

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

300-1948-02

1 A bill to be entitled
2 An act relating to legal proceedings involving
3 minor children; providing for the transfer of
4 the guardian ad litem program to the Statewide
5 Public Guardianship Office; renaming each
6 guardian ad litem office as a Circuit Office of
7 Children's Representation; providing for a
8 study to determine the organizational placement
9 of the Statewide Public Guardianship Office and
10 Children's Representation offices with
11 recommendations to the Legislature by February
12 1, 2003; amending s. 25.388, F.S.; including
13 the Statewide Public Guardianship Office
14 representation of children as recipients of
15 moneys from the Family Courts Trust Funds;
16 amending s. 744.7021, F.S.; requiring the
17 Statewide Public Guardianship Office to
18 establish standards for the representation of
19 children; requiring an annual report to the
20 Legislature; requiring the office to establish
21 a Circuit Office of Children's Representation
22 in each judicial circuit; authorizing the
23 circuit offices to provide and coordinate the
24 provision of legal services for children when
25 private representation is unavailable;
26 requiring the circuit offices to provide
27 representation for children in dependency
28 proceedings; providing for appointing a lay
29 representative and an attorney to represent the
30 best interest of the child; authorizing the
31 Statewide Public Guardianship Office or the

1 Circuit Offices of Children's Representation to
2 establish a nonprofit organization to assist in
3 funding the services provided to children;
4 amending s. 27.51, F.S.; authorizing a public
5 defender to enter into an agreement for
6 representation of a child in a dependency
7 proceeding; amending s. 39.001, F.S.; requiring
8 the Statewide Public Guardianship Office to
9 participate in revising the statewide plan to
10 prevent abuse, abandonment, and neglect of
11 children; requiring that the Circuit Offices of
12 Children's Representation participate in
13 revising local plans; amending s. 39.01, F.S.;
14 redefining the term "party" to include, under
15 certain circumstances, a guardian ad litem;
16 limiting a child's right to file documents;
17 providing for notice to a party; providing for
18 excusing a child from appearing in court;
19 amending s. 39.013, F.S.; providing for
20 representation of children in proceedings under
21 ch. 39, F.S.; amending s. 39.202, F.S.;
22 authorizing access to records by the guardian
23 ad litem and the child; amending s. 39.302,
24 F.S.; requiring notification of the guardian ad
25 litem or legal counsel of reports of
26 institutional child abuse, neglect, or
27 abandonment; amending s. 39.305, F.S.;
28 providing for the Statewide Public Guardianship
29 Office to participate in developing the model
30 plan for intervention and treatment in certain
31 sexual-abuse cases; amending s. 39.402, F.S.;

1 providing for notice of and representation for
2 a child at a shelter hearing; providing for
3 continuance of the hearing in order for the
4 child to obtain representation; amending s.
5 39.407, F.S.; authorizing legal counsel to
6 represent a child placed in residential
7 treatment; requiring that notice and
8 information regarding the child's treatment be
9 provided to the child's guardian ad litem and
10 legal counsel; amending s. 39.4085, F.S.;
11 requiring that the child, the guardian ad
12 litem, or legal counsel participate in
13 developing a case plan; providing for the right
14 of a child to be heard at all review hearings;
15 providing for appointment of a guardian ad
16 litem or legal counsel; repealing s. 39.4086,
17 F.S., relating to a pilot program for
18 appointing attorneys ad litem for dependent
19 children; amending s. 39.502, F.S.; providing
20 for notice and service of process on legal
21 counsel or guardian ad litem; amending s.
22 39.504, F.S.; authorizing the child's guardian
23 ad litem or attorney to file for an injunction
24 to prevent child abuse or an unlawful sexual
25 offense; amending s. 39.505, F.S.; specifying
26 that the guardian ad litem need not file an
27 answer to a petition or pleading; amending s.
28 39.510, F.S.; authorizing the representative of
29 a party to appeal a court order; amending s.
30 39.521, F.S.; requiring that a case plan and
31 certain reports be provided to specified

1 parties; limiting discharge of a guardian ad
2 litem or legal counsel unless other
3 representation is provided to a child; amending
4 s. 39.701, F.S.; authorizing the court to
5 dismiss a child from a judicial review hearing;
6 requiring that notice be provided to the child
7 and legal counsel; requiring service of reports
8 on specified parties; requiring the court to
9 determine whether a child needs a guardian ad
10 litem or attorney; authorizing the court to
11 determine whether a child's placement is
12 appropriate; amending s. 39.801, F.S.;
13 requiring that notice of a petition be served
14 on a child; exempting a child's legal counsel
15 from payment of fees for service of process or
16 other papers; amending s. 39.802, F.S.;
17 providing for a child through legal counsel to
18 file a petition for termination of parental
19 rights; amending s. 39.805, F.S.; providing
20 that a guardian ad litem need not file an
21 answer; amending s. 39.806, F.S.; providing
22 requirements for a child in filing a petition
23 for termination of parental rights; amending s.
24 39.807, F.S.; providing requirements for the
25 representation provided to a child by the
26 guardian ad litem or legal counsel; eliminating
27 provisions related to posting of a bond and
28 service on a guardian ad litem; amending s.
29 39.808, F.S.; providing for appointment of
30 legal counsel following a petition to terminate
31 parental rights; amending s. 39.810, F.S.;

1 providing for the court to consider the
2 expressed interest of the child in a hearing on
3 a petition to terminate parental rights;
4 providing that the court must consider
5 information related to best-interest
6 requirements provided by a guardian ad litem;
7 amending s. 39.811, F.S.; requiring that the
8 court consider information provided by the
9 child or the guardian ad litem in determining
10 whether to retain jurisdiction over a dependent
11 child; amending s. 39.820, F.S.; amending the
12 definition of the term "guardian ad litem" to
13 eliminate references to the guardian ad litem
14 program; amending s. 39.821, F.S.; providing
15 qualifications for guardians ad litem and staff
16 members of the Circuit Office of Children's
17 Representation providing representation to
18 children; amending s. 39.822, F.S.; designating
19 who may be a guardian ad litem; providing for
20 appointment of the Circuit Office of Children's
21 Representation when the child and parents are
22 indigent; requiring background checks of
23 specified guardians ad litem; creating s.
24 39.8225, F.S.; providing powers and duties of a
25 guardian ad litem; requiring that a guardian ad
26 litem represent the child's best interest;
27 requiring that a guardian ad litem investigate
28 allegations in a pleading filed; providing
29 requirements for conducting an investigation;
30 requiring that the guardian ad litem and
31 attorney consult with the child; requiring a

1 report; providing for attorney review of the
2 report and presentation to the court; requiring
3 that the court be informed of the expressed
4 interest of the child; authorizing the court to
5 issue a blanket order for the guardian ad litem
6 to obtain information; authorizing the guardian
7 ad litem to petition the court to issue orders;
8 providing for notice of written reports to all
9 parties; requiring that the guardian ad litem
10 file certain pleadings through counsel;
11 creating s. 39.84, F.S.; providing for
12 confidentiality; creating s. 39.86, F.S.;
13 providing immunity for a guardian ad litem,
14 staff or volunteer in a Circuit Office of
15 Children's Representation, and a
16 court-appointed psychologist; creating s.
17 39.8226, F.S.; providing for appointment of
18 legal counsel for a child; requiring that the
19 court determine capacity of a child before
20 appointing legal counsel; providing for
21 appointment of legal counsel when the Circuit
22 Office of Children's Representation is
23 providing representation; authorizing the
24 Circuit Office of Children's Representation to
25 petition for appointment of counsel; amending
26 s. 40.24, F.S.; providing for payment for
27 jurors to be used to fund the representation of
28 children in a proceeding under ch. 39, F.S.,
29 and related proceedings; amending s. 215.5601,
30 F.S.; providing for the Director of the
31 Statewide Public Guardianship Office rather

1 than the director of the guardian ad litem
2 program to be a member of the Lawton Chiles
3 Endowment Fund Advisory Council; amending s.
4 985.308, F.S.; substituting the Statewide
5 Public Guardianship Office for the guardian ad
6 litem program on the membership of a sexual
7 abuse intervention network; providing an
8 effective date.

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

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12 Section 1. The guardian ad litem program is
13 transferred to the Statewide Public Guardianship Office, and
14 each circuit guardian ad litem office is renamed as the
15 Circuit Office of Children's Representation. The Director of
16 the Statewide Public Guardianship Office shall employ a deputy
17 director for children's representation who is an attorney and
18 who is knowledgeable about dependency law and has management
19 experience. The deputy director for children's representation
20 shall supervise each Circuit Office of Children's
21 Representation.

