

586-692D-06

1 A bill to be entitled
2 An act relating to child protective services;
3 amending s. 39.01, F.S.; revising definitions
4 relating to child protective services; amending
5 s. 39.013, F.S.; removing provisions relating
6 to continuances; creating s. 39.0136, F.S.;
7 providing for time limitations in child
8 protective cases; providing exceptions;
9 creating s. 39.0137; providing that state laws
10 do not supersede certain federal laws;
11 requiring the Department of Children and Family
12 Services to adopt rules; creating s. 39.0138,
13 F.S.; authorizing the department to conduct
14 criminal background record checks of persons
15 being considered as prospective foster parents;
16 providing for exemptions from disqualifications
17 to care for a dependent child; amending s.
18 39.301, F.S.; providing that the department may
19 rely upon a previous report to indicate that
20 child abuse has occurred; amending s. 39.402,
21 F.S.; requiring that a shelter hearing order
22 contain specified information relating to the
23 availability of services to prevent removal
24 from the home; amending s. 39.507, F.S.;
25 requiring the court to inquire of the parents
26 whether the parents have relatives who might be
27 considered as a placement for the child;
28 directs the court to advise the parents that,
29 if the child is not returned to their custody
30 within 12 months, their parental rights may be
31 terminated; amending s. 39.5085, F.S.;

1 conforming provisions to changes made by the
2 act; correcting cross-references; amending s.
3 39.522, F.S.; requiring the court to consider
4 the continuity of the child's placement in the
5 same out-of-home residence as a factor when
6 determining the best interests of the child in
7 a postdisposition proceeding to modify custody;
8 creating s. 39.6011, F.S.; providing procedures
9 for drafting and implementing a case plan;
10 requiring the department to prepare a case plan
11 for each child receiving services from the
12 department; requiring certain face-to-face
13 meetings; creating s. 39.6012, F.S.; providing
14 for case plan tasks and services; providing the
15 content for the case plan; creating s. 39.6013,
16 F.S.; providing for amendments to a case plan;
17 describing the circumstance under which a case
18 plan may be modified; amending s. 39.603, F.S.;
19 conforming provisions to changes made by the
20 act; amending s. 39.621, F.S.; declaring that
21 time is of the essence for a child in the
22 dependency system; providing for permanency
23 hearings; directing the court to make certain
24 findings at the permanency hearing; creating s.
25 39.6221, F.S.; providing for the permanent
26 guardianship for a dependent child; authorizing
27 the court to consider a permanent guardian as a
28 long-term option for a dependent child;
29 requiring a written order; providing for the
30 contents of the permanent guardianship order;
31 authorizing a parent to petition to modify the

1 permanent guardianship order; creating s.
2 39.6231, F.S.; providing for placement with a
3 fit and willing relative; requiring the court
4 to specify the reasons to place a child with a
5 relative; providing for the department to
6 supervise the placement for a specified time
7 period; creating s. 39.6241, F.S.; authorizing
8 the court to place a child in another planned
9 permanent living arrangement under certain
10 circumstances; amending s. 39.701, F.S.;
11 requiring that a child's current health and
12 education records be included in the
13 documentation for the judicial review report;
14 requiring the court to conduct a judicial
15 review 6 months after the child was placed in
16 shelter care; amending s. 39.703, F.S.;
17 providing when the department may file a
18 petition for termination of parental rights;
19 prohibiting the department from filing a
20 petition under certain specified circumstances;
21 amending s. 39.806, F.S.; authorizing a
22 material breach of the case plan as a ground to
23 terminate parental rights; requiring that the
24 department show, and the court find, the
25 material breach by clear and convincing
26 evidence; amending s. 39.810, F.S.; providing
27 certain factors for the court to consider for
28 the best interest of the child; amending s.
29 39.811, F.S.; conforming provisions to changes
30 made by the act; amending ss. 39.0015, 39.205,
31 39.302, 39.828, 63.092, and 419.001, F.S.;

1 correcting cross-references; reenacting s.
2 39.802(5), F.S., relating to the filing of a
3 petition to terminate parental rights, to
4 incorporate the amendments made to s. 39.806,
5 F.S., in a reference thereto; repealing ss.
6 39.601, 39.622, 39.623, 39.624, and 435.045,
7 F.S., relating to case plan requirements,
8 long-term custody of a dependent child,
9 long-term licensed custody of a dependent
10 child, independent living, and background
11 screening of certain persons before a dependent
12 child is placed in their home; providing an
13 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 the ~~such~~ parent or
28 legal custodian, or caregiver primarily responsible for the
29 child's welfare, to support and communicate with the child
30 are, in the opinion of the court, only marginal efforts that
31 do not evince a settled purpose to assume all parental duties,

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

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

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, which ~~that~~ is assigned or designated by
13 | the department to perform duties or exercise powers under
14 | ~~pursuant to~~ this chapter.

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

19 | (11) "Case plan" ~~or "plan"~~ means a document, as
20 | described in s. 39.6011 ~~s. 39.601~~, prepared by the department
21 | with input from all parties. The case plan follows the child
22 | from the provision of voluntary services through any
23 | dependency, foster care, or termination of parental rights
24 | proceeding or related activity or process.

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

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

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

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

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

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

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

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

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

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

29 (15) "Child support" means a court-ordered obligation,
30 enforced under chapter 61 and ss. 409.2551-409.2597, for
31

1 monetary support for the care, maintenance, training, and
2 education of a child.

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

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

15 (18) "Concurrent planning" means establishing a
16 permanency goal in a case plan that uses reasonable efforts to
17 reunify the child with the parent, while at the same time
18 establishing another goal that must be one of the following
19 options:

20 (a) Adoption when a petition for termination of
21 parental rights has been filed or will be filed;

22 (b) Permanent guardianship of a dependent child under
23 s. 39.6221;

24 (c) Permanent placement with a fit and willing
25 relative under s. 39.6231; or

26 (d) Placement in another planned permanent living
27 arrangement under s. 39.6241.

28 ~~(19)~~(18) "Court," unless otherwise expressly stated,
29 means the circuit court assigned to exercise jurisdiction
30 under this chapter.

31

1 ~~(20)~~(19) "Department" means the Department of Children
2 and Family Services.

3 ~~(21)~~(20) "Diligent efforts by a parent" means a course
4 of conduct which results in a reduction in risk to the child
5 in the child's home that would allow the child to be safely
6 placed permanently back in the home as set forth in the case
7 plan.

8 ~~(22)~~(21) "Diligent efforts of social service agency"
9 means reasonable efforts to provide social services or
10 reunification services made by any social service agency that
11 is a party to a case plan.

12 ~~(23)~~(22) "Diligent search" means the efforts of a
13 social service agency to locate a parent or prospective parent
14 whose identity or location is unknown, initiated as soon as
15 the social service agency is made aware of the existence of
16 such parent, with the search progress reported at each court
17 hearing until the parent is either identified and located or
18 the court excuses further search.

19 ~~(24)~~(23) "Disposition hearing" means a hearing in
20 which the court determines the most appropriate protections,
21 services, and placement for the child in dependency cases.

22 ~~(25)~~(24) "District" means any one of the 15 service
23 districts of the department established pursuant to s. 20.19.

24 ~~(26)~~(25) "District administrator" means the chief
25 operating officer of each service district of the department
26 as defined in s. 20.19(5) and, where appropriate, includes any
27 district administrator whose service district falls within the
28 boundaries of a judicial circuit.

29 ~~(27)~~(26) "Expedited termination of parental rights"
30 means proceedings wherein a case plan with the goal of
31 reunification is not being offered.

1 ~~(28)~~~~(27)~~ "False report" means a report of abuse,
2 neglect, or abandonment of a child to the central abuse
3 hotline, which report is maliciously made for the purpose of:

4 (a) Harassing, embarrassing, or harming another
5 person;

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

7 (c) Acquiring custody of a child; or

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

10

11 The term "false report" does not include a report of abuse,
12 neglect, or abandonment of a child made in good faith to the
13 central abuse hotline.

14 ~~(29)~~~~(28)~~ "Family" means a collective body of persons,
15 consisting of a child and a parent, legal custodian, or adult
16 relative, in which:

17 (a) The persons reside in the same house or living
18 unit; or

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

22 ~~(30)~~ "Family team conference" means a process for
23 family-focused intervention facilitated by professional staff
24 which is designed to develop a plan for the care, safety, and
25 well-being of a child and the child's family.

26 ~~(31)~~~~(29)~~ "Foster care" means care provided a child in
27 a foster family or boarding home, group home, agency boarding
28 home, child care institution, or any combination thereof.

29 ~~(32)~~~~(30)~~ "Harm" to a child's health or welfare can
30 occur when any person:

31

1 (a) Inflicts or allows to be inflicted upon the child
2 physical, mental, or emotional injury. In determining whether
3 harm has occurred, the following factors must be considered in
4 evaluating any physical, mental, or emotional injury to a
5 child: the age of the child; any prior history of injuries to
6 the child; the location of the injury on the body of the
7 child; the multiplicity of the injury; and the type of trauma
8 inflicted. Such injury includes, but is not limited to:

- 9 1. Willful acts that produce the following specific
10 injuries:
- 11 a. Sprains, dislocations, or cartilage damage.
 - 12 b. Bone or skull fractures.
 - 13 c. Brain or spinal cord damage.
 - 14 d. Intracranial hemorrhage or injury to other internal
15 organs.
 - 16 e. Asphyxiation, suffocation, or drowning.
 - 17 f. Injury resulting from the use of a deadly weapon.
 - 18 g. Burns or scalding.
 - 19 h. Cuts, lacerations, punctures, or bites.
 - 20 i. Permanent or temporary disfigurement.
 - 21 j. Permanent or temporary loss or impairment of a body
22 part or function.

23
24 As used in this subparagraph, the term "willful" refers to the
25 intent to perform an action, not to the intent to achieve a
26 result or to cause an injury.

27 2. Purposely giving a child poison, alcohol, drugs, or
28 other substances that substantially affect the child's
29 behavior, motor coordination, or judgment or that result in
30 sickness or internal injury. For the purposes of this
31 subparagraph, the term "drugs" means prescription drugs not

1 prescribed for the child or not administered as prescribed,
2 and controlled substances as outlined in Schedule I or
3 Schedule II of s. 893.03.

4 3. Leaving a child without adult supervision or
5 arrangement appropriate for the child's age or mental or
6 physical condition, so that the child is unable to care for
7 the child's own needs or another's basic needs or is unable to
8 exercise good judgment in responding to any kind of physical
9 or emotional crisis.

10 4. Inappropriate or excessively harsh disciplinary
11 action that is likely to result in physical injury, mental
12 injury as defined in this section, or emotional injury. The
13 significance of any injury must be evaluated in light of the
14 following factors: the age of the child; any prior history of
15 injuries to the child; the location of the injury on the body
16 of the child; the multiplicity of the injury; and the type of
17 trauma inflicted. Corporal discipline may be considered
18 excessive or abusive when it results in any of the following
19 or other similar injuries:

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

1 k. Significant bruises or welts.

2 (b) Commits, or allows to be committed, sexual
3 battery, as defined in chapter 794, or lewd or lascivious
4 acts, as defined in chapter 800, against the child.

5 (c) Allows, encourages, or forces the sexual
6 exploitation of a child, which includes allowing, encouraging,
7 or forcing a child to:

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

11 (d) Exploits a child, or allows a child to be
12 exploited, as provided in s. 450.151.

13 (e) Abandons the child. Within the context of the
14 definition of "harm," the term "abandons the child" means that
15 the parent or legal custodian of a child or, in the absence of
16 a parent or legal custodian, the person responsible for the
17 child's welfare, while being able, makes no provision for the
18 child's support and makes no effort to communicate with the
19 child, which situation is sufficient to evince a willful
20 rejection of parental obligation. If the efforts of the ~~such~~
21 ~~a~~ parent or legal custodian or person primarily responsible
22 for the child's welfare to support and communicate with the
23 child are only marginal efforts that do not evince a settled
24 purpose to assume all parental duties, the child may be
25 determined to have been abandoned. The term "abandoned" does
26 not include an abandoned newborn infant as described in s.
27 383.50.

28 (f) Neglects the child. Within the context of the
29 definition of "harm," the term "neglects the child" means that
30 the parent or other person responsible for the child's welfare
31 fails to supply the child with adequate food, clothing,

1 | shelter, or health care, although financially able to do so or
2 | although offered financial or other means to do so. However,
3 | a parent or legal custodian who, by reason of the legitimate
4 | practice of religious beliefs, does not provide specified
5 | medical treatment for a child may not be considered abusive or
6 | neglectful for that reason alone, but such an exception does
7 | not:

8 | 1. Eliminate the requirement that such a case be
9 | reported to the department;

10 | 2. Prevent the department from investigating such a
11 | case; or

12 | 3. Preclude a court from ordering, when the health of
13 | the child requires it, the provision of medical services by a
14 | physician, as defined in this section, or treatment by a duly
15 | accredited practitioner who relies solely on spiritual means
16 | for healing in accordance with the tenets and practices of a
17 | well-recognized church or religious organization.

