

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 amending s. 784.046, F.S.; revising provisions
30 relating to petition for injunction for
31 protection against repeat violence; amending s.

1 409.26731, F.S.; authorizing the Department of
2 Children and Family Services to annually
3 certify local funds for state match for
4 eligible Title IV-E expenditures; requiring a
5 report; amending s. 921.0024, F.S., requiring a
6 sentencing multiplier to be applied when
7 domestic violence is committed in the presence
8 of a minor child; amending s. 901.15, F.S.;
9 providing a preferred arrest policy in the
10 criminal investigation of child abuse;
11 providing immunity for law enforcement for such
12 arrests; providing an effective date.

13
14 Be It Enacted by the Legislature of the State of Florida:

15
16 Section 1. Paragraphs (g) and (j) of subsection (1) of
17 section 39.001, Florida Statutes, 1998 Supplement, are amended
18 to read:

19 39.001 Purposes and intent; personnel standards and
20 screening.--

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

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

27 (j) To ensure that, when reunification or adoption is
28 not possible, the child will be prepared for alternative
29 permanency goals or placements, to include, but not be limited
30 to, long-term foster care, independent living, custody to a
31 relative on a permanent basis with or without legal

1 guardianship, or custody to a foster parent or legal custodian
2 ~~caregiver~~ on a permanent basis with or without legal
3 guardianship.

4 Section 2. Section 39.0014, Florida Statutes, is
5 created to read:

6 39.0014 Responsibilities of public agencies.--All
7 state, county, and local agencies shall cooperate, assist, and
8 provide information to the department as will enable it to
9 fulfill its responsibilities under this chapter.

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

13 39.0015 Child abuse prevention training in the
14 district school system.--

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

16 (b) "Child abuse" means those acts as defined in ss.
17 39.01(1), (2), (30), (44), (46), (53), and (64), 827.04, and
18 984.03(1), (2), and (39).

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

22 (a) Information provided in a clear and nonthreatening
23 manner, describing the problem of child abuse, sexual abuse,
24 physical abuse, abandonment, neglect, and alcohol and drug
25 abuse, and the possible solutions.

26 Section 4. Section 39.01, Florida Statutes, 1998
27 Supplement, is amended to read:

28 39.01 Definitions.--When used in this chapter, unless
29 the context otherwise requires:

30 (1) "Abandoned" means a situation in which the parent
31 or legal custodian of a child or, in the absence of a parent

1 or legal custodian, the caregiver responsible for the child's
2 welfare, while being able, makes no provision for the child's
3 support and makes no effort to communicate with the child,
4 which situation is sufficient to evince a willful rejection of
5 parental obligations. If the efforts of such parent or legal
6 custodian, or caregiver primarily responsible for the child's
7 welfare, to support and communicate with the child are, in the
8 opinion of the court, only marginal efforts that do not evince
9 a settled purpose to assume all parental duties, the court may
10 declare the child to be abandoned. The term "abandoned" does
11 not include a "child in need of services" as defined in
12 chapter 984 or a "family in need of services" as defined in
13 chapter 984. The incarceration of a parent, legal custodian,
14 or caregiver responsible for a child's welfare may support a
15 finding of abandonment.

16 (2) "Abuse" means any willful act or threatened act
17 that results in any physical, mental, or sexual injury or harm
18 that causes or is likely to cause the child's physical,
19 mental, or emotional health to be significantly impaired. ~~For~~
20 ~~the purpose of protective investigations,~~ Abuse of a child
21 includes ~~the acts or omissions of the parent, legal custodian,~~
22 ~~caregiver, or other person responsible for the child's~~
23 welfare. Corporal discipline of a child by a parent or, legal
24 ~~custodian, or caregiver~~ for disciplinary purposes does not in
25 itself constitute abuse when it does not result in harm to the
26 child.

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

29 (4) "Adjudicatory hearing" means a hearing for the
30 court to determine whether or not the facts support the
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1 allegations stated in the petition in dependency cases or in
2 termination of parental rights cases.

3 (5) "Adult" means any natural person other than a
4 child.

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

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

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

15 (b) A child who is alleged to have committed any
16 violation of law or delinquent act involving juvenile sexual
17 abuse. "Juvenile sexual abuse" means any sexual behavior which
18 occurs without consent, without equality, or as a result of
19 coercion. For purposes of this paragraph, the following
20 definitions apply:

21 1. "Coercion" means the exploitation of authority or
22 the use of bribes, threats of force, or intimidation to gain
23 cooperation or compliance.

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

27 3. "Consent" means an agreement, including all of the
28 following:

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

31

1 b. Knowledge of societal standards for what is being
2 proposed.

3 c. Awareness of potential consequences and
4 alternatives.

5 d. Assumption that agreement or disagreement will be
6 accepted equally.

7 e. Voluntary decision.

8 f. Mental competence.

9

10 Juvenile sexual offender behavior ranges from noncontact
11 sexual behavior such as making obscene phone calls,
12 exhibitionism, voyeurism, and the showing or taking of lewd
13 photographs to varying degrees of direct sexual contact, such
14 as frottage, fondling, digital penetration, rape, fellatio,
15 sodomy, and various other sexually aggressive acts.

16 (8) "Arbitration" means a process whereby a neutral
17 third person or panel, called an arbitrator or an arbitration
18 panel, considers the facts and arguments presented by the
19 parties and renders a decision which may be binding or
20 nonbinding.

21 (9) "Authorized agent" or "designee" of the department
22 means an employee, volunteer, or other person or agency
23 determined by the state to be eligible for state-funded risk
24 management coverage, that is assigned or designated by the
25 department to perform duties or exercise powers pursuant to
26 this chapter.

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

30 (11) "Case plan" or "plan" means a document, as
31 described in s. 39.601, prepared by the department with input

1 from all parties, ~~including parents, guardians ad litem, legal~~
2 ~~custodians, caregivers, and the child.~~ The case plan follows
3 the child from the provision of voluntary services through any
4 dependency, foster care, or termination of parental rights
5 proceeding or related activity or process.

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

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

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

21 (a) To have been abandoned, abused, or neglected by
22 the child's parent or parents or, legal custodians, ~~or~~
23 ~~caregivers;~~

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

27 (c) To have been voluntarily placed with a licensed
28 child-caring agency, a licensed child-placing agency, an adult
29 relative, the department, or the former Department of Health
30 and Rehabilitative Services, after which placement, under the
31 requirements of this chapter, a case plan has expired and the

1 parent or parents or, legal custodians, ~~or caregivers~~ have
2 failed to substantially comply with the requirements of the
3 plan;

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

8 (e) To have no parent or legal custodians capable of
9 providing, ~~legal custodian, or caregiver to provide~~
10 supervision and care; or

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

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

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

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

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1 (18) "Court," unless otherwise expressly stated, means
2 the circuit court assigned to exercise jurisdiction under this
3 chapter.

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

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

11 (21) "Diligent efforts of social service agency" means
12 reasonable efforts to provide social services or reunification
13 services made by any social service agency that is a party to
14 a case plan.

15 (22) "Diligent search" means the efforts of a social
16 service agency to locate a parent or prospective parent whose
17 identity or location is unknown, initiated as soon as the
18 social service agency is made aware of the existence of such
19 parent, with the search progress reported at each court
20 hearing until the parent is either identified and located or
21 the court excuses further search.

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

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

29 (25) "District administrator" means the chief
30 operating officer of each service district of the department
31 as defined in s. 20.19(7) and, where appropriate, includes any

1 district administrator whose service district falls within the
2 boundaries of a judicial circuit.

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

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

9 (a) Harassing, embarrassing, or harming another
10 person;

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

12 (c) Acquiring custody of a child; or

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

15

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

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

22 (a) The persons reside in the same house or living
23 unit; or

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

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

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

4 (a) Inflicts or allows to be inflicted upon the child
5 physical, mental, or emotional injury. In determining whether
6 harm has occurred, the following factors must be considered in
7 evaluating any physical, mental, or emotional injury to a
8 child: the age of the child; any prior history of injuries to
9 the child; the location of the injury on the body of the
10 child; the multiplicity of the injury; and the type of trauma
11 inflicted. Such injury includes, but is not limited to:

12 1. Willful acts that produce the following specific
13 injuries:

- 14 a. Sprains, dislocations, or cartilage damage.
15 b. Bone or skull fractures.
16 c. Brain or spinal cord damage.
17 d. Intracranial hemorrhage or injury to other internal
18 organs.
19 e. Asphyxiation, suffocation, or drowning.
20 f. Injury resulting from the use of a deadly weapon.
21 g. Burns or scalding.
22 h. Cuts, lacerations, punctures, or bites.
23 i. Permanent or temporary disfigurement.
24 j. Permanent or temporary loss or impairment of a body
25 part or function.

26
27 As used in this subparagraph, the term "willful" refers to the
28 intent to perform an action, not to the intent to achieve a
29 result or to cause an injury.

30 2. Purposely giving a child poison, alcohol, drugs, or
31 other substances that substantially affect the child's

1 behavior, motor coordination, or judgment or that result in
2 sickness or internal injury. For the purposes of this
3 subparagraph, the term "drugs" means prescription drugs not
4 prescribed for the child or not administered as prescribed,
5 and controlled substances as outlined in Schedule I or
6 Schedule II of s. 893.03.

7 3. Leaving a child without adult supervision or
8 arrangement appropriate for the child's age or mental or
9 physical condition, so that the child is unable to care for
10 the child's own needs or another's basic needs or is unable to
11 exercise good judgment in responding to any kind of physical
12 or emotional crisis.

13 4. Inappropriate or excessively harsh disciplinary
14 action that is likely to result in physical injury, mental
15 injury as defined in this section, or emotional injury. The
16 significance of any injury must be evaluated in light of the
17 following factors: the age of the child; any prior history of
18 injuries to the child; the location of the injury on the body
19 of the child; the multiplicity of the injury; and the type of
20 trauma inflicted. Corporal discipline may be considered
21 excessive or abusive when it results in any of the following
22 or other similar injuries:

- 23 a. Sprains, dislocations, or cartilage damage.
24 b. Bone or skull fractures.
25 c. Brain or spinal cord damage.
26 d. Intracranial hemorrhage or injury to other internal
27 organs.
28 e. Asphyxiation, suffocation, or drowning.
29 f. Injury resulting from the use of a deadly weapon.
30 g. Burns or scalding.
31 h. Cuts, lacerations, punctures, or bites.

- 1 i. Permanent or temporary disfigurement.
- 2 j. Permanent or temporary loss or impairment of a body
3 part or function.
- 4 k. Significant bruises or welts.
- 5 (b) Commits, or allows to be committed, sexual
6 battery, as defined in chapter 794, or lewd or lascivious
7 acts, as defined in chapter 800, against the child.
- 8 (c) Allows, encourages, or forces the sexual
9 exploitation of a child, which includes allowing, encouraging,
10 or forcing a child to:
- 11 1. Solicit for or engage in prostitution; or
12 2. Engage in a sexual performance, as defined by
13 chapter 827.
- 14 (d) Exploits a child, or allows a child to be
15 exploited, as provided in s. 450.151.
- 16 (e) Abandons the child. Within the context of the
17 definition of "harm," the term "abandons the child" means that
18 the parent or legal custodian of a child or, in the absence of
19 a parent or legal custodian, the person responsible for the
20 child's welfare, while being able, makes no provision for the
21 child's support and makes no effort to communicate with the
22 child, which situation is sufficient to evince a willful
23 rejection of parental obligation. If the efforts of such a
24 parent or legal custodian or person primarily responsible for
25 the child's welfare to support and communicate with the child
26 are only marginal efforts that do not evince a settled purpose
27 to assume all parental duties, the child may be determined to
28 have been abandoned.
- 29 (f) Neglects the child. Within the context of the
30 definition of "harm," the term "neglects the child" means that
31 the parent or other person responsible for the child's welfare

1 fails to supply the child with adequate food, clothing,
2 shelter, or health care, although financially able to do so or
3 although offered financial or other means to do so. However,
4 a parent or legal custodian, ~~or caregiver~~ who, by reason of
5 the legitimate practice of religious beliefs, does not provide
6 specified medical treatment for a child may not be considered
7 abusive or neglectful for that reason alone, but such an
8 exception does not:

9 1. Eliminate the requirement that such a case be
10 reported to the department;

11 2. Prevent the department from investigating such a
12 case; or

13 3. Preclude a court from ordering, when the health of
14 the child requires it, the provision of medical services by a
15 physician, as defined in this section, or treatment by a duly
16 accredited practitioner who relies solely on spiritual means
17 for healing in accordance with the tenets and practices of a
18 well-recognized church or religious organization.

19 (g) Exposes a child to a controlled substance or
20 alcohol. Exposure to a controlled substance or alcohol is
21 established by:

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

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

28
29 As used in this paragraph, the term "controlled substance"
30 means prescription drugs not prescribed for the parent or not
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1 administered as prescribed and controlled substances as
2 outlined in Schedule I or Schedule II of s. 893.03.

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

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

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

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

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

16 (32) "Institutional child abuse or neglect" means
17 situations of known or suspected child abuse or neglect in
18 which the person allegedly perpetrating the child abuse or
19 neglect is an employee of a private school, public or private
20 day care center, residential home, institution, facility, or
21 agency or any other person at such institution responsible for
22 the child's care.

