

By Senator Posey

24-1477A-05

1                                   A bill to be entitled  
2           An act relating to permanency planning for  
3           children in foster care; amending s. 39.01,  
4           F.S.; redefining the term "legal guardianship"  
5           and removing the term "long-term custody";  
6           amending s. 39.302, F.S.; conforming a  
7           cross-reference; amending s. 39.621, F.S.;  
8           requiring that a permanency hearing be  
9           conducted within a specified time; requiring  
10          the court to approve a permanency plan; listing  
11          the permanency options available to the court;  
12          providing that adoption is the primary  
13          permanency option if reunification of the child  
14          with his or her parents is not in the best  
15          interest of the child; amending s. 39.622,  
16          F.S.; providing for the appointment of a legal  
17          guardian; providing the criteria for the court  
18          to consider before appointing a legal guardian;  
19          amending s. 39.623, F.S.; providing for  
20          long-term licensed custody and independent  
21          living; amending s. 39.806, F.S.; providing  
22          that the parental rights of a person  
23          incarcerated in a state or federal correctional  
24          institution may be terminated if the period of  
25          time for which the parent is expected to be  
26          incarcerated will constitute a substantial  
27          portion of time before the child attains the  
28          age of 18 years; providing that the time period  
29          is measured from the time the parent enters the  
30          correctional institution; amending s. 39.810,  
31          F.S.; providing that if termination of parental

1 rights is in the manifest best interest of the  
2 child, it may also constitute proof that the  
3 termination is the least restrictive means of  
4 protecting the child; amending s. 39.811, F.S.;  
5 conforming provisions to changes made by the  
6 act; reenacting ss. 39.811(6) and 61.13(2)(b),  
7 F.S., relating to the circumstances for which  
8 the parental rights of a person may be  
9 terminated and shared parental responsibility,  
10 to incorporate the amendment made to s. 39.806,  
11 F.S., in references thereto; repealing s.  
12 39.624, F.S., relating to independent living;  
13 providing an effective date.  
14

15 Be It Enacted by the Legislature of the State of Florida:  
16

17 Section 1. Section 39.01, Florida Statutes, is amended  
18 to read:

19 39.01 Definitions.--When used in this chapter, unless  
20 the context otherwise requires:

21 (1) "Abandoned" means a situation in which the parent  
22 or legal custodian of a child or, in the absence of a parent  
23 or legal custodian, the caregiver responsible for the child's  
24 welfare, while being able, makes no provision for the child's  
25 support and makes no effort to communicate with the child,  
26 which situation is sufficient to evince a willful rejection of  
27 parental obligations. If the efforts of such parent or legal  
28 custodian, or caregiver primarily responsible for the child's  
29 welfare, to support and communicate with the child are, in the  
30 opinion of the court, only marginal efforts that do not evince  
31 a settled purpose to assume all parental duties, the court may

1 declare the child to be abandoned. The term "abandoned" does  
2 not include an abandoned newborn infant as described in s.  
3 383.50, a "child in need of services" as defined in chapter  
4 984, or a "family in need of services" as defined in chapter  
5 984. The incarceration of a parent, legal custodian, or  
6 caregiver responsible for a child's welfare may support a  
7 finding of abandonment.

8 (2) "Abuse" means any willful act or threatened act  
9 that results in any physical, mental, or sexual injury or harm  
10 that causes or is likely to cause the child's physical,  
11 mental, or emotional health to be significantly impaired.  
12 Abuse of a child includes acts or omissions. Corporal  
13 discipline of a child by a parent or legal custodian for  
14 disciplinary purposes does not in itself constitute abuse when  
15 it does not result in harm to the child.

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

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

22 (5) "Adult" means any natural person other than a  
23 child.

24 (6) "Adoption" means the act of creating the legal  
25 relationship between parent and child where it did not exist,  
26 thereby declaring the child to be legally the child of the  
27 adoptive parents and their heir at law, and entitled to all  
28 the rights and privileges and subject to all the obligations  
29 of a child born to such adoptive parents in lawful wedlock.

30 (7) "Alleged juvenile sexual offender" means:  
31

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

4 (b) A child who is alleged to have committed any  
5 violation of law or delinquent act involving juvenile sexual  
6 abuse. "Juvenile sexual abuse" means any sexual behavior which  
7 occurs without consent, without equality, or as a result of  
8 coercion. For purposes of this paragraph, the following  
9 definitions apply:

10 1. "Coercion" means the exploitation of authority or  
11 the use of bribes, threats of force, or intimidation to gain  
12 cooperation or compliance.

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

16 3. "Consent" means an agreement, including all of the  
17 following:

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

20 b. Knowledge of societal standards for what is being  
21 proposed.

22 c. Awareness of potential consequences and  
23 alternatives.

24 d. Assumption that agreement or disagreement will be  
25 accepted equally.

26 e. Voluntary decision.

27 f. Mental competence.

28  
29 Juvenile sexual offender behavior ranges from noncontact  
30 sexual behavior such as making obscene phone calls,  
31 exhibitionism, voyeurism, and the showing or taking of lewd

1 | photographs to varying degrees of direct sexual contact, such  
2 | as frottage, fondling, digital penetration, rape, fellatio,  
3 | sodomy, and various other sexually aggressive acts.

4 |         (8) "Arbitration" means a process whereby a neutral  
5 | third person or panel, called an arbitrator or an arbitration  
6 | panel, considers the facts and arguments presented by the  
7 | parties and renders a decision which may be binding or  
8 | nonbinding.

9 |         (9) "Authorized agent" or "designee" of the department  
10 | means an employee, volunteer, or other person or agency  
11 | determined by the state to be eligible for state-funded risk  
12 | management coverage, that is assigned or designated by the  
13 | department to perform duties or exercise powers pursuant to  
14 | this chapter.

15 |         (10) "Caregiver" means the parent, legal custodian,  
16 | adult household member, or other person responsible for a  
17 | child's welfare as defined in subsection (46) ~~(47)~~.

18 |         (11) "Case plan" or "plan" means a document, as  
19 | described in s. 39.601, prepared by the department with input  
20 | from all parties. The case plan follows the child from the  
21 | provision of voluntary services through any dependency, foster  
22 | care, or termination of parental rights proceeding or related  
23 | activity or process.

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

27 |         (13) "Child protection team" means a team of  
28 | professionals established by the Department of Health to  
29 | receive referrals from the protective investigators and  
30 | protective supervision staff of the department and to provide  
31 | specialized and supportive services to the program in

1 | processing child abuse, abandonment, or neglect cases. A child  
2 | protection team shall provide consultation to other programs  
3 | of the department and other persons regarding child abuse,  
4 | abandonment, or neglect cases.

