



818944

CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: FAV	.	
4/8/2008	.	
	.	
	.	

1 The Committee on Children, Families, and Elder Affairs (Storms)
2 recommended the following **amendment**:

Senate Amendment (with title amendment)

5 Delete everything after the enacting clause
6 and insert:

7 Section 1. Section 39.0016, Florida Statutes, is amended to
8 read:

9 39.0016 Education of dependent ~~abused, neglected, and~~
10 ~~abandoned~~ children or children in shelter care.--

11 (1) DEFINITIONS.--As used in this section, the term:

12 (a) "Children known to the department" means children who
13 are found to be dependent or children in shelter care.

14 (b) "Department" means the Department of Children and
15 Family Services or a community-based care lead agency acting on
16 behalf of the department ~~of Children and Family Services~~, as
17 appropriate.



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18 (c) "Surrogate parent" means an individual appointed to act
19 in the place of a parent in educational decisionmaking and in
20 safeguarding a child's access to services under this section, s.
21 1003.572, and the Individuals with Disabilities Education Act.

22 ~~(2) The provisions of this section establish goals and not~~
23 ~~rights. This section does not require the delivery of any~~
24 ~~particular service or level of service in excess of existing~~
25 ~~appropriations. A person may not maintain a cause of action~~
26 ~~against the state or any of its subdivisions, agencies,~~
27 ~~contractors, subcontractors, or agents based upon this section~~
28 ~~becoming law or failure by the Legislature to provide adequate~~
29 ~~funding for the achievement of these goals. This section does not~~
30 ~~require the expenditure of funds to meet the goals established in~~
31 ~~this section except funds specifically appropriated for such~~
32 ~~purpose.~~

33 (2) AGENCY AGREEMENTS.--

34 (a) ~~(3)~~ The department shall enter into an agreement with
35 the Department of Education regarding the education and related
36 care of children known to the department. Such agreement shall be
37 designed to provide educational access to such children ~~known to~~
38 ~~the department~~ for the purpose of facilitating the delivery of
39 services or programs to these children ~~known to the department~~.
40 The agreement shall avoid duplication of services or programs and
41 shall provide for combining resources to maximize the
42 availability or delivery of services or programs.

43 (b) ~~(4)~~ The department shall enter into agreements with
44 district school boards or other local educational entities
45 regarding education and related services for children known to
46 the department who are of school age and ~~children known to the~~
47 ~~department~~ who are younger than school age but who would



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48 otherwise qualify for services from the district school board.

49 Such agreements must ~~shall~~ include, but are not limited to:

50 1.~~(a)~~ A requirement that the department ~~shall~~:

51 a.~~1.~~ Enroll children known to the department in school. The
52 agreement must ~~shall~~ provide for continuing the enrollment of the
53 a child ~~known to the department~~ at the same school, if possible,
54 with the goal of avoiding disruption of education.

55 b.~~2.~~ Notify the school and school district in which a child
56 known to the department is enrolled of the name and phone number
57 of the child ~~known to the department caregiver and caseworker~~ for
58 child safety purposes.

59 c.~~3.~~ Establish a protocol for the department to share
60 information about a child known to the department with the school
61 district, consistent with the Family Educational Rights and
62 Privacy Act, in order to ~~since the sharing of information will~~
63 assist each agency in obtaining education and related services
64 for the benefit of the child.

65 d.~~4.~~ Notify the school district of the department's case
66 planning for a child known to the department, ~~both~~ at the time of
67 plan development and plan review. Within the plan development or
68 review process, the school district may provide information
69 regarding the child ~~known to the department~~ if the school
70 district deems it desirable and appropriate.

71 2.~~(b)~~ A requirement that the district school board ~~shall~~:

72 a.~~1.~~ Provide the department with a general listing of the
73 services and information available from the district school
74 board, including, but not limited to, the current Sunshine State
75 Standards, the Surrogate Parent Training Manual, and other
76 resources accessible through the Department of Education or local



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77 school districts to facilitate educational access for a child
78 known to the department.

79 ~~b.2.~~ Identify all educational and other services provided
80 by the school and school district which the school district
81 believes are reasonably necessary to meet the educational needs
82 of a child known to the department.

83 ~~c.3.~~ Determine whether transportation is available for a
84 child known to the department if when such transportation will
85 avoid a change in school assignment due to a change in
86 residential placement. Recognizing that continued enrollment in
87 the same school throughout the time the child ~~known to the~~
88 ~~department~~ is in out-of-home care is preferable unless enrollment
89 in the same school would be unsafe or otherwise impractical, the
90 department, the district school board, and the Department of
91 Education shall assess the availability of federal, charitable,
92 or grant funding for such transportation.

