



CHAMBER ACTION

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The Committee on Future of Florida's Families recommends the following:

**Committee Substitute**

Remove the entire bill and insert:

A bill to be entitled

An act relating to dependent children; amending s. 39.202, F.S.; clarifying a right of access to records for certain attorneys and providing a right to access for certain school employees and certain employees and volunteers of a certified domestic violence center; authorizing the Department of Children and Family Services and specified law enforcement agencies to release certain information when a child is under investigation or supervision; providing an exception; providing that persons releasing such information are not subject to civil or criminal penalty for the release; creating s. 39.0136, F.S.; providing standards for background screening of persons seeking approval as relative and nonrelative caregivers of children; enumerating offenses the existence of which will cause disapproval; specifying the date that application of standards for background screening becomes effective;



29 | amending ss. 39.301, 39.401, and 39.521, F.S.; clarifying  
30 | the screening that must occur for purposes of a child  
31 | protective investigation, for the placement of a child,  
32 | and for providing information to the court; amending s.  
33 | 39.812, F.S.; requiring certain screening of prospective  
34 | adoptive parents; amending s. 63.037, F.S.; exempting  
35 | adoption proceedings initiated under ch. 39, F.S., from  
36 | certain provisions of s. 63.092, F.S., relating to records  
37 | checks; amending s. 63.092, F.S.; conforming a cross-  
38 | reference; creating s. 409.017, F.S.; providing standards  
39 | for background screening of persons in a household seeking  
40 | licensure as a foster home; enumerating offenses the  
41 | existence of which will cause disapproval; providing for  
42 | rescreening; imposing a duty upon the licensee; specifying  
43 | the date that application of the standards for background  
44 | screening becomes effective; amending s. 409.175, F.S.;  
45 | redefining the term "personnel" and deleting the  
46 | definition of the term "screening"; creating s. 409.177,  
47 | F.S.; providing standards for background screening for  
48 | child-placing and residential child-caring agencies;  
49 | providing for denial of a license and exclusion from  
50 | employment; creating s. 409.1759, F.S.; providing for  
51 | background screening for summer camp personnel; providing  
52 | an exception; repealing s. 435.045, F.S., relating to  
53 | requirements for placement of dependent children; amending  
54 | s. 937.021, F.S.; providing for the filing of police  
55 | reports for missing children in the county or municipality



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56 | where the child was last seen; providing an effective  
57 | date.

58

59 | Be It Enacted by the Legislature of the State of Florida:

60

61 | Section 1. Subsection (2) of section 39.202, Florida  
62 | Statutes, is amended, present subsections (4) through (7) are  
63 | renumbered as subsections (5) through (8), respectively, and  
64 | subsection (4) is added to said section, to read:

65 | 39.202 Confidentiality of reports and records in cases of  
66 | child abuse or neglect.--

67 | (2) Except as provided in subsection (4), access to such  
68 | records, excluding the name of the reporter which shall be  
69 | released only as provided in subsection (5) ~~(4)~~, shall be  
70 | granted only to the following persons, officials, and agencies:

71 | (a) Employees, authorized agents, or contract providers of  
72 | the department, the Department of Health, or county agencies  
73 | responsible for carrying out:

74 | 1. Child or adult protective investigations;

75 | 2. Ongoing child or adult protective services;

76 | 3. Healthy Start services; or

77 | 4. Licensure or approval of adoptive homes, foster homes,  
78 | or child care facilities, or family day care homes or informal  
79 | child care providers who receive subsidized child care funding,  
80 | or other homes used to provide for the care and welfare of  
81 | children.

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83 | Also, employees or agents of the Department of Juvenile Justice  
84 | responsible for the provision of services to children, pursuant  
85 | to chapters 984 and 985.

86 | (b) Criminal justice agencies of appropriate jurisdiction.

87 | (c) The state attorney of the judicial circuit in which  
88 | the child resides or in which the alleged abuse or neglect  
89 | occurred.

90 | (d) The parent or legal custodian of any child who is  
91 | alleged to have been abused, abandoned, or neglected, and the  
92 | child, and their attorneys, including any attorney representing  
93 | a child in civil or criminal proceedings. This access shall be  
94 | made available no later than 30 days after the department  
95 | receives the initial report of abuse, neglect, or abandonment.  
96 | However, any information otherwise made confidential or exempt  
97 | by law shall not be released pursuant to this paragraph.

98 | (e) Any person alleged in the report as having caused the  
99 | abuse, abandonment, or neglect of a child. This access shall be  
100 | made available no later than 30 days after the department  
101 | receives the initial report of abuse, abandonment, or neglect  
102 | and, when the alleged perpetrator is not a parent, shall be  
103 | limited to information involving the protective investigation  
104 | only and shall not include any information relating to  
105 | subsequent dependency proceedings. However, any information  
106 | otherwise made confidential or exempt by law shall not be  
107 | released pursuant to this paragraph.

108 | (f) A court upon its finding that access to such records  
109 | may be necessary for the determination of an issue before the  
110 | court; however, such access shall be limited to inspection in



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111 camera, unless the court determines that public disclosure of  
112 the information contained therein is necessary for the  
113 resolution of an issue then pending before it.

114 (g) A grand jury, by subpoena, upon its determination that  
115 access to such records is necessary in the conduct of its  
116 official business.

