

By Senator Margolis

35-318B-05

1 A bill to be entitled
2 An act relating to the residency status of
3 dependent immigrant children; creating s.
4 39.5075, F.S.; providing definitions; directing
5 the Department of Children and Family Services
6 or a community-based care provider to determine
7 whether a dependent child is a citizen of the
8 United States and to report the information to
9 the court; providing that services to children
10 alleged to have been abused, neglected, or
11 abandoned be provided without regard to the
12 citizenship of the child except where alienage
13 or immigration status is explicitly set as a
14 statutory condition of coverage or eligibility;
15 requiring the case plan to include specified
16 information; directing the department or the
17 community-based care provider to file a
18 petition with the court to determine whether
19 the child meets the criteria for special
20 immigrant juvenile status; directing the
21 department or the community-based care provider
22 to file papers with federal authorities to
23 adjust the child's residency status;
24 authorizing the court to continue jurisdiction
25 of a child whose residency status is being
26 considered by federal authorities; requiring
27 that certain information be given to the court;
28 directing the department to adopt rules;
29 providing an effective date.
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31 Be It Enacted by the Legislature of the State of Florida:

1 Section 1. Section 39.5075, Florida Statutes, is
2 created to read:

3 39.5075 Citizenship or residency status for immigrant
4 children who are dependents.--

5 (1) As used in this section, the term:

6 (a) "Eligible for long-term foster care" means that
7 reunification with a child's parent is not an appropriate
8 option for permanency for the child.

9 (b) "May be eligible for special immigrant juvenile
10 status under federal law" means:

11 1. The child has been found dependent based on
12 allegations of abuse, neglect, or abandonment;

13 2. The child is eligible for long-term foster care;

14 3. It is in the best interest of the child to remain
15 in the United States; and

16 4. The child remains under the jurisdiction of the
17 juvenile court.

18 (2) Whenever a child is adjudicated dependent, the
19 department or community-based care provider shall determine
20 whether the child is a citizen of the United States. The
21 department or community-based care provider shall report to
22 the court in its first judicial review concerning the child
23 whether the child is a citizen of the United States and, if
24 not, the steps that have been taken to address the citizenship
25 or residency status of the child. Services to children alleged
26 to have been abused, neglected, or abandoned must be provided
27 without regard to the citizenship of the child except where
28 alienage or immigration status is explicitly set forth as a
29 statutory condition of coverage or eligibility.

30 (3) If the child is not a citizen, the department or
31 community-based care provider shall include in the case plan

1 developed for the child a recommendation as to whether the
2 permanency plan for the child will include remaining in the
3 United States. If the case plan calls for the child to remain
4 in the United States, and the child is in need of
5 documentation to effectuate this plan, the department or
6 community-based care provider must evaluate the child's case
7 to determine whether the child may be eligible for special
8 immigrant juvenile status under federal law.

9 (4) If the child may be eligible for special immigrant
10 juvenile status, the department or community-based care
11 provider shall petition the court for an order finding that
12 the child meets the criteria for special immigrant juvenile
13 status. The ruling of the court on this petition must include
14 findings as to the express wishes of the child, if the child
15 is able to express such wishes, and any other circumstances
16 that would affect whether the best interests of the child
17 would be served by applying for special immigrant juvenile
18 status.

19 (5) No later than 60 days after an order finding that
20 the child is eligible for special immigrant juvenile status
21 and that applying for this status is in the best interest of
22 the child, the department or community-based care provider
23 shall, directly or through volunteer or contracted legal
24 services, file a petition for special immigrant juvenile
25 status and the application for adjustment of status to the
26 appropriate federal authorities on behalf of the child.

27 (6) If a petition and application have been filed and
28 the petition and application have not been granted by the time
29 the child reaches 18 years of age, the court may retain
30 jurisdiction over the dependency case solely for the purpose
31 of allowing the continued consideration of the petition and

1 application by federal authorities. Review hearings for the
2 child shall be set solely for the purpose of determining the
3 status of the petition and application. The court's
4 jurisdiction terminates upon the final decision of the federal
5 authorities. Retention of jurisdiction in this instance does
6 not affect the services available to a young adult under s.
7 409.1451. The court may not retain jurisdiction of the case
8 after the immigrant child's 22nd birthday.

9 (7) In any judicial review report provided to the
10 court for a child for whom the court has granted the order
11 described in subsection (4), the court shall be advised of the
12 status of the petition and application process concerning the
13 child.

14 (8) The department shall adopt rules to administer
15 this section.

16 Section 2. This act shall take effect July 1, 2005.

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19 SENATE SUMMARY

20 Directs the Department of Children and Family Services or
21 a community-based care provider to determine whether a
22 dependent child is a citizen of the United States and to
23 report the information to the court. Provides that
24 services to children alleged to have been abused,
25 neglected, or abandoned be provided without regard to the
26 citizenship of the child except under certain
27 circumstances. Requires that a child's case plan include
28 specified information. Directs the department or the
29 community-based care provider to file a petition with the
30 court to determine whether the child meets the criteria
31 for special immigrant juvenile status. Directs the
department or the community-based care provider to file
papers with federal authorities to adjust the child's
residency status. Authorizes the court to continue
jurisdiction of a child whose residency status is being
considered by federal authorities. Directs the department
to adopt rules.