

By the Committee on Children and Families; and Senator Mitchell

300-1842-99

1 A bill to be entitled
2 An act relating to child protection; amending
3 s. 39.001, F.S., relating to purpose and intent
4 of ch. 39, F.S.; conforming and clarifying
5 provisions and references; creating s. 39.0014,
6 F.S.; providing responsibilities of public
7 agencies; amending s. 39.0015, F.S., relating
8 to child abuse prevention training in the
9 district school system; amending s. 39.01,
10 F.S.; revising and conforming definitions;
11 amending s. 39.011, F.S., relating to immunity
12 from liability; amending s. 39.0121, F.S.,
13 relating to rulemaking authority; amending s.
14 39.013, F.S.; clarifying and conforming
15 provisions relating to procedures,
16 jurisdiction, and right to counsel; amending s.
17 39.0132, F.S.; reducing period the court must
18 preserve records pertaining to a dependent
19 child; providing for admission of termination
20 of parental rights orders as evidence in
21 subsequent proceedings; amending s. 39.0134,
22 F.S.; providing for imposition and enforcement
23 of liens for attorney's fees; amending s.
24 39.201, F.S.; clarifying provisions relating to
25 mandatory reports of child abuse, abandonment,
26 or neglect; amending s. 39.202, F.S.; revising
27 provisions relating to confidentiality of
28 reports and records; amending s. 39.203, F.S.;
29 clarifying provisions relating to immunity from
30 liability for reporting child abuse,
31 abandonment, or neglect; amending s. 39.206,

1 F.S., relating to imposition of administrative
2 fines for false reporting; amending ss. 39.301
3 and 39.302, F.S.; revising provisions relating
4 to initiation of protective investigation;
5 amending s. 39.3035, F.S., relating to child
6 advocacy centers; amending s. 39.304, F.S.,
7 relating to medical examination and treatment;
8 amending ss. 39.311, 39.312, and 39.313, F.S.,
9 relating to the Family Builders Program;
10 amending s. 39.395, F.S., relating to detaining
11 a child; amending s. 39.401, F.S., relating to
12 taking a child into custody; amending s.
13 39.402, F.S.; revising provisions relating to
14 placement in a shelter; providing for parents'
15 right to continuance of shelter hearing to
16 obtain counsel; requiring the shelter order to
17 require certain financial information from the
18 parent or legal custodian; providing timeframe
19 for review of shelter placement; amending s.
20 39.407, F.S., relating to medical and
21 psychological examinations; amending s. 39.501,
22 F.S., relating to petition for dependency;
23 amending s. 39.502, F.S., relating to notice,
24 process, and service; amending s. 39.503, F.S.,
25 relating to identifying or locating a parent;
26 amending s. 39.504, F.S., relating to
27 injunction pending disposition of petition;
28 amending s. 39.506, F.S.; revising provisions
29 relating to arraignment hearings; specifying
30 when failure of a person to appear constitutes
31 consent to a dependency adjudication; amending

1 s. 39.507, F.S., relating to adjudicatory
2 hearings; amending s. 39.508, F.S.; revising
3 provisions relating to disposition hearings and
4 orders; providing for permanency status of the
5 child; specifying conditions for termination of
6 departmental supervision and cessation of
7 judicial reviews; amending s. 39.5085, F.S.;
8 revising the department's authority to provide
9 a relative caregiver benefit; amending s.
10 39.509, F.S., relating to grandparents' rights;
11 amending s. 39.510, F.S., relating to appeal;
12 amending s. 39.601, F.S.; revising and
13 clarifying case-plan requirements; amending s.
14 39.602, F.S., relating to case planning for a
15 child in out-of-home care; amending s. 39.603,
16 F.S.; conforming timeframes relating to court
17 approvals of case planning; amending s. 39.701,
18 F.S.; revising and clarifying timeframes
19 relating to judicial reviews; specifying that
20 notice is not required for persons present at
21 the previous hearing; providing for a parent's
22 partial compliance with the case plan;
23 requiring that certain updated documentation be
24 furnished to the court; amending s. 39.702,
25 F.S., relating to citizen review panels;
26 amending s. 39.703, F.S., relating to
27 initiation of proceedings to terminate parental
28 rights; amending s. 39.704, F.S., relating to
29 exemption from judicial review; amending s.
30 39.801, F.S., relating to procedures,
31 jurisdiction, and notice for termination of

1 parental rights; providing notice and
2 consequences regarding failure to appear at
3 advisory hearings; providing for service of
4 subpoenas by agents of the department or
5 guardian ad litem; amending s. 39.802, F.S.,
6 relating to petition for termination of
7 parental rights; amending s. 39.805, F.S.,
8 relating to answers to petition or pleadings;
9 amending s. 39.806, F.S.; revising grounds for
10 termination of parental rights; revising
11 timeframe for identification or location of
12 parent in provisions relating to termination of
13 parental rights; amending s. 39.807, F.S.,
14 relating to right to counsel for indigent
15 parents; revising an exclusion; revising
16 timeframe for provision of certain reports to
17 all parties; amending s. 39.808, F.S., relating
18 to advisory hearing and pretrial status
19 conference; amending s. 39.811, F.S., relating
20 to powers and order of disposition; amending s.
21 39.814, F.S., relating to oaths, records, and
22 confidential information; amending s. 39.815,
23 F.S., relating to appeal; amending s. 39.822,
24 F.S., relating to appointment of guardian ad
25 litem for abused, abandoned, or neglected
26 child; specifying timeframe for provision of
27 reports to all parties; amending ss. 63.0427
28 and 419.001, F.S.; conforming cross-references;
29 providing an effective date.

30
31 Be It Enacted by the Legislature of the State of Florida:

1 Section 1. Paragraphs (g) and (j) of subsection (1) of
2 section 39.001, Florida Statutes, 1998 Supplement, are amended
3 to read:

4 39.001 Purposes and intent; personnel standards and
5 screening.--

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

8 (g) To ensure that the parent or legal custodian
9 ~~guardian~~ from whose custody the child has been taken assists
10 the department to the fullest extent possible in locating
11 relatives suitable to serve as caregivers for the child.

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

20 Section 2. Section 39.0014, Florida Statutes, is
21 created to read:

22 39.0014 Responsibilities of public agencies.--All
23 state, county, and local agencies have a duty to give such
24 cooperation, assistance, and information to the department as
25 will enable it to fulfill its responsibilities under this
26 chapter.

27 Section 3. Paragraph (b) of subsection (3) and
28 paragraph (a) of subsection (4) of section 39.0015, Florida
29 Statutes, 1998 Supplement, are amended to read:

30 39.0015 Child abuse prevention training in the
31 district school system.--

1 (3) DEFINITIONS.--As used in this section:
2 (b) "Child abuse" means those acts as defined in ss.
3 39.01(1), (2), (30), and (46), 827.04, and 984.03(1), (2), and
4 (39).

5 (4) PRIMARY PREVENTION AND TRAINING PROGRAM.--A
6 primary prevention and training program shall include all of
7 the following, as appropriate for the persons being trained:
8 (a) Information provided in a clear and nonthreatening
9 manner, describing the problem of child abuse, including, but
10 not limited to, sexual abuse, physical abuse, abandonment,
11 neglect, and alcohol and drug abuse, and the possible
12 solutions.

13 Section 4. Section 39.01, Florida Statutes, 1998
14 Supplement, is amended to read:

15 39.01 Definitions.--When used in this chapter, unless
16 the context otherwise requires:

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

1 or caregiver responsible for a child's welfare may support a
2 finding of abandonment.

3 (2) "Abuse" means any willful act or threatened act
4 that results in any physical, mental, or sexual injury or harm
5 that causes or is likely to cause the child's physical,
6 mental, or emotional health to be significantly impaired. ~~For~~
7 ~~the purpose of protective investigations, Abuse of a child~~
8 ~~includes the acts or omissions of the parent, legal custodian,~~
9 ~~caregiver, or other person responsible for the child's~~
10 ~~welfare.~~ Corporal discipline of a child by a parent, ~~legal~~
11 ~~custodian, or caregiver~~ for disciplinary purposes does not in
12 itself constitute abuse when it does not result in harm to the
13 child.

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

16 (4) "Adjudicatory hearing" means a hearing for the
17 court to determine whether or not the facts support the
18 allegations stated in the petition in dependency cases or in
19 termination of parental rights cases.

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

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

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

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

1 (b) A child who is alleged to have committed any
2 violation of law or delinquent act involving juvenile sexual
3 abuse. "Juvenile sexual abuse" means any sexual behavior which
4 occurs without consent, without equality, or as a result of
5 coercion. For purposes of this paragraph, the following
6 definitions apply:

7 1. "Coercion" means the exploitation of authority or
8 the use of bribes, threats of force, or intimidation to gain
9 cooperation or compliance.

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

13 3. "Consent" means an agreement, including all of the
14 following:

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

17 b. Knowledge of societal standards for what is being
18 proposed.

19 c. Awareness of potential consequences and
20 alternatives.

21 d. Assumption that agreement or disagreement will be
22 accepted equally.

23 e. Voluntary decision.

24 f. Mental competence.

25
26 Juvenile sexual offender behavior ranges from noncontact
27 sexual behavior such as making obscene phone calls,
28 exhibitionism, voyeurism, and the showing or taking of lewd
29 photographs to varying degrees of direct sexual contact, such
30 as frottage, fondling, digital penetration, rape, fellatio,
31 sodomy, and various other sexually aggressive acts.

1 (8) "Arbitration" means a process whereby a neutral
2 third person or panel, called an arbitrator or an arbitration
3 panel, considers the facts and arguments presented by the
4 parties and renders a decision which may be binding or
5 nonbinding.

6 (9) "Authorized agent" or "designee" of the department
7 means an employee, volunteer, or other person or agency
8 determined by the state to be eligible for state-funded risk
9 management coverage, that is assigned or designated by the
10 department to perform duties or exercise powers pursuant to
11 this chapter.

12 (10) "Caregiver" means the parent, legal custodian,
13 adult household member, or other person responsible for a
14 child's welfare as defined in subsection (48) ~~(47)~~.

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

22 (12) "Child" or "youth" means any unmarried person
23 under the age of 18 years who has not been emancipated by
24 order of the court ~~and who has been alleged or found to be~~
25 ~~dependent.~~

26 (13) "Child protection team" means a team of
27 professionals established by the Department of Health to
28 receive referrals from the protective investigators and
29 protective supervision staff of the department and to provide
30 specialized and supportive services to the program in
31 processing child abuse, abandonment, or neglect cases. A child

1 protection team shall provide consultation to other programs
2 of the department and other persons regarding child abuse,
3 abandonment, or neglect cases.

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

6 (a) To have been abandoned, abused, or neglected by
7 the child's parent or parents or legal custodians, ~~or~~
8 ~~caregivers~~;

9 (b) To have been surrendered to the department, the
10 former Department of Health and Rehabilitative Services, or a
11 licensed child-placing agency for purpose of adoption;

12 (c) To have been voluntarily placed with a licensed
13 child-caring agency, a licensed child-placing agency, an adult
14 relative, the department, or the former Department of Health
15 and Rehabilitative Services, after which placement, under the
16 requirements of this chapter, a case plan has expired and the
17 parent or parents or legal custodians, ~~or caregivers~~ have
18 failed to substantially comply with the requirements of the
19 plan;

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

24 (e) To have no parent or legal custodians capable of
25 providing, legal custodian, or caregiver to provide
26 supervision and care; or

27 (f) To be at substantial risk of imminent abuse,
28 abandonment, or neglect by the parent or parents or legal
29 custodians, ~~or caregivers~~.

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

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

3 (16) "Circuit" means any of the 20 judicial circuits
4 as set forth in s. 26.021.

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

15 (18) "Court," unless otherwise expressly stated, means
16 the circuit court assigned to exercise jurisdiction under this
17 chapter.

18 (19) "Department" means the Department of Children and
19 Family Services.

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

25 (21) "Diligent efforts of social service agency" means
26 reasonable efforts to provide social services or reunification
27 services made by any social service agency that is a party to
28 a case plan.

29 (22) "Diligent search" means the efforts of a social
30 service agency to locate a parent or prospective parent whose
31 identity or location is unknown, initiated as soon as the

1 social service agency is made aware of the existence of such
2 parent, with the search progress reported at each court
3 hearing until the parent is either identified and located or
4 the court excuses further search.

5 (23) "Disposition hearing" means a hearing in which
6 the court determines the most appropriate protections,
7 services, and placement for the child ~~family support services~~
8 ~~in the least restrictive available setting~~ in dependency cases
9 ~~or in termination of parental rights cases.~~

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

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

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

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

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

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

26 (c) Acquiring custody of a child; or

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

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

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

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

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

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

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

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

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

28 a. Sprains, dislocations, or cartilage damage.

29 b. Bone or skull fractures.

30 c. Brain or spinal cord damage.

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

10

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

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

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

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

1 following factors: the age of the child; any prior history of
2 injuries to the child; the location of the injury on the body
3 of the child; the multiplicity of the injury; and the type of
4 trauma inflicted. Corporal discipline may be considered
5 excessive or abusive when it results in any of the following
6 or other similar injuries:

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

20 (b) Commits, or allows to be committed, sexual
21 battery, as defined in chapter 794, or lewd or lascivious
22 acts, as defined in chapter 800, against the child.

23 (c) Allows, encourages, or forces the sexual
24 exploitation of a child, which includes allowing, encouraging,
25 or forcing a child to:

- 26 1. Solicit for or engage in prostitution; or
- 27 2. Engage in a sexual performance, as defined by
28 chapter 827.

29 (d) Exploits a child, or allows a child to be
30 exploited, as provided in s. 450.151.

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

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

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

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

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

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

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

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14 As used in this paragraph, the term "controlled substance"
15 means prescription drugs not prescribed for the parent or not
16 administered as prescribed and controlled substances as
17 outlined in Schedule I or Schedule II of s. 893.03. The parent
18 of a newborn infant may not be subject to criminal
19 investigation solely on the basis of the positive drug
20 toxicology of a newborn infant.

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

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

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

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

31

1 (31) "Health and human services board" means the body
2 created in each service district of the department pursuant to
3 the provisions of s. 20.19(8).

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

11 (33) "Judge" means the circuit judge exercising
12 jurisdiction pursuant to this chapter.

13 (34) "Legal custody" means a legal status created by
14 court order or letter of guardianship which vests in a
15 custodian of the person or guardian, whether an agency or an
16 individual, the right to have physical custody of the child
17 and the right and duty to protect, train, and discipline the
18 child and to provide him or her with food, shelter, education,
19 and ordinary medical, dental, psychiatric, and psychological
20 care. The legal custodian is the person or entity in whom the
21 legal right to custody is vested. When the phrase "parent or
22 legal custodian" is used in this chapter, it refers to rights
23 or responsibilities of the parent and, only if there is no
24 living parent with intact parental rights, to the rights or
25 responsibilities of the legal custodian who has assumed the
26 role of the parent.

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

31

1 (36) "Licensed child-caring agency" means a person,
2 society, association, or agency licensed by the department to
3 care for, receive, and board children.

4 (37) "Licensed child-placing agency" means a person,
5 society, association, or institution licensed by the
6 department to care for, receive, or board children and to
7 place children in a licensed child-caring institution or a
8 foster or adoptive home.

9 (38) "Licensed health care professional" means a
10 physician licensed under chapter 458, an osteopathic physician
11 licensed under chapter 459, a nurse licensed under chapter
12 464, a physician assistant licensed under chapter 458 or
13 chapter 459, or a dentist licensed under chapter 466.

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

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

22 (41) "Long-term relative custodian" means an adult
23 relative who is a party to a long-term custodial relationship
24 created by a court order pursuant to this chapter.

25 (42) "Long-term ~~relative~~ custody" or "long-term
26 custodial relationship" means the relationship that a juvenile
27 court order creates between a child and an adult relative of
28 the child or other legal custodian ~~caregiver~~ approved by the
29 court when the child cannot be placed in the custody of a
30 ~~natural~~ parent and termination of parental rights is not
31 deemed to be in the best interest of the child. Long-term

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

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

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

29 (45) "Necessary medical treatment" means care which is
30 necessary within a reasonable degree of medical certainty to
31

1 prevent the deterioration of a child's condition or to
2 alleviate immediate pain of a child.

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

23 (a) Medical services from a licensed physician,
24 dentist, optometrist, podiatric physician, or other qualified
25 health care provider; or

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

30
31

1 ~~For the purpose of protective investigations, Neglect of a~~
2 ~~child includes the acts or omissions of the parent, legal~~
3 ~~custodian, or caregiver.~~

4 ~~(47) "Other person responsible for a child's welfare"~~
5 ~~includes the child's legal guardian, legal custodian, or~~
6 ~~foster parent; an employee of a private school, public or~~
7 ~~private child day care center, residential home, institution,~~
8 ~~facility, or agency; or any other person legally responsible~~
9 ~~for the child's welfare in a residential setting; and also~~
10 ~~includes an adult sitter or relative entrusted with a child's~~
11 ~~care. For the purpose of departmental investigative~~
12 ~~jurisdiction, this definition does not include law enforcement~~
13 ~~officers, or employees of municipal or county detention~~
14 ~~facilities or the Department of Corrections, while acting in~~
15 ~~an official capacity.~~

16 ~~(47)~~(48) "Next of kin" means an adult relative of a
17 child who is the child's brother, sister, grandparent, aunt,
18 uncle, or first cousin.

