

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

308-2219-02

1 A bill to be entitled
 2 An act relating to dependent children; amending
 3 s. 39.01, F.S.; providing a definition;
 4 amending ss. 39.0015, 39.302, F.S.; correcting
 5 cross-references; amending s. 39.407, F.S.;
 6 providing requirements for issuance of a court
 7 order authorizing dispensing of psychotropic
 8 medication to a child in shelter status or
 9 foster care; providing for prior review of the
 10 child's medical history and evidence
 11 demonstrating that the treatment is appropriate
 12 for the child's condition; providing for
 13 periodic court review of the child's progress;
 14 providing conditions for suspension of the
 15 treatment; providing for further medical
 16 consultation, including second opinions, prior
 17 to issuance of an order authorizing such
 18 medication; providing an exception for the
 19 dispensing of such medication in an acute care
 20 setting; providing an effective date.

21
 22 Be It Enacted by the Legislature of the State of Florida:

23
 24 Section 1. Paragraph (b) of subsection (3) of section
 25 39.0015, Florida Statutes, is amended to read:

26 39.0015 Child abuse prevention training in the
 27 district school system.--

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

29 (b) "Child abuse" means those acts as defined in ss.
 30 39.01(1), (2), (30), ~~(43)~~, (45), (47), (54), and (65) ~~(52)~~,
 31 ~~and (63)~~, 827.04, and 984.03(1), (2), and (37).

1 Section 2. Subsections (40) through (72) of section
2 39.01, Florida Statutes, are amended, and a new subsection
3 (73) is added to that section, to read:

4 39.01 Definitions.--When used in this chapter, unless
5 the context otherwise requires:

6 (1) "Abandoned" means a situation in which the parent
7 or legal custodian of a child or, in the absence of a parent
8 or legal custodian, the caregiver responsible for the child's
9 welfare, while being able, makes no provision for the child's
10 support and makes no effort to communicate with the child,
11 which situation is sufficient to evince a willful rejection of
12 parental obligations. If the efforts of such parent or legal
13 custodian, or caregiver primarily responsible for the child's
14 welfare, to support and communicate with the child are, in the
15 opinion of the court, only marginal efforts that do not evince
16 a settled purpose to assume all parental duties, the court may
17 declare the child to be abandoned. The term "abandoned" does
18 not include an abandoned newborn infant as described in s.
19 383.50, a "child in need of services" as defined in chapter
20 984, or a "family in need of services" as defined in chapter
21 984. The incarceration of a parent, legal custodian, or
22 caregiver responsible for a child's welfare may support a
23 finding of abandonment.

24 (2) "Abuse" means any willful act or threatened act
25 that results in any physical, mental, or sexual injury or harm
26 that causes or is likely to cause the child's physical,
27 mental, or emotional health to be significantly impaired.
28 Abuse of a child includes acts or omissions. Corporal
29 discipline of a child by a parent or legal custodian for
30 disciplinary purposes does not in itself constitute abuse when
31 it does not result in harm to the child.

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

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

7 (5) "Adult" means any natural person other than a
8 child.

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

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

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

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

25 1. "Coercion" means the exploitation of authority or
26 the use of bribes, threats of force, or intimidation to gain
27 cooperation or compliance.

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

31

1 3. "Consent" means an agreement, including all of the
2 following:

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

5 b. Knowledge of societal standards for what is being
6 proposed.

7 c. Awareness of potential consequences and
8 alternatives.

9 d. Assumption that agreement or disagreement will be
10 accepted equally.

11 e. Voluntary decision.

12 f. Mental competence.

13

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

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

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

31

1 (10) "Caregiver" means the parent, legal custodian,
2 adult household member, or other person responsible for a
3 child's welfare as defined in subsection (49)~~(48)~~.

4 (11) "Case plan" or "plan" means a document, as
5 described in s. 39.601, prepared by the department with input
6 from all parties. The case plan follows the child from the
7 provision of voluntary services through any dependency, foster
8 care, or termination of parental rights proceeding or related
9 activity or process.

10 (12) "Child" or "youth" means any unmarried person
11 under the age of 18 years who has not been emancipated by
12 order of the court.