117 (h) Any appropriate official of the department responsible  
118 for:

119 1. Administration or supervision of the department's  
120 program for the prevention, investigation, or treatment of child  
121 abuse, abandonment, or neglect, or abuse, neglect, or  
122 exploitation of a vulnerable adult, when carrying out his or her  
123 official function;

124 2. Taking appropriate administrative action concerning an  
125 employee of the department alleged to have perpetrated child  
126 abuse, abandonment, or neglect, or abuse, neglect, or  
127 exploitation of a vulnerable adult; or

128 3. Employing and continuing employment of personnel of the  
129 department.

130 (i) Any person authorized by the department who is engaged  
131 in the use of such records or information for bona fide  
132 research, statistical, or audit purposes. Such individual or  
133 entity shall enter into a privacy and security agreement with  
134 the department and shall comply with all laws and rules  
135 governing the use of such records and information for research  
136 and statistical purposes. Information identifying the subjects  
137 of such records or information shall be treated as confidential  
138 by the researcher and shall not be released in any form.



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139 (j) The Division of Administrative Hearings for purposes  
140 of any administrative challenge.

141 (k) Any appropriate official of a Florida advocacy council  
142 investigating a report of known or suspected child abuse,  
143 abandonment, or neglect; the Auditor General or the Office of  
144 Program Policy Analysis and Government Accountability for the  
145 purpose of conducting audits or examinations pursuant to law; or  
146 the guardian ad litem for the child.

147 (l) Employees or agents of an agency of another state that  
148 has comparable jurisdiction to the jurisdiction described in  
149 paragraph (a).

150 (m) The Public Employees Relations Commission for the sole  
151 purpose of obtaining evidence for appeals filed pursuant to s.  
152 447.207. Records may be released only after deletion of all  
153 information which specifically identifies persons other than the  
154 employee.

155 (n) Employees or agents of the Department of Revenue  
156 responsible for child support enforcement activities.

157 (o) Any person in the event of the death of a child  
158 determined to be a result of abuse, abandonment, or neglect.  
159 Information identifying the person reporting abuse, abandonment,  
160 or neglect shall not be released. Any information otherwise made  
161 confidential or exempt by law shall not be released pursuant to  
162 this paragraph.

163 (p) The principal of a public school, private school, or  
164 charter school where the child is a student. Information  
165 contained in the records which the principal determines are



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166 necessary for a school employee to effectively provide a student  
167 with educational services may be released to that employee.

168 (q) An employee or a volunteer of a certified domestic  
169 violence center if the employee or volunteer is working at the  
170 department's request as a case consultant or working with a  
171 client who is also a client of the department.

172 (4) Notwithstanding any other provision of law, when a  
173 child under investigation or supervision of the department or  
174 its contracted service providers is determined to be missing,  
175 the following shall apply:

176 (a) The department may release the following information  
177 to the public when it believes the release of the information is  
178 likely to assist efforts in locating the child or to promote the  
179 safety or well-being of the child:

- 180 1. The name of the child and the child's date of birth;
- 181 2. A physical description of the child, including at a  
182 minimum the height, weight, hair color, eye color, gender, and  
183 any identifying physical characteristics of the child; and
- 184 3. A photograph of the child.

185 (b) With the concurrence of the law enforcement agency  
186 primarily responsible for investigating the incident, the  
187 department may release any additional information it believes  
188 likely to assist efforts in locating the child or to promote the  
189 safety or well-being of the child.

190 (c) The law enforcement agency primarily responsible for  
191 investigating the incident may release any information received  
192 from the department regarding the investigation, if it believes  
193 the release of the information is likely to assist efforts in



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194 locating the child or to promote the safety or well-being of the  
195 child.

196  
197 The good-faith publication or release of this information by the  
198 department, a law enforcement agency, or any recipient of the  
199 information as specifically authorized by this subsection shall  
200 not subject the person, agency or entity releasing the  
201 information to any civil or criminal penalty. This subsection  
202 does not authorize the release of the name of the reporter,  
203 which may be released only as provided in subsection (5).

204 Section 2. Section 39.0136, Florida Statutes, is created  
205 to read:

206 39.0136 Security background investigations.--

207 (1) The department shall conduct security background  
208 investigations for any relative or nonrelative caregiver who is  
209 not a licensed foster or shelter parent and who is being  
210 considered for placement of a child subject to the provisions of  
211 this chapter. The security background investigation shall  
212 include all persons older than 12 years of age who reside in the  
213 home of the potential caregiver. Notwithstanding the  
214 requirements of this section, a security background  
215 investigation shall not be performed for any parent against whom  
216 allegations of abuse, abandonment or neglect are not made.

217 (2) For the purposes of this section, security background  
218 investigations shall include, but not be limited to,  
219 fingerprinting for all purposes and checks in this subsection,  
220 statewide criminal and juvenile records checks through the  
221 Department of Law Enforcement and the Department of Juvenile





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222 Justice, national criminal records checks through the Federal  
223 Bureau of Investigation, and local criminal records checks  
224 through local law enforcement agencies. For children older than  
225 12 years of age, the security background investigation shall be  
226 limited to statewide criminal and juvenile records checks  
227 through the Department of Law Enforcement and local criminal  
228 records checks through local law enforcement agencies.

229 (3) An offense that would otherwise be a disqualifying  
230 offense under this section shall not be considered a  
231 disqualifying offense if committed by a current or former foster  
232 child before his or her 18th birthday.

233 (4) When fingerprinting is required under this section and  
234 a placement decision is being made under exigent circumstances,  
235 the placement may be made based on the results of a national  
236 name check through the National Crime Information Center, so  
237 long as the required fingerprint information is provided to the  
238 Federal Bureau of Investigation within the timeframe established  
239 by the Federal Government.