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

31

1 (49) "Out-of-home" means a placement outside of the
2 home of the parents or a parent.

3 (50)~~(49)~~ "Parent" means a woman who gives birth to a
4 child and a man whose consent to the adoption of the child
5 would be required under s. 63.062(1)(b). If a child has been
6 legally adopted, the term "parent" means the adoptive mother
7 or father of the child. The term does not include an
8 individual whose parental relationship to the child has been
9 legally terminated, or an alleged or prospective parent,
10 unless the parental status falls within the terms of s.
11 39.503(1)~~39.4051(1)~~ or s. 63.062(1)(b). When the phrase
12 "parent or legal custodian" is used in this chapter, it refers
13 to rights or responsibilities of the parent and, only if there
14 is no living parent with intact parental rights, to the rights
15 or responsibilities of the legal custodian who has assumed the
16 role of the parent.

17 (51)~~(50)~~ "Participant," for purposes of a shelter
18 proceeding, dependency proceeding, or termination of parental
19 rights proceeding, means any person who is not a party but who
20 should receive notice of hearings involving the child,
21 including foster parents or the legal custodian of the child
22 ~~caregivers~~, identified prospective parents, grandparents
23 entitled to priority for adoption consideration under s.
24 63.0425, actual custodians of the child, and any other person
25 whose participation may be in the best interest of the child.
26 Participants may be granted leave by the court to be heard
27 without the necessity of filing a motion to intervene.

28 (52)~~(51)~~ "Party" means the parent or parents ~~legal~~
29 ~~custodian~~ of the child, the petitioner, the department, the
30 guardian ad litem or the representative of the guardian ad
31 litem program when the program has been appointed, and the

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

7 (53)~~(52)~~ "Physical injury" means death, permanent or
8 temporary disfigurement, or impairment of any bodily part.

9 (54)~~(53)~~ "Physician" means any licensed physician,
10 dentist, podiatric physician ~~podiatrist~~, or optometrist and
11 includes any intern or resident.

12 (55)~~(54)~~ "Preliminary screening" means the gathering
13 of preliminary information to be used in determining a child's
14 need for further evaluation or assessment or for referral for
15 other substance abuse services through means such as
16 psychosocial interviews; urine and breathalyzer screenings;
17 and reviews of available educational, delinquency, and
18 dependency records of the child.

19 (56)~~(55)~~ "Preventive services" means social services
20 and other supportive and rehabilitative services provided to
21 the parent or legal custodian of the child, ~~the legal~~
22 ~~custodian of the child, or the caregiver of the child~~ and to
23 the child for the purpose of averting the removal of the child
24 from the home or disruption of a family which will or could
25 result in the placement of a child in foster care. Social
26 services and other supportive and rehabilitative services
27 shall promote the child's need for physical, mental, and
28 emotional health and a safe, stable, living environment, shall
29 promote family autonomy, and shall strengthen family life,
30 whenever possible.

31

1 ~~(57)~~~~(56)~~ "Prospective parent" means a person who
2 claims to be, or has been identified as, a person who may be a
3 mother or a father of a child.

4 ~~(58)~~~~(57)~~ "Protective investigation" means the
5 acceptance of a report alleging child abuse, abandonment, or
6 neglect, as defined in this chapter, by the central abuse
7 hotline or the acceptance of a report of other dependency by
8 the department; the investigation of each report; the
9 determination of whether action by the court is warranted; the
10 determination of the disposition of each report without court
11 or public agency action when appropriate; and the referral of
12 a child to another public or private agency when appropriate.

13 ~~(59)~~~~(58)~~ "Protective investigator" means an authorized
14 agent of the department who receives and investigates reports
15 of child abuse, abandonment, or neglect; who, as a result of
16 the investigation, may recommend that a dependency petition be
17 filed for the child; and who performs other duties necessary
18 to carry out the required actions of the protective
19 investigation function.

20 ~~(60)~~~~(59)~~ "Protective supervision" means a legal status
21 in dependency cases which permits the child to remain safely
22 in his or her own home or other nonlicensed placement under
23 the supervision of an agent of the department and which must
24 be reviewed by the court during the period of supervision.

25 ~~(61)~~~~(60)~~ "Relative" means a grandparent,
26 great-grandparent, sibling, first cousin, aunt, uncle,
27 great-aunt, great-uncle, niece, or nephew, whether related by
28 the whole or half blood, by affinity, or by adoption. The term
29 does not include a stepparent.

30 ~~(62)~~~~(61)~~ "Reunification services" means social
31 services and other supportive and rehabilitative services

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

14 (63)~~(62)~~ "Secretary" means the Secretary of Children
15 and Family Services.

16 (64)~~(63)~~ "Sexual abuse of a child" means one or more
17 of the following acts:

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

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

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

28 (d) The intentional touching of the genitals or
29 intimate parts, including the breasts, genital area, groin,
30 inner thighs, and buttocks, or the clothing covering them, of
31

1 either the child or the perpetrator, except that this does not
2 include:

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

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

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

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

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

17 1. Solicit for or engage in prostitution; or

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

20 (65)(64) "Shelter" means a placement with a relative
21 or a nonrelative, or in a licensed home or facility,~~place~~ for
22 the temporary care of a child who is alleged to be or who has
23 been found to be dependent, pending court disposition before
24 or after adjudication.

25 (66)(65) "Shelter hearing" means a hearing in which
26 the court determines whether probable cause exists to keep a
27 child in shelter status pending further investigation of the
28 case.

29 (67)(66) "Social service agency" means the department,
30 a licensed child-caring agency, or a licensed child-placing
31 agency.

1 (68)~~(67)~~ "Substance abuse" means using, without
2 medical reason, any psychoactive or mood-altering drug,
3 including alcohol, in such a manner as to induce impairment
4 resulting in dysfunctional social behavior.

5 (69)~~(68)~~ "Substantial compliance" means that the
6 circumstances which caused the creation of the case plan have
7 been significantly remedied to the extent that the well-being
8 and safety of the child will not be endangered upon the
9 child's remaining with or being returned to the child's
10 parent, ~~legal custodian, or caregiver.~~

11 (70)~~(69)~~ "Taken into custody" means the status of a
12 child immediately when temporary physical control over the
13 child is attained by a person authorized by law, pending the
14 child's release or placement.

15 (71)~~(70)~~ "Temporary legal custody" means the
16 relationship that a juvenile court creates between a child and
17 an adult relative of the child, legal custodian, ~~or caregiver~~
18 ~~approved by the court,~~ or other person approved by the court
19 until a more permanent arrangement is ordered. Temporary legal
20 custody confers upon the custodian the right to have temporary
21 physical custody of the child and the right and duty to
22 protect, train, and discipline the child and to provide the
23 child with food, shelter, and education, and ordinary medical,
24 dental, psychiatric, and psychological care, unless these
25 rights and duties are otherwise enlarged or limited by the
26 court order establishing the temporary legal custody
27 relationship.

28 (72)~~(71)~~ "Victim" means any child who has sustained or
29 is threatened with physical, mental, or emotional injury
30 identified in a report involving child abuse, neglect, or
31 abandonment, or child-on-child sexual abuse.

1 Section 5. Subsection (3) of section 39.011, Florida
2 Statutes, 1998 Supplement, is amended to read:

3 39.011 Immunity from liability.--

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

10 Section 6. Subsection (5) of section 39.0121, Florida
11 Statutes, 1998 Supplement, is amended to read:

12 39.0121 Specific rulemaking authority.--Pursuant to
13 the requirements of s. 120.536, the department is specifically
14 authorized to adopt, amend, and repeal administrative rules
15 which implement or interpret law or policy, or describe the
16 procedure and practice requirements necessary to implement
17 this chapter, including, but not limited to, the following:

18 (5) Requesting of services from child protection teams
19 ~~and services, and eligible cases.~~

20 Section 7. Subsections (3), (4), (5), and (7),
21 paragraphs (a) and (c) of subsection (8), and paragraphs (b)
22 and (d) of subsection (9) of section 39.013, Florida Statutes,
23 1998 Supplement, are amended to read:

24 39.013 Procedures and jurisdiction; right to
25 counsel.--

26 (3) When a child is under the jurisdiction of the
27 circuit court pursuant to the provisions of this chapter, the
28 ~~juvenile court, as a division of the circuit court~~ assigned to
29 handle dependency matters, may exercise the general and
30 equitable jurisdiction over guardianship proceedings pursuant
31 to the provisions of chapter 744, and proceedings for

1 temporary custody of minor children by extended family
2 pursuant to the provisions of chapter 751.

3 (4) The court shall expedite the resolution of the
4 placement issue in cases involving a child who has been
5 removed from the family and placed in an out-of-home placement
6 ~~a shelter~~.

7 (5) The court shall expedite the judicial handling of
8 all cases when the child has been removed from the family and
9 placed in an out-of-home placement ~~a shelter~~.

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

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

26 (c)1. No waiver of counsel may be accepted if it
27 appears that the parent, ~~legal custodian, or caregiver~~ is
28 unable to make an intelligent and understanding choice because
29 of mental condition, age, education, experience, the nature or
30 complexity of the case, or other factors.

31

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

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

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

10 (b) Periods of delay resulting from a continuance
11 granted at the request of the attorney for the department or
12 petitioner, if the continuance is granted:

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

23 2. To allow the attorney for the department or
24 petitioner additional time to prepare the case and additional
25 time is justified because of an exceptional circumstance.

26 (d) Reasonable periods of delay resulting from a
27 continuance granted at the request of the parent ~~or legal~~
28 ~~custodian~~ of a subject child.

29 Section 8. Subsections (2) and (3) of section 39.0132,
30 Florida Statutes, 1998 Supplement, are amended, and paragraph
31 (e) is added to subsection (6) of that section, to read:

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

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

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

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

4 (e) Orders permanently and involuntarily terminating
5 the rights of a parent shall be admissible as evidence in
6 subsequent termination of parental rights proceedings for a
7 sibling of the child for whom parental rights were terminated.

8 Section 9. Subsection (1) of section 39.0134, Florida
9 Statutes, 1998 Supplement, is amended to read:

10 39.0134 Appointed counsel; compensation.--

11 (1) If counsel is entitled to receive compensation for
12 representation pursuant to a court appointment in a dependency
13 proceeding pursuant to this chapter, such compensation shall
14 be established by each county. The county shall impose a lien
15 which may be enforced as provided in s. 984.08.

16 Section 10. Subsection (1) of section 39.201, Florida
17 Statutes, 1998 Supplement, is amended to read:

18 39.201 Mandatory reports of child abuse, abandonment,
19 or neglect; mandatory reports of death; central abuse
20 hotline.--

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

22 (a) Physician, osteopathic physician, medical
23 examiner, chiropractic physician, nurse, or hospital personnel
24 engaged in the admission, examination, care, or treatment of
25 persons;

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

28 (c) Practitioner who relies solely on spiritual means
29 for healing;

30 (d) School teacher or other school official or
31 personnel;

1 (e) Social worker, day care center worker, or other
2 professional child care, foster care, residential, or
3 institutional worker; or

4 (f) Law enforcement officer,

5
6 who knows, or has reasonable cause to suspect, that a child is
7 ~~an~~ abused, abandoned, or neglected by a parent, legal
8 custodian, caregiver, or other person responsible for the
9 child's welfare ~~child~~ shall report such knowledge or suspicion
10 to the department in the manner prescribed in subsection (2).

11 Section 11. Subsection (1) and paragraphs (a), (d),
12 and (i) of subsection (2) of section 39.202, Florida Statutes,
13 1998 Supplement, are amended to read:

14 39.202 Confidentiality of reports and records in cases
15 of child abuse or neglect.--

16 (1) In order to protect the rights of the child and
17 the child's parents or other persons responsible for the
18 child's welfare, all records held by the department concerning
19 reports of child abandonment, abuse, or neglect, including
20 reports made to the central abuse hotline and all records
21 generated as a result of such reports, shall be confidential
22 and exempt from the provisions of s. 119.07(1) and shall not
23 be disclosed except as specifically authorized by this
24 chapter. Such exemption from s. 119.07(1) applies to
25 information in the possession of those entities granted access
26 as set forth in this section.

27 (2) Access to such records, excluding the name of the
28 reporter which shall be released only as provided in
29 subsection (4), shall be granted only to the following
30 persons, officials, and agencies:

31

1 (a) Employees, authorized agents, or contract
2 providers of the department, the Department of Health, or
3 county agencies responsible for carrying out:
4 1. Child or adult protective investigations;
5 2. Ongoing child or adult protective services;
6 3. Healthy Start services; or
7 4. Licensure or approval of adoptive homes, foster
8 homes, or child care facilities, or family day care homes or
9 informal child care providers who receive subsidized child
10 care funding, or other homes used to provide for the care and
11 welfare of children.

12
13 Also, employees or agents of the Department of Juvenile
14 Justice responsible for the provision of services to children,
15 pursuant to chapters 984 and 985.

16 (d) ~~The parent, caregiver, or legal custodian~~ of any
17 child who is alleged to have been abused, abandoned, or
18 neglected, and the child, and their attorneys. This access
19 shall be made available no later than 30 days after the
20 department receives the initial report of abuse, neglect, or
21 abandonment. However, any information otherwise made
22 confidential or exempt by law shall not be released pursuant
23 to this paragraph.

24 (i) Any person authorized by the department who is
25 engaged in the use of such records or information for bona
26 fide research, statistical, or audit purposes. Such individual
27 or entity shall enter into a privacy and security agreement
28 with the department and shall comply with all laws and rules
29 governing the use of such records and information for research
30 and statistical purposes. Information identifying the subjects
31 of such records or information shall be treated as

1 confidential by the researcher and shall not be released in
2 any form.~~However, no information identifying the subjects of~~
3 ~~the report shall be made available to the researcher.~~

4 Section 12. Paragraph (a) of subsection (1) of section
5 39.203, Florida Statutes, 1998 Supplement, is amended to read:

6 39.203 Immunity from liability in cases of child
7 abuse, abandonment, or neglect.--

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

15 Section 13. Subsection (5) of section 39.206, Florida
16 Statutes, 1998 Supplement, is amended to read:

17 39.206 Administrative fines for false report of abuse,
18 abandonment, or neglect of a child; civil damages.--

19 (5) At the administrative hearing, the department must
20 prove by a preponderance of the evidence that the person filed
21 a false report with the central abuse hotline. The
22 administrative hearing officer ~~court~~ shall advise any person
23 against whom a fine may be imposed of that person's right to
24 be represented by counsel at the administrative hearing.

25 Section 14. Subsections (2), (5), (8), (11), (12), and
26 (13), and paragraph (e) of subsection (6), of section 39.301,
27 Florida Statutes, 1998 Supplement, are amended to read:

28 39.301 Initiation of protective investigations.--

29 (2)(a) Upon commencing an investigation under this
30 part, the child protective investigator shall inform any
31 subject of the investigation of the following:

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

3 2. The purpose of the investigation.

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

6 4. The possible outcomes and services of the
7 department's response shall be explained to the parent
8 ~~caregiver~~.

9 5. The right of the parent, ~~legal custodian, or~~
10 ~~caregiver~~ to be involved to the fullest extent possible in
11 determining the nature of the allegation and the nature of any
12 identified problem.

13 (b) The department's training program shall ensure
14 that protective investigators know how to fully inform
15 parents, ~~guardians, and caregivers~~ of their rights and
16 options, including opportunities for audio or video recording
17 of investigators' interviews with parents, ~~guardians,~~
18 ~~caretakers,~~ or children.

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

1 ~~(a) If it is determined that the report or complaint~~
2 ~~is complete, after determining that such action would be in~~
3 ~~the best interests of the child, the attorney for the~~
4 ~~department shall file a petition for dependency.~~

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

12 (b) If it is determined that the child is in need of
13 the protection and supervision of the court, the department
14 shall file a petition for dependency. A petition for
15 dependency shall be filed in all cases classified by the
16 department as high-risk cases, including, but not limited to,
17 cases involving parents of a young age, the use of illegal
18 drugs, or domestic violence.

19 ~~(c) If the person conducting the investigation refuses~~
20 ~~to request the attorney for the department to file a petition~~
21 ~~for dependency is not being filed by the department, the~~
22 ~~person or agency originating the report complainant shall be~~
23 advised of the right to file a petition pursuant to this part.

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

26 (e) Based on the information obtained from available
27 sources ~~the caregiver,~~ complete the risk assessment instrument
28 within 48 hours after the initial contact and, if needed,
29 develop a case plan.

