

By Senator Villalobos

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1 A bill to be entitled

2 An act relating to statutory references to court rules;
3 amending s. 27.51, F.S.; removing reference to a specific
4 court rule relating to duties of the public defender;
5 providing duties of the public defender to notify an
6 accused of certain rights; amending s. 34.01, F.S.;
7 removing reference to court rules relating to the
8 jurisdiction of county courts; amending s. 34.011, F.S.;
9 removing specific reference to court rules relating to
10 jurisdiction in landlord and tenant cases; amending s.
11 39.01, F.S.; removing a reference to court rules relating
12 to definitions of a child who is found to be dependent;
13 redefining the term "child who is found to be dependent";
14 amending s. 39.4086, F.S.; deleting a provision requesting
15 that the Supreme Court adopt court rules by a certain date
16 relating to a pilot program for attorneys ad litem for
17 dependent children; amending s. 39.504, F.S.; removing a
18 reference to court rules relating to an injunction pending
19 disposition of a petition; amending s. 39.507, F.S.;
20 removing references to court rules relating to
21 adjudicatory hearings; amending s. 39.603, F.S.; removing
22 references to court rules relating to court approvals of
23 case planning; amending s. 39.701, F.S.; removing specific
24 reference to court rules relating to judicial review;
25 amending s. 39.801, F.S.; removing a requirement that
26 notice of hearings be prescribed by court rules relating
27 to procedures and jurisdiction in termination of parental
28 rights; amending s. 39.802, F.S.; removing references to
29 court rules relating to a petition for termination of

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30 parental rights; amending s. 39.807, F.S.; removing a
31 reference to court rules relating to guardians ad litem;
32 amending s. 39.824, F.S.; removing obsolete provisions
33 requesting the Supreme Court to adopt rules relating to
34 procedure and jurisdiction; amending s. 39.825, F.S.;
35 removing a reference to court rules relating to a petition
36 for appointment of a guardian advocate; amending s. 48.27,
37 F.S.; removing specific reference to a court rule
38 regarding certified process servers; amending s. 55.503,
39 F.S.; removing a reference to court rules relating to the
40 recording of foreign judgments; amending s. 56.29, F.S.;
41 removing a reference to service of summons in court rules
42 relating to supplementary proceedings; amending s.
43 61.1301, F.S.; removing a reference to court rules
44 relating to enforcement of income deduction orders;
45 amending s. 61.14, F.S.; removing specific reference to a
46 court rule relating to enforcement and modification of
47 support, maintenance, or alimony agreements; amending s.
48 61.16, F.S.; removing specific reference to a court rule
49 relating to attorney's fees; amending s. 63.087, F.S.;
50 removing specific reference to court rules relating to
51 proceedings for termination of parental rights pending
52 adoption; amending s. 63.122, F.S.; removing a reference
53 to the court rule relating to the notice of hearing on a
54 petition; amending s. 68.083, F.S.; removing reference to
55 the court rules relating to civil actions for false
56 claims; amending s. 83.231, F.S.; removing a reference to
57 court rules relating to the removal of a tenant; amending
58 s. 83.625, F.S.; removing a reference to court rules

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59 relating to the power to enter money judgments in an
60 action by a landlord; amending s. 222.30, F.S.; removing a
61 reference to court rules relating to fraudulent asset
62 conversions; amending s. 255.071, F.S.; removing a
63 reference to court rules relating to payment of
64 subcontractors for public projects; amending ss. 316.1934
65 and 327.354, F.S.; removing references to court rules
66 relating to presumption of impairment; amending s.
67 364.183, F.S.; removing reference to a specific court rule
68 relating to access to company records; amending s.
69 366.093, F.S.; removing reference to a specific court rule
70 relating to public utility records; amending s. 367.156,
71 F.S.; removing reference to a specific court rule relating
72 to discovery in public utility records; amending s.
73 368.108, F.S.; removing reference to a specific court rule
74 relating to confidentiality; amending s. 392.60, F.S.;
75 removing a reference to court rules relating to the right
76 of appeal; amending s. 393.11, F.S.; removing a reference
77 to court rules regarding the appeal of involuntary
78 admission to residential services; amending s. 393.12,
79 F.S.; removing references to court rules regarding
80 capacity and a guardian advocate; amending s. 400.0233,
81 F.S.; providing a reference to a specific chapter of court
82 rules relating to informal discovery and used to obtain
83 unsworn statements; revising provisions relating to
84 informal discovery used to obtain unsworn statements;
85 amending s. 400.0237, F.S.; removing a reference to court
86 rules on how to amend claims relating to punitive damages;
87 amending s. 409.2563, F.S.; removing a reference to court

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88 rule relating to the administrative establishment of child
89 support obligations; amending s. 409.257, F.S.; removing a
90 reference to court rules regarding service of process;
91 amending s. 415.1045, F.S.; removing specific reference to
92 a court rule relating to medical examinations; amending s.
93 415.1051, F.S.; removing specific reference to a court
94 rule relating to emergency protective services
95 intervention; amending s. 429.293, F.S.; providing a
96 reference to a specific chapter of court rules relating to
97 informal discovery; revising provisions relating to
98 informal discovery used to obtain unsworn statements;
99 amending s. 429.297, F.S.; removing a reference to court
100 rules relating to punitive damages; amending s. 440.31,
101 F.S.; removing specific reference to a court rule relating
102 to the definition of expert witnesses; defining the term
103 "expert witness"; amending s. 447.507, F.S.; removing
104 reference to court rules relating to violation of a strike
105 prohibition; amending s. 448.110, F.S.; removing reference
106 to a specific court rule relating to state minimum wage
107 and annual wage adjustment; amending s. 456.057, F.S.;
108 removing reference to a specific court rule relating to
109 the furnishing of patient records; amending s. 518.112,
110 F.S.; removing a reference to court rules relating to
111 delegation of investment functions; amending s. 552.40,
112 F.S.; removing specific reference to a court rule relating
113 to an administrative remedy for alleged damage due to the
114 use of explosives in mining; amending ss. 607.0505 and
115 617.0503, F.S.; removing reference to court rules relating
116 to registered agents of corporations; amending s. 655.059,

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117 F.S.; removing a reference to court rules relating to
118 access to books; amending s. 713.346, F.S.; removing a
119 reference to bond requirements in court rules relating to
120 payment on construction contracts; amending s. 718.1255,
121 F.S.; removing a reference to court rules relating to
122 mandatory nonbinding arbitration and mediation of
123 disputes; providing a reference to a specific chapter of
124 court rules relating to mandatory nonbinding arbitration
125 and mediation of disputes; amending s. 720.311, F.S.;

126 removing a reference to court rules relating to dispute
127 resolution; providing reference to a specific chapter of
128 court rules relating to dispute resolution; amending s.
129 723.0381, F.S.; removing a reference to court rules
130 relating to civil arbitration actions; amending s.
131 726.108, F.S.; removing a reference to court rules
132 relating to remedies of creditors; amending s. 727.104,
133 F.S.; removing a reference to court rules relating to
134 commencement of proceedings; amending s. 731.011, F.S.;

135 removing a reference to court rules relating to
136 determination and procedure of substantive rights;
137 amending s. 732.107, F.S.; removing a reference to court
138 rules relating to escheat; amending s. 733.101, F.S.;

139 removing a reference to court rules relating to venue of
140 probate proceedings; amending s. 733.212, F.S.; removing a
141 reference to court rules relating to notice of
142 administration; amending s. 733.6171, F.S.; removing a
143 reference to court rules relating to compensation of
144 attorneys for the personal representative; amending s.
145 733.705, F.S.; removing a reference to court rules

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146 relating to the payment of and objection to claims;
147 amending s. 734.102, F.S.; removing a reference to court
148 rules relating to ancillary administration; amending s.
149 736.0109, F.S.; removing a reference to court rules
150 relating to methods and waiver of notice; amending s.
151 738.104, F.S.; removing a reference to court rules
152 relating to a trustee's power to adjust; providing for
153 delivering or mailing a copy of the statement to the
154 beneficiary relating to a trustee's power to adjust;
155 amending s. 738.1041, F.S.; removing a reference to court
156 rules relating to a total return unitrust; providing for
157 delivering or mailing a copy of the statement to the
158 beneficiary relating to total return unitrust; amending s.
159 741.30, F.S.; removing a reference to court rules relating
160 to injunctions for domestic violence; amending s. 742.16,
161 F.S.; removing a reference to court rules relating to
162 expedited affirmation of parent status for gestational
163 surrogacy; amending s. 742.18, F.S.; removing specific
164 reference to a court rule relating to disestablishment of
165 paternity or termination of a child support obligation;
166 amending s. 744.3025, F.S.; removing a reference to court
167 rules relating to claims of minors; amending s. 744.307,
168 F.S.; removing a reference to court rules relating to
169 foreign guardians; amending s. 744.447, F.S.; removing a
170 reference to court rules relating to a petition for
171 authorization to act; amending s. 765.105, F.S.; removing
172 specific reference to a court rule relating to the review
173 of a decision by a surrogate or proxy; amending s.
174 765.113, F.S.; removing specific reference to a court rule

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175 relating to restrictions on providing consent; amending s.
176 768.72, F.S.; removing a reference to court rules relating
177 to pleadings and claims for punitive damages in civil
178 actions; amending s. 768.81, F.S.; removing a reference to
179 court rules relating to apportionment of damages in
180 comparative fault; amending s. 784.046, F.S.; removing a
181 reference to court rules relating to repeat violence,
182 sexual violence, or dating violence; amending s. 790.157,
183 F.S.; removing a reference to trial by jury in court rules
184 relating to the presumption of impairment; amending s.
185 896.101, F.S.; removing a reference to court rules
186 relating to the Florida Money Laundering Act; amending s.
187 916.13, F.S.; removing a reference to court rules relating
188 to involuntary commitment of a defendant who is
189 adjudicated incompetent; amending s. 916.15, F.S.;
190 removing a reference to court rules relating to
191 involuntary commitment of a defendant who is adjudicated
192 not guilty by reason of insanity; amending s. 916.302,
193 F.S.; removing a reference to court rules relating to
194 involuntary commitment of a defendant who is determined
195 incompetent to proceed; amending s. 924.07, F.S.; removing
196 a reference to court rules relating to appeals by the
197 state; amending s. 932.704, F.S.; removing a reference to
198 court rules relating to forfeiture proceedings; amending
199 s. 984.03, F.S.; removing a reference to court rules
200 relating to the definition of a dependent child;
201 redefining the term "dependent child"; amending s. 984.04,
202 F.S.; removing a reference to court rules relating to
203 families and children in need of services; amending s.

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204 984.19, F.S.; removing a reference to court rules relating
205 to medical screening and treatment regarding custody;
206 amending s. 984.20, F.S.; removing references to court
207 rules relating to hearings for child-in-need-of-services
208 cases; amending s. 985.19, F.S.; removing references to
209 court rules relating to incompetency in juvenile
210 delinquency cases; amending s. 985.255, F.S.; removing a
211 reference to court rules relating to detention criteria
212 and hearings; amending s. 985.26, F.S.; removing a
213 reference to court rules relating to length of detention;
214 amending s. 985.35, F.S.; removing a reference to court
215 rules relating to adjudicatory hearings; amending s.
216 985.534, F.S.; removing a reference to court rules
217 relating to appeals; providing an effective date.
218

219 Be It Enacted by the Legislature of the State of Florida:
220

221 Section 1. Paragraph (a) of subsection (5) of section
222 27.51, Florida Statutes, are amended to read:

223 27.51 Duties of public defender.--

224 (5) (a) When direct appellate proceedings prosecuted by a
225 public defender on behalf of an accused and challenging a
226 judgment of conviction and sentence of death terminate in an
227 affirmance of such conviction and sentence, whether by the
228 Florida Supreme Court or by the United States Supreme Court or by
229 expiration of any deadline for filing such appeal in a state or
230 federal court, the public defender shall notify the accused of
231 his or her rights to file a motion to vacate, set aside, or
232 correct sentence pursuant to court rule ~~3.850, Florida Rules of~~

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233 ~~Criminal Procedure~~, including any time limits pertinent thereto,
234 and shall advise such person that representation in any
235 collateral proceedings is the responsibility of the capital
236 collateral regional counsel. The public defender shall then
237 forward all original files on the matter to the capital
238 collateral regional counsel, retaining such copies for his or her
239 files as may be desired. However, the trial court shall retain
240 the power to appoint the public defender or other attorney not
241 employed by the capital collateral regional counsel to represent
242 such person in proceedings for relief by executive clemency
243 pursuant to ss. 27.40 and 27.5303.

244 Section 2. Subsection (2) of section 34.01, Florida
245 Statutes, is amended to read:

246 34.01 Jurisdiction of county court.--

247 (2) The county courts shall have jurisdiction previously
248 exercised by county judges' courts other than that vested in the
249 circuit court by s. 26.012, except that county court judges may
250 hear matters involving ~~dissolution of marriage under the~~
251 ~~simplified dissolution procedure pursuant to the Florida Family~~
252 ~~Law Rules of Procedure~~ or may issue a final order for dissolution
253 in cases where the matter is uncontested, and the jurisdiction
254 previously exercised by county courts, the claims court, small
255 claims courts, small claims magistrates courts, magistrates
256 courts, justice of the peace courts, municipal courts, and courts
257 of chartered counties, including but not limited to the counties
258 referred to in ss. 9, 10, 11, and 24, Art. VIII of the State
259 Constitution of 1885, as preserved by s. (6)(e), Art. VIII of the
260 State Constitution of 1968.

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261 Section 3. Subsection (2) of section 34.011, Florida
262 Statutes, is amended to read:

263 34.011 Jurisdiction in landlord and tenant cases.--

264 (2) The county court shall have exclusive jurisdiction of
265 proceedings relating to the right of possession of real property
266 and to the forcible or unlawful detention of lands and tenements,
267 except that the circuit court also has jurisdiction if the amount
268 in controversy exceeds the jurisdictional limits of the county
269 court or the circuit court otherwise has jurisdiction as provided
270 in s. 26.012. In cases transferred to the circuit court pursuant
271 to ~~Rule 1.170(j), Florida Rules of Civil Procedure, or Rule~~
272 ~~7.100(d), Florida Small Claims Rules,~~ the demands of all parties
273 shall be resolved by the circuit court.

274 Section 4. Subsection (14) of section 39.01, Florida
275 Statutes, is amended to read:

276 39.01 Definitions.--When used in this chapter, unless the
277 context otherwise requires:

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

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

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

285 (c) To have been voluntarily placed with a licensed child-
286 caring agency, a licensed child-placing agency, an adult
287 relative, the department, or the former Department of Health and
288 Rehabilitative Services, after which placement, under the
289 requirements of this chapter, a case plan has expired and the

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290 parent or parents or legal custodians have failed to
291 substantially comply with the requirements of the plan;

292 (d) To have been voluntarily placed with a licensed child-
293 placing agency for the purposes of subsequent adoption, and a
294 parent or parents have signed a consent to termination of
295 parental rights ~~pursuant to the Florida Rules of Juvenile~~
296 ~~Procedure;~~

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

299 (f) To be at substantial risk of imminent abuse,
300 abandonment, or neglect by the parent or parents or legal
301 custodians.

