

By the Committee on Rules, Resolutions, & Ethics and
 Representatives Thrasher and Crady

1 A reviser's bill to be entitled
 2 An act relating to the Florida Statutes;
 3 amending ss. 20.19, 20.316, 26.012, 27.02,
 4 27.151, 27.52, 39.01, 39.40, 39.403, 39.408,
 5 39.41, 39.452, 39.454, 49.011, 95.11, 228.041,
 6 230.2316, 230.23161, 230.335, 232.17, 232.19,
 7 239.117, 240.235, 240.35, 253.025, 316.003,
 8 316.635, 318.143, 318.21, 397.6758, 397.706,
 9 409.145, 409.1685, 409.2564, 409.803, 415.107,
 10 415.5015, 415.503, 415.5086, 415.51, 419.001,
 11 743.0645, 744.309, 784.075, 790.22, 790.23,
 12 877.22, 921.0012, 921.0022, 938.17, 943.0515,
 13 943.0585, 943.059, 944.401, 948.51, 958.04,
 14 958.046, 960.001, 984.03, 984.04, 984.05,
 15 984.071, 984.10, 984.15, 984.16, 984.20,
 16 984.21, 984.22, 984.225, 984.226, 984.23,
 17 984.24, 985.03, 985.213, 985.214, 985.218,
 18 985.231, and 985.306, F.S., to conform to the
 19 directive of the Legislature in section 122 of
 20 chapter 97-238, Laws of Florida, to incorporate
 21 the reorganization of the content of chapter
 22 39, F.S., into chapters 39, 984, and 985, F.S.,
 23 as provided in chapter 97-238; correcting
 24 cross-references.

25
 26 Be It Enacted by the Legislature of the State of Florida:
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28 Section 1. Paragraph (o) of subsection (7) of section
 29 20.19, Florida Statutes, is amended to read:
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31

1 20.19 Department of Children and Family
2 Services.--There is created a Department of Children and
3 Family Services.
4 (7) HEALTH AND HUMAN SERVICES BOARDS.--
5 (o) Health and human services boards have the
6 following responsibilities, with respect to those programs and
7 services assigned to the districts, as developed jointly with
8 the district administrator:
9 1. Establish district outcome measures consistent with
10 statewide outcomes.
11 2. Conduct district needs assessments using
12 methodologies consistent with those established by the
13 secretary.
14 3. Negotiate with the secretary a district performance
15 agreement that:
16 a. Identifies current resources and services
17 available;
18 b. Identifies unmet needs and gaps in services;
19 c. Establishes service and funding priorities;
20 d. Establishes outcome measures for the district; and
21 e. Identifies expenditures and the number of clients
22 to be served, by service.
23 4. Provide budget oversight, including development and
24 approval of the district's legislative budget request.
25 5. Provide policy oversight, including development and
26 approval of district policies and procedures.
27 6. Act as a focal point for community participation in
28 department activities such as:
29 a. Assisting in the integration of all health and
30 social services within the community;
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- 1 b. Assisting in the development of community
2 resources;
- 3 c. Advocating for community programs and services;
- 4 d. Receiving and addressing concerns of consumers and
5 others; and
- 6 e. Advising the district administrator on the
7 administration of service programs throughout the district.
- 8 7. Advise the district administrator on ways to
9 integrate the delivery of family and health care services at
10 the local level.
- 11 8. Make recommendations which would enhance district
12 productivity and efficiency, ensure achievement of performance
13 standards, and assist the district in improving the
14 effectiveness of the services provided.
- 15 9. Review contract provider performance reports.
- 16 10. Immediately upon appointment of the membership,
17 develop bylaws that clearly identify and describe operating
18 procedures for the board. At a minimum, the bylaws must
19 specify notice requirements for all regular and special
20 meetings of the board, the number of members required to
21 constitute a quorum, and the number of affirmative votes of
22 members present and voting that are required to take official
23 and final action on a matter before the board.
- 24 11.a. Determine the board's internal organizational
25 structure, including the designation of standing committees.
26 In order to foster the coordinated and integrated delivery of
27 family services in its community, a local board shall use a
28 committee structure that is based on issues, such as children,
29 housing, transportation, or health care. Each such committee
30 must include consumers, advocates, providers, and department
31 staff from every appropriate program area. In addition, each

1 board and district administrator shall jointly identify
2 community entities, including, but not limited to, the Area
3 Agency on Aging, and resources outside the department to be
4 represented on the committees of the board.

5 b. The district juvenile justice boards established in
6 s. 985.413 ~~39.025~~ constitute the standing committee on issues
7 relating to planning, funding, or evaluation of programs and
8 services relating to the juvenile justice continuum.

9 12. Participate with the secretary in the selection of
10 a district administrator according to the provisions of
11 paragraph (9)(b).

12 13. Complete an annual evaluation of the district and
13 review the evaluation at a meeting of the board at which the
14 public has an opportunity to comment.

15 14. Provide input to the secretary on the annual
16 evaluation of the district administrator. The board may
17 request that the secretary submit a written report on the
18 actions to be taken to address negative aspects of the
19 evaluation. At any time, the board may recommend to the
20 secretary that the district administrator be discharged. Upon
21 receipt of such a recommendation, the secretary shall make a
22 formal reply to the board stating the action to be taken with
23 respect to the board's recommendation.

24 15. Elect a chair and other officers, as specified in
25 the bylaws, from among the members of the board.

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27 Reviser's note.--Amended to conform to the
28 transfer of s. 39.025 to s. 985.413 by s. 73,
29 ch. 97-238, Laws of Florida.

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1 Section 2. Paragraph (d) of subsection (6) of section
2 20.316, Florida Statutes, is amended to read:

3 20.316 Department of Juvenile Justice.--There is
4 created a Department of Juvenile Justice.

5 (6) INFORMATION SYSTEMS.--

6 (d) The management information system shall, at a
7 minimum:

8 1. Facilitate case management of juveniles referred to
9 or placed in the department's custody.

10 2. Provide timely access to current data and computing
11 capacity to support the outcome evaluation activities of the
12 Juvenile Justice Advisory Board as provided in s. 985.401
13 ~~39-003~~, legislative oversight, the Juvenile Justice Estimating
14 Conference, and other research.

15 3. Provide automated support to the quality assurance
16 and program review functions.

17 4. Provide automated support to the contract
18 management process.

19 5. Provide automated support to the facility
20 operations management process.

21 6. Provide automated administrative support to
22 increase efficiency, provide the capability of tracking
23 expenditures of funds by the department or contracted service
24 providers that are eligible for federal reimbursement, and
25 reduce forms and paperwork.

26 7. Facilitate connectivity, access, and utilization of
27 information among various state agencies, and other state,
28 federal, local, and private agencies, organizations, and
29 institutions.

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1 8. Provide electronic public access to juvenile
2 justice information, which is not otherwise made confidential
3 by law or exempt from the provisions of s. 119.07(1).

4 9. Provide a system for the training of information
5 system users and user groups.

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7 Reviser's note.--Amended to conform to the
8 transfer of s. 39.003 to s. 985.401 by s. 61,
9 ch. 97-238, Laws of Florida.

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12 Section 3. Paragraph (c) of subsection (2) of section
13 26.012, Florida Statutes, is amended to read:

14 26.012 Jurisdiction of circuit court.--

15 (2) They shall have exclusive original jurisdiction:

16 (c) In all cases in equity including all cases
17 relating to juveniles except traffic offenses as provided in
18 chapters ~~39~~ and 316 and 985;

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20 Reviser's note.--Amended to conform to the
21 legislative directive in s. 122, ch. 97-238,
22 Laws of Florida.

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25 Section 4. Section 27.02, Florida Statutes, is amended
26 to read:

27 27.02 Duties before court.--The state attorney shall
28 appear in the circuit and county courts within his or her
29 judicial circuit and prosecute or defend on behalf of the
30 state all suits, applications, or motions, civil or criminal,
31 in which the state is a party, except as provided in chapters

1 39, 984, and 985 ~~chapter 39~~. The intake procedures of
2 chapters 39, 984, and 985 ~~chapter 39~~ shall apply as provided
3 therein.

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5 Reviser's note.--Amended to conform to the
6 legislative directive in s. 122, ch. 97-238,
7 Laws of Florida.

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10 Section 5. Subsection (3) of section 27.151, Florida
11 Statutes, is amended to read:

12 27.151 Confidentiality of specified executive orders;
13 criteria.--

14 (3) To maintain the confidentiality of the executive
15 order, the state attorney, upon entering the circuit of
16 assignment, shall immediately have the executive order sealed
17 by the court prior to filing it with the clerk of the circuit
18 court. The Governor may make public any executive order issued
19 pursuant to s. 27.14 or s. 27.15 by a subsequent executive
20 order, and at the expiration of a confidential executive order
21 or any extensions thereof, the executive order and all
22 associated orders and reports shall be open to the public
23 pursuant to chapter 119 unless the information contained in
24 the executive order is confidential pursuant to the provisions
25 of chapter 39, chapter 415, chapter 984, or chapter 985 ~~or~~
26 ~~chapter 415~~.

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28 Reviser's note.--Amended to conform to the
29 legislative directive in s. 122, ch. 97-238,
30 Laws of Florida.

1 Section 6. Paragraph (d) of subsection (2) of section
2 27.52, Florida Statutes, is amended to read:
3 27.52 Determination of indigency.--
4 (2)
5 (d) A nonindigent parent or legal guardian of an
6 accused minor or an accused adult tax-dependent person shall
7 furnish the minor or dependent person with the necessary legal
8 services and costs incident to a delinquency proceeding or,
9 upon transfer of such person for criminal prosecution as an
10 adult pursuant to chapter 985 s. 39.052, a criminal
11 prosecution, in which the person has a right to legal counsel
12 under the Constitution of the United States or the
13 Constitution of the State of Florida. The failure of a parent
14 or legal guardian to furnish legal services and costs under
15 this section does not bar the appointment of legal counsel
16 pursuant to s. 27.53. When the public defender, a special
17 assistant public defender appointed pursuant to s. 27.53(2),
18 or appointed private legal counsel is appointed to represent
19 an accused minor or an accused adult tax-dependent person in
20 any proceeding in circuit court or in a criminal proceeding in
21 any other court, the parents or the legal guardian shall be
22 liable for the fees and costs of such representation even if
23 the person is a minor being tried as an adult. Liability for
24 the costs of such representation may be imposed in the form of
25 a lien against the property of the nonindigent parents or
26 legal guardian of the accused minor or accused adult
27 tax-dependent person, which lien is enforceable as provided in
28 s. 27.561 or s. 938.29. The court shall determine the amount
29 of the obligation; and, in determining the amount of the
30 obligation, the court shall follow the procedure outlined by
31 this section.

1 Reviser's note.--Amended to conform to the
2 legislative directive in s. 122, ch. 97-238,
3 Laws of Florida.

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6 Section 7. Subsection (37) of section 39.01, Florida
7 Statutes, is amended to read:

8 39.01 Definitions.--When used in this chapter:

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

18
19 Reviser's note.--Amended to conform to the
20 reference to parental status in s. 39.4051(1);
21 s. 39.4051(7) relates to release of
22 information.

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25 Section 8. Subsection (2) of section 39.40, Florida
26 Statutes, is amended to read:

27 39.40 Procedures and jurisdiction.--

28 (2) The circuit court shall have exclusive original
29 jurisdiction of all proceedings under this part and parts III
30 and, IV, V, and VI of this chapter, of a child voluntarily
31 placed with a licensed child-caring agency, a licensed

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

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15 Reviser's note.--Amended to conform to the
16 redesignation of parts III, V, and VI of
17 chapter 39 as parts II, III, and IV,
18 respectively, necessitated by the repeal and
19 transfer of the provisions of former parts II
20 and IV by ch. 97-238, Laws of Florida.

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23 Section 9. Subsection (1) of section 39.403, Florida
24 Statutes, is amended to read:

25 39.403 Protective investigation.--

26 (1) Protective investigation shall be performed by the
27 department. A report or complaint alleging that a child is
28 dependent as a result of child abuse or neglect as defined in
29 s. 415.503 shall be made to the central abuse hotline registry
30 ~~and tracking system~~. Complaints alleging that a child is
31 dependent on any basis other than as a result of child abuse

1 or neglect as defined in s. 415.503 shall be made to the local
2 children, youth, and families office of the department
3 operating in the county in which the child is found or in
4 which the case arose. Any person or agency having knowledge
5 of the facts may make a report or complaint. The complainant
6 shall furnish the protective investigation office or the
7 appropriate service unit of the local children, youth, and
8 families office of the department, whichever is appropriate,
9 facts sufficient to establish the jurisdiction of the court
10 and to support a finding by the court that the child is
11 dependent.

12
13 Reviser's note.--Amended to conform to s. 43,
14 ch. 95-228, Laws of Florida, which redesignated
15 the "central abuse registry and tracking
16 system" as the "central abuse hotline" in s.
17 415.503.

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20 Section 10. Paragraph (a) of subsection (1) of section
21 39.408, Florida Statutes, is amended to read:

22 39.408 Hearings for dependency cases.--

23 (1) ARRAIGNMENT HEARING.--

24 (a) When a child has been detained by order of the
25 court, an arraignment hearing must be held, within 14 days
26 from the date the child is taken into custody, for the parent,
27 guardian, or custodian to admit, deny, or consent to findings
28 of dependency alleged in the petition. If the parent,
29 guardian, or custodian admits or consents to the findings in
30 the petition, the court shall proceed as set forth in the
31 Florida Rules of Juvenile Procedure. However, if the parent,

1 guardian, or custodian denies any of the allegations of the
2 petition, the court shall hold an adjudicatory hearing within
3 7 days from the date of the arraignment hearing unless a
4 continuance is granted pursuant to s. 39.402(10)~~39.402(11)~~.

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6 Reviser's note.--Amended to conform to the
7 redesignation of s. 39.402(11) as s. 39.402(10)
8 by s. 7, ch. 95-228, Laws of Florida.

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11 Section 11. Paragraph (a) of subsection (2) and
12 subsection (8) of section 39.41, Florida Statutes, are amended
13 to read:

14 39.41 Powers of disposition.--

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

18 1. Require the parent, guardian, or custodian, and the
19 child when appropriate to participate in treatment and
20 services identified as necessary.

21 2. Require the parent, guardian, or custodian, and the
22 child when appropriate to participate in mediation if the
23 parent, guardian, or custodian refused to participate in
24 mediation under s. 39.4033.

25 3. Place the child under the protective supervision of
26 an authorized agent of the department, either in the child's
27 own home or, the prospective custodian being willing, in the
28 home of a relative of the child or of an adult nonrelative
29 approved by the court, or in some other suitable place under
30 such reasonable conditions as the court may direct. Whenever
31 the child is placed under protective supervision pursuant to

1 this section, the department shall prepare a case plan and
2 shall file it with the court. Protective supervision continues
3 until the court terminates it or until the child reaches the
4 age of 18, whichever date is first. Protective supervision
5 may be terminated by the court whenever the court determines
6 that the child's placement, whether with a parent, another
7 relative, or a nonrelative, is stable and that protective
8 supervision is no longer needed. The termination of
9 supervision may be with or without retaining jurisdiction, at
10 the court's discretion, and shall in either case be considered
11 a permanency option for the child. The order terminating
12 supervision by the Department of Children and Family Services
13 shall set forth the powers of the custodian of the child and
14 shall include the powers ordinarily granted to a guardian of
15 the person of a minor unless otherwise specified.

16 4. Place the child in the temporary legal custody of
17 an adult relative or an adult nonrelative approved by the
18 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 held pursuant to s. 39.453, or at a hearing held
22 pursuant to subparagraph (2)(a)9.(1)(a)7 of this section,
23 that neither reunification, termination of parental rights,
24 nor adoption is in the best interest of the child, the court
25 may place the child in the long-term custody of an adult
26 relative or adult nonrelative approved by the court willing to
27 care for the child, if the following conditions are met:

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

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

3 (III) The child and the relative or nonrelative
4 custodian are determined not to need protective supervision or
5 preventive services to ensure the stability of the long-term
6 custodial relationship, or the department assures the court
7 that protective supervision or preventive services will be
8 provided in order to ensure the stability of the long-term
9 custodial relationship.

10 (IV) Each party to the proceeding agrees that a
11 long-term custodial relationship does not preclude the
12 possibility of the child returning to the custody of the
13 parent at a later date.

14 (V) The court has considered the reasonable preference
15 of the child if the court has found the child to be of
16 sufficient intelligence, understanding, and experience to
17 express a preference.

18 b. The court shall retain jurisdiction over the case,
19 and the child shall remain in the long-term custody of the
20 relative or nonrelative approved by the court until the order
21 creating the long-term custodial relationship is modified by
22 the court. The court may relieve the department of the
23 responsibility for supervising the placement of the child
24 whenever the court determines that the placement is stable and
25 that such supervision is no longer needed. Notwithstanding
26 the retention of jurisdiction, the placement shall be
27 considered a permanency option for the child when the court
28 relieves the department of the responsibility for supervising
29 the placement. The order terminating supervision by the
30 Department of Children and Family Services shall set forth the
31 powers of the custodian of the child and shall include the

1 powers ordinarily granted to a guardian of the person of a
2 minor unless otherwise specified. The court may modify the
3 order terminating supervision of the long-term relative or
4 nonrelative placement if it finds that a party to the
5 proceeding has shown a material change in circumstances which
6 causes the long-term relative or nonrelative placement to be
7 no longer in the best interest of the child.