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

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

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

12 |             (c) To have been voluntarily placed with a licensed  
13 | child-caring agency, a licensed child-placing agency, an adult  
14 | relative, the department, or the former Department of Health  
15 | and Rehabilitative Services, after which placement, under the  
16 | requirements of this chapter, a case plan has expired and the  
17 | parent or parents or legal custodians have failed to  
18 | substantially comply with the requirements of the plan;

19 |             (d) To have been voluntarily placed with a licensed  
20 | child-placing agency for the purposes of subsequent adoption,  
21 | and a parent or parents have signed a consent pursuant to the  
22 | Florida Rules of Juvenile Procedure;

23 |             (e) To have no parent or legal custodians capable of  
24 | providing supervision and care; or

25 |             (f) To be at substantial risk of imminent abuse,  
26 | abandonment, or neglect by the parent or parents or legal  
27 | custodians.

28 |         (15) "Child support" means a court-ordered obligation,  
29 | enforced under chapter 61 and ss. 409.2551-409.2597, for  
30 | monetary support for the care, maintenance, training, and  
31 | education of a child.

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

3           (17) "Comprehensive assessment" or "assessment" means  
4 the gathering of information for the evaluation of a child's  
5 and caregiver's physical, psychiatric, psychological or mental  
6 health, educational, vocational, and social condition and  
7 family environment as they relate to the child's and  
8 caregiver's need for rehabilitative and treatment services,  
9 including substance abuse treatment services, mental health  
10 services, developmental services, literacy services, medical  
11 services, family services, and other specialized services, as  
12 appropriate.

13           (18) "Court," unless otherwise expressly stated, means  
14 the circuit court assigned to exercise jurisdiction under this  
15 chapter.

16           (19) "Department" means the Department of Children and  
17 Family Services.

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

23           (21) "Diligent efforts of social service agency" means  
24 reasonable efforts to provide social services or reunification  
25 services made by any social service agency that is a party to  
26 a case plan.

27           (22) "Diligent search" means the efforts of a social  
28 service agency to locate a parent or prospective parent whose  
29 identity or location is unknown, initiated as soon as the  
30 social service agency is made aware of the existence of such  
31 parent, with the search progress reported at each court

1 hearing until the parent is either identified and located or  
2 the court excuses further search.

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

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

8 (25) "District administrator" means the chief  
9 operating officer of each service district of the department  
10 as defined in s. 20.19(5) and, where appropriate, includes any  
11 district administrator whose service district falls within the  
12 boundaries of a judicial circuit.

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

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

19 (a) Harassing, embarrassing, or harming another  
20 person;

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

22 (c) Acquiring custody of a child; or

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

25  
26 The term "false report" does not include a report of abuse,  
27 neglect, or abandonment of a child made in good faith to the  
28 central abuse hotline.

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

1 (a) The persons reside in the same house or living  
2 unit; or

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

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

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

11 (a) Inflicts or allows to be inflicted upon the child  
12 physical, mental, or emotional injury. In determining whether  
13 harm has occurred, the following factors must be considered in  
14 evaluating any physical, mental, or emotional injury to a  
15 child: the age of the child; any prior history of injuries to  
16 the child; the location of the injury on the body of the  
17 child; the multiplicity of the injury; and the type of trauma  
18 inflicted. Such injury includes, but is not limited to:

19 1. Willful acts that produce the following specific  
20 injuries:

- 21 a. Sprains, dislocations, or cartilage damage.  
22 b. Bone or skull fractures.  
23 c. Brain or spinal cord damage.  
24 d. Intracranial hemorrhage or injury to other internal  
25 organs.  
26 e. Asphyxiation, suffocation, or drowning.  
27 f. Injury resulting from the use of a deadly weapon.  
28 g. Burns or scalding.  
29 h. Cuts, lacerations, punctures, or bites.  
30 i. Permanent or temporary disfigurement.  
31

1           j. Permanent or temporary loss or impairment of a body  
2 part or function.

3  
4 As used in this subparagraph, the term "willful" refers to the  
5 intent to perform an action, not to the intent to achieve a  
6 result or to cause an injury.

7           2. Purposely giving a child poison, alcohol, drugs, or  
8 other substances that substantially affect the child's  
9 behavior, motor coordination, or judgment or that result in  
10 sickness or internal injury. For the purposes of this  
11 subparagraph, the term "drugs" means prescription drugs not  
12 prescribed for the child or not administered as prescribed,  
13 and controlled substances as outlined in Schedule I or  
14 Schedule II of s. 893.03.

15           3. Leaving a child without adult supervision or  
16 arrangement appropriate for the child's age or mental or  
17 physical condition, so that the child is unable to care for  
18 the child's own needs or another's basic needs or is unable to  
19 exercise good judgment in responding to any kind of physical  
20 or emotional crisis.

21           4. Inappropriate or excessively harsh disciplinary  
22 action that is likely to result in physical injury, mental  
23 injury as defined in this section, or emotional injury. The  
24 significance of any injury must be evaluated in light of the  
25 following factors: the age of the child; any prior history of  
26 injuries to the child; the location of the injury on the body  
27 of the child; the multiplicity of the injury; and the type of  
28 trauma inflicted. Corporal discipline may be considered  
29 excessive or abusive when it results in any of the following  
30 or other similar injuries:

31           a. Sprains, dislocations, or cartilage damage.

- 1           b. Bone or skull fractures.
- 2           c. Brain or spinal cord damage.
- 3           d. Intracranial hemorrhage or injury to other internal  
4 organs.
- 5           e. Asphyxiation, suffocation, or drowning.
- 6           f. Injury resulting from the use of a deadly weapon.
- 7           g. Burns or scalding.
- 8           h. Cuts, lacerations, punctures, or bites.
- 9           i. Permanent or temporary disfigurement.
- 10          j. Permanent or temporary loss or impairment of a body  
11 part or function.
- 12          k. Significant bruises or welts.
- 13          (b) Commits, or allows to be committed, sexual  
14 battery, as defined in chapter 794, or lewd or lascivious  
15 acts, as defined in chapter 800, against the child.
- 16          (c) Allows, encourages, or forces the sexual  
17 exploitation of a child, which includes allowing, encouraging,  
18 or forcing a child to:
- 19           1. Solicit for or engage in prostitution; or
- 20           2. Engage in a sexual performance, as defined by  
21 chapter 827.
- 22          (d) Exploits a child, or allows a child to be  
23 exploited, as provided in s. 450.151.
- 24          (e) Abandons the child. Within the context of the  
25 definition of "harm," the term "abandons the child" means that  
26 the parent or legal custodian of a child or, in the absence of  
27 a parent or legal custodian, the person responsible for the  
28 child's welfare, while being able, makes no provision for the  
29 child's support and makes no effort to communicate with the  
30 child, which situation is sufficient to evince a willful  
31 rejection of parental obligation. If the efforts of such a

1 parent or legal custodian or person primarily responsible for  
2 the child's welfare to support and communicate with the child  
3 are only marginal efforts that do not evince a settled purpose  
4 to assume all parental duties, the child may be determined to  
5 have been abandoned. The term "abandoned" does not include an  
6 abandoned newborn infant as described in s. 383.50.