18 | (g) Exposes a child to a controlled substance or
19 | alcohol. Exposure to a controlled substance or alcohol is
20 | established by:

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

24 | 2. Continued chronic and severe use of a controlled
25 | substance or alcohol by a parent when the child is
26 | demonstrably adversely affected by such usage.

27 |
28 | As used in this paragraph, the term "controlled substance"
29 | means prescription drugs not prescribed for the parent or not
30 | administered as prescribed and controlled substances as
31 | outlined in Schedule I or Schedule II of s. 893.03.

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

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

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

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

11 (l) Makes the child unavailable for the purpose of
12 impeding or avoiding a protective investigation unless the
13 court determines that the parent, legal custodian, or
14 caregiver was fleeing from a situation involving domestic
15 violence.

16 ~~(33)~~~~(31)~~ "Institutional child abuse or neglect" means
17 situations of known or suspected child abuse or neglect in
18 which the person allegedly perpetrating the child abuse or
19 neglect is an employee of a private school, public or private
20 day care center, residential home, institution, facility, or
21 agency or any other person at such institution responsible for
22 the child's care.

23 ~~(34)~~~~(32)~~ "Judge" means the circuit judge exercising
24 jurisdiction pursuant to this chapter.

25 ~~(35)~~~~(33)~~ "Legal custody" means a legal status created
26 by a court ~~order or letter of guardianship~~ which vests in a
27 custodian of the person or guardian, whether an agency or an
28 individual, the right to have physical custody of the child
29 and the right and duty to protect, nurture, guide ~~train~~, and
30 discipline the child and to provide him or her with food,
31 shelter, education, and ordinary medical, dental, psychiatric,

1 and psychological care. ~~The legal custodian is the person or~~
2 ~~entity in whom the legal right to custody is vested. For~~
3 ~~purposes of this chapter only, when the phrase "parent or~~
4 ~~legal custodian" is used, it refers to rights or~~
5 ~~responsibilities of the parent and, only if there is no living~~
6 ~~parent with intact parental rights, to the rights or~~
7 ~~responsibilities of the legal custodian who has assumed the~~
8 ~~role of the parent.~~

9 ~~(34)~~ "Legal guardianship" means a judicially created
10 ~~relationship between the child and caregiver which is intended~~
11 ~~to be permanent and self sustaining and is provided pursuant~~
12 ~~to the procedures in chapter 744.~~

13 ~~(36)~~(35) "Licensed child-caring agency" means a
14 person, society, association, or agency licensed by the
15 department to care for, receive, and board children.

16 ~~(37)~~(36) "Licensed child-placing agency" means a
17 person, society, association, or institution licensed by the
18 department to care for, receive, or board children and to
19 place children in a licensed child-caring institution or a
20 foster or adoptive home.

21 ~~(38)~~(37) "Licensed health care professional" means a
22 physician licensed under chapter 458, an osteopathic physician
23 licensed under chapter 459, a nurse licensed under part I of
24 chapter 464, a physician assistant licensed under chapter 458
25 or chapter 459, or a dentist licensed under chapter 466.

26 ~~(39)~~(38) "Likely to injure oneself" means that, as
27 evidenced by violent or other actively self-destructive
28 behavior, it is more likely than not that within a 24-hour
29 period the child will attempt to commit suicide or inflict
30 serious bodily harm on himself or herself.

31

1 ~~(40)~~(39) "Likely to injure others" means that it is
2 more likely than not that within a 24-hour period the child
3 will inflict serious and unjustified bodily harm on another
4 person.

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

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

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

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

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

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

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

14 | ~~(44)~~~~(45)~~ "Neglect" occurs when a child is deprived of,
15 | or is allowed to be deprived of, necessary food, clothing,
16 | shelter, or medical treatment or a child is permitted to live
17 | in an environment when such deprivation or environment causes
18 | the child's physical, mental, or emotional health to be
19 | significantly impaired or to be in danger of being
20 | significantly impaired. The foregoing circumstances shall not
21 | be considered neglect if caused primarily by financial
22 | inability unless actual services for relief have been offered
23 | to and rejected by such person. A parent or legal custodian
24 | legitimately practicing religious beliefs in accordance with a
25 | recognized church or religious organization who thereby does
26 | not provide specific medical treatment for a child ~~may shall~~
27 | not, for that reason alone, be considered a negligent parent
28 | or legal custodian; however, such an exception does not
29 | preclude a court from ordering the following services to be
30 | provided, when the health of the child so requires:
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 who was married to the mother at the time the
29 child was conceived or born, who has been determined by a
30 court to be the father of the child, who has filed an
31 affidavit of paternity under s. 382.013(2), or who has claimed

1 to be the father of the child and has provided, or has
2 attempted to provide, the child, or the mother during her
3 pregnancy, with support in a repetitive, customary manner
4 ~~whose consent to the adoption of the child would be required~~
5 ~~under s. 63.062(1)~~. If a child has been legally adopted, the
6 term "parent" means the adoptive mother or father of the
7 child. The term does not include an individual whose parental
8 relationship to the child has been legally terminated, or an
9 alleged or prospective parent, unless the parental status
10 falls within the terms of s. 39.503(1) or this subsection ~~s.~~
11 ~~63.062(1)~~. For purposes of this chapter only, when the phrase
12 "parent or legal custodian" is used, it refers to rights or
13 responsibilities of the parent and, only if there is no living
14 parent with intact parental rights, to the rights or
15 responsibilities of the legal custodian who has assumed the
16 role of the parent.

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

31

1 ~~(50)(51)~~ "Party" means the parent or parents of the
2 child, the petitioner, the department, the guardian ad litem
3 or the representative of the guardian ad litem program when
4 the program has been appointed, and the child. The presence of
5 the child may be excused by order of the court when presence
6 would not be in the child's best interest. Notice to the child
7 may be excused by order of the court when the age, capacity,
8 or other condition of the child is such that the notice would
9 be meaningless or detrimental to the child.

10 ~~(51)~~ "Permanency goal" means the living arrangement
11 identified for the child to return to or identified as the
12 permanent living arrangement of the child. Permanency goals
13 applicable under this chapter are:

14 ~~(a)~~ Reunification;

15 ~~(b)~~ Adoption when a petition for termination of
16 parental rights has been or will be filed;

17 ~~(c)~~ Permanent guardianship of a dependent child under
18 s. 39.6221;

19 ~~(d)~~ Permanent placement with a fit and willing
20 relative under s. 39.6231; or

21 ~~(e)~~ Placement in another planned permanent living
22 arrangement under s. 39.6241.

23
24 The permanency goal is also the case plan goal. If concurrent
25 case planning is being used, reunification may be pursued at
26 the same time that another permanency goal is pursued.

27 ~~(52)~~ "Permanency plan" means the plan that establishes
28 the placement intended to serve as the child's permanent home.

29 ~~(53)~~ "Permanent guardian" means the relative or other
30 adult in a permanent guardianship of a dependent child under
31 s. 39.6211.

1 (54) "Permanent guardianship of a dependent child"
2 means a legal relationship that a court creates under s.
3 39.6221 between a child and a relative or other adult approved
4 by the court which is intended to be permanent and
5 self-sustaining through the transfer of parental rights with
6 respect to the child relating to protection, education, care
7 and control of the person, custody of the person, and
8 decisionmaking on behalf of the child.

9 ~~(55)(52)~~ "Physical injury" means death, permanent or
10 temporary disfigurement, or impairment of any bodily part.

11 ~~(56)(53)~~ "Physician" means any licensed physician,
12 dentist, podiatric physician, or optometrist and includes any
13 intern or resident.

14 ~~(57)(54)~~ "Preliminary screening" means the gathering
15 of preliminary information to be used in determining a child's
16 need for further evaluation or assessment or for referral for
17 other substance abuse services through means such as
18 psychosocial interviews; urine and breathalyzer screenings;
19 and reviews of available educational, delinquency, and
20 dependency records of the child.

21 ~~(58)(55)~~ "Preventive services" means social services
22 and other supportive and rehabilitative services provided to
23 the parent or legal custodian of the child and to the child
24 for the purpose of averting the removal of the child from the
25 home or disruption of a family which will or could result in
26 the placement of a child in foster care. Social services and
27 other supportive and rehabilitative services shall promote the
28 child's need for physical, mental, and emotional health and a
29 safe, stable, living environment, shall promote family
30 autonomy, and shall strengthen family life, whenever possible.

31

1 ~~(59)~~(56) "Prospective parent" means a person who
2 claims to be, or has been identified as, a person who may be a
3 mother or a father of a child.

4 ~~(60)~~(57) "Protective investigation" means the
5 acceptance of a report alleging child abuse, abandonment, or
6 neglect, as defined in this chapter, by the central abuse
7 hotline or the acceptance of a report of other dependency by
8 the department; the investigation of each report; the
9 determination of whether action by the court is warranted; the
10 determination of the disposition of each report without court
11 or public agency action when appropriate; and the referral of
12 a child to another public or private agency when appropriate.

13 ~~(61)~~(58) "Protective investigator" means an authorized
14 agent of the department who receives and investigates reports
15 of child abuse, abandonment, or neglect; who, as a result of
16 the investigation, may recommend that a dependency petition be
17 filed for the child; and who performs other duties necessary
18 to carry out the required actions of the protective
19 investigation function.

20 ~~(62)~~(59) "Protective supervision" means a legal status
21 in dependency cases which permits the child to remain safely
22 in his or her own home or other nonlicensed placement under
23 the supervision of an agent of the department and which must
24 be reviewed by the court during the period of supervision.

25 ~~(63)~~(60) "Relative" means a grandparent,
26 great-grandparent, sibling, first cousin, aunt, uncle,
27 great-aunt, great-uncle, niece, or nephew, whether related by
28 the whole or half blood, by affinity, or by adoption. The term
29 does not include a stepparent.

30 ~~(64)~~(61) "Reunification services" means social
31 services and other supportive and rehabilitative services

1 provided to the parent of the child, to the child, and, where
2 appropriate, to the relative placement, nonrelative placement,
3 or foster parents of the child, for the purpose of enabling a
4 child who has been placed in out-of-home care to safely return
5 to his or her parent at the earliest possible time. The
6 health and safety of the child shall be the paramount goal of
7 social services and other supportive and rehabilitative
8 services. The ~~Such~~ services shall promote the child's need for
9 physical, mental, and emotional health and a safe, stable,
10 living environment, shall promote family autonomy, and shall
11 strengthen family life, whenever possible.

12 ~~(65)(62)~~ "Secretary" means the Secretary of Children
13 and Family Services.

14 ~~(66)(63)~~ "Sexual abuse of a child" means one or more
15 of the following acts:

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

19 (b) Any sexual contact between the genitals or anal
20 opening of one person and the mouth or tongue of another
21 person.

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

26 (d) The intentional touching of the genitals or
27 intimate parts, including the breasts, genital area, groin,
28 inner thighs, and buttocks, or the clothing covering them, of
29 either the child or the perpetrator, except that this does not
30 include:

31

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

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

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

7 (f) The intentional exposure of the perpetrator's
8 genitals in the presence of a child, or any other sexual act
9 intentionally perpetrated in the presence of a child, if such
10 exposure or sexual act is for the purpose of sexual arousal or
11 gratification, aggression, degradation, or other similar
12 purpose.

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

15 1. Solicit for or engage in prostitution; or

16 2. Engage in a sexual performance, as defined by
17 chapter 827.

18 ~~(67)~~~~(64)~~ "Shelter" means a placement with a relative
19 or a nonrelative, or in a licensed home or facility, for the
20 temporary care of a child who is alleged to be or who has been
21 found to be dependent, pending court disposition before or
22 after adjudication.

23 ~~(68)~~~~(65)~~ "Shelter hearing" means a hearing in which
24 the court determines whether probable cause exists to keep a
25 child in shelter status pending further investigation of the
26 case.

27 ~~(69)~~~~(66)~~ "Social service agency" means the department,
28 a licensed child-caring agency, or a licensed child-placing
29 agency.

30 ~~(70)~~~~(67)~~ "Substance abuse" means using, without
31 medical reason, any psychoactive or mood-altering drug,

1 including alcohol, in such a manner as to induce impairment
2 resulting in dysfunctional social behavior.

3 ~~(71)(68)~~ "Substantial compliance" means that the
4 circumstances which caused the creation of the case plan have
5 been significantly remedied to the extent that the well-being
6 and safety of the child will not be endangered upon the
7 child's remaining with or being returned to the child's
8 parent.