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

1 (a) Medical or other health care; or
2 (b) Homemaker care, day care, protective supervision,
3 or other services to stabilize the home environment, including
4 intensive family preservation services through the Family
5 Builders Program or, the Intensive Crisis Counseling Program,
6 or both, ~~or~~
7 (c) ~~Foster care, shelter care, or other substitute~~
8 ~~care to remove the child from the custody of the parents,~~
9 ~~legal guardians, or caregivers,~~
10
11 such services shall first be offered for voluntary acceptance
12 unless there are high-risk factors that may impact the ability
13 of the parents, ~~legal guardians, or caregivers~~ to exercise
14 judgment. Such factors shall ~~may~~ include the parents', ~~legal~~
15 ~~guardians', or caregivers'~~ young age or history of substance
16 abuse or domestic violence. The parents, ~~legal custodians, or~~
17 ~~caregivers~~ shall be informed of the right to refuse services,
18 as well as the responsibility of the department to protect the
19 child regardless of the acceptance or refusal of services. If
20 the services are refused and the department deems that the
21 child's need for protection so requires, the department shall
22 take the child into protective custody or petition the court
23 as provided in this chapter.
24 (11) Immediately upon receipt of a report alleging, or
25 immediately upon learning during the course of an
26 investigation, that:
27 (a) The immediate safety or well-being of a child is
28 endangered;
29 (b) The family is likely to flee;
30 (c) A child died as a result of abuse, abandonment, or
31 neglect;

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

3 (e) A child is a victim of sexual battery or of sexual
4 abuse,

5
6 the department shall orally notify the jurisdictionally
7 responsible state attorney, and county sheriff's office or
8 local police department, and, within 3 working days ~~as soon as~~
9 ~~practicable~~, transmit a full written ~~the~~ report to those
10 agencies. The law enforcement agency shall review the report
11 and determine whether a criminal investigation needs to be
12 conducted and shall assume lead responsibility for all
13 criminal fact-finding activities. A criminal investigation
14 shall be coordinated, whenever possible, with the child
15 protective investigation of the department. Any interested
16 person who has information regarding an offense described in
17 this subsection may forward a statement to the state attorney
18 as to whether prosecution is warranted and appropriate.

19 (12) In a child protective investigation or a criminal
20 investigation, when the initial interview with the child is
21 conducted at school, the department or the law enforcement
22 agency may allow, notwithstanding the provisions of s.
23 39.0132(4), a school ~~instructional~~ staff member who is known
24 by the child to be present during the initial interview if:

25 (a) The department or law enforcement agency believes
26 that the school ~~instructional~~ staff member could enhance the
27 success of the interview by his or her presence; and

28 (b) The child requests or consents to the presence of
29 the school ~~instructional~~ staff member at the interview.

30
31

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

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

18 Section 15. Subsection (1) of section 39.302, Florida
19 Statutes, 1998 Supplement, is amended to read:

20 39.302 Protective investigations of institutional
21 child abuse, abandonment, or neglect.--

22 (1) The department shall conduct a child protective
23 investigation of each report of institutional child abuse,
24 abandonment, or neglect. Upon receipt of a report which
25 alleges that an employee or agent of the department, or any
26 other entity or person covered by s. 39.01(32) or (48)~~(47)~~,
27 acting in an official capacity, has committed an act of child
28 abuse, abandonment, or neglect, the department shall
29 immediately initiate a child protective investigation and
30 orally notify the appropriate state attorney, law enforcement
31 agency, and licensing agency. These agencies shall

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

20 Section 16. Paragraph (b) of subsection (1) of section
21 39.3035, Florida Statutes, 1998 Supplement, is amended to
22 read:

23 39.3035 Child advocacy centers; standards; state
24 funding.--

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

28 (b) Be a child protection team, or by written
29 agreement incorporate the participation and services of a
30 child protection team, with established community protocols

31

1 which meet all of the requirements of the National Network of
2 Children's Advocacy Centers, Inc.

3 Section 17. Subsections (1) and (5) of section 39.304,
4 Florida Statutes, 1998 Supplement, are amended to read:

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

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

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

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

8 Section 18. Subsection (1) of section 39.311, Florida
9 Statutes, 1998 Supplement, is amended to read:

10 39.311 Establishment of Family Builders Program.--

11 (1) Any Family Builders Program that is established by
12 the department shall provide family preservation services:

13 (a) To families whose children are at risk of imminent
14 out-of-home placement because they are dependent;~~7~~

15 (b) To reunite families whose children have been
16 removed and placed in foster care;~~7~~and

17 (c) To maintain adoptive families intact who are at
18 risk of fragmentation.

19

20 The Family Builders Program shall provide programs to achieve
21 long-term changes within families that will allow children to
22 remain with their families as an alternative to ~~the more~~
23 ~~expensive and potentially psychologically damaging program of~~
24 out-of-home placement.

25 Section 19. Subsections (1), (5), and (10) of section
26 39.312, Florida Statutes, 1998 Supplement, are amended to
27 read:

28 39.312 Goals.--The goals of any Family Builders
29 Program shall be to:

30 (1) Ensure the protection of the child's ~~child~~ health
31 and safety while working with the family.

1 (5) Assist and educate parents in ~~Perform~~ household
2 maintenance, budgeting, and purchasing when parents are unable
3 to do so on their own or need temporary relief.

4 (10) Provide such additional reasonable services for
5 the prevention of child abuse, abandonment, and neglect
6 ~~maltreatment and unnecessary foster care~~ as may be needed in
7 order to strengthen a family at risk.

8 Section 20. Section 39.313, Florida Statutes, 1998
9 Supplement, is amended to read:

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

23 Section 21. Section 39.395, Florida Statutes, 1998
24 Supplement, is amended to read:

25 39.395 Detaining a child; medical or hospital
26 personnel.--Any person in charge of a hospital or similar
27 institution, or any physician or licensed health care
28 professional treating a child may detain that child without
29 the consent of the parents, caregiver, or legal custodian,
30 whether or not additional medical treatment is required, if
31 the circumstances are such, or if the condition of the child

1 is such that returning the child to the care or custody of the
2 parents, caregiver, or legal custodian presents an imminent
3 danger to the child's life or physical or mental health. Any
4 such person detaining a child shall immediately notify the
5 department, whereupon the department shall immediately begin a
6 child protective investigation in accordance with the
7 provisions of this chapter and shall make every reasonable
8 effort to immediately notify the parents, ~~caregiver,~~ or legal
9 custodian that such child has been detained. If the
10 department determines, according to the criteria set forth in
11 this chapter, that the child should be detained longer than 24
12 hours, it shall petition the court through the attorney
13 representing the Department of Children and Family Services as
14 quickly as possible and not to exceed 24 hours, for an order
15 authorizing such custody in the same manner as if the child
16 were placed in a shelter. The department shall attempt to
17 avoid the placement of a child in an institution whenever
18 possible.

19 Section 22. Paragraph (b) of subsection (1), paragraph
20 (a) of subsection (2), and subsection (3) of section 39.401,
21 Florida Statutes, 1998 Supplement, are amended to read:

22 39.401 Taking a child alleged to be dependent into
23 custody; law enforcement officers and authorized agents of the
24 department.--

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

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

31

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

5 2. That the parent or, legal custodian, ~~caregiver, or~~
6 ~~responsible adult relative~~ of the child has materially
7 violated a condition of placement imposed by the court; or

8 3. That the child has no parent, legal custodian,
9 ~~caregiver~~, or responsible adult relative immediately known and
10 available to provide supervision and care.

11 (2) If the law enforcement officer takes the child
12 into custody, that officer shall:

13 (a) Release the child to:

14 1. The parent, ~~caregiver~~, or legal custodian of the
15 child;

16 2. A responsible adult approved by the court when
17 limited to temporary emergency situations;

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

21 4. A responsible adult approved by the department; or
22

23 For cases involving allegations of abandonment, abuse, or
24 neglect, or other dependency cases, within 3 days after such
25 release or within 3 days after delivering the child to an
26 authorized agent of the department, the law enforcement
27 officer who took the child into custody shall make a full
28 written report to the department.

29 (3) If the child is taken into custody by, or is
30 delivered to, an authorized agent of the department, the
31 authorized agent shall review the facts supporting the removal

1 with an attorney representing the department. The purpose of
2 this review shall be to determine whether probable cause
3 exists for the filing of a shelter petition. If the facts are
4 not sufficient to support the filing of a shelter petition,
5 the child shall immediately be returned to the custody of the
6 parent, ~~caregiver,~~ or legal custodian. If the facts are
7 sufficient to support the filing of the shelter petition and
8 the child has not been returned to the custody of the parent
9 or legal custodian, the department shall file the petition and
10 schedule a hearing, and the attorney representing the
11 department of ~~Children and Family Services~~ shall request that
12 a shelter ~~such~~ hearing ~~to~~ be held as quickly as possible, and
13 not to exceed 24 hours after the removal of the child. While
14 awaiting the shelter hearing, the authorized agent of the
15 department may place the child in licensed shelter care or may
16 release the child to a parent, ~~legal custodian, caregiver,~~ or
17 responsible adult relative who shall be given priority
18 consideration over a licensed placement, or a responsible
19 adult approved by the department when this is in the best
20 interests of the child. Any placement of a child which is not
21 in a licensed shelter must be preceded by a local and state
22 criminal records check, as well as a search of the
23 department's automated abuse information system, on all
24 members of the household, to assess the child's safety within
25 the home. In addition, the department may authorize placement
26 of a housekeeper/homemaker in the home of a child alleged to
27 be dependent until the parent or legal custodian assumes care
28 of the child.

29 Section 23. Subsections (1), (5), (11), and (15),
30 paragraph (b) of subsection (6), and paragraph (f) of

31

1 subsection (8) of section 39.402, Florida Statutes, 1998
2 Supplement, are amended to read:

3 39.402 Placement in a shelter.--

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

10 (a) The child has been abused, neglected, or
11 abandoned, or is suffering from or is in imminent danger of
12 illness or injury as a result of abuse, neglect, or
13 abandonment;

14 (b) The parent or legal custodian of the child has
15 materially violated a condition of placement imposed by the
16 court; or

17 (c) The child has no parent, legal custodian,
18 ~~caregiver~~, or responsible adult relative immediately known and
19 available to provide supervision and care.

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

31

1 either in person or by sworn affidavit, of the attempts made
2 to provide notice and the results of those attempts.

3 (b) The parents or legal custodians shall be given
4 written notice that:

5 1. They will be given an opportunity to be heard and
6 to present evidence at the shelter hearing; and

7 2. They have the right to be represented by counsel,
8 and, if indigent, the parents have the right to be represented
9 by appointed counsel, at the shelter hearing and at each
10 subsequent hearing or proceeding, pursuant to the procedures
11 set forth in s. 39.013. If the parents or legal custodians
12 appear for the shelter hearing without legal counsel, then, at
13 their request, the shelter hearing may be continued up to 72
14 hours to enable the parents or legal custodians to consult
15 legal counsel. If a continuance is requested by the parents or
16 legal custodians, the child shall be continued in shelter care
17 for the length of the continuance, if granted by the court.

18 (6)

19 (b) The shelter petition filed with the court must
20 address each condition required to be determined by the court
21 in paragraphs (8)(a), ~~and~~ (b), (d), and (f).

22 (8)

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

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

28 2. That placement in shelter care is in the best
29 interest of the child.

30 3. That continuation of the child in the home is
31 contrary to the welfare of the child because the home

1 situation presents a substantial and immediate danger to the
2 child's physical, mental, or emotional health or safety which
3 cannot be mitigated by the provision of preventive services.

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

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

13 a. The first contact of the department with the family
14 occurs during an emergency;~~;~~

15 b. The appraisal of the home situation by the
16 department indicates that the home situation presents a
17 substantial and immediate danger to the child's physical,
18 mental, or emotional health or safety which cannot be
19 mitigated by the provision of preventive services;~~;~~

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

25 d. The parent or legal custodian is alleged to have
26 committed any of the acts listed as grounds for expedited
27 termination of parental rights in s. 39.806(1)(f)-(i).

28 6. That the court notified the parents or legal
29 custodians of the time, date, and location of the next
30 dependency hearing ~~subsequent dependency proceedings,~~
31 ~~including scheduled hearings,~~ and of the importance of the

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

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

8 (11) If a child is placed in a shelter pursuant to a
9 court order following a shelter hearing, the court shall
10 require in the ~~prepare a~~ shelter hearing order that requiring
11 the parents of the child, or the guardian of the child's
12 estate, if possessed of assets which under law may be
13 disbursed for the care, support, and maintenance of the child,
14 to pay, to the department or institution having custody of the
15 child, fees as established by the department. When the order
16 affects the guardianship estate, a certified copy of the order
17 shall be delivered to the judge having jurisdiction of the
18 guardianship estate. The shelter order shall also require the
19 parents or legal custodians to provide to the department and
20 any other state agency or party designated by the court,
21 within 28 days after entry of the shelter order, the financial
22 information necessary to accurately calculate child support
23 pursuant to s. 61.30.

24 (15) At the conclusion of a shelter hearing, the court
25 shall notify all parties in writing of the next scheduled
26 hearing to review the shelter placement. Such hearing shall be
27 held no later than 30 days after placement of the child in
28 shelter status, in conjunction with the arraignment hearing,
29 and every 15 days thereafter until the child is released from
30 shelter status.

31

1 Section 24. Subsections (1), (2), (3), (4), (5), and
2 (11) of section 39.407, Florida Statutes, 1998 Supplement, are
3 amended to read:

4 39.407 Medical, psychiatric, and psychological
5 examination and treatment of child; physical or mental
6 examination of parent or person requesting custody of child.--

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

20 (2) When the department has performed the medical
21 screening authorized by subsection (1), or when it is
22 otherwise determined by a licensed health care professional
23 that a child who is in an out-of-home placement ~~the custody of~~
24 ~~the department~~, but who has not been committed to the
25 department, is in need of medical treatment, including the
26 need for immunization, consent for medical treatment shall be
27 obtained in the following manner:

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

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

31

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

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

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

23 (3) A judge may order a child in an out-of-home
24 placement ~~the physical custody of the department~~ to be
25 examined by a licensed health care professional. The judge
26 may also order such child to be evaluated by a psychiatrist or
27 a psychologist, by a district school board educational needs
28 assessment team, or, if a developmental disability is
29 suspected or alleged, by the developmental disability
30 diagnostic and evaluation team of the department. If it is
31 necessary to place a child in a residential facility for such

1 evaluation, then the criteria and procedure established in s.
2 394.463(2) or chapter 393 shall be used, whichever is
3 applicable. The educational needs assessment provided by the
4 district school board educational needs assessment team shall
5 include, but not be limited to, reports of intelligence and
6 achievement tests, screening for learning disabilities and
7 other handicaps, and screening for the need for alternative
8 education as defined in s. 230.23.

9 (4) A judge may order a child in an out-of-home
10 placement ~~the physical custody of the department~~ to be treated
11 by a licensed health care professional based on evidence that
12 the child should receive treatment. The judge may also order
13 such child to receive mental health or retardation services
14 from a psychiatrist, psychologist, or other appropriate
15 service provider. If it is necessary to place the child in a
16 residential facility for such services, then the procedures
17 and criteria established in s. 394.467 or chapter 393 shall be
18 used, whichever is applicable. A child may be provided mental
19 health or retardation services in emergency situations,
20 pursuant to the procedures and criteria contained in s.
21 394.463(1) or chapter 393, whichever is applicable.

22 (5) When a child is in an out-of-home placement ~~the~~
23 ~~physical custody of the department~~, a licensed health care
24 professional shall be immediately called if there are
25 indications of physical injury or illness, or the child shall
26 be taken to the nearest available hospital for emergency care.

27 (11) The parents or legal custodian of a child in an
28 out-of-home placement ~~the physical custody of the department~~
29 remain financially responsible for the cost of medical
30 treatment provided to the child even if either one or both of
31 the parents or if the legal custodian did not consent to the

1 medical treatment. After a hearing, the court may order the
2 parents or legal custodian, if found able to do so, to
3 reimburse the department or other provider of medical services
4 for treatment provided.

5 Section 25. Paragraphs (a) and (d) of subsection (3)
6 and subsection (4) of section 39.501, Florida Statutes, 1998
7 Supplement, are amended to read:

8 39.501 Petition for dependency.--

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

16 (d) The petitioner must state in the petition, if
17 known, whether:

18 1. A parent or legal custodian, ~~or caregiver~~ named in
19 the petition has previously unsuccessfully participated in
20 voluntary services offered by the department;

21 2. A parent or legal custodian named in the petition
22 has participated in mediation and whether a mediation
23 agreement exists;

24 3. A parent or legal custodian has rejected the
25 voluntary services offered by the department; or

26 4. The department has determined that voluntary
27 services are not appropriate for this family and the reasons
28 for such determination.

29 (4) When a child has been placed in shelter status by
30 order of the court, a petition alleging dependency must be
31 filed within ~~7 days upon demand of a party, but no later than~~

1 21 days after the shelter hearing, or within 7 days after any
2 party files a demand for the early filing of a dependency
3 petition, whichever comes first. In all other cases, the
4 petition must be filed within a reasonable time after the date
5 the child was referred to protective investigation. The
6 child's parent, ~~guardian,~~ or legal custodian must be served
7 with a copy of the petition at least 72 hours before the
8 arraignment hearing.

9 Section 26. Subsections (1), (4), (8), (10), and (13)
10 of section 39.502, Florida Statutes, 1998 Supplement, are
11 amended to read:

12 39.502 Notice, process, and service.--

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

21 (4) The summons shall require the person on whom it is
22 served to appear for a hearing at a time and place specified,
23 not less than 72 ~~24~~ hours after service of the summons. A
24 copy of the petition shall be attached to the summons.

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

1 (10) Service by publication shall not be required for
2 dependency hearings and the failure to serve a party or give
3 notice to a participant shall not affect the validity of an
4 order of adjudication or disposition if the court finds that
5 the petitioner has completed a diligent search for that party
6 ~~or participant.~~

7 (13) Subpoenas may be served within the state by any
8 person over 18 years of age who is not a party to the
9 proceeding and, in addition, may be served by authorized
10 agents of the department or the guardian ad litem.