7 (f) Neglects the child. Within the context of the  
8 definition of "harm," the term "neglects the child" means that  
9 the parent or other person responsible for the child's welfare  
10 fails to supply the child with adequate food, clothing,  
11 shelter, or health care, although financially able to do so or  
12 although offered financial or other means to do so. However,  
13 a parent or legal custodian who, by reason of the legitimate  
14 practice of religious beliefs, does not provide specified  
15 medical treatment for a child may not be considered abusive or  
16 neglectful for that reason alone, but such an exception does  
17 not:

18 1. Eliminate the requirement that such a case be  
19 reported to the department;

20 2. Prevent the department from investigating such a  
21 case; or

22 3. Preclude a court from ordering, when the health of  
23 the child requires it, the provision of medical services by a  
24 physician, as defined in this section, or treatment by a duly  
25 accredited practitioner who relies solely on spiritual means  
26 for healing in accordance with the tenets and practices of a  
27 well-recognized church or religious organization.

28 (g) Exposes a child to a controlled substance or  
29 alcohol. Exposure to a controlled substance or alcohol is  
30 established by:

31

1           1. Use by the mother of a controlled substance or  
2 alcohol during pregnancy when the child, at birth, is  
3 demonstrably adversely affected by such usage; or

4           2. Continued chronic and severe use of a controlled  
5 substance or alcohol by a parent when the child is  
6 demonstrably adversely affected by such usage.

7  
8 As used in this paragraph, the term "controlled substance"  
9 means prescription drugs not prescribed for the parent or not  
10 administered as prescribed and controlled substances as  
11 outlined in Schedule I or Schedule II of s. 893.03.

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

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

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

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

22           (l) Makes the child unavailable for the purpose of  
23 impeding or avoiding a protective investigation unless the  
24 court determines that the parent, legal custodian, or  
25 caregiver was fleeing from a situation involving domestic  
26 violence.

27           (31) "Institutional child abuse or neglect" means  
28 situations of known or suspected child abuse or neglect in  
29 which the person allegedly perpetrating the child abuse or  
30 neglect is an employee of a private school, public or private  
31 day care center, residential home, institution, facility, or

1 agency or any other person at such institution responsible for  
2 the child's care.

3 (32) "Judge" means the circuit judge exercising  
4 jurisdiction pursuant to this chapter.

5 (33) "Legal custody" means a legal status created by  
6 court order or letter of guardianship which vests in a  
7 custodian of the person or guardian, whether an agency or an  
8 individual, the right to have physical custody of the child  
9 and the right and duty to protect, train, and discipline the  
10 child and to provide him or her with food, shelter, education,  
11 and ordinary medical, dental, psychiatric, and psychological  
12 care. The legal custodian is the person or entity in whom the  
13 legal right to custody is vested. For purposes of this chapter  
14 only, when the phrase "parent or legal custodian" is used, it  
15 refers to rights or responsibilities of the parent and, only  
16 if there is no living parent with intact parental rights, to  
17 the rights or responsibilities of the legal custodian who has  
18 assumed the role of the parent.

19 (34) "Legal guardianship" means the a judicially  
20 ~~created~~ relationship that a juvenile court order creates  
21 between the child and adult relative or other legal custodian  
22 approved by the court caregiver which is intended to be  
23 permanent and self-sustaining when the child cannot be placed  
24 in the custody of a parent and adoption is not deemed to be in  
25 the best interest of the child. Legal guardianship confers on  
26 a relative or other legal custodian, other than the  
27 department, the right to physical custody of the child, a  
28 right that may not be altered by the court except upon the  
29 request of the legal guardian or a showing by the department  
30 that the best interest of the child requires a change of  
31 custody for the child. A relative or other custodian who has

1 been designated as a long-term custodian continues to have all  
2 of the rights and duties of a parent, including, but not  
3 limited to, the right and duty to protect, train, and  
4 discipline the child and to provide the child with food,  
5 shelter, and education, and ordinary medical, dental,  
6 psychiatric, and psychological care, unless these rights and  
7 duties are otherwise enlarged or limited by a court order  
8 establishing legal guardianship. A legal guardianship created  
9 under this chapter is not subject to the requirements of a  
10 legal guardianship created under chapter 744. and is provided  
11 ~~pursuant to the procedures in chapter 744.~~

12 (35) "Licensed child-caring agency" means a person,  
13 society, association, or agency licensed by the department to  
14 care for, receive, and board children.

15 (36) "Licensed child-placing agency" means a person,  
16 society, association, or institution licensed by the  
17 department to care for, receive, or board children and to  
18 place children in a licensed child-caring institution or a  
19 foster or adoptive home.

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

25 (38) "Likely to injure oneself" means that, as  
26 evidenced by violent or other actively self-destructive  
27 behavior, it is more likely than not that within a 24-hour  
28 period the child will attempt to commit suicide or inflict  
29 serious bodily harm on himself or herself.

30  
31

1           (39) "Likely to injure others" means that it is more  
2 likely than not that within a 24-hour period the child will  
3 inflict serious and unjustified bodily harm on another person.

4           (40) "Long-term relative custodian" means an adult  
5 relative who is a party to a long-term custodial relationship  
6 created by a court order pursuant to this chapter.

7           ~~(41) "Long term custody" or "long term custodial~~  
8 ~~relationship" means the relationship that a juvenile court~~  
9 ~~order creates between a child and an adult relative of the~~  
10 ~~child or other legal custodian approved by the court when the~~  
11 ~~child cannot be placed in the custody of a parent and adoption~~  
12 ~~is not deemed to be in the best interest of the child.~~

13 ~~Long term custody confers upon the relative or other legal~~  
14 ~~custodian, other than the department, the right to physical~~  
15 ~~custody of the child, a right which will not be disturbed by~~  
16 ~~the court except upon request of the legal custodian or upon a~~  
17 ~~showing that the best interest of the child necessitates a~~  
18 ~~change of custody for the child. A relative or other legal~~  
19 ~~custodian who has been designated as a long term custodian~~  
20 ~~shall have all of the rights and duties of a parent,~~  
21 ~~including, but not limited to, the right and duty to protect,~~  
22 ~~train, and discipline the child and to provide the child with~~  
23 ~~food, shelter, and education, and ordinary medical, dental,~~  
24 ~~psychiatric, and psychological care, unless these rights and~~  
25 ~~duties are otherwise enlarged or limited by the court order~~  
26 ~~establishing the long term custodial relationship.~~

27           ~~(41)~~(42) "Mediation" means a process whereby a neutral  
28 third person called a mediator acts to encourage and  
29 facilitate the resolution of a dispute between two or more  
30 parties. It is an informal and nonadversarial process with  
31 the objective of helping the disputing parties reach a

1 mutually acceptable and voluntary agreement. The role of the  
2 mediator includes, but is not limited to, assisting the  
3 parties in identifying issues, fostering joint problem  
4 solving, and exploring settlement alternatives.