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

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

24 (a) To have been abandoned, abused, or neglected by
25 the child's parent or parents or legal custodians;

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

29 (c) To have been voluntarily placed with a licensed
30 child-caring agency, a licensed child-placing agency, an adult
31 relative, the department, or the former Department of Health

1 and Rehabilitative Services, after which placement, under the
2 requirements of this chapter, a case plan has expired and the
3 parent or parents or legal custodians have failed to
4 substantially comply with the requirements of the plan;

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

9 (e) To have no parent or legal custodians capable of
10 providing supervision and care; or

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

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

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

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

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31

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

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

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

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

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

22 (23) "Disposition hearing" means a hearing in which
23 the court determines the most appropriate protections,
24 services, and placement for the child in dependency cases.

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

27 (25) "District administrator" means the chief
28 operating officer of each service district of the department
29 as defined in s. 20.19(5) and, where appropriate, includes any
30 district administrator whose service district falls within the
31 boundaries of a judicial circuit.

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

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

7 (a) Harassing, embarrassing, or harming another
8 person;

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

10 (c) Acquiring custody of a child; or

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

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

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

20 (a) The persons reside in the same house or living
21 unit; or

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

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

28 (30) "Harm" to a child's health or welfare can occur
29 when any person:

30 (a) Inflicts or allows to be inflicted upon the child
31 physical, mental, or emotional injury. In determining whether

1 | harm has occurred, the following factors must be considered in
2 | evaluating any physical, mental, or emotional injury to a
3 | child: the age of the child; any prior history of injuries to
4 | the child; the location of the injury on the body of the
5 | child; the multiplicity of the injury; and the type of trauma
6 | inflicted. Such injury includes, but is not limited to:

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

21 |
22 | As used in this subparagraph, the term "willful" refers to the
23 | intent to perform an action, not to the intent to achieve a
24 | result or to cause an injury.

- 25 | 2. Purposely giving a child poison, alcohol, drugs, or
26 | other substances that substantially affect the child's
27 | behavior, motor coordination, or judgment or that result in
28 | sickness or internal injury. For the purposes of this
29 | subparagraph, the term "drugs" means prescription drugs not
30 | prescribed for the child or not administered as prescribed,
31 |

1 and controlled substances as outlined in Schedule I or
2 Schedule II of s. 893.03.

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

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

- 19 a. Sprains, dislocations, or cartilage damage.
20 b. Bone or skull fractures.
21 c. Brain or spinal cord damage.
22 d. Intracranial hemorrhage or injury to other internal
23 organs.
24 e. Asphyxiation, suffocation, or drowning.
25 f. Injury resulting from the use of a deadly weapon.
26 g. Burns or scalding.
27 h. Cuts, lacerations, punctures, or bites.
28 i. Permanent or temporary disfigurement.
29 j. Permanent or temporary loss or impairment of a body
30 part or function.
31 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. The term "abandoned" does not include an
25 abandoned newborn infant as described in s. 383.50.

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

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

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

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

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

25
26 As used in this paragraph, the term "controlled substance"
27 means prescription drugs not prescribed for the parent or not
28 administered as prescribed and controlled substances as
29 outlined in Schedule I or Schedule II of s. 893.03.

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

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

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

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

9 (l) Makes the child unavailable for the purpose of
10 impeding or avoiding a protective investigation unless the
11 court determines that the parent, legal custodian, or
12 caregiver was fleeing from a situation involving domestic
13 violence.

14 (31) "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 (32) "Judge" means the circuit judge exercising
22 jurisdiction pursuant to this chapter.

23 (33) "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, it
2 refers to rights or responsibilities of the parent and, only
3 if there is no living parent with intact parental rights, to
4 the rights or responsibilities of the legal custodian who has
5 assumed the role of the parent.

6 (34) "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 (35) "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 (36) "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 (37) "Licensed health care professional" means a
19 physician licensed under chapter 458, an osteopathic physician
20 licensed under chapter 459, a nurse licensed under part I of
21 chapter 464, a physician assistant licensed under chapter 458
22 or chapter 459, or a dentist licensed under chapter 466.

