

Bill No. CS/CS/HB 577

Amendment No. ____ Barcode 551058

1 2003.

2 Section 844. Effective October 1, 2002, the guardian
3 ad litem program in the Office of the State Court
4 Administrator and in each judicial circuit and all of its
5 statutory powers, duties, and functions, and its records,
6 personnel, property, and unexpended balances of
7 appropriations, allocations, or other funds, are transferred
8 by a type two transfer, as defined in section 20.06(2),
9 Florida Statutes, to the Statewide Public Guardianship and
10 Children's Representation Office. The counties shall continue
11 to fund those existing elements of the guardian ad litem
12 offices when the offices become Circuit Offices of Children's
13 Representation. Such funding shall be consistent with current
14 practice including providing for additions to office staffing
15 until the Legislature expressly assumes the responsibility for
16 funding such elements.

17 Section 845. Subsection (1) of section 25.388, Florida
18 Statutes, is amended to read:

19 25.388 Family Courts Trust Fund.--

20 (1)(a) The trust fund moneys in the Family Courts
21 Trust Fund, administered by the Supreme Court, shall be used
22 to implement family court plans in all judicial circuits of
23 this state.

24 (b) The Supreme Court, through the Office of the State
25 Courts Administrator, shall adopt a comprehensive plan for the
26 operation of the trust fund and the expenditure of any moneys
27 deposited into the trust fund. The plan shall provide for a
28 comprehensive integrated response to families in litigation,
29 including domestic violence matters, the Statewide Public
30 Guardianship and Children's Representation Office's
31 representation of children in dependency proceedings guardian

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1 ~~ad litem programs~~, mediation programs, legal support,
2 training, automation, and other related costs incurred to
3 benefit the citizens of the state and the courts in relation
4 to family law cases. The trust fund shall be used to fund the
5 publication of the handbook created pursuant to s. 741.0306.

6 Section 846. Section 744.701, Florida Statutes, is
7 amended to read:

8 744.701 Short title.--This act ~~shall be known and~~ may
9 be cited as the "Public Guardianship and Children's
10 Representation Act."

11 Section 847. Section 744.702, Florida Statutes, is
12 amended to read:

13 744.702 Legislative intent.--The Legislature finds
14 that children involved in dependency proceedings and
15 incapacitated persons are the state's most vulnerable
16 residents.

17 (1) If a minor child is a party to a dependency
18 proceeding, every effort should be made to ensure that the
19 child has representation through a guardian ad litem or legal
20 counsel. If the child and the child's parents are indigent,
21 the state should ensure that the child is protected in
22 dependency proceedings. One of the purposes of this part is to
23 ensure that the rights and interests of a child who is a party
24 to a dependency proceeding are protected when those rights and
25 interests are not otherwise represented.

26 (2) The Legislature finds that private guardianship
27 for an incapacitated person is inadequate where there is no
28 willing and responsible family member or friend, other person,
29 bank, or corporation available to serve as guardian for an
30 incapacitated person, and such person does not have adequate
31 income or wealth for the compensation of a private guardian.

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1 The Legislature intends through this act to establish the
2 Statewide Public Guardianship and Children's Representation
3 Office, and permit the establishment of offices of public
4 guardian for the purpose of providing guardianship services
5 for incapacitated persons when no private guardian is
6 available. The Legislature further finds that alternatives to
7 guardianship and less intrusive means of assistance should
8 always be explored, including, but not limited to, guardian
9 advocates, before an individual's rights are removed through
10 an adjudication of incapacity. The purpose of this
11 legislation is to provide a public guardian only to those
12 persons whose needs cannot be met through less drastic means
13 of intervention.

14 Section 848. Section 744.7021, Florida Statutes, is
15 amended to read:

16 744.7021 Statewide Public Guardianship and Children's
17 Representation Office.--There is ~~hereby~~ created the Statewide
18 Public Guardianship and Children's Representation Office
19 within the Department of Elderly Affairs. The Department of
20 Elderly Affairs shall provide administrative support and
21 service to the office to the extent requested by the executive
22 director within the available resources of the department. The
23 Statewide Public Guardianship and Children's Representation
24 Office may request the assistance of the Inspector General of
25 the Department of Elderly Affairs in providing auditing
26 services, and the Office of General Counsel of the department
27 may provide assistance in rulemaking and other matters as
28 needed to assist the Statewide Public Guardianship and
29 Children's Representation Office. The Statewide Public
30 Guardianship and Children's Representation Office shall not be
31 subject to control, supervision, or direction by the

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1 Department of Elderly Affairs in the performance of its
2 duties.

3 (1) The head of the Statewide Public Guardianship and
4 Children's Representation Office is the executive director,
5 who shall be appointed by the Governor for a term of 3 years
6 and who shall report to the Governor. The executive director
7 must be a licensed attorney who has experience in managing
8 legal services or similar management experience. The executive
9 director shall appoint a deputy director of the Children's
10 Representation Program and a deputy director of the Statewide
11 Public Guardianship Program. The deputy director of the
12 Children's Representation Program must be a licensed attorney
13 who is knowledgeable in dependency law and has experience in
14 managing the provision of legal services. The deputy director
15 of the Statewide Public Guardianship Program must be a
16 licensed attorney with a background in guardianship law and
17 knowledge of social services available to meet the needs of
18 incapacitated persons.~~, shall serve on a full-time basis, and~~
19 ~~shall personally, or through representatives of the office,~~
20 ~~carry out the purposes and functions of the Statewide Public~~
21 ~~Guardianship Office in accordance with state and federal law.~~
22 ~~The executive director shall serve at the pleasure of and~~
23 ~~report to the Governor.~~

24 (2) The Statewide Public Guardianship and Children's
25 Representation Office shall, within available resources, have
26 oversight responsibilities for all public guardians.

27 (a) The office shall review the current public
28 guardian programs in Florida and other states.

29 (b) The office, in consultation with local
30 guardianship offices, shall develop statewide performance
31 measures and standards.

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1 (c) The office shall review the various methods of
2 funding guardianship programs, the kinds of services being
3 provided by such programs, and the demographics of the wards.
4 In addition, the office shall review and make recommendations
5 regarding the feasibility of recovering a portion or all of
6 the costs of providing public guardianship services from the
7 assets or income of the wards.

8 (d) No later than October 1, 2000, the office shall
9 submit to the Governor, the President of the Senate, the
10 Speaker of the House of Representatives, and the Chief Justice
11 of the Supreme Court an interim report describing the progress
12 of the office in meeting the goals as described in this
13 section. No later than October 1, 2001, the office shall
14 submit to the Governor, the President of the Senate, the
15 Speaker of the House of Representatives, and the Chief Justice
16 of the Supreme Court a proposed public guardianship plan
17 including alternatives for meeting the state's guardianship
18 needs. This plan may include recommendations for less than the
19 entire state, may include a phase-in system, and shall include
20 estimates of the cost of each of the alternatives. Each year
21 thereafter, the office shall provide a status report and
22 provide further recommendations to address the need for public
23 guardianship services and related issues.

24 (e) The office may provide assistance to local
25 governments or entities in pursuing grant opportunities. The
26 office shall review and make recommendations in the annual
27 report on the availability and efficacy of seeking Medicaid
28 matching funds. The office shall diligently seek ways to use
29 existing programs and services to meet the needs of public
30 wards.

31 (f) The office shall develop a guardianship training

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1 program. The training program may be offered to all guardians
2 whether public or private. The office shall establish a
3 curriculum committee to develop the training program specified
4 in this part. The curriculum committee shall include, but not
5 be limited to, probate judges. A fee may be charged to private
6 guardians in order to defray the cost of providing the
7 training. In addition, a fee may be charged to any training
8 provider for up to the actual cost of the review and approval
9 of their curriculum. Any fees collected pursuant to this
10 paragraph shall be deposited in the Department of Elderly
11 Affairs Administrative Trust Fund to be used for the
12 guardianship training program.

13 (3)(a) The office shall establish standards for
14 representation of children by the Circuit Offices of
15 Children's Representation, including recommended case loads
16 for attorneys and for volunteers and staff lay representatives
17 of a child.

18 (b) The office shall document the need for child
19 representation throughout the state and report annually on
20 October 1 to the Legislature concerning the need and the cost
21 to adequately provide representation for children in
22 dependency proceedings. The report must include information
23 concerning the type and level of advocacy provided in prior
24 years by both public entities and private entities providing
25 contract or pro bono services.

26 (c) The office shall develop performance measures and
27 standards for its services throughout the state and shall
28 annually report on the performance of the Circuit Offices of
29 Children's Representation.

30 (d) The office shall establish a Circuit Office of
31 Children's Representation in each judicial circuit in the

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1 state. Each circuit office shall consist of an administrator,
2 staff or pro bono attorneys, social workers, volunteer
3 coordinators, volunteer or staff lay representatives for
4 children, and support staff. The administrator in each office
5 must be knowledgeable and proficient in the legal process and
6 the legal representation of children in court proceedings, as
7 well as discovery and mediation processes, and in the
8 supervision and training of volunteers.

9 (e) Each Circuit Office of Children's Representation
10 may provide and coordinate the provision of legal
11 representation of children in each aspect of dependency
12 proceedings when the child and the child's parents are
13 indigent pursuant to s. 27.52 or the child's rights are not
14 otherwise protected. The office must provide representation
15 for each child not otherwise represented who is a party to a
16 dependency proceeding.

17 (f) If a Circuit Office of Children's Representation
18 is appointed to represent a child, a staff or volunteer
19 representative and a staff or pro bono attorney shall be
20 assigned to provide the office's representation of the best
21 interests of the child.

22 (g) To the extent possible, the Statewide Public
23 Guardianship and Children's Representation Office or the
24 Circuit Offices of Children's Representation may augment staff
25 through agreements or contracts with the public defenders,
26 private entities, or public or private colleges or
27 universities for contract or pro bono legal representation to
28 children as court-appointed counsel for the child, to provide
29 pro bono representation to the office, or to provide non-legal
30 volunteer representation.

31 (h) The Statewide Public Guardianship and Children's

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1 Representation Office and each Circuit Office of Children's
2 Representatives may establish a not-for-profit support
3 organization under section 501(c)(3) of the Internal Revenue
4 Code to assist in funding the needs of children receiving
5 services through the Circuit Offices of Children's
6 Representation.

7 ~~(4)(3)~~ The office may conduct or contract for
8 demonstration projects, within funds appropriated or through
9 gifts, grants, or contributions for such purposes, to
10 determine the feasibility or desirability of new concepts of
11 organization, administration, financing, or service delivery
12 designed to preserve the civil and constitutional rights of
13 persons of marginal or diminished capacity. Any gifts, grants,
14 or contributions for such purposes shall be deposited in the
15 Department of Elderly Affairs Administrative Trust Fund.

16 ~~(5)(4)~~ The office has authority to adopt rules
17 pursuant to ss. 120.536(1) and 120.54 to carry out the
18 provisions of this section.

19 Section 849. Subsections (1) and (6) of section
20 744.703, Florida Statutes, are amended to read:

21 744.703 Office of public guardian; appointment,
22 notification.--

23 (1) The executive director of the Statewide Public
24 Guardianship and Children's Representation Office, after
25 consultation with the chief judge and other circuit judges
26 within the judicial circuit and with appropriate advocacy
27 groups and individuals and organizations who are knowledgeable
28 about the needs of incapacitated persons, may establish,
29 within a county in the judicial circuit or within the judicial
30 circuit, an office of public guardian and if so established,
31 shall create a list of persons best qualified to serve as the

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1 public guardian, and such qualifications shall include review
2 pursuant to s. 744.3135. The public guardian must have
3 knowledge of the legal process and knowledge of social
4 services available to meet the needs of incapacitated persons.
5 A nonprofit corporation under s. 744.309(5) may be appointed
6 public guardian only if:

7 (a) It has been granted tax-exempt status from the
8 United States Internal Revenue Service; and

9 (b) It maintains a staff of professionally qualified
10 individuals to carry out the guardianship functions, including
11 a staff attorney who has experience in probate areas and
12 another person who has a master's degree in social work, or a
13 gerontologist, psychologist, registered nurse, or nurse
14 practitioner.