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

25 (34) "Legal custody" means a legal status created by
26 court order or letter of guardianship which vests in a
27 custodian of the person or guardian, whether an agency or an
28 individual, the right to have physical custody of the child
29 and the right and duty to protect, train, and discipline the
30 child and to provide him or her with food, shelter, education,
31 and ordinary medical, dental, psychiatric, and psychological

1 care. The legal custodian is the person or entity in whom the
2 legal right to custody is vested. For purposes of this chapter
3 only, when the phrase "parent or legal custodian" is used, it
4 refers to rights or responsibilities of the parent and, only
5 if there is no living parent with intact parental rights, to
6 the rights or responsibilities of the legal custodian who has
7 assumed the role of the parent.

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

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

15 (37) "Licensed child-placing agency" means a person,
16 society, association, or institution licensed by the
17 department to care for, receive, or board children and to
18 place children in a licensed child-caring institution or a
19 foster or adoptive home.

20 (38) "Licensed health care professional" means a
21 physician licensed under chapter 458, an osteopathic physician
22 licensed under chapter 459, a nurse licensed under chapter
23 464, a physician assistant licensed under chapter 458 or
24 chapter 459, or a dentist licensed under chapter 466.

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

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

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

7 (42) "Long-term ~~relative~~ custody" or "long-term
8 custodial relationship" means the relationship that a juvenile
9 court order creates between a child and an adult relative of
10 the child or other legal custodian ~~caregiver~~ approved by the
11 court when the child cannot be placed in the custody of a
12 ~~natural~~ parent and termination of parental rights is not
13 deemed to be in the best interest of the child. Long-term
14 ~~relative~~ custody confers upon the ~~long-term~~ relative or other
15 legal custodian ~~caregiver~~ the right to physical custody of the
16 child, a right which will not be disturbed by the court except
17 upon request of the legal custodian ~~caregiver~~ or upon a
18 showing that the best interest of the child ~~a material change~~
19 ~~in circumstances~~ necessitates a change of custody for ~~the best~~
20 ~~interest of the child~~. A ~~long-term~~ relative or other legal
21 custodian who has been designated as a long-term custodian
22 ~~caregiver~~ shall have all of the rights and duties of a ~~natural~~
23 parent, including, but not limited to, the right and duty to
24 protect, train, and discipline the child and to provide the
25 child with food, shelter, and education, and ordinary medical,
26 dental, psychiatric, and psychological care, unless these
27 rights and duties are otherwise enlarged or limited by the
28 court order establishing the long-term custodial relationship.

29 (43) "Mediation" means a process whereby a neutral
30 third person called a mediator acts to encourage and
31 facilitate the resolution of a dispute between two or more

1 parties. It is an informal and nonadversarial process with
2 the objective of helping the disputing parties reach a
3 mutually acceptable and voluntary agreement. The role of the
4 mediator includes, but is not limited to, assisting the
5 parties in identifying issues, fostering joint problem
6 solving, and exploring settlement alternatives.

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

11 (45) "Necessary medical treatment" means care which is
12 necessary within a reasonable degree of medical certainty to
13 prevent the deterioration of a child's condition or to
14 alleviate immediate pain of a child.

15 (46) "Neglect" occurs when ~~the parent or legal~~
16 ~~custodian of a child or, in the absence of a parent or legal~~
17 ~~custodian, the caregiver deprives~~ a child is deprived of, or
18 is allowed ~~allows a child~~ to be deprived of, necessary food,
19 clothing, shelter, or medical treatment or ~~permits~~ a child is
20 permitted to live in an environment when such deprivation or
21 environment causes the child's physical, mental, or emotional
22 health to be significantly impaired or to be in danger of
23 being significantly impaired. The foregoing circumstances
24 shall not be considered neglect if caused primarily by
25 financial inability unless actual services for relief have
26 been offered to and rejected by such person. A parent or
27 ~~legal custodian, or caregiver~~ legitimately practicing
28 religious beliefs in accordance with a recognized church or
29 religious organization who thereby does not provide specific
30 medical treatment for a child shall not, for that reason
31 alone, be considered a negligent parent or legal custodian,

1 ~~or caregiver~~; however, such an exception does not preclude a
2 court from ordering the following services to be provided,
3 when the health of the child so requires:

4 (a) Medical services from a licensed physician,
5 dentist, optometrist, podiatric physician, or other qualified
6 health care provider; or

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

11
12 ~~For the purpose of protective investigations, Neglect of a~~
13 ~~child includes the acts or omissions of the parent, legal~~
14 ~~custodian, or caregiver.~~

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

27 (47)~~(48)~~ "Next of kin" means an adult relative of a
28 child who is the child's brother, sister, grandparent, aunt,
29 uncle, or first cousin.

30 (48) "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 (49) "Out-of-home" means a placement outside of the
12 home of the parents or a parent.

13 (50)(49) "Parent" means a woman who gives birth to a
14 child and a man whose consent to the adoption of the child
15 would be required under s. 63.062(1)(b). If a child has been
16 legally adopted, the term "parent" means the adoptive mother
17 or father of the child. The term does not include an
18 individual whose parental relationship to the child has been
19 legally terminated, or an alleged or prospective parent,
20 unless the parental status falls within the terms of s.
21 39.503(1)39.4051(1) or s. 63.062(1)(b). For purposes of this
22 chapter only, when the phrase "parent or legal custodian" is
23 used, it refers to rights or responsibilities of the parent
24 and, only if there is no living parent with intact parental
25 rights, to the rights or responsibilities of the legal
26 custodian who has assumed the role of the parent.

27 (51)(50) "Participant," for purposes of a shelter
28 proceeding, dependency proceeding, or termination of parental
29 rights proceeding, means any person who is not a party but who
30 should receive notice of hearings involving the child,
31 including foster parents or the legal custodian of the child

1 ~~caregivers~~, identified prospective parents, grandparents
2 entitled to priority for adoption consideration under s.
3 63.0425, actual custodians of the child, and any other person
4 whose participation may be in the best interest of the child.
5 Participants may be granted leave by the court to be heard
6 without the necessity of filing a motion to intervene.

7 (52)~~(51)~~ "Party" means the parent or parents ~~legal~~
8 ~~custodian~~ of the child, the petitioner, the department, the
9 guardian ad litem or the representative of the guardian ad
10 litem program when the program has been appointed, and the
11 child. The presence of the child may be excused by order of
12 the court when presence would not be in the child's best
13 interest. Notice to the child may be excused by order of the
14 court when the age, capacity, or other condition of the child
15 is such that the notice would be meaningless or detrimental to
16 the child.

17 (53)~~(52)~~ "Physical injury" means death, permanent or
18 temporary disfigurement, or impairment of any bodily part.

19 (54)~~(53)~~ "Physician" means any licensed physician,
20 dentist, podiatric physician ~~podiatrist~~, or optometrist and
21 includes any intern or resident.

22 (55)~~(54)~~ "Preliminary screening" means the gathering
23 of preliminary information to be used in determining a child's
24 need for further evaluation or assessment or for referral for
25 other substance abuse services through means such as
26 psychosocial interviews; urine and breathalyzer screenings;
27 and reviews of available educational, delinquency, and
28 dependency records of the child.

29 (56)~~(55)~~ "Preventive services" means social services
30 and other supportive and rehabilitative services provided to
31 the parent or legal custodian of the child, ~~the legal~~

1 ~~custodian of the child, or the caregiver of the child~~ and to
2 the child for the purpose of averting the removal of the child
3 from the home or disruption of a family which will or could
4 result in the placement of a child in foster care. Social
5 services and other supportive and rehabilitative services
6 shall promote the child's need for physical, mental, and
7 emotional health and a safe, stable, living environment, shall
8 promote family autonomy, and shall strengthen family life,
9 whenever possible.

10 (57)~~(56)~~ "Prospective parent" means a person who
11 claims to be, or has been identified as, a person who may be a
12 mother or a father of a child.

13 (58)~~(57)~~ "Protective investigation" means the
14 acceptance of a report alleging child abuse, abandonment, or
15 neglect, as defined in this chapter, by the central abuse
16 hotline or the acceptance of a report of other dependency by
17 the department; the investigation of each report; the
18 determination of whether action by the court is warranted; the
19 determination of the disposition of each report without court
20 or public agency action when appropriate; and the referral of
21 a child to another public or private agency when appropriate.

22 (59)~~(58)~~ "Protective investigator" means an authorized
23 agent of the department who receives and investigates reports
24 of child abuse, abandonment, or neglect; who, as a result of
25 the investigation, may recommend that a dependency petition be
26 filed for the child; and who performs other duties necessary
27 to carry out the required actions of the protective
28 investigation function.

29 (60)~~(59)~~ "Protective supervision" means a legal status
30 in dependency cases which permits the child to remain safely
31 in his or her own home or other nonlicensed placement under

1 the supervision of an agent of the department and which must
2 be reviewed by the court during the period of supervision.

3 (61)~~(60)~~ "Relative" means a grandparent,
4 great-grandparent, sibling, first cousin, aunt, uncle,
5 great-aunt, great-uncle, niece, or nephew, whether related by
6 the whole or half blood, by affinity, or by adoption. The term
7 does not include a stepparent.

8 (62)~~(61)~~ "Reunification services" means social
9 services and other supportive and rehabilitative services
10 provided to the parent of the child, ~~the legal custodian of~~
11 ~~the child, or the caregiver of the child, whichever is~~
12 ~~applicable,~~ to the child, and, where appropriate, to the
13 relative placement, nonrelative placement, or foster parents
14 of the child, for the purpose of enabling a child who has been
15 placed in out-of-home care to safely return to his or her
16 parent family at the earliest possible time. The health and
17 safety of the child shall be the paramount goal of social
18 services and other supportive and rehabilitative services.
19 Such services shall promote the child's need for physical,
20 mental, and emotional health and a safe, stable, living
21 environment, shall promote family autonomy, and shall
22 strengthen family life, whenever possible.

23 (63)~~(62)~~ "Secretary" means the Secretary of Children
24 and Family Services.

25 (64)~~(63)~~ "Sexual abuse of a child" means one or more
26 of the following acts:

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

30
31

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

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

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

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

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

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

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

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

27 1. Solicit for or engage in prostitution; or

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

30 ~~(65)(64)~~ "Shelter" means a placement with a relative
31 or a nonrelative, or in a licensed home or facility,~~place~~ for

1 the temporary care of a child who is alleged to be or who has
2 been found to be dependent, pending court disposition before
3 or after adjudication.

4 (66)~~(65)~~ "Shelter hearing" means a hearing in which
5 the court determines whether probable cause exists to keep a
6 child in shelter status pending further investigation of the
7 case.

8 (67)~~(66)~~ "Social service agency" means the department,
9 a licensed child-caring agency, or a licensed child-placing
10 agency.

11 (68)~~(67)~~ "Substance abuse" means using, without
12 medical reason, any psychoactive or mood-altering drug,
13 including alcohol, in such a manner as to induce impairment
14 resulting in dysfunctional social behavior.

15 (69)~~(68)~~ "Substantial compliance" means that the
16 circumstances which caused the creation of the case plan have
17 been significantly remedied to the extent that the well-being
18 and safety of the child will not be endangered upon the
19 child's remaining with or being returned to the child's
20 parent, ~~legal custodian, or caregiver.~~

21 (70)~~(69)~~ "Taken into custody" means the status of a
22 child immediately when temporary physical control over the
23 child is attained by a person authorized by law, pending the
24 child's release or placement.

25 (71)~~(70)~~ "Temporary legal custody" means the
26 relationship that a juvenile court creates between a child and
27 an adult relative of the child, legal custodian, ~~or caregiver~~
28 ~~approved by the court,~~ or other person approved by the court
29 until a more permanent arrangement is ordered. Temporary legal
30 custody confers upon the custodian the right to have temporary
31 physical custody of the child and the right and duty to

1 protect, train, and discipline the child and to provide the
2 child with food, shelter, and education, and ordinary medical,
3 dental, psychiatric, and psychological care, unless these
4 rights and duties are otherwise enlarged or limited by the
5 court order establishing the temporary legal custody
6 relationship.

7 (72)~~(71)~~ "Victim" means any child who has sustained or
8 is threatened with physical, mental, or emotional injury
9 identified in a report involving child abuse, neglect, or
10 abandonment, or child-on-child sexual abuse.

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

13 39.011 Immunity from liability.--

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

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

22 39.0121 Specific rulemaking authority.--Pursuant to
23 the requirements of s. 120.536, the department is specifically
24 authorized to adopt, amend, and repeal administrative rules
25 which implement or interpret law or policy, or describe the
26 procedure and practice requirements necessary to implement
27 this chapter, including, but not limited to, the following:

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

30 Section 7. Subsections (3), (4), (5), and (7),
31 paragraphs (a) and (c) of subsection (8), and paragraphs (b)

1 and (d) of subsection (9) of section 39.013, Florida Statutes,
2 1998 Supplement, are amended to read:

3 39.013 Procedures and jurisdiction; right to
4 counsel.--

5 (3) When a child is under the jurisdiction of the
6 circuit court pursuant to the provisions of this chapter, the
7 ~~juvenile court, as a division of the circuit court~~ assigned to
8 handle dependency matters, may exercise the general and
9 equitable jurisdiction over guardianship proceedings pursuant
10 to the provisions of chapter 744, and proceedings for
11 temporary custody of minor children by extended family
12 pursuant to the provisions of chapter 751.

