

By Representative Roberts-Burke

1 A bill to be entitled
2 An act relating to juvenile proceedings;
3 amending s. 39.01, F.S.; redefining "abandoned"
4 with respect to ch. 39, F.S., relating to
5 juvenile proceedings, to include a child in
6 need of services or a family in need of
7 services, under specified circumstances;
8 amending s. 39.442, F.S., relating to court
9 powers of disposition with respect to families
10 or children in need of services, and reenacting
11 s. 39.424(1), F.S., relating to services to
12 families in need of services, to incorporate
13 said amendment in a reference thereto;
14 providing for commitment of child in need of
15 services to the temporary legal custody of the
16 Department of Juvenile Justice for placement in
17 residential facility, according to specified
18 criteria and conditions; providing guidelines
19 and time limits relating to placement of child
20 in need of services in residential facility;
21 providing for judicial review; providing for
22 payment to the Department of Children and
23 Family Services or deposit of certain child
24 support moneys; amending s. 39.446, F.S.,
25 relating to departmental consent to medical
26 treatment of child, to conform a cross
27 reference; providing an effective date.
28
29 Be It Enacted by the Legislature of the State of Florida:
30
31

1 Section 1. Subsection (1) of section 39.01, Florida
2 Statutes, 1996 Supplement, is amended to read:

3 39.01 Definitions.--When used in this chapter:

4 (1) "Abandoned" means a situation in which the parent
5 or legal custodian of a child or, in the absence of a parent
6 or legal custodian, the person responsible for the child's
7 welfare, while being able, makes no provision for the child's
8 support and makes no effort to communicate with the child,
9 which situation is sufficient to evince a willful rejection of
10 parental obligations. If the efforts of such parent or legal
11 custodian, or person primarily responsible for the child's
12 welfare to support and communicate with the child are, in the
13 opinion of the court, only marginal efforts that do not evince
14 a settled purpose to assume all parental duties, the court may
15 declare the child to be abandoned. The term "abandoned" does
16 not include a "child in need of services" as defined in
17 subsection (12) or a "family in need of services" as defined
18 in subsection (30), unless all efforts described in s.
19 39.442(3) and (4) have been exhausted. The incarceration of a
20 parent, legal custodian, or person responsible for a child's
21 welfare does not constitute a bar to a finding of abandonment.

22 Section 2. Section 39.442, Florida Statutes, 1996
23 Supplement, is amended to read:

24 39.442 Powers of disposition.--

25 (1) If the court finds that services and treatment
26 have not been provided or utilized by a child or family, the
27 court having jurisdiction of the child shall have the power to
28 direct the least intrusive and least restrictive disposition,
29 as follows:

30
31

1 (a) Order the parent, guardian, or custodian and the
2 child to participate in treatment, services, and any other
3 alternative identified as necessary.

4 (b) Order the parent, guardian, or custodian to pay a
5 fine or fee based on the recommendations of the department.

6 (2) When any child is adjudicated by the court to be a
7 child in need of services, the court having jurisdiction of
8 the child and parent, guardian, or custodian shall have the
9 power, by order, to:

10 (a) Place the child under the supervision of the
11 department's contracted provider of programs and services for
12 children in need of services and families in need of services.
13 "Supervision," for the purposes of this section, means
14 services as defined by the contract between the department and
15 the provider.

16 (b) Place the child in the temporary legal custody of
17 an adult willing to care for the child.

18 (c) Commit the child to a licensed child-caring agency
19 willing to receive the child and to provide services without
20 compensation from the department.

21 (d) Order the child, and, if the court finds it
22 appropriate, the parent, guardian, or custodian of the child,
23 to render community service in a public service program.

24 (3) The court shall have the power to commit a child
25 adjudicated a child in need of services to the temporary legal
26 custody of the department to be placed in an appropriate
27 residential facility if all of the following criteria are met:

28 (a) The parent, guardian, or custodian of the child
29 refuses to provide care or support for the child.
30
31

1 (b) The refusal is a direct result of an established
2 pattern of significant disruptive behavior of the child in the
3 home of the parent, guardian, or custodian.

4 (c) The parent, guardian, or custodian has made a good
5 faith effort to obtain appropriate services for the child and
6 the family.

7 (d) The parent, guardian, or custodian has made a good
8 faith effort to identify an alternative living arrangement for
9 the child.

10 (e) The child does not have a mental health diagnosis
11 requiring residential mental health treatment, including, but
12 not limited to, a commitment pursuant to chapter 393, relating
13 to developmental disabilities, or chapter 394, relating to
14 mental health. If the child requires residential mental
15 health treatment, the court shall refer the child to the
16 Department of Children and Family Services for the provision
17 of necessary services.

18 (4) A commitment pursuant to subsection (3) must meet
19 the following conditions:

20 (a) The parents, guardian, or custodian shall be
21 ordered to cooperate with efforts to reunite the child with
22 the family and, where appropriate, to participate in
23 counseling and to pay for all costs associated with the care
24 and counseling provided to the child and family. Commitment
25 of a child pursuant to subsection (3) is designed to provide
26 residential care on a temporary basis. Such commitments do
27 not abrogate the parent's, guardian's, or custodian's legal
28 responsibilities in regard to the child except to the extent
29 that those responsibilities are temporarily altered by court
30 order.

