

By the Committees on Judiciary; Children and Families; and  
Senator Mitchell

308-2063A-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; providing timeframe for review of  
19 shelter placement; amending s. 39.407, F.S.,  
20 relating to medical and psychological  
21 examinations; amending s. 39.501, F.S.,  
22 relating to petition for dependency; amending  
23 s. 39.502, F.S., relating to notice, process,  
24 and service; amending s. 39.503, F.S., relating  
25 to identifying or locating a parent; amending  
26 s. 39.504, F.S., relating to injunction pending  
27 disposition of petition; amending s. 39.506,  
28 F.S.; revising provisions relating to  
29 arraignment hearings; specifying when failure  
30 of a person to appear constitutes consent to a  
31 dependency adjudication; amending s. 39.507,

1 F.S., relating to adjudicatory hearings;  
2 amending s. 39.508, F.S.; revising provisions  
3 relating to disposition hearings and orders;  
4 providing for permanency status of the child;  
5 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 shall cooperate, assist, and  
24 provide information to the department as will enable it to  
25 fulfill its responsibilities under this chapter.

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

29           39.0015 Child abuse prevention training in the  
30 district school system.--

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

1           (b) "Child abuse" means those acts as defined in ss.  
2 39.01(1), (2), (30), (44), (46), (53), and (64), 827.04, and  
3 984.03(1), (2), and (39).

4           (4) PRIMARY PREVENTION AND TRAINING PROGRAM.--A  
5 primary prevention and training program shall include all of  
6 the following, as appropriate for the persons being trained:

7           (a) Information provided in a clear and nonthreatening  
8 manner, describing the problem of child abuse, sexual abuse,  
9 physical abuse, abandonment, neglect, and alcohol and drug  
10 abuse, and the possible solutions.

11           Section 4. Section 39.01, Florida Statutes, 1998  
12 Supplement, is amended to read:

13           39.01 Definitions.--When used in this chapter, unless  
14 the context otherwise requires:

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

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

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

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

18           (5) "Adult" means any natural person other than a  
19 child.

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

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

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

30           (b) A child who is alleged to have committed any  
31 violation of law or delinquent act involving juvenile sexual

1 abuse. "Juvenile sexual abuse" means any sexual behavior which  
2 occurs without consent, without equality, or as a result of  
3 coercion. For purposes of this paragraph, the following  
4 definitions apply:

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

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

11         3. "Consent" means an agreement, including all of the  
12 following:

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

15             b. Knowledge of societal standards for what is being  
16 proposed.

17             c. Awareness of potential consequences and  
18 alternatives.

19             d. Assumption that agreement or disagreement will be  
20 accepted equally.

21             e. Voluntary decision.

22             f. Mental competence.

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

30         (8) "Arbitration" means a process whereby a neutral  
31 third person or panel, called an arbitrator or an arbitration



1 panel, considers the facts and arguments presented by the  
2 parties and renders a decision which may be binding or  
3 nonbinding.

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

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

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

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

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

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1 of the department and other persons regarding child abuse,  
2 abandonment, or neglect cases.

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

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

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

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

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

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

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

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

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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.

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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.

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

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

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

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

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

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

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

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

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

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

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

31

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

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

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

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

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

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

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

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

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

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

30 (46) "Neglect" occurs when ~~the parent or legal~~  
31 ~~custodian of a child or, in the absence of a parent or legal~~

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

19 (a) Medical services from a licensed physician,  
20 dentist, optometrist, podiatric physician, or other qualified  
21 health care provider; or

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

26  
27 ~~For the purpose of protective investigations,~~ Neglect of a  
28 child includes ~~the acts or omissions of the parent, legal~~  
29 ~~custodian, or caregiver.~~

30 ~~(47) "Other person responsible for a child's welfare"~~  
31 ~~includes the child's legal guardian, legal custodian, or~~

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

11       ~~(47)~~(48) "Next of kin" means an adult relative of a  
12 child who is the child's brother, sister, grandparent, aunt,  
13 uncle, or first cousin.

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

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

28       ~~(50)~~(49) "Parent" means a woman who gives birth to a  
29 child and a man whose consent to the adoption of the child  
30 would be required under s. 63.062(1)~~(b)~~. If a child has been  
31 legally adopted, the term "parent" means the adoptive mother

1 or father of the child. The term does not include an  
2 individual whose parental relationship to the child has been  
3 legally terminated, or an alleged or prospective parent,  
4 unless the parental status falls within the terms of s.  
5 39.503(1)~~39.4051(1)~~ or s. 63.062(1)~~(b)~~. For purposes of this  
6 chapter only, when the phrase "parent or legal custodian" is  
7 used, it refers to rights or responsibilities of the parent  
8 and, only if there is no living parent with intact parental  
9 rights, to the rights or responsibilities of the legal  
10 custodian who has assumed the role of the parent.

11 (51)~~(50)~~ "Participant," for purposes of a shelter  
12 proceeding, dependency proceeding, or termination of parental  
13 rights proceeding, means any person who is not a party but who  
14 should receive notice of hearings involving the child,  
15 including foster parents or the legal custodian of the child  
16 ~~caregivers~~, identified prospective parents, grandparents  
17 entitled to priority for adoption consideration under s.  
18 63.0425, actual custodians of the child, and any other person  
19 whose participation may be in the best interest of the child.  
20 Participants may be granted leave by the court to be heard  
21 without the necessity of filing a motion to intervene.

22 (52)~~(51)~~ "Party" means the parent or parents ~~legal~~  
23 ~~custodian~~ of the child, the petitioner, the department, the  
24 guardian ad litem or the representative of the guardian ad  
25 litem program when the program has been appointed, and the  
26 child. The presence of the child may be excused by order of  
27 the court when presence would not be in the child's best  
28 interest. Notice to the child may be excused by order of the  
29 court when the age, capacity, or other condition of the child  
30 is such that the notice would be meaningless or detrimental to  
31 the child.

1           (53)~~(52)~~ "Physical injury" means death, permanent or  
2 temporary disfigurement, or impairment of any bodily part.

3           (54)~~(53)~~ "Physician" means any licensed physician,  
4 dentist, podiatric physician ~~podiatrist~~, or optometrist and  
5 includes any intern or resident.

6           (55)~~(54)~~ "Preliminary screening" means the gathering  
7 of preliminary information to be used in determining a child's  
8 need for further evaluation or assessment or for referral for  
9 other substance abuse services through means such as  
10 psychosocial interviews; urine and breathalyzer screenings;  
11 and reviews of available educational, delinquency, and  
12 dependency records of the child.

13           (56)~~(55)~~ "Preventive services" means social services  
14 and other supportive and rehabilitative services provided to  
15 the parent or legal custodian of the child, ~~the legal~~  
16 ~~custodian of the child, or the caregiver of the child~~ and to  
17 the child for the purpose of averting the removal of the child  
18 from the home or disruption of a family which will or could  
19 result in the placement of a child in foster care. Social  
20 services and other supportive and rehabilitative services  
21 shall promote the child's need for physical, mental, and  
22 emotional health and a safe, stable, living environment, shall  
23 promote family autonomy, and shall strengthen family life,  
24 whenever possible.

25           (57)~~(56)~~ "Prospective parent" means a person who  
26 claims to be, or has been identified as, a person who may be a  
27 mother or a father of a child.

28           (58)~~(57)~~ "Protective investigation" means the  
29 acceptance of a report alleging child abuse, abandonment, or  
30 neglect, as defined in this chapter, by the central abuse  
31 hotline or the acceptance of a report of other dependency by



1 the department; the investigation of each report; the  
2 determination of whether action by the court is warranted; the  
3 determination of the disposition of each report without court  
4 or public agency action when appropriate; and the referral of  
5 a child to another public or private agency when appropriate.

6 (59)~~(58)~~ "Protective investigator" means an authorized  
7 agent of the department who receives and investigates reports  
8 of child abuse, abandonment, or neglect; who, as a result of  
9 the investigation, may recommend that a dependency petition be  
10 filed for the child; and who performs other duties necessary  
11 to carry out the required actions of the protective  
12 investigation function.

13 (60)~~(59)~~ "Protective supervision" means a legal status  
14 in dependency cases which permits the child to remain safely  
15 in his or her own home or other nonlicensed placement under  
16 the supervision of an agent of the department and which must  
17 be reviewed by the court during the period of supervision.

18 (61)~~(60)~~ "Relative" means a grandparent,  
19 great-grandparent, sibling, first cousin, aunt, uncle,  
20 great-aunt, great-uncle, niece, or nephew, whether related by  
21 the whole or half blood, by affinity, or by adoption. The term  
22 does not include a stepparent.