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

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

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

26 (8)(a) At each stage of the proceedings under this
27 chapter, the court shall advise the parents ~~parent, legal~~
28 ~~custodian, or caregiver~~ of the right to counsel. The court
29 shall appoint counsel for indigent parents ~~persons~~. The court
30 shall ascertain whether the right to counsel is understood.
31 When right to counsel is waived, the court shall determine

1 whether the waiver is knowing and intelligent. The court shall
2 enter its findings in writing with respect to the appointment
3 or waiver of counsel for indigent parents ~~parties~~ or the
4 waiver of counsel by nonindigent parents ~~parties~~.

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

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

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

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

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

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

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

4 (d) Reasonable periods of delay resulting from a
5 continuance granted at the request of the parent or legal
6 custodian of a subject child.

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

10 39.0132 Oaths, records, and confidential
11 information.--

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

24 (3) The clerk shall keep all court records required by
25 this part separate from other records of the circuit court.
26 All court records required by this part shall not be open to
27 inspection by the public. All records shall be inspected only
28 upon order of the court by persons deemed by the court to have
29 a proper interest therein, except that, subject to the
30 provisions of s. 63.162, a child and the parents, ~~legal~~
31 ~~custodians, or caregivers~~ of the child and their attorneys,

1 guardian ad litem, law enforcement agencies, and the
2 department and its designees shall always have the right to
3 inspect and copy any official record pertaining to the child.
4 The court may permit authorized representatives of recognized
5 organizations compiling statistics for proper purposes to
6 inspect and make abstracts from official records, under
7 whatever conditions upon their use and disposition the court
8 may deem proper, and may punish by contempt proceedings any
9 violation of those conditions.

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

13 (e) Orders permanently and involuntarily terminating
14 the rights of a parent shall be admissible as evidence in
15 subsequent termination of parental rights proceedings for a
16 sibling of the child for whom parental rights were terminated.

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

19 39.0134 Appointed counsel; compensation.--

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

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

28 39.201 Mandatory reports of child abuse, abandonment,
29 or neglect; mandatory reports of death; central abuse
30 hotline.--

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

1 (a) Physician, osteopathic physician, medical
2 examiner, chiropractic physician, nurse, or hospital personnel
3 engaged in the admission, examination, care, or treatment of
4 persons;

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

7 (c) Practitioner who relies solely on spiritual means
8 for healing;

9 (d) School teacher or other school official or
10 personnel;

11 (e) Social worker, day care center worker, or other
12 professional child care, foster care, residential, or
13 institutional worker; or

14 (f) Law enforcement officer,

15

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

21 Section 11. Subsection (1) and paragraphs (a), (d),
22 and (i) of subsection (2) of section 39.202, Florida Statutes,
23 1998 Supplement, are amended to read:

24 39.202 Confidentiality of reports and records in cases
25 of child abuse or neglect.--

26 (1) In order to protect the rights of the child and
27 the child's parents or other persons responsible for the
28 child's welfare, all records held by the department concerning
29 reports of child abandonment, abuse, or neglect, including
30 reports made to the central abuse hotline and all records
31 generated as a result of such reports, shall be confidential

1 and exempt from the provisions of s. 119.07(1) and shall not
2 be disclosed except as specifically authorized by this
3 chapter. Such exemption from s. 119.07(1) applies to
4 information in the possession of those entities granted access
5 as set forth in this section.

6 (2) Access to such records, excluding the name of the
7 reporter which shall be released only as provided in
8 subsection (4), shall be granted only to the following
9 persons, officials, and agencies:

10 (a) Employees, authorized agents, or contract
11 providers of the department, the Department of Health, or
12 county agencies responsible for carrying out:

13 1. Child or adult protective investigations;7

14 2. Ongoing child or adult protective services;7

15 3. Healthy Start services;7or

16 4. Licensure or approval of adoptive homes, foster
17 homes, or child care facilities, or family day care homes or
18 informal child care providers who receive subsidized child
19 care funding, or other homes used to provide for the care and
20 welfare of children.

21

22 Also, employees or agents of the Department of Juvenile
23 Justice responsible for the provision of services to children,
24 pursuant to chapters 984 and 985.

25 (d) The parent,~~caregiver,~~or legal custodian of any
26 child who is alleged to have been abused, abandoned, or
27 neglected, and the child, and their attorneys. This access
28 shall be made available no later than 30 days after the
29 department receives the initial report of abuse, neglect, or
30 abandonment. However, any information otherwise made

31

1 confidential or exempt by law shall not be released pursuant
2 to this paragraph.

3 (i) Any person authorized by the department who is
4 engaged in the use of such records or information for bona
5 fide research, statistical, or audit purposes. Such individual
6 or entity shall enter into a privacy and security agreement
7 with the department and shall comply with all laws and rules
8 governing the use of such records and information for research
9 and statistical purposes. Information identifying the subjects
10 of such records or information shall be treated as
11 confidential by the researcher and shall not be released in
12 any form.~~However, no information identifying the subjects of~~
13 ~~the report shall be made available to the researcher.~~

14 Section 12. Paragraph (a) of subsection (1) of section
15 39.203, Florida Statutes, 1998 Supplement, is amended to read:

16 39.203 Immunity from liability in cases of child
17 abuse, abandonment, or neglect.--

18 (1)(a) Any person, official, or institution
19 participating in good faith in any act authorized or required
20 by this chapter, or reporting in good faith any instance of
21 child abuse, abandonment, or neglect to the department or any
22 law enforcement agency, shall be immune from any civil or
23 criminal liability which might otherwise result by reason of
24 such action.

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

27 39.206 Administrative fines for false report of abuse,
28 abandonment, or neglect of a child; civil damages.--

29 (5) At the administrative hearing, the department must
30 prove by a preponderance of the evidence that the person filed
31 a false report with the central abuse hotline. The

1 administrative hearing officer ~~court~~ shall advise any person
2 against whom a fine may be imposed of that person's right to
3 be represented by counsel at the administrative hearing.

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

7 39.301 Initiation of protective investigations.--

8 (2)(a) Upon commencing an investigation under this
9 part, the child protective investigator shall inform any
10 subject of the investigation of the following:

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

13 2. The purpose of the investigation.

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

16 4. The possible outcomes and services of the
17 department's response shall be explained to the parent or
18 legal custodian ~~caregiver~~.

19 5. The right of the parent or ~~legal custodian, or~~
20 ~~caregiver~~ to be involved to the fullest extent possible in
21 determining the nature of the allegation and the nature of any
22 identified problem.

23 (b) The department's training program shall ensure
24 that protective investigators know how to fully inform parents
25 or legal custodians, ~~guardians, and caregivers~~ of their rights
26 and options, including opportunities for audio or video
27 recording of investigators' interviews with parents or legal
28 custodians, ~~guardians, caretakers,~~ or children.

29 (5) The person responsible for the investigation shall
30 make a preliminary determination as to whether the report ~~or~~
31 ~~complaint~~ is complete, consulting with the attorney for the

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

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

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

22 (b) If it is determined that the child is in need of
23 the protection and supervision of the court, the department
24 shall file a petition for dependency. A petition for
25 dependency shall be filed in all cases classified by the
26 department as high-risk cases, including, but not limited to,
27 cases involving parents or legal custodians of a young age,
28 the use of illegal drugs, or domestic violence.

29 ~~(c) If the person conducting the investigation refuses~~
30 ~~to request the attorney for the department to file a petition~~
31 ~~for dependency is not being filed by the department, the~~

1 person or agency originating the report ~~complainant~~ shall be
2 advised of the right to file a petition pursuant to this part.

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

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

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

11 (a) Medical or other health care; or

12 (b) Homemaker care, day care, protective supervision,
13 or other services to stabilize the home environment, including
14 intensive family preservation services through the Family
15 Builders Program or, the Intensive Crisis Counseling Program,
16 or both, ~~or~~

17 ~~(c) Foster care, shelter care, or other substitute~~
18 ~~care to remove the child from the custody of the parents,~~
19 ~~legal guardians, or caregivers,~~

20
21 such services shall first be offered for voluntary acceptance
22 unless there are high-risk factors that may impact the ability
23 of the parents or, legal custodians ~~guardians, or caregivers~~
24 to exercise judgment. Such factors may include the parents'
25 or, legal custodians' ~~guardians'~~, ~~or caregivers'~~ young age or
26 history of substance abuse or domestic violence. The parents
27 or, legal custodians, ~~or caregivers~~ shall be informed of the
28 right to refuse services, as well as the responsibility of the
29 department to protect the child regardless of the acceptance
30 or refusal of services. If the services are refused and the
31 department deems that the child's need for protection so

1 requires, the department shall take the child into protective
2 custody or petition the court as provided in this chapter.

3 (11) Immediately upon receipt of a report alleging, or
4 immediately upon learning during the course of an
5 investigation, that:

6 (a) The immediate safety or well-being of a child is
7 endangered;

8 (b) The family is likely to flee;

9 (c) A child died as a result of abuse, abandonment, or
10 neglect;

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

13 (e) A child is a victim of sexual battery or of sexual
14 abuse,

15

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

29 (12) In a child protective investigation or a criminal
30 investigation, when the initial interview with the child is
31 conducted at school, the department or the law enforcement

1 agency may allow, notwithstanding the provisions of s.

2 39.0132(4), a school ~~instructional~~ staff member who is known
3 by the child to be present during the initial interview if:

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

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

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

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

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

29 39.302 Protective investigations of institutional
30 child abuse, abandonment, or neglect.--

31

1 (1) The department shall conduct a child protective
2 investigation of each report of institutional child abuse,
3 abandonment, or neglect. Upon receipt of a report which
4 alleges that an employee or agent of the department, or any
5 other entity or person covered by s. 39.01(32) or (48)~~(47)~~,
6 acting in an official capacity, has committed an act of child
7 abuse, abandonment, or neglect, the department shall
8 immediately initiate a child protective investigation and
9 orally notify the appropriate state attorney, law enforcement
10 agency, and licensing agency. These agencies shall
11 immediately conduct a joint investigation, unless independent
12 investigations are more feasible. When a facility is exempt
13 from licensing, the department shall inform the owner or
14 operator of the facility of the report. Each agency
15 conducting a joint investigation shall be entitled to full
16 access to the information gathered by the department in the
17 course of the investigation. In all cases, the department
18 shall make a full written report to the state attorney within
19 3 working days after making the oral report. A criminal
20 investigation shall be coordinated, whenever possible, with
21 the child protective investigation of the department. Any
22 interested person who has information regarding the offenses
23 described in this subsection may forward a statement to the
24 state attorney as to whether prosecution is warranted and
25 appropriate. Within 15 days after the completion of the
26 investigation, the state attorney shall report the findings to
27 the department and shall include in such report a
28 determination of whether or not prosecution is justified and
29 appropriate in view of the circumstances of the specific case.
30
31

1 Section 16. Paragraph (b) of subsection (1) of section
2 39.3035, Florida Statutes, 1998 Supplement, is amended to
3 read:

4 39.3035 Child advocacy centers; standards; state
5 funding.--

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

9 (b) Be a child protection team, or by written
10 agreement incorporate the participation and services of a
11 child protection team, with established community protocols
12 which meet all of the requirements of the National Network of
13 Children's Advocacy Centers, Inc.

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

16 39.304 Photographs, medical examinations, X rays, and
17 medical treatment of abused, abandoned, or neglected child.--

18 (1) Any person required to investigate cases of
19 suspected child abuse, abandonment, or neglect may take or
20 cause to be taken photographs of the areas of trauma visible
21 on a child who is the subject of a report. If the areas of
22 trauma visible on a child indicate a need for a medical
23 examination, or if the child verbally complains or otherwise
24 exhibits distress as a result of injury through suspected
25 child abuse, abandonment, or neglect, or is alleged to have
26 been sexually abused, the person required to investigate may
27 cause the child to be referred for diagnosis to a licensed
28 physician or an emergency department in a hospital without the
29 consent of the child's parents, ~~caregiver~~, or legal custodian.
30 Such examination may be performed by any licensed physician,
31 physician assistant, or an advanced registered nurse

1 practitioner licensed pursuant to chapter 464. Any licensed
2 physician, or advanced registered nurse practitioner licensed
3 pursuant to chapter 464, who has reasonable cause to suspect
4 that an injury was the result of child abuse, abandonment, or
5 neglect may authorize a radiological examination to be
6 performed on the child without the consent of the child's
7 parent, ~~caregiver~~, or legal custodian.

8 (5) The county in which the child is a resident shall
9 bear the initial costs of the examination of the allegedly
10 abused, abandoned, or neglected child; however, the parents,
11 ~~caregiver~~, or legal custodian of the child shall be required
12 to reimburse the county for the costs of such examination,
13 other than an initial forensic physical examination as
14 provided in s. 960.28, and to reimburse the department for the
15 cost of the photographs taken pursuant to this section. A
16 medical provider may not bill a child victim, directly or
17 indirectly, for the cost of an initial forensic physical
18 examination.

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

21 39.311 Establishment of Family Builders Program.--

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

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

26 (b) To reunite families whose children have been
27 removed and placed in foster care;~~;~~and

28 (c) To maintain adoptive families intact who are at
29 risk of fragmentation.