93 ~~d.4.~~ Provide individualized student intervention or an
94 individual educational plan when a determination has been made
95 through legally appropriate criteria that intervention services
96 are required for a child known to the department. The
97 intervention or individual educational plan must include
98 strategies to enable the child ~~known to the department~~ to
99 maximize the attainment of educational goals.

100 3.~~(e)~~ A requirement that the department and the district
101 school board ~~shall~~ cooperate in accessing the services and
102 supports needed for a child known to the department who has or is
103 suspected of having a disability to receive an appropriate
104 education consistent with the Individuals with Disabilities
105 Education Act and state implementing laws, rules, and assurances.



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106 Coordination of services for a child ~~known to the department~~ who
107 has or is suspected of having a disability may include:

108 ~~a.1.~~ Referral for screening.

109 ~~b.2.~~ Sharing of evaluations between the school district and
110 the department where appropriate.

111 ~~c.3.~~ Provision of education and related services
112 appropriate for the needs and abilities of the child ~~known to the~~
113 ~~department.~~

114 ~~d.4.~~ Coordination of services and plans between the school
115 and the residential setting to avoid duplication or conflicting
116 service plans.

117 ~~e.5.~~ Appointment of a surrogate parent, consistent with the
118 Individuals with Disabilities Education Act, and pursuant to
119 subsection (3) and s. 1003.572 for educational purposes for a
120 child known to the department who qualifies ~~as soon as the child~~
121 ~~is determined to be dependent and without a parent to act for the~~
122 ~~child. The surrogate parent shall be appointed by the school~~
123 ~~district without regard to where the child known to the~~
124 ~~department is placed so that one surrogate parent can follow the~~
125 ~~education of the child known to the department during his or her~~
126 ~~entire time in state custody.~~

127 ~~f.6.~~ For each child known to the department 14 years of age
128 and older, transition planning by the department and all
129 providers, including the department's independent living program
130 staff, to meet the requirements of the local school district for
131 educational purposes.

132 (c) The provisions of this subsection establish standards
133 and not rights. This subsection does not require the delivery of
134 any particular service or level of service not funded by existing
135 appropriations. Further, this subsection does not require the



136 expenditure of current funds to meet the goals established in
137 this subsection unless the funds have been specifically
138 appropriated for such purpose. A person may not maintain a cause
139 of action against the state or any of its subdivisions, agencies,
140 contractors, subcontractors, or agents based on this subsection
141 becoming law or failure of the Legislature to provide funding
142 sufficient to achieve these goals.

143 (3) CHILDREN HAVING OR SUSPECTED OF HAVING DISABILITIES.--

144 (a) Legislative findings and intent.--

145 1. The Legislature finds that disability is a natural part
146 of the human experience and does not diminish the right of
147 individuals to participate in or contribute to society. Improving
148 educational results for children with disabilities is an
149 essential element of the state's policy of ensuring equality of
150 opportunity, full participation, independent living, and economic
151 self-sufficiency for individuals with disabilities.

152 2. The Legislature also finds that research and experience
153 have shown that the education of children with disabilities can
154 be made more effective by:

155 a. Having high expectations for these children and ensuring
156 their access to the general education curriculum in the regular
157 classroom, to the maximum extent possible.

158 b. Providing appropriate special education and related
159 services and aids and supports in the regular classroom to these
160 children when appropriate.

161 c. Having a trained, interested, and consistent educational
162 decisionmaker for the child if the parent is unavailable or the
163 foster parent is unwilling or not trained in the exceptional
164 education process.



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165 3. It is therefore the intent of the Legislature that all
166 children known to the department with disabilities, consistent
167 with the Individuals with Disabilities Education Act and s.
168 1003.572, have available to them a free appropriate public
169 education that provides special education and related services
170 designed to meet their unique needs and prepare them for further
171 education, employment, and independent living and that the rights
172 of such children are protected.

173 (b) Surrogate parent.--

174 1. Pursuant to s. 1003.572, the court shall appoint a
175 surrogate parent for a child known to the department who has or
176 is suspected of having a disability as provided in s. 1003.01(3)
177 if:

178 a. After reasonable efforts, a parent cannot be located; or

179 b The court has determined that a person who has the
180 authority, willingness, or ability to serve as the child's
181 educational decisionmaker is not available.

182 2. The court must appoint the surrogate parent within 30
183 days after notice that the child meets the criteria in
184 subparagraph 1.