15 (6) Public guardians who have been previously
16 appointed by a chief judge prior to the effective date of this
17 act pursuant to this section may continue in their positions
18 until the expiration of their term pursuant to their
19 agreement. However, oversight of all public guardians shall
20 transfer to the Statewide Public Guardianship and Children's
21 Representation Office upon the effective date of this act. The
22 executive director of the Statewide Public Guardianship and
23 Children's Representation Office shall be responsible for all
24 future appointments of public guardians pursuant to this act.

25 Section 850. Section 744.706, Florida Statutes, is
26 amended to read:

27 744.706 Preparation of budget.--Each public guardian,
28 whether funded in whole or in part by money raised through
29 local efforts, grants, or any other source or whether funded
30 in whole or in part by the state, shall prepare a budget for
31 the operation of the office of public guardian to be submitted

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1 to the Statewide Public Guardianship and Children's
2 Representation Office. As appropriate, the Statewide Public
3 Guardianship and Children's Representation Office will include
4 such budgetary information in the Department of Elderly
5 Affairs' legislative budget request. The office of public
6 guardian shall be operated within the limitations of the
7 General Appropriations Act and any other funds appropriated by
8 the Legislature to that particular judicial circuit, subject
9 to the provisions of chapter 216. The Department of Elderly
10 Affairs shall make a separate and distinct request for an
11 appropriation for the Statewide Public Guardianship and
12 Children's Representation Office. However, this section does
13 ~~shall not be construed to~~ preclude the financing of any
14 operations of the office of the public guardian by moneys
15 raised through local effort or through the efforts of the
16 Statewide Public Guardianship and Children's Representation
17 Office.

18 Section 851. Section 744.707, Florida Statutes, is
19 amended to read:

20 744.707 Procedures and rules.--The public guardian,
21 subject to the oversight of the Statewide Public Guardianship
22 and Children's Representation Office, is authorized to:

23 (1) Formulate and adopt necessary procedures to assure
24 the efficient conduct of the affairs of the ward and general
25 administration of the office and staff.

26 (2) Contract for services necessary to discharge the
27 duties of the office.

28 (3) Accept the services of volunteer persons or
29 organizations and provide reimbursement for proper and
30 necessary expenses.

31 Section 852. Subsections (3), (4), (5), (7), and (8)

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1 of section 744.708, Florida Statutes, are amended to read:

2 744.708 Reports and standards.--

3 (3) A public guardian shall file an annual report on
4 the operations of the office of public guardian, in writing,
5 by September 1 for the preceding fiscal year with the
6 Statewide Public Guardianship and Children's Representation
7 Office, which shall have responsibility for supervision of the
8 operations of the office of public guardian.

9 (4) Within 6 months after of his or her appointment as
10 guardian of a ward, the public guardian shall submit to the
11 clerk of the court for placement in the ward's guardianship
12 file and to the executive director of the Statewide Public
13 Guardianship and Children's Representation Office a report on
14 his or her efforts to locate a family member or friend, other
15 person, bank, or corporation to act as guardian of the ward
16 and a report on the ward's potential to be restored to
17 capacity.

18 (5) An independent audit by a qualified certified
19 public accountant shall be performed at least every 2 years.
20 The audit should include an investigation into the practices
21 of the office for managing the person and property of the
22 wards. A copy of the report shall be submitted to the
23 Statewide Public Guardianship and Children's Representation
24 Office. In addition, the office of public guardian shall be
25 subject to audits or examinations by the Auditor General and
26 the Office of Program Policy Analysis and Government
27 Accountability pursuant to law.

28 (7) The ratio for professional staff to wards shall be
29 1 professional to 40 wards. The Statewide Public Guardianship
30 and Children's Representation Office may increase or decrease
31 the ratio after consultation with the local public guardian

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1 and the chief judge of the circuit court. The basis of the
2 decision to increase or decrease the prescribed ratio shall be
3 reported in the annual report to the Governor, the President
4 of the Senate, the Speaker of the House of Representatives,
5 and the Chief Justice of the Supreme Court.

6 (8) The term "professional," for purposes of this
7 part, shall not include the public guardian nor the executive
8 director of the Statewide Public Guardianship and Children's
9 Representation Office. The term "professional" shall be
10 limited to those persons who exercise direct supervision of
11 individual wards under the direction of the public guardian.

12 Section 853. Section 744.7081, Florida Statutes, is
13 amended to read:

14 744.7081 Access to records by Statewide Public
15 Guardianship and Children's Representation Office;
16 confidentiality.--Notwithstanding any other provision of law
17 to the contrary, any medical, financial, or mental health
18 records held by an agency, or the court and its agencies,
19 which are necessary to evaluate the public guardianship
20 system, to assess the need for additional public guardianship,
21 or to develop required reports, shall be provided to the
22 Statewide Public Guardianship and Children's Representation
23 Office upon that office's request. Any confidential or exempt
24 information provided to the Statewide Public Guardianship and
25 Children's Representation Office shall continue to be held
26 confidential or exempt as otherwise provided by law. All
27 records held by the Statewide Public Guardianship and
28 Children's Representation Office relating to the medical,
29 financial, or mental health of vulnerable adults as defined in
30 chapter 415, persons with a developmental disability as
31 defined in chapter 393, or persons with a mental illness as

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1 defined in chapter 394, shall be confidential and exempt from
2 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.
3 This section is subject to the Open Government Sunset Review
4 Act of 1995 in accordance with s. 119.15, and shall stand
5 repealed on October 2, 2004, unless reviewed and saved from
6 repeal through reenactment by the Legislature.

7 Section 854. Subsection (6) of section 400.148,
8 Florida Statutes, is amended to read:

9 400.148 Medicaid "Up-or-Out" Quality of Care Contract
10 Management Program.--

11 (6) The agency shall, jointly with the Statewide
12 Public Guardianship and Children's Representation Office,
13 develop a system in the pilot project areas to identify
14 Medicaid recipients who are residents of a participating
15 nursing home or assisted living facility who have diminished
16 ability to make their own decisions and who do not have
17 relatives or family available to act as guardians in nursing
18 homes listed on the Nursing Home Guide Watch List. The agency
19 and the Statewide Public Guardianship and Children's
20 Representation Office shall give such residents priority for
21 publicly funded guardianship services.

22 Section 855. Present subsection (7) of section 27.51,
23 Florida Statutes, is redesignated as subsection (8) and a new
24 subsection (7) is added to that section to read:

25 27.51 Duties of public defender.--

26 (7) A public defender may enter into an agreement with
27 the Circuit Office of Children's Representation to provide
28 representation to a child in a dependency proceeding when the
29 court has determined that the child qualifies for independent
30 counsel under s. 39.8226(2)(b) or (3).

31 Section 856. Paragraph (a) of subsection (7) of

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1 section 39.001, Florida Statutes, is amended to read:

2 39.001 Purposes and intent; personnel standards and
3 screening.--

4 (7) PLAN FOR COMPREHENSIVE APPROACH.--

5 (a) The department shall develop a state plan for the
6 prevention of abuse, abandonment, and neglect of children and
7 shall submit the plan to the Speaker of the House of
8 Representatives, the President of the Senate, and the Governor
9 no later than January 1, 1983. The Department of Education,
10 ~~and~~ the Division of Children's Medical Services Prevention and
11 Intervention of the Department of Health, and the Statewide
12 Public Guardianship and Children's Representation Office shall
13 participate and fully cooperate in the development of the
14 state plan at both the state and local levels. Furthermore,
15 appropriate local agencies and organizations shall be provided
16 an opportunity to participate in the development of the state
17 plan at the local level. Appropriate local groups and
18 organizations shall include, but not be limited to, community
19 mental health centers; Circuit Offices of Children's
20 Representation ~~guardian ad litem programs for children under~~
21 ~~the circuit court~~; the school boards of the local school
22 districts; the Florida local advocacy councils; private or
23 public organizations or programs with recognized expertise in
24 working with children who are sexually abused, physically
25 abused, emotionally abused, abandoned, or neglected and with
26 expertise in working with the families of such children;
27 private or public programs or organizations with expertise in
28 maternal and infant health care; multidisciplinary child
29 protection teams; child day care centers; and law enforcement
30 agencies, ~~and the circuit courts, when guardian ad litem~~
31 ~~programs are not available in the local area.~~ The state plan

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1 to be provided to the Legislature and the Governor shall
2 include, as a minimum, the information required of the various
3 groups in paragraph (b).

4 Section 857. Subsection (51) of section 39.01, Florida
5 Statutes, is amended to read:

6 39.01 Definitions.--When used in this chapter, unless
7 the context otherwise requires:

8 (51) "Party" means the parent or parents of the child,
9 the petitioner, the department, the guardian ad litem as
10 defined in s. 39.820 ~~or the representative of the guardian ad~~
11 ~~litem program when the program has been appointed~~, and the
12 child. While the child is a party, he or she may file
13 documents in a proceeding under this chapter only through a
14 court-appointed attorney or guardian ad litem. If information
15 or notice must be provided to a party, service shall be made
16 as provided in s. 39.502. The child has the right to attend
17 court proceedings, but it is not mandatory for the child to do
18 so unless the court finds that the appearance in court would
19 be in the best interest of the child.~~The presence of the~~
20 ~~child may be excused by order of the court when presence would~~
21 ~~not be in the child's best interest.~~Notice to the child and
22 the presence of the child may be excused by order of the court
23 when the age, capacity, or other condition of the child is
24 such that the notice or the presence of the child would be
25 meaningless, physically dangerous, or emotionally detrimental
26 to the child.

27 Section 858. Present subsections (9), (10), and (11)
28 of section 39.013, Florida Statutes, are redesignated as
29 subsections (10), (11) and (12), respectively, and a new
30 subsection (9) is added to that section to read:

31 39.013 Procedures and jurisdiction; right to

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1 counsel.--

2 (9) A child is entitled to representation at each
3 stage of the proceedings under this chapter, and, for each
4 child, the court shall appoint either a guardian ad litem
5 under s. 39.822 to provide representation in accordance with
6 s. 39.8225 or appoint any attorney under s. 39.8226.

7 Section 859. Paragraph (d) of subsection (2) and
8 subsection (5) of section 39.202, Florida Statutes, are
9 amended to read:

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

12 (2) Access to such records, excluding the name of the
13 reporter which shall be released only as provided in
14 subsection (4), shall be granted only to the following
15 persons, officials, and agencies:

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

24 (5) All records and reports of the child protection
25 team of the Department of Health are confidential and exempt
26 from the provisions of ss. 119.07(1) and 456.057, and shall
27 not be disclosed, except, upon request, to the state
28 attorney;~~;~~law enforcement agencies;~~;~~the department;~~;~~and
29 necessary professionals, in furtherance of the treatment or
30 additional evaluative needs of the child; for proceedings
31 under this chapter, the guardian ad litem or the attorney for

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1 the child; by order of the court; or to health plan payors,
2 limited to that information used for insurance reimbursement
3 purposes.

4 Section 860. Present subsections (4), (5), and (6) of
5 section 39.302, Florida Statutes, are redesignated as
6 subsections (5), (6), and (7), respectively, and a new
7 subsection (4) is added to that section to read:

8 39.302 Protective investigations of institutional
9 child abuse, abandonment, or neglect.--

10 (4) Upon receipt of a report of institutional child
11 abuse, abandonment, or neglect as provided in subsection (1)
12 the department shall, within 24 hours, notify the guardian ad
13 litem or legal counsel for any child alleged to be abused,
14 abandoned, or neglected. Copies of the child-protective
15 investigation shall be provided to the guardian ad litem or
16 attorney immediately upon completion.