30
31

1 The Family Builders Program shall provide programs to achieve
2 long-term changes within families that will allow children to
3 remain with their families ~~as an alternative to the more~~
4 ~~expensive and potentially psychologically damaging program of~~
5 ~~out-of-home placement.~~

6 Section 19. Subsections (1), (5), and (10) of section
7 39.312, Florida Statutes, 1998 Supplement, are amended to
8 read:

9 39.312 Goals.--The goals of any Family Builders
10 Program shall be to:

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

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

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

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

22 39.313 Contracting of services.--The department may
23 contract for the delivery of Family Builders Program services
24 by professionally qualified persons or local governments when
25 it determines that it is in the child's ~~family's~~ best
26 interest. The service provider or program operator must
27 submit to the department monthly activity reports covering any
28 services rendered. These activity reports must include
29 project evaluation in relation to individual families being
30 served, as well as statistical data concerning families
31 referred for services who are not served due to the

1 unavailability of resources. The costs of program evaluation
2 are an allowable cost consideration in any service contract
3 negotiated in accordance with this section.

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

6 39.395 Detaining a child; medical or hospital
7 personnel.--Any person in charge of a hospital or similar
8 institution, or any physician or licensed health care
9 professional treating a child may detain that child without
10 the consent of the parents, caregiver, or legal custodian,
11 whether or not additional medical treatment is required, if
12 the circumstances are such, or if the condition of the child
13 is such that returning the child to the care or custody of the
14 parents, caregiver, or legal custodian presents an imminent
15 danger to the child's life or physical or mental health. Any
16 such person detaining a child shall immediately notify the
17 department, whereupon the department shall immediately begin a
18 child protective investigation in accordance with the
19 provisions of this chapter and shall make every reasonable
20 effort to immediately notify the parents, ~~caregiver~~, or legal
21 custodian that such child has been detained. If the
22 department determines, according to the criteria set forth in
23 this chapter, that the child should be detained longer than 24
24 hours, it shall petition the court through the attorney
25 representing the Department of Children and Family Services as
26 quickly as possible and not to exceed 24 hours, for an order
27 authorizing such custody in the same manner as if the child
28 were placed in a shelter. The department shall attempt to
29 avoid the placement of a child in an institution whenever
30 possible.

31

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

4 39.401 Taking a child alleged to be dependent into
5 custody; law enforcement officers and authorized agents of the
6 department.--

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

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

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

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

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

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

25 (a) Release the child to:

26 1. The parent, ~~caregiver~~, or legal custodian of the
27 child;

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

30
31

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

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

5
6 For cases involving allegations of abandonment, abuse, or
7 neglect, or other dependency cases, within 3 days after such
8 release or within 3 days after delivering the child to an
9 authorized agent of the department, the law enforcement
10 officer who took the child into custody shall make a full
11 written report to the department.

12 (3) If the child is taken into custody by, or is
13 delivered to, an authorized agent of the department, the
14 authorized agent shall review the facts supporting the removal
15 with an attorney representing the department. The purpose of
16 this review shall be to determine whether probable cause
17 exists for the filing of a shelter petition. If the facts are
18 not sufficient to support the filing of a shelter petition,
19 the child shall immediately be returned to the custody of the
20 parent, ~~caregiver,~~ or legal custodian. If the facts are
21 sufficient to support the filing of the shelter petition and
22 the child has not been returned to the custody of the parent
23 or legal custodian, the department shall file the petition and
24 schedule a hearing, and the attorney representing the
25 department ~~of Children and Family Services~~ shall request that
26 a shelter ~~such~~ hearing to be held as quickly as possible, and
27 not to exceed 24 hours after the removal of the child. While
28 awaiting the shelter hearing, the authorized agent of the
29 department may place the child in licensed shelter care or may
30 release the child to a parent or, legal custodian, ~~caregiver,~~
31 or responsible adult relative who shall be given priority

1 consideration over a licensed placement, or a responsible
2 adult approved by the department when this is in the best
3 interests of the child. Any placement of a child which is not
4 in a licensed shelter must be preceded by a local and state
5 criminal records check, as well as a search of the
6 department's automated abuse information system, on all
7 members of the household, to assess the child's safety within
8 the home. In addition, the department may authorize placement
9 of a housekeeper/homemaker in the home of a child alleged to
10 be dependent until the parent or legal custodian assumes care
11 of the child.

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

16 39.402 Placement in a shelter.--

17 (1) Unless ordered by the court under this chapter, a
18 child taken into custody shall not be placed in a shelter
19 prior to a court hearing unless there is probable cause to
20 believe that ~~are reasonable grounds for removal and removal is~~
21 ~~necessary to protect the child. Reasonable grounds for~~
22 ~~removal are as follows:~~

23 (a) The child has been abused, neglected, or
24 abandoned, or is suffering from or is in imminent danger of
25 illness or injury as a result of abuse, neglect, or
26 abandonment;

27 (b) The parent or legal custodian of the child has
28 materially violated a condition of placement imposed by the
29 court; or
30
31

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

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

17 (b) The parents or legal custodians shall be given
18 written notice that:

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

21 2. They have the right to be represented by counsel,
22 and, if indigent, the parents have the right to be represented
23 by appointed counsel, at the shelter hearing and at each
24 subsequent hearing or proceeding, pursuant to the procedures
25 set forth in s. 39.013. If the parents or legal custodians
26 appear for the shelter hearing without legal counsel, then, at
27 their request, the shelter hearing may be continued up to 72
28 hours to enable the parents or legal custodians to consult
29 legal counsel. If a continuance is requested by the parents or
30 legal custodians, the child shall be continued in shelter care
31 for the length of the continuance, if granted by the court.

1 (6)

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

5 (8)

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

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

11 2. That placement in shelter care is in the best
12 interest of the child.

13 3. That continuation of the child in the home is
14 contrary to the welfare of the child because the home
15 situation presents a substantial and immediate danger to the
16 child's physical, mental, or emotional health or safety which
17 cannot be mitigated by the provision of preventive services.

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

21 5. That the department has made reasonable efforts to
22 prevent or eliminate the need for removal of the child from
23 the home. A finding of reasonable effort by the department to
24 prevent or eliminate the need for removal may be made and the
25 department is deemed to have made reasonable efforts to
26 prevent or eliminate the need for removal if:

27 a. The first contact of the department with the family
28 occurs during an emergency;-

29 b. The appraisal of the home situation by the
30 department indicates that the home situation presents a
31 substantial and immediate danger to the child's physical,

1 mental, or emotional health or safety which cannot be
2 mitigated by the provision of preventive services;~~;~~

3 c. The child cannot safely remain at home, either
4 because there are no preventive services that can ensure the
5 health and safety of the child or because, even with
6 appropriate and available services being provided, the health
7 and safety of the child cannot be ensured; or;

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

11 6. That the court notified the parents or legal
12 custodians of the time, date, and location of the next
13 dependency hearing ~~subsequent dependency proceedings,~~
14 ~~including scheduled hearings,~~ and of the importance of the
15 active participation of the parents or legal custodians in all
16 ~~those subsequent~~ proceedings and hearings.

17 7. That the court notified the parents or legal
18 custodians of their right to counsel to represent them at the
19 shelter hearing and at each subsequent hearing or proceeding,
20 and the right of the parents to appointed counsel, pursuant to
21 the procedures set forth in s. 39.013.

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

1 guardianship estate. The shelter order shall also require the
2 parents to provide to the department and any other state
3 agency or party designated by the court, within 28 days after
4 entry of the shelter order, the financial information
5 necessary to accurately calculate child support pursuant to s.
6 61.30.

7 (15) At the conclusion of a shelter hearing, the court
8 shall notify all parties in writing of the next scheduled
9 hearing to review the shelter placement. Such hearing shall be
10 held no later than 30 days after placement of the child in
11 shelter status, in conjunction with the arraignment hearing,
12 and every 15 days thereafter until the child is released from
13 shelter status.

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

17 39.407 Medical, psychiatric, and psychological
18 examination and treatment of child; physical or mental
19 examination of parent or person requesting custody of child.--

20 (1) When any child is removed from the home and
21 maintained in an out-of-home placement ~~taken into custody and~~
22 ~~is to be detained in shelter care~~, the department is
23 authorized to have a medical screening performed on the child
24 without authorization from the court and without consent from
25 a parent or legal custodian. Such medical screening shall be
26 performed by a licensed health care professional and shall be
27 to examine the child for injury, illness, and communicable
28 diseases and to determine the need for immunization. The
29 department shall by rule establish the invasiveness of the
30 medical procedures authorized to be performed under this
31

1 subsection. In no case does this subsection authorize the
2 department to consent to medical treatment for such children.

3 (2) When the department has performed the medical
4 screening authorized by subsection (1), or when it is
5 otherwise determined by a licensed health care professional
6 that a child who is in an out-of-home placement ~~the custody of~~
7 ~~the department~~, but who has not been committed to the
8 department, is in need of medical treatment, including the
9 need for immunization, consent for medical treatment shall be
10 obtained in the following manner:

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

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

14 (b) If a parent or legal custodian of the child is
15 unavailable and his or her whereabouts cannot be reasonably
16 ascertained, and it is after normal working hours so that a
17 court order cannot reasonably be obtained, an authorized agent
18 of the department shall have the authority to consent to
19 necessary medical treatment, including immunization, for the
20 child. The authority of the department to consent to medical
21 treatment in this circumstance shall be limited to the time
22 reasonably necessary to obtain court authorization.

23 (c) If a parent or legal custodian of the child is
24 available but refuses to consent to the necessary treatment,
25 including immunization, a court order shall be required unless
26 the situation meets the definition of an emergency in s.

27 743.064 or the treatment needed is related to suspected abuse,
28 abandonment, or neglect of the child by a parent, caregiver,
29 or legal custodian. In such case, the department shall have
30 the authority to consent to necessary medical treatment. This
31

1 authority is limited to the time reasonably necessary to
2 obtain court authorization.

3

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

6 (3) A judge may order a child in an out-of-home
7 placement ~~the physical custody of the department~~ to be
8 examined by a licensed health care professional. The judge
9 may also order such child to be evaluated by a psychiatrist or
10 a psychologist, by a district school board educational needs
11 assessment team, or, if a developmental disability is
12 suspected or alleged, by the developmental disability
13 diagnostic and evaluation team of the department. If it is
14 necessary to place a child in a residential facility for such
15 evaluation, then the criteria and procedure established in s.
16 394.463(2) or chapter 393 shall be used, whichever is
17 applicable. The educational needs assessment provided by the
18 district school board educational needs assessment team shall
19 include, but not be limited to, reports of intelligence and
20 achievement tests, screening for learning disabilities and
21 other handicaps, and screening for the need for alternative
22 education as defined in s. 230.23.

23 (4) A judge may order a child in an out-of-home
24 placement ~~the physical custody of the department~~ to be treated
25 by a licensed health care professional based on evidence that
26 the child should receive treatment. The judge may also order
27 such child to receive mental health or retardation services
28 from a psychiatrist, psychologist, or other appropriate
29 service provider. If it is necessary to place the child in a
30 residential facility for such services, then the procedures
31 and criteria established in s. 394.467 or chapter 393 shall be

1 used, whichever is applicable. A child may be provided mental
2 health or retardation services in emergency situations,
3 pursuant to the procedures and criteria contained in s.
4 394.463(1) or chapter 393, whichever is applicable.

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

10 (11) The parents or legal custodian of a child in an
11 out-of-home placement ~~the physical custody of the department~~
12 remain financially responsible for the cost of medical
13 treatment provided to the child even if either one or both of
14 the parents or if the legal custodian did not consent to the
15 medical treatment. After a hearing, the court may order the
16 parents or legal custodian, if found able to do so, to
17 reimburse the department or other provider of medical services
18 for treatment provided.

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

22 39.501 Petition for dependency.--

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

30 (d) The petitioner must state in the petition, if
31 known, whether:

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

4 2. A parent or legal custodian named in the petition
5 has participated in mediation and whether a mediation
6 agreement exists;

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

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

12 (4) When a child has been placed in shelter status by
13 order of the court, a petition alleging dependency must be
14 filed within ~~7 days upon demand of a party, but no later than~~
15 21 days after the shelter hearing, or within 7 days after any
16 party files a demand for the early filing of a dependency
17 petition, whichever comes first. In all other cases, the
18 petition must be filed within a reasonable time after the date
19 the child was referred to protective investigation. The
20 child's parent, ~~guardian,~~ or legal custodian must be served
21 with a copy of the petition at least 72 hours before the
22 arraignment hearing.

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

26 39.502 Notice, process, and service.--

27 (1) Unless parental rights have been terminated, all
28 parents ~~and legal custodians~~ must be notified of all
29 proceedings or hearings involving the child. Notice in cases
30 involving shelter hearings and hearings resulting from medical
31 emergencies must be that most likely to result in actual

1 notice to the parents ~~and legal custodians~~. In all other
2 dependency proceedings, notice must be provided in accordance
3 with subsections (4) through (9).

