

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

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Section 39.5075, Florida Statutes, is created
28 to read:

29 39.5075 Citizenship or residency status for immigrant
 30 children who are dependents.--

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

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

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

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

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

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

42 4. The child remains under the jurisdiction of the
 43 juvenile court.

44 (2) Whenever a child is adjudicated dependent, the
 45 department or community-based care provider shall determine
 46 whether the child is a citizen of the United States. The
 47 department or community-based care provider shall report to the
 48 court in its first judicial review concerning the child whether
 49 the child is a citizen of the United States and, if not, the
 50 steps that have been taken to address the citizenship or
 51 residency status of the child. Services to children alleged to
 52 have been abused, neglected, or abandoned must be provided
 53 without regard to the citizenship of the child except where
 54 alienage or immigration status is explicitly set forth as a
 55 statutory condition of coverage or eligibility.

56 (3) If the child is not a citizen, the department or

57 community-based care provider shall include in the case plan
58 developed for the child a recommendation as to whether the
59 permanency plan for the child will include remaining in the
60 United States. If the case plan calls for the child to remain in
61 the United States, and the child is in need of documentation to
62 effectuate this plan, the department or community-based care
63 provider must evaluate the child's case to determine whether the
64 child may be eligible for special immigrant juvenile status
65 under federal law.

66 (4) If the child may be eligible for special immigrant
67 juvenile status, the department or community-based care provider
68 shall petition the court for an order finding that the child
69 meets the criteria for special immigrant juvenile status. The
70 ruling of the court on this petition must include findings as to
71 the express wishes of the child, if the child is able to express
72 such wishes, and any other circumstances that would affect
73 whether the best interest of the child would be served by
74 applying for special immigrant juvenile status.

75 (5) No later than 60 days after an order finding that the
76 child is eligible for special immigrant juvenile status and that
77 applying for this status is in the best interest of the child,
78 the department or community-based care provider shall, directly
79 or through volunteer or contracted legal services, file a
80 petition for special immigrant juvenile status and the
81 application for adjustment of status to the appropriate federal
82 authorities on behalf of the child.

83 (6) If a petition and application have been filed and the
84 petition and application have not been granted by the time the

HB 0809

2005

85 child reaches 18 years of age, the court may retain jurisdiction
86 over the dependency case solely for the purpose of allowing the
87 continued consideration of the petition and application by
88 federal authorities. Review hearings for the child shall be set
89 solely for the purpose of determining the status of the petition
90 and application. The court's jurisdiction terminates upon the
91 final decision of the federal authorities. Retention of
92 jurisdiction in this instance does not affect the services
93 available to a young adult under s. 409.1451. The court may not
94 retain jurisdiction of the case after the immigrant child's 22nd
95 birthday.

96 (7) In any judicial review report provided to the court
97 for a child for whom the court has granted the order described
98 in subsection (4), the court shall be advised of the status of
99 the petition and application process concerning the child.

100 (8) The department shall adopt rules to administer this
101 section.

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