17 Section 861. Section 39.305, Florida Statutes, is
18 amended to read:

19 39.305 Intervention and treatment in sexual abuse
20 cases; model plan.--The department shall develop a model plan
21 for community intervention and treatment of intrafamily sexual
22 abuse in conjunction with the Department of Law Enforcement,
23 the Department of Health, the Department of Education, the
24 Attorney General, the Statewide Public Guardianship and
25 Children's Representation Office ~~the state Guardian Ad Litem~~
26 ~~Program~~, the Department of Corrections, representatives of the
27 judiciary, and professionals and advocates from the mental
28 health and child welfare community.

29 Section 862. Subsection (5) and paragraphs (b), (c),
30 and (e) of subsection (8) of section 39.402, Florida Statutes,
31 are amended to read:

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1 39.402 Placement in a shelter.--

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

18 (b) The parents or legal custodians, the child, and
19 either the child's guardian ad litem, if known, or the Circuit
20 Office of Children's Representation shall be given written
21 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. The parents ~~They~~ have the right to be represented
25 by counsel and the child has the right to counsel as provided
26 in s. 39.013. ~~and,~~

27 a. If indigent, the parents have the right to be
28 represented by appointed counsel, at the shelter hearing and
29 at each subsequent hearing or proceeding, pursuant to the
30 procedures set forth in s. 39.013.

31 b. If the parents or legal custodians appear for the

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1 shelter hearing without legal counsel, then, at their request,
2 the shelter hearing may be continued up to 72 hours to enable
3 the parents or legal custodians to consult legal counsel.

4 c. If the child appears for the shelter hearing
5 without a guardian ad litem, legal counsel, or representation
6 by the Circuit Office of Children's Representation, the
7 shelter hearing may be continued up to 72 hours to enable
8 representation to be retained on behalf of the child.

9 d. If a continuance is requested by the parents or
10 legal custodians, or on behalf of the child,the child shall
11 be continued in shelter care for the length of the
12 continuance, if granted by the court.

13 (8)

14 (b) The parents or legal custodians of the child, the
15 child, and either the child's guardian ad litem, if known, or
16 the Circuit Office of Children's Representation shall be given
17 such notice as best ensures their actual knowledge of the time
18 and place of the shelter hearing. The failure to provide
19 notice to a party or participant does not invalidate an order
20 placing a child in a shelter if the court finds that the
21 petitioner has made a good faith effort to provide such
22 notice. The court shall require the parents or legal
23 custodians present at the hearing to provide to the court on
24 the record the names, addresses, and relationships of all
25 parents, prospective parents, and next of kin of the child, so
26 far as are known.

27 (c) At the shelter hearing, the court shall:

28 1. Appoint representation for the child in accordance
29 with s. 39.013 ~~a guardian ad litem to represent the best~~
30 ~~interest of the child,~~ unless the court finds that such
31 representation of the child is otherwise provided ~~is~~

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1 ~~unnecessary;~~

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

7 3. Give the parents or legal custodians an opportunity
8 to be heard and to present evidence.

9 (e) At the shelter hearing, the department shall
10 provide the court and the child and either the child's
11 guardian ad litem, if known, or the Circuit Office of
12 Children's Representation copies of any available law
13 enforcement, medical, or other professional reports, and shall
14 also provide copies of abuse hotline reports pursuant to state
15 and federal confidentiality requirements.

16 Section 863. Subsection (5) of section 39.407, Florida
17 Statutes, is amended to read:

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

21 (5) Children who are in the legal custody of the
22 department may be placed by the department in a residential
23 treatment center licensed under s. 394.875 or a hospital
24 licensed under chapter 395 for residential mental health
25 treatment only pursuant to this section or may be placed by
26 the court in accordance with an order of involuntary
27 examination or involuntary placement entered pursuant to s.
28 394.463 or s. 394.467. All children placed in a residential
29 treatment program under this subsection must have a guardian
30 ad litem or legal counsel appointed.

31 (a) As used in this subsection, the term:

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- 1 1. "Residential treatment" means placement for
2 observation, diagnosis, or treatment of an emotional
3 disturbance in a residential treatment center licensed under
4 s. 394.875 or a hospital licensed under chapter 395.
- 5 2. "Least restrictive alternative" means the treatment
6 and conditions of treatment that, separately and in
7 combination, are no more intrusive or restrictive of freedom
8 than reasonably necessary to achieve a substantial therapeutic
9 benefit or to protect the child or adolescent or others from
10 physical injury.
- 11 3. "Suitable for residential treatment" or
12 "suitability" means a determination concerning a child or
13 adolescent with an emotional disturbance as defined in s.
14 394.492(5) or a serious emotional disturbance as defined in s.
15 394.492(6) that each of the following criteria is met:
- 16 a. The child requires residential treatment.
17 b. The child is in need of a residential treatment
18 program and is expected to benefit from mental health
19 treatment.
- 20 c. An appropriate, less restrictive alternative to
21 residential treatment is unavailable.
- 22 (b) Whenever the department believes that a child in
23 its legal custody is emotionally disturbed and may need
24 residential treatment, an examination and suitability
25 assessment must be conducted by a qualified evaluator who is
26 appointed by the Agency for Health Care Administration. This
27 suitability assessment must be completed before the placement
28 of the child in a residential treatment center for emotionally
29 disturbed children and adolescents or a hospital. The
30 qualified evaluator must be a psychiatrist or a psychologist
31 licensed in Florida who has at least 3 years of experience in

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1 the diagnosis and treatment of serious emotional disturbances
2 in children and adolescents and who has no actual or perceived
3 conflict of interest with any inpatient facility or
4 residential treatment center or program.

5 (c) Before a child is admitted under this subsection,
6 the child shall be assessed for suitability for residential
7 treatment by a qualified evaluator who has conducted a
8 personal examination and assessment of the child and has made
9 written findings that:

10 1. The child appears to have an emotional disturbance
11 serious enough to require residential treatment and is
12 reasonably likely to benefit from the treatment.

13 2. The child has been provided with a clinically
14 appropriate explanation of the nature and purpose of the
15 treatment.

16 3. All available modalities of treatment less
17 restrictive than residential treatment have been considered,
18 and a less restrictive alternative that would offer comparable
19 benefits to the child is unavailable.

20

21 A copy of the written findings of the evaluation and
22 suitability assessment must be provided to the department and
23 to the guardian ad litem or legal counsel, who shall have the
24 opportunity to discuss the findings with the evaluator.

25 (d) Immediately upon placing a child in a residential
26 treatment program under this section, the department must
27 notify the guardian ad litem or legal counsel and the court
28 having jurisdiction over the child and must provide the
29 guardian ad litem or legal counsel and the court with a copy
30 of the assessment by the qualified evaluator.

31 (e) Within 10 days after the admission of a child to a

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1 residential treatment program, the director of the residential
2 treatment program or the director's designee must ensure that
3 an individualized plan of treatment has been prepared by the
4 program and has been explained to the child, to the
5 department, and to the guardian ad litem or legal counsel, and
6 submitted to the department. The child must be involved in the
7 preparation of the plan to the maximum feasible extent
8 consistent with his or her ability to understand and
9 participate, and the guardian ad litem or legal counsel and
10 the child's foster parents must be involved to the maximum
11 extent consistent with the child's treatment needs. The plan
12 must include a preliminary plan for residential treatment and
13 aftercare upon completion of residential treatment. The plan
14 must include specific behavioral and emotional goals against
15 which the success of the residential treatment may be
16 measured. A copy of the plan must be provided to the child, to
17 the guardian ad litem or legal counsel, and to the department.

18 (f) Within 30 days after admission, the residential
19 treatment program must review the appropriateness and
20 suitability of the child's placement in the program. The
21 residential treatment program must determine whether the child
22 is receiving benefit towards the treatment goals and whether
23 the child could be treated in a less restrictive treatment
24 program. The residential treatment program shall prepare a
25 written report of its findings and submit the report to the
26 guardian ad litem or legal counsel and to the department. The
27 department must submit the report to the court. The report
28 must include a discharge plan for the child. The residential
29 treatment program must continue to evaluate the child's
30 treatment progress every 30 days thereafter and must include
31 its findings in a written report submitted to the guardian ad

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1 litem or legal counsel and the department. The department may
2 not reimburse a facility until the facility has submitted
3 every written report that is due.

4 (g)1. The department must submit, at the beginning of
5 each month, to the court having jurisdiction over the child
6 and to the guardian ad litem or legal counsel, a written
7 report regarding the child's progress towards achieving the
8 goals specified in the individualized plan of treatment.

9 2. The court must conduct a hearing to review the
10 status of the child's residential treatment plan no later than
11 3 months after the child's admission to the residential
12 treatment program. An independent review of the child's
13 progress towards achieving the goals and objectives of the
14 treatment plan must be completed by a qualified evaluator and
15 submitted to the court and to the guardian ad litem or legal
16 counsel before the court's ~~its~~ 3-month review.

17 3. For any child in residential treatment at the time
18 a judicial review is held pursuant to s. 39.701, the child's
19 continued placement in residential treatment must be a subject
20 of the judicial review.

21 4. If at any time the court determines that the child
22 is not suitable for continued residential treatment, the court
23 shall order the department to place the child in the least
24 restrictive setting that is best suited to meet his or her
25 needs.

26 (h) After the initial 3-month review, the court must
27 conduct a review of the child's residential treatment plan
28 every 90 days.

29 (i) The department must adopt rules for implementing
30 timeframes for the completion of suitability assessments by
31 qualified evaluators and a procedure that includes timeframes

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1 for completing the 3-month independent review by the qualified
2 evaluators of the child's progress towards achieving the goals
3 and objectives of the treatment plan which review must be
4 submitted to the court. The Agency for Health Care
5 Administration must adopt rules for the registration of
6 qualified evaluators, the procedure for selecting the
7 evaluators to conduct the reviews required under this section,
8 and a reasonable, cost-efficient fee schedule for qualified
9 evaluators.

10 Section 864. Subsections (11), (12), (19), (20), and
11 (21) of section 39.4085, Florida Statutes, are amended to
12 read:

13 39.4085 Legislative findings and declaration of intent
14 for goals for dependent children.--The Legislature finds and
15 declares that the design and delivery of child welfare
16 services should be directed by the principle that the health
17 and safety of children should be of paramount concern and,
18 therefore, establishes the following goals for children in
19 shelter or foster care:

20 (11) To be the subject of a plan developed by the
21 counselor and the shelter or foster caregiver with the child,
22 when the child is of an age or capacity to participate, and
23 the child's guardian ad litem and with their legal counsel to
24 deal with identified behaviors that may present a risk to the
25 child or others.

26 (12) To be involved and incorporated, where
27 appropriate, and to have the child's guardian ad litem and the
28 legal counsel of the child and of the guardian ad litem
29 involved in the development of the case plan, to have a case
30 plan which will address their specific needs, and to object to
31 any of the provisions of the case plan.

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1 (19) To be heard by the court, ~~if appropriate,~~ at all
2 review hearings, unless the child chooses not to be heard or
3 because of age, capacity, or other condition of the child, the
4 court determines it would be meaningless, physically
5 dangerous, or emotionally detrimental to the child.

6 (20) To have a guardian ad litem appointed to
7 represent, ~~within reason,~~ their best interests and, as
8 provided in s. 39.8226 where appropriate, legal counsel an
9 attorney ad litem appointed to represent their expressed legal
10 interests; the guardian ad litem and legal counsel attorney ad
11 litem shall have immediate and unlimited access to the
12 children they represent.