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

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

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

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

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

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

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

24 (II) The child is living in a licensed home and the
25 foster parents desire to provide care for the child on a
26 permanent basis and the foster parents and the child do not
27 desire adoption,

28 (III) The foster family has made a commitment to
29 provide for the child until he or she reaches the age of
30 majority and to prepare the child for adulthood and
31 independence, and

1 (IV) The child has remained in the home for a
2 continuous period of no less than 12 months.

3 (V) The foster parents and the child view one another
4 as family and consider living together as the best place for
5 the child to be on a permanent basis.

6 (VI) The department's social services study recommends
7 such placement and finds the child's well-being has been
8 promoted through living with the foster parents.

9 d. Notwithstanding the retention of jurisdiction and
10 supervision by the department, long-term foster care
11 placements made pursuant to sub-subparagraph (2)(a)6.c. of
12 this section shall be considered a permanency option for the
13 child. For purposes of this subsection, supervision by the
14 department shall be defined as a minimum of semiannual visits.
15 The order placing the child in long-term foster care as a
16 permanency option shall set forth the powers of the custodian
17 of the child and shall include the powers ordinarily granted
18 to a guardian of the person of a minor unless otherwise
19 specified. The court may modify the permanency option of
20 long-term foster care if it finds that a party to the
21 proceeding has shown a material change in circumstances which
22 causes the placement to be no longer in the best interests of
23 the child.

24 7. Commit the child to a licensed child-caring agency
25 willing to receive the child. Continued commitment to the
26 licensed child-caring agency, as well as all other proceedings
27 under this section pertaining to the child, are also governed
28 by part III ~~V~~ of this chapter.

29 8. Commit the child to the temporary legal custody of
30 the department. Such commitment invests in the department all
31 rights and responsibilities of a legal custodian. The

1 department shall not return any child to the physical care and
2 custody of the person from whom the child was removed, except
3 for short visitation periods, without the approval of the
4 court. The term of such commitment continues until terminated
5 by the court or until the child reaches the age of 18. After
6 the child is committed to the temporary custody of the
7 department, all further proceedings under this section are
8 also governed by part III ~~V~~ of this chapter.

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

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

3 10. Approve placement of the child in an independent
4 living arrangement for any foster child 16 years of age or
5 older, if it can be clearly established that this type of
6 alternate care arrangement is the most appropriate plan and
7 that the safety and welfare of the child will not be
8 jeopardized by such an arrangement. While in independent
9 living situations, children whose legal custody has been
10 awarded to the department or a licensed child-caring or
11 child-placing agency, or who have been voluntarily placed with
12 such an agency by a parent, guardian, relative, or adult
13 nonrelative approved by the court, continue to be subject to
14 the court review provisions of s. 39.453.

15 (8) With respect to a child who is the subject in
16 proceedings under part III ~~V~~ of this chapter, the court shall
17 return the child to the custody of the natural parents upon
18 expiration of the case plan or sooner if the parents have
19 substantially complied with the case plan.

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21 Reviser's note.--Subparagraph (2)(a)5. is
22 amended to conform to the redesignation of
23 subparagraph (1)(a)7. as subparagraph (2)(a)9.
24 by s. 13, ch. 94-164, Laws of Florida.
25 Subparagraphs (2)(a)7. and (2)(a)8. and
26 subsection (8) are amended to conform to the
27 redesignation of part V of chapter 39 as part
28 III necessitated by the repeal and transfer of
29 the provisions of former parts II and IV by ch.
30 97-238, Laws of Florida.

31

1 Section 12. Paragraph (b) of subsection (4) of section
2 39.452, Florida Statutes, is amended to read:

3 39.452 Case planning when parents do not participate
4 and the child is in foster care.--

5 (4)

6 (b) Before the filing of the plan, the department
7 shall advise each parent, both orally and in writing, that the
8 failure of the parents to substantially comply with a plan
9 which has reunification as its primary goal may result in the
10 termination of parental rights, but only after notice and
11 hearing as provided in part IV ~~VI~~. If, after the plan has been
12 submitted to the court, an absent parent is located, the
13 department shall advise the parent, both orally and in
14 writing, that the failure of the parents to substantially
15 comply with a plan which has reunification as its goal may
16 result in termination of parental rights, but only after
17 notice and hearing as provided in part IV ~~VI~~. Proof of written
18 notification must be filed with the court.

19
20 Reviser's note.--Amended to conform to the
21 redesignation of part VI of chapter 39 as part
22 IV necessitated by the repeal and transfer of
23 the provisions of former parts II and IV by ch.
24 97-238, Laws of Florida.

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27 Section 13. Subsection (2) of section 39.454, Florida
28 Statutes, is amended to read:

29 39.454 Initiation of termination of parental rights
30 proceedings.--

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

16
17 Reviser's note.--Amended to conform to the
18 redesignation of part VI of chapter 39 as part
19 IV necessitated by the repeal and transfer of
20 the provisions of former parts II and IV by ch.
21 97-238, Laws of Florida.

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24 Section 14. Subsection (13) of section 49.011, Florida
25 Statutes, is amended to read:

26 49.011 Service of process by publication; cases in
27 which allowed.--Service of process by publication may be made
28 in any court on any person mentioned in s. 49.021 in any
29 action or proceeding:

30 (13) For termination of parental rights pursuant to
31 part IV ~~VI~~ of chapter 39.

1 Reviser's note.--Amended to conform to the
2 redesignation of former part VI of chapter 39
3 necessitated by the repeal or transfer of the
4 provisions of former parts II and IV by ch.
5 97-238, Laws of Florida.

6
7
8 Section 15. Subsection (7) of section 95.11, Florida
9 Statutes, is amended to read:

10 95.11 Limitations other than for the recovery of real
11 property.--Actions other than for recovery of real property
12 shall be commenced as follows:

13 (7) FOR INTENTIONAL TORTS BASED ON ABUSE.--An action
14 founded on alleged abuse, as defined in s. 39.01,~~or~~ s.
15 415.102, or s. 984.03, or incest, as defined in s. 826.04, may
16 be commenced at any time within 7 years after the age of
17 majority, or within 4 years after the injured person leaves
18 the dependency of the abuser, or within 4 years from the time
19 of discovery by the injured party of both the injury and the
20 causal relationship between the injury and the abuse,
21 whichever occurs later.

22
23 Reviser's note.--Amended to conform to the
24 legislative directive in s. 122, ch. 97-238,
25 Laws of Florida.

26
27
28 Section 16. Subsection (28) of section 228.041,
29 Florida Statutes, is amended to read:

30
31

1 228.041 Definitions.--Specific definitions shall be as
2 follows, and wherever such defined words or terms are used in
3 the Florida School Code, they shall be used as follows:

4 (28) HABITUAL TRUANT.--A habitual truant is a student
5 who has 15 unexcused absences within 90 calendar days with or
6 without the knowledge or consent of the student's parent or
7 legal guardian, is subject to compulsory school attendance
8 under s. 232.01, and is not exempt under s. 232.06 or s.
9 232.09, or by meeting the criteria for any other exemption
10 specified by law or rules of the State Board of Education.
11 Such a student must have been the subject of the activities
12 specified in ss. 232.17 and 232.19, without resultant
13 successful remediation of the truancy problem before being
14 dealt with as a child in need of services according to the
15 provisions of chapter 984 ~~39~~.

16
17 Reviser's note.--Amended to conform to the
18 transfer of provisions of former part IV of
19 chapter 39, relating to children in need of
20 services, to chapter 984 by ch. 97-238, Laws of
21 Florida.

22
23
24 Section 17. Paragraphs (c) and (d) of subsection (3)
25 of section 230.2316, Florida Statutes, are amended to read:

26 230.2316 Dropout prevention.--

27 (3) STUDENT ELIGIBILITY AND PROGRAM CRITERIA.--

28 (c) A student shall be identified as being a potential
29 dropout based upon one of the following criteria:

30 1. The student has shown a lack of motivation in
31 school through grades which are not commensurate with

1 documented ability levels or high absenteeism or habitual
2 truancy as defined in s. 228.041(28).

3 2. The student has not been successful in school as
4 determined by retentions, failing grades, or low achievement
5 test scores and has needs and interests that cannot be met
6 through traditional programs.

7 3. The student has been identified as a potential
8 school dropout by student services personnel using district
9 criteria. District criteria that are used as a basis for
10 student referral to an educational alternatives program shall
11 identify specific student performance indicators that the
12 educational alternative program seeks to address.

13 4. The student has documented drug-related or
14 alcohol-related problems, or has immediate family members with
15 documented drug-related or alcohol-related problems that
16 adversely affect the student's performance in school.

17 5. The student has a history of disruptive behavior in
18 school or has committed an offense that warrants out-of-school
19 suspension or expulsion from school according to the district
20 code of student conduct. For the purposes of this program,
21 "disruptive behavior" is behavior that:

22 a. Interferes with the student's own learning or the
23 educational process of others and requires attention and
24 assistance beyond that which the traditional program can
25 provide or results in frequent conflicts of a disruptive
26 nature while the student is under the jurisdiction of the
27 school either in or out of the classroom; or

28 b. Severely threatens the general welfare of students
29 or others with whom the student comes into contact.

30 6. The student is assigned to a program provided
31 pursuant to chapter 39, chapter 984, or chapter 985 which is

1 sponsored by a state-based or community-based agency or is
2 operated or contracted for by the Department of Children and
3 Family Services or the Department of Juvenile Justice.

4 (d)1. "Second chance schools" means school district
5 programs provided through cooperative agreements between the
6 Department of Juvenile Justice, private providers, state or
7 local law enforcement agencies, or other state agencies for
8 students who have been disruptive or violent or who have
9 committed serious offenses. As partnership programs, second
10 chance schools are eligible for waivers by the Commissioner of
11 Education from chapters 230-235 and 239 and State Board of
12 Education rules that prevent the provision of appropriate
13 educational services to violent, severely disruptive, or
14 delinquent students in small nontraditional settings or in
15 court-adjudicated settings.

16 2. A student enrolled in a sixth, seventh, eighth,
17 ninth, or tenth grade class may be assigned to a second chance
18 school if the student meets the following criteria:

19 a. The student is a habitual truant as defined in s.
20 228.041(28).

21 b. The student's excessive absences have detrimentally
22 affected the student's academic progress and the student may
23 have unique needs that a traditional school setting may not
24 meet.

25 c. The student's high incidences of truancy have been
26 directly linked to a lack of motivation.

27 d. The student has been identified as at risk of
28 dropping out of school.

29 3. A student who is habitually truant may be assigned
30 to a second chance school only if the case staffing committee,
31 established pursuant to s. 984.12 ~~39.426~~, determines that such

1 placement could be beneficial to the student and the criteria
2 included in subparagraph 2. are met.

3 4. A student may be assigned to a second chance school
4 if the school district in which the student resides has a
5 second chance school and if the student meets one of the
6 following criteria:

7 a. The student habitually exhibits disruptive behavior
8 in violation of the code of student conduct adopted by the
9 school board.

10 b. The student interferes with the student's own
11 learning or the educational process of others and requires
12 attention and assistance beyond that which the traditional
13 program can provide, or, while the student is under the
14 jurisdiction of the school either in or out of the classroom,
15 frequent conflicts of a disruptive nature occur.

16 c. The student has committed a serious offense which
17 warrants suspension or expulsion from school according to the
18 district code of student conduct. For the purposes of this
19 program, "serious offense" is behavior which:

20 (I) Threatens the general welfare of students or
21 others with whom the student comes into contact;

22 (II) Includes violence;

23 (III) Includes possession of weapons or drugs; or

24 (IV) Is harassment or verbal abuse of school personnel
25 or other students.

26 5. Prior to assignment of students to second chance
27 schools, school boards are encouraged to use alternative
28 programs, such as in-school suspension, which provide
29 instruction and counseling leading to improved student
30 behavior, a reduction in the incidence of truancy, and the
31 development of more effective interpersonal skills.

1 6. Students assigned to second chance schools must be
2 evaluated by the school's local child study team before
3 placement in a second chance school. The study team shall
4 ensure that students are not eligible for placement in a
5 program for emotionally disturbed children.

6 7. Students who exhibit academic and social progress
7 and who wish to return to a traditional school shall be
8 evaluated by school district personnel prior to reentering a
9 traditional school.

10 8. Second chance schools shall be funded at the
11 dropout prevention program weight pursuant to s. 236.081 and
12 may receive school safety funds or other funds as appropriate.

13
14 Reviser's note.--Paragraph (3)(c) is amended to
15 conform to the legislative directive in s. 122,
16 ch. 97-238, Laws of Florida. Paragraph (3)(d)
17 is amended to conform to the transfer of s.
18 39.426 to s. 984.12 by s. 98, ch. 97-238.

19
20
21 Section 18. Subsections (1) and (15) of section
22 230.23161, Florida Statutes, are amended to read:

23 230.23161 Educational services in Department of
24 Juvenile Justice programs.--

25 (1) Students participating in a detention, commitment,
26 or rehabilitation program pursuant to chapter 985 ~~39~~ which is
27 sponsored by a community-based agency or is operated or
28 contracted for by the Department of Juvenile Justice shall
29 receive educational programs according to rules of the State
30 Board of Education. These students shall be eligible for
31 services afforded to students enrolled in programs pursuant to

1 s. 230.2316 and all corresponding State Board of Education
2 rules.

3 (15) Department of Juvenile Justice detention and
4 commitment programs may be designated as second chance schools
5 pursuant to s. 230.2316(3)(d). Admission to such programs
6 shall be governed by chapter 985 ~~part II of chapter 39~~.

7
8 Reviser's note.--Amended to conform to the
9 legislative directive in s. 122, ch. 97-238,
10 Laws of Florida.

11
12

13 Section 19. Subsection (1) of section 230.335, Florida
14 Statutes, is amended to read:

15 230.335 Notification of superintendent of certain
16 charges against or convictions of students or employees.--

17 (1)(a) Notwithstanding the provisions of s. 985.04(4)
18 ~~39.045(8)~~ or any other provision of law to the contrary, a law
19 enforcement agency shall, within 48 hours, notify the
20 appropriate superintendent of schools of the name and address
21 of any employee of the school district who is charged with a
22 felony or with a misdemeanor involving the abuse of a minor
23 child or the sale or possession of a controlled substance. The
24 notification shall include the specific charge for which the
25 employee of the school district was arrested. Such
26 notification shall include other education providers such as
27 the Florida School for the Deaf and the Blind, university
28 developmental research schools, and private elementary and
29 secondary schools.

30 (b) Notwithstanding the provisions of s. 985.04(4)
31 ~~39.045(8)~~ or any other provision of law to the contrary, the

1 court shall, within 48 hours of the finding, notify the
2 appropriate superintendent of schools of the name and address
3 of any student found to have committed a delinquent act, or
4 who has had adjudication of a delinquent act withheld which,
5 if committed by an adult, would be a felony, or the name and
6 address of any student found guilty of a felony. Notification
7 shall include the specific delinquent act found to have been
8 committed or for which adjudication was withheld, or the
9 specific felony for which the student was found guilty.

10
11 Reviser's note.--Amended to conform to the
12 transfer of s. 39.045(8) to s. 985.04(4) by s.
13 4, ch. 97-238, Laws of Florida.
14
15

16 Section 20. Subsection (2) of section 232.17, Florida
17 Statutes, is amended to read:

18 232.17 Enforcement of school attendance.--Pursuant to
19 procedures established by the district school board, a
20 designated school representative must complete activities
21 designed to determine the cause and attempt the remediation of
22 truant behavior, as provided in this section.

23 (2) GIVE WRITTEN NOTICE.--Under the direction of the
24 superintendent, a designated school representative shall give
25 written notice, in person or by return-receipt mail, to the
26 parent, guardian, or other person having control when no valid
27 reason is found for a child's nonenrollment in school or when
28 the child has a minimum of 3 but fewer than 6 unexcused
29 absences within 90 calendar days, requiring enrollment or
30 attendance within 3 days after the date of notice. If the
31 notice and requirement are ignored, the designated school

1 representative shall report the case to the superintendent,
2 and may refer the case to the case staffing committee,
3 established pursuant to s. 984.12 ~~39.426~~, if the conditions of
4 s. 232.19(3) have been met. The superintendent may take such
5 steps as are necessary to bring criminal prosecution against
6 the parent, guardian, or other person having control.

7
8 Reviser's note.--Amended to conform to the
9 transfer of s. 39.426 to s. 984.12 by s. 98,
10 ch. 97-238, Laws of Florida.