23 (38) "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 (39) "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 (40) "Long-term custody" or "long-term custodial
2 relationship" means the relationship that a juvenile court
3 order creates between a child and an adult relative of the
4 child or other legal custodian approved by the court when the
5 child cannot be placed in the custody of a parent and adoption
6 is not deemed to be in the best interest of the child.
7 Long-term custody confers upon the relative or other legal
8 custodian, other than the department, the right to physical
9 custody of the child, a right which will not be disturbed by
10 the court except upon request of the legal custodian or upon a
11 showing that the best interest of the child necessitates a
12 change of custody for the child. A relative or other legal
13 custodian who has been designated as a long-term custodian
14 shall have all of the rights and duties of a parent,
15 including, but not limited to, the right and duty to protect,
16 train, and discipline the child and to provide the child with
17 food, shelter, and education, and ordinary medical, dental,
18 psychiatric, and psychological care, unless these rights and
19 duties are otherwise enlarged or limited by the court order
20 establishing the long-term custodial relationship.

21 (41) "Long-term licensed custody" means the
22 relationship that a juvenile court order creates between a
23 child and a placement licensed by the state to provide
24 residential care for dependent children, if the licensed
25 placement is willing and able to continue to care for the
26 child until the child reaches the age of majority.

27 ~~(42)(40)~~ "Long-term relative custodian" means an adult
28 relative who is a party to a long-term custodial relationship
29 created by a court order pursuant to this chapter.

30 ~~(41) "Long-term custody" or "long-term custodial~~
31 ~~relationship" means the relationship that a juvenile court~~

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

19 ~~(42)~~ (43) "Mediation" means a process whereby a neutral
20 third person called a mediator acts to encourage and
21 facilitate the resolution of a dispute between two or more
22 parties. It is an informal and nonadversarial process with
23 the objective of helping the disputing parties reach a
24 mutually acceptable and voluntary agreement. The role of the
25 mediator includes, but is not limited to, assisting the
26 parties in identifying issues, fostering joint problem
27 solving, and exploring settlement alternatives.

28 (44) "Medical passport" means a written health history
29 prepared and maintained by the department of a child in
30 shelter status or foster care, which is used to document
31 health care and is to be kept with the child's caregiver in

1 the child's resource record, and updated at each health care
2 provider visit.

3 (45)~~(43)~~ "Mental injury" means an injury to the
4 intellectual or psychological capacity of a child as evidenced
5 by a discernible and substantial impairment in the ability to
6 function within the normal range of performance and behavior.

7 (46)~~(44)~~ "Necessary medical treatment" means care
8 which is necessary within a reasonable degree of medical
9 certainty to prevent the deterioration of a child's condition
10 or to alleviate immediate pain of a child.

11 (47)~~(45)~~ "Neglect" occurs when a child is deprived of,
12 or is allowed to be deprived of, necessary food, clothing,
13 shelter, or medical treatment or a child is permitted to live
14 in an environment when such deprivation or environment causes
15 the child's physical, mental, or emotional health to be
16 significantly impaired or to be in danger of being
17 significantly impaired. The foregoing circumstances shall not
18 be considered neglect if caused primarily by financial
19 inability unless actual services for relief have been offered
20 to and rejected by such person. A parent or legal custodian
21 legitimately practicing religious beliefs in accordance with a
22 recognized church or religious organization who thereby does
23 not provide specific medical treatment for a child shall not,
24 for that reason alone, be considered a negligent parent or
25 legal custodian; however, such an exception does not preclude
26 a court from ordering the following services to be provided,
27 when the health of the child so requires:

28 (a) Medical services from a licensed physician,
29 dentist, optometrist, podiatric physician, or other qualified
30 health care provider; or

31

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

5
6 Neglect of a child includes acts or omissions.

7 (48)~~(46)~~ "Next of kin" means an adult relative of a
8 child who is the child's brother, sister, grandparent, aunt,
9 uncle, or first cousin.

10 (49)~~(47)~~ "Other person responsible for a child's
11 welfare" includes the child's legal guardian, legal custodian,
12 or foster parent; an employee of a private school, public or
13 private child day care center, residential home, institution,
14 facility, or agency; or any other person legally responsible
15 for the child's welfare in a residential setting; and also
16 includes an adult sitter or relative entrusted with a child's
17 care. For the purpose of departmental investigative
18 jurisdiction, this definition does not include law enforcement
19 officers, or employees of municipal or county detention
20 facilities or the Department of Corrections, while acting in
21 an official capacity.