22 Section 2. The Statewide Public Guardianship Office,
23 in consultation with appropriate parties, including the
24 judicial branch, Office of the Governor, Attorney General, and
25 a representative of the Justice Administrative Commission,
26 shall study the organizational placement of the Statewide
27 Public Guardianship Office, including the Deputy Director and
28 related staff and the Circuit Offices of Children's
29 Representation, and shall make recommendations regarding the
30 placement to the Legislature by February 1, 2003.

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1 Section 3. Effective October 1, 2002, the guardian ad
2 litem program in the Office of the State Court Administrator
3 and in each judicial circuit and all of its statutory powers,
4 duties, and functions, and its records, personnel, property,
5 and unexpended balances of appropriations, allocations, or
6 other funds, are transferred by a type two transfer, as
7 defined in section 20.06(2), Florida Statutes, to the
8 Statewide Public Guardianship Office.

9 Section 4. Subsection (1) of section 25.388, Florida
10 Statutes, is amended to read:

11 25.388 Family Courts Trust Fund.--

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

16 (b) The Supreme Court, through the Office of the State
17 Courts Administrator, shall adopt a comprehensive plan for the
18 operation of the trust fund and the expenditure of any moneys
19 deposited into the trust fund. The plan shall provide for a
20 comprehensive integrated response to families in litigation,
21 including domestic violence matters, Statewide Public
22 Guardianship Office's representation of children in dependency
23 proceedings ~~guardian ad litem programs~~, mediation programs,
24 legal support, training, automation, and other related costs
25 incurred to benefit the citizens of the state and the courts
26 in relation to family law cases. The trust fund shall be used
27 to fund the publication of the handbook created pursuant to s.
28 741.0306.

29 Section 5. Present subsections (3) and (4) of section
30 744.7021, Florida Statutes, are redesignated as subsections
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1 (4) and (5), respectively, and a new subsection (3) is added
2 to that section to read:

3 744.7021 Statewide Public Guardianship Office.--There
4 is hereby created the Statewide Public Guardianship Office
5 within the Department of Elderly Affairs. The Department of
6 Elderly Affairs shall provide administrative support and
7 service to the office to the extent requested by the executive
8 director within the available resources of the department. The
9 Statewide Public Guardianship Office may request the
10 assistance of the Inspector General of the Department of
11 Elderly Affairs in providing auditing services, and the Office
12 of General Counsel of the department may provide assistance in
13 rulemaking and other matters as needed to assist the Statewide
14 Public Guardianship Office. The Statewide Public Guardianship
15 Office shall not be subject to control, supervision, or
16 direction by the Department of Elderly Affairs in the
17 performance of its duties.

18 (3)(a) The office shall establish standards for
19 representation of children by the Circuit Offices of
20 Children's Representation, including recommended case loads
21 for attorneys and for volunteers and staff lay representatives
22 of a child.

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

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1 (c) The office shall develop performance measures and
2 standards for its services throughout the state and shall
3 annually report on the performance of the Circuit Offices of
4 Children's Representation.

5 (d) The office shall establish a Circuit Office of
6 Children's Representation in each judicial circuit in the
7 state. Each circuit office shall consist of an administrator,
8 staff or pro bono attorneys, social workers, volunteer
9 coordinators, volunteer or staff lay representatives for
10 children, and support staff. The administrator in each office
11 must be knowledgeable and proficient in the legal process and
12 the legal representation of children in court proceedings, as
13 well as discovery and mediation processes.

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

22 (f) If a Circuit Office of Children's Representation
23 is appointed to represent a child, a staff or volunteer
24 representative and a staff or pro bono attorney shall be
25 assigned to provide the office's representation of the best
26 interests of the child.

27 (g) To the extent possible, the Statewide Public
28 Guardianship Office or the Circuit Offices of Children's
29 Representation may augment staff through agreements or
30 contracts with the public defenders, private entities, or
31 public or private colleges or universities for contract or pro

1 bono legal representation to children as court-appointed
2 counsel for the child, to provide pro bono representation to
3 the office, or to provide non-legal volunteer representation.

4 (h) The Office of Statewide Public Guardianship and
5 each Circuit Office of Children's Representatives may
6 establish a not-for-profit support organization under section
7 501(c)(3) of the Internal Revenue Code to assist in funding
8 the needs of children receiving services through the Circuit
9 Offices of Children's Representation.

10 Section 6. Present subsection (7) of section 27.51,
11 Florida Statutes, is redesignated as subsection (8) and a new
12 subsection (7) is added to that section to read:

13 27.51 Duties of public defender.--

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

19 Section 7. Paragraph (a) of subsection (7) of section
20 39.001, Florida Statutes, is amended to read:

21 39.001 Purposes and intent; personnel standards and
22 screening.--

23 (7) PLAN FOR COMPREHENSIVE APPROACH.--

24 (a) The department shall develop a state plan for the
25 prevention of abuse, abandonment, and neglect of children and
26 shall submit the plan to the Speaker of the House of
27 Representatives, the President of the Senate, and the Governor
28 no later than January 1, 1983. The Department of Education,
29 ~~and~~ the Division of Children's Medical Services Prevention and
30 Intervention of the Department of Health, and the Statewide
31 Public Guardianship Office shall participate and fully

1 cooperate in the development of the state plan at both the
2 state and local levels. Furthermore, appropriate local
3 agencies and organizations shall be provided an opportunity to
4 participate in the development of the state plan at the local
5 level. Appropriate local groups and organizations shall
6 include, but not be limited to, community mental health
7 centers; Circuit Offices of Children's Representation ~~guardian~~
8 ~~ad litem programs for children under the circuit court;~~ the
9 school boards of the local school districts; the Florida local
10 advocacy councils; private or public organizations or programs
11 with recognized expertise in working with children who are
12 sexually abused, physically abused, emotionally abused,
13 abandoned, or neglected and with expertise in working with the
14 families of such children; private or public programs or
15 organizations with expertise in maternal and infant health
16 care; multidisciplinary child protection teams; child day care
17 centers; and law enforcement agencies, ~~and the circuit courts,~~
18 ~~when guardian ad litem programs are not available in the local~~
19 ~~area.~~ The state plan to be provided to the Legislature and
20 the Governor shall include, as a minimum, the information
21 required of the various groups in paragraph (b).

22 Section 8. Subsection (51) of section 39.01, Florida
23 Statutes, is amended to read:

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

26 (51) "Party" means the parent or parents of the child,
27 the petitioner, the department, the guardian ad litem as
28 defined in s. 39.820 ~~or the representative of the guardian ad~~
29 ~~litem program when the program has been appointed,~~ and the
30 child. While the child is a party, he or she may file
31 documents in a proceeding under this chapter only through a

1 court-appointed attorney or guardian ad litem. If information
2 or notice must be provided to a party, service shall be made
3 as provided in s. 39.502.The presence of the child may be
4 excused by order of the court when the child requests to be
5 excused ~~presence would not be in the child's best interest.~~
6 Notice to the child and the presence of the child may be
7 excused by order of the court when the age, capacity, or other
8 condition of the child is such that the notice or the presence
9 of the child would be meaningless, physically dangerous, or
10 emotionally detrimental to the child.

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

15 39.013 Procedures and jurisdiction; right to
16 counsel.--

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

22 Section 10. Paragraph (d) of subsection (2) and
23 subsection (5) of section 39.202, Florida Statutes, are
24 amended to read:

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

27 (2) Access to such records, excluding the name of the
28 reporter which shall be released only as provided in
29 subsection (4), shall be granted only to the following
30 persons, officials, and agencies:

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

9 (5) All records and reports of the child protection
10 team of the Department of Health are confidential and exempt
11 from the provisions of ss. 119.07(1) and 456.057, and shall
12 not be disclosed, except, upon request, to the state
13 attorney; ~~law enforcement agencies;~~ the department; and
14 necessary professionals, in furtherance of the treatment or
15 additional evaluative needs of the child; to the child, the
16 guardian ad litem, and their attorneys; by order of the
17 court; ~~or to health plan payors, limited to that information~~
18 used for insurance reimbursement purposes.

19 Section 11. Present subsections (4), (5), and (6) of
20 section 39.302, Florida Statutes, are redesignated as
21 subsections (5), (6), and (7), respectively, and a new
22 subsection (4) is added to that section to read:

23 39.302 Protective investigations of institutional
24 child abuse, abandonment, or neglect.--

25 (4) Upon receipt of a report of institutional child
26 abuse, abandonment, or neglect as provided in subsection (1)
27 the department shall, within 24 hours, notify the guardian ad
28 litem or legal counsel for any child alleged to be abused,
29 abandoned, or neglected. Copies of the child-protective
30 investigation shall be provided to the guardian ad litem or
31 attorney immediately upon completion.