11
12
13 Section 21. Subsection (3) of section 232.19, Florida
14 Statutes, is amended to read:

15 232.19 Court procedure and penalties.--The court
16 procedure and penalties for the enforcement of the provisions
17 of this chapter, relating to compulsory school attendance,
18 shall be as follows:

19 (3) HABITUAL TRUANCY CASES.--In accordance with
20 procedures established by the district school board, the
21 designated school representative shall refer a student who is
22 habitually truant and the student's family to the
23 children-in-need-of-services and families-in-need-of-services
24 provider or the case staffing committee, established pursuant
25 to s. 984.12 ~~39.426~~, as determined by the cooperative
26 agreement required in this section. The case staffing
27 committee may request the Department of Juvenile Justice or
28 its designee to file a child-in-need-of-services petition
29 based upon the report and efforts of the school district or
30 other community agency or may seek to resolve the truant
31 behavior through the school or community-based organizations

1 or agencies. Prior to and subsequent to the filing of a
2 child-in-need-of-services petition due to habitual truancy,
3 the appropriate governmental agencies must allow a reasonable
4 time to complete actions required by this subsection to remedy
5 the conditions leading to the truant behavior. The following
6 criteria must be met and documented in writing prior to the
7 filing of a petition:

8 (a) The child must have 15 unexcused absences within
9 90 calendar days with or without the knowledge or consent of
10 the child's parent or legal guardian, must be subject to
11 compulsory school attendance, and must not be exempt under s.
12 232.06, s. 232.09, or any other exemption specified by law or
13 the rules of the State Board of Education.

14 (b) In addition to the actions described in s. 232.17,
15 the school administration must have completed the following
16 activities to determine the cause, and to attempt the
17 remediation, of the child's truant behavior:

18 1. After a minimum of 3 and prior to 6 unexcused
19 absences within 90 calendar days, one or more meetings must
20 have been held, either in person or by phone, between a
21 designated school representative, the child's parent or
22 guardian, and the child, if necessary, to report and to
23 attempt to solve the truancy problem. However, if the
24 designated school representative has documented the refusal of
25 the parent or guardian to participate in the meetings, this
26 requirement has been met.

27 2. Educational counseling must have been provided to
28 determine whether curriculum changes would help solve the
29 truancy problem, and, if any changes were indicated, such
30 changes must have been instituted but proved unsuccessful in
31 remedying the truant behavior. Such curriculum changes may

1 include enrollment of the child in a dropout prevention
2 program that meets the specific educational and behavioral
3 needs of the child, including a second chance school, as
4 provided for in s. 230.2316, designed to resolve truant
5 behavior.

6 3. Educational evaluation, which may include
7 psychological evaluation, must have been provided to assist in
8 determining the specific condition, if any, that is
9 contributing to the child's nonattendance. The evaluation
10 must have been supplemented by specific efforts by the school
11 to remedy any diagnosed condition.

12
13 If a child who is subject to compulsory school attendance is
14 responsive to the interventions described in this paragraph
15 and has completed the necessary requirements to pass the
16 current grade as indicated in the district pupil progression
17 plan, the child shall be passed.

18
19 Reviser's note.--Amended to conform to the
20 transfer of s. 39.426 to s. 984.12 by s. 98,
21 ch. 97-238, Laws of Florida.

22
23
24 Section 22. Paragraph (c) of subsection (4) of section
25 239.117, Florida Statutes, as amended by section 1 of chapter
26 97-383, Laws of Florida, is amended to read:

27 239.117 Postsecondary student fees.--

28 (4) The following students are exempt from the payment
29 of registration, matriculation, and laboratory fees:

30 (c) A student for whom the state is paying a foster
31 care board payment pursuant to s. 409.145(3) or pursuant to

1 parts II and III ~~III~~ and ~~V~~ of chapter 39, for whom the
2 permanency planning goal pursuant to part III ~~V~~ of chapter 39
3 is long-term foster care or independent living, or who is
4 adopted from the Department of Children and Family Services
5 after December 31, 1997. Such exemption includes fees
6 associated with enrollment in college-preparatory instruction
7 and completion of the college-level communication and
8 computation skills testing program. Such exemption shall be
9 available to any student adopted from the Department of
10 Children and Family Services after December 31, 1997; however,
11 the exemption shall be valid for no more than 4 years after
12 the date of graduation from high school.

13

14 Reviser's note.--Amended to conform to the
15 redesignation of parts III and V of chapter 39
16 as parts II and III necessitated by the repeal
17 and transfer of the provisions of former parts
18 II and IV by ch. 97-238, Laws of Florida.

19

20

21 Section 23. Paragraph (a) of subsection (5) of section
22 240.235, Florida Statutes, is amended to read:

23

240.235 Fees.--

24

25 (5)(a) Any student for whom the state is paying a
26 foster care board payment pursuant to s. 409.145(3) or parts
27 II and III ~~III~~ and ~~V~~ of chapter 39, for whom the permanency
28 planning goal pursuant to part III ~~V~~ of chapter 39 is
29 long-term foster care or independent living, or who is adopted
30 from the Department of Children and Family Services after
31 December 31, 1997, shall be exempt from the payment of all
undergraduate fees, including fees associated with enrollment

1 in college-preparatory instruction or completion of
2 college-level communication and computation skills testing
3 programs. Before a fee exemption can be given, the student
4 shall have applied for and been denied financial aid, pursuant
5 to s. 240.404, which would have provided, at a minimum,
6 payment of all undergraduate fees. Such exemption shall be
7 available to any student adopted from the Department of
8 Children and Family Services after December 31, 1997; however,
9 the exemption shall be valid for no more than 4 years after
10 the date of graduation from high school.

11

12 Reviser's note.--Amended to conform to the
13 redesignation of parts III and V of chapter 39
14 as parts II and III necessitated by the repeal
15 and transfer of the provisions of former parts
16 II and IV by ch. 97-238, Laws of Florida.

17

18

19 Section 24. Paragraph (a) of subsection (2) of section
20 240.35, Florida Statutes, as amended by section 3 of chapter
21 97-383, Laws of Florida, is amended to read:

22 240.35 Student fees.--Unless otherwise provided, the
23 provisions of this section apply only to fees charged for
24 college credit instruction leading to an associate degree,
25 including college-preparatory courses defined in s. 239.105.

26 (2)(a) Any student for whom the state is paying a
27 foster care board payment pursuant to s. 409.145(3) or parts
28 II and III ~~III and V~~ of chapter 39, for whom the permanency
29 planning goal pursuant to part III ~~V~~ of chapter 39 is
30 long-term foster care or independent living, or who is adopted
31 from the Department of Children and Family Services after

1 December 31, 1997, shall be exempt from the payment of all
2 undergraduate fees, including fees associated with enrollment
3 in college-preparatory instruction or completion of the
4 college-level communication and computation skills testing
5 program. Before a fee exemption can be given, the student
6 shall have applied for and been denied financial aid, pursuant
7 to s. 240.404, which would have provided, at a minimum,
8 payment of all student fees. Such exemption shall be available
9 to any student adopted from the Department of Children and
10 Family Services after December 31, 1997; however, the
11 exemption shall be valid for no more than 4 years after the
12 date of graduation from high school.

13

14 Reviser's note.--Amended to conform to the
15 redesignation of parts III and V of chapter 39
16 as parts II and III necessitated by the repeal
17 and transfer of the provisions of former parts
18 II and IV by ch. 97-238, Laws of Florida.

19

20

21 Section 25. Subsection (17) of section 253.025,
22 Florida Statutes, is amended to read:

23 253.025 Acquisition of state lands for purposes other
24 than preservation, conservation, and recreation.--

25 (17) Pursuant to s. 985.41 ~~39-074~~, the Department of
26 Juvenile Justice is responsible for obtaining appraisals and
27 entering into option agreements and agreements for the
28 purchase of state juvenile justice facility sites. An option
29 agreement or agreement for purchase is not binding upon the
30 state until it is approved by the Board of Trustees of the
31 Internal Improvement Trust Fund. The provisions of paragraphs

1 (6)(b), (c), and (d) and (7)(b), (c), and (d) apply to all
2 appraisals, offers, and counteroffers of the Department of
3 Juvenile Justice for state juvenile justice facility sites.

4
5 Reviser's note.--Amended to conform to the
6 transfer of s. 39.074 to s. 985.41 by s. 70,
7 ch. 97-238, Laws of Florida.

8
9
10 Section 26. Subsection (65) of section 316.003,
11 Florida Statutes, is amended to read:

12 316.003 Definitions.--The following words and phrases,
13 when used in this chapter, shall have the meanings
14 respectively ascribed to them in this section, except where
15 the context otherwise requires:

16 (65) CHILD.--A child as defined in s. 39.01, s.
17 984.03, or s. 985.03.

18
19 Reviser's note.--Amended to conform to the
20 legislative directive in s. 122, ch. 97-238,
21 Laws of Florida.

22
23
24 Section 27. Subsection (3) and paragraph (a) of
25 subsection (4) of section 316.635, Florida Statutes, are
26 amended to read:

27 316.635 Courts having jurisdiction over traffic
28 violations; powers relating to custody and detention of
29 minors.--

30 (3) If a minor is taken into custody for a criminal
31 traffic offense or a violation of chapter 322 and the minor

1 does not demand to be taken before a magistrate, the arresting
2 officer or booking officer shall immediately notify, or cause
3 to be notified, the minor's parents, guardian, or responsible
4 adult relative of the action taken. After making every
5 reasonable effort to give notice, the arresting officer or
6 booking officer may:

7 (a) Issue a notice to appear pursuant to chapter 901
8 and release the minor to a parent, guardian, responsible adult
9 relative, or other responsible adult;

10 (b) Issue a notice to appear pursuant to chapter 901
11 and release the minor pursuant to s. 903.06;

12 (c) Issue a notice to appear pursuant to chapter 901
13 and deliver the minor to an appropriate substance abuse
14 treatment or rehabilitation facility or refer the minor to an
15 appropriate medical facility as provided in s. 901.29. If the
16 minor cannot be delivered to an appropriate substance abuse
17 treatment or rehabilitation facility or medical facility, the
18 arresting officer may deliver the minor to an appropriate
19 intake office of the Department of Juvenile Justice ~~Health and~~
20 ~~Rehabilitative Services~~, which shall take custody of the minor
21 and make any appropriate referrals; or

22 (d) If the violation constitutes a felony and the
23 minor cannot be released pursuant to s. 903.03, transport and
24 deliver the minor to an appropriate Department of Juvenile
25 Justice ~~Health and Rehabilitative Services~~ intake office. Upon
26 delivery of the minor to the intake office, the department
27 shall assume custody and proceed pursuant to chapter 984 or
28 chapter 985 ~~39~~.

29
30 If action is not taken pursuant to paragraphs (a)-(d), the
31 minor shall be delivered to the Department of Juvenile Justice

1 ~~Health and Rehabilitative Services~~, and the department shall
2 make every reasonable effort to contact the parents, guardian,
3 or responsible adult relative to take custody of the minor. If
4 there is no parent, guardian, or responsible adult relative
5 available, the department may retain custody of the minor for
6 up to 24 hours.

7 (4) A minor who willfully fails to appear before any
8 court or judicial officer as required by written notice to
9 appear is guilty of contempt of court. Upon a finding by a
10 court, after notice and a hearing, that a minor is in contempt
11 of court for willful failure to appear pursuant to a valid
12 notice to appear, the court may:

13 (a) For a first offense, order the minor to serve up
14 to 5 days in a staff-secure shelter as defined in chapter 984
15 or chapter 985 ~~39~~ or, if space in a staff-secure shelter is
16 unavailable, in a secure juvenile detention center.

17
18 Reviser's note.--Amended to conform to s. 1,
19 ch. 94-209, Laws of Florida, which created the
20 Department of Juvenile Justice, and to conform
21 to the legislative directive in s. 122, ch.
22 97-238, Laws of Florida.

23
24
25 Section 28. Paragraph (a) of subsection (2) of section
26 318.143, Florida Statutes, is amended to read:

27 318.143 Sanctions for infractions by minors.--

28 (2) Failure to comply with one or more of the
29 sanctions imposed by the court constitutes contempt of court.
30 Upon a finding by the court, after notice and a hearing, that
31

1 a minor is in contempt of court for failure to comply with
2 court-ordered sanctions, the court may:

3 (a) For a first offense, order the minor to serve up
4 to 5 days in a staff-secure shelter as defined in chapter 984
5 or chapter 985 ~~39~~ or, if space in a staff-secure shelter is
6 unavailable, in a secure juvenile detention center.

7
8 Reviser's note.--Amended to conform to the
9 legislative directive in s. 122, ch. 97-238,
10 Laws of Florida.

11
12
13 Section 29. Subsection (1) and paragraph (a) of
14 subsection (2) of section 318.21, Florida Statutes, are
15 amended to read:

16 318.21 Disposition of civil penalties by county
17 courts.--All civil penalties received by a county court
18 pursuant to the provisions of this chapter shall be
19 distributed and paid monthly as follows:

20 (1) One dollar from every civil penalty shall be paid
21 to the Department of Children and Family ~~Health and~~
22 ~~Rehabilitative~~ Services for deposit into the Child Welfare
23 Training Trust Fund for child welfare training purposes
24 pursuant to s. 402.40 ~~404.40~~. One dollar from every civil
25 penalty shall be paid to the Department of Juvenile Justice
26 for deposit into the Juvenile Justice Training Trust Fund for
27 juvenile justice purposes pursuant to s. 985.406 ~~39-024~~.

28 (2) Of the remainder:

29 (a) Twenty and six-tenths percent shall be paid to the
30 General Revenue Fund of the state, except that the first
31 \$300,000 shall be deposited into the Grants and Donations

1 Trust Fund in the Department of Children and Family Health and
2 ~~Rehabilitative~~ Services for administrative costs, training
3 costs, and costs associated with the implementation and
4 maintenance of Florida foster care citizen review panels as
5 provided for in s. 39.4531.

6
7 Reviser's note.--Subsection (1) and paragraph
8 (2)(a) are amended to conform to the creation
9 of the Department of Children and Family
10 Services by s. 5, ch. 96-403, Laws of Florida.
11 Subsection (1) is also amended to correct a
12 cross-reference to a nonexistent section and to
13 conform to the transfer of s. 39.024 to s.
14 985.406 by s. 66, ch. 97-238, Laws of Florida.

15
16
17 Section 30. Effective July 1, 1998, subsection (1) of
18 section 318.21, Florida Statutes, is amended to read:

19 318.21 Disposition of civil penalties by county
20 courts.--All civil penalties received by a county court
21 pursuant to the provisions of this chapter shall be
22 distributed and paid monthly as follows:

23 (1) One dollar from every civil penalty shall be paid
24 to the Department of Children and Family Services for deposit
25 into the Child Welfare Training Trust Fund for child welfare
26 training purposes pursuant to s. 402.40. One dollar from every
27 civil penalty shall be paid to the Department of Juvenile
28 Justice for deposit into the Juvenile Justice Training Trust
29 Fund for juvenile justice purposes pursuant to s. 985.406
30 ~~39.024~~.

31

1 Reviser's note.--Amended to conform to the
2 transfer of s. 39.024 to s. 985.406 by s. 66,
3 ch. 97-238, Laws of Florida.

4
5
6 Section 31. Effective July 1, 1999, subsection (1) of
7 section 318.21, Florida Statutes, 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 (1) One dollar from every civil penalty shall be paid
13 to the Department of Children and Family Services for deposit
14 into the Child Welfare Training Trust Fund for child welfare
15 training purposes pursuant to s. 402.40. One dollar from every
16 civil penalty shall be paid to the Department of Juvenile
17 Justice for deposit into the Juvenile Justice Training Trust
18 Fund for juvenile justice purposes pursuant to s. 985.406
19 ~~39.024~~.

20
21 Reviser's note.--Amended to conform to the
22 transfer of s. 39.024 to s. 985.406 by s. 66,
23 ch. 97-238, Laws of Florida.

24
25
26 Section 32. Effective July 1, 2000, subsection (1) of
27 section 318.21, Florida Statutes, is amended to read:

28 318.21 Disposition of civil penalties by county
29 courts.--All civil penalties received by a county court
30 pursuant to the provisions of this chapter shall be
31 distributed and paid monthly as follows:

1 (1) One dollar from every civil penalty shall be paid
2 to the Department of Children and Family Services for deposit
3 into the Child Welfare Training Trust Fund for child welfare
4 training purposes pursuant to s. 402.40. One dollar from every
5 civil penalty shall be paid to the Department of Juvenile
6 Justice for deposit into the Juvenile Justice Training Trust
7 Fund for juvenile justice purposes pursuant to s. 985.406
8 ~~39.024~~.

9
10 Reviser's note.--Amended to conform to the
11 transfer of s. 39.024 to s. 985.406 by s. 66,
12 ch. 97-238, Laws of Florida.

13
14
15 Section 33. Effective July 1, 2001, subsection (1) of
16 section 318.21, Florida Statutes, is amended to read:

17 318.21 Disposition of civil penalties by county
18 courts.--All civil penalties received by a county court
19 pursuant to the provisions of this chapter shall be
20 distributed and paid monthly as follows:

21 (1) One dollar from every civil penalty shall be paid
22 to the Department of Children and Family Services for deposit
23 into the Child Welfare Training Trust Fund for child welfare
24 training purposes pursuant to s. 402.40. One dollar from every
25 civil penalty shall be paid to the Department of Juvenile
26 Justice for deposit into the Juvenile Justice Training Trust
27 Fund for juvenile justice purposes pursuant to s. 985.406
28 ~~39.024~~.

29
30
31

1 Reviser's note.--Amended to conform to the
2 transfer of s. 39.024 to s. 985.406 by s. 66,
3 ch. 97-238, Laws of Florida.

4
5
6 Section 34. Effective July 1, 2002, subsection (1) of
7 section 318.21, Florida Statutes, 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 (1) One dollar from every civil penalty shall be paid
13 to the Department of Children and Family Services for deposit
14 into the Child Welfare Training Trust Fund for child welfare
15 training purposes pursuant to s. 402.40. One dollar from every
16 civil penalty shall be paid to the Department of Juvenile
17 Justice for deposit into the Juvenile Justice Training Trust
18 Fund for juvenile justice purposes pursuant to s. 985.406
19 ~~39.024~~.