5 ~~(42)~~(43) "Mental injury" means an injury to the  
6 intellectual or psychological capacity of a child as evidenced  
7 by a discernible and substantial impairment in the ability to  
8 function within the normal range of performance and behavior.

9 ~~(43)~~(44) "Necessary medical treatment" means care  
10 which is necessary within a reasonable degree of medical  
11 certainty to prevent the deterioration of a child's condition  
12 or to alleviate immediate pain of a child.

13 ~~(44)~~(45) "Neglect" occurs when a child is deprived of,  
14 or is allowed to be deprived of, necessary food, clothing,  
15 shelter, or medical treatment or a child is permitted to live  
16 in an environment when such deprivation or environment causes  
17 the child's physical, mental, or emotional health to be  
18 significantly impaired or to be in danger of being  
19 significantly impaired. The foregoing circumstances shall not  
20 be considered neglect if caused primarily by financial  
21 inability unless actual services for relief have been offered  
22 to and rejected by such person. A parent or legal custodian  
23 legitimately practicing religious beliefs in accordance with a  
24 recognized church or religious organization who thereby does  
25 not provide specific medical treatment for a child shall not,  
26 for that reason alone, be considered a negligent parent or  
27 legal custodian; however, such an exception does not preclude  
28 a court from ordering the following services to be provided,  
29 when the health of the child so requires:

30  
31

1 (a) Medical services from a licensed physician,  
2 dentist, optometrist, podiatric physician, or other qualified  
3 health care provider; or

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

8  
9 Neglect of a child includes acts or omissions.

10 ~~(45)(46)~~ "Next of kin" means an adult relative of a  
11 child who is the child's brother, sister, grandparent, aunt,  
12 uncle, or first cousin.

13 ~~(46)(47)~~ "Other person responsible for a child's  
14 welfare" includes the child's legal guardian, legal custodian,  
15 or foster parent; an employee of a private school, public or  
16 private child day care center, residential home, institution,  
17 facility, or agency; or any other person legally responsible  
18 for the child's welfare in a residential setting; and also  
19 includes an adult sitter or relative entrusted with a child's  
20 care. For the purpose of departmental investigative  
21 jurisdiction, this definition does not include law enforcement  
22 officers, or employees of municipal or county detention  
23 facilities or the Department of Corrections, while acting in  
24 an official capacity.

25 ~~(47)(48)~~ "Out-of-home" means a placement outside of  
26 the home of the parents or a parent.

27 ~~(48)(49)~~ "Parent" means a woman who gives birth to a  
28 child and a man whose consent to the adoption of the child  
29 would be required under s. 63.062(1). If a child has been  
30 legally adopted, the term "parent" means the adoptive mother  
31 or father of the child. The term does not include an

1 individual whose parental relationship to the child has been  
2 legally terminated, or an alleged or prospective parent,  
3 unless the parental status falls within the terms of s.  
4 39.503(1) or s. 63.062(1). For purposes of this chapter only,  
5 when the phrase "parent or legal custodian" is used, it refers  
6 to rights or responsibilities of the parent and, only if there  
7 is no living parent with intact parental rights, to the rights  
8 or responsibilities of the legal custodian who has assumed the  
9 role of the parent.

10 ~~(49)~~(50) "Participant," for purposes of a shelter  
11 proceeding, dependency proceeding, or termination of parental  
12 rights proceeding, means any person who is not a party but who  
13 should receive notice of hearings involving the child,  
14 including foster parents or the legal custodian of the child,  
15 identified prospective parents, grandparents entitled to  
16 priority for adoption consideration under s. 63.0425, actual  
17 custodians of the child, and any other person whose  
18 participation may be in the best interest of the child. A  
19 community-based agency under contract with the department to  
20 provide protective services may be designated as a participant  
21 at the discretion of the court. Participants may be granted  
22 leave by the court to be heard without the necessity of filing  
23 a motion to intervene.

24 ~~(50)~~(51) "Party" means the parent or parents of the  
25 child, the petitioner, the department, the guardian ad litem  
26 or the representative of the guardian ad litem program when  
27 the program has been appointed, and the child. The presence of  
28 the child may be excused by order of the court when presence  
29 would not be in the child's best interest. Notice to the child  
30 may be excused by order of the court when the age, capacity,  
31

1 or other condition of the child is such that the notice would  
2 be meaningless or detrimental to the child.

3 ~~(51)~~~~(52)~~ "Physical injury" means death, permanent or  
4 temporary disfigurement, or impairment of any bodily part.

5 ~~(52)~~~~(53)~~ "Physician" means any licensed physician,  
6 dentist, podiatric physician, or optometrist and includes any  
7 intern or resident.

8 ~~(53)~~~~(54)~~ "Preliminary screening" means the gathering  
9 of preliminary information to be used in determining a child's  
10 need for further evaluation or assessment or for referral for  
11 other substance abuse services through means such as  
12 psychosocial interviews; urine and breathalyzer screenings;  
13 and reviews of available educational, delinquency, and  
14 dependency records of the child.

15 ~~(54)~~~~(55)~~ "Preventive services" means social services  
16 and other supportive and rehabilitative services provided to  
17 the parent or legal custodian of the child and to the child  
18 for the purpose of averting the removal of the child from the  
19 home or disruption of a family which will or could result in  
20 the placement of a child in foster care. Social services and  
21 other supportive and rehabilitative services shall promote the  
22 child's need for physical, mental, and emotional health and a  
23 safe, stable, living environment, shall promote family  
24 autonomy, and shall strengthen family life, whenever possible.

25 ~~(55)~~~~(56)~~ "Prospective parent" means a person who  
26 claims to be, or has been identified as, a person who may be a  
27 mother or a father of a child.