240 (5) The security background investigations under this  
241 section must ensure that no person older than 12 years of age  
242 who resides in the home of a relative or nonrelative with whom a  
243 child is to be placed has been found guilty of, regardless of  
244 adjudication, or entered a plea of nolo contendere or guilty to,  
245 any felony offense prohibited under any of the following  
246 provisions of the Florida Statutes or under any similar statute  
247 of another jurisdiction at any time:

248 (a) Any statute creating a felony offense relating to  
249 domestic violence, as defined in s. 741.28.



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- 250           (b) Section 782.04, relating to murder.
- 251           (c) Section 782.07, relating to manslaughter, aggravated  
252 manslaughter of an elderly person or disabled adult, or  
253 aggravated manslaughter of a child.
- 254           (d) Section 784.021, relating to aggravated assault.
- 255           (e) Section 784.045, relating to aggravated battery.
- 256           (f) Section 794.011, relating to sexual battery.
- 257           (g) Former s. 794.041, relating to prohibited act of  
258 persons in familial or custodial authority.
- 259           (h) Section 796.03, relating to procuring a person younger  
260 that 18 years of age for prostitution.
- 261           (i) Section 800.04, relating to lewd or lascivious  
262 offenses committed upon or in the presence of persons younger  
263 than 16 years of age.
- 264           (j) Section 827.03, relating to child abuse, aggravated  
265 child abuse, or neglect of a child.
- 266           (k) Section 827.04(3), relating to the impregnation of a  
267 child younger than 16 years of age by a person 21 years of age  
268 or older.
- 269           (l) Former s. 827.05, relating to negligent treatment of  
270 children.
- 271           (m) Section 827.071, relating to sexual performance by a  
272 child.
- 273           (n) Section 847.0135, relating to computer pornography.
- 274           (o) Section 847.0145, relating to the selling or buying of  
275 minors.
- 276           (6) The security background investigations under this  
277 section must ensure that no person older that 12 years of age



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278 who resides in the home of a relative or nonrelative with whom a  
279 child is to be placed has been found guilty of, regardless of  
280 adjudication, or entered a plea of nolo contendere or guilty to,  
281 any felony offense prohibited under any of the following  
282 provisions of the Florida Statutes or under any similar statute  
283 of another jurisdiction and the offense was committed within the  
284 previous 5 years:

285 (a) Section 414.39, relating to public assistance fraud.

286 (b) Section 415.111, relating to adult abuse, neglect, or  
287 exploitation of an aged person or disabled adult.

288 (c) Section 782.071, relating to vehicular homicide.

289 (d) Section 782.09, relating to killing of an unborn child  
290 by injury to the mother.

291 (e) Section 784.011, relating to assault, if the victim of  
292 the offense was a minor.

293 (f) Section 784.03, relating to battery, if the victim of  
294 the offense was a minor.

295 (g) Section 784.075, relating to battery on a staff member  
296 of a detention or commitment facility.

297 (h) Section 787.01, relating to kidnapping.

298 (i) Section 787.02, relating to false imprisonment.

299 (j) Section 787.04(2), relating to taking, enticing, or  
300 removing a child beyond the state limits with criminal intent  
301 pending custody proceedings.

302 (k) Section 787.04(3), relating to carrying a child beyond  
303 the state lines with criminal intent to avoid producing a child  
304 at a custody hearing or delivering the child to the designated  
305 person.



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306        (l) Section 790.115(1), relating to exhibiting firearms or  
307 weapons within 1,000 feet of a school.

308        (m) Section 790.115(2)(b), relating to possessing an  
309 electric weapon or device, destructive device, or other weapon  
310 on school property.

311        (n) Chapter 796, relating to prostitution, except s.  
312 796.03, relating to procuring a person younger than 18 years of  
313 age for prostitution.

314        (o) Section 798.02, relating to lewd and lascivious  
315 behavior.

316        (p) Chapter 800, relating to lewdness and indecent  
317 exposure with the exception of s. 800.04, relating to lewd or  
318 lascivious offenses committed upon or in the presence of persons  
319 younger than 16 years of age.

320        (q) Section 806.01, relating to arson.

321        (r) Chapter 812, relating to theft, robbery, and related  
322 crimes, if the offense is a felony.

323        (s) Section 817.563, relating to the fraudulent sale of  
324 controlled substances, if the offense was a felony.

325        (t) Section 825.102, relating to abuse, aggravated abuse,  
326 or neglect of an elderly person or disabled adult.

327        (u) Section 825.1025, relating to lewd or lascivious  
328 offenses committed upon or in the presence of an elderly person  
329 or disabled adult.

330        (v) Section 825.103, relating to exploitation of an  
331 elderly person or disabled adult, if the offense was a felony.

332        (w) Section 826.04, relating to incest.



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333        (x) Section 827.04, relating to contributing to the  
334 delinquency or dependency of a child, except s. 827.04(3),  
335 relating to impregnation of a child younger than 16 years of age  
336 by a person 21 years of age or older.

337        (y) Section 831.01, relating to forgery.

338        (z) Chapter 837, relating to perjury.

339        (aa) Section 843.01, relating to resisting arrest with  
340 violence.

341        (bb) Section 843.025, relating to depriving a law  
342 enforcement officer, correctional officer, or correctional  
343 probation officer of means of protection or communication.

344        (cc) Section 843.12, relating to aiding in an escape.

345        (dd) Section 843.13, relating to aiding in the escape of a  
346 juvenile inmate in a correctional institution.

347        (ee) Chapter 847, relating to obscene literature, except  
348 s. 847.0135, relating to computer pornography, and s. 847.0145,  
349 relating to the selling or buying of minors.