1 Section 12. Section 39.305, Florida Statutes, is
2 amended to read:

3 39.305 Intervention and treatment in sexual abuse
4 cases; model plan.--The department shall develop a model plan
5 for community intervention and treatment of intrafamily sexual
6 abuse in conjunction with the Department of Law Enforcement,
7 the Department of Health, the Department of Education, the
8 Attorney General, the Statewide Public Guardianship Office ~~the~~
9 ~~state Guardian Ad Litem Program~~, the Department of
10 Corrections, representatives of the judiciary, and
11 professionals and advocates from the mental health and child
12 welfare community.

13 Section 13. Subsection (5) and paragraphs (b), (c),
14 and (e) of subsection (8) of section 39.402, Florida Statutes,
15 are amended to read:

16 39.402 Placement in a shelter.--

17 (5)(a) The parents or legal custodians of the child,
18 the child, and either the child's guardian ad litem, if known,
19 or the Circuit Office of Children's Representation shall be
20 given such notice as best ensures their actual knowledge of
21 the date, time, and location of the shelter hearing. If the
22 parents or legal custodians are outside the jurisdiction of
23 the court, are not known, or cannot be located or refuse or
24 evade service, they shall be given such notice as best ensures
25 their actual knowledge of the date, time, and location of the
26 shelter hearing. The person providing or attempting to
27 provide notice under this paragraph ~~to the parents or legal~~
28 ~~custodians~~ shall, if the persons or entities to be provided
29 notice ~~parents or legal custodians~~ are not present at the
30 hearing, advise the court either in person or by sworn
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1 affidavit, of the attempts made to provide notice and the
2 results of those attempts.

3 (b) The parents or legal custodians, the child, and
4 either the child's guardian ad litem, if known, or the Circuit
5 Office of Children's Representation shall be given written
6 notice that:

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

9 2. The parents ~~They~~ have the right to be represented
10 by counsel and the child has the right to counsel as provided
11 in s. 39.013. ~~and,~~

12 a. If indigent, the parents have the right to be
13 represented by appointed counsel, at the shelter hearing and
14 at each subsequent hearing or proceeding, pursuant to the
15 procedures set forth in s. 39.013.

16 b. If the parents or legal custodians appear for the
17 shelter hearing without legal counsel, then, at their request,
18 the shelter hearing may be continued up to 72 hours to enable
19 the parents or legal custodians to consult legal counsel.

20 c. If the child appears for the shelter hearing
21 without a guardian ad litem, legal counsel, or representation
22 by the Circuit Office of Children's Representation, the
23 shelter hearing may be continued up to 72 hours to enable
24 representation to be retained on behalf of the child.

25 d. If a continuance is requested by the parents or
26 legal custodians, or on behalf of the child, the child shall
27 be continued in shelter care for the length of the
28 continuance, if granted by the court.

29 (8)

30 (b) The parents or legal custodians of the child, the
31 child, and either the child's guardian ad litem, if known, or

1 the Circuit Office of Children's Representation shall be given
2 such notice as best ensures their actual knowledge of the time
3 and place of the shelter hearing. The failure to provide
4 notice to a party or participant does not invalidate an order
5 placing a child in a shelter if the court finds that the
6 petitioner has made a good faith effort to provide such
7 notice. The court shall require the parents or legal
8 custodians present at the hearing to provide to the court on
9 the record the names, addresses, and relationships of all
10 parents, prospective parents, and next of kin of the child, so
11 far as are known.

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

13 1. Appoint representation for the child in accordance
14 with s. 39.013 ~~a guardian ad litem to represent the best~~
15 ~~interest of the child~~, unless the court finds that such
16 representation of the child is otherwise provided ~~is~~
17 ~~unnecessary~~;

18 2. Inform the parents or legal custodians of their
19 right to counsel to represent them at the shelter hearing and
20 at each subsequent hearing or proceeding, and the right of the
21 parents to appointed counsel, pursuant to the procedures set
22 forth in s. 39.013; and

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

25 (e) At the shelter hearing, the department shall
26 provide the court and the child and either the child's
27 guardian ad litem, if known, or the Circuit Office of
28 Children's Representation copies of any available law
29 enforcement, medical, or other professional reports, and shall
30 also provide copies of abuse hotline reports pursuant to state
31 and federal confidentiality requirements.

1 Section 14. Subsection (5) of section 39.407, Florida
2 Statutes, is amended to read:

3 39.407 Medical, psychiatric, and psychological
4 examination and treatment of child; physical or mental
5 examination of parent or person requesting custody of child.--

6 (5) Children who are in the legal custody of the
7 department may be placed by the department in a residential
8 treatment center licensed under s. 394.875 or a hospital
9 licensed under chapter 395 for residential mental health
10 treatment only pursuant to this section or may be placed by
11 the court in accordance with an order of involuntary
12 examination or involuntary placement entered pursuant to s.
13 394.463 or s. 394.467. All children placed in a residential
14 treatment program under this subsection must have a guardian
15 ad litem or legal counsel appointed.

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

17 1. "Residential treatment" means placement for
18 observation, diagnosis, or treatment of an emotional
19 disturbance in a residential treatment center licensed under
20 s. 394.875 or a hospital licensed under chapter 395.

21 2. "Least restrictive alternative" means the treatment
22 and conditions of treatment that, separately and in
23 combination, are no more intrusive or restrictive of freedom
24 than reasonably necessary to achieve a substantial therapeutic
25 benefit or to protect the child or adolescent or others from
26 physical injury.

27 3. "Suitable for residential treatment" or
28 "suitability" means a determination concerning a child or
29 adolescent with an emotional disturbance as defined in s.
30 394.492(5) or a serious emotional disturbance as defined in s.
31 394.492(6) that each of the following criteria is met:

1 a. The child requires residential treatment.

2 b. The child is in need of a residential treatment
3 program and is expected to benefit from mental health
4 treatment.

5 c. An appropriate, less restrictive alternative to
6 residential treatment is unavailable.

7 (b) Whenever the department believes that a child in
8 its legal custody is emotionally disturbed and may need
9 residential treatment, an examination and suitability
10 assessment must be conducted by a qualified evaluator who is
11 appointed by the Agency for Health Care Administration. This
12 suitability assessment must be completed before the placement
13 of the child in a residential treatment center for emotionally
14 disturbed children and adolescents or a hospital. The
15 qualified evaluator must be a psychiatrist or a psychologist
16 licensed in Florida who has at least 3 years of experience in
17 the diagnosis and treatment of serious emotional disturbances
18 in children and adolescents and who has no actual or perceived
19 conflict of interest with any inpatient facility or
20 residential treatment center or program.

21 (c) Before a child is admitted under this subsection,
22 the child shall be assessed for suitability for residential
23 treatment by a qualified evaluator who has conducted a
24 personal examination and assessment of the child and has made
25 written findings that:

26 1. The child appears to have an emotional disturbance
27 serious enough to require residential treatment and is
28 reasonably likely to benefit from the treatment.

29 2. The child has been provided with a clinically
30 appropriate explanation of the nature and purpose of the
31 treatment.

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

5
6 A copy of the written findings of the evaluation and
7 suitability assessment must be provided to the department and
8 to the guardian ad litem or legal counsel, who shall have the
9 opportunity to discuss the findings with the evaluator.

10 (d) Immediately upon placing a child in a residential
11 treatment program under this section, the department must
12 notify the guardian ad litem or legal counsel and the court
13 having jurisdiction over the child and must provide the
14 guardian ad litem or legal counsel and the court with a copy
15 of the assessment by the qualified evaluator.

16 (e) Within 10 days after the admission of a child to a
17 residential treatment program, the director of the residential
18 treatment program or the director's designee must ensure that
19 an individualized plan of treatment has been prepared by the
20 program and has been explained to the child, to the
21 department, and to the guardian ad litem or legal counsel, and
22 submitted to the department. The child must be involved in the
23 preparation of the plan to the maximum feasible extent
24 consistent with his or her ability to understand and
25 participate, and the guardian ad litem or legal counsel and
26 the child's foster parents must be involved to the maximum
27 extent consistent with the child's treatment needs. The plan
28 must include a preliminary plan for residential treatment and
29 aftercare upon completion of residential treatment. The plan
30 must include specific behavioral and emotional goals against
31 which the success of the residential treatment may be

1 measured. A copy of the plan must be provided to the child, to
2 the guardian ad litem or legal counsel, and to the department.

