

By the Committees on Governmental Rules & Regulations,
Family Law & Children and Representatives Roberts, Crow,
Detert, Wallace, Brown and Eifman

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 language 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 revising 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 acquisition and enforcement
23 of liens for attorney's fees; amending s.
24 39.201, F.S.; clarifying provisions relating to
25 mandatory reports of child abuse, abandonment,
26 or neglect; amending s. 39.202, F.S.; revising
27 provisions relating to confidentiality of
28 reports and records; amending s. 39.203, F.S.;
29 clarifying provisions relating to immunity from
30 liability for reporting child abuse,
31 abandonment, or neglect; amending s. 39.206,

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

1 s. 39.507, F.S., relating to adjudicatory
2 hearings; amending s. 39.508, F.S.; revising
3 provisions relating to disposition hearings and
4 orders; providing for permanency status of the
5 child; specifying conditions for termination of
6 departmental supervision and cessation of
7 judicial reviews; amending s. 39.5085, F.S.;
8 revising the department's authority to provide
9 a relative caregiver benefit; amending s.
10 39.509, F.S., relating to grandparents' rights;
11 amending s. 39.510, F.S., relating to appeal;
12 amending s. 39.601, F.S.; revising and
13 clarifying case plan requirements; amending s.
14 39.602, F.S., relating to case planning for a
15 child in out-of-home care; amending s. 39.603,
16 F.S.; conforming timeframes relating to court
17 approvals of case planning; amending s. 39.701,
18 F.S.; revising and clarifying timeframes
19 relating to judicial reviews; specifying notice
20 is not required for persons present at the
21 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 no answer to petition or pleadings
9 required; amending s. 39.806, F.S.; revising
10 grounds for termination of parental rights;
11 revising timeframe for identification or
12 location of parent in provisions relating to
13 termination of parental rights; amending s.
14 39.807, F.S., relating to right to counsel for
15 indigent parents; revising an exclusion;
16 revising timeframe for provision of certain
17 reports to all parties; amending s. 39.808,
18 F.S., relating to advisory hearing and pretrial
19 status conference; amending s. 39.811, F.S.,
20 relating to powers and order of disposition;
21 amending s. 39.814, F.S., relating to oaths,
22 records, and confidential information; amending
23 s. 39.815, F.S., relating to appeal; amending
24 s. 39.822, F.S., relating to appointment of
25 guardian ad litem for abused, abandoned, or
26 neglected child; specifying timeframe for
27 provision of reports to all parties; amending
28 ss. 63.0427 and 419.001, F.S.; correcting cross
29 references; amending s. 921.0024, F.S.;
30 requiring a sentencing multiplier to be applied
31 when domestic violence is committed in the

1 presence of a minor child; amending s. 901.15,
2 F.S.; providing a preferred arrest policy in
3 the criminal investigation of child abuse;
4 providing immunity for law enforcement officers
5 for such arrests; amending ss. 20.165, 570.073,
6 741.29, 784.046, and 943.1702, F.S.; correcting
7 cross references; providing an effective date.

8

9 Be It Enacted by the Legislature of the State of Florida:

10

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

14 39.001 Purposes and intent; personnel standards and
15 screening.--

16 (1) PURPOSES OF CHAPTER.--The purposes of this chapter
17 are:

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

22 (j) To ensure that, when reunification or adoption is
23 not possible, the child will be prepared for alternative
24 permanency goals or placements, to include, but not be limited
25 to, long-term foster care, independent living, custody to a
26 relative on a permanent basis with or without legal
27 guardianship, or custody to a foster parent or legal custodian
28 ~~caregiver~~ on a permanent basis with or without legal
29 guardianship.

30 Section 2. Section 39.0014, Florida Statutes, is
31 created to read:

1 39.0014 Responsibilities of public agencies.--All
2 state, county, and local agencies shall cooperate, assist, and
3 provide such information as will enable the department to
4 fulfill its responsibilities under this chapter.

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

8 39.0015 Child abuse prevention training in the
9 district school system.--

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

11 (b) "Child abuse" means those acts as defined in ss.
12 39.01(1), (2), (30), (44), (46), (53), and (64), 827.04, and
13 984.03(1), (2), and (39).

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

17 (a) Information provided in a clear and nonthreatening
18 manner, describing the problem of child abuse, including, but
19 not limited to, sexual abuse, physical abuse, abandonment,
20 neglect, and alcohol and drug abuse, and the possible
21 solutions.

22 Section 4. Section 39.01, Florida Statutes, 1998
23 Supplement, is amended to read:

24 39.01 Definitions.--When used in this chapter, unless
25 the context otherwise requires:

26 (1) "Abandoned" means a situation in which the parent
27 or legal custodian of a child or, in the absence of a parent
28 or legal custodian, the caregiver responsible for the child's
29 welfare, while being able, makes no provision for the child's
30 support and makes no effort to communicate with the child,
31 which situation is sufficient to evince a willful rejection of

1 parental obligations. If the efforts of such parent or legal
2 custodian, or caregiver primarily responsible for the child's
3 welfare, to support and communicate with the child are, in the
4 opinion of the court, only marginal efforts that do not evince
5 a settled purpose to assume all parental duties, the court may
6 declare the child to be abandoned. The term "abandoned" does
7 not include a "child in need of services" as defined in
8 chapter 984 or a "family in need of services" as defined in
9 chapter 984. The incarceration of a parent, legal custodian,
10 or caregiver responsible for a child's welfare may support a
11 finding of abandonment.

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

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

25 (4) "Adjudicatory hearing" means a hearing for the
26 court to determine whether or not the facts support the
27 allegations stated in the petition in dependency cases or in
28 termination of parental rights cases.

29 (5) "Adult" means any natural person other than a
30 child.

31

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

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

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

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

17 1. "Coercion" means the exploitation of authority or
18 the use of bribes, threats of force, or intimidation to gain
19 cooperation or compliance.

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

23 3. "Consent" means an agreement, including all of the
24 following:

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

27 b. Knowledge of societal standards for what is being
28 proposed.

29 c. Awareness of potential consequences and
30 alternatives.

31

1 d. Assumption that agreement or disagreement will be
2 accepted equally.

3 e. Voluntary decision.

4 f. Mental competence.

5
6 Juvenile sexual offender behavior ranges from noncontact
7 sexual behavior such as making obscene phone calls,
8 exhibitionism, voyeurism, and the showing or taking of lewd
9 photographs to varying degrees of direct sexual contact, such
10 as frottage, fondling, digital penetration, rape, fellatio,
11 sodomy, and various other sexually aggressive acts.

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

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

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

26 (11) "Case plan" or "plan" means a document, as
27 described in s. 39.601, prepared by the department with input
28 from all parties, ~~including parents, guardians ad litem, legal~~
29 ~~custodians, caregivers, and the child.~~ The case plan follows
30 the child from the provision of voluntary services through any
31

1 dependency, foster care, or termination of parental rights
2 proceeding or related activity or process.

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

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

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

18 (a) To have been abandoned, abused, or neglected by
19 the child's parent or parents or legal custodians, ~~or~~
20 ~~caregivers;~~

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

24 (c) To have been voluntarily placed with a licensed
25 child-caring agency, a licensed child-placing agency, an adult
26 relative, the department, or the former Department of Health
27 and Rehabilitative Services, after which placement, under the
28 requirements of this chapter, a case plan has expired and the
29 parent or parents or legal custodians, ~~or caregivers~~ have
30 failed to substantially comply with the requirements of the
31 plan;

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

5 (e) To have no parent or legal custodians capable of
6 providing, legal custodian, or caregiver to provide
7 supervision and care; or

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

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

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

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

27 (18) "Court," unless otherwise expressly stated, means
28 the circuit court assigned to exercise jurisdiction under this
29 chapter.

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

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

6 (21) "Diligent efforts of social service agency" means
7 reasonable efforts to provide social services or reunification
8 services made by any social service agency that is a party to
9 a case plan.

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

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

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

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

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

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

4 (a) Harassing, embarrassing, or harming another
5 person;

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

7 (c) Acquiring custody of a child; or

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

10

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

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

17 (a) The persons reside in the same house or living
18 unit; or

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

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

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

28 (a) Inflicts or allows to be inflicted upon the child
29 physical, mental, or emotional injury. In determining whether
30 harm has occurred, the following factors must be considered in
31 evaluating any physical, mental, or emotional injury to a

1 child: the age of the child; any prior history of injuries to
2 the child; the location of the injury on the body of the
3 child; the multiplicity of the injury; and the type of trauma
4 inflicted. Such injury includes, but is not limited to:
5 1. Willful acts that produce the following specific
6 injuries:
7 a. Sprains, dislocations, or cartilage damage.
8 b. Bone or skull fractures.
9 c. Brain or spinal cord damage.
10 d. Intracranial hemorrhage or injury to other internal
11 organs.
12 e. Asphyxiation, suffocation, or drowning.
13 f. Injury resulting from the use of a deadly weapon.
14 g. Burns or scalding.
15 h. Cuts, lacerations, punctures, or bites.
16 i. Permanent or temporary disfigurement.
17 j. Permanent or temporary loss or impairment of a body
18 part or function.
19
20 As used in this subparagraph, the term "willful" refers to the
21 intent to perform an action, not to the intent to achieve a
22 result or to cause an injury.
23 2. Purposely giving a child poison, alcohol, drugs, or
24 other substances that substantially affect the child's
25 behavior, motor coordination, or judgment or that result in
26 sickness or internal injury. For the purposes of this
27 subparagraph, the term "drugs" means prescription drugs not
28 prescribed for the child or not administered as prescribed,
29 and controlled substances as outlined in Schedule I or
30 Schedule II of s. 893.03.
31

1 3. Leaving a child without adult supervision or
2 arrangement appropriate for the child's age or mental or
3 physical condition, so that the child is unable to care for
4 the child's own needs or another's basic needs or is unable to
5 exercise good judgment in responding to any kind of physical
6 or emotional crisis.

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

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

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

4 (c) Allows, encourages, or forces the sexual
5 exploitation of a child, which includes allowing, encouraging,
6 or forcing a child to:

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

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

12 (e) Abandons the child. Within the context of the
13 definition of "harm," the term "abandons the child" means that
14 the parent or legal custodian of a child or, in the absence of
15 a parent or legal custodian, the person responsible for the
16 child's welfare, while being able, makes no provision for the
17 child's support and makes no effort to communicate with the
18 child, which situation is sufficient to evince a willful
19 rejection of parental obligation. If the efforts of such a
20 parent or legal custodian or person primarily responsible for
21 the child's welfare to support and communicate with the child
22 are only marginal efforts that do not evince a settled purpose
23 to assume all parental duties, the child may be determined to
24 have been abandoned.

25 (f) Neglects the child. Within the context of the
26 definition of "harm," the term "neglects the child" means that
27 the parent or other person responsible for the child's welfare
28 fails to supply the child with adequate food, clothing,
29 shelter, or health care, although financially able to do so or
30 although offered financial or other means to do so. However,
31 a parent or legal custodian, ~~or caregiver~~ who, by reason of

1 the legitimate practice of religious beliefs, does not provide
2 specified medical treatment for a child may not be considered
3 abusive or neglectful for that reason alone, but such an
4 exception does not:

- 5 1. Eliminate the requirement that such a case be
6 reported to the department;
- 7 2. Prevent the department from investigating such a
8 case; or
- 9 3. Preclude a court from ordering, when the health of
10 the child requires it, the provision of medical services by a
11 physician, as defined in this section, or treatment by a duly
12 accredited practitioner who relies solely on spiritual means
13 for healing in accordance with the tenets and practices of a
14 well-recognized church or religious organization.

15 (g) Exposes a child to a controlled substance or
16 alcohol. Exposure to a controlled substance or alcohol is
17 established by:

- 18 1. Use by the mother of a controlled substance or
19 alcohol during pregnancy when the child, at birth, is
20 demonstrably adversely affected by such usage; or
- 21 2. Continued chronic and severe use of a controlled
22 substance or alcohol by a parent when the child is
23 demonstrably adversely affected by such usage.