350        (ff) Chapter 893, relating to drug abuse prevention and  
351 control, if the offense was a felony or if any other person  
352 involved in the offense was a minor.

353        (gg) Section 944.35(3), relating to inflicting cruel or  
354 inhuman treatment on an inmate resulting in great bodily harm.

355        (hh) Section 944.46, relating to harboring, concealing, or  
356 aiding an escaped prisoner.

357        (ii) Section 944.47, relating to introduction of  
358 contraband into a correctional facility.

359        (jj) Section 985.4045, relating to sexual misconduct in a  
360 juvenile justice program.



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361           (kk) Section 985.4046, relating to introduction of  
362 contraband into a detention facility.

363           (7) If the security background investigation of a relative  
364 or nonrelative being considered for placement of a child reveals  
365 any misdemeanor conviction, any findings of delinquency, or any  
366 felony conviction not identified in subsection (5) or subsection  
367 (6), this information shall be recorded in the record of the  
368 investigation and shall be considered as a part of the risk  
369 assessment that is used to determine the appropriate placement  
370 for the child.

371           (8) All information concerning any person with whom the  
372 child is placed which was obtained through the security  
373 background investigation shall be presented to the court at the  
374 first judicial hearing at which the information is available.  
375 All information from the Federal Bureau of Investigation and any  
376 information that has been sealed or any reference to the  
377 existence of expunged information may be shared only with the  
378 court in an inspection in camera.

379           (9) Any caregiver who becomes aware of a person becoming a  
380 household member of a household where a child is placed must,  
381 within 5 days after that person has become a household member,  
382 submit to the department the information necessary to conduct a  
383 screening under this section.

384           (10) A relative or nonrelative caregiver with whom a child  
385 had been placed subject to the provisions of this chapter as of  
386 June 30, 2003, shall not be subject to the provisions of this  
387 section. The placement of any child subject to the provisions of  
388 this chapter with a relative or nonrelative caregiver after June



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389 30, 2003, shall require that the relative or nonrelative  
390 caregiver be subject to the security background investigation  
391 provided for in this section.

392 Section 3. Paragraph (c) of subsection (9) of section  
393 39.301, Florida Statutes, is amended to read:

394 39.301 Initiation of protective investigations.--

395 (9) For each report it receives, the department shall  
396 perform an onsite child protective investigation that includes a  
397 face-to-face interview with the child, other siblings, parents,  
398 and other adults in the household and an onsite assessment of  
399 the child's residence in order to:

400 (c) Determine the immediate and long-term risk to each  
401 child by conducting a security background check as provided in  
402 s. 39.0136 ~~state and federal records checks, including, when~~  
403 ~~feasible, the records of the Department of Corrections, on the~~  
404 ~~parents, legal custodians, or caregivers, and any other persons~~  
405 ~~in the same household. This information shall be used solely for~~  
406 ~~purposes supporting the detection, apprehension, prosecution,~~  
407 ~~pretrial release, posttrial release, or rehabilitation of~~  
408 ~~criminal offenders or persons accused of the crimes of child~~  
409 ~~abuse, abandonment, or neglect and shall not be further~~  
410 ~~disseminated or used for any other purpose.~~ The department's  
411 child protection investigators are hereby designated a criminal  
412 justice agency for the purpose of accessing criminal justice  
413 information to be used for enforcing this state's laws  
414 concerning the crimes of child abuse, abandonment, and neglect.

415 Section 4. Subsection (3) of section 39.401, Florida  
416 Statutes, is amended to read:



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417           39.401 Taking a child alleged to be dependent into  
418 custody; law enforcement officers and authorized agents of the  
419 department.--

420           (3) If the child is taken into custody by, or is delivered  
421 to, an authorized agent of the department, the authorized agent  
422 shall review the facts supporting the removal with an attorney  
423 representing the department. The purpose of this review shall be  
424 to determine whether probable cause exists for the filing of a  
425 shelter petition. If the facts are not sufficient to support  
426 the filing of a shelter petition, the child shall immediately be  
427 returned to the custody of the parent or legal custodian. If the  
428 facts are sufficient to support the filing of the shelter  
429 petition and the child has not been returned to the custody of  
430 the parent or legal custodian, the department shall file the  
431 petition and schedule a hearing, and the attorney representing  
432 the department shall request that a shelter hearing be held as  
433 quickly as possible, not to exceed 24 hours after the removal of  
434 the child. While awaiting the shelter hearing, the authorized  
435 agent of the department may place the child in licensed shelter  
436 care or may release the child to a parent or legal custodian or  
437 responsible adult relative who shall be given priority  
438 consideration over a licensed placement, or a responsible adult  
439 approved by the department when this is in the best interests of  
440 the child. Any placement of a child which is not in a licensed  
441 shelter must be preceded by a security background investigation,  
442 as described in s. 39.0136 ~~local and state criminal records~~  
443 ~~check, as well as a search of the department's automated abuse~~  
444 ~~information system, on all members of the household, to assess~~





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445 ~~the child's safety within the home.~~ In addition, the department  
446 may authorize placement of a housekeeper/homemaker in the home  
447 of a child alleged to be dependent until the parent or legal  
448 custodian assumes care of the child.

449 Section 5. Paragraphs (k) and (r) of subsection (2) of  
450 section 39.521, Florida Statutes, are amended to read:

451 39.521 Disposition hearings; powers of disposition.--

452 (2) The predisposition study must provide the court with  
453 the following documented information:

454 (k) A Central Florida Abuse Hotline Information System  
455 ~~(FAHIS)~~ history and criminal records check as provided for in s.  
456 39.0136 for all caregivers, family members, and individuals  
457 residing within the household from which the child was removed.