22 (50)~~(48)~~ "Out-of-home" means a placement outside of
23 the home of the parents or a parent.

24 (51)~~(49)~~ "Parent" means a woman who gives birth to a
25 child and a man whose consent to the adoption of the child
26 would be required under s. 63.062(1). If a child has been
27 legally adopted, the term "parent" means the adoptive mother
28 or father of the child. The term does not include an
29 individual whose parental relationship to the child has been
30 legally terminated, or an alleged or prospective parent,
31 unless the parental status falls within the terms of s.

1 39.503(1) or s. 63.062(1). For purposes of this chapter only,
2 when the phrase "parent or legal custodian" is used, it refers
3 to rights or responsibilities of the parent and, only if there
4 is no living parent with intact parental rights, to the rights
5 or responsibilities of the legal custodian who has assumed the
6 role of the parent.

7 (52)~~(50)~~ "Participant," for purposes of a shelter
8 proceeding, dependency proceeding, or termination of parental
9 rights proceeding, means any person who is not a party but who
10 should receive notice of hearings involving the child,
11 including foster parents or the legal custodian of the child,
12 identified prospective parents, grandparents entitled to
13 priority for adoption consideration under s. 63.0425, actual
14 custodians of the child, and any other person whose
15 participation may be in the best interest of the child. A
16 community-based agency under contract with the department to
17 provide protective services may be designated as a participant
18 at the discretion of the court. Participants may be granted
19 leave by the court to be heard without the necessity of filing
20 a motion to intervene.

21 (53)~~(51)~~ "Party" means the parent or parents of the
22 child, the petitioner, the department, the guardian ad litem
23 or the representative of the guardian ad litem program when
24 the program has been appointed, and the child. The presence of
25 the child may be excused by order of the court when presence
26 would not be in the child's best interest. Notice to the child
27 may be excused by order of the court when the age, capacity,
28 or other condition of the child is such that the notice would
29 be meaningless or detrimental to the child.

30 (54)~~(52)~~ "Physical injury" means death, permanent or
31 temporary disfigurement, or impairment of any bodily part.

1 ~~(55)(53)~~ "Physician" means any licensed physician,
2 dentist, podiatric physician, or optometrist and includes any
3 intern or resident.

4 ~~(56)(54)~~ "Preliminary screening" means the gathering
5 of preliminary information to be used in determining a child's
6 need for further evaluation or assessment or for referral for
7 other substance abuse services through means such as
8 psychosocial interviews; urine and breathalyzer screenings;
9 and reviews of available educational, delinquency, and
10 dependency records of the child.

11 ~~(57)(55)~~ "Preventive services" means social services
12 and other supportive and rehabilitative services provided to
13 the parent or legal custodian of the child and to the child
14 for the purpose of averting the removal of the child from the
15 home or disruption of a family which will or could result in
16 the placement of a child in foster care. Social services and
17 other supportive and rehabilitative services shall promote the
18 child's need for physical, mental, and emotional health and a
19 safe, stable, living environment, shall promote family
20 autonomy, and shall strengthen family life, whenever possible.

21 ~~(58)(56)~~ "Prospective parent" means a person who
22 claims to be, or has been identified as, a person who may be a
23 mother or a father of a child.

24 ~~(59)(57)~~ "Protective investigation" means the
25 acceptance of a report alleging child abuse, abandonment, or
26 neglect, as defined in this chapter, by the central abuse
27 hotline or the acceptance of a report of other dependency by
28 the department; the investigation of each report; the
29 determination of whether action by the court is warranted; the
30 determination of the disposition of each report without court
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1 or public agency action when appropriate; and the referral of
2 a child to another public or private agency when appropriate.

3 (60)~~(58)~~ "Protective investigator" means an authorized
4 agent of the department who receives and investigates reports
5 of child abuse, abandonment, or neglect; who, as a result of
6 the investigation, may recommend that a dependency petition be
7 filed for the child; and who performs other duties necessary
8 to carry out the required actions of the protective
9 investigation function.

