requiring the attendance and testimony of
26 witnesses and the production of records, documents, or other
27 tangible objects at any hearing.

28 (5) All process and orders issued by the court must be
29 served or executed as other process and orders of the circuit
30 court and, in addition, may be served or executed by
31 authorized agents of the department or the guardian ad litem.

1 (6) Subpoenas may be served within the state by any
2 person over 18 years of age who is not a party to the
3 proceeding.

4 (7) A fee may not be paid for service of any process
5 or other papers by an agent of the department or the guardian
6 ad litem. If any process, orders, or other papers are served
7 or executed by any sheriff, the sheriff's fees must be paid by
8 the county.

9 Section 67. Section 39.461, Florida Statutes, is
10 renumbered as section 39.802, Florida Statutes, and amended to
11 read:

12 39.802 ~~39.461~~ Petition for termination of parental
13 rights; filing; elements.--

14 (1) All proceedings seeking an adjudication to
15 terminate parental rights pursuant to this chapter must be
16 initiated by the filing of an original petition by the
17 department, the guardian ad litem, or a licensed child-placing
18 agency or by any other person who has knowledge of the facts
19 alleged or is informed of them and believes that they are
20 true.

21 (2) The form of the petition is governed by the
22 Florida Rules of Juvenile Procedure. The petition must be in
23 writing and signed by the petitioner under oath stating the
24 petitioner's good faith in filing the petition.

25 (3) When a petition for termination of parental rights
26 has been filed, the clerk of the court shall set the case
27 before the court for an advisory hearing.

28 (4) A petition for termination of parental rights
29 filed under this chapter must contain facts supporting the
30 following allegations:

31

1 (a) That at least one of the grounds listed in s.
2 39.806 has been met.

3 (b) That the parents of the child were informed of
4 their right to counsel at all hearings that they attend and
5 that a dispositional order adjudicating the child dependent
6 was entered in any prior dependency proceeding relied upon in
7 offering a parent a case plan as described in s. 39.806.

8 (c) That the manifest best interests of the child, in
9 accordance with s. 39.810, would be served by the granting of
10 the petition.

11 (5) When a petition for termination of parental rights
12 is filed under s. 39.806(1), a separate petition for
13 dependency need not be filed and the department need not offer
14 the parents a case plan with a goal of reunification, but may
15 instead file with the court a case plan with a goal of
16 termination of parental rights to allow continuation of
17 services until the termination is granted or until further
18 orders of the court are issued.

19 (6) The fact that a child has been previously
20 adjudicated dependent as alleged in a petition for termination
21 of parental rights may be proved by the introduction of a
22 certified copy of the order of adjudication or the order of
23 disposition of dependency.

24 (7) The fact that the parent of a child was informed
25 of the right to counsel in any prior dependency proceeding as
26 alleged in a petition for termination of parental rights may
27 be proved by the introduction of a certified copy of the order
28 of adjudication or the order of disposition of dependency
29 containing a finding of fact that the parent was so advised.

30 (8) Whenever the department has entered into a case
31 plan with a parent with the goal of reunification, and a

1 petition for termination of parental rights based on the same
2 facts as are covered in the case plan is filed prior to the
3 time agreed upon in the case plan for the performance of the
4 case plan, the petitioner must allege and prove by clear and
5 convincing evidence that the parent has materially breached
6 the provisions of the case plan.

7 Section 68. Section 39.803, Florida Statutes, is
8 created to read:

9 39.803 Identity or location of parent unknown after
10 filing of termination of parental rights petition; special
11 procedures.--

12 (1) If the identity or location of a parent is unknown
13 and a petition for termination of parental rights is filed,
14 the court shall conduct the following inquiry of the parent
15 who is available, or, if no parent is available, of any
16 relative, caregiver, or legal custodian of the child who is
17 present at the hearing and likely to have the information:

18 (a) Whether the mother of the child was married at the
19 probable time of conception of the child or at the time of
20 birth of the child.

21 (b) Whether the mother was cohabiting with a male at
22 the probable time of conception of the child.

23 (c) Whether the mother has received payments or
24 promises of support with respect to the child or because of
25 her pregnancy from a man who claims to be the father.

26 (d) Whether the mother has named any man as the father
27 on the birth certificate of the child or in connection with
28 applying for or receiving public assistance.

29 (e) Whether any man has acknowledged or claimed
30 paternity of the child in a jurisdiction in which the mother
31

1 resided at the time of or since conception of the child, or in
2 which the child has resided or resides.

3 (2) The information required in subsection (1) may be
4 supplied to the court or the department in the form of a sworn
5 affidavit by a person having personal knowledge of the facts.

6 (3) If the inquiry under subsection (1) identifies any
7 person as a parent or prospective parent, the court shall
8 require notice of the hearing to be provided to that person.

9 (4) If the inquiry under subsection (1) fails to
10 identify any person as a parent or prospective parent, the
11 court shall so find and may proceed without further notice.

12 (5) If the inquiry under subsection (1) identifies a
13 parent or prospective parent, and that person's location is
14 unknown, the court shall direct the department to conduct a
15 diligent search for that person before scheduling an
16 adjudicatory hearing regarding the dependency of the child
17 unless the court finds that the best interest of the child
18 requires proceeding without actual notice to the person whose
19 location is unknown.

20 (6) The diligent search required by subsection (5)
21 must include, at a minimum, inquiries of all known relatives
22 of the parent or prospective parent, inquiries of all offices
23 of program areas of the department likely to have information
24 about the parent or prospective parent, inquiries of other
25 state and federal agencies likely to have information about
26 the parent or prospective parent, inquiries of appropriate
27 utility and postal providers, and inquiries of appropriate law
28 enforcement agencies.

29 (7) Any agency contacted by a petitioner with a
30 request for information pursuant to subsection (6) shall
31

1 release the requested information to the petitioner without
2 the necessity of a subpoena or court order.

3 (8) If the inquiry and diligent search identifies a
4 prospective parent, that person must be given the opportunity
5 to become a party to the proceedings by completing a sworn
6 affidavit of parenthood and filing it with the court or the
7 department. A prospective parent who files a sworn affidavit
8 of parenthood while the child is a dependent child but no
9 later than at the time of or prior to the adjudicatory hearing
10 in the termination of parental rights proceeding for the child
11 shall be considered a parent for all purposes under this
12 section.

13 Section 69. Section 39.4627, Florida Statutes, is
14 renumbered as section 39.804, Florida Statutes.

15 Section 70. Section 39.463, Florida Statutes, is
16 renumbered as section 39.805, Florida Statutes, and amended to
17 read:

18 39.805 ~~39.463~~ No answer required.--No answer to the
19 petition or any other pleading need be filed by any child,
20 parent, caregiver, or legal custodian, but any matters which
21 might be set forth in an answer or other pleading may be
22 pleaded orally before the court or filed in writing as any
23 such person may choose. Notwithstanding the filing of any
24 answer or any pleading, the child or parent shall, prior to
25 the adjudicatory hearing, be advised by the court of the right
26 to counsel and shall be given an opportunity to deny the
27 allegations in the petition for termination of parental rights
28 or to enter a plea to allegations in the petition before the
29 court.

30
31

1 Section 71. Section 39.464, Florida Statutes, as
2 amended by chapter 97-276, Laws of Florida, is renumbered as
3 section 39.806, Florida Statutes, and amended to read:

4 39.806 ~~39.464~~ Grounds for termination of parental
5 rights.--

6 (1) The department, the guardian ad litem, a licensed
7 child-placing agency, or any person who has knowledge of the
8 facts alleged or who is informed of said facts and believes
9 that they are true, may petition for the termination of
10 parental rights under any of the following circumstances:

11 (a) When the parent or parents voluntarily executed a
12 written surrender of the child and consented to the entry of
13 an order giving custody of the child to the department or to a
14 licensed child-placing agency for subsequent adoption and the
15 department or licensed child-placing agency is willing to
16 accept custody of the child.

17 1. The surrender document must be executed before two
18 witnesses and a notary public or other person authorized to
19 take acknowledgments.

20 2. The surrender and consent may be withdrawn after
21 acceptance by the department or licensed child-placing agency
22 only after a finding by the court that the surrender and
23 consent were obtained by fraud or duress.

24 (b) When the identity or location of the parent or
25 parents is unknown and, ~~if the court requires a diligent~~
26 ~~search pursuant to s. 39.4625,~~ cannot be ascertained by
27 diligent search ~~as provided in s. 39.4625~~ within 90 days.

28 (c) When the parent or parents engaged in conduct
29 toward the child or toward other children that demonstrates
30 that the continuing involvement of the parent or parents in
31 the parent-child relationship threatens the life, safety ~~or~~

1 well-being, or physical, mental, or emotional health of the
2 child irrespective of the provision of services. Provision of
3 services may be ~~is~~ evidenced by proof that services were
4 provided through a previous plan or offered as a case plan
5 from a child welfare agency.

6 (d) When the parent of a child is incarcerated in a
7 state or federal correctional institution and:

8 1. The period of time for which the parent is expected
9 to be incarcerated will constitute a substantial portion of
10 the period of time before the child will attain the age of 18
11 years;

12 2. The incarcerated parent has been determined by the
13 court to be a violent career criminal as defined in s.
14 775.084, a habitual violent felony offender as defined in s.
15 775.084, or a sexual predator as defined in s. 775.21; has
16 been convicted of first degree or second degree murder in
17 violation of s. 782.04 or a sexual battery that constitutes a
18 capital, life, or first degree felony violation of s. 794.011;
19 or has been convicted of an offense in another jurisdiction
20 which is substantially similar to one of the offenses listed
21 in this paragraph. As used in this section, the term
22 "substantially similar offense" means any offense that is
23 substantially similar in elements and penalties to one of
24 those listed in this paragraph, and that is in violation of a
25 law of any other jurisdiction, whether that of another state,
26 the District of Columbia, the United States or any possession
27 or territory thereof, or any foreign jurisdiction; and

28 3. The court determines by clear and convincing
29 evidence that continuing the parental relationship with the
30 incarcerated parent would be harmful to the child and, for
31

1 this reason, that termination of the parental rights of the
2 incarcerated parent is in the best interest of the child.

3 (e)~~(f)~~ A petition for termination of parental rights
4 may also be filed when a child has been adjudicated dependent,
5 a case plan has been filed with the court, and the child
6 continues to be abused, neglected, or abandoned by the
7 parents. In this case, the failure of the parents to
8 substantially comply for a period of 12 months after an
9 adjudication of the child as a dependent child constitutes
10 evidence of continuing abuse, neglect, or abandonment unless
11 the failure to substantially comply with the case plan was due
12 either to the lack of financial resources of the parents or to
13 the failure of the department to make reasonable efforts to
14 reunify the family. Such 12-month period may begin to run only
15 after the entry of a disposition order placing the custody of
16 the child with the department or a person other than the
17 parent and the approval by ~~subsequent filing with~~ the court of
18 a case plan with a goal of reunification with the parent.

19 (f)~~(e)~~ When the parent or parents engaged in egregious
20 conduct or had the opportunity and capability to prevent and
21 knowingly failed to prevent egregious conduct threatening the
22 life, safety, or physical, mental, or emotional health ~~that~~
23 ~~endangers the life, health, or safety~~ of the child or the
24 child's sibling ~~or had the opportunity and capability to~~
25 ~~prevent egregious conduct that threatened the life, health, or~~
26 ~~safety of the child or the child's sibling and knowingly~~
27 ~~failed to do so.~~

28 1. As used in this subsection, the term "sibling"
29 means another child who resides with or is cared for by the
30 parent or parents regardless of whether the child is related
31 legally or by consanguinity.

1 2. As used in this subsection, the term "egregious
2 conduct ~~abuse~~" means abuse, abandonment, neglect, or any other
3 conduct of the parent or parents that is deplorable, flagrant,
4 or outrageous by a normal standard of conduct. Egregious
5 conduct ~~abuse~~ may include an act or omission that occurred
6 only once but was of such intensity, magnitude, or severity as
7 to endanger the life of the child.

8 (g) When the parent or parents have subjected the
9 child to aggravated child abuse as defined in s. 827.03,
10 sexual battery or sexual abuse as defined in s. 39.01, or
11 chronic abuse.

12 (h) When the parent or parents have committed murder
13 or voluntary manslaughter of another child of the parent, or a
14 felony assault that results in serious bodily injury to the
15 child or another child of the parent, or aided or abetted,
16 attempted, conspired, or solicited to commit such a murder or
17 voluntary manslaughter or felony assault.

18 (i) When the parental rights of the parent to a
19 sibling have been terminated involuntarily.

20 (2) Reasonable efforts to preserve and reunify
21 families shall not be required if a court of competent
22 jurisdiction has determined that any of the events described
23 in paragraphs (1)(e)-(i) have occurred.

24 (3)~~(2)~~ When a petition for termination of parental
25 rights is filed under subsection (1), a separate petition for
26 dependency need not be filed and the department need not offer
27 the parents a case plan with a goal of reunification, but may
28 instead file with the court a case plan with a goal of
29 termination of parental rights to allow continuation of
30 services until the termination is granted or until further
31 orders of the court are issued.

1 (4) When an expedited termination of parental rights
2 petition is filed, reasonable efforts shall be made to place
3 the child in a timely manner in accordance with the permanency
4 plan, and to complete whatever steps are necessary to finalize
5 the permanent placement of the child.

6 Section 72. Section 39.465, Florida Statutes, is
7 renumbered as section 39.807, Florida Statutes, and amended to
8 read:

9 39.807 ~~39.465~~ Right to counsel; guardian ad litem.--

10 (1)(a) At each stage of the proceeding under this
11 part, the court shall advise the parent, ~~guardian, or~~
12 ~~custodian~~ of the right to have counsel present. The court
13 shall appoint counsel for indigent ~~insolvent~~ persons. The
14 court shall ascertain whether the right to counsel is
15 understood and, where appropriate, is knowingly and
16 intelligently waived. The court shall enter its findings in
17 writing with respect to the appointment or waiver of counsel
18 for indigent ~~insolvent~~ parties.

19 (b) Once counsel has been retained or, in appropriate
20 circumstances, appointed to represent the parent of the child,
21 the attorney shall continue to represent the parent throughout
22 the proceedings or until the court has approved discontinuing
23 the attorney-client relationship. If the attorney-client
24 relationship is discontinued, the court shall advise the
25 parent of the right to have new counsel retained or appointed
26 for the remainder of the proceedings.

27 (c)~~(b)~~1. No waiver of counsel may be accepted if it
28 appears that the parent, ~~guardian, or custodian~~ is unable to
29 make an intelligent and understanding choice because of mental
30 condition, age, education, experience, the nature or
31 complexity of the case, or other factors.

1 2. A waiver of counsel made in court must be of
2 record. A waiver made out of court must be in writing with not
3 less than two attesting witnesses and must be filed with the
4 court. The witnesses shall attest to the voluntary execution
5 of the waiver.

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

11 (d)~~(c)~~ This subsection does not apply to any parent
12 who has voluntarily executed a written surrender of the child
13 and consent to the entry of a court order therefor and who
14 does not deny the allegations of the petition.

15 (2)(a) The court shall appoint a guardian ad litem to
16 represent the child in any termination of parental rights
17 proceedings and shall ascertain at each stage of the
18 proceedings whether a guardian ad litem has been appointed.

19 (b) The guardian ad litem has the following
20 responsibilities:

21 1. To investigate the allegations of the petition and
22 any subsequent matters arising in the case and, unless excused
23 by the court, to file a written report. This report must
24 include a statement of the wishes of the child and the
25 recommendations of the guardian ad litem and must be provided
26 to all parties and the court at least 48 hours before the
27 disposition hearing.

28 2. To be present at all court hearings unless excused
29 by the court.

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1 3. To represent the interests of the child until the
2 jurisdiction of the court over the child terminates or until
3 excused by the court.

4 ~~4. To perform such other duties and undertake such~~
5 ~~other responsibilities as the court may direct.~~

6 (c) A guardian ad litem is not required to post bond
7 but shall file an acceptance of the office.

8 (d) A guardian ad litem is entitled to receive service
9 of pleadings and papers as provided by the Florida Rules of
10 Juvenile Procedure.

11 (e) This subsection does not apply to any voluntary
12 relinquishment of parental rights proceeding.

13 Section 73. Section 39.466, Florida Statutes, is
14 renumbered as section 39.808, Florida Statutes, and amended to
15 read:

16 39.808 ~~39.466~~ Advisory hearing; pretrial status
17 conference.--

18 (1) An advisory hearing on the petition to terminate
19 parental rights must be held as soon as possible after all
20 parties have been served with a copy of the petition and a
21 notice of the date, time, and place of the advisory hearing
22 for the petition.

23 (2) At the hearing the court shall inform the parties
24 of their rights under s. 39.807 ~~39.465~~, shall appoint counsel
25 for the parties in accordance with legal requirements, and
26 shall appoint a guardian ad litem to represent the interests
27 of the child if one has not already been appointed.

