

By the Committees on Judiciary; Children, Families, and Elder Affairs; and Senator Storms

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1 A bill to be entitled
2 An act relating to care of children; creating the "Zahid
3 Jones, Jr., Give Grandparents and Other Relatives a Voice
4 Act"; amending s. 39.201, F.S.; providing for the
5 Department of Children and Family Services to analyze
6 certain unaccepted reports to the central abuse hotline;
7 requiring information to be provided to a reporter;
8 authorizing the submission of a written report; amending
9 s. 39.202, F.S.; expanding access to certain confidential
10 reports of child abuse or neglect to include physicians,
11 psychologists, and mental health professionals; amending
12 s. 39.301, F.S.; requiring information to be provided to a
13 reporter; authorizing the submission of a written report;
14 providing conditions for a relative to be a collateral
15 contact in certain child protective investigations;
16 providing for a relative to request notice of proceedings
17 and hearings relating to protective investigations under
18 certain circumstances; specifying content of the request;
19 conforming cross-references; amending s. 39.304, F.S.;
20 providing for preservation in department records of
21 certain photographs and X rays and reports on medical
22 examinations and treatments of an abused child; amending
23 s. 39.402, F.S.; requiring notification of certain
24 relatives in an order for placement of a child in shelter
25 care of their right to attend hearings, submit reports to
26 the court, and speak to the court; amending s. 39.502,
27 F.S.; providing for certain relatives to receive notice of
28 dependency hearings under certain circumstances; providing
29 an opportunity for certain relatives to be heard in court;

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30 providing an exception; amending s. 39.506, F.S.;

31 providing for certain relatives to receive notice of

32 arraignment hearings under certain circumstances; amending

33 s. 39.5085, F.S.; revising legislative intent with regard

34 to the Relative Caregiver Program; authorizing the

35 department to develop liaison functions for certain

36 relatives; amending s. 39.6011, F.S.; requiring a case

37 plan for a child receiving services from the department to

38 include a protocol for notification of certain relatives

39 of proceedings and hearings; amending s. 39.6013, F.S.;

40 conforming a cross-reference; amending s. 39.701, F.S.;

41 requiring an attorney for the department to provide notice

42 to certain relatives of the child regarding upcoming

43 judicial hearings; conforming cross-references; amending

44 s. 39.823, F.S.; conforming a cross-reference; amending s.

45 683.10, F.S.; designating the first Sunday after Labor Day

46 as "Grandparents' and Family Caregivers' Day"; authorizing

47 the Governor to issue proclamations commemorating the

48 occasion; providing an effective date.

49

50 Be It Enacted by the Legislature of the State of Florida:

51

52 Section 1. This act may be cited as the "Zahid Jones, Jr.,

53 Give Grandparents and Other Relatives a Voice Act."

54 Section 2. Paragraph (b) of subsection (1) and subsection

55 (7) of section 39.201, Florida Statutes, are amended to read:

56 39.201 Mandatory reports of child abuse, abandonment, or

57 neglect; mandatory reports of death; central abuse hotline.--

58 (1)

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59 (b) Reporters in the following occupation categories are
60 required to provide their names to the hotline staff:

61 1. Physician, osteopathic physician, medical examiner,
62 chiropractic physician, nurse, or hospital personnel engaged in
63 the admission, examination, care, or treatment of persons;

64 2. Health or mental health professional other than one
65 listed in subparagraph 1.;

66 3. Practitioner who relies solely on spiritual means for
67 healing;

68 4. School teacher or other school official or personnel;

69 5. Social worker, day care center worker, or other
70 professional child care, foster care, residential, or
71 institutional worker;

72 6. Law enforcement officer; or

73 7. Judge.

74
75 The names of reporters shall be entered into the record of the
76 report, but shall be held confidential and exempt as provided in
77 s. 39.202. If a report received from a reporter under this
78 paragraph is accepted for investigation, the reporter must be
79 provided contact information for the investigator within 24 hours
80 after an investigator has been assigned. A reporter under this
81 paragraph may provide a written summary of the report to the
82 investigator which shall become a part of the master file.

83 (7) On an ongoing basis, the department's quality assurance
84 program shall review calls to the hotline involving three or more
85 unaccepted reports on a single child, where jurisdiction applies,
86 in order to detect such things as harassment and situations that
87 warrant an investigation because of the frequency or variety of

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88 | the source of the reports. A component of the quality assurance
89 | program shall analyze unaccepted reports to the hotline by
90 | identified relatives as a part of the review of screened-out
91 | calls. The Program Director for Family Safety may refer a case
92 | for investigation when it is determined, as a result of this
93 | review, that an investigation may be warranted.