10 (61)~~(59)~~ "Protective supervision" means a legal status
11 in dependency cases which permits the child to remain safely
12 in his or her own home or other nonlicensed placement under
13 the supervision of an agent of the department and which must
14 be reviewed by the court during the period of supervision.

15 (62)~~(60)~~ "Relative" means a grandparent,
16 great-grandparent, sibling, first cousin, aunt, uncle,
17 great-aunt, great-uncle, niece, or nephew, whether related by
18 the whole or half blood, by affinity, or by adoption. The term
19 does not include a stepparent.

20 (63)~~(61)~~ "Reunification services" means social
21 services and other supportive and rehabilitative services
22 provided to the parent of the child, to the child, and, where
23 appropriate, to the relative placement, nonrelative placement,
24 or foster parents of the child, for the purpose of enabling a
25 child who has been placed in out-of-home care to safely return
26 to his or her parent at the earliest possible time. The
27 health and safety of the child shall be the paramount goal of
28 social services and other supportive and rehabilitative
29 services. Such services shall promote the child's need for
30 physical, mental, and emotional health and a safe, stable,

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1 living environment, shall promote family autonomy, and shall
2 strengthen family life, whenever possible.

3 (64)~~(62)~~ "Secretary" means the Secretary of Children
4 and Family Services.

5 (65)~~(63)~~ "Sexual abuse of a child" means one or more
6 of the following acts:

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

10 (b) Any sexual contact between the genitals or anal
11 opening of one person and the mouth or tongue of another
12 person.

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

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

22 1. Any act which may reasonably be construed to be a
23 normal caregiver responsibility, any interaction with, or
24 affection for a child; or

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

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

28 (f) The intentional exposure of the perpetrator's
29 genitals in the presence of a child, or any other sexual act
30 intentionally perpetrated in the presence of a child, if such
31 exposure or sexual act is for the purpose of sexual arousal or

1 gratification, aggression, degradation, or other similar
2 purpose.

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

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

8 (66)~~(64)~~ "Shelter" means a placement with a relative
9 or a nonrelative, or in a licensed home or facility, for the
10 temporary care of a child who is alleged to be or who has been
11 found to be dependent, pending court disposition before or
12 after adjudication.

13 (67)~~(65)~~ "Shelter hearing" means a hearing in which
14 the court determines whether probable cause exists to keep a
15 child in shelter status pending further investigation of the
16 case.

17 (68)~~(66)~~ "Social service agency" means the department,
18 a licensed child-caring agency, or a licensed child-placing
19 agency.

20 (69)~~(67)~~ "Substance abuse" means using, without
21 medical reason, any psychoactive or mood-altering drug,
22 including alcohol, in such a manner as to induce impairment
23 resulting in dysfunctional social behavior.

24 (70)~~(68)~~ "Substantial compliance" means that the
25 circumstances which caused the creation of the case plan have
26 been significantly remedied to the extent that the well-being
27 and safety of the child will not be endangered upon the
28 child's remaining with or being returned to the child's
29 parent.

30 (71)~~(69)~~ "Taken into custody" means the status of a
31 child immediately when temporary physical control over the

1 child is attained by a person authorized by law, pending the
2 child's release or placement.

3 (72)~~(70)~~ "Temporary legal custody" means the
4 relationship that a juvenile court creates between a child and
5 an adult relative of the child, legal custodian, or other
6 person approved by the court until a more permanent
7 arrangement is ordered. Temporary legal custody confers upon
8 the custodian the right to have temporary physical custody of
9 the child and the right and duty to protect, train, and
10 discipline the child and to provide the child with food,
11 shelter, and education, and ordinary medical, dental,
12 psychiatric, and psychological care, unless these rights and
13 duties are otherwise enlarged or limited by the court order
14 establishing the temporary legal custody relationship.

15 (73)~~(71)~~ "Victim" means any child who has sustained or
16 is threatened with physical, mental, or emotional injury
17 identified in a report involving child abuse, neglect, or
18 abandonment, or child-on-child sexual abuse.