11 Section 27. Subsections (1) and (6) of section 39.503,
12 Florida Statutes, 1998 Supplement, are amended to read:

13 39.503 Identity or location of parent ~~or legal~~
14 ~~custodian~~ unknown; special procedures.--

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

22 (a) Whether the mother of the child was married at the
23 probable time of conception of the child or at the time of
24 birth of the child.

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

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

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

4 (e) Whether any man has acknowledged or claimed
5 paternity of the child in a jurisdiction in which the mother
6 resided at the time of or since conception of the child, or in
7 which the child has resided or resides.

8 (6) The diligent search required by subsection (5)
9 must include, at a minimum, inquiries of all relatives of the
10 parent or prospective parent made known to the petitioner,
11 inquiries of all offices of program areas of the department
12 likely to have information about the parent or prospective
13 parent, inquiries of other state and federal agencies likely
14 to have information about the parent or prospective parent,
15 inquiries of appropriate utility and postal providers, and
16 inquiries of appropriate law enforcement agencies. Pursuant to
17 s. 453 of the Social Security Act, 42 U.S.C. s. 653(c)~~(B)~~(4),
18 the department, as the state agency administering Titles IV-B
19 and IV-E of the act, shall be provided access to the federal
20 and state parent locator service for diligent search
21 activities.

22 Section 28. Paragraph (a) of subsection (1) and
23 paragraph (a) of subsection (3) of section 39.504, Florida
24 Statutes, 1998 Supplement, are amended to read:

25 39.504 Injunction pending disposition of petition;
26 penalty.--

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

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

4 (3)(a) In every instance in which an injunction is
5 issued under this section, the purpose of the injunction shall
6 be primarily to protect and promote the best interests of the
7 child, taking the preservation of the child's immediate family
8 into consideration. The effective period of the injunction
9 shall be determined by the court, except that the injunction
10 will expire at the time of the disposition of the petition for
11 shelter placement ~~detention~~ or dependency.

12 Section 29. Section 39.506, Florida Statutes, 1998
13 Supplement, is amended to read:

14 39.506 Arraignment hearings.--

15 (1) When a child has been sheltered ~~detained~~ by order
16 of the court, an arraignment hearing must be held no later
17 than 28 days after the shelter hearing, or, within 7 days
18 after the date of filing of the dependency petition if a
19 demand for early filing has been made by any party, for the
20 parent or legal custodian to admit, deny, or consent to
21 findings of dependency alleged in the petition. If the parent
22 or legal custodian admits or consents to the findings in the
23 petition, the court shall conduct a disposition hearing within
24 15 days after the arraignment hearing ~~proceed as set forth in~~
25 ~~the Florida Rules of Juvenile Procedure~~. However, if the
26 parent or legal custodian denies any of the allegations of the
27 petition, the court shall hold an adjudicatory hearing within
28 30 days after the date of the arraignment hearing unless a
29 continuance is granted pursuant to this chapter.

30 (2) When a child is in the custody of the parent or
31 legal custodian, upon the filing of a petition the clerk shall

1 set a date for an arraignment hearing within a reasonable time
2 after the date of the filing. If the parent or legal custodian
3 admits or consents to an adjudication, the court shall conduct
4 a disposition hearing within 15 days after the arraignment
5 hearing ~~proceed as set forth in the Florida Rules of Juvenile~~
6 ~~Procedure.~~ However, if the parent or legal custodian denies
7 any of the allegations of dependency, the court shall hold an
8 adjudicatory hearing within 30 days ~~a reasonable time~~ after
9 the date of the arraignment hearing.

10 (3) Failure of a person served with notice to
11 personally respond or appear at the arraignment hearing
12 constitutes the person's consent to a dependency adjudication.
13 The document containing the notice to respond or appear must
14 contain, in type at least as large as the balance of the
15 document, the following or substantially similar language:
16 "FAILURE TO ~~RESPOND TO THIS NOTICE OR TO~~ PERSONALLY APPEAR AT
17 THE ARRAIGNMENT HEARING CONSTITUTES CONSENT TO THE
18 ADJUDICATION OF THIS CHILD (OR CHILDREN) AS A DEPENDENT CHILD
19 (OR CHILDREN) AND MAY ULTIMATELY RESULT IN LOSS OF CUSTODY OF
20 THIS CHILD (OR CHILDREN)." If a person appears for the
21 arraignment hearing and the court orders that person to
22 personally appear at the adjudicatory hearing for dependency,
23 stating the date, time, and place of the adjudicatory hearing,
24 then that person's failure to appear for the scheduled
25 adjudicatory hearing constitutes consent to a dependency
26 adjudication.

27 (4) At the arraignment hearing, each party shall
28 provide to the court a permanent mailing address. The court
29 shall advise each party that this address will be used by the
30 court and the petitioner for notice purposes unless and until
31

1 the party notifies the court and the petitioner in writing of
2 a new mailing address.

3 (5) If at the arraignment hearing the parent or legal
4 custodian consents or admits to the allegations in the
5 petition, the court shall proceed to hold a disposition
6 ~~dispositional~~ hearing no more than 15 days after the date of
7 the arraignment hearing unless a continuance is necessary.

8 (6) At any arraignment hearing, if the child is in an
9 out-of-home placement, the court shall order visitation rights
10 absent a clear and convincing showing that visitation is not
11 in the best interest of the child.

12 (7) The court shall review whether the department has
13 made a reasonable effort to prevent or eliminate the need for
14 removal or continued removal of the child from the home. If
15 the court determines that the department has not made such an
16 effort, the court shall order the department to provide
17 appropriate and available services to assure the protection of
18 the child in the home when such services are necessary for the
19 child's physical, mental, or emotional health and safety.

20 (8) At the arraignment hearing, and no more than every
21 15 days thereafter until the child is returned home or a
22 disposition hearing has been conducted, the court shall review
23 the necessity for the child's continued placement in the
24 shelter. The court shall also make a written determination
25 regarding the child's continued placement in shelter within 24
26 hours after any violation of the time requirements for the
27 filing of a petition or prior to the court's granting any
28 continuance as specified in subsection (5).

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

1 Section 30. Subsections (2), (5), (6), and (7) of
2 section 39.507, Florida Statutes, 1998 Supplement, are amended
3 to read:

4 39.507 Adjudicatory hearings; orders of
5 adjudication.--

6 (2) All hearings, except as provided in this section,
7 shall be open to the public, and a person may not be excluded
8 except on special order of the judge, who may close any
9 hearing to the public upon determining that the public
10 interest or the welfare of the child is best served by so
11 doing. ~~However,~~The parents shall be allowed to obtain
12 discovery pursuant to the Florida Rules of Juvenile Procedure,
13 provided such discovery does not violate. ~~However, nothing in~~
14 ~~this subsection shall be construed to affect~~ the provisions of
15 s. 39.202. Hearings involving more than one child may be held
16 simultaneously when the children involved are related to each
17 other or were involved in the same case. The child and the
18 parents, caregivers, or legal custodians of the child may be
19 examined separately and apart from each other.

20 (5) If the court finds that the child named in the
21 petition is dependent, but finds that no action other than
22 supervision in the child's home is required, it may enter an
23 order briefly stating the facts upon which its finding is
24 based, but withholding an order of adjudication and placing
25 the child's home under the supervision of the department. If
26 the court later finds that the parents, ~~caregivers, or legal~~
27 ~~custodians~~ of the child have not complied with the conditions
28 of supervision imposed, the court may, after a hearing to
29 establish the noncompliance, but without further evidence of
30 the state of dependency, enter an order of adjudication and
31 shall thereafter have full authority under this chapter to

1 provide for the child as adjudicated. If the child is to
2 remain in an out-of-home placement by order of the court, the
3 court must adjudicate the child dependent.

4 (6) If the court finds that the child named in a
5 petition is dependent, but chooses not to withhold
6 adjudication or is prohibited from withholding adjudication
7 ~~shall elect not to proceed under subsection (5)~~, it shall
8 incorporate that finding in an order of adjudication entered
9 in the case, briefly stating the facts upon which the finding
10 is made, and the court shall thereafter have full authority
11 under this chapter to provide for the child as adjudicated.

12 (7) At the conclusion of the adjudicatory hearing, if
13 the child named in the petition is found dependent, the court
14 shall schedule the disposition hearing within 30 days after
15 the last day of the adjudicatory hearing ~~the filing of the~~
16 ~~adjudicatory order~~. All parties shall be notified in writing
17 at the conclusion of the adjudicatory hearing by the clerk of
18 the court of the date, time, and location of the disposition
19 hearing.

20 Section 31. Section 39.508, Florida Statutes, 1998
21 Supplement, is amended to read:

22 39.508 Disposition hearings; powers of disposition.--

23 (1) At the disposition hearing, if the court finds
24 that the facts alleged in the petition for dependency were
25 proven in the adjudicatory hearing, or if the parents~~7~~
26 ~~caregivers, or legal custodians~~ have consented to the finding
27 of dependency or admitted the allegations in the petition,
28 have failed to appear for the arraignment hearing after proper
29 notice, or have not been located despite a diligent search
30 having been conducted, the court shall receive and consider a
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1 case plan and a predisposition study, which must be in writing
2 and presented by an authorized agent of the department.

3 (2) The predisposition study shall cover for any
4 dependent child all factors specified in s. 61.13(3), and must
5 also provide the court with the following documented
6 information:

7 (a) An assessment defining the dangers and risks of
8 returning the child home, including a description of the
9 changes in and resolutions to the initial risks.

10 (b) A description of what risks are still present and
11 what resources are available and will be provided for the
12 protection and safety of the child.

13 (c) A description of the benefits of returning the
14 child home.

15 (d) A description of all unresolved issues.

16 (e) An abuse registry history and criminal records
17 check for all caregivers, family members, and individuals
18 residing within the household.

19 (f) The complete report and recommendation of the
20 child protection team of the Department of Health or, if no
21 report exists, a statement reflecting that no report has been
22 made.

23 (g) All opinions or recommendations from other
24 professionals or agencies that provide evaluative, social,
25 reunification, or other services to the family.

26 (h) The availability of appropriate prevention and
27 reunification services for the family to prevent the removal
28 of the child from the home or to reunify the child with the
29 family after removal, including the availability of family
30 preservation services through the Family Builders Program, the
31 Intensive Crisis Counseling Program, or both.

1 (i) The inappropriateness of other prevention and
2 reunification services that were available.

3 (j) The efforts by the department to prevent
4 out-of-home placement of the child or, when applicable, to
5 reunify the family if appropriate services were available,
6 including the application of intensive family preservation
7 services through the Family Builders Program, the Intensive
8 Crisis Counseling Program, or both.

9 (k) Whether the services were provided to the family
10 and child.

11 (l) If the services were provided, whether they were
12 sufficient to meet the needs of the child and the family and
13 to enable the child to remain safely at home or to be returned
14 home.

15 (m) If the services were not provided, the reasons for
16 such lack of action.

17 (n) The need for, or appropriateness of, continuing
18 the services if the child remains in the custody of the family
19 or if the child is placed outside the home.

20 (o) Whether family mediation was provided.

21 (p) If the child has been removed from the home and
22 there is a parent, ~~caregiver~~, or legal custodian who may be
23 considered for custody pursuant to this section, a
24 recommendation as to whether placement of the child with that
25 parent, ~~caregiver~~, or legal custodian would be detrimental to
26 the child.

27 (q) If the child has been removed from the home and
28 will be remaining with a relative or other adult approved by
29 the court ~~caregiver~~, a home study report concerning the
30 proposed placement shall be included in the predisposition
31 report.

1 (r) If the child has been removed from the home, a
2 determination of the amount of child support each parent will
3 be required to pay pursuant to s. 61.30.
4

5 Any other relevant and material evidence, including other
6 written or oral reports, may be received by the court in its
7 effort to determine the action to be taken with regard to the
8 child and may be relied upon to the extent of its probative
9 value, even though not competent in an adjudicatory hearing.
10 Except as otherwise specifically provided, nothing in this
11 section prohibits the publication of proceedings in a hearing.

12 (3)(a) Prior to recommending to the court any
13 out-of-home placement for a child other than placement in a
14 licensed shelter or foster home, the department shall conduct
15 a study of the home of the proposed legal custodians
16 ~~caregivers~~, which must include, at a minimum:

17 1. An interview with the proposed legal custodians
18 ~~adult caregivers~~ to assess their ongoing commitment and
19 ability to care for the child.

20 2. Records checks through the department's automated
21 abuse information system, and local and statewide criminal and
22 juvenile records checks through the Department of Law
23 Enforcement, on all household members 12 years of age or older
24 and any other persons made known to the department who are
25 frequent visitors in the home.

26 3. An assessment of the physical environment of the
27 home.

28 4. A determination of the financial security of the
29 proposed legal custodians ~~caregivers~~.

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1 5. A determination of suitable child care arrangements
2 if the proposed legal custodians ~~caregivers~~ are employed
3 outside of the home.

4 6. Documentation of counseling and information
5 provided to the proposed legal custodians ~~caregivers~~ regarding
6 the dependency process and possible outcomes.

7 7. Documentation that information regarding support
8 services available in the community has been provided to the
9 proposed legal custodians ~~caregivers~~.

10 (b) The department shall not place the child or
11 continue the placement of the child in the home of the
12 proposed legal custodians ~~caregivers~~ if the results of the
13 home study are unfavorable.

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

20 (5) The predisposition study may not be made before
21 the adjudication of dependency unless the parents, ~~caregivers,~~
22 ~~or legal custodians~~ of the child consent.

23 (6) A case plan and predisposition study must be filed
24 with the court and served upon the parents, ~~caregivers, or~~
25 ~~legal custodians~~ of the child, provided to the representative
26 of the guardian ad litem program, if the program has been
27 appointed, and provided to all other parties not less than 72
28 hours before the disposition hearing. All such case plans must
29 be approved by the court. If the court does not approve the
30 case plan at the disposition hearing, the court must set a
31

1 hearing within 30 days after the disposition hearing to review
2 and approve the case plan.

3 (7) The initial judicial review must be held no later
4 than 90 days after the date of the disposition hearing or
5 after the date of the hearing at which the court approves the
6 case plan, whichever occurs earlier, but in no event shall the
7 review be held later than 6 months after the date of the
8 child's removal from the home.

9 (8) When any child is adjudicated by a court to be
10 dependent, and the court finds that removal of the child from
11 the custody of a parent or legal custodian, ~~or caregiver~~ is
12 necessary, the court shall first determine whether there is a
13 parent with whom the child was not residing at the time the
14 events or conditions arose that brought the child within the
15 jurisdiction of the court who desires to assume custody of the
16 child and, if such parent requests custody, the court shall
17 place the child with the parent unless it finds that such
18 placement would endanger the safety, well-being, or physical,
19 mental, or emotional health of the child. Any party with
20 knowledge of the facts may present to the court evidence
21 regarding whether the placement will endanger the safety,
22 well-being, or physical, mental, or emotional health of the
23 child. If the court places the child with such parent, it may
24 do either of the following:

25 (a) Order that the parent become the legal and
26 physical custodian of the child. The court may also provide
27 for reasonable visitation by the noncustodial parent. The
28 court may ~~shall~~ then terminate its jurisdiction over the
29 child. The custody order shall continue unless modified by a
30 subsequent order of the circuit court hearing dependency
31 matters. The order of the juvenile court shall be filed in any

1 dissolution or other custody action or proceeding between the
2 parents and shall take precedence over other custody and
3 visitation orders entered in those actions.

4 (b) Order that the parent assume custody subject to
5 the jurisdiction of the circuit juvenile court hearing
6 dependency matters. The court may order that reunification
7 services be provided to the parent, ~~caregiver, or legal~~
8 ~~custodian~~ from whom the child has been removed, that services
9 be provided solely to the parent who is assuming physical
10 custody in order to allow that parent to retain later custody
11 without court jurisdiction, or that services be provided to
12 both parents, in which case the court shall determine at every
13 review hearing which parent, if either, shall have custody of
14 the child. The standard for changing custody of the child from
15 one parent to another or to a relative or another adult
16 approved by the court shall be the best interest of the child
17 ~~caregiver must meet the home study criteria and court approval~~
18 ~~pursuant to this chapter.~~

19 (9)(a) When any child is adjudicated by a court to be
20 dependent, the court having jurisdiction of the child has the
21 power, by order, to:

22 1. Require the parent, ~~caregiver,~~ or legal custodian,
23 and the child when appropriate, to participate in treatment
24 and services identified as necessary.

25 2. Require the parent, ~~caregiver,~~ or legal custodian,
26 and the child when appropriate, to participate in mediation if
27 the parent, ~~caregiver,~~ or legal custodian refused to
28 participate in mediation.