28 (3) The court shall set a date for an adjudicatory
29 hearing to be held within 45 days after the advisory hearing,
30 unless all of the necessary parties agree to some other
31 hearing date.

1 (4) An advisory hearing may not be held if a petition
2 is filed seeking an adjudication voluntarily to terminate
3 parental rights. Adjudicatory hearings for petitions for
4 voluntary termination must be held within 21 days after the
5 filing of the petition. Notice of the use of this subsection
6 must be filed with the court at the same time as the filing of
7 the petition to terminate parental rights.

8 (5) Not less than 10 days before the adjudicatory
9 hearing, the court shall conduct a prehearing status
10 conference to determine the order in which each party may
11 present witnesses or evidence, the order in which
12 cross-examination and argument shall occur, and any other
13 matters that may aid in the conduct of the adjudicatory
14 hearing, to prevent any undue delay in the conduct of the
15 adjudicatory hearing.

16 Section 74. Section 39.467, Florida Statutes, is
17 renumbered as section 39.809, Florida Statutes, and amended to
18 read:

19 39.809 ~~39.467~~ Adjudicatory hearing.--

20 (1) In a hearing on a petition for termination of
21 parental rights, the court shall consider the elements
22 required for termination ~~as set forth in s. 39.4611~~. Each of
23 these elements must be established by clear and convincing
24 evidence before the petition is granted.

25 (2) The adjudicatory hearing must be held within 45
26 days after the advisory hearing, but reasonable continuances
27 for the purpose of investigation, discovery, or procuring
28 counsel or witnesses may, when necessary, be granted.

29 (3) The adjudicatory hearing must be conducted by the
30 judge without a jury, applying the rules of evidence in use in
31 civil cases and adjourning the case from time to time as

1 necessary. For purposes of the adjudicatory hearing, to avoid
2 unnecessary duplication of expense, the judge may consider
3 in-court testimony previously given at any properly noticed
4 hearing, without regard to the availability or unavailability
5 of the witness at the time of the actual adjudicatory hearing,
6 if the recorded testimony itself is made available to the
7 judge. Consideration of such testimony does not preclude the
8 witness being subpoenaed to answer supplemental questions.

9 (4) All hearings involving termination of parental
10 rights are confidential and closed to the public. Hearings
11 involving more than one child may be held simultaneously when
12 the children involved are related to each other or were
13 involved in the same case. The child and the parents ~~or legal~~
14 ~~custodians~~ may be examined separately and apart from each
15 other.

16 (5) The judge shall enter a written order with the
17 findings of fact and conclusions of law.

18 Section 75. Section 39.4612, Florida Statutes, is
19 renumbered as section 39.810, Florida Statutes, is amended to
20 read:

21 39.810 ~~39.4612~~ Manifest best interests of the child.
22 In a hearing on a petition for termination of parental rights,
23 the court shall consider the manifest best interests of the
24 child. This consideration shall not include a comparison
25 between the attributes of the parents and those of any persons
26 providing a present or potential placement for the child. For
27 the purpose of determining the manifest best interests of the
28 child, the court shall consider and evaluate all relevant
29 factors, including, but not limited to:

30 (1) Any suitable permanent custody arrangement with a
31 relative of the child.

1 (2) The ability and disposition of the parent or
2 parents to provide the child with food, clothing, medical care
3 or other remedial care recognized and permitted under state
4 law instead of medical care, and other material needs of the
5 child.

6 (3) The capacity of the parent or parents to care for
7 the child to the extent that the child's safety, well-being,
8 and physical, mental, and emotional health ~~and well-being~~ will
9 not be endangered upon the child's return home.

10 (4) The present mental and physical health needs of
11 the child and such future needs of the child to the extent
12 that such future needs can be ascertained based on the present
13 condition of the child.

14 (5) The love, affection, and other emotional ties
15 existing between the child and the child's parent or parents,
16 siblings, and other relatives, and the degree of harm to the
17 child that would arise from the termination of parental rights
18 and duties.

19 (6) The likelihood of an older child remaining in
20 long-term foster care upon termination of parental rights, due
21 to emotional or behavioral problems or any special needs of
22 the child.

23 (7) The child's ability to form a significant
24 relationship with a parental substitute and the likelihood
25 that the child will enter into a more stable and permanent
26 family relationship as a result of permanent termination of
27 parental rights and duties.

28 (8) The length of time that the child has lived in a
29 stable, satisfactory environment and the desirability of
30 maintaining continuity.

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1 (9) The depth of the relationship existing between the
2 child and the present custodian.

3 (10) The reasonable preferences and wishes of the
4 child, if the court deems the child to be of sufficient
5 intelligence, understanding, and experience to express a
6 preference.

7 (11) The recommendations for the child provided by the
8 child's guardian ad litem or legal representative.

9 Section 76. Section 39.469, Florida Statutes, is
10 renumbered as section 39.811, Florida Statutes, and amended to
11 read:

12 39.811 ~~39.469~~ Powers of disposition; order of
13 disposition.--

14 (1) If the court finds that the grounds for
15 termination of parental rights have not been established by
16 clear and convincing evidence, the court shall:

17 (a) If grounds for dependency have been established,
18 adjudicate or readjudicate the child dependent and:

19 1. Enter an order placing or continuing the child in
20 out-of-home ~~foster~~ care under a case plan; or

21 2. Enter an order returning the child to the parent or
22 parents. The court shall retain jurisdiction over a child
23 returned to the parent or parents ~~or legal guardians~~ for a
24 period of 6 months, but, at that time, based on a report of
25 the social service agency and any other relevant factors, the
26 court shall make a determination as to whether its
27 jurisdiction shall continue or be terminated.

28 (b) If grounds for dependency have not been
29 established, dismiss the petition.

30 (2) If the child is in out-of-home ~~foster~~ care custody
31 of the department and the court finds that the grounds for

1 termination of parental rights have been established by clear
2 and convincing evidence, the court shall, by order, place the
3 child in the custody of the department for the purpose of
4 adoption or place the child in the custody of a licensed
5 child-placing agency for the purpose of adoption.

6 (3) If the child is in the custody of one parent and
7 the court finds that the grounds for termination of parental
8 rights have been established for the remaining parent by clear
9 and convincing evidence, the court shall enter an order
10 terminating the rights of the parent for whom the grounds have
11 been established and placing the child in the custody of the
12 remaining parent, granting that parent sole parental
13 responsibility for the child.

14 (4) If the child is neither in the custody of the
15 department ~~of Children and Family Services~~ nor in the custody
16 of a parent and the court finds that the grounds for
17 termination of parental rights have been established for
18 either or both parents, the court shall enter an order
19 terminating parental rights for the parent or parents for whom
20 the grounds for termination have been established and placing
21 the child with an appropriate custodian. If the parental
22 rights of both parents have been terminated, or if the
23 parental rights of only one parent have been terminated and
24 the court makes specific findings based on evidence presented
25 that placement with the remaining parent is likely to be
26 harmful to the child, the court may order that the child be
27 placed with a custodian other than the department after
28 hearing evidence of the suitability of such intended
29 placement. Suitability of the intended placement includes the
30 fitness and capabilities of the proposed ~~intended~~ placement,
31 ~~with primary consideration being given to the welfare of the~~

1 ~~child; the fitness and capabilities of the proposed~~ custodian
2 to function as the primary caregiver ~~caretaker~~ for a
3 particular child; and the compatibility of the child with the
4 home in which the child is intended to be placed. If the
5 court orders that a child be placed with a custodian under
6 this subsection, the court shall appoint such custodian as the
7 guardian for the child as provided in s. 744.3021. The court
8 may modify the order placing the child in the custody of the
9 custodian and revoke the guardianship established under s.
10 744.3021 if the court subsequently finds that a party to the
11 proceeding other than a parent whose rights have been
12 terminated has shown a material change in circumstances which
13 causes the placement to be no longer in the best interest of
14 the child.

15 (5) If the court terminates parental rights, the court
16 shall enter a written order of disposition briefly stating the
17 facts upon which its decision to terminate the parental rights
18 is made. An order of termination of parental rights, whether
19 based on parental consent or after notice served as prescribed
20 in this part, permanently deprives the parents ~~or legal~~
21 guardian of any right to the child.

22 (6) The parental rights of one parent may be severed
23 without severing the parental rights of the other parent only
24 under the following circumstances:

25 (a) If the child has only one surviving parent;

26 (b) If the identity of a prospective parent has been
27 established as unknown after sworn testimony;

28 (c) If the parent whose rights are being terminated
29 became a parent through a single-parent adoption;

30 (d) If the protection of the child demands termination
31 of the rights of a single parent; or

1 (e) If the parent whose rights are being terminated
2 meets the criteria specified in s. 39.806(1)(d)~~39.464(1)(d)~~.

3 (7)(a) The termination of parental rights does not
4 affect the rights of grandparents unless the court finds that
5 continued visitation is not in the best interests of the child
6 or that such visitation would interfere with the goals of
7 permanency planning for the child.

8 (b) If the court terminates parental rights, it may
9 order that the parents or relatives of the parent whose rights
10 are terminated be allowed to maintain some contact with the
11 child pending adoption if the best interests of the child
12 support this continued contact, except as provided in
13 paragraph (a). If the court orders such continued contact, the
14 nature and frequency of the contact must be set forth in
15 written order and may be reviewed upon motion of any party,
16 including a prospective adoptive parent if a child has been
17 placed for adoption. If a child is placed for adoption, the
18 nature and frequency of the contact must be reviewed by the
19 court at the time the child is adopted.

20 (8) If the court terminates parental rights, it shall,
21 in its order of disposition, provide for a hearing, to be
22 scheduled no later than 30 days after the date of disposition,
23 in which the department or the licensed child-placing agency
24 shall provide to the court a plan for permanency for the
25 child. Reasonable efforts must be made to place the child in a
26 timely manner in accordance with the permanency plan, and to
27 complete whatever steps are necessary to finalize the
28 permanent placement of the child. Thereafter, until the
29 adoption of the child is finalized or the child reaches the
30 age of 18 years, whichever occurs first, the court shall hold
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1 hearings at 6-month intervals to review the progress being
2 made toward permanency for the child.

3 (9) After termination of parental rights, the court
4 shall retain jurisdiction over any child for whom custody is
5 given to a social service agency until the child is adopted.
6 The court shall review the status of the child's placement and
7 the progress being made toward permanent adoptive placement.
8 As part of this continuing jurisdiction, for good cause shown
9 by the guardian ad litem for the child, the court may review
10 the appropriateness of the adoptive placement of the child.

11 Section 77. Section 39.47, Florida Statutes, is
12 renumbered as section 39.812, Florida Statutes, and amended to
13 read:

14 39.812 ~~39.47~~ Post disposition relief.--

15 (1) A licensed child-placing agency or the department
16 which is given custody of a child for subsequent adoption in
17 accordance with this chapter may place the child in a family
18 home for prospective subsequent adoption and the licensed
19 child-placing agency or the department may thereafter become a
20 party to any proceeding for the legal adoption of the child
21 and appear in any court where the adoption proceeding is
22 pending and consent to the adoption; and that consent alone
23 shall in all cases be sufficient.

24 (2) In any subsequent adoption proceeding, the parents
25 ~~and legal guardian~~ shall not be entitled to any notice
26 thereof, nor shall they be entitled to knowledge at any time
27 after the order terminating parental rights is entered of the
28 whereabouts of the child or of the identity or location of any
29 person having the custody of or having adopted the child,
30 except as provided by order of the court pursuant to this
31 chapter or chapter 63; and in any habeas corpus or other

1 proceeding involving the child brought by any parent ~~or legal~~
2 guardian of the child, no agent or contract provider of the
3 licensed child-placing agency or department shall be compelled
4 to divulge that information, but may be compelled to produce
5 the child before a court of competent jurisdiction if the
6 child is still subject to the guardianship of the licensed
7 child-placing agency or department.

8 (3) The entry of the custody order to the department
9 or licensed child-placing agency shall not entitle the
10 licensed child-placing agency or department to guardianship of
11 the estate or property of the child, but the licensed
12 child-placing agency or department shall be the guardian of
13 the person of the child.

14 (4) The court shall retain jurisdiction over any child
15 for whom custody is given to a licensed child-placing agency
16 or to the department until the child is adopted. After custody
17 of a child for subsequent adoption has been given to an agency
18 or the department, the court has jurisdiction for the purpose
19 of reviewing the status of the child and the progress being
20 made toward permanent adoptive placement. As part of this
21 continuing jurisdiction, for good cause shown by the guardian
22 ad litem for the child, the court may review the
23 appropriateness of the adoptive placement of the child.

24 ~~(5) The Legislature finds that children are most~~
25 ~~likely to realize their potential when they have the ability~~
26 ~~provided by good permanent families rather than spending long~~
27 ~~periods of time in temporary placements or unnecessary~~
28 ~~institutions. It is the intent of the Legislature that~~
29 ~~decisions be consistent with the child's best interests and~~
30 ~~that the department make proper adoptive placements as~~

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1 ~~expeditiously as possible following a final judgment~~
2 ~~terminating parental rights.~~

3 Section 78. Section 39.813, Florida Statutes, is
4 created to read:

5 39.813 Continuing jurisdiction.--The court that
6 terminates the parental rights of a child who is the subject
7 of termination proceedings pursuant to this chapter shall
8 retain exclusive jurisdiction in all matters pertaining to the
9 child's adoption pursuant to chapter 63.

10 Section 79. Section 39.471, Florida Statutes, is
11 renumbered as section 39.814, Florida Statutes.

12 Section 80. Section 39.473, Florida Statutes, is
13 renumbered as section 39.815, Florida Statutes, and subsection
14 (1) of said section is amended to read:

15 39.815 ~~39.473~~ Appeal.--

16 (1) Any child, any parent ~~or~~ guardian ad litem, ~~or~~
17 ~~legal custodian~~ of any child, any other party to the
18 proceeding who is affected by an order of the court, or the
19 department may appeal to the appropriate district court of
20 appeal within the time and in the manner prescribed by the
21 Florida Rules of Appellate Procedure. The district court of
22 appeal shall give an appeal from an order terminating parental
23 rights priority in docketing and shall render a decision on
24 the appeal as expeditiously as possible. Appointed counsel
25 shall be compensated as provided in s. 39.0134 ~~39.474~~.

26 Section 81. Section 39.816, Florida Statutes, is
27 created to read:

28 39.816 Authorization for pilot and demonstration
29 projects.--

30 (1) Contingent upon receipt of a federal grant or
31 contract pursuant to s. 473A(i) of the Social Security Act, 42

1 U.S.C. 673A(i), enacted November 19, 1997, the department is
2 authorized to establish one or more pilot projects for the
3 following purposes:

4 (a) The development of best practice guidelines for
5 expediting termination of parental rights.

6 (b) The development of models to encourage the use of
7 concurrent planning.

8 (c) The development of specialized units and expertise
9 in moving children toward adoption as a permanency goal.

10 (d) The development of risk-assessment tools to
11 facilitate early identification of the children who will be at
12 risk of harm if returned home.

13 (e) The development of models to encourage the
14 fast-tracking into preadoptive placements of children who have
15 not attained 1 year of age.

16 (f) The development of programs that place children
17 into preadoptive families without waiting for termination of
18 parental rights.

19 (2) Contingent upon receipt of federal authorization
20 and funding pursuant to s. 1130(a) of the Social Security Act,
21 42 U.S.C. 1320a-9, enacted November 19, 1997, the department
22 is authorized to establish one or more demonstration projects
23 for the following purposes:

24 (a) Identifying and addressing barriers that result in
25 delays to adoptive placements for children in out-of-home
26 care.

27 (b) Identifying and addressing parental substance
28 abuse problems that endanger children and result in the
29 placement of children in out-of-home care. This purpose may be
30 accomplished through the placement of children with their
31 parents in residential treatment facilities, including

1 residential treatment facilities for post-partum depression,
2 which are specifically designed to serve parents and children
3 together, in order to promote family reunification, and which
4 can ensure the health and safety of the children.

5 (c) Addressing kinship care.

6 Section 82. Section 39.817, Florida Statutes, is
7 created to read:

8 39.817 Foster care privatization demonstration pilot
9 project.--A pilot project shall be established through The
10 Ounce of Prevention Fund of Florida to contract with a private
11 entity for a foster care privatization demonstration project.
12 No more than 30 children with a goal of family reunification
13 shall be accepted into the program on a no-eject-or-reject
14 basis as identified by the department. Sibling groups shall be
15 kept together in one placement in their own communities.
16 Foster care parents shall be paid employees of the program.
17 The program shall provide for public/private partnerships,
18 community collaboration, counseling, and medical and legal
19 assistance, as needed. For purposes of identifying measurable
20 outcomes, the pilot project shall be located in a department
21 district with an integrated district management which was
22 selected as a family transition program site, has a population
23 of less than 500,000, has a total caseload of no more than
24 400, with and without board payment, and has a total foster
25 care case load of no more than 250.

