 1
 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.
30
31 Be It Enacted by the Legislature of the State of Florida:

                              1

CODING: Words ~~stricken~~ are deletions; words <u>underlined</u> are additions.

 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

                                 3

CODING: Words ~~stricken~~ are deletions; words <u>underlined</u> are additions.

 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.
17 |
18 |
19 |
20 |
21 |
22 |
23 |
24 |
25 |
26 |
27 |
28 |
29 |
30 |
31 |

CODING: Words ~~stricken~~ are deletions; words <u>underlined</u> are additions.