20
21 Reviser's note.--Amended to conform to the
22 transfer of s. 39.024 to s. 985.406 by s. 66,
23 ch. 97-238, Laws of Florida.

24
25
26 Section 35. Subsections (2), (3), and (4) of section
27 397.6758, Florida Statutes, are amended to read:

28 397.6758 Release of client from protective custody,
29 emergency admission, involuntary assessment, involuntary
30 treatment, and alternative involuntary assessment of a
31 minor.--A client involuntarily admitted to a licensed service

1 provider may be released without further order of the court
2 only by a qualified professional in a hospital, a
3 detoxification facility, an addictions receiving facility, or
4 any less restrictive treatment component. Notice of the
5 release must be provided to the applicant in the case of an
6 emergency admission or an alternative involuntary assessment
7 for a minor, or to the petitioner and the court if the
8 involuntary assessment or treatment was court ordered. In the
9 case of a minor client, the release must be:

10 ~~(2) To the department pursuant to s. 39.03;~~

11 (2)(3) To the Department of Children and Family
12 Services pursuant to s. 39.401; or

13 (3)(4) To the Department of Juvenile Justice pursuant
14 to s. 984.13 39.421.

15

16 Reviser's note.--Subsection (2) is repealed to
17 conform to the repeal of s. 39.03 by s. 17, ch.
18 90-208, Laws of Florida. Subsection (4) is
19 amended to conform to the transfer of s. 39.421
20 to s. 984.13 by s. 99, ch. 97-238, Laws of
21 Florida.

22

23

24 Section 36. Subsections (1) and (4) of section
25 397.706, Florida Statutes, are amended to read:

26 397.706 Screening, assessment, and disposition of
27 juvenile offenders.--

28 (1) The substance abuse treatment needs of juvenile
29 offenders and their families must be identified and addressed
30 through diversionary programs and adjudicatory proceedings
31 pursuant to chapter 984 or chapter 985 ~~39~~.

1 (4) The court may require juvenile offenders and their
2 families to participate in substance abuse assessment and
3 treatment services in accordance with the provisions of
4 chapter 984 or chapter 985 ~~39~~ and may use its contempt powers
5 to enforce its orders.

6
7 Reviser's note.--Amended to conform to the
8 legislative directive in s. 122, ch. 97-238,
9 Laws of Florida.

10
11
12 Section 37. Paragraph (c) of subsection (3) of section
13 409.145, Florida Statutes, is amended to read:

14 409.145 Care of children.--

15 (3)

16 (c)1. The department is authorized to provide the
17 services of the children's foster care program to an
18 individual who is enrolled full-time in a postsecondary
19 vocational-technical education program, full-time in a
20 community college program leading toward a vocational degree
21 or an associate degree, or full-time in a university or
22 college, if the following requirements are met:

23 a. The individual was committed to the legal custody
24 of the department for placement in foster care as a dependent
25 child;

26 b. The permanency planning goal pursuant to part III ~~V~~
27 of chapter 39 for the individual is long-term foster care or
28 independent living;

29 c. The individual has been accepted for admittance to
30 a postsecondary vocational-technical education program, to a
31 community college, or to a university or college;

1 d. All other resources have been thoroughly explored,
2 and it can be clearly established that there are no
3 alternative resources for placement; and

4 e. A written service agreement which specifies
5 responsibilities and expectations for all parties involved has
6 been signed by a representative of the department, the
7 individual, and the foster parent or licensed child-caring
8 agency providing the placement resources, if the individual is
9 to continue living with the foster parent or placement
10 resource while attending a postsecondary vocational-technical
11 education program, community college, or university or
12 college. An individual who is to be continued in or placed in
13 independent living shall continue to receive services
14 according to the independent living program and agreement of
15 responsibilities signed by the department and the individual.

16 2. Any provision of this chapter or any other law to
17 the contrary notwithstanding, when an individual who meets the
18 requirements of subparagraph 1. is in attendance at a
19 community college, college, or university, the department may
20 make foster care payments to such community college, college,
21 or university in lieu of payment to the foster parents or
22 individual, for the purpose of room and board, if not
23 otherwise provided, but such payments shall not exceed the
24 amount that would have been paid to the foster parents had the
25 individual remained in the foster home.

26 3. The services of the foster care program shall
27 continue only for an individual under this paragraph who is a
28 full-time student but shall continue for not more than:

29 a. Two consecutive years for an individual in a
30 postsecondary vocational-technical education program;

31

1 b. Two consecutive years or four semesters for an
2 individual enrolled in a community college unless the
3 individual is participating in college preparatory instruction
4 or is requiring additional time to complete the college-level
5 communication and computation skills testing program, in which
6 case such services shall continue for not more than 3
7 consecutive years or six semesters; or

8 c. Four consecutive years, 8 semesters, or 12 quarters
9 for an individual enrolled in a college or university unless
10 the individual is participating in college-preparatory
11 instruction or is requiring additional time to complete the
12 college-level communication and computation skills testing
13 programs, in which case such services shall continue for not
14 more than 5 consecutive years, 10 semesters, or 15 quarters.

15 4.a. As a condition for continued foster care
16 services, an individual shall have earned a grade point
17 average of at least 2.0 on a 4.0 scale for the previous term,
18 maintain at least an overall grade point average of 2.0 for
19 only the previous term, and be eligible for continued
20 enrollment in the institution. If the postsecondary
21 vocational-technical school program does not operate on a
22 grade point average as described above, then the individual
23 shall maintain a standing equivalent to the 2.0 grade point
24 average.

25 b. Services shall be terminated upon completion of,
26 graduation from, or withdrawal or permanent expulsion from a
27 postsecondary vocational-technical education program,
28 community college, or university or college. Services shall
29 also be terminated for failure to maintain the required level
30 of academic achievement.

31

1 Reviser's note.--Amended to conform to the
2 redesignation of part V of chapter 39 as part
3 III necessitated by the repeal and transfer of
4 the provisions of former parts II and IV by ch.
5 97-238, Laws of Florida.
6
7

8 Section 38. Section 409.1685, Florida Statutes, is
9 amended to read:

10 409.1685 Children in foster care; annual report to
11 Legislature.--The Department of Children and Family Services
12 shall submit a written report to the substantive committees of
13 the Legislature concerning the status of children in foster
14 care and concerning the judicial review mandated by part III ~~V~~
15 of chapter 39. This report shall be submitted by March 1 of
16 each year and shall include the following information for the
17 prior calendar year:

18 (1) The number of 6-month and annual judicial reviews
19 completed during that period.

20 (2) The number of children in foster care returned to
21 a parent, guardian, or relative as a result of a 6-month or
22 annual judicial review hearing during that period.

23 (3) The number of termination of parental rights
24 proceedings instituted during that period which shall include:

25 (a) The number of termination of parental rights
26 proceedings initiated pursuant to part III ~~V~~ of chapter 39;
27 and

28 (b) The total number of terminations of parental
29 rights ordered.

30 (4) The number of foster care children placed for
31 adoption during that period.

1 Reviser's note.--Amended to conform to the
2 redesignation of part V of chapter 39 as part
3 III necessitated by the repeal and transfer of
4 the provisions of former parts II and IV by ch.
5 97-238, Laws of Florida.

6
7
8 Section 39. Subsection (1) of section 409.2564,
9 Florida Statutes, is amended to read:

10 409.2564 Actions for support.--

11 (1) In each case in which regular support payments are
12 not being made as provided herein, the department shall
13 institute, within 30 days after determination of the obligor's
14 reasonable ability to pay, action as is necessary to secure
15 the obligor's payment of current support and any arrearage
16 which may have accrued under an existing order of support.
17 The department shall notify the program attorney in the
18 judicial circuit in which the recipient resides setting forth
19 the facts in the case, including the obligor's address, if
20 known, and the public assistance case number. Whenever
21 applicable, the procedures established under the provisions of
22 chapter 88, Uniform Interstate Family Support Act, ~~and~~ chapter
23 61, Dissolution of Marriage; Support; Custody, ~~and~~ chapter 39,
24 Proceedings Relating to Children Juveniles, chapter 984,
25 Children and Families in Need of Services; and chapter 985,
26 Delinquency; Interstate Compact on Juveniles, may govern
27 actions instituted under the provisions of this act, except
28 that actions for support under chapter 39, chapter 984, or
29 chapter 985 brought pursuant to this act shall not require any
30 additional investigation or supervision by the department.

31

1 Reviser's note.--Amended to conform to the
2 legislative directive in s. 122, ch. 97-238,
3 Laws of Florida.

4
5
6 Section 40. Paragraph (a) of subsection (1) of section
7 409.803, Florida Statutes, is amended to read:

8 409.803 Shelter and foster care services to dependent
9 children.--

10 (1) It is the intent of the Legislature to:

11 (a) Facilitate the reunification of families or the
12 permanent placement of a child pursuant to part II ~~parts III~~
13 ~~and IV~~ of chapter 39 and chapter 984.

14
15 Reviser's note.--Amended to conform to the
16 redesignation of part III of chapter 39 as part
17 II necessitated by the repeal or transfer of
18 the provisions of former part II by chapter
19 97-238, Laws of Florida, and the repeal or
20 transfer to chapter 984 of the provisions of
21 part IV by ch. 97-238.

22
23
24 Section 41. Subsection (8) of section 415.107, Florida
25 Statutes, is amended to read:

26 415.107 Confidentiality of reports and records.--

27 (8) The department, upon receipt of the applicable
28 fee, shall search its central abuse registry and tracking
29 system records pursuant to the requirements of ss. ~~39-076,~~
30 110.1127, 393.0655, 394.457, 397.451, 400.506, 400.509,
31 400.512, 402.305(1), 402.3055, 402.313, 409.175, ~~and~~ 409.176,

1 and 985.407 for the existence of a confirmed report made on
2 the personnel as defined in the foregoing provisions. The
3 department shall report the existence of any confirmed report
4 and advise the authorized licensing agency, applicant for
5 licensure, or other authorized agency or person of the results
6 of the search and the date of the report. Prior to a search
7 being conducted, the department or its designee shall notify
8 such person that an inquiry will be made. The department shall
9 notify each person for whom a search is conducted of the
10 results of the search upon request.

11

12 Reviser's note.--Amended to conform to the
13 transfer of s. 39.076 to s. 985.407 by s. 67,
14 ch. 97-238, Laws of Florida.

15

16

17 Section 42. Paragraph (b) of subsection (3) of section
18 415.5015, Florida Statutes, is amended to read:

19 415.5015 Child abuse prevention training in the
20 district school system.--

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

22 (b) "Child abuse" means those acts as defined in ss.
23 39.01, 415.503, ~~and~~ 827.04, and 984.03.

24

25 Reviser's note.--Amended to conform to the
26 legislative directive in s. 122, ch. 97-238,
27 Laws of Florida.

28

29

30 Section 43. Subsection (8) of section 415.503, Florida
31 Statutes, is amended to read:

1 415.503 Definitions of terms used in ss.
2 415.502-415.514.--As used in ss. 415.502-415.514:
3 (8) "Guardian ad litem" as referred to in any civil or
4 criminal proceeding includes the following: a certified
5 guardian ad litem program, a duly certified volunteer, a staff
6 attorney, contract attorney, or certified pro bono attorney
7 working on behalf of a guardian ad litem or the program; staff
8 members of a program office; a court-appointed attorney; or a
9 responsible adult who is appointed by the court to represent
10 the best interests of a child in a proceeding as provided for
11 by law, including, but not limited to, chapters 39, 984, and
12 985 ~~chapter 39~~ and this chapter, who is a party to any
13 judicial proceeding as a representative of the child, and who
14 serves until discharged by the court.

15
16 Reviser's note.--Amended to conform to the
17 legislative directive in s. 122, ch. 97-238,
18 Laws of Florida.

19
20
21 Section 44. Subsection (1) of section 415.5086,
22 Florida Statutes, is amended to read:

23 415.5086 Hearing for appointment of a guardian
24 advocate.--

25 (1) When a petition for appointment of a guardian
26 advocate has been filed with the circuit court, the hearing
27 shall be held within 14 days unless all parties agree to a
28 continuance. If a child is in need of necessary medical
29 treatment as defined in s. 39.01, s. 984.03, or s. 985.03, the
30 court shall hold a hearing within 24 hours.

31

1 Reviser's note.--Amended to conform to the
2 legislative directive in s. 122, ch. 97-238,
3 Laws of Florida.

4
5
6 Section 45. Subsection (2) of section 415.51, Florida
7 Statutes, is amended to read:

8 415.51 Confidentiality of reports and records in cases
9 of child abuse or neglect.--

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

14 (a) Employees or agents of the department responsible
15 for carrying out child or adult protective investigations,
16 ongoing child or adult protective services, or licensure or
17 approval of adoptive homes, foster homes, or other homes used
18 to provide for the care and welfare of children. Also,
19 employees or agents of the Department of Juvenile Justice
20 responsible for the provision of services to children,
21 pursuant to chapters 984 and 985 ~~parts II and IV of chapter~~
22 ~~39~~.

23 (b) Criminal justice agencies of appropriate
24 jurisdiction.

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

28 (d) The parent or custodian of any child who is
29 alleged to have been abused, neglected, or abandoned. This
30 access shall be made available no later than 30 days after the
31 department receives the initial report of abuse, neglect, or

1 abandonment. However, any information otherwise made
2 confidential or exempt by law shall not be released pursuant
3 to this paragraph.

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

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

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

20 (h) Any appropriate official of the department
21 responsible for:

22 1. Administration or supervision of the department's
23 program for the prevention, investigation, or treatment of
24 child abuse, abandonment, or neglect when carrying out his or
25 her official function; or

26 2. Taking appropriate administrative action concerning
27 an employee of the department alleged to have perpetrated
28 institutional child abuse or neglect.

29 (i) Any person engaged in bona fide research or audit
30 purposes. However, no information identifying the subjects of
31 the report shall be made available to the researcher.

1 (j) The Division of Administrative Hearings for
2 purposes of any administrative challenge.

3 (k) Any appropriate official of the human rights
4 advocacy committee investigating a report of known or
5 suspected child abuse, abandonment, or neglect, the Auditor
6 General for the purpose of conducting preliminary or
7 compliance reviews pursuant to s. 11.45, or the guardian ad
8 litem for the child as defined in s. 415.503.

9 (l) Employees or agents of an agency of another state
10 that has comparable jurisdiction to the jurisdiction described
11 in paragraph (a).

12 (m) The Public Employees Relations Commission for the
13 sole purpose of obtaining evidence for appeals filed pursuant
14 to s. 447.207. Records may be released only after deletion of
15 all information which specifically identifies persons other
16 than the employee.

17
18 Reviser's note.--Amended to conform to the
19 redesignation of subsection (9) as subsection
20 (4) by s. 46, ch. 95-228, Laws of Florida, and
21 to conform to the legislative directive in s.
22 122, ch. 97-238, Laws of Florida.

23
24
25 Section 46. Paragraph (d) of subsection (1) of section
26 419.001, Florida Statutes, is amended to read:

27 419.001 Site selection of community residential
28 homes.--

29 (1) For the purposes of this section, the following
30 definitions shall apply:

31

1 (d) "Resident" means any of the following: an aged
2 person as defined in s. 400.618(3); a physically disabled or
3 handicapped person as defined in s. 760.22(7)(a); a
4 developmentally disabled person as defined in s. 393.063(11);
5 a nondangerous mentally ill person as defined in s.
6 394.455(16); or a child as defined in s. 39.01(11), s.
7 984.03(9) or (12), or s. 985.03(8)~~s. 39.01(12) and (14)~~.

8
9 Reviser's note.--Amended to conform to the
10 legislative directive in s. 122, ch. 97-238,
11 Laws of Florida.

12
13
14 Section 47. Subsections (2), (3), and (6) of section
15 743.0645, Florida Statutes, are amended to read:

16 743.0645 Other persons who may consent to medical care
17 or treatment of a minor.--

18 (2) Any of the following persons, in order of priority
19 listed, may consent to the medical care or treatment of a
20 minor who is not committed to the Department of Children and
21 Family Services or the Department of Juvenile Justice ~~Health~~
22 ~~and Rehabilitative Services~~ or in their ~~its~~ custody under
23 chapter 39, chapter 984, or chapter 985 when, after a
24 reasonable attempt, a person who has the power to consent as
25 otherwise provided by law cannot be contacted by the treatment
26 provider and actual notice to the contrary has not been given
27 to the provider by that person:

28 (a) A person who possesses a power of attorney to
29 provide medical consent for the minor.

30 (b) The stepparent.

31 (c) The grandparent of the minor.

1 (d) An adult brother or sister of the minor.

2 (e) An adult aunt or uncle of the minor.

3

4 There shall be maintained in the treatment provider's records
5 of the minor documentation that a reasonable attempt was made
6 to contact the person who has the power to consent.