24
25 As used in this paragraph, the term "controlled substance"
26 means prescription drugs not prescribed for the parent or not
27 administered as prescribed and controlled substances as
28 outlined in Schedule I or Schedule II of s. 893.03. The parent
29 of a newborn infant may not be subject to criminal
30 investigation solely on the basis of the positive drug
31 toxicology of a newborn infant.

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

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

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

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

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

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

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

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

1 only, when the phrase "parent or legal custodian" is used in
2 this chapter, it refers to rights or responsibilities of the
3 parent and, only if there is no living parent with intact
4 parental rights, to the rights or responsibilities of the
5 legal custodian who has assumed the role of the parent.

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

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

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

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

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

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

31

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

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

26 (43) "Mediation" means a process whereby a neutral
27 third person called a mediator acts to encourage and
28 facilitate the resolution of a dispute between two or more
29 parties. It is an informal and nonadversarial process with
30 the objective of helping the disputing parties reach a
31 mutually acceptable and voluntary agreement. The role of the

1 mediator includes, but is not limited to, assisting the
2 parties in identifying issues, fostering joint problem
3 solving, and exploring settlement alternatives.

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

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

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

1 (a) Medical services from a licensed physician,
2 dentist, optometrist, podiatric physician, or other qualified
3 health care provider; or

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

8

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

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

24 (47)(48) "Next of kin" means an adult relative of a
25 child who is the child's brother, sister, grandparent, aunt,
26 uncle, or first cousin.

27 (48) "Other person responsible for a child's welfare"
28 includes the child's legal guardian, legal custodian, or
29 foster parent; an employee of a private school, public or
30 private child day care center, residential home, institution,
31 facility, or agency; or any other person legally responsible

1 for the child's welfare in a residential setting; and also
2 includes an adult sitter or relative entrusted with a child's
3 care. For the purpose of departmental investigative
4 jurisdiction, this definition does not include law enforcement
5 officers, or employees of municipal or county detention
6 facilities or the Department of Corrections, while acting in
7 an official capacity.

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

10 (50)~~(49)~~ "Parent" means a woman who gives birth to a
11 child and a man whose consent to the adoption of the child
12 would be required under s. 63.062(1)(b). If a child has been
13 legally adopted, the term "parent" means the adoptive mother
14 or father of the child. The term does not include an
15 individual whose parental relationship to the child has been
16 legally terminated, or an alleged or prospective parent,
17 unless the parental status falls within the terms of s.
18 39.503(1)~~39.4051(1)~~ or s. 63.062(1)~~(b)~~. For purposes of this
19 chapter only, when the phrase "parent or legal custodian" is
20 used in this chapter, it refers to rights or responsibilities
21 of the parent and, only if there is no living parent with
22 intact parental rights, to the rights or responsibilities of
23 the legal custodian who has assumed the role of the parent.

24 (51)~~(50)~~ "Participant," for purposes of a shelter
25 proceeding, dependency proceeding, or termination of parental
26 rights proceeding, means any person who is not a party but who
27 should receive notice of hearings involving the child,
28 including foster parents or the legal custodian of the child
29 ~~caregivers~~, identified prospective parents, grandparents
30 entitled to priority for adoption consideration under s.
31 63.0425, actual custodians of the child, and any other person

1 whose participation may be in the best interest of the child.
2 Participants may be granted leave by the court to be heard
3 without the necessity of filing a motion to intervene.
4 (52)~~(51)~~ "Party" means the parent or parents ~~legal~~
5 ~~custodian~~ of the child, the petitioner, the department, the
6 guardian ad litem or the representative of the guardian ad
7 litem program when the program has been appointed, and the
8 child. The presence of the child may be excused by order of
9 the court when presence would not be in the child's best
10 interest. Notice to the child may be excused by order of the
11 court when the age, capacity, or other condition of the child
12 is such that the notice would be meaningless or detrimental to
13 the child.
14 (53)~~(52)~~ "Physical injury" means death, permanent or
15 temporary disfigurement, or impairment of any bodily part.
16 (54)~~(53)~~ "Physician" means any licensed physician,
17 dentist, podiatric physician ~~podiatrist~~, or optometrist and
18 includes any intern or resident.
19 (55)~~(54)~~ "Preliminary screening" means the gathering
20 of preliminary information to be used in determining a child's
21 need for further evaluation or assessment or for referral for
22 other substance abuse services through means such as
23 psychosocial interviews; urine and breathalyzer screenings;
24 and reviews of available educational, delinquency, and
25 dependency records of the child.
26 (56)~~(55)~~ "Preventive services" means social services
27 and other supportive and rehabilitative services provided to
28 the parent or legal custodian of the child, ~~the legal~~
29 ~~custodian of the child, or the caregiver of the child~~ and to
30 the child for the purpose of averting the removal of the child
31 from the home or disruption of a family which will or could

1 result in the placement of a child in foster care. Social
2 services and other supportive and rehabilitative services
3 shall promote the child's need for physical, mental, and
4 emotional health and a safe, stable, living environment, shall
5 promote family autonomy, and shall strengthen family life,
6 whenever possible.

7 (57)~~(56)~~ "Prospective parent" means a person who
8 claims to be, or has been identified as, a person who may be a
9 mother or a father of a child.

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

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

26 (60)~~(59)~~ "Protective supervision" means a legal status
27 in dependency cases which permits the child to remain safely
28 in his or her own home or other nonlicensed placement under
29 the supervision of an agent of the department and which must
30 be reviewed by the court during the period of supervision.

31

1 (61)~~(60)~~ "Relative" means a grandparent,
2 great-grandparent, sibling, first cousin, aunt, uncle,
3 great-aunt, great-uncle, niece, or nephew, whether related by
4 the whole or half blood, by affinity, or by adoption. The term
5 does not include a stepparent.

6 (62)~~(61)~~ "Reunification services" means social
7 services and other supportive and rehabilitative services
8 provided to the parent of the child, ~~the legal custodian of~~
9 ~~the child, or the caregiver of the child, whichever is~~
10 applicable, to the child, and where appropriate, to the
11 relative placement, nonrelative placement, or foster parents
12 of the child, for the purpose of enabling a child who has been
13 placed in out-of-home care to safely return to his or her
14 family at the earliest possible time. The health and safety
15 of the child shall be the paramount goal of social services
16 and other supportive and rehabilitative services. Such
17 services shall promote the child's need for physical, mental,
18 and emotional health and a safe, stable, living environment,
19 shall promote family autonomy, and shall strengthen family
20 life, whenever possible.

21 (63)~~(62)~~ "Secretary" means the Secretary of Children
22 and Family Services.

23 (64)~~(63)~~ "Sexual abuse of a child" means one or more
24 of the following acts:

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

28 (b) Any sexual contact between the genitals or anal
29 opening of one person and the mouth or tongue of another
30 person.

31

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

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

10 1. Any act which may reasonably be construed to be a
11 normal caregiver responsibility, any interaction with, or
12 affection for a child; or

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

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

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

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

24 1. Solicit for or engage in prostitution; or

25 2. Engage in a sexual performance, as defined by
26 chapter 827.

27 ~~(65)(64)~~ "Shelter" means a placement with a relative
28 or a nonrelative, or in a licensed home or facility,~~place~~ for
29 the temporary care of a child who is alleged to be or who has
30 been found to be dependent, pending court disposition before
31 or after adjudication.

1 (66)~~(65)~~ "Shelter hearing" means a hearing in which
2 the court determines whether probable cause exists to keep a
3 child in shelter status pending further investigation of the
4 case.

5 (67)~~(66)~~ "Social service agency" means the department,
6 a licensed child-caring agency, or a licensed child-placing
7 agency.

8 (68)~~(67)~~ "Substance abuse" means using, without
9 medical reason, any psychoactive or mood-altering drug,
10 including alcohol, in such a manner as to induce impairment
11 resulting in dysfunctional social behavior.

12 (69)~~(68)~~ "Substantial compliance" means that the
13 circumstances which caused the creation of the case plan have
14 been significantly remedied to the extent that the well-being
15 and safety of the child will not be endangered upon the
16 child's remaining with or being returned to the child's
17 parent, ~~legal custodian, or caregiver.~~

18 (70)~~(69)~~ "Taken into custody" means the status of a
19 child immediately when temporary physical control over the
20 child is attained by a person authorized by law, pending the
21 child's release or placement.

22 (71)~~(70)~~ "Temporary legal custody" means the
23 relationship that a juvenile court creates between a child and
24 an adult relative of the child, legal custodian, ~~or caregiver~~
25 ~~approved by the court,~~ or other person approved by the court
26 until a more permanent arrangement is ordered. Temporary legal
27 custody confers upon the custodian the right to have temporary
28 physical custody of the child and the right and duty to
29 protect, train, and discipline the child and to provide the
30 child with food, shelter, and education, and ordinary medical,
31 dental, psychiatric, and psychological care, unless these

1 rights and duties are otherwise enlarged or limited by the
2 court order establishing the temporary legal custody
3 relationship.

4 (72)~~(71)~~ "Victim" means any child who has sustained or
5 is threatened with physical, mental, or emotional injury
6 identified in a report involving child abuse, neglect, or
7 abandonment, or child-on-child sexual abuse.

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

10 39.011 Immunity from liability.--

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

17 Section 6. Section 39.0121, Florida Statutes, 1998
18 Supplement, is amended to read:

19 39.0121 Specific rulemaking authority.--Pursuant to
20 ss. 120.536 and 120.54 ~~the requirements of s. 120.536~~, the
21 department is specifically authorized to adopt rules, ~~amend,~~
22 ~~and repeal administrative rules which implement or interpret~~
23 ~~law or policy, or describe the procedure and practice~~
24 ~~requirements necessary~~ to implement this chapter, including,
25 ~~but not limited to~~, the following:

26 (1) Background screening of department employees and
27 applicants; criminal records checks of prospective foster and
28 adoptive parents; and drug testing of protective
29 investigators.

30 (2) Reporting of child abuse, neglect, and
31 abandonment; reporting of child-on-child sexual abuse; false

- 1 reporting; child protective investigations; taking a child
2 into protective custody; and shelter procedures.
- 3 (3) Confidentiality and retention of department
4 records; access to records; and record requests.
- 5 (4) Department and client trust funds.
- 6 (5) Requesting of services from child protection teams
7 ~~and services, and eligible cases.~~
- 8 (6) Consent to and provision of medical care and
9 treatment for children in the care of the department.
- 10 (7) Federal funding requirements and procedures;
11 foster care and adoption subsidies; subsidized independent
12 living; and subsidized child care.
- 13 (8) Agreements with law enforcement and other state
14 agencies; access to the National Crime Information Center
15 (NCIC); and access to the parent locator service.
- 16 (9) Licensing, registration, and certification of
17 child day care providers, shelter and foster homes, and
18 residential child-caring and child-placing agencies.
- 19 (10) The Family Builders Program, the Intensive Crisis
20 Counseling Program, and any other early intervention programs
21 and kinship care assistance programs.
- 22 (11) Department contracts, pilot programs, and
23 demonstration projects.
- 24 (12) Legal and casework procedures, including, but not
25 limited to, mediation, diligent search, stipulations,
26 consents, surrenders, and default, with respect to dependency,
27 termination of parental rights, adoption, guardianship, and
28 kinship care proceedings.
- 29 (13) Legal and casework management of cases involving
30 in-home supervision and out-of-home care, including judicial
31

1 reviews, administrative reviews, case plans, and any other
2 documentation or procedures required by federal or state law.

3 (14) Injunctions and other protective orders,
4 domestic-violence-related cases, and certification of domestic
5 violence centers.