26 Section 83. Part X of chapter 39, Florida Statutes,
27 consisting of sections 39.820, 39.821, 39.822, 39.823, 39.824,
28 39.825, 39.826, 39.827, 39.828, 39.829, and 39.8295, Florida
29 Statutes, shall be entitled to read:

30 PART X

31 GUARDIANS AD LITEM AND GUARDIAN ADVOCATES

1 Section 84. Section 39.820, Florida Statutes, is
2 created to read:

3 39.820 Definitions.--As used in this part, the term:

4 (1) "Guardian ad litem" as referred to in any civil or
5 criminal proceeding includes the following: a certified
6 guardian ad litem program; a duly certified volunteer; a staff
7 attorney, contract attorney, or certified pro bono attorney
8 working on behalf of a guardian ad litem or the program; staff
9 members of a program office; a court-appointed attorney; or a
10 responsible adult who is appointed by the court to represent
11 the best interests of a child in a proceeding as provided for
12 by law, including, but not limited to, this chapter, who is a
13 party to any judicial proceeding as a representative of the
14 child, and who serves until discharged by the court.

15 (2) "Guardian advocate" means a person appointed by
16 the court to act on behalf of a drug-dependent newborn
17 pursuant to the provisions of this part.

18 Section 85. Section 415.5077, Florida Statutes, is
19 renumbered as section 39.821, Florida Statutes.

20 Section 86. Section 415.508, Florida Statutes, is
21 renumbered as section 39.822, Florida Statutes, and amended to
22 read:

23 39.822 ~~415.508~~ Appointment of guardian ad litem for
24 abused, abandoned, or neglected child.--

25 (1) A guardian ad litem shall be appointed by the
26 court at the earliest possible time to represent the child in
27 any child abuse, abandonment, or neglect judicial proceeding,
28 whether civil or criminal. Any person participating in a
29 civil or criminal judicial proceeding resulting from such
30 appointment shall be presumed prima facie to be acting in good
31 faith and in so doing shall be immune from any liability,

1 civil or criminal, that otherwise might be incurred or
2 imposed.

3 (2) In those cases in which the parents are
4 financially able, the parent or parents of the child shall
5 reimburse the court, in part or in whole, for the cost of
6 provision of guardian ad litem services. Reimbursement to the
7 individual providing guardian ad litem services shall not be
8 contingent upon successful collection by the court from the
9 parent or parents.

10 (3) The guardian ad litem or the program
11 representative shall review all disposition recommendations
12 and changes in placements, and must be present at all critical
13 stages of the dependency proceeding or submit a written report
14 of recommendations to the court.

15 Section 87. Section 415.5082, Florida Statutes, is
16 renumbered as section 39.823, Florida Statutes, and amended to
17 read:

18 39.823 ~~415.5082~~ Guardian advocates for drug dependent
19 newborns.--The Legislature finds that increasing numbers of
20 drug dependent children are born in this state. Because of
21 the parents' continued dependence upon drugs, the parents may
22 temporarily leave their child with a relative or other adult
23 or may have agreed to voluntary family services under s.
24 39.301(8) ~~415.505(1)(e)~~. The relative or other adult may be
25 left with a child who is likely to require medical treatment
26 but for whom they are unable to obtain medical treatment. The
27 purpose of this section is to provide an expeditious method
28 for such relatives or other responsible adults to obtain a
29 court order which allows them to provide consent for medical
30 treatment and otherwise advocate for the needs of the child
31 and to provide court review of such authorization.

1 Section 88. Section 415.5083, Florida Statutes, is
2 renumbered as section 39.824, Florida Statutes, and amended to
3 read:

4 39.824 ~~415.5083~~ Procedures and jurisdiction.--

5 (1) The Supreme Court is requested to adopt rules of
6 juvenile procedure by October 1, 1989, to implement this part
7 ~~ss. 415.5082-415.5089~~. All procedures, including petitions,
8 pleadings, subpoenas, summonses, and hearings in cases for the
9 appointment of a guardian advocate shall be according to the
10 Florida Rules of Juvenile Procedure unless otherwise provided
11 by law.

12 (2) The circuit court shall have exclusive original
13 jurisdiction of a proceeding in which appointment of a
14 guardian advocate is sought. The court shall retain
15 jurisdiction over a child for whom a guardian advocate is
16 appointed until specifically relinquished by court order.

17 Section 89. Section 415.5084, Florida Statutes, is
18 renumbered as section 39.825, Florida Statutes.

19 Section 90. Section 415.5085, Florida Statutes, is
20 renumbered as section 39.826, Florida Statutes.

21 Section 91. Section 415.5086, Florida Statutes, is
22 renumbered as section 39.827, Florida Statutes, and amended to
23 read:

24 39.827 ~~415.5086~~ Hearing for appointment of a guardian
25 advocate.--

26 (1) When a petition for appointment of a guardian
27 advocate has been filed with the circuit court, the hearing
28 shall be held within 14 days unless all parties agree to a
29 continuance. If a child is in need of necessary medical
30 treatment as defined in s. 39.01, the court shall hold a
31 hearing within 24 hours.

1 (2) At the hearing, the parents have the right to be
2 present, to present testimony, to call and cross-examine
3 witnesses, to be represented by counsel at their own expense,
4 and to object to the appointment of the guardian advocate.

5 (3) The hearing shall be conducted by the judge
6 without a jury, applying the rules of evidence in use in civil
7 cases. In a hearing on a petition for appointment of a
8 guardian advocate, the moving party shall prove all the
9 elements in s. 39.828 ~~415.5087~~ by a preponderance of the
10 evidence.

11 (4) The hearing under this section shall remain
12 confidential and closed to the public. The clerk shall keep
13 all court records required by this part ~~ss. 415.5082-415.5089~~
14 separate from other records of the circuit court. All court
15 records required by this part ~~ss. 415.5082-415.5089~~ shall be
16 confidential and exempt from the provisions of s. 119.07(1).
17 All records shall be inspected only upon order of the court by
18 persons deemed by the court to have a proper interest therein,
19 except that a child and the parents or custodians of the child
20 and their attorneys and the department and its designees shall
21 always have the right to inspect and copy any official record
22 pertaining to the child. The court may permit authorized
23 representatives of recognized organizations compiling
24 statistics for proper purposes to inspect and make abstracts
25 from official records, under whatever conditions upon their
26 use and disposition the court may deem proper, and may punish
27 by contempt proceedings any violation of those conditions.
28 All information obtained pursuant to this part ~~ss.~~
29 ~~415.5082-415.5089~~ in the discharge of official duty by any
30 judge, employee of the court, or authorized agent of the
31 department, shall be confidential and exempt from the

1 provisions of s. 119.07(1) and shall not be disclosed to
2 anyone other than the authorized personnel of the court or the
3 department and its designees, except upon order of the court.

4 Section 92. Section 415.5087, Florida Statutes, is
5 renumbered as section 39.828, Florida Statutes, and amended to
6 read:

7 39.828 ~~415.5087~~ Grounds for appointment of a guardian
8 advocate.--

9 (1) The court shall appoint the person named in the
10 petition as a guardian advocate with all the powers and duties
11 specified in s. 39.829 ~~415.5088~~ for an initial term of 1 year
12 upon a finding that:

13 (a) The child named in the petition is or was a
14 drug-dependent ~~drug dependent~~ newborn as described in s.
15 39.01(30)(g) ~~415.503(10)(a)2.~~;

16 (b) The parent or parents of the child have
17 voluntarily relinquished temporary custody of the child to a
18 relative or other responsible adult;

19 (c) The person named in the petition to be appointed
20 the guardian advocate is capable of carrying out the duties as
21 provided in s. 39.829 ~~415.5088~~; and

22 (d) A petition to adjudicate the child dependent
23 pursuant to this chapter ~~39~~ has not been filed.

24 (2) The appointment of a guardian advocate does not
25 remove from the parents the right to consent to medical
26 treatment for their child. The appointment of a guardian
27 advocate does not prevent the filing of a subsequent petition
28 under this chapter ~~39~~ to have the child adjudicated dependent.

29 Section 93. Section 415.5088, Florida Statutes, is
30 renumbered as section 39.829, Florida Statutes.

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1 Section 94. Section 415.5089, Florida Statutes, is
2 renumbered as section 39.8295, Florida Statutes, and amended
3 to read:

4 39.8295 ~~415.5089~~ Review and removal of guardian
5 advocate.--

6 (1) At the end of the initial 1-year appointment, the
7 court shall review the status of the child's care, health, and
8 medical condition for the purpose of determining whether to
9 reauthorize the appointment of the guardian advocate. If the
10 court finds that all of the elements of s. 39.828 ~~415.5087~~ are
11 still met the court shall reauthorize the guardian advocate
12 for another year.

13 (2) At any time, the court may, upon its own motion,
14 or upon the motion of the department, a family member, or
15 other interested person remove a guardian advocate. A
16 guardian advocate shall be removed if the court finds that the
17 guardian advocate is not properly discharging his or her
18 responsibilities or is acting in a manner inconsistent with
19 his or her appointment, that the parents have assumed parental
20 responsibility to provide for the child, or that the child has
21 been adjudicated dependent pursuant to this chapter ~~39~~.

22 Section 95. Part XI of chapter 39, Florida Statutes,
23 consisting of sections 39.901, 39.902, 39.903, 39.904, 39.905,
24 39.906, and 39.908, Florida Statutes, shall be entitled to
25 read:

26 PART XI

27 DOMESTIC VIOLENCE

28 Section 96. Section 415.601, Florida Statutes, is
29 renumbered as section 39.901, Florida Statutes.

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1 Section 97. Section 415.602, Florida Statutes, is
2 renumbered as section 39.902, Florida Statutes, and amended to
3 read:

4 39.902 ~~415.602~~ Definitions of terms used in ~~ss.~~
5 ~~415.601-415.608.~~--As used in this part ~~ss. 415.601-415.608,~~
6 the term:

7 ~~(1)~~ "Department" means the Department of Children and
8 Family Services.

9 ~~(2)~~ "District" means a service district of the
10 department as created in ~~s. 20.19.~~

11 (1)~~(3)~~ "Domestic violence" means any assault, battery,
12 sexual assault, sexual battery, or any criminal offense
13 resulting in physical injury or death of one family or
14 household member by another who is or was residing in the same
15 single dwelling unit.

16 (2)~~(4)~~ "Domestic violence center" means an agency that
17 provides services to victims of domestic violence, as its
18 primary mission.

19 (3)~~(5)~~ "Family or household member" means spouses,
20 former spouses, adults related by blood or marriage, persons
21 who are presently residing together as if a family or who have
22 resided together in the past as if a family, and persons who
23 have a child in common regardless of whether they have been
24 married or have resided together at any time.

25 Section 98. Section 415.603, Florida Statutes, is
26 renumbered as section 39.903, Florida Statutes, and amended to
27 read:

28 39.903 ~~415.603~~ Duties and functions of the department
29 with respect to domestic violence.--

30 (1) The department shall:

31

1 (a) Develop by rule criteria for the approval or
2 rejection of certification or funding of domestic violence
3 centers.

4 (b) Develop by rule minimum standards for domestic
5 violence centers to ensure the health and safety of the
6 clients in the centers.

7 (c) Receive and approve or reject applications for
8 certification of domestic violence centers, and receive and
9 approve or reject applications for funding of domestic
10 violence centers. When approving funding for a newly certified
11 domestic violence center, the department shall make every
12 effort to minimize any adverse economic impact on existing
13 certified centers or services provided within the same
14 district. In order to minimize duplication of services, the
15 department shall make every effort to encourage subcontracting
16 relationships with existing centers within the district. If
17 any of the required services are exempted by the department
18 under s. 39.905(1)(c)~~415.605(1)(c)~~, the center shall not
19 receive funding for those services.

20 (d) Evaluate each certified domestic violence center
21 annually to ensure compliance with the minimum standards. The
22 department has the right to enter and inspect the premises of
23 certified domestic violence centers at any reasonable hour in
24 order to effectively evaluate the state of compliance of these
25 centers with this part ~~ss. 415.601-415.608~~ and rules relating
26 to this part ~~those sections~~.

27 (e) Adopt rules to implement this part ~~ss.~~
28 ~~415.601-415.608~~.

29 (f) Promote the involvement of certified domestic
30 violence centers in the coordination, development, and
31

1 | planning of domestic violence programming in the districts and
2 | the state.

3 | (2) The department shall serve as a clearinghouse for
4 | information relating to domestic violence.

5 | (3) The department shall enlist the assistance of
6 | public and voluntary health, education, welfare, and
7 | rehabilitation agencies in a concerted effort to prevent
8 | domestic violence and to treat persons engaged in or subject
9 | to domestic violence. With the assistance of these agencies,
10 | the department, within existing resources, shall formulate and
11 | conduct a research and evaluation program on domestic
12 | violence. Efforts on the part of these agencies to obtain
13 | relevant grants to fund this research and evaluation program
14 | must be supported by the department.

15 | (4) The department shall develop and provide
16 | educational programs on domestic violence for the benefit of
17 | the general public, persons engaged in or subject to domestic
18 | violence, professional persons, or others who care for or may
19 | be engaged in the care and treatment of persons engaged in or
20 | subject to domestic violence.

21 | (5) The department shall cooperate with, assist in,
22 | and participate in, programs of other properly qualified
23 | agencies, including any agency of the Federal Government,
24 | schools of medicine, hospitals, and clinics, in planning and
25 | conducting research on the prevention, care, treatment, and
26 | rehabilitation of persons engaged in or subject to domestic
27 | violence.

28 | (6) The department shall contract with a statewide
29 | association whose primary purpose is to represent and provide
30 | technical assistance to domestic violence centers. This
31 |

1 association shall receive 2 percent of the Domestic Violence
2 Trust Fund for this purpose.

3 Section 99. Section 415.604, Florida Statutes, is
4 renumbered as section 39.904, Florida Statutes, and amended to
5 read:

6 39.904 ~~415.604~~ Report to the Legislature on the status
7 of domestic violence cases.--On or before January 1 of each
8 year, the department ~~of Children and Family Services~~ shall
9 furnish to the President of the Senate and the Speaker of the
10 House of Representatives a report on the status of domestic
11 violence in this state, which report shall include, but is not
12 limited to, the following:

13 (1) The incidence of domestic violence in this state.

14 (2) An identification of the areas of the state where
15 domestic violence is of significant proportions, indicating
16 the number of cases of domestic violence officially reported,
17 as well as an assessment of the degree of unreported cases of
18 domestic violence.

19 (3) An identification and description of the types of
20 programs in the state that assist victims of domestic violence
21 or persons who commit domestic violence, including information
22 on funding for the programs.

23 (4) The number of persons who are treated by or
24 assisted by local domestic violence programs that receive
25 funding through the department.

26 (5) A statement on the effectiveness of such programs
27 in preventing future domestic violence.

28 (6) An inventory and evaluation of existing prevention
29 programs.

30 (7) A listing of potential prevention efforts
31 identified by the department; the estimated annual cost of

1 providing such prevention services, both for a single client
2 and for the anticipated target population as a whole; an
3 identification of potential sources of funding; and the
4 projected benefits of providing such services.

5 Section 100. Section 415.605, Florida Statutes, is
6 renumbered as section 39.905, Florida Statutes, and amended to
7 read:

8 39.905 ~~415.605~~ Domestic violence centers.--

9 (1) Domestic violence centers certified under this
10 part ~~ss. 415.601-415.608~~ must:

11 (a) Provide a facility which will serve as a center to
12 receive and house persons who are victims of domestic
13 violence. For the purpose of this part ~~ss. 415.601-415.608~~,
14 minor children and other dependents of a victim, when such
15 dependents are partly or wholly dependent on the victim for
16 support or services, may be sheltered with the victim in a
17 domestic violence center.

18 (b) Receive the annual written endorsement of local
19 law enforcement agencies.

20 (c) Provide minimum services which include, but are
21 not limited to, information and referral services, counseling
22 and case management services, temporary emergency shelter for
23 more than 24 hours, a 24-hour hotline, training for law
24 enforcement personnel, assessment and appropriate referral of
25 resident children, and educational services for community
26 awareness relative to the incidence of domestic violence, the
27 prevention of such violence, and the care, treatment, and
28 rehabilitation for persons engaged in or subject to domestic
29 violence. If a 24-hour hotline, professional training, or
30 community education is already provided by a certified
31 domestic violence center within a district, the department may

1 exempt such certification requirements for a new center
2 serving the same district in order to avoid duplication of
3 services.

4 (d) Participate in the provision of orientation and
5 training programs developed for law enforcement officers,
6 social workers, and other professionals and paraprofessionals
7 who work with domestic violence victims to better enable such
8 persons to deal effectively with incidents of domestic
9 violence.

10 (e) Establish and maintain a board of directors
11 composed of at least three citizens, one of whom must be a
12 member of a local, municipal, or county law enforcement
13 agency.