28 ~~(56)~~~~(57)~~ "Protective investigation" means the  
29 acceptance of a report alleging child abuse, abandonment, or  
30 neglect, as defined in this chapter, by the central abuse  
31 hotline or the acceptance of a report of other dependency by

1 | the department; the investigation of each report; the  
2 | determination of whether action by the court is warranted; the  
3 | determination of the disposition of each report without court  
4 | or public agency action when appropriate; and the referral of  
5 | a child to another public or private agency when appropriate.

6 |        ~~(57)~~(58) "Protective investigator" means an authorized  
7 | agent of the department who receives and investigates reports  
8 | of child abuse, abandonment, or neglect; who, as a result of  
9 | the investigation, may recommend that a dependency petition be  
10 | filed for the child; and who performs other duties necessary  
11 | to carry out the required actions of the protective  
12 | investigation function.

13 |        ~~(58)~~(59) "Protective supervision" means a legal status  
14 | in dependency cases which permits the child to remain safely  
15 | in his or her own home or other nonlicensed placement under  
16 | the supervision of an agent of the department and which must  
17 | be reviewed by the court during the period of supervision.

18 |        ~~(59)~~(60) "Relative" means a grandparent,  
19 | great-grandparent, sibling, first cousin, aunt, uncle,  
20 | great-aunt, great-uncle, niece, or nephew, whether related by  
21 | the whole or half blood, by affinity, or by adoption. The term  
22 | does not include a stepparent.

23 |        ~~(60)~~(61) "Reunification services" means social  
24 | services and other supportive and rehabilitative services  
25 | provided to the parent of the child, to the child, and, where  
26 | appropriate, to the relative placement, nonrelative placement,  
27 | or foster parents of the child, for the purpose of enabling a  
28 | child who has been placed in out-of-home care to safely return  
29 | to his or her parent at the earliest possible time. The  
30 | health and safety of the child shall be the paramount goal of  
31 | social services and other supportive and rehabilitative

1 services. Such services shall promote the child's need for  
2 physical, mental, and emotional health and a safe, stable,  
3 living environment, shall promote family autonomy, and shall  
4 strengthen family life, whenever possible.

5 ~~(61)~~~~(62)~~ "Secretary" means the Secretary of Children  
6 and Family Services.

7 ~~(62)~~~~(63)~~ "Sexual abuse of a child" means one or more  
8 of the following acts:

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

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

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

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

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

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

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

30 (f) The intentional exposure of the perpetrator's  
31 genitals in the presence of a child, or any other sexual act

1 intentionally perpetrated in the presence of a child, if such  
2 exposure or sexual act is for the purpose of sexual arousal or  
3 gratification, aggression, degradation, or other similar  
4 purpose.

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

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

10 ~~(63)~~~~(64)~~ "Shelter" means a placement with a relative  
11 or a nonrelative, or in a licensed home or facility, for the  
12 temporary care of a child who is alleged to be or who has been  
13 found to be dependent, pending court disposition before or  
14 after adjudication.

15 ~~(64)~~~~(65)~~ "Shelter hearing" means a hearing in which  
16 the court determines whether probable cause exists to keep a  
17 child in shelter status pending further investigation of the  
18 case.

19 ~~(65)~~~~(66)~~ "Social service agency" means the department,  
20 a licensed child-caring agency, or a licensed child-placing  
21 agency.

22 ~~(66)~~~~(67)~~ "Substance abuse" means using, without  
23 medical reason, any psychoactive or mood-altering drug,  
24 including alcohol, in such a manner as to induce impairment  
25 resulting in dysfunctional social behavior.

26 ~~(67)~~~~(68)~~ "Substantial compliance" means that the  
27 circumstances which caused the creation of the case plan have  
28 been significantly remedied to the extent that the well-being  
29 and safety of the child will not be endangered upon the  
30 child's remaining with or being returned to the child's  
31 parent.

1           ~~(68)~~(69) "Taken into custody" means the status of a  
2 child immediately when temporary physical control over the  
3 child is attained by a person authorized by law, pending the  
4 child's release or placement.

5           ~~(69)~~(70) "Temporary legal custody" means the  
6 relationship that a juvenile court creates between a child and  
7 an adult relative of the child, legal custodian, or other  
8 person approved by the court until a more permanent  
9 arrangement is ordered. Temporary legal custody confers upon  
10 the custodian the right to have temporary physical custody of  
11 the child and the right and duty to protect, train, and  
12 discipline the child and to provide the child with food,  
13 shelter, and education, and ordinary medical, dental,  
14 psychiatric, and psychological care, unless these rights and  
15 duties are otherwise enlarged or limited by the court order  
16 establishing the temporary legal custody relationship.

17           ~~(70)~~(71) "Victim" means any child who has sustained or  
18 is threatened with physical, mental, or emotional injury  
19 identified in a report involving child abuse, neglect, or  
20 abandonment, or child-on-child sexual abuse.

21           ~~(71)~~(72) "Long-term licensed custody" means the  
22 relationship that a juvenile court order creates between a  
23 child and a placement licensed by the state to provide  
24 residential care for dependent children, if the licensed  
25 placement is willing and able to continue to care for the  
26 child until the child reaches the age of majority.

27           Section 2. Subsection (1) of section 39.302, Florida  
28 Statutes, is amended to read:

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

31

1           (1) The department shall conduct a child protective  
2 investigation of each report of institutional child abuse,  
3 abandonment, or neglect. Upon receipt of a report that  
4 alleges that an employee or agent of the department, or any  
5 other entity or person covered by s. 39.01(31) or ~~(46)-(47)~~,  
6 acting in an official capacity, has committed an act of child  
7 abuse, abandonment, or neglect, the department shall initiate  
8 a child protective investigation within the timeframe  
9 established by the central abuse hotline under ~~pursuant to~~ s.  
10 39.201(5) and orally notify the appropriate state attorney,  
11 law enforcement agency, and licensing agency. These agencies  
12 shall immediately conduct a joint investigation, unless  
13 independent investigations are more feasible. When conducting  
14 investigations onsite or having face-to-face interviews with  
15 the child, such investigation visits shall be unannounced  
16 unless it is determined by the department or its agent that  
17 such unannounced visits would threaten the safety of the  
18 child. When a facility is exempt from licensing, the  
19 department shall inform the owner or operator of the facility  
20 of the report. Each agency conducting a joint investigation  
21 shall be entitled to full access to the information gathered  
22 by the department in the course of the investigation. A  
23 protective investigation must include an onsite visit of the  
24 child's place of residence. In all cases, the department shall  
25 make a full written report to the state attorney within 3  
26 working days after making the oral report. A criminal  
27 investigation shall be coordinated, whenever possible, with  
28 the child protective investigation of the department. Any  
29 interested person who has information regarding the offenses  
30 described in this subsection may forward a statement to the  
31 state attorney as to whether prosecution is warranted and

1 appropriate. Within 15 days after the completion of the  
2 investigation, the state attorney shall report the findings to  
3 the department and shall include in such report a  
4 determination of whether or not prosecution is justified and  
5 appropriate in view of the circumstances of the specific case.