302 Section 5. Subsection (3) of section 39.4086, Florida
303 Statutes, is amended to read:

304 39.4086 Pilot program for attorneys ad litem for dependent
305 children.--

306 ~~(3) STANDARDS.--The Supreme Court is requested, by October~~
307 ~~1, 2000, to adopt rules of juvenile procedure which include the~~
308 ~~duties, responsibilities, and conduct of an attorney ad litem.~~
309 ~~The Office of the State Courts Administrator, in consultation~~
310 ~~with the Dependency Court Improvement Committee of the Supreme~~
311 ~~Court, shall develop implementation guidelines for the attorney~~
312 ~~ad litem pilot program.~~

313 Section 6. Subsection (2) of section 39.504, Florida
314 Statutes, is amended to read:

315 39.504 Injunction pending disposition of petition;
316 penalty.--

317 (2) Notice shall be provided to the parties as required by
318 court rule ~~set forth in the Florida Rules of Juvenile Procedure,~~

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319 unless the child is reported to be in imminent danger, in which
320 case the court may issue an injunction immediately. A judge may
321 issue an emergency injunction pursuant to this section without
322 notice at times when the court is closed for the transaction of
323 judicial business. When such an immediate injunction is issued,
324 the court shall hold a hearing on the next day of judicial
325 business either to dissolve the injunction or to continue or
326 modify it in accordance with the other provisions of this
327 section.

328 Section 7. Paragraph (a) of subsection (1) and subsection
329 (2) of section 39.507, Florida Statutes, are amended to read:

330 39.507 Adjudicatory hearings; orders of adjudication.--

331 (1) (a) The adjudicatory hearing shall be held as soon as
332 practicable after the petition for dependency is filed and in
333 accordance with court rule ~~the Florida Rules of Juvenile~~
334 ~~Procedure~~, but no later than 30 days after the arraignment.

335 (2) All hearings, except as provided in this section, shall
336 be open to the public, and a person may not be excluded except on
337 special order of the judge, who may close any hearing to the
338 public upon determining that the public interest or the welfare
339 of the child is best served by so doing. The parents or legal
340 custodians shall be allowed to obtain discovery pursuant to court
341 rule ~~the Florida Rules of Juvenile Procedure~~, provided such
342 discovery does not violate the provisions of s. 39.202. Hearings
343 involving more than one child may be held simultaneously when the
344 children involved are related to each other or were involved in
345 the same case. The child and the parents, caregivers, or legal
346 custodians of the child may be examined separately and apart from
347 each other.

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348 Section 8. Paragraphs (a) and (d) of subsection (1) of
349 section 39.603, Florida Statutes, are amended to read:

350 39.603 Court approvals of case planning.--

351 (1) All case plans and amendments to case plans must be
352 approved by the court. At the hearing on the case plan, which
353 shall occur in conjunction with the disposition hearing unless
354 otherwise directed by the court, the court shall determine:

355 (a) All parties who were notified and are in attendance at
356 the hearing, either in person or through a legal representative.
357 The court may appoint a guardian ad litem ~~under Rule 1.210,~~
358 ~~Florida Rules of Civil Procedure,~~ to represent the interests of
359 any parent, if the location of the parent is known but the parent
360 is not present at the hearing and the development of the plan is
361 based upon the physical, emotional, or mental condition or
362 physical location of the parent.

363 (d) In involuntary placements, whether each parent was
364 notified of the right to counsel at each stage of the dependency
365 proceedings, ~~in accordance with the Florida Rules of Juvenile~~
366 ~~Procedure.~~

367 Section 9. Paragraphs (b) and (c) of subsection (2) of
368 section 39.701, Florida Statutes, are amended to read:

369 39.701 Judicial review.--

370 (2)

371 (b) Citizen review panels may conduct hearings to review
372 the status of a child. The court shall select the cases
373 appropriate for referral to the citizen review panels and may
374 order the attendance of the parties at the review panel hearings.
375 However, any party may object to the referral of a case to a
376 citizen review panel. Whenever such an objection has been filed

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377 with the court, the court shall review the substance of the
378 objection and may conduct the review itself or refer the review
379 to a citizen review panel. All parties retain the right to take
380 exception to the findings or recommended orders of a citizen
381 review panel ~~in accordance with Rule 1.490(h), Florida Rules of~~
382 ~~Civil Procedure.~~

383 (c) Notice of a hearing by a citizen review panel must be
384 provided as set forth in subsection (5). At the conclusion of a
385 citizen review panel hearing, each party may propose a
386 recommended order to the chairperson of the panel. Thereafter,
387 the citizen review panel shall submit its report, copies of the
388 proposed recommended orders, and a copy of the panel's
389 recommended order to the court. The citizen review panel's
390 recommended order must be limited to the dispositional options
391 available to the court in subsection (9). Each party may file
392 exceptions to the report and recommended order of the citizen
393 review panel ~~in accordance with Rule 1.490, Florida Rules of~~
394 ~~Civil Procedure.~~

395 Section 10. Paragraphs (b), (c), and (d) of subsection (3)
396 of section 39.801, Florida Statutes, are amended to read:

397 39.801 Procedures and jurisdiction; notice; service of
398 process.--

399 (3) Before the court may terminate parental rights, in
400 addition to the other requirements set forth in this part, the
401 following requirements must be met:

402 ~~(b) If a party required to be served with notice as~~
403 ~~prescribed in paragraph (a) cannot be served, notice of hearings~~
404 ~~must be given as prescribed by the rules of civil procedure, and~~

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405 ~~service of process must be made as specified by law or civil~~
406 ~~actions.~~

407 (b) ~~(e)~~ Notice as prescribed by this section may be waived,
408 in the discretion of the judge, with regard to any person to whom
409 notice must be given under this subsection if the person
410 executes, before two witnesses and a notary public or other
411 officer authorized to take acknowledgments, a written surrender
412 of the child to a licensed child-placing agency or the
413 department.

414 (c) ~~(d)~~ If the person served with notice under this section
415 fails to personally appear at the advisory hearing, the failure
416 to personally appear shall constitute consent for termination of
417 parental rights by the person given notice. If a parent appears
418 for the advisory hearing and the court orders that parent to
419 personally appear at the adjudicatory hearing for the petition
420 for termination of parental rights, stating the date, time, and
421 location of said hearing, then failure of that parent to
422 personally appear at the adjudicatory hearing shall constitute
423 consent for termination of parental rights.

424 Section 11. Subsection (2) of section 39.802, Florida
425 Statutes, is amended to read:

426 39.802 Petition for termination of parental rights; filing;
427 elements.--

428 (2) ~~The form of the petition is governed by the Florida~~
429 ~~Rules of Juvenile Procedure.~~ The petition must be in writing and
430 signed by the petitioner or, if the department is the petitioner,
431 by an employee of the department, under oath stating the
432 petitioner's good faith in filing the petition.

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433 Section 12. Paragraph (d) of subsection (2) of section
434 39.807, Florida Statutes, is amended to read:

435 39.807 Right to counsel; guardian ad litem.--
436 (2)

437 (d) A guardian ad litem is entitled to receive service of
438 pleadings and papers ~~as provided by the Florida Rules of Juvenile~~
439 ~~Procedure.~~

440 Section 13. Subsection (1) of section 39.824, Florida
441 Statutes, is amended to read:

442 39.824 Procedures and jurisdiction.--

443 (1) ~~The Supreme Court is requested to adopt rules of~~
444 ~~juvenile procedure by October 1, 1989, to implement this part.~~
445 All procedures, including petitions, pleadings, subpoenas,
446 summonses, and hearings in cases for the appointment of a
447 guardian advocate shall be according to the Florida Rules of
448 Juvenile Procedure unless otherwise provided by law.

449 Section 14. Section 39.825, Florida Statutes, is amended to
450 read:

451 39.825 Petition for appointment of a guardian advocate.--A
452 petition for appointment of a guardian advocate may be filed by
453 the department, any relative of the child, any licensed health
454 care professional, or any other interested person. The petition
455 shall be in writing and shall be signed by the petitioner under
456 oath stating his or her good faith in filing the petition. ~~The~~
457 ~~form of the petition and its contents shall be determined by the~~
458 ~~Florida Rules of Juvenile Procedure.~~

459 Section 15. Subsection (3) of section 48.27, Florida
460 Statutes, is amended to read:

461 48.27 Certified process servers.--

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462 (3) Nothing herein shall be interpreted to exclude a
463 sheriff or deputy or other person appointed by the sheriff
464 pursuant to s. 48.021 from serving process or to exclude a person
465 from appointment by individual motion and order to serve process
466 in any civil action ~~in accordance with Rule 1.070(b) of the~~
467 ~~Florida Rules of Civil Procedure.~~

468 Section 16. Subsection (1) of section 55.503, Florida
469 Statutes, is amended to read:

470 55.503 Recording and status of foreign judgments; fees.--

471 (1) A copy of any foreign judgment certified in accordance
472 with the laws of the United States or of this state may be
473 recorded in the office of the clerk of the circuit court of any
474 county. The clerk shall file, record, and index the foreign
475 judgment in the same manner as a judgment of a circuit or county
476 court of this state. A judgment so recorded shall have the same
477 effect and shall be subject to the same rules of ~~civil~~ procedure,
478 legal and equitable defenses, and proceedings for reopening,
479 vacating, or staying judgments, and it may be enforced, released,
480 or satisfied, as a judgment of a circuit or county court of this
481 state.

482 Section 17. Subsection (3) of section 56.29, Florida
483 Statutes, is amended to read:

484 56.29 Proceedings supplementary.--

485 (3) The order shall be served in a reasonable time before
486 the date of the examination in the manner provided for ~~service of~~
487 ~~summons or may be served on such defendant or his or her attorney~~
488 ~~as provided for service of papers~~ in the rules of ~~civil~~
489 procedure.

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490 Section 18. Paragraph (b) of subsection (2) of section
491 61.1301, Florida Statutes, is amended to read:

492 61.1301 Income deduction orders.--

493 (2) ENFORCEMENT OF INCOME DEDUCTION ORDERS.--

494 (b)1. Service by or upon any person who is a party to a
495 proceeding under this section shall be made in the manner
496 prescribed in court rule ~~the Florida Rules of Civil Procedure~~ for
497 service upon parties.

498 2. Service upon an obligor's payor or successor payor under
499 this section shall be made by prepaid certified mail, return
500 receipt requested, or in the manner prescribed in chapter 48.

501 Section 19. Paragraph (a) of subsection (6) of section
502 61.14, Florida Statutes, is amended to read:

503 61.14 Enforcement and modification of support, maintenance,
504 or alimony agreements or orders.--

505 (6) (a)1. When support payments are made through the local
506 depository or through the State Disbursement Unit, any payment or
507 installment of support which becomes due and is unpaid under any
508 support order is delinquent; and this unpaid payment or
509 installment, and all other costs and fees herein provided for,
510 become, after notice to the obligor and the time for response as
511 set forth in this subsection, a final judgment by operation of
512 law, which has the full force, effect, and attributes of a
513 judgment entered by a court in this state for which execution may
514 issue. No deduction shall be made by the local depository from
515 any payment made for costs and fees accrued in the judgment by
516 operation of law process under paragraph (b) until the total
517 amount of support payments due the obligee under the judgment has
518 been paid.

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519 2. A certified statement by the local depository evidencing
520 a delinquency in support payments constitute evidence of the
521 final judgment under this paragraph.

522 3. The judgment under this paragraph is a final judgment as
523 to any unpaid payment or installment of support which has accrued
524 up to the time either party files a motion with the court to
525 alter or modify the support order, and such judgment may not be
526 modified by the court. The court may modify such judgment as to
527 any unpaid payment or installment of support which accrues after
528 the date of the filing of the motion to alter or modify the
529 support order. This subparagraph does not prohibit the court from
530 providing relief from the judgment pursuant to court rule 1.540,
531 ~~Florida Rules of Civil Procedure.~~

532 Section 20. Subsection (2) of section 61.16, Florida
533 Statutes, is amended to read:

534 61.16 Attorney's fees, suit money, and costs.--

535 (2) In an action for contempt ~~brought pursuant to Rule~~
536 ~~3.840, Florida Rules of Criminal Procedure,~~ whether denominated
537 direct or indirect criminal contempt, the court shall have
538 authority to:

539 (a) Appoint an attorney to prosecute said contempt.

540 (b) Assess attorney's fees and costs against the contemtor
541 after the court makes a determination of the contemtor's ability
542 to pay such costs and fees.

543 (c) Order that the amount be paid directly to the attorney,
544 who may enforce the order in his or her name.

545 Section 21. Subsections (5) and (6) of section 63.087,
546 Florida Statutes, are amended to read:

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547 63.087 Proceeding to terminate parental rights pending
548 adoption; general provisions.--

549 (5) SUMMONS TO BE ISSUED.--The petitioner shall cause a
550 summons to be issued ~~substantially in the form provided in Form~~
551 ~~1.902, Florida Rules of Civil Procedure.~~ The petition and summons
552 shall be served upon any person whose consent has been provided
553 but who has not waived service of the pleadings and notice of the
554 hearing thereon and also upon any person whose consent is
555 required but who has not provided that consent.

556 (6) ANSWER REQUIRED.--An answer to the petition or any
557 pleading requiring an answer shall be filed ~~in accordance with~~
558 ~~the Florida Rules of Civil Procedure.~~ Failure to file a written
559 response or to appear at the hearing on the petition constitutes
560 grounds upon which the court may terminate parental rights. The
561 petitioner shall provide notice of the final hearing by United
562 States mail to any person who has been served with the summons
563 and petition for termination of parental rights within the
564 specified time periods. Notwithstanding the filing of any answer
565 or any pleading, any person present at the hearing to terminate
566 parental rights pending adoption whose consent to adoption is
567 required under s. 63.062 must:

568 (a) Be advised by the court that he or she has a right to
569 ask that the hearing be reset for a later date so that the person
570 may consult with an attorney; and

571 (b) Be given an opportunity to deny the allegations in the
572 petition.

573 Section 22. Subsection (2) of section 63.122, Florida
574 Statutes, is amended to read:

575 63.122 Notice of hearing on petition.--

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576 (2) Notice of hearing ~~must be given as prescribed by the~~
577 ~~Florida Rules of Civil Procedure,~~ and service of process must be
578 made as required by court rule ~~specified by law for civil~~
579 ~~actions.~~

580 Section 23. Subsection (2) of section 68.083, Florida
581 Statutes, is amended to read:

582 68.083 Civil actions for false claims.--

583 (2) A person may bring a civil action for a violation of s.
584 68.082 for the person and for the affected agency. Civil actions
585 instituted under this act ~~shall be governed by the Florida Rules~~
586 ~~of Civil Procedure~~ and shall be brought in the name of the State
587 of Florida. Prior to the court unsealing the complaint under
588 subsection (3), the action may be voluntarily dismissed by the
589 person bringing the action only if the department gives written
590 consent to the dismissal and its reasons for such consent.

