

By the Committees on Appropriations; Children and Families;
Judiciary; and Senators Burt and Cowin

309-2044-02

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

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

1 sexual-abuse cases; amending s. 39.402, F.S.;
2 providing for notice of and representation for
3 a child at a shelter hearing; providing for
4 continuance of the hearing in order for the
5 child to obtain representation; amending s.
6 39.407, F.S.; authorizing legal counsel to
7 represent a child placed in residential
8 treatment; requiring that notice and
9 information regarding the child's treatment be
10 provided to the child's guardian ad litem and
11 legal counsel; amending s. 39.4085, F.S.;
12 requiring that the child, the guardian ad
13 litem, or legal counsel participate in
14 developing a case plan; providing for the right
15 of a child to be heard at all review hearings;
16 providing for appointment of a guardian ad
17 litem or legal counsel; repealing s. 39.4086,
18 F.S., relating to a pilot program for
19 appointing attorneys ad litem for dependent
20 children; amending s. 39.502, F.S.; providing
21 for notice and service of process on legal
22 counsel or guardian ad litem; amending s.
23 39.504, F.S.; authorizing the child's guardian
24 ad litem or attorney to file for an injunction
25 to prevent child abuse or an unlawful sexual
26 offense; amending s. 39.505, F.S.; specifying
27 that the guardian ad litem need not file an
28 answer to a petition or pleading; amending s.
29 39.510, F.S.; authorizing the representative of
30 a party to appeal a court order; amending s.
31 39.521, F.S.; requiring that a case plan and

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

1 s. 39.810, F.S.; providing for the court to
2 consider the expressed interest of the child in
3 a hearing on a petition to terminate parental
4 rights; 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.

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

11
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.

31

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. The counties shall
9 continue to fund those existing elements of the guardian ad
10 litem offices when the offices become Circuit Offices of
11 Children's Representation. Such funding shall be consistent
12 with current practice including providing for additions to
13 office staffing until the Legislature expressly assumes the
14 responsibility for funding such elements.

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

17 25.388 Family Courts Trust Fund.--

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

22 (b) The Supreme Court, through the Office of the State
23 Courts Administrator, shall adopt a comprehensive plan for the
24 operation of the trust fund and the expenditure of any moneys
25 deposited into the trust fund. The plan shall provide for a
26 comprehensive integrated response to families in litigation,
27 including domestic violence matters, Statewide Public
28 Guardianship Office's representation of children in dependency
29 proceedings ~~guardian ad litem programs~~, mediation programs,
30 legal support, training, automation, and other related costs
31 incurred to benefit the citizens of the state and the courts

1 in relation to family law cases. The trust fund shall be used
2 to fund the publication of the handbook created pursuant to s.
3 741.0306.

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

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

23 (3)(a) The office shall establish standards for
24 representation of children by the Circuit Offices of
25 Children's Representation, including recommended case loads
26 for attorneys and for volunteers and staff lay representatives
27 of a child.

28 (b) The office shall document the need for child
29 representation throughout the state and report annually on
30 October 1 to the Legislature concerning the need and the cost
31 to adequately provide representation for children in

1 dependency proceedings. The report must include information
2 concerning the type and level of advocacy provided in prior
3 years by both public entities and private entities providing
4 contract or pro bono services.

5 (c) The office shall develop performance measures and
6 standards for its services throughout the state and shall
7 annually report on the performance of the Circuit Offices of
8 Children's Representation.

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

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

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

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1 (g) To the extent possible, the Statewide Public
2 Guardianship Office or the Circuit Offices of Children's
3 Representation may augment staff through agreements or
4 contracts with the public defenders, private entities, or
5 public or private colleges or universities for contract or pro
6 bono legal representation to children as court-appointed
7 counsel for the child, to provide pro bono representation to
8 the office, or to provide non-legal volunteer representation.

9 (h) The Office of Statewide Public Guardianship and
10 each Circuit Office of Children's Representatives may
11 establish a not-for-profit support organization under section
12 501(c)(3) of the Internal Revenue Code to assist in funding
13 the needs of children receiving services through the Circuit
14 Offices of Children's Representation.

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

18 27.51 Duties of public defender.--

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

24 Section 7. Paragraph (a) of subsection (7) of section
25 39.001, Florida Statutes, is amended to read:

26 39.001 Purposes and intent; personnel standards and
27 screening.--

28 (7) PLAN FOR COMPREHENSIVE APPROACH.--

29 (a) The department shall develop a state plan for the
30 prevention of abuse, abandonment, and neglect of children and
31 shall submit the plan to the Speaker of the House of

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

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

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

31

1 (51) "Party" means the parent or parents of the child,
2 the petitioner, the department, the guardian ad litem as
3 defined in s. 39.820 ~~or the representative of the guardian ad~~
4 ~~litem program when the program has been appointed~~, and the
5 child. While the child is a party, he or she may file
6 documents in a proceeding under this chapter only through a
7 court-appointed attorney or guardian ad litem. If information
8 or notice must be provided to a party, service shall be made
9 as provided in s. 39.502.The presence of the child may be
10 excused by order of the court when the child requests to be
11 excused ~~presence would not be in the child's best interest.~~
12 Notice to the child and the presence of the child may be
13 excused by order of the court when the age, capacity, or other
14 condition of the child is such that the notice or the presence
15 of the child would be meaningless, physically dangerous, or
16 emotionally detrimental to the child.