13 (21) To have all their records available for review by
14 their guardian ad litem and legal counsel attorney ad litem ~~if~~
15 ~~they deem such review necessary.~~

16 Section 865. Section 39.4086, Florida Statutes, is
17 repealed.

18 Section 866. Section 39.502, Florida Statutes, is
19 amended to read:

20 39.502 Notice, process, and service.--

21 (1) Unless parental rights have been terminated, all
22 parents must be notified of all proceedings or hearings
23 involving the child. Notice in cases involving shelter
24 hearings and hearings resulting from medical emergencies must
25 be that most likely to result in actual notice to the parents.
26 In all other dependency proceedings, notice must be provided
27 in accordance with subsections (5)-(10) ~~(4)-(9)~~.

28 (2) Notice of all proceedings or hearings involving
29 the child and all documents and reports related to those
30 proceedings or required to be given to the child shall be
31 served on or delivered to the child through the court

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1 appointed representative for the child, either the guardian ad
2 litem or the child's or the guardian ad litem's legal counsel.
3 If the court has not appointed a representative for the child,
4 service or delivery shall be made to the child unless the
5 court determines that, because of age, capacity, or other
6 condition of the child, it would be meaningless or emotionally
7 detrimental to the child.

8 (3)~~(2)~~ Personal appearance of any person in a hearing
9 before the court obviates the necessity of serving process on
10 that person.

11 (4)~~(3)~~ Upon the filing of a petition containing
12 allegations of facts which, if true, would establish that the
13 child is a dependent child, and upon the request of the
14 petitioner, the clerk or deputy clerk shall issue a summons.

15 (5)~~(4)~~ The summons shall require the person on whom it
16 is served to appear for a hearing at a time and place
17 specified, not less than 72 hours after service of the
18 summons. A copy of the petition shall be attached to the
19 summons.

20 (6)~~(5)~~ The summons shall be directed to, and shall be
21 served upon, all parties other than the petitioner.

22 (7)~~(6)~~ It is the duty of the petitioner or moving
23 party to notify all participants and parties known to the
24 petitioner or moving party of all hearings subsequent to the
25 initial hearing unless notice is contained in prior court
26 orders and these orders were provided to the participant or
27 party. Proof of notice or provision of orders may be provided
28 by certified mail with a signed return receipt.

29 (8)~~(7)~~ Service of the summons and service of
30 pleadings, papers, and notices subsequent to the summons on
31 persons outside this state must be made pursuant to s.

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1 61.1312.

2 ~~(9)(8)~~ It is not necessary to the validity of a
3 proceeding covered by this part that the parents be present if
4 their identity or residence is unknown after a diligent search
5 has been made, but in this event the petitioner shall file an
6 affidavit of diligent search prepared by the person who made
7 the search and inquiry, and the court shall ~~may~~ appoint a
8 guardian ad litem or legal counsel for the child.

9 ~~(10)(9)~~ When an affidavit of diligent search has been
10 filed under subsection (8), the petitioner shall continue to
11 search for and attempt to serve the person sought until
12 excused from further search by the court. The petitioner shall
13 report on the results of the search at each court hearing
14 until the person is identified or located or further search is
15 excused by the court.

16 ~~(11)(10)~~ Service by publication shall not be required
17 for dependency hearings and the failure to serve a party or
18 give notice to a participant shall not affect the validity of
19 an order of adjudication or disposition if the court finds
20 that the petitioner has completed a diligent search for that
21 party.

22 ~~(12)(11)~~ Upon the application of a party or the
23 petitioner, the clerk or deputy clerk shall issue, and the
24 court on its own motion may issue, subpoenas requiring
25 attendance and testimony of witnesses and production of
26 records, documents, and other tangible objects at any hearing.

27 ~~(13)(12)~~ All process and orders issued by the court
28 shall be served or executed as other process and orders of the
29 circuit court and, in addition, may be served or executed by
30 authorized agents of the department, or the guardian ad litem,
31 or legal counsel for the child.

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1 (14)~~(13)~~ Subpoenas may be served within the state by
2 any person over 18 years of age who is not a party to the
3 proceeding and, in addition, may be served by authorized
4 agents of the department,~~or the~~ guardian ad litem, or legal
5 counsel for the child.

6 (15)~~(14)~~ No fee shall be paid for service of any
7 process or other papers by an agent of the department,~~or the~~
8 guardian ad litem, or legal counsel for the child. If any
9 process, orders, or any other papers are served or executed by
10 any sheriff, the sheriff's fees shall be paid by the county.

11 (16)~~(15)~~ A party who is identified as a person with
12 mental illness or with a developmental disability must be
13 informed by the court of the availability of advocacy services
14 through the department, the Association for Retarded Citizens,
15 or other appropriate mental health or developmental disability
16 advocacy groups and encouraged to seek such services.

17 (17)~~(16)~~ If the party to whom an order is directed is
18 present or represented at the final hearing, service of the
19 order is not required.

20 (18)~~(17)~~ The parent or legal custodian of the child,
21 the attorney for the department, the guardian ad litem, the
22 child, and all other parties and participants shall be given
23 reasonable notice of all hearings provided for under this
24 part.

25 (19)~~(18)~~ In all proceedings under this part, the court
26 shall provide to the parent or legal custodian of the child,
27 the child, and the child's guardian ad litem, at the
28 conclusion of any hearing, a written notice containing the
29 date of the next scheduled hearing. The court shall also
30 include the date of the next hearing in any order issued by
31 the court.

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1 Section 867. Subsections (1) and (4) of section
2 39.504, Florida Statutes, are amended to read:

3 39.504 Injunction pending disposition of petition;
4 penalty.--

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

14 (b) Reasonable cause for the issuance of an injunction
15 exists if there is evidence of child abuse or an unlawful
16 sexual offense involving a child or if there is a reasonable
17 likelihood of such abuse or offense occurring based upon a
18 recent overt act or failure to act.

19 (4) A copy of any injunction issued pursuant to this
20 section shall be delivered to the protected party, ~~or~~ a parent
21 or caregiver or individual acting in the place of a parent who
22 is not the respondent, the guardian ad litem, and to any law
23 enforcement agency having jurisdiction to enforce such
24 injunction. Upon delivery of the injunction to the appropriate
25 law enforcement agency, the agency shall have the duty and
26 responsibility to enforce the injunction.

27 Section 868. Section 39.505, Florida Statutes, is
28 amended to read:

29 39.505 No answer required.--No answer to the petition
30 or any other pleading need be filed by any child, guardian ad
31 litem, parent, or legal custodian, but any matters that ~~which~~

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1 might be set forth in an answer or other pleading may be
2 pleaded orally before the court or filed in writing as any
3 such person may choose. Notwithstanding the filing of an
4 answer or any pleading, the respondent shall, prior to an
5 adjudicatory hearing, be advised by the court of the right to
6 counsel and shall be given an opportunity to deny the
7 allegations in the petition for dependency or to enter a plea
8 to allegations in the petition before the court.

9 Section 869. Subsection (1) of section 39.510, Florida
10 Statutes, is amended to read:

11 39.510 Appeal.--

12 (1) Any party to the proceeding who is affected by an
13 order of the court, who represents a party affected by an
14 order of the court, or the department may appeal to the
15 appropriate district court of appeal within the time and in
16 the manner prescribed by the Florida Rules of Appellate
17 Procedure. Appointed counsel shall be compensated as provided
18 in this chapter.

19 Section 870. Paragraphs (a) and (d) of subsection (1),
20 paragraph (b) of subsection (5), and subsection (8) of section
21 39.521, Florida Statutes, are amended to read:

22 39.521 Disposition hearings; powers of disposition.--

23 (1) A disposition hearing shall be conducted by the
24 court, if the court finds that the facts alleged in the
25 petition for dependency were proven in the adjudicatory
26 hearing, or if the parents or legal custodians have consented
27 to the finding of dependency or admitted the allegations in
28 the petition, have failed to appear for the arraignment
29 hearing after proper notice, or have not been located despite
30 a diligent search having been conducted.

31 (a) A written case plan and a predisposition study

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1 prepared by an authorized agent of the department must be
2 filed with the court and served upon the parents of the child,
3 provided to the child, representative of the guardian ad litem
4 ~~program, if the program has been appointed~~, and provided to
5 all other parties, not less than 72 hours before the
6 disposition hearing. All such case plans must be approved by
7 the court. If the court does not approve the case plan at the
8 disposition hearing, the court must set a hearing within 30
9 days after the disposition hearing to review and approve the
10 case plan.

11 (d) The court shall, in its written order of
12 disposition, include all of the following:

- 13 1. The placement or custody of the child.
- 14 2. Special conditions of placement and visitation.
- 15 3. Evaluation, counseling, treatment activities, and
16 other actions to be taken by the parties, if ordered.
- 17 4. The persons or entities responsible for supervising
18 or monitoring services to the child and parent.
- 19 5. Continuation or discharge of the guardian ad litem
20 or legal counsel for the child, as appropriate. The guardian
21 ad litem or legal counsel for the child may not be discharged
22 pursuant to this section before termination of supervision by
23 the department unless other legal representation is provided
24 for the child. The court may approve a request to withdraw
25 from a Circuit Office of Children's Representation when the
26 court finds that the child no longer needs active
27 representation and the resources of the office are
28 insufficient to provide appropriate representation in other
29 pending cases.
- 30 6. The date, time, and location of the next scheduled
31 review hearing, which must occur within the earlier of:

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- 1 a. Ninety days after the disposition hearing;
- 2 b. Ninety days after the court accepts the case plan;
- 3 c. Six months after the date of the last review

4 hearing; or

- 5 d. Six months after the date of the child's removal
- 6 from his or her home, if no review hearing has been held since
- 7 the child's removal from the home.

8 7. If the child is in an out-of-home placement, child

9 support to be paid by the parents, or the guardian of the

10 child's estate if possessed of assets which under law may be

11 disbursed for the care, support, and maintenance of the child.

12 The court may exercise jurisdiction over all child support

13 matters, shall adjudicate the financial obligation, including

14 health insurance, of the child's parents or guardian, and

15 shall enforce the financial obligation as provided in chapter

16 61. The state's child support enforcement agency shall enforce

17 child support orders under this section in the same manner as

18 child support orders under chapter 61. Placement of the child

19 shall not be contingent upon issuance of a support order.

20 8.a. If the court does not commit the child to the

21 temporary legal custody of an adult relative, legal custodian,

22 or other adult approved by the court, the disposition order

23 shall include the reasons for such a decision and shall

24 include a determination as to whether diligent efforts were

25 made by the department to locate an adult relative, legal

26 custodian, or other adult willing to care for the child in

27 order to present that placement option to the court instead of

28 placement with the department.

29 b. If diligent efforts are made to locate an adult

30 relative willing and able to care for the child but, because

31 no suitable relative is found, the child is placed with the

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1 department or a legal custodian or other adult approved by the
2 court, both the department and the court shall consider
3 transferring temporary legal custody to an adult relative
4 approved by the court at a later date, but neither the
5 department nor the court is obligated to so place the child if
6 it is in the child's best interest to remain in the current
7 placement.

8
9 For the purposes of this subparagraph, "diligent efforts to
10 locate an adult relative" means a search similar to the
11 diligent search for a parent, but without the continuing
12 obligation to search after an initial adequate search is
13 completed.

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

18 (5)

19 (b) The results of the assessment described in
20 paragraph (a) and the actions taken as a result of the
21 assessment must be included in the next judicial review of the
22 child. At each subsequent judicial review, the court must be
23 advised in writing of the status of the child's placement,
24 with special reference regarding the stability of the
25 placement and the permanency planning for the child. A copy of
26 this report must be provided to the child and the child's
27 guardian ad litem prior to the judicial review.