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

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

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

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

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

27 39.503 Identity or location of parent ~~or legal~~
28 ~~custodian~~ unknown; special procedures.--

29 (1) If the identity or location of a parent ~~or legal~~
30 ~~custodian~~ is unknown and a petition for dependency or shelter
31 is filed, the court shall conduct the following inquiry of the

1 parent or legal custodian who is available, or, if no parent
2 or legal custodian is available, of any relative or custodian
3 of the child who is present at the hearing and likely to have
4 the information:

5 (a) Whether the mother of the child was married at the
6 probable time of conception of the child or at the time of
7 birth of the child.

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

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

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

16 (e) Whether any man has acknowledged or claimed
17 paternity of the child in a jurisdiction in which the mother
18 resided at the time of or since conception of the child, or in
19 which the child has resided or resides.

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

1 and state parent locator service for diligent search
2 activities.

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

6 39.504 Injunction pending disposition of petition;
7 penalty.--

8 (1)(a) When a petition for shelter placement ~~detention~~
9 or a petition for dependency has been filed or when a child
10 has been taken into custody and reasonable cause, as defined
11 in paragraph (b), exists, the court, upon the request of the
12 department, a law enforcement officer, the state attorney, or
13 other responsible person, or upon its own motion, shall have
14 the authority to issue an injunction to prevent any act of
15 child abuse or any unlawful sexual offense involving a child.

16 (3)(a) In every instance in which an injunction is
17 issued under this section, the purpose of the injunction shall
18 be primarily to protect and promote the best interests of the
19 child, taking the preservation of the child's immediate family
20 into consideration. The effective period of the injunction
21 shall be determined by the court, except that the injunction
22 will expire at the time of the disposition of the petition for
23 shelter placement ~~detention~~ or dependency.

24 Section 29. Section 39.506, Florida Statutes, 1998
25 Supplement, is amended to read:

26 39.506 Arraignment hearings.--

27 (1) When a child has been sheltered ~~detained~~ by order
28 of the court, an arraignment hearing must be held no later
29 than 28 days after the shelter hearing, or, within 7 days
30 after the date of filing of the dependency petition if a
31 demand for early filing has been made by any party, for the

1 parent or legal custodian to admit, deny, or consent to
2 findings of dependency alleged in the petition. If the parent
3 or legal custodian admits or consents to the findings in the
4 petition, the court shall conduct a disposition hearing within
5 15 days after the arraignment hearing ~~proceed as set forth in~~
6 ~~the Florida Rules of Juvenile Procedure~~. However, if the
7 parent or legal custodian denies any of the allegations of the
8 petition, the court shall hold an adjudicatory hearing within
9 30 days after the date of the arraignment hearing unless a
10 continuance is granted pursuant to this chapter.

11 (2) When a child is in the custody of the parent or
12 legal custodian, upon the filing of a petition the clerk shall
13 set a date for an arraignment hearing within a reasonable time
14 after the date of the filing. If the parent or legal custodian
15 admits or consents to an adjudication, the court shall conduct
16 a disposition hearing within 15 days after the arraignment
17 hearing ~~proceed as set forth in the Florida Rules of Juvenile~~
18 ~~Procedure~~. However, if the parent or legal custodian denies
19 any of the allegations of dependency, the court shall hold an
20 adjudicatory hearing within 30 days ~~a reasonable time~~ after
21 the date of the arraignment hearing.

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

1 THIS CHILD (OR CHILDREN)." If a person appears for the
2 arraignment hearing and the court orders that person to
3 personally appear at the adjudicatory hearing for dependency,
4 stating the date, time, and place of the adjudicatory hearing,
5 then that person's failure to appear for the scheduled
6 adjudicatory hearing constitutes consent to a dependency
7 adjudication.

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

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

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

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

31

1 (8) At the arraignment hearing, and no more than every
2 15 days thereafter until the child is returned home or a
3 disposition hearing has been conducted, the court shall review
4 the necessity for the child's continued placement in the
5 shelter. The court shall also make a written determination
6 regarding the child's continued placement in shelter within 24
7 hours after any violation of the time requirements for the
8 filing of a petition or prior to the court's granting any
9 continuance as specified in subsection (5).

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

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

16 39.507 Adjudicatory hearings; orders of
17 adjudication.--

18 (2) All hearings, except as provided in this section,
19 shall be open to the public, and a person may not be excluded
20 except on special order of the judge, who may close any
21 hearing to the public upon determining that the public
22 interest or the welfare of the child is best served by so
23 doing. ~~However,~~ The parents or legal custodians shall be
24 allowed to obtain discovery pursuant to the Florida Rules of
25 Juvenile Procedure, provided such discovery does not violate
26 ~~However, nothing in this subsection shall be construed to~~
27 ~~affect~~ the provisions of s. 39.202. Hearings involving more
28 than one child may be held simultaneously when the children
29 involved are related to each other or were involved in the
30 same case. The child and the parents, caregivers, or legal
31

1 custodians of the child may be examined separately and apart
2 from each other.

3 (5) If the court finds that the child named in the
4 petition is dependent, but finds that no action other than
5 supervision in the child's home is required, it may enter an
6 order briefly stating the facts upon which its finding is
7 based, but withholding an order of adjudication and placing
8 the child's home under the supervision of the department. If
9 the court later finds that the parents, ~~caregivers, or legal~~
10 ~~custodians~~ of the child have not complied with the conditions
11 of supervision imposed, the court may, after a hearing to
12 establish the noncompliance, but without further evidence of
13 the state of dependency, enter an order of adjudication and
14 shall thereafter have full authority under this chapter to
15 provide for the child as adjudicated. If the child is to
16 remain in an out-of-home placement by order of the court, the
17 court must adjudicate the child dependent.

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

26 (7) At the conclusion of the adjudicatory hearing, if
27 the child named in the petition is found dependent, the court
28 shall schedule the disposition hearing within 30 days after
29 the last day of the adjudicatory hearing ~~the filing of the~~
30 ~~adjudicatory order~~. All parties shall be notified in writing
31 at the conclusion of the adjudicatory hearing by the clerk of

1 the court of the date, time, and location of the disposition
2 hearing.

3 Section 31. Section 39.508, Florida Statutes, 1998
4 Supplement, is amended to read:

5 39.508 Disposition hearings; powers of disposition.--

6 (1) At the disposition hearing, if the court finds
7 that the facts alleged in the petition for dependency were
8 proven in the adjudicatory hearing, or if the parents~~7~~
9 ~~caregivers~~, or legal custodians have consented to the finding
10 of dependency or admitted the allegations in the petition,
11 have failed to appear for the arraignment hearing after proper
12 notice, or have not been located despite a diligent search
13 having been conducted, the court shall receive and consider a
14 case plan and a predisposition study, which must be in writing
15 and presented by an authorized agent of the department.

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

20 (a) An assessment defining the dangers and risks of
21 returning the child home, including a description of the
22 changes in and resolutions to the initial risks.

23 (b) A description of what risks are still present and
24 what resources are available and will be provided for the
25 protection and safety of the child.

26 (c) A description of the benefits of returning the
27 child home.

28 (d) A description of all unresolved issues.

29 (e) An abuse registry history and criminal records
30 check for all caregivers, family members, and individuals
31 residing within the household.

1 (f) The complete report and recommendation of the
2 child protection team of the Department of Health or, if no
3 report exists, a statement reflecting that no report has been
4 made.

5 (g) All opinions or recommendations from other
6 professionals or agencies that provide evaluative, social,
7 reunification, or other services to the parent and child
8 ~~family~~.

9 (h) The availability of appropriate prevention and
10 reunification services for the parent and child family to
11 prevent the removal of the child from the home or to reunify
12 the child with the parent family after removal, including the
13 availability of family preservation services through the
14 Family Builders Program, the Intensive Crisis Counseling
15 Program, or both.

16 (i) The inappropriateness of other prevention and
17 reunification services that were available.

18 (j) The efforts by the department to prevent
19 out-of-home placement of the child or, when applicable, to
20 reunify the parent and child family if appropriate services
21 were available, including the application of intensive family
22 preservation services through the Family Builders Program, the
23 Intensive Crisis Counseling Program, or both.

24 (k) Whether the services were provided to the parent
25 ~~family~~ and child.

26 (l) If the services were provided, whether they were
27 sufficient to meet the needs of the child and the parent
28 ~~family~~ and to enable the child to remain safely at home or to
29 be returned home.

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

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

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

5 (p) If the child has been removed from the home and
6 there is a parent, ~~caregiver~~, or legal custodian who may be
7 considered for custody pursuant to this section, a
8 recommendation as to whether placement of the child with that
9 parent, ~~caregiver~~, or legal custodian would be detrimental to
10 the child.

11 (q) If the child has been removed from the home and
12 will be remaining with a relative or other adult approved by
13 the court ~~caregiver~~, a home study report concerning the
14 proposed placement shall be included in the predisposition
15 report.

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

19
20 Any other relevant and material evidence, including other
21 written or oral reports, may be received by the court in its
22 effort to determine the action to be taken with regard to the
23 child and may be relied upon to the extent of its probative
24 value, even though not competent in an adjudicatory hearing.
25 Except as otherwise specifically provided, nothing in this
26 section prohibits the publication of proceedings in a hearing.

27 (3)(a)1. Notwithstanding s. 435.045(1), the department
28 may place a child in a foster home which otherwise meets
29 licensing requirements if state and local criminal records
30 checks do not disqualify the applicant, and the department has
31 submitted fingerprint information to the Florida Department of

1 Law Enforcement for forwarding to the Federal Bureau of
2 Investigation and is awaiting the results of the federal
3 criminal records check.

4 2. Prospective and approved foster parents must
5 disclose to the department any prior or pending local, state
6 or federal criminal proceedings in which they are or have been
7 involved.

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

13 1. An interview with the proposed legal custodians
14 ~~adult caregivers~~ to assess their ongoing commitment and
15 ability to care for the child.

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

22 3. An assessment of the physical environment of the
23 home.

24 4. A determination of the financial security of the
25 proposed legal custodians ~~caregivers~~.

26 5. A determination of suitable child care arrangements
27 if the proposed legal custodians ~~caregivers~~ are employed
28 outside of the home.

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

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

4 ~~(c)(b)~~ The department shall not place the child or
5 continue the placement of the child in the home of the
6 proposed legal custodians ~~caregivers~~ if the results of the
7 home study are unfavorable.

8 (4) If placement of the child with anyone other than
9 the child's parent, ~~caregiver, or legal custodian~~ is being
10 considered, the predisposition study shall include the
11 designation of a specific length of time as to when custody by
12 the parent, ~~caregiver, or legal custodian~~ will be
13 reconsidered.

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

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

27 (7) The initial judicial review must be held no later
28 than 90 days after the date of the disposition hearing or
29 after the date of the hearing at which the court approves the
30 case plan, whichever occurs earlier, but in no event shall the
31

1 review be held later than 6 months after the date of the
2 child's removal from the home.

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

19 (a) Order that the parent assume sole custodial
20 responsibilities for ~~become the legal and physical custodian~~
21 ~~of~~ the child. The court may also provide for reasonable
22 visitation by the noncustodial parent. The court may ~~shall~~
23 then terminate its jurisdiction over the child. The custody
24 order shall continue unless modified by a subsequent order of
25 the circuit court hearing dependency matters. The order of the
26 circuit juvenile court hearing dependency matters shall be
27 filed in any dissolution or other custody action or proceeding
28 between the parents and shall take precedence over other
29 custody and visitation orders entered in those actions.

30 (b) Order that the parent assume custody subject to
31 the jurisdiction of the circuit juvenile court hearing

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

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

17 1. Require the parent, ~~caregiver,~~ or legal custodian,
18 and the child when appropriate, to participate in treatment
19 and services identified as necessary.

20 2. Require the parent, ~~caregiver,~~ or legal custodian,
21 and the child when appropriate, to participate in mediation if
22 the parent, ~~caregiver,~~ or legal custodian refused to
23 participate in mediation.

24 3. Place the child under the protective supervision of
25 an authorized agent of the department, either in the child's
26 own home or, the prospective custodian being willing, in the
27 home of a relative of the child or of another adult ~~a~~
28 ~~caregiver~~ approved by the court, or in some other suitable
29 place under such reasonable conditions as the court may
30 direct. Protective supervision continues until the court
31 terminates it or until the child reaches the age of 18,

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

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

23 5.a. When the parents have failed to comply with a
24 case plan and the court determines at a judicial review
25 hearing, or at an adjudication hearing held pursuant to this
26 section, that neither reunification, termination of parental
27 rights, nor adoption is in the best interest of the child, the
28 court may place the child in the long-term custody of an adult
29 relative or other adult ~~caregiver~~ approved by the court
30 willing to care for the child, if all of the following
31 conditions are met:

1 (I) A case plan describing the responsibilities of the
2 relative or other adult caregiver, the department, and any
3 other party must have been submitted to the court.

4 (II) The case plan for the child does not include
5 reunification with the parents or adoption by the relative or
6 other adult caregiver.

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

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

20 (V) The court has considered the reasonable preference
21 of the child if the court has found the child to be of
22 sufficient intelligence, understanding, and experience to
23 express a preference.

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

26 (VII) The relative or other adult has made a
27 commitment to provide for the child until the child reaches
28 the age of majority and to prepare the child for adulthood and
29 independence.

30 (VIII) The relative or other adult agrees not to
31 return the child to the physical care and custody of the

1 person from whom the child was removed, including for short
2 visitation periods, without the approval of the court.