9 ~~(72)(69)~~ "Taken into custody" means the status of a
10 child immediately when temporary physical control over the
11 child is attained by a person authorized by law, pending the
12 child's release or placement.

13 ~~(73)(70)~~ "Temporary legal custody" means the
14 relationship that a ~~juvenile~~ court creates between a child and
15 an adult relative of the child, legal custodian, agency, or
16 other person approved by the court until a more permanent
17 arrangement is ordered. Temporary legal custody confers upon
18 the custodian the right to have temporary physical custody of
19 the child and the right and duty to protect, nurture, guide
20 ~~train~~, and discipline the child and to provide the child with
21 food, shelter, and education, and ordinary medical, dental,
22 psychiatric, and psychological care, unless these rights and
23 duties are otherwise enlarged or limited by the court order
24 establishing the temporary legal custody relationship.

25 ~~(74)(71)~~ "Victim" means any child who has sustained or
26 is threatened with physical, mental, or emotional injury
27 identified in a report involving child abuse, neglect, or
28 abandonment, or child-on-child sexual abuse.

29 ~~(72)~~ ~~"Long term licensed custody" means the~~
30 ~~relationship that a juvenile court order creates between a~~
31 ~~child and a placement licensed by the state to provide~~

1 ~~residential care for dependent children, if the licensed~~
2 ~~placement is willing and able to continue to care for the~~
3 ~~child until the child reaches the age of majority.~~

4 Section 2. Section 39.013, Florida Statutes, is
5 amended to read:

6 39.013 Procedures and jurisdiction; right to
7 counsel.--

8 (1) All procedures, including petitions, pleadings,
9 subpoenas, summonses, and hearings, in this chapter shall be
10 conducted according to the Florida Rules of Juvenile Procedure
11 unless otherwise provided by law. Parents must be informed by
12 the court of their right to counsel in dependency proceedings
13 at each stage of the dependency proceedings. Parents who are
14 unable to afford counsel must be appointed counsel.

15 (2) The circuit court has ~~shall have~~ exclusive
16 original jurisdiction of all proceedings under this chapter,
17 of a child voluntarily placed with a licensed child-caring
18 agency, a licensed child-placing agency, or the department,
19 and of the adoption of children whose parental rights have
20 been terminated under this chapter. Jurisdiction attaches when
21 the initial shelter petition, dependency petition, or
22 termination of parental rights petition is filed or when a
23 child is taken into the custody of the department. The circuit
24 court may assume jurisdiction over any such proceeding
25 regardless of whether the child was in the physical custody of
26 both parents, was in the sole legal or physical custody of
27 only one parent, caregiver, or some other person, or was in
28 the physical or legal custody of no person when the event or
29 condition occurred that brought the child to the attention of
30 the court. When the court obtains jurisdiction of any child
31 who has been found to be dependent, the court shall retain

1 jurisdiction, unless relinquished by its order, until the
2 child reaches 18 years of age. However, if a youth petitions
3 the court at any time before his or her 19th birthday
4 requesting the court's continued jurisdiction, the juvenile
5 court may retain jurisdiction under this chapter for a period
6 not to exceed 1 year following the youth's 18th birthday for
7 the purpose of determining whether appropriate aftercare
8 support, Road-to-Independence Scholarship, transitional
9 support, mental health, and developmental disability services,
10 to the extent otherwise authorized by law, have been provided
11 to the formerly dependent child who was in the legal custody
12 of the department immediately before his or her 18th birthday.
13 If a petition for special immigrant juvenile status and an
14 application for adjustment of status have been filed on behalf
15 of a foster child and the petition and application have not
16 been granted by the time the child reaches 18 years of age,
17 the court may retain jurisdiction over the dependency case
18 solely for the purpose of allowing the continued consideration
19 of the petition and application by federal authorities. Review
20 hearings for the child shall be set solely for the purpose of
21 determining the status of the petition and application. The
22 court's jurisdiction terminates upon the final decision of the
23 federal authorities. Retention of jurisdiction in this
24 instance does not affect the services available to a young
25 adult under s. 409.1451. The court may not retain jurisdiction
26 of the case after the immigrant child's 22nd birthday.

27 (3) When a child is under the jurisdiction of the
28 circuit court pursuant to ~~the provisions of~~ this chapter, the
29 circuit court assigned to handle dependency matters may
30 exercise the general and equitable jurisdiction over
31 guardianship proceedings under ~~pursuant to the provisions of~~

1 chapter 744 and proceedings for temporary custody of minor
2 children by extended family under ~~pursuant to the provisions~~
3 ~~of~~ chapter 751.

4 (4) Orders entered pursuant to this chapter which
5 affect the placement of, access to, parental time with,
6 adoption of, or parental rights and responsibilities for a
7 minor child shall take precedence over other orders entered in
8 civil actions or proceedings. However, if the court has
9 terminated jurisdiction, the ~~such~~ order may be subsequently
10 modified by a court of competent jurisdiction in any other
11 civil action or proceeding affecting placement of, access to,
12 parental time with, adoption of, or parental rights and
13 responsibilities for the same minor child.

14 (5) The court shall expedite the resolution of the
15 placement issue in cases involving a child who has been
16 removed from the parent and placed in an out-of-home
17 placement.

18 (6) The court shall expedite the judicial handling of
19 all cases when the child has been removed from the parent and
20 placed in an out-of-home placement.

21 (7) Children removed from their homes shall be
22 provided equal treatment with respect to goals, objectives,
23 services, and case plans, without regard to the location of
24 their placement.

25 (8) For any child who remains in the custody of the
26 department, the court shall, within the month which
27 constitutes the beginning of the 6-month period before the
28 child's 18th birthday, hold a hearing to review the progress
29 of the child while in the custody of the department.

30 (9)(a) At each stage of the proceedings under this
31 chapter, the court shall advise the parents of the right to

1 counsel. The court shall appoint counsel for indigent parents.
2 The court shall ascertain whether the right to counsel is
3 understood. When right to counsel is waived, the court shall
4 determine whether the waiver is knowing and intelligent. The
5 court shall enter its findings in writing with respect to the
6 appointment or waiver of counsel for indigent parents or the
7 waiver of counsel by nonindigent parents.

8 (b) Once counsel has entered an appearance or been
9 appointed by the court to represent the parent of the child,
10 the attorney shall continue to represent the parent throughout
11 the proceedings. If the attorney-client relationship is
12 discontinued, the court shall advise the parent of the right
13 to have new counsel retained or appointed for the remainder of
14 the proceedings.

15 (c)1. ~~A~~ No waiver of counsel may not be accepted if it
16 appears that the parent is unable to make an intelligent and
17 understanding choice because of mental condition, age,
18 education, experience, the nature or complexity of the case,
19 or other factors.

20 2. A waiver of counsel made in court must be of
21 record.

22 3. If a waiver of counsel is accepted at any hearing
23 or proceeding, the offer of assistance of counsel must be
24 renewed by the court at each subsequent stage of the
25 proceedings at which the parent appears without counsel.

26 (d) This subsection does not apply to any parent who
27 has voluntarily executed a written surrender of the child and
28 consents to the entry of a court order terminating parental
29 rights.

30 ~~(10) The time limitations in this chapter do not~~
31 ~~include:~~

1 ~~(a) Periods of delay resulting from a continuance~~
2 ~~granted at the request or with the consent of the child's~~
3 ~~counsel or the child's guardian ad litem, if one has been~~
4 ~~appointed by the court, or, if the child is of sufficient~~
5 ~~capacity to express reasonable consent, at the request or with~~
6 ~~the consent of the child.~~

7 ~~(b) Periods of delay resulting from a continuance~~
8 ~~granted at the request of any party, if the continuance is~~
9 ~~granted:~~

10 ~~1. Because of an unavailability of evidence material~~
11 ~~to the case when the requesting party has exercised due~~
12 ~~diligence to obtain such evidence and there are substantial~~
13 ~~grounds to believe that such evidence will be available within~~
14 ~~30 days. However, if the requesting party is not prepared to~~
15 ~~proceed within 30 days, any other party, inclusive of the~~
16 ~~parent or legal custodian, may move for issuance of an order~~
17 ~~to show cause or the court on its own motion may impose~~
18 ~~appropriate sanctions, which may include dismissal of the~~
19 ~~petition.~~

20 ~~2. To allow the requesting party additional time to~~
21 ~~prepare the case and additional time is justified because of~~
22 ~~an exceptional circumstance.~~

23 ~~(c) Reasonable periods of delay necessary to~~
24 ~~accomplish notice of the hearing to the child's parent or~~
25 ~~legal custodian; however, the petitioner shall continue~~
26 ~~regular efforts to provide notice to the parents during such~~
27 ~~periods of delay.~~

28 ~~(d) Reasonable periods of delay resulting from a~~
29 ~~continuance granted at the request of the parent or legal~~
30 ~~custodian of a subject child.~~

31

1 ~~(e) Notwithstanding the foregoing, continuances and~~
2 ~~extensions of time are limited to the number of days~~
3 ~~absolutely necessary to complete a necessary task in order to~~
4 ~~preserve the rights of a party or the best interests of a~~
5 ~~child. Time is of the essence for the best interests of~~
6 ~~dependent children in conducting dependency proceedings in~~
7 ~~accordance with the time limitations set forth in this~~
8 ~~chapter. Time limitations are a right of the child which may~~
9 ~~not be waived, extended, or continued at the request of any~~
10 ~~party in advance of the particular circumstances or need~~
11 ~~arising upon which delay of the proceedings may be warranted.~~

12 ~~(f) Continuances or extensions of time may not total~~
13 ~~more than 60 days for all parties within any 12 month period~~
14 ~~during proceedings under this chapter. A continuance or~~
15 ~~extension of time beyond the 60 days may be granted only for~~
16 ~~extraordinary circumstances necessary to preserve the~~
17 ~~constitutional rights of a party or when substantial evidence~~
18 ~~demonstrates that the child's best interests will be~~
19 ~~affirmatively harmed without the granting of a continuance or~~
20 ~~extension of time.~~

21 ~~(10)(11)~~ Court-appointed counsel representing indigent
22 parents at shelter hearings shall be paid from state funds
23 appropriated by general law.

24 ~~(11)(12)~~ The court shall encourage the Statewide
25 Guardian Ad Litem Office to provide greater representation to
26 those children who are within 1 year of transferring out of
27 foster care.

28 Section 3. Section 39.0136, Florida Statutes, is
29 created to read:

30 39.0136 Time limitations; continuances.--
31

1 (1) The Legislature finds that time is of the essence
2 for establishing permanency for a child in the dependency
3 system. Time limitations are a right of the child which may
4 not be waived, extended, or continued at the request of any
5 party except as provided in this section.

6 (2) In order to expedite permanency for a child, the
7 total time allowed for continuances or extensions of time may
8 not exceed 60 days within any 12-month period for proceedings
9 conducted under this chapter. A continuance or extension of
10 time may be granted only for extraordinary circumstances in
11 which it is necessary to preserve the constitutional rights of
12 a party or if substantial evidence exists to demonstrate that
13 without granting a continuance or extension of time the
14 child's best interests will be harmed.

15 (3) The time limitations in this chapter do not
16 include:

17 (a) Periods of delay resulting from a continuance
18 granted at the request of the child's counsel or the child's
19 guardian ad litem or, if the child is of sufficient capacity
20 to express reasonable consent, at the request or with the
21 consent of the child. The court must consider the best
22 interests of the child when determining periods of delay under
23 this section.

24 (b) Periods of delay resulting from a continuance
25 granted at the request of any party if the continuance is
26 granted:

27 1. Because of an unavailability of evidence that is
28 material to the case if the requesting party has exercised due
29 diligence to obtain evidence and there are substantial grounds
30 to believe that the evidence will be available within 30 days.
31 However, if the requesting party is not prepared to proceed

1 within 30 days, any other party may move for issuance of an
2 order to show cause or the court on its own motion may impose
3 appropriate sanctions, which may include dismissal of the
4 petition.

5 2. To allow the requesting party additional time to
6 prepare the case and additional time is justified because of
7 an exceptional circumstance.

8 (c) Reasonable periods of delay necessary to
9 accomplish notice of the hearing to the child's parent or
10 legal custodian; however, the petitioner shall continue
11 regular efforts to provide notice to the parents during the
12 periods of delay.

13 (4) Notwithstanding subsection (3), a continuance or
14 an extension of time is limited to the number of days
15 absolutely necessary to complete a necessary task in order to
16 preserve the rights of a party or the best interests of a
17 child.