14 (f) Comply with rules adopted pursuant to this part
15 ~~ss. 415.601-415.608.~~

16 (g) File with the department a list of the names of
17 the domestic violence advocates who are employed or who
18 volunteer at the domestic violence center who may claim a
19 privilege under s. 90.5036 to refuse to disclose a
20 confidential communication between a victim of domestic
21 violence and the advocate regarding the domestic violence
22 inflicted upon the victim. The list must include the title of
23 the position held by the advocate whose name is listed and a
24 description of the duties of that position. A domestic
25 violence center must file amendments to this list as
26 necessary.

27 (h) Demonstrate local need and ability to sustain
28 operations through a history of 18 consecutive months'
29 operation as a domestic violence center, including 12 months'
30 operation of an emergency shelter as provided in paragraph (c)
31

1 ~~defined in paragraph (1)(a)~~, and a business plan which
2 addresses future operations and funding of future operations.

3 (i) If its center is a new center applying for
4 certification, demonstrate that the services provided address
5 a need identified in the most current statewide needs
6 assessment approved by the department.

7 (2) If the department finds that there is failure by a
8 center to comply with the requirements established under this
9 part ss. 415.601-415.608 or with the rules adopted pursuant
10 thereto, the department may deny, suspend, or revoke the
11 certification of the center.

12 (3) The annual certificate shall automatically expire
13 on the termination date shown on the certificate.

14 (4) The domestic violence centers shall establish
15 procedures pursuant to which persons subject to domestic
16 violence may seek services from these centers voluntarily.

17 (5) Domestic violence centers may be established
18 throughout the state when private, local, state, or federal
19 funds are available.

20 (6) In order to receive state funds, a center must:

21 (a) Obtain certification pursuant to this part ss.
22 415.601-415.608. However, the issuance of a certificate will
23 not obligate the department to provide funding.

24 (b) Receive at least 25 percent of its funding from
25 one or more local, municipal, or county sources, public or
26 private. Contributions in kind, whether materials,
27 commodities, transportation, office space, other types of
28 facilities, or personal services, may be evaluated and counted
29 as part of the required local funding.

30 (7)(a) All funds collected and appropriated to the
31 domestic violence program shall be distributed annually by the

1 department to each district according to an allocation formula
2 determined by the department. In developing the formula, the
3 department shall consider population, a rural and geographical
4 area factor, and the incidence of domestic violence.

5 (b) A contract between a district and a certified
6 domestic violence center shall contain provisions assuring the
7 availability and geographic accessibility of services
8 throughout the district. For this purpose, a center may
9 distribute funds through subcontracts or to center satellites,
10 provided such arrangements and any subcontracts are approved
11 by the district.

12 Section 101. Section 415.606, Florida Statutes, is
13 renumbered as section 39.906, Florida Statutes.

14 Section 102. Section 415.608, Florida Statutes, is
15 renumbered as section 39.908, Florida Statutes.

16 Section 103. Subsections (4) through (20) of section
17 20.19, Florida Statutes, are renumbered as subsections (5)
18 through (21), respectively, paragraph (b) of present
19 subsection (4), paragraph (o) of present subsection (7), and
20 paragraph (c) of present subsection (20) are amended, and a
21 new subsection (4) is added to that section, to read:

22 20.19 Department of Children and Family
23 Services.--There is created a Department of Children and
24 Family Services.

25 (4) CERTIFICATION PROGRAMS FOR DEPARTMENT EMPLOYEES.--
26 The department is authorized to create certification programs
27 for family safety and preservation employees and agents to
28 ensure that only qualified employees and agents provide child
29 protection services. The department is authorized to develop
30 rules that include qualifications for certification, including
31 training and testing requirements, continuing education

1 requirements for ongoing certification, and decertification
2 procedures to be used to determine when an individual no
3 longer meets the qualifications for certification and to
4 implement the decertification of an employee or agent.

5 (5)~~(4)~~ PROGRAM OFFICES.--

6 (a) There are created program offices, each of which
7 shall be headed by an assistant secretary who shall be
8 appointed by and serve at the pleasure of the secretary. Each
9 program office shall have the following responsibilities:

10 1. Ensuring that family services programs are
11 implemented according to legislative intent and as provided in
12 state and federal laws, rules, and regulations.

13 2. Establishing program standards and performance
14 objectives.

15 3. Reviewing, monitoring, and ensuring compliance with
16 statewide standards and performance objectives.

17 4. Conducting outcome evaluations and ensuring program
18 effectiveness.

19 5. Developing workload and productivity standards.

20 6. Developing resource allocation methodologies.

21 7. Compiling reports, analyses, and assessment of
22 client needs on a statewide basis.

23 8. Ensuring the continued interagency collaboration
24 with the Department of Education for the development and
25 integration of effective programs to serve children and their
26 families.

27 9. Other duties as are assigned by the secretary.

28 (b) The following program offices are established and
29 may be consolidated, restructured, or rearranged by the
30 secretary; provided any such consolidation, restructuring, or
31 rearranging is for the purpose of encouraging service

1 integration through more effective and efficient performance
2 of the program offices or parts thereof:

3 1. Economic Self-Sufficiency Program Office.--The
4 responsibilities of this office encompass income support
5 programs within the department, such as temporary assistance
6 to families with dependent children, food stamps, welfare
7 reform, and state supplementation of the supplemental security
8 income (SSI) program.

9 2. Developmental Services Program Office.--The
10 responsibilities of this office encompass programs operated by
11 the department for developmentally disabled persons.
12 Developmental disabilities include any disability defined in
13 s. 393.063.

14 3. Children and Families Program Office.--The
15 responsibilities of this program office encompass early
16 intervention services for children and families at risk;
17 intake services for protective investigation of abandoned,
18 abused, and neglected children; interstate compact on the
19 placement of children programs; adoption; child care;
20 out-of-home care programs and other specialized services to
21 families; and child protection and sexual abuse treatment
22 teams created under chapter 39 ~~415~~, excluding medical
23 direction functions.

24 4. Alcohol, Drug Abuse, and Mental Health Program
25 Office.--The responsibilities of this office encompass all
26 alcohol, drug abuse, and mental health programs operated by
27 the department.

28 (8)~~(7)~~ HEALTH AND HUMAN SERVICES BOARDS.--

29 (a) There is created at least one health and human
30 services board in each service district for the purpose of
31 encouraging the initiation and support of interagency

1 cooperation and collaboration in addressing family services
2 needs and promoting service integration. The initial
3 membership and the authority to appoint the members shall be
4 allocated among the counties of each district as follows:

5 1. District 1 has a board composed of 15 members, with
6 3 at-large members to be appointed by the Governor, and 12
7 members to be appointed by the boards of county commissioners
8 of the respective counties, as follows: Escambia County, 6
9 members; Okaloosa County, 3 members; Santa Rosa County, 2
10 members; and Walton County, 1 member.

11 2. District 2 has a board composed of 23 members, with
12 5 at-large members to be appointed by the Governor, and 18
13 members to be appointed by the boards of county commissioners
14 in the respective counties, as follows: Holmes County, 1
15 member; Washington County, 1 member; Bay County, 2 members;
16 Jackson County, 1 member; Calhoun County, 1 member; Gulf
17 County, 1 member; Gadsden County, 1 member; Franklin County, 1
18 member; Liberty County, 1 member; Leon County, 4 members;
19 Wakulla County, 1 member; Jefferson County, 1 member; Madison
20 County, 1 member; and Taylor County, 1 member.

21 3. District 3 has a board composed of 19 members, with
22 4 at-large members to be appointed by the Governor, and 15
23 members to be appointed by the boards of county commissioners
24 of the respective counties, as follows: Hamilton County, 1
25 member; Suwannee County, 1 member; Lafayette County, 1 member;
26 Dixie County, 1 member; Columbia County, 1 member; Gilchrist
27 County, 1 member; Levy County, 1 member; Union County, 1
28 member; Bradford County, 1 member; Putnam County, 1 member;
29 and Alachua County, 5 members.

30 4. District 4 has a board composed of 15 members, with
31 3 at-large members to be appointed by the Governor, and 12

1 members to be appointed by the boards of county commissioners
2 of the respective counties, as follows: Baker County, 1
3 member; Nassau County, 1 member; Duval County, 7 members; Clay
4 County, 2 members; and St. Johns County, 1 member.

5 5. District 5 has a board composed of 15 members, with
6 3 at-large members to be appointed by the Governor, and 12
7 members to be appointed by the boards of county commissioners
8 of the respective counties, as follows: Pasco County, 3
9 members; and Pinellas County, 9 members.

10 6. District 6 has a board composed of 15 members, with
11 3 at-large members to be appointed by the Governor, and 12
12 members to be appointed by the boards of county commissioners
13 of the respective counties, as follows: Hillsborough County, 9
14 members; and Manatee County, 3 members.

15 7. District 7 has a board composed of 15 members, with
16 3 at-large members to be appointed by the Governor, and 12
17 members to be appointed by the boards of county commissioners
18 in the respective counties, as follows: Seminole County, 3
19 members; Orange County, 5 members; Osceola County, 1 member;
20 and Brevard County, 3 members.

21 8. District 8 has a board composed of 15 members, with
22 3 at-large members to be appointed by the Governor, and 12
23 members to be appointed by the boards of county commissioners
24 in the respective counties, as follows: Sarasota County, 3
25 members; DeSoto County, 1 member; Charlotte County, 1 member;
26 Lee County, 3 members; Glades County, 1 member; Hendry County,
27 1 member; and Collier County, 2 members.

28 9. District 9 has a board composed of 15 members, with
29 3 at-large members to be appointed by the Governor, and 12
30 members to be appointed by the Board of County Commissioners
31 of Palm Beach County.

1 10. District 10 has a board composed of 15 members,
2 with 3 at-large members to be appointed by the Governor, and
3 12 members to be appointed by the Board of County
4 Commissioners of Broward County.

5 11. District 11 has two boards, one from Dade County
6 and one from Monroe County. Each board is composed of 15
7 members, with 3 at-large members to be appointed to each board
8 by the Governor, and 12 members to be appointed by each of the
9 respective boards of county commissioners.

10 12. District 12 has a board composed of 15 members,
11 with 3 at-large members to be appointed by the Governor, and
12 12 members to be appointed by the boards of county
13 commissioners of the respective counties, as follows: Flagler
14 County, 3 members; and Volusia County, 9 members.

15 13. District 13 has a board composed of 15 members,
16 with 3 at-large members to be appointed by the Governor, and
17 12 members to be appointed by the boards of county
18 commissioners of the respective counties, as follows: Marion
19 County, 4 members; Citrus County, 2 members; Hernando County,
20 2 members; Sumter County, 1 member; and Lake County, 3
21 members.

22 14. District 14 has a board composed of 15 members,
23 with 3 at-large members to be appointed by the Governor, and
24 12 members to be appointed by the boards of county
25 commissioners of the respective counties, as follows: Polk
26 County, 9 members; Highlands County, 2 members; and Hardee
27 County, 1 member.

28 15. District 15 has a board composed of 15 members,
29 with 3 at-large members to be appointed by the Governor, and
30 12 members to be appointed by the boards of county
31 commissioners of the respective counties, as follows: Indian

1 River County, 3 members; Okeechobee County, 1 member; St.
2 Lucie County, 5 members; and Martin County, 3 members.

3

4 Notwithstanding any other provisions of this subsection, in
5 districts consisting of two counties, the number of members to
6 be appointed by any one board of county commissioners may not
7 be fewer than three nor more than nine.

8 (b) At any time after the adoption of initial bylaws
9 pursuant to paragraph (o), a district health and human
10 services board may adopt a bylaw that enlarges the size of the
11 board up to a maximum of 23 members, or otherwise adjusts the
12 size or composition of the board, including a decision to
13 change from a district board to subdistrict boards, or from a
14 subdistrict board to a district board, if in the judgment of
15 the board, such change is necessary to adequately represent
16 the diversity of the population within the district or
17 subdistrict. In the creation of subdistrict boards, the bylaws
18 shall set the size of the board, not to exceed 15 members, and
19 shall set the number of appointments to be made by the
20 Governor and the respective boards of county commissioners in
21 the subdistrict. The Governor shall be given the authority to
22 appoint no fewer than one-fifth of the members. Current
23 members of the district board shall become members of the
24 subdistrict board in the subdistrict where they reside.
25 Vacancies on a newly created subdistrict board shall be filled
26 from among the list of nominees submitted to the subdistrict
27 nominee qualifications review committee pursuant to subsection
28 (8).

29 (c) The appointments by the Governor and the boards of
30 county commissioners are from nominees selected by the
31 appropriate district nominee qualifications review committee

1 pursuant to subsection (8). Membership of each board must be
2 representative of its district with respect to age, gender,
3 and ethnicity. For boards having 15 members or fewer, at least
4 two members must be consumers of the department's services.
5 For boards having more than 15 members, there must be at least
6 three consumers on the board. Members must have demonstrated
7 their interest and commitment to, and have appropriate
8 expertise for, meeting the health and family services needs of
9 the community. The Governor shall appoint nominees whose
10 presence on the health and human services board will help
11 assure that the board reflects the demographic characteristics
12 and consumer perspective of each of the service districts.

13 (d)1. Board members shall submit annually a disclosure
14 statement of health and family services interests to the
15 department's inspector general and the board. Any member who
16 has an interest in a matter under consideration by the board
17 must abstain from voting. Board members are subject to the
18 provisions of s. 112.3145, relating to disclosure of financial
19 interests.

20 2. Individual providers or employees of provider
21 agencies, other than employees of units of local or state
22 government, may not serve as health and human services board
23 members but may serve in an advisory capacity to the board.
24 Salaried employees of units of local or state government
25 occupying positions providing services under contract with the
26 department may not serve as members of the board. Elected
27 officials who have authority to appoint members to a health
28 and human services board may not serve as members of a board.
29 The district administrator shall serve as a nonvoting ex
30 officio member of the board. A department employee may not be
31 a member of the board.

1 (e) Appointments to fill vacancies created by the
2 death, resignation, or removal of a member are for the
3 unexpired term. A member may not serve more than two full
4 consecutive terms.

5 (f) A member who is absent from three meetings within
6 any 12-month period, without having been excused by the
7 chairperson, is deemed to have resigned, and the board shall
8 immediately declare the seat vacant. Members may be suspended
9 or removed for cause by a majority vote of the board members
10 or by the Governor.

11 (g) Members of the health and human services boards
12 shall serve without compensation, but are entitled to receive
13 reimbursement for per diem and travel expenses as provided in
14 s. 112.061. Payment may also be authorized for preapproved
15 child care expenses or lost wages for members who are
16 consumers of the department's services and for preapproved
17 child care expenses for other members who demonstrate
18 hardship.

19 (h) Appointees to the health and human services board
20 are subject to the provisions of chapter 112, part III, Code
21 of Ethics for Public Officers and Employees.

22 (i) Actions taken by the board must be consistent with
23 departmental policy and state and federal laws, rules, and
24 regulations.

25 (j) The department shall provide comprehensive
26 orientation and training to the members of the boards to
27 enable them to fulfill their responsibilities.

28 (k) Each health and human services board, and each of
29 its subcommittees, shall hold periodic public meetings and
30 hearings throughout the district to receive input on the
31 development of the district service delivery plan, the

1 legislative budget request, and the performance of the
2 department.

3 (l) Except as otherwise provided in this section,
4 responsibility and accountability for local family services
5 planning rests with the health and human services boards. All
6 local family-services-related planning or advisory councils
7 shall submit their plans to the health and human services
8 boards. The boards shall provide input on the plan's attention
9 to integrating service delivery at the local level. The
10 health and human services boards may establish additional
11 subcouncils or technical advisory committees.

12 (m) The health and human services boards shall operate
13 through an annual agreement negotiated between the secretary
14 and the board. Such agreements must include expected outcomes
15 and provide for periodic reports and evaluations of district
16 and board performance and must also include a core set of
17 service elements to be developed by the secretary and used by
18 the boards in district needs assessments to ensure consistency
19 in the development of district legislative budget requests.

20 (n) The annual agreement between the secretary and the
21 board must include provisions that specify the procedures to
22 be used by the parties to resolve differences in the
23 interpretation of the agreement or disputes as to the adequacy
24 of the parties' compliance with their respective obligations
25 under the agreement.

26 (o) Health and human services boards have the
27 following responsibilities, with respect to those programs and
28 services assigned to the districts, as developed jointly with
29 the district administrator:

30 1. Establish district outcome measures consistent with
31 statewide outcomes.