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

10 39.013 Procedures and jurisdiction; right to
11 counsel.--

12 (3) When a child is under the jurisdiction of the
13 circuit court pursuant to the provisions of this chapter, the
14 ~~juvenile court, as a division of the circuit court assigned to~~
15 handle dependency matters, may exercise the general and
16 equitable jurisdiction over guardianship proceedings pursuant
17 to the provisions of chapter 744, and proceedings for
18 temporary custody of minor children by extended family
19 pursuant to the provisions of chapter 751.

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

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

27 (7) For any child who remains in the custody ~~or under~~
28 ~~the supervision~~ of the department, the court shall, within the
29 month which constitutes the beginning of the 6-month period
30 before the child's 18th birthday, hold a hearing to review the
31

1 progress of the child while in the custody ~~or under the~~
2 ~~supervision~~ of the department.

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

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

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

20 3. If a waiver of counsel is accepted at any hearing
21 or proceeding, the offer of assistance of counsel must be
22 renewed by the court at each subsequent stage of the
23 proceedings at which the ~~parent, legal custodian, or caregiver~~
24 appears without counsel.

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

27 (b) Periods of delay resulting from a continuance
28 granted at the request of the attorney for the department or
29 petitioner, if the continuance is granted:

30 1. Because of an unavailability of evidence material
31 to the case when the attorney for the department or petitioner

1 has exercised due diligence to obtain such evidence and there
2 are substantial grounds to believe that such evidence will be
3 available within 30 days. However, if the department or
4 petitioner is not prepared to present its case within 30 days,
5 the parent ~~or guardian~~ may move for issuance of an order to
6 show cause or the court on its own motion may impose
7 appropriate sanctions, which may include dismissal of the
8 petition.

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

12 (d) Reasonable periods of delay resulting from a
13 continuance granted at the request of the parent ~~or legal~~
14 ~~custodian~~ of a subject child.

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

18 39.0132 Oaths, records, and confidential
19 information.--

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

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

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

21 (e) Orders permanently and involuntarily terminating
22 the rights of a parent shall be admissible as evidence in
23 subsequent termination of parental rights proceedings for a
24 sibling of the child for whom parental rights were terminated.

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

27 39.0134 Appointed counsel; compensation.--

28 (1) If counsel is entitled to receive compensation for
29 representation pursuant to a court appointment in a dependency
30 proceeding pursuant to this chapter, such compensation shall
31 be established by each county. The county may acquire and

1 enforce a lien upon court-ordered payment of attorney's fees
2 and costs in accordance with s. 984.08.

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

5 39.201 Mandatory reports of child abuse, abandonment,
6 or neglect; mandatory reports of death; central abuse
7 hotline.--

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

9 (a) Physician, osteopathic physician, medical
10 examiner, chiropractic physician, nurse, or hospital personnel
11 engaged in the admission, examination, care, or treatment of
12 persons;

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

15 (c) Practitioner who relies solely on spiritual means
16 for healing;

17 (d) School teacher or other school official or
18 personnel;

19 (e) Social worker, day care center worker, or other
20 professional child care, foster care, residential, or
21 institutional worker; or

22 (f) Law enforcement officer,

23
24 who knows, or has reasonable cause to suspect, that a child is
25 ~~an~~ abused, abandoned, or neglected by a parent, legal
26 custodian, caregiver, or other person responsible for the
27 child's welfare ~~child~~ shall report such knowledge or suspicion
28 to the department in the manner prescribed in subsection (2).

29 Section 11. Subsection (1) and paragraphs (a), (d),
30 and (i) of subsection (2) of section 39.202, Florida Statutes,
31 1998 Supplement, are amended to read:

1 39.202 Confidentiality of reports and records in cases
2 of child abandonment, abuse, or neglect.--
3 (1) In order to protect the rights of the child and
4 the child's parents or other persons responsible for the
5 child's welfare, all records held by the department concerning
6 reports of child abandonment, abuse, or neglect, including
7 reports made to the central abuse hotline and all records
8 generated as a result of such reports, shall be confidential
9 and exempt from the provisions of s. 119.07(1) and shall not
10 be disclosed except as specifically authorized by this
11 chapter. Such exemption from s. 119.07(1) applies to
12 information in the possession of those entities granted access
13 as set forth in this section.
14 (2) Access to such records, excluding the name of the
15 reporter which shall be released only as provided in
16 subsection (4), shall be granted only to the following
17 persons, officials, and agencies:
18 (a) Employees, authorized agents, or contract
19 providers of the department, the Department of Health, or
20 county agencies responsible for carrying out:
21 1. Child or adult protective investigations;
22 2. Ongoing child or adult protective services;
23 3. Healthy Start services;
24 4. Licensure or approval of adoptive homes, foster
25 homes, or child care facilities, or family day care homes or
26 informal child care providers who receive subsidized child
27 care funding, or other homes used to provide for the care and
28 welfare of children.
29
30
31

1 Also, employees or agents of the Department of Juvenile
2 Justice responsible for the provision of services to children,
3 pursuant to chapters 984 and 985.

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

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

23 Section 12. Paragraph (a) of subsection (1) of section
24 39.203, Florida Statutes, 1998 Supplement, is amended to read:

25 39.203 Immunity from liability in cases of child
26 abuse, abandonment, or neglect.--

27 (1)(a) Any person, official, or institution
28 participating in good faith in any act authorized or required
29 by this chapter, or reporting in good faith any instance of
30 child abuse, abandonment, or neglect to the department or any
31 law enforcement agency, shall be immune from any civil or

1 criminal liability which might otherwise result by reason of
2 such action.

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

5 39.206 Administrative fines for false report of abuse,
6 abandonment, or neglect of a child; civil damages.--

7 (5) At the administrative hearing, the department must
8 prove by a preponderance of the evidence that the person filed
9 a false report with the central abuse hotline. The
10 administrative hearing officer ~~court~~ shall advise any person
11 against whom a fine may be imposed of that person's right to
12 be represented by counsel at the administrative hearing.

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

16 39.301 Initiation of protective investigations.--

17 (2)(a) Upon commencing an investigation under this
18 part, the child protective investigator shall inform any
19 subject of the investigation of the following:

- 20 1. The names of the investigators and identifying
21 credentials from the department.
- 22 2. The purpose of the investigation.
- 23 3. The right to obtain his or her own attorney and
24 ways that the information provided by the subject may be used.
- 25 4. The possible outcomes and services of the
26 department's response shall be explained to the parent or
27 legal custodian ~~caregiver~~.
- 28 5. The right of the parent or ~~legal custodian, or~~
29 ~~caregiver~~ to be involved to the fullest extent possible in
30 determining the nature of the allegation and the nature of any
31 identified problem.

1 (b) The department's training program shall ensure
2 that protective investigators know how to fully inform parents
3 or legal custodians, ~~guardians, and caregivers~~ of their rights
4 and options, including opportunities for audio or video
5 recording of investigators' interviews with parents, legal
6 custodians ~~guardians, caretakers~~, or children.

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

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

24 (a)~~(b)~~ If it is determined that the report ~~or~~
25 ~~complaint~~ is complete, but the interests of the child and the
26 public will be best served by providing the child care or
27 other treatment voluntarily accepted by the child and the
28 parents, ~~caregivers, or legal custodians~~, the protective
29 investigator may refer the parent and child for such care or
30 other treatment.

31

1 (b) If it is determined that the child is in need of
2 the protection and supervision of the court, the department
3 shall file a petition for dependency. A petition for
4 dependency shall be filed in all cases classified by the
5 department as high-risk cases, including, but not limited to,
6 cases involving parents of a young age, the use of illegal
7 drugs, or domestic violence.

8 ~~(c) If the person conducting the investigation refuses~~
9 ~~to request the attorney for the department to file a petition~~
10 ~~for dependency is not being filed by the department, the~~
11 ~~person or agency originating the report complainant shall be~~
12 ~~advised of the right to file a petition pursuant to this part.~~

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

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

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

21 (a) Medical or other health care; or

22 (b) Homemaker care, day care, protective supervision,
23 or other services to stabilize the home environment, including
24 intensive family preservation services through the Family
25 Builders Program or, the Intensive Crisis Counseling Program,
26 or both, ~~or~~

27 ~~(c) Foster care, shelter care, or other substitute~~
28 ~~care to remove the child from the custody of the parents,~~
29 ~~legal guardians, or caregivers,~~

1 such services shall first be offered for voluntary acceptance
2 unless there are high-risk factors that may impact the ability
3 of the parents, ~~legal guardians, or caregivers~~ to exercise
4 judgment. Such factors shall ~~may~~ include the parents', ~~legal~~
5 ~~guardians', or caregivers'~~ young age or history of substance
6 abuse or domestic violence. The parents, ~~legal custodians, or~~
7 ~~caregivers~~ shall be informed of the right to refuse services,
8 as well as the responsibility of the department to protect the
9 child regardless of the acceptance or refusal of services. If
10 the services are refused and the department deems that the
11 child's need for protection so requires, the department shall
12 take the child into protective custody or petition the court
13 as provided in this chapter.

14 (11) Immediately upon receipt of a report alleging, or
15 immediately upon learning during the course of an
16 investigation, that:

17 (a) The immediate safety or well-being of a child is
18 endangered;

19 (b) The family is likely to flee;

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

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

24 (e) A child is a victim of sexual battery or of sexual
25 abuse,

26
27 the department shall orally notify the jurisdictionally
28 responsible state attorney, and county sheriff's office or
29 local police department, and, within 3 working days ~~as soon as~~
30 ~~practicable~~, transmit a full written ~~the~~ report to those
31 agencies. The law enforcement agency shall review the report

1 and determine whether a criminal investigation needs to be
2 conducted and shall assume lead responsibility for all
3 criminal fact-finding activities. A criminal investigation
4 shall be coordinated, whenever possible, with the child
5 protective investigation of the department. Any interested
6 person who has information regarding an offense described in
7 this subsection may forward a statement to the state attorney
8 as to whether prosecution is warranted and appropriate.

9 (12) In a child protective investigation or a criminal
10 investigation, when the initial interview with the child is
11 conducted at school, the department or the law enforcement
12 agency may allow, notwithstanding the provisions of s.
13 39.0132(4), a school ~~instructional~~ staff member who is known
14 by the child to be present during the initial interview if:

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

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

20
21 School ~~instructional~~ staff may only be present when authorized
22 by this subsection. Information received during the interview
23 or from any other source regarding the alleged abuse or
24 neglect of the child shall be confidential and exempt from the
25 provisions of s. 119.07(1), except as otherwise provided by
26 court order. A separate record of the investigation of the
27 abuse, abandonment, or neglect shall not be maintained by the
28 school or school ~~instructional~~ staff member. Violation of this
29 subsection constitutes a misdemeanor of the second degree,
30 punishable as provided in s. 775.082 or s. 775.083.

31

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

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

9 39.302 Protective investigations of institutional
10 child abuse, abandonment, or neglect.--

11 (1) The department shall conduct a child protective
12 investigation of each report of institutional child abuse,
13 abandonment, or neglect. Upon receipt of a report which
14 alleges that an employee or agent of the department, or any
15 other entity or person covered by s. 39.01(32) or (48)~~(47)~~,
16 acting in an official capacity, has committed an act of child
17 abuse, abandonment, or neglect, the department shall
18 immediately initiate a child protective investigation and
19 orally notify the appropriate state attorney, law enforcement
20 agency, and licensing agency. These agencies shall
21 immediately conduct a joint investigation, unless independent
22 investigations are more feasible. When a facility is exempt
23 from licensing, the department shall inform the owner or
24 operator of the facility of the report. Each agency
25 conducting a joint investigation shall be entitled to full
26 access to the information gathered by the department in the
27 course of the investigation. In all cases, the department
28 shall make a full written report to the state attorney within
29 3 working days after making the oral report. A criminal
30 investigation shall be coordinated, whenever possible, with
31 the child protective investigation of the department. Any

1 interested person who has information regarding the offenses
2 described in this subsection may forward a statement to the
3 state attorney as to whether prosecution is warranted and
4 appropriate. Within 15 days after the completion of the
5 investigation, the state attorney shall report the findings to
6 the department and shall include in such report a
7 determination of whether or not prosecution is justified and
8 appropriate in view of the circumstances of the specific case.