18 Section 4. Section 39.0137, Florida Statutes, is
19 created to read:

20 39.0137 Federal law; rulemaking authority.--

21 (1) This chapter does not supersede the requirements
22 of the Indian Child Welfare Act, 25 U.S.C. ss. 1901, et seq.,
23 or the Multi-Ethnic Placement Act of 1994, Pub. L. No.
24 103-382, as amended, or the implementing regulations.

25 (2) The department shall adopt rules no later than
26 July 1, 2007, to ensure that the provisions of these federal
27 laws are enforced in this state. The department is encouraged
28 to enter into agreements with recognized American Indian
29 tribes in order to facilitate the implementation of the Indian
30 Child Welfare Act.

31

1 Section 5. Section 39.0138, Florida Statutes, is
2 created to read:

3 39.0138 Requirements for placement of dependent
4 children; exemptions from disqualification.--

5 (1)(a) The department may conduct criminal record
6 checks equivalent to the level 2 screening required in s.
7 435.04 for any person being considered by the department for
8 approval for placement of a child subject to a placement
9 decision under this chapter. Approval for placement with any
10 person other than a parent may not be granted in any case in
11 which a record check reveals a felony conviction in a court of
12 competent jurisdiction for:

13 1. Child abuse, abandonment, or neglect; spousal
14 abuse; a crime against children, including child pornography,
15 or a crime involving violence, including sexual battery,
16 sexual assault, or homicide, but not including other physical
17 assault or battery, if the felony was committed at any time;
18 or

19 2. Physical assault, battery, or a drug-related
20 offense if the felony was committed within the past 5 years.

21 (b) Notwithstanding paragraph (a), the department may
22 place a child in a home that otherwise meets placement
23 requirements if state and local criminal record checks do not
24 disqualify the applicant and if the department has submitted
25 fingerprint information to the Department of Law Enforcement
26 for forwarding to the Federal Bureau of Investigation and is
27 awaiting the results of the federal criminal records check.

28 (c) Persons with whom placement of a child is being
29 considered or approved must disclose to the department any
30 prior or pending local, state, or federal criminal proceedings
31 in which they are or have been involved.

1 (d) The results of any background check of a parent
2 conducted under this section must be considered in determining
3 whether placement with the parent will jeopardize the safety
4 of the child being placed.

5 (2) For purposes of this section and ss. 39.401(3) and
6 39.521(1)(d), the department and its authorized agents or
7 contract providers are considered criminal justice agencies
8 for the purpose of accessing criminal justice information,
9 including information from the National Crime Information
10 Center, to be used for enforcing the state's laws concerning
11 the crimes of child abuse, abandonment, and neglect. This
12 information shall be used solely for purposes supporting the
13 detection, apprehension, prosecution, pretrial release,
14 posttrial release, or rehabilitation of criminal offenders or
15 persons accused of the crimes of child abuse, abandonment, or
16 neglect and may not be further disseminated or used for any
17 other purposes.

18 (3) The department may grant to any person who is
19 otherwise disqualified for approval of placement of a
20 dependent child an exemption from disqualification for:

21 (a) Felonies committed more than 3 years before the
22 date of disqualification;

23 (b) Misdemeanors prohibited under any of the Florida
24 Statutes cited in this chapter or under similar statutes of
25 other jurisdictions;

26 (c) Offenses that were felonies when committed but
27 that are currently misdemeanors;

28 (d) Findings of delinquency; or

29 (e) Commissions of acts of domestic violence as
30 defined in s. 741.30.

31

1 For the purposes of this subsection, the term "felonies" means
2 felonies prohibited under any of the Florida Statutes cited in
3 this chapter or under similar statutes of other jurisdictions.

4 (4) In order for the department to grant an exemption
5 to any person, the person must demonstrate by clear and
6 convincing evidence that the person should not be disqualified
7 for approval of the placement of a dependent child. A person
8 seeking an exemption has the burden of setting forth
9 sufficient evidence of rehabilitation, including, but not
10 limited to, the circumstances surrounding the incident for
11 which an exemption is sought, the time period that has elapsed
12 since the incident, the nature of the harm caused to the
13 victim, and the history of the person since the incident, or
14 any other evidence or circumstances indicating that the person
15 will not present a danger if the placement of a child is
16 allowed. The decision of the department regarding an exemption
17 may be contested through the hearing procedures set forth in
18 chapter 120.

19 (5) Disqualification from placement of a child under
20 subsection (3) may not be removed from, nor may an exemption
21 be granted to, any person who is found guilty of, regardless
22 of adjudication, or who has entered a plea of nolo contendere
23 or guilty to, any felony covered by s. 435.03 solely by reason
24 of any pardon, executive clemency, or restoration of civil
25 rights.

26 Section 6. Subsection (22) of section 39.301, Florida
27 Statutes, is amended to read:

28 39.301 Initiation of protective investigations.--

29 (22) When an investigation is closed and a person is
30 not identified as a caregiver responsible for the abuse,
31 neglect, or abandonment alleged in the report, the fact that

1 the person is named in some capacity in the report may not be
2 used in any way to adversely affect the interests of that
3 person. This prohibition applies to any use of the information
4 in employment screening, licensing, child placement,
5 adoption, or any other decisions by a private adoption agency
6 or a state agency or its contracted providers, except that a
7 previous report may be used to determine whether a child is
8 safe and what the known risk is to the child at any stage of a
9 child-protection proceeding.

10 Section 7. Subsections (10) and (16) of section
11 39.402, Florida Statutes, are amended, and subsections (17)
12 and (18) are added to that section, to read:

13 39.402 Placement in a shelter.--

14 (10)(a) The shelter hearing order shall contain a
15 written determination as to whether the department has made a
16 reasonable effort to prevent or eliminate the need for removal
17 or continued removal of the child from the home. This
18 determination must include a description of which specific
19 services, if available, could prevent or eliminate the need
20 for removal or continued removal from the home and the date by
21 which the services are expected to become available.

22 (b) If services are not available to prevent or
23 eliminate the need for removal or continued removal of the
24 child from the home, the written determination must also
25 contain an explanation describing why the services are not
26 available for the child.

27 (c) If the department has not made ~~such~~ an effort to
28 prevent or eliminate the need for removal, the court shall
29 order the department to provide appropriate and available
30 services to ensure the protection of the child in the home
31

1 when ~~the such~~ services are necessary for the child's health
2 and safety.

3 (16) At the conclusion of a shelter hearing, the court
4 shall:

5 (a) Notify all parties in writing of the next
6 scheduled hearing to review the shelter placement. ~~The Such~~
7 hearing shall be held no later than 30 days after placement of
8 the child in shelter status, in conjunction with the
9 arraignment hearing, and at such times as are otherwise
10 provided by law or determined by the court to be necessary;
11 ~~and-~~

12 (b) Notify all parties in writing of the date, time,
13 and place of the case plan conference, family team conference,
14 or mediation that will be used to develop the case plan. The
15 case plan conference, family team conference, or mediation
16 must take place no later than 30 days after placing the child
17 in shelter status.

18 (17) At the shelter hearing, the court shall inquire
19 of the parent whether the parent has relatives who might be
20 considered as a placement for the child. The parent shall
21 provide to the court and all parties identification and
22 location information regarding the relatives.

23 (18) The court shall advise the parents that, if the
24 child is not returned to their custody within 12 months, their
25 parental rights may be terminated and that the child's
26 out-of-home placement may become permanent.

27 Section 8. Present subsections (7) and (8) of section
28 39.507, Florida Statutes, are redesignated as subsections (8)
29 and (9), respectively, and a new subsection (7) is added to
30 that section, to read:
31

1 39.507 Adjudicatory hearings; orders of
2 adjudication.--

3 (7) If a court adjudicates a child dependent and the
4 child is in out-of-home care, the court shall inquire of the
5 parent or parents whether the parents have relatives who might
6 be considered as a placement for the child. The court shall
7 advise the parents that, if the child is not returned to their
8 custody within 12 months, their parental rights may be
9 terminated and that the child's out-of-home placement may
10 become permanent. The parent or parents shall provide to the
11 court and all parties identification and location information
12 of the relatives.

13 Section 9. Paragraph (c) of subsection (1) and
14 paragraph (a) of subsection (2) of section 39.5085, Florida
15 Statutes, are amended to read:

16 39.5085 Relative Caregiver Program.--

17 (1) It is the intent of the Legislature in enacting
18 this section to:

19 (c) Recognize that permanency in the best interests of
20 the child can be achieved through a variety of permanency
21 options, including permanent guardianship by a relative
22 ~~long term relative custody~~, guardianship, or adoption, by
23 providing additional placement options and incentives that
24 will achieve permanency and stability for many children who
25 are otherwise at risk of foster care placement because of
26 abuse, abandonment, or neglect, but who may successfully be
27 able to be placed by the dependency court in the care of such
28 relatives.

29 (2)(a) The Department of Children and Family Services
30 shall establish and operate the Relative Caregiver Program
31 under ~~pursuant to~~ eligibility guidelines established in this

1 section as further implemented by rule of the department. The
2 Relative Caregiver Program shall, within the limits of
3 available funding, provide financial assistance to:

4 1. Relatives who are within the fifth degree by blood
5 or marriage to the parent or stepparent of a child and who are
6 caring full-time for that dependent child in the role of
7 substitute parent as a result of a court's determination of
8 child abuse, neglect, or abandonment and subsequent placement
9 with the relative under ~~pursuant to~~ this chapter.

10 2. Relatives who are within the fifth degree by blood
11 or marriage to the parent or stepparent of a child and who are
12 caring full-time for that dependent child, and a dependent
13 half-brother or half-sister of that dependent child, in the
14 role of substitute parent as a result of a court's
15 determination of child abuse, neglect, or abandonment and
16 subsequent placement with the relative under ~~pursuant to~~ this
17 chapter.

18
19 The ~~Such~~ placement may be either court-ordered temporary legal
20 custody to the relative under protective supervision of the
21 department under ~~pursuant to~~ s. 39.521(1)(b)3., or
22 court-ordered placement in the home of a relative as a
23 permanency option under s. 39.6221 or s. 39.6231 ~~pursuant to~~
24 ~~s. 39.622~~. The Relative Caregiver Program shall offer
25 financial assistance to caregivers who are relatives and who
26 would be unable to serve in that capacity without the relative
27 caregiver payment because of financial burden, thus exposing
28 the child to the trauma of placement in a shelter or in foster
29 care.

30 Section 10. Subsection (1) of section 39.522, Florida
31 Statutes, is amended to read:

1 39.522 Postdisposition change of custody.--The court
2 may change the temporary legal custody or the conditions of
3 protective supervision at a postdisposition hearing, without
4 the necessity of another adjudicatory hearing.

5 (1) A child who has been placed in the child's own
6 home under the protective supervision of an authorized agent
7 of the department, in the home of a relative, in the home of a
8 legal custodian, or in some other place may be brought before
9 the court by the department or by any other interested person,
10 upon the filing of a petition alleging a need for a change in
11 the conditions of protective supervision or the placement. If
12 the parents or other legal custodians deny the need for a
13 change, the court shall hear all parties in person or by
14 counsel, or both. Upon the admission of a need for a change or
15 after such hearing, the court shall enter an order changing
16 the placement, modifying the conditions of protective
17 supervision, or continuing the conditions of protective
18 supervision as ordered. The standard for changing custody of
19 the child shall be the best interest of the child. When
20 applying this standard, the court shall consider the
21 continuity of the child's placement in the same out-of-home
22 residence as a factor when determining the best interests of
23 the child. If the child is not placed in foster care, then the
24 new placement for the child must meet the home study criteria
25 and court approval pursuant to this chapter.

26 Section 11. Section 39.6011, Florida Statutes, is
27 created to read:

28 39.6011 Case plan development.--

29 (1) The department shall prepare a draft of the case
30 plan for each child receiving services under this chapter. A
31 parent of a child may not be threatened or coerced with the

1 loss of custody or parental rights for failing to admit in the
2 case plan of abusing, neglecting, or abandoning a child.
3 Participating in the development of a case plan is not an
4 admission to any allegation of abuse, abandonment, or neglect,
5 and it is not a consent to a finding of dependency or
6 termination of parental rights. The case plan shall be
7 developed subject to the following requirements:
8 (a) The case plan must be developed in a face-to-face
9 conference with the parent of the child, any court-appointed
10 guardian ad litem, and, if appropriate, the child and the
11 temporary custodian of the child. The conference to prepare a
12 case plan must be scheduled under s. 39.402(16)(b) and must be
13 conducted according to one of the following procedures:
14 1. A case plan conference that is a meeting among the
15 parties described in this subsection.
16 2. A mediation if dependency mediation services are
17 available and appropriate and in the best interests of the
18 child.
19 3. A family team conference if a family team
20 conference is available.
21 (b) The parent may receive assistance from any person
22 or social service agency in preparing the case plan. The
23 social service agency, the department, and the court, when
24 applicable, shall inform the parent of the right to receive
25 such assistance, including the right to assistance of counsel.
26 (c) If a parent is unwilling or unable to participate
27 in developing a case plan, the department shall document that
28 unwillingness or inability to participate. The documentation
29 must be provided in writing to the parent when available for
30 the court record, and the department shall prepare a case plan
31 conforming as nearly as possible with the requirements set

1 forth in this section. The unwillingness or inability of the
2 parent to participate in developing a case plan does not
3 preclude the filing of a petition for dependency or for
4 termination of parental rights. The parent, if available, must
5 be provided a copy of the case plan and be advised that he or
6 she may, at any time before the filing of a petition for
7 termination of parental rights, enter into a case plan and
8 that he or she may request judicial review of any provision of
9 the case plan with which he or she disagrees at any court
10 hearing set for the child.