28 (8) The court may enter an order ending its
29 jurisdiction over a child when a child has been returned to
30 the parents, except that ~~provided~~ the court may ~~shall~~ not
31 terminate its jurisdiction or the department's supervision

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1 over the child until 6 months after the child's return. The
2 court shall determine whether its jurisdiction should be
3 continued or terminated in such a case after consideration of
4 ~~based on~~ a report of the department or agency, report of or
5 the child's guardian ad litem, or any testimony of the child,
6 and any other relevant factors; if its jurisdiction is to be
7 terminated, the court shall enter an order to that effect.

8 Section 871. Paragraph (a) of subsection (2),
9 paragraph (d) of subsection (5), paragraphs (b) and (c) of
10 subsection (6), subsection (7), and paragraphs (a) and (d) of
11 subsection (8) of section 39.701, Florida Statutes, are
12 amended to read:

13 39.701 Judicial review.--

14 (2)(a) The court shall review the status of the child
15 and shall hold a hearing as provided in this part at least
16 every 6 months until the child reaches permanency status. The
17 court may dispense with the attendance of the child at the
18 hearing upon the child's request or when, based on the child's
19 age, capacity, or other condition, the court determines that
20 the child's attendance would be meaningless, physically
21 dangerous, or emotionally detrimental to the child. The court,
22 ~~but~~ may not dispense with the hearing or the presence of other
23 parties to the review unless before the review a hearing is
24 held before a citizen review panel.

25 (5) Notice of a judicial review hearing or a citizen
26 review panel hearing, and a copy of the motion for judicial
27 review, if any, must be served by the clerk of the court upon:

28 (d) The child and guardian ad litem for the child, ~~or~~
29 ~~the representative of the guardian ad litem program if the~~
30 ~~program has been appointed.~~

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1 Service of notice is not required on any of the persons listed
2 in paragraphs (a)-(f) if the person was present at the
3 previous hearing during which the date, time, and location of
4 the hearing was announced.

5 (6)

6 (b) A copy of the social service agency's written
7 report and any ~~the~~ written report of the guardian ad litem
8 must be served on all parties whose whereabouts are known; to
9 the foster parents or legal custodians; to the child and the
10 guardian ad litem, unless the guardian ad litem prepared the
11 report;and to the citizen review panel, at least 72 hours
12 before the judicial review hearing or citizen review panel
13 hearing. The requirement for providing parents with a copy of
14 the written report does not apply to those parents who have
15 voluntarily surrendered their child for adoption or who have
16 had their parental rights to the child terminated.

17 (c) In a case in which the child has been permanently
18 placed with the social service agency, the agency shall
19 furnish to the court a written report concerning the progress
20 being made to place the child for adoption. If the child
21 cannot be placed for adoption, a report on the progress made
22 by the child towards alternative permanency goals or
23 placements, including, but not limited to, guardianship,
24 long-term custody, long-term licensed custody, or independent
25 living, must be submitted to the court. The report must be
26 submitted to the court and all parties as provided in
27 paragraph (b)at least 72 hours before each scheduled judicial
28 review.

29 (7) The court and any citizen review panel shall take
30 into consideration the information contained in the social
31 services study and investigation and all medical,

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

14 (a) If the parent was advised of the right to receive
15 assistance from any person or social service agency in the
16 preparation of the case plan.

17 (b) If the parent has been advised of the right to
18 have counsel present at the judicial review or citizen review
19 hearings. If not so advised, the court or citizen review panel
20 shall advise the parent of such right.

21 ~~(c) If a guardian ad litem needs to be appointed for~~
22 ~~the child in a case in which a guardian ad litem has not~~
23 ~~previously been appointed or if there is a need to continue a~~
24 ~~guardian ad litem in a case in which a guardian ad litem has~~
25 ~~been appointed.~~

26 (c)~~(d)~~ The compliance or lack of compliance of all
27 parties with applicable items of the case plan, including the
28 parents' compliance with child support orders.

29 (d)~~(e)~~ The compliance or lack of compliance with a
30 visitation contract between the parent and the social service
31 agency for contact with the child, including the frequency,

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1 duration, and results of the parent-child visitation and the
2 reason for any noncompliance.

3 ~~(e)(f)~~ The compliance or lack of compliance of the
4 parent in meeting specified financial obligations pertaining
5 to the care of the child, including the reason for failure to
6 comply if such is the case.

7 ~~(f)(g)~~ The appropriateness of the child's current
8 placement, including whether the child is in a setting which
9 is as family-like and as close to the parent's home as
10 possible, consistent with the child's best interests and
11 special needs, and including maintaining stability in the
12 child's educational placement.

13 ~~(g)(h)~~ A projected date likely for the child's return
14 home or other permanent placement.

15 ~~(h)(i)~~ When appropriate, the basis for the
16 unwillingness or inability of the parent to become a party to
17 a case plan. The court and the citizen review panel shall
18 determine if the efforts of the social service agency to
19 secure party participation in a case plan were sufficient.

20 (8)(a) Based upon the criteria set forth in subsection
21 (7) and the recommended order of the citizen review panel, if
22 any, the court shall determine whether or not the social
23 service agency shall initiate proceedings to have a child
24 declared a dependent child, return the child to the parent,
25 continue the child in out-of-home care for a specified period
26 of time, or initiate termination of parental rights
27 proceedings for subsequent placement in an adoptive home. The
28 court must determine whether a guardian ad litem or legal
29 counsel needs to be appointed for the child in a case in which
30 a guardian ad litem or legal counsel has not previously been
31 appointed or when there is a need to continue a guardian ad

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1 litem or legal counsel in a case in which a guardian ad litem
 2 or legal counsel has been appointed. Modifications to the plan
 3 must be handled as prescribed in s. 39.601. If the court finds
 4 that the prevention or reunification efforts of the department
 5 will allow the child to remain safely at home or be safely
 6 returned to the home, the court shall allow the child to
 7 remain in or return to the home after making a specific
 8 finding of fact that the reasons for the creation of the case
 9 plan have been remedied to the extent that the child's safety,
 10 well-being, and physical, mental, and emotional health will
 11 not be endangered.

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

26 Section 872. Paragraph (a) of subsection (3) and
 27 subsections (5) and (7) of section 39.801, Florida Statutes,
 28 are amended to read:

29 39.801 Procedures and jurisdiction; notice; service of
 30 process.--

31 (3) Before the court may terminate parental rights, in

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1 addition to the other requirements set forth in this part, the
2 following requirements must be met:

3 (a) Notice of the date, time, and place of the
4 advisory hearing for the petition to terminate parental rights
5 and a copy of the petition must be personally served upon the
6 following persons, specifically notifying them that a petition
7 has been filed:

8 1. The parents of the child.

9 2. The legal custodians of the child.

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

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

14 5. Any grandparent entitled to priority for adoption
15 under s. 63.0425.

16 6. Any prospective parent who has been identified
17 under s. 39.503 or s. 39.803.

18 7. The child and the guardian ad litem for the child
19 ~~or the representative of the guardian ad litem program, if the~~
20 ~~program has been appointed.~~

21
22 The document containing the notice to respond or appear must
23 contain, in type at least as large as the type in the balance
24 of the document, the following or substantially similar
25 language: "FAILURE TO PERSONALLY APPEAR AT THIS ADVISORY
26 HEARING CONSTITUTES CONSENT TO THE TERMINATION OF PARENTAL
27 RIGHTS OF THIS CHILD (OR CHILDREN). IF YOU FAIL TO APPEAR ON
28 THE DATE AND TIME SPECIFIED, YOU MAY LOSE ALL LEGAL RIGHTS AS
29 A PARENT TO THE CHILD OR CHILDREN NAMED IN THE PETITION
30 ATTACHED TO THIS NOTICE."

31 (5) All process and orders issued by the court must be

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1 served or executed as other process and orders of the circuit
2 court and, in addition, may be served or executed by
3 authorized agents of the department, ~~or~~ the guardian ad litem,
4 or the child.

5 (7) A fee may not be paid for service of any process
6 or other papers by an agent of the department, ~~or~~ the guardian
7 ad litem, or the child's legal counsel. If any process,
8 orders, or other papers are served or executed by any sheriff,
9 the sheriff's fees must be paid by the county.

10 Section 873. Subsection (1) of section 39.802, Florida
11 Statutes, is amended to read:

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

14 (1) All proceedings seeking an adjudication to
15 terminate parental rights pursuant to this chapter must be
16 initiated by the filing of an original petition by the
17 department, the child through legal counsel appointed pursuant
18 to s. 39.8226, the guardian ad litem, or any other person who
19 has knowledge of the facts alleged or is informed of them and
20 believes that they are true.

21 Section 874. Section 39.805, Florida Statutes, is
22 amended to read:

23 39.805 No answer required.--No answer to the petition
24 or any other pleading need be filed by any child, guardian ad
25 litem, or parent, but any matters that ~~which~~ might be set
26 forth in an answer or other pleading may be pleaded orally
27 before the court or filed in writing as any such person may
28 choose. Notwithstanding the filing of any answer or any
29 pleading, the child or parent shall, prior to the adjudicatory
30 hearing, be advised by the court of the right to counsel and
31 shall be given an opportunity to deny the allegations in the

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1 petition for termination of parental rights or to enter a plea
2 to allegations in the petition before the court.

3 Section 875. Subsection (1) of section 39.806, Florida
4 Statutes, is amended to read:

5 39.806 Grounds for termination of parental rights.--

6 (1) The department, the child through legal counsel
7 appointed pursuant to s. 39.8226, the guardian ad litem, or
8 any person who has knowledge of the facts alleged or who is
9 informed of those facts and believes that they are true may
10 petition for the termination of parental rights under any of
11 the following circumstances:

12 (a) When the parent or parents have voluntarily
13 executed a written surrender of the child and consented to the
14 entry of an order giving custody of the child to the
15 department for subsequent adoption and the department is
16 willing to accept custody of the child.

17 1. The surrender document must be executed before two
18 witnesses and a notary public or other person authorized to
19 take acknowledgments.

20 2. The surrender and consent may be withdrawn after
21 acceptance by the department only after a finding by the court
22 that the surrender and consent were obtained by fraud or under
23 duress.

24 (b) Abandonment as defined in s. 39.01(1) or when the
25 identity or location of the parent or parents is unknown and
26 cannot be ascertained by diligent search within 60 days.

27 (c) When the parent or parents engaged in conduct
28 toward the child or toward other children that demonstrates
29 that the continuing involvement of the parent or parents in
30 the parent-child relationship threatens the life, safety,
31 well-being, or physical, mental, or emotional health of the

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1 child irrespective of the provision of services. Provision of
2 services may be evidenced by proof that services were provided
3 through a previous plan or offered as a case plan from a child
4 welfare agency.

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

7 1. The period of time for which the parent is expected
8 to be incarcerated will constitute a substantial portion of
9 the period of time before the child will attain the age of 18
10 years;

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

28 3. The court determines by clear and convincing
29 evidence that continuing the parental relationship with the
30 incarcerated parent would be harmful to the child and, for
31 this reason, that termination of the parental rights of the

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1 incarcerated parent is in the best interest of the child.

2 (e) A petition for termination of parental rights may
3 also be filed when a child has been adjudicated dependent, a
4 case plan has been filed with the court, and the child
5 continues to be abused, neglected, or abandoned by the
6 parents. In this case, the failure of the parents to
7 substantially comply for a period of 12 months after an
8 adjudication of the child as a dependent child or the child's
9 placement into shelter care, whichever came first, constitutes
10 evidence of continuing abuse, neglect, or abandonment unless
11 the failure to substantially comply with the case plan was due
12 either to the lack of financial resources of the parents or to
13 the failure of the department to make reasonable efforts to
14 reunify the parent and child. Such 12-month period may begin
15 to run only after the child's placement into shelter care or
16 the entry of a disposition order placing the custody of the
17 child with the department or a person other than the parent
18 and the approval by the court of a case plan with a goal of
19 reunification with the parent, whichever came first.