9 Section 16. Paragraph (b) of subsection (1) of section
10 39.3035, Florida Statutes, 1998 Supplement, is amended to
11 read:

12 39.3035 Child advocacy centers; standards; state
13 funding.--

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

17 (b) Be a child protection team, or by written
18 agreement incorporate the participation and services of a
19 child protection team,with established community protocols
20 which meet all of the requirements of the National Network of
21 Children's Advocacy Centers, Inc.

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

24 39.304 Photographs, medical examinations, X rays, and
25 medical treatment of abused, abandoned, or neglected child.--

26 (1) Any person required to investigate cases of
27 suspected child abuse, abandonment, or neglect may take or
28 cause to be taken photographs of the areas of trauma visible
29 on a child who is the subject of a report. If the areas of
30 trauma visible on a child indicate a need for a medical
31 examination, or if the child verbally complains or otherwise

1 exhibits distress as a result of injury through suspected
2 child abuse, abandonment, or neglect, or is alleged to have
3 been sexually abused, the person required to investigate may
4 cause the child to be referred for diagnosis to a licensed
5 physician or an emergency department in a hospital without the
6 consent of the child's parents, ~~caregiver~~, or legal custodian.
7 Such examination may be performed by any licensed physician or
8 physician assistant or an advanced registered nurse
9 practitioner licensed pursuant to chapter 464. Any licensed
10 physician, or advanced registered nurse practitioner licensed
11 pursuant to chapter 464, who has reasonable cause to suspect
12 that an injury was the result of child abuse, abandonment, or
13 neglect may authorize a radiological examination to be
14 performed on the child without the consent of the child's
15 parent, ~~caregiver~~, or legal custodian.

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

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

29 39.311 Establishment of Family Builders Program.--

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

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

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

5 (c) To maintain adoptive families intact who are at
6 risk of fragmentation.

7
8 The Family Builders Program shall provide programs to achieve
9 long-term changes within families that will allow children to
10 remain with their families as an alternative to ~~the more~~
11 ~~expensive and potentially psychologically damaging program of~~
12 out-of-home placement.

13 Section 19. Subsections (1), (5), and (10) of section
14 39.312, Florida Statutes, 1998 Supplement, are amended to
15 read:

16 39.312 Goals.--The goals of any Family Builders
17 Program shall be to:

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

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

23 (10) Providesuch additional reasonable services for
24 the prevention of child abuse, abandonment, and neglect
25 ~~maltreatment and unnecessary foster care~~ as may be needed in
26 order to strengthen a family at risk.

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

29 39.313 Contracting of services.--The department may
30 contract for the delivery of Family Builders Program services
31 by professionally qualified persons or local governments when

1 | it determines that it is in the child's ~~family's~~ best
2 | interest. The service provider or program operator must
3 | submit to the department monthly activity reports covering any
4 | services rendered. These activity reports must include
5 | project evaluation in relation to individual families being
6 | served, as well as statistical data concerning families
7 | referred for services who are not served due to the
8 | unavailability of resources. The costs of program evaluation
9 | are an allowable cost consideration in any service contract
10 | negotiated in accordance with this section.

11 | Section 21. Section 39.395, Florida Statutes, 1998
12 | Supplement, is amended to read:

13 | 39.395 Detaining a child; medical or hospital
14 | personnel.--Any person in charge of a hospital or similar
15 | institution, or any physician or licensed health care
16 | professional treating a child may detain that child without
17 | the consent of the parents, caregiver, or legal custodian,
18 | whether or not additional medical treatment is required, if
19 | the circumstances are such, or if the condition of the child
20 | is such that returning the child to the care or custody of the
21 | parents, caregiver, or legal custodian presents an imminent
22 | danger to the child's life or physical or mental health. Any
23 | such person detaining a child shall immediately notify the
24 | department, whereupon the department shall immediately begin a
25 | child protective investigation in accordance with the
26 | provisions of this chapter and shall make every reasonable
27 | effort to immediately notify the parents, ~~caregiver,~~ or legal
28 | custodian that such child has been detained. If the
29 | department determines, according to the criteria set forth in
30 | this chapter, that the child should be detained longer than 24
31 | hours, it shall petition the court through the attorney

1 representing the Department of Children and Family Services as
2 quickly as possible and not to exceed 24 hours, for an order
3 authorizing such custody in the same manner as if the child
4 were placed in a shelter. The department shall attempt to
5 avoid the placement of a child in an institution whenever
6 possible.

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

10 39.401 Taking a child alleged to be dependent into
11 custody; law enforcement officers and authorized agents of the
12 department.--

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

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

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

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

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

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

31 (a) Release the child to:

- 1 1. The parent, ~~caregiver~~, or legal custodian of the
- 2 child;
- 3 2. A responsible adult approved by the court when
- 4 limited to temporary emergency situations;
- 5 3. A responsible adult relative who shall be given
- 6 priority consideration over a nonrelative placement when this
- 7 is in the best interests of the child; or
- 8 4. A responsible adult approved by the department; or
- 9

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

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

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

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

20 39.402 Placement in a shelter.--

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

27 (a) The child has been abused, neglected, or
28 abandoned, or is suffering from or is in imminent danger of
29 illness or injury as a result of abuse, neglect, or
30 abandonment;

31

1 (b) The parent or legal custodian of the child has
2 materially violated a condition of placement imposed by the
3 court; or

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

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

20 (b) The parents or legal custodians shall be given
21 written notice that:

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

24 2. They have the right to be represented by counsel,
25 and, if indigent, the parents have the right to be represented
26 by appointed counsel, at the shelter hearing and at each
27 subsequent hearing or proceeding, pursuant to the procedures
28 set forth in s. 39.013. If the parents or legal custodians
29 appear for the shelter hearing without legal counsel, then, at
30 their request, the shelter hearing may be continued up to 72
31 hours to enable the parents or legal custodians to consult

1 legal counsel. If a continuance is requested by the parents or
2 legal custodians, the child shall be continued in shelter care
3 for the length of the continuance, if granted by the court.

4 (6)

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

8 (8)

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

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

14 2. That placement in shelter care is in the best
15 interest of the child.

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

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

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

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

1 b. The appraisal of the home situation by the
2 department indicates that the home situation presents a
3 substantial and immediate danger to the child's physical,
4 mental, or emotional health or safety which cannot be
5 mitigated by the provision of preventive services;~~;~~

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

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

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

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

25 (11) If a child is placed in a shelter pursuant to a
26 court order following a shelter hearing, the court shall
27 require in the ~~prepare a~~ shelter hearing order that ~~requiring~~
28 the parents of the child, or the guardian of the child's
29 estate, if possessed of assets which under law may be
30 disbursed for the care, support, and maintenance of the child,
31 to pay, to the department or institution having custody of the

1 child, fees as established by the department. When the order
2 affects the guardianship estate, a certified copy of the order
3 shall be delivered to the judge having jurisdiction of the
4 guardianship estate. The shelter order shall also require the
5 parents or legal custodians to provide to the department and
6 any other state agency or party designated by the court,
7 within 28 days after entry of the shelter order, the financial
8 information necessary to accurately calculate child support
9 pursuant to s. 61.30.

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

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

20 39.407 Medical, psychiatric, and psychological
21 examination and treatment of child; physical or mental
22 examination of parent or person requesting custody of child.--

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

1 department shall by rule establish the invasiveness of the
2 medical procedures authorized to be performed under this
3 subsection. In no case does this subsection authorize the
4 department to consent to medical treatment for such children.

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

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

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

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

25 (c) If a parent or legal custodian of the child is
26 available but refuses to consent to the necessary treatment,
27 including immunization, a court order shall be required unless
28 the situation meets the definition of an emergency in s.
29 743.064 or the treatment needed is related to suspected abuse,
30 abandonment, or neglect of the child by a parent, caregiver,
31 or legal custodian. In such case, the department shall have

1 the authority to consent to necessary medical treatment. This
2 authority is limited to the time reasonably necessary to
3 obtain court authorization.

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

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

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

1 and criteria established in s. 394.467 or chapter 393 shall be
2 used, whichever is applicable. A child may be provided mental
3 health or retardation services in emergency situations,
4 pursuant to the procedures and criteria contained in s.
5 394.463(1) or chapter 393, whichever is applicable.

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

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

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

23 39.501 Petition for dependency.--

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

31

1 (d) The petitioner must state in the petition, if
2 known, whether:

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

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

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

11 4. The department has determined that voluntary
12 services are not appropriate for this family and the reasons
13 for such determination.

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

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

28 39.502 Notice, process, and service.--

29 (1) Unless parental rights have been terminated, all
30 parents ~~and legal custodians~~ must be notified of all
31 proceedings or hearings involving the child. Notice in cases

1 involving shelter hearings and hearings resulting from medical
2 emergencies must be that most likely to result in actual
3 notice to the parents ~~and legal custodians~~. In all other
4 dependency proceedings, notice must be provided in accordance
5 with subsections (4) through (9).

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

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

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

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

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

29 39.503 Identity or location of parent ~~or legal~~
30 ~~custodian~~ unknown; special procedures.--

31

1 (1) If the identity or location of a parent ~~or legal~~
2 ~~custodian~~ is unknown and a petition for dependency or shelter
3 is filed, the court shall conduct the following inquiry of the
4 parent or legal custodian who is available, or, if no parent
5 or legal custodian is available, of any relative or custodian
6 of the child who is present at the hearing and likely to have
7 the information:

8 (a) Whether the mother of the child was married at the
9 probable time of conception of the child or at the time of
10 birth of the child.

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

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

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

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

23 (6) The diligent search required by subsection (5)
24 must include, at a minimum, inquiries of all relatives of the
25 parent or prospective parent made known to the petitioner,
26 inquiries of all offices of program areas of the department
27 likely to have information about the parent or prospective
28 parent, inquiries of other state and federal agencies likely
29 to have information about the parent or prospective parent,
30 inquiries of appropriate utility and postal providers, and
31 inquiries of appropriate law enforcement agencies. Pursuant to

1 s. 453 of the Social Security Act, 42 U.S.C. s. 653(c)~~(B)~~(4),
2 the department, as the state agency administering Titles IV-B
3 and IV-E of the act, shall be provided access to the federal
4 and state parent locator service for diligent search
5 activities.

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

9 39.504 Injunction pending disposition of petition;
10 penalty.--

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

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

27 Section 29. Section 39.506, Florida Statutes, 1998
28 Supplement, is amended to read:

29 39.506 Arraignment hearings.--

30 (1) When a child has been sheltered ~~detained~~ by order
31 of the court, an arraignment hearing must be held no later

1 than 28 days after the shelter hearing, or, within 7 days
2 after the date of filing of the dependency petition if a
3 demand for early filing has been made by any party, for the
4 parent or legal custodian to admit, deny, or consent to
5 findings of dependency alleged in the petition. If the parent
6 or legal custodian admits or consents to the findings in the
7 petition, the court shall conduct a disposition hearing within
8 15 days after the arraignment hearing ~~proceed as set forth in~~
9 ~~the Florida Rules of Juvenile Procedure.~~ However, if the
10 parent or legal custodian denies any of the allegations of the
11 petition, the court shall hold an adjudicatory hearing within
12 30 days after the date of the arraignment hearing unless a
13 continuance is granted pursuant to this chapter.