7 (3) The Department of Children and Family Services or
8 the Department of Juvenile Justice ~~Health and Rehabilitative~~
9 ~~Services~~ caseworker, case manager, or person primarily
10 responsible for the case management of the child, the
11 administrator of any facility licensed by the department under
12 s. 393.067, s. 394.875, or s. 409.175, or the administrator of
13 any state-operated or state-contracted delinquency residential
14 treatment facility may consent to the medical care or
15 treatment of any minor committed to it or in its custody under
16 chapter 39, chapter 984, or chapter 985, when the person who
17 has the power to consent as otherwise provided by law cannot
18 be contacted and such person has not expressly objected to
19 such consent. There shall be maintained in the records of the
20 minor documentation that a reasonable attempt was made to
21 contact the person who has the power to consent as otherwise
22 provided by law.

23 (6) The Department of Children and Family Services and
24 the Department of Juvenile Justice ~~Health and Rehabilitative~~
25 ~~Services~~ may adopt rules to implement this section.

26

27 Reviser's note.--Amended to conform to the
28 redesignation of the Department of Health and
29 Rehabilitative Services as the Department of
30 Children and Family Services by s. 5, ch.
31 96-403, Laws of Florida, and to conform to the

1 legislative directive in s. 122, ch. 97-238,
2 Laws of Florida.

3
4
5 Section 48. Subsection (3) of section 744.309, Florida
6 Statutes, is amended to read:

7 744.309 Who may be appointed guardian of a resident
8 ward.--

9 (3) DISQUALIFIED PERSONS.--No person who has been
10 convicted of a felony or who, from any incapacity or illness,
11 is incapable of discharging the duties of a guardian, or who
12 is otherwise unsuitable to perform the duties of a guardian,
13 shall be appointed to act as guardian. Further, no person who
14 has been judicially determined to have committed abuse or
15 neglect against a child as defined in s. 39.01(2) and (36) or
16 s. 984.03(2) and (39)~~(47)~~, or who has a confirmed report of
17 abuse, neglect, or exploitation which has been uncontested or
18 upheld pursuant to the provisions of ss. 415.104 and 415.1075
19 shall be appointed to act as a guardian. Except as provided
20 in subsection (5) or subsection (6), a person who provides
21 substantial services to the proposed ward in a professional or
22 business capacity, or a creditor of the proposed ward, may not
23 be appointed guardian and retain that previous professional or
24 business relationship. A person may not be appointed a
25 guardian if he or she is in the employ of any person, agency,
26 government, or corporation that provides service to the
27 proposed ward in a professional or business capacity, except
28 that a person so employed may be appointed if he or she is the
29 spouse, adult child, parent, or sibling of the proposed ward
30 or the court determines that the potential conflict of
31 interest is insubstantial and that the appointment would

1 clearly be in the proposed ward's best interest. The court
2 may not appoint a guardian in any other circumstance in which
3 a conflict of interest may occur.

4
5 Reviser's note.--Amended to conform to the
6 legislative directive in s. 122, ch. 97-238,
7 Laws of Florida.

8
9
10 Section 49. Section 784.075, Florida Statutes, is
11 amended to read:

12 784.075 Battery on detention or commitment facility
13 staff.--A person who commits a battery on an intake counselor
14 or case manager, as defined in s. 984.03(31) or s. 985.03(30)
15 ~~39.01(34)~~, on other staff of a detention center or facility as
16 defined in s. 984.03(19) or s. 985.03(19)~~39.01(23)~~, or on a
17 staff member of a commitment facility as defined in s.
18 985.03(45)(c), (d), or (e)~~39.01(59)(c), (d), or (e)~~, commits
19 a felony of the third degree, punishable as provided in s.
20 775.082, s. 775.083, or s. 775.084. For purposes of this
21 section, a staff member of the facilities listed includes
22 persons employed by the Department of Juvenile Justice,
23 persons employed at facilities licensed by the Department of
24 Juvenile Justice, and persons employed at facilities operated
25 under a contract with the Department of Juvenile Justice.

26
27 Reviser's note.--Amended to conform to the
28 legislative directive in s. 122, ch. 97-238,
29 Laws of Florida.

1 Section 50. Subsections (8) and (9) of section 790.22,
2 Florida Statutes, are amended to read:

3 790.22 Use of BB guns, air or gas-operated guns, or
4 electric weapons or devices by minor under 16; limitation;
5 possession of firearms by minor under 18 prohibited;
6 penalties.--

7 (8) Notwithstanding s. 985.213 ~~39-042~~ or s. 985.215(1)
8 ~~39-044(1)~~, if a minor under 18 years of age is charged with an
9 offense that involves the use or possession of a firearm, as
10 defined in s. 790.001, other than a violation of subsection
11 (3), or is charged for any offense during the commission of
12 which the minor possessed a firearm, the minor shall be
13 detained in secure detention, unless the state attorney
14 authorizes the release of the minor, and shall be given a
15 hearing within 24 hours after being taken into custody.
16 ~~Effective April 15, 1994,~~At the hearing, the court may order
17 that the minor continue to be held in secure detention in
18 accordance with the applicable time periods specified in s.
19 985.215(5)~~39-044(5)~~, if the court finds that the minor meets
20 the criteria specified in s. 985.215(2)~~39-044(2)~~, or if the
21 court finds by clear and convincing evidence that the minor is
22 a clear and present danger to himself or herself or the
23 community. The Department of Juvenile Justice shall prepare a
24 form for all minors charged under this subsection that states
25 the period of detention and the relevant demographic
26 information, including, but not limited to, the sex, age, and
27 race of the minor; whether or not the minor was represented by
28 private counsel or a public defender; the current offense; and
29 the minor's complete prior record, including any pending
30 cases. The form shall be provided to the judge to be
31 considered when determining whether the minor should be

1 continued in secure detention under this subsection. An order
2 placing a minor in secure detention because the minor is a
3 clear and present danger to himself or herself or the
4 community must be in writing, must specify the need for
5 detention and the benefits derived by the minor or the
6 community by placing the minor in secure detention, and must
7 include a copy of the form provided by the department. The
8 Department of Juvenile Justice must send the form, including a
9 copy of any order, without client-identifying information, to
10 the Division of Economic and Demographic Research of the Joint
11 Legislative Management Committee.

12 (9) Notwithstanding s. 985.214 ~~39.043~~, if the minor is
13 found to have committed an offense that involves the use or
14 possession of a firearm, as defined in s. 790.001, other than
15 a violation of subsection (3), or an offense during the
16 commission of which the minor possessed a firearm, and the
17 minor is not committed to a residential commitment program of
18 the Department of Juvenile Justice ~~Health and Rehabilitative~~
19 ~~Services~~, in addition to any other punishment provided by law,
20 the court shall order:

21 (a) For a first offense, that the minor serve a
22 mandatory period of detention of 5 days in a secure detention
23 facility and perform 100 hours of community service.

24 (b) For a second or subsequent offense, that the minor
25 serve a mandatory period of detention of 10 days in a secure
26 detention facility and perform not less than 100 nor more than
27 250 hours of community service.

28
29 The minor shall receive credit for time served before
30 adjudication.

31

1 Reviser's note.--Amended to conform to the
2 transfer of s. 39.042 to s. 985.213 by s. 21,
3 ch. 97-238, Laws of Florida; the transfer of s.
4 39.044 to s. 985.215 by s. 23, ch. 97-238; and
5 the transfer of s. 39.043 to s. 985.214 by s.
6 22, ch. 97-238. Subsection (9) was also amended
7 to conform to the creation of the Department of
8 Juvenile Justice by s. 1, ch. 94-209, Laws of
9 Florida.

10

11

12 Section 51. Subsection (2) of section 790.23, Florida
13 Statutes, is amended to read:

14 790.23 Felons and delinquents; possession of firearms
15 or electric weapons or devices unlawful.--

16 (2) This section shall not apply to a person convicted
17 of a felony whose civil rights and firearm authority have been
18 restored, or to a person found to have committed a delinquent
19 act that would be a felony if committed by an adult with
20 respect to which the jurisdiction of the court pursuant to
21 chapter 985 ~~39~~ has expired.

22

23 Reviser's note.--Amended to conform to the
24 repeal and transfer of the provisions of former
25 part II of chapter 39, relating to delinquency,
26 to chapter 985 by ch. 97-238, Laws of Florida.

27

28

29 Section 52. Subsection (4) of section 877.22, Florida
30 Statutes, is amended to read:

31

1 877.22 Minors prohibited in public places and
2 establishments during certain hours; penalty; procedure.--
3 (4) If a minor violates a curfew and is taken into
4 custody, the minor shall be transported immediately to a
5 police station or to a facility operated by a religious,
6 charitable, or civic organization that conducts a curfew
7 program in cooperation with a local law enforcement agency.
8 After recording pertinent information about the minor, the law
9 enforcement agency shall attempt to contact the parent of the
10 minor and, if successful, shall request that the parent take
11 custody of the minor and shall release the minor to the
12 parent. If the law enforcement agency is not able to contact
13 the minor's parent within 2 hours after the minor is taken
14 into custody, or if the parent refuses to take custody of the
15 minor, the law enforcement agency may transport the minor to
16 her or his residence or proceed as authorized under part II
17 ~~III~~ of chapter 39.

18
19 Reviser's note.--Amended to conform to the
20 redesignation of part III of chapter 39 as part
21 II necessitated by the repeal and transfer of
22 the provisions of former part II by ch. 97-238,
23 Laws of Florida.

24
25
26 Section 53. Paragraph (c) of subsection (3) of section
27 921.0012, Florida Statutes, is amended to read:

28 921.0012 Sentencing guidelines offense levels; offense
29 severity ranking chart.--

30 (3) OFFENSE SEVERITY RANKING CHART
31

1	Florida	Felony	
2	Statute	Degree	Description
3			
4			(c) LEVEL 3
5	39.061	3rd	Escapes from juvenile facility
6			(secure detention or residential
7			commitment facility).
8	319.30(4)	3rd	Possession by junkyard of motor
9			vehicle with identification
10			number plate removed.
11	319.33(1)(a)	3rd	Alter or forge any certificate of
12			title to a motor vehicle or
13			mobile home.
14	319.33(1)(c)	3rd	Procure or pass title on stolen
15			vehicle.
16	319.33(4)	3rd	With intent to defraud, possess,
17			sell, etc., a blank, forged, or
18			unlawfully obtained title or
19			registration.
20	328.05(2)	3rd	Possess, sell, or counterfeit
21			fictitious, stolen, or fraudulent
22			titles or bills of sale of
23			vessels.
24	328.07(4)	3rd	Manufacture, exchange, or possess
25			vessel with counterfeit or wrong
26			ID number.
27	376.302(5)	3rd	Fraud related to reimbursement
28			for cleanup expenses under the
29			Inland Protection Trust Fund.
30			
31			

1	501.001(2)(b)	2nd	Tampers with a consumer product
2			or the container using materially
3			false/misleading information.
4	697.08	3rd	Equity skimming.
5	790.15(3)	3rd	Person directs another to
6			discharge firearm from a vehicle.
7	796.05(1)	3rd	Live on earnings of a prostitute.
8	806.10(1)	3rd	Maliciously injure, destroy, or
9			interfere with vehicles or
10			equipment used in firefighting.
11	806.10(2)	3rd	Interferes with or assaults
12			firefighter in performance of
13			duty.
14	810.09(2)(c)	3rd	Trespass on property other than
15			structure or conveyance armed
16			with firearm or dangerous weapon.
17	812.014(2)(c)2.	3rd	Grand theft; \$5,000 or more but
18			less than \$10,000.
19	815.04(4)(b)	2nd	Computer offense devised to
20			defraud or obtain property.
21	817.034(4)(a)3.	3rd	Engages in scheme to defraud
22			(Florida Communications Fraud
23			Act), property valued at less
24			than \$20,000.
25	817.233	3rd	Burning to defraud insurer.
26	828.12(2)	3rd	Tortures any animal with intent
27			to inflict intense pain, serious
28			physical injury, or death.
29	831.29	2nd	Possession of instruments for
30			counterfeiting driver's licenses
31			or identification cards.

1	838.021(3)(b)	3rd	Threatens unlawful harm to public
2			servant.
3	843.19	3rd	Injure, disable, or kill police
4			dog or horse.
5	870.01(2)	3rd	Riot; inciting or encouraging.
6	893.13(1)(a)2.	3rd	Sell, manufacture, or deliver
7			cannabis (or other s.
8			893.03(1)(c), (2)(c), (3), or (4)
9			drugs).
10	893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s.
11			893.03(1)(c), (2)(c), (3), or (4)
12			drugs within 200 feet of
13			university, public housing
14			facility, or public park.
15	893.13(6)(a)	3rd	Possession of any controlled
16			substance other than felony
17			possession of cannabis.
18	893.13(7)(a)9.	3rd	Obtain or attempt to obtain
19			controlled substance by fraud,
20			forgery, misrepresentation, etc.
21	893.13(7)(a)11.	3rd	Furnish false or fraudulent
22			material information on any
23			document or record required by
24			chapter 893.
25	918.13(1)(a)	3rd	Alter, destroy, or conceal
26			investigation evidence.
27	<u>944.401</u>	<u>3rd</u>	<u>Escapes from juvenile facility</u>
28			<u>(secure detention or residential</u>
29			<u>commitment facility).</u>
30			
31			

1 944.47
2 (1)(a)1.-2. 3rd Introduce contraband to
3 correctional facility.
4 944.47(1)(c) 2nd Possess contraband while upon the
5 grounds of a correctional
6 institution.
7
8 Reviser's note.--Amended to conform to the
9 transfer of s. 39.061 to s. 944.401 by s. 113,
10 ch. 97-238, Laws of Florida.
11
12
13 Section 54. Effective October 1, 1998, paragraph (c)
14 of subsection (3) of section 921.0022, Florida Statutes, is
15 amended to read:
16 921.0022 Criminal Punishment Code; offense severity
17 ranking chart.--
18 (3) OFFENSE SEVERITY RANKING CHART
19
20 Florida Felony
21 Statute Degree Description
22
23 (c) LEVEL 3
24 ~~39.061~~ 3rd ~~Escapes from juvenile facility~~
25 ~~(secure detention or residential~~
26 ~~commitment facility).~~
27 319.30(4) 3rd Possession by junkyard of motor
28 vehicle with identification
29 number plate removed.
30
31

1	319.33(1)(a)	3rd	Alter or forge any certificate of
2			title to a motor vehicle or
3			mobile home.
4	319.33(1)(c)	3rd	Procure or pass title on stolen
5			vehicle.
6	319.33(4)	3rd	With intent to defraud, possess,
7			sell, etc., a blank, forged, or
8			unlawfully obtained title or
9			registration.
10	328.05(2)	3rd	Possess, sell, or counterfeit
11			fictitious, stolen, or fraudulent
12			titles or bills of sale of
13			vessels.
14	328.07(4)	3rd	Manufacture, exchange, or possess
15			vessel with counterfeit or wrong
16			ID number.
17	376.302(5)	3rd	Fraud related to reimbursement
18			for cleanup expenses under the
19			Inland Protection Trust Fund.
20	501.001(2)(b)	2nd	Tampers with a consumer product
21			or the container using materially
22			false/misleading information.
23	697.08	3rd	Equity skimming.
24	790.15(3)	3rd	Person directs another to
25			discharge firearm from a vehicle.
26	796.05(1)	3rd	Live on earnings of a prostitute.
27	806.10(1)	3rd	Maliciously injure, destroy, or
28			interfere with vehicles or
29			equipment used in firefighting.
30			
31			

1	806.10(2)	3rd	Interferes with or assaults
2			firefighter in performance of
3			duty.
4	810.09(2)(c)	3rd	Trespass on property other than
5			structure or conveyance armed
6			with firearm or dangerous weapon.
7	812.014(2)(c)2.	3rd	Grand theft; \$5,000 or more but
8			less than \$10,000.
9	815.04(4)(b)	2nd	Computer offense devised to
10			defraud or obtain property.
11	817.034(4)(a)3.	3rd	Engages in scheme to defraud
12			(Florida Communications Fraud
13			Act), property valued at less
14			than \$20,000.
15	817.233	3rd	Burning to defraud insurer.
16	828.12(2)	3rd	Tortures any animal with intent
17			to inflict intense pain, serious
18			physical injury, or death.
19	831.29	2nd	Possession of instruments for
20			counterfeiting drivers' licenses.
21	838.021(3)(b)	3rd	Threatens unlawful harm to public
22			servant.
23	843.19	3rd	Injure, disable, or kill police
24			dog or horse.
25	870.01(2)	3rd	Riot; inciting or encouraging.
26	893.13(1)(a)2.	3rd	Sell, manufacture, or deliver
27			cannabis (or other s.
28			893.03(1)(c), (2)(c), (3), or (4)
29			drugs).
30			
31			

1	893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s.
2			893.03(1)(c), (2)(c), (3), or (4)
3			drugs within 200 feet of
4			university, public housing
5			facility, or public park.
6	893.13(6)(a)	3rd	Possession of any controlled
7			substance other than felony
8			possession of cannabis.
9	893.13(7)(a)9.	3rd	Obtain or attempt to obtain
10			controlled substance by fraud,
11			forgery, misrepresentation, etc.
12	893.13(7)(a)11.	3rd	Furnish false or fraudulent
13			material information on any
14			document or record required by
15			chapter 893.
16	918.13(1)(a)	3rd	Alter, destroy, or conceal
17			investigation evidence.
18	<u>944.401</u>	<u>3rd</u>	<u>Escapes from juvenile facility</u>
19			<u>(secure detention or residential</u>
20			<u>commitment facility).</u>
21	944.47		
22	(1)(a)1.-2.	3rd	Introduce contraband to
23			correctional facility.
24	944.47(1)(c)	2nd	Possess contraband while upon the
25			grounds of a correctional
26			institution.
27			
28			Reviser's note.--Amended to conform to the
29			transfer of s. 39.061 to s. 944.401 by s. 113,
30			ch. 97-238, Laws of Florida.
31			

1 Section 55. Subsection (2) of section 938.17, Florida
2 Statutes, is amended to read:

3 938.17 County delinquency prevention.--

4 (2) In counties in which the sheriff's office is a
5 partner in a juvenile justice assessment center pursuant to s.
6 985.209 ~~39.0471~~, or a partner in a suspension program
7 developed in conjunction with the district school board in the
8 county of the sheriff's jurisdiction, the court shall assess
9 court costs of \$3 per case, in addition to any other
10 authorized cost or fine, on every person who, with respect to
11 a charge, indictment, prosecution commenced, or petition of
12 delinquency filed in that county or circuit, pleads guilty,
13 nolo contendere to, or is convicted of, or adjudicated
14 delinquent for, or has an adjudication withheld for, a felony
15 or misdemeanor, or a criminal traffic offense or handicapped
16 parking violation under state law, or a violation of any
17 municipal or county ordinance, if the violation constitutes a
18 misdemeanor under state law.