94 | Section 3. Paragraph (r) is added to subsection (2) of
95 | section 39.202, Florida Statutes, to read:

96 | 39.202 Confidentiality of reports and records in cases of
97 | child abuse or neglect.--

98 | (2) Except as provided in subsection (4), access to such
99 | records, excluding the name of the reporter which shall be
100 | released only as provided in subsection (5), shall be granted
101 | only to the following persons, officials, and agencies:

102 | (r) A physician licensed under chapter 458 or chapter 459,
103 | a psychologist licensed under chapter 490, or a mental health
104 | professional licensed under chapter 491 engaged in the care or
105 | treatment of the child.

106 | Section 4. Subsections (6) through (23) of section 39.301,
107 | Florida Statutes, are redesignated as subsections (7) through
108 | (24), respectively, paragraph (c) of present subsection (9),
109 | present subsection (10), and paragraph (b) of present subsection
110 | (14) are amended, and a new subsection (6) is added to that
111 | section, to read:

112 | 39.301 Initiation of protective investigations.--

113 | (6) Upon commencing an investigation under this part, if a
114 | report was received from a reporter under s. 39.201(1)(b), the
115 | child protective investigator must provide his or her contact
116 | information to the reporter within 24 hours after being assigned

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117 to the investigation. The investigator must also advise the
118 reporter that he or she may provide a written summary of the
119 report made to the central abuse hotline to the investigator
120 which shall become a part of the master file.

121 (10)~~(9)~~

122 (c) The determination that a report requires an
123 investigation as provided in this subsection and does not require
124 an enhanced onsite child protective investigation pursuant to
125 subsection (11) ~~(10)~~ must be approved in writing by the
126 supervisor with documentation specifying why additional
127 investigative activities are not necessary.

128 (11)~~(10)~~(a) For each report that meets one or more of the
129 following criteria, the department shall perform an enhanced
130 onsite child protective investigation:

131 1. Any allegation that involves physical abuse, sexual
132 abuse, domestic violence, substance abuse or substance exposure,
133 medical neglect, a child younger than 3 years of age, or a child
134 who is disabled or lacks communication skills.

135 2. Any report that involves an individual who has been the
136 subject of a prior report containing some indicators or verified
137 findings of abuse, neglect, or abandonment.

138 3. Any report that does not contain compelling evidence
139 that the maltreatment did not occur.

140 4. Any report that does not meet the criteria for an onsite
141 child protective investigation as set forth in subsection (10)
142 ~~(9)~~.

143 (b) The enhanced onsite child protective investigation
144 shall include, but is not limited to:

145 1. A face-to-face interview with the child, other siblings,

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146 parents or legal custodians or caregivers, and other adults in
147 the household;

148 2. Collateral contacts;

149 3. Contact with the reporter as required by rule;

150 4. An onsite assessment of the child's residence in
151 accordance with paragraph (10) ~~(9)~~ (b); and

152 5. An updated assessment.

153

154 Detailed documentation is required for the investigative
155 activities.

156 (15) ~~(14)~~

157 (b) The parents or legal custodians shall be informed of
158 the right to refuse services, as well as the responsibility of
159 the department to protect the child regardless of the acceptance
160 or refusal of services. If the services are refused, a collateral
161 contact required under subparagraph (11) (b) 2. shall include a
162 relative, if the protective investigator has knowledge of and the
163 ability to contact a relative. If the services are refused and
164 the department deems that the child's need for protection so
165 requires, the department shall take the child into protective
166 custody or petition the court as provided in this chapter. A
167 relative may submit in writing to the protective investigator or
168 case manager a request to receive notification of all proceedings
169 and hearings in accordance with s. 39.502. The request shall
170 include the relative's name, address, and phone number and the
171 relative's relationship to the child. The protective investigator
172 or case manager shall forward such request to the attorney for
173 the department.

174 Section 5. Subsection (4) of section 39.304, Florida

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175 Statutes, is amended to read:

176 39.304 Photographs, medical examinations, X rays, and
177 medical treatment of abused, abandoned, or neglected child.--

178 (4) Any photograph or report on examinations made or X rays
179 taken pursuant to this section, or copies thereof, shall be sent
180 to the department as soon as possible and shall be preserved in
181 permanent form in records held by the department.

182 Section 6. Paragraph (h) of subsection (8) of section
183 39.402, Florida Statutes, is amended to read:

184 39.402 Placement in a shelter.--

185 (8)

186 (h) The order for placement of a child in shelter care must
187 identify the parties present at the hearing and must contain
188 written findings:

189 1. That placement in shelter care is necessary based on the
190 criteria in subsections (1) and (2).

191 2. That placement in shelter care is in the best interest
192 of the child.

193 3. That continuation of the child in the home is contrary
194 to the welfare of the child because the home situation presents a
195 substantial and immediate danger to the child's physical, mental,
196 or emotional health or safety which cannot be mitigated by the
197 provision of preventive services.