6 Section 3. Section 39.621, Florida Statutes, is  
7 amended to read:

8 (Substantial rewording of section. See  
9 s. 39.621, F.S., for present text.)

10 39.621 Permanency hearings.--

11 (1) A permanency hearing must be held no later than 12  
12 months after the date the child was sheltered or no later than  
13 30 days after a court determines that reasonable efforts to  
14 return a child to either parent are not required, whichever  
15 occurs first. A permanency hearing to review the  
16 appropriateness of the current permanency plan must be held  
17 thereafter every 12 months for any child who continues to  
18 receive supervision from the department or await adoption.

19 (2) At a permanency hearing, the court shall approve a  
20 permanency plan for the child. The court must choose one of  
21 the following permanency options:

22 (a) Reunification with the parents. Reunification  
23 shall remain the permanency goal when the court finds that the  
24 parents have been diligently working towards reunification,  
25 and reunification is expected during a time period that is  
26 consistent with the developmental needs of the child;

27 (b) Adoption, under chapter 63, when the state files  
28 the petition for termination of parental rights;

29 (c) Legal guardianship;  
30  
31

1           (d) Permanent placement with a fit and willing  
2 relative, if the relative with whom a child is currently  
3 placed cannot or is not willing to adopt the child; or

4           (e) Another planned permanent living arrangement. A  
5 subsequent planned permanent living arrangement may be chosen  
6 for the permanency plan for the child if the department has  
7 documented a compelling reason for determining that none of  
8 the permanency goals set forth in paragraphs (a)-(d) are in  
9 the best interests of the child and the child is 14 years of  
10 age and agrees with this option as the permanency goal. A  
11 planned permanent living arrangement may include long-term  
12 licensed custody.

13           (3) If reunification cannot be achieved, adoption must  
14 be the primary permanency option available to the court.  
15 Permanency options other than adoption may be considered by  
16 the court only if the court determines that adoption is not in  
17 the best interests of the child.

18           Section 4. Section 39.622, Florida Statutes, is  
19 amended to read:

20           39.622 Legal guardianship ~~Long term custody~~.--When the  
21 parents have ~~either~~ consented to legal guardianship ~~long term~~  
22 ~~custody~~, had their parental rights terminated, or failed to  
23 substantially comply with a case plan, and the court  
24 determines at any ~~a~~ judicial ~~review~~ hearing, ~~or at an~~  
25 ~~adjudication hearing~~ held under ~~pursuant to~~ this chapter, that  
26 reunification is not in the best interest of the child, the  
27 court may place the child in the legal guardianship ~~long term~~  
28 ~~custody~~ of an adult relative or other adult approved by the  
29 court who has had custody of the child for at least the 6  
30 preceding months and is willing to care for the child, if all  
31 of the following conditions are met:

1           (1) When the proposed legal guardian is not a  
2 relative, the child must be 14 years of age or older.

3           ~~(2)(1)~~ A case plan describing the responsibilities of  
4 the relative or other adult, the department, and any other  
5 party has been submitted to the court.

6           ~~(3)(2)~~ The case plan for the child does not include  
7 reunification with the parents or adoption by the relative or  
8 other adult.

9           ~~(4)(3)~~ The child and the relative or other adult are  
10 determined not to need protective supervision or preventive  
11 services to ensure the stability of the placement ~~long term~~  
12 ~~custodial relationship.~~

13           ~~(4) Each party to the proceeding agrees that a~~  
14 ~~long term custodial relationship does not preclude the~~  
15 ~~possibility of the child returning to the custody of the~~  
16 ~~parent at a later date if the parent demonstrates a material~~  
17 ~~change in circumstances and the return of the child to the~~  
18 ~~parent is in the child's best interest.~~

19           (5) The court has considered the reasonable preference  
20 of the child if the court has found the child to be of  
21 sufficient intelligence, understanding, and experience to  
22 express a preference.

23           (6) The court has considered the recommendation of the  
24 guardian ad litem if one has been appointed.

25           ~~(7) The relative or other adult has made a commitment~~  
26 ~~to provide for the child until the child reaches the age of~~  
27 ~~majority and to prepare the child for adulthood and~~  
28 ~~independence.~~

29           ~~(7)(8)~~ The relative or other adult agrees not to  
30 return the child to the physical care and custody of the  
31

1 person from whom the child was removed, including for short  
2 visitation periods, without the approval of the court.

3       ~~(8)(9)~~ The court shall retain jurisdiction over the  
4 case, and the child shall remain in the legal guardianship  
5 ~~long-term custody~~ of the relative or other adult approved by  
6 the court, until the order creating the legal guardianship  
7 ~~long-term custodial relationship~~ is modified by the court. The  
8 court shall discontinue regular judicial-review hearings and  
9 may relieve the department of the responsibility for  
10 supervising the placement of the child whenever the court  
11 determines that the placement is stable and that ~~such~~  
12 supervision is no longer needed. The child must be in the  
13 placement for a minimum of 6 continuous months before the  
14 court may consider termination of the department's  
15 supervision. Notwithstanding the retention of jurisdiction,  
16 the placement shall be considered a permanency option for the  
17 child when the court relieves the department of the  
18 responsibility for supervising the placement. The order  
19 terminating supervision by the department shall set forth the  
20 powers of the guardian ~~custodian~~ of the child and shall  
21 include the powers ordinarily granted to a guardian of the  
22 person of a minor unless otherwise specified. The court may  
23 modify the order terminating supervision of the legal  
24 guardianship ~~long-term placement~~ if it finds that the  
25 long-term placement is no longer in the best interest of the  
26 child.

27       ~~(9)(10)~~ A relative or other legal custodian who has  
28 been designated as a legal guardian under this section  
29 ~~long-term custodian~~ shall have all of the rights and duties of  
30 a parent, including, but not limited to, the right and duty to  
31 protect, train, and discipline the child and to provide the

1 child with food, shelter, and education, and ordinary medical,  
2 dental, psychiatric, and psychological care, unless these  
3 rights and duties are otherwise enlarged or limited by the  
4 court order establishing the long-term custodial relationship.  
5 The legal guardian ~~long term custodian~~ must inform the court  
6 in writing of any changes in the residence of the guardian  
7 ~~long term custodian~~ or the child.