19
20 Reviser's note.--Amended to conform to the
21 transfer of s. 39.0471 to s. 985.209 by s. 17,
22 ch. 97-238, Laws of Florida.

23
24
25 Section 56. Subsection (1) of section 943.0515,
26 Florida Statutes, is amended to read:

27 943.0515 Retention of criminal history records of
28 minors.--

29 (1)(a) The Division of Criminal Justice Information
30 Systems shall retain the criminal history record of a minor
31 who is classified as a serious or habitual juvenile offender

1 under chapter 985 39 for 5 years after the date the offender
2 reaches 21 years of age, at which time the record shall be
3 expunged unless it meets the criteria of paragraph (2)(a) or
4 paragraph (2)(b).

5 (b) If the minor is not classified as a serious or
6 habitual juvenile offender under chapter 985 39, the division
7 shall retain the minor's criminal history record for 5 years
8 after the date the minor reaches 19 years of age, at which
9 time the record shall be expunged unless it meets the criteria
10 of paragraph (2)(a) or paragraph (2)(b).

11
12 Reviser's note.--Amended to conform to the
13 transfer of s. 39.058, relating to the serious
14 or habitual juvenile offender program, to s.
15 985.31 by s. 54, ch. 97-238, Laws of Florida.

16
17
18 Section 57. Paragraph (a) of subsection (4) of section
19 943.0585, Florida Statutes, is amended to read:

20 943.0585 Court-ordered expunction of criminal history
21 records.--The courts of this state have jurisdiction over
22 their own procedures, including the maintenance, expunction,
23 and correction of judicial records containing criminal history
24 information to the extent such procedures are not inconsistent
25 with the conditions, responsibilities, and duties established
26 by this section. Any court of competent jurisdiction may
27 order a criminal justice agency to expunge the criminal
28 history record of a minor or an adult who complies with the
29 requirements of this section. The court shall not order a
30 criminal justice agency to expunge a criminal history record
31 until the person seeking to expunge a criminal history record

1 has applied for and received a certificate of eligibility for
2 expunction pursuant to subsection (2). A criminal history
3 record that relates to a violation of chapter 794, s. 800.04,
4 s. 817.034, s. 827.071, chapter 839, s. 893.135, or a
5 violation enumerated in s. 907.041 may not be expunged,
6 without regard to whether adjudication was withheld, if the
7 defendant was found guilty of or pled guilty or nolo
8 contendere to the offense, or if the defendant, as a minor,
9 was found to have committed, or pled guilty or nolo contendere
10 to committing, the offense as a delinquent act. The court may
11 only order expunction of a criminal history record pertaining
12 to one arrest or one incident of alleged criminal activity,
13 except as provided in this section. The court may, at its sole
14 discretion, order the expunction of a criminal history record
15 pertaining to more than one arrest if the additional arrests
16 directly relate to the original arrest. If the court intends
17 to order the expunction of records pertaining to such
18 additional arrests, such intent must be specified in the
19 order. A criminal justice agency may not expunge any record
20 pertaining to such additional arrests if the order to expunge
21 does not articulate the intention of the court to expunge a
22 record pertaining to more than one arrest. This section does
23 not prevent the court from ordering the expunction of only a
24 portion of a criminal history record pertaining to one arrest
25 or one incident of alleged criminal activity. Notwithstanding
26 any law to the contrary, a criminal justice agency may comply
27 with laws, court orders, and official requests of other
28 jurisdictions relating to expunction, correction, or
29 confidential handling of criminal history records or
30 information derived therefrom. This section does not confer
31 any right to the expunction of any criminal history record,

1 and any request for expunction of a criminal history record
2 may be denied at the sole discretion of the court.

3 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.--Any
4 criminal history record of a minor or an adult which is
5 ordered expunged by a court of competent jurisdiction pursuant
6 to this section must be physically destroyed or obliterated by
7 any criminal justice agency having custody of such record;
8 except that any criminal history record in the custody of the
9 department must be retained in all cases. A criminal history
10 record ordered expunged that is retained by the department is
11 confidential and exempt from the provisions of s. 119.07(1)
12 and s. 24(a), Art. I of the State Constitution and not
13 available to any person or entity except upon order of a court
14 of competent jurisdiction. A criminal justice agency may
15 retain a notation indicating compliance with an order to
16 expunge.

17 (a) The person who is the subject of a criminal
18 history record that is expunged under this section or under
19 other provisions of law, including former s. 893.14, former s.
20 901.33, and former s. 943.058, may lawfully deny or fail to
21 acknowledge the arrests covered by the expunged record, except
22 when the subject of the record:

- 23 1. Is a candidate for employment with a criminal
24 justice agency;
- 25 2. Is a defendant in a criminal prosecution;
- 26 3. Concurrently or subsequently petitions for relief
27 under this section or s. 943.059;
- 28 4. Is a candidate for admission to The Florida Bar;
- 29 5. Is seeking to be employed or licensed by or to
30 contract with the Department of Children and Family Health and
31 Rehabilitative Services or the Department of Juvenile Justice

1 or to be employed or used by such contractor or licensee in a
2 sensitive position having direct contact with children, the
3 developmentally disabled, the aged, or the elderly as provided
4 in ~~s. 39.076~~, s. 110.1127(3), s. 393.063(14), s. 394.4572(1),
5 s. 397.451, s. 402.302(8), s. 402.313(3), s. 409.175(2)(i), s.
6 415.102(4), s. 415.1075(4), s. 985.407, or chapter 400; or

7 6. Is seeking to be employed or licensed by the Office
8 of Teacher Education, Certification, Staff Development, and
9 Professional Practices of the Department of Education, any
10 district school board, or any local governmental entity that
11 licenses child care facilities.

12
13 Reviser's note.--Amended to conform to the
14 creation of the Department of Children and
15 Family Services by s. 5, ch. 96-403, Laws of
16 Florida; creation of the Department of Juvenile
17 Justice by s. 1, ch. 94-209, Laws of Florida;
18 and the transfer of s. 39.076 to s. 985.407 by
19 s. 67, ch. 97-238, Laws of Florida.

20
21
22 Section 58. Paragraph (a) of subsection (4) of section
23 943.059, Florida Statutes, is amended to read:

24 943.059 Court-ordered sealing of criminal history
25 records.--The courts of this state shall continue to have
26 jurisdiction over their own procedures, including the
27 maintenance, sealing, and correction of judicial records
28 containing criminal history information to the extent such
29 procedures are not inconsistent with the conditions,
30 responsibilities, and duties established by this section. Any
31 court of competent jurisdiction may order a criminal justice

1 agency to seal the criminal history record of a minor or an
2 adult who complies with the requirements of this section. The
3 court shall not order a criminal justice agency to seal a
4 criminal history record until the person seeking to seal a
5 criminal history record has applied for and received a
6 certificate of eligibility for sealing pursuant to subsection
7 (2). A criminal history record that relates to a violation of
8 chapter 794, s. 800.04, s. 817.034, s. 827.071, chapter 839,
9 s. 893.135, or a violation enumerated in s. 907.041 may not be
10 sealed, without regard to whether adjudication was withheld,
11 if the defendant was found guilty of or pled guilty or nolo
12 contendere to the offense, or if the defendant, as a minor,
13 was found to have committed or pled guilty or nolo contendere
14 to committing the offense as a delinquent act. The court may
15 only order sealing of a criminal history record pertaining to
16 one arrest or one incident of alleged criminal activity,
17 except as provided in this section. The court may, at its sole
18 discretion, order the sealing of a criminal history record
19 pertaining to more than one arrest if the additional arrests
20 directly relate to the original arrest. If the court intends
21 to order the sealing of records pertaining to such additional
22 arrests, such intent must be specified in the order. A
23 criminal justice agency may not seal any record pertaining to
24 such additional arrests if the order to seal does not
25 articulate the intention of the court to seal records
26 pertaining to more than one arrest. This section does not
27 prevent the court from ordering the sealing of only a portion
28 of a criminal history record pertaining to one arrest or one
29 incident of alleged criminal activity. Notwithstanding any law
30 to the contrary, a criminal justice agency may comply with
31 laws, court orders, and official requests of other

1 jurisdictions relating to sealing, correction, or confidential
2 handling of criminal history records or information derived
3 therefrom. This section does not confer any right to the
4 sealing of any criminal history record, and any request for
5 sealing a criminal history record may be denied at the sole
6 discretion of the court.

7 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.--A
8 criminal history record of a minor or an adult which is
9 ordered sealed by a court of competent jurisdiction pursuant
10 to this section is confidential and exempt from the provisions
11 of s. 119.07(1) and s. 24(a), Art. I of the State Constitution
12 and is available only to the person who is the subject of the
13 record, to the subject's attorney, to criminal justice
14 agencies for their respective criminal justice purposes, or to
15 those entities set forth in subparagraphs (a)1., 4., 5., and
16 6. for their respective licensing and employment purposes.

17 (a) The subject of a criminal history record sealed
18 under this section or under other provisions of law, including
19 former s. 893.14, former s. 901.33, and former s. 943.058, may
20 lawfully deny or fail to acknowledge the arrests covered by
21 the sealed record, except when the subject of the record:

- 22 1. Is a candidate for employment with a criminal
23 justice agency;
- 24 2. Is a defendant in a criminal prosecution;
- 25 3. Concurrently or subsequently petitions for relief
26 under this section or s. 943.0585;
- 27 4. Is a candidate for admission to The Florida Bar;
- 28 5. Is seeking to be employed or licensed by or to
29 contract with the Department of Children and Family Health and
30 ~~Rehabilitative~~ Services or the Department of Juvenile Justice
31 or to be employed or used by such contractor or licensee in a

1 sensitive position having direct contact with children, the
2 developmentally disabled, the aged, or the elderly as provided
3 in ~~s. 39.076~~, s. 110.1127(3), s. 393.063(14), s. 394.4572(1),
4 s. 397.451, s. 402.302(8), s. 402.313(3), s. 409.175(2)(i), s.
5 415.102(4), s. 415.103, s. 985.407, or chapter 400; or
6 6. Is seeking to be employed or licensed by the Office
7 of Teacher Education, Certification, Staff Development, and
8 Professional Practices of the Department of Education, any
9 district school board, or any local governmental entity which
10 licenses child care facilities.

11
12 Reviser's note.--Amended to conform to the
13 creation of the Department of Children and
14 Family Services by s. 5, ch. 96-403, Laws of
15 Florida, and the transfer of s. 39.076 to s.
16 985.407 by s. 67, ch. 97-238, Laws of Florida.

17
18
19 Section 59. Section 944.401, Florida Statutes, is
20 amended to read:

21 944.401 Escapes from secure detention or residential
22 commitment facility.--An escape from any secure detention
23 facility maintained for the temporary detention of children,
24 pending adjudication, disposition, or placement; an escape
25 from any residential commitment facility defined in s.
26 985.03(45)~~39.01(59)~~, maintained for the custody, treatment,
27 punishment, or rehabilitation of children found to have
28 committed delinquent acts or violations of law; or an escape
29 from lawful transportation thereto or therefrom constitutes
30 escape within the intent and meaning of s. 944.40 and is a
31

1 felony of the third degree, punishable as provided in s.
2 775.082, s. 775.083, or s. 775.084.

3
4 Reviser's note.--Amended to conform to the
5 legislative directive in s. 122, ch. 97-238,
6 Laws of Florida.

7
8
9 Section 60. The introductory paragraph of subsection
10 (2) of section 948.51, Florida Statutes, is amended to read:
11 948.51 Community corrections assistance to counties or
12 county consortiums.--

13 (2) ELIGIBILITY OF COUNTIES AND COUNTY CONSORTIUMS.--A
14 county, or a consortium of two or more counties, may contract
15 with the Department of Corrections for community corrections
16 funds as provided in this section. In order to enter into a
17 community corrections partnership contract, a county or county
18 consortium must have a public safety coordinating council
19 established under s. 951.26 and must designate a county
20 officer or agency to be responsible for administering
21 community corrections funds received from the state. The
22 public safety coordinating council shall prepare, develop, and
23 implement a comprehensive public safety plan for the county,
24 or the geographic area represented by the county consortium,
25 and shall submit an annual report to the Department of
26 Corrections concerning the status of the program. In preparing
27 the comprehensive public safety plan, the public safety
28 coordinating council shall cooperate with the district
29 juvenile justice board, established under s. 985.413, and the
30 county juvenile justice council, established under s. 985.414
31 ~~39.025~~, in order to include programs and services for

1 juveniles in the plan. To be eligible for community
2 corrections funds under the contract, the initial public
3 safety plan must be approved by the governing board of the
4 county, or the governing board of each county within the
5 consortium, and the Secretary of Corrections based on the
6 requirements of this section. If one or more other counties
7 develop a unified public safety plan, the public safety
8 coordinating council shall submit a single application to the
9 department for funding. Continued contract funding shall be
10 pursuant to subsection (5)~~(6)~~. The plan for a county or county
11 consortium must cover at least a 5-year period and must
12 include:

13
14 Reviser's note.--Amended to conform to the
15 transfer of the provisions of s. 39.025,
16 relating to district juvenile justice boards to
17 s. 985.413 by s. 73, ch. 97-238, Laws of
18 Florida; the creation of s. 985.414, relating
19 to county juvenile justice councils, by s. 74,
20 ch. 97-238; and the redesignation of subsection
21 (6) as subsection (5) by s. 43, ch. 95-283,
22 Laws of Florida.

23
24
25 Section 61. Paragraph (a) of subsection (1) of section
26 958.04, Florida Statutes, is amended to read:

27 958.04 Judicial disposition of youthful offenders.--
28 (1) The court may sentence as a youthful offender any
29 person:

30
31

1 (a) Who is at least 18 years of age or who has been
2 transferred for prosecution to the criminal division of the
3 circuit court pursuant to chapter 985 39;

4
5 Reviser's note.--Amended to conform to the
6 legislative directive in s. 122, ch. 97-238,
7 Laws of Florida.

8
9
10 Section 62. Section 958.046, Florida Statutes, is
11 amended to read:

12 958.046 Placement in county-operated boot camp
13 programs for youthful offenders.--In counties where there are
14 county-operated youthful offender boot camp programs, other
15 than boot camps described in ~~s. 39.057~~ or s. 958.04 or s.
16 985.309, the court may sentence a youthful offender to such a
17 boot camp. In county-operated youthful offender boot camp
18 programs, juvenile offenders shall not be commingled with
19 youthful offenders.

20
21 Reviser's note.--Amended to conform to the
22 transfer of s. 39.057 to s. 985.309 by s. 53,
23 ch. 97-238, Laws of Florida.

24
25
26 Section 63. Paragraphs (b) and (j) of subsection (1)
27 of section 960.001, Florida Statutes, are amended to read:

28 960.001 Guidelines for fair treatment of victims and
29 witnesses in the criminal justice and juvenile justice
30 systems.--

1 (1) The Department of Legal Affairs, the state
2 attorneys, the Department of Corrections, the Department of
3 Juvenile Justice, the Parole Commission, the State Courts
4 Administrator and circuit court administrators, the Department
5 of Law Enforcement, and every sheriff's department, police
6 department, or other law enforcement agency as defined in s.
7 943.10(4) shall develop and implement guidelines for the use
8 of their respective agencies, which guidelines are consistent
9 with the purposes of this act and s. 16(b), Art. I of the
10 State Constitution and are designed to implement the
11 provisions of s. 16(b), Art. I of the State Constitution and
12 to achieve the following objectives:

13 (b) Information for purposes of notifying victim or
14 appropriate next of kin of victim or other designated contact
15 of victim.--In the case of a homicide, pursuant to chapter
16 782; or a sexual offense, pursuant to chapter 794; or an
17 attempted murder or sexual offense, pursuant to chapter 777;
18 or stalking, pursuant to s. 784.048; or domestic violence,
19 pursuant to s. 25.385:

20 1. The arresting law enforcement officer or personnel
21 of an organization that provides assistance to a victim or to
22 the appropriate next of kin of the victim or other designated
23 contact must request that the victim or appropriate next of
24 kin of the victim or other designated contact complete a
25 victim notification card. However, the victim or appropriate
26 next of kin of the victim or other designated contact may
27 choose not to complete the victim notification card.