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

21 39.013 Procedures and jurisdiction; right to
22 counsel.--

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

28 Section 10. Paragraph (d) of subsection (2) and
29 subsection (5) of section 39.202, Florida Statutes, are
30 amended to read:

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1 39.202 Confidentiality of reports and records in cases
2 of child abuse or neglect.--

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

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

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

25 Section 11. Present subsections (4), (5), and (6) of
26 section 39.302, Florida Statutes, are redesignated as
27 subsections (5), (6), and (7), respectively, and a new
28 subsection (4) is added to that section to read:

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

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

8 Section 12. Section 39.305, Florida Statutes, is
9 amended to read:

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

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

23 39.402 Placement in a shelter.--

24 (5)(a) The parents or legal custodians of the child,
25 the child, and either the child's guardian ad litem, if known,
26 or the Circuit Office of Children's Representation shall be
27 given such notice as best ensures their actual knowledge of
28 the date, time, and location of the shelter hearing. If the
29 parents or legal custodians are outside the jurisdiction of
30 the court, are not known, or cannot be located or refuse or
31 evade service, they shall be given such notice as best ensures

1 their actual knowledge of the date, time, and location of the
2 shelter hearing. The person providing or attempting to
3 provide notice under this paragraph ~~to the parents or legal~~
4 ~~custodians~~ shall, if the persons or entities to be provided
5 notice ~~parents or legal custodians~~ are not present at the
6 hearing, advise the court either in person or by sworn
7 affidavit, of the attempts made to provide notice and the
8 results of those attempts.

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

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

15 2. The parents ~~They~~ have the right to be represented
16 by counsel and the child has the right to counsel as provided
17 in s. 39.013. ~~and,~~

18 a. If indigent, the parents have the right to be
19 represented by appointed counsel, at the shelter hearing and
20 at each subsequent hearing or proceeding, pursuant to the
21 procedures set forth in s. 39.013.

22 b. If the parents or legal custodians appear for the
23 shelter hearing without legal counsel, then, at their request,
24 the shelter hearing may be continued up to 72 hours to enable
25 the parents or legal custodians to consult legal counsel.

26 c. If the child appears for the shelter hearing
27 without a guardian ad litem, legal counsel, or representation
28 by the Circuit Office of Children's Representation, the
29 shelter hearing may be continued up to 72 hours to enable
30 representation to be retained on behalf of the child.

31

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

5 (8)

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

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

20 1. Appoint representation for the child in accordance
21 with s. 39.013 ~~a guardian ad litem to represent the best~~
22 ~~interest of the child~~, unless the court finds that such
23 representation of the child is otherwise provided ~~is~~
24 ~~unnecessary~~;

25 2. Inform the parents or legal custodians of their
26 right to counsel to represent them at the shelter hearing and
27 at each subsequent hearing or proceeding, and the right of the
28 parents to appointed counsel, pursuant to the procedures set
29 forth in s. 39.013; and

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

1 (e) At the shelter hearing, the department shall
2 provide the court and the child and either the child's
3 guardian ad litem, if known, or the Circuit Office of
4 Children's Representation copies of any available law
5 enforcement, medical, or other professional reports, and shall
6 also provide copies of abuse hotline reports pursuant to state
7 and federal confidentiality requirements.

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

10 39.407 Medical, psychiatric, and psychological
11 examination and treatment of child; physical or mental
12 examination of parent or person requesting custody of child.--

13 (5) Children who are in the legal custody of the
14 department may be placed by the department in a residential
15 treatment center licensed under s. 394.875 or a hospital
16 licensed under chapter 395 for residential mental health
17 treatment only pursuant to this section or may be placed by
18 the court in accordance with an order of involuntary
19 examination or involuntary placement entered pursuant to s.
20 394.463 or s. 394.467. All children placed in a residential
21 treatment program under this subsection must have a guardian
22 ad litem or legal counsel appointed.

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

24 1. "Residential treatment" means placement for
25 observation, diagnosis, or treatment of an emotional
26 disturbance in a residential treatment center licensed under
27 s. 394.875 or a hospital licensed under chapter 395.