591 Section 24. Section 83.231, Florida Statutes, is amended to
592 read:

593 83.231 Removal of tenant; judgment.--If the issues are
594 found for plaintiff, judgment shall be entered that plaintiff
595 recover possession of the premises. If the plaintiff expressly
596 and specifically sought money damages in the complaint, in
597 addition to awarding possession of the premises to the plaintiff,
598 the court shall also direct, in an amount which is within its
599 jurisdictional limitations, the entry of a money judgment in
600 favor of the plaintiff and against the defendant for the amount
601 of money found due, owing, and unpaid by the defendant, with
602 costs. However, no money judgment shall be entered unless service
603 of process has been effected by personal service or, where
604 authorized by law, by certified or registered mail, return

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605 receipt, or in any other manner prescribed by law or the rules of
606 the court, ~~and no money judgment may be entered except in~~
607 ~~compliance with the Florida Rules of Civil Procedure.~~ Where
608 otherwise authorized by law, the plaintiff in the judgment for
609 possession and money damages may also be awarded attorney's fees
610 and costs. If the issues are found for defendant, judgment shall
611 be entered dismissing the action.

612 Section 25. Section 83.625, Florida Statutes, is amended to
613 read:

614 83.625 Power to award possession and enter money
615 judgment.--In an action by the landlord for possession of a
616 dwelling unit based upon nonpayment of rent, if the court finds
617 the rent is due, owing, and unpaid and by reason thereof the
618 landlord is entitled to possession of the premises, the court, in
619 addition to awarding possession of the premises to the landlord,
620 shall direct, in an amount which is within its jurisdictional
621 limitations, the entry of a money judgment with costs in favor of
622 the landlord and against the tenant for the amount of money found
623 due, owing, and unpaid by the tenant to the landlord. However, no
624 money judgment shall be entered unless service of process has
625 been effected by personal service or, where authorized by law, by
626 certified or registered mail, return receipt, or in any other
627 manner prescribed by law or the rules of the court; ~~and no money~~
628 ~~judgment may be entered except in compliance with the Florida~~
629 ~~Rules of Civil Procedure.~~ The prevailing party in the action may
630 also be awarded attorney's fees and costs.

631 Section 26. Paragraph (c) of subsection (3) of section
632 222.30, Florida Statutes, is amended to read:

633 222.30 Fraudulent asset conversions.--

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634 (3) In an action for relief against a fraudulent asset
635 conversion, a creditor may obtain:

636 (c) Subject to applicable principles of equity ~~and in~~
637 ~~accordance with applicable rules of civil procedure:~~

638 1. An injunction against further conversion by the debtor
639 of the asset or of other property.

640 2. Any other relief the circumstances may require.

641 Section 27. Paragraph (b) of subsection (4) of section
642 255.071, Florida Statutes, is amended to read:

643 255.071 Payment of subcontractors, sub-subcontractors,
644 materialmen, and suppliers on construction contracts for public
645 projects.--

646 (4) After service of the complaint, the court shall conduct
647 an evidentiary hearing on the complaint, upon not less than 15
648 days' written notice. The person providing labor, services, or
649 materials is entitled to the following remedies to the extent of
650 the undisputed amount due for labor or services performed or
651 materials supplied, and upon proof of each allegation in the
652 complaint:

653 (b) A temporary injunction against the person who received
654 the payment, subject to the bond requirements specified in court
655 rule ~~the Florida Rules of Civil Procedure.~~

656 Section 28. Subsection (4) of section 316.1934, Florida
657 Statutes, is amended to read:

658 316.1934 Presumption of impairment; testing methods.--

659 (4) Any person charged with a violation of s. 316.193,
660 whether in a municipality or not, is entitled to trial by jury
661 ~~according to the Florida Rules of Criminal Procedure.~~

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662 Section 29. Subsection (4) of section 327.354, Florida
663 Statutes, is amended to read:

664 327.354 Presumption of impairment; testing methods.--

665 (4) Any person charged with a violation of s. 327.35 is
666 entitled to trial by jury ~~according to the Florida Rules of~~
667 ~~Criminal Procedure.~~

668 Section 30. Subsection (2) of section 364.183, Florida
669 Statutes, is amended to read:

670 364.183 Access to company records.--

671 (2) Discovery in any docket or proceeding before the
672 commission shall be in the manner provided for in ~~Rule 1.280 of~~
673 the Florida Rules of Civil Procedure. Upon a showing by a company
674 or other person and a finding by the commission that discovery
675 will require the disclosure of proprietary confidential business
676 information, the commission shall issue an appropriate protective
677 order designating the manner for handling such information during
678 the course of the proceeding and for protecting such information
679 from disclosure outside the proceeding. Such proprietary
680 confidential business information shall be exempt from s.
681 119.07(1). Any records provided pursuant to a discovery request
682 for which proprietary confidential business information status is
683 requested shall be treated by the commission and the Office of
684 the Public Counsel and any other party subject to the public
685 records law as confidential and shall be exempt from s.
686 119.07(1), pending a formal ruling on such request by the
687 commission or the return of the records to the person providing
688 the records. Any record which has been determined to be
689 proprietary confidential business information and is not entered
690 into the official record of the proceeding shall be returned to

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691 the person providing the record within 60 days after the final
692 order, unless the final order is appealed. If the final order is
693 appealed, any such record shall be returned within 30 days after
694 the decision on appeal. The commission shall adopt the necessary
695 rules to implement this subsection.

696 Section 31. Subsection (2) of section 366.093, Florida
697 Statutes, is amended to read:

698 366.093 Public utility records; confidentiality.--

699 (2) Discovery in any docket or proceeding before the
700 commission shall be in the manner provided for in ~~Rule 1.280~~ of
701 the Florida Rules of Civil Procedure. Information which affects a
702 utility's rates or cost of service shall be considered relevant
703 for purposes of discovery in any docket or proceeding where the
704 utility's rates or cost of service are at issue. The commission
705 shall determine whether information requested in discovery
706 affects a utility's rates or cost of service. Upon a showing by a
707 utility or other person and a finding by the commission that
708 discovery will require the disclosure of proprietary confidential
709 business information, the commission shall issue appropriate
710 protective orders designating the manner for handling such
711 information during the course of the proceeding and for
712 protecting such information from disclosure outside the
713 proceeding. Such proprietary confidential business information
714 shall be exempt from s. 119.07(1). Any records provided pursuant
715 to a discovery request for which proprietary confidential
716 business information status is requested shall be treated by the
717 commission and the office of the Public Counsel and any other
718 party subject to the public records law as confidential and shall
719 be exempt from s. 119.07(1), pending a formal ruling on such

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720 request by the commission or the return of the records to the
721 person providing the records. Any record which has been
722 determined to be proprietary confidential business information
723 and is not entered into the official record of the proceeding
724 must be returned to the person providing the record within 60
725 days after the final order, unless the final order is appealed.
726 If the final order is appealed, any such record must be returned
727 within 30 days after the decision on appeal. The commission shall
728 adopt the necessary rules to implement this provision.

729 Section 32. Subsection (2) of section 367.156, Florida
730 Statutes, is amended to read:

731 367.156 Public utility records; confidentiality.--

732 (2) Discovery in any docket or proceeding before the
733 commission shall be in the manner provided for in ~~Rule 1.280~~ of
734 the Florida Rules of Civil Procedure. Information which affects a
735 utility's rates or cost of service shall be considered relevant
736 for purposes of discovery in any docket or proceeding where the
737 utility's rates or cost of service are at issue. The commission
738 shall determine whether information requested in discovery
739 affects a utility's rates or cost of service. Upon showing by a
740 utility or other person and a finding by the commission that
741 discovery will require the disclosure of proprietary confidential
742 business information, the commission shall issue appropriate
743 protective orders designating the manner for handling such
744 information during the course of the proceeding and for
745 protecting such information from disclosure outside the
746 proceeding. Such proprietary confidential business information
747 shall be exempt from s. 119.07(1). Any records provided pursuant
748 to a discovery request for which proprietary confidential

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749 business information status is requested shall be treated by the
750 commission and the office of the Public Counsel and any other
751 party subject to the public records act as confidential and shall
752 be exempt from s. 119.07(1), pending a formal ruling on such
753 request by the commission or the return of the records to the
754 person providing the records. Any record which has been
755 determined to be proprietary confidential business information
756 and is not entered into the official record of the proceeding
757 must be returned to the person providing the record within 60
758 days after the final order, unless the final order is appealed.
759 If the final order is appealed, any such record must be returned
760 within 30 days after the decision on appeal. The commission shall
761 adopt the necessary rules to implement this provision.

762 Section 33. Subsection (2) of section 368.108, Florida
763 Statutes, is amended to read:

764 368.108 Confidentiality; discovery.--

765 (2) Discovery in any docket or proceeding before the
766 commission shall be in the manner provided for in ~~Rule 1.280~~ of
767 the Florida Rules of Civil Procedure. Information which affects a
768 natural gas transmission company's rates or cost of service shall
769 be considered relevant for purposes of discovery in any docket or
770 proceeding where the natural gas transmission company's rates or
771 cost of service are at issue. The commission shall determine
772 whether information requested in discovery affects a natural gas
773 transmission company's rates or cost of service. Upon a showing
774 by a natural gas transmission company or other person and a
775 finding by the commission that discovery will require the
776 disclosure of proprietary confidential business information, the
777 commission shall issue appropriate protective orders designating

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778 the manner for handling such information during the course of the
779 proceeding and for protecting such information from disclosure
780 outside the proceeding. Such proprietary confidential business
781 information shall be exempt from s. 119.07(1). Any records
782 provided pursuant to a discovery request for which proprietary
783 confidential business information status is requested shall be
784 treated by the commission and the office of the Public Counsel
785 and any other party subject to the public records law as
786 confidential and shall be exempt from s. 119.07(1) pending a
787 formal ruling on such request by the commission or the return of
788 the records to the person providing the records. Any record which
789 has been determined to be proprietary confidential business
790 information and is not entered into the official record of the
791 proceeding must be returned to the person providing the record
792 within 60 days after the final order, unless the final order is
793 appealed. If the final order is appealed, any such record must be
794 returned within 30 days after the decision on appeal. The
795 commission shall adopt the necessary rules to implement this
796 provision.

797 Section 34. Subsection (1) of section 392.60, Florida
798 Statutes, is amended to read:

799 392.60 Right of appeal; immediate release.--

800 (1) Any person who is aggrieved by the entry of an order
801 under s. 392.55, s. 392.56, or s. 392.57 may ~~shall have the~~
802 ~~period of time provided by the Florida Rules of Appellate~~
803 ~~Procedure within which to~~ appeal an order of ~~from~~ the circuit
804 court. Every order entered under the terms of s. 392.55, s.
805 392.56, or s. 392.57 shall be executed immediately unless the
806 court entering such order or the appellate court, in its

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807 discretion, enters a supersedeas order and fixes the terms and
808 conditions thereof.

809 Section 35. Paragraph (a) of subsection (12) of section
810 393.11, Florida Statutes, is amended to read:

811 393.11 Involuntary admission to residential services.--

812 (12) APPEAL.--

813 (a) Any party to the proceeding who is affected by an order
814 of the court, including the agency, may appeal ~~to the appropriate~~
815 ~~district court of appeal within the time and in the manner~~
816 ~~prescribed by the Florida Rules of Appellate Procedure.~~

817 Section 36. Paragraph (b) of subsection (1) and paragraph
818 (a) of subsection (2) of section 393.12, Florida Statutes, are
819 amended to read:

820 393.12 Capacity; appointment of guardian advocate.--

821 (1) CAPACITY.--

822 (b) The issue of capacity of a person with developmental
823 disabilities shall be determined in a separate proceeding
824 according to the procedures and requirements of chapter 744 ~~and~~
825 ~~the Florida Probate Rules.~~

826 (2) APPOINTMENT OF A GUARDIAN ADVOCATE.--

827 (a) Conditions.--A probate court may appoint a guardian
828 advocate, without an adjudication of incapacity, for a person
829 with developmental disabilities, if the person lacks the capacity
830 to do some, but not all, of the tasks necessary to care for his
831 or her person, property, or estate or if the person has
832 voluntarily petitioned for the appointment of a guardian
833 advocate. Except as otherwise specified, the proceeding shall be
834 governed by the Florida Rules of Civil Procedure.

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835 Section 37. Paragraph (a) of subsection (7) and subsections
836 (10) and (11) of section 400.0233, Florida Statutes, are amended
837 to read:

838 400.0233 Presuit notice; investigation; notification of
839 violation of resident's rights or alleged negligence; claims
840 evaluation procedure; informal discovery; review; settlement
841 offer; mediation.--

842 (7) Informal discovery may be used by a party to obtain
843 unsworn statements and the production of documents or things as
844 follows:

845 (a) Unsworn statements.--Any party may require other
846 parties to appear for the taking of an unsworn statement. Such
847 statements may be used only for the purpose of claims evaluation
848 and are not discoverable or admissible in any civil action for
849 any purpose by any party. A party seeking to take the unsworn
850 statement of any party must give reasonable notice in writing to
851 all parties. The notice must state the time and place for taking
852 the statement and the name and address of the party to be
853 examined. Unless otherwise impractical, the examination of any
854 party must be done at the same time by all other parties. Any
855 party may be represented by counsel at the taking of an unsworn
856 statement. An unsworn statement may be recorded electronically,
857 stenographically, or on videotape. The procedure for the taking
858 of an unsworn statement shall be as if the statement were an
859 unsworn statement as provided in ~~statements is subject to the~~
860 ~~provisions of~~ the Florida Rules of Civil Procedure related to
861 medical malpractice presuit screening. The taking of the
862 statement ~~and~~ may be terminated for abuses.

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863 (10) To the extent not inconsistent with this part, the
864 provisions of chapter 44 and the Florida Mediation Code, Florida
865 Rules of Civil Procedure, shall be applicable to such
866 proceedings.

867 (11) Within 30 days after the claimant's receipt of the
868 defendant's response to the claim, the parties or their
869 designated representatives shall meet in mediation to discuss the
870 issues of liability and damages in accordance with chapter 44 and
871 the mediation rules of practice and procedures adopted by the
872 Supreme Court and applicable to civil actions in circuit court.
873 Upon stipulation of the parties, this 30-day period may be
874 extended and the statute of limitations is tolled during the
875 mediation and any such extension. At the conclusion of mediation,
876 the claimant shall have 60 days or the remainder of the period of
877 the statute of limitations, whichever is greater, within which to
878 file suit.

879 Section 38. Subsection (1) of section 400.0237, Florida
880 Statutes, is amended to read:

881 400.0237 Punitive damages; pleading; burden of proof.--

882 (1) In any action for damages brought under this part, no
883 claim for punitive damages shall be permitted unless there is a
884 reasonable showing by evidence in the record or proffered by the
885 claimant which would provide a reasonable basis for recovery of
886 such damages. ~~The claimant may move to amend her or his complaint~~
887 ~~to assert a claim for punitive damages as allowed by the rules of~~
888 ~~civil procedure.~~ The rules of civil procedure shall be liberally
889 construed so as to allow the claimant discovery of evidence which
890 appears reasonably calculated to lead to admissible evidence on
891 the issue of punitive damages. No discovery of financial worth

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892 shall proceed until after the pleading concerning punitive
893 damages is permitted.