28 2. Unless the victim or the appropriate next of kin of
29 the victim or other designated contact waives the option to
30 complete the victim notification card, a copy of the victim
31 notification card must be filed with the incident report or

1 warrant in the sheriff's office of the jurisdiction in which
2 the incident report or warrant originated. The notification
3 card shall, at a minimum, consist of:
4 a. The name, address, and phone number of the victim;
5 or
6 b. The name, address, and phone number of the
7 appropriate next of kin of the victim; or
8 c. The name, address, and phone number of a designated
9 contact other than the victim or appropriate next of kin of
10 the victim; and
11 d. Any relevant identification or case numbers
12 assigned to the case.
13 3. The chief administrator, or a person designated by
14 the chief administrator, of a county jail, municipal jail,
15 juvenile detention facility, or residential commitment
16 facility shall make a reasonable attempt to notify the alleged
17 victim or appropriate next of kin of the alleged victim or
18 other designated contact within 4 hours following the release
19 of the defendant on bail or, in the case of a juvenile
20 offender, upon the release from residential detention or
21 commitment. If the chief administrator, or designee, is
22 unable to contact the alleged victim or appropriate next of
23 kin of the alleged victim or other designated contact by
24 telephone, the chief administrator, or designee, must send to
25 the alleged victim or appropriate next of kin of the alleged
26 victim or other designated contact a written notification of
27 the defendant's release.
28 4. Unless otherwise requested by the victim or the
29 appropriate next of kin of the victim or other designated
30 contact, the information contained on the victim notification
31 card must be sent by the chief administrator, or designee, of

1 the appropriate facility to the subsequent correctional or
2 residential commitment facility following the sentencing and
3 incarceration of the defendant, and unless otherwise requested
4 by the victim or the appropriate next of kin of the victim or
5 other designated contact, he or she must be notified of the
6 release of the defendant from incarceration as provided by
7 law.

8 5. If the defendant was arrested pursuant to a warrant
9 issued or taken into custody pursuant to s. 985.207 ~~39.037~~ in
10 a jurisdiction other than the jurisdiction in which the
11 defendant is being released, and the alleged victim or
12 appropriate next of kin of the alleged victim or other
13 designated contact does not waive the option for notification
14 of release, the chief correctional officer or chief
15 administrator of the facility releasing the defendant shall
16 make a reasonable attempt to immediately notify the chief
17 correctional officer of the jurisdiction in which the warrant
18 was issued or the juvenile was taken into custody pursuant to
19 s. 985.207 ~~39.037~~, and the chief correctional officer of that
20 jurisdiction shall make a reasonable attempt to notify the
21 alleged victim or appropriate next of kin of the alleged
22 victim or other designated contact, as provided in this
23 paragraph, that the defendant has been or will be released.

24 (j) Notification of right to request restitution.--Law
25 enforcement agencies and the state attorney shall inform the
26 victim of the victim's right to request and receive
27 restitution pursuant to ~~s. 39.054(1)(a)~~ or s. 775.089 or s.
28 985.231(1)(a)1., and of the victim's rights of enforcement
29 under ~~ss. 39.022 and~~ 775.089(6) and 985.201 in the event an
30 offender does not comply with a restitution order. The state
31 attorney shall seek the assistance of the victim in the

1 documentation of the victim's losses for the purpose of
2 requesting and receiving restitution. In addition, the state
3 attorney shall inform the victim if and when restitution is
4 ordered.

5
6 Reviser's note.--Paragraph (1)(b) was amended
7 to conform to the transfer of s. 39.037 to s.
8 985.207 by s. 15, ch. 97-238, Laws of Florida.
9 Paragraph (1)(j) was amended to conform to the
10 legislative directive in s. 122, ch. 97-238,
11 and to conform to the transfer of s. 39.022 to
12 s. 985.201 by s. 9, ch. 97-238.

13
14

15 Section 64. Subsection (40) of section 984.03, Florida
16 Statutes, is amended to read:

17 984.03 Definitions.--When used in this chapter, the
18 term:

19 (40) "Parent" means a woman who gives birth to a child
20 and a man whose consent to the adoption of the child would be
21 required under s. 63.062(1)(b). If a child has been legally
22 adopted, the term "parent" means the adoptive mother or father
23 of the child. The term does not include an individual whose
24 parental relationship to the child has been legally
25 terminated, or an alleged or prospective parent, unless the
26 parental status falls within the terms of either s. 39.4051(1)
27 ~~39.4051(7)~~ or s. 63.062(1)(b).

28
29
30
31

Reviser's note.--Amended to conform to the
reference to parental status in s. 39.4051(1);

1 s. 39.4051(7) relates to release of
2 information.

3
4
5 Section 65. Subsection (1) of section 984.04, Florida
6 Statutes, is amended to read:

7 984.04 Families in need of services and children in
8 need of services; procedures and jurisdiction.--

9 (1) It is the intent of the Legislature to address the
10 problems of families in need of services by providing them
11 with an array of services designed to preserve the unity and
12 integrity of the family and to emphasize parental
13 responsibility for the behavior of their children. Services to
14 families in need of services and children in need of services
15 shall be provided on a continuum of increasing intensity and
16 participation by the parent and child. Judicial intervention
17 to resolve the problems and conflicts that exist within a
18 family shall be limited to situations in which a resolution to
19 the problem or conflict has not been achieved through service,
20 treatment, and family intervention after all available less
21 restrictive resources have been exhausted. In creating this
22 chapter part, the Legislature recognizes the need to
23 distinguish the problems of truants, runaways, and children
24 beyond the control of their parents, and the services provided
25 to these children, from the problems and services designed to
26 meet the needs of abandoned, abused, neglected, and delinquent
27 children. In achieving this recognition, it shall be the
28 policy of the state to develop short-term, temporary services
29 and programs utilizing the least restrictive method for
30 families in need of services and children in need of services.
31

1 Reviser's note.--Amended to conform to the
2 arrangement of chapter 984, which is not
3 divided into parts.

4
5
6 Section 66. Section 984.05, Florida Statutes, is
7 amended to read:

8 984.05 Rules relating to habitual truants; adoption by
9 Department of Education and Department of Juvenile
10 Justice.--The Department of Juvenile Justice and the
11 Department of Education shall work together on the development
12 of, and shall adopt, rules as necessary for the implementation
13 of ss. 232.19, and 984.03(29), and 985.03(27).

14
15 Reviser's note.--Amended to conform to the
16 legislative directive in s. 122, ch. 97-238,
17 Laws of Florida.

18
19
20 Section 67. Section 984.071, Florida Statutes, is
21 amended to read:

22 984.071 Information packet.--The Department of
23 Juvenile Justice, in collaboration with the Department of
24 Children and Family Services and the Department of Education,
25 shall develop and publish an information packet that explains
26 the current process under this chapter ~~part IV of chapter 39~~
27 for obtaining assistance for a child in need of services or a
28 family in need of services and the community services and
29 resources available to parents of troubled or runaway
30 children. In preparing the information packet, the Department
31 of Juvenile Justice shall work with school district

1 superintendents, juvenile court judges, county sheriffs, and
2 other local law enforcement officials in order to ensure that
3 the information packet lists services and resources that are
4 currently available within the county in which the packet is
5 distributed. Each information packet shall be annually updated
6 and shall be available for distribution by January 1, 1998.
7 The school district shall distribute this information packet
8 to parents of truant children and to other parents upon
9 request or as deemed appropriate by the school district. In
10 addition, the Department of Juvenile Justice shall distribute
11 the information packet to state and local law enforcement
12 agencies. Any law enforcement officer who has contact with the
13 parent of a child who is locked out of the home or who runs
14 away from home shall make the information available to the
15 parent.

16

17 Reviser's note.--Amended to conform to the
18 legislative directive in s. 122, ch. 97-238,
19 Laws of Florida.

20

21

22 Section 68. Subsection (3) of section 984.10, Florida
23 Statutes, is amended to read:

24 984.10 Intake.--

25 (3) If the representative of the department determines
26 that in his or her judgment the interests of the family, the
27 child, and the public will be best served by providing the
28 family and child services and treatment voluntarily accepted
29 by the child and the parents or legal custodians, the
30 departmental representative may refer the family or child to
31 an appropriate service and treatment provider. As part of the

1 intake procedure, the departmental representative shall inform
2 the parent or legal custodian, in writing, of the services and
3 treatment available to the child and family by department
4 providers or community agencies and the rights and
5 responsibilities of the parent or legal guardian under this
6 chapter part.

7
8 Reviser's note.--Amended to conform to the
9 arrangement of chapter 984, which is not
10 divided into parts.

11
12
13 Section 69. Paragraphs (a) and (c) of subsection (3)
14 of section 984.15, Florida Statutes, are amended to read:

15 984.15 Petition for a child in need of services.--

16 (3)(a) The parent, guardian, or legal custodian may
17 file a petition alleging that a child is a child in need of
18 services if:

19 1. The department waives the requirement for a case
20 staffing committee.

21 2. The department fails to convene a meeting of the
22 case staffing committee within 7 days, excluding weekends and
23 legal holidays, after receiving a written request for such a
24 meeting from the child's parent, guardian, or legal custodian.

25 3. The parent, guardian, or legal custodian does not
26 agree with the plan for services offered by the case staffing
27 committee.

28 4. The department fails to provide a written report
29 within 7 days after the case staffing committee meets, as
30 required under s. 984.12(8)~~39.426(8)~~.

31

1 (c) The petition must be in writing and must set forth
2 specific facts alleging that the child is a child in need of
3 services as defined in s. 984.03 ~~39.01~~. The petition must also
4 demonstrate that the parent, guardian, or legal custodian has
5 in good faith, but unsuccessfully, participated in the
6 services and processes described in ss. 984.11 ~~39.424~~ and
7 984.12 ~~39.426~~.

8
9 Reviser's note.--Paragraph (3)(a) is amended to
10 conform to the transfer of s. 39.426(8) to s.
11 984.12(8) by s. 98, ch. 97-238, Laws of
12 Florida. Paragraph (3)(c) is amended to conform
13 to the correct location of the definition and
14 the transfer of ss. 39.424 and 39.426 to ss.
15 984.11 and 984.12 by ss. 97 and 98, ch. 97-238,
16 respectively.

17
18
19 Section 70. Subsection (5) of section 984.16, Florida
20 Statutes, is amended to read:

21 984.16 Process and service.--

22 (5) The jurisdiction of the court shall attach to the
23 child and the parent, custodian, or legal guardian of the
24 child and the case when the summons is served upon the child
25 or a parent or legal or actual custodian of the child or when
26 the child is taken into custody with or without service of
27 summons and after filing of a petition for a child in need of
28 services, and thereafter the court may control the child and
29 case in accordance with this chapter ~~part~~.

30
31

1 Reviser's note.--Amended to conform to the
2 arrangement of chapter 984, which is not
3 divided into parts.

4
5
6 Section 71. Paragraph (c) of subsection (1) of section
7 984.20, Florida Statutes, is amended to read:

8 984.20 Hearings for child-in-need-of-services cases.--

9 (1) ARRAIGNMENT HEARING.--

10 (c) If at the arraignment hearing the child and the
11 parent, guardian, or custodian consents or admits to the
12 allegations in the petition and the court determines that the
13 petition meets the requirements of s. 984.15(3)(e)
14 ~~39.436(3)(e)~~, the court shall proceed to hold a disposition
15 hearing at the earliest practicable time that will allow for
16 the completion of a predisposition study.

17
18 Reviser's note.--Amended to conform to the
19 transfer of s. 39.436 to s. 984.15 by s. 101,
20 ch. 97-238, Laws of Florida.

21
22
23 Section 72. Subsections (2) and (3) of section 984.21,
24 Florida Statutes, are amended to read:

25 984.21 Orders of adjudication.--

26 (2) If the court finds that the child named in the
27 petition is a child in need of services, but finds that no
28 action other than supervision in the home is required, it may
29 enter an order briefly stating the facts upon which its
30 finding is based, but withholding an order of adjudication and
31 placing the child and family under the supervision of the

1 department. If the court later finds that the parent,
2 guardian, or custodian of the child have not complied with the
3 conditions of supervision imposed, the court may, after a
4 hearing to establish the noncompliance, but without further
5 evidence of the state of the child in need of services, enter
6 an order of adjudication and shall thereafter have full
7 authority under this chapter ~~part~~ to provide for the child as
8 adjudicated.

9 (3) If the court finds that the child named in a
10 petition is a child in need of services, but elects not to
11 proceed under subsection (2), it shall incorporate that
12 finding in an order of adjudication entered in the case,
13 briefly stating the facts upon which the finding is made, and
14 the court shall thereafter have full authority under this
15 chapter ~~part~~ to provide for the child as adjudicated.

16
17 Reviser's note.--Amended to conform to the
18 arrangement of chapter 984, which is not
19 divided into parts.

20
21
22 Section 73. Subsection (4) of section 984.22, Florida
23 Statutes, is amended to read:

24 984.22 Powers of disposition.--

25 (4) All payments of fees made to the department
26 pursuant to this chapter, or child support payments made to
27 the department pursuant to subsection (3), shall be deposited
28 in the General Revenue Fund. In cases in which the child is
29 placed in foster care with the Department of Children and
30 Family Services, such child support payments shall be
31 deposited in the Community Resources Development ~~Foster Care,~~

1 ~~Group Home, Developmental Training, and Supported Employment~~
2 ~~Programs~~ Trust Fund.

3
4 Reviser's note.--Amended to conform to the
5 redesignation of the Foster Care, Group Home,
6 Developmental Training, and Supported
7 Employment Programs Trust Fund as the Community
8 Resources Development Trust Fund by s. 52, ch.
9 96-418, Laws of Florida.

10
11
12 Section 74. Paragraph (b) of subsection (1) and
13 subsections (5) and (6) of section 984.225, Florida Statutes,
14 are amended to read:

15 984.225 Powers of disposition; placement in a
16 staff-secure shelter.--

17 (1) Subject to specific legislative appropriation, the
18 court may order that a child adjudicated as a child in need of
19 services be placed for up to 90 days in a staff-secure shelter
20 if:

21 (b) The child refuses to remain under the reasonable
22 care and custody of his or her parent, guardian, or legal
23 custodian, as evidenced by repeatedly running away from home.
24 The court may not order that a child be placed in a
25 staff-secure facility unless:

26 1. The child has failed to successfully complete an
27 alternative treatment program or to comply with a
28 court-ordered sanction; and

29 2. The child has been placed in a residential program
30 on at least one prior occasion pursuant to a court order under
31 this chapter ~~part~~.

1
2 This subsection applies after other alternative,
3 less-restrictive remedies have been exhausted. The court may
4 order that a child be placed in a staff-secure shelter. The
5 department, or an authorized representative of the department,
6 must verify to the court that a bed is available for the
7 child. If the department or an authorized representative of
8 the department verifies that a bed is not available, the court
9 shall stay the placement until a bed is available. The
10 department will place the child's name on a waiting list. The
11 child who has been on the waiting list the longest will get
12 the next available bed.

13 (5) The department is deemed to have exhausted the
14 reasonable remedies offered under this chapter ~~part~~ if, at the
15 end of the commitment period, the parent, guardian, or legal
16 custodian continues to refuse to allow the child to remain at
17 home or creates unreasonable conditions for the child's
18 return. If, at the end of the commitment period, the child is
19 not reunited with his or her parent, guardian, or custodian
20 due solely to the continued refusal of the parent, guardian,
21 or custodian to provide food, clothing, shelter, and parental
22 support, the child is considered to be threatened with harm as
23 a result of such acts or omissions, and the court shall direct
24 that the child be handled in every respect as a dependent
25 child. Jurisdiction shall be transferred to the Department of
26 Children and Family Services and the child's care shall be
27 governed under parts II ~~III~~ and III of chapter 39 ~~39~~.

28 (6) The court shall review the child's commitment once
29 every 45 days as provided in s. 984.20 ~~39.44~~. The court shall
30 determine if the parent, guardian, or custodian has reasonably
31 participated in and financially contributed to the child's

1 counseling and treatment program. The court shall also
2 determine whether the department's efforts to reunite the
3 family have been reasonable. If the court finds an inadequate
4 level of support or participation by the parent, guardian, or
5 custodian prior to the end of the commitment period, the court
6 shall direct that the child be handled in every respect as a
7 dependent child. Jurisdiction shall be transferred to the
8 Department of Children and Family Services and the child's
9 care shall be governed under parts II ~~III~~ and III of chapter
10 39 ~~V~~.

11
12 Reviser's note.--Paragraph (1)(b) and
13 subsection (5) are amended to conform to the
14 arrangement of chapter 984, which is not
15 divided into parts. Subsections (5) and (6)
16 are amended to conform to the redesignation of
17 parts III and V of chapter 39 as parts II and
18 III necessitated by the repeal and transfer of
19 the provisions of former parts II and IV by ch.
20 97-238, Laws of Florida, and the assignment of
21 this section at its present location to conform
22 to the legislative directive in s. 122, ch.
23 97-238. Subsection (6) is also amended to
24 conform to the transfer of s. 39.44 to s.
25 984.20 by s. 106, ch. 97-238.