28 2. "Least restrictive alternative" means the treatment
29 and conditions of treatment that, separately and in
30 combination, are no more intrusive or restrictive of freedom
31 than reasonably necessary to achieve a substantial therapeutic

1 benefit or to protect the child or adolescent or others from
2 physical injury.

3 3. "Suitable for residential treatment" or
4 "suitability" means a determination concerning a child or
5 adolescent with an emotional disturbance as defined in s.
6 394.492(5) or a serious emotional disturbance as defined in s.
7 394.492(6) that each of the following criteria is met:

8 a. The child requires residential treatment.

9 b. The child is in need of a residential treatment
10 program and is expected to benefit from mental health
11 treatment.

12 c. An appropriate, less restrictive alternative to
13 residential treatment is unavailable.

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

28 (c) Before a child is admitted under this subsection,
29 the child shall be assessed for suitability for residential
30 treatment by a qualified evaluator who has conducted a
31

1 personal examination and assessment of the child and has made
2 written findings that:

3 1. The child appears to have an emotional disturbance
4 serious enough to require residential treatment and is
5 reasonably likely to benefit from the treatment.

6 2. The child has been provided with a clinically
7 appropriate explanation of the nature and purpose of the
8 treatment.

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

13

14 A copy of the written findings of the evaluation and
15 suitability assessment must be provided to the department and
16 to the guardian ad litem or legal counsel, who shall have the
17 opportunity to discuss the findings with the evaluator.

18 (d) Immediately upon placing a child in a residential
19 treatment program under this section, the department must
20 notify the guardian ad litem or legal counsel and the court
21 having jurisdiction over the child and must provide the
22 guardian ad litem or legal counsel and the court with a copy
23 of the assessment by the qualified evaluator.

24 (e) Within 10 days after the admission of a child to a
25 residential treatment program, the director of the residential
26 treatment program or the director's designee must ensure that
27 an individualized plan of treatment has been prepared by the
28 program and has been explained to the child, to the
29 department, and to the guardian ad litem or legal counsel, and
30 submitted to the department. The child must be involved in the
31 preparation of the plan to the maximum feasible extent

1 consistent with his or her ability to understand and
2 participate, and the guardian ad litem or legal counsel and
3 the child's foster parents must be involved to the maximum
4 extent consistent with the child's treatment needs. The plan
5 must include a preliminary plan for residential treatment and
6 aftercare upon completion of residential treatment. The plan
7 must include specific behavioral and emotional goals against
8 which the success of the residential treatment may be
9 measured. A copy of the plan must be provided to the child, to
10 the guardian ad litem or legal counsel, and to the department.

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

28 (g)1. The department must submit, at the beginning of
29 each month, to the court having jurisdiction over the child
30 and to the guardian ad litem or legal counsel, a written
31

1 report regarding the child's progress towards achieving the
2 goals specified in the individualized plan of treatment.

3 2. The court must conduct a hearing to review the
4 status of the child's residential treatment plan no later than
5 3 months after the child's admission to the residential
6 treatment program. An independent review of the child's
7 progress towards achieving the goals and objectives of the
8 treatment plan must be completed by a qualified evaluator and
9 submitted to the court and to the guardian ad litem or legal
10 counsel before the court's ~~its~~ 3-month review.

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

15 4. If at any time the court determines that the child
16 is not suitable for continued residential treatment, the court
17 shall order the department to place the child in the least
18 restrictive setting that is best suited to meet his or her
19 needs.

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

23 (i) The department must adopt rules for implementing
24 timeframes for the completion of suitability assessments by
25 qualified evaluators and a procedure that includes timeframes
26 for completing the 3-month independent review by the qualified
27 evaluators of the child's progress towards achieving the goals
28 and objectives of the treatment plan which review must be
29 submitted to the court. The Agency for Health Care
30 Administration must adopt rules for the registration of
31 qualified evaluators, the procedure for selecting the

1 evaluators to conduct the reviews required under this section,
2 and a reasonable, cost-efficient fee schedule for qualified
3 evaluators.

4 Section 15. Subsections (11), (12), (19), (20), and
5 (21) of section 39.4085, Florida Statutes, are amended to
6 read:

7 39.4085 Legislative findings and declaration of intent
8 for goals for dependent children.--The Legislature finds and
9 declares that the design and delivery of child welfare
10 services should be directed by the principle that the health
11 and safety of children should be of paramount concern and,
12 therefore, establishes the following goals for children in
13 shelter or foster care:

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

20 (12) To be involved and incorporated, where
21 appropriate, and to have the child's guardian ad litem and the
22 legal counsel of the child and of the guardian ad litem
23 involved in the development of the case plan, to have a case
24 plan which will address their specific needs, and to object to
25 any of the provisions of the case plan.