8 Section 5. Section 39.623, Florida Statutes, is  
9 amended to read:

10 39.623 Other planned permanency living arrangements  
11 ~~Long term licensed custody.--~~

12 (1) LONG-TERM LICENSED CUSTODY.--The court may approve  
13 placement of the child in long-term licensed custody, as a  
14 permanency option, when all of the following conditions are  
15 met:

16 (a)(1) The child is 14 years of age or older.

17 (b)(2) The child is living in a licensed home and the  
18 foster parents desire to provide care for the child on a  
19 permanent basis and the foster parents and the child do not  
20 desire adoption.

21 (c)(3) The foster parents have made a commitment to  
22 provide for the child until he or she reaches the age of  
23 majority and to prepare the child for adulthood and  
24 independence.

25 (d)(4) The child has remained in the home for a  
26 continuous period of no less than 12 months.

27 (e)(5) The foster parents and the child view one  
28 another as family and consider living together as the best  
29 place for the child to be on a permanent basis.

30  
31

1           ~~(f)(6)~~ The department's social services study  
2 recommends such placement and finds the child's well-being has  
3 been promoted through living with the foster parents.  
4

5 Notwithstanding the retention of jurisdiction and supervision  
6 by the department, long-term licensed custody placements made  
7 under ~~pursuant to~~ this section shall be considered a  
8 permanency option for the child. For purposes of this section,  
9 supervision by the department ~~is shall be~~ defined as a minimum  
10 of semiannual visits. The order placing the child in long-term  
11 licensed custody as a permanency option shall set forth the  
12 powers of the foster parents of the child and shall include  
13 the powers ordinarily granted to a guardian of the person of a  
14 minor unless otherwise specified. The court may modify the  
15 permanency option of long-term licensed custody if it finds  
16 that the placement is no longer in the best interest of the  
17 child.

18           (2) INDEPENDENT LIVING.--The court may approve  
19 placement of the child in an independent living arrangement as  
20 permanency for any child 16 years of age or older if it can be  
21 clearly established that this type of alternate care  
22 arrangement is the most appropriate plan and that the health,  
23 safety, and well-being of the child will not be jeopardized by  
24 such an arrangement. While in independent living, children  
25 whose legal custody has been awarded to the department or to a  
26 licensed, child-caring or child-placing agency, or who have  
27 been voluntarily placed with an agency by a parent, guardian,  
28 relative, or adult approved by the court, continue to be  
29 subject to provisions requiring court review until the child  
30 reaches 18 years of age.  
31

1           Section 6. Paragraph (d) of subsection (1) of section  
2 39.806, Florida Statutes, is amended to read:

3           39.806 Grounds for termination of parental rights.--

4           (1) The department, the guardian ad litem, or any  
5 person who has knowledge of the facts alleged or who is  
6 informed of those facts and believes that they are true may  
7 petition for the termination of parental rights under any of  
8 the following circumstances:

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

11           1. The period of time for which the parent is expected  
12 to be incarcerated will constitute a substantial portion of  
13 the period of time before the child will attain the age of 18  
14 years. This period of time begins on the date that the parent  
15 entered into incarceration at the federal or state  
16 correctional institution;

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

1 possession or territory thereof, or any foreign jurisdiction;  
2 or

3           3. The court determines by clear and convincing  
4 evidence that continuing the parental relationship with the  
5 incarcerated parent would be harmful to the child and, for  
6 this reason, that termination of the parental rights of the  
7 incarcerated parent is in the best interest of the child.

8           Section 7. Section 39.810, Florida Statutes, is  
9 amended to read:

10           39.810 Manifest best interests of the child.--In a  
11 hearing on a petition for termination of parental rights, the  
12 court shall consider the manifest best interests of the child.  
13 This consideration shall not include a comparison between the  
14 attributes of the parents and those of any persons providing a  
15 present or potential placement for the child. For the purpose  
16 of determining the manifest best interests of the child, the  
17 court shall consider and evaluate all relevant factors,  
18 including, but not limited to:

19           (1) Any suitable permanent custody arrangement with a  
20 relative of the child.

21           (2) The ability and disposition of the parent or  
22 parents to provide the child with food, clothing, medical care  
23 or other remedial care recognized and permitted under state  
24 law instead of medical care, and other material needs of the  
25 child.

26           (3) The capacity of the parent or parents to care for  
27 the child to the extent that the child's safety, well-being,  
28 and physical, mental, and emotional health will not be  
29 endangered upon the child's return home.

30           (4) The present mental and physical health needs of  
31 the child and such future needs of the child to the extent

1 | that such future needs can be ascertained based on the present  
2 | condition of the child.

3 |         (5) The love, affection, and other emotional ties  
4 | existing between the child and the child's parent or parents,  
5 | siblings, and other relatives, and the degree of harm to the  
6 | child that would arise from the termination of parental rights  
7 | and duties.

8 |         (6) The likelihood of an older child remaining in  
9 | long-term foster care upon termination of parental rights, due  
10 | to emotional or behavioral problems or any special needs of  
11 | the child.

12 |         (7) The child's ability to form a significant  
13 | relationship with a parental substitute and the likelihood  
14 | that the child will enter into a more stable and permanent  
15 | family relationship as a result of permanent termination of  
16 | parental rights and duties.

17 |         (8) The length of time that the child has lived in a  
18 | stable, satisfactory environment and the desirability of  
19 | maintaining continuity.

20 |         (9) The depth of the relationship existing between the  
21 | child and the present custodian.

22 |         (10) The reasonable preferences and wishes of the  
23 | child, if the court deems the child to be of sufficient  
24 | intelligence, understanding, and experience to express a  
25 | preference.

26 |         (11) The recommendations for the child provided by the  
27 | child's guardian ad litem or legal representative.

28 |  
29 | A finding made under this section that termination of parental  
30 | rights is in the manifest best interest of the child may also  
31 | constitute proof that reunification with the parent or parents

1 poses a substantial risk of significant harm to the child and  
2 that termination of parental rights is the least restrictive  
3 means of protecting the child.