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

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

29 (I) The foster child is 16 years of age or older,
30 unless the court determines that the history or condition of a
31

1 younger child makes long-term out-of-home care the most
2 appropriate placement.

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

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

7

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

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

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

14 (II) The child is living in a licensed home and the
15 foster parents desire to provide care for the child on a
16 permanent basis and the foster parents and the child do not
17 desire adoption.7

18 (III) The foster family has made a commitment to
19 provide for the child until he or she reaches the age of
20 majority and to prepare the child for adulthood and
21 independence.7 ~~and~~

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

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

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

30

31

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

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

27 7. Commit the child to the temporary legal custody of
28 the department. Such commitment invests in the department all
29 rights and responsibilities of a legal custodian. The
30 department shall not return any child to the physical care and
31 custody of the person from whom the child was removed, except

1 for court-approved ~~short~~ visitation periods, without the
2 approval of the court. The term of such commitment continues
3 until terminated by the court or until the child reaches the
4 age of 18. After the child is committed to the temporary
5 custody of the department, all further proceedings under this
6 section are also governed by this chapter.

7 8.a. Change the temporary legal custody or the
8 conditions of protective supervision at a postdisposition
9 hearing ~~subsequent to the initial detention hearing~~, without
10 the necessity of another adjudicatory hearing. A child who has
11 been placed in the child's own home under the protective
12 supervision of an authorized agent of the department, in the
13 home of a relative, in the home of a legal custodian ~~or~~
14 ~~caregiver~~, or in some other place may be brought before the
15 court by ~~the agent of the department who is supervising the~~
16 ~~placement~~ or by any other interested person, upon the filing
17 of a petition alleging a need for a change in the conditions
18 of protective supervision or the placement. If the parents or
19 other legal custodians deny the need for a change, the court
20 shall hear all parties in person or by counsel, or both. Upon
21 the admission of a need for a change or after such hearing,
22 the court shall enter an order changing the placement,
23 modifying the conditions of protective supervision, or
24 continuing the conditions of protective supervision as
25 ordered. The standard for changing custody of the child shall
26 be the best interest of the child. If the child is not placed
27 in foster care, then the new placement for the child ~~from one~~
28 ~~parent to another or to a relative or caregiver~~ must meet the
29 home study criteria and court approval pursuant to this
30 chapter.

31

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

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

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

12 2. Special conditions of placement and visitation.

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

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

17 5. Continuation or discharge of the guardian ad litem,
18 as appropriate.

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

22 a. Ninety days after the disposition hearing;

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

24 c.a. Six months after the date of the last review
25 hearing; or

26 d.b. Six months after the date of the child's removal
27 from his or her home, if no review hearing has been held since
28 the child's removal from the home.

29 7. Other requirements necessary to protect the health,
30 safety, and well-being of the child, to preserve the stability
31

1 of the child's educational placement, and to promote family
2 preservation or reunification whenever possible.

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

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

26 1. For the purposes of this paragraph, the term
27 "reasonable effort" means the exercise of reasonable diligence
28 and care by the department to provide the services delineated
29 in the case plan.

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

- 1 a. Enter written findings as to whether or not
2 prevention or reunification efforts were indicated.
- 3 b. If prevention or reunification efforts were
4 indicated, include a brief written description of what
5 appropriate and available prevention and reunification efforts
6 were made.
- 7 c. Indicate in writing why further efforts could or
8 could not have prevented or shortened the separation of the
9 parent and child ~~family~~.
- 10 3. A court may find that the department has made a
11 reasonable effort to prevent or eliminate the need for removal
12 if:
- 13 a. The first contact of the department with the family
14 occurs during an emergency;~~;~~
- 15 b. The appraisal by the department of the home
16 situation indicates that it presents a substantial and
17 immediate danger to the child's safety or physical, mental, or
18 emotional health which cannot be mitigated by the provision of
19 preventive services;~~;~~
- 20 c. The child cannot safely remain at home, either
21 because there are no preventive services that can ensure the
22 health and safety of the child or, even with appropriate and
23 available services being provided, the health and safety of
24 the child cannot be ensured; or~~;~~
- 25 d. The parent or legal custodian is alleged to have
26 committed any of the acts listed as grounds for expedited
27 termination of parental rights in s. 39.806(1)(f)-(i).
- 28 4. A reasonable effort by the department for
29 reunification of the parent and child ~~family~~ has been made if
30 the appraisal of the home situation by the department
31 indicates that the severity of the conditions of dependency is

1 such that reunification efforts are inappropriate. The
2 department has the burden of demonstrating to the court that
3 reunification efforts were inappropriate.

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

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

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

30 (11)(a) If the court does not commit the child to the
31 temporary legal custody of an adult relative, legal custodian,

1 or other adult ~~caregiver~~ approved by the court, the
2 disposition order shall include the reasons for such a
3 decision and shall include a determination as to whether
4 diligent efforts were made by the department to locate an
5 adult relative, legal custodian, or other adult ~~caregiver~~
6 willing to care for the child in order to present that
7 placement option to the court instead of placement with the
8 department.

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

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

28 (13) In carrying out the provisions of this chapter,
29 the court may order the ~~natural parents, caregivers,~~ or legal
30 custodians of a child who is found to be dependent to
31 participate in family counseling and other professional

1 counseling activities deemed necessary for the rehabilitation
2 of the child.

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

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

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

26 39.5085 Relative Caregiver Program.--

27 (2)(a) The Department of Children and Family Services
28 shall establish and operate the Relative Caregiver Program
29 pursuant to eligibility guidelines established in this section
30 as further implemented by rule of the department. The Relative
31 Caregiver Program shall, within the limits of available

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

17 (d) Relatives who are caring for children placed with
18 them by the court pursuant to this chapter ~~child protection~~
19 ~~system~~ shall receive a special monthly relative caregiver
20 benefit established by rule of the department. The amount of
21 the special benefit payment shall be based on the child's age
22 within a payment schedule established by rule of the
23 department and subject to availability of funding. The
24 statewide average monthly rate for children judicially placed
25 with relatives who are not licensed as foster homes may not
26 exceed 82 percent of the statewide average foster care rate,
27 nor may the cost of providing the assistance described in this
28 section to any relative caregiver exceed the cost of providing
29 out-of-home care in emergency shelter or foster care.

30 Section 33. Section 39.509, Florida Statutes, 1998
31 Supplement, is amended to read:

1 39.509 Grandparents rights.--Notwithstanding any other
2 provision of law, a maternal or paternal grandparent as well
3 as a stepgrandparent is entitled to reasonable visitation with
4 his or her grandchild who has been adjudicated a dependent
5 child and taken from the physical custody of the parent,
6 ~~custodian, legal guardian, or caregiver~~ unless the court finds
7 that such visitation is not in the best interest of the child
8 or that such visitation would interfere with the goals of the
9 case plan. Reasonable visitation may be unsupervised and,
10 where appropriate and feasible, may be frequent and
11 continuing.

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

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

28 (3) Any attempt by a grandparent to facilitate a
29 meeting between the child who has been adjudicated a dependent
30 child and the child's parent or legal~~custodian, or any other~~
31 person ~~legal guardian, or caregiver~~ in violation of a court

1 order shall automatically terminate future visitation rights
2 of the grandparent.

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

7 (5) The termination of parental rights does not affect
8 the rights of grandparents unless the court finds that such
9 visitation is not in the best interest of the child or that
10 such visitation would interfere with the goals of permanency
11 planning for the child.

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

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

28 39.510 Appeal.--

29 (1) Any ~~child, parent, guardian ad litem, caregiver,~~
30 ~~or legal custodian of any child, any other party to the~~
31 proceeding who is affected by an order of the court, or the

1 department may appeal to the appropriate district court of
2 appeal within the time and in the manner prescribed by the
3 Florida Rules of Appellate Procedure. Appointed counsel shall
4 be compensated as provided in this chapter.

5 (2) When the notice of appeal is filed in the circuit
6 court by a party other than the department,an attorney for
7 the department shall represent the state and the court upon
8 appeal and shall be notified of the appeal by the clerk ~~when~~
9 ~~the notice of appeal is filed in the circuit court by a party~~
10 ~~other than the department.~~

11 Section 35. Section 39.601, Florida Statutes, 1998
12 Supplement, is amended to read:

13 39.601 Case plan requirements.--

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

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

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

1 (c) The case plan must describe the minimum number of
2 face-to-face meetings to be held each month between the
3 ~~parents, caregivers, or legal custodians~~ and the department's
4 caseworkers to review progress of the plan, to eliminate
5 barriers to progress, and to resolve conflicts or
6 disagreements.

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

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

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

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

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

19 (b) A description of the tasks with which the parent
20 must comply and the services to be provided to the parent
21 family and child specifically addressing the identified
22 problem, including:

- 23 1. Type of services or treatment.
- 24 2. Frequency of services or treatment.
- 25 3. Location of the delivery of the services.
- 26 4. The accountable department staff or service
27 provider.

28 (c) A description of the measurable objectives,
29 including timeframes for achieving objectives, addressing the
30 identified problem.

31

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

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

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

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

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

24 (e) A discussion of the safety and appropriateness of
25 the child's placement, which placement is intended to be safe,
26 the least restrictive and most family-like setting available
27 consistent with the best interest and special needs of the
28 child, and in as close proximity as possible to the child's
29 home. The plan must also establish the role for the foster
30 parents or legal custodians in the development of the services
31 which are to be provided to the child, foster parents, or

1 legal custodians. It must also address the child's need for
2 services while under the jurisdiction of the court and
3 implementation of these services in the case plan.

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

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

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

16 (i) A description of the plan for assuring that
17 services as outlined in the case plan are provided to the
18 child, and the child's ~~parent or~~ parents, and the child's
19 legal custodians, ~~or caregivers~~, to address the needs of the
20 child, and a discussion of the appropriateness of the
21 services.

22 (j) A description of the plan for assuring that
23 services are provided to the child and the child's legal
24 custodians or foster parents to address the needs of the child
25 while in an out-of-home placement ~~foster care~~, which shall
26 include an itemized list of costs to be borne by the parent ~~or~~
27 ~~caregiver~~ associated with any services or treatment that the
28 parent and child are expected to receive.

29 (k) A written notice to the parent that failure of the
30 parent to substantially comply with the case plan may result
31 in the termination of parental rights, and that a material

1 failure to substantially comply may result in the filing of a
2 petition for termination of parental rights sooner than the
3 compliance periods set forth in the case plan itself. The case
4 staffing committee shall coordinate its efforts with the child
5 protection team of the Department of Health.

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

18 (4) In the event that the parents, ~~legal custodians,~~
19 ~~or caregivers~~ are unwilling or unable to participate in the
20 development of a case plan, the department shall document that
21 unwillingness or inability to participate. Such documentation
22 must be provided in writing to the parent, ~~legal custodians,~~
23 ~~or caregivers~~ when available for the court record, and then
24 the department shall prepare a case plan conforming as nearly
25 as possible with the requirements set forth in this section.
26 The unwillingness or inability of the parents, ~~legal~~
27 ~~custodians, or caregivers~~ to participate in the development of
28 a case plan shall not in itself bar the filing of a petition
29 for dependency or for termination of parental rights. The
30 parents, ~~legal custodians, or caregivers~~, if available, must
31 be provided a copy of the case plan and be advised that they

1 may, at any time prior to the filing of a petition for
2 termination of parental rights, enter into a case plan and
3 that they may request judicial review of any provision of the
4 case plan with which they disagree at any court review hearing
5 set for the child.

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

22 (6) After jurisdiction attaches, all case plans must
23 be filed with the court and a copy provided to all the
24 ~~parents, caregivers, or legal custodians of the child, to the~~
25 ~~representative of the guardian ad litem program if the program~~
26 ~~has been appointed, and to all other parties~~ whose whereabouts
27 are known, not less than 72 hours before the disposition
28 hearing. ~~All such case plans must be approved by the court.~~
29 The department shall also file with the court all case plans
30 prepared before jurisdiction of the court attached. If, after
31 review of the case plan, the court does not approve ~~accept~~ the

1 case plan, the court shall require the parties to make
2 necessary modifications to the plan. An amended plan must be
3 submitted to the court for review and approval within 30 days
4 after the hearing on the case plan. This amended plan must be
5 served on all parties whose whereabouts are known, at least 72
6 hours prior to filing with the court.

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

13 (8) The case plan must meet applicable federal and
14 state requirements.

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

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

30 (c) The social service agency, the department, and the
31 court, when applicable, shall inform the parent or parents,

1 ~~legal custodians, or caregivers~~ of the right to receive such
2 assistance, including the right to assistance of counsel.

3 (d) Before the signing of the case plan, the
4 authorized agent of the department shall explain it to all
5 persons involved in its implementation, including, when
6 appropriate, the child.

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

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

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

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

30
31

1 39.602 Case planning when parents, ~~legal custodians,~~
2 ~~or caregivers~~ do not participate and the child is in
3 out-of-home care.--

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

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

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

20 39.603 Court approvals of case planning.--

21 (2) When the court determines that any of the elements
22 considered at the hearing related to the plan have not been
23 met, the court shall require the parties to make necessary
24 amendments to the plan. The amended plan must be submitted to
25 the court for review and approval within 30 days after the
26 hearing ~~a time certain specified by the court~~. A copy of the
27 amended plan must also be provided to each party parent, if
28 the location of the party parent is known, at least 72 hours
29 prior to filing with the court.