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

31

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

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

11 Section 16. Section 39.4086, Florida Statutes, is
12 repealed.

13 Section 17. Section 39.502, Florida Statutes, is
14 amended to read:

15 39.502 Notice, process, and service.--

16 (1) Unless parental rights have been terminated, all
17 parents must be notified of all proceedings or hearings
18 involving the child. Notice in cases involving shelter
19 hearings and hearings resulting from medical emergencies must
20 be that most likely to result in actual notice to the parents.
21 In all other dependency proceedings, notice must be provided
22 in accordance with subsections (4)-(9).

23 (2) Notice of all proceedings or hearings involving
24 the child and all documents and reports related to those
25 proceedings or required to be given to the child shall be
26 served on or delivered to the child through the court
27 appointed representative for the child, either the guardian ad
28 litem or the child's or the guardian ad litem's legal counsel.
29 If the court has not appointed a representative for the child,
30 service or delivery shall be made to the child unless the
31 court determines that, because of age, capacity, or other

1 condition of the child, it would be meaningless or emotionally
2 detrimental to the child.

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

6 (4)~~(3)~~ Upon the filing of a petition containing
7 allegations of facts which, if true, would establish that the
8 child is a dependent child, and upon the request of the
9 petitioner, the clerk or deputy clerk shall issue a summons.

10 (5)~~(4)~~ The summons shall require the person on whom it
11 is served to appear for a hearing at a time and place
12 specified, not less than 72 hours after service of the
13 summons. A copy of the petition shall be attached to the
14 summons.

15 (6)~~(5)~~ The summons shall be directed to, and shall be
16 served upon, all parties other than the petitioner.

17 (7)~~(6)~~ It is the duty of the petitioner or moving
18 party to notify all participants and parties known to the
19 petitioner or moving party of all hearings subsequent to the
20 initial hearing unless notice is contained in prior court
21 orders and these orders were provided to the participant or
22 party. Proof of notice or provision of orders may be provided
23 by certified mail with a signed return receipt.

24 (8)~~(7)~~ Service of the summons and service of
25 pleadings, papers, and notices subsequent to the summons on
26 persons outside this state must be made pursuant to s.
27 61.1312.

28 (9)~~(8)~~ It is not necessary to the validity of a
29 proceeding covered by this part that the parents be present if
30 their identity or residence is unknown after a diligent search
31 has been made, but in this event the petitioner shall file an

1 affidavit of diligent search prepared by the person who made
2 the search and inquiry, and the court shall ~~may~~ appoint a
3 guardian ad litem or legal counsel for the child.

4 (10)~~(9)~~ When an affidavit of diligent search has been
5 filed under subsection (8), the petitioner shall continue to
6 search for and attempt to serve the person sought until
7 excused from further search by the court. The petitioner shall
8 report on the results of the search at each court hearing
9 until the person is identified or located or further search is
10 excused by the court.

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

17 (12)~~(11)~~ Upon the application of a party or the
18 petitioner, the clerk or deputy clerk shall issue, and the
19 court on its own motion may issue, subpoenas requiring
20 attendance and testimony of witnesses and production of
21 records, documents, and other tangible objects at any hearing.

22 (13)~~(12)~~ All process and orders issued by the court
23 shall be served or executed as other process and orders of the
24 circuit court and, in addition, may be served or executed by
25 authorized agents of the department, ~~or the~~ guardian ad litem,
26 or legal counsel for the child.

27 (14)~~(13)~~ Subpoenas may be served within the state by
28 any person over 18 years of age who is not a party to the
29 proceeding and, in addition, may be served by authorized
30 agents of the department, ~~or the~~ guardian ad litem, or legal
31 counsel for the child.

1 ~~(15)(14)~~ No fee shall be paid for service of any
2 process or other papers by an agent of the department, ~~or the~~
3 guardian ad litem, or legal counsel for the child. If any
4 process, orders, or any other papers are served or executed by
5 any sheriff, the sheriff's fees shall be paid by the county.

6 ~~(16)(15)~~ A party who is identified as a person with
7 mental illness or with a developmental disability must be
8 informed by the court of the availability of advocacy services
9 through the department, the Association for Retarded Citizens,
10 or other appropriate mental health or developmental disability
11 advocacy groups and encouraged to seek such services.

12 ~~(17)(16)~~ If the party to whom an order is directed is
13 present or represented at the final hearing, service of the
14 order is not required.

15 ~~(18)(17)~~ The parent or legal custodian of the child,
16 the attorney for the department, the guardian ad litem, the
17 child, and all other parties and participants shall be given
18 reasonable notice of all hearings provided for under this
19 part.

20 ~~(19)(18)~~ In all proceedings under this part, the court
21 shall provide to the parent or legal custodian of the child,
22 the child, and the child's guardian ad litem, at the
23 conclusion of any hearing, a written notice containing the
24 date of the next scheduled hearing. The court shall also
25 include the date of the next hearing in any order issued by
26 the court.