3 (f) Within 30 days after admission, the residential
4 treatment program must review the appropriateness and
5 suitability of the child's placement in the program. The
6 residential treatment program must determine whether the child
7 is receiving benefit towards the treatment goals and whether
8 the child could be treated in a less restrictive treatment
9 program. The residential treatment program shall prepare a
10 written report of its findings and submit the report to the
11 guardian ad litem or legal counsel and to the department. The
12 department must submit the report to the court. The report
13 must include a discharge plan for the child. The residential
14 treatment program must continue to evaluate the child's
15 treatment progress every 30 days thereafter and must include
16 its findings in a written report submitted to the guardian ad
17 litem or legal counsel and the department. The department may
18 not reimburse a facility until the facility has submitted
19 every written report that is due.

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

25 2. The court must conduct a hearing to review the
26 status of the child's residential treatment plan no later than
27 3 months after the child's admission to the residential
28 treatment program. An independent review of the child's
29 progress towards achieving the goals and objectives of the
30 treatment plan must be completed by a qualified evaluator and
31

1 submitted to the court and to the guardian ad litem or legal
2 counsel before the court's ~~its~~ 3-month review.

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

7 4. If at any time the court determines that the child
8 is not suitable for continued residential treatment, the court
9 shall order the department to place the child in the least
10 restrictive setting that is best suited to meet his or her
11 needs.

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

15 (i) The department must adopt rules for implementing
16 timeframes for the completion of suitability assessments by
17 qualified evaluators and a procedure that includes timeframes
18 for completing the 3-month independent review by the qualified
19 evaluators of the child's progress towards achieving the goals
20 and objectives of the treatment plan which review must be
21 submitted to the court. The Agency for Health Care
22 Administration must adopt rules for the registration of
23 qualified evaluators, the procedure for selecting the
24 evaluators to conduct the reviews required under this section,
25 and a reasonable, cost-efficient fee schedule for qualified
26 evaluators.

27 Section 15. Subsections (11), (12), (19), (20), and
28 (21) of section 39.4085, Florida Statutes, are amended to
29 read:

30 39.4085 Legislative findings and declaration of intent
31 for goals for dependent children.--The Legislature finds and

1 declares that the design and delivery of child welfare
2 services should be directed by the principle that the health
3 and safety of children should be of paramount concern and,
4 therefore, establishes the following goals for children in
5 shelter or foster care:

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

12 (12) To be involved and incorporated, where
13 appropriate, and to have the child's guardian ad litem and the
14 legal counsel of the child and of the guardian ad litem
15 involved in the development of the case plan, to have a case
16 plan which will address their specific needs, and to object to
17 any of the provisions of the case plan.

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

23 (20) To have a guardian ad litem appointed to
24 represent, ~~within reason,~~ their best interests and, as
25 provided in s. 39.8226 where appropriate, legal counsel an
26 ~~attorney ad litem~~ appointed to represent their expressed legal
27 interests; the guardian ad litem and legal counsel ~~attorney ad~~
28 ~~litem~~ shall have immediate and unlimited access to the
29 children they represent.

30
31

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

4 Section 16. Section 39.4086, Florida Statutes, is
5 repealed.

6 Section 17. Section 39.502, Florida Statutes, is
7 amended to read:

8 39.502 Notice, process, and service.--

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

16 (2) Notice of all proceedings or hearings involving
17 the child and all documents and reports related to those
18 proceedings or required to be given to the child shall be
19 served on or delivered to the child through the court
20 appointed representative for the child, either the guardian ad
21 litem or the child's or the guardian ad litem's legal counsel.
22 If the court has not appointed a representative for the child,
23 service or delivery shall be made to the child unless the
24 court determines that, because of age, capacity, or other
25 condition of the child, it would be meaningless or emotionally
26 detrimental to the child.

27 ~~(3)(2)~~ Personal appearance of any person in a hearing
28 before the court obviates the necessity of serving process on
29 that person.

30 ~~(4)(3)~~ Upon the filing of a petition containing
31 allegations of facts which, if true, would establish that the

1 child is a dependent child, and upon the request of the
2 petitioner, the clerk or deputy clerk shall issue a summons.

3 (5)~~(4)~~ The summons shall require the person on whom it
4 is served to appear for a hearing at a time and place
5 specified, not less than 72 hours after service of the
6 summons. A copy of the petition shall be attached to the
7 summons.

8 (6)~~(5)~~ The summons shall be directed to, and shall be
9 served upon, all parties other than the petitioner.

10 (7)~~(6)~~ It is the duty of the petitioner or moving
11 party to notify all participants and parties known to the
12 petitioner or moving party of all hearings subsequent to the
13 initial hearing unless notice is contained in prior court
14 orders and these orders were provided to the participant or
15 party. Proof of notice or provision of orders may be provided
16 by certified mail with a signed return receipt.

17 (8)~~(7)~~ Service of the summons and service of
18 pleadings, papers, and notices subsequent to the summons on
19 persons outside this state must be made pursuant to s.
20 61.1312.

21 (9)~~(8)~~ It is not necessary to the validity of a
22 proceeding covered by this part that the parents be present if
23 their identity or residence is unknown after a diligent search
24 has been made, but in this event the petitioner shall file an
25 affidavit of diligent search prepared by the person who made
26 the search and inquiry, and the court shall ~~may~~ appoint a
27 guardian ad litem or legal counsel for the child.

28 (10)~~(9)~~ When an affidavit of diligent search has been
29 filed under subsection (8), the petitioner shall continue to
30 search for and attempt to serve the person sought until
31 excused from further search by the court. The petitioner shall

1 report on the results of the search at each court hearing
2 until the person is identified or located or further search is
3 excused by the court.

4 (11)~~(10)~~ Service by publication shall not be required
5 for dependency hearings and the failure to serve a party or
6 give notice to a participant shall not affect the validity of
7 an order of adjudication or disposition if the court finds
8 that the petitioner has completed a diligent search for that
9 party.

10 (12)~~(11)~~ Upon the application of a party or the
11 petitioner, the clerk or deputy clerk shall issue, and the
12 court on its own motion may issue, subpoenas requiring
13 attendance and testimony of witnesses and production of
14 records, documents, and other tangible objects at any hearing.

15 (13)~~(12)~~ All process and orders issued by the court
16 shall be served or executed as other process and orders of the
17 circuit court and, in addition, may be served or executed by
18 authorized agents of the department, or the guardian ad litem,
19 or legal counsel for the child.

20 (14)~~(13)~~ Subpoenas may be served within the state by
21 any person over 18 years of age who is not a party to the
22 proceeding and, in addition, may be served by authorized
23 agents of the department, or the guardian ad litem, or legal
24 counsel for the child.

25 (15)~~(14)~~ No fee shall be paid for service of any
26 process or other papers by an agent of the department, or the
27 guardian ad litem, or legal counsel for the child. If any
28 process, orders, or any other papers are served or executed by
29 any sheriff, the sheriff's fees shall be paid by the county.

30 (16)~~(15)~~ A party who is identified as a person with
31 mental illness or with a developmental disability must be

1 informed by the court of the availability of advocacy services
2 through the department, the Association for Retarded Citizens,
3 or other appropriate mental health or developmental disability
4 advocacy groups and encouraged to seek such services.

5 (17)~~(16)~~ If the party to whom an order is directed is
6 present or represented at the final hearing, service of the
7 order is not required.

8 (18)~~(17)~~ The parent or legal custodian of the child,
9 the attorney for the department, the guardian ad litem, the
10 child, and all other parties and participants shall be given
11 reasonable notice of all hearings provided for under this
12 part.

13 (19)~~(18)~~ In all proceedings under this part, the court
14 shall provide to the parent or legal custodian of the child,
15 the child, and the child's guardian ad litem, at the
16 conclusion of any hearing, a written notice containing the
17 date of the next scheduled hearing. The court shall also
18 include the date of the next hearing in any order issued by
19 the court.

20 Section 18. Subsections (1) and (4) of section 39.504,
21 Florida Statutes, are amended to read:

22 39.504 Injunction pending disposition of petition;
23 penalty.--

24 (1)(a) When a petition for shelter placement or a
25 petition for dependency has been filed or when a child has
26 been taken into custody and reasonable cause, as defined in
27 paragraph (b), exists, the court, upon the request of the
28 department, a law enforcement officer, the state attorney, the
29 child through the guardian ad litem or legal counsel, or other
30 responsible person, or upon its own motion, may ~~shall have the~~
31

1 ~~authority to~~ issue an injunction to prevent any act of child
2 abuse or any unlawful sexual offense involving a child.