26
27
28 Section 75. Subsections (1), (2), and (4) of section
29 984.226, Florida Statutes, are amended to read:
30 984.226 Pilot program for a physically secure
31 facility; contempt of court.--

1 (1) Subject to specific legislative appropriation, the
2 Department of Juvenile Justice shall establish a pilot program
3 within a single judicial circuit for the purpose of operating
4 one or more physically secure facilities designated
5 exclusively for the placement of children in need of services
6 who are found in direct contempt or indirect contempt of a
7 valid court order. If any party files a petition that a child
8 is a child in need of services within such judicial circuit,
9 the child must be represented by counsel at each court
10 appearance. If the child is indigent, the court shall appoint
11 an attorney to represent the child as provided under s.
12 985.203 ~~39.041~~. Nothing precludes the court from requesting
13 reimbursement of attorney's fees and costs from the
14 nonindigent parent or legal guardian.

15 (2) If a child adjudicated as a child in need of
16 services is held in direct contempt or indirect contempt of a
17 valid court order, as an alternative to placing the child in a
18 staff-secure facility as provided under ~~s. 39.0145~~ or s.
19 984.225 or s. 985.216, the court may order that the child be
20 placed within the circuit in a physically secure facility
21 operated under the pilot program. A child may be committed to
22 the facility only if the department, or an authorized
23 representative of the department, verifies to the court that a
24 bed is available for the child at the physically secure
25 facility and the child has:

26 (a) Run away from a staff-secure shelter following
27 placement under ~~s. 39.0145~~ or s. 984.225 or s. 985.216; or

28 (b) Committed at least two prior acts of direct or
29 indirect contempt.

30 (4) Prior to being committed to a physically secure
31 facility, the child must be afforded all rights of due process

1 required under s. 985.216 ~~39.0145~~. While in the physically
2 secure facility, the child shall receive appropriate
3 assessment, treatment, and educational services that are
4 designed to eliminate or reduce the child's truant,
5 ungovernable, or runaway behavior. The child and family shall
6 be provided with family counseling and other support services
7 necessary for reunification.

8

9 Reviser's note.--Amended to conform to the
10 transfer of s. 39.041 to s. 985.203 by s. 11,
11 ch. 97-238, Laws of Florida, and the transfer
12 of s. 39.0145 to s. 985.216 by s. 24, ch.
13 97-238.

14

15

16 Section 76. Section 984.23, Florida Statutes, is
17 amended to read:

18 984.23 Court and witness fees.--In all proceedings
19 under this chapter part, no court fees shall be charged
20 against, and no witness fees shall be allowed to, any party to
21 a petition or any parent or legal custodian or child named in
22 a summons. Other witnesses shall be paid the witness fees
23 fixed by law.

24

25 Reviser's note.--Amended to conform to the
26 arrangement of chapter 984, which is not
27 divided into parts.

28

29

30 Section 77. Section 984.24, Florida Statutes, is
31 amended to read:

1 984.24 Appeal.--The state, any child, or the family,
2 guardian ad litem, or legal custodian of any child who is
3 affected by an order of the court pursuant to this chapter
4 ~~part~~ may appeal to the appropriate district court of appeal
5 within the time and in the manner prescribed by the Florida
6 Rules of Appellate Procedure and pursuant to s. 39.413.

7
8 Reviser's note.--Amended to conform to the
9 arrangement of chapter 984, which is not
10 divided into parts.

11
12
13 Section 78. Subsection (41) of section 985.03, Florida
14 Statutes, is amended to read:

15 985.03 Definitions.--When used in this chapter, the
16 term:

17 (41) "Parent" means a woman who gives birth to a child
18 and a man whose consent to the adoption of the child would be
19 required under s. 63.062(1)(b). If a child has been legally
20 adopted, the term "parent" means the adoptive mother or father
21 of the child. The term does not include an individual whose
22 parental relationship to the child has been legally
23 terminated, or an alleged or prospective parent, unless the
24 parental status falls within the terms of either s. 39.4051(1)
25 ~~39.4051(7)~~ or s. 63.062(1)(b).

26
27 Reviser's note.--Amended to conform to the
28 reference to parental status in s. 39.4051(1);
29 s. 39.4051(7) relates to release of
30 information.

1 Section 79. Paragraph (b) of subsection (2) of section
2 985.213, Florida Statutes, is amended to read:

3 985.213 Use of detention.--

4 (2)

5 (b)1. The risk assessment instrument for detention
6 care placement determinations and orders shall be developed by
7 the Department of Juvenile Justice in agreement with
8 representatives appointed by the following associations: the
9 Conference of Circuit Judges of Florida, the Prosecuting
10 Attorneys Association, and the Public Defenders Association.
11 Each association shall appoint two individuals, one
12 representing an urban area and one representing a rural area.
13 The parties involved shall evaluate and revise the risk
14 assessment instrument as is considered necessary using the
15 method for revision as agreed by the parties. The risk
16 assessment instrument shall take into consideration, but need
17 not be limited to, prior history of failure to appear, prior
18 offenses, offenses committed pending adjudication, any
19 unlawful possession of a firearm, theft of a motor vehicle or
20 possession of a stolen motor vehicle, and community control
21 status at the time the child is taken into custody. The risk
22 assessment instrument shall also take into consideration
23 appropriate aggravating and mitigating circumstances, and
24 shall be designed to target a narrower population of children
25 than s. 985.215(2). The risk assessment instrument shall also
26 include any information concerning the child's history of
27 abuse and neglect. The risk assessment shall indicate whether
28 detention care is warranted, and, if detention care is
29 warranted, whether the child should be placed into secure,
30 nonsecure, or home detention care.

31

1 2. If, at the detention hearing, the court finds a
2 material error in the scoring of the risk assessment
3 instrument, the court may amend the score to reflect factual
4 accuracy.

5 3. A child who is charged with committing an offense
6 of domestic violence as defined in s. 741.28(1) and who does
7 not meet detention criteria may be held in secure detention if
8 the court makes specific written findings that:

9 a. The offense of domestic violence which the child is
10 charged with committing caused physical injury to the victim;

11 b. Respite care for the child is not available; and

12 c. It is necessary to place the child in secure
13 detention in order to protect the victim from further injury.

14
15 The child may not be held in secure detention under this
16 subparagraph for more than 48 hours unless ordered by the
17 court. After 48 hours, the court shall hold a hearing if the
18 state attorney or victim requests that secure detention be
19 continued. The child may continue to be held in secure
20 detention if the court makes a specific, written finding that
21 secure detention is necessary to protect the victim from
22 further injury. However, the child may not be held in secure
23 detention beyond the time limits set forth in s. 985.215
24 ~~39.044~~.

25
26 Reviser's note.--Amended to conform to the
27 transfer of s. 39.044 to s. 985.215 by s. 23,
28 ch. 97-238, Laws of Florida.

1 Section 80. Subsection (2) of section 985.214, Florida
2 Statutes, is amended to read:

3 985.214 Prohibited uses of detention.--

4 (2) A child alleged to be dependent under part II ~~III~~
5 of ~~this~~ chapter 39 may not, under any circumstances, be placed
6 into secure detention care.

7
8 Reviser's note.--Amended to conform to the
9 legislative directive in s. 122, ch. 97-238,
10 Laws of Florida.

11
12
13 Section 81. Paragraph (a) of subsection (6) of section
14 985.218, Florida Statutes, is amended to read:

15 985.218 Petition.--

16 (6)(a) If a petition has been filed alleging that a
17 child has committed a delinquent act or violation of law, and
18 no demand for speedy trial has been made ~~pursuant to paragraph~~
19 ~~(d)~~, the adjudicatory hearing on the petition must be
20 commenced within 90 days after the earlier of:

- 21 1. The date the child is taken into custody; or
22 2. The date the petition is filed.

23
24 Reviser's note.--Amended to conform to the fact
25 that paragraph (6)(d) never existed.

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27
28 Section 82. Paragraph (a) of subsection (1) of section
29 985.231, Florida Statutes, is amended to read:

30 985.231 Powers of disposition in delinquency cases.--

31

1 (1)(a) The court that has jurisdiction of an
2 adjudicated delinquent child may, by an order stating the
3 facts upon which a determination of a sanction and
4 rehabilitative program was made at the disposition hearing:
5 1. Place the child in a community control program or
6 an aftercare program under the supervision of an authorized
7 agent of the Department of Juvenile Justice or of any other
8 person or agency specifically authorized and appointed by the
9 court, whether in the child's own home, in the home of a
10 relative of the child, or in some other suitable place under
11 such reasonable conditions as the court may direct. A
12 community control program for an adjudicated delinquent child
13 must include a penalty component such as restitution in money
14 or in kind, community service, a curfew, revocation or
15 suspension of the driver's license of the child, or other
16 nonresidential punishment appropriate to the offense and must
17 also include a rehabilitative program component such as a
18 requirement of participation in substance abuse treatment or
19 in school or other educational program.
20 a. A restrictiveness level classification scale for
21 levels of supervision shall be provided by the department,
22 taking into account the child's needs and risks relative to
23 community control supervision requirements to reasonably
24 ensure the public safety. Community control programs for
25 children shall be supervised by the department or by any other
26 person or agency specifically authorized by the court. These
27 programs must include, but are not limited to, structured or
28 restricted activities as described in this subparagraph, and
29 shall be designed to encourage the child toward acceptable and
30 functional social behavior. If supervision or a program of
31 community service is ordered by the court, the duration of

1 such supervision or program must be consistent with any
2 treatment and rehabilitation needs identified for the child
3 and may not exceed the term for which sentence could be
4 imposed if the child were committed for the offense, except
5 that the duration of such supervision or program for an
6 offense that is a misdemeanor of the second degree, or is
7 equivalent to a misdemeanor of the second degree, may be for a
8 period not to exceed 6 months. When restitution is ordered by
9 the court, the amount of restitution may not exceed an amount
10 the child and the parent or guardian could reasonably be
11 expected to pay or make. A child who participates in any work
12 program under this part is considered an employee of the state
13 for purposes of liability, unless otherwise provided by law.

14 b. The court may conduct judicial review hearings for
15 a child placed on community control for the purpose of
16 fostering accountability to the judge and compliance with
17 other requirements, such as restitution and community service.
18 The court may allow early termination of community control for
19 a child who has substantially complied with the terms and
20 conditions of community control.

21 c. If the conditions of the community control program
22 or the aftercare program are violated, the agent supervising
23 the program as it relates to the child involved, or the state
24 attorney, may bring the child before the court on a petition
25 alleging a violation of the program. Any child who violates
26 the conditions of community control or aftercare must be
27 brought before the court if sanctions are sought. A child
28 taken into custody under s. 985.207 ~~39-037~~ for violating the
29 conditions of community control or aftercare shall be held in
30 a consequence unit if such a unit is available. The child
31 shall be afforded a hearing within 24 hours after being taken

1 into custody to determine the existence of probable cause that
2 the child violated the conditions of community control or
3 aftercare. A consequence unit is a secure facility
4 specifically designated by the department for children who are
5 taken into custody under s. 985.207 for violating community
6 control or aftercare, or who have been found by the court to
7 have violated the conditions of community control or
8 aftercare. If the violation involves a new charge of
9 delinquency, the child may be detained under s. 985.215 in a
10 facility other than a consequence unit. If the child is not
11 eligible for detention for the new charge of delinquency, the
12 child may be held in the consequence unit pending a hearing
13 and is subject to the time limitations specified in s.
14 985.215. If the child denies violating the conditions of
15 community control or aftercare, the court shall appoint
16 counsel to represent the child at the child's request. Upon
17 the child's admission, or if the court finds after a hearing
18 that the child has violated the conditions of community
19 control or aftercare, the court shall enter an order revoking,
20 modifying, or continuing community control or aftercare. In
21 each such case, the court shall enter a new disposition order
22 and, in addition to the sanctions set forth in this paragraph,
23 may impose any sanction the court could have imposed at the
24 original disposition hearing. If the child is found to have
25 violated the conditions of community control or aftercare, the
26 court may:

27 (I) Place the child in a consequence unit in that
28 judicial circuit, if available, for up to 5 days for a first
29 violation, and up to 15 days for a second or subsequent
30 violation.

31

1 (II) Place the child on home detention with electronic
2 monitoring. However, this sanction may be used only if a
3 consequence unit is not available.

4 (III) Modify or continue the child's community control
5 program or aftercare program.

6 (IV) Revoke community control or aftercare and commit
7 the child to the department.

8 d. Notwithstanding s. 743.07 and paragraph (d), and
9 except as provided in s. 985.31, the term of any order placing
10 a child in a community control program must be until the
11 child's 19th birthday unless he or she is released by the
12 court, on the motion of an interested party or on its own
13 motion.

14 2. Commit the child to a licensed child-caring agency
15 willing to receive the child, but the court may not commit the
16 child to a jail or to a facility used primarily as a detention
17 center or facility or shelter.

18 3. Commit the child to the Department of Juvenile
19 Justice at a restrictiveness level defined in s. 985.03(45).
20 Such commitment must be for the purpose of exercising active
21 control over the child, including, but not limited to,
22 custody, care, training, urine monitoring, and treatment of
23 the child and furlough of the child into the community.
24 Notwithstanding s. 743.07 and paragraph (d), and except as
25 provided in s. 985.31, the term of the commitment must be
26 until the child is discharged by the department or until he or
27 she reaches the age of 21.

28 4. Revoke or suspend the driver's license of the
29 child.

30 5. Require the child and, if the court finds it
31 appropriate, the child's parent or guardian together with the

1 child, to render community service in a public service
2 program.

3 6. As part of the community control program to be
4 implemented by the Department of Juvenile Justice, or, in the
5 case of a committed child, as part of the community-based
6 sanctions ordered by the court at the disposition hearing or
7 before the child's release from commitment, order the child to
8 make restitution in money, through a promissory note cosigned
9 by the child's parent or guardian, or in kind for any damage
10 or loss caused by the child's offense in a reasonable amount
11 or manner to be determined by the court. The clerk of the
12 circuit court shall be the receiving and dispensing agent. In
13 such case, the court shall order the child or the child's
14 parent or guardian to pay to the office of the clerk of the
15 circuit court an amount not to exceed the actual cost incurred
16 by the clerk as a result of receiving and dispensing
17 restitution payments. The clerk shall notify the court if
18 restitution is not made, and the court shall take any further
19 action that is necessary against the child or the child's
20 parent or guardian. A finding by the court, after a hearing,
21 that the parent or guardian has made diligent and good faith
22 efforts to prevent the child from engaging in delinquent acts
23 absolves the parent or guardian of liability for restitution
24 under this subparagraph.

25 7. Order the child and, if the court finds it
26 appropriate, the child's parent or guardian together with the
27 child, to participate in a community work project, either as
28 an alternative to monetary restitution or as part of the
29 rehabilitative or community control program.

30 8. Commit the child to the Department of Juvenile
31 Justice for placement in a program or facility for serious or

1 habitual juvenile offenders in accordance with s. 985.31. Any
2 commitment of a child to a program or facility for serious or
3 habitual juvenile offenders must be for an indeterminate
4 period of time, but the time may not exceed the maximum term
5 of imprisonment that an adult may serve for the same offense.
6 The court may retain jurisdiction over such child until the
7 child reaches the age of 21, specifically for the purpose of
8 the child completing the program.

9 9. In addition to the sanctions imposed on the child,
10 order the parent or guardian of the child to perform community
11 service if the court finds that the parent or guardian did not
12 make a diligent and good faith effort to prevent the child
13 from engaging in delinquent acts. The court may also order the
14 parent or guardian to make restitution in money or in kind for
15 any damage or loss caused by the child's offense. The court
16 shall determine a reasonable amount or manner of restitution,
17 and payment shall be made to the clerk of the circuit court as
18 provided in subparagraph 6.

19 10. Subject to specific appropriation, commit the
20 juvenile sexual offender to the Department of Juvenile Justice
21 for placement in a program or facility for juvenile sexual
22 offenders in accordance with s. 985.308. Any commitment of a
23 juvenile sexual offender to a program or facility for juvenile
24 sexual offenders must be for an indeterminate period of time,
25 but the time may not exceed the maximum term of imprisonment
26 that an adult may serve for the same offense. The court may
27 retain jurisdiction over a juvenile sexual offender until the
28 juvenile sexual offender reaches the age of 21, specifically
29 for the purpose of completing the program.

30
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1 Reviser's note.--Amended to conform to the
2 transfer of s. 39.037 to s. 985.207 by s. 15,
3 ch. 97-238, Laws of Florida.

4
5
6 Section 83. Paragraph (d) of subsection (1) of section
7 985.306, Florida Statutes, is amended to read:

8 985.306 Delinquency pretrial intervention program.--
9 (1)

10 (d) Any entity, whether public or private, providing
11 pretrial substance abuse education, treatment intervention,
12 and a urine monitoring program under this section must
13 contract with the county or appropriate governmental entity,
14 and the terms of the contract must include, but need not be
15 limited to, the requirements established for private entities
16 under s. 948.15(3)~~948.15(2)~~. It is the intent of the
17 Legislature that public or private entities providing
18 substance abuse education and treatment intervention programs
19 involve the active participation of parents, schools,
20 churches, businesses, law enforcement agencies, and the
21 department or its contract providers.

22
23 Reviser's note.--Amended to conform to the
24 redesignation of s. 948.15(2) as s. 948.15(3)
25 by s. 42, ch. 95-283, Laws of Florida.

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