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

25 (3) Failure of a person served with notice to
26 personally respond ~~or~~ appear at the arraignment hearing
27 constitutes the person's consent to a dependency adjudication.
28 The document containing the notice to respond or appear must
29 contain, in type at least as large as the balance of the
30 document, the following or substantially similar language:
31 "FAILURE TO ~~RESPOND TO THIS NOTICE OR TO~~ PERSONALLY APPEAR AT

1 THE ARRAIGNMENT HEARING CONSTITUTES CONSENT TO THE
2 ADJUDICATION OF THIS CHILD (OR CHILDREN) AS A DEPENDENT CHILD
3 (OR CHILDREN) AND MAY ULTIMATELY RESULT IN LOSS OF CUSTODY OF
4 THIS CHILD (OR CHILDREN)." If a person appears for the
5 arraignment hearing and the court orders that person to
6 personally appear at the adjudicatory hearing for dependency,
7 stating the date, time, and place of the adjudicatory hearing,
8 then that person's failure to appear for the scheduled
9 adjudicatory hearing constitutes consent to a dependency
10 adjudication.

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

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

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

26 (7) The court shall review whether the department has
27 made a reasonable effort to prevent or eliminate the need for
28 removal or continued removal of the child from the home. If
29 the court determines that the department has not made such an
30 effort, the court shall order the department to provide
31 appropriate and available services to assure the protection of

1 the child in the home when such services are necessary for the
2 child's physical, mental, or emotional health and safety.

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

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

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

18 39.507 Adjudicatory hearings; orders of
19 adjudication.--

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

1 parents, caregivers, or legal custodians of the child may be
2 examined separately and apart 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,
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 family.

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

14 (i) The inappropriateness of other prevention and
15 reunification services that were available.

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

22 (k) Whether the services were provided to the family
23 and child.

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

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

30
31

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

4 (o) Whether 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) Prior to recommending to the court any
28 out-of-home placement for a child other than placement in a
29 licensed shelter or foster home, the department shall conduct
30 a study of the home of the proposed legal custodians
31 ~~caregivers~~, which must include, at a minimum:

- 1 1. An interview with the proposed legal custodians
2 ~~adult caregivers~~ to assess their ongoing commitment and
3 ability to care for the child.
- 4 2. Records checks through the department's automated
5 abuse information system, and local and statewide criminal and
6 juvenile records checks through the Department of Law
7 Enforcement, on all household members 12 years of age or older
8 and any other persons made known to the department who are
9 frequent visitors in the home.
- 10 3. An assessment of the physical environment of the
11 home.
- 12 4. A determination of the financial security of the
13 proposed legal custodians ~~caregivers~~.
- 14 5. A determination of suitable child care arrangements
15 if the proposed legal custodians ~~caregivers~~ are employed
16 outside of the home.
- 17 6. Documentation of counseling and information
18 provided to the proposed legal custodians ~~caregivers~~ regarding
19 the dependency process and possible outcomes.
- 20 7. Documentation that information regarding support
21 services available in the community has been provided to the
22 proposed legal custodians ~~caregivers~~.
- 23 (b) The department shall not place the child or
24 continue the placement of the child in the home of the
25 proposed legal custodians ~~caregivers~~ if the results of the
26 home study are unfavorable.
- 27 (4) If placement of the child with anyone other than
28 the child's parent, ~~caregiver, or legal custodian~~ is being
29 considered, the predisposition study shall include the
30 designation of a specific length of time as to when custody by
31

1 the parent, ~~caregiver, or legal custodian~~ will be
2 reconsidered.

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

6 (6) A case plan and predisposition study must be filed
7 with the court and served upon the parents, ~~caregivers, or~~
8 ~~legal custodians~~ of the child, provided to the representative
9 of the guardian ad litem program, if the program has been
10 appointed, and provided to all other parties not less than 72
11 hours before the disposition hearing. All such case plans must
12 be approved by the court. If the court does not approve the
13 case plan at the disposition hearing, the court must set a
14 hearing within 30 days after the disposition hearing to review
15 and approve the case plan.

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

22 (8) When any child is adjudicated by a court to be
23 dependent, and the court finds that removal of the child from
24 the custody of a parent or legal custodian, ~~or caregiver~~ is
25 necessary, the court shall first determine whether there is a
26 parent with whom the child was not residing at the time the
27 events or conditions arose that brought the child within the
28 jurisdiction of the court who desires to assume custody of the
29 child and, if such parent requests custody, the court shall
30 place the child with the parent unless it finds that such
31 placement would endanger the safety, well-being, or physical,

1 mental, or emotional health of the child. Any party with
2 knowledge of the facts may present to the court evidence
3 regarding whether the placement will endanger the safety,
4 well-being, or physical, mental, or emotional health of the
5 child. If the court places the child with such parent, it may
6 do either of the following:

7 (a) Order that the parent become the legal and
8 physical custodian of the child. The court may also provide
9 for reasonable visitation by the noncustodial parent. The
10 court may ~~shall~~ then terminate its jurisdiction over the
11 child. The custody order shall continue unless modified by a
12 subsequent order of the circuit court hearing dependency
13 matters. The order of the juvenile court shall be filed in any
14 dissolution or other custody action or proceeding between the
15 parents and shall take precedence over other custody and
16 visitation orders entered in those actions.

17 (b) Order that the parent assume custody subject to
18 the jurisdiction of the circuit juvenile court hearing
19 dependency matters. The court may order that reunification
20 services be provided to the parent, ~~caregiver, or legal~~
21 ~~custodian~~ from whom the child has been removed, that services
22 be provided solely to the parent who is assuming physical
23 custody in order to allow that parent to retain later custody
24 without court jurisdiction, or that services be provided to
25 both parents, in which case the court shall determine at every
26 review hearing which parent, if either, shall have custody of
27 the child. The standard for changing custody of the child from
28 one parent to another or to a relative or another adult
29 approved by the court shall be the best interest of the child
30 ~~caregiver must meet the home study criteria and court approval~~
31 ~~pursuant to this chapter~~.

1 (9)(a) When any child is adjudicated by a court to be
2 dependent, the court having jurisdiction of the child has the
3 power, by order, to:

4 1. Require the parent, ~~caregiver~~, or legal custodian,
5 and the child when appropriate, to participate in treatment
6 and services identified as necessary.

7 2. Require the parent, ~~caregiver~~, or legal custodian,
8 and the child when appropriate, to participate in mediation if
9 the parent, ~~caregiver~~, or legal custodian refused to
10 participate in mediation.

11 3. Place the child under the protective supervision of
12 an authorized agent of the department, either in the child's
13 own home or, the prospective custodian being willing, in the
14 home of a relative of the child or of another adult ~~a~~
15 ~~caregiver~~ approved by the court, or in some other suitable
16 place under such reasonable conditions as the court may
17 direct. Protective supervision continues until the court
18 terminates it or until the child reaches the age of 18,
19 whichever date is first. Protective supervision shall be
20 terminated by the court whenever the court determines that
21 permanency has been achieved for the child, whether with a
22 parent, another relative, or a legal custodian, ~~or a~~
23 ~~caregiver~~, and that protective supervision is no longer
24 needed. The termination of supervision may be with or without
25 retaining jurisdiction, at the court's discretion, and shall
26 in either case be considered a permanency option for the
27 child. The order terminating supervision by the department
28 shall set forth the powers of the custodian of the child and
29 shall include the powers ordinarily granted to a guardian of
30 the person of a minor unless otherwise specified. Upon the
31 court's termination of supervision by the department, no

1 further judicial reviews are required, so long as permanence
2 has been established for the child.

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

10 5.a. When the parents have failed to comply with a
11 case plan and the court determines at a judicial review
12 hearing, or at an adjudication hearing held pursuant to this
13 section, that neither reunification, termination of parental
14 rights, nor adoption is in the best interest of the child, the
15 court may place the child in the long-term custody of an adult
16 relative or other adult ~~caregiver~~ approved by the court
17 willing to care for the child, if all of the following
18 conditions are met:

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

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

25 (III) The child and the relative or other adult
26 ~~caregiver~~ are determined not to need protective supervision or
27 preventive services to ensure the stability of the long-term
28 custodial relationship, or the department assures the court
29 that protective supervision or preventive services will be
30 provided in order to ensure the stability of the long-term
31 custodial relationship.

1 (IV) Each party to the proceeding agrees that a
2 long-term custodial relationship does not preclude the
3 possibility of the child returning to the custody of the
4 parent at a later date, should the parent demonstrate a
5 material change in circumstances and the return of the child
6 to the parent is in the child's best interest.

7 (V) The court has considered the reasonable preference
8 of the child if the court has found the child to be of
9 sufficient intelligence, understanding, and experience to
10 express a preference.

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

13 (VII) The relative or other adult has made a
14 commitment to provide for the child until the child reaches
15 the age of majority and to prepare the child for adulthood and
16 independence.

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

21 b. The court shall retain jurisdiction over the case,
22 and the child shall remain in the long-term custody of the
23 relative or other adult ~~caregiver~~ approved by the court until
24 the order creating the long-term custodial relationship is
25 modified by the court. The court shall discontinue regular
26 judicial review hearings and may relieve the department of the
27 responsibility for supervising the placement of the child
28 whenever the court determines that the placement is stable and
29 that such supervision is no longer needed. The child must be
30 in the placement for a minimum of 6 continuous months before
31 the court may consider termination of the department's

1 supervision. Notwithstanding the retention of jurisdiction,
2 the placement shall be considered a permanency option for the
3 child when the court relieves the department of the
4 responsibility for supervising the placement. The order
5 terminating supervision by the department shall set forth the
6 powers of the custodian of the child and shall include the
7 powers ordinarily granted to a guardian of the person of a
8 minor unless otherwise specified. The court may modify the
9 order terminating supervision of the long-term ~~relative or~~
10 ~~caregiver~~ placement if it finds that ~~a party to the proceeding~~
11 ~~has shown a material change in circumstances which causes the~~
12 long-term ~~relative or caregiver~~ placement is to be no longer
13 in the best interest of the child.

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

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

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

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

24

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

27 b.e. The court may approve placement of the child in
28 long-term out-of-home care, as a permanency option, when all
29 of the following conditions are met:

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

31

1 (II) The child is living in a licensed home and the
2 foster parents desire to provide care for the child on a
3 permanent basis and the foster parents and the child do not
4 desire adoption.7

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

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

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

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

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

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

13 7. Commit the child to the temporary legal custody of
14 the department. Such commitment invests in the department all
15 rights and responsibilities of a legal custodian. The
16 department shall not return any child to the physical care and
17 custody of the person from whom the child was removed, except
18 for court-approved ~~short~~ visitation periods, without the
19 approval of the court. The term of such commitment continues
20 until terminated by the court or until the child reaches the
21 age of 18. After the child is committed to the temporary
22 custody of the department, all further proceedings under this
23 section are also governed by this chapter.

24 8.a. Change the temporary legal custody or the
25 conditions of protective supervision at a postdisposition
26 hearing ~~subsequent to the initial detention hearing~~, without
27 the necessity of another adjudicatory hearing. A child who has
28 been placed in the child's own home under the protective
29 supervision of an authorized agent of the department, in the
30 home of a relative, in the home of a legal custodian ~~or~~
31 ~~caregiver~~, or in some other place may be brought before the

1 court by ~~the agent of the department who is supervising the~~
2 ~~placement~~ or by any other interested person, upon the filing
3 of a petition alleging a need for a change in the conditions
4 of protective supervision or the placement. If the parents or
5 other custodians deny the need for a change, the court shall
6 hear all parties in person or by counsel, or both. Upon the
7 admission of a need for a change or after such hearing, the
8 court shall enter an order changing the placement, modifying
9 the conditions of protective supervision, or continuing the
10 conditions of protective supervision as ordered. The standard
11 for changing custody of the child shall be the best interest
12 of the child. If the child is not placed in foster care, then
13 the new placement for the child from one parent to another or
14 to a relative or caregiver must meet the home study criteria
15 and court approval pursuant to this chapter.