11 (2) The case plan must be written simply and clearly
12 in English and, if English is not the principal language of
13 the child's parent, to the extent possible in the parent's
14 principal language. Each case plan must contain:

15 (a) A description of the identified problem being
16 addressed, including the parent's behavior or acts resulting
17 in risk to the child and the reason for the intervention by
18 the department.

19 (b) The permanency goal as defined in s. 39.01(51).

20 (c) If concurrent planning is being used, a
21 description of the permanency goal of reunification with the
22 parent or legal custodian in addition to a description of one
23 of the remaining permanency goals described in s. 39.01(51).

24 (d) The date the compliance period expires. The case
25 plan must be limited to as short a period as possible for
26 accomplishing its provisions. The plan's compliance period
27 expires no later than 12 months after the date the child was
28 initially removed from the home or the date the case plan was
29 accepted by the court, whichever occurs sooner.

30 (e) A written notice to the parent that failure of the
31 parent to substantially comply with the case plan may result

1 in the termination of parental rights, and that a material
2 breach of the case plan may result in the filing of a petition
3 for termination of parental rights sooner than the compliance
4 period set forth in the case plan under s. 39.806(2).

5 (3) The case plan must be signed by all parties,
6 except that the signature of a child may be waived if the
7 child is not of an age or capacity to participate in the
8 case-planning process. Signing the case plan constitutes an
9 acknowledgement that the case plan has been developed by the
10 parties and that they are in agreement as to the terms and
11 conditions contained in the case plan. The refusal of a parent
12 to sign the case plan does not prevent the court from
13 accepting the case plan if the case plan is otherwise
14 acceptable to the court. Signing the case plan does not
15 constitute an admission to any allegation of abuse,
16 abandonment, or neglect and does not constitute consent to a
17 finding of dependency or termination of parental rights.
18 Before signing the case plan, the department shall explain the
19 provisions of the plan to all persons involved in its
20 implementation, including, when appropriate, the child.

21 (4) The case plan must describe:

22 (a) The role of the foster parents or legal custodians
23 when developing the services that are to be provided to the
24 child, foster parents, or legal custodians;

25 (b) The minimum number of face-to-face meetings to be
26 held each month between the parents and the department's
27 family services counselors to review the progress of the plan,
28 to eliminate barriers to progress, and to resolve conflicts or
29 disagreements; and

30 (c) The parent's responsibility for financial support
31 of the child, including, but not limited to, health insurance

1 and child support. The case plan must list the costs
2 associated with any services or treatment that the parent and
3 child are expected to receive which are the financial
4 responsibility of the parent. The determination of child
5 support and other financial support shall be made
6 independently of any determination of indigency under s.
7 39.013.

8 (5) When the permanency goal for a child is adoption,
9 the case plan must include documentation of the steps the
10 agency is taking to find an adoptive family or other permanent
11 living arrangement for the child. At a minimum, the
12 documentation shall include recruitment efforts that are
13 specific to the child, such as the use of state, regional, and
14 national adoption exchanges, including electronic exchange
15 systems.

16 (6) After the case plan has been developed, the
17 department shall adhere to the following procedural
18 requirements:

19 (a) If the parent's substantial compliance with the
20 case plan requires the department to provide services to the
21 parents or the child and the parents agree to begin compliance
22 with the case plan before the case plan's acceptance by the
23 court, the department shall make the appropriate referrals for
24 services that will allow the parents to begin the agreed-upon
25 tasks and services immediately.

26 (b) After the case plan has been agreed upon and
27 signed by the parties, a copy of the plan must be given
28 immediately to the parties, including the child if
29 appropriate, and to other persons as directed by the court.

30 1. A case plan must be prepared, but need not be
31 submitted to the court, for a child who will be in care no

1 longer than 30 days unless that child is placed in out-of-home
2 care a second time within a 12-month period.

3 2. In each case in which a child has been placed in
4 out-of-home care, a case plan must be prepared within 60 days
5 after the department removes the child from the home and shall
6 be submitted to the court before the disposition hearing for
7 the court to review and approve.

8 3. After jurisdiction attaches, all case plans must be
9 filed with the court and a copy provided to all the parties
10 whose whereabouts are known not less than 3 business days
11 before the disposition hearing. The department shall file with
12 the court, and provide copies to the parties, all case plans
13 prepared before jurisdiction of the court attached.

14 4. The case plan must be filed with the court and
15 copies provided to all parties, including the child if
16 appropriate, not less than 3 business days before the
17 disposition hearing.

18 Section 12. Section 39.6012, Florida Statutes, is
19 created to read:

20 39.6012 Case plan tasks; services; compliance.--

21 (1) In order to substantially comply with the case
22 plan, a parent must complete the specified tasks and services
23 described in the plan.

24 (2) The services to be provided to the parent and the
25 tasks that must be completed are subject to the following:

26 (a) The services described in the case plan must be
27 designed to improve the conditions in the home and aid in
28 maintaining the child in the home, facilitate the child's safe
29 return to the home, ensure proper care of the child, or
30 facilitate the child's permanent placement. The services
31 offered must be the least intrusive possible into the life of

1 the parent and child, must focus on clearly defined
2 objectives, and must provide the most efficient path to quick
3 reunification or permanent placement given the circumstances
4 of the case and the child's need for safe and proper care.

5 (b) The case plan must describe each of the tasks with
6 which the parent must comply and the services to be provided
7 to the parent, specifically addressing the identified problem,
8 including:

9 1. The type of services or treatment.

10 2. The date the department will provide each service
11 or referral for the service if the service is being provided
12 by the department or its agent.

13 3. The date by which the parent must complete each
14 task.

15 4. The frequency of services or treatment provided.
16 The frequency of the delivery of services or treatment
17 provided shall be determined by the professionals providing
18 the services or treatment on a case-by-case basis and adjusted
19 according to their best professional judgment.

20 5. The location of the delivery of the services.

21 6. The staff of the department or service provider
22 accountable for the services or treatment.

23 7. A description of the measurable objectives,
24 including the timeframes specified for achieving the
25 objectives of the case plan and addressing the identified
26 problem.

27 (3) The case plan must describe the services provided
28 to the child, including:

29 (a) A description of the identified needs of the child
30 while in care.

31

1 (b) A description of the plan for ensuring that the
2 child receives safe and proper care and that services are
3 provided to the child in order to address the child's needs.
4 To the extent available and accessible, the following health,
5 mental health, and education information and records of the
6 child must be attached to the case plan and updated throughout
7 the judicial-review process:

8 1. The names and addresses of the child's health,
9 mental health, and educational providers;

10 2. The child's grade-level performance;

11 3. The child's school record;

12 4. Assurances that the child's placement takes into
13 account proximity to the school in which the child is enrolled
14 at the time of placement;

15 5. A record of the child's immunizations;

16 6. The child's known medical history, including any
17 known problems;

18 7. The child's medications, if any; and

19 8. Any other relevant health, mental health, and
20 education information concerning the child.

21 (4) In addition to any other requirement, if the child
22 is in an out-of-home placement, the case plan must include:

23 (a) A description of the type of placement in which
24 the child is to be living.

25 (b) A description of the parent's visitation rights
26 and obligations and the plan for sibling visitation if the
27 child has siblings and is separated from them.

28 (c) When appropriate, for a child who is 13 years of
29 age or older, a written description of the programs and
30 services that will help the child prepare for the transition
31 from foster care to independent living.

1 Section 13. Section 39.6013, Florida Statutes, is
2 created to read:

3 39.6013 Case plan amendments.--

4 (1) After the case plan has been developed under s.
5 39.6011, the tasks and services agreed upon in the plan may
6 not be changed or altered in any way except as provided in
7 this section.

8 (2) The case plan may be amended at any time in order
9 to change the goal of the plan, employ the use of concurrent
10 planning, add or remove tasks the parent must complete to
11 substantially comply with the plan, provide appropriate
12 services for the child, and update the child's health, mental
13 health, and education records required by s. 39.6012.

14 (3) The case plan may be amended upon approval of the
15 court if all parties are in agreement regarding the amendments
16 to the plan and the amended plan is signed by all parties and
17 submitted to the court with a memorandum of explanation.

18 (4) The case plan may be amended by the court or upon
19 motion of any party at any hearing to change the goal of the
20 plan, employ the use of concurrent planning, or add or remove
21 tasks the parent must complete in order to substantially
22 comply with the plan if there is a preponderance of evidence
23 demonstrating the need for the amendment. The need to amend
24 the case plan may be based on information discovered or
25 circumstances arising after the approval of the case plan for:

26 (a) A previously unaddressed condition that, without
27 services, may prevent the child from safely returning to the
28 home or may prevent the child from safely remaining in the
29 home;

30 (b) The child's need for permanency, taking into
31 consideration the child's age and developmental needs;

1 (c) The failure of a party to substantially comply
2 with a task in the original case plan, including the
3 ineffectiveness of a previously offered service; or

4 (d) An error or oversight in the case plan.

5 (5) The case plan may be amended by the court or upon
6 motion of any party at any hearing to provide appropriate
7 services to the child if there is competent evidence
8 demonstrating the need for the amendment. The reason for
9 amending the case plan may be based on information discovered
10 or circumstances arising after the approval of the case plan
11 regarding the provision of safe and proper care to the child.

12 (6) The case plan is deemed amended as to the child's
13 health, mental health, and education records required by s.
14 39.6012 when the child's updated health and education records
15 are filed by the department under s. 39.701(7)(a).

16 (7) Amendments must include service interventions that
17 are the least intrusive into the life of the parent and child,
18 must focus on clearly defined objectives, and must provide the
19 most efficient path to quick reunification or permanent
20 placement given the circumstances of the case and the child's
21 need for safe and proper care. A copy of the amended plan must
22 be immediately given to the persons identified in s.
23 39.601(1).

24 Section 14. Subsection (2) of section 39.603, Florida
25 Statutes, is amended to read:

26 39.603 Court approvals of case planning.--

27 (2) When the court determines that any of the elements
28 considered at the hearing related to the plan have not been
29 met, the court shall require the parties to make necessary
30 amendments to the plan under s. 39.6013. The amended plan must
31 be submitted to the court for review and approval within 30

1 days after the hearing. A copy of the amended plan must also
2 be provided to each party, if the location of the party is
3 known, at least 3 business days ~~72 hours~~ before ~~prior to~~
4 filing with the court.

5 Section 15. Section 39.621, Florida Statutes, is
6 amended to read:

7 39.621 Permanency determination by the court.--

8 (1) Time is of the essence for permanency of children
9 in the dependency system. A permanency hearing must be held no
10 later than 12 months after the date the child was removed from
11 the home or no later than 30 days after a court determines
12 that reasonable efforts to return a child to either parent are
13 not required, whichever occurs first. A permanency hearing
14 must be held at least every 12 months for any child who
15 continues to receive supervision from the department or awaits
16 adoption. When the court has determined that reunification
17 with either parent is not appropriate, then the court must
18 make a permanency determination for the child.

19 (2) Adoption, under ~~pursuant to~~ chapter 63, is the
20 primary permanency option available to the court. If the child
21 is placed with a relative or with a relative of the child's
22 half-brother or half-sister as a permanency option, the court
23 shall recognize the permanency of this placement without
24 requiring the relative to adopt the child.