3 (b) Reasonable cause for the issuance of an injunction
4 exists if there is evidence of child abuse or an unlawful
5 sexual offense involving a child or if there is a reasonable
6 likelihood of such abuse or offense occurring based upon a
7 recent overt act or failure to act.

8 (4) A copy of any injunction issued pursuant to this
9 section shall be delivered to the protected party, ~~or~~ a parent
10 or caregiver or individual acting in the place of a parent who
11 is not the respondent, the guardian ad litem, and to any law
12 enforcement agency having jurisdiction to enforce such
13 injunction. Upon delivery of the injunction to the appropriate
14 law enforcement agency, the agency shall have the duty and
15 responsibility to enforce the injunction.

16 Section 19. Section 39.505, Florida Statutes, is
17 amended to read:

18 39.505 No answer required.--No answer to the petition
19 or any other pleading need be filed by any child, guardian ad
20 litem, parent, or legal custodian, but any matters ~~that~~ which
21 might be set forth in an answer or other pleading may be
22 pleaded orally before the court or filed in writing as any
23 such person may choose. Notwithstanding the filing of an
24 answer or any pleading, the respondent shall, prior to an
25 adjudicatory hearing, be advised by the court of the right to
26 counsel and shall be given an opportunity to deny the
27 allegations in the petition for dependency or to enter a plea
28 to allegations in the petition before the court.

29 Section 20. Subsection (1) of section 39.510, Florida
30 Statutes, is amended to read:

31 39.510 Appeal.--

1 (1) Any party to the proceeding who is affected by an
2 order of the court, who represents a party affected by an
3 order of the court, or the department may appeal to the
4 appropriate district court of appeal within the time and in
5 the manner prescribed by the Florida Rules of Appellate
6 Procedure. Appointed counsel shall be compensated as provided
7 in this chapter.

8 Section 21. Paragraphs (a) and (d) of subsection (1),
9 paragraph (b) of subsection (5), and subsection (8) of section
10 39.521, Florida Statutes, are amended to read:

11 39.521 Disposition hearings; powers of disposition.--

12 (1) A disposition hearing shall be conducted by the
13 court, if the court finds that the facts alleged in the
14 petition for dependency were proven in the adjudicatory
15 hearing, or if the parents or legal custodians have consented
16 to the finding of dependency or admitted the allegations in
17 the petition, have failed to appear for the arraignment
18 hearing after proper notice, or have not been located despite
19 a diligent search having been conducted.

20 (a) A written case plan and a predisposition study
21 prepared by an authorized agent of the department must be
22 filed with the court and served upon the parents of the child,
23 provided to the child, ~~representative of the guardian ad litem~~
24 ~~program, if the program has been appointed~~, and provided to
25 all other parties, not less than 72 hours before the
26 disposition hearing. All such case plans must be approved by
27 the court. If the court does not approve the case plan at the
28 disposition hearing, the court must set a hearing within 30
29 days after the disposition hearing to review and approve the
30 case plan.

31

1 (d) The court shall, in its written order of
2 disposition, include all of the following:
3 1. The placement or custody of the child.
4 2. Special conditions of placement and visitation.
5 3. Evaluation, counseling, treatment activities, and
6 other actions to be taken by the parties, if ordered.
7 4. The persons or entities responsible for supervising
8 or monitoring services to the child and parent.
9 5. Continuation or discharge of the guardian ad litem
10 or legal counsel for the child, as appropriate. The guardian
11 ad litem or legal counsel for the child may not be discharged
12 pursuant to this section before termination of supervision by
13 the department unless other legal representation is provided
14 for the child.
15 6. The date, time, and location of the next scheduled
16 review hearing, which must occur within the earlier of:
17 a. Ninety days after the disposition hearing;
18 b. Ninety days after the court accepts the case plan;
19 c. Six months after the date of the last review
20 hearing; or
21 d. Six months after the date of the child's removal
22 from his or her home, if no review hearing has been held since
23 the child's removal from the home.
24 7. If the child is in an out-of-home placement, child
25 support to be paid by the parents, or the guardian of the
26 child's estate if possessed of assets which under law may be
27 disbursed for the care, support, and maintenance of the child.
28 The court may exercise jurisdiction over all child support
29 matters, shall adjudicate the financial obligation, including
30 health insurance, of the child's parents or guardian, and
31 shall enforce the financial obligation as provided in chapter

1 61. The state's child support enforcement agency shall enforce
2 child support orders under this section in the same manner as
3 child support orders under chapter 61. Placement of the child
4 shall not be contingent upon issuance of a support order.

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

14 b. If diligent efforts are made to locate an adult
15 relative willing and able to care for the child but, because
16 no suitable relative is found, the child is placed with the
17 department or a legal custodian or other adult approved by the
18 court, both the department and the court shall consider
19 transferring temporary legal custody to an adult relative
20 approved by the court at a later date, but neither the
21 department nor the court is obligated to so place the child if
22 it is in the child's best interest to remain in the current
23 placement.

24
25 For the purposes of this subparagraph, "diligent efforts to
26 locate an adult relative" means a search similar to the
27 diligent search for a parent, but without the continuing
28 obligation to search after an initial adequate search is
29 completed.

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

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

3 (5)

4 (b) The results of the assessment described in
5 paragraph (a) and the actions taken as a result of the
6 assessment must be included in the next judicial review of the
7 child. At each subsequent judicial review, the court must be
8 advised in writing of the status of the child's placement,
9 with special reference regarding the stability of the
10 placement and the permanency planning for the child. A copy of
11 this report must be provided to the child and the child's
12 guardian ad litem prior to the judicial review.

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

24 Section 22. Paragraph (a) of subsection (2), paragraph
25 (d) of subsection (5), paragraphs (b) and (c) of subsection
26 (6), subsection (7), and paragraphs (a) and (d) of subsection
27 (8) of section 39.701, Florida Statutes, are amended to read:

28 39.701 Judicial review.--

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

1 court may dispense with the attendance of the child at the
2 hearing upon the child's request or when, based on the child's
3 age, capacity, or other condition, the court determines that
4 the child's attendance would be meaningless, physically
5 dangerous, or emotionally detrimental to the child. The court,
6 ~~but~~ may not dispense with the hearing or the presence of other
7 parties to the review unless before the review a hearing is
8 held before a citizen review panel.

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

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

15
16 Service of notice is not required on any of the persons listed
17 in paragraphs (a)-(f) if the person was present at the
18 previous hearing during which the date, time, and location of
19 the hearing was announced.

20 (6)

21 (b) A copy of the social service agency's written
22 report and any ~~the~~ written report of the guardian ad litem
23 must be served on all parties whose whereabouts are known; to
24 the foster parents or legal custodians; to the child and the
25 guardian ad litem, unless the guardian ad litem prepared the
26 report;and to the citizen review panel, at least 72 hours
27 before the judicial review hearing or citizen review panel
28 hearing. The requirement for providing parents with a copy of
29 the written report does not apply to those parents who have
30 voluntarily surrendered their child for adoption or who have
31 had their parental rights to the child terminated.

1 (c) In a case in which the child has been permanently
2 placed with the social service agency, the agency shall
3 furnish to the court a written report concerning the progress
4 being made to place the child for adoption. If the child
5 cannot be placed for adoption, a report on the progress made
6 by the child towards alternative permanency goals or
7 placements, including, but not limited to, guardianship,
8 long-term custody, long-term licensed custody, or independent
9 living, must be submitted to the court. The report must be
10 submitted to the court and all parties as provided in
11 paragraph (b) at least 72 hours before each scheduled judicial
12 review.

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

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

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

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

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

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

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

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

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

30 (h)~~(i)~~ When appropriate, the basis for the
31 unwillingness or inability of the parent to become a party to

1 a case plan. The court and the citizen review panel shall
2 determine if the efforts of the social service agency to
3 secure party participation in a case plan were sufficient.

4 (8)(a) Based upon the criteria set forth in subsection
5 (7) and the recommended order of the citizen review panel, if
6 any, the court shall determine whether or not the social
7 service agency shall initiate proceedings to have a child
8 declared a dependent child, return the child to the parent,
9 continue the child in out-of-home care for a specified period
10 of time, or initiate termination of parental rights
11 proceedings for subsequent placement in an adoptive home. The
12 court must determine whether a guardian ad litem or legal
13 counsel needs to be appointed for the child in a case in which
14 a guardian ad litem or legal counsel has not previously been
15 appointed or when there is a need to continue a guardian ad
16 litem or legal counsel in a case in which a guardian ad litem
17 or legal counsel has been appointed. The court may also
18 determine whether the current placement of the child is
19 appropriate to protect the child's safety; well-being; and
20 physical, mental, and emotional health. Modifications to the
21 plan must be handled as prescribed in s. 39.601. If the court
22 finds that the prevention or reunification efforts of the
23 department will allow the child to remain safely at home or be
24 safely returned to the home, the court shall allow the child
25 to remain in or return to the home after making a specific
26 finding of fact that the reasons for the creation of the case
27 plan have been remedied to the extent that the child's safety,
28 well-being, and physical, mental, and emotional health will
29 not be endangered.