894 Section 39. Paragraph (m) of subsection (4) of section
895 409.2563, Florida Statutes, is amended to read:

896 409.2563 Administrative establishment of child support
897 obligations.--

898 (4) NOTICE OF PROCEEDING TO ESTABLISH ADMINISTRATIVE
899 SUPPORT ORDER.--To commence a proceeding under this section, the
900 department shall provide to the custodial parent and serve the
901 noncustodial parent with a notice of proceeding to establish
902 administrative support order and a blank financial affidavit
903 form. The notice must state:

904 (m) That, neither the department nor the Division of
905 Administrative Hearings has jurisdiction to award or change child
906 custody or rights of parental contact and these issues may only
907 be addressed in circuit court.

908 1. The noncustodial parent may request in writing that the
909 department proceed in circuit court to determine his or her
910 support obligations.

911 2. The noncustodial parent may state in writing to the
912 department his or her intention to address issues concerning
913 custody or rights to parental contact in circuit court.

914 3. If the noncustodial parent submits the request
915 authorized in subparagraph 1., or the statement authorized in
916 subparagraph 2. to the department within 20 days after the
917 receipt of the initial notice, the department shall file a
918 petition in circuit court for the determination of the
919 noncustodial parent's child support obligations, and shall send
920 to the noncustodial parent a copy of its petition, a notice of

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921 commencement of action, and a request for waiver of service of
922 process ~~as provided in the Florida Rules of Civil Procedure.~~

923 4. If, within 10 days after receipt of the department's
924 petition and waiver of service, the noncustodial parent signs and
925 returns the waiver of service form to the department, the
926 department shall terminate the administrative proceeding without
927 prejudice and proceed in circuit court.

928 5. In any circuit court action filed by the department
929 pursuant to this paragraph or filed by a noncustodial parent or
930 other person pursuant to paragraph (l) or paragraph (n), the
931 department shall be a party only with respect to those issues of
932 support allowed and reimbursable under Title IV-D of the Social
933 Security Act. It is the responsibility of the noncustodial parent
934 or other person to take the necessary steps to present other
935 issues for the court to consider.

936
937 The department may serve the notice of proceeding to establish
938 administrative support order by certified mail, restricted
939 delivery, return receipt requested. Alternatively, the department
940 may serve the notice by any means permitted for service of
941 process in a civil action. For purposes of this section, an
942 authorized employee of the department may serve the notice and
943 execute an affidavit of service. Service by certified mail is
944 completed when the certified mail is received or refused by the
945 addressee or by an authorized agent as designated by the
946 addressee in writing. If a person other than the addressee signs
947 the return receipt, the department shall attempt to reach the
948 addressee by telephone to confirm whether the notice was
949 received, and the department shall document any telephonic

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950 | communications. If someone other than the addressee signs the
951 | return receipt, the addressee does not respond to the notice, and
952 | the department is unable to confirm that the addressee has
953 | received the notice, service is not completed and the department
954 | shall attempt to have the addressee served personally. The
955 | department shall provide the custodial parent or caretaker
956 | relative with a copy of the notice by regular mail to the last
957 | known address of the custodial parent or caretaker.

958 | Section 40. Subsection (4) of section 409.257, Florida
959 | Statutes, is amended to read:

960 | 409.257 Service of process.--

961 | (4) Notices and other intermediate process, except witness
962 | subpoenas, shall be served by the department as provided for in
963 | court rule ~~the Florida Rules of Civil Procedure~~.

964 | Section 41. Paragraph (b) of subsection (2) of section
965 | 415.1045, Florida Statutes, is amended to read:

966 | 415.1045 Photographs, videotapes, and medical examinations;
967 | abrogation of privileged communications; confidential records and
968 | documents.--

969 | (2) MEDICAL EXAMINATIONS.--

970 | (b) Upon admission to a hospital or health care facility,
971 | with the consent of the vulnerable adult who has capacity to
972 | consent or that person's guardian, or pursuant to s. 415.1051,
973 | the medical staff of the facility may examine, diagnose, or treat
974 | the vulnerable adult. If a person who has legal authority to give
975 | consent for the provision of medical treatment to a vulnerable
976 | adult has not given or has refused to give such consent,
977 | examination and treatment must be limited to reasonable
978 | examination of the patient to determine the medical condition of

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979 | the patient and treatment reasonably necessary to alleviate the
980 | medical condition or to stabilize the patient pending a
981 | determination by the court of the department's petition
982 | authorizing protective services. Any person may seek an expedited
983 | judicial intervention under ~~rule 5.900~~ of the Florida Probate
984 | Rules concerning medical treatment procedures.

985 | Section 42. Paragraph (c) of subsection (2) of section
986 | 415.1051, Florida Statutes, is amended to read:

987 | 415.1051 Protective services interventions when capacity to
988 | consent is lacking; nonemergencies; emergencies; orders;
989 | limitations.--

990 | (2) EMERGENCY PROTECTIVE SERVICES INTERVENTION.--If the
991 | department has reasonable cause to believe that a vulnerable
992 | adult is suffering from abuse or neglect that presents a risk of
993 | death or serious physical injury to the vulnerable adult and that
994 | the vulnerable adult lacks the capacity to consent to emergency
995 | protective services, the department may take action under this
996 | subsection. If the vulnerable adult has the capacity to consent
997 | and refuses consent to emergency protective services, emergency
998 | protective services may not be provided.

999 | (c) Emergency medical treatment.--If, upon admission to a
1000 | medical facility, it is the opinion of the medical staff that
1001 | immediate medical treatment is necessary to prevent serious
1002 | physical injury or death, and that such treatment does not
1003 | violate a known health care advance directive prepared by the
1004 | vulnerable adult, the medical facility may proceed with treatment
1005 | to the vulnerable adult. If a person with legal authority to give
1006 | consent for the provision of medical treatment to a vulnerable
1007 | adult has not given or has refused to give such consent,

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1008 examination and treatment must be limited to reasonable
1009 examination of the patient to determine the medical condition of
1010 the patient and treatment reasonably necessary to alleviate the
1011 emergency medical condition or to stabilize the patient pending
1012 court determination of the department's petition authorizing
1013 emergency protective services. Any person may seek an expedited
1014 judicial intervention under ~~rule 5.900~~ of the Florida Probate
1015 Rules concerning medical treatment procedures.

1016 Section 43. Paragraph (a) of subsection (7) and subsections
1017 (10) and (11) of section 429.293, Florida Statutes, are amended
1018 to read:

1019 429.293 Presuit notice; investigation; notification of
1020 violation of residents' rights or alleged negligence; claims
1021 evaluation procedure; informal discovery; review; settlement
1022 offer; mediation.--

1023 (7) Informal discovery may be used by a party to obtain
1024 unsworn statements and the production of documents or things, as
1025 follows:

1026 (a) Unsworn statements.--Any party may require other
1027 parties to appear for the taking of an unsworn statement. Such
1028 statements may be used only for the purpose of claims evaluation
1029 and are not discoverable or admissible in any civil action for
1030 any purpose by any party. A party seeking to take the unsworn
1031 statement of any party must give reasonable notice in writing to
1032 all parties. The notice must state the time and place for taking
1033 the statement and the name and address of the party to be
1034 examined. Unless otherwise impractical, the examination of any
1035 party must be done at the same time by all other parties. Any
1036 party may be represented by counsel at the taking of an unsworn

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1037 statement. An unsworn statement may be recorded electronically,
1038 stenographically, or on videotape. The procedure for the taking
1039 of an unsworn statement shall be as if the statement were an
1040 unsworn statement as provided in statements is subject to the
1041 provisions of the Florida Rules of Civil Procedure related to
1042 medical malpractice presuit screening. The taking of the
1043 statement ~~and~~ may be terminated for abuses.

1044 (10) To the extent not inconsistent with this part, the
1045 provisions of chapter 44 and the Florida Mediation Code, Florida
1046 Rules of Civil Procedure~~,~~ shall be applicable to such
1047 proceedings.

1048 (11) Within 30 days after the claimant's receipt of
1049 defendant's response to the claim, the parties or their
1050 designated representatives shall meet in mediation to discuss the
1051 issues of liability and damages in accordance with chapter 44 and
1052 the mediation rules of practice and procedures adopted by the
1053 Supreme Court and applicable to civil actions in circuit court.
1054 Upon stipulation of the parties, this 30-day period may be
1055 extended and the statute of limitations is tolled during the
1056 mediation and any such extension. At the conclusion of mediation,
1057 the claimant shall have 60 days or the remainder of the period of
1058 the statute of limitations, whichever is greater, within which to
1059 file suit.

1060 Section 44. Subsection (1) of section 429.297, Florida
1061 Statutes, is amended to read:

1062 429.297 Punitive damages; pleading; burden of proof.--

1063 (1) In any action for damages brought under this part, no
1064 claim for punitive damages shall be permitted unless there is a
1065 reasonable showing by evidence in the record or proffered by the

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1066 claimant which would provide a reasonable basis for recovery of
1067 such damages. ~~The claimant may move to amend her or his complaint~~
1068 ~~to assert a claim for punitive damages as allowed by the rules of~~
1069 ~~civil procedure.~~ The rules of civil procedure shall be liberally
1070 construed so as to allow the claimant discovery of evidence which
1071 appears reasonably calculated to lead to admissible evidence on
1072 the issue of punitive damages. No discovery of financial worth
1073 shall proceed until after the pleading concerning punitive
1074 damages is permitted.

1075 Section 45. Section 440.31, Florida Statutes, is amended to
1076 read:

1077 440.31 Witness fees.--

1078 (1) Each witness who appears in obedience to a subpoena is
1079 ~~shall be~~ entitled to the same fees as witnesses in a civil action
1080 in the circuit court. ~~;~~ ~~however,~~ ~~any~~

1081 (2) Each expert witness, ~~as defined in Rule 1.390(a) of the~~
1082 ~~Florida Rules of Civil Procedure,~~ who testifies ~~shall have~~
1083 ~~testified~~ in any proceeding under this chapter shall be allowed a
1084 witness fee, including the cost of any exhibits used by such
1085 witness, in such reasonable amount as the judge of compensation
1086 claims may determine, not in excess of the rate prevailing in the
1087 locality for witness fees for such expert witnesses in workers'
1088 compensation proceedings, notwithstanding the limitation provided
1089 in s. 92.231. As used in this subsection, an expert witness is a
1090 person duly and regularly engaged in the practice of a profession
1091 who holds a professional degree from a university or college and
1092 who has had special professional training and experience, or a
1093 person possessed of special knowledge or skill about the subject
1094 upon which he or she is called to testify.

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1095 Section 46. Subsection (2) of section 447.507, Florida
1096 Statutes, is amended to read:

1097 447.507 Violation of strike prohibition; penalties.--

1098 (2) If a public employee, a group of employees, an employee
1099 organization, or any officer, agent, or representative of any
1100 employee organization engages in a strike in violation of s.
1101 447.505, either the commission or any public employer whose
1102 employees are involved or whose employees may be affected by the
1103 strike may file suit to enjoin the strike ~~in the circuit court~~
1104 ~~having proper jurisdiction and proper venue of such actions under~~
1105 ~~the Florida Rules of Civil Procedure and Florida Statutes.~~ The
1106 circuit court shall conduct a hearing, with notice to the
1107 commission and to all interested parties, at the earliest
1108 practicable time. If the plaintiff makes a prima facie showing
1109 that a violation of s. 447.505 is in progress or that there is a
1110 clear, real, and present danger that such a strike is about to
1111 commence, the circuit court shall issue a temporary injunction
1112 enjoining the strike. Upon final hearing, the circuit court shall
1113 either make the injunction permanent or dissolve it.

1114 Section 47. Subsection (9) of section 448.110, Florida
1115 Statutes, is amended to read:

1116 448.110 State minimum wage; annual wage adjustment;
1117 enforcement.--

1118 (9) Actions brought pursuant to this section may be brought
1119 as a class action ~~pursuant to Rule 1.220, Florida Rules of Civil~~
1120 ~~Procedure.~~ In any class action brought pursuant to this section,
1121 the plaintiffs shall prove, by a preponderance of the evidence,
1122 the individual identity of each class member and the individual
1123 damages of each class member.

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1124 Section 48. Paragraph (a) of subsection (7) of section
1125 456.057, Florida Statutes, is amended to read:

1126 456.057 Ownership and control of patient records; report or
1127 copies of records to be furnished.--

1128 (7) (a) Except as otherwise provided in this section and in
1129 s. 440.13(4) (c), such records may not be furnished to, and the
1130 medical condition of a patient may not be discussed with, any
1131 person other than the patient or the patient's legal
1132 representative or other health care practitioners and providers
1133 involved in the care or treatment of the patient, except upon
1134 written authorization of the patient. However, such records may
1135 be furnished without written authorization under the following
1136 circumstances:

1137 1. To any person, firm, or corporation that has procured or
1138 furnished such examination or treatment with the patient's
1139 consent.

1140 2. When compulsory physical examination is made in a civil
1141 action pursuant to court rule 1.360, Florida Rules of Civil
1142 Procedure, ~~in which case~~ Copies of the medical records shall be
1143 furnished to parties entitled to such records under the rule ~~both~~
1144 ~~the defendant and the plaintiff.~~

1145 3. In any civil or criminal action, unless otherwise
1146 prohibited by law, upon the issuance of a subpoena from a court
1147 of competent jurisdiction and proper notice to the patient or the
1148 patient's legal representative by the party seeking such records.

1149 4. For statistical and scientific research, provided the
1150 information is abstracted in such a way as to protect the
1151 identity of the patient or provided written permission is
1152 received from the patient or the patient's legal representative.

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1153 5. To a regional poison control center for purposes of
1154 treating a poison episode under evaluation, case management of
1155 poison cases, or compliance with data collection and reporting
1156 requirements of s. 395.1027 and the professional organization
1157 that certifies poison control centers in accordance with federal
1158 law.

1159 Section 49. Paragraph (b) of subsection (3) of section
1160 518.112, Florida Statutes, is amended to read:

1161 518.112 Delegation of investment functions.--

1162 (3) A fiduciary may delegate investment functions to an
1163 investment agent under subsection (1) or subsection (2), if:

1164 (b) In the case of a trust or estate, the fiduciary has
1165 given written notice, of its intention to begin delegating
1166 investment functions under this section, to all beneficiaries, or
1167 their legal representative, eligible to receive distributions
1168 from the trust or estate within 30 days of the delegation unless
1169 such notice is waived by the eligible beneficiaries entitled to
1170 receive such notice. This notice shall thereafter, until or
1171 unless the beneficiaries eligible to receive income from the
1172 trust or distributions from the estate at the time are notified
1173 to the contrary, authorize the trustee or legal representative to
1174 delegate investment functions pursuant to this subsection. This
1175 discretion to revoke the delegation does not imply under
1176 subsection (2) any continuing obligation to review the agent's
1177 actions.