25 (3) At the permanency hearing, the court, after
26 considering all the facts, shall determine:

27 (a) Whether the current permanency goal for the child
28 is appropriate or should be changed;

29 (b) When the child will achieve one of the permanency
30 goals; and

31

1 ~~(c) Whether the department has made reasonable efforts~~
2 ~~to finalize the permanency goal currently in effect. The~~
3 ~~permanency options listed in the following paragraphs shall~~
4 ~~only be considered by the court if adoption is determined by~~
5 ~~the court to not be in the child's best interest, except as~~
6 ~~otherwise provided in subsection (2):~~

7 ~~(a) Guardianship pursuant to chapter 744.~~

8 ~~(b) Long term custody.~~

9 ~~(c) Long term licensed custody.~~

10 ~~(d) Independent living.~~

11
12 ~~The permanency placement is intended to continue until the~~
13 ~~child reaches the age of majority and shall not be disturbed~~
14 ~~absent a finding by the court that the circumstances of the~~
15 ~~permanency placement are no longer in the best interest of the~~
16 ~~child.~~

17 Section 16. Section 39.6221, Florida Statutes, is
18 created to read:

19 39.6221 Permanent guardianship of a dependent child.--

20 (1) If a court determines that reunification or
21 adoption is not in the best interest of the child, the court
22 may place the child in a permanent guardianship with a
23 relative or other adult approved by the court if all of the
24 following conditions are met:

25 (a) The child has been in the placement for not less
26 than the preceding 6 months.

27 (b) The permanent guardian is suitable and able to
28 provide a safe and permanent home for the child.

29 (c) The court determines that the child and the
30 relative or other adult are not likely to need supervision or
31

1 services of the department to ensure the stability of the
2 permanent guardianship.

3 (d) The permanent guardian has made a commitment to
4 provide for the child until the child reaches the age of
5 majority and to prepare the child for adulthood and
6 independence.

7 (e) The permanent guardian agrees to give notice of
8 any change in his or her residential address or the residence
9 of the child by filing a written document in the dependency
10 file of the child with the clerk of the court.

11 (2) In its written order establishing a permanent
12 guardianship, the court shall:

13 (a) List the circumstances or reasons why the child's
14 parents are not fit to care for the child and why
15 reunification is not possible by referring to specific
16 findings of fact made in its order adjudicating the child
17 dependent or by making separate findings of fact;

18 (b) State the reasons why a permanent guardianship is
19 being established instead of adoption;

20 (c) Specify the frequency and nature of visitation or
21 contact between the child and his or her parents;

22 (d) Specify the frequency and nature of visitation or
23 contact between the child and his or her grandparents, under
24 s. 39.509;

25 (e) Specify the frequency and nature of visitation or
26 contact between the child and his or her siblings;

27 (f) Require that the permanent guardian not return the
28 child to the physical care and custody of the person from whom
29 the child was removed without the approval of the court; and
30
31

1 (g) List the powers and duties of the permanent
2 guardian which shall include the rights and duties of a
3 parent, including, but not limited to:

4 1. The right to physical and legal custody of the
5 child;

6 2. The right and duty to protect, nurture, guide, and
7 discipline the child;

8 3. The right and duty to provide the child with food,
9 shelter, and education; and

10 4. The right and duty to provide the child with
11 ordinary medical, dental, psychiatric, and psychological care,
12 unless these rights and duties are otherwise enlarged or
13 limited by court order.

14 (3) The court shall give the permanent guardian a
15 separate order establishing the authority of the permanent
16 guardian to care for the child, reciting what powers and
17 duties listed in paragraph (2)(g) belong to the permanent
18 guardian and providing any other information the court deems
19 proper which can be provided to persons who are not parties to
20 the proceeding as necessary, notwithstanding the
21 confidentiality provisions of s. 39.202.

22 (4) A permanent guardianship of a dependent child
23 established under this chapter is not a plenary guardianship
24 and is not subject to the requirements of chapter 744.

25 (5) The court shall retain jurisdiction over the case
26 and the child shall remain in the custody of the permanent
27 guardian unless the order creating the permanent guardianship
28 is modified by the court. The court shall discontinue regular
29 review hearings and relieve the department of the
30 responsibility for supervising the placement of the child. Not
31

1 withstanding the retention of jurisdiction, the placement
2 shall be considered permanent for the child.

3 (6) Placement of a child in a permanent guardianship
4 does not terminate the parent-child relationship, including:

5 (a) The right of the child to inherit from his or her
6 parents;

7 (b) The parents' right to consent to the child's
8 adoption; and

9 (c) The parents' responsibility to provide financial,
10 medical, and other support for the child as ordered by the
11 court.

12 (7) A parent may petition for modification of the
13 permanent guardianship order. Upon filing the petition, the
14 court shall hold a hearing to determine whether the permanent
15 guardianship order should be modified. At the hearing, the
16 court may modify the order if the parent demonstrates a
17 material change in circumstances and the court determines that
18 the return of the child to the parent is in the best interests
19 of the child.

20 Section 17. Section 39.6231, Florida Statutes, is
21 created to read:

22 39.6231 Permanent placement with a fit and willing
23 relative.--

24 (1) If a court finds that reunification or adoption
25 are not in the best interests of a child, the court may place
26 the child with a fit and willing relative as a permanency
27 option if:

28 (a) The child has been in the placement for at least
29 the preceding 6 months;

30
31

1 (b) The relative has made a commitment to provide for
2 the child until the child reaches the age of majority and to
3 prepare the child for adulthood and independence;

4 (c) The relative is suitable and able to provide a
5 safe and permanent home for the child; and

6 (d) The relative agrees to give notice of any change
7 in his or her residence or the residence of the child by
8 filing a written document with the clerk of court.

9 (2) The department and the guardian ad litem shall
10 provide the court with a recommended list and description of
11 services needed by the child and the family in order to ensure
12 the permanency of the placement.

13 (3) In its written order placing the child with a fit
14 and willing relative, the court shall:

15 (a) List the circumstances or reasons why
16 reunification is not possible by referring to specific
17 findings of fact made in its order adjudicating the child
18 dependent or by making separate findings of fact;

19 (b) State the reasons why permanent placement with a
20 fit and willing relative is being established instead of
21 adoption;

22 (c) Specify the frequency and nature of visitation or
23 contact between the child and his or her parents;

24 (d) Specify the frequency and nature of visitation or
25 contact between the child and his or her grandparents, under
26 s. 39.509;

27 (e) Specify the frequency and nature of visitation or
28 contact between the child and his or her siblings; and

29 (f) Require that the permanent guardian not return the
30 child to the physical care and custody of the person from whom
31 the child was removed without the approval of the court.

1 (4) The court shall give the relative a separate order
2 establishing his or her authority to care for the child and
3 providing other information the court deems proper which can
4 be provided to entities and individuals who are not parties to
5 the proceeding as necessary, notwithstanding the
6 confidentiality of s. 39.202.

7 (5) The department shall continue to supervise the
8 placement with the relative until further court order. The
9 court shall continue to review the placement at least once
10 every 6 months until the relative becomes an adoptive
11 placement or a permanent guardian of the child.

12 (6) Each party to the proceeding must be advised by
13 the department and the court that placement with a fit and
14 willing relative does not preclude the possibility of the
15 child returning to the custody of the parent at a later date
16 if the parent demonstrates a material change in circumstances
17 and the court determines that return of the child to the
18 parent is in the best interests of the child.

19 (7) The court shall continue to conduct permanency
20 hearings in order to reevaluate the possibility of adoption or
21 permanent guardianship of the child.

22 Section 18. Section 39.6241, Florida Statutes, is
23 created to read:

24 39.6241 Another planned permanent living
25 arrangement.--

26 (1) If a court finds that reunification is not in the
27 best interests of a child, the court may approve placement of
28 the child in another planned permanent living arrangement if:

29 (a) The court finds a more permanent placement, such
30 as adoption, permanent guardianship, or placement with a fit
31

1 and willing relative, is not in the best interests of the
2 child;

3 (b) The department documents reasons why the placement
4 will endure and how the proposed arrangement will be more
5 stable and secure than ordinary foster care;

6 (c) The court finds that the health, safety, and
7 well-being of the child will not be jeopardized by such an
8 arrangement; and

9 (d) There are compelling reasons to show that another
10 placement is the most appropriate permanency goal. Compelling
11 reasons for another placement may include, but are not limited
12 to:

13 1. The case of a parent and child who have a
14 significant bond but the parent is unable to care for the
15 child because of an emotional or physical disability and the
16 child's foster parents have committed to raising him or her to
17 the age of majority and to facilitate visitation with the
18 disabled parent;

19 2. The case of a child for whom an Indian tribe has
20 identified another planned permanent living arrangement for
21 the child; or

22 3. The case of a foster child who is 16 years of age
23 or older who chooses to remain in foster care and the child's
24 foster parents are willing to care for the child until the
25 child reaches 18 years of age.

26 (2) The department and the guardian ad litem must
27 provide the court with a recommended list and description of
28 services needed by the child, such as independent living
29 services and medical, dental, educational, or psychological
30 referrals, and a recommended list and description of services
31 needed by his or her caregiver.

1 (3) The permanency placement shall continue until the
2 child reaches the age of majority and may not be disturbed
3 absent a finding by the court that the circumstances of the
4 permanency placement are no longer in the best interests of
5 the child.

6 Section 19. Paragraph (a) of subsection (7), paragraph
7 (g) of subsection (8), and subsection (9) of section 39.701,
8 Florida Statutes, are amended, and paragraph (k) is added to
9 subsection (8) of that section, to read:

10 39.701 Judicial review.--

11 (7)(a) Before ~~Prior to~~ every judicial review hearing
12 or citizen review panel hearing, the social service agency
13 shall make an investigation and social study concerning all
14 pertinent details relating to the child and shall furnish to
15 the court or citizen review panel a written report that
16 includes, but is not limited to:

17 1. A description of the type of placement the child is
18 in at the time of the hearing, including the safety of the
19 child and the continuing necessity for and appropriateness of
20 the placement.

21 2. Documentation of the diligent efforts made by all
22 parties to the case plan to comply with each applicable
23 provision of the plan.

24 3. The amount of fees assessed and collected during
25 the period of time being reported.

26 4. The services provided to the foster family or legal
27 custodian in an effort to address the needs of the child as
28 indicated in the case plan.

29 5. A statement that either:
30
31

1 a. The parent, though able to do so, did not comply
2 substantially with the ~~provisions of the~~ case plan, and the
3 agency recommendations;

4 b. The parent did substantially comply with the
5 ~~provisions of the~~ case plan; or

6 c. The parent has partially complied with the
7 ~~provisions of the~~ case plan, with a summary of additional
8 progress needed and the agency recommendations.

9 6. A statement from the foster parent or legal
10 custodian providing any material evidence concerning the
11 return of the child to the parent or parents.

12 7. A statement concerning the frequency, duration, and
13 results of the parent-child visitation, if any, and the agency
14 recommendations for an expansion or restriction of future
15 visitation.

16 8. The number of times a child has been removed from
17 his or her home and placed elsewhere, the number and types of
18 placements that have occurred, and the reason for the changes
19 in placement.

20 9. The number of times a child's educational placement
21 has been changed, the number and types of educational
22 placements which have occurred, and the reason for any change
23 in placement.

24 10. If the child has reached 13 years of age but is
25 not yet 18 years of age, the results of the preindependent
26 living, life skills, or independent living assessment; the
27 specific services needed; and the status of the delivery of
28 the identified services.

29 11. Copies of all medical, psychological, and
30 educational records that support the terms of the case plan
31

1 and that have been produced concerning the ~~child~~, parents, or
2 any caregiver since the last judicial review hearing.

3 12. Copies of the child's current health, mental
4 health, and education records as identified in s. 39.6012.

5 (8) The court and any citizen review panel shall take
6 into consideration the information contained in the social
7 services study and investigation and all medical,
8 psychological, and educational records that support the terms
9 of the case plan; testimony by the social services agency, the
10 parent, the foster parent or legal custodian, the guardian ad
11 litem if one has been appointed for the child, and any other
12 person deemed appropriate; and any relevant and material
13 evidence submitted to the court, including written and oral
14 reports to the extent of their probative value. These reports
15 and evidence may be received by the court in its effort to
16 determine the action to be taken with regard to the child and
17 may be relied upon to the extent of their probative value,
18 even though not competent in an adjudicatory hearing. In its
19 deliberations, the court and any citizen review panel shall
20 seek to determine:

21 (g) Whether the child is receiving safe and proper
22 care according to s. 39.6012, including, but not limited to,
23 the appropriateness of the child's current placement,
24 including whether the child is in a setting ~~that~~ ~~which~~ is as
25 family-like and as close to the parent's home as possible,
26 consistent with the child's best interests and special needs,
27 and including maintaining stability in the child's educational
28 placement.

29 (k) If amendments to the case plan are required.
30 Amendments to the case plan must be made under s. 39.6013.
31

1 (9)(a) Based upon the criteria set forth in subsection
2 (8) and the recommended order of the citizen review panel, if
3 any, the court shall determine whether or not the social
4 service agency shall initiate proceedings to have a child
5 declared a dependent child, return the child to the parent,
6 continue the child in out-of-home care for a specified period
7 of time, or initiate termination of parental rights
8 proceedings for subsequent placement in an adoptive home.
9 Amendments ~~Modifications~~ to the case plan must be prepared
10 ~~handled~~ as prescribed in s. 39.6013 ~~s. 39.601~~. If the court
11 finds that the prevention or reunification efforts of the
12 department will allow the child to remain safely at home or be
13 safely returned to the home, the court shall allow the child
14 to remain in or return to the home after making a specific
15 finding of fact that the reasons for the creation of the case
16 plan have been remedied to the extent that the child's safety,
17 well-being, and physical, mental, and emotional health will
18 not be endangered.