- 1 2. Conduct district needs assessments using
2 methodologies consistent with those established by the
3 secretary.
- 4 3. Negotiate with the secretary a district performance
5 agreement that:
- 6 a. Identifies current resources and services
7 available;
- 8 b. Identifies unmet needs and gaps in services;
- 9 c. Establishes service and funding priorities;
- 10 d. Establishes outcome measures for the district; and
- 11 e. Identifies expenditures and the number of clients
12 to be served, by service.
- 13 4. Provide budget oversight, including development and
14 approval of the district's legislative budget request.
- 15 5. Provide policy oversight, including development and
16 approval of district policies and procedures.
- 17 6. Act as a focal point for community participation in
18 department activities such as:
- 19 a. Assisting in the integration of all health and
20 social services within the community;
- 21 b. Assisting in the development of community
22 resources;
- 23 c. Advocating for community programs and services;
- 24 d. Receiving and addressing concerns of consumers and
25 others; and
- 26 e. Advising the district administrator on the
27 administration of service programs throughout the district.
- 28 7. Advise the district administrator on ways to
29 integrate the delivery of family and health care services at
30 the local level.
- 31

1 8. Make recommendations which would enhance district
2 productivity and efficiency, ensure achievement of performance
3 standards, and assist the district in improving the
4 effectiveness of the services provided.

5 9. Review contract provider performance reports.

6 10. Immediately upon appointment of the membership,
7 develop bylaws that clearly identify and describe operating
8 procedures for the board. At a minimum, the bylaws must
9 specify notice requirements for all regular and special
10 meetings of the board, the number of members required to
11 constitute a quorum, and the number of affirmative votes of
12 members present and voting that are required to take official
13 and final action on a matter before the board.

14 11.a. Determine the board's internal organizational
15 structure, including the designation of standing committees.
16 In order to foster the coordinated and integrated delivery of
17 family services in its community, a local board shall use a
18 committee structure that is based on issues, such as children,
19 housing, transportation, or health care. Each such committee
20 must include consumers, advocates, providers, and department
21 staff from every appropriate program area. In addition, each
22 board and district administrator shall jointly identify
23 community entities, including, but not limited to, the Area
24 Agency on Aging, and resources outside the department to be
25 represented on the committees of the board.

26 b. The district juvenile justice boards established in
27 s. 985.413 ~~39-025~~ constitute the standing committee on issues
28 relating to planning, funding, or evaluation of programs and
29 services relating to the juvenile justice continuum.

30
31

1 12. Participate with the secretary in the selection of
2 a district administrator according to the provisions of
3 paragraph(10)~~(9)~~(b).

4 13. Complete an annual evaluation of the district and
5 review the evaluation at a meeting of the board at which the
6 public has an opportunity to comment.

7 14. Provide input to the secretary on the annual
8 evaluation of the district administrator. The board may
9 request that the secretary submit a written report on the
10 actions to be taken to address negative aspects of the
11 evaluation. At any time, the board may recommend to the
12 secretary that the district administrator be discharged. Upon
13 receipt of such a recommendation, the secretary shall make a
14 formal reply to the board stating the action to be taken with
15 respect to the board's recommendation.

16 15. Elect a chair and other officers, as specified in
17 the bylaws, from among the members of the board.

18 (21)~~(20)~~ INNOVATION ZONES.--The health and human
19 services board may propose designation of an innovation zone
20 for any experimental, pilot, or demonstration project that
21 furthers the legislatively established goals of the
22 department. An innovation zone is a defined geographic area
23 such as a district, county, municipality, service delivery
24 area, school campus, or neighborhood providing a laboratory
25 for the research, development, and testing of the
26 applicability and efficacy of model programs, policy options,
27 and new technologies for the department.

28 (a)1. The district administrator shall submit a
29 proposal for an innovation zone to the secretary. If the
30 purpose of the proposed innovation zone is to demonstrate that
31 specific statutory goals can be achieved more effectively by

1 using procedures that require modification of existing rules,
2 policies, or procedures, the proposal may request the
3 secretary to waive such existing rules, policies, or
4 procedures or to otherwise authorize use of alternative
5 procedures or practices. Waivers of such existing rules,
6 policies, or procedures must comply with applicable state or
7 federal law.

8 2. For innovation zone proposals that the secretary
9 determines require changes to state law, the secretary may
10 submit a request for a waiver from such laws, together with
11 any proposed changes to state law, to the chairs of the
12 appropriate legislative committees for consideration.

13 3. For innovation zone proposals that the secretary
14 determines require waiver of federal law, the secretary may
15 submit a request for such waivers to the applicable federal
16 agency.

17 (b) An innovation zone project may not have a duration
18 of more than 2 years, but the secretary may grant an
19 extension.

20 (c) The Statewide Health and Human Services Board, in
21 conjunction with the secretary, shall develop a family
22 services innovation transfer network for the purpose of
23 providing information on innovation zone research and projects
24 or other effective initiatives in family services to the
25 health and human services boards established under subsection
26 (8)~~(7)~~.

27 (d) Prior to implementing an innovation zone pursuant
28 to the requirements of this subsection and chapter 216, the
29 secretary shall, in conjunction with the Auditor General,
30 develop measurable and valid objectives for such zone within a
31 negotiated reasonable period of time. No more than 15

1 innovative zones shall be in operation at any one time within
2 the districts.

3 Section 104. Paragraph (h) of subsection (1) of
4 section 20.43, Florida Statutes, is amended to read:

5 20.43 Department of Health.--There is created a
6 Department of Health.

7 (1) The purpose of the Department of Health is to
8 promote and protect the health of all residents and visitors
9 in the state through organized state and community efforts,
10 including cooperative agreements with counties. The
11 department shall:

12 (h) Provide medical direction for child protection
13 team and sexual abuse treatment functions created under
14 chapter 39 ~~415~~.

15 Section 105. Paragraph (b) of subsection (2) of
16 section 61.13, Florida Statutes, is amended to read:

17 61.13 Custody and support of children; visitation
18 rights; power of court in making orders.--

19 (2)

20 (b)1. The court shall determine all matters relating
21 to custody of each minor child of the parties in accordance
22 with the best interests of the child and in accordance with
23 the Uniform Child Custody Jurisdiction Act. It is the public
24 policy of this state to assure that each minor child has
25 frequent and continuing contact with both parents after the
26 parents separate or the marriage of the parties is dissolved
27 and to encourage parents to share the rights and
28 responsibilities, and joys, of childrearing. After considering
29 all relevant facts, the father of the child shall be given the
30 same consideration as the mother in determining the primary
31

1 residence of a child irrespective of the age or sex of the
2 child.

3 2. The court shall order that the parental
4 responsibility for a minor child be shared by both parents
5 unless the court finds that shared parental responsibility
6 would be detrimental to the child. Evidence that a parent has
7 been convicted of a felony of the third degree or higher
8 involving domestic violence, as defined in s. 741.28 and
9 chapter 775, or meets the criteria of s. 39.806(1)(d)
10 ~~39.464(1)(d)~~, creates a rebuttable presumption of detriment to
11 the child. If the presumption is not rebutted, shared parental
12 responsibility, including visitation, residence of the child,
13 and decisions made regarding the child, may not be granted to
14 the convicted parent. However, the convicted parent is not
15 relieved of any obligation to provide financial support. If
16 the court determines that shared parental responsibility would
17 be detrimental to the child, it may order sole parental
18 responsibility and make such arrangements for visitation as
19 will best protect the child or abused spouse from further
20 harm. Whether or not there is a conviction of any offense of
21 domestic violence or child abuse or the existence of an
22 injunction for protection against domestic violence, the court
23 shall consider evidence of domestic violence or child abuse as
24 evidence of detriment to the child.

25 a. In ordering shared parental responsibility, the
26 court may consider the expressed desires of the parents and
27 may grant to one party the ultimate responsibility over
28 specific aspects of the child's welfare or may divide those
29 responsibilities between the parties based on the best
30 interests of the child. Areas of responsibility may include
31 primary residence, education, medical and dental care, and any

1 other responsibilities that the court finds unique to a
2 particular family.

3 b. The court shall order "sole parental
4 responsibility, with or without visitation rights, to the
5 other parent when it is in the best interests of" the minor
6 child.

7 c. The court may award the grandparents visitation
8 rights with a minor child if it is in the child's best
9 interest. Grandparents have legal standing to seek judicial
10 enforcement of such an award. This section does not require
11 that grandparents be made parties or given notice of
12 dissolution pleadings or proceedings, nor do grandparents have
13 legal standing as "contestants" as defined in s. 61.1306. A
14 court may not order that a child be kept within the state or
15 jurisdiction of the court solely for the purpose of permitting
16 visitation by the grandparents.

17 3. Access to records and information pertaining to a
18 minor child, including, but not limited to, medical, dental,
19 and school records, may not be denied to a parent because the
20 parent is not the child's primary residential parent.

21 Section 106. Section 61.401, Florida Statutes, is
22 amended to read:

23 61.401 Appointment of guardian ad litem.--In an action
24 for dissolution of marriage, modification, parental
25 responsibility, custody, or visitation, if the court finds it
26 is in the best interest of the child, the court may appoint a
27 guardian ad litem to act as next friend of the child,
28 investigator or evaluator, not as attorney or advocate. The
29 court in its discretion may also appoint legal counsel for a
30 child to act as attorney or advocate; however, the guardian
31 and the legal counsel shall not be the same person. In such

1 actions which involve an allegation of child abuse,
2 abandonment, or neglect as defined in s. 39.01 ~~415.503(3)~~,
3 which allegation is verified and determined by the court to be
4 well-founded, the court shall appoint a guardian ad litem for
5 the child. The guardian ad litem shall be a party to any
6 judicial proceeding from the date of the appointment until the
7 date of discharge.

8 Section 107. Section 61.402, Florida Statutes, is
9 amended to read:

10 61.402 Qualifications of guardians ad litem.--A
11 guardian ad litem must be either a citizen certified by the
12 Guardian Ad Litem Program to act in family law cases or an
13 attorney who is a member in good standing of The Florida Bar.
14 Prior to certifying a guardian ad litem to be appointed under
15 this chapter, the Guardian Ad Litem Program must conduct a
16 security background investigation as provided in s. 39.821
17 ~~415.5077~~.

18 Section 108. Subsection (4) of section 63.052, Florida
19 Statutes, is amended to read:

20 63.052 Guardians designated; proof of commitment.--

21 (4) If a child is voluntarily surrendered to an
22 intermediary for subsequent adoption and the adoption does not
23 become final within 180 days, the intermediary must report to
24 the court on the status of the child and the court may at that
25 time proceed under s. 39.701 ~~39.453~~ or take action reasonably
26 necessary to protect the best interest of the child.

27 Section 109. Paragraph (b) of subsection (2) of
28 section 63.092, Florida Statutes, is amended to read:

29 63.092 Report to the court of intended placement by an
30 intermediary; preliminary study.--

31

1 (2) PRELIMINARY HOME STUDY.--Before placing the minor
2 in the intended adoptive home, a preliminary home study must
3 be performed by a licensed child-placing agency, a licensed
4 professional, or agency described in s. 61.20(2), unless the
5 petitioner is a stepparent, a spouse of the birth parent, or a
6 relative. The preliminary study shall be completed within 30
7 days after the receipt by the court of the intermediary's
8 report, but in no event may the child be placed in the
9 prospective adoptive home prior to the completion of the
10 preliminary study unless ordered by the court. If the
11 petitioner is a stepparent, a spouse of the birth parent, or a
12 relative, the preliminary home study may be required by the
13 court for good cause shown. The department is required to
14 perform the preliminary home study only if there is no
15 licensed child-placing agency, licensed professional, or
16 agency described in s. 61.20(2), in the county where the
17 prospective adoptive parents reside. The preliminary home
18 study must be made to determine the suitability of the
19 intended adoptive parents and may be completed prior to
20 identification of a prospective adoptive child. A favorable
21 preliminary home study is valid for 1 year after the date of
22 its completion. A child must not be placed in an intended
23 adoptive home before a favorable preliminary home study is
24 completed unless the adoptive home is also a licensed foster
25 home under s. 409.175. The preliminary home study must
26 include, at a minimum:

27 (b) Records checks of the department's central abuse
28 registry ~~under chapter 415~~ and ~~statewide~~ criminal records
29 correspondence checks pursuant to s. 435.045 through the
30 Department of Law Enforcement on the intended adoptive
31 parents;

1
2 If the preliminary home study is favorable, a minor may be
3 placed in the home pending entry of the judgment of adoption.
4 A minor may not be placed in the home if the preliminary home
5 study is unfavorable. If the preliminary home study is
6 unfavorable, the intermediary or petitioner may, within 20
7 days after receipt of a copy of the written recommendation,
8 petition the court to determine the suitability of the
9 intended adoptive home. A determination as to suitability
10 under this subsection does not act as a presumption of
11 suitability at the final hearing. In determining the
12 suitability of the intended adoptive home, the court must
13 consider the totality of the circumstances in the home.

14 Section 110. Subsection (2) of section 90.5036,
15 Florida Statutes, is amended to read:

16 90.5036 Domestic violence advocate-victim privilege.--

17 (2) A victim has a privilege to refuse to disclose,
18 and to prevent any other person from disclosing, a
19 confidential communication made by the victim to a domestic
20 violence advocate or any record made in the course of
21 advising, counseling, or assisting the victim. The privilege
22 applies to confidential communications made between the victim
23 and the domestic violence advocate and to records of those
24 communications only if the advocate is registered under s.
25 39.905 ~~415.605~~ at the time the communication is made. This
26 privilege includes any advice given by the domestic violence
27 advocate in the course of that relationship.

28 Section 111. Section 154.067, Florida Statutes, is
29 amended to read:

30 154.067 Child abuse and neglect cases; duties.--The
31 Department of Health shall adopt a rule requiring every county

1 health department, as described in s. 154.01, to adopt a
2 protocol that, at a minimum, requires the county health
3 department to:

4 (1) Incorporate in its health department policy a
5 policy that every staff member has an affirmative duty to
6 report, pursuant to chapter 39 ~~415~~, any actual or suspected
7 case of child abuse, abandonment, or neglect; and

8 (2) In any case involving suspected child abuse,
9 abandonment, or neglect, designate, at the request of the
10 department, a staff physician to act as a liaison between the
11 county health department and the Department of Children and
12 Family Services office that is investigating the suspected
13 abuse, abandonment, or neglect, and the child protection team,
14 as defined in s. 39.01 ~~415.503~~, when the case is referred to
15 such a team.

16 Section 112. Subsection (15) of section 213.053,
17 Florida Statutes, is amended to read:

18 213.053 Confidentiality and information sharing.--

19 (15) The department may disclose confidential taxpayer
20 information contained in returns, reports, accounts, or
21 declarations filed with the department by persons subject to
22 any state or local tax to the child support enforcement
23 program, to assist in the location of parents who owe or
24 potentially owe a duty of support pursuant to Title IV-D of
25 the Social Security Act, their assets, their income, and their
26 employer, and to the Department of Children and Family
27 Services for the purpose of diligent search activities
28 pursuant to chapter 39. Nothing in this subsection authorizes
29 the disclosure of information if such disclosure is prohibited
30 by federal law. Employees of the child support enforcement
31 program and of the Department of Children and Family Services

1 are bound by the same requirements of confidentiality and the
2 same penalties for violation of the requirements as the
3 department.

4 Section 113. Paragraph (a) of subsection (8) of
5 section 216.136, Florida Statutes, is amended to read:

6 216.136 Consensus estimating conferences; duties and
7 principals.--

8 (8) CHILD WELFARE SYSTEM ESTIMATING CONFERENCE.--

9 (a) Duties.--The Child Welfare System Estimating
10 Conference shall develop the following information relating to
11 the child welfare system:

12 1. Estimates and projections of the number of initial
13 and additional reports of child abuse, abandonment, or neglect
14 made to the central abuse hotline registry and tracking system
15 maintained by the Department of Children and Family Health and
16 Rehabilitative Services as established in s. 39.201(4)
17 ~~415.504(4)(a)~~.

18 2. Estimates and projections of the number of children
19 who are alleged to be victims of child abuse, abandonment, or
20 neglect and are in need of placement in a ~~an~~ emergency
21 shelter.

22
23 In addition, the conference shall develop other official
24 information relating to the child welfare system of the state
25 which the conference determines is needed for the state
26 planning and budgeting system. The Department of Children and
27 Family Health and Rehabilitative Services shall provide
28 information on the child welfare system requested by the Child
29 Welfare System Estimating Conference, or individual conference
30 principals, in a timely manner.

31

1 Section 114. Section 232.50, Florida Statutes, is
2 amended to read:

3 232.50 Child abuse, abandonment, and neglect
4 policy.--Every school board shall by March 1, 1985:

5 (1) Post in a prominent place in each school a notice
6 that, pursuant to chapter 39 ~~415~~, all employees or agents of
7 the district school board have an affirmative duty to report
8 all actual or suspected cases of child abuse, abandonment, or
9 neglect, have immunity from liability if they report such
10 cases in good faith, and have a duty to comply with child
11 protective investigations and all other provisions of law
12 relating to child abuse, abandonment, and neglect. The notice
13 shall also include the statewide toll-free telephone number of
14 the state abuse registry.