1178 1. Notice to beneficiaries eligible to receive
1179 distributions from the trust from the estate, or their legal
1180 representatives shall be sufficient notice to all persons who may
1181 join the eligible class of beneficiaries in the future.

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1182 2. Additionally, as used herein, legal representative
1183 includes one described in s. 731.303, without any requirement of
1184 a court order, an attorney-in-fact under a durable power of
1185 attorney sufficient to grant such authority, a legally appointed
1186 guardian, or equivalent under applicable law, any living, natural
1187 guardian of a minor child, or a guardian ad litem.

1188 3. Written notice shall be:

1189 a. By any form of mail or by any commercial delivery
1190 service, approved for service of process by the chief judge of
1191 the judicial circuit in which the trust has its principal place
1192 of business at the date of notice, requiring a signed receipt; or

1193 b. As provided by law for service of process; ~~or~~

1194 ~~e. By an elisor as may be provided in the Florida Rules of~~
1195 ~~Civil Procedure.~~

1196
1197 Notice by mail or by approved commercial delivery service is
1198 complete on receipt of notice. Proof of notice must be by
1199 verified statement of the person mailing or sending notice, and
1200 there must be attached thereto the signed receipt or other
1201 satisfactory evidence that delivery was effected on the addressee
1202 or on the addressee's agent. Proof of notice must be maintained
1203 among the trustee's permanent records.

1204 Section 50. Subsection (4) of section 552.40, Florida
1205 Statutes, is amended to read:

1206 552.40 Administrative remedy for alleged damage due to the
1207 use of explosives in connection with construction materials
1208 mining activities.--

1209 (4) The administrative judge shall issue an order directing
1210 mediation ~~under Rule 1700 et seq., Florida Rules of Civil~~

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1211 ~~Procedure.~~ The parties shall jointly select a mediator and the
1212 location of mediation. If the parties fail to do so within 30
1213 days after the order for mediation is issued, the administrative
1214 law judge shall designate the mediator and the location of
1215 mediation. Petitioner and respondent shall each pay one-half of
1216 the cost of mediation. If the petitioner's annual income is less
1217 than 150 percent of the applicable federal poverty guideline
1218 published in the Federal Register by the United States Department
1219 of Health and Human Services, the respondent shall bear the full
1220 cost of mediation. The mediation must be concluded within 60 days
1221 after the date of designation of the mediator unless the parties
1222 agree upon a different date.

1223 Section 51. Paragraph (b) of subsection (1) and subsection
1224 (5) of section 607.0505, Florida Statutes, are amended to read:

1225 607.0505 Registered agent; duties.--

1226 (1)

1227 (b) Each such corporation, foreign corporation, or alien
1228 business organization which fails to have and continuously
1229 maintain a registered office and a registered agent as required
1230 in this section will be liable to this state for \$500 for each
1231 year, or part of a year, during which the corporation, foreign
1232 corporation, or alien business organization fails to comply with
1233 these requirements; but such liability will be forgiven in full
1234 upon the compliance by the corporation, foreign corporation, or
1235 alien business organization with the requirements of this
1236 subsection, even if such compliance occurs after an action to
1237 collect such liability is instituted. The Department of Legal
1238 Affairs may file an action in the circuit court for the judicial
1239 circuit in which the corporation, foreign corporation, or alien

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1240 business organization is found or transacts business, or in which
1241 real property belonging to the corporation, foreign corporation,
1242 or alien business organization is located, to petition the court
1243 for an order directing that a registered agent be appointed and
1244 that a registered office be designated, and to obtain judgment
1245 for the amount owed under this subsection. In connection with
1246 such proceeding, the department may, without prior approval by
1247 the court, file a lis pendens against real property owned by the
1248 corporation, foreign corporation, or alien business organization,
1249 which lis pendens shall set forth the legal description of the
1250 real property and shall be filed in the public records of the
1251 county where the real property is located. If the lis pendens is
1252 filed in any county other than the county in which the action is
1253 pending, the lis pendens which is filed must be a certified copy
1254 of the original lis pendens. The failure to comply timely or
1255 fully with an order directing that a registered agent be
1256 appointed and that a registered office be designated will result
1257 in a civil penalty of not more than \$1,000 for each day of
1258 noncompliance. A judgment or an order of payment entered pursuant
1259 to this subsection will become a judgment lien against any real
1260 property owned by the corporation, foreign corporation, or alien
1261 business organization when a certified copy of the judgment or
1262 order is recorded as required by s. 55.10. ~~The department will be~~
1263 ~~able to avail itself of, and is entitled to use, any provision of~~
1264 ~~law or of the Florida Rules of Civil Procedure to further the~~
1265 ~~collecting or obtaining of payment pursuant to a judgment or~~
1266 ~~order of payment.~~ The state, through the Attorney General, may
1267 bid, at any judicial sale to enforce its judgment lien, any
1268 amount up to the amount of the judgment or lien obtained pursuant

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1269 | to this subsection. All moneys recovered under this subsection
1270 | shall be treated as forfeitures under ss. 895.01-895.09 and used
1271 | or distributed in accordance with the procedure set forth in s.
1272 | 895.09. A corporation, foreign corporation, or alien business
1273 | organization which fails to have and continuously maintain a
1274 | registered office and a registered agent as required in this
1275 | section may not defend itself against any action instituted by
1276 | the Department of Legal Affairs or by any other agency of this
1277 | state until the requirements of this subsection have been met.

1278 | (5) If a corporation, foreign corporation, or alien
1279 | business organization fails without lawful excuse to comply
1280 | timely or fully with a subpoena issued pursuant to subsection
1281 | (2), the Department of Legal Affairs may file an action in the
1282 | circuit court for the judicial circuit in which the corporation,
1283 | foreign corporation, or alien business organization is found or
1284 | transacts business or in which real property belonging to the
1285 | corporation, foreign corporation, or alien business organization
1286 | is located, for an order compelling compliance with the subpoena.
1287 | The failure without a lawful excuse to comply timely or fully
1288 | with an order compelling compliance with the subpoena will result
1289 | in a civil penalty of not more than \$1,000 for each day of
1290 | noncompliance with the order. In connection with such proceeding,
1291 | the department may, without prior approval by the court, file a
1292 | lis pendens against real property owned by the corporation,
1293 | foreign corporation, or alien business organization, which lis
1294 | pendens shall set forth the legal description of the real
1295 | property and shall be filed in the public records of the county
1296 | where the real property is located. If the lis pendens is filed
1297 | in any county other than the county in which the action is

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1298 pending, the lis pendens which is filed must be a certified copy
1299 of the original lis pendens. A judgment or an order of payment
1300 entered pursuant to this subsection will become a judgment lien
1301 against any real property owned by the corporation, foreign
1302 corporation, or alien business organization when a certified copy
1303 of the judgment or order is recorded as required by s. 55.10. ~~The~~
1304 ~~department will be able to avail itself of, and is entitled to~~
1305 ~~use, any provision of law or of the Florida Rules of Civil~~
1306 ~~Procedure to further the collecting or obtaining of payment~~
1307 ~~pursuant to a judgment or order of payment.~~ The state, through
1308 the Attorney General, may bid, at any judicial sale to enforce
1309 its judgment lien, an amount up to the amount of the judgment or
1310 lien obtained pursuant to this subsection. All moneys recovered
1311 under this subsection shall be treated as forfeitures under ss.
1312 895.01-895.09 and used or distributed in accordance with the
1313 procedure set forth in s. 895.09.

1314 Section 52. Paragraph (b) of subsection (1) and subsection
1315 (5) of section 617.0503, Florida Statutes, are amended to read:
1316 617.0503 Registered agent; duties; confidentiality of
1317 investigation records.--

1318 (1)

1319 (b) Each such corporation, foreign corporation, or alien
1320 business organization that fails to have and continuously
1321 maintain a registered office and a registered agent as required
1322 in this section is liable to this state for \$500 for each year,
1323 or part of a year, during which the corporation, foreign
1324 corporation, or alien business organization fails to comply with
1325 these requirements; but this liability is forgiven in full upon
1326 the compliance by the corporation, foreign corporation, or alien

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1327 business organization with the requirements of this subsection,
1328 even if that compliance occurs after an action to collect such
1329 amount is instituted. The Department of Legal Affairs may file an
1330 action in the circuit court for the judicial circuit in which the
1331 corporation, foreign corporation, or alien business organization
1332 is found or transacts business, or in which real property
1333 belonging to the corporation, foreign corporation, or alien
1334 business organization is located, to petition the court for an
1335 order directing that a registered agent be appointed and that a
1336 registered office be designated, and to obtain judgment for the
1337 amount owed under this subsection. In connection with such
1338 proceeding, the department may, without prior approval by the
1339 court, file a lis pendens against real property owned by the
1340 corporation, foreign corporation, or alien business organization,
1341 which lis pendens shall set forth the legal description of the
1342 real property and shall be filed in the public records of the
1343 county where the real property is located. If the lis pendens is
1344 filed in any county other than the county in which the action is
1345 pending, the lis pendens that is filed must be a certified copy
1346 of the original lis pendens. The failure to comply timely or
1347 fully with an order directing that a registered agent be
1348 appointed and that a registered office be designated will result
1349 in a civil penalty of not more than \$1,000 for each day of
1350 noncompliance. A judgment or an order of payment entered under
1351 this subsection becomes a judgment lien against any real property
1352 owned by the corporation, foreign corporation, or alien business
1353 organization when a certified copy of the judgment or order is
1354 recorded as required by s. 55.10. ~~The department may avail itself~~
1355 ~~of, and is entitled to use, any provision of law or of the~~

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1356 ~~Florida Rules of Civil Procedure to further the collecting or~~
1357 ~~obtaining of payment pursuant to a judgment or order of payment.~~
1358 The state, through the Attorney General, may bid, at any judicial
1359 sale to enforce its judgment lien, any amount up to the amount of
1360 the judgment or lien obtained pursuant to this subsection. All
1361 moneys recovered under this subsection shall be treated as
1362 forfeitures under ss. 895.01-895.09 and used or distributed in
1363 accordance with the procedure set forth in s. 895.09. A
1364 corporation, foreign corporation, or alien business organization
1365 that fails to have and continuously maintain a registered office
1366 and a registered agent as required in this section may not defend
1367 itself against any action instituted by the Department of Legal
1368 Affairs or by any other agency of this state until the
1369 requirements of this subsection have been met.

1370 (5) If a corporation, foreign corporation, or alien
1371 business organization fails without lawful excuse to comply
1372 timely or fully with a subpoena issued pursuant to subsection
1373 (2), the Department of Legal Affairs may file an action in the
1374 circuit court for the judicial circuit in which the corporation,
1375 foreign corporation, or alien business organization is found or
1376 transacts business or in which real property belonging to the
1377 corporation, foreign corporation, or alien business organization
1378 is located, for an order compelling compliance with the subpoena.
1379 The failure without a lawful excuse to comply timely or fully
1380 with an order compelling compliance with the subpoena will result
1381 in a civil penalty of not more than \$1,000 for each day of
1382 noncompliance with the order. In connection with such proceeding,
1383 the department may, without prior approval by the court, file a
1384 lis pendens against real property owned by the corporation,

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1385 foreign corporation, or alien business organization, which lis
1386 pendens shall set forth the legal description of the real
1387 property and shall be filed in the public records of the county
1388 where the real property is located. If the lis pendens is filed
1389 in any county other than the county in which the action is
1390 pending, the lis pendens that is filed must be a certified copy
1391 of the original lis pendens. A judgment or an order of payment
1392 entered pursuant to this subsection will become a judgment lien
1393 against any real property owned by the corporation, foreign
1394 corporation, or alien business organization when a certified copy
1395 of the judgment or order is recorded as required by s. 55.10. ~~The~~
1396 ~~department may avail itself of, and is entitled to use, any~~
1397 ~~provision of law or of the Florida Rules of Civil Procedure to~~
1398 ~~further the collecting or obtaining of payment pursuant to a~~
1399 ~~judgment or order of payment.~~ The state, through the Attorney
1400 General, may bid at any judicial sale to enforce its judgment
1401 lien, an amount up to the amount of the judgment or lien obtained
1402 pursuant to this subsection. All moneys recovered under this
1403 subsection shall be treated as forfeitures under ss. 895.01-
1404 895.09 and used or distributed in accordance with the procedure
1405 set forth in s. 895.09.

1406 Section 53. Subsection (1) of section 655.059, Florida
1407 Statutes, is amended to read:

1408 655.059 Access to books and records; confidentiality;
1409 penalty for disclosure.--

1410 (1) The books and records of a financial institution are
1411 confidential and shall be made available for inspection and
1412 examination only:

1413 (a) To the office or its duly authorized representative;

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1414 (b) To any person duly authorized to act for the financial
1415 institution;

1416 (c) To any federal or state instrumentality or agency
1417 authorized to inspect or examine the books and records of an
1418 insured financial institution;

1419 (d) With respect to an international banking corporation,
1420 to the home-country supervisor of the corporation, provided:

1421 1. The supervisor provides advance notice to the office
1422 that the supervisor intends to examine the Florida office of the
1423 corporation.

1424 2. The supervisor confirms to the office that the purpose
1425 of the examination is to ensure the safety and soundness of the
1426 corporation.

1427 3. The books and records pertaining to customer deposit,
1428 investment, and custodial accounts are not disclosed to the
1429 supervisor.

1430 4. At any time during the conduct of the examination, the
1431 office reserves the right to have an examiner present or to
1432 participate jointly in the examination.

1433
1434 For purposes of this paragraph, "home-country supervisor" means
1435 the governmental entity in the corporation's home country with
1436 responsibility for the supervision and regulation of the
1437 corporation;

1438 (e) As compelled by a court of competent jurisdiction,
1439 pursuant to a subpoena issued ~~pursuant to the Florida Rules of~~
1440 ~~Civil Procedure, the Florida Rules of Criminal Procedure, or the~~
1441 ~~Federal Rules of Civil Procedure, or pursuant to a subpoena~~
1442 ~~issued~~ in accordance with state or federal law. Prior to the

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1443 production of the books and records of a financial institution,
1444 the party seeking production must reimburse the financial
1445 institution for the reasonable costs and fees incurred in
1446 compliance with the production. If the parties disagree regarding
1447 the amount of reimbursement, the party seeking the records may
1448 request the court or agency having jurisdiction to set the amount
1449 of reimbursement;

1450 (f) As compelled by legislative subpoena as provided by
1451 law, in which case the provisions of s. 655.057 apply;

1452 (g) Pursuant to a subpoena, to any federal or state law
1453 enforcement or prosecutorial instrumentality authorized to
1454 investigate suspected criminal activity;

1455 (h) As authorized by the board of directors of the
1456 financial institution; or

1457 (i) As provided in subsection (2).