23 (62)~~(61)~~ "Reunification services" means social  
24 services and other supportive and rehabilitative services  
25 provided to the parent of the child, ~~the legal custodian of~~  
26 ~~the child, or the caregiver of the child, whichever is~~  
27 ~~applicable,~~to the child, and,where appropriate,to the  
28 relative placement, nonrelative placement, or foster parents  
29 of the child, for the purpose of enabling a child who has been  
30 placed in out-of-home care to safely return to his or her  
31 parent family at the earliest possible time. The health and

1 safety of the child shall be the paramount goal of social  
2 services and other supportive and rehabilitative services.  
3 Such services shall promote the child's need for physical,  
4 mental, and emotional health and a safe, stable, living  
5 environment, shall promote family autonomy, and shall  
6 strengthen family life, whenever possible.

7 (63)~~(62)~~ "Secretary" means the Secretary of Children  
8 and Family Services.

9 (64)~~(63)~~ "Sexual abuse of a child" means one or more  
10 of the following acts:

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

14 (b) Any sexual contact between the genitals or anal  
15 opening of one person and the mouth or tongue of another  
16 person.

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

21 (d) The intentional touching of the genitals or  
22 intimate parts, including the breasts, genital area, groin,  
23 inner thighs, and buttocks, or the clothing covering them, of  
24 either the child or the perpetrator, except that this does not  
25 include:

26 1. Any act which may reasonably be construed to be a  
27 normal caregiver responsibility, any interaction with, or  
28 affection for a child; or

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

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

1           (f) The intentional exposure of the perpetrator's  
2 genitals in the presence of a child, or any other sexual act  
3 intentionally perpetrated in the presence of a child, if such  
4 exposure or sexual act is for the purpose of sexual arousal or  
5 gratification, aggression, degradation, or other similar  
6 purpose.

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

- 9           1. Solicit for or engage in prostitution; or
- 10           2. Engage in a sexual performance, as defined by
- 11 chapter 827.

12           ~~(65)~~~~(64)~~ "Shelter" means a placement with a relative  
13 or a nonrelative, or in a licensed home or facility,~~place~~ for  
14 the temporary care of a child who is alleged to be or who has  
15 been found to be dependent, pending court disposition before  
16 or after adjudication.

17           ~~(66)~~~~(65)~~ "Shelter hearing" means a hearing in which  
18 the court determines whether probable cause exists to keep a  
19 child in shelter status pending further investigation of the  
20 case.

21           ~~(67)~~~~(66)~~ "Social service agency" means the department,  
22 a licensed child-caring agency, or a licensed child-placing  
23 agency.

24           ~~(68)~~~~(67)~~ "Substance abuse" means using, without  
25 medical reason, any psychoactive or mood-altering drug,  
26 including alcohol, in such a manner as to induce impairment  
27 resulting in dysfunctional social behavior.

28           ~~(69)~~~~(68)~~ "Substantial compliance" means that the  
29 circumstances which caused the creation of the case plan have  
30 been significantly remedied to the extent that the well-being  
31 and safety of the child will not be endangered upon the

1 child's remaining with or being returned to the child's  
2 parent, ~~legal custodian, or caregiver.~~

3 (70)~~(69)~~ "Taken into custody" means the status of a  
4 child immediately when temporary physical control over the  
5 child is attained by a person authorized by law, pending the  
6 child's release or placement.

7 (71)~~(70)~~ "Temporary legal custody" means the  
8 relationship that a juvenile court creates between a child and  
9 an adult relative of the child, legal custodian, ~~or caregiver~~  
10 ~~approved by the court,~~ or other person approved by the court  
11 until a more permanent arrangement is ordered. Temporary legal  
12 custody confers upon the custodian the right to have temporary  
13 physical custody of the child and the right and duty to  
14 protect, train, and discipline the child and to provide the  
15 child with food, shelter, and education, and ordinary medical,  
16 dental, psychiatric, and psychological care, unless these  
17 rights and duties are otherwise enlarged or limited by the  
18 court order establishing the temporary legal custody  
19 relationship.

20 (72)~~(71)~~ "Victim" means any child who has sustained or  
21 is threatened with physical, mental, or emotional injury  
22 identified in a report involving child abuse, neglect, or  
23 abandonment, or child-on-child sexual abuse.

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

26 39.011 Immunity from liability.--

27 (3) A member or agent of a citizen review panel acting  
28 in good faith is not liable for damages as a result of any  
29 review or recommendation with regard to a dependency foster  
30 ~~care or shelter care~~ matter unless such member or agent

31

1 exhibits wanton and willful disregard of human rights or  
2 safety, or property.

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

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

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

13 Section 7. Subsections (3), (4), (5), and (7),  
14 paragraphs (a) and (c) of subsection (8), and paragraphs (b)  
15 and (d) of subsection (9) of section 39.013, Florida Statutes,  
16 1998 Supplement, are amended to read:

17 39.013 Procedures and jurisdiction; right to  
18 counsel.--

19 (3) When a child is under the jurisdiction of the  
20 circuit court pursuant to the provisions of this chapter, the  
21 ~~juvenile court, as a division of the circuit court~~ assigned to  
22 handle dependency matters, may exercise the general and  
23 equitable jurisdiction over guardianship proceedings pursuant  
24 to the provisions of chapter 744, and proceedings for  
25 temporary custody of minor children by extended family  
26 pursuant to the provisions of chapter 751.

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

31

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

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

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

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

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

27           3. If a waiver of counsel is accepted at any hearing  
28 or proceeding, the offer of assistance of counsel must be  
29 renewed by the court at each subsequent stage of the  
30 proceedings at which the ~~parent, legal custodian, or caregiver~~  
31 appears without counsel.

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

3           (b) Periods of delay resulting from a continuance  
4 granted at the request of the attorney for the department or  
5 petitioner, if the continuance is granted:

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

16           2. To allow the attorney for the department or  
17 petitioner additional time to prepare the case and additional  
18 time is justified because of an exceptional circumstance.

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

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

25           39.0132 Oaths, records, and confidential  
26 information.--

27           (2) The court shall make and keep records of all cases  
28 brought before it pursuant to this chapter and shall preserve  
29 the records pertaining to a dependent child until 7 ~~10~~ years  
30 after the last entry was made, or until the child is 18 years  
31 of age, whichever date is first reached, and may then destroy

1 | them, except that records of cases where orders were entered  
2 | permanently depriving a parent of the custody of a juvenile  
3 | shall be preserved permanently. The court shall make official  
4 | records, consisting of all petitions and orders filed in a  
5 | case arising pursuant to this part and any other pleadings,  
6 | certificates, proofs of publication, summonses, warrants, and  
7 | other writs which may be filed therein.

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

25 |         (6) No court record of proceedings under this chapter  
26 | shall be admissible in evidence in any other civil or criminal  
27 | proceeding, except that:

28 |         (e) Orders permanently and involuntarily terminating  
29 | the rights of a parent shall be admissible as evidence in  
30 | subsequent termination of parental rights proceedings for a  
31 | sibling of the child for whom parental rights were terminated.



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

3           39.0134 Appointed counsel; compensation.--

4           (1) If counsel is entitled to receive compensation for  
5 representation pursuant to a court appointment in a dependency  
6 proceeding pursuant to this chapter, such compensation shall  
7 be established by each county. The county may acquire and  
8 enforce a lien upon court-ordered payment of attorney's fees  
9 and costs in accordance with s. 984.08.

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

12          39.201 Mandatory reports of child abuse, abandonment,  
13 or neglect; mandatory reports of death; central abuse  
14 hotline.--

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

16           (a) Physician, osteopathic physician, medical  
17 examiner, chiropractic physician, nurse, or hospital personnel  
18 engaged in the admission, examination, care, or treatment of  
19 persons;

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

22           (c) Practitioner who relies solely on spiritual means  
23 for healing;

24           (d) School teacher or other school official or  
25 personnel;

26           (e) Social worker, day care center worker, or other  
27 professional child care, foster care, residential, or  
28 institutional worker; or

29           (f) Law enforcement officer,  
30  
31

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

6 Section 11. Subsection (1) and paragraphs (a), (d),  
7 and (i) of subsection (2) of section 39.202, Florida Statutes,  
8 1998 Supplement, are amended to read:

9 39.202 Confidentiality of reports and records in cases  
10 of child abuse or neglect.--

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

22 (2) Access to such records, excluding the name of the  
23 reporter which shall be released only as provided in  
24 subsection (4), shall be granted only to the following  
25 persons, officials, and agencies:

26 (a) Employees, authorized agents, or contract  
27 providers of the department, the Department of Health, or  
28 county agencies responsible for carrying out:

- 29 1. Child or adult protective investigations;7  
30 2. Ongoing child or adult protective services;7  
31 3. Healthy Start services;7or

1           4. Licensure or approval of adoptive homes, foster  
2 homes, or child care facilities, or family day care homes or  
3 informal child care providers who receive subsidized child  
4 care funding, or other homes used to provide for the care and  
5 welfare of children.

6  
7 Also, employees or agents of the Department of Juvenile  
8 Justice responsible for the provision of services to children,  
9 pursuant to chapters 984 and 985.