16 b. In cases where the issue before the court is
17 whether a child should be reunited with a parent, the court
18 shall determine whether the parent has substantially complied
19 with the terms of the case plan to the extent that the safety,
20 well-being, and physical, mental, and emotional health of the
21 child is not endangered by the return of the child to the
22 home.

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

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

27 2. Special conditions of placement and visitation.

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

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

1 5. Continuation or discharge of the guardian ad litem,
2 as appropriate.

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

6 a. Ninety days after the disposition hearing;

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

8 ~~c.a.~~ Six months after the date of the last review
9 hearing; or

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

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

17 (c) If the court finds that the prevention or
18 reunification efforts of the department will allow the child
19 to remain safely at home or be safely returned to the home,
20 the court shall allow the child to remain in or return to the
21 home after making a specific finding of fact that the reasons
22 for removal have been remedied to the extent that the child's
23 safety, well-being, and physical, mental, and emotional health
24 will not be endangered.

25 (d) If the court places ~~commits~~ the child in an
26 out-of-home placement ~~to the temporary legal custody of the~~
27 ~~department~~, the disposition order must include a written
28 determination that the child cannot safely remain at home with
29 reunification or family preservation services and that removal
30 of the child is necessary to protect the child. If the child
31 has been removed before the disposition hearing, the order

1 must also include a written determination as to whether, after
2 removal, the department has made a reasonable effort to
3 reunify the family, if reasonable efforts are required.
4 Reasonable efforts to reunify are not required if the court
5 has found that any of the acts listed in s. 39.806(1)(f)-(i)
6 have occurred.The department has the burden of demonstrating
7 that it has made reasonable efforts under this paragraph.
8 1. For the purposes of this paragraph, the term
9 "reasonable effort" means the exercise of reasonable diligence
10 and care by the department to provide the services delineated
11 in the case plan.
12 2. In support of its determination as to whether
13 reasonable efforts have been made, the court shall:
14 a. Enter written findings as to whether or not
15 prevention or reunification efforts were indicated.
16 b. If prevention or reunification efforts were
17 indicated, include a brief written description of what
18 appropriate and available prevention and reunification efforts
19 were made.
20 c. Indicate in writing why further efforts could or
21 could not have prevented or shortened the separation of the
22 family.
23 3. A court may find that the department has made a
24 reasonable effort to prevent or eliminate the need for removal
25 if:
26 a. The first contact of the department with the family
27 occurs during an emergency;
28 b. The appraisal by the department of the home
29 situation indicates that it presents a substantial and
30 immediate danger to the child's safety or physical, mental, or
31

1 emotional health which cannot be mitigated by the provision of
2 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, even with appropriate and
6 available services being provided, the health and safety of
7 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 4. A reasonable effort by the department for
12 reunification of the family has been made if the appraisal of
13 the home situation by the department indicates that the
14 severity of the conditions of dependency is such that
15 reunification efforts are inappropriate. The department has
16 the burden of demonstrating to the court that reunification
17 efforts were inappropriate.

18 5. If the court finds that the prevention or
19 reunification effort of the department would not have
20 permitted the child to remain safely at home, the court may
21 commit the child to the temporary legal custody of the
22 department or take any other action authorized by this
23 chapter.

24 (10)(a) When any child is adjudicated by the court to
25 be dependent and temporary legal custody of the child has been
26 placed with an adult relative, legal custodian, or other adult
27 ~~caregiver~~ approved by the court, a licensed child-caring
28 agency, or the department, the court shall, unless a parent
29 has voluntarily executed a written surrender for purposes of
30 adoption, order the parents, or the guardian of the child's
31 estate if possessed of assets which under law may be disbursed

1 for the care, support, and maintenance of the child, to pay
2 child support to the ~~adult relative,~~ legal custodian, ~~or~~
3 ~~caregiver~~ caring for the child, the licensed child-caring
4 agency, or the department. The court may exercise jurisdiction
5 over all child support matters, shall adjudicate the financial
6 obligation, including health insurance, of the child's parents
7 or guardian, and shall enforce the financial obligation as
8 provided in chapter 61. The state's child support enforcement
9 agency shall enforce child support orders under this section
10 in the same manner as child support orders under chapter 61.

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

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

23 (b) If diligent efforts are made to locate an adult
24 relative willing and able to care for the child but, because
25 no suitable relative is found, the child is placed with the
26 department or a legal custodian or other adult approved by the
27 court ~~caregiver~~, both the department and the court shall
28 consider transferring temporary legal custody to an adult
29 relative approved by the court at a later date, but neither
30 the department nor the court is obligated to so place the
31 child if it is in the child's best interest to remain in the

1 current placement. For the purposes of this paragraph,
2 "diligent efforts to locate an adult relative" means a search
3 similar to the diligent search for a parent, but without the
4 continuing obligation to search after an initial adequate
5 search is completed.

6 (12) An agency granted legal custody shall have the
7 right to determine where and with whom the child shall live,
8 but an individual granted legal custody shall exercise all
9 rights and duties personally unless otherwise ordered by the
10 court.

11 (13) In carrying out the provisions of this chapter,
12 the court may order the ~~natural~~ parents, ~~caregivers~~, or legal
13 custodians of a child who is found to be dependent to
14 participate in family counseling and other professional
15 counseling activities deemed necessary for the rehabilitation
16 of the child.

17 (14) With respect to a child who is the subject in
18 proceedings under this chapter, the court shall issue to the
19 department an order to show cause why it should not return the
20 child to the custody of the ~~natural~~ parents, ~~legal custodians~~,
21 ~~or caregivers~~ upon expiration of the case plan, or sooner if
22 the parents, ~~legal custodians~~, or ~~caregivers~~ have
23 substantially complied with the case plan.

24 (15) The court may ~~at any time~~ enter an order ending
25 its jurisdiction over a ~~any~~ child, ~~except that~~, when a child
26 has been returned to the parents ~~under subsection (14)~~,
27 provided the court shall not terminate its jurisdiction or the
28 department's supervision over the child until 6 months after
29 the child's return. ~~Based on a report of the department or~~
30 ~~agency or the child's guardian ad litem, and any other~~
31 ~~relevant factors~~, The court shall then determine whether its

1 jurisdiction should be continued or terminated in such a case
2 based on a report of the department or agency or the child's
3 guardian ad litem, and any other relevant factors; if its
4 jurisdiction is to be terminated, the court shall enter an
5 order to that effect.

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

9 39.5085 Relative Caregiver Program.--

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

31

1 (d) Relatives who are caring for children placed with
2 them by the court pursuant to this chapter may ~~child~~
3 ~~protection system shall~~ receive a special monthly relative
4 caregiver benefit established by rule of the department. The
5 amount of the special benefit payment shall be based on the
6 child's age within a payment schedule established by rule of
7 the department and subject to availability of funding. The
8 statewide average monthly rate for children judicially placed
9 with relatives who are not licensed as foster homes may not
10 exceed 82 percent of the statewide average foster care rate,
11 nor may the cost of providing the assistance described in this
12 section to any relative caregiver exceed the cost of providing
13 out-of-home care in emergency shelter or foster care.

14 Section 33. Section 39.509, Florida Statutes, 1998
15 Supplement, is amended to read:

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

27 (1) Grandparent visitation may take place in the home
28 of the grandparent unless there is a compelling reason for
29 denying such a visitation. The department's caseworker shall
30 arrange the visitation to which a grandparent is entitled
31 pursuant to this section. The state shall not charge a fee

1 for any costs associated with arranging the visitation.
2 However, the grandparent shall pay for the child's cost of
3 transportation when the visitation is to take place in the
4 grandparent's home. The caseworker shall document the reasons
5 for any decision to restrict a grandparent's visitation.

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

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

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

22 (5) The termination of parental rights does not affect
23 the rights of grandparents unless the court finds that such
24 visitation is not in the best interest of the child or that
25 such visitation would interfere with the goals of permanency
26 planning for the child.

27 (6) In determining whether grandparental visitation is
28 not in the child's best interest, consideration may be given
29 to the finding of guilt, regardless of adjudication, or entry
30 or plea of guilty or nolo contendere to charges under the
31 following statutes, or similar statutes of other

1 jurisdictions: s. 787.04, relating to removing minors from
2 the state or concealing minors contrary to court order; s.
3 794.011, relating to sexual battery; s. 798.02, relating to
4 lewd and lascivious behavior; chapter 800, relating to
5 lewdness and indecent exposure; or chapter 827, relating to
6 the abuse of children. Consideration may also be given to a
7 report finding of ~~confirmed~~ abuse, abandonment, or neglect
8 under ss. 415.101-415.113 or this chapter and the outcome of
9 the investigation concerning such report.

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

12 39.510 Appeal.--

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

20 (2) When the notice of appeal is filed in the circuit
21 court by a party other than the department, an attorney for
22 the department shall represent the state and the court upon
23 appeal and shall be notified of the appeal by the clerk ~~when~~
24 ~~the notice of appeal is filed in the circuit court by a party~~
25 ~~other than the department~~.

26 Section 35. Section 39.601, Florida Statutes, 1998
27 Supplement, is amended to read:

28 39.601 Case plan requirements.--

29 (1) The department or agent of the department shall
30 develop a case plan for each child or child's family receiving
31 services pursuant to this chapter. A parent, ~~caregiver, or~~

1 ~~legal custodian~~ of a child may not be required nor coerced
2 through threat of loss of custody or parental rights to admit
3 in the case plan to abusing, neglecting, or abandoning a
4 child. Where dependency mediation services are available and
5 appropriate to the best interests of the child, the court may
6 refer the case to mediation for development of a case plan.
7 This section does not change the provisions of s. 39.807.

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

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

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

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

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

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

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

30 (a) A description of the problem being addressed that
31 includes the behavior or act of a parent or legal custodian,

1 ~~or caregiver~~ resulting in risk to the child and the reason for
2 the department's intervention.

3 (b) A description of the tasks with which the parent
4 must comply and the services to be provided to the family and
5 child specifically addressing the identified problem,
6 including:

- 7 1. Type of services or treatment.
- 8 2. Frequency of services or treatment.
- 9 3. Location of the delivery of the services.
- 10 4. The accountable department staff or service
11 provider.

12 (c) A description of the measurable objectives,
13 including timeframes for achieving objectives, addressing the
14 identified problem.

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

23 (a) A description of the permanency goal for the
24 child, including the type of placement. Reasonable efforts to
25 place a child in a home that will serve as an adoptive
26 placement if reunification is not successful, ~~for adoption~~ or
27 with a legal custodian, ~~guardian~~ may be made concurrently with
28 reasonable efforts to prevent removal of the child from the
29 home or make it possible for the child to return safely home.

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

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

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

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

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

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

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

30 (i) A description of the plan for assuring that
31 services as outlined in the case plan are provided to the

1 child, ~~and~~ the child's ~~parent or~~ parents, and the child's
2 legal custodians, ~~or caregivers,~~ to address the needs of the
3 child, ~~and~~ a discussion of the appropriateness of the
4 services.

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

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

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

31

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

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

1 permanent placement process. In designing service
2 interventions, generally recognized standards of the
3 professions involved in the process must be taken into
4 consideration.

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

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

27 (8) The case plan must meet applicable federal and
28 state requirements.

29 (9)(a) In each case in which the custody of a child
30 has been vested, either voluntarily or involuntarily, in the
31 department and the child has been placed in out-of-home care,

1 a case plan must be prepared within 60 days after the
2 department removes the child from the home, and shall be
3 submitted to the court before the disposition hearing, for the
4 court to review and approve ~~accept~~. If the preparation of a
5 case plan, in conference with the parents and other pertinent
6 parties, cannot be completed before the disposition hearing,
7 for good cause shown, the court may grant an extension not to
8 exceed 30 days and set a hearing to review and approve ~~accept~~
9 the case plan.