20 (f) When the parent or parents engaged in egregious
21 conduct or had the opportunity and capability to prevent and
22 knowingly failed to prevent egregious conduct that threatens
23 the life, safety, or physical, mental, or emotional health of
24 the child or the child's sibling.

25 1. As used in this subsection, the term "sibling"
26 means another child who resides with or is cared for by the
27 parent or parents regardless of whether the child is related
28 legally or by consanguinity.

29 2. As used in this subsection, the term "egregious
30 conduct" means abuse, abandonment, neglect, or any other
31 conduct of the parent or parents that is deplorable, flagrant,

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1 or outrageous by a normal standard of conduct. Egregious
2 conduct may include an act or omission that occurred only once
3 but was of such intensity, magnitude, or severity as to
4 endanger the life of the child.

5 (g) When the parent or parents have subjected the
6 child to aggravated child abuse as defined in s. 827.03,
7 sexual battery or sexual abuse as defined in s. 39.01, or
8 chronic abuse.

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

15 (i) When the parental rights of the parent to a
16 sibling have been terminated involuntarily.

17 Section 876. Subsection (2) of section 39.807, Florida
18 Statutes, is amended to read:

19 39.807 Right to counsel; guardian ad litem.--

20 (2)(a) The court shall appoint a guardian ad litem or
21 legal counsel, or both, to represent ~~the best interest of the~~
22 child in any proceedings for termination of parental rights as
23 provided in s. 39.013 proceedings and shall ascertain at each
24 stage of the proceedings whether a guardian ad litem or legal
25 counsel has been appointed.

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

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

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

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

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

9 ~~(c) A guardian ad litem is not required to post bond~~
 10 ~~but shall file an acceptance of the office.~~

11 ~~(d) A guardian ad litem is entitled to receive service~~
 12 ~~of pleadings and papers as provided by the Florida Rules of~~
 13 ~~Juvenile Procedure.~~

14 ~~(b)(e)~~ This subsection does not apply to any voluntary
 15 relinquishment of parental rights proceeding.

16 Section 877. Subsection (2) of section 39.808, Florida
 17 Statutes, is amended to read:

18 39.808 Advisory hearing; pretrial status conference.--

19 (2) At the hearing the court shall inform the parties
 20 of their rights under s. 39.807, shall appoint counsel for the
 21 parties in accordance with legal requirements, and shall
 22 appoint a guardian ad litem or legal counsel to represent ~~the~~
 23 ~~interests of~~ the child if one has not already been appointed.

24 Section 878. Subsections (10) and (11) of section
 25 39.810, Florida Statutes, are amended to read:

26 39.810 Manifest best interests of the child.--In a
 27 hearing on a petition for termination of parental rights, the
 28 court shall consider the manifest best interests of the child.
 29 This consideration shall not include a comparison between the
 30 attributes of the parents and those of any persons providing a
 31 present or potential placement for the child. For the purpose

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1 of determining the manifest best interests of the child, the
2 court shall consider and evaluate all relevant factors,
3 including, but not limited to:

4 (10) The expressed interests ~~reasonable preferences~~
5 ~~and wishes~~ of the child, if the court deems the child to be of
6 sufficient intelligence, understanding, and experience to
7 express a preference.

8 (11) Any information related to subsections (1)
9 through (10) which is provided by the guardian ad litem and,
10 when requested by the court, any ~~The~~ recommendations for the
11 child provided by the child's guardian ad litem ~~or legal~~
12 ~~representative~~.

13 Section 879. Subsections (1) and (9) of section
14 39.811, Florida Statutes, are amended to read:

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

16 (1) If the court finds that the grounds for
17 termination of parental rights have not been established by
18 clear and convincing evidence, the court shall:

19 (a) If grounds for dependency have been established,
20 adjudicate or readjudicate the child dependent and:

21 1. Enter an order placing or continuing the child in
22 out-of-home care under a case plan; or

23 2. Enter an order returning the child to the parent or
24 parents. The court shall retain jurisdiction over a child
25 returned to the parent or parents for a period of 6 months,
26 but, at that time, based on a report of the social service
27 agency, information provided by the child and the guardian ad
28 litem, if appointed, and any other relevant factors, the court
29 shall make a determination as to whether its jurisdiction
30 shall continue or be terminated.

31 (b) If grounds for dependency have not been

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1 established, dismiss the petition.

2 (9) After termination of parental rights, the court
3 shall retain jurisdiction over any child for whom custody is
4 given to a social service agency until the child is adopted.
5 The court shall review the status and, pursuant to s.
6 39.701(8)(a), the appropriateness of the child's placement and
7 the progress being made toward permanent adoptive placement.
8 As part of this continuing jurisdiction, for good cause shown
9 by the guardian ad litem for the child or by the child, the
10 court may review the appropriateness of the adoptive placement
11 of the child.

12 Section 880. Section 39.820, Florida Statutes, is
13 amended to read:

14 39.820 Definitions.--As used in the Florida Statutes
15 ~~this part~~, the term:

16 (1) "Guardian ad litem" as referred to in any civil or
17 criminal proceeding includes the following: a Circuit Office
18 of Children's Representation as represented by the staff or
19 volunteers appointed by the Circuit Office of Children's
20 Representation to provide the best-interest representation to
21 the child,~~certified guardian ad litem program, a duly~~
22 ~~certified volunteer, a staff attorney, contract attorney, or~~
23 ~~certified pro bono attorney working on behalf of a guardian ad~~
24 ~~litem or the program; staff members of a program office; a~~
25 ~~court-appointed attorney;~~ or a responsible adult who is
26 appointed by the court to represent the best interests of a
27 child in a proceeding as provided for by law, ~~including, but~~
28 ~~not limited to, this chapter~~, who is a party to any judicial
29 proceeding as a representative of the child, and who serves
30 until discharged by the court.

31 (2) "Guardian advocate" means a person appointed by

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1 the court to act on behalf of a drug dependent newborn
2 pursuant to the provisions of this part.

3 Section 881. Section 39.821, Florida Statutes, is
4 amended to read:

5 39.821 Qualifications of guardians ad litem.--

6 (1) Because of the special trust or responsibility
7 placed in a guardian ad litem and the staff of the Circuit
8 Office of Children's Representation representing children in
9 proceedings under chapter 39, the Circuit Office of Children's
10 Representation Guardian Ad Litem Program may use any private
11 funds collected ~~by the program~~, or any state funds so
12 designated, to conduct a security background investigation
13 before certifying a volunteer or staff member to serve. A
14 security background investigation must include, but need not
15 be limited to, employment history checks, checks of
16 references, local criminal records checks through local law
17 enforcement agencies, and statewide criminal records checks
18 through the Department of Law Enforcement. Upon request, an
19 employer shall furnish a copy of the personnel record for the
20 employee or former employee who is the subject of a security
21 background investigation conducted under this section. The
22 information contained in the personnel record may include, but
23 need not be limited to, disciplinary matters and the reason
24 why the employee was terminated from employment. An employer
25 who releases a personnel record for purposes of a security
26 background investigation is presumed to have acted in good
27 faith and is not liable for information contained in the
28 record without a showing that the employer maliciously
29 falsified the record. A security background investigation
30 conducted under this section must ensure that a person is not
31 certified as a guardian ad litem or hired as a staff member of

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1 a Circuit Office of Children's Representation to represent
2 children in proceedings under chapter 39 if the person has
3 been convicted of, regardless of adjudication, or entered a
4 plea of nolo contendere or guilty to, any offense prohibited
5 under the provisions of the Florida Statutes specified in s.
6 435.04(2) or under any similar law in another jurisdiction.
7 Before certifying an applicant to serve as a guardian ad litem
8 or as a staff member of a Circuit Office of Children's
9 Representation to represent children in proceedings under
10 chapter 39, the Circuit Office of Children's Representation
11 ~~chief judge of the circuit court~~ may request a federal
12 criminal records check of the applicant through the Federal
13 Bureau of Investigation. In analyzing and evaluating the
14 information obtained in the security background investigation,
15 the office ~~program~~ must give particular emphasis to past
16 activities involving children, including, but not limited to,
17 child-related criminal offenses or child abuse. The office
18 ~~program~~ has the sole discretion in determining whether to
19 certify a person based on his or her security background
20 investigation. The information collected pursuant to the
21 security background investigation is confidential and exempt
22 from s. 119.07(1).

23 (2) This section does not apply to a certified
24 guardian ad litem who was certified before October 1, 1995, an
25 attorney who is a member in good standing of The Florida Bar,
26 or a licensed professional who has undergone a comparable
27 security background investigation as a condition of licensure
28 within 5 years before ~~of~~ applying for certification as a
29 guardian ad litem or as a staff member of a Circuit Office of
30 Children's Representation representing children in proceedings
31 under chapter 39.

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1 (3) It is a misdemeanor of the first degree,
2 punishable as provided in s. 775.082 or s. 775.083, for any
3 person to willfully, knowingly, or intentionally fail, by
4 false statement, misrepresentation, impersonation, or other
5 fraudulent means, to disclose in any application for a
6 volunteer position or for paid employment with a Circuit
7 Office of Children's Representation to represent children in
8 proceedings under chapter 39 the Guardian Ad Litem Program,
9 any material fact used in making a determination as to the
10 applicant's qualifications for such position.

11 Section 882. Section 39.822, Florida Statutes, is
12 amended to read:

13 39.822 Appointment of guardian ad litem for abused,
14 abandoned, or neglected child.--

15 (1) A guardian ad litem for a child must be a
16 representative of a Circuit Office of Children's
17 Representation, must be an individual investigated by the
18 Circuit Office of Children's Representation and appointed by
19 the court for one specific case, or must be an attorney who is
20 a member in good standing of The Florida Bar. Before
21 appointing an individual under this chapter, the court shall
22 request the Circuit Office of Children's Representation to
23 conduct a security background investigation as provided in s.
24 39.821. A guardian ad litem who is not an attorney and who is
25 investigated for the limited representation in a case must be
26 represented by legal counsel in all proceedings related to the
27 child.~~shall be appointed by the court at the earliest~~
28 ~~possible time to represent the child in any child abuse,~~
29 ~~abandonment, or neglect judicial proceeding, whether civil or~~
30 ~~criminal. Any person participating in a civil or criminal~~
31 ~~judicial proceeding resulting from such appointment shall be~~

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1 ~~presumed prima facie to be acting in good faith and in so~~
2 ~~doing shall be immune from any liability, civil or criminal,~~
3 ~~that otherwise might be incurred or imposed.~~

4 (2) In those cases in which the parents are
5 financially able, the parent or parents of the child shall pay
6 ~~reimburse the court~~, in part or in whole, for the cost of
7 provision of guardian ad litem services and legal services.
8 Reimbursement for services contracted through a Circuit Office
9 of Children's Representation to the individual providing
10 ~~guardian ad litem services~~ shall not be contingent upon
11 successful collection ~~by the court~~ from the parent or parents.

12 (3) When a child and the child's parents are indigent
13 under s. 27.52, the Circuit Office of Children's
14 Representation shall be appointed to represent the child.

15 (4)(3) In proceedings under this chapter, the guardian
16 ad litem or the program representative of the Circuit Office
17 of Children's Representation shall review all disposition
18 recommendations and changes in placements, and must be present
19 at all critical stages of the dependency proceeding and shall
20 or submit a written report of findings in proceedings to
21 determine dependency and to terminate parental rights and may
22 submit a report of findings in other proceedings and when
23 requested by the court, the guardian ad litem may submit
24 recommendations to the court. Written reports must be filed
25 with the court and served on all parties whose whereabouts are
26 known at least 72 hours prior to the hearing.