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

18           (i) Any person authorized by the department who is  
19 engaged in the use of such records or information for bona  
20 fide research, statistical, or audit purposes. Such individual  
21 or entity shall enter into a privacy and security agreement  
22 with the department and shall comply with all laws and rules  
23 governing the use of such records and information for research  
24 and statistical purposes. Information identifying the subjects  
25 of such records or information shall be treated as  
26 confidential by the researcher and shall not be released in  
27 any form. ~~However, no information identifying the subjects of~~  
28 ~~the report shall be made available to the researcher.~~

29           Section 12. Paragraph (a) of subsection (1) of section  
30 39.203, Florida Statutes, 1998 Supplement, is amended to read:

31

1           39.203 Immunity from liability in cases of child  
2 abuse, abandonment, or neglect.--

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

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

12           39.206 Administrative fines for false report of abuse,  
13 abandonment, or neglect of a child; civil damages.--

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

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

23           39.301 Initiation of protective investigations.--

24           (2)(a) Upon commencing an investigation under this  
25 part, the child protective investigator shall inform any  
26 subject of the investigation of the following:

- 27           1. The names of the investigators and identifying  
28 credentials from the department.
- 29           2. The purpose of the investigation.
- 30           3. The right to obtain his or her own attorney and  
31 ways that the information provided by the subject may be used.

1           4. The possible outcomes and services of the  
2 department's response shall be explained to the parent or  
3 legal custodian ~~caregiver~~.

4           5. The right of the parent or legal custodian, ~~or~~  
5 ~~caregiver~~ to be involved to the fullest extent possible in  
6 determining the nature of the allegation and the nature of any  
7 identified problem.

8           (b) The department's training program shall ensure  
9 that protective investigators know how to fully inform parents  
10 or legal custodians, ~~guardians, and caregivers~~ of their rights  
11 and options, including opportunities for audio or video  
12 recording of investigators' interviews with parents or legal  
13 custodians, ~~guardians, caretakers, or children~~.

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

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

31

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

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

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

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

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

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

28           (a) Medical or other health care; or

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

1 Builders Program or the Intensive Crisis Counseling Program,  
2 or both, ~~or~~  
3 ~~(c) Foster care, shelter care, or other substitute~~  
4 ~~care to remove the child from the custody of the parents,~~  
5 ~~legal guardians, or caregivers,~~  
6  
7 such services shall first be offered for voluntary acceptance  
8 unless there are high-risk factors that may impact the ability  
9 of the parents or legal custodians ~~guardians, or caregivers~~  
10 to exercise judgment. Such factors shall ~~may~~ include the  
11 parents' or legal custodians' ~~guardians', or caregivers'~~  
12 young age or history of substance abuse or domestic violence.  
13 The parents or legal custodians, ~~or caregivers~~ shall be  
14 informed of the right to refuse services, as well as the  
15 responsibility of the department to protect the child  
16 regardless of the acceptance or refusal of services. If the  
17 services are refused and the department deems that the child's  
18 need for protection so requires, the department shall take the  
19 child into protective custody or petition the court as  
20 provided in this chapter.  
21 (11) Immediately upon receipt of a report alleging, or  
22 immediately upon learning during the course of an  
23 investigation, that:  
24 (a) The immediate safety or well-being of a child is  
25 endangered;  
26 (b) The family is likely to flee;  
27 (c) A child died as a result of abuse, abandonment, or  
28 neglect;  
29 (d) A child is a victim of aggravated child abuse as  
30 defined in s. 827.03; or  
31

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

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

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

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

28  
29 School ~~instructional~~ staff may only be present only when  
30 authorized by this subsection. Information received during  
31 the interview or from any other source regarding the alleged



1 abuse or neglect of the child shall be confidential and exempt  
2 from the provisions of s. 119.07(1), except as otherwise  
3 provided by court order. A separate record of the  
4 investigation of the abuse, abandonment, or neglect shall not  
5 be maintained by the school or school ~~instructional~~ staff  
6 member. Violation of this subsection constitutes a misdemeanor  
7 of the second degree, punishable as provided in s. 775.082 or  
8 s. 775.083.

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

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

17 39.302 Protective investigations of institutional  
18 child abuse, abandonment, or neglect.--

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

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

17 Section 16. Paragraph (b) of subsection (1) of section  
18 39.3035, Florida Statutes, 1998 Supplement, is amended to  
19 read:

20 39.3035 Child advocacy centers; standards; state  
21 funding.--

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

25 (b) Be a child protection team, or by written  
26 agreement incorporate the participation and services of a  
27 child protection team, with established community protocols  
28 which meet all of the requirements of the National Network of  
29 Children's Advocacy Centers, Inc.

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

1           39.304 Photographs, medical examinations, X rays, and  
2 medical treatment of abused, abandoned, or neglected child.--

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

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

1 medical provider may not bill a child victim, directly or  
2 indirectly, for the cost of an initial forensic physical  
3 examination.

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

6 39.311 Establishment of Family Builders Program.--

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

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

11 (b) To reunite families whose children have been  
12 removed and placed in foster care;7and

13 (c) To maintain adoptive families intact who are at  
14 risk of fragmentation.

15

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

21 Section 19. Subsections (1), (5), and (10) of section  
22 39.312, Florida Statutes, 1998 Supplement, are amended to  
23 read:

24 39.312 Goals.--The goals of any Family Builders  
25 Program shall be to:

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

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

31

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

5           Section 20. Section 39.313, Florida Statutes, 1998  
6 Supplement, is amended to read:

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

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

22           39.395 Detaining a child; medical or hospital  
23 personnel.--Any person in charge of a hospital or similar  
24 institution, or any physician or licensed health care  
25 professional treating a child may detain that child without  
26 the consent of the parents, caregiver, or legal custodian,  
27 whether or not additional medical treatment is required, if  
28 the circumstances are such, or if the condition of the child  
29 is such that returning the child to the care or custody of the  
30 parents, caregiver, or legal custodian presents an imminent  
31 danger to the child's life or physical or mental health. Any

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

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

19 39.401 Taking a child alleged to be dependent into  
20 custody; law enforcement officers and authorized agents of the  
21 department.--

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

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

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

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

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

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

9           (a) Release the child to:

10           1. The parent, ~~caregiver, or~~ legal custodian of the  
11 child;

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

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

17           4. A responsible adult approved by the department; or  
18

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

25           (3) If the child is taken into custody by, or is  
26 delivered to, an authorized agent of the department, the  
27 authorized agent shall review the facts supporting the removal  
28 with an attorney representing the department. The purpose of  
29 this review shall be to determine whether probable cause  
30 exists for the filing of a shelter petition. If the facts are  
31 not sufficient to support the filing of a shelter petition,

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

25 Section 23. Subsections (1), (5), (11), and (15),  
26 paragraph (b) of subsection (6), and paragraph (f) of  
27 subsection (8) of section 39.402, Florida Statutes, 1998  
28 Supplement, are amended to read:

29 39.402 Placement in a shelter.--

30 (1) Unless ordered by the court under this chapter, a  
31 child taken into custody shall not be placed in a shelter



1 prior to a court hearing unless there is probable cause to  
2 believe that ~~are reasonable grounds for removal and removal is~~  
3 ~~necessary to protect the child. Reasonable grounds for~~  
4 ~~removal are as follows:~~

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

9 (b) The parent or legal custodian of the child has  
10 materially violated a condition of placement imposed by the  
11 court; or

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

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

28 (b) The parents or legal custodians shall be given  
29 written notice that:

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

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

12           (6)

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

16           (8)

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

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

22           2. That placement in shelter care is in the best  
23 interest of the child.

24           3. That continuation of the child in the home is  
25 contrary to the welfare of the child because the home  
26 situation presents a substantial and immediate danger to the  
27 child's physical, mental, or emotional health or safety which  
28 cannot be mitigated by the provision of preventive services.

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

1           5. That the department has made reasonable efforts to  
2 prevent or eliminate the need for removal of the child from  
3 the home. A finding of reasonable effort by the department to  
4 prevent or eliminate the need for removal may be made and the  
5 department is deemed to have made reasonable efforts to  
6 prevent or eliminate the need for removal if:

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

9           b. The appraisal of the home situation by the  
10 department indicates that the home situation presents a  
11 substantial and immediate danger to the child's physical,  
12 mental, or emotional health or safety which cannot be  
13 mitigated by the provision of preventive services;~~;~~

14           c. The child cannot safely remain at home, either  
15 because there are no preventive services that can ensure the  
16 health and safety of the child or because, even with  
17 appropriate and available services being provided, the health  
18 and safety of the child cannot be ensured; or~~;~~

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

22           6. That the court notified the parents or legal  
23 custodians of the time, date, and location of the next  
24 dependency hearing ~~subsequent dependency proceedings,~~  
25 ~~including scheduled hearings,~~ and of the importance of the  
26 active participation of the parents or legal custodians in all  
27 ~~those subsequent~~ proceedings and hearings.

28           7. That the court notified the parents or legal  
29 custodians of their right to counsel to represent them at the  
30 shelter hearing and at each subsequent hearing or proceeding,  
31

1 and the right of the parents to appointed counsel, pursuant to  
2 the procedures set forth in s. 39.013.