198 4. That based upon the allegations of the petition for
199 placement in shelter care, there is probable cause to believe
200 that the child is dependent or that the court needs additional
201 time, which may not exceed 72 hours, in which to obtain and
202 review documents pertaining to the family in order to
203 appropriately determine the risk to the child.

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204 5. That the department has made reasonable efforts to
205 prevent or eliminate the need for removal of the child from the
206 home. A finding of reasonable effort by the department to prevent
207 or eliminate the need for removal may be made and the department
208 is deemed to have made reasonable efforts to prevent or eliminate
209 the need for removal if:

210 a. The first contact of the department with the family
211 occurs during an emergency;

212 b. The appraisal of the home situation by the department
213 indicates that the home situation presents a substantial and
214 immediate danger to the child's physical, mental, or emotional
215 health or safety which cannot be mitigated by the provision of
216 preventive services;

217 c. The child cannot safely remain at home, either because
218 there are no preventive services that can ensure the health and
219 safety of the child or because, even with appropriate and
220 available services being provided, the health and safety of the
221 child cannot be ensured; or

222 d. The parent or legal custodian is alleged to have
223 committed any of the acts listed as grounds for expedited
224 termination of parental rights in s. 39.806(1)(f)-(i).

225 6. That the court notified the parents, relatives that are
226 providing out-of-home care for the child, or legal custodians of
227 the time, date, and location of the next dependency hearing and
228 of the importance of the active participation of the parents,
229 relatives that are providing out-of-home care for the child, or
230 legal custodians in all proceedings and hearings.

231 7. That the court notified the parents or legal custodians
232 of their right to counsel to represent them at the shelter

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233 hearing and at each subsequent hearing or proceeding, and the
234 right of the parents to appointed counsel, pursuant to the
235 procedures set forth in s. 39.013.

236 8. That the court notified relatives who are providing out-
237 of-home care for a child as a result of the shelter petition
238 being granted, and any relative requesting notification pursuant
239 to s. 39.301(15)(b), that they have the right to attend all
240 subsequent hearings, to submit reports to the court, and to speak
241 to the court regarding the child, if they so desire.

242 Section 7. Subsection (1) of section 39.502, Florida
243 Statutes, is amended, and subsection (19) is added to that
244 section, to read:

245 39.502 Notice, process, and service.--

246 (1) Unless parental rights have been terminated, all
247 parents must be notified of all proceedings or hearings involving
248 the child. Notice in cases involving shelter hearings and
249 hearings resulting from medical emergencies must be that most
250 likely to result in actual notice to the parents. In all other
251 dependency proceedings, notice must be provided in accordance
252 with subsections (4)-(9), except when a relative requests
253 notification pursuant to s. 39.301(15)(b), in which case notice
254 shall be provided pursuant to subsection (19).

255 (19) In all proceedings under this part, the attorney for
256 the department shall notify, orally or in writing, a relative
257 requesting notification pursuant to s. 39.301(15)(b) of the date,
258 time, and location of such proceedings, and make all reasonable
259 efforts to ensure that all relatives who have requested
260 notification pursuant to s. 39.301(15)(b) are given an
261 opportunity to be heard by the court if the relative so desires.

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262 The court has the discretion to release the attorney for the
263 department from notifying a relative who requested notification
264 pursuant to s. 39.301(15)(b) if the relative's involvement is
265 determined to be impeding the dependency process or detrimental
266 to the child's well-being.

267 Section 8. Subsection (9) of section 39.506, Florida
268 Statutes, is amended to read:

269 39.506 Arraignment hearings.--

270 (9) At the conclusion of the arraignment hearing, all
271 parties and the relatives who are providing out-of-home care for
272 the child shall be notified in writing by the court of the date,
273 time, and location for the next scheduled hearing.

274 Section 9. Paragraphs (a) through (d) of subsection (1) of
275 section 39.5085, Florida Statutes, are redesignated as paragraphs
276 (b) through (e), respectively, a new paragraph (a) is added to
277 subsection (1), and paragraph (g) of subsection (2) of that
278 section is amended, to read:

279 39.5085 Relative Caregiver Program.--

280 (1) It is the intent of the Legislature in enacting this
281 section to:

282 (a) Provide for the establishment of procedures and
283 protocols that serve to advance the continued safety of children
284 by acknowledging the valued resource uniquely available through
285 grandparents and relatives of children.

286 (2)

287 (g) The department may use appropriate available state,
288 federal, and private funds to operate the Relative Caregiver
289 Program. The department may develop liaison functions to be
290 available to relatives who care for children pursuant to this

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291 chapter to ensure placement stability in extended family
292 settings.