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

29 39.504 Injunction pending disposition of petition;
30 penalty.--

31

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

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

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

23 Section 19. Section 39.505, Florida Statutes, is
24 amended to read:

25 39.505 No answer required.--No answer to the petition
26 or any other pleading need be filed by any child, guardian ad
27 litem, parent, or legal custodian, but any matters that ~~which~~
28 might be set forth in an answer or other pleading may be
29 pleaded orally before the court or filed in writing as any
30 such person may choose. Notwithstanding the filing of an
31 answer or any pleading, the respondent shall, prior to an

1 adjudicatory hearing, be advised by the court of the right to
2 counsel and shall be given an opportunity to deny the
3 allegations in the petition for dependency or to enter a plea
4 to allegations in the petition before the court.

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

7 39.510 Appeal.--

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

15 Section 21. Paragraphs (a) and (d) of subsection (1),
16 paragraph (b) of subsection (5), and subsection (8) of section
17 39.521, Florida Statutes, are amended to read:

18 39.521 Disposition hearings; powers of disposition.--

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

27 (a) A written case plan and a predisposition study
28 prepared by an authorized agent of the department must be
29 filed with the court and served upon the parents of the child,
30 provided to the child, ~~representative of the guardian ad litem~~
31 ~~program, if the program has been appointed~~, and provided to

1 all other parties, not less than 72 hours before the
2 disposition hearing. All such case plans must be approved by
3 the court. If the court does not approve the case plan at the
4 disposition hearing, the court must set a hearing within 30
5 days after the disposition hearing to review and approve the
6 case plan.

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

9 1. The placement or custody of the child.

10 2. Special conditions of placement and visitation.

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

13 4. The persons or entities responsible for supervising
14 or monitoring services to the child and parent.

15 5. Continuation or discharge of the guardian ad litem
16 or legal counsel for the child, as appropriate. The guardian
17 ad litem or legal counsel for the child may not be discharged
18 pursuant to this section before termination of supervision by
19 the department unless other legal representation is provided
20 for the child. The court may approve a request to withdraw
21 from a Circuit Office of Children's Representation when the
22 court finds that the child no longer needs active
23 representation and the resources of the office are
24 insufficient to provide appropriate representation in other
25 pending cases.

26 6. The date, time, and location of the next scheduled
27 review hearing, which must occur within the earlier of:

28 a. Ninety days after the disposition hearing;

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

30 c. Six months after the date of the last review

31 hearing; or

1 d. Six months after the date of the child's removal
2 from his or her home, if no review hearing has been held since
3 the child's removal from the home.

4 7. If the child is in an out-of-home placement, child
5 support to be paid by the parents, or the guardian of the
6 child's estate if possessed of assets which under law may be
7 disbursed for the care, support, and maintenance of the child.
8 The court may exercise jurisdiction over all child support
9 matters, shall adjudicate the financial obligation, including
10 health insurance, of the child's parents or guardian, and
11 shall enforce the financial obligation as provided in chapter
12 61. The state's child support enforcement agency shall enforce
13 child support orders under this section in the same manner as
14 child support orders under chapter 61. Placement of the child
15 shall not be contingent upon issuance of a support order.

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

25 b. If diligent efforts are made to locate an adult
26 relative willing and able to care for the child but, because
27 no suitable relative is found, the child is placed with the
28 department or a legal custodian or other adult approved by the
29 court, both the department and the court shall consider
30 transferring temporary legal custody to an adult relative
31 approved by the court at a later date, but neither the

1 department nor the court is obligated to so place the child if
2 it is in the child's best interest to remain in the current
3 placement.

4
5 For the purposes of this subparagraph, "diligent efforts to
6 locate an adult relative" means a search similar to the
7 diligent search for a parent, but without the continuing
8 obligation to search after an initial adequate search is
9 completed.

10 9. Other requirements necessary to protect the health,
11 safety, and well-being of the child, to preserve the stability
12 of the child's educational placement, and to promote family
13 preservation or reunification whenever possible.

14 (5)

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

24 (8) The court may enter an order ending its
25 jurisdiction over a child when a child has been returned to
26 the parents, except that ~~provided~~ the court may ~~shall~~ not
27 terminate its jurisdiction or the department's supervision
28 over the child until 6 months after the child's return. The
29 court shall determine whether its jurisdiction should be
30 continued or terminated in such a case after consideration of
31 ~~based on~~ a report of the department or agency, report of ~~or~~

1 the child's guardian ad litem, or any testimony of the child,
2 and any other relevant factors; if its jurisdiction is to be
3 terminated, the court shall enter an order to that effect.