19 (b) The court shall return the child to the custody of
20 the parents at any time it determines that they have
21 substantially complied with the case plan, if the court is
22 satisfied that reunification will not be detrimental to the
23 child's safety, well-being, and physical, mental, and
24 emotional health.

25 (c) If, in the opinion of the court, the social
26 service agency has not complied with its obligations as
27 specified in the written case plan, the court may find the
28 social service agency in contempt, shall order the social
29 service agency to submit its plans for compliance with the
30 agreement, and shall require the social service agency to show
31

1 why the child could not safely be returned to the home of the
2 parents.

3 ~~(d) The court may extend the time limitation of the~~
4 ~~case plan, or may modify the terms of the plan, based upon~~
5 ~~information provided by the social service agency, and the~~
6 ~~guardian ad litem, if one has been appointed, the parent or~~
7 ~~parents, and the foster parents or legal custodian, and any~~
8 ~~other competent information on record demonstrating the need~~
9 ~~for the amendment. If the court extends the time limitation of~~
10 ~~the case plan, the court must make specific findings~~
11 ~~concerning the frequency of past parent child visitation, if~~
12 ~~any, and the court may authorize the expansion or restriction~~
13 ~~of future visitation. Modifications to the plan must be~~
14 ~~handled as prescribed in s. 39.601. Any extension of a case~~
15 ~~plan must comply with the time requirements and other~~
16 ~~requirements specified by this chapter.~~

17 ~~(d)(e)~~ If, at any judicial review, the court finds
18 that the parents have failed to substantially comply with the
19 case plan to the degree that further reunification efforts are
20 without merit and not in the best interest of the child, on
21 its own motion, the court ~~it~~ may order ~~authorize~~ the filing of
22 a petition for termination of parental rights, whether or not
23 the time period as contained in the case plan for substantial
24 compliance has expired ~~elapsed~~.

25 ~~(e)(f)~~ No later than 6 ~~12~~ months after the date that
26 the child was placed in shelter care, the court shall conduct
27 a judicial review hearing to review ~~plan for~~ the child's
28 permanency goal as identified in the case plan. At the hearing
29 the court shall make findings regarding the likelihood of the
30 child's reunification with the parent or legal custodian
31 within 12 months after the removal of the child from the home.

1 If, at this hearing, the court makes a written finding that it
2 is not likely that the child will be reunified with the parent
3 or legal custodian within 12 months after the child was
4 removed from the home, the department must file with the
5 court, and serve on all parties, a motion to amend the case
6 plan under s. 39.6013 and declare that it will use concurrent
7 planning for the case plan. The department must file the
8 motion no later than 10 business days after receiving the
9 written finding of the court. The department must attach the
10 proposed amended case plan to the motion. If concurrent
11 planning is already being used, the case plan must document
12 the efforts the department is taking to complete the
13 concurrent goal. At this hearing, if the child is not returned
14 to the physical custody of the parents, the case plan may be
15 extended with the same goals only if the court finds that the
16 situation of the child is so extraordinary that the plan
17 should be extended. The case plan must document steps the
18 department is taking to find an adoptive parent or other
19 permanent living arrangement for the child.

20 (f)(g) The court may issue a protective order in
21 assistance, or as a condition, of any other order made under
22 this part. In addition to the requirements included in the
23 case plan, the protective order may set forth requirements
24 relating to reasonable conditions of behavior to be observed
25 for a specified period of time by a person or agency who is
26 before the court; and the ~~such~~ order may require any ~~such~~
27 person or agency to make periodic reports to the court
28 containing such information as the court in its discretion may
29 prescribe.

30 Section 20. Section 39.703, Florida Statutes, is
31 amended to read:

1 39.703 Initiation of termination of parental rights
2 proceedings; judicial review.--

3 (1) If, in preparation for ~~a any~~ judicial review
4 hearing under this chapter, it is the opinion of the social
5 service agency that the parents of the child have not complied
6 with their responsibilities as specified in the written case
7 plan although able to do so, the department shall state its
8 intent to initiate proceedings to terminate parental rights,
9 unless the social service agency can demonstrate to the court
10 that such a recommendation would not be in the child's best
11 interests. If it is the intent of the department to initiate
12 proceedings to terminate parental rights, the department shall
13 file a petition for termination of parental rights no later
14 than 3 months after the date of the previous judicial review
15 hearing. If the petition cannot be filed within 3 months, the
16 department shall provide a written report to the court
17 outlining the reasons for delay, the progress made in the
18 termination of parental rights process, and the anticipated
19 date of completion of the process.

20 (2) If, at the time of the 12-month judicial review
21 hearing, a child is not returned to the physical custody of
22 the parents, the department shall file a petition to terminate
23 parental rights or, if a petition to terminate parental rights
24 has been filed by another party, seek to be joined as a party
25 to the petition previously filed. The court shall set an
26 advisory hearing at the judicial review hearing if an advisory
27 hearing has not previously been set. initiate termination of
28 ~~parental rights proceedings under this chapter within 30 days.~~
29 ~~Only if the court finds that the situation of the child is so~~
30 ~~extraordinary and that the best interests of the child will be~~
31 ~~met by such action at the time of the judicial review may the~~

1 ~~case plan be extended. If the court decides to extend the~~
2 ~~plan, the court shall enter detailed findings justifying the~~
3 ~~decision to extend, as well as the length of the extension. A~~
4 ~~termination of parental rights petition need not be filed if:~~
5 ~~the child is being cared for by a relative who chooses not to~~
6 ~~adopt the child but who is willing, able, and suitable to~~
7 ~~serve as the legal custodian for the child until the child~~
8 ~~reaches 18 years of age; the court determines that filing such~~
9 ~~a petition would not be in the best interests of the child; or~~
10 ~~the state has not provided the child's parent, when reasonable~~
11 ~~efforts to return a child are required, consistent with the~~
12 ~~time period in the state's case plan, such services as the~~
13 ~~state deems necessary for the safe return of the child to his~~
14 ~~or her home. Failure to initiate termination of parental~~
15 ~~rights proceedings at the time of the 12 month judicial review~~
16 ~~or within 30 days after such review does not prohibit~~
17 ~~initiating termination of parental rights proceedings at any~~
18 ~~other time.~~

19 (3) Notwithstanding subsection (2), the department may
20 choose not to file or join in a petition to terminate the
21 parental rights of a parent under subsection (2) if:

22 (a) The child is being cared for by a relative;

23 (b) The department has documented in the case plan a
24 compelling reason for determining that filing such a petition
25 would not be in the best interests of the child. Compelling
26 reasons for not filing or joining a petition to terminate
27 parental rights may include, but are not limited to:

28 1. Adoption is not the appropriate permanency goal for
29 the child;

30 2. No grounds to file a petition to terminate parental
31 rights exist;

1 3. The child is an unaccompanied refugee minor as
2 defined in 45 C.F.R. 400.111;

3 4. There are international legal obligations or
4 compelling foreign-policy reasons that would preclude
5 terminating parental rights; or

6 5. The department has not provided to the family,
7 consistent with the time period in the case plan, services
8 that the department deems necessary for the safe return of the
9 child to the home.

10 Section 21. Subsections (1) and (2) of section 39.806,
11 Florida Statutes, are amended to read:

12 39.806 Grounds for termination of parental rights.--

13 ~~(1) The department, the guardian ad litem, or any~~
14 ~~person who has knowledge of the facts alleged or who is~~
15 ~~informed of those facts and believes that they are true may~~
16 ~~petition~~ Grounds for the termination of parental rights may be
17 established under any of the following circumstances:

18 (a) When the parent or parents have voluntarily
19 executed a written surrender of the child and consented to the
20 entry of an order giving custody of the child to the
21 department for subsequent adoption and the department is
22 willing to accept custody of the child.

23 1. The surrender document must be executed before two
24 witnesses and a notary public or other person authorized to
25 take acknowledgments.

26 2. The surrender and consent may be withdrawn after
27 acceptance by the department only after a finding by the court
28 that the surrender and consent were obtained by fraud or under
29 duress.

30
31

1 (b) Abandonment as defined in s. 39.01(1) or when the
2 identity or location of the parent or parents is unknown and
3 cannot be ascertained by diligent search within 60 days.

4 (c) When the parent or parents engaged in conduct
5 toward the child or toward other children that demonstrates
6 that the continuing involvement of the parent or parents in
7 the parent-child relationship threatens the life, safety,
8 well-being, or physical, mental, or emotional health of the
9 child irrespective of the provision of services. Provision of
10 services may be evidenced by proof that services were provided
11 through a previous plan or offered as a case plan from a child
12 welfare agency.

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

15 1. The period of time for which the parent is expected
16 to be incarcerated will constitute a substantial portion of
17 the period of time before the child will attain the age of 18
18 years;

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

1 a law of any other jurisdiction, whether that of another
2 state, the District of Columbia, the United States or any
3 possession or territory thereof, or any foreign jurisdiction;
4 or

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

10 (e) ~~A petition for termination of parental rights may~~
11 ~~also be filed~~ When a child has been adjudicated dependent, a
12 case plan has been filed with the court, and:

13 1. The child continues to be abused, neglected, or
14 abandoned by the parents. In this case, the failure of the
15 parents to substantially comply for a period of 12 months
16 after an adjudication of the child as a dependent child or the
17 child's placement into shelter care, whichever came first,
18 constitutes evidence of continuing abuse, neglect, or
19 abandonment unless the failure to substantially comply with
20 the case plan was due either to the lack of financial
21 resources of the parents or to the failure of the department
22 to make reasonable efforts to reunify the parent and child.
23 ~~The~~ ~~Such~~ 12-month period begins ~~may begin~~ to run only after
24 the child's placement into shelter care or the entry of a
25 disposition order placing the custody of the child with the
26 department or a person other than the parent and the approval
27 by the court of a case plan with a goal of reunification with
28 the parent, whichever came first; ~~or-~~

29 2. Time is of the essence for permanency of children
30 in the dependency system. Material breach of the case plan is
31 grounds for termination of parental rights under this

1 subsection before the expiration of the time period in the
2 case plan for substantial compliance. In order to prove the
3 parent has materially breached the case plan, the court must
4 find by clear and convincing evidence that the parent is
5 unlikely or unable to substantially comply with the case plan
6 before time expires to comply with the case plan.

7 (f) When the parent or parents engaged in egregious
8 conduct or had the opportunity and capability to prevent and
9 knowingly failed to prevent egregious conduct that threatens
10 the life, safety, or physical, mental, or emotional health of
11 the child or the child's sibling.

12 1. As used in this subsection, the term "sibling"
13 means another child who resides with or is cared for by the
14 parent or parents regardless of whether the child is related
15 legally or by consanguinity.

16 2. As used in this subsection, the term "egregious
17 conduct" means abuse, abandonment, neglect, or any other
18 conduct of the parent or parents that is deplorable, flagrant,
19 or outrageous by a normal standard of conduct. Egregious
20 conduct may include an act or omission that occurred only once
21 but was of such intensity, magnitude, or severity as to
22 endanger the life of the child.

23 (g) When the parent or parents have subjected the
24 child to aggravated child abuse as defined in s. 827.03,
25 sexual battery or sexual abuse as defined in s. 39.01, or
26 chronic abuse.

27 (h) When the parent or parents have committed murder
28 or voluntary manslaughter of another child, or a felony
29 assault that results in serious bodily injury to the child or
30 another child, or aided or abetted, attempted, conspired, or
31

1 solicited to commit such a murder or voluntary manslaughter or
2 felony assault.

3 (i) When the parental rights of the parent to a
4 sibling have been terminated involuntarily.

5 (2) Reasonable efforts to preserve and reunify
6 families ~~are shall~~ not ~~be~~ required if a court of competent
7 jurisdiction has determined that any of the events described
8 in paragraphs (1)(e)-(i) have occurred.

9 Section 22. Subsection (1) of section 39.810, Florida
10 Statutes, is amended to read:

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

20 (1) Any suitable permanent custody arrangement with a
21 relative of the child. However, the availability of a
22 nonadoptive placement with a relative may not receive greater
23 consideration than any other factor weighing on the manifest
24 best interest of the child and may not be considered as a
25 factor weighing against termination of parental rights. If a
26 child has been in a stable or preadoptive placement for not
27 less than 6 months, the availability of a different placement,
28 including a placement with a relative, may not be considered
29 as a ground to deny the termination of parental rights.