29 3. Place the child under the protective supervision of
30 an authorized agent of the department, either in the child's
31 own home or, the prospective custodian being willing, in the

1 | home of a relative of the child or of another adult a
2 | ~~caregiver~~ approved by the court, or in some other suitable
3 | place under such reasonable conditions as the court may
4 | direct. Protective supervision continues until the court
5 | terminates it or until the child reaches the age of 18,
6 | whichever date is first. Protective supervision shall be
7 | terminated by the court whenever the court determines that
8 | permanency has been achieved for the child, whether with a
9 | parent, another relative, or a legal custodian, ~~or a~~
10 | ~~caregiver~~, and that protective supervision is no longer
11 | needed. The termination of supervision may be with or without
12 | retaining jurisdiction, at the court's discretion, and shall
13 | in either case be considered a permanency option for the
14 | child. The order terminating supervision by the department
15 | shall set forth the powers of the custodian of the child and
16 | shall include the powers ordinarily granted to a guardian of
17 | the person of a minor unless otherwise specified. Upon the
18 | court's termination of supervision by the department, no
19 | further judicial reviews are required, so long as permanence
20 | has been established for the child.

21 | 4. Place the child in the temporary legal custody of
22 | an adult relative or other adult ~~caregiver~~ approved by the
23 | court who is willing to care for the child. The department
24 | must supervise this placement until the child reaches
25 | permanency status in this home, and in no case for a period of
26 | less than 6 months. Permanency in a relative placement shall
27 | be by adoption, long-term custody, or guardianship.

28 | 5.a. When the parents have failed to comply with a
29 | case plan and the court determines at a judicial review
30 | hearing, or at an adjudication hearing held pursuant to this
31 | section, that neither reunification, termination of parental

1 rights, nor adoption is in the best interest of the child, the
2 court may place the child in the long-term custody of an adult
3 relative or other adult ~~caregiver~~ approved by the court
4 willing to care for the child, if all of the following
5 conditions are met:

6 (I) A case plan describing the responsibilities of the
7 relative or other adult ~~caregiver~~, the department, and any
8 other party must have been submitted to the court.

9 (II) The case plan for the child does not include
10 reunification with the parents or adoption by the relative or
11 other adult ~~caregiver~~.

12 (III) The child and the relative or other adult
13 ~~caregiver~~ are determined not to need protective supervision or
14 preventive services to ensure the stability of the long-term
15 custodial relationship, or the department assures the court
16 that protective supervision or preventive services will be
17 provided in order to ensure the stability of the long-term
18 custodial relationship.

19 (IV) Each party to the proceeding agrees that a
20 long-term custodial relationship does not preclude the
21 possibility of the child returning to the custody of the
22 parent at a later date, should the parent demonstrate a
23 material change in circumstances and the return of the child
24 to the parent is in the child's best interest.

25 (V) The court has considered the reasonable preference
26 of the child if the court has found the child to be of
27 sufficient intelligence, understanding, and experience to
28 express a preference.

29 (VI) The court has considered the recommendation of
30 the guardian ad litem if one has been appointed.

31

1 (VII) The relative or other adult has made a
2 commitment to provide for the child until the child reaches
3 the age of majority and to prepare the child for adulthood and
4 independence.

5 (VIII) The relative or other adult agrees not to
6 return the child to the physical care and custody of the
7 person from whom the child was removed, including for short
8 visitation periods, without the approval of the court.

9 b. The court shall retain jurisdiction over the case,
10 and the child shall remain in the long-term custody of the
11 relative or other adult caregiver approved by the court until
12 the order creating the long-term custodial relationship is
13 modified by the court. The court shall discontinue regular
14 judicial review hearings and may relieve the department of the
15 responsibility for supervising the placement of the child
16 whenever the court determines that the placement is stable and
17 that such supervision is no longer needed. The child must be
18 in the placement for a minimum of 6 continuous months before
19 the court may consider termination of the department's
20 supervision.Notwithstanding the retention of jurisdiction,
21 the placement shall be considered a permanency option for the
22 child when the court relieves the department of the
23 responsibility for supervising the placement. The order
24 terminating supervision by the department shall set forth the
25 powers of the custodian of the child and shall include the
26 powers ordinarily granted to a guardian of the person of a
27 minor unless otherwise specified. The court may modify the
28 order terminating supervision of the long-term ~~relative or~~
29 ~~caregiver~~ placement if it finds that ~~a party to the proceeding~~
30 ~~has shown a material change in circumstances which causes the~~
31

1 long-term ~~relative or caregiver~~ placement is to be no longer
2 in the best interest of the child.

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

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

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

11 (III) The department's social services study pursuant
12 to part VIII recommends long-term out-of-home care.

13

14 ~~b.~~ Long-term out-of-home care under the above conditions
15 shall not be considered a permanency option.

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

19 (I) The child is 14 years of age or older.7

20 (II) The child is living in a licensed home and the
21 foster parents desire to provide care for the child on a
22 permanent basis and the foster parents and the child do not
23 desire adoption.7

24 (III) The foster family has made a commitment to
25 provide for the child until he or she reaches the age of
26 majority and to prepare the child for adulthood and
27 independence.7~~and~~

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

30

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

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

7
8 ~~d.~~ Notwithstanding the retention of jurisdiction and
9 supervision by the department, long-term out-of-home care
10 placements made pursuant to this section shall be considered a
11 permanency option for the child. For purposes of this
12 subsection, supervision by the department shall be defined as
13 a minimum of semiannual visits. The order placing the child
14 in long-term out-of-home care as a permanency option shall set
15 forth the powers of the custodian of the child and shall
16 include the powers ordinarily granted to a guardian of the
17 person of a minor unless otherwise specified. The court may
18 modify the permanency option of long-term out-of-home care if
19 it finds that ~~a party to the proceeding has shown a material~~
20 ~~change in circumstances which causes~~ the placement is to be no
21 longer in the best interests of the child.

22 c.e. Approve placement of the child in an independent
23 living arrangement for any ~~foster~~ child 16 years of age or
24 older, if it can be clearly established that this type of
25 alternate care arrangement is the most appropriate plan and
26 that the health, safety, and well-being of the child will not
27 be jeopardized by such an arrangement. While in independent
28 living situations, children whose legal custody has been
29 awarded to the department or a licensed child-caring or
30 child-placing agency, or who have been voluntarily placed with
31 such an agency by a parent, guardian, relative, or adult

1 ~~nonrelative~~ approved by the court, continue to be subject to
2 court review provisions.

3 7. Commit the child to the temporary legal custody of
4 the department. Such commitment invests in the department all
5 rights and responsibilities of a legal custodian. The
6 department shall not return any child to the physical care and
7 custody of the person from whom the child was removed, except
8 for court-approved ~~short~~ visitation periods, without the
9 approval of the court. The term of such commitment continues
10 until terminated by the court or until the child reaches the
11 age of 18. After the child is committed to the temporary
12 custody of the department, all further proceedings under this
13 section are also governed by this chapter.

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

1 for changing custody of the child shall be the best interest
2 of the child. If the child is not placed in foster care, then
3 the new placement for the child from one parent to another or
4 to a relative or caregiver must meet the home study criteria
5 and court approval pursuant to this chapter.

6 b. In cases where the issue before the court is
7 whether a child should be reunited with a parent, the court
8 shall determine whether the parent has substantially complied
9 with the terms of the case plan to the extent that the safety,
10 well-being, and physical, mental, and emotional health of the
11 child is not endangered by the return of the child to the
12 home.

13 (b) The court shall, in its written order of
14 disposition, include all of the following:

15 1. The placement or custody of the child as provided
16 in paragraph (a).

17 2. Special conditions of placement and visitation.

18 3. Evaluation, counseling, treatment activities, and
19 other actions to be taken by the parties, if ordered.

20 4. The persons or entities responsible for supervising
21 or monitoring services to the child and family.

22 5. Continuation or discharge of the guardian ad litem,
23 as appropriate.

24 6. The date, time, and location of the next scheduled
25 review hearing, which must occur ~~within 90 days after the~~
26 ~~disposition hearing or~~ within the earlier of:

27 a. Ninety days after the disposition hearing;

28 b. Ninety days after the court accepts the case plan;

29 ~~c.a.~~ Six months after the date of the last review
30 hearing; or

31

1 ~~d.b.~~ Six months after the date of the child's removal
2 from his or her home, if no review hearing has been held since
3 the child's removal from the home.

4 7. Other requirements necessary to protect the health,
5 safety, and well-being of the child, to preserve the stability
6 of the child's educational placement, and to promote family
7 preservation or reunification whenever possible.

8 (c) If the court finds that the prevention or
9 reunification efforts of the department will allow the child
10 to remain safely at home or be safely returned to the home,
11 the court shall allow the child to remain in or return to the
12 home after making a specific finding of fact that the reasons
13 for removal have been remedied to the extent that the child's
14 safety, well-being, and physical, mental, and emotional health
15 will not be endangered.

16 (d) If the court places ~~commits~~ the child in an
17 out-of-home placement ~~to the temporary legal custody of the~~
18 ~~department~~, the disposition order must include a written
19 determination that the child cannot safely remain at home with
20 reunification or family preservation services and that removal
21 of the child is necessary to protect the child. If the child
22 has been removed before the disposition hearing, the order
23 must also include a written determination as to whether, after
24 removal, the department has made a reasonable effort to
25 reunify the family, if reasonable efforts are required.
26 Reasonable efforts to reunify are not required if the court
27 has found that any of the acts listed in s. 39.806(1)(f)-(i)
28 have occurred.The department has the burden of demonstrating
29 that it has made reasonable efforts under this paragraph.

30 1. For the purposes of this paragraph, the term
31 "reasonable effort" means the exercise of reasonable diligence

1 and care by the department to provide the services delineated
2 in the case plan.

3 2. In support of its determination as to whether
4 reasonable efforts have been made, the court shall:

5 a. Enter written findings as to whether or not
6 prevention or reunification efforts were indicated.

7 b. If prevention or reunification efforts were
8 indicated, include a brief written description of what
9 appropriate and available prevention and reunification efforts
10 were made.

11 c. Indicate in writing why further efforts could or
12 could not have prevented or shortened the separation of the
13 family.

14 3. A court may find that the department has made a
15 reasonable effort to prevent or eliminate the need for removal
16 if:

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

19 b. The appraisal by the department of the home
20 situation indicates that it presents a substantial and
21 immediate danger to the child's safety or physical, mental, or
22 emotional health which cannot be mitigated by the provision of
23 preventive services;~~or~~

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

29 d. The parent or legal custodian is alleged to have
30 committed any of the acts listed as grounds for expedited
31 termination of parental rights in s. 39.806(1)(f)-(i).

1 4. A reasonable effort by the department for
2 reunification of the family has been made if the appraisal of
3 the home situation by the department indicates that the
4 severity of the conditions of dependency is such that
5 reunification efforts are inappropriate. The department has
6 the burden of demonstrating to the court that reunification
7 efforts were inappropriate.

8 5. If the court finds that the prevention or
9 reunification effort of the department would not have
10 permitted the child to remain safely at home, the court may
11 commit the child to the temporary legal custody of the
12 department or take any other action authorized by this
13 chapter.

14 (10)(a) When any child is adjudicated by the court to
15 be dependent and temporary legal custody of the child has been
16 placed with an adult relative, legal custodian, or other adult
17 ~~caregiver~~ approved by the court, a licensed child-caring
18 agency, or the department, the court shall, unless a parent
19 has voluntarily executed a written surrender for purposes of
20 adoption, order the parents, or the guardian of the child's
21 estate if possessed of assets which under law may be disbursed
22 for the care, support, and maintenance of the child, to pay
23 child support to the ~~adult relative, legal custodian, or~~
24 ~~caregiver~~ caring for the child, the licensed child-caring
25 agency, or the department. The court may exercise jurisdiction
26 over all child support matters, shall adjudicate the financial
27 obligation, including health insurance, of the child's parents
28 or guardian, and shall enforce the financial obligation as
29 provided in chapter 61. The state's child support enforcement
30 agency shall enforce child support orders under this section
31 in the same manner as child support orders under chapter 61.

1 (b) Placement of the child pursuant to subsection (8)
2 shall not be contingent upon issuance of a support order.

3 (11)(a) If the court does not commit the child to the
4 temporary legal custody of an adult relative, legal custodian,
5 or other adult ~~caregiver~~ approved by the court, the
6 disposition order shall include the reasons for such a
7 decision and shall include a determination as to whether
8 diligent efforts were made by the department to locate an
9 adult relative, legal custodian, or other adult ~~caregiver~~
10 willing to care for the child in order to present that
11 placement option to the court instead of placement with the
12 department.

13 (b) If diligent efforts are made to locate an adult
14 relative willing and able to care for the child but, because
15 no suitable relative is found, the child is placed with the
16 department or a legal custodian or other adult approved by the
17 court ~~caregiver~~, both the department and the court shall
18 consider transferring temporary legal custody to an adult
19 relative approved by the court at a later date, but neither
20 the department nor the court is obligated to so place the
21 child if it is in the child's best interest to remain in the
22 current placement. For the purposes of this paragraph,
23 "diligent efforts to locate an adult relative" means a search
24 similar to the diligent search for a parent, but without the
25 continuing obligation to search after an initial adequate
26 search is completed.

27 (12) An agency granted legal custody shall have the
28 right to determine where and with whom the child shall live,
29 but an individual granted legal custody shall exercise all
30 rights and duties personally unless otherwise ordered by the
31 court.

1 (13) In carrying out the provisions of this chapter,
2 the court may order the ~~natural~~ parents, ~~caregivers~~, or legal
3 custodians of a child who is found to be dependent to
4 participate in family counseling and other professional
5 counseling activities deemed necessary for the rehabilitation
6 of the child.

7 (14) With respect to a child who is the subject in
8 proceedings under this chapter, the court shall issue to the
9 department an order to show cause why it should not return the
10 child to the custody of the ~~natural~~ parents, ~~legal custodians~~,
11 ~~or caregivers~~ upon expiration of the case plan, or sooner if
12 the parents, ~~legal custodians~~, or ~~caregivers~~ have
13 substantially complied with the case plan.

14 (15) The court may ~~at any time~~ enter an order ending
15 its jurisdiction over a ~~any~~ child, ~~except that~~, when a child
16 has been returned to the parents ~~under subsection (14)~~,
17 provided the court shall not terminate its jurisdiction or the
18 department's supervision over the child until 6 months after
19 the child's return. ~~Based on a report of the department or~~
20 ~~agency or the child's guardian ad litem, and any other~~
21 ~~relevant factors~~, The court shall ~~then~~ determine whether its
22 jurisdiction should be continued or terminated in such a case
23 based on a report of the department or agency or the child's
24 guardian ad litem, and any other relevant factors; if its
25 jurisdiction is to be terminated, the court shall enter an
26 order to that effect.

27 Section 32. Paragraphs (a) and (d) of subsection (2)
28 of section 39.5085, Florida Statutes, 1998 Supplement, are
29 amended to read:

30 39.5085 Relative Caregiver Program.--
31

1 (2)(a) The Department of Children and Family Services
2 shall establish and operate the Relative Caregiver Program
3 pursuant to eligibility guidelines established in this section
4 as further implemented by rule of the department. The Relative
5 Caregiver Program shall, within the limits of available
6 funding, provide financial assistance to relatives who are
7 within the fifth degree by blood or marriage to the parent or
8 stepparent of a child and who are caring full-time for that
9 child in the role of substitute parent as a result of a
10 court's ~~departmental~~ determination of child abuse, neglect, or
11 abandonment and subsequent placement with the relative
12 pursuant to this chapter. Such placement may be either
13 court-ordered temporary legal custody to the relative pursuant
14 to s. 39.508(9)(a)4., or court-ordered placement in the home
15 of a relative under protective supervision of the department
16 pursuant to s. 39.508(9)(a)3. The Relative Caregiver Program
17 shall offer financial assistance to caregivers who are
18 relatives and who would be unable to serve in that capacity
19 without the relative caregiver payment because of financial
20 burden, thus exposing the child to the trauma of placement in
21 a shelter or in foster care.

22 (d) Relatives who are caring for children placed with
23 them by the court pursuant to this chapter ~~child protection~~
24 ~~system~~ shall receive a special monthly relative caregiver
25 benefit established by rule of the department. The amount of
26 the special benefit payment shall be based on the child's age
27 within a payment schedule established by rule of the
28 department and subject to availability of funding. The
29 statewide average monthly rate for children judicially placed
30 with relatives who are not licensed as foster homes may not
31 exceed 82 percent of the statewide average foster care rate,

1 nor may the cost of providing the assistance described in this
2 section to any relative caregiver exceed the cost of providing
3 out-of-home care in emergency shelter or foster care.

4 Section 33. Section 39.509, Florida Statutes, 1998
5 Supplement, is amended to read:

6 39.509 Grandparents rights.--Notwithstanding any other
7 provision of law, a maternal or paternal grandparent as well
8 as a stepgrandparent is entitled to reasonable visitation with
9 his or her grandchild who has been adjudicated a dependent
10 child and taken from the physical custody of the parent,
11 ~~custodian, legal guardian, or caregiver~~ unless the court finds
12 that such visitation is not in the best interest of the child
13 or that such visitation would interfere with the goals of the
14 case plan. Reasonable visitation may be unsupervised and,
15 where appropriate and feasible, may be frequent and
16 continuing.

17 (1) Grandparent visitation may take place in the home
18 of the grandparent unless there is a compelling reason for
19 denying such a visitation. The department's caseworker shall
20 arrange the visitation to which a grandparent is entitled
21 pursuant to this section. The state shall not charge a fee
22 for any costs associated with arranging the visitation.
23 However, the grandparent shall pay for the child's cost of
24 transportation when the visitation is to take place in the
25 grandparent's home. The caseworker shall document the reasons
26 for any decision to restrict a grandparent's visitation.