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

8 39.701 Judicial review.--

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

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

23 (d) The child and guardian ad litem for the child, ~~or~~
24 ~~the representative of the guardian ad litem program if the~~
25 ~~program has been appointed.~~

26
27 Service of notice is not required on any of the persons listed
28 in paragraphs (a)-(f) if the person was present at the
29 previous hearing during which the date, time, and location of
30 the hearing was announced.

31 (6)

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

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

24 (7) The court and any citizen review panel shall take
25 into consideration the information contained in the social
26 services study and investigation and all medical,
27 psychological, and educational records that support the terms
28 of the case plan; testimony by the social services agency, the
29 parent, the foster parent or legal custodian, the child,the
30 guardian ad litem if one has been appointed for the child, and
31 any other person deemed appropriate; and any relevant and

1 material evidence submitted to the court, including written
2 and oral reports to the extent of their probative value. These
3 reports and evidence may be received by the court in its
4 effort to determine the action to be taken with regard to the
5 child and may be relied upon to the extent of their probative
6 value, even though not competent in an adjudicatory hearing.
7 In its deliberations, the court and any citizen review panel
8 shall seek to determine:

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

12 (b) If the parent has been advised of the right to
13 have counsel present at the judicial review or citizen review
14 hearings. If not so advised, the court or citizen review panel
15 shall advise the parent of such right.

16 ~~(c) If a guardian ad litem needs to be appointed for~~
17 ~~the child in a case in which a guardian ad litem has not~~
18 ~~previously been appointed or if there is a need to continue a~~
19 ~~guardian ad litem in a case in which a guardian ad litem has~~
20 ~~been appointed.~~

21 (c)(d) The compliance or lack of compliance of all
22 parties with applicable items of the case plan, including the
23 parents' compliance with child support orders.

24 (d)(e) The compliance or lack of compliance with a
25 visitation contract between the parent and the social service
26 agency for contact with the child, including the frequency,
27 duration, and results of the parent-child visitation and the
28 reason for any noncompliance.

29 (e)(f) The compliance or lack of compliance of the
30 parent in meeting specified financial obligations pertaining
31

1 to the care of the child, including the reason for failure to
2 comply if such is the case.

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

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

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

16 (8)(a) Based upon the criteria set forth in subsection
17 (7) and the recommended order of the citizen review panel, if
18 any, the court shall determine whether or not the social
19 service agency shall initiate proceedings to have a child
20 declared a dependent child, return the child to the parent,
21 continue the child in out-of-home care for a specified period
22 of time, or initiate termination of parental rights
23 proceedings for subsequent placement in an adoptive home. The
24 court must determine whether a guardian ad litem or legal
25 counsel needs to be appointed for the child in a case in which
26 a guardian ad litem or legal counsel has not previously been
27 appointed or when there is a need to continue a guardian ad
28 litem or legal counsel in a case in which a guardian ad litem
29 or legal counsel has been appointed. Modifications to the plan
30 must be handled as prescribed in s. 39.601. If the court finds
31 that the prevention or reunification efforts of the department

1 will allow the child to remain safely at home or be safely
2 returned to the home, the court shall allow the child to
3 remain in or return to the home after making a specific
4 finding of fact that the reasons for the creation of the case
5 plan have been remedied to the extent that the child's safety,
6 well-being, and physical, mental, and emotional health will
7 not be endangered.

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

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

25 39.801 Procedures and jurisdiction; notice; service of
26 process.--

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

30 (a) Notice of the date, time, and place of the
31 advisory hearing for the petition to terminate parental rights

1 and a copy of the petition must be personally served upon the
2 following persons, specifically notifying them that a petition
3 has been filed:

4 1. The parents of the child.
5 2. The legal custodians of the child.
6 3. If the parents who would be entitled to notice are
7 dead or unknown, a living relative of the child, unless upon
8 diligent search and inquiry no such relative can be found.

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

10 5. Any grandparent entitled to priority for adoption
11 under s. 63.0425.

12 6. Any prospective parent who has been identified
13 under s. 39.503 or s. 39.803.

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

17
18 The document containing the notice to respond or appear must
19 contain, in type at least as large as the type in the balance
20 of the document, the following or substantially similar
21 language: "FAILURE TO PERSONALLY APPEAR AT THIS ADVISORY
22 HEARING CONSTITUTES CONSENT TO THE TERMINATION OF PARENTAL
23 RIGHTS OF THIS CHILD (OR CHILDREN). IF YOU FAIL TO APPEAR ON
24 THE DATE AND TIME SPECIFIED, YOU MAY LOSE ALL LEGAL RIGHTS AS
25 A PARENT TO THE CHILD OR CHILDREN NAMED IN THE PETITION
26 ATTACHED TO THIS NOTICE."