30 (3) A parent who has not participated in the
31 development of a case plan must be served with a copy of the

1 plan developed by the department, if the parent can be
2 located, at least 72 ~~48~~ hours prior to the court hearing. Any
3 parent is entitled to, and may seek, a court review of the
4 plan prior to the initial judicial review and must be informed
5 of this right by the department at the time the department
6 serves the parent with a copy of the plan. If the location of
7 an absent parent becomes known to the department, the
8 department shall inform the parent of the right to a court
9 review at the time the department serves the parent with a
10 copy of the case plan.

11 Section 38. Section 39.701, Florida Statutes, 1998
12 Supplement, is amended to read:

13 39.701 Judicial review.--

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

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

28 (2)(a) The court shall review the status of the child
29 and shall hold a hearing as provided in this part at least
30 every 6 months until the child reaches permanency status. The
31 court may dispense with the attendance of the child at the

1 hearing, but may not dispense with the hearing or the presence
2 of other parties to the review unless before the review a
3 hearing is held before a citizen review panel.

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

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

28 (3)(a) The initial judicial review hearing must be
29 held no later than 90 days after the date of the disposition
30 hearing or after the date of the hearing at which the court
31 approves the case plan, whichever comes first, but in no event

1 shall the review be held later than 6 months after the date
2 the child was removed from the home. Citizen review panels
3 shall not conduct more than two consecutive reviews without
4 the child and the parties coming before the court for a
5 judicial review.

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

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

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

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

31

1 (f) In each case in which a child has been voluntarily
2 placed with the licensed child-placing agency, the agency
3 shall notify the clerk of the court in the circuit where the
4 child resides of such placement within 5 working days.
5 Notification of the court is not required for any child who
6 will be in out-of-home care no longer than 30 days unless that
7 child is placed in out-of-home care a second time within a
8 12-month period. If the child is returned to the custody of
9 the parents, ~~caregiver, or legal custodian~~ before the
10 scheduled review hearing or if the child is placed for
11 adoption, the child-placing agency shall notify the court of
12 the child's return or placement within 5 working days, and the
13 clerk of the court shall cancel the review hearing.

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

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

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

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

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

31

1 (d) The guardian ad litem for the child, or the
2 representative of the guardian ad litem program if the program
3 has been appointed.

4 (e) Any preadoptive parent.

5 (f) Such other persons as the court may in its
6 discretion direct.

7
8 Service of notice is not required on any of the persons listed
9 in paragraphs (a)-(f) if the person was present at the
10 previous hearing during which the date, time, and location of
11 the hearing was announced.

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

18 1. A description of the type of placement the child is
19 in at the time of the hearing, including the safety of the
20 child and the continuing necessity for and appropriateness of
21 the placement.

22 2. Documentation of the diligent efforts made by all
23 parties to the case plan to comply with each applicable
24 provision of the plan.

25 3. The amount of fees assessed and collected during
26 the period of time being reported.

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

30 5. A statement that either:

31

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

4 b. ~~A statement that~~ The parent ~~or legal custodian~~ did
5 substantially comply with the such provisions of the case
6 plan; or

7 c. The parent has partially complied with the
8 provisions of the case plan, with a summary of additional
9 progress needed and the agency recommendations.

10 6. A statement from the foster parent or legal
11 custodian ~~parents or caregivers~~ providing any material
12 evidence concerning the return of the child to the parent or
13 ~~parents or legal custodians.~~

14 7. A statement concerning the frequency, duration, and
15 results of the parent-child visitation, if any, and the agency
16 recommendations for an expansion or restriction of future
17 visitation.

18 8. The number of times a child has been removed from
19 his or her home and placed elsewhere, the number and types of
20 placements that have occurred, and the reason for the changes
21 in placement.

22 9. The number of times a child's educational placement
23 has been changed, the number and types of educational
24 placements which have occurred, and the reason for any change
25 in placement.

26 10. Copies of all medical, psychological, and
27 educational records that support the terms of the case plan
28 and that have been produced concerning the child, parents, or
29 any caregiver since the last judicial review hearing.

30 (b) A copy of the social service agency's written
31 report and the written report of the guardian ad litem must be

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

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

27 (d) In addition to or in lieu of any written statement
28 provided to the court, the foster parent or legal custodian
29 ~~caregivers~~, or any preadoptive parent, shall be given the
30 opportunity to address the court with any information relevant
31

1 to the best interests of the child at any judicial review
2 hearing.

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

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

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

27 (c) If a guardian ad litem needs to be appointed for
28 the child in a case in which a guardian ad litem has not
29 previously been appointed or if there is a need to continue a
30 guardian ad litem in a case in which a guardian ad litem has
31 been appointed.

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

4 (e) The compliance or lack of compliance with a
5 visitation contract between the parent, ~~caregiver, or legal~~
6 ~~custodian~~ and the social service agency for contact with the
7 child, including the frequency, duration, and results of the
8 parent-child visitation and the reason for any noncompliance.

9 (f) The compliance or lack of compliance of the
10 parent, ~~caregiver, or legal custodian~~ in meeting specified
11 financial obligations pertaining to the care of the child,
12 including the reason for failure to comply if such is the
13 case.

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

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

22 (i) When appropriate, the basis for the unwillingness
23 or inability of the parent, ~~caregiver, or legal custodian~~ to
24 become a party to a case plan. The court and the citizen
25 review panel shall determine if the efforts of the social
26 service agency to secure party participation in a case plan
27 were sufficient.

28 (8)(a) Based upon the criteria set forth in subsection
29 (7) and the recommended order of the citizen review panel, if
30 any, the court shall determine whether or not the social
31 service agency shall initiate proceedings to have a child

1 declared a dependent child, return the child to the parent,
2 ~~legal custodian, or caregiver,~~ continue the child in
3 out-of-home care for a specified period of time, or initiate
4 termination of parental rights proceedings for subsequent
5 placement in an adoptive home. Modifications to the plan must
6 be handled as prescribed in s. 39.601. If the court finds that
7 the prevention or reunification efforts of the department will
8 allow the child to remain safely at home or be safely returned
9 to the home, the court shall allow the child to remain in or
10 return to the home after making a specific finding of fact
11 that the reasons for the creation of the case plan ~~removal~~
12 have been remedied to the extent that the child's safety,
13 well-being, and physical, mental, and emotional health will
14 not be endangered.

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

21 (c) If, in the opinion of the court, the social
22 service agency has not complied with its obligations as
23 specified in the written case plan, the court may find the
24 social service agency in contempt, shall order the social
25 service agency to submit its plans for compliance with the
26 agreement, and shall require the social service agency to show
27 why the child could not safely be returned to the home of the
28 parents, ~~legal custodians, or caregivers~~.

29 (d) The court may extend the time limitation of the
30 case plan, or may modify the terms of the plan, based upon
31 information provided by the social service agency, and the

1 guardian ad litem, if one has been appointed, the parent or
2 parents, and the foster parents or legal custodian, and any
3 other competent information on record demonstrating the need
4 for the amendment. If the court extends the time limitation of
5 the case plan, the court must make specific findings
6 concerning the frequency of past parent-child visitation, if
7 any, and the court may authorize the expansion or restriction
8 of future visitation. Modifications to the plan must be
9 handled as prescribed in s. 39.601. Any extension of a case
10 plan must comply with the time requirements and other
11 requirements specified by this chapter.

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

19 (f) No later than 12 months after the date that the
20 child was placed in shelter care, the court shall conduct a
21 judicial review to plan for the child's permanency. At this
22 hearing, if the child is not returned to the physical custody
23 of the parents, ~~caregivers, or legal custodians~~, the case plan
24 may be extended with the same goals only if the court finds
25 that the situation of the child is so extraordinary that the
26 plan should be extended. The case plan must document steps the
27 department is taking to find an adoptive parent or other
28 permanent living arrangement for the child.

29 (g) The court may issue a protective order in
30 assistance, or as a condition, of any other order made under
31 this part. In addition to the requirements included in the

1 case plan, the protective order may set forth requirements
2 relating to reasonable conditions of behavior to be observed
3 for a specified period of time by a person or agency who is
4 before the court; and such order may require any such person
5 or agency to make periodic reports to the court containing
6 such information as the court in its discretion may prescribe.

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

10 39.702 Citizen review panels.--

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

13 (g) Establish policies to ensure adequate
14 communication with the parent, ~~caregiver, or legal custodian,~~
15 the foster parent or legal custodian ~~caregiver~~, the guardian
16 ad litem, and any other person deemed appropriate.

17 (h) Establish procedures that encourage attendance and
18 participation of interested persons and parties, including the
19 ~~biological~~ parents, foster parents, or legal custodian
20 ~~caregivers, or a relative or nonrelative~~ with whom the child
21 is placed, at citizen review hearings.

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

24 39.703 Initiation of termination of parental rights
25 proceedings.--

26 (2) If, at the time of the 12-month judicial review
27 hearing, a child is not returned to the physical custody of
28 the parents, ~~caregivers, or legal custodians,~~ the social
29 service agency shall initiate termination of parental rights
30 proceedings under this chapter within 30 days. Only if the
31 court finds that the situation of the child is so

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

21 Section 41. Section 39.704, Florida Statutes, 1998
22 Supplement, is amended to read:

23 39.704 Exemptions from judicial review.--Judicial
24 review does not apply to:

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

27 (2) Minors who are refugees or entrants to whom
28 federal regulations apply and who are in the care of a social
29 service agency.
30
31

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

4 39.801 Procedures and jurisdiction; notice; service of
5 process.--

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

9 (a) Notice of the date, time, and place of the
10 advisory hearing for the petition to terminate parental rights
11 and a copy of the petition must be personally served upon the
12 following persons, specifically notifying them that a petition
13 has been filed:

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

27
28 The document containing the notice to respond or appear must
29 contain, in type at least as large as the type in the balance
30 of the document, the following or substantially similar
31 language: "FAILURE TO PERSONALLY APPEAR AT THIS ADVISORY

1 HEARING CONSTITUTES CONSENT TO THE TERMINATION OF PARENTAL
2 RIGHTS OF THIS CHILD (OR CHILDREN). IF YOU FAIL TO APPEAR ON
3 THE DATE AND TIME SPECIFIED, YOU MAY LOSE ALL LEGAL RIGHTS AS
4 A PARENT TO THE CHILD OR CHILDREN NAMED IN THE PETITION
5 ATTACHED TO THIS NOTICE."

6 (b) If a ~~party~~ ~~person~~ required to be served with
7 notice as prescribed in paragraph (a) cannot be served, notice
8 of hearings must be given as prescribed by the rules of civil
9 procedure, and service of process must be made as specified by
10 law or civil actions.

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

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

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

29 39.802 Petition for termination of parental rights;
30 filing; elements.--

31

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

8 (4) A petition for termination of parental rights
9 filed under this chapter must contain facts supporting the
10 following allegations:

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

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

25 Section 44. Section 39.805, Florida Statutes, 1998
26 Supplement, is amended to read:

27 39.805 No answer required.--No answer to the petition
28 or any other pleading need be filed by any child or parent,
29 ~~caregiver, or legal custodian,~~ but any matters which might be
30 set forth in an answer or other pleading may be pleaded orally
31 before the court or filed in writing as any such person may

1 choose. Notwithstanding the filing of any answer or any
2 pleading, the child or parent shall, prior to the adjudicatory
3 hearing, be advised by the court of the right to counsel and
4 shall be given an opportunity to deny the allegations in the
5 petition for termination of parental rights or to enter a plea
6 to allegations in the petition before the court.

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

10 39.806 Grounds for termination of parental rights.--

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

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

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

21 1. The period of time for which the parent is expected
22 to be incarcerated will constitute a substantial portion of
23 the period of time before the child will attain the age of 18
24 years;

25 2. The incarcerated parent has been determined by the
26 court to be a violent career criminal as defined in s.
27 775.084, a habitual violent felony offender as defined in s.
28 775.084, or a sexual predator as defined in s. 775.21; has
29 been convicted of first degree or second degree murder in
30 violation of s. 782.04 or a sexual battery that constitutes a
31 capital, life, or first degree felony violation of s. 794.011;

1 or has been convicted of an offense in another jurisdiction
2 which is substantially similar to one of the offenses listed
3 in this paragraph. As used in this section, the term
4 "substantially similar offense" means any offense that is
5 substantially similar in elements and penalties to one of
6 those listed in this paragraph, and that is in violation of a
7 law of any other jurisdiction, whether that of another state,
8 the District of Columbia, the United States or any possession
9 or territory thereof, or ~~and~~

10 3. The court determines by clear and convincing
11 evidence that continuing the parental relationship with the
12 incarcerated parent would be harmful to the child and, for
13 this reason, that termination of the parental rights of the
14 incarcerated parent is in the best interest of the child.