19 ~~(72) "Long-term licensed custody" means the~~
20 ~~relationship that a juvenile court order creates between a~~
21 ~~child and a placement licensed by the state to provide~~
22 ~~residential care for dependent children, if the licensed~~
23 ~~placement is willing and able to continue to care for the~~
24 ~~child until the child reaches the age of majority.~~

25 Section 3. Subsection (1) of section 39.302, Florida
26 Statutes, is amended to read:

27 39.302 Protective investigations of institutional
28 child abuse, abandonment, or neglect.--

29 (1) The department shall conduct a child protective
30 investigation of each report of institutional child abuse,
31 abandonment, or neglect. Upon receipt of a report which

1 alleges that an employee or agent of the department, or any
2 other entity or person covered by s. 39.01(31) or (49)~~(47)~~,
3 acting in an official capacity, has committed an act of child
4 abuse, abandonment, or neglect, the department shall
5 immediately initiate a child protective investigation and
6 orally notify the appropriate state attorney, law enforcement
7 agency, and licensing agency. These agencies shall
8 immediately conduct a joint investigation, unless independent
9 investigations are more feasible. When conducting
10 investigations onsite or having face-to-face interviews with
11 the child, such investigation visits shall be unannounced
12 unless it is determined by the department or its agent that
13 such unannounced visits would threaten the safety of the
14 child. When a facility is exempt from licensing, the
15 department shall inform the owner or operator of the facility
16 of the report. Each agency conducting a joint investigation
17 shall be entitled to full access to the information gathered
18 by the department in the course of the investigation. A
19 protective investigation must include an onsite visit of the
20 child's place of residence. In all cases, the department shall
21 make a full written report to the state attorney within 3
22 working days after making the oral report. A criminal
23 investigation shall be coordinated, whenever possible, with
24 the child protective investigation of the department. Any
25 interested person who has information regarding the offenses
26 described in this subsection may forward a statement to the
27 state attorney as to whether prosecution is warranted and
28 appropriate. Within 15 days after the completion of the
29 investigation, the state attorney shall report the findings to
30 the department and shall include in such report a
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1 determination of whether or not prosecution is justified and
2 appropriate in view of the circumstances of the specific case.

3 Section 4. Present subsections (3) through (14) of
4 section 39.407, Florida Statutes, are renumbered as
5 subsections (4) through (15), respectively, and a new
6 subsection (3) is added to that section to read:

7 39.407 Medical, psychiatric, and psychological
8 examination and treatment of child; physical or mental
9 examination of parent or person requesting custody of child.--

10 (3) The provision of psychotropic medication to a
11 child in the legal custody of the department, and in
12 compliance with this subsection, shall be deemed in compliance
13 with the restriction in s. 743.0645(1)(b).

14 (a) A court order is not required to dispense
15 psychotropic medication to a child in the legal custody of the
16 department under any of the following conditions:

17 1. If a child was taking prescribed psychotropic
18 medications at the time the child is removed from the home,
19 the department may take possession of the remaining
20 medications when the department takes the child, and may
21 dispense those medications on a temporary basis until the next
22 regularly scheduled court hearing required under this chapter,
23 other than the shelter hearing, if such hearing occurs within
24 60 days after the time the child was removed;

25 2. Psychotropic medications may be dispensed in
26 advance of a court order being issued if the prescribing
27 physician indicates that delay in dispensing the medication
28 could be detrimental to the child. The order required under
29 this subsection shall be sought at the next regularly
30 scheduled court hearing required under this chapter, or within

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1 60 days after the date of the prescription, whichever is
2 sooner; or

3 3. In an acute care setting.

4 (b) A petition for authority to dispense psychotropic
5 medication to a child in the legal custody of the department
6 must be supported by:

7 1. An affidavit or signed medical report from the
8 prescribing physician stating the child's name and the name
9 and dosage of the psychotropic medication, and indicating that
10 there is a need to prescribe psychotropic medication to the
11 child based upon a diagnosed condition for which such
12 medication is indicated.

13 2. Medical records or other competent evidence
14 demonstrating that the psychotropic medication at its
15 prescribed dosage is appropriate for the treatment of the
16 child's diagnosed medical condition, as well as the behaviors
17 and symptoms the medication at its prescribed dosage level is
18 expected to address.