15 (2) Provide that the superintendent, or the
16 superintendent's designee, at the request of the Department of
17 Children and Family ~~Health and Rehabilitative~~ Services, will
18 act as a liaison to the Department of Children and Family
19 ~~Health and Rehabilitative~~ Services and the child protection
20 team, as defined in s. 39.01 ~~415.503~~, when in a case of
21 suspected child abuse, abandonment, or neglect or an unlawful
22 sexual offense involving a child the case is referred to such
23 a team; except that this subsection may in no instance be
24 construed as relieving or restricting the Department of
25 Children and Family ~~Health and Rehabilitative~~ Services from
26 discharging its duty and responsibility under the law to
27 investigate and report every suspected or actual case of child
28 abuse, abandonment, or neglect or unlawful sexual offense
29 involving a child.

30
31

1 Each district school board shall comply with the provisions of
2 this section, and such board shall notify the Department of
3 Education and the Department of Children and Family Health and
4 ~~Rehabilitative~~ Services of its compliance by March 1, 1985.

5 Section 115. Paragraph (a) of subsection (2) of
6 section 318.21, Florida Statutes, as amended by section 2(1)
7 of chapter 97-235, Laws of Florida, is amended to read:

8 318.21 Disposition of civil penalties by county
9 courts.--All civil penalties received by a county court
10 pursuant to the provisions of this chapter shall be
11 distributed and paid monthly as follows:

12 (2) Of the remainder:

13 (a) Fifteen and six-tenths percent shall be paid to
14 the General Revenue Fund of the state, except that the first
15 \$300,000 shall be deposited into the Grants and Donations
16 Trust Fund in the Department of Children and Family Services
17 for administrative costs, training costs, and costs associated
18 with the implementation and maintenance of Florida foster care
19 citizen review panels as provided for in s. 39.702 ~~39.4531~~.

20 Section 116. Effective July 1, 1999, paragraph (a) of
21 subsection (2) of section 318.21, as amended by section 3(1)
22 of chapter 97-235, Laws of Florida, is amended to read:

23 318.21 Disposition of civil penalties by county
24 courts.--All civil penalties received by a county court
25 pursuant to the provisions of this chapter shall be
26 distributed and paid monthly as follows:

27 (2) Of the remainder:

28 (a) Ten and six-tenths percent shall be paid to the
29 General Revenue Fund of the state, except that the first
30 \$300,000 shall be deposited into the Grants and Donations
31 Trust Fund in the Department of Children and Family Services

1 for administrative costs, training costs, and costs associated
2 with the implementation and maintenance of Florida foster care
3 citizen review panels as provided for in s. 39.702 ~~39.4531~~.

4 Section 117. Effective July 1, 2000, paragraph (a) of
5 subsection (2) of section 318.21, Florida Statutes, as amended
6 by section 4(1) of chapter 97-235, Laws of Florida, is amended
7 to read:

8 318.21 Disposition of civil penalties by county
9 courts.--All civil penalties received by a county court
10 pursuant to the provisions of this chapter shall be
11 distributed and paid monthly as follows:

12 (2) Of the remainder:

13 (a) Five and six-tenths percent shall be paid to the
14 General Revenue Fund of the state, except that the first
15 \$300,000 shall be deposited into the Grants and Donations
16 Trust Fund in the Department of Children and Family Services
17 for administrative costs, training costs, and costs associated
18 with the implementation and maintenance of Florida foster care
19 citizen review panels as provided for in s. 39.702 ~~39.4531~~.

20 Section 118. Effective July 1, 2001, paragraph (a) of
21 subsection (2) of section 318.21, Florida Statutes, as amended
22 by section 5(1) of chapter 97-235, Laws of Florida, is amended
23 to read:

24 318.21 Disposition of civil penalties by county
25 courts.--All civil penalties received by a county court
26 pursuant to the provisions of this chapter shall be
27 distributed and paid monthly as follows:

28 (2) Of the remainder:

29 (a) Twenty and six-tenths percent shall be paid to the
30 County Article V Trust Fund, except that the first \$300,000
31 shall be deposited into the Grants and Donations Trust Fund in

1 the Department of Children and Family Services for
2 administrative costs, training costs, and costs associated
3 with the implementation and maintenance of Florida foster care
4 citizen review panels as provided for in s. 39.702 ~~39.4531~~.

5 Section 119. Effective July 1, 2002, paragraph (a) of
6 subsection (2) of section 318.21, Florida Statutes, as amended
7 by section 6 of chapter 97-235, Laws of Florida, is amended to
8 read:

9 318.21 Disposition of civil penalties by county
10 courts.--All civil penalties received by a county court
11 pursuant to the provisions of this chapter shall be
12 distributed and paid monthly as follows:

13 (2) Of the remainder:

14 (a) Twenty and six-tenths percent shall be paid to the
15 General Revenue Fund of the state, except that the first
16 \$300,000 shall be deposited into the Grants and Donations
17 Trust Fund in the Department of Children and Family Services
18 for administrative costs, training costs, and costs associated
19 with the implementation and maintenance of Florida foster care
20 citizen review panels as provided for in s. 39.702 ~~39.4531~~.

21 Section 120. Paragraph (e) of subsection (1) of
22 section 384.29, Florida Statutes, is amended to read:

23 384.29 Confidentiality.--

24 (1) All information and records held by the department
25 or its authorized representatives relating to known or
26 suspected cases of sexually transmissible diseases are
27 strictly confidential and exempt from the provisions of s.
28 119.07(1). Such information shall not be released or made
29 public by the department or its authorized representatives, or
30 by a court or parties to a lawsuit upon revelation by
31 subpoena, except under the following circumstances:

1 (e) When made to the proper authorities as required by
2 chapter 39 or chapter 415.

3 Section 121. Paragraph (e) of subsection (1) of
4 section 392.65, Florida Statutes, is amended to read:

5 392.65 Confidentiality.--

6 (1) All information and records held by the department
7 or its authorized representatives relating to known or
8 suspected cases of tuberculosis or exposure to tuberculosis
9 shall be strictly confidential and exempt from s. 119.07(1).
10 Such information shall not be released or made public by the
11 department or its authorized representatives or by a court or
12 parties to a lawsuit, except that release may be made under
13 the following circumstances:

14 (e) When made to the proper authorities as required by
15 chapter 39 or chapter 415.

16 Section 122. The introductory paragraph of subsection
17 (14) of section 393.063, Florida Statutes, is amended to read:

18 393.063 Definitions.--For the purposes of this
19 chapter:

20 (14) "Direct service provider," also known as
21 "caregiver" in chapters 39 and chapter 415 or "caretaker" in
22 provisions relating to employment security checks, means a
23 person 18 years of age or older who has direct contact with
24 individuals with developmental disabilities and is unrelated
25 to the individuals with developmental disabilities.

26 Section 123. Section 395.1023, Florida Statutes, is
27 amended to read:

28 395.1023 Child abuse and neglect cases; duties.--Each
29 licensed facility shall adopt a protocol that, at a minimum,
30 requires the facility to:

31

1 (1) Incorporate a facility policy that every staff
2 member has an affirmative duty to report, pursuant to chapter
3 39 415, any actual or suspected case of child abuse,
4 abandonment, or neglect; and

5 (2) In any case involving suspected child abuse,
6 abandonment, or neglect, designate, at the request of the
7 department, a staff physician to act as a liaison between the
8 hospital and the Department of Children and Family Services
9 office which is investigating the suspected abuse,
10 abandonment, or neglect, and the child protection team, as
11 defined in s. 39.01 415.503, when the case is referred to such
12 a team.

13
14 Each general hospital and appropriate specialty hospital shall
15 comply with the provisions of this section and shall notify
16 the agency and the department of its compliance by sending a
17 copy of its policy to the agency and the department as
18 required by rule. The failure by a general hospital or
19 appropriate specialty hospital to comply shall be punished by
20 a fine not exceeding \$1,000, to be fixed, imposed, and
21 collected by the agency. Each day in violation is considered
22 a separate offense.

23 Section 124. Section 400.4174, Florida Statutes, is
24 amended to read:

25 400.4174 Reports of abuse in facilities.--When an
26 employee, volunteer, administrator, or owner of a facility has
27 a confirmed report of adult abuse, neglect, or exploitation,
28 as defined in s. 415.102, or a judicially determined report of
29 child abuse, abandonment, or neglect, as defined in s. 39.01
30 415.503, and the protective investigator knows that the
31 individual is an employee, volunteer, administrator, or owner

1 of a facility, the agency shall be notified of the ~~confirmed~~
2 report.

3 Section 125. Paragraph (c) of subsection (2) of
4 section 400.556, Florida Statutes, is amended to read:

5 400.556 Denial, suspension, revocation of license;
6 administrative fines; investigations and inspections.--

7 (2) Each of the following actions by the owner of an
8 adult day care center or by its operator or employee is a
9 ground for action by the agency against the owner of the
10 center or its operator or employee:

11 (c) A confirmed report of adult abuse, neglect, or
12 exploitation, as defined in s. 415.102, or a report of child
13 abuse, abandonment, or neglect, as defined in s. 39.01
14 ~~415.503~~, which report has been upheld following a hearing held
15 pursuant to chapter 120 or a waiver of such hearing.

16 Section 126. Paragraph (a) of subsection (8) of
17 section 402.165, Florida Statutes, is amended to read:

18 402.165 Statewide Human Rights Advocacy Committee;
19 confidential records and meetings.--

20 (8)(a) In the performance of its duties, the Statewide
21 Human Rights Advocacy Committee shall have:

22 1. Authority to receive, investigate, seek to
23 conciliate, hold hearings on, and act on complaints which
24 allege any abuse or deprivation of constitutional or human
25 rights of clients.

26 2. Access to all client records, files, and reports
27 from any program, service, or facility that is operated,
28 funded, licensed, or regulated by the Department of Children
29 and Family ~~Health and Rehabilitative~~ Services and any records
30 which are material to its investigation and which are in the
31 custody of any other agency or department of government. The

1 committee's investigation or monitoring shall not impede or
2 obstruct matters under investigation by law enforcement or
3 judicial authorities. Access shall not be granted if a
4 specific procedure or prohibition for reviewing records is
5 required by federal law and regulation which supersedes state
6 law. Access shall not be granted to the records of a private
7 licensed practitioner who is providing services outside
8 agencies and facilities and whose client is competent and
9 refuses disclosure.

10 3. Standing to petition the circuit court for access
11 to client records which are confidential as specified by law.
12 The petition shall state the specific reasons for which the
13 committee is seeking access and the intended use of such
14 information. The court may authorize committee access to such
15 records upon a finding that such access is directly related to
16 an investigation regarding the possible deprivation of
17 constitutional or human rights or the abuse of a client.
18 Original client files, records, and reports shall not be
19 removed from the Department of Children and Family Health and
20 Rehabilitative Services or agency facilities. Under no
21 circumstance shall the committee have access to confidential
22 adoption records in accordance with the provisions of ss.
23 39.0132 ~~39.411~~, 63.022, and 63.162. Upon completion of a
24 general investigation of practices and procedures of the
25 Department of Children and Family Health and Rehabilitative
26 Services, the committee shall report its findings to that
27 department.

28 Section 127. Paragraph (a) of subsection (8) of
29 section 402.166, Florida Statutes, is amended to read:

30 402.166 District human rights advocacy committees;
31 confidential records and meetings.--

1 (8)(a) In the performance of its duties, a district
2 human rights advocacy committee shall have:

3 1. Access to all client records, files, and reports
4 from any program, service, or facility that is operated,
5 funded, licensed, or regulated by the Department of Children
6 and Family ~~Health and Rehabilitative~~ Services and any records
7 which are material to its investigation and which are in the
8 custody of any other agency or department of government. The
9 committee's investigation or monitoring shall not impede or
10 obstruct matters under investigation by law enforcement or
11 judicial authorities. Access shall not be granted if a
12 specific procedure or prohibition for reviewing records is
13 required by federal law and regulation which supersedes state
14 law. Access shall not be granted to the records of a private
15 licensed practitioner who is providing services outside
16 agencies and facilities and whose client is competent and
17 refuses disclosure.

18 2. Standing to petition the circuit court for access
19 to client records which are confidential as specified by law.
20 The petition shall state the specific reasons for which the
21 committee is seeking access and the intended use of such
22 information. The court may authorize committee access to such
23 records upon a finding that such access is directly related to
24 an investigation regarding the possible deprivation of
25 constitutional or human rights or the abuse of a client.
26 Original client files, records, and reports shall not be
27 removed from Department of Children and Family ~~Health and~~
28 ~~Rehabilitative~~ Services or agency facilities. Upon no
29 circumstances shall the committee have access to confidential
30 adoption records in accordance with the provisions of ss.
31 39.0132 ~~39.411~~, 63.022, and 63.162. Upon completion of a

1 general investigation of practices and procedures of the
2 Department of Children and Family ~~Health and Rehabilitative~~
3 Services, the committee shall report its findings to that
4 department.

5 Section 128. Section 409.1672, Florida Statutes, is
6 amended to read:

7 409.1672 Incentives for department employees.--In
8 order to promote accomplishing the goal of family
9 preservation, family reunification, or permanent placement of
10 a child in an adoptive home, the department may, pursuant to
11 s. 110, chapter 92-142, Laws of Florida, or subsequent
12 legislative authority and within existing resources, develop
13 monetary performance incentives such as bonuses, salary
14 increases, and educational enhancements for department
15 employees engaged in positions and activities related to the
16 child welfare system under chapter 39, ~~chapter 415~~, or this
17 chapter who demonstrate outstanding work in these areas.

18 Section 129. Subsection (8) and paragraph (c) of
19 subsection (9) of section 409.176, Florida Statutes, are
20 amended to read:

21 409.176 Registration of residential child-caring
22 agencies and family foster homes.--

23 (8) The provisions of chapters 39 ~~415~~ and 827
24 regarding child abuse, abandonment, and neglect and the
25 provisions of s. 409.175 and chapter 435 regarding screening
26 apply to any facility registered under this section.

27 (9) The qualified association may deny, suspend, or
28 revoke the registration of a Type II facility which:

29 (c) Violates the provisions of chapter 39 ~~415~~ or
30 chapter 827 regarding child abuse, abandonment, and neglect or
31

1 the provisions of s. 409.175 or chapter 435 regarding
2 screening.

3

4 The qualified association shall notify the department within
5 10 days of the suspension or revocation of the registration of
6 any Type II facility registered under this section.

7 Section 130. Paragraph (b) of subsection (10) of
8 section 409.2554, Florida Statutes, is amended to read:

9 409.2554 Definitions.--As used in ss.
10 409.2551-409.2598, the term:

11 (10) "Support" means:

12 (b) Support for a child who is placed under the
13 custody of someone other than the custodial parent pursuant to
14 s. 39.508 ~~39.41~~.

15 Section 131. Section 409.2577, Florida Statutes, is
16 amended to read:

17 409.2577 Parent locator service.--The department shall
18 establish a parent locator service to assist in locating
19 parents who have deserted their children and other persons
20 liable for support of dependent children. The department
21 shall use all sources of information available, including the
22 Federal Parent Locator Service, and may request and shall
23 receive information from the records of any person or the
24 state or any of its political subdivisions or any officer
25 thereof. Any agency as defined in s. 120.52, any political
26 subdivision, and any other person shall, upon request, provide
27 the department any information relating to location, salary,
28 insurance, social security, income tax, and employment history
29 necessary to locate parents who owe or potentially owe a duty
30 of support pursuant to Title IV-D of the Social Security Act.
31 This provision shall expressly take precedence over any other

1 statutory nondisclosure provision which limits the ability of
2 an agency to disclose such information, except that law
3 enforcement information as provided in s. 119.07(3)(i) is not
4 required to be disclosed, and except that confidential
5 taxpayer information possessed by the Department of Revenue
6 shall be disclosed only to the extent authorized in s.
7 213.053(15). Nothing in this section requires the disclosure
8 of information if such disclosure is prohibited by federal
9 law. Information gathered or used by the parent locator
10 service is confidential and exempt from the provisions of s.
11 119.07(1). Additionally, the department is authorized to
12 collect any additional information directly bearing on the
13 identity and whereabouts of a person owing or asserted to be
14 owing an obligation of support for a dependent child.
15 Information gathered or used by the parent locator service is
16 confidential and exempt from the provisions of s. 119.07(1).
17 The department may make such information available only to
18 public officials and agencies of this state; political
19 subdivisions of this state; the custodial parent, legal
20 guardian, attorney, or agent of the child; and other states
21 seeking to locate parents who have deserted their children and
22 other persons liable for support of dependents, for the sole
23 purpose of establishing, modifying, or enforcing their
24 liability for support, and shall make such information
25 available to the Department of Children and Family Services
26 for the purpose of diligent search activities pursuant to
27 chapter 39. If the department has reasonable evidence of
28 domestic violence or child abuse and the disclosure of
29 information could be harmful to the custodial parent or the
30 child of such parent, the child support program director or
31 designee shall notify the Department of Children and Family

1 Services and the Secretary of the United States Department of
2 Health and Human Services of this evidence. Such evidence is
3 sufficient grounds for the department to disapprove an
4 application for location services.