458 (r) If the child has been removed from the home and will  
459 be remaining with a relative or other adult approved by the  
460 court, a home study report concerning the proposed placement  
461 shall be included in the predisposition report. Prior to  
462 recommending to the court any out-of-home placement for a child  
463 other than placement in a licensed shelter or foster home, the  
464 department shall conduct a study of the home of the proposed  
465 legal custodians, which must include, at a minimum:

466 1. An interview with the proposed legal custodians to  
467 assess their ongoing commitment and ability to care for the  
468 child.

469 2. Records checks through the Central Florida Abuse  
470 Hotline Information System (FAHIS), and a security background  
471 investigation as provided for in s. 39.0136 ~~local and statewide~~  
472 ~~criminal and juvenile records checks through the Department of~~



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473 ~~Law Enforcement, on all household members 12 years of age or~~  
474 ~~older and any other persons made known to the department who are~~  
475 ~~frequent visitors in the home. Out of state criminal records~~  
476 ~~checks must be initiated for any individual designated above who~~  
477 ~~has resided in a state other than Florida provided that state's~~  
478 ~~laws allow the release of these records. The out of state~~  
479 ~~criminal records must be filed with the court within 5 days~~  
480 ~~after receipt by the department or its agent.~~

481 3. An assessment of the physical environment of the home.

482 4. A determination of the financial security of the  
483 proposed legal custodians.

484 5. A determination of suitable child care arrangements if  
485 the proposed legal custodians are employed outside of the home.

486 6. Documentation of counseling and information provided to  
487 the proposed legal custodians regarding the dependency process  
488 and possible outcomes.

489 7. Documentation that information regarding support  
490 services available in the community has been provided to the  
491 proposed legal custodians.

492  
493 The department shall not place the child or continue the  
494 placement of the child in a home under shelter or  
495 postdisposition placement if the results of the home study are  
496 unfavorable, unless the court finds that this placement is in  
497 the child's best interest.

498  
499 Any other relevant and material evidence, including other  
500 written or oral reports, may be received by the court in its



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501 effort to determine the action to be taken with regard to the  
502 child and may be relied upon to the extent of its probative  
503 value, even though not competent in an adjudicatory hearing.  
504 Except as otherwise specifically provided, nothing in this  
505 section prohibits the publication of proceedings in a hearing.

506 Section 6. Subsection (6) is added to section 39.812,  
507 Florida Statutes, to read:

508 39.812 Postdisposition relief; petition for adoption.--  
509 (6) Any person considered for placement for the adoption  
510 of a child under this chapter must meet the screening  
511 requirements set forth in s. 39.0136.

512 Section 7. Section 63.037, Florida Statutes, is amended to  
513 read:

514 63.037 Proceedings applicable to cases resulting from a  
515 termination of parental rights under chapter 39.--A case in  
516 which a minor becomes available for adoption after the parental  
517 rights of each parent have been terminated by a judgment entered  
518 pursuant to chapter 39 shall be governed by s. 39.812 and this  
519 chapter. Adoption proceedings initiated under chapter 39 are  
520 exempt from the following provisions of this chapter: disclosure  
521 requirements for the adoption entity provided in s. 63.085;  
522 general provisions governing termination of parental rights  
523 pending adoption provided in s. 63.087; notice and service  
524 provisions governing termination of parental rights pending  
525 adoption provided in s. 63.088; ~~and~~ procedures for terminating  
526 parental rights pending adoption provided in s. 63.089; and the  
527 records check of the department's central abuse hotline and



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528 | criminal records correspondence checks provided in s.  
529 | 63.092(3)(b).

530 | Section 8. Subsection (3) of section 63.092, Florida  
531 | Statutes, is amended to read:

532 | 63.092 Report to the court of intended placement by an  
533 | adoption entity; at-risk placement; preliminary study.--

534 | (3) PRELIMINARY HOME STUDY.--Before placing the minor in  
535 | the intended adoptive home, a preliminary home study must be  
536 | performed by a licensed child-placing agency, a child-caring  
537 | agency registered under s. 409.176, a licensed professional, or  
538 | agency described in s. 61.20(2), unless the petitioner is a  
539 | stepparent, a spouse of the parent, or a relative. The  
540 | preliminary study shall be completed within 30 days after the  
541 | receipt by the court of the adoption entity's report, but in no  
542 | event may the minor be placed in the prospective adoptive home  
543 | prior to the completion of the preliminary study unless ordered  
544 | by the court. If the petitioner is a stepparent, a spouse of the  
545 | parent, or a relative, the preliminary home study may be  
546 | required by the court for good cause shown. The department is  
547 | required to perform the preliminary home study only if there is  
548 | no licensed child-placing agency, child-caring agency registered  
549 | under s. 409.176, licensed professional, or agency described in  
550 | s. 61.20(2), in the county where the prospective adoptive  
551 | parents reside. The preliminary home study must be made to  
552 | determine the suitability of the intended adoptive parents and  
553 | may be completed prior to identification of a prospective  
554 | adoptive minor. A favorable preliminary home study is valid for  
555 | 1 year after the date of its completion. Upon its completion, a



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556 copy of the home study must be provided to the intended adoptive  
557 parents who were the subject of the home study. A minor may not  
558 be placed in an intended adoptive home before a favorable  
559 preliminary home study is completed unless the adoptive home is  
560 also a licensed foster home under s. 409.175. The preliminary  
561 home study must include, at a minimum:

- 562 (a) An interview with the intended adoptive parents;
- 563 (b) Records checks of the department's central abuse  
564 hotline registry and criminal records correspondence checks  
565 pursuant to s. 435.03 ~~s. 435.045~~ through the Department of Law  
566 Enforcement on the intended adoptive parents;
- 567 (c) An assessment of the physical environment of the home;
- 568 (d) A determination of the financial security of the  
569 intended adoptive parents;
- 570 (e) Documentation of counseling and education of the  
571 intended adoptive parents on adoptive parenting;
- 572 (f) Documentation that information on adoption and the  
573 adoption process has been provided to the intended adoptive  
574 parents;
- 575 (g) Documentation that information on support services  
576 available in the community has been provided to the intended  
577 adoptive parents; and
- 578 (h) A copy of each signed acknowledgment required by s.  
579 63.085.