27 (2) A grandparent entitled to visitation pursuant to
28 this section shall not be restricted from appropriate displays
29 of affection to the child, such as appropriately hugging or
30 kissing his or her grandchild. Gifts, cards, and letters from
31

1 the grandparent and other family members shall not be denied
2 to a child who has been adjudicated a dependent child.

3 (3) Any attempt by a grandparent to facilitate a
4 meeting between the child who has been adjudicated a dependent
5 child and the child's parent or legal~~custodian~~, or any other
6 person ~~legal guardian, or caregiver~~ in violation of a court
7 order shall automatically terminate future visitation rights
8 of the grandparent.

9 (4) When the child has been returned to the physical
10 custody of his or her parent ~~or permanent custodian, legal~~
11 ~~guardian, or caregiver~~, the visitation rights granted pursuant
12 to this section shall terminate.

13 (5) The termination of parental rights does not affect
14 the rights of grandparents unless the court finds that such
15 visitation is not in the best interest of the child or that
16 such visitation would interfere with the goals of permanency
17 planning for the child.

18 (6) In determining whether grandparental visitation is
19 not in the child's best interest, consideration may be given
20 to the finding of guilt, regardless of adjudication, or entry
21 or plea of guilty or nolo contendere to charges under the
22 following statutes, or similar statutes of other
23 jurisdictions: s. 787.04, relating to removing minors from
24 the state or concealing minors contrary to court order; s.
25 794.011, relating to sexual battery; s. 798.02, relating to
26 lewd and lascivious behavior; chapter 800, relating to
27 lewdness and indecent exposure; or chapter 827, relating to
28 the abuse of children. Consideration may also be given to a
29 report finding of ~~confirmed~~ abuse, abandonment, or neglect
30 under ss. 415.101-415.113 or this chapter and the outcome of
31 the investigation concerning such report.

1 Section 34. Subsections (1) and (2) of section 39.510,
2 Florida Statutes, 1998 Supplement, are amended to read:

3 39.510 Appeal.--

4 (1) ~~Any child, parent, guardian ad litem, caregiver,~~
5 ~~or legal custodian of any child, any other party to the~~
6 proceeding who is affected by an order of the court, or the
7 department may appeal to the appropriate district court of
8 appeal within the time and in the manner prescribed by the
9 Florida Rules of Appellate Procedure. Appointed counsel shall
10 be compensated as provided in this chapter.

11 (2) When the notice of appeal is filed in the circuit
12 court by a party other than the department,an attorney for
13 the department shall represent the state and the court upon
14 appeal and shall be notified of the appeal by the clerk ~~when~~
15 ~~the notice of appeal is filed in the circuit court by a party~~
16 ~~other than the department.~~

17 Section 35. Section 39.601, Florida Statutes, 1998
18 Supplement, is amended to read:

19 39.601 Case plan requirements.--

20 (1) The department or agent of the department shall
21 develop a case plan for each child or child's family receiving
22 services pursuant to this chapter. A parent, ~~caregiver, or~~
23 ~~legal custodian~~ of a child may not be required nor coerced
24 through threat of loss of custody or parental rights to admit
25 in the case plan to abusing, neglecting, or abandoning a
26 child. Where dependency mediation services are available and
27 appropriate to the best interests of the child, the court may
28 refer the case to mediation for development of a case plan.
29 This section does not change the provisions of s. 39.807.

30 (a) The case plan must be developed in conference with
31 the parent, ~~caregiver, or legal custodian~~ of the child and any

1 court-appointed guardian ad litem and, if appropriate, the
2 child.

3 (b) The case plan must be written simply and clearly
4 in English and, if English is not the principal language of
5 the child's parent, ~~caregiver, or legal custodian,~~to the
6 extent possible in such principal language.

7 (c) The case plan must describe the minimum number of
8 face-to-face meetings to be held each month between the
9 parents, ~~caregivers, or legal custodians~~ and the department's
10 caseworkers to review progress of the plan, to eliminate
11 barriers to progress, and to resolve conflicts or
12 disagreements.

13 (d) The case plan must be subject to modification
14 based on changing circumstances.

15 (e) The case plan must be signed by all parties.

16 (f) The case plan must be reasonable, accurate, and in
17 compliance with the requirements of other court orders.

18 (2) When the child or family is receiving services,
19 the case plan must include, in addition to the requirements in
20 subsection (1), at a minimum:

21 (a) A description of the problem being addressed that
22 includes the behavior or act of a parent or legal custodian,
23 ~~or caregiver~~ resulting in risk to the child and the reason for
24 the department's intervention.

25 (b) A description of the tasks with which the parent
26 must comply and the services to be provided to the family and
27 child specifically addressing the identified problem,
28 including:

- 29 1. Type of services or treatment.
- 30 2. Frequency of services or treatment.
- 31 3. Location of the delivery of the services.

1 4. The accountable department staff or service
2 provider.

3 (c) A description of the measurable objectives,
4 including timeframes for achieving objectives, addressing the
5 identified problem.

6 (3) When the child is receiving services in an
7 out-of-home a placement ~~outside the child's home or in foster~~
8 ~~care~~, the case plan must be filed with ~~submitted to~~ the court,
9 for approval by the court, at least 72 hours prior to ~~at~~ the
10 disposition hearing. The case plan must be served on all
11 parties whose whereabouts are known at least 72 hours prior to
12 the disposition hearing and must include, in addition to the
13 requirements in subsections (1) and (2), at a minimum:

14 (a) A description of the permanency goal for the
15 child, including the type of placement. Reasonable efforts to
16 place a child in a home that will serve as an adoptive
17 placement if reunification is not successful,~~for adoption~~ or
18 with a legal guardian,may be made concurrently with
19 reasonable efforts to prevent removal of the child from the
20 home or make it possible for the child to return safely home.

21 (b) A description of the type of home or institution
22 in which the child is to be placed.

23 (c) A description of the financial support obligation
24 to the child, including health insurance, of the child's
25 ~~parent, parents, caregiver, or legal custodian~~.

26 (d) A description of the visitation rights and
27 obligations of the ~~parent or parents, caregiver, or legal~~
28 ~~custodian~~ during the period the child is in care.

29 (e) A discussion of the safety and appropriateness of
30 the child's placement, which placement is intended to be safe,
31 the least restrictive and most family-like setting available

1 consistent with the best interest and special needs of the
2 child, and in as close proximity as possible to the child's
3 home. The plan must also establish the role for the foster
4 parents or legal custodians in the development of the services
5 which are to be provided to the child, foster parents, or
6 legal custodians. It must also address the child's need for
7 services while under the jurisdiction of the court and
8 implementation of these services in the case plan.

9 (f) A description of the efforts to be undertaken to
10 maintain the stability of the child's educational placement.

11 (g) A discussion of the department's plans to carry
12 out the judicial determination made by the court, with respect
13 to the child, in accordance with this chapter and applicable
14 federal regulations.

15 (h) A description of the plan for assuring that
16 services outlined in the case plan are provided to the child
17 and the child's parent or parents, ~~legal custodians, or~~
18 ~~caregivers~~, to improve the conditions in the family home and
19 facilitate either the safe return of the child to the home or
20 the permanent placement of the child.

21 (i) A description of the plan for assuring that
22 services as outlined in the case plan are provided to the
23 child, ~~and~~ the child's ~~parent or~~ parents, and the child's
24 legal custodians, or caregivers, to address the needs of the
25 child, ~~and~~ a discussion of the appropriateness of the
26 services.

27 (j) A description of the plan for assuring that
28 services are provided to the child and the child's legal
29 custodians or foster parents to address the needs of the child
30 while in an out-of-home placement ~~foster care~~, which shall
31 include an itemized list of costs to be borne by the parent ~~or~~

1 ~~caregiver~~ associated with any services or treatment that the
2 parent and child are expected to receive.

3 (k) A written notice to the parent that failure of the
4 parent to substantially comply with the case plan may result
5 in the termination of parental rights, and that a material
6 failure to substantially comply may result in the filing of a
7 petition for termination of parental rights sooner than the
8 compliance periods set forth in the case plan itself. The case
9 staffing committee shall coordinate its efforts with the child
10 protection team of the Department of Health.

11 (l) In the case of a child for whom the permanency
12 plan is adoption or placement in another permanent home,
13 documentation of the steps the agency is taking to find an
14 adoptive family or other permanent living arrangement for the
15 child, to place the child with an adoptive family, with a fit
16 and willing relative, with a legal guardian, or in another
17 planned permanent living arrangement, and to finalize the
18 adoption or legal guardianship. At a minimum, such
19 documentation shall include child-specific recruitment efforts
20 such as the use of state, regional, and national adoption
21 exchanges, including electronic exchange systems.

22 (4) In the event that the parents, ~~legal custodians,~~
23 ~~or caregivers~~ are unwilling or unable to participate in the
24 development of a case plan, the department shall document that
25 unwillingness or inability to participate. Such documentation
26 must be provided in writing to the parent, ~~legal custodians,~~
27 ~~or caregivers~~ when available for the court record, and then
28 the department shall prepare a case plan conforming as nearly
29 as possible with the requirements set forth in this section.
30 The unwillingness or inability of the parents, ~~legal~~
31 ~~custodians, or caregivers~~ to participate in the development of

1 a case plan shall not in itself bar the filing of a petition
2 for dependency or for termination of parental rights. The
3 ~~parents, legal custodians, or caregivers,~~if available, must
4 be provided a copy of the case plan and be advised that they
5 may, at any time prior to the filing of a petition for
6 termination of parental rights, enter into a case plan and
7 that they may request judicial review of any provision of the
8 case plan with which they disagree at any court review hearing
9 set for the child.

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

26 (6) After jurisdiction attaches, all case plans must
27 be filed with the court and a copy provided to all the
28 ~~parents, caregivers, or legal custodians of the child, to the~~
29 ~~representative of the guardian ad litem program if the program~~
30 ~~has been appointed, and to all other parties~~ whose whereabouts
31 are known, not less than 72 hours before the disposition

1 ~~hearing. All such case plans must be approved by the court.~~
2 The department shall also file with the court all case plans
3 prepared before jurisdiction of the court attached. If, after
4 review of the case plan, the court does not approve ~~accept~~ the
5 case plan, the court shall require the parties to make
6 necessary modifications to the plan. An amended plan must be
7 submitted to the court for review and approval within 30 days
8 after the hearing on the case plan. This amended plan must be
9 served on all parties whose whereabouts are known, at least 72
10 hours prior to filing with the court.

11 (7) The case plan must be limited to as short a period
12 as possible for the accomplishment of its provisions. Unless
13 extended, the plan expires no later than 12 months after the
14 date the child was initially removed from the home or the date
15 the case plan was accepted by the court, whichever comes
16 first.

17 (8) The case plan must meet applicable federal and
18 state requirements.

19 (9)(a) In each case in which the custody of a child
20 has been vested, either voluntarily or involuntarily, in the
21 department and the child has been placed in out-of-home care,
22 a case plan must be prepared within 60 days after the
23 department removes the child from the home, and shall be
24 submitted to the court before the disposition hearing, for the
25 court to review and approve ~~accept~~. If the preparation of a
26 case plan, in conference with the parents and other pertinent
27 parties, cannot be completed before the disposition hearing,
28 for good cause shown, the court may grant an extension not to
29 exceed 30 days and set a hearing to review and approve ~~accept~~
30 the case plan.

31

1 (b) The parent or parents, ~~legal custodians, or~~
2 ~~caregivers~~ may receive assistance from any person or social
3 service agency in the preparation of the case plan.

4 (c) The social service agency, the department, and the
5 court, when applicable, shall inform the parent or parents,
6 ~~legal custodians, or caregivers~~ of the right to receive such
7 assistance, including the right to assistance of counsel.

8 (d) Before the signing of the case plan, the
9 authorized agent of the department shall explain it to all
10 persons involved in its implementation, including, when
11 appropriate, the child.

12 (e) After the case plan has been agreed upon and
13 signed by the parties involved, a copy of the plan must be
14 given immediately to the parents, the department or agency,
15 the foster parents ~~or caregivers~~, the legal custodian, ~~the~~
16 ~~caregiver~~, the representative of the guardian ad litem program
17 if the program is appointed, and any other parties identified
18 by the court, including the child, if appropriate.

19 (f) The case plan may be amended at any time if all
20 parties are in agreement regarding the revisions to the plan
21 and the plan is submitted to the court with a memorandum of
22 explanation, if the court approves such amendment. The case
23 plan may also be amended by the court or upon motion of any
24 party at a hearing, based on competent evidence demonstrating
25 the need for the amendment. A copy of the amended plan must be
26 immediately given to the persons ~~parties~~ specified in
27 paragraph (e).

28 (10) A case plan must be prepared, but need not be
29 submitted to the court, for a child who will be in care no
30 longer than 30 days unless that child is placed in out-of-home
31 care a second time within a 12-month period.

1 Section 36. Subsection (1) and paragraph (a) of
2 subsection (4) of section 39.602, Florida Statutes, 1998
3 Supplement, are amended to read:

4 39.602 Case planning when parents, ~~legal custodians,~~
5 ~~or caregivers~~ do not participate and the child is in
6 out-of-home care.--

7 (1) In the event the parents, ~~legal custodians,~~ or
8 ~~caregivers~~ will not or cannot participate in preparation of a
9 case plan, the department shall submit a full explanation of
10 the circumstances and state the nature of its efforts to
11 secure such persons' participation in the preparation of a
12 case plan.

13 (4)(a) At least 72 hours prior to the hearing in which
14 the court will consider approval of the case plan ~~filing of a~~
15 ~~plan~~, all parties must be provided with a copy of the plan
16 developed by the department. If the location of one or both
17 parents is unknown, this must be documented in writing and
18 included in the plan submitted to the court. After the filing
19 of the plan, if the location of an absent parent becomes
20 known, that parent must be served with a copy of the plan.

21 Section 37. Subsections (2) and (3) of section 39.603,
22 Florida Statutes, 1998 Supplement, are amended to read:

23 39.603 Court approvals of case planning.--

24 (2) When the court determines that any of the elements
25 considered at the hearing related to the plan have not been
26 met, the court shall require the parties to make necessary
27 amendments to the plan. The amended plan must be submitted to
28 the court for review and approval within 30 days after the
29 hearing ~~a time certain specified by the court~~. A copy of the
30 amended plan must also be provided to each party ~~parent~~, if
31

1 the location of the ~~party parent~~ is known, at least 72 hours
2 prior to filing with the court.

3 (3) A parent who has not participated in the
4 development of a case plan must be served with a copy of the
5 plan developed by the department, if the parent can be
6 located, at least 72 ~~48~~ hours prior to the court hearing. Any
7 parent is entitled to, and may seek, a court review of the
8 plan prior to the initial judicial review and must be informed
9 of this right by the department at the time the department
10 serves the parent with a copy of the plan. If the location of
11 an absent parent becomes known to the department, the
12 department shall inform the parent of the right to a court
13 review at the time the department serves the parent with a
14 copy of the case plan.

15 Section 38. Section 39.701, Florida Statutes, 1998
16 Supplement, is amended to read:

17 39.701 Judicial review.--

18 (1)(a) The court shall have continuing jurisdiction in
19 accordance with this section and shall review the status of
20 the child at least every 6 months as required by this
21 subsection or more frequently if the court deems it necessary
22 or desirable.

23 (b) The court shall retain jurisdiction over a child
24 returned to his or her ~~its~~ parents, ~~caregivers, or legal~~
25 ~~guardians~~ for a minimum period of 6 months following the
26 reunification, but, at that time, based on a report of the
27 social service agency and the guardian ad litem, if one has
28 been appointed, and any other relevant factors, the court
29 shall make a determination as to whether supervision by the
30 department and the court's ~~its~~ jurisdiction shall continue or
31 be terminated.

1 (2)(a) The court shall review the status of the child
2 and shall hold a hearing as provided in this part at least
3 every 6 months until the child reaches permanency status. The
4 court may dispense with the attendance of the child at the
5 hearing, but may not dispense with the hearing or the presence
6 of other parties to the review unless before the review a
7 hearing is held before a citizen review panel.

8 (b) Citizen review panels may conduct hearings to
9 review the status of a child. The court shall select the cases
10 appropriate for referral to the citizen review panels and may
11 order the attendance of the parties at the review panel
12 hearings. However, any party may object to the referral of a
13 case to a citizen review panel. Whenever such an objection has
14 been filed with the court, the court shall review the
15 substance of the objection and may conduct the review itself
16 or refer the review to a citizen review panel. All parties
17 retain the right to take exception to the findings or
18 recommended orders of a citizen review panel in accordance
19 with Rule 1.490(h), Florida Rules of Civil Procedure.

20 (c) Notice of a hearing by a citizen review panel must
21 be provided as set forth in subsection (5). At the conclusion
22 of a citizen review panel hearing, each party may propose a
23 recommended order to the chairperson of the panel. Thereafter,
24 the citizen review panel shall submit its report, copies of
25 the proposed recommended orders, and a copy of the panel's
26 recommended order to the court. The citizen review panel's
27 recommended order must be limited to the dispositional options
28 available to the court in subsection (8). Each party may file
29 exceptions to the report and recommended order of the citizen
30 review panel in accordance with Rule 1.490, Florida Rules of
31 Civil Procedure.