27 Section 883. Section 39.8225, Florida Statutes, is
28 created to read:

29 39.8225 Guardians ad litem; powers, duties, and
30 authority.--

31 (1) A guardian ad litem shall act in the child's best

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1 interest, advocate for the child, and take appropriate action
2 to protect the best interest of the child.

3 (2) In an action brought pursuant to the Florida Rules
4 of Juvenile Procedure for dependency proceedings, the guardian
5 ad litem shall represent the best interest of the child after
6 investigating the allegations in the pleadings and the needs
7 of the child, after discussing the allegations with the child
8 and legal counsel, and after giving significant weight to the
9 expressed interests of the child. The guardian ad litem, other
10 than a representative of a Circuit Office of Children's
11 Representation, must be represented by an attorney.

12 (3) The guardian ad litem shall investigate the
13 allegations in the pleadings and the needs of the child for
14 the case and the guardian ad litem, in his or her
15 investigation, shall:

16 (a) Visit and when possible discuss the case with the
17 child.

18 (b) When appropriate for the representation, observe
19 the child's interactions with parents, siblings, or foster
20 parents; observe the child's family placement or proposed
21 permanent placement when there is one; and, when appropriate,
22 observe his or her socialization skills at school or other
23 care facilities.

24 (c) Conduct interviews with persons involved with the
25 child or related to the case, including, but not limited to,
26 when appropriate for the representation, an interview with the
27 child's parent, guardian, custodian, teacher, or foster
28 family; medical professionals treating or evaluating the
29 child; other caretakers or proposed adoptive parents; staff
30 members of the Department of Children and Family Services or
31 the Department of Juvenile Justice; law enforcement personnel

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1 who are involved in the case; and any other person whom the
2 guardian ad litem and the attorney determines appropriate.

3 (d) Obtain the legal, social, medical, or
4 psychological reports relevant to understanding the facts of
5 the case and the status and conditions of the child and other
6 participants in the proceeding. However, the attorney client
7 privilege and the work-product privilege may be claimed by
8 legal counsel on behalf of their clients.

9 (4) The guardian ad litem, and the attorney if the
10 child is going to be present in court, shall consult with the
11 child before any hearing, court appearance, or other
12 proceeding unless the court has excused the child's presence
13 in court pursuant to court order under 39.01(51). If the child
14 is of an age and capacity to understand, the proceeding must
15 be explained to the child in language appropriate to the
16 child's age, education, and comprehension ability, and the
17 child shall be offered the opportunity to attend the
18 proceeding.

19 (5) Before each hearing, the guardian ad litem shall
20 discuss with legal counsel information on all observations,
21 documentation obtained, and factual information the guardian
22 ad litem believes that the court should have in order to make
23 a best-interest determination for the child regarding the
24 issues before the court. If a Circuit Office of Children's
25 Representation is providing representation, the information
26 may be discussed with representatives of the office, as
27 required by office procedures. After reviewing the information
28 and consulting with the child and, when appropriate, with
29 staff members of the Circuit Office of Children's
30 Representation, the attorney and the guardian ad litem shall
31 determine the best manner in which to provide the court with

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1 all information necessary for the court to know the child,
2 know the expressed interests of the child, and determine what
3 is in the best interest of the child. In every case the court
4 must be informed of the expressed interest of the child
5 related to the proceeding. When the law requires a written
6 report, the guardian ad litem and counsel shall provide the
7 information to the court as required by law.

8 (6) If a written report is not required to include
9 recommendations, the guardian ad litem must be prepared to
10 present the court with a recommendation as to the best
11 interest of the child based on what the child would want if he
12 or she could, using adult judgment and knowledge, evaluate the
13 available information and make a request to the court.

14 (7) When a guardian ad litem is appointed, the court
15 may issue an order directing persons and entities contacted by
16 the guardian ad litem to allow the guardian ad litem to
17 inspect and copy any documents related to the child, the
18 child's parents, or other custodial persons or any household
19 member with whom the child resided, currently resides, or is
20 proposed to reside or any person who is otherwise related to
21 the allegation in the pleadings. The guardian ad litem,
22 through counsel, may also petition the court for an order
23 directed to a specified person, agency, or organization,
24 including, but not limited to, a hospital, medical doctor,
25 dentist, psychologist, or psychiatrist, which order directs
26 that the guardian ad litem be allowed to inspect and copy any
27 records or documents that relate to the minor child, the
28 child's parent or other custodial person, or any household
29 member with whom the child resides. An order based on a
30 petition shall be obtained only after notice to all parties
31 and a hearing thereon.

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1 (8) The guardian ad litem shall submit his or her
2 report to the court, if a report is to be submitted, regarding
3 any stipulation or agreement, whether incidental, temporary,
4 or permanent, which affects the interest or welfare of the
5 minor child, within 10 days after the date the stipulation or
6 agreement is served upon the guardian ad litem or as directed
7 by the court.

8 (9) The guardian ad litem, through counsel, may
9 request the court to order an expert examination of the child,
10 the child's parent, or any other interested party by a medical
11 doctor, dentist, or other health care provider, including a
12 psychiatrist, psychologist, or other licensed or certified
13 mental health professional employed or supervised by a
14 licensed physician, psychiatrist, or psychologist.

15 (10) The guardian ad litem may, unless a report is
16 otherwise required by law, file a written report that may
17 include recommendations and shall include any expressed
18 interests of the child. When a report is filed, it must be
19 filed and served on all parties at least 3 days before the
20 hearing at which it will be presented, unless the court waives
21 the time limit or the law requiring the report specifies a
22 different time.

23 (11) The guardian ad litem must be provided with
24 copies of all pleadings, notices, and other documents filed in
25 the action and is entitled to reasonable notice before any
26 action affecting the child is taken by any of the parties,
27 their counsel, or the court.

28 (12) A guardian ad litem, acting through counsel,
29 shall actively file any pleadings, motions, or petitions for
30 relief which the guardian ad litem considers appropriate or
31 necessary in furtherance of the guardian's representation of

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1 the child. The guardian ad litem, through counsel, is entitled
2 to be present and to participate in all depositions, hearings,
3 and other proceedings in the action, and, through counsel, may
4 compel the attendance of witnesses.

5 (13) The duties and rights of a nonattorney guardian
6 ad litem does not include the right to practice law.

7 (14) A guardian ad litem is not required to post bond
8 but shall file an acceptance of the office.

9 (15) A guardian ad litem is entitled to receive
10 service of pleadings and papers as provided by the Florida
11 Rules of Procedure applicable to the case.

12 Section 884. Section 39.8226, Florida Statutes, is
13 created to read:

14 39.8226 Legal counsel for a child.--

15 (1) The court may appoint counsel to represent the
16 expressed interest of a child, in lieu of or in addition to a
17 guardian ad litem, in any dependency case related to the
18 child, if the court determines that the child is of an age and
19 capacity to participate in his or her representation and the
20 child or the child's parents or guardian can pay for the
21 representation.

22 (2)(a) If a Circuit Office of Children's
23 Representation has been appointed to represent the child, the
24 court may appoint counsel to represent the expressed interest
25 of a child, in lieu of or in addition to a guardian ad litem,
26 only if the court finds that the child is of an age and
27 capacity to participate in his or her representation and
28 either the expressed interests of the child and the
29 best-interest representation by the guardian ad litem do not
30 coincide or the complexity of the pending case or other legal
31 actions suggest that representation for the child is

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1 appropriate.

2 (b) If the guardian ad litem's best-interest
3 representation and the expressed interests of the child do not
4 coincide, the Circuit Office of Children's Representation must
5 petition the court for a review to determine whether the
6 provisions of paragraph (a) have been met, whether the child
7 wants independent counsel and whether the child wants or it is
8 appropriate or required under the law for a guardian ad litem
9 to continue to represent the best interest of the child in
10 some or all issues.

11 (3) Upon petition of the Circuit Office of Children's
12 Representation, the court may appoint independent counsel to
13 represent the child in collateral issues if the office does
14 not have the expertise to provide appropriate representation.
15 The petition must address whether the guardian ad litem will
16 continue to represent the best interest of the child in any or
17 all proceedings.

18 Section 885. Section 39.84, Florida Statutes, is
19 created to read:

20 39.84 Guardians ad litem; confidentiality.--The
21 guardian ad litem shall maintain as confidential all
22 information and documents received from any source and may not
23 disclose such information or documents except, as provided by
24 law or Florida rules of evidence and procedure, in testimony
25 or a report to the court. When a report is filed with the
26 court, it must be served upon the parties to the action and
27 their counsel or as directed by the court.

28 Section 886. Section 39.86, Florida Statutes, is
29 created to read:

30 39.86 Guardians ad litem, immunity.--Any person
31 participating in a judicial proceeding as a guardian ad litem,

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1 as staff or a volunteer representing the Circuit Office of
2 Children's Representation in a proceeding under this chapter,
3 shall be presumed prima facie to be acting in good faith, and,
4 in so doing, shall be immune from any liability, civil or
5 criminal, that otherwise might be incurred or imposed.

6 Section 887. Subsection (8) of section 40.24, Florida
7 Statutes, is amended to read:

8 40.24 Compensation and reimbursement policy.--

9 (8) In circuits that elect to allow jurors to donate
10 their jury service fee upon conclusion of juror service, each
11 juror may irrevocably donate all of the juror's compensation
12 to the Statewide Public Guardianship and Children's
13 Representation Office for expenditure to represent children in
14 dependency proceeding the 26 U.S.C. s. 501(c)(3) organization
15 ~~specified by the guardian ad litem program~~ or to a domestic
16 violence shelter as specified annually on a rotating basis by
17 the clerk of court in the circuit for the juror's county of
18 residence. The funds collected may not reduce or offset the
19 amount of compensation that the guardian ad litem program or
20 domestic violence shelter would otherwise receive from the
21 state. The clerk of court shall ensure that all jurors are
22 given written notice at the conclusion of their service that
23 they have the option to so donate their compensation, and that
24 the applicable program specified by the guardian ad litem
25 program or a domestic violence shelter receives all funds
26 donated by the jurors. Any guardian ad litem program
27 receiving donations of juror compensation must expend such
28 moneys on services for children for whom guardians ad litem
29 have been appointed.

30 Section 888. Paragraph (a) of subsection (6) of
31 section 215.5601, Florida Statutes, is amended to read:

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1 organization, appointed by the Governor;

2 12. One consumer caregiver for children, appointed by
3 the Governor;

4 13. One person over the age of 60 years to represent
5 the interests of elders, appointed by the Governor;

6 14. One person under the age of 18 years to represent
7 the interests of children, appointed by the Governor; and

8 15. One consumer caregiver for a functionally impaired
9 elderly person, appointed by the Governor.

10 Section 889. Subsection (12) of section 985.308,
11 Florida Statutes, is amended to read:

12 985.308 Juvenile sexual offender commitment programs;
13 sexual abuse intervention networks.--

14 (12) Membership of a sexual abuse intervention network
15 shall include, but is not limited to, representatives from:

16 (a) Local law enforcement agencies;

17 (b) Local school boards;

18 (c) Child protective investigators;

19 (d) The office of the state attorney;

20 (e) The office of the public defender;

21 (f) The juvenile division of the circuit court;

22 (g) Professionals licensed under chapter 458, chapter
23 459, s. 490.0145, or s. 491.0144 providing treatment for
24 juvenile sexual offenders or their victims;

25 (h) The Statewide Public Guardianship and Children's
26 Representation Office ~~guardian ad litem program~~;

27 (i) The Department of Juvenile Justice; and

28 (j) The Department of Children and Family Services.