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

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

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

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

28 (f) The case plan may be amended at any time if all
29 parties are in agreement regarding the revisions to the plan
30 and the plan is submitted to the court with a memorandum of
31 explanation, if the court approves such amendment. The case

1 plan may also be amended by the court or upon motion of any
2 party at a hearing, based on competent evidence demonstrating
3 the need for the amendment. A copy of the amended plan must be
4 immediately given to the persons ~~parties~~ specified in
5 paragraph (e).

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

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

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

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

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

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

1 39.603 Court approvals of case planning.--
2 (2) When the court determines that any of the elements
3 considered at the hearing related to the plan have not been
4 met, the court shall require the parties to make necessary
5 amendments to the plan. The amended plan must be submitted to
6 the court for review and approval within 30 days after the
7 hearing ~~a time certain specified by the court~~. A copy of the
8 amended plan must also be provided to each party parent, if
9 the location of the party parent is known, at least 72 hours
10 prior to filing with the court.

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

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

25 39.701 Judicial review.--

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

31

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

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

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

29 (c) Notice of a hearing by a citizen review panel must
30 be provided as set forth in subsection (5). At the conclusion
31 of a citizen review panel hearing, each party may propose a

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

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

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

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

31

1 (d) If the department and the court have established a
2 formal agreement that includes specific authorization for
3 particular cases, the department may conduct administrative
4 reviews instead of the judicial reviews for children in
5 out-of-home care. Notices of such administrative reviews must
6 be provided to all parties. However, an administrative review
7 may not be substituted for the first judicial review, and in
8 every case the court must conduct a judicial review at least
9 every 6 months. Any party dissatisfied with the results of an
10 administrative review may petition for a judicial review.

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

14 (f) In each case in which a child has been voluntarily
15 placed with the licensed child-placing agency, the agency
16 shall notify the clerk of the court in the circuit where the
17 child resides of such placement within 5 working days.
18 Notification of the court is not required for any child who
19 will be in out-of-home care no longer than 30 days unless that
20 child is placed in out-of-home care a second time within a
21 12-month period. If the child is returned to the custody of
22 the parents, ~~caregiver~~, or legal custodian before the
23 scheduled review hearing or if the child is placed for
24 adoption, the child-placing agency shall notify the court of
25 the child's return or placement within 5 working days, and the
26 clerk of the court shall cancel the review hearing.

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

31

1 (5) Notice of a judicial review hearing or a citizen
2 review panel hearing, and a copy of the motion for judicial
3 review, if any including a statement of the dispositional
4 ~~alternatives available to the court~~, must be served by the
5 clerk of the court upon:

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

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

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

14 (d) The guardian ad litem for the child, or the
15 representative of the guardian ad litem program if the program
16 has been appointed.

17 (e) Any preadoptive parent.

18 (f) Such other persons as the court may in its
19 discretion direct.

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

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

31

- 1 1. A description of the type of placement the child is
2 in at the time of the hearing, including the safety of the
3 child and the continuing necessity for and appropriateness of
4 the placement.
- 5 2. Documentation of the diligent efforts made by all
6 parties to the case plan to comply with each applicable
7 provision of the plan.
- 8 3. The amount of fees assessed and collected during
9 the period of time being reported.
- 10 4. The services provided to the foster family or legal
11 custodian caregivers in an effort to address the needs of the
12 child as indicated in the case plan.
- 13 5. A statement that either:
- 14 a. The parent ~~or legal custodian~~, though able to do
15 so, did not comply substantially with the provisions of the
16 case plan, and the agency recommendations; ~~or~~
- 17 b. ~~A statement that~~ The parent ~~or legal custodian~~ did
18 substantially comply with the such provisions of the case
19 plan; or
- 20 c. The parent has partially complied with the
21 provisions of the case plan, with a summary of additional
22 progress needed and the agency recommendations.
- 23 6. A statement from the foster parent or legal
24 custodian parents or caregivers providing any material
25 evidence concerning the return of the child to the parent or
26 parents ~~or legal custodians~~.
- 27 7. A statement concerning the frequency, duration, and
28 results of the parent-child visitation, if any, and the agency
29 recommendations for an expansion or restriction of future
30 visitation.
- 31

1 8. The number of times a child has been removed from
2 his or her home and placed elsewhere, the number and types of
3 placements that have occurred, and the reason for the changes
4 in placement.

5 9. The number of times a child's educational placement
6 has been changed, the number and types of educational
7 placements which have occurred, and the reason for any change
8 in placement.

9 10. Copies of all medical, psychological, and
10 educational records that support the terms of the case plan
11 and that have been produced concerning the child or parents
12 since the last judicial review hearing.

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

27 (c) In a case in which the child has been permanently
28 placed with the social service agency, the agency shall
29 furnish to the court a written report concerning the progress
30 being made to place the child for adoption. If the child
31 cannot be placed for adoption, a report on the progress made

1 by the child towards ~~in~~ alternative permanency goals or
2 placements, including, but not limited to, long-term foster
3 care, independent living, custody to a relative or other adult
4 ~~caregiver~~ approved by the court on a permanent basis with or
5 without legal guardianship, or custody to a foster parent or
6 legal custodian ~~caregiver~~ on a permanent basis with or without
7 legal guardianship, must be submitted to the court. The report
8 must be submitted to the court at least 72 ~~48~~ hours before
9 each scheduled judicial review.

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

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

- 1 (a) If the parent ~~or legal custodian~~ was advised of
2 the right to receive assistance from any person or social
3 service agency in the preparation of the case plan.
- 4 (b) If the parent ~~or legal custodian~~ has been advised
5 of the right to have counsel present at the judicial review or
6 citizen review hearings. If not so advised, the court or
7 citizen review panel shall advise the parent ~~or legal~~
8 ~~custodian~~ of such right.
- 9 (c) If a guardian ad litem needs to be appointed for
10 the child in a case in which a guardian ad litem has not
11 previously been appointed or if there is a need to continue a
12 guardian ad litem in a case in which a guardian ad litem has
13 been appointed.
- 14 (d) The compliance or lack of compliance of all
15 parties with applicable items of the case plan, including the
16 parents' compliance with child support orders.
- 17 (e) The compliance or lack of compliance with a
18 visitation contract between the parent, ~~caregiver, or legal~~
19 ~~custodian~~ and the social service agency for contact with the
20 child, including the frequency, duration, and results of the
21 parent-child visitation and the reason for any noncompliance.
- 22 (f) The compliance or lack of compliance of the
23 parent, ~~caregiver, or legal custodian~~ in meeting specified
24 financial obligations pertaining to the care of the child,
25 including the reason for failure to comply if such is the
26 case.
- 27 (g) The appropriateness of the child's current
28 placement, including whether the child is in a setting which
29 is as family-like and as close to the parent's home as
30 possible, consistent with the child's best interests and
31

1 special needs, and including maintaining stability in the
2 child's educational placement.

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

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

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

29 (b) The court shall return the child to the custody of
30 the parents, ~~legal custodians, or caregivers~~ at any time it
31 determines that they have substantially complied with the case

1 plan, if the court is satisfied that reunification will not be
2 detrimental to the child's safety, well-being, and physical,
3 mental, and emotional health.

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

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

26 (e) If, at any judicial review, the court finds that
27 the parents have failed to substantially comply with the case
28 plan to the degree that further reunification efforts are
29 without merit and not in the best interest of the child, it
30 may authorize the filing of a petition for termination of
31

1 parental rights, whether or not the time period as contained
2 in the case plan for substantial compliance has elapsed.

3 (f) No later than 12 months after the date that the
4 child was placed in shelter care, the court shall conduct a
5 judicial review to plan for the child's permanency. At this
6 hearing, if the child is not returned to the physical custody
7 of the parents, ~~caregivers, or legal custodians~~, the case plan
8 may be extended with the same goals only if the court finds
9 that the situation of the child is so extraordinary that the
10 plan should be extended. The case plan must document steps the
11 department is taking to find an adoptive parent or other
12 permanent living arrangement for the child.

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

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

25 39.702 Citizen review panels.--

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

28 (g) Establish policies to ensure adequate
29 communication with the parent, ~~caregiver, or legal custodian~~,
30 the foster parent or legal custodian ~~caregiver~~, the guardian
31 ad litem, and any other person deemed appropriate.

1 (h) Establish procedures that encourage attendance and
2 participation of interested persons and parties, including the
3 ~~biological~~ parents, foster parents, or legal custodian
4 ~~caregivers, or a relative or nonrelative~~ with whom the child
5 is placed, at citizen review hearings.

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

8 39.703 Initiation of termination of parental rights
9 proceedings.--

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

1 rights proceedings at the time of the 12-month judicial review
2 or within 30 days after such review does not prohibit
3 initiating termination of parental rights proceedings at any
4 other time.

5 Section 41. Subsection (1) of section 39.704, Florida
6 Statutes, 1998 Supplement, is amended to read:

7 39.704 Exemptions from judicial review.--Judicial
8 review does not apply to:

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

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

14 39.801 Procedures and jurisdiction; notice; service of
15 process.--

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

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

- 24 1. The parents of the child.
- 25 2. The ~~caregivers or~~ legal custodians of the child.
- 26 3. If the parents who would be entitled to notice are
27 dead or unknown, a living relative of the child, unless upon
28 diligent search and inquiry no such relative can be found.
- 29 4. Any person who has physical custody of the child.
- 30 5. Any grandparent entitled to priority for adoption
31 under s. 63.0425.

1 6. Any prospective parent who has been identified
2 under s. 39.503 or s. 39.803.

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

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

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

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

31

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

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

9 39.802 Petition for termination of parental rights;
10 filing; elements.--

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

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

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

27 (8) If ~~Whenever~~ the department has entered into a case
28 plan with a parent with the goal of reunification, and a
29 petition for termination of parental rights based on the same
30 facts as are covered in the case plan is filed prior to the
31 time agreed upon in the case plan for the performance of the

1 case plan, then the petitioner must allege and prove by clear
2 and convincing evidence that the parent has materially
3 breached the provisions of the case plan.

4 Section 44. Section 39.805, Florida Statutes, 1998
5 Supplement, is amended to read:

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

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

20 39.806 Grounds for termination of parental rights.--

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

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

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

31

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

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

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

26 (e) A petition for termination of parental rights may
27 also be filed when a child has been adjudicated dependent, a
28 case plan has been filed with the court, and the child
29 continues to be abused, neglected, or abandoned by the
30 parents. In this case, the failure of the parents to
31 substantially comply for a period of 12 months after an

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

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

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

22 39.807 Right to counsel; guardian ad litem.--

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

31

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

5 (2)

6 (b) The guardian ad litem has the following
7 responsibilities:

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

15 2. To be present at all court hearings unless excused
16 by the court.

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

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

22 39.808 Advisory hearing; pretrial status conference.--

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

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

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

13 39.811 Powers of disposition; order of disposition.--

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

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

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

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

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

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

30 (b) If the court terminates parental rights, it may,
31 as appropriate, order that the parents, siblings, or relatives

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

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

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

1 39.814 Oaths, records, and confidential information.--
2 (1) The judge, clerks or deputy clerks, and ~~or~~
3 authorized agents of the department shall each have the power
4 to administer oaths and affirmations.

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

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

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

14 39.815 Appeal.--

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

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

24 39.822 Appointment of guardian ad litem for abused,
25 abandoned, or neglected child.--

26 (3) The guardian ad litem or the program
27 representative shall review all disposition recommendations
28 and changes in placements, and must be present at all critical
29 stages of the dependency proceeding or submit a written report
30 of recommendations to the court. Written reports must be filed
31

1 with the court and served on all parties whose whereabouts are
2 known at least 72 hours prior to the hearing.

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

5 63.0427 Adopted minor's right to continued
6 communication or contact with siblings.--

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

18 (a) Any orders of the court pursuant to s. 39.811(7)
19 ~~39.469(7)~~.

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

23 (c) Statements of prospective adoptive parents.

24 (d) Any other information deemed relevant and material
25 by the court.