5 Section 132. Subsection (29) of section 409.912,
6 Florida Statutes, is amended to read:

7 409.912 Cost-effective purchasing of health care.--The
8 agency shall purchase goods and services for Medicaid
9 recipients in the most cost-effective manner consistent with
10 the delivery of quality medical care. The agency shall
11 maximize the use of prepaid per capita and prepaid aggregate
12 fixed-sum basis services when appropriate and other
13 alternative service delivery and reimbursement methodologies,
14 including competitive bidding pursuant to s. 287.057, designed
15 to facilitate the cost-effective purchase of a case-managed
16 continuum of care. The agency shall also require providers to
17 minimize the exposure of recipients to the need for acute
18 inpatient, custodial, and other institutional care and the
19 inappropriate or unnecessary use of high-cost services.

20 (29) Each managed care plan that is under contract
21 with the agency to provide health care services to Medicaid
22 recipients shall annually conduct a background check with the
23 Florida Department of Law Enforcement of all persons with
24 ownership interest of 5 percent or more or executive
25 management responsibility for the managed care plan and shall
26 submit to the agency information concerning any such person
27 who has been found guilty of, regardless of adjudication, or
28 has entered a plea of nolo contendere or guilty to, any of the
29 offenses listed in s. 435.03 or has a confirmed report of
30 abuse, neglect, or exploitation pursuant to ~~part I~~ of chapter
31 415.

1 Section 133. Paragraph (a) of subsection (1) of
2 section 409.9126, Florida Statutes, is amended to read:

3 409.9126 Children with special health care needs.--

4 (1) As used in this section:

5 (a) "Children's Medical Services network" means an
6 alternative service network that includes health care
7 providers and health care facilities specified in chapter 391
8 and ss. 39.303, 383.15-383.21, and 383.216, ~~and 415.5055~~.

9 Section 134. Paragraph (f) of subsection (5) of
10 section 414.065, Florida Statutes, is amended to read:

11 414.065 Work requirements.--

12 (5) CONTINUATION OF TEMPORARY CASH ASSISTANCE FOR
13 CHILDREN; PROTECTIVE PAYEES.--

14 (f) If the department is unable to designate a
15 qualified protective payee or authorized representative, a
16 referral shall be made under the provisions of chapter 39 ~~415~~
17 for protective intervention.

18 Section 135. Section 435.045, Florida Statutes, is
19 created to read:

20 435.045 Requirements for prospective foster or
21 adoptive parents.--

22 (1) Unless an election provided for in subsection (2)
23 is made with respect to the state, the department shall
24 conduct criminal records checks equivalent to the level 2
25 screening required in s. 435.04(1) for any prospective foster
26 or adoptive parent before the foster or adoptive parent may be
27 finally approved for placement of a child on whose behalf
28 foster care maintenance payments or adoption assistance
29 payments under s. 471 of the Social Security Act, 42 U.S.C.
30 671, are to be made. Approval shall not be granted:

31

1 (a) In any case in which a record check reveals a
2 felony conviction for child abuse, abandonment, or neglect;
3 for spousal abuse; for a crime against children, including
4 child pornography, or for a crime involving violence,
5 including rape, sexual assault, or homicide but not including
6 other physical assault or battery, if the department finds
7 that a court of competent jurisdiction has determined that the
8 felony was committed at any time; and

9 (b) In any case in which a record check reveals a
10 felony conviction for physical assault, battery, or a
11 drug-related offense, if the department finds that a court of
12 competent jurisdiction has determined that the felony was
13 committed within the past 5 years.

14 (2) For purposes of this section, and ss. 39.401(3)
15 and 39.508(9)(b) and (10)(a), the department and its
16 authorized agents or contract providers are hereby designated
17 a criminal justice agency for the purposes of accessing
18 criminal justice information, including National Crime
19 Information Center information, to be used for enforcing
20 Florida's laws concerning the crimes of child abuse,
21 abandonment, and neglect. This information shall be used
22 solely for purposes supporting the detection, apprehension,
23 prosecution, pretrial release, posttrial release, or
24 rehabilitation of criminal offenders or persons accused of the
25 crimes of child abuse, abandonment, or neglect and shall not
26 be further disseminated or used for any other purposes.

27 (3) Subsection (2) shall not apply if the Governor has
28 notified the Secretary of the United States Department of
29 Health and Human Services in writing that the state has
30 elected to make subsection (2) inapplicable to the state, or
31

1 if the Legislature, by law, has elected to make subsection (2)
2 inapplicable to the state.

3 Section 136. Section 447.401, Florida Statutes, is
4 amended to read:

5 447.401 Grievance procedures.--Each public employer
6 and bargaining agent shall negotiate a grievance procedure to
7 be used for the settlement of disputes between employer and
8 employee, or group of employees, involving the interpretation
9 or application of a collective bargaining agreement. Such
10 grievance procedure shall have as its terminal step a final
11 and binding disposition by an impartial neutral, mutually
12 selected by the parties; however, when the issue under appeal
13 is an allegation of abuse, abandonment, or neglect by an
14 employee under s. 39.201 or s. 415.1075 ~~or s. 415.504~~, the
15 grievance may not be decided until the abuse, abandonment, or
16 neglect of a child has been judicially determined or until a
17 confirmed report of abuse or neglect of a disabled adult or
18 elderly person has been upheld pursuant to the procedures for
19 appeal in s. ~~ss.~~415.1075 and ~~415.504~~. However, an arbiter or
20 other neutral shall not have the power to add to, subtract
21 from, modify, or alter the terms of a collective bargaining
22 agreement. If an employee organization is certified as the
23 bargaining agent of a unit, the grievance procedure then in
24 existence may be the subject of collective bargaining, and any
25 agreement which is reached shall supersede the previously
26 existing procedure. All public employees shall have the right
27 to a fair and equitable grievance procedure administered
28 without regard to membership or nonmembership in any
29 organization, except that certified employee organizations
30 shall not be required to process grievances for employees who
31 are not members of the organization. A career service

1 employee shall have the option of utilizing the civil service
2 appeal procedure, an unfair labor practice procedure, or a
3 grievance procedure established under this section, but such
4 employee is precluded from availing himself or herself to more
5 than one of these procedures.

6 Section 137. Paragraph (d) of subsection (1) of
7 section 464.018, Florida Statutes, is amended to read:

8 464.018 Disciplinary actions.--

9 (1) The following acts shall be grounds for
10 disciplinary action set forth in this section:

11 (d) Being found guilty, regardless of adjudication, of
12 any of the following offenses:

13 1. A forcible felony as defined in chapter 776.

14 2. A violation of chapter 812, relating to theft,
15 robbery, and related crimes.

16 3. A violation of chapter 817, relating to fraudulent
17 practices.

18 4. A violation of chapter 800, relating to lewdness
19 and indecent exposure.

20 5. A violation of chapter 784, relating to assault,
21 battery, and culpable negligence.

22 6. A violation of chapter 827, relating to child
23 abuse.

24 7. A violation of chapter 415, relating to protection
25 from abuse, neglect, and exploitation.

26 8. A violation of chapter 39, relating to child abuse,
27 abandonment, and neglect.

28 Section 138. Paragraph (a) of subsection (2) of
29 section 490.014, Florida Statutes, is amended to read:

30 490.014 Exemptions.--

31

1 (2) No person shall be required to be licensed or
2 provisionally licensed under this chapter who:

3 (a) Is a salaried employee of a government agency;
4 developmental services program, mental health, alcohol, or
5 drug abuse facility operating pursuant to chapter 393, chapter
6 394, or chapter 397; subsidized child care program, subsidized
7 child care case management program, or child care resource and
8 referral program operating pursuant to chapter 402;
9 child-placing or child-caring agency licensed pursuant to
10 chapter 409; domestic violence center certified pursuant to
11 chapter 39 ~~415~~; accredited academic institution; or research
12 institution, if such employee is performing duties for which
13 he or she was trained and hired solely within the confines of
14 such agency, facility, or institution.

15 Section 139. Paragraph (a) of subsection (4) of
16 section 491.014, Florida Statutes, is amended to read:

17 491.014 Exemptions.--

18 (4) No person shall be required to be licensed,
19 provisionally licensed, registered, or certified under this
20 chapter who:

21 (a) Is a salaried employee of a government agency;
22 developmental services program, mental health, alcohol, or
23 drug abuse facility operating pursuant to chapter 393, chapter
24 394, or chapter 397; subsidized child care program, subsidized
25 child care case management program, or child care resource and
26 referral program operating pursuant to chapter 402;
27 child-placing or child-caring agency licensed pursuant to
28 chapter 409; domestic violence center certified pursuant to
29 chapter 39 ~~415~~; accredited academic institution; or research
30 institution, if such employee is performing duties for which
31

1 he or she was trained and hired solely within the confines of
2 such agency, facility, or institution.

3 Section 140. Paragraph (b) of subsection (3) of
4 section 741.30, Florida Statutes, is amended to read:

5 741.30 Domestic violence; injunction; powers and
6 duties of court and clerk; petition; notice and hearing;
7 temporary injunction; issuance of injunction; statewide
8 verification system; enforcement.--

9 (3)

10 (b) The sworn petition shall be in substantially the
11 following form:

12

13

PETITION FOR

14

INJUNCTION FOR PROTECTION

15

AGAINST DOMESTIC VIOLENCE

16

17 Before me, the undersigned authority, personally appeared
18 Petitioner ...(Name)..., who has been sworn and says that the
19 following statements are true:

20

(a) Petitioner resides at: ...(address)...

21

(Petitioner may furnish address to the court in a
22 separate confidential filing if, for safety reasons, the
23 petitioner requires the location of the current residence to
24 be confidential.)

25

(b) Respondent resides at: ...(last known address)...

26

(c) Respondent's last known place of employment:

27

...(name of business and address)...

28

(d) Physical description of respondent:

29

Race....

30

Sex....

31

Date of birth....

1 Height....
2 Weight....
3 Eye color....
4 Hair color....
5 Distinguishing marks or scars....
6 (e) Aliases of respondent:
7 (f) Respondent is the spouse or former spouse of the
8 petitioner or is any other person related by blood or marriage
9 to the petitioner or is any other person who is or was
10 residing within a single dwelling unit with the petitioner, as
11 if a family, or is a person with whom the petitioner has a
12 child in common, regardless of whether the petitioner and
13 respondent are or were married or residing together, as if a
14 family.
15 (g) The following describes any other cause of action
16 currently pending between the petitioner and respondent:
17
18 The petitioner should also describe any previous or
19 pending attempts by the petitioner to obtain an injunction for
20 protection against domestic violence in this or any other
21 circuit, and the results of that attempt.....
22
23 Case numbers should be included if available.
24 (h) Petitioner has suffered or has reasonable cause to
25 fear imminent domestic violence because respondent has:
26 (i) Petitioner alleges the following additional
27 specific facts: (mark appropriate sections)
28 Petitioner is the custodian of a minor child or
29 children whose names and ages are as follows:
30 Petitioner needs the exclusive use and possession
31 of the dwelling that the parties share.

1 Petitioner is unable to obtain safe alternative
2 housing because:

3 Petitioner genuinely fears that respondent
4 imminently will abuse, remove, or hide the minor child or
5 children from petitioner because:

6

7 (j) Petitioner genuinely fears imminent domestic
8 violence by respondent.

9 (k) Petitioner seeks an injunction: (mark appropriate
10 section or sections)

11 Immediately restraining the respondent from
12 committing any acts of domestic violence.

13 Restraining the respondent from committing any acts
14 of domestic violence.

15 Awarding to the petitioner the temporary exclusive
16 use and possession of the dwelling that the parties share or
17 excluding the respondent from the residence of the petitioner.

18 Awarding temporary custody of, or temporary
19 visitation rights with regard to, the minor child or children
20 of the parties, or prohibiting or limiting visitation to that
21 which is supervised by a third party.

22 Establishing temporary support for the minor child
23 or children or the petitioner.

24 Directing the respondent to participate in a
25 batterers' intervention program or other treatment pursuant to
26 s. 39.901 ~~415.601~~.

27 Providing any terms the court deems necessary for
28 the protection of a victim of domestic violence, or any minor
29 children of the victim, including any injunctions or
30 directives to law enforcement agencies.

31

1 Section 141. Subsection (3) of section 744.309,
2 Florida Statutes, is amended to read:

3 744.309 Who may be appointed guardian of a resident
4 ward.--

5 (3) DISQUALIFIED PERSONS.--No person who has been
6 convicted of a felony or who, from any incapacity or illness,
7 is incapable of discharging the duties of a guardian, or who
8 is otherwise unsuitable to perform the duties of a guardian,
9 shall be appointed to act as guardian. Further, no person who
10 has been judicially determined to have committed abuse,
11 abandonment, or neglect against a child as defined in s.
12 39.01(2) ~~and (47)~~, or who has a confirmed report of abuse,
13 neglect, or exploitation which has been uncontested or upheld
14 pursuant to the provisions of ss. 415.104 and 415.1075 shall
15 be appointed to act as a guardian. Except as provided in
16 subsection (5) or subsection (6), a person who provides
17 substantial services to the proposed ward in a professional or
18 business capacity, or a creditor of the proposed ward, may not
19 be appointed guardian and retain that previous professional or
20 business relationship. A person may not be appointed a
21 guardian if he or she is in the employ of any person, agency,
22 government, or corporation that provides service to the
23 proposed ward in a professional or business capacity, except
24 that a person so employed may be appointed if he or she is the
25 spouse, adult child, parent, or sibling of the proposed ward
26 or the court determines that the potential conflict of
27 interest is insubstantial and that the appointment would
28 clearly be in the proposed ward's best interest. The court
29 may not appoint a guardian in any other circumstance in which
30 a conflict of interest may occur.

31

1 Section 142. Section 784.075, Florida Statutes, is
2 amended to read:

3 784.075 Battery on detention or commitment facility
4 staff.--A person who commits a battery on an intake counselor
5 or case manager, as defined in s. 984.03(31)~~39-01(34)~~, on
6 other staff of a detention center or facility as defined in s.
7 984.03(19)~~39-01(23)~~, or on a staff member of a commitment
8 facility as defined in s. 985.03(45)~~39-01(59)(c)~~, ~~(d)~~, or
9 ~~(e)~~, commits a felony of the third degree, punishable as
10 provided in s. 775.082, s. 775.083, or s. 775.084. For
11 purposes of this section, a staff member of the facilities
12 listed includes persons employed by the Department of Juvenile
13 Justice, persons employed at facilities licensed by the
14 Department of Juvenile Justice, and persons employed at
15 facilities operated under a contract with the Department of
16 Juvenile Justice.

17 Section 143. Section 933.18, Florida Statutes, is
18 amended to read:

19 933.18 When warrant may be issued for search of
20 private dwelling.--No search warrant shall issue under this
21 chapter or under any other law of this state to search any
22 private dwelling occupied as such unless:

- 23 (1) It is being used for the unlawful sale,
24 possession, or manufacture of intoxicating liquor;
25 (2) Stolen or embezzled property is contained therein;
26 (3) It is being used to carry on gambling;
27 (4) It is being used to perpetrate frauds and
28 swindles;
29 (5) The law relating to narcotics or drug abuse is
30 being violated therein;

31

1 (6) A weapon, instrumentality, or means by which a
2 felony has been committed, or evidence relevant to proving
3 said felony has been committed, is contained therein;

4 (7) One or more of the following misdemeanor child
5 abuse offenses is being committed there:

6 (a) Interference with custody, in violation of s.
7 787.03.

8 (b) Commission of an unnatural and lascivious act with
9 a child, in violation of s. 800.02.

10 (c) Exposure of sexual organs to a child, in violation
11 of s. 800.03.

12 (8) It is in part used for some business purpose such
13 as a store, shop, saloon, restaurant, hotel, or boardinghouse,
14 or lodginghouse;

15 (9) It is being used for the unlawful sale,
16 possession, or purchase of wildlife, saltwater products, or
17 freshwater fish being unlawfully kept therein; or

18 (10) The laws in relation to cruelty to animals have
19 been or are being violated therein, except that no search
20 pursuant to such a warrant shall be made in any private
21 dwelling after sunset and before sunrise unless specially
22 authorized by the judge issuing the warrant, upon a showing of
23 probable cause. Property relating to the violation of such
24 laws may be taken on a warrant so issued from any private
25 dwelling in which it is concealed or from the possession of
26 any person therein by whom it shall have been used in the
27 commission of such offense or from any person therein in whose
28 possession it may be.