1 (3)(a) The initial judicial review hearing must be
2 held no later than 90 days after the date of the disposition
3 hearing or after the date of the hearing at which the court
4 approves the case plan, whichever comes first, but in no event
5 shall the review be held later than 6 months after the date
6 the child was removed from the home. Citizen review panels
7 shall not conduct more than two consecutive reviews without
8 the child and the parties coming before the court for a
9 judicial review.

10 (b) If the citizen review panel recommends extending
11 ~~court extends~~ any case plan beyond 12 months, the court must
12 schedule a judicial review hearing to be conducted by the
13 court within 30 days after receiving the recommendation from
14 the citizen review panel ~~judicial reviews must be held at~~
15 ~~least every 6 months.~~

16 (c) If the child is placed in the custody of the
17 department or a licensed child-placing agency for the purpose
18 of adoptive placement, judicial reviews must be held at least
19 every 6 months until the adoption is finalized ~~adoptive~~
20 ~~placement, to determine the appropriateness of the current~~
21 ~~placement and the progress made toward adoptive placement.~~

22 (d) If the department and the court have established a
23 formal agreement that includes specific authorization for
24 particular cases, the department may conduct administrative
25 reviews instead of the judicial reviews for children in
26 out-of-home care. Notices of such administrative reviews must
27 be provided to all parties. However, an administrative review
28 may not be substituted for the first judicial review, and in
29 every case the court must conduct a judicial review at least
30 every 6 months. Any party dissatisfied with the results of an
31 administrative review may petition for a judicial review.

1 (e) The clerk of the circuit court shall schedule
2 judicial review hearings in order to comply with the mandated
3 times cited in this section.

4 (f) In each case in which a child has been voluntarily
5 placed with the licensed child-placing agency, the agency
6 shall notify the clerk of the court in the circuit where the
7 child resides of such placement within 5 working days.

8 Notification of the court is not required for any child who
9 will be in out-of-home care no longer than 30 days unless that
10 child is placed in out-of-home care a second time within a
11 12-month period. If the child is returned to the custody of
12 the parents, ~~caregiver~~, or legal custodian before the
13 scheduled review hearing or if the child is placed for
14 adoption, the child-placing agency shall notify the court of
15 the child's return or placement within 5 working days, and the
16 clerk of the court shall cancel the review hearing.

17 (4) The court shall schedule the date, time, and
18 location of the next judicial review during the judicial
19 review hearing and shall list same in the judicial review
20 order.

21 (5) Notice of a judicial review hearing or a citizen
22 review panel hearing, and a copy of the motion for judicial
23 review, if any ~~including a statement of the dispositional~~
24 ~~alternatives available to the court~~, must be served by the
25 clerk of the court upon:

26 (a) The social service agency charged with the
27 supervision of care, custody, or guardianship of the child, if
28 that agency is not the movant.

29 (b) The foster parent or legal custodian ~~parents or~~
30 ~~caregivers~~ in whose home the child resides.

31

1 (c) The parents ~~parent, caregiver, or legal custodian~~
2 ~~from whom the care and custody of the child have been~~
3 ~~transferred.~~

4 (d) The guardian ad litem for the child, or the
5 representative of the guardian ad litem program if the program
6 has been appointed.

7 (e) Any preadoptive parent.

8 (f) Such other persons as the court may in its
9 discretion direct.

10
11 Service of notice is not required on any of the persons listed
12 in paragraphs (a)-(f) if the person was present at the
13 previous hearing during which the date, time, and location of
14 the hearing was announced.

15 (6)(a) Prior to every judicial review hearing or
16 citizen review panel hearing, the social service agency shall
17 make an investigation and social study concerning all
18 pertinent details relating to the child and shall furnish to
19 the court or citizen review panel a written report that
20 includes, but is not limited to:

21 1. A description of the type of placement the child is
22 in at the time of the hearing, including the safety of the
23 child and the continuing necessity for and appropriateness of
24 the placement.

25 2. Documentation of the diligent efforts made by all
26 parties to the case plan to comply with each applicable
27 provision of the plan.

28 3. The amount of fees assessed and collected during
29 the period of time being reported.

30
31

1 4. The services provided to the foster family or legal
2 custodian ~~caregivers~~ in an effort to address the needs of the
3 child as indicated in the case plan.

4 5. A statement that either:

5 a. The parent ~~or legal custodian~~, though able to do
6 so, did not comply substantially with the provisions of the
7 case plan, and the agency recommendations; ~~or~~

8 b. ~~A statement that~~ The parent ~~or legal custodian~~ did
9 substantially comply with the such provisions of the case
10 plan; ~~or~~

11 c. The parent has partially complied with the
12 provisions of the case plan, with a summary of additional
13 progress needed and the agency recommendations.

14 6. A statement from the foster parent or legal
15 custodian ~~parents or caregivers~~ providing any material
16 evidence concerning the return of the child to the parent or
17 ~~parents or legal custodians~~.

18 7. A statement concerning the frequency, duration, and
19 results of the parent-child visitation, if any, and the agency
20 recommendations for an expansion or restriction of future
21 visitation.

22 8. The number of times a child has been removed from
23 his or her home and placed elsewhere, the number and types of
24 placements that have occurred, and the reason for the changes
25 in placement.

26 9. The number of times a child's educational placement
27 has been changed, the number and types of educational
28 placements which have occurred, and the reason for any change
29 in placement.

30 10. Copies of all medical, psychological, and
31 educational records that support the terms of the case plan

1 and that have been produced concerning the child or parents
2 since the last judicial review hearing.

3 (b) A copy of the social service agency's written
4 report and the written report of the guardian ad litem must be
5 provided to the attorney of record of the ~~parent, parents, or~~
6 ~~legal custodians;~~ to the ~~parent, parents, or legal custodians;~~
7 to the foster parents or legal custodians caregivers; to each
8 citizen review panel; and to the guardian ad litem for the
9 child, or the representative of the guardian ad litem program
10 if the program has been appointed by the court, at least 72 ~~48~~
11 hours before the judicial review hearing, or citizen review
12 panel hearing. The requirement for providing parents ~~or legal~~
13 ~~custodians~~ with a copy of the written report does not apply to
14 those parents ~~or legal custodians~~ who have voluntarily
15 surrendered their child for adoption or who have had their
16 parental rights to the child terminated.

17 (c) In a case in which the child has been permanently
18 placed with the social service agency, the agency shall
19 furnish to the court a written report concerning the progress
20 being made to place the child for adoption. If the child
21 cannot be placed for adoption, a report on the progress made
22 by the child towards ~~in~~ alternative permanency goals or
23 placements, including, but not limited to, long-term foster
24 care, independent living, custody to a relative or other adult
25 ~~caregiver~~ approved by the court on a permanent basis with or
26 without legal guardianship, or custody to a foster parent or
27 legal custodian caregiver on a permanent basis with or without
28 legal guardianship, must be submitted to the court. The report
29 must be submitted to the court at least 72 ~~48~~ hours before
30 each scheduled judicial review.

31

1 (d) In addition to or in lieu of any written statement
2 provided to the court, the foster parent or legal custodian
3 ~~caregivers~~, or any preadoptive parent, shall be given the
4 opportunity to address the court with any information relevant
5 to the best interests of the child at any judicial review
6 hearing.

7 (7) The court and any citizen review panel shall take
8 into consideration the information contained in the social
9 services study and investigation and all medical,
10 psychological, and educational records that support the terms
11 of the case plan; testimony by the social services agency, the
12 parent ~~or legal custodian~~, the foster parent or legal
13 custodian ~~caregivers~~, the guardian ad litem if one has been
14 appointed for the child, and any other person deemed
15 appropriate; and any relevant and material evidence submitted
16 to the court, including written and oral reports to the extent
17 of their probative value. These reports and evidence may be
18 received by the court in its effort to determine the action to
19 be taken with regard to the child and may be relied upon to
20 the extent of its probative value, even though not competent
21 in an adjudicatory hearing. In its deliberations, the court
22 and any citizen review panel shall seek to determine:

23 (a) If the parent ~~or legal custodian~~ was advised of
24 the right to receive assistance from any person or social
25 service agency in the preparation of the case plan.

26 (b) If the parent ~~or legal custodian~~ has been advised
27 of the right to have counsel present at the judicial review or
28 citizen review hearings. If not so advised, the court or
29 citizen review panel shall advise the parent ~~or legal~~
30 ~~custodian~~ of such right.

31

1 (c) If a guardian ad litem needs to be appointed for
2 the child in a case in which a guardian ad litem has not
3 previously been appointed or if there is a need to continue a
4 guardian ad litem in a case in which a guardian ad litem has
5 been appointed.

6 (d) The compliance or lack of compliance of all
7 parties with applicable items of the case plan, including the
8 parents' compliance with child support orders.

9 (e) The compliance or lack of compliance with a
10 visitation contract between the parent, ~~caregiver, or legal~~
11 ~~custodian~~ and the social service agency for contact with the
12 child, including the frequency, duration, and results of the
13 parent-child visitation and the reason for any noncompliance.

14 (f) The compliance or lack of compliance of the
15 parent, ~~caregiver, or legal custodian~~ in meeting specified
16 financial obligations pertaining to the care of the child,
17 including the reason for failure to comply if such is the
18 case.

19 (g) The appropriateness of the child's current
20 placement, including whether the child is in a setting which
21 is as family-like and as close to the parent's home as
22 possible, consistent with the child's best interests and
23 special needs, and including maintaining stability in the
24 child's educational placement.

25 (h) A projected date likely for the child's return
26 home or other permanent placement.

27 (i) When appropriate, the basis for the unwillingness
28 or inability of the parent, ~~caregiver, or legal custodian~~ to
29 become a party to a case plan. The court and the citizen
30 review panel shall determine if the efforts of the social
31

1 service agency to secure party participation in a case plan
2 were sufficient.

3 (8)(a) Based upon the criteria set forth in subsection
4 (7) and the recommended order of the citizen review panel, if
5 any, the court shall determine whether or not the social
6 service agency shall initiate proceedings to have a child
7 declared a dependent child, return the child to the parent,
8 ~~legal custodian, or caregiver,~~ continue the child in
9 out-of-home care for a specified period of time, or initiate
10 termination of parental rights proceedings for subsequent
11 placement in an adoptive home. Modifications to the plan must
12 be handled as prescribed in s. 39.601. If the court finds that
13 the prevention or reunification efforts of the department will
14 allow the child to remain safely at home or be safely returned
15 to the home, the court shall allow the child to remain in or
16 return to the home after making a specific finding of fact
17 that the reasons for the creation of the case plan ~~removal~~
18 have been remedied to the extent that the child's safety,
19 well-being, and physical, mental, and emotional health will
20 not be endangered.

21 (b) The court shall return the child to the custody of
22 the parents, ~~legal custodians, or caregivers~~ at any time it
23 determines that they have substantially complied with the case
24 plan, if the court is satisfied that reunification will not be
25 detrimental to the child's safety, well-being, and physical,
26 mental, and emotional health.

27 (c) If, in the opinion of the court, the social
28 service agency has not complied with its obligations as
29 specified in the written case plan, the court may find the
30 social service agency in contempt, shall order the social
31 service agency to submit its plans for compliance with the

1 agreement, and shall require the social service agency to show
2 why the child could not safely be returned to the home of the
3 ~~parents, legal custodians, or caregivers.~~

4 (d) The court may extend the time limitation of the
5 case plan, or may modify the terms of the plan, based upon
6 information provided by the social service agency, and the
7 guardian ad litem, if one has been appointed, the parent or
8 parents, and the foster parents or legal custodian, and any
9 other competent information on record demonstrating the need
10 for the amendment. If the court extends the time limitation of
11 the case plan, the court must make specific findings
12 concerning the frequency of past parent-child visitation, if
13 any, and the court may authorize the expansion or restriction
14 of future visitation. Modifications to the plan must be
15 handled as prescribed in s. 39.601. Any extension of a case
16 plan must comply with the time requirements and other
17 requirements specified by this chapter.

18 (e) If, at any judicial review, the court finds that
19 the parents have failed to substantially comply with the case
20 plan to the degree that further reunification efforts are
21 without merit and not in the best interest of the child, it
22 may authorize the filing of a petition for termination of
23 parental rights, whether or not the time period as contained
24 in the case plan for substantial compliance has elapsed.

25 (f) No later than 12 months after the date that the
26 child was placed in shelter care, the court shall conduct a
27 judicial review to plan for the child's permanency. At this
28 hearing, if the child is not returned to the physical custody
29 of the parents, ~~caregivers, or legal custodians~~, the case plan
30 may be extended with the same goals only if the court finds
31 that the situation of the child is so extraordinary that the

1 plan should be extended. The case plan must document steps the
2 department is taking to find an adoptive parent or other
3 permanent living arrangement for the child.

4 (g) The court may issue a protective order in
5 assistance, or as a condition, of any other order made under
6 this part. In addition to the requirements included in the
7 case plan, the protective order may set forth requirements
8 relating to reasonable conditions of behavior to be observed
9 for a specified period of time by a person or agency who is
10 before the court; and such order may require any such person
11 or agency to make periodic reports to the court containing
12 such information as the court in its discretion may prescribe.

13 Section 39. Paragraphs (g) and (h) of subsection (5)
14 of section 39.702, Florida Statutes, 1998 Supplement, are
15 amended to read:

16 39.702 Citizen review panels.--

17 (5) The independent not-for-profit agency authorized
18 to administer each citizen review panel shall:

19 (g) Establish policies to ensure adequate
20 communication with the parent, ~~caregiver, or legal custodian,~~
21 the foster parent or legal custodian ~~caregiver~~, the guardian
22 ad litem, and any other person deemed appropriate.

23 (h) Establish procedures that encourage attendance and
24 participation of interested persons and parties, including the
25 biological parents, foster parents, or legal custodian
26 ~~caregivers, or a relative or nonrelative~~ with whom the child
27 is placed, at citizen review hearings.

28 Section 40. Subsection (2) of section 39.703, Florida
29 Statutes, 1998 Supplement, is amended to read:

30 39.703 Initiation of termination of parental rights
31 proceedings.--

1 (2) If, at the time of the 12-month judicial review
2 hearing, a child is not returned to the physical custody of
3 the parents, ~~caregivers, or legal custodians,~~ the social
4 service agency shall initiate termination of parental rights
5 proceedings under this chapter within 30 days. Only if the
6 court finds that the situation of the child is so
7 extraordinary and that the best interests of the child will be
8 met by such action at the time of the judicial review may the
9 case plan be extended. If the court decides to extend the
10 plan, the court shall enter detailed findings justifying the
11 decision to extend, as well as the length of the extension. A
12 termination of parental rights petition need not be filed if:
13 the child is being cared for by a relative who chooses not to
14 adopt the child but who is willing, able, and suitable to
15 serve as the legal custodian for the child until the child
16 reaches 18 years of age; the court determines that filing such
17 a petition would not be in the best interests of the child; or
18 the state has not provided the child's family, when reasonable
19 efforts to return a child are required, consistent with the
20 time period in the state's case plan, such services as the
21 state deems necessary for the safe return of the child to his
22 or her home. Failure to initiate termination of parental
23 rights proceedings at the time of the 12-month judicial review
24 or within 30 days after such review does not prohibit
25 initiating termination of parental rights proceedings at any
26 other time.

27 Section 41. Section 39.704, Florida Statutes, 1998
28 Supplement, is amended to read:

29 39.704 Exemptions from judicial review.--Judicial
30 review does not apply to:

31

1 (1) Minors who have been placed in adoptive homes by
2 ~~the department or by~~ a licensed child-placing agency; or

3 (2) Minors who are refugees or entrants to whom
4 federal regulations apply and who are in the care of a social
5 service agency.

6 Section 42. Paragraphs (a), (b), and (d) of subsection
7 (3) and subsection (6) of section 39.801, Florida Statutes,
8 1998 Supplement, are amended to read:

9 39.801 Procedures and jurisdiction; notice; service of
10 process.--

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

14 (a) Notice of the date, time, and place of the
15 advisory hearing for the petition to terminate parental rights
16 and a copy of the petition must be personally served upon the
17 following persons, specifically notifying them that a petition
18 has been filed:

- 19 1. The parents of the child.
- 20 2. The ~~caregivers~~ or legal custodians of the child.
- 21 3. If the parents who would be entitled to notice are
22 dead or unknown, a living relative of the child, unless upon
23 diligent search and inquiry no such relative can be found.
- 24 4. Any person who has physical custody of the child.
- 25 5. Any grandparent entitled to priority for adoption
26 under s. 63.0425.
- 27 6. Any prospective parent who has been identified
28 under s. 39.503 or s. 39.803.
- 29 7. The guardian ad litem for the child or the
30 representative of the guardian ad litem program, if the
31 program has been appointed.

1
2 The document containing the notice to respond or appear must
3 contain, in type at least as large as the type in the balance
4 of the document, the following or substantially similar
5 language: "FAILURE TO PERSONALLY APPEAR AT THIS ADVISORY
6 HEARING CONSTITUTES CONSENT TO THE TERMINATION OF PARENTAL
7 RIGHTS OF THIS CHILD (OR CHILDREN). IF YOU FAIL TO APPEAR ON
8 THE DATE AND TIME SPECIFIED, YOU MAY LOSE ALL LEGAL RIGHTS AS
9 A PARENT TO THE CHILD OR CHILDREN NAMED IN THE PETITION
10 ATTACHED TO THIS NOTICE."