15 (e) A petition for termination of parental rights may
16 also be filed when a child has been adjudicated dependent, a
17 case plan has been filed with the court, and the child
18 continues to be abused, neglected, or abandoned by the
19 parents. In this case, the failure of the parents to
20 substantially comply for a period of 12 months after an
21 adjudication of the child as a dependent child or the child's
22 placement into shelter care, whichever came first, constitutes
23 evidence of continuing abuse, neglect, or abandonment unless
24 the failure to substantially comply with the case plan was due
25 either to the lack of financial resources of the parents or to
26 the failure of the department to make reasonable efforts to
27 reunify the parent and child family. Such 12-month period may
28 begin to run only after the child's placement into shelter
29 care or the entry of a disposition order placing the custody
30 of the child with the department or a person other than the
31

1 parent and the approval by the court of a case plan with a
2 goal of reunification with the parent, whichever came first.

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

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

12 39.807 Right to counsel; guardian ad litem.--

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

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

25 (2)

26 (b) The guardian ad litem has the following
27 responsibilities:

28 1. To investigate the allegations of the petition and
29 any subsequent matters arising in the case and, unless excused
30 by the court, to file a written report. This report must
31 include a statement of the wishes of the child and the

1 recommendations of the guardian ad litem and must be provided
2 to all parties and the court at least 72 ~~48~~ hours before the
3 disposition hearing.

4 2. To be present at all court hearings unless excused
5 by the court.

6 3. To represent the interests of the child until the
7 jurisdiction of the court over the child terminates or until
8 excused by the court.

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

11 39.808 Advisory hearing; pretrial status conference.--

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

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

30
31

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

4 39.811 Powers of disposition; order of disposition.--

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

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

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

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

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

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

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

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

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

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

23 39.814 Oaths, records, and confidential information.--

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

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

30 (a) Orders terminating the rights of a parent are
31 admissible in evidence in subsequent adoption proceedings

1 relating to the child and in subsequent termination of
2 parental rights proceedings concerning a sibling of the child.

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

5 39.815 Appeal.--

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

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

15 39.822 Appointment of guardian ad litem for abused,
16 abandoned, or neglected child.--

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

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

26 63.0427 Adopted minor's right to continued
27 communication or contact with siblings.--

28 (1) A child whose parents have had their parental
29 rights terminated and whose custody has been awarded to the
30 department pursuant to s. 39.811 ~~39.469~~, and who is the
31 subject of a petition for adoption under this chapter, shall

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

8 (a) Any orders of the court pursuant to s. 39.811(7)
9 ~~39.469(7)~~.

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

13 (c) Statements of prospective adoptive parents.

14 (d) Any other information deemed relevant and material
15 by the court.

16

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

27 Section 53. Paragraph (d) of subsection (1) of section
28 419.001, Florida Statutes, 1998 Supplement, is amended to
29 read:

30 419.001 Site selection of community residential
31 homes.--

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

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

10 Section 54. Paragraph (a) of subsection (2), paragraph
11 (a) of subsection (4), and paragraph (b) of subsection (9) of
12 section 784.046, Florida Statutes, are amended to read:

13 784.046 Action by victim of repeat violence for
14 protective injunction; powers and duties of court and clerk of
15 court; filing and form of petition; notice and hearing;
16 temporary injunction; issuance; statewide verification system;
17 enforcement.--

18 (2) There is created a cause of action for an
19 injunction for protection in cases of repeat violence.

20 (a) Any person who is the victim of repeat violence or
21 the parent or legal guardian of any minor child who is living
22 at home and who seeks an injunction for protection against
23 repeat violence on behalf of the minor child has standing in
24 the circuit court to file a sworn petition for an injunction
25 for protection against repeat violence.

26 (4)(a) The sworn petition shall allege the incidents
27 of repeat violence and shall include the specific facts and
28 circumstances which form the basis upon which relief is
29 sought. With respect to a minor child who is living at home,
30 the parent or legal guardian of the minor child must have been
31 an eye-witness to, or have direct physical evidence or

1 affidavits from eye-witnesses of, the specific facts and
2 circumstances which form the basis upon which relief is
3 sought.

4 (9)

5 (b) If the respondent is arrested by a law enforcement
6 officer under s. 901.15(10)(8) for committing an act of repeat
7 violence in violation of a repeat violence injunction for
8 protection, the respondent shall be held in custody until
9 brought before the court as expeditiously as possible for the
10 purpose of enforcing the injunction and for admittance to bail
11 in accordance with chapter 903 and the applicable rules of
12 criminal procedure, pending a hearing.

13 Section 55. Section 409.26731, Florida Statutes, is
14 amended to read:

15 409.26731 Certification of local funds as state match
16 for federally funded services ~~and federal waivers.~~ ~~--In order to~~
17 ~~implement Specific Appropriations 330 and 334 through 352 of~~
18 ~~the 1997-1998 General Appropriations Act, the Department of~~
19 ~~Children and Family Services is authorized to certify local~~
20 ~~funds not to exceed \$5 million as state match for children's~~
21 ~~mental health services funded by Medicaid in excess of the~~
22 ~~amount of state general revenue matching funds appropriated~~
23 ~~for such services through the 1997-1998 General Appropriations~~
24 ~~Act. The department is also authorized to certify local funds~~
25 ~~not to exceed \$5 million as state match for eligible Title~~
26 ~~IV-E expenditures services for children under the supervision~~
27 ~~and custody of the state in excess of the amount of state~~
28 ~~general revenue matching funds appropriated for such services~~
29 ~~by the 1997-1998 General Appropriations Act in Specific~~
30 ~~Appropriations 334 through 352. Federal Medicaid or Title IV-E~~
31 funds provided to the state as federal financial participation

1 consequent to certified local matching funds shall
2 automatically be passed through to the local entity
3 ~~jurisdiction~~ that provided the certified local match.
4 Notwithstanding the provisions of s. 215.425, all such federal
5 Title IV-E funds earned for the current fiscal year as a
6 result of using certified local match, except for up to 5
7 percent of such earnings that the department is authorized to
8 retain for administrative purposes, shall be distributed as
9 set forth in this section and this process shall not impact
10 the department's allocation to any district.All of the
11 provisions of this section are based upon federal approval of
12 the provisions as specifically limited in this section and
13 shall not become effective if any further modifications are
14 required of the state, unless and until federal approval has
15 been obtained. The department shall annually prepare a report
16 to be submitted to the Legislature no later than January 1
17 documenting the specific activities undertaken during the
18 previous fiscal year pursuant to this section.~~The Agency for~~
19 ~~Health Care Administration is authorized to apply for federal~~
20 ~~waivers to modify the state Medicaid plan to include optional~~
21 ~~Medicaid in-home and therapeutic services for~~
22 ~~Medicaid-eligible children if the state match for such~~
23 ~~services is provided by local funds certified by the~~
24 ~~department as state match. Such services shall be available~~
25 ~~only in communities that provide the certified match.~~
26 Section 56. Paragraph (b) in subsection (1) of s.
27 921.0024, Florida Statutes, 1998 Supplement, is amended to
28 read:
29 921.0024 Criminal Punishment Code; worksheet
30 computations; scoresheets.--
31 (1)

(b) WORKSHEET KEY:

1
2
3 Legal status points are assessed when any form of legal status
4 existed at the time the offender committed an offense before
5 the court for sentencing. Four (4) sentence points are
6 assessed for an offender's legal status.

7
8 Community sanction violation points are assessed when a
9 community sanction violation is before the court for
10 sentencing. Six (6) sentence points are assessed for each
11 community sanction violation, and each successive community
12 sanction violation; however, if the community sanction
13 violation includes a new felony conviction before the
14 sentencing court, twelve (12) community sanction violation
15 points are assessed for such violation, and for each
16 successive community sanction violation involving a new felony
17 conviction. Multiple counts of community sanction violations
18 before the sentencing court shall not be a basis for
19 multiplying the assessment of community sanction violation
20 points.

21
22 Prior serious felony points: If the offender has a primary
23 offense or any additional offense ranked in level 8, level 9,
24 or level 10, and one or more prior serious felonies, a single
25 assessment of 30 points shall be added. For purposes of this
26 section, a prior serious felony is an offense in the
27 offender's prior record that is ranked in level 8, level 9, or
28 level 10 under s. 921.0022 or s. 921.0023 and for which the
29 offender is serving a sentence of confinement, supervision, or
30 other sanction or for which the offender's date of release
31 from confinement, supervision, or other sanction, whichever is

1 later, is within 3 years before the date the primary offense
2 or any additional offense was committed.

3

4 Prior capital felony points: If the offender has one or more
5 prior capital felonies in the offender's criminal record,
6 points shall be added to the subtotal sentence points of the
7 offender equal to twice the number of points the offender
8 receives for the primary offense and any additional offense.
9 A prior capital felony in the offender's criminal record is a
10 previous capital felony offense for which the offender has
11 entered a plea of nolo contendere or guilty or has been found
12 guilty; or a felony in another jurisdiction which is a capital
13 felony in that jurisdiction, or would be a capital felony if
14 the offense were committed in this state.

15

16 Possession of a firearm, semiautomatic firearm, or machine
17 gun: If the offender is convicted of committing or attempting
18 to commit any felony other than those enumerated in s.
19 775.087(2) while having in his possession: a firearm as
20 defined in s. 790.001(6), an additional 18 sentence points are
21 assessed; or if the offender is convicted of committing or
22 attempting to commit any felony other than those enumerated in
23 s. 775.087(3) while having in his possession a semiautomatic
24 firearm as defined in s. 775.087(3) or a machine gun as
25 defined in s. 790.001(9), an additional 25 sentence points are
26 assessed.

27

28 Sentencing multipliers:

29

30 Drug trafficking: If the primary offense is drug trafficking
31 under s. 893.135, the subtotal sentence points are multiplied,

1 at the discretion of the court, for a level 7 or level 8
2 offense, by 1.5. The state attorney may move the sentencing
3 court to reduce or suspend the sentence of a person convicted
4 of a level 7 or level 8 offense, if the offender provides
5 substantial assistance as described in s. 893.135(4).

6
7 Law enforcement protection: If the primary offense is a
8 violation of the Law Enforcement Protection Act under s.
9 775.0823(2), the subtotal sentence points are multiplied by
10 2.5. If the primary offense is a violation of s. 775.0823(3),
11 (4), (5), (6), (7), or (8), the subtotal sentence points are
12 multiplied by 2.0. If the primary offense is a violation of s.
13 784.07(3) or s. 775.0875(1), or of the Law Enforcement
14 Protection Act under s. 775.0823(9) or (10), the subtotal
15 sentence points are multiplied by 1.5.

16
17 Grand theft of a motor vehicle: If the primary offense is
18 grand theft of the third degree involving a motor vehicle and
19 in the offender's prior record, there are three or more grand
20 thefts of the third degree involving a motor vehicle, the
21 subtotal sentence points are multiplied by 1.5.

22
23 Criminal street gang member: If the offender is convicted of
24 the primary offense and is found to have been a member of a
25 criminal street gang at the time of the commission of the
26 primary offense pursuant to s. 874.04, the subtotal sentence
27 points are multiplied by 1.5.

28
29 Domestic violence in the presence of a child: If the offender
30 is convicted of the primary offense and the primary offense is
31 a crime of domestic violence, as defined in s. 741.28, which

1 was committed in the presence of a child under 16 years of age
2 who is a family household member as defined in s. 741.28(2)
3 with the victim or perpetrator, the subtotal sentence points
4 are multiplied, ~~at the discretion of the court,~~ by 1.5.

5 Section 57. Subsection (7) of section 901.15, Florida
6 Statutes, 1998 Supplement, is amended and subsections (8) and
7 (9) are added to that section to read:

8 901.15 When arrest by officer without warrant is
9 lawful.--A law enforcement officer may arrest a person without
10 a warrant when:

11 (7) There is probable cause to believe that the person
12 has committed+

13 ~~(a)~~ an act of domestic violence, as defined in s.
14 741.28.

15 ~~(b)~~ Child abuse, as defined in s. 827.04(2) and (3).

16 ~~(c)~~ Any battery upon another person, as defined in s.
17 784.03.

18 ~~(d)~~ An act of criminal mischief or a graffiti-related
19 offense as described in s. 806.13.

20
21 ~~With respect to an arrest for an act of domestic violence,~~The
22 decision to arrest shall not require consent of the victim or
23 consideration of the relationship of the parties. It is the
24 public policy of this state to strongly discourage arrest and
25 charges of both parties for domestic violence on each other
26 and to encourage training of law enforcement and prosecutors
27 in this area. A law enforcement officer who acts in good faith
28 and exercises due care in making an arrest under this
29 subsection, under s. 741.31(4) or s. 784.047, or pursuant to a
30 foreign order of protection accorded full faith and credit
31

1 pursuant to s. 741.315, is immune from civil liability that
2 otherwise might result by reason of his or her action.

3 (8) There is probable cause to believe that the person
4 has committed child abuse, as defined in s. 827.03. The
5 decision to arrest shall not require consent of the victim or
6 consideration of the relationship of the parties. It is the
7 public policy of this state to protect abused children by
8 strongly encouraging the arrest and prosecution of persons who
9 commit child abuse. A law enforcement officer who acts in good
10 faith and exercises due care in making an arrest under this
11 subsection is immune from civil liability that otherwise might
12 result by reason of his or her action.

13 (9) There is probable cause to believe that the person
14 has committed:

15 (a) Any battery upon another person, as defined in s.
16 784.03.

17 (b) An act of criminal mischief or a graffiti-related
18 offense as described in s. 806.13.

19 Section 58. This act shall take effect July 1, 1999.
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