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

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

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

29 39.407 Medical, psychiatric, and psychological  
30 examination and treatment of child; physical or mental  
31 examination of parent or person requesting custody of child.--

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

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

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

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

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

1 treatment in this circumstance shall be limited to the time  
2 reasonably necessary to obtain court authorization.

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

13

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

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

31

1 other handicaps, and screening for the need for alternative  
2 education as defined in s. 230.23.

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

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

21 (11) The parents or legal custodian of a child in an  
22 out-of-home placement ~~the physical custody of the department~~  
23 remain financially responsible for the cost of medical  
24 treatment provided to the child even if either one or both of  
25 the parents or if the legal custodian did not consent to the  
26 medical treatment. After a hearing, the court may order the  
27 parents or legal custodian, if found able to do so, to  
28 reimburse the department or other provider of medical services  
29 for treatment provided.

30  
31

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

4           39.501 Petition for dependency.--

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

12           (d) The petitioner must state in the petition, if  
13 known, whether:

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

17           2. A parent or legal custodian named in the petition  
18 has participated in mediation and whether a mediation  
19 agreement exists;

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

22           4. The department has determined that voluntary  
23 services are not appropriate for the parent or legal custodian  
24 ~~this family~~ and the reasons for such determination.

25           (4) When a child has been placed in shelter status by  
26 order of the court, a petition alleging dependency must be  
27 filed within ~~7 days upon demand of a party, but no later than~~  
28 21 days after the shelter hearing, or within 7 days after any  
29 party files a demand for the early filing of a dependency  
30 petition, whichever comes first. In all other cases, the  
31 petition must be filed within a reasonable time after the date



1 the child was referred to protective investigation. The  
2 child's parent, ~~guardian,~~ or legal custodian must be served  
3 with a copy of the petition at least 72 hours before the  
4 arraignment hearing.

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

8 39.502 Notice, process, and service.--

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

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

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

28 (10) Service by publication shall not be required for  
29 dependency hearings and the failure to serve a party or give  
30 notice to a participant shall not affect the validity of an  
31 order of adjudication or disposition if the court finds that

1 the petitioner has completed a diligent search for that party  
2 ~~or participant.~~

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

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

9 39.503 Identity or location of parent ~~or legal~~  
10 ~~custodian~~ unknown; special procedures.--

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

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

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

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

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

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

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

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

17 |         Section 28. Paragraph (a) of subsection (1) and  
18 | paragraph (a) of subsection (3) of section 39.504, Florida  
19 | Statutes, 1998 Supplement, are amended to read:

20 |         39.504 Injunction pending disposition of petition;  
21 | penalty.--

22 |         (1)(a) When a petition for shelter placement ~~detention~~  
23 | or a petition for dependency has been filed or when a child  
24 | has been taken into custody and reasonable cause, as defined  
25 | in paragraph (b), exists, the court, upon the request of the  
26 | department, a law enforcement officer, the state attorney, or  
27 | other responsible person, or upon its own motion, shall have  
28 | the authority to issue an injunction to prevent any act of  
29 | child abuse or any unlawful sexual offense involving a child.

30 |         (3)(a) In every instance in which an injunction is  
31 | issued under this section, the purpose of the injunction shall

1 be primarily to protect and promote the best interests of the  
2 child, taking the preservation of the child's immediate family  
3 into consideration. The effective period of the injunction  
4 shall be determined by the court, except that the injunction  
5 will expire at the time of the disposition of the petition for  
6 shelter placement ~~detention~~ or dependency.

7 Section 29. Section 39.506, Florida Statutes, 1998  
8 Supplement, is amended to read:

9 39.506 Arraignment hearings.--

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

25 (2) When a child is in the custody of the parent or  
26 legal custodian, upon the filing of a petition the clerk shall  
27 set a date for an arraignment hearing within a reasonable time  
28 after the date of the filing. If the parent or legal custodian  
29 admits or consents to an adjudication, the court shall conduct  
30 a disposition hearing within 15 days after the arraignment  
31 hearing ~~proceed as set forth in the Florida Rules of Juvenile~~

1 ~~Procedure~~. However, if the parent or legal custodian denies  
2 any of the allegations of dependency, the court shall hold an  
3 adjudicatory hearing within 30 days ~~a reasonable time~~ after  
4 the date of the arraignment hearing.

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

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

28 (5) If at the arraignment hearing the parent or legal  
29 custodian consents or admits to the allegations in the  
30 petition, the court shall proceed to hold a disposition  
31

1 ~~dispositional~~ hearing no more than 15 days after the date of  
2 the arraignment hearing unless a continuance is necessary.

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

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

15 (8) At the arraignment hearing, and no more than every  
16 15 days thereafter until the child is returned home or a  
17 disposition hearing has been conducted, the court shall review  
18 the necessity for the child's continued placement in the  
19 shelter. The court shall also make a written determination  
20 regarding the child's continued placement in shelter within 24  
21 hours after any violation of the time requirements for the  
22 filing of a petition or prior to the court's granting any  
23 continuance as specified in subsection (5).

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

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

30 39.507 Adjudicatory hearings; orders of  
31 adjudication.--

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

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

31

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

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

17           Section 31. Section 39.508, Florida Statutes, 1998  
18 Supplement, is amended to read:

19           39.508 Disposition hearings; powers of disposition.--

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

30           (2) The predisposition study shall cover for any  
31 dependent child all factors specified in s. 61.13(3), and must



1 also provide the court with the following documented  
2 information:

3 (a) An assessment defining the dangers and risks of  
4 returning the child home, including a description of the  
5 changes in and resolutions to the initial risks.

6 (b) A description of what risks are still present and  
7 what resources are available and will be provided for the  
8 protection and safety of the child.

9 (c) A description of the benefits of returning the  
10 child home.

11 (d) A description of all unresolved issues.

12 (e) An abuse registry history and criminal records  
13 check for all caregivers, family members, and individuals  
14 residing within the household.

15 (f) The complete report and recommendation of the  
16 child protection team of the Department of Health or, if no  
17 report exists, a statement reflecting that no report has been  
18 made.

19 (g) All opinions or recommendations from other  
20 professionals or agencies that provide evaluative, social,  
21 reunification, or other services to the parent and child  
22 ~~family~~.

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

30 (i) The inappropriateness of other prevention and  
31 reunification services that were available.

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

7           (k) Whether the services were provided to the parent  
8 ~~family~~ and child.

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

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

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

18           (o) Whether dependency ~~family~~ mediation was provided.

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

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

30  
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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~~.

30  
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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 assume sole custodial  
26 responsibilities for ~~become the legal and physical custodian~~  
27 ~~of~~ the child. The court may also provide for reasonable  
28 visitation by the noncustodial parent. The court may ~~shall~~  
29 then terminate its jurisdiction over the child. The custody  
30 order shall continue unless modified by a subsequent order of  
31 the circuit court hearing dependency matters. The order of the

1 circuit juvenile court hearing dependency matters shall be  
2 filed in any dissolution or other custody action or proceeding  
3 between the parents and shall take precedence over other  
4 custody and visitation orders entered in those actions.

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

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

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

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

30 3. Place the child under the protective supervision of  
31 an authorized agent of the department, either in the child's

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

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

29 5.a. When the parents have failed to comply with a  
30 case plan and the court determines at a judicial review  
31 hearing, or at an adjudication hearing held pursuant to this

1 section, that neither reunification, termination of parental  
2 rights, nor adoption is in the best interest of the child, the  
3 court may place the child in the long-term custody of an adult  
4 relative or other adult ~~caregiver~~ approved by the court  
5 willing to care for the child, if all of the following  
6 conditions are met:

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

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

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

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

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

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



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

31

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 legal custodians deny the need for a change, the court  
27 shall hear all parties in person or by counsel, or both. Upon  
28 the admission of a need for a change or after such hearing,  
29 the court shall enter an order changing the placement,  
30 modifying the conditions of protective supervision, or  
31 continuing the conditions of protective supervision as

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

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

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

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

18           2. Special conditions of placement and visitation.

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

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

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

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

28           a. Ninety days after the disposition hearing;

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

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

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 parent and child, if reasonable efforts are  
26 required ~~family~~. Reasonable efforts to reunify are not  
27 required if the court has found that any of the acts listed in  
28 s. 39.806(1)(f)-(i) have occurred.The department has the  
29 burden of demonstrating that it has made reasonable efforts  
30 under this paragraph.

31

1           1. For the purposes of this paragraph, the term  
2 "reasonable effort" means the exercise of reasonable diligence  
3 and care by the department to provide the services delineated  
4 in the case plan.

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

7           a. Enter written findings as to whether or not  
8 prevention or reunification efforts were indicated.

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

13           c. Indicate in writing why further efforts could or  
14 could not have prevented or shortened the separation of the  
15 parent and child family.