185 (4) TRAINING.--

186 (a)~~(5)~~ The department shall incorporate an education
187 component into all training programs of the department regarding
188 children known to the department. Such training shall be
189 coordinated with the Department of Education and the local school
190 districts. The department shall offer opportunities for education
191 personnel to participate in such training. Such coordination
192 shall include, but not be limited to, notice of training
193 sessions, opportunities to purchase training materials, proposals
194 to avoid duplication of services by offering joint training, and



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195 incorporation of materials available from the Department of
196 Education and local school districts into the department training
197 when appropriate. The department training components shall
198 include:

199 1.(a) Training for surrogate parents on ~~to include~~ how the
200 ~~an~~ ability ~~to learn~~ of a child known to the department to learn
201 is affected by abuse, abandonment, neglect, and removal from the
202 home.

203 2.(b) Training for parents when ~~in cases in which~~
204 reunification is the goal, or for preadoptive parents when
205 adoption is the goal, so that such parents learn how to access
206 the services the child known to the department needs and the
207 importance of their involvement in the education of the child
208 ~~known to the department.~~

209 3.(e) Training for caseworkers and foster parents to
210 include information on the right of the child known to the
211 department to an education, the role of an education in the
212 development and adjustment of the ~~a~~ child ~~known to the~~
213 ~~department,~~ the proper ways to access education and related
214 services for the child ~~known to the department,~~ and the
215 importance and strategies for parental involvement in education
216 for the success of the child ~~known to the department.~~

217 4.(d) Training of caseworkers regarding the services and
218 information available through the Department of Education and
219 local school districts, including, but not limited to, the
220 current Sunshine State Standards, the Surrogate Parent Training
221 Manual, and other resources accessible through the Department of
222 Education or local school districts to facilitate educational
223 access for a child known to the department.

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224 Section 2. Paragraph (p) of subsection (2) of section
225 39.202, Florida Statutes, is amended to read:

226 39.202 Confidentiality of reports and records in cases of
227 child abuse or neglect.--

228 (2) Except as provided in subsection (4), access to such
229 records, excluding the name of the reporter which shall be
230 released only as provided in subsection (5), shall be granted
231 only to the following persons, officials, and agencies:

232 (p) The principal of a public school, private school, or
233 charter school where the child is a student and an employee of
234 the local school district who is designated as a liaison between
235 the school district and the department pursuant to the agency
236 agreements required in s. 39.0016(2). Information contained in
237 the records which the principal or liason determines are
238 necessary for a school employee to effectively provide a student
239 with educational services may be released to that employee.

240 Section 3. Subsection (11) of section 39.402, Florida
241 Statutes, is amended to read:

242 39.402 Placement in a shelter.--

243 (11) (a) If a child is placed in a shelter pursuant to a
244 court order following a shelter hearing, the court shall require
245 in the shelter hearing order that the parents of the child, or
246 the guardian of the child's estate, if possessed of assets which
247 under law may be disbursed for the care, support, and maintenance
248 of the child, to pay, to the department or institution having
249 custody of the child, fees as established by the department. If
250 ~~When~~ the order affects the guardianship estate, a certified copy
251 of the order shall be delivered to the judge having jurisdiction
252 of the guardianship estate. The shelter order shall also require
253 the parents to provide to the department and any other state



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254 agency or party designated by the court, within 28 days after
255 entry of the shelter order, the financial information necessary
256 to accurately calculate child support pursuant to s. 61.30.

257 (b) The court shall request that the parents consent to
258 providing access to the child's medical records and information
259 to the court, the department or its contract agencies, and any
260 guardian ad litem or attorney for the child. If a parent is
261 unavailable or unable to consent or withholds consent and the
262 court determines access to the records and information is
263 necessary to provide services to the child, the court shall issue
264 an order granting access. ~~The parent or legal guardian shall~~
265 ~~provide all known medical information to the department.~~

266 (c) The court shall request that the parents consent to
267 providing access to the child's educational records and
268 information to the court, the department or its contract
269 agencies, and any guardian ad litem or attorney for the child. If
270 a parent is unavailable or unable to consent or withholds consent
271 and the court determines that access to the records and
272 information is necessary to provide services to the child, the
273 court shall issue an order granting access. The court may appoint
274 a surrogate parent under s. 1003.572 or may refer the child to
275 the district school board for appointment of a surrogate parent.