29
30 If, during a search pursuant to a warrant issued under this
31 section, a child is discovered and appears to be in imminent

1 danger, the law enforcement officer conducting such search may
2 remove the child from the private dwelling and take the child
3 into protective custody pursuant to chapter 39 ~~s. 415.506~~.
4 The term "private dwelling" shall be construed to include the
5 room or rooms used and occupied, not transiently but solely as
6 a residence, in an apartment house, hotel, boardinghouse, or
7 lodginghouse. No warrant shall be issued for the search of
8 any private dwelling under any of the conditions hereinabove
9 mentioned except on sworn proof by affidavit of some
10 creditable witness that he or she has reason to believe that
11 one of said conditions exists, which affidavit shall set forth
12 the facts on which such reason for belief is based.

13 Section 144. Subsection (10) of section 943.045,
14 Florida Statutes, is amended to read:

15 943.045 Definitions; ss. 943.045-943.08.--The
16 following words and phrases as used in ss. 943.045-943.08
17 shall have the following meanings:

18 (10) "Criminal justice agency" means:

19 (a) A court.

20 (b) The department.

21 (c) The Department of Juvenile Justice.

22 (d) The Department of Children and and Family
23 Services.

24 (e)~~(d)~~ Any other governmental agency or subunit
25 thereof which performs the administration of criminal justice
26 pursuant to a statute or rule of court and which allocates a
27 substantial part of its annual budget to the administration of
28 criminal justice.

29 Section 145. Section 944.401, Florida Statutes, is
30 amended to read:

31

1 944.401 Escapes from secure detention or residential
2 commitment facility.--An escape from any secure detention
3 facility maintained for the temporary detention of children,
4 pending adjudication, disposition, or placement; an escape
5 from any residential commitment facility defined in s.
6 985.03(45)~~39.01(59)~~, maintained for the custody, treatment,
7 punishment, or rehabilitation of children found to have
8 committed delinquent acts or violations of law; or an escape
9 from lawful transportation thereto or therefrom constitutes
10 escape within the intent and meaning of s. 944.40 and is a
11 felony of the third degree, punishable as provided in s.
12 775.082, s. 775.083, or s. 775.084.

13 Section 146. Subsection (3) of section 944.705,
14 Florida Statutes, is amended to read:

15 944.705 Release orientation program.--

16 (3) Any inmate who claims to be a victim of domestic
17 violence as defined in s. 741.28 shall receive, as part of the
18 release orientation program, referral to the nearest domestic
19 violence center certified under chapter 39 ~~ss.~~
20 ~~415.601-415.608.~~

21 Section 147. Subsections (2) and (41) of section
22 984.03, Florida Statutes, as amended by chapter 97-276, Laws
23 of Florida, are amended to read:

24 984.03 Definitions.--When used in this chapter, the
25 term:

26 (2) "Abuse" means any willful act that results in any
27 physical, mental, or sexual injury that causes or is likely to
28 cause the child's physical, mental, or emotional health to be
29 significantly impaired. Corporal discipline of a child by a
30 parent or guardian for disciplinary purposes does not in
31

1 | itself constitute abuse when it does not result in harm to the
2 | child as defined in s. 39.01 ~~415.503~~.

3 | (41) "Parent" means a woman who gives birth to a child
4 | and a man whose consent to the adoption of the child would be
5 | required under s. 63.062(1)(b). If a child has been legally
6 | adopted, the term "parent" means the adoptive mother or father
7 | of the child. The term does not include an individual whose
8 | parental relationship to the child has been legally
9 | terminated, or an alleged or prospective parent, unless the
10 | parental status falls within the terms of either s. 39.503
11 | ~~39.4051(7)~~ or s. 63.062(1)(b).

12 | Section 148. Subsection (4) of section 984.10, Florida
13 | Statutes, is amended to read:

14 | 984.10 Intake.--

15 | (4) If the department has reasonable grounds to
16 | believe that the child has been abandoned, abused, or
17 | neglected, it shall proceed pursuant to the provisions of ~~s.~~
18 | ~~415.505~~ and chapter 39.

19 | Section 149. Paragraphs (a) and (c) of subsection (3)
20 | of section 984.15, Florida Statutes, are amended to read:

21 | 984.15 Petition for a child in need of services.--

22 | (3)(a) The parent, guardian, or legal custodian may
23 | file a petition alleging that a child is a child in need of
24 | services if:

25 | 1. The department waives the requirement for a case
26 | staffing committee.

27 | 2. The department fails to convene a meeting of the
28 | case staffing committee within 7 days, excluding weekends and
29 | legal holidays, after receiving a written request for such a
30 | meeting from the child's parent, guardian, or legal custodian.

31 |

1 3. The parent, guardian, or legal custodian does not
2 agree with the plan for services offered by the case staffing
3 committee.

4 4. The department fails to provide a written report
5 within 7 days after the case staffing committee meets, as
6 required under s. 984.12(8)~~39.426(8)~~.

7 (c) The petition must be in writing and must set forth
8 specific facts alleging that the child is a child in need of
9 services as defined in s. 984.03(9)~~39.01~~. The petition must
10 also demonstrate that the parent, guardian, or legal custodian
11 has in good faith, but unsuccessfully, participated in the
12 services and processes described in ss. 984.11 and 984.12
13 ~~39.424 and 39.426~~.

14 Section 150. Section 984.24, Florida Statutes, is
15 amended to read:

16 984.24 Appeal.--The state, any child, or the family,
17 guardian ad litem, or legal custodian of any child who is
18 affected by an order of the court pursuant to this chapter
19 ~~part~~ may appeal to the appropriate district court of appeal
20 within the time and in the manner prescribed by the Florida
21 Rules of Appellate Procedure ~~and pursuant to s. 39.413~~.

22 Section 151. Subsection (42) of section 985.03,
23 Florida Statutes, as amended by chapter 97-276, Laws of
24 Florida, is amended to read:

25 985.03 Definitions.--When used in this chapter, the
26 term:

27 (42) "Parent" means a woman who gives birth to a child
28 and a man whose consent to the adoption of the child would be
29 required under s. 63.062(1)(b). If a child has been legally
30 adopted, the term "parent" means the adoptive mother or father
31 of the child. The term does not include an individual whose

1 parental relationship to the child has been legally
2 terminated, or an alleged or prospective parent, unless the
3 parental status falls within the terms of either s. 39.503
4 ~~39.4051(7)~~ or s. 63.062(1)(b).

5 Section 152. Paragraph (c) of subsection (4) of
6 section 985.303, Florida Statutes, is amended to read:

7 985.303 Neighborhood restorative justice.--

8 (4) DEFERRED PROSECUTION PROGRAM; PROCEDURES.--

9 (c) The board shall require the parent or legal
10 guardian of the juvenile who is referred to a Neighborhood
11 Restorative Justice Center to appear with the juvenile before
12 the board at the time set by the board. In scheduling board
13 meetings, the board shall be cognizant of a parent's or legal
14 guardian's other obligations. The failure of a parent or
15 legal guardian to appear at the scheduled board meeting with
16 his or her child or ward may be considered by the juvenile
17 court as an act of child neglect as defined by s. 39.01
18 ~~415.503(3)~~, and the board may refer the matter to the
19 Department of Children and Family Services for investigation
20 under the provisions of chapter 39 ~~415~~.

21 Section 153. Sections 39.002, 39.0195, 39.0196, 39.39,
22 39.403, 39.4032, 39.4052, 39.4053, 39.408(3), (4), 39.449,
23 39.45, 39.451, 39.457, 39.459, 39.4611, 39.462, 39.4625,
24 39.472, 39.474, 39.475, 415.501, 415.5016, 415.50165,
25 415.5017, 415.50175, 415.5018, 415.50185, 415.5019, 415.502,
26 415.503, 415.505, 415.506, 415.5075, 415.509, and 415.514,
27 Florida Statutes, are repealed.

28 Section 154. Except as otherwise provided in this act,
29 this act shall take effect October 1, 1998.

30
31

1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 2170

4 The Committee Substitute for Senate Bill 2170:

- 5 - Revises purposes and intent;
- 6 - Provides for personnel standards and screening and for
7 drug testing;
- 8 - Revises definitions relating to immunity from liability
9 for agents of the Department of Children and Family
10 Services or a social service agency;
- 11 - Provides authority and requirements for department rules;
- 12 - Amends section relating to procedures and jurisdiction;
- 13 - Provides for right to counsel;
- 14 - Amends section relating to oaths, records, and
15 confidential information;
- 16 - Amends section relating to providing for compensation of
17 appointed counsel;
- 18 - Amends section relating to the Operations and Maintenance
19 Trust Fund;
- 20 - Provides for pt. II of ch. 39, F.S., entitled "Reporting
21 Child Abuse";
- 22 - Amends section relating to mandatory reports of child
23 abuse, abandonment, or neglect;
- 24 - Amends section relating to immunity from liability in
25 cases of child abuse, abandonment, or neglect;
- 26 - Amends section relating to abrogation of privileged
27 communications in cases of child abuse, abandonment, or
28 neglect;
- 29 - Provides for penalties relating to reporting of child
30 abuse, abandonment, or neglect;
- 31 - Increases an administrative fine for false reporting;
- Provides for pt. III of ch. 39, F.S., entitled
"Protective Investigations";
- Creates section providing for child protective
investigations;
- Creates section providing for protective investigations
of institutional child abuse, abandonment, or neglect;
- Amends section relating to child protection teams and
services and eligible cases;

- 1 - Creates section providing standards for child advocacy
2 centers eligible for state funding;
- 3 - Amends section relating to photographs, medical
4 examinations, X rays, and medical treatment of an abused,
5 abandoned, or neglected child;
- 6 - Amends section relating to a model plan for intervention
7 and treatment in sexual abuse cases;
- 8 - Creates section providing for working agreements with
9 local law enforcement to perform criminal investigations;
- 10 - Amends section relating to reports of child-on-child
11 sexual abuse;
- 12 - Provides for pt. IV of ch. 39, F.S., entitled "Family
13 Builders Program"; Amends section relating to
14 establishment of the program;
- 15 - Amends section relating to goals of the program;
- 16 - Amends section relating to contracts for services;
- 17 - Amends section relating to family eligibility;
- 18 - Amends section relating to delivery of services;
- 19 - Amends section relating to qualifications of program
20 workers;
- 21 - Amends section relating to funding;
- 22 - Provides for pt. V of ch. 39, F.S., entitled "Taking
23 Children into Custody and Shelter Hearings";
- 24 - Creates section providing for medical or hospital
25 personnel taking a child into protective custody;
- 26 - Provides for law enforcement officers or authorized
27 agents of the department taking a child alleged to be
28 dependent into custody;
- 29 - Amends section relating to placement in a shelter;
- 30 - Amends section relating to physical and mental
31 examination and treatment of a child and physical or
mental examination of a person requesting custody;
- Amends section relating to referral of a dependency case
to mediation;
- Provides for pt. VI of ch. 39, F.S., entitled "Petition,
Arraignment, Adjudication, and Disposition";
- Amends section relating to petition for dependency;
- Amends section relating to notice, process, and service;
- Amends section relating to procedures when the identity
or location of the parent, legal custodian, or caregiver
is unknown;

- 1 - Amends section relating to injunction pending disposition
of a petition for detention or dependency;
- 2 - Amends section relating to answers to petitions or other
3 pleadings;
- 4 - Amends section relating to arraignment hearings;
- 5 - Amends section relating to adjudicatory hearings and
orders;
- 6 - Amends section relating to disposition hearings and
7 powers of disposition;
- 8 - Creates section establishing the Relative-Caregiver
Program;
- 9 - Provides for assistance and services;
- 10 - Authorizes certain funding;
- 11 - Amends section relating to grandparents' rights;
- 12 - Amends section relating to appeals;
- 13 - Provides for pt. VII of ch. 39, F.S., entitled "Case
14 Plans";
- 15 - Amends section relating to case plan requirements and
case planning for children in out-of-home care;
- 16 - Amends section relating to case planning for children in
17 out-of-home care when the parents, legal custodians, or
caregivers do not participate;
- 18 - Creates section providing for court approvals of case
19 planning;
- 20 - Provides for pt. VIII of ch. 39, F.S., entitled "Judicial
Reviews";
- 21 - Amends section relating to judicial review of the status
22 of a child;
- 23 - Amends section relating to citizen review panels;
- 24 - Amends section relating to initiation of proceedings for
25 termination of parental rights;
- 26 - Amends section revising exemptions from judicial review;
- 27 - Provides for pt. IX of ch. 39, F.S., entitled
"Termination of Parental Rights";
- 28 - Amends section relating to procedures, jurisdiction, and
service of process;
- 29 - Amends section relating to petition for termination of
30 parental rights, and filing and elements thereof;
- 31 - Creates section providing procedures when the identity or
location of the parent is unknown after filing a petition

- 1 for termination of parental rights;
- 2 - Amends section relating to petitions and pleadings for
3 which no answer is required;
- 4 - Amends section relating to grounds for termination of
5 paternal rights;
- 6 - Amends section relating to right to counsel and
7 appointment of a guardian ad litem;
- 8 - Amends section relating to advisory hearings;
- 9 - Amends section relating to adjudicatory hearings;
- 10 - Amends section relating to the manifest best interests of
11 the child;
- 12 - Amends section relating to powers of disposition and
13 order of disposition;
- 14 - Amends section relating to post-disposition relief;
- 15 - Creates section providing for continuing jurisdiction of
16 the court that terminates parental rights over all
17 matters pertaining to the child's adoption;
- 18 - Amends section relating to appeal;
- 19 - Creates section authorizing certain pilot and
20 demonstration projects contingent on receipt of federal
21 grants or contracts;
- 22 - Creates section providing for a foster care demonstration
23 pilot project;
- 24 - Provides for pt. X of ch. 39, F.S., entitled "Guardians
25 Ad Litem and Guardian Advocates";
- 26 - Creates section providing definitions;
- 27 - Amends section relating to appointment of a guardian ad
28 litem for an abused, abandoned, or neglected child;
- 29 - Amends section relating to guardian advocates for drug
30 dependent newborns;
- 31 - Amends section relating to procedures and jurisdiction;
- Amends section relating to hearing for appointment of a
guardian advocate;
- Amends section relating to grounds for appointment of a
guardian advocate;
- Amends section relating to review and removal of a
guardian advocate;
- Provides for pt. XI of ch. 39, F.S., entitled "Domestic
Violence";
- Amends section relating to definitions;

- 1 - Amends section relating to duties and functions of the
department;
- 2 - Amends section relating to an annual report to the
3 Legislature;
- 4 - Amends section relating to domestic violence centers;
- 5 - Amends section providing for certification programs for
6 family safety and preservation employees of the
department; providing for rules;
- 7 - Amends sections correcting cross-references and
8 conforming related provisions and references;
- 9 - Amends sections to authorizing disclosure of certain
10 confidential taxpayer and parent locator information for
11 diligent search activities under ch. 39, F.S.;
- 12 - Creates section providing background screening
13 requirements for prospective foster or adoptive parents;
- 14 - Amends section providing that the Department of Children
and Family Services is a "criminal justice agency" for
15 purposes of the criminal justice information system;
- 16 - Repeals section relating to intent;
- 17 - Repeals section relating to sheltering unmarried minors
and aiding unmarried runaways;
- 18 - Repeals section relating to children locked out of the
home;
- 19 - Repeals sections relating to definition of "department";
- 20 - Repeals section relating to protective investigation;
- 21 - Repeals section relating to multidisciplinary case
22 staffing;
- 23 - Repeals section relating to affirmative duty of written
notice to adult relatives;
- 24 - Repeals section relating to diligent search after taking
a child into custody;
- 25 - Repeals section relating to disposition hearings and
notice of hearings;
- 26 - Repeals section relating to legislative intent regarding
foster care;
- 27 - Repeals relating to case planning;
- 28 - Repeals section relating to a pilot program in Leon
29 County to provide additional benefits to children in
foster care;
- 30 - Repeals section relating to elements of petitions;
- 31 - Repeals section relating to process and services;

- 1 - Repeals section relating to identity or location of
2 parent unknown after filing of petition for termination
of parental rights;
- 3 - Repeals section relating to court and witness fees;
- 4 - Repeals section relating to compensation of counsel;
- 5 - Repeals section relating to rights of grandparents;
- 6 - Repeals section relating to the state plan for prevention
7 of abuse and neglect;
- 8 - Repeals sections relating to purpose and legislative
9 intent, definitions, procedures, confidentiality of
records, district authority and responsibilities, outcome
10 evaluation, and rules for the family services response
11 system;
- 12 - Repeals section relating to legislative intent for
13 comprehensive protective services for abused or neglected
children;
- 14 - Repeals section relating to definitions;
- 15 - Repeals section relating to child protective
16 investigations and investigations of institutional child
abuse or neglect;
- 17 - Repeals section relating to taking a child into
18 protective custody;
- 19 - Repeals section relating to rules for medical screening
20 and treatment of children;
- 21 - Repeals section relating to public agencies'
22 responsibilities for prevention, identification, and
treatment of child abuse and neglect;
- 23 - Repeals section relating to rules for protective
24 services; and
- 25 - Provides effective dates.