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

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

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

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

31

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

4           4. A reasonable effort by the department for  
5 reunification of the parent and child ~~family~~ has been made if  
6 the appraisal of the home situation by the department  
7 indicates that the severity of the conditions of dependency is  
8 such that reunification efforts are inappropriate. The  
9 department has the burden of demonstrating to the court that  
10 reunification efforts were inappropriate.

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

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



1 provided in chapter 61. The state's child support enforcement  
2 agency shall enforce child support orders under this section  
3 in the same manner as child support orders under chapter 61.

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

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

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

30 (12) An agency granted legal custody shall have the  
31 right to determine where and with whom the child shall live,

1 but an individual granted legal custody shall exercise all  
2 rights and duties personally unless otherwise ordered by the  
3 court.

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

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

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

30  
31

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

4           39.5085 Relative Caregiver Program.--

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

26           (d) Relatives who are caring for children placed with  
27 them by the court pursuant to this chapter ~~child protection~~  
28 ~~system~~ shall receive a special monthly relative caregiver  
29 benefit established by rule of the department. The amount of  
30 the special benefit payment shall be based on the child's age  
31 within a payment schedule established by rule of the

1 department and subject to availability of funding. The  
2 statewide average monthly rate for children judicially placed  
3 with relatives who are not licensed as foster homes may not  
4 exceed 82 percent of the statewide average foster care rate,  
5 nor may the cost of providing the assistance described in this  
6 section to any relative caregiver exceed the cost of providing  
7 out-of-home care in emergency shelter or foster care.

8 Section 33. Section 39.509, Florida Statutes, 1998  
9 Supplement, is amended to read:

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

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

31

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

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

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

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

22           (6) In determining whether grandparental visitation is  
23 not in the child's best interest, consideration may be given  
24 to the finding of guilt, regardless of adjudication, or entry  
25 or plea of guilty or nolo contendere to charges under the  
26 following statutes, or similar statutes of other  
27 jurisdictions: s. 787.04, relating to removing minors from  
28 the state or concealing minors contrary to court order; s.  
29 794.011, relating to sexual battery; s. 798.02, relating to  
30 lewd and lascivious behavior; chapter 800, relating to  
31 lewdness and indecent exposure; or chapter 827, relating to

1 the abuse of children. Consideration may also be given to a  
2 report finding of ~~confirmed~~ abuse, abandonment, or neglect  
3 under ss. 415.101-415.113 or this chapter and the outcome of  
4 the investigation concerning such report.

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

7 39.510 Appeal.--

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

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

21 Section 35. Section 39.601, Florida Statutes, 1998  
22 Supplement, is amended to read:

23 39.601 Case plan requirements.--

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

1 refer the case to mediation for development of a case plan.

2 This section does not change the provisions of s. 39.807.

3 (a) The case plan must be developed in conference with  
4 the parent, ~~caregiver, or legal custodian~~ of the child and any  
5 court-appointed guardian ad litem and, if appropriate, the  
6 child.

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

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

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

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

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

22 (2) When the child or parent family is receiving  
23 services, the case plan must include, in addition to the  
24 requirements in subsection (1), at a minimum:

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

29 (b) A description of the tasks with which the parent  
30 must comply and the services to be provided to the parent

31

1 ~~family~~ and child specifically addressing the identified  
2 problem, including:  
3       1. Type of services or treatment.  
4       2. Frequency of services or treatment.  
5       3. Location of the delivery of the services.  
6       4. The accountable department staff or service  
7 provider.  
8       (c) A description of the measurable objectives,  
9 including timeframes for achieving objectives, addressing the  
10 identified problem.  
11       (3) When the child is receiving services in an  
12 out-of-home ~~a placement outside the child's home or in foster~~  
13 ~~care~~, the case plan must be filed with ~~submitted to~~ the court,  
14 for approval by the court, at least 72 hours prior to ~~at~~ the  
15 disposition hearing. The case plan must be served on all  
16 parties whose whereabouts are known at least 72 hours prior to  
17 the disposition hearing and must include, in addition to the  
18 requirements in subsections (1) and (2), at a minimum:  
19       (a) A description of the permanency goal for the  
20 child, including the type of placement. Reasonable efforts to  
21 place a child in a home that will serve as an adoptive  
22 placement if reunification is not successful, ~~for adoption~~ or  
23 with a legal custodian, ~~guardian~~ may be made concurrently with  
24 reasonable efforts to prevent removal of the child from the  
25 home or make it possible for the child to return safely home.  
26       (b) A description of the type of home or institution  
27 in which the child is to be placed.  
28       (c) A description of the financial support obligation  
29 to the child, including health insurance, of the child's  
30 ~~parent, parents, caregiver, or legal custodian~~.  
31



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

4 (e) A discussion of the safety and appropriateness of  
5 the child's placement, which placement is intended to be safe,  
6 the least restrictive and most family-like setting available  
7 consistent with the best interest and special needs of the  
8 child, and in as close proximity as possible to the child's  
9 home. The plan must also establish the role for the foster  
10 parents or legal custodians in the development of the services  
11 which are to be provided to the child, foster parents, or  
12 legal custodians. It must also address the child's need for  
13 services while under the jurisdiction of the court and  
14 implementation of these services in the case plan.

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

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

21 (h) A description of the plan for assuring that  
22 services outlined in the case plan are provided to the child  
23 and the child's parent or parents, ~~legal custodians, or~~  
24 ~~caregivers~~, to improve the conditions in the family home and  
25 facilitate either the safe return of the child to the home or  
26 the permanent placement of the child.

27 (i) A description of the plan for assuring that  
28 services as outlined in the case plan are provided to the  
29 child, and the child's ~~parent or parents,~~ and the child's  
30 legal custodians, ~~or caregivers~~, to address the needs of the  
31

1 child, and a discussion of the appropriateness of the  
2 services.

3 (j) A description of the plan for assuring that  
4 services are provided to the child and the child's legal  
5 custodians or foster parents to address the needs of the child  
6 while in an out-of-home placement ~~foster care~~, which shall  
7 include an itemized list of costs to be borne by the parent ~~or~~  
8 ~~caregiver~~ associated with any services or treatment that the  
9 parent and child are expected to receive.

10 (k) A written notice to the parent that failure of the  
11 parent to substantially comply with the case plan may result  
12 in the termination of parental rights, and that a material  
13 failure to substantially comply may result in the filing of a  
14 petition for termination of parental rights sooner than the  
15 compliance periods set forth in the case plan itself. The case  
16 staffing committee shall coordinate its efforts with the child  
17 protection team of the Department of Health.

18 (l) In the case of a child for whom the permanency  
19 plan is adoption or placement in another permanent home,  
20 documentation of the steps the agency is taking to find an  
21 adoptive family or other permanent living arrangement for the  
22 child, to place the child with an adoptive family, with a fit  
23 and willing relative, with a legal custodian ~~guardian~~, or in  
24 another planned permanent living arrangement, and to finalize  
25 the adoption, ~~or~~ legal guardianship, or long-term custodial  
26 relationship. At a minimum, such documentation shall include  
27 child-specific recruitment efforts such as the use of state,  
28 regional, and national adoption exchanges, including  
29 electronic exchange systems.

30 (4) In the event that the parents, ~~legal custodians,~~  
31 ~~or caregivers~~ are unwilling or unable to participate in the

1 development of a case plan, the department shall document that  
2 unwillingness or inability to participate. Such documentation  
3 must be provided in writing to the parent, ~~legal custodians,~~  
4 ~~or caregivers~~ when available for the court record, and then  
5 the department shall prepare a case plan conforming as nearly  
6 as possible with the requirements set forth in this section.  
7 The unwillingness or inability of the parents, ~~legal~~  
8 ~~custodians, or caregivers~~ to participate in the development of  
9 a case plan shall not in itself bar the filing of a petition  
10 for dependency or for termination of parental rights. The  
11 parents, ~~legal custodians, or caregivers,~~ if available, must  
12 be provided a copy of the case plan and be advised that they  
13 may, at any time prior to the filing of a petition for  
14 termination of parental rights, enter into a case plan and  
15 that they may request judicial review of any provision of the  
16 case plan with which they disagree at any court review hearing  
17 set for the child.

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

1 professions involved in the process must be taken into  
2 consideration.

3 (6) After jurisdiction attaches, all case plans must  
4 be filed with the court and a copy provided to all the  
5 ~~parents, caregivers, or legal custodians of the child, to the~~  
6 ~~representative of the guardian ad litem program if the program~~  
7 ~~has been appointed, and to all other parties~~ whose whereabouts  
8 are known, not less than 72 hours before the disposition  
9 hearing. ~~All such case plans must be approved by the court.~~  
10 The department shall also file with the court all case plans  
11 prepared before jurisdiction of the court attached. If, after  
12 review of the case plan, the court does not approve ~~accept~~ the  
13 case plan, the court shall require the parties to make  
14 necessary modifications to the plan. An amended plan must be  
15 submitted to the court for review and approval within 30 days  
16 after the hearing on the case plan. This amended plan must be  
17 served on all parties whose whereabouts are known, at least 72  
18 hours prior to filing with the court.