31

1 (b) The term of such commitment shall not exceed 90
2 days. The department will be deemed to have exhausted the
3 reasonable remedies offered by the child in need of services
4 program pursuant to this part if after 90 days the parent,
5 guardian, or custodian continues to refuse to allow the child
6 home or creates unreasonable conditions for the child's
7 return. Upon expiration of the 90 days, if the child has not
8 been reunited with the child's parent, guardian, or custodian,
9 the child shall be considered to be threatened with harm as a
10 result of the parent's, guardian's, or custodian's acts or
11 omissions, and the order of child-in-need-of-services
12 adjudication shall become an order of dependency adjudication
13 by operation of law. The court then shall transfer
14 jurisdiction to the Department of Children and Family
15 Services, and the court shall direct that the child be handled
16 in every respect as a dependent child, and shall be governed
17 by the provisions of parts III and V of this chapter.

18 (c) Upon commitment of the child, the court shall
19 conduct judicial reviews of the commitment placement at 45-day
20 intervals, if necessary, following the commitment.

21 (d) If the court conducts a judicial review hearing,
22 the court shall inquire into both the counseling participation
23 and financial participation of the parents, guardian, or
24 custodian in the child's treatment or counseling program, and
25 the court shall determine if that participation is reasonable.
26 The court shall also make a determination as to whether the
27 department's efforts to reunite the family have been
28 reasonable. If the court finds an inadequate level of support
29 or participation by the family prior to the end of the 90-day
30 commitment, the court shall direct that the child be handled

31

1 in every respect as a dependent child, and shall be governed
2 by the provisions of parts III and V of this chapter.

3 (e) The placement of a child in need of services in a
4 residential facility is contingent upon a specific legislative
5 appropriation to the Department of Juvenile Justice for
6 residential placements of children committed pursuant to
7 subsection (3).

8 (5)~~(3)~~ When any child is adjudicated by the court to
9 be a child in need of services and temporary legal custody of
10 the child has been placed with an adult willing to care for
11 the child, a licensed child-caring agency, the Department of
12 Juvenile Justice, or the Department of Children and Family
13 ~~Health and Rehabilitative~~ Services, the court shall order the
14 natural or adoptive parents of such child, including the
15 natural father of such child born out of wedlock who has
16 acknowledged his paternity in writing before the court, or the
17 guardian of such child's estate if possessed of assets which
18 under law may be disbursed for the care, support, and
19 maintenance of such child, to pay child support to the adult
20 ~~relative~~ caring for the child, the licensed child-caring
21 agency, the Department of Juvenile Justice, or the Department
22 of Children and Family ~~Health and Rehabilitative~~ Services.
23 When such order affects the guardianship estate, a certified
24 copy of such order shall be delivered to the judge having
25 jurisdiction of such guardianship estate. If the court
26 determines that the parent is unable to pay support, placement
27 of the child shall not be contingent upon issuance of a
28 support order.

29 (6)~~(4)~~ All payments of fees made to the department
30 pursuant to this part, or child support payments made to the
31 department pursuant to this section ~~subsection (5)~~, shall be

1 deposited in the General Revenue Fund. In cases in which the
2 child is placed in foster care with the Department of Children
3 and Family Health and Rehabilitative Services, such child
4 support payments shall be deposited in the Foster Care, Group
5 Home, Developmental Training, and Supported Employment
6 Programs Trust Fund.

7 (7)~~(5)~~ In carrying out the provisions of this part,
8 the court shall order the child, family, parent, guardian, or
9 custodian of a child who is found to be a child in need of
10 services to participate in family counseling and other
11 professional counseling activities or other alternatives
12 deemed necessary for the rehabilitation of the child.

13 (8)~~(6)~~ The participation and cooperation of the
14 family, parent, guardian, or custodian, and the child with
15 court-ordered services, treatment, or community service are
16 mandatory, not merely voluntary. The court may use its
17 contempt powers to enforce its order.

18 Section 3. For the purpose of incorporating the
19 amendment to section 39.442, Florida Statutes, 1996
20 Supplement, in a reference thereto, subsection (1) of section
21 39.424, Florida Statutes, 1996 Supplement, is reenacted to
22 read:

23 39.424 Services to families in need of services.--

24 (1) Services and treatment to families in need of
25 services shall be by voluntary agreement of the parent or
26 legal guardian and the child or as directed by a court order
27 pursuant to s. 39.442.

28 Section 4. Subsection (12) of section 39.446, Florida
29 Statutes, 1996 Supplement, is amended to read:

30 39.446 Medical, psychiatric, and psychological
31 examination and treatment of child; physical or mental

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

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

8 Section 5. This act shall take effect October 1, 1997,
9 except that the provisions herein relating to placement of a
10 child in need of services in a residential facility shall take
11 effect on the effective date of, and contingent upon, a
12 specific legislative appropriation to the Department of
13 Juvenile Justice for residential placements of children
14 committed pursuant to s. 39.442(3), Florida Statutes, as
15 created by this act.

16 *****

17
18 HOUSE SUMMARY

19 Redefines "abandoned" with respect to ch. 39, F.S.,
20 relating to juvenile proceedings, to include a child in
21 need of services or a family in need of services, under
22 specified circumstances. Revises court powers of
23 disposition with respect to families or children in need
24 of services. Provides for commitment of child in need of
25 services to the temporary legal custody of the Department
26 of Juvenile Justice for placement in residential
27 facility, according to specified criteria and conditions
28 and contingent upon specific legislative appropriation to
29 the Department of Juvenile Justice. Provides guidelines
30 and time limits relating to placement of child in need of
31 services in residential facility. Provides for judicial
review. Provides for payment to the Department of
Children and Family Services or deposit of certain child
support moneys. Revises specified provisions relating to
departmental consent to medical treatment of child, to
conform a cross reference.