30 Section 23. Subsection (4) of section 39.811, Florida
31 Statutes, is amended to read:

1 39.811 Powers of disposition; order of disposition.--
2 (4) If the child is neither in the custody of the
3 department nor in the custody of a parent and the court finds
4 that the grounds for termination of parental rights have been
5 established for either or both parents, the court shall enter
6 an order terminating parental rights for the parent or parents
7 for whom the grounds for termination have been established and
8 placing the child with the department or an appropriate legal
9 custodian. If the parental rights of both parents have been
10 terminated, or if the parental rights of only one parent have
11 been terminated and the court makes specific findings based on
12 evidence presented that placement with the remaining parent is
13 likely to be harmful to the child, the court may order that
14 the child be placed with a legal custodian other than the
15 department after hearing evidence of the suitability of the
16 ~~such~~ intended placement. Suitability of the intended placement
17 includes the fitness and capabilities of the proposed legal
18 custodian to function as the primary caregiver for a
19 particular child; and the compatibility of the child with the
20 home in which the child is intended to be placed. If the
21 court orders that a child be placed with a legal custodian
22 under this subsection, the court shall appoint a ~~such~~ legal
23 custodian ~~either~~ as the guardian for the child as provided in
24 s. 744.3021, a permanent guardian of a dependent child under
25 s. 39.6221, or a permanent placement with a fit and willing
26 relative under s. 39.6231 ~~or as the long term custodian of the~~
27 ~~child as provided in s. 39.622~~ so long as the child has been
28 residing with the legal custodian for a minimum of 6 months.
29 The court may modify the order placing the child in the
30 custody of the legal custodian and revoke the guardianship
31 established under s. 744.3021 or another ~~the long term~~

1 ~~custodial~~ relationship if the court subsequently finds the
2 placement to be no longer in the best interest of the child.

3 Section 24. Paragraph (b) of subsection (3) of section
4 39.0015, Florida Statutes, is amended to read:

5 39.0015 Child abuse prevention training in the
6 district school system.--

7 (3) DEFINITIONS.--As used in this section:

8 (b) "Child abuse" means those acts as defined in ss.
9 39.01(1), (2), ~~(32)~~, ~~(42)~~, ~~(44)~~, ~~(55)~~ ~~(30)~~, ~~(43)~~, ~~(45)~~, ~~(52)~~,
10 and ~~(62)~~ ~~(63)~~, 827.04, and 984.03(1), (2), and (37).

11 Section 25. Subsection (5) of section 39.205, Florida
12 Statutes, is amended to read:

13 39.205 Penalties relating to reporting of child abuse,
14 abandonment, or neglect.--

15 (5) If the department or its authorized agent has
16 determined after its investigation that a report is false, the
17 department shall, with the consent of the alleged perpetrator,
18 refer the report to the local law enforcement agency having
19 jurisdiction for an investigation to determine whether
20 sufficient evidence exists to refer the case for prosecution
21 for filing a false report as defined in s. 39.01(28) ~~s.~~
22 ~~39.01(27)~~. During the pendency of the investigation by the
23 local law enforcement agency, the department must notify the
24 local law enforcement agency of, and the local law enforcement
25 agency must respond to, all subsequent reports concerning
26 children in that same family in accordance with s. 39.301. If
27 the law enforcement agency believes that there are indicators
28 of abuse, abandonment, or neglect, it must immediately notify
29 the department, which must assure the safety of the children.
30 If the law enforcement agency finds sufficient evidence for
31

1 prosecution for filing a false report, it must refer the case
2 to the appropriate state attorney for prosecution.

3 Section 26. Subsection (1) of section 39.302, Florida
4 Statutes, is amended to read:

5 39.302 Protective investigations of institutional
6 child abuse, abandonment, or neglect.--

7 (1) The department shall conduct a child protective
8 investigation of each report of institutional child abuse,
9 abandonment, or neglect. Upon receipt of a report that
10 alleges that an employee or agent of the department, or any
11 other entity or person covered by s. 39.01(33) or (46) ~~s.~~
12 ~~39.01(31) or (47)~~, acting in an official capacity, has
13 committed an act of child abuse, abandonment, or neglect, the
14 department shall initiate a child protective investigation
15 within the timeframe established by the central abuse hotline
16 under ~~pursuant to~~ s. 39.201(5) and orally notify the
17 appropriate state attorney, law enforcement agency, and
18 licensing agency. These agencies shall immediately conduct a
19 joint investigation, unless independent investigations are
20 more feasible. When conducting investigations onsite or having
21 face-to-face interviews with the child, such investigation
22 visits shall be unannounced unless it is determined by the
23 department or its agent that the ~~such~~ unannounced visits would
24 threaten the safety of the child. When a facility is exempt
25 from licensing, the department shall inform the owner or
26 operator of the facility of the report. Each agency
27 conducting a joint investigation is ~~shall be~~ entitled to full
28 access to the information gathered by the department in the
29 course of the investigation. A protective investigation must
30 include an onsite visit of the child's place of residence. In
31 all cases, the department shall make a full written report to

1 | the state attorney within 3 working days after making the oral
2 | report. A criminal investigation shall be coordinated,
3 | whenever possible, with the child protective investigation of
4 | the department. Any interested person who has information
5 | regarding the offenses described in this subsection may
6 | forward a statement to the state attorney as to whether
7 | prosecution is warranted and appropriate. Within 15 days after
8 | the completion of the investigation, the state attorney shall
9 | report the findings to the department and shall include in the
10 | ~~such~~ report a determination of whether or not prosecution is
11 | justified and appropriate in view of the circumstances of the
12 | specific case.

13 | Section 27. For the purpose of incorporating the
14 | amendments made by this act to section 39.806, Florida
15 | Statutes, in a reference thereto, subsection (5) of section
16 | 39.802, Florida Statutes, is reenacted to read:

17 | 39.802 Petition for termination of parental rights;
18 | filing; elements.--

19 | (5) When a petition for termination of parental rights
20 | is filed under s. 39.806(1), a separate petition for
21 | dependency need not be filed and the department need not offer
22 | the parents a case plan with a goal of reunification, but may
23 | instead file with the court a case plan with a goal of
24 | termination of parental rights to allow continuation of
25 | services until the termination is granted or until further
26 | orders of the court are issued.

27 | Section 28. Subsection (1) of section 39.828, Florida
28 | Statutes, is amended to read:

29 | 39.828 Grounds for appointment of a guardian
30 | advocate.--

31 |

1 (1) The court shall appoint the person named in the
2 petition as a guardian advocate with all the powers and duties
3 specified in s. 39.829 for an initial term of 1 year upon a
4 finding that:

5 (a) The child named in the petition is or was a drug
6 dependent newborn as described in s. 39.01(32)(g) ~~s.~~
7 ~~39.01(30)(g)~~;

8 (b) The parent or parents of the child have
9 voluntarily relinquished temporary custody of the child to a
10 relative or other responsible adult;

11 (c) The person named in the petition to be appointed
12 the guardian advocate is capable of carrying out the duties as
13 provided in s. 39.829; and

14 (d) A petition to adjudicate the child dependent under
15 ~~pursuant to~~ this chapter has not been filed.

16 Section 29. Subsection (3) of section 63.092, Florida
17 Statutes, is amended to read:

18 63.092 Report to the court of intended placement by an
19 adoption entity; at-risk placement; preliminary study.--

20 (3) PRELIMINARY HOME STUDY.--Before placing the minor
21 in the intended adoptive home, a preliminary home study must
22 be performed by a licensed child-placing agency, a
23 child-caring agency registered under s. 409.176, a licensed
24 professional, or agency described in s. 61.20(2), unless the
25 adoptee is an adult or the petitioner is a stepparent or a
26 relative. If the adoptee is an adult or the petitioner is a
27 stepparent or a relative, a preliminary home study may be
28 required by the court for good cause shown. The department is
29 required to perform the preliminary home study only if there
30 is no licensed child-placing agency, child-caring agency
31 registered under s. 409.176, licensed professional, or agency

1 described in s. 61.20(2), in the county where the prospective
2 adoptive parents reside. The preliminary home study must be
3 made to determine the suitability of the intended adoptive
4 parents and may be completed prior to identification of a
5 prospective adoptive minor. A favorable preliminary home study
6 is valid for 1 year after the date of its completion. Upon its
7 completion, a copy of the home study must be provided to the
8 intended adoptive parents who were the subject of the home
9 study. A minor may not be placed in an intended adoptive home
10 before a favorable preliminary home study is completed unless
11 the adoptive home is also a licensed foster home under s.
12 409.175. The preliminary home study must include, at a
13 minimum:

14 (a) An interview with the intended adoptive parents;

15 (b) Records checks of the department's central abuse
16 registry and criminal records correspondence checks under s.
17 39.0138 ~~pursuant to s. 435.045~~ through the Department of Law
18 Enforcement on the intended adoptive parents;

19 (c) An assessment of the physical environment of the
20 home;

21 (d) A determination of the financial security of the
22 intended adoptive parents;

23 (e) Documentation of counseling and education of the
24 intended adoptive parents on adoptive parenting;

25 (f) Documentation that information on adoption and the
26 adoption process has been provided to the intended adoptive
27 parents;

28 (g) Documentation that information on support services
29 available in the community has been provided to the intended
30 adoptive parents; and
31

1 (h) A copy of each signed acknowledgment of receipt of
2 disclosure required by s. 63.085.

3
4 If the preliminary home study is favorable, a minor may be
5 placed in the home pending entry of the judgment of adoption.
6 A minor may not be placed in the home if the preliminary home
7 study is unfavorable. If the preliminary home study is
8 unfavorable, the adoption entity may, within 20 days after
9 receipt of a copy of the written recommendation, petition the
10 court to determine the suitability of the intended adoptive
11 home. A determination as to suitability under this subsection
12 does not act as a presumption of suitability at the final
13 hearing. In determining the suitability of the intended
14 adoptive home, the court must consider the totality of the
15 circumstances in the home. No minor may be placed in a home in
16 which there resides any person determined by the court to be a
17 sexual predator as defined in s. 775.21 or to have been
18 convicted of an offense listed in s. 63.089(4)(b)2.

19 Section 30. Paragraph (d) of subsection (1) of section
20 419.001, Florida Statutes, is amended to read:

21 419.001 Site selection of community residential
22 homes.--

23 (1) For the purposes of this section, the following
24 definitions shall apply:

25 (d) "Resident" means any of the following: a frail
26 elder as defined in s. 400.618; a physically disabled or
27 handicapped person as defined in s. 760.22(7)(a); a
28 developmentally disabled person as defined in s. 393.063; a
29 nondangerous mentally ill person as defined in s. 394.455(18);
30 or a child who is found to be dependent or a child in need of
31

1 services as defined in s. 39.01(14), s. 984.03(9) or (12), or
2 s. 985.03(8).

3 Section 31. Sections 39.601, 39.622, 39.623, 39.624,
4 and 435.045, Florida Statutes, are repealed.

5 Section 32. This act shall take effect July 1, 2006.

6
7 *****

8 SENATE SUMMARY

9 Provides for time limitations in child protective cases.
10 Provides exceptions. Provides that state laws do not
11 supersede certain federal laws. Authorizes the Department
12 of Children and Family Services to conduct criminal
13 background record checks of persons being considered as
14 prospective foster parents. Provides for exemptions from
15 disqualifications to care for a dependent child. Provides
16 that the department may rely upon information in previous
17 reports. Requires that a shelter hearing order contain
18 specified information relating to the availability of
19 services to prevent removal from the home. Requires the
20 court to inquire of the parents whether the parents have
21 relatives who might be considered as a placement for the
22 child. Requires the department to prepare a case plan for
23 each child receiving services from the department.
24 Requires certain face-to-face meetings. Provides for the
25 content of the case plan. Declares that time is of the
26 essence for a child in the dependency system. Directs the
27 court to make certain findings at the permanency hearing.
28 Provides for permanent guardianship for a dependent
29 child. Authorizes the court to consider a permanent
30 guardian as a long-term option for a dependent child.
31 Provides for the contents of the permanent guardianship
order. Authorizes a parent to petition to modify the
permanent guardianship order. Provides for the placement
of a child with a fit and willing relative. Requires the
court to specify the reasons for placing a child with a
relative. Requires the department to supervise the
placement for a specified time period. Authorizes the
court to place a child in an alternative planned
permanent living arrangement under certain circumstances.
Requires that a child's current health and education
records be included in the documentation for the judicial
review report. Provides when the department may file a
petition for termination of parental rights. Prohibits
the department from filing a petition under certain
specified circumstances. Authorizes a material breach of
the case plan to be a ground to terminate parental
rights. Requires that the department show, and requires
the court to find, that the material breach is proven by
clear and convincing evidence. (See bill for details.)