1458 Section 54. Paragraph (b) of subsection (4) of section
1459 713.346, Florida Statutes, is amended to read:

1460 713.346 Payment on construction contracts.--

1461 (4) After service of the complaint, the court shall conduct
1462 an evidentiary hearing on the complaint, upon not less than 15
1463 days' written notice. The person providing labor, services, or
1464 materials is entitled to the following remedies to the extent of
1465 the undisputed amount due for labor or services performed or
1466 materials supplied, and upon proof of each allegation in the
1467 complaint:

1468 (b) A temporary injunction against the person who received
1469 the payment, ~~subject to the bond requirements specified in the~~
1470 ~~Florida Rules of Civil Procedure.~~

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1471 Section 55. Paragraph (h) of subsection (4) of section
1472 718.1255, Florida Statutes, is amended to read:

1473 718.1255 Alternative dispute resolution; voluntary
1474 mediation; mandatory nonbinding arbitration; legislative
1475 findings.--

1476 (4) MANDATORY NONBINDING ARBITRATION AND MEDIATION OF
1477 DISPUTES.--The Division of Florida Land Sales, Condominiums, and
1478 Mobile Homes of the Department of Business and Professional
1479 Regulation shall employ full-time attorneys to act as arbitrators
1480 to conduct the arbitration hearings provided by this chapter. The
1481 division may also certify attorneys who are not employed by the
1482 division to act as arbitrators to conduct the arbitration
1483 hearings provided by this section. No person may be employed by
1484 the department as a full-time arbitrator unless he or she is a
1485 member in good standing of The Florida Bar. The department shall
1486 promulgate rules of procedure to govern such arbitration hearings
1487 including mediation incident thereto. The decision of an
1488 arbitrator shall be final; however, such a decision shall not be
1489 deemed final agency action. Nothing in this provision shall be
1490 construed to foreclose parties from proceeding in a trial de novo
1491 unless the parties have agreed that the arbitration is binding.
1492 If such judicial proceedings are initiated, the final decision of
1493 the arbitrator shall be admissible in evidence in the trial de
1494 novo.

1495 (h) Mediation proceedings must generally be conducted in
1496 accordance with chapter 44 ~~the Florida Rules of Civil Procedure,~~
1497 ~~and these proceedings are privileged and confidential to the same~~
1498 ~~extent as court ordered mediation.~~ Persons who are not parties to
1499 the dispute are not allowed to attend the mediation conference

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1500 without the consent of all parties, with the exception of counsel
1501 for the parties and corporate representatives designated to
1502 appear for a party. If the mediator declares an impasse after a
1503 mediation conference has been held, the arbitration proceeding
1504 terminates, unless all parties agree in writing to continue the
1505 arbitration proceeding, in which case the arbitrator's decision
1506 shall be either binding or nonbinding, as agreed upon by the
1507 parties; in the arbitration proceeding, the arbitrator shall not
1508 consider any evidence relating to the unsuccessful mediation
1509 except in a proceeding to impose sanctions for failure to appear
1510 at the mediation conference. If the parties do not agree to
1511 continue arbitration, the arbitrator shall enter an order of
1512 dismissal, and either party may institute a suit in a court of
1513 competent jurisdiction. The parties may seek to recover any costs
1514 and attorneys' fees incurred in connection with arbitration and
1515 mediation proceedings under this section as part of the costs and
1516 fees that may be recovered by the prevailing party in any
1517 subsequent litigation.

1518 Section 56. Paragraph (a) of subsection (2) of section
1519 720.311, Florida Statutes, is amended to read:

1520 720.311 Dispute resolution.--

1521 (2) (a) Disputes between an association and a parcel owner
1522 regarding use of or changes to the parcel or the common areas and
1523 other covenant enforcement disputes, disputes regarding
1524 amendments to the association documents, disputes regarding
1525 meetings of the board and committees appointed by the board,
1526 membership meetings not including election meetings, and access
1527 to the official records of the association shall be the subject
1528 of a demand for presuit mediation served by an aggrieved party

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1529 | before the dispute is filed in court. Presuit mediation
1530 | proceedings must be conducted in accordance with chapter 44 ~~the~~
1531 | ~~applicable Florida Rules of Civil Procedure, and these~~
1532 | ~~proceedings are privileged and confidential to the same extent as~~
1533 | ~~court-ordered mediation.~~ Disputes subject to presuit mediation
1534 | under this section shall not include the collection of any
1535 | assessment, fine, or other financial obligation, including
1536 | attorney's fees and costs, claimed to be due or any action to
1537 | enforce a prior mediation settlement agreement between the
1538 | parties. Also, in any dispute subject to presuit mediation under
1539 | this section where emergency relief is required, a motion for
1540 | temporary injunctive relief may be filed with the court without
1541 | first complying with the presuit mediation requirements of this
1542 | section. After any issues regarding emergency or temporary relief
1543 | are resolved, the court may either refer the parties to a
1544 | mediation program administered by the courts or require mediation
1545 | under this section. An arbitrator or judge may not consider any
1546 | information or evidence arising from the presuit mediation
1547 | proceeding except in a proceeding to impose sanctions for failure
1548 | to attend a presuit mediation session or to enforce a mediated
1549 | settlement agreement. Persons who are not parties to the dispute
1550 | may not attend the presuit mediation conference without the
1551 | consent of all parties, except for counsel for the parties and a
1552 | corporate representative designated by the association. When
1553 | mediation is attended by a quorum of the board, such mediation is
1554 | not a board meeting for purposes of notice and participation set
1555 | forth in s. 720.303. An aggrieved party shall serve on the
1556 | responding party a written demand to participate in presuit
1557 | mediation in substantially the following form:

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1558

1559

1560 STATUTORY OFFER TO PARTICIPATE

1561

1562

1563 IN PRESUIT MEDIATION

1564

1565

1566 The alleged aggrieved party, _____, hereby demands
1567 that _____, as the responding party, engage in
1568 mandatory presuit mediation in connection with the following
1569 disputes, which by statute are of a type that are subject to
1570 presuit mediation:

1571

1572

1573 (List specific nature of the dispute or disputes to be mediated
1574 and the authority supporting a finding of a violation as to each
1575 dispute.)

1576

1577

1578 Pursuant to section 720.311, Florida Statutes, this demand to
1579 resolve the dispute through presuit mediation is required before
1580 a lawsuit can be filed concerning the dispute. Pursuant to the
1581 statute, the parties are required to engage in presuit mediation
1582 with a neutral third-party mediator in order to attempt to
1583 resolve this dispute without court action, and the aggrieved
1584 party demands that you likewise agree to this process. If you
1585 fail to participate in the mediation process, suit may be brought
1586 against you without further warning.

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1587
1588
1589 The process of mediation involves a supervised negotiation
1590 process in which a trained, neutral third-party mediator meets
1591 with both parties and assists them in exploring possible
1592 opportunities for resolving part or all of the dispute. By
1593 agreeing to participate in presuit mediation, you are not bound
1594 in any way to change your position. Furthermore, the mediator has
1595 no authority to make any decisions in this matter or to determine
1596 who is right or wrong and merely acts as a facilitator to ensure
1597 that each party understands the position of the other party and
1598 that all options for reasonable settlement are fully explored.

1599
1600
1601 If an agreement is reached, it shall be reduced to writing and
1602 becomes a binding and enforceable commitment of the parties. A
1603 resolution of one or more disputes in this fashion avoids the
1604 need to litigate these issues in court. The failure to reach an
1605 agreement, or the failure of a party to participate in the
1606 process, results in the mediator declaring an impasse in the
1607 mediation, after which the aggrieved party may proceed to court
1608 on all outstanding, unsettled disputes. If you have failed or
1609 refused to participate in the entire mediation process, you will
1610 not be entitled to recover attorney's fees, even if you prevail.

1611
1612
1613 The aggrieved party has selected and hereby lists five certified
1614 mediators who we believe to be neutral and qualified to mediate
1615 the dispute. You have the right to select any one of these

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1616 mediators. The fact that one party may be familiar with one or
1617 more of the listed mediators does not mean that the mediator
1618 cannot act as a neutral and impartial facilitator. Any mediator
1619 who cannot act in this capacity is required ethically to decline
1620 to accept engagement. The mediators that we suggest, and their
1621 current hourly rates, are as follows:

1622
1623
1624 (List the names, addresses, telephone numbers, and hourly rates
1625 of the mediators. Other pertinent information about the
1626 background of the mediators may be included as an attachment.)
1627

1628
1629 You may contact the offices of these mediators to confirm that
1630 the listed mediators will be neutral and will not show any
1631 favoritism toward either party. The Florida Supreme Court can
1632 provide you a list of certified mediators.
1633

1634
1635 Unless otherwise agreed by the parties, section 720.311(2)(b),
1636 Florida Statutes, requires that the parties share the costs of
1637 presuit mediation equally, including the fee charged by the
1638 mediator. An average mediation may require three to four hours of
1639 the mediator's time, including some preparation time, and the
1640 parties would need to share equally the mediator's fees as well
1641 as their own attorney's fees if they choose to employ an attorney
1642 in connection with the mediation. However, use of an attorney is
1643 not required and is at the option of each party. The mediators
1644 may require the advance payment of some or all of the anticipated

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1645 fees. The aggrieved party hereby agrees to pay or prepay one-half
1646 of the mediator's estimated fees and to forward this amount or
1647 such other reasonable advance deposits as the mediator requires
1648 for this purpose. Any funds deposited will be returned to you if
1649 these are in excess of your share of the fees incurred.

1650
1651
1652 To begin your participation in presuit mediation to try to
1653 resolve the dispute and avoid further legal action, please sign
1654 below and clearly indicate which mediator is acceptable to you.
1655 We will then ask the mediator to schedule a mutually convenient
1656 time and place for the mediation conference to be held. The
1657 mediation conference must be held within ninety (90) days of this
1658 date, unless extended by mutual written agreement. In the event
1659 that you fail to respond within 20 days from the date of this
1660 letter, or if you fail to agree to at least one of the mediators
1661 that we have suggested or to pay or prepay to the mediator one-
1662 half of the costs involved, the aggrieved party will be
1663 authorized to proceed with the filing of a lawsuit against you
1664 without further notice and may seek an award of attorney's fees
1665 or costs incurred in attempting to obtain mediation.

1666
1667
1668 Therefore, please give this matter your immediate attention. By
1669 law, your response must be mailed by certified mail, return
1670 receipt requested, and by first-class mail to the address shown
1671 on this demand.

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RESPONDING PARTY: YOUR SIGNATURE INDICATES YOUR AGREEMENT TO THAT CHOICE.

AGREEMENT TO MEDIATE

The undersigned hereby agrees to participate in presuit mediation and agrees to attend a mediation conducted by the following mediator or mediators who are listed above as someone who would be acceptable to mediate this dispute:

(List acceptable mediator or mediators.)

I/we further agree to pay or prepay one-half of the mediator's fees and to forward such advance deposits as the mediator may require for this purpose.

Signature of responding party #1

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1703

1704

1705

1706 Telephone contact information

1707

1708

1709

1710

1711 Signature and telephone contact information of responding party
1712 #2 (if applicable) (if property is owned by more than one person,
1713 all owners must sign)

1714 Section 57. Subsection (2) of section 723.0381, Florida
1715 Statutes, is amended to read:

1716 723.0381 Civil actions; arbitration.--

1717 (2) The court may refer the action to nonbinding
1718 arbitration pursuant to s. 44.103 ~~and the Florida Rules of Civil~~
1719 ~~Procedure~~. The court shall order the hearing to be held
1720 informally with presentation of testimony kept to a minimum and
1721 matters presented to the arbitrators primarily through the
1722 statements and arguments of counsel. The court shall assess the
1723 parties equally to pay the compensation awarded to the
1724 arbitrators if neither party requests a trial de novo. If a party
1725 has filed for a trial de novo, the party shall be assessed the
1726 arbitration costs, court costs, and other reasonable costs of the
1727 opposing party, including attorney's fees, investigation
1728 expenses, and expenses for expert or other testimony or evidence
1729 incurred after the arbitration hearing if the judgment upon the
1730 trial de novo is not more favorable than the arbitration
1731 decision. If subsequent to arbitration a party files for a trial

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1732 de novo, the arbitration decision may be made known to the judge
1733 only after he or she has entered his or her order on the merits.

1734 Section 58. Subsection (1) of section 726.108, Florida
1735 Statutes, is amended to read:

1736 726.108 Remedies of creditors.--

1737 (1) In an action for relief against a transfer or
1738 obligation under ss. 726.101-726.112, a creditor, subject to the
1739 limitations in s. 726.109 may obtain:

1740 (a) Avoidance of the transfer or obligation to the extent
1741 necessary to satisfy the creditor's claim;

1742 (b) An attachment or other provisional remedy against the
1743 asset transferred or other property of the transferee in
1744 accordance with applicable law;

1745 ~~(c) Subject to applicable principles of equity and in~~
1746 ~~accordance with applicable rules of civil procedure:~~

1747 (c)1. An injunction against further disposition by the
1748 debtor or a transferee, or both, of the asset transferred or of
1749 other property;

1750 (d)2. Appointment of a receiver to take charge of the asset
1751 transferred or of other property of the transferee; or

1752 (e)3. Any other relief the circumstances may require.

1753 Section 59. Paragraph (b) of subsection (2) of section
1754 727.104, Florida Statutes, is amended to read:

1755 727.104 Commencement of proceedings.--

1756 (2) Within 10 days after delivery of the assignment to the
1757 assignee, the assignee shall:

1758 (b) File, in the office of the clerk of the court in the
1759 county of the assignor's place of business if it has one, in the
1760 county of its chief executive office if it has more than one

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1761 place of business, or in the county of the assignor's residence
1762 if the assignor is an individual not engaged in business, ~~in~~
1763 ~~accordance with the procedures for filing a complaint as set~~
1764 ~~forth in the Florida Rules of Civil Procedure,~~ a petition setting
1765 forth the name and address of the assignor and the name and
1766 address of the assignee; a copy of the assignment, together with
1767 Schedules A and B; and a request that the court fix the amount of
1768 the assignee's bond to be filed with the clerk of the court. This
1769 bond shall be subject to reconsideration upon the motion of any
1770 party in interest after notice and hearing. The bond shall be
1771 payable to the clerk of the court, in an amount not less than
1772 double the liquidation value of the assets of the estate as set
1773 forth in Schedule B, conditioned upon the assignee's faithful
1774 discharge of her or his duties. Within 30 days after the court
1775 enters an order setting the amount of such bond, the assignee
1776 shall file the bond with the clerk of the court, who shall
1777 approve the bond.

1778 Section 60. Section 731.011, Florida Statutes, is amended
1779 to read:

1780 731.011 Determination of substantive rights;
1781 procedures.--The code became effective on January 1, 1976. The
1782 substantive rights of all persons that vested prior to January 1,
1783 1976, shall be determined as provided in former chapters 731-737
1784 and 744-746. ~~The procedures for the enforcement of vested~~
1785 ~~substantive rights shall be as provided in the Florida Probate~~
1786 ~~Rules.~~

1787 Section 61. Subsection (2) of section 732.107, Florida
1788 Statutes, is amended to read:

1789 732.107 Escheat.--

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1790 (2) Property that escheats shall be sold ~~as provided in the~~
1791 ~~Florida Probate Rules~~ and the proceeds paid to the Chief
1792 Financial Officer of the state and deposited in the State School
1793 Fund.