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

25 (8) The case plan must meet applicable federal and  
26 state requirements.

27 (9)(a) In each case in which the custody of a child  
28 has been vested, either voluntarily or involuntarily, in the  
29 department and the child has been placed in out-of-home care,  
30 a case plan must be prepared within 60 days after the  
31 department removes the child from the home, and shall be

1 submitted to the court before the disposition hearing, for the  
2 court to review and approve ~~accept~~. If the preparation of a  
3 case plan, in conference with the parents and other pertinent  
4 parties, cannot be completed before the disposition hearing,  
5 for good cause shown, the court may grant an extension not to  
6 exceed 30 days and set a hearing to review and approve ~~accept~~  
7 the case plan.

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

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

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

19 (e) After the case plan has been agreed upon and  
20 signed by the parties involved, a copy of the plan must be  
21 given immediately to the parents, the department or agency,  
22 the foster parents ~~or caregivers~~, the legal custodian, ~~the~~  
23 ~~caregiver~~, the representative of the guardian ad litem program  
24 if the program is appointed, and any other parties identified  
25 by the court, including the child, if appropriate.

26 (f) The case plan may be amended at any time if all  
27 parties are in agreement regarding the revisions to the plan  
28 and the plan is submitted to the court with a memorandum of  
29 explanation, if the court approves such amendment. The case  
30 plan may also be amended by the court or upon motion of any  
31 party at a hearing, based on competent evidence demonstrating

1 the need for the amendment. A copy of the amended plan must be  
2 immediately given to the persons ~~parties~~ specified in  
3 paragraph (e).

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

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

11 39.602 Case planning when parents, ~~legal custodians,~~  
12 ~~or caregivers~~ do not participate and the child is in  
13 out-of-home care.--

14 (1) In the event the parents, ~~legal custodians,~~ ~~or~~  
15 ~~caregivers~~ will not or cannot participate in preparation of a  
16 case plan, the department shall submit a full explanation of  
17 the circumstances and state the nature of its efforts to  
18 secure such persons' participation in the preparation of a  
19 case plan.

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

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

30 39.603 Court approvals of case planning.--

31

1           (2) When the court determines that any of the elements  
2 considered at the hearing related to the plan have not been  
3 met, the court shall require the parties to make necessary  
4 amendments to the plan. The amended plan must be submitted to  
5 the court for review and approval within 30 days after the  
6 hearing ~~a time certain specified by the court~~. A copy of the  
7 amended plan must also be provided to each party parent, if  
8 the location of the party parent is known, at least 72 hours  
9 prior to filing with the court.

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

22           Section 38. Section 39.701, Florida Statutes, 1998  
23 Supplement, is amended to read:

24           39.701 Judicial review.--

25           (1)(a) The court shall have continuing jurisdiction in  
26 accordance with this section and shall review the status of  
27 the child at least every 6 months as required by this  
28 subsection or more frequently if the court deems it necessary  
29 or desirable.

30           (b) The court shall retain jurisdiction over a child  
31 returned to his or her ~~its~~ parents, ~~caregivers, or legal~~

1 ~~guardians~~ for a minimum period of 6 months following the  
2 reunification, but, at that time, based on a report of the  
3 social service agency and the guardian ad litem, if one has  
4 been appointed, and any other relevant factors, the court  
5 shall make a determination as to whether supervision by the  
6 department and the court's ~~its~~ jurisdiction shall continue or  
7 be terminated.

8 (2)(a) The court shall review the status of the child  
9 and shall hold a hearing as provided in this part at least  
10 every 6 months until the child reaches permanency status. The  
11 court may dispense with the attendance of the child at the  
12 hearing, but may not dispense with the hearing or the presence  
13 of other parties to the review unless before the review a  
14 hearing is held before a citizen review panel.

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

27 (c) Notice of a hearing by a citizen review panel must  
28 be provided as set forth in subsection (5). At the conclusion  
29 of a citizen review panel hearing, each party may propose a  
30 recommended order to the chairperson of the panel. Thereafter,  
31 the citizen review panel shall submit its report, copies of



1 the proposed recommended orders, and a copy of the panel's  
2 recommended order to the court. The citizen review panel's  
3 recommended order must be limited to the dispositional options  
4 available to the court in subsection (8). Each party may file  
5 exceptions to the report and recommended order of the citizen  
6 review panel in accordance with Rule 1.490, Florida Rules of  
7 Civil Procedure.

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

17 (b) If the citizen review panel recommends extending  
18 ~~court extends~~ any case plan beyond 12 months, the court must  
19 schedule a judicial review hearing to be conducted by the  
20 court within 30 days after receiving the recommendation from  
21 the citizen review panel ~~judicial reviews must be held at~~  
22 ~~least every 6 months.~~

23 (c) If the child is placed in the custody of the  
24 department or a licensed child-placing agency for the purpose  
25 of adoptive placement, judicial reviews must be held at least  
26 every 6 months until the adoption is finalized ~~adoptive~~  
27 ~~placement, to determine the appropriateness of the current~~  
28 ~~placement and the progress made toward adoptive placement.~~

29 (d) If the department and the court have established a  
30 formal agreement that includes specific authorization for  
31 particular cases, the department may conduct administrative

1 reviews instead of the judicial reviews for children in  
2 out-of-home care. Notices of such administrative reviews must  
3 be provided to all parties. However, an administrative review  
4 may not be substituted for the first judicial review, and in  
5 every case the court must conduct a judicial review at least  
6 every 6 months. Any party dissatisfied with the results of an  
7 administrative review may petition for a judicial review.

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

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

15 Notification of the court is not required for any child who  
16 will be in out-of-home care no longer than 30 days unless that  
17 child is placed in out-of-home care a second time within a  
18 12-month period. If the child is returned to the custody of  
19 the parents, ~~caregiver, or legal custodian~~ before the  
20 scheduled review hearing or if the child is placed for  
21 adoption, the child-placing agency shall notify the court of  
22 the child's return or placement within 5 working days, and the  
23 clerk of the court shall cancel the review hearing.

24 (4) The court shall schedule the date, time, and  
25 location of the next judicial review during the judicial  
26 review hearing and shall list same in the judicial review  
27 order.

28 (5) Notice of a judicial review hearing or a citizen  
29 review panel hearing, and a copy of the motion for judicial  
30 review, if any ~~including a statement of the dispositional~~  
31

1 ~~alternatives available to the court~~, must be served by the  
2 clerk of the court upon:

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

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

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

11 (d) The guardian ad litem for the child, or the  
12 representative of the guardian ad litem program if the program  
13 has been appointed.

14 (e) Any preadoptive parent.

15 (f) Such other persons as the court may in its  
16 discretion direct.

17  
18 Service of notice is not required on any of the persons listed  
19 in paragraphs (a)-(f) if the person was present at the  
20 previous hearing during which the date, time, and location of  
21 the hearing was announced.

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

28 1. A description of the type of placement the child is  
29 in at the time of the hearing, including the safety of the  
30 child and the continuing necessity for and appropriateness of  
31 the placement.

1           2. Documentation of the diligent efforts made by all  
2 parties to the case plan to comply with each applicable  
3 provision of the plan.

4           3. The amount of fees assessed and collected during  
5 the period of time being reported.

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

9           5. A statement that either:

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

13           b. ~~A statement that~~ The parent ~~or legal custodian~~ did  
14 substantially comply with the such provisions of the case  
15 plan; or

16           c. The parent has partially complied with the  
17 provisions of the case plan, with a summary of additional  
18 progress needed and the agency recommendations.

19           6. A statement from the foster parent or legal  
20 custodian ~~parents or caregivers~~ providing any material  
21 evidence concerning the return of the child to the parent or  
22 parents ~~or legal custodians~~.

23           7. A statement concerning the frequency, duration, and  
24 results of the parent-child visitation, if any, and the agency  
25 recommendations for an expansion or restriction of future  
26 visitation.

27           8. The number of times a child has been removed from  
28 his or her home and placed elsewhere, the number and types of  
29 placements that have occurred, and the reason for the changes  
30 in placement.

31

1           9. The number of times a child's educational placement  
2 has been changed, the number and types of educational  
3 placements which have occurred, and the reason for any change  
4 in placement.

5           10. Copies of all medical, psychological, and  
6 educational records that support the terms of the case plan  
7 and that have been produced concerning the child, parents, or  
8 any caregiver since the last judicial review hearing.

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

23           (c) In a case in which the child has been permanently  
24 placed with the social service agency, the agency shall  
25 furnish to the court a written report concerning the progress  
26 being made to place the child for adoption. If the child  
27 cannot be placed for adoption, a report on the progress made  
28 by the child towards ~~in~~ alternative permanency goals or  
29 placements, including, but not limited to, long-term foster  
30 care, independent living, custody to a relative or other adult  
31 ~~caregiver~~ approved by the court on a permanent basis with or

1 without legal guardianship, or custody to a foster parent or  
2 legal custodian ~~caregiver~~ on a permanent basis with or without  
3 legal guardianship, must be submitted to the court. The report  
4 must be submitted to the court at least 72 ~~48~~ hours before  
5 each scheduled judicial review.