30 (d) The court may extend the time limitation of the
31 case plan, or may modify the terms of the plan, based upon

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

13 Section 23. Paragraph (a) of subsection (3) and
14 subsections (5) and (7) of section 39.801, Florida Statutes,
15 are amended to read:

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

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

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

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

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

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

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

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

18 (5) All process and orders issued by the court must be
19 served or executed as other process and orders of the circuit
20 court and, in addition, may be served or executed by
21 authorized agents of the department, or the guardian ad litem,
22 or the child.

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

28 Section 24. Subsection (1) of section 39.802, Florida
29 Statutes, is amended to read:

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

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

8 Section 25. Section 39.805, Florida Statutes, is
9 amended to read:

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

21 Section 26. Subsection (1) of section 39.806, Florida
22 Statutes, is amended to read:

23 39.806 Grounds for termination of parental rights.--

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

30 (a) When the parent or parents have voluntarily
31 executed a written surrender of the child and consented to the

1 entry of an order giving custody of the child to the
2 department for subsequent adoption and the department is
3 willing to accept custody of the child.

4 1. The surrender document must be executed before two
5 witnesses and a notary public or other person authorized to
6 take acknowledgments.

7 2. The surrender and consent may be withdrawn after
8 acceptance by the department only after a finding by the court
9 that the surrender and consent were obtained by fraud or under
10 duress.

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

14 (c) When the parent or parents engaged in conduct
15 toward the child or toward other children that demonstrates
16 that the continuing involvement of the parent or parents in
17 the parent-child relationship threatens the life, safety,
18 well-being, or physical, mental, or emotional health of the
19 child irrespective of the provision of services. Provision of
20 services may be evidenced by proof that services were provided
21 through a previous plan or offered as a case plan from a child
22 welfare agency.

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

25 1. The period of time for which the parent is expected
26 to be incarcerated will constitute a substantial portion of
27 the period of time before the child will attain the age of 18
28 years;

29 2. The incarcerated parent has been determined by the
30 court to be a violent career criminal as defined in s.
31 775.084, a habitual violent felony offender as defined in s.

1 775.084, or a sexual predator as defined in s. 775.21; has
2 been convicted of first degree or second degree murder in
3 violation of s. 782.04 or a sexual battery that constitutes a
4 capital, life, or first degree felony violation of s. 794.011;
5 or has been convicted of an offense in another jurisdiction
6 which is substantially similar to one of the offenses listed
7 in this paragraph. As used in this section, the term
8 "substantially similar offense" means any offense that is
9 substantially similar in elements and penalties to one of
10 those listed in this subparagraph, and that is in violation of
11 a law of any other jurisdiction, whether that of another
12 state, the District of Columbia, the United States or any
13 possession or territory thereof, or any foreign jurisdiction;
14 or

15 3. The court determines by clear and convincing
16 evidence that continuing the parental relationship with the
17 incarcerated parent would be harmful to the child and, for
18 this reason, that termination of the parental rights of the
19 incarcerated parent is in the best interest of the child.

20 (e) A petition for termination of parental rights may
21 also be filed when a child has been adjudicated dependent, a
22 case plan has been filed with the court, and the child
23 continues to be abused, neglected, or abandoned by the
24 parents. In this case, the failure of the parents to
25 substantially comply for a period of 12 months after an
26 adjudication of the child as a dependent child or the child's
27 placement into shelter care, whichever came first, constitutes
28 evidence of continuing abuse, neglect, or abandonment unless
29 the failure to substantially comply with the case plan was due
30 either to the lack of financial resources of the parents or to
31 the failure of the department to make reasonable efforts to

1 reunify the parent and child. Such 12-month period may begin
2 to run only after the child's placement into shelter care or
3 the entry of a disposition order placing the custody of the
4 child with the department or a person other than the parent
5 and the approval by the court of a case plan with a goal of
6 reunification with the parent, whichever came first.

7 (f) When the parent or parents engaged in egregious
8 conduct or had the opportunity and capability to prevent and
9 knowingly failed to prevent egregious conduct that threatens
10 the life, safety, or physical, mental, or emotional health of
11 the child or the child's sibling.

12 1. As used in this subsection, the term "sibling"
13 means another child who resides with or is cared for by the
14 parent or parents regardless of whether the child is related
15 legally or by consanguinity.

16 2. As used in this subsection, the term "egregious
17 conduct" means abuse, abandonment, neglect, or any other
18 conduct of the parent or parents that is deplorable, flagrant,
19 or outrageous by a normal standard of conduct. Egregious
20 conduct may include an act or omission that occurred only once
21 but was of such intensity, magnitude, or severity as to
22 endanger the life of the child.

23 (g) When the parent or parents have subjected the
24 child to aggravated child abuse as defined in s. 827.03,
25 sexual battery or sexual abuse as defined in s. 39.01, or
26 chronic abuse.

27 (h) When the parent or parents have committed murder
28 or voluntary manslaughter of another child, or a felony
29 assault that results in serious bodily injury to the child or
30 another child, or aided or abetted, attempted, conspired, or
31

1 solicited to commit such a murder or voluntary manslaughter or
2 felony assault.

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

5 Section 27. Subsection (2) of section 39.807, Florida
6 Statutes, is amended to read:

7 39.807 Right to counsel; guardian ad litem.--

8 (2)(a) The court shall appoint a guardian ad litem or
9 legal counsel, or both, to represent ~~the best interest of the~~
10 child in any proceedings for termination of parental rights as
11 provided in s. 39.013 proceedings and shall ascertain at each
12 stage of the proceedings whether a guardian ad litem or legal
13 counsel has been appointed.

14 ~~(b) The guardian ad litem has the following~~
15 ~~responsibilities:~~

16 1. ~~To investigate the allegations of the petition and~~
17 ~~any subsequent matters arising in the case and, unless excused~~
18 ~~by the court, to file a written report. This report must~~
19 ~~include a statement of the wishes of the child and the~~
20 ~~recommendations of the guardian ad litem and must be provided~~
21 ~~to all parties and the court at least 72 hours before the~~
22 ~~disposition hearing.~~

23 2. ~~To be present at all court hearings unless excused~~
24 ~~by the court.~~

25 3. ~~To represent the best interests of the child until~~
26 ~~the jurisdiction of the court over the child terminates or~~
27 ~~until excused by the court.~~

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

30
31

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

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

6 Section 28. Subsection (2) of section 39.808, Florida
7 Statutes, is amended to read:

8 39.808 Advisory hearing; pretrial status conference.--

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

14 Section 29. Subsections (10) and (11) of section
15 39.810, Florida Statutes, are amended to read:

16 39.810 Manifest best interests of the child.--In a
17 hearing on a petition for termination of parental rights, the
18 court shall consider the manifest best interests of the child.
19 This consideration shall not include a comparison between the
20 attributes of the parents and those of any persons providing a
21 present or potential placement for the child. For the purpose
22 of determining the manifest best interests of the child, the
23 court shall consider and evaluate all relevant factors,
24 including, but not limited to:

25 (10) The expressed interests ~~reasonable preferences~~
26 ~~and wishes~~ of the child, if the court deems the child to be of
27 sufficient intelligence, understanding, and experience to
28 express a preference.

29 (11) Any information related to subsections (1)
30 through (10) which is provided by the guardian ad litem and,
31 when requested by the court, any ~~The~~ recommendations for the

1 child provided by the child's guardian ad litem ~~or legal~~
2 ~~representative~~.

3 Section 30. Subsections (1) and (9) of section 39.811,
4 Florida Statutes, are amended to read:

5 39.811 Powers of disposition; order of disposition.--

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

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

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

13 2. Enter an order returning the child to the parent or
14 parents. The court shall retain jurisdiction over a child
15 returned to the parent or parents for a period of 6 months,
16 but, at that time, based on a report of the social service
17 agency, information provided by the child and the guardian ad
18 litem, if appointed, and any other relevant factors, the court
19 shall make a determination as to whether its jurisdiction
20 shall continue or be terminated.

21 (b) If grounds for dependency have not been
22 established, dismiss the petition.