1794 Section 62. Subsection (3) of section 733.101, Florida
1795 Statutes, is amended to read:

1796 733.101 Venue of probate proceedings.--

1797 (3) Whenever a proceeding is filed laying venue in an
1798 improper county, the court may transfer the action ~~in the same~~
1799 ~~manner as provided in the Florida Rules of Civil Procedure~~. Any
1800 action taken by the court or the parties before the transfer is
1801 not affected by the improper venue.

1802 Section 63. Subsection (3) of section 733.212, Florida
1803 Statutes, is amended to read:

1804 733.212 Notice of administration; filing of objections.--

1805 (3) Any interested person on whom a copy of the notice of
1806 administration is served must object to the validity of the will,
1807 the qualifications of the personal representative, the venue, or
1808 the jurisdiction of the court by filing a petition or other
1809 pleading requesting relief ~~in accordance with the Florida Probate~~
1810 ~~Rules~~ on or before the date that is 3 months after the date of
1811 service of a copy of the notice of administration on the
1812 objecting person, or those objections are forever barred.

1813 Section 64. Subsection (2) of section 733.6171, Florida
1814 Statutes, is amended to read:

1815 733.6171 Compensation of attorney for the personal
1816 representative.--

1817 (2) The attorney, the personal representative, and persons
1818 bearing the impact of the compensation may agree to compensation

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1819 | determined in a different manner than provided in this section.
1820 | Compensation may also be determined in a different manner than
1821 | provided in this section if the manner is disclosed to the
1822 | parties bearing the impact of the compensation and if no
1823 | objection is made ~~as provided for in the Florida Probate Rules.~~

1824 | Section 65. Subsection (2) of section 733.705, Florida
1825 | Statutes, is amended to read:

1826 | 733.705 Payment of and objection to claims.--

1827 | (2) On or before the expiration of 4 months from the first
1828 | publication of notice to creditors or within 30 days from the
1829 | timely filing or amendment of a claim, whichever occurs later, a
1830 | personal representative or other interested person may file a
1831 | written objection to a claim. If an objection is filed, the
1832 | person filing it shall serve a copy of the objection ~~as provided~~
1833 | ~~by the Florida Probate Rules.~~ The failure to serve a copy of the
1834 | objection constitutes an abandonment of the objection. For good
1835 | cause, the court may extend the time for filing or serving an
1836 | objection to any claim. Objection to a claim constitutes an
1837 | objection to an amendment of that claim unless the objection is
1838 | withdrawn.

1839 | Section 66. Subsection (2) of section 734.102, Florida
1840 | Statutes, is amended to read:

1841 | 734.102 Ancillary administration.--

1842 | ~~(2) Ancillary administration shall be commenced as provided~~
1843 | ~~by the Florida Probate Rules.~~

1844 | Section 67. Subsection (4) of section 736.0109, Florida
1845 | Statutes, is amended to read:

1846 | 736.0109 Methods and waiver of notice.--

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1847 (4) Notice of a judicial proceeding must be given as
1848 provided in statute and the applicable court rule ~~Florida Rules~~
1849 ~~of Civil Procedure~~.

1850 Section 68. Subsection (1) and paragraph (c) of subsection
1851 (9) of section 738.104, Florida Statutes, are amended to read:

1852 738.104 Trustee's power to adjust.--

1853 (1) A trustee may adjust between principal and income to
1854 the extent the trustee considers necessary if the trustee invests
1855 and manages trust assets as a prudent investor, the terms of the
1856 trust describe the amount that may or shall be distributed to a
1857 beneficiary by referring to the trust's income, and the trustee
1858 determines, after applying the provisions of ~~rules in~~ s.
1859 738.103(1), that the trustee is unable to comply with s.
1860 738.103(2).

1861 (9)

1862 (c) The statement referred to in this subsection shall be
1863 served informally by delivering a copy or mailing it to the
1864 beneficiary, ~~in the manner provided in the Florida Rules of Civil~~
1865 ~~Procedure relating to service of pleadings subsequent to the~~
1866 ~~initial pleading~~. The statement may be served on a legal
1867 representative or natural guardian of a beneficiary without the
1868 filing of any proceeding or approval of any court.

1869 Section 69. Paragraph (c) of subsection (2) of section
1870 738.1041, Florida Statutes, is amended to read:

1871 738.1041 Total return unitrust.--

1872 (2) A trustee may, without court approval, convert an
1873 income trust to a total return unitrust, reconvert a total return
1874 unitrust to an income trust, or change the percentage used to

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1875 calculate the unitrust amount or the method used to determine the
1876 fair market value of the trust if:

1877 (c) The trustee sends written notice of its intention to
1878 take such action, along with copies of such written statement and
1879 this section, and, if applicable, the determinations of either
1880 the trustee or the disinterested person to:

1881 1. The grantor of the trust, if living.

1882 2. All living persons who are currently receiving or
1883 eligible to receive distributions of income of the trust.

1884 3. All living persons who would receive distributions of
1885 principal of the trust if the trust were to terminate at the time
1886 of the giving of such notice (without regard to the exercise of
1887 any power of appointment) or, if the trust does not provide for
1888 its termination, all living persons who would receive or be
1889 eligible to receive distributions of income or principal of the
1890 trust if the persons identified in subparagraph 2. were deceased.

1891 4. All persons acting as advisers or protectors of the
1892 trust.

1893

1894 Notice under this paragraph shall be served informally by
1895 delivering a copy or mailing it to the beneficiary, ~~in the manner~~
1896 ~~provided in the Florida Rules of Civil Procedure relating to~~
1897 ~~service of pleadings subsequent to the initial pleading.~~ Notice
1898 may be served on a legal representative or natural guardian of a
1899 person without the filing of any proceeding or approval of any
1900 court;

1901 Section 70. Paragraph (b) of subsection (5), paragraph (h)
1902 of subsection (6), and paragraph (b) of subsection (9) of section
1903 741.30, Florida Statutes, are amended to read:

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1904 741.30 Domestic violence; injunction; powers and duties of
1905 court and clerk; petition; notice and hearing; temporary
1906 injunction; issuance of injunction; statewide verification
1907 system; enforcement.--

1908 (5)

1909 (b) In a hearing ex parte for the purpose of obtaining such
1910 ex parte temporary injunction, no evidence other than verified
1911 pleadings or affidavits shall be used as evidence, unless the
1912 respondent appears at the hearing or has received reasonable
1913 notice of the hearing. A denial of a petition for an ex parte
1914 injunction shall be by written order noting the legal grounds for
1915 denial. When the only ground for denial is no appearance of an
1916 immediate and present danger of domestic violence, the court
1917 shall set a full hearing on the petition for injunction with
1918 notice at the earliest possible time. Nothing herein affects a
1919 petitioner's right to promptly amend any petition, or otherwise
1920 be heard in person on any petition consistent with court rule ~~the~~
1921 ~~Florida Rules of Civil Procedure.~~

1922 (6)

1923 (h) All proceedings under this subsection shall be
1924 recorded. Recording may be by electronic means ~~as provided by the~~
1925 ~~Rules of Judicial Administration.~~

1926 (9)

1927 (b) If the respondent is arrested by a law enforcement
1928 officer under s. 901.15(6) or for a violation of s. 741.31, the
1929 respondent shall be held in custody until brought before the
1930 court as expeditiously as possible for the purpose of enforcing
1931 the injunction and for admittance to bail in accordance with

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1932 | chapter 903 ~~and the applicable rules of criminal procedure,~~
1933 | pending a hearing.

1934 | Section 71. Subsection (2) of section 742.16, Florida
1935 | Statutes, is amended to read:

1936 | 742.16 Expedited affirmation of parental status for
1937 | gestational surrogacy.--

1938 | (2) After the petition is filed, the court shall fix a time
1939 | and place for hearing the petition, which may be immediately
1940 | after the filing of the petition. Notice of hearing shall be
1941 | given as prescribed by court rule ~~the rules of civil procedure,~~
1942 | and service of process shall be made as specified by law for
1943 | civil actions.

1944 | Section 72. Subsection (11) of section 742.18, Florida
1945 | Statutes, is amended to read:

1946 | 742.18 Disestablishment of paternity or termination of
1947 | child support obligation.--

1948 | (11) Nothing in this section precludes an individual from
1949 | seeking relief from a final judgment, decree, order, or
1950 | proceeding pursuant to court rule ~~1.540, Florida Rules of Civil~~
1951 | ~~Procedure,~~ or from challenging a paternity determination pursuant
1952 | to s. 742.10(4).

1953 | Section 73. Paragraph (d) of subsection (1) of section
1954 | 744.3025, Florida Statutes, is amended to read:

1955 | 744.3025 Claims of minors.--

1956 | (1)

1957 | (d) The duty of the guardian ad litem is to protect the
1958 | minor's interests ~~as described in the Florida Probate Rules.~~

1959 | Section 74. Subsection (2) of section 744.307, Florida
1960 | Statutes, is amended to read:

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1961 744.307 Foreign guardian may manage the property of
1962 nonresident ward.--

1963 (2) The guardian shall designate a resident agent ~~as~~
1964 ~~required by the Florida Probate Rules.~~

1965 Section 75. Subsection (2) of section 744.447, Florida
1966 Statutes, is amended to read:

1967 744.447 Petition for authorization to act.--

1968 (2) No notice of a petition to authorize a sale of
1969 perishable personal property or of property rapidly deteriorating
1970 shall be required. Notice of a petition to perform any other acts
1971 under s. 744.441 or s. 744.446 shall be given to the ward, to the
1972 next of kin, if any, and to those interested persons who have
1973 filed requests for notices and copies of pleadings, ~~as provided~~
1974 ~~in the Florida Probate Rules,~~ unless waived by the court. Notice
1975 need not be given to a ward who is under 14 years of age or who
1976 has been determined to be totally incapacitated.

1977 Section 76. Section 765.105, Florida Statutes, is amended
1978 to read:

1979 765.105 Review of surrogate or proxy's decision.--The
1980 patient's family, the health care facility, or the attending
1981 physician, or any other interested person who may reasonably be
1982 expected to be directly affected by the surrogate or proxy's
1983 decision concerning any health care decision may seek expedited
1984 judicial intervention ~~pursuant to rule 5.900 of the Florida~~
1985 ~~Probate Rules,~~ if that person believes:

1986 (1) The surrogate or proxy's decision is not in accord with
1987 the patient's known desires or the provisions of this chapter;

1988 (2) The advance directive is ambiguous, or the patient has
1989 changed his or her mind after execution of the advance directive;

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1990 (3) The surrogate or proxy was improperly designated or
1991 appointed, or the designation of the surrogate is no longer
1992 effective or has been revoked;

1993 (4) The surrogate or proxy has failed to discharge duties,
1994 or incapacity or illness renders the surrogate or proxy incapable
1995 of discharging duties;

1996 (5) The surrogate or proxy has abused powers; or

1997 (6) The patient has sufficient capacity to make his or her
1998 own health care decisions.

1999 Section 77. Section 765.113, Florida Statutes, is amended
2000 to read:

2001 765.113 Restrictions on providing consent.--Unless the
2002 principal expressly delegates such authority to the surrogate in
2003 writing, or a surrogate or proxy has sought and received court
2004 approval ~~pursuant to rule 5.900 of the Florida Probate Rules~~, a
2005 surrogate or proxy may not provide consent for:

2006 (1) Abortion, sterilization, electroshock therapy,
2007 psychosurgery, experimental treatments that have not been
2008 approved by a federally approved institutional review board in
2009 accordance with 45 C.F.R. part 46 or 21 C.F.R. part 56, or
2010 voluntary admission to a mental health facility.

2011 (2) Withholding or withdrawing life-prolonging procedures
2012 from a pregnant patient prior to viability as defined in s.
2013 390.0111(4).

2014 Section 78. Subsection (1) of section 768.72, Florida
2015 Statutes, is amended to read:

2016 768.72 Pleading in civil actions; claim for punitive
2017 damages.--

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2018 (1) In any civil action, no claim for punitive damages
2019 shall be permitted unless there is a reasonable showing by
2020 evidence in the record or proffered by the claimant which would
2021 provide a reasonable basis for recovery of such damages. ~~The~~
2022 ~~claimant may move to amend her or his complaint to assert a claim~~
2023 ~~for punitive damages as allowed by the rules of civil procedure.~~
2024 The rules of civil procedure shall be liberally construed so as
2025 to allow the claimant discovery of evidence which appears
2026 reasonably calculated to lead to admissible evidence on the issue
2027 of punitive damages. No discovery of financial worth shall
2028 proceed until after the pleading concerning punitive damages is
2029 permitted.

2030 Section 79. Paragraph (a) of subsection (3) of section
2031 768.81, Florida Statutes, is amended to read:

2032 768.81 Comparative fault.--

2033 (3) APPORTIONMENT OF DAMAGES.--In cases to which this
2034 section applies, the court shall enter judgment against each
2035 party liable on the basis of such party's percentage of fault and
2036 not on the basis of the doctrine of joint and several liability.

2037 (a) In order to allocate any or all fault to a nonparty, a
2038 defendant must affirmatively plead the fault of a nonparty and,
2039 absent a showing of good cause, identify the nonparty, if known,
2040 or describe the nonparty as specifically as practicable, either
2041 by motion or in the initial responsive pleading when defenses are
2042 first presented, subject to amendment any time before trial in
2043 accordance with court rule ~~the Florida Rules of Civil Procedure~~.

2044 Section 80. Paragraph (b) of subsection (9) of section
2045 784.046, Florida Statutes, is amended to read:

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2046 784.046 Action by victim of repeat violence, sexual
2047 violence, or dating violence for protective injunction; powers
2048 and duties of court and clerk of court; filing and form of
2049 petition; notice and hearing; temporary injunction; issuance;
2050 statewide verification system; enforcement.--

2051 (9)

2052 (b) If the respondent is arrested by a law enforcement
2053 officer under s. 901.15(6) for committing an act of repeat
2054 violence, sexual violence, or dating violence in violation of an
2055 injunction for protection, the respondent shall be held in
2056 custody until brought before the court as expeditiously as
2057 possible for the purpose of enforcing the injunction and for
2058 admittance to bail in accordance with chapter 903 ~~and the~~
2059 ~~applicable rules of criminal procedure~~, pending a hearing.