11 (b) If a party ~~person~~ required to be served with
12 notice as prescribed in paragraph (a) cannot be served, notice
13 of hearings must be given as prescribed by the rules of civil
14 procedure, and service of process must be made as specified by
15 law or civil actions.

16 (d) If the person served with notice under this
17 section fails to personally appear at the advisory hearing,
18 the failure to personally appear shall constitute consent for
19 termination of parental rights by the person given notice. If
20 a parent appears for the advisory hearing and the court orders
21 that parent to personally appear at the adjudicatory hearing
22 for the petition for termination of parental rights, stating
23 the date, time, and location of said hearing, then failure of
24 that parent to personally appear at the adjudicatory hearing
25 shall constitute consent for termination of parental rights.

26 (6) Subpoenas may be served within the state by any
27 person over 18 years of age who is not a party to the
28 proceeding and, in addition, may be served or executed by
29 authorized agents of the department or of the guardian ad
30 litem.

31

1 Section 43. Subsection (1), paragraph (b) of
2 subsection (4), and subsection (8), of section 39.802, Florida
3 Statutes, 1998 Supplement, are amended to read:

4 39.802 Petition for termination of parental rights;
5 filing; elements.--

6 (1) All proceedings seeking an adjudication to
7 terminate parental rights pursuant to this chapter must be
8 initiated by the filing of an original petition by the
9 department, the guardian ad litem, ~~or~~ a licensed child-placing
10 agency, ~~or by~~ any other person who has knowledge of the facts
11 alleged or is informed of them and believes that they are
12 true.

13 (4) A petition for termination of parental rights
14 filed under this chapter must contain facts supporting the
15 following allegations:

16 (b) That the parents of the child were informed of
17 their right to counsel at all hearings that they attended
18 ~~attend~~ and that a dispositional order adjudicating the child
19 dependent was entered in any prior dependency proceeding
20 relied upon in offering a parent a case plan as described in
21 s. 39.806.

22 (8) If ~~Whenever~~ the department has entered into a case
23 plan with a parent with the goal of reunification, and a
24 petition for termination of parental rights based on the same
25 facts as are covered in the case plan is filed prior to the
26 time agreed upon in the case plan for the performance of the
27 case plan, then the petitioner must allege and prove by clear
28 and convincing evidence that the parent has materially
29 breached the provisions of the case plan.

30 Section 44. Section 39.805, Florida Statutes, 1998
31 Supplement, is amended to read:

1 39.805 No answer required.--No answer to the petition
2 or any other pleading need be filed by any child or parent,
3 ~~caregiver, or legal custodian,~~ but any matters which might be
4 set forth in an answer or other pleading may be pleaded orally
5 before the court or filed in writing as any such person may
6 choose. Notwithstanding the filing of any answer or any
7 pleading, the child or parent shall, prior to the adjudicatory
8 hearing, be advised by the court of the right to counsel and
9 shall be given an opportunity to deny the allegations in the
10 petition for termination of parental rights or to enter a plea
11 to allegations in the petition before the court.

12 Section 45. Paragraphs (b), (d), (e), and (h) of
13 subsection (1) of section 39.806, Florida Statutes, 1998
14 Supplement, are amended to read:

15 39.806 Grounds for termination of parental rights.--

16 (1) The department, the guardian ad litem, a licensed
17 child-placing agency, or any person who has knowledge of the
18 facts alleged or who is informed of said facts and believes
19 that they are true, may petition for the termination of
20 parental rights under any of the following circumstances:

21 (b) When the identity or location of the parent or
22 parents is unknown and cannot be ascertained by diligent
23 search within 60 ~~90~~ days.

24 (d) When the parent of a child is incarcerated in a
25 state or federal correctional institution and either:

26 1. The period of time for which the parent is expected
27 to be incarcerated will constitute a substantial portion of
28 the period of time before the child will attain the age of 18
29 years;

30 2. The incarcerated parent has been determined by the
31 court to be a violent career criminal as defined in s.

1 775.084, a habitual violent felony offender as defined in s.
2 775.084, or a sexual predator as defined in s. 775.21; has
3 been convicted of first degree or second degree murder in
4 violation of s. 782.04 or a sexual battery that constitutes a
5 capital, life, or first degree felony violation of s. 794.011;
6 or has been convicted of an offense in another jurisdiction
7 which is substantially similar to one of the offenses listed
8 in this paragraph. As used in this section, the term
9 "substantially similar offense" means any offense that is
10 substantially similar in elements and penalties to one of
11 those listed in this paragraph, and that is in violation of a
12 law of any other jurisdiction, whether that of another state,
13 the District of Columbia, the United States or any possession
14 or territory thereof, or any foreign jurisdiction; or ~~and~~

15 3. The court determines by clear and convincing
16 evidence that continuing the parental relationship with the
17 incarcerated parent would be harmful to the child and, for
18 this reason, that termination of the parental rights of the
19 incarcerated parent is in the best interest of the child.

20 (e) A petition for termination of parental rights may
21 also be filed when a child has been adjudicated dependent, a
22 case plan has been filed with the court, and the child
23 continues to be abused, neglected, or abandoned by the
24 parents. In this case, the failure of the parents to
25 substantially comply for a period of 12 months after an
26 adjudication of the child as a dependent child or the child's
27 placement into shelter care, whichever came first, constitutes
28 evidence of continuing abuse, neglect, or abandonment unless
29 the failure to substantially comply with the case plan was due
30 either to the lack of financial resources of the parents or to
31 the failure of the department to make reasonable efforts to

1 reunify the family. Such 12-month period may begin to run only
2 after the child's placement into shelter care or the entry of
3 a disposition order placing the custody of the child with the
4 department or a person other than the parent and the approval
5 by the court of a case plan with a goal of reunification with
6 the parent, whichever came first.

7 (h) When the parent or parents have committed murder
8 or voluntary manslaughter of another child ~~of the parent~~, or a
9 felony assault that results in serious bodily injury to the
10 child or another child ~~of the parent~~, or aided or abetted,
11 attempted, conspired, or solicited to commit such a murder or
12 voluntary manslaughter or felony assault.

13 Section 46. Paragraphs (a) and (d) of subsection (1)
14 and paragraph (b) of subsection (2) of section 39.807, Florida
15 Statutes, 1998 Supplement, are amended to read:

16 39.807 Right to counsel; guardian ad litem.--

17 (1)(a) At each stage of the proceeding under this
18 part, the court shall advise the parent of the right to have
19 counsel present. The court shall appoint counsel for indigent
20 parents ~~persons~~. The court shall ascertain whether the right
21 to counsel is understood and, where appropriate, is knowingly
22 and intelligently waived. The court shall enter its findings
23 in writing with respect to the appointment or waiver of
24 counsel for indigent parents ~~parties~~.

25 (d) This subsection does not apply to any parent who
26 has voluntarily executed a written surrender of the child and
27 consent to the entry of a court order therefor ~~and who does~~
28 ~~not deny the allegations of the petition~~.

29 (2)

30 (b) The guardian ad litem has the following
31 responsibilities:

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

8 2. To be present at all court hearings unless excused
9 by the court.

10 3. To represent the interests of the child until the
11 jurisdiction of the court over the child terminates or until
12 excused by the court.

13 Section 47. Subsections (4) and (5) of section 39.808,
14 Florida Statutes, 1998 Supplement, are amended to read:

15 39.808 Advisory hearing; pretrial status conference.--

16 (4) An advisory hearing is not required ~~may not be~~
17 ~~held~~ if a petition is filed seeking an adjudication for
18 termination of voluntarily to terminate parental rights based
19 on a voluntary surrender of parental rights. Adjudicatory
20 hearings for petitions for voluntary termination must be held
21 within 21 days after the filing of the petition. Notice of the
22 use of this subsection must be filed with the court at the
23 same time as the filing of the petition to terminate parental
24 rights.

25 (5) Not less than 10 days before the adjudicatory
26 hearing on a petition for involuntary termination of parental
27 rights, the court shall conduct a pretrial ~~prehearing~~ status
28 conference to determine the order in which each party may
29 present witnesses or evidence, the order in which
30 cross-examination and argument shall occur, and any other
31 matters that may aid in the conduct of the adjudicatory

1 hearing to prevent any undue delay in the conduct of the
2 adjudicatory hearing.

3 Section 48. Subsections (2), (4), (7), and (8), and
4 paragraph (e) of subsection (6) of section 39.811, Florida
5 Statutes, 1998 Supplement, are amended to read:

6 39.811 Powers of disposition; order of disposition.--

7 (2) If the child is in the ~~out-of-home care~~ custody of
8 the department and the court finds that the grounds for
9 termination of parental rights have been established by clear
10 and convincing evidence, the court shall, by order, place the
11 child in the custody of the department or ~~for the purpose of~~
12 ~~adoption or place the child in the custody of~~ a licensed
13 child-placing agency for the purpose of adoption.

14 (4) If the child is neither in the custody of the
15 department nor in the custody of a parent and the court finds
16 that the grounds for termination of parental rights have been
17 established for either or both parents, the court shall enter
18 an order terminating parental rights for the parent or parents
19 for whom the grounds for termination have been established and
20 placing the child with the department or an appropriate legal
21 custodian. If the parental rights of both parents have been
22 terminated, or if the parental rights of only one parent have
23 been terminated and the court makes specific findings based on
24 evidence presented that placement with the remaining parent is
25 likely to be harmful to the child, the court may order that
26 the child be placed with a legal custodian other than the
27 department after hearing evidence of the suitability of such
28 intended placement. Suitability of the intended placement
29 includes the fitness and capabilities of the proposed legal
30 custodian to function as the primary caregiver for a
31 particular child; and the compatibility of the child with the

1 home in which the child is intended to be placed. If the
2 court orders that a child be placed with a legal custodian
3 under this subsection, the court shall appoint such legal
4 custodian as the guardian for the child as provided in s.
5 744.3021. The court may modify the order placing the child in
6 the custody of the legal custodian and revoke the guardianship
7 established under s. 744.3021 if the court subsequently finds
8 ~~that a party to the proceeding other than a parent whose~~
9 ~~rights have been terminated has shown a material change in~~
10 ~~circumstances which causes~~ the placement to be no longer in
11 the best interest of the child.

12 (6) The parental rights of one parent may be severed
13 without severing the parental rights of the other parent only
14 under the following circumstances:

15 (e) If the parent whose rights are being terminated
16 meets any of the criteria specified in s. 39.806(1)(d) and
17 (f)-(i).

18 (7)(a) The termination of parental rights does not
19 affect the rights of grandparents unless the court finds that
20 continued visitation is not in the best interests of the child
21 or that such visitation would interfere with the permanency
22 ~~goals of permanency planning~~ for the child.

23 (b) If the court terminates parental rights, it may,
24 as appropriate, order that the parents, siblings, or relatives
25 of the parent whose rights are terminated be allowed to
26 maintain some communication or contact with the child pending
27 adoption if the best interests of the child support this
28 continued communication or contact, except as provided in
29 paragraph (a). If the court orders such continued
30 communication or contact, which may include, but is not
31 limited to, visits, letters, and cards or telephone calls, the

1 nature and frequency of the communication or contact must be
2 set forth in written order and may be reviewed upon motion of
3 any party, or including, for purposes of this subsection, an
4 identified prospective adoptive parent. If a child is placed
5 for adoption, the nature and frequency of the communication or
6 contact must be reviewed by the court at the time the child is
7 placed for adoption ~~adopted~~.

8 (8) If the court terminates parental rights, it shall,
9 in its order of disposition, provide for a hearing, to be
10 scheduled no later than 30 days after the date of disposition,
11 in which the department or the licensed child-placing agency
12 shall provide to the court an amended case ~~a plan~~ which
13 identifies the ~~for~~ permanency goal for the child. Reasonable
14 efforts must be made to place the child in a timely manner in
15 accordance with the permanency plan and to complete whatever
16 steps are necessary to finalize the permanent placement of the
17 child. Thereafter, until the adoption of the child is
18 finalized or the child reaches the age of 18 years, whichever
19 occurs first, the court shall hold hearings at 6-month
20 intervals to review the progress being made toward permanency
21 for the child.

22 Section 49. Subsection (1) and paragraph (a) of
23 subsection (6) of section 39.814, Florida Statutes, 1998
24 Supplement, are amended to read:

25 39.814 Oaths, records, and confidential information.--

26 (1) The judge, clerks or deputy clerks, and ~~or~~
27 authorized agents of the department shall each have the power
28 to administer oaths and affirmations.

29 (6) No court record of proceedings under this part
30 shall be admissible in evidence in any other civil or criminal
31 proceeding, except that:

1 (a) Orders terminating the rights of a parent are
2 admissible in evidence in subsequent adoption proceedings
3 relating to the child and in subsequent termination of
4 parental rights proceedings concerning a sibling of the child.

5 Section 50. Subsection (3) of section 39.815, Florida
6 Statutes, 1998 Supplement, is amended to read:

7 39.815 Appeal.--

8 (3) The taking of an appeal does not operate as a
9 supersedeas in any case unless the court so orders. However, a
10 termination of parental rights order with placement of the
11 child with a licensed child-placing agency or the department
12 for subsequent adoption is suspended while the appeal is
13 pending, but the child shall continue in an out-of-home
14 placement ~~custody~~ under the order until the appeal is decided.

15 Section 51. Subsection (3) of section 39.822, Florida
16 Statutes, 1998 Supplement, is amended to read:

17 39.822 Appointment of guardian ad litem for abused,
18 abandoned, or neglected child.--

19 (3) The guardian ad litem or the program
20 representative shall review all disposition recommendations
21 and changes in placements, and must be present at all critical
22 stages of the dependency proceeding or submit a written report
23 of recommendations to the court. Written reports must be filed
24 with the court and served on all parties whose whereabouts are
25 known at least 72 hours prior to the hearing.

26 Section 52. Subsection (1) of section 63.0427, Florida
27 Statutes, 1998 Supplement, is amended to read:

28 63.0427 Adopted minor's right to continued
29 communication or contact with siblings.--

30 (1) A child whose parents have had their parental
31 rights terminated and whose custody has been awarded to the

1 department pursuant to s. 39.811 ~~39.469~~, and who is the
2 subject of a petition for adoption under this chapter, shall
3 have the right to have the court consider the appropriateness
4 of postadoption communication or contact, including, but not
5 limited to, visits, letters and cards, or telephone calls,
6 with his or her siblings who are not included in the petition
7 for adoption. The court shall determine if the best interests
8 of the child support such continued communication or contact
9 and shall consider the following in making such determination:

10 (a) Any orders of the court pursuant to s. 39.811(7)
11 ~~39.469(7)~~.

12 (b) Recommendations of the department, the foster
13 parents if other than the adoptive parents, and the guardian
14 ad litem.

15 (c) Statements of prospective adoptive parents.

16 (d) Any other information deemed relevant and material
17 by the court.

18
19 If the court determines that the child's best interests will
20 be served by postadoption communication or contact with any
21 sibling, the court shall so order, stating the nature and
22 frequency for the communication or contact. This order shall
23 be made a part of the final adoption order, but in no event
24 shall continuing validity of the adoption be contingent upon
25 such postadoption communication or contact, nor shall the
26 ability of the adoptive parents and child to change residence
27 within or outside the State of Florida be impaired by such
28 communication or contact.

29 Section 53. Paragraph (d) of subsection (1) of section
30 419.001, Florida Statutes, 1998 Supplement, is amended to
31 read:

1 419.001 Site selection of community residential
2 homes.--

3 (1) For the purposes of this section, the following
4 definitions shall apply:

5 (d) "Resident" means any of the following: a frail
6 elder as defined in s. 400.618; a physically disabled or
7 handicapped person as defined in s. 760.22(7)(a); a
8 developmentally disabled person as defined in s.
9 393.063(12)~~(11)~~; a nondangerous mentally ill person as defined
10 in s. 394.455(18); or a child as defined in s. 39.01(14)~~(11)~~,
11 s. 984.03(9) or (12), or s. 985.03(8).

12 Section 54. This act shall take effect July 1, 1999.

13
14 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
15 COMMITTEE SUBSTITUTE FOR
16 Senate Bill 1666

17 Makes technical and conforming changes to ss. 39.01(14), (30),
18 (46), (56); 39.013; 39.201; 39.203; 39.3035; 39.395; 39.402;
19 39.507; 39.508; 39.5085; 39.601; 39.701; 39.703; and 39.807,
20 F.S.

21 Deletes s. 39.01345, F.S., pertaining to liens on parents for
22 recovering costs associated with legal counsel.

23 Amends s. 39.0134, F.S., specifying that a county impose a
24 lien on parents which may be enforced as provided in s.
25 984.08, F.S.

26 Creates s. 39.0014, F.S., pertaining to responsibilities of
27 public agencies.

28 Amends s. 39.301, F.S. requiring that if a child is determined
29 to need immediate or long-term protection because of
30 situations involving the parent's young age, history of
31 substance abuse, or domestic violence, services to the parents
and child must be court involved.

Amends s. 39.506, F.S., specifying that when the parent or
legal custodian denies any allegation of dependency, the court
will hold an adjudicatory hearing within 30 days after the
date of the arraignment hearing rather than "within a
reasonable time."