580

581 If the preliminary home study is favorable, a minor may be  
582 placed in the home pending entry of the judgment of adoption. A  
583 minor may not be placed in the home if the preliminary home



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584 study is unfavorable. If the preliminary home study is  
585 unfavorable, the adoption entity may, within 20 days after  
586 receipt of a copy of the written recommendation, petition the  
587 court to determine the suitability of the intended adoptive  
588 home. A determination as to suitability under this subsection  
589 does not act as a presumption of suitability at the final  
590 hearing. In determining the suitability of the intended adoptive  
591 home, the court must consider the totality of the circumstances  
592 in the home. No minor may be placed in a home in which there  
593 resides any person determined by the court to be a sexual  
594 predator as defined in s. 775.21 or to have been convicted of an  
595 offense listed in s. 63.089(4)(b)2.

596 Section 9. Section 409.017, Florida Statutes, is created  
597 to read:

598 409.017 Background screening for foster parents.--

599 (1) The department shall conduct security background  
600 investigations for any person being considered by the department  
601 for licensure as a foster parent. This investigation shall be  
602 completed before the person may be licensed as a foster parent  
603 and before a child is placed with the prospective foster parent.  
604 The screening shall include any person older than 12 years of  
605 age who resides in the home.

606 (2) For the purposes of this section, security background  
607 investigations shall include, but not be limited to,  
608 fingerprinting for all purposes and checks in this subsection,  
609 statewide criminal and juvenile records checks through the  
610 Department of Law Enforcement and the Department of Juvenile  
611 Justice, national criminal records checks through the Federal



612 Bureau of Investigation, and local criminal records checks  
 613 through local law enforcement agencies. For children older than  
 614 12 years of age, the security background investigation shall be  
 615 limited to statewide criminal and juvenile records checks  
 616 through the Department of Law Enforcement and local criminal  
 617 records checks through local law enforcement agencies.

618 (3) For purposes of this section, offenses that would  
 619 otherwise be disqualifying are not disqualifying if committed by  
 620 a current or former foster child before the 18th birthday of the  
 621 child.

622 (4) The security background investigations under this  
 623 section must ensure that no foster parent licensed by the state  
 624 or person older than 12 years of age who resides in a foster  
 625 home, with the exception of current or former foster children as  
 626 specified in subsection (3), has been found guilty of,  
 627 regardless of adjudication, or entered a plea of nolo contendere  
 628 or guilty to, any felony offense prohibited under any of the  
 629 following provisions of the Florida Statutes or under any  
 630 similar statute of another jurisdiction at any time:

631 (a) Any statute creating a felony offense relating to  
 632 domestic violence, as defined in s. 741.28.

633 (b) Section 782.04, relating to murder.

634 (c) Section 782.07, relating to manslaughter, aggravated  
 635 manslaughter of an elderly person or disabled adult, or  
 636 aggravated manslaughter of a child.

637 (d) Section 784.021, relating to aggravated assault.

638 (e) Section 784.045, relating to aggravated battery.

639 (f) Section 794.011, relating to sexual battery.



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640           (g) Former s. 794.041, relating to prohibited act of  
641 persons in familial or custodial authority.

642           (h) Section 796.03, relating to procuring a person younger  
643 that 18 years of age for prostitution.

644           (i) Section 800.04, relating to lewd or lascivious  
645 offenses committed upon or in the presence of persons younger  
646 than 16 years of age.

647           (j) Section 827.03, relating to child abuse, aggravated  
648 child abuse, or neglect of a child.

649           (k) Section 827.04(3), relating to the impregnation of a  
650 child younger than 16 years of age by a person 21 years of age  
651 or older.

652           (l) Former s. 827.05, relating to negligent treatment of  
653 children.

654           (m) Section 827.071, relating to sexual performance by a  
655 child.

656           (n) Section 847.0135, relating to computer pornography.

657           (o) Section 847.0145, relating to the selling or buying of  
658 minors.

659           (5) The security background investigations under this  
660 section must ensure that no foster parent licensed by the state  
661 or person residing in a foster home who is older than 12 years  
662 of age, with the exception of current or former foster children  
663 as specified in subsection (3), has been found guilty of,  
664 regardless of adjudication, or entered a plea of nolo contendere  
665 or guilty to, any felony offense prohibited under any of the  
666 following provisions of the Florida Statutes or under any