27 (5) All process and orders issued by the court must be
28 served or executed as other process and orders of the circuit
29 court and, in addition, may be served or executed by
30 authorized agents of the department, or the guardian ad litem,
31 or the child.

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

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

8 39.802 Petition for termination of parental rights;
9 filing; elements.--

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

17 Section 25. Section 39.805, Florida Statutes, is
18 amended to read:

19 39.805 No answer required.--No answer to the petition
20 or any other pleading need be filed by any child, guardian ad
21 litem, or parent, but any matters that ~~which~~ might be set
22 forth in an answer or other pleading may be pleaded orally
23 before the court or filed in writing as any such person may
24 choose. Notwithstanding the filing of any answer or any
25 pleading, the child or parent shall, prior to the adjudicatory
26 hearing, be advised by the court of the right to counsel and
27 shall be given an opportunity to deny the allegations in the
28 petition for termination of parental rights or to enter a plea
29 to allegations in the petition before the court.

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

1 39.806 Grounds for termination of parental rights.--

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

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

13 1. The surrender document must be executed before two
14 witnesses and a notary public or other person authorized to
15 take acknowledgments.

16 2. The surrender and consent may be withdrawn after
17 acceptance by the department only after a finding by the court
18 that the surrender and consent were obtained by fraud or under
19 duress.

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

23 (c) When the parent or parents engaged in conduct
24 toward the child or toward other children that demonstrates
25 that the continuing involvement of the parent or parents in
26 the parent-child relationship threatens the life, safety,
27 well-being, or physical, mental, or emotional health of the
28 child irrespective of the provision of services. Provision of
29 services may be evidenced by proof that services were provided
30 through a previous plan or offered as a case plan from a child
31 welfare agency.

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

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

7 2. The incarcerated parent has been determined by the
8 court to be a violent career criminal as defined in s.

9 775.084, a habitual violent felony offender as defined in s.

10 775.084, or a sexual predator as defined in s. 775.21; has

11 been convicted of first degree or second degree murder in

12 violation of s. 782.04 or a sexual battery that constitutes a
13 capital, life, or first degree felony violation of s. 794.011;

14 or has been convicted of an offense in another jurisdiction

15 which is substantially similar to one of the offenses listed

16 in this paragraph. As used in this section, the term

17 "substantially similar offense" means any offense that is

18 substantially similar in elements and penalties to one of

19 those listed in this subparagraph, and that is in violation of

20 a law of any other jurisdiction, whether that of another

21 state, the District of Columbia, the United States or any

22 possession or territory thereof, or any foreign jurisdiction;

23 or

24 3. The court determines by clear and convincing

25 evidence that continuing the parental relationship with the

26 incarcerated parent would be harmful to the child and, for

27 this reason, that termination of the parental rights of the

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

29 (e) A petition for termination of parental rights may

30 also be filed when a child has been adjudicated dependent, a

31 case plan has been filed with the court, and the child

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

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

21 1. As used in this subsection, the term "sibling"
22 means another child who resides with or is cared for by the
23 parent or parents regardless of whether the child is related
24 legally or by consanguinity.

25 2. As used in this subsection, the term "egregious
26 conduct" means abuse, abandonment, neglect, or any other
27 conduct of the parent or parents that is deplorable, flagrant,
28 or outrageous by a normal standard of conduct. Egregious
29 conduct may include an act or omission that occurred only once
30 but was of such intensity, magnitude, or severity as to
31 endanger the life of the child.

1 (g) When the parent or parents have subjected the
2 child to aggravated child abuse as defined in s. 827.03,
3 sexual battery or sexual abuse as defined in s. 39.01, or
4 chronic abuse.

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

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

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

15 39.807 Right to counsel; guardian ad litem.--

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

22 ~~(b) The guardian ad litem has the following~~
23 ~~responsibilities:~~

24 ~~1. To investigate the allegations of the petition and~~
25 ~~any subsequent matters arising in the case and, unless excused~~
26 ~~by the court, to file a written report. This report must~~
27 ~~include a statement of the wishes of the child and the~~
28 ~~recommendations of the guardian ad litem and must be provided~~
29 ~~to all parties and the court at least 72 hours before the~~
30 ~~disposition hearing.~~

31

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

3 ~~3. To represent the best interests of the child until~~
4 ~~the jurisdiction of the court over the child terminates or~~
5 ~~until excused by the court.~~

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

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

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

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

15 39.808 Advisory hearing; pretrial status conference.--

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

21 Section 29. Subsections (10) and (11) of section
22 39.810, Florida Statutes, are amended to read:

23 39.810 Manifest best interests of the child.--In a
24 hearing on a petition for termination of parental rights, the
25 court shall consider the manifest best interests of the child.
26 This consideration shall not include a comparison between the
27 attributes of the parents and those of any persons providing a
28 present or potential placement for the child. For the purpose
29 of determining the manifest best interests of the child, the
30 court shall consider and evaluate all relevant factors,
31 including, but not limited to:

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

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

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

12 39.811 Powers of disposition; order of disposition.--

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

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

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

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

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

30 (9) After termination of parental rights, the court
31 shall retain jurisdiction over any child for whom custody is

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

9 Section 31. Section 39.820, Florida Statutes, is
10 amended to read:

11 39.820 Definitions.--As used in the Florida Statutes
12 ~~this part~~, the term:

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

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

31

1 Section 32. Section 39.821, Florida Statutes, is
2 amended to read:

3 39.821 Qualifications of guardians ad litem.--

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

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

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

30 | (3) It is a misdemeanor of the first degree,
31 | punishable as provided in s. 775.082 or s. 775.083, for any

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

9 Section 33. Section 39.822, Florida Statutes, is
10 amended to read:

11 39.822 Appointment of guardian ad litem for abused,
12 abandoned, or neglected child.--

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

1 ~~doing shall be immune from any liability, civil or criminal,~~
2 ~~that otherwise might be incurred or imposed.~~

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

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

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

26 Section 34. Section 39.8225, Florida Statutes, is
27 created to read:

28 39.8225 Guardians ad litem; powers, duties, and
29 authority.--
30
31

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

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

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

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

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

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

1 the Department of Juvenile Justice; law enforcement personnel
2 who are involved in the case; and any other person whom the
3 guardian ad litem and the attorney determines appropriate.

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

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

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

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

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

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

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

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

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

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

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

1 to be present and to participate in all depositions, hearings,
2 and other proceedings in the action, and, through counsel, may
3 compel the attendance of witnesses.

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

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

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

11 Section 35. Section 39.8226, Florida Statutes, is
12 created to read:

13 39.8226 Legal counsel for a child.--

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

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

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

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

17 Section 36. Section 39.84, Florida Statutes, is
18 created to read:

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

27 Section 37. Section 39.86, Florida Statutes, is
28 created to read:

29 39.86 Guardians ad litem and psychologists;
30 immunity.--Any person participating in a judicial proceeding
31 as a guardian ad litem, as staff or a volunteer representing

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

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

9 40.24 Compensation and reimbursement policy.--

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

30 Section 39. Paragraph (a) of subsection (6) of section
31 215.5601, Florida Statutes, is amended to read:

1 215.5601 Lawton Chiles Endowment Fund.--
2 (6) ADVISORY COUNCIL.--The Lawton Chiles Endowment
3 Fund Advisory Council is established for the purpose of
4 reviewing the funding priorities of the state agencies,
5 evaluating their requests against the mission and goals of the
6 agencies and legislative intent for the use of endowment
7 funds, and allowing for public input and advocacy.
8 (a) The advisory council shall consist of 15 members,
9 including:
10 1. The director of the United Way of Florida, Inc., or
11 his or her designee;
12 2. The director of the Foster Parents Association, or
13 his or her designee;
14 3. The chair of the Department of Elderly Affairs
15 Advisory Council, or his or her designee;
16 4. The president of the Florida Association of Area
17 Agencies on Aging, or his or her designee;
18 5. The State Long-Term Care Ombudsman, or his or her
19 designee;
20 6. The state director of the Florida AARP, or his or
21 her designee;
22 7. The director of the Florida Pediatric Society, or
23 his or her designee;
24 8. The Director of the Statewide Public Guardianship
25 Office ~~A representative of the Guardian Ad Litem Program,~~
26 appointed by the Governor;
27 9. A representative of a child welfare lead agency for
28 community-based care, appointed by the Governor;
29 10. A representative of an elder care lead agency for
30 community-based care, appointed by the Governor;
31

1 11. A representative of a statewide child advocacy
2 organization, appointed by the Governor;

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

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

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

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

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

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

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

17 (a) Local law enforcement agencies;

18 (b) Local school boards;

19 (c) Child protective investigators;

20 (d) The office of the state attorney;

21 (e) The office of the public defender;

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

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

26 (h) The Statewide Public Guardianship Office ~~guardian~~
27 ~~ad litem~~ program;

28 (i) The Department of Juvenile Justice; and

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

30 Section 41. This act shall take effect October 1,
31 2002.

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

Provides that counties are to continue to fund the existing elements of the guardian ad litem offices when they become Circuit Offices of Children's Representation until such time as the Legislature expressly assumes responsibility for funding.

Provides that the court may approve a request to withdraw from a Circuit Office of Children's Representation when the court finds that the child no longer needs active representation and the resources of the office are insufficient to provide appropriate representation in other pending cases.

Deletes language that allowed the court to determine if the current placement of the child was appropriate to protect the child's safety; well-being; and physical, mental and, emotional health.