276 Section 4. Subsection (8) of section 39.701, Florida
277 Statutes, is amended to read:

278 39.701 Judicial review.--

279 (8) The court and any citizen review panel shall consider
280 ~~take into consideration~~ the information contained in the social
281 services study and investigation and all medical, psychological,
282 and educational records that support the terms of the case plan;
283 testimony by the social services agency, the parent, the foster



284 parent or legal custodian, the guardian ad litem or surrogate
285 parent for educational decisionmaking if one has been appointed
286 for the child, and any other person deemed appropriate; and any
287 relevant and material evidence submitted to the court, including
288 written and oral reports to the extent of their probative value.
289 These reports and evidence may be received by the court ~~in its~~
290 ~~effort~~ to determine the action to be taken with regard to the
291 child and may be relied upon to the extent of their probative
292 value, even though not competent in an adjudicatory hearing. In
293 its deliberations, the court and any citizen review panel shall
294 seek to determine:

295 (a) If the parent was advised of the right to receive
296 assistance from any person or social service agency in the
297 preparation of the case plan.

298 (b) If the parent has been advised of the right to have
299 counsel present at the judicial review or citizen review
300 hearings. If not so advised, the court or citizen review panel
301 shall advise the parent of such right.

302 (c) If a guardian ad litem needs to be appointed for the
303 child in a case in which a guardian ad litem has not previously
304 been appointed or if there is a need to continue a guardian ad
305 litem in a case in which a guardian ad litem has been appointed.

306 (d) If a surrogate parent has been appointed for a child
307 who qualifies under s. 1003.572.

308 (e) ~~(d)~~ The compliance or lack of compliance of all parties
309 with applicable items of the case plan, including the parents'
310 compliance with child support orders.

311 (f) ~~(e)~~ The compliance or lack of compliance with a
312 visitation contract between the parent and the social service
313 agency for contact with the child, including the frequency,



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314 duration, and results of the parent-child visitation and the
315 reason for any noncompliance.

316 (g)~~(f)~~ The compliance or lack of compliance of the parent
317 in meeting specified financial obligations pertaining to the care
318 of the child, including the reason for failure to comply if such
319 is the case.

320 (h)~~(g)~~ Whether the child is receiving safe and proper care
321 according to s. 39.6012, including, but not limited to, the
322 appropriateness of the child's current placement, including
323 whether the child is in a setting that is as family-like and as
324 close to the parent's home as possible, consistent with the
325 child's best interests and special needs, and including
326 maintaining stability in the child's educational placement.

327 (i)~~(h)~~ A projected date likely for the child's return home
328 or other permanent placement.

329 (j)~~(i)~~ If ~~When~~ appropriate, the basis for the unwillingness
330 or inability of the parent to become a party to a case plan. The
331 court and the citizen review panel shall determine if the efforts
332 of the social service agency to secure party participation in a
333 case plan were sufficient.

334 (k)~~(j)~~ For a child who has reached 13 years of age but is
335 not yet 18 years of age, the adequacy of the child's preparation
336 for adulthood and independent living.

337 (l)~~(k)~~ If amendments to the case plan are required.
338 Amendments to the case plan must be made under s. 39.6013.

339 Section 5. Present subsection (8) of section 1000.21,
340 Florida Statutes, is renumbered as subsection (9), and a new
341 subsection (8) is added to that section, to read:

342 1000.21 Systemwide definitions.--As used in the Florida K-
343 20 Education Code:



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344 (8) "Surrogate parent" means an individual appointed to act
345 in the place of a parent in educational decisionmaking and in
346 safeguarding a child's access to services under ss. 39.0016 and
347 1003.572 and the Individuals with Disabilities Education Act.

348 Section 6. Paragraph (f) of subsection (1) and paragraph
349 (g) of subsection (4) of section 1003.21, Florida Statutes, are
350 amended to read:

351 1003.21 School attendance.--

352 (1)

353 (f) Homeless children, as defined in s. 1003.01, or
354 children who are known to the department as defined in s.
355 39.0016, must have access to a free public education and must be
356 admitted to school in the school district in which they or their
357 families live. School districts shall assist such ~~homeless~~
358 children in meeting ~~to meet~~ the requirements of subsection (4)
359 and s. 1003.22, as well as local requirements for documentation.

360 (4) Before admitting a child to kindergarten, the principal
361 shall require evidence that the child has attained the age at
362 which he or she should be admitted in accordance with the
363 provisions of subparagraph (1)(a)2. The district school
364 superintendent may require evidence of the age of any child whom
365 he or she believes to be within the limits of compulsory
366 attendance as provided for by law. If the first prescribed
367 evidence is not available, the next evidence obtainable in the
368 order set forth below shall be accepted:

369 (g) If none of the sources of evidence in paragraphs (a)-
370 (f) ~~these evidences~~ can be produced, an affidavit of age sworn to
371 by the parent, accompanied by a certificate of age signed by a
372 public health officer or by a public school physician, or, if
373 neither of these is available in the county, by a licensed



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374 practicing physician designated by the