667 similar statute of another jurisdiction and the offense was  
 668 committed within the previous 5 years:  
 669 (a) Section 414.39, relating to public assistance fraud.  
 670 (b) Section 415.111, relating to adult abuse, neglect, or  
 671 exploitation of an aged person or disabled adult.  
 672 (c) Section 782.071, relating to vehicular homicide.  
 673 (d) Section 782.09, relating to killing of an unborn child  
 674 by injury to the mother.  
 675 (e) Section 784.011, relating to assault, if the victim of  
 676 the offense was a minor.  
 677 (f) Section 784.03, relating to battery, if the victim of  
 678 the offense was a minor.  
 679 (g) Section 784.075, relating to battery on a staff member  
 680 of a detention or commitment facility.  
 681 (h) Section 787.01, relating to kidnapping.  
 682 (i) Section 787.02, relating to false imprisonment.  
 683 (j) Section 787.04(2), relating to taking, enticing, or  
 684 removing a child beyond the state limits with criminal intent  
 685 pending custody proceedings.  
 686 (k) Section 787.04(3), relating to carrying a child beyond  
 687 the state lines with criminal intent to avoid producing a child  
 688 at a custody hearing or delivering the child to the designated  
 689 person.  
 690 (l) Section 790.115(1), relating to exhibiting firearms or  
 691 weapons within 1,000 feet of a school.  
 692 (m) Section 790.115(2)(b), relating to possessing an  
 693 electric weapon or device, destructive device, or other weapon  
 694 on school property.



695           (n) Chapter 796, relating to prostitution, except s.  
 696 796.03, relating to procuring a person younger than 18 years of  
 697 age for prostitution.

698           (o) Section 798.02, relating to lewd and lascivious  
 699 behavior.

700           (p) Chapter 800, relating to lewdness and indecent  
 701 exposure with the exception of s. 800.04, relating to lewd or  
 702 lascivious offenses committed upon or in the presence of persons  
 703 younger than 16 years of age.

704           (q) Section 806.01, relating to arson.

705           (r) Chapter 812, relating to theft, robbery, and related  
 706 crimes, if the offense is a felony.

707           (s) Section 817.563, relating to the fraudulent sale of  
 708 controlled substances, if the offense was a felony.

709           (t) Section 825.102, relating to abuse, aggravated abuse,  
 710 or neglect of an elderly person or disabled adult.

711           (u) Section 825.1025, relating to lewd or lascivious  
 712 offenses committed upon or in the presence of an elderly person  
 713 or disabled adult.

714           (v) Section 825.103, relating to exploitation of an  
 715 elderly person or disabled adult, if the offense was a felony.

716           (w) Section 826.04, relating to incest.

717           (x) Section 827.04, relating to contributing to the  
 718 delinquency or dependency of a child, except s. 827.04(3),  
 719 relating to impregnation of a child younger than 16 years of age  
 720 by a person 21 years of age or older.

721           (y) Section 831.01, relating to forgery.

722           (z) Chapter 837, relating to perjury.



- 723        (aa) Section 843.01, relating to resisting arrest with
- 724 violence.
- 725        (bb) Section 843.025, relating to depriving a law
- 726 enforcement officer, correctional officer, or correctional
- 727 probation officer of means of protection or communication.
- 728        (cc) Section 843.12, relating to aiding in an escape.
- 729        (dd) Section 843.13, relating to aiding in the escape of a
- 730 juvenile inmate in a correctional institution.
- 731        (ee) Chapter 847, relating to obscene literature, except
- 732 s. 847.0135, relating to computer pornography, and s. 847.0145,
- 733 relating to the selling or buying of minors.
- 734        (ff) Chapter 893, relating to drug abuse prevention and
- 735 control, if the offense was a felony or if any other person
- 736 involved in the offense was a minor.
- 737        (gg) Section 944.35(3), relating to inflicting cruel or
- 738 inhuman treatment on an inmate resulting in great bodily harm.
- 739        (hh) Section 944.46, relating to harboring, concealing, or
- 740 aiding an escaped prisoner.
- 741        (ii) Section 944.47, relating to introduction of
- 742 contraband into a correctional facility.
- 743        (jj) Section 985.4045, relating to sexual misconduct in a
- 744 juvenile justice program.
- 745        (kk) Section 985.4046, relating to introduction of
- 746 contraband into a detention facility.
- 747        (6) If the security background investigation of a person
- 748 seeking licensure as a foster parent or any person residing in
- 749 the home, with the exception of current or former foster
- 750 children, reveals any findings of delinquency, any misdemeanor



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751 conviction, or any felony conviction not identified in  
752 subsection (4) or subsection (5), this information shall be  
753 considered as a part of the determination as to whether to issue  
754 a foster care license to the applicant or to revoke a foster  
755 care license. In addition, any offenses which would otherwise be  
756 disqualifying but which are not disqualifying as a result of  
757 subsection (3) shall be considered as a part of the  
758 determination as to whether to issue a foster care license to  
759 the applicant or revoke a foster care license.

760 (7) The security background investigation of a prospective  
761 foster parent must ensure that the previous licensing of any  
762 prospective foster parent and any information relevant to such  
763 previous license is considered in deciding whether or not to  
764 issue a foster care license.

765 (8) Persons who are licensed as foster parents shall be  
766 rescreened pursuant to this section no less frequently than upon  
767 each application for relicensing. The rescreening must include,  
768 at a minimum, local criminal records checks through local law  
769 enforcement agencies. At a minimum of every 5 years, statewide  
770 criminal records checks through the Department of Law  
771 Enforcement must also be conducted. The department may by rule  
772 provide for more frequent rescreening.

773 (9) The licensee is responsible for ensuring that any  
774 person becoming a member of the household of a licensed foster  
775 home submits to the department, within 5 days after becoming a  
776 household member, the information necessary to conduct a  
777 screening under this section.



778       (10) Persons in a foster home that holds a valid license  
 779 on June 30, 2003, shall be subject only to the rescreening  
 780 requirements of subsection (8). The background screening  
 781 requirements that were in effect on June 30, 2003, shall  
 782 continue to be the standards required for relicensure.