4 Section 8. Subsection (4) of section 39.811, Florida  
5 Statutes, is amended to read:

6 39.811 Powers of disposition; order of disposition.--

7 (4) If the child is neither in the custody of the  
8 department nor in the custody of a parent and the court finds  
9 that the grounds for termination of parental rights have been  
10 established for either or both parents, the court shall enter  
11 an order terminating parental rights for the parent or parents  
12 for whom the grounds for termination have been established and  
13 placing the child with the department or an appropriate legal  
14 custodian. If the parental rights of both parents have been  
15 terminated, or if the parental rights of only one parent have  
16 been terminated and the court makes specific findings based on  
17 evidence presented that placement with the remaining parent is  
18 likely to be harmful to the child, the court may order that  
19 the child be placed with a legal custodian other than the  
20 department after hearing evidence of the suitability of the  
21 ~~such~~ intended placement. Suitability of the intended placement  
22 includes the fitness and capabilities of the proposed legal  
23 custodian to function as the primary caregiver for a  
24 particular child; and the compatibility of the child with the  
25 home in which the child is intended to be placed. If the court  
26 orders that a child be placed with a legal custodian under  
27 this subsection, the court shall appoint the ~~such~~ legal  
28 custodian either as the guardian for the child as provided in  
29 s. 744.3021 or as the legal guardian ~~long term custodian~~ of  
30 the child as provided in s. 39.622 so long as the child has  
31 been residing with the legal custodian for a minimum of 6

1 months. The court may modify the order placing the child in  
2 the custody of the legal custodian and revoke the guardianship  
3 established under s. 744.3021 or the legal guardianship  
4 established under s. 39.622 ~~long term custodial relationship~~  
5 if the court subsequently finds the placement to be no longer  
6 in the best interest of the child.

7 Section 9. For the purpose of incorporating the  
8 amendment made by this act to section 39.806, Florida  
9 Statutes, in a reference thereto, subsection (6) of section  
10 39.811, Florida Statutes, is reenacted to read:

11 39.811 Powers of disposition; order of disposition.--

12 (6) The parental rights of one parent may be severed  
13 without severing the parental rights of the other parent only  
14 under the following circumstances:

15 (a) If the child has only one surviving parent;

16 (b) If the identity of a prospective parent has been  
17 established as unknown after sworn testimony;

18 (c) If the parent whose rights are being terminated  
19 became a parent through a single-parent adoption;

20 (d) If the protection of the child demands termination  
21 of the rights of a single parent; or

22 (e) If the parent whose rights are being terminated  
23 meets any of the criteria specified in s. 39.806(1)(d) and  
24 (f)-(i).

25 Section 10. For the purpose of incorporating the  
26 amendment made by this act to section 39.806, Florida  
27 Statutes, in a reference thereto, paragraph (b) of subsection  
28 (2) of section 61.13, Florida Statutes, is reenacted to read:

29 61.13 Custody and support of children; visitation  
30 rights; power of court in making orders.--

31 (2)

1           (b)1. The court shall determine all matters relating  
2 to custody of each minor child of the parties in accordance  
3 with the best interests of the child and in accordance with  
4 the Uniform Child Custody Jurisdiction and Enforcement Act. It  
5 is the public policy of this state to assure that each minor  
6 child has frequent and continuing contact with both parents  
7 after the parents separate or the marriage of the parties is  
8 dissolved and to encourage parents to share the rights and  
9 responsibilities, and joys, of childrearing. After considering  
10 all relevant facts, the father of the child shall be given the  
11 same consideration as the mother in determining the primary  
12 residence of a child irrespective of the age or sex of the  
13 child.

14           2. The court shall order that the parental  
15 responsibility for a minor child be shared by both parents  
16 unless the court finds that shared parental responsibility  
17 would be detrimental to the child. Evidence that a parent has  
18 been convicted of a felony of the third degree or higher  
19 involving domestic violence, as defined in s. 741.28 and  
20 chapter 775, or meets the criteria of s. 39.806(1)(d), creates  
21 a rebuttable presumption of detriment to the child. If the  
22 presumption is not rebutted, shared parental responsibility,  
23 including visitation, residence of the child, and decisions  
24 made regarding the child, may not be granted to the convicted  
25 parent. However, the convicted parent is not relieved of any  
26 obligation to provide financial support. If the court  
27 determines that shared parental responsibility would be  
28 detrimental to the child, it may order sole parental  
29 responsibility and make such arrangements for visitation as  
30 will best protect the child or abused spouse from further  
31 harm. Whether or not there is a conviction of any offense of

1 domestic violence or child abuse or the existence of an  
2 injunction for protection against domestic violence, the court  
3 shall consider evidence of domestic violence or child abuse as  
4 evidence of detriment to the child.

5 a. In ordering shared parental responsibility, the  
6 court may consider the expressed desires of the parents and  
7 may grant to one party the ultimate responsibility over  
8 specific aspects of the child's welfare or may divide those  
9 responsibilities between the parties based on the best  
10 interests of the child. Areas of responsibility may include  
11 primary residence, education, medical and dental care, and any  
12 other responsibilities that the court finds unique to a  
13 particular family.

14 b. The court shall order "sole parental  
15 responsibility, with or without visitation rights, to the  
16 other parent when it is in the best interests of" the minor  
17 child.

18 c. The court may award the grandparents visitation  
19 rights with a minor child if it is in the child's best  
20 interest. Grandparents have legal standing to seek judicial  
21 enforcement of such an award. This section does not require  
22 that grandparents be made parties or given notice of  
23 dissolution pleadings or proceedings. A court may not order  
24 that a child be kept within the state or jurisdiction of the  
25 court solely for the purpose of permitting visitation by the  
26 grandparents.

27 3. Access to records and information pertaining to a  
28 minor child, including, but not limited to, medical, dental,  
29 and school records, may not be denied to a parent because the  
30 parent is not the child's primary residential parent. Full  
31 rights under this subparagraph apply to either parent unless a

1 court order specifically revokes these rights, including any  
2 restrictions on these rights as provided in a domestic  
3 violence injunction. A parent having rights under this  
4 subparagraph has the same rights upon request as to form,  
5 substance, and manner of access as are available to the other  
6 parent of a child, including, without limitation, the right to  
7 in-person communication with medical, dental, and education  
8 providers.

9 Section 11. Section 39.624, Florida Statutes, is  
10 repealed.

11 Section 12. This act shall take effect July 1, 2005.

12 \*\*\*\*\*

13  
14 SENATE SUMMARY

15 Requires that a permanency hearing be conducted within a  
16 specified time. Requires the court to approve a  
17 permanency plan. Provides that adoption is the primary  
18 permanency option if reunification of the child with his  
19 or her parents is not in the best interest of the child.  
20 Provides for the appointment of a legal guardian.  
21 Provides the criteria for the court to consider before  
22 appointing a legal guardian. Provides that the parental  
23 rights of a person incarcerated in a state or federal  
24 correctional institution may be terminated if the period  
25 of time for which the parent is expected to be  
26 incarcerated will constitute a substantial portion of  
27 time before the child attains the age of 18 years.  
28 Provides that the time period is measured from the time  
29 the parent enters the correctional institution. Provides  
30 that if termination of parental rights is in the manifest  
31 best interest of the child, it may also constitute proof  
that the termination is the least restrictive means of  
protecting the child.