2060 Section 81. Subsection (4) of section 790.157, Florida
2061 Statutes, is amended to read:

2062 790.157 Presumption of impairment; testing methods.--

2063 ~~(4) Any person charged with using a firearm while under the~~
2064 ~~influence of alcoholic beverages or controlled substances to the~~
2065 ~~extent that his or her normal faculties were impaired, whether in~~
2066 ~~a municipality or not, shall be entitled to trial by jury~~
2067 ~~according to the Florida Rules of Criminal Procedure.~~

2068 Section 82. Paragraph (h) of subsection (8) of section
2069 896.101, Florida Statutes, is amended to read:

2070 896.101 Florida Money Laundering Act; definitions;
2071 penalties; injunctions; seizure warrants; immunity.--

2072 (8)

2073 (h) Only the lawful owner or the account holder of the
2074 monetary instruments or funds being enjoined may request a

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2075 hearing to contest the order entered pursuant to this section by
2076 petitioning the court that issued the order. A hearing must be
2077 held within 3 days after the request or as soon as practicable
2078 thereafter and before the expiration of the temporary order. The
2079 hearing must be set and noticed by the lawful owner of the
2080 monetary instruments or funds or his or her attorney. Notice of
2081 the hearing must be provided to the petitioner who procured the
2082 temporary injunction ~~pursuant to the Florida Rules of Civil~~
2083 ~~Procedure~~ but not less than 24 hours before the scheduled
2084 hearing. The court may receive and consider at a hearing held
2085 pursuant to this subsection, evidence and information that would
2086 be inadmissible under the Florida Rules of Evidence. A proceeding
2087 under this subsection is governed by the Florida Rules of Civil
2088 Procedure.

2089 Section 83. Subsection (2) of section 916.13, Florida
2090 Statutes, is amended to read:

2091 916.13 Involuntary commitment of defendant adjudicated
2092 incompetent.--

2093 (2) A defendant who has been charged with a felony and who
2094 has been adjudicated incompetent to proceed due to mental
2095 illness, and who meets the criteria for involuntary commitment to
2096 the department under the provisions of this chapter, may be
2097 committed to the department, and the department shall retain and
2098 treat the defendant. No later than 6 months after the date of
2099 admission and at the end of any period of extended commitment, or
2100 at any time the administrator or designee shall have determined
2101 that the defendant has regained competency to proceed or no
2102 longer meets the criteria for continued commitment, the

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2103 administrator or designee shall file a report with the court
2104 ~~pursuant to the applicable Florida Rules of Criminal Procedure.~~

2105 Section 84. Subsection of section 916.15, Florida Statutes,
2106 are amended to read:

2107 916.15 Involuntary commitment of defendant adjudicated not
2108 guilty by reason of insanity.--

2109 (3) Every defendant acquitted of criminal charges by reason
2110 of insanity and found to meet the criteria for involuntary
2111 commitment may be committed and treated in accordance with the
2112 provisions of this section and the applicable Florida Rules of
2113 Criminal Procedure. The department shall admit a defendant so
2114 adjudicated to an appropriate facility or program for treatment
2115 and shall retain and treat such defendant. No later than 6 months
2116 after the date of admission, prior to the end of any period of
2117 extended commitment, or at any time the administrator or designee
2118 shall have determined that the defendant no longer meets the
2119 criteria for continued commitment placement, the administrator or
2120 designee shall file a report with the court ~~pursuant to the~~
2121 ~~applicable Florida Rules of Criminal Procedure.~~

2122 Section 85. Paragraph (a) of subsection (2) of section
2123 916.302, Florida Statutes, is amended to read:

2124 916.302 Involuntary commitment of defendant determined to
2125 be incompetent to proceed.--

2126 (2) ADMISSION TO A FACILITY.--

2127 (a) A defendant who has been charged with a felony and who
2128 is found to be incompetent to proceed due to retardation or
2129 autism, and who meets the criteria for involuntary commitment to
2130 the agency under the provisions of this chapter, shall be
2131 committed to the agency, and the agency shall retain and provide

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2132 appropriate training for the defendant. No later than 6 months
2133 after the date of admission or at the end of any period of
2134 extended commitment or at any time the administrator or designee
2135 shall have determined that the defendant has regained competency
2136 to proceed or no longer meets the criteria for continued
2137 commitment, the administrator or designee shall file a report
2138 with the court pursuant to this chapter ~~and the applicable~~
2139 ~~Florida Rules of Criminal Procedure.~~

2140 Section 86. Paragraph (g) of subsection (1) of section
2141 924.07, Florida Statutes, is amended to read:

2142 924.07 Appeal by state.--

2143 (1) The state may appeal from:

2144 (g) An order adjudicating a defendant insane ~~under the~~
2145 ~~Florida Rules of Criminal Procedure.~~

2146 Section 87. Paragraph (a) of subsection (6) of section
2147 932.704, Florida Statutes, is amended to read:

2148 932.704 Forfeiture proceedings.--

2149 (6) (a) If the property is required by law to be titled or
2150 registered, or if the owner of the property is known in fact to
2151 the seizing agency, or if the seized property is subject to a
2152 perfected security interest in accordance with the Uniform
2153 Commercial Code, chapter 679, the attorney for the seizing agency
2154 shall serve the forfeiture complaint ~~as an original service of~~
2155 ~~process under the Florida Rules of Civil Procedure and other~~
2156 ~~applicable law~~ to each person having an ownership or security
2157 interest in the property. The seizing agency shall also publish,
2158 in accordance with chapter 50, notice of the forfeiture complaint
2159 once each week for 2 consecutive weeks in a newspaper of general

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2160 circulation, as defined in s. 165.031, in the county where the
2161 seizure occurred.

2162 Section 88. Paragraph (d) of subsection (12) of section
2163 984.03, Florida Statutes, is amended to read:

2164 984.03 Definitions.--When used in this chapter, the term:

2165 (12) "Child who is found to be dependent" or "dependent
2166 child" means a child who, pursuant to this chapter, is found by
2167 the court:

2168 (d) To have been voluntarily placed with a licensed child-
2169 placing agency for the purposes of subsequent adoption and a
2170 natural parent or parents have consented to termination of
2171 parental rights ~~signed a consent pursuant to the Florida Rules of~~
2172 ~~Juvenile Procedure.~~

2173 Section 89. Subsection (6) of section 984.04, Florida
2174 Statutes, is amended to read:

2175 984.04 Families in need of services and children in need of
2176 services; procedures and jurisdiction.--

2177 ~~(6) All procedures, including petitions, pleadings,~~
2178 ~~subpoenas, summonses, and hearings, in family-in-need-of-services~~
2179 ~~eases and child-in-need-of-services cases shall be according to~~
2180 ~~the Florida Rules of Juvenile Procedure unless otherwise provided~~
2181 ~~by law.~~

2182 Section 90. Subsection (13) of section 984.19, Florida
2183 Statutes, is amended to read:

2184 984.19 Medical screening and treatment of child;
2185 examination of parent, guardian, or person requesting custody.--

2186 (13) At any time after the filing of a petition for a child
2187 in need of services, when the mental or physical condition,
2188 including the blood group, of a parent, guardian, or other person

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2189 requesting custody of a child is in controversy, the court may
2190 order the person to submit to a physical or mental examination by
2191 a qualified professional. The order may be made only upon good
2192 cause shown and pursuant to notice and ~~procedures as set forth by~~
2193 ~~the Florida Rules of Juvenile Procedure.~~

2194 Section 91. Paragraphs (a) and (b) of subsection (1) and
2195 paragraphs (a) and (b) of subsection (2) of section 984.20,
2196 Florida Statutes, are amended to read:

2197 984.20 Hearings for child-in-need-of-services cases.--

2198 (1) ARRAIGNMENT HEARING.--

2199 (a) When a child has been taken into custody by order of
2200 the court, an arraignment hearing shall be held within 7 days
2201 after the date the child is taken into custody. The hearing shall
2202 be held for the child and the parent, guardian, or custodian to
2203 admit, deny, or consent to findings that a child is in need of
2204 services as alleged in the petition. If the child and the parent,
2205 guardian, or custodian admit or consent to the findings in the
2206 petition, the court shall proceed ~~as set forth in the Florida~~
2207 ~~Rules of Juvenile Procedure.~~ However, if either the child or the
2208 parent, guardian, or custodian denies any of the allegations of
2209 the petition, the court shall hold an adjudicatory hearing within
2210 7 days after the date of the arraignment hearing.

2211 (b) When a child is in the custody of the parent, guardian,
2212 or custodian, upon the filing of a petition, the clerk shall set
2213 a date for an arraignment hearing within a reasonable time from
2214 the date of the filing of the petition. If the child and the
2215 parent, guardian, or custodian admit or consent to an
2216 adjudication, the court shall proceed ~~as set forth in the Florida~~
2217 ~~Rules of Juvenile Procedure.~~ However, if either the child or the

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2218 parent, guardian, or custodian denies any of the allegations of
2219 child in need of services, the court shall hold an adjudicatory
2220 hearing within a reasonable time from the date of the arraignment
2221 hearing.

2222 (2) ADJUDICATORY HEARING.--

2223 (a) The adjudicatory hearing shall be held as soon as
2224 practicable after the petition for a child in need of services is
2225 filed ~~and in accordance with the Florida Rules of Juvenile~~
2226 ~~Procedure~~, but reasonable delay for the purpose of investigation,
2227 discovery, or procuring counsel or witnesses shall, whenever
2228 practicable, be granted. If the child is in custody, the
2229 adjudicatory hearing shall be held within 14 days after the date
2230 the child was taken into custody.

2231 (b) Adjudicatory hearings shall be conducted by the judge
2232 without a jury, ~~applying the rules of evidence in use in civil~~
2233 ~~eases and adjourning the hearings from time to time as necessary.~~
2234 In a hearing on a petition in which it is alleged that the child
2235 is a child in need of services, a preponderance of evidence shall
2236 be required to establish that the child is in need of services.

2237 Section 92. Paragraph (e) of subsection (4) and paragraph
2238 (d) of subsection (6) of section 985.19, Florida Statutes, are
2239 amended to read:

2240 985.19 Incompetency in juvenile delinquency cases.--

2241 (4) A child who is determined to have mental illness,
2242 mental retardation, or autism, who has been adjudicated
2243 incompetent to proceed, and who meets the criteria set forth in
2244 subsection (3), must be committed to the Department of Children
2245 and Family Services and receive treatment or training in a secure
2246 facility or program that is the least restrictive alternative

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2247 consistent with public safety. Any placement of a child to a
2248 secure residential program must be separate from adult forensic
2249 programs. If the child attains competency, then custody, case
2250 management, and supervision of the child will be transferred to
2251 the department in order to continue delinquency proceedings;
2252 however, the court retains authority to order the Department of
2253 Children and Family Services to provide continued treatment or
2254 training to maintain competency.

2255 (e) The service provider must file a written report with
2256 the court ~~pursuant to the applicable Florida Rules of Juvenile~~
2257 ~~Procedure~~ not later than 6 months after the date of commitment,
2258 or at the end of any period of extended treatment or training,
2259 and at any time the Department of Children and Family Services,
2260 through its service provider determines the child has attained
2261 competency or no longer meets the criteria for secure placement,
2262 or at such shorter intervals as ordered by the court. A copy of a
2263 written report evaluating the child's competency must be filed by
2264 the provider with the court and with the state attorney, the
2265 child's attorney, the department, and the Department of Children
2266 and Family Services.

2267 (6)

2268 (d) The service provider must file a written report with
2269 the court ~~pursuant to the applicable Florida Rules of Juvenile~~
2270 ~~Procedure~~, not later than 6 months after the date of commitment,
2271 at the end of any period of extended treatment or training, and
2272 at any time the service provider determines the child has
2273 attained competency or will never attain competency, or at such
2274 shorter intervals as ordered by the court. A copy of a written
2275 report evaluating the child's competency must be filed by the

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2276 provider with the court, the state attorney, the child's
2277 attorney, the Department of Children and Family Services, and the
2278 department.

2279 Section 93. Paragraph (g) of subsection (1) of section
2280 985.255, Florida Statutes, is amended to read:

2281 985.255 Detention criteria; detention hearing.--

2282 (1) Subject to s. 985.25(1), a child taken into custody and
2283 placed into nonsecure or home detention care or detained in
2284 secure detention care prior to a detention hearing may continue
2285 to be detained by the court if:

2286 (g) The child is charged with any second degree or third
2287 degree felony involving a violation of chapter 893 or any third
2288 degree felony that is not also a crime of violence, and the
2289 child:

2290 1. Has a record of failure to appear at court hearings
2291 after being properly notified ~~in accordance with the Rules of~~
2292 ~~Juvenile Procedure;~~

2293 2. Has a record of law violations prior to court hearings;

2294 3. Has already been detained or has been released and is
2295 awaiting final disposition of the case;

2296 4. Has a record of violent conduct resulting in physical
2297 injury to others; or

2298 5. Is found to have been in possession of a firearm.

2299 Section 94. Subsection (6) of section 985.26, Florida
2300 Statutes, is amended to read:

2301 985.26 Length of detention.--

2302 (6) If a child is detained and a petition for delinquency
2303 is filed, the child shall be arraigned ~~in accordance with the~~

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2304 ~~Florida Rules of Juvenile Procedure~~ within 48 hours after the
2305 filing of the petition for delinquency.

2306 Section 95. Subsection (1) of section 985.35, Florida
2307 Statutes, is amended to read:

2308 985.35 Adjudicatory hearings; withheld adjudications;
2309 orders of adjudication.--

2310 (1) The adjudicatory hearing must be held as soon as
2311 practicable after the petition alleging that a child has
2312 committed a delinquent act or violation of law is filed ~~and in~~
2313 ~~accordance with the Florida Rules of Juvenile Procedure;~~ but
2314 reasonable delay for the purpose of investigation, discovery, or
2315 procuring counsel or witnesses shall be granted. If the child is
2316 being detained, the time limitations in s. 985.26(2) and (3)
2317 apply.

2318 Section 96. Paragraph (b) of subsection (1) of section
2319 985.534, Florida Statutes, is amended to read:

2320 985.534 Appeal.--

2321 (1) An appeal from an order of the court affecting a party
2322 to a case involving a child under this chapter may be taken to
2323 the appropriate district court of appeal within the time and in
2324 the manner prescribed by s. 924.051 and the Florida Rules of
2325 Appellate Procedure by:

2326 (b) The state, which may appeal from:

- 2327 1. An order dismissing a petition or any section thereof;
- 2328 2. An order granting a new adjudicatory hearing;
- 2329 3. An order arresting judgment;
- 2330 4. A ruling on a question of law when the child is
2331 adjudicated delinquent and appeals from the judgment;
- 2332 5. The disposition, on the ground that it is illegal;

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- 2333 6. A judgment discharging a child on habeas corpus;
2334 7. An order adjudicating a child insane ~~under the Florida~~
2335 ~~Rules of Juvenile Procedure~~; and
2336 8. All other preadjudicatory hearings, except that the
2337 state may not take more than one appeal under this subsection in
2338 any case.

2339
2340 In the case of an appeal by the state, the notice of appeal shall
2341 be filed by the appropriate state attorney or his or her
2342 authorized assistant under s. 27.18. Such an appeal shall embody
2343 all assignments of error in each preadjudicatory hearing order
2344 that the state seeks to have reviewed. The state shall pay all
2345 costs of the appeal except for the child's attorney's fee.

2346 Section 97. This act shall take effect July 1, 2008.