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

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

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

31

1           (b) If the parent ~~or legal custodian~~ has been advised  
2 of the right to have counsel present at the judicial review or  
3 citizen review hearings. If not so advised, the court or  
4 citizen review panel shall advise the parent ~~or legal~~  
5 ~~custodian~~ of such right.

6           (c) If a guardian ad litem needs to be appointed for  
7 the child in a case in which a guardian ad litem has not  
8 previously been appointed or if there is a need to continue a  
9 guardian ad litem in a case in which a guardian ad litem has  
10 been appointed.

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

14           (e) The compliance or lack of compliance with a  
15 visitation contract between the parent, ~~caregiver, or legal~~  
16 ~~custodian~~ and the social service agency for contact with the  
17 child, including the frequency, duration, and results of the  
18 parent-child visitation and the reason for any noncompliance.

19           (f) The compliance or lack of compliance of the  
20 parent, ~~caregiver, or legal custodian~~ in meeting specified  
21 financial obligations pertaining to the care of the child,  
22 including the reason for failure to comply if such is the  
23 case.

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

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

1           (i) When appropriate, the basis for the unwillingness  
2 or inability of the parent, ~~caregiver, or legal custodian~~ to  
3 become a party to a case plan. The court and the citizen  
4 review panel shall determine if the efforts of the social  
5 service agency to secure party participation in a case plan  
6 were sufficient.

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

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

31



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

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

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

30 (f) No later than 12 months after the date that the  
31 child was placed in shelter care, the court shall conduct a

1 judicial review to plan for the child's permanency. At this  
2 hearing, if the child is not returned to the physical custody  
3 of the parents, ~~caregivers, or legal custodians~~, the case plan  
4 may be extended with the same goals only if the court finds  
5 that the situation of the child is so extraordinary that the  
6 plan should be extended. The case plan must document steps the  
7 department is taking to find an adoptive parent or other  
8 permanent living arrangement for the child.

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

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

21 39.702 Citizen review panels.--

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

24 (g) Establish policies to ensure adequate  
25 communication with the parent, ~~caregiver, or legal custodian~~,  
26 the foster parent or legal custodian ~~caregiver~~, the guardian  
27 ad litem, and any other person deemed appropriate.

28 (h) Establish procedures that encourage attendance and  
29 participation of interested persons and parties, including the  
30 ~~biological~~ parents, foster parents, or legal custodian

31

1 ~~caregivers, or a relative or nonrelative~~ with whom the child  
2 is placed, at citizen review hearings.

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

5 39.703 Initiation of termination of parental rights  
6 proceedings.--

7 (2) If, at the time of the 12-month judicial review  
8 hearing, a child is not returned to the physical custody of  
9 the parents, ~~caregivers, or legal custodians,~~ the social  
10 service agency shall initiate termination of parental rights  
11 proceedings under this chapter within 30 days. Only if the  
12 court finds that the situation of the child is so  
13 extraordinary and that the best interests of the child will be  
14 met by such action at the time of the judicial review may the  
15 case plan be extended. If the court decides to extend the  
16 plan, the court shall enter detailed findings justifying the  
17 decision to extend, as well as the length of the extension. A  
18 termination of parental rights petition need not be filed if:  
19 the child is being cared for by a relative who chooses not to  
20 adopt the child but who is willing, able, and suitable to  
21 serve as the legal custodian for the child until the child  
22 reaches 18 years of age; the court determines that filing such  
23 a petition would not be in the best interests of the child; or  
24 the state has not provided the child's parent family, when  
25 reasonable efforts to return a child are required, consistent  
26 with the time period in the state's case plan, such services  
27 as the state deems necessary for the safe return of the child  
28 to his or her home. Failure to initiate termination of  
29 parental rights proceedings at the time of the 12-month  
30 judicial review or within 30 days after such review does not  
31

1 prohibit initiating termination of parental rights proceedings  
2 at any other time.

3 Section 41. Section 39.704, Florida Statutes, 1998  
4 Supplement, is amended to read:

5 39.704 Exemptions from judicial review.--Judicial  
6 review does not apply to:

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

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

12 Section 42. Paragraphs (a), (b), and (d) of subsection  
13 (3) and subsection (6) of section 39.801, Florida Statutes,  
14 1998 Supplement, are amended to read:

15 39.801 Procedures and jurisdiction; notice; service of  
16 process.--

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

20 (a) Notice of the date, time, and place of the  
21 advisory hearing for the petition to terminate parental rights  
22 and a copy of the petition must be personally served upon the  
23 following persons, specifically notifying them that a petition  
24 has been filed:

25 1. The parents of the child.

26 2. The ~~caregivers or~~ legal custodians of the child.

27 3. If the parents who would be entitled to notice are  
28 dead or unknown, a living relative of the child, unless upon  
29 diligent search and inquiry no such relative can be found.

30 4. Any person who has physical custody of the child.

31

1           5. Any grandparent entitled to priority for adoption  
2 under s. 63.0425.

3           6. Any prospective parent who has been identified  
4 under s. 39.503 or s. 39.803.

5           7. The guardian ad litem for the child or the  
6 representative of the guardian ad litem program, if the  
7 program has been appointed.

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

18           (b) If a party ~~person~~ required to be served with  
19 notice as prescribed in paragraph (a) cannot be served, notice  
20 of hearings must be given as prescribed by the rules of civil  
21 procedure, and service of process must be made as specified by  
22 law or civil actions.

23           (d) If the person served with notice under this  
24 section fails to personally appear at the advisory hearing,  
25 the failure to personally appear shall constitute consent for  
26 termination of parental rights by the person given notice. If  
27 a parent appears for the advisory hearing and the court orders  
28 that parent to personally appear at the adjudicatory hearing  
29 for the petition for termination of parental rights, stating  
30 the date, time, and location of said hearing, then failure of  
31

1 that parent to personally appear at the adjudicatory hearing  
2 shall constitute consent for termination of parental rights.

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

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

11 39.802 Petition for termination of parental rights;  
12 filing; elements.--

13 (1) All proceedings seeking an adjudication to  
14 terminate parental rights pursuant to this chapter must be  
15 initiated by the filing of an original petition by the  
16 department, the guardian ad litem, ~~or~~ a licensed child-placing  
17 agency, ~~or by~~ any other person who has knowledge of the facts  
18 alleged or is informed of them and believes that they are  
19 true.

20 (4) A petition for termination of parental rights  
21 filed under this chapter must contain facts supporting the  
22 following allegations:

23 (b) That the parents of the child were informed of  
24 their right to counsel at all hearings that they attended  
25 ~~attend~~ and that a dispositional order adjudicating the child  
26 dependent was entered in any prior dependency proceeding  
27 relied upon in offering a parent a case plan as described in  
28 s. 39.806.

29 (8) ~~If whenever~~ the department has entered into a case  
30 plan with a parent with the goal of reunification, and a  
31 petition for termination of parental rights based on the same

1 facts as are covered in the case plan is filed prior to the  
2 time agreed upon in the case plan for the performance of the  
3 case plan, then the petitioner must allege and prove by clear  
4 and convincing evidence that the parent has materially  
5 breached the provisions of the case plan.

6 Section 44. Section 39.805, Florida Statutes, 1998  
7 Supplement, is amended to read:

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

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

22 39.806 Grounds for termination of parental rights.--

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

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

31

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

3 1. The period of time for which the parent is expected  
4 to be incarcerated will constitute a substantial portion of  
5 the period of time before the child will attain the age of 18  
6 years;

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

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

23 3. The court determines by clear and convincing  
24 evidence that continuing the parental relationship with the  
25 incarcerated parent would be harmful to the child and, for  
26 this reason, that termination of the parental rights of the  
27 incarcerated parent is in the best interest of the child.

28 (e) A petition for termination of parental rights may  
29 also be filed when a child has been adjudicated dependent, a  
30 case plan has been filed with the court, and the child  
31 continues to be abused, neglected, or abandoned by the



1 parents. In this case, the failure of the parents to  
2 substantially comply for a period of 12 months after an  
3 adjudication of the child as a dependent child or the child's  
4 placement into shelter care, whichever came first, constitutes  
5 evidence of continuing abuse, neglect, or abandonment unless  
6 the failure to substantially comply with the case plan was due  
7 either to the lack of financial resources of the parents or to  
8 the failure of the department to make reasonable efforts to  
9 reunify the parent and child family. Such 12-month period may  
10 begin to run only after the child's placement into shelter  
11 care or the entry of a disposition order placing the custody  
12 of the child with the department or a person other than the  
13 parent and the approval by the court of a case plan with a  
14 goal of reunification with the parent, whichever came first.

15 (h) When the parent or parents have committed murder  
16 or voluntary manslaughter of another child ~~of the parent~~, or a  
17 felony assault that results in serious bodily injury to the  
18 child or another child ~~of the parent~~, or aided or abetted,  
19 attempted, conspired, or solicited to commit such a murder or  
20 voluntary manslaughter or felony assault.