783       Section 10. Paragraphs (i) and (k) of subsection (2) of  
 784 section 409.175, Florida Statutes, are amended to read:

785       409.175 Licensure of family foster homes, residential  
 786 child-caring agencies, and child-placing agencies.--

787       (2) As used in this section, the term:

788       (i) "Personnel" means all owners, operators, employees,  
 789 and volunteers working in a child-placing agency, ~~family foster~~  
 790 ~~home,~~ or residential child-caring agency who may be employed by  
 791 or do volunteer work for a person, corporation, or agency which  
 792 holds a license as a child-placing agency or a residential  
 793 child-caring agency, but the term does not include those who do  
 794 not work on the premises where child care is furnished and  
 795 either have no direct contact with a child or have no contact  
 796 with a child outside of the presence of the child's parent or  
 797 guardian. ~~For purposes of screening, the term shall include any~~  
 798 ~~member, over the age of 12 years, of the family of the owner or~~  
 799 ~~operator or any person other than a client, over the age of 12~~  
 800 ~~years, residing with the owner or operator if the agency or~~  
 801 ~~family foster home is located in or adjacent to the home of the~~  
 802 ~~owner or operator or if the family member of, or person residing~~  
 803 ~~with, the owner or operator has any direct contact with the~~  
 804 ~~children. Members of the family of the owner or operator, or~~  
 805 ~~persons residing with the owner or operator, who are between the~~



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806 ~~ages of 12 years and 18 years shall not be required to be~~  
807 ~~fingerprinted, but shall be screened for delinquency records.~~  
808 ~~For purposes of screening, the term "personnel" shall also~~  
809 ~~include owners, operators, employees, and volunteers working in~~  
810 ~~summer day camps, or summer 24-hour camps providing care for~~  
811 ~~children. A volunteer who assists on an intermittent basis for~~  
812 ~~less than 40 hours per month shall not be included in the term~~  
813 ~~"personnel" for the purposes of screening, provided that the~~  
814 ~~volunteer is under direct and constant supervision by persons~~  
815 ~~who meet the personnel requirements of this section.~~

816 ~~(k) "Screening" means the act of assessing the background~~  
817 ~~of personnel and includes, but is not limited to, employment~~  
818 ~~history checks as provided in chapter 435, using the level 2~~  
819 ~~standards for screening set forth in that chapter. Screening for~~  
820 ~~employees and volunteers in summer day camps and summer 24-hour~~  
821 ~~camps and screening for all volunteers included under the~~  
822 ~~definition of "personnel" shall be conducted as provided in~~  
823 ~~chapter 435, using the level 1 standards set forth in that~~  
824 ~~chapter.~~

825 Section 11. Section 409.177, Florida Statutes, is created  
826 to read:

827 409.177 Background screening for personnel of child-  
828 placing agencies and residential child-caring agencies providing  
829 care for children.--

830 (1) The department must conduct criminal records checks  
831 equivalent to the level 2 screening requirement of s. 435.04 for  
832 the following persons:



833        (a) The personnel of any child-caring or child-placing  
834 agency.

835        (b) Any person other than a client older than 12 years of  
836 age who resides with the owner or operator of a child-placing  
837 agency or residential child-caring agency if the agency is  
838 located in or adjacent to the home of the owner or operator or  
839 if the person residing with the owner or operator has any direct  
840 contact with the children.

841  
842 For children older than 12 years of age who reside with the  
843 owner or operator, the security background investigation shall  
844 be limited to statewide criminal and juvenile records checks  
845 through the Department of Law Enforcement and local criminal  
846 records checks through local law enforcement agencies.

847        (2) When the department has reasonable cause to believe  
848 that grounds exist for the denial of a license or exclusion from  
849 employment based on the screening required by this section, it  
850 shall follow the provisions of s. 435.06.

851        (3) Exemptions from disqualification may be granted, at  
852 the discretion of the department, as provided in section 435.07.

853        Section 12. Section 409.1759, Florida Statutes, is created  
854 to read:

855        409.1759 Background screening for summer day camps and  
856 summer 24-hour camps.--

857        (1) Operators, owners, employees, and volunteers of summer  
858 day camps and summer 24-hour camps must obtain criminal records  
859 checks equivalent to the level 1 screening requirement of s.  
860 435.03.



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861           (2) A volunteer who assists on an intermittent basis for  
862 less than 40 hours per month is not required to be screened if  
863 the volunteer is under direct and constant supervision by  
864 persons who have been screened pursuant to this section.

865           Section 13. Section 435.045, Florida Statutes, is  
866 repealed.

867           Section 14. Section 937.021, Florida Statutes, is amended  
868 to read:

869           937.021 Missing child reports.--

870           (1) Upon the filing of a police report that a child is  
871 missing by the parent or guardian, the law enforcement agency  
872 receiving the report ~~written notification~~ shall immediately  
873 inform all on-duty law enforcement officers of the existence of  
874 the missing child report, communicate the report to every other  
875 law enforcement agency having jurisdiction in the county, and  
876 transmit the report for inclusion within the Florida Crime  
877 Information Center computer.

878           (2) A police report that a child is missing may be filed  
879 with the law enforcement agency having jurisdiction in the  
880 county or municipality in which the child was last seen prior to  
881 the filing of the report, without regard to whether the child  
882 resides in or has any significant contacts with that county or  
883 municipality. The filing of such a report shall impose the  
884 duties specified in subsection (1) upon that law enforcement  
885 agency.

886           Section 15. This act shall take effect July 1, 2003.