29 Section 890. For purposes of incorporating the
30 amendment to section 39.202, Florida Statutes, in references
31 thereto, paragraph (f) of subsection (1) of section 39.3035,

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1 Florida Statutes, is reenacted to read:

2 39.3035 Child advocacy centers; standards; state
3 funding.--

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

7 (f) Provide case tracking of child abuse cases seen
8 through the center. A center shall also collect data on the
9 number of child abuse cases seen at the center, by sex, race,
10 age, and other relevant data; the number of cases referred for
11 prosecution; and the number of cases referred for mental
12 health therapy. Case records shall be subject to the
13 confidentiality provisions of s. 39.202.

14 Section 891. For purposes of incorporating the
15 amendment to section 39.202, Florida Statutes, in references
16 thereto, subsection (2) of section 39.507, Florida Statutes,
17 is reenacted 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. The parents or legal custodians shall be allowed to
26 obtain discovery pursuant to the Florida Rules of Juvenile
27 Procedure, provided such discovery does not violate the
28 provisions of s. 39.202. Hearings involving more than one
29 child may be held simultaneously when the children involved
30 are related to each other or were involved in the same case.
31 The child and the parents, caregivers, or legal custodians of

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

3 Section 892. For purposes of incorporating the
4 amendment to section 39.701, Florida Statutes, in references
5 thereto, subsection (4) of section 63.052, Florida Statutes,
6 is reenacted to read:

7 63.052 Guardians designated; proof of commitment.--

8 (4) If a minor is voluntarily surrendered to an
9 adoption entity for subsequent adoption and the adoption does
10 not become final within 180 days, the adoption entity must
11 report to the court on the status of the minor and the court
12 may at that time proceed under s. 39.701 or take action
13 reasonably necessary to protect the best interest of the
14 minor.

15 Section 893. For purposes of incorporating the
16 amendment to section 39.402, Florida Statutes, in references
17 thereto, subsection (20) of section 984.03, Florida Statutes,
18 is reenacted to read:

19 984.03 Definitions.--When used in this chapter, the
20 term:

21 (20) "Detention hearing" means a hearing for the court
22 to determine if a child should be placed in temporary custody,
23 as provided for under s. 39.402, in dependency cases.

24
25 (Redesignate subsequent sections.)

26
27
28 ===== T I T L E A M E N D M E N T =====

29 And the title is amended as follows:

30 On page 10, line 2, after the semicolon,

31

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1 insert:
2 providing for the transfer of the guardian ad
3 litem program to the Statewide Public
4 Guardianship and Children's Representation
5 Office; renaming each guardian ad litem office
6 as a Circuit Office of Children's
7 Representation; providing for a study to
8 determine the organizational placement of the
9 Statewide Public Guardianship and Children's
10 Representation Office and Circuit Children's
11 Representation Offices with recommendations to
12 the Legislature by a specified date; providing
13 for county funding of program elements;
14 amending s. 25.388, F.S.; including the
15 Statewide Public Guardianship and Children's
16 Representation Office as recipients of moneys
17 from the Family Courts Trust Funds; amending s.
18 744.701, F.S.; redesignating the Public
19 Guardianship Act as the "Public Guardianship
20 and Children's Representation Act"; amending s.
21 744.702, F.S.; providing legislative intent
22 with respect to children involved in dependency
23 proceedings and incapacitated persons; amending
24 s. 744.7021, F.S.; establishing the Statewide
25 Public Guardianship and Children's
26 Representation Office within the Department of
27 Elderly Affairs; providing a term of office and
28 qualifications for the executive director;
29 providing for appointment of deputy directors;
30 providing qualifications for deputy directors;
31 requiring the Statewide Public Guardianship and

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1 Children's Representation Office to establish
2 standards for the representation of children;
3 requiring an annual report to the Legislature;
4 requiring the office to establish a Circuit
5 Office of Children's Representation in each
6 judicial circuit; authorizing the circuit
7 offices to provide and coordinate the provision
8 of legal services for children when private
9 representation is unavailable; requiring the
10 circuit offices to provide representation for
11 children in dependency proceedings; providing
12 for appointing a lay representative and an
13 attorney to represent the best interest of the
14 child; authorizing the Statewide Public
15 Guardianship and Children's Representation
16 Office or the Circuit Offices of Children's
17 Representation to establish a nonprofit
18 organization to assist in funding the services
19 provided to children; amending ss. 744.703,
20 744.706, 744.707, 744.708, 744.7081, 400.148,
21 F.S., relating to the office of public
22 guardian, budget, procedures and rules, reports
23 and standards, access to records, and Medicaid
24 contracts; conforming provisions to changes
25 made by the act; amending s. 27.51, F.S.;
26 authorizing a public defender to enter into an
27 agreement for representation of a child in a
28 dependency proceeding; amending s. 39.001,
29 F.S.; requiring the Statewide Public
30 Guardianship and Children's Representation
31 Office to participate in revising the statewide

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1 plan to prevent abuse, abandonment, and neglect
2 of children; requiring that the Circuit Offices
3 of Children's Representation participate in
4 revising local plans; amending s. 39.01, F.S.;
5 redefining the term "party" to include, under
6 certain circumstances, a guardian ad litem;
7 limiting a child's right to file documents;
8 providing for notice to a party; providing for
9 excusing a child from appearing in court;
10 amending s. 39.013, F.S.; providing for
11 representation of children in proceedings under
12 ch. 39, F.S.; amending s. 39.202, F.S.;
13 authorizing access to records by the guardian
14 ad litem and the child; amending s. 39.302,
15 F.S.; requiring notification of the guardian ad
16 litem or legal counsel of reports of
17 institutional child abuse, neglect, or
18 abandonment; amending s. 39.305, F.S.;
19 providing for the Statewide Public Guardianship
20 and Children's Representation Office to
21 participate in developing the model plan for
22 intervention and treatment in certain
23 sexual-abuse cases; amending s. 39.402, F.S.;
24 providing for notice of and representation for
25 a child at a shelter hearing; providing for
26 continuance of the hearing in order for the
27 child to obtain representation; amending s.
28 39.407, F.S.; authorizing legal counsel to
29 represent a child placed in residential
30 treatment; requiring that notice and
31 information regarding the child's treatment be

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1 provided to the child's guardian ad litem and
2 legal counsel; amending s. 39.4085, F.S.;
3 requiring that the child, the guardian ad
4 litem, or legal counsel participate in
5 developing a case plan; providing for the right
6 of a child to be heard at all review hearings;
7 providing for appointment of a guardian ad
8 litem or legal counsel; repealing s. 39.4086,
9 F.S., relating to a pilot program for
10 appointing attorneys ad litem for dependent
11 children; amending s. 39.502, F.S.; providing
12 for notice and service of process on legal
13 counsel or guardian ad litem; amending s.
14 39.504, F.S.; authorizing the child's guardian
15 ad litem or attorney to file for an injunction
16 to prevent child abuse or an unlawful sexual
17 offense; amending s. 39.505, F.S.; specifying
18 that the guardian ad litem need not file an
19 answer to a petition or pleading; amending s.
20 39.510, F.S.; authorizing the representative of
21 a party to appeal a court order; amending s.
22 39.521, F.S.; requiring that a case plan and
23 certain reports be provided to specified
24 parties; limiting discharge of a guardian ad
25 litem or legal counsel unless other
26 representation is provided to a child;
27 authorizing approval of withdrawal request;
28 amending s. 39.701, F.S.; authorizing the court
29 to dismiss a child from a judicial review
30 hearing; requiring that notice be provided to
31 the child and legal counsel; requiring service

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1 of reports on specified parties; requiring the
2 court to determine whether a child needs a
3 guardian ad litem or attorney; amending s.
4 39.801, F.S.; requiring that notice of a
5 petition be served on a child; exempting a
6 child's legal counsel from payment of fees for
7 service of process or other papers; amending s.
8 39.802, F.S.; providing for a child through
9 legal counsel to file a petition for
10 termination of parental rights; amending s.
11 39.805, F.S.; providing that a guardian ad
12 litem need not file an answer; amending s.
13 39.806, F.S.; providing requirements for a
14 child in filing a petition for termination of
15 parental rights; amending s. 39.807, F.S.;
16 providing requirements for the representation
17 provided to a child by the guardian ad litem or
18 legal counsel; eliminating provisions related
19 to posting of a bond and service on a guardian
20 ad litem; amending s. 39.808, F.S.; providing
21 for appointment of legal counsel following a
22 petition to terminate parental rights; amending
23 s. 39.810, F.S.; providing for the court to
24 consider the expressed interest of the child in
25 a hearing on a petition to terminate parental
26 rights; providing that the court must consider
27 information related to best-interest
28 requirements provided by a guardian ad litem;
29 amending s. 39.811, F.S.; requiring that the
30 court consider information provided by the
31 child or the guardian ad litem in determining

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1 whether to retain jurisdiction over a dependent
2 child; amending s. 39.820, F.S.; amending the
3 definition of the term "guardian ad litem" to
4 eliminate references to the guardian ad litem
5 program; amending s. 39.821, F.S.; providing
6 qualifications for guardians ad litem and staff
7 members of the Circuit Office of Children's
8 Representation providing representation to
9 children; amending s. 39.822, F.S.; designating
10 who may be a guardian ad litem; providing for
11 appointment of the Circuit Office of Children's
12 Representation when the child and parents are
13 indigent; requiring background checks of
14 specified guardians ad litem; creating s.
15 39.8225, F.S.; providing powers and duties of a
16 guardian ad litem; requiring that a guardian ad
17 litem represent the child's best interest;
18 requiring that a guardian ad litem investigate
19 allegations in a pleading filed; providing
20 requirements for conducting an investigation;
21 requiring that the guardian ad litem and
22 attorney consult with the child; requiring a
23 report; providing for attorney review of the
24 report and presentation to the court; requiring
25 that the court be informed of the expressed
26 interest of the child; authorizing the court to
27 issue a blanket order for the guardian ad litem
28 to obtain information; authorizing the guardian
29 ad litem to petition the court to issue orders;
30 providing for notice of written reports to all
31 parties; requiring that the guardian ad litem

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1 file certain pleadings through counsel;
2 creating s. 39.84, F.S.; providing for
3 confidentiality; creating s. 39.86, F.S.;
4 providing immunity for a guardian ad litem,
5 staff or volunteer in a Circuit Office of
6 Children's Representation, and a
7 court-appointed psychologist; creating s.
8 39.8226, F.S.; providing for appointment of
9 legal counsel for a child; requiring that the
10 court determine capacity of a child before
11 appointing legal counsel; providing for
12 appointment of legal counsel when the Circuit
13 Office of Children's Representation is
14 providing representation; authorizing the
15 Circuit Office of Children's Representation to
16 petition for appointment of counsel; amending
17 s. 40.24, F.S.; providing for payment for
18 jurors to be used to fund the representation of
19 children in a proceeding under ch. 39, F.S.,
20 and related proceedings; amending s. 215.5601,
21 F.S.; providing for the Director of the
22 Statewide Public Guardianship and Children's
23 Representation Office rather than the director
24 of the guardian ad litem program to be a member
25 of the Lawton Chiles Endowment Fund Advisory
26 Council; amending s. 985.308, F.S.;
27 substituting the Statewide Public Guardianship
28 and Children's Representation Office for the
29 guardian ad litem program on the membership of
30 a sexual abuse intervention network; reenacting
31 ss. 39.3035, 39.202, F.S., relating to child

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1 advocacy centers and adjudicatory hearings, to
2 incorporate the amendment to s. 39.202, F.S.,
3 in references thereto; reenacting s. 63.052,
4 F.S., relating to the designation of guardians,
5 to incorporate the amendment to 39.701, F.S.,
6 in references thereto; reenacting s. 984.03,
7 F.S., relating to probation and community
8 control, to incorporate the amendment to s.
9 39.402, F.S., in references thereto;

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