23 (9) After termination of parental rights, the court
24 shall retain jurisdiction over any child for whom custody is
25 given to a social service agency until the child is adopted.
26 The court shall review the status and, pursuant to s.
27 39.701(8)(a), the appropriateness of the child's placement and
28 the progress being made toward permanent adoptive placement.
29 As part of this continuing jurisdiction, for good cause shown
30 by the guardian ad litem for the child or by the child, the
31

1 court may review the appropriateness of the adoptive placement
2 of the child.

3 Section 31. Section 39.820, Florida Statutes, is
4 amended to read:

5 39.820 Definitions.--As used in the Florida Statutes
6 ~~this part~~, the term:

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

22 (2) "Guardian advocate" means a person appointed by
23 the court to act on behalf of a drug dependent newborn
24 pursuant to the provisions of this part.

25 Section 32. Section 39.821, Florida Statutes, is
26 amended to read:

27 39.821 Qualifications of guardians ad litem.--

28 (1) Because of the special trust or responsibility
29 placed in a guardian ad litem and the staff of the Circuit
30 Office of Children's Representation representing children in
31 proceedings under chapter 39, the Circuit Office of Children's

1 Representation ~~Guardian Ad Litem Program~~ may use any private
2 funds collected ~~by the program~~, or any state funds so
3 designated, to conduct a security background investigation
4 before certifying a volunteer or staff member to serve. A
5 security background investigation must include, but need not
6 be limited to, employment history checks, checks of
7 references, local criminal records checks through local law
8 enforcement agencies, and statewide criminal records checks
9 through the Department of Law Enforcement. Upon request, an
10 employer shall furnish a copy of the personnel record for the
11 employee or former employee who is the subject of a security
12 background investigation conducted under this section. The
13 information contained in the personnel record may include, but
14 need not be limited to, disciplinary matters and the reason
15 why the employee was terminated from employment. An employer
16 who releases a personnel record for purposes of a security
17 background investigation is presumed to have acted in good
18 faith and is not liable for information contained in the
19 record without a showing that the employer maliciously
20 falsified the record. A security background investigation
21 conducted under this section must ensure that a person is not
22 certified as a guardian ad litem or hired as a staff member of
23 a Circuit Office of Children's Representation to represent
24 children in proceedings under chapter 39 if the person has
25 been convicted of, regardless of adjudication, or entered a
26 plea of nolo contendere or guilty to, any offense prohibited
27 under the provisions of the Florida Statutes specified in s.
28 435.04(2) or under any similar law in another jurisdiction.
29 Before certifying an applicant to serve as a guardian ad litem
30 or as a staff member of a Circuit Office of Children's
31 Representation to represent children in proceedings under

1 chapter 39, the Circuit Office of Children's Representation
2 ~~chief judge of the circuit court~~ may request a federal
3 criminal records check of the applicant through the Federal
4 Bureau of Investigation. In analyzing and evaluating the
5 information obtained in the security background investigation,
6 the office program must give particular emphasis to past
7 activities involving children, including, but not limited to,
8 child-related criminal offenses or child abuse. The office
9 program has the sole discretion in determining whether to
10 certify a person based on his or her security background
11 investigation. The information collected pursuant to the
12 security background investigation is confidential and exempt
13 from s. 119.07(1).

14 (2) This section does not apply to a certified
15 guardian ad litem who was certified before October 1, 1995, an
16 attorney who is a member in good standing of The Florida Bar,
17 or a licensed professional who has undergone a comparable
18 security background investigation as a condition of licensure
19 within 5 years before ~~of~~ applying for certification as a
20 guardian ad litem or as a staff member of a Circuit Office of
21 Children's Representation representing children in proceedings
22 under chapter 39.

23 (3) It is a misdemeanor of the first degree,
24 punishable as provided in s. 775.082 or s. 775.083, for any
25 person to willfully, knowingly, or intentionally fail, by
26 false statement, misrepresentation, impersonation, or other
27 fraudulent means, to disclose in any application for a
28 volunteer position or for paid employment with a Circuit
29 Office of Children's Representation to represent children in
30 proceedings under chapter 39 ~~the Guardian Ad Litem Program,~~
31

1 any material fact used in making a determination as to the
2 applicant's qualifications for such position.

3 Section 33. Section 39.822, Florida Statutes, is
4 amended to read:

5 39.822 Appointment of guardian ad litem for abused,
6 abandoned, or neglected child.--

7 (1) A guardian ad litem for a child must be a
8 representative of a Circuit Office of Children's
9 Representation, must be an individual investigated by the
10 Circuit Office of Children's Representation and appointed by
11 the court for one specific case, or must be an attorney who is
12 a member in good standing of The Florida Bar. Before
13 appointing an individual under this chapter, the court shall
14 request the Circuit Office of Children's Representation to
15 conduct a security background investigation as provided in s.
16 39.821. A guardian ad litem who is not an attorney and who is
17 investigated for the limited representation in a case must be
18 represented by legal counsel in all proceedings related to the
19 child.~~shall be appointed by the court at the earliest~~
20 ~~possible time to represent the child in any child abuse,~~
21 ~~abandonment, or neglect judicial proceeding, whether civil or~~
22 ~~criminal. Any person participating in a civil or criminal~~
23 ~~judicial proceeding resulting from such appointment shall be~~
24 ~~presumed prima facie to be acting in good faith and in so~~
25 ~~doing shall be immune from any liability, civil or criminal,~~
26 ~~that otherwise might be incurred or imposed.~~

27 (2) In those cases in which the parents are
28 financially able, the parent or parents of the child shall pay
29 ~~reimburse the court,~~ in part or in whole, for the cost of
30 provision of guardian ad litem services and legal services.
31 Reimbursement for services contracted through a Circuit Office

1 of Children's Representation to the individual providing
2 guardian ad litem services shall not be contingent upon
3 successful collection ~~by the court~~ from the parent or parents.

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

7 (4)(3) In proceedings under this chapter, the guardian
8 ad litem or the program representative of the Circuit Office
9 of Children's Representation shall review all disposition
10 recommendations and changes in placements, and must be present
11 at all critical stages of the dependency proceeding and shall
12 or submit a written report of findings in proceedings to
13 determine dependency and to terminate parental rights and may
14 submit a report of findings in other proceedings and when
15 requested by the court, the guardian ad litem may submit
16 recommendations to the court. Written reports must be filed
17 with the court and served on all parties whose whereabouts are
18 known at least 72 hours prior to the hearing.

19 Section 34. Section 39.8225, Florida Statutes, is
20 created to read:

21 39.8225 Guardians ad litem; powers, duties, and
22 authority.--

23 (1) A guardian ad litem shall act in the child's best
24 interest, advocate for the child, and take appropriate action
25 to protect the best interest of the child.

26 (2) In an action brought pursuant to the Florida Rules
27 of Juvenile Procedure for dependency proceedings, the guardian
28 ad litem shall represent the best interest of the child after
29 investigating the allegations in the pleadings and the needs
30 of the child, after discussing the allegations with the child
31 and legal counsel, and after giving significant weight to the

1 expressed interests of the child. The guardian ad litem, other
2 than a representative of a Circuit Office of Children's
3 Representation, must be represented by an attorney.

4 (3) The guardian ad litem shall investigate the
5 allegations in the pleadings and the needs of the child for
6 the case and the guardian ad litem, in his or her
7 investigation, shall:

8 (a) Visit and when possible discuss the case with the
9 child.

10 (b) When appropriate for the representation, observe
11 the child's interactions with parents, siblings, or foster
12 parents; observe the child's family placement or proposed
13 permanent placement when there is one; and, when appropriate,
14 observe his or her socialization skills at school or other
15 care facilities.

16 (c) Conduct interviews with persons involved with the
17 child or related to the case, including, but not limited to,
18 when appropriate for the representation, an interview with the
19 child's parent, guardian, custodian, teacher, or foster
20 family; medical professionals treating or evaluating the
21 child; other caretakers or proposed adoptive parents; staff
22 members of the Department of Children and Family Services or
23 the Department of Juvenile Justice; law enforcement personnel
24 who are involved in the case; and any other person whom the
25 guardian ad litem and the attorney determines appropriate.

26 (d) Obtain the legal, social, medical, or
27 psychological reports relevant to understanding the facts of
28 the case and the status and conditions of the child and other
29 participants in the proceeding. However, the attorney client
30 privilege and the work-product privilege may be claimed by
31 legal counsel on behalf of their clients.