293 Section 10. Paragraphs (b) and (c) of subsection (4) of
294 section 39.6011, Florida Statutes, are redesignated as paragraphs
295 (c) and (d), respectively, and a new paragraph (b) is added to
296 that subsection to read:

297 39.6011 Case plan development.--

298 (4) The case plan must describe:

299 (b) The responsibility of the case manager to forward a
300 relative's request to receive notification of all proceedings and
301 hearings submitted pursuant to s. 39.301(15)(b) to the attorney
302 for the department.

303 Section 11. Subsection (6) of section 39.6013, Florida
304 Statutes, is amended to read:

305 39.6013 Case plan amendments.--

306 (6) The case plan is deemed amended as to the child's
307 health, mental health, and education records required by s.
308 39.6012 when the child's updated health and education records are
309 filed by the department under s. 39.701~~(8)~~~~(7)~~(a).

310 Section 12. Subsections (6) through (9) of section 39.701,
311 Florida Statutes, are redesignated as subsections (7) through
312 (10), respectively, a new subsection (6) is added to that
313 section, and paragraph (c) of subsection (2), paragraph (b) of
314 present subsection (6), and paragraph (a) of present subsection
315 (9) are amended, to read:

316 39.701 Judicial review.--

317 (2)

318 (c) Notice of a hearing by a citizen review panel must be
319 provided as set forth in subsection (5). At the conclusion of a

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320 citizen review panel hearing, each party may propose a
321 recommended order to the chairperson of the panel. Thereafter,
322 the citizen review panel shall submit its report, copies of the
323 proposed recommended orders, and a copy of the panel's
324 recommended order to the court. The citizen review panel's
325 recommended order must be limited to the dispositional options
326 available to the court in subsection (10) ~~(9)~~. Each party may
327 file exceptions to the report and recommended order of the
328 citizen review panel in accordance with Rule 1.490, Florida Rules
329 of Civil Procedure.

330 (6) The attorney for the department shall notify a relative
331 who submits a request for notification of all proceedings and
332 hearings pursuant to s. 39.301(15)(b). The notice shall include
333 the date, time, and location of the next judicial review hearing.

334 (7) ~~(6)~~

335 (b) At the first judicial review hearing held subsequent to
336 the child's 17th birthday, in addition to the requirements of
337 subsection (8) ~~(7)~~, the department shall provide the court with
338 an updated case plan that includes specific information related
339 to independent living services that have been provided since the
340 child's 13th birthday, or since the date the child came into
341 foster care, whichever came later.

342 (10) ~~(9)~~ (a) Based upon the criteria set forth in subsection
343 (9) ~~(8)~~ and the recommended order of the citizen review panel, if
344 any, the court shall determine whether or not the social service
345 agency shall initiate proceedings to have a child declared a
346 dependent child, return the child to the parent, continue the
347 child in out-of-home care for a specified period of time, or
348 initiate termination of parental rights proceedings for

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349 subsequent placement in an adoptive home. Amendments to the case
350 plan must be prepared as prescribed in s. 39.6013. If the court
351 finds that the prevention or reunification efforts of the
352 department will allow the child to remain safely at home or be
353 safely returned to the home, the court shall allow the child to
354 remain in or return to the home after making a specific finding
355 of fact that the reasons for the creation of the case plan have
356 been remedied to the extent that the child's safety, well-being,
357 and physical, mental, and emotional health will not be
358 endangered.

359 Section 13. Section 39.823, Florida Statutes, is amended to
360 read:

361 39.823 Guardian advocates for drug dependent newborns.--The
362 Legislature finds that increasing numbers of drug dependent
363 children are born in this state. Because of the parents'
364 continued dependence upon drugs, the parents may temporarily
365 leave their child with a relative or other adult or may have
366 agreed to voluntary family services under s. 39.301(15)(14). The
367 relative or other adult may be left with a child who is likely to
368 require medical treatment but for whom they are unable to obtain
369 medical treatment. The purpose of this section is to provide an
370 expeditious method for such relatives or other responsible adults
371 to obtain a court order which allows them to provide consent for
372 medical treatment and otherwise advocate for the needs of the
373 child and to provide court review of such authorization.

374 Section 14. Section 683.10, Florida Statutes, is amended to
375 read:

376 683.10 Grandparents' and Family Caregivers' Grandmother's
377 Day.--

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378 (1) The first Sunday after Labor Day ~~second Sunday of~~
379 ~~October~~ of each year is designated "Grandparents' and Family
380 Caregivers' Grandmother's Day."

381 (2) The Governor may issue annually a proclamation
382 designating the first Sunday after Labor Day ~~second Sunday of~~
383 ~~October~~ as Grandparents' and Family Caregivers' Grandmother's Day
384 and calling upon public schools and citizens of the state to
385 observe the occasion.

386 Section 15. This act shall take effect July 1, 2008.