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

24 39.807 Right to counsel; guardian ad litem.--

25 (1)(a) At each stage of the proceeding under this  
26 part, the court shall advise the parent of the right to have  
27 counsel present. The court shall appoint counsel for indigent  
28 parents ~~persons~~. The court shall ascertain whether the right  
29 to counsel is understood and, where appropriate, is knowingly  
30 and intelligently waived. The court shall enter its findings

31

1 in writing with respect to the appointment or waiver of  
2 counsel for indigent parents parties.

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

7 (2)

8 (b) The guardian ad litem has the following  
9 responsibilities:

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

17 2. To be present at all court hearings unless excused  
18 by the court.

19 3. To represent the interests of the child until the  
20 jurisdiction of the court over the child terminates or until  
21 excused by the court.

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

24 39.808 Advisory hearing; pretrial status conference.--

25 (4) An advisory hearing is not required ~~may not be~~  
26 ~~held~~ if a petition is filed seeking an adjudication for  
27 termination of voluntarily to terminate parental rights based  
28 on a voluntary surrender of parental rights. Adjudicatory  
29 hearings for petitions for voluntary termination must be held  
30 within 21 days after the filing of the petition. Notice of the  
31 use of this subsection must be filed with the court at the

1 same time as the filing of the petition to terminate parental  
2 rights.

3 (5) Not less than 10 days before the adjudicatory  
4 hearing on a petition for involuntary termination of parental  
5 rights, the court shall conduct a pretrial ~~prehearing~~ status  
6 conference to determine the order in which each party may  
7 present witnesses or evidence, the order in which  
8 cross-examination and argument shall occur, and any other  
9 matters that may aid in the conduct of the adjudicatory  
10 hearing to prevent any undue delay in the conduct of the  
11 adjudicatory hearing.

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

15 39.811 Powers of disposition; order of disposition.--

16 (2) If the child is in the ~~out-of-home care~~ custody of  
17 the department and the court finds that the grounds for  
18 termination of parental rights have been established by clear  
19 and convincing evidence, the court shall, by order, place the  
20 child in the custody of the department or ~~for the purpose of~~  
21 ~~adoption or place the child in the custody of a licensed~~  
22 child-placing agency for the purpose of adoption.

23 (4) If the child is neither in the custody of the  
24 department nor in the custody of a parent and the court finds  
25 that the grounds for termination of parental rights have been  
26 established for either or both parents, the court shall enter  
27 an order terminating parental rights for the parent or parents  
28 for whom the grounds for termination have been established and  
29 placing the child with the department or an appropriate legal  
30 custodian. If the parental rights of both parents have been  
31 terminated, or if the parental rights of only one parent have

1 | been terminated and the court makes specific findings based on  
2 | evidence presented that placement with the remaining parent is  
3 | likely to be harmful to the child, the court may order that  
4 | the child be placed with a legal custodian other than the  
5 | department after hearing evidence of the suitability of such  
6 | intended placement. Suitability of the intended placement  
7 | includes the fitness and capabilities of the proposed legal  
8 | custodian to function as the primary caregiver for a  
9 | particular child; and the compatibility of the child with the  
10 | home in which the child is intended to be placed. If the  
11 | court orders that a child be placed with a legal custodian  
12 | under this subsection, the court shall appoint such legal  
13 | custodian as the guardian for the child as provided in s.  
14 | 744.3021. The court may modify the order placing the child in  
15 | the custody of the legal custodian and revoke the guardianship  
16 | established under s. 744.3021 if the court subsequently finds  
17 | ~~that a party to the proceeding other than a parent whose~~  
18 | ~~rights have been terminated has shown a material change in~~  
19 | ~~circumstances which causes~~ the placement to be no longer in  
20 | the best interest of the child.

21 |           (6) The parental rights of one parent may be severed  
22 | without severing the parental rights of the other parent only  
23 | under the following circumstances:

24 |           (e) If the parent whose rights are being terminated  
25 | meets any of the criteria specified in s. 39.806(1)(d) and  
26 | (f)-(i).

27 |           (7)(a) The termination of parental rights does not  
28 | affect the rights of grandparents unless the court finds that  
29 | continued visitation is not in the best interests of the child  
30 | or that such visitation would interfere with the permanency  
31 | ~~goals of permanency planning~~ for the child.

1           (b) If the court terminates parental rights, it may,  
2 as appropriate, order that the parents, siblings, or relatives  
3 of the parent whose rights are terminated be allowed to  
4 maintain some communication or contact with the child pending  
5 adoption if the best interests of the child support this  
6 continued communication or contact, except as provided in  
7 paragraph (a). If the court orders such continued  
8 communication or contact, which may include, but is not  
9 limited to, visits, letters, and cards or telephone calls, the  
10 nature and frequency of the communication or contact must be  
11 set forth in written order and may be reviewed upon motion of  
12 any party, or including, for purposes of this subsection, an  
13 identified prospective adoptive parent. If a child is placed  
14 for adoption, the nature and frequency of the communication or  
15 contact must be reviewed by the court at the time the child is  
16 placed for adoption ~~adopted~~.

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

31

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

4           39.814 Oaths, records, and confidential information.--

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

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

11           (a) Orders terminating the rights of a parent are  
12 admissible in evidence in subsequent adoption proceedings  
13 relating to the child and in subsequent termination of  
14 parental rights proceedings concerning a sibling of the child.

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

17           39.815 Appeal.--

18           (3) The taking of an appeal does not operate as a  
19 supersedeas in any case unless the court so orders. However, a  
20 termination of parental rights order with placement of the  
21 child with a licensed child-placing agency or the department  
22 for subsequent adoption is suspended while the appeal is  
23 pending, but the child shall continue in an out-of-home  
24 placement ~~custody~~ under the order until the appeal is decided.

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

27           39.822 Appointment of guardian ad litem for abused,  
28 abandoned, or neglected child.--

29           (3) The guardian ad litem or the program  
30 representative shall review all disposition recommendations  
31 and changes in placements, and must be present at all critical

1 stages of the dependency proceeding or submit a written report  
2 of recommendations to the court. Written reports must be filed  
3 with the court and served on all parties whose whereabouts are  
4 known at least 72 hours prior to the hearing.

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

7 63.0427 Adopted minor's right to continued  
8 communication or contact with siblings.--

9 (1) A child whose parents have had their parental  
10 rights terminated and whose custody has been awarded to the  
11 department pursuant to s. 39.811 ~~39.469~~, and who is the  
12 subject of a petition for adoption under this chapter, shall  
13 have the right to have the court consider the appropriateness  
14 of postadoption communication or contact, including, but not  
15 limited to, visits, letters and cards, or telephone calls,  
16 with his or her siblings who are not included in the petition  
17 for adoption. The court shall determine if the best interests  
18 of the child support such continued communication or contact  
19 and shall consider the following in making such determination:

20 (a) Any orders of the court pursuant to s. 39.811(7)  
21 ~~39.469(7)~~.

22 (b) Recommendations of the department, the foster  
23 parents if other than the adoptive parents, and the guardian  
24 ad litem.

25 (c) Statements of prospective adoptive parents.

26 (d) Any other information deemed relevant and material  
27 by the court.

28  
29 If the court determines that the child's best interests will  
30 be served by postadoption communication or contact with any  
31 sibling, the court shall so order, stating the nature and

1 frequency for the communication or contact. This order shall  
2 be made a part of the final adoption order, but in no event  
3 shall continuing validity of the adoption be contingent upon  
4 such postadoption communication or contact, nor shall the  
5 ability of the adoptive parents and child to change residence  
6 within or outside the State of Florida be impaired by such  
7 communication or contact.

8 Section 53. Paragraph (d) of subsection (1) of section  
9 419.001, Florida Statutes, 1998 Supplement, is amended to  
10 read:

11 419.001 Site selection of community residential  
12 homes.--

13 (1) For the purposes of this section, the following  
14 definitions shall apply:

15 (d) "Resident" means any of the following: a frail  
16 elder as defined in s. 400.618; a physically disabled or  
17 handicapped person as defined in s. 760.22(7)(a); a  
18 developmentally disabled person as defined in s.  
19 393.063(12)~~(11)~~; a nondangerous mentally ill person as defined  
20 in s. 394.455(18); or a child as defined in s. 39.01(14)~~(11)~~,  
21 s. 984.03(9) or (12), or s. 985.03(8).

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

23

24 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
25 COMMITTEE SUBSTITUTE FOR  
26 CS/SB 1666

26

27 Makes additional technical and conforming changes to correct  
28 the inconsistent use of the terms "parents," "legal  
custodian," "caregiver," and "family."

29 Clarifies that counties may acquire a lien on attorney's fees  
30 and costs on parents in certain dependency proceedings.

31 Deletes from the definition of "harm" a provision which stated  
that a parent cannot be held criminally investigated solely on  
the basis of a positive drug toxicology of a newborn infant.