26

27 If the court determines that the child's best interests will
28 be served by postadoption communication or contact with any
29 sibling, the court shall so order, stating the nature and
30 frequency for the communication or contact. This order shall
31 be made a part of the final adoption order, but in no event

1 shall continuing validity of the adoption be contingent upon
2 such postadoption communication or contact, nor shall the
3 ability of the adoptive parents and child to change residence
4 within or outside the State of Florida be impaired by such
5 communication or contact.

6 Section 53. Paragraph (d) of subsection (1) of section
7 419.001, Florida Statutes, 1998 Supplement, is amended to
8 read:

9 419.001 Site selection of community residential
10 homes.--

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

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

20 Section 54. Paragraph (b) of subsection (1) of section
21 921.0024, Florida Statutes, 1998 Supplement, is amended to
22 read:

23 921.0024 Criminal Punishment Code; worksheet
24 computations; scoresheets.--

25 (1)

26 (b) WORKSHEET KEY:

27
28 Legal status points are assessed when any form of legal status
29 existed at the time the offender committed an offense before
30 the court for sentencing. Four (4) sentence points are
31 assessed for an offender's legal status.

1
2 Community sanction violation points are assessed when a
3 community sanction violation is before the court for
4 sentencing. Six (6) sentence points are assessed for each
5 community sanction violation, and each successive community
6 sanction violation; however, if the community sanction
7 violation includes a new felony conviction before the
8 sentencing court, twelve (12) community sanction violation
9 points are assessed for such violation, and for each
10 successive community sanction violation involving a new felony
11 conviction. Multiple counts of community sanction violations
12 before the sentencing court shall not be a basis for
13 multiplying the assessment of community sanction violation
14 points.

15
16 Prior serious felony points: If the offender has a primary
17 offense or any additional offense ranked in level 8, level 9,
18 or level 10, and one or more prior serious felonies, a single
19 assessment of 30 points shall be added. For purposes of this
20 section, a prior serious felony is an offense in the
21 offender's prior record that is ranked in level 8, level 9, or
22 level 10 under s. 921.0022 or s. 921.0023 and for which the
23 offender is serving a sentence of confinement, supervision, or
24 other sanction or for which the offender's date of release
25 from confinement, supervision, or other sanction, whichever is
26 later, is within 3 years before the date the primary offense
27 or any additional offense was committed.

28
29 Prior capital felony points: If the offender has one or more
30 prior capital felonies in the offender's criminal record,
31 points shall be added to the subtotal sentence points of the

1 offender equal to twice the number of points the offender
2 receives for the primary offense and any additional offense.
3 A prior capital felony in the offender's criminal record is a
4 previous capital felony offense for which the offender has
5 entered a plea of nolo contendere or guilty or has been found
6 guilty; or a felony in another jurisdiction which is a capital
7 felony in that jurisdiction, or would be a capital felony if
8 the offense were committed in this state.

9
10 Possession of a firearm, semiautomatic firearm, or machine
11 gun: If the offender is convicted of committing or attempting
12 to commit any felony other than those enumerated in s.
13 775.087(2) while having in his possession: a firearm as
14 defined in s. 790.001(6), an additional 18 sentence points are
15 assessed; or if the offender is convicted of committing or
16 attempting to commit any felony other than those enumerated in
17 s. 775.087(3) while having in his possession a semiautomatic
18 firearm as defined in s. 775.087(3) or a machine gun as
19 defined in s. 790.001(9), an additional 25 sentence points are
20 assessed.

21
22 Sentencing multipliers:

23
24 Drug trafficking: If the primary offense is drug trafficking
25 under s. 893.135, the subtotal sentence points are multiplied,
26 at the discretion of the court, for a level 7 or level 8
27 offense, by 1.5. The state attorney may move the sentencing
28 court to reduce or suspend the sentence of a person convicted
29 of a level 7 or level 8 offense, if the offender provides
30 substantial assistance as described in s. 893.135(4).

31

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

10

11 Grand theft of a motor vehicle: If the primary offense is
12 grand theft of the third degree involving a motor vehicle and
13 in the offender's prior record, there are three or more grand
14 thefts of the third degree involving a motor vehicle, the
15 subtotal sentence points are multiplied by 1.5.

16

17 Criminal street gang member: If the offender is convicted of
18 the primary offense and is found to have been a member of a
19 criminal street gang at the time of the commission of the
20 primary offense pursuant to s. 874.04, the subtotal sentence
21 points are multiplied by 1.5.

22

23 Domestic violence in the presence of a child: If the offender
24 is convicted of the primary offense and the primary offense is
25 a crime of domestic violence, as defined in s. 741.28, which
26 was committed in the presence of a child under 16 years of age
27 who is a family household member as defined in s. 741.28(2)
28 with the victim or perpetrator, the subtotal sentence points
29 are multiplied, ~~at the discretion of the court,~~ by 1.5.

30

31 Section 55. Subsection (7) of section 901.15, Florida
Statutes, 1998 Supplement, is amended, subsections (8) through

1 (12) are renumbered as subsections (10) through (14),
2 respectively, and new subsections (8) and (9) are added to
3 said section, to read:

4 901.15 When arrest by officer without warrant is
5 lawful.--A law enforcement officer may arrest a person without
6 a warrant when:

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

9 (a) an act of domestic violence, as defined in s.
10 741.28.

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

12 ~~(c) Any battery upon another person, as defined in s.~~
13 ~~784.03.~~

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

16
17 ~~With respect to an arrest for an act of domestic violence,~~The
18 decision to arrest shall not require consent of the victim or
19 consideration of the relationship of the parties. It is the
20 public policy of this state to strongly discourage arrest and
21 charges of both parties for domestic violence on each other
22 and to encourage training of law enforcement and prosecutors
23 in this area. A law enforcement officer who acts in good faith
24 and exercises due care in making an arrest under this
25 subsection, under s. 741.31(4) or s. 784.047, or pursuant to a
26 foreign order of protection accorded full faith and credit
27 pursuant to s. 741.315, is immune from civil liability that
28 otherwise might result by reason of his or her action.

29 (8) There is probable cause to believe that the person
30 has committed child abuse, as defined in s. 827.03. The
31 decision to arrest shall not require consent of the victim or

1 consideration of the relationship of the parties. It is the
2 public policy of this state to protect abused children by
3 strongly encouraging the arrest and prosecution of persons who
4 commit child abuse. A law enforcement officer who acts in good
5 faith and exercises due care in making an arrest under this
6 subsection is immune from civil liability that otherwise might
7 result by reason of his or her action.

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

10 (a) Any battery upon another person, as defined in s.
11 784.03.

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

14 Section 56. Paragraph (b) of subsection (9) of section
15 20.165, Florida Statutes, is amended to read:

16 20.165 Department of Business and Professional
17 Regulation.--There is created a Department of Business and
18 Professional Regulation.

19 (9)

20 (b) All employees certified under chapter 943 as law
21 enforcement officers shall have felony arrest powers under s.
22 901.15(13)~~(11)~~and shall have all the powers of deputy
23 sheriffs to:

24 1. Investigate, enforce, and prosecute, throughout the
25 state, violations and violators of:

26 a. Parts I and II of chapter 210; part VII of chapter
27 559; and chapters 561-569; and the rules promulgated
28 thereunder, as well as other state laws which the division,
29 all state law enforcement officers, or beverage enforcement
30 agents are specifically authorized to enforce.

31

1 b. All other state laws, provided that the employee
2 exercises the powers of a deputy sheriff, only after
3 consultation and in coordination with the appropriate local
4 sheriff's office, and only if the violation could result in an
5 administrative proceeding against a license or permit issued
6 by the division.

7 2. Enforce all criminal laws of the state within
8 specified jurisdictions when the division is a party to a
9 written mutual aid agreement with a state agency, sheriff, or
10 municipal police department, or when the division participates
11 in the Florida Mutual Aid Plan during a declared state
12 emergency.

13 Section 57. Subsection (2) of section 570.073, Florida
14 Statutes, 1998 Supplement, is amended to read:

15 570.073 Department of Agriculture and Consumer
16 Services, law enforcement officers.--

17 (2) Each law enforcement officer shall meet the
18 qualifications of law enforcement officers under s. 943.13 and
19 shall be certified as a law enforcement officer by the
20 Department of Law Enforcement under the provisions of chapter
21 943. Upon certification, each law enforcement officer is
22 subject to and shall have the same arrest and other authority
23 provided for law enforcement officers generally in chapter 901
24 and jurisdiction as provided in subsection (1). Each officer
25 shall also have arrest authority as provided for state law
26 enforcement officers in s. 901.15(13)(~~11~~).

27 Section 58. Subsection (2) of section 741.29, Florida
28 Statutes, is amended to read:

29 741.29 Domestic violence; investigation of incidents;
30 notice to victims of legal rights and remedies; reporting.--

31

1 (2) When a law enforcement officer investigates an
2 allegation that an incident of domestic violence has occurred,
3 the officer shall handle the incident pursuant to the arrest
4 policy provided in s. 901.15(7)~~(a)~~, and as developed in
5 accordance with subsections (3), (4), and (5). Whether or not
6 an arrest is made, the officer shall make a written police
7 report that is complete and clearly indicates the alleged
8 offense was an incident of domestic violence. Such report
9 shall be given to the officer's supervisor and filed with the
10 law enforcement agency in a manner that will permit data on
11 domestic violence cases to be compiled. Such report must
12 include:

13 (a) A description of physical injuries observed, if
14 any.

15 (b) If a law enforcement officer decides not to make
16 an arrest or decides to arrest two or more parties, the
17 officer shall include in the report the grounds for not
18 arresting anyone or for arresting two or more parties.

19 (c) A statement which indicates that a copy of the
20 legal rights and remedies notice was given to the victim.

21
22 Whenever possible, the law enforcement officer shall obtain a
23 written statement from the victim and witnesses concerning the
24 alleged domestic violence. The officer shall submit the report
25 to the supervisor or other person to whom the employer's rules
26 or policies require reports of similar allegations of criminal
27 activity to be made. The law enforcement agency shall, without
28 charge, send a copy of the initial police report, as well as
29 any subsequent, supplemental, or related report, which
30 excludes victim/witness statements or other materials that are
31 part of an active criminal investigation and are exempt from

1 disclosure under chapter 119, to the nearest locally certified
2 domestic violence center within 24 hours after the agency's
3 receipt of the report. The report furnished to the domestic
4 violence center must include a narrative description of the
5 domestic violence incident.

6 Section 59. Paragraph (b) of subsection (9) of section
7 784.046, Florida Statutes, is amended to read:

8 784.046 Action by victim of repeat violence for
9 protective injunction; powers and duties of court and clerk of
10 court; filing and form of petition; notice and hearing;
11 temporary injunction; issuance; statewide verification system;
12 enforcement.--

13 (9)

14 (b) If the respondent is arrested by a law enforcement
15 officer under s. 901.15(10)+8)for committing an act of repeat
16 violence in violation of a repeat violence injunction for
17 protection, the respondent shall be held in custody until
18 brought before the court as expeditiously as possible for the
19 purpose of enforcing the injunction and for admittance to bail
20 in accordance with chapter 903 and the applicable rules of
21 criminal procedure, pending a hearing.

22 Section 60. Subsection (1) of section 943.1702,
23 Florida Statutes, is amended to read:

24 943.1702 Collection of statistics on domestic
25 violence.--

26 (1) In compiling the Department of Law Enforcement
27 Crime in Florida Annual Report, the department shall include
28 the results of the arrest policy provided for under s.
29 901.15(7)(~~a~~)with respect to domestic violence to include:
30 separate statistics on occurrences of and arrests for domestic
31 versus nondomestic violence, such as battery, aggravated

1 battery, assault, aggravated assault, sexual battery, the
2 illegal use of firearms, arson, homicide, murder,
3 manslaughter, or the attempt of any of the above.
4 Section 61. This act shall take effect July 1, 1999.
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