1 (4) The guardian ad litem and the attorney shall
2 consult with the child before any hearing, court appearance,
3 or other proceeding unless the court has excused the child's
4 presence in court pursuant to court order under 39.01(51). If
5 the child is of an age and capacity to understand, the
6 proceeding must be explained to the child in language
7 appropriate to the child's age, education, and comprehension
8 ability, and the child shall be offered the opportunity to
9 attend the proceeding.

10 (5) Before each hearing, the guardian ad litem shall
11 discuss with legal counsel information on all observations,
12 documentation obtained, and factual information the guardian
13 ad litem believes that the court should have in order to make
14 a best-interest determination for the child regarding the
15 issues before the court. If a Circuit Office of Children's
16 Representation is providing representation, the information
17 may be discussed with representatives of the office, as
18 required by office procedures. After reviewing the information
19 and consulting with the child and, when appropriate, with
20 staff members of the Circuit Office of Children's
21 Representation, the attorney and the guardian ad litem shall
22 determine the best manner in which to provide the court with
23 all information necessary for the court to know the child,
24 know the expressed interests of the child, and determine what
25 is in the best interest of the child. In every case the court
26 must be informed of the expressed interest of the child
27 related to the proceeding. When the law requires a written
28 report, the guardian ad litem and counsel shall provide the
29 information to the court as required by law.

30 (6) If a written report is not required to include
31 recommendations, the guardian ad litem must be prepared to

1 present the court with a recommendation as to the best
2 interest of the child based on what the child would want if he
3 or she could, using adult judgment and knowledge, evaluate the
4 available information and make a request to the court.

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

23 (8) The guardian ad litem shall submit his or her
24 report to the court, if a report is to be submitted, regarding
25 any stipulation or agreement, whether incidental, temporary,
26 or permanent, which affects the interest or welfare of the
27 minor child, within 10 days after the date the stipulation or
28 agreement is served upon the guardian ad litem or as directed
29 by the court.

30 (9) The guardian ad litem, through counsel, may
31 request the court to order an expert examination of the child,

1 the child's parent, or any other interested party by a medical
2 doctor, dentist, or other health care provider, including a
3 psychiatrist, psychologist, or other mental health
4 professional.

5 (10) The guardian ad litem may, unless a report is
6 otherwise required by law, file a written report that may
7 include recommendations and shall include any expressed
8 interests of the child. When a report is filed, it must be
9 filed and served on all parties at least 20 days before the
10 hearing at which it will be presented, unless the court waives
11 the time limit or the law requiring the report specifies a
12 different time.

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

18 (12) A guardian ad litem, acting through counsel,
19 shall actively file any pleadings, motions, or petitions for
20 relief which the guardian ad litem considers appropriate or
21 necessary in furtherance of the guardian's representation of
22 the child. The guardian ad litem, through counsel, is entitled
23 to be present and to participate in all depositions, hearings,
24 and other proceedings in the action, and, through counsel, may
25 compel the attendance of witnesses.

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

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

30
31

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

4 Section 35. Section 39.8226, Florida Statutes, is
5 created to read:

6 39.8226 Legal counsel for a child.--

7 (1) The court may appoint counsel to represent the
8 expressed interest of a child, in lieu of or in addition to a
9 guardian ad litem, in any dependency case related to the
10 child, if the court determines that the child is of an age and
11 capacity to participate in his or her representation and the
12 child or the child's parents or guardian can pay for the
13 representation.

14 (2)(a) If a Circuit Office of Children's
15 Representation has been appointed to represent the child, the
16 court may appoint counsel to represent the expressed interest
17 of a child, in lieu of or in addition to a guardian ad litem,
18 only if the court finds that the child is of an age and
19 capacity to participate in his or her representation and
20 either the expressed interests of the child and the
21 best-interest representation by the guardian ad litem do not
22 coincide or the complexity of the pending case or other legal
23 actions suggest that representation for the child is
24 appropriate.

25 (b) If the guardian ad litem's best-interest
26 representation and the expressed interests of the child do not
27 coincide, the Circuit Office of Children's Representation must
28 petition the court for a review to determine whether the
29 provisions of paragraph (a) have been met, whether the child
30 wants independent counsel and whether the child wants or it is
31 appropriate or required under the law for a guardian ad litem

1 to continue to represent the best interest of the child in
2 some or all issues.

3 (3) Upon petition of the Circuit Office of Children's
4 Representation, the court may appoint independent counsel to
5 represent the child in collateral issues if the office does
6 not have the expertise to provide appropriate representation.
7 The petition must address whether the guardian ad litem will
8 continue to represent the best interest of the child in any or
9 all proceedings.

10 Section 36. Section 39.84, Florida Statutes, is
11 created to read:

12 39.84 Guardians ad litem; confidentiality.--The
13 guardian ad litem shall maintain as confidential all
14 information and documents received from any source and may not
15 disclose such information or documents except, as provided by
16 law or Florida rules of evidence and procedure, in testimony
17 or a report to the court. When a report is filed with the
18 court, it must be served upon the parties to the action and
19 their counsel or as directed by the court.

20 Section 37. Section 39.86, Florida Statutes, is
21 created to read:

22 39.86 Guardians ad litem and psychologists;
23 immunity.--Any person participating in a judicial proceeding
24 as a guardian ad litem, as staff or a volunteer representing
25 the Circuit Office of Children's Representation in a
26 proceeding under this chapter, or a court-appointed
27 psychologist shall be presumed prima facie to be acting in
28 good faith, and, in so doing, shall be immune from any
29 liability, civil or criminal, that otherwise might be incurred
30 or imposed.

31

1 Section 38. Subsection (8) of section 40.24, Florida
2 Statutes, is amended to read:

3 40.24 Compensation and reimbursement policy.--

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

24 Section 39. Paragraph (a) of subsection (6) of section
25 215.5601, Florida Statutes, is amended to read:

26 215.5601 Lawton Chiles Endowment Fund.--

27 (6) ADVISORY COUNCIL.--The Lawton Chiles Endowment
28 Fund Advisory Council is established for the purpose of
29 reviewing the funding priorities of the state agencies,
30 evaluating their requests against the mission and goals of the
31

1 agencies and legislative intent for the use of endowment
2 funds, and allowing for public input and advocacy.
3 (a) The advisory council shall consist of 15 members,
4 including:
5 1. The director of the United Way of Florida, Inc., or
6 his or her designee;
7 2. The director of the Foster Parents Association, or
8 his or her designee;
9 3. The chair of the Department of Elderly Affairs
10 Advisory Council, or his or her designee;
11 4. The president of the Florida Association of Area
12 Agencies on Aging, or his or her designee;
13 5. The State Long-Term Care Ombudsman, or his or her
14 designee;
15 6. The state director of the Florida AARP, or his or
16 her designee;
17 7. The director of the Florida Pediatric Society, or
18 his or her designee;
19 8. The Director of the Statewide Public Guardianship
20 Office ~~A representative of the Guardian Ad Litem Program,~~
21 appointed by the Governor;
22 9. A representative of a child welfare lead agency for
23 community-based care, appointed by the Governor;
24 10. A representative of an elder care lead agency for
25 community-based care, appointed by the Governor;
26 11. A representative of a statewide child advocacy
27 organization, appointed by the Governor;
28 12. One consumer caregiver for children, appointed by
29 the Governor;
30 13. One person over the age of 60 years to represent
31 the interests of elders, appointed by the Governor;

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

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

5 Section 40. Subsection (12) of section 985.308,
6 Florida Statutes, is amended to read:

7 985.308 Juvenile sexual offender commitment programs;
8 sexual abuse intervention networks.--

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

11 (a) Local law enforcement agencies;

12 (b) Local school boards;

13 (c) Child protective investigators;

14 (d) The office of the state attorney;

15 (e) The office of the public defender;

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

17 (g) Professionals licensed under chapter 458, chapter
18 459, s. 490.0145, or s. 491.0144 providing treatment for
19 juvenile sexual offenders or their victims;

20 (h) The Statewide Public Guardianship Office ~~guardian~~
21 ~~ad litem program;~~

22 (i) The Department of Juvenile Justice; and

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

24 Section 41. This act shall take effect October, 1,
25 2002.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
CS for SB 686

Transfers the guardian ad litem program to the Statewide Public Guardianship Office and renames each circuit guardian ad litem office as the Circuit Office of Children's Representation.

Establishes the Deputy Director for Children's Representation (must be an attorney, knowledgeable about dependency law, and have management experience) who will be hired by the Director of the Statewide Public Guardianship Office.

Directs the Statewide Public Guardianship Office to study the organizational placement of that Office and make recommendations to the Legislature by February 1, 2003.

Authorizes the public defender to represent a child's express interests when that child is determined to need independent counsel.