19 3. Medical records or other competent evidence
20 demonstrating that the prescribing physician has provided to
21 the child, if age-appropriate, and to the child's legal
22 custodian, foster parent, relative caregiver, or, where
23 appropriate, other person responsible for the child's welfare
24 in his or her residential setting, a clinically appropriate
25 explanation of the nature and purpose of the treatment; the
26 recognized side effects, risks, and contraindications of the
27 medication; and drug interaction precautions.

28 4. Medical records or other competent evidence
29 reflecting that alternative methods of treatment for the
30 child's condition have been duly considered by medical
31 providers and an alternative course of treatment that would

1 offer comparable benefits to the child is unavailable or
2 undesirable.

3 5. Medical records or other competent evidence showing
4 whether the psychotropic medication will replace or supplement
5 any other currently prescribed medications or treatments; the
6 length of time the child is expected to be taking the
7 medication; and any additional medical, counseling, or other
8 services that the prescribing physician believes are necessary
9 or would be beneficial for the treatment of the child's
10 medical condition and that the physician expects or advises to
11 be provided to the child in concert with the medication.

12 (c) At a hearing to determine whether to initially
13 allow dispensing of psychotropic medication to a child in the
14 legal custody of the department, or at a hearing for
15 continuation of such medication, the affidavit or signed
16 medical report, the medical passport, and the medical records
17 or other competent evidence described in paragraph (b) are
18 admissible in evidence. The prescribing physician is not
19 required to attend the hearing or testify unless the court
20 specifically orders such attendance or testimony. If the
21 affidavit or signed medical report, the medical passport, and
22 other evidence are in accord with the requirements of this
23 subsection, the court shall order the dispensing or
24 continuation of psychotropic medication without the need for
25 further testimony or evidence. The court shall further inquire
26 of the department as to whether the additional medical,
27 counseling, or other services that the prescribing physician
28 believes are necessary or would be beneficial for the
29 treatment of the child's medical condition and that the
30 physician expects or advises to be provided to the child in
31 concert with the medication are being provided to the child by

1 the department. The court may require further medical
2 consultation, including obtaining a second opinion, based on
3 considerations of the best interests of the child, and may not
4 order the discontinuation of prescribed psychotropic
5 medication contrary to the decision of the prescribing
6 physician without first obtaining a second opinion from a
7 licensed physician that the psychotropic medication should be
8 discontinued.

9 (d) The court shall review the status of the child's
10 progress on psychotropic medication at least every 6 months,
11 and may do so during timely scheduled judicial review hearings
12 pursuant to s. 39.701. On its own motion or on good cause
13 shown by any party, including any guardian ad litem, attorney,
14 or attorney ad litem who has been appointed to represent the
15 child or his or her interests, the court may review the status
16 more frequently than required in this paragraph.

17 (e) If at any time the court determines that the
18 requirements for continued use of the psychotropic medication
19 are not being met, the court may, in the best interests of the
20 child, order the department to either produce evidence of
21 compliance with the requirements of this section or obtain a
22 medical opinion that continued use of the medication under the
23 circumstances is safe and medically appropriate. If at any
24 time the court determines that the additional medical,
25 counseling, or other services that the prescribing physician
26 believes are necessary or would be beneficial for the
27 treatment of the child's medical condition and that the
28 physician expects or advises to be provided to the child in
29 concert with the medication are not being provided, the court
30 may, in the best interests of the child, order the department
31 to either produce evidence of compliance with the requirement

1 of providing those services or obtain a medical opinion that
2 such services are not medically appropriate.

3 Section 5. This act shall take effect July 1, 2002.
4

5 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
6 COMMITTEE SUBSTITUTE FOR
7 CS for Senate Bill 1576

8 Revises the process for seeking court approval prior to the
9 department exercising the authority to dispense prescribed
10 psychotropic medication by clarifying the court's role to
11 preview and approve the need for the dispensation based on an
12 assessment of the child's medical history and medical
13 recommendation.

14 Expands the opportunities for more periodic review of a
15 child's progress and status while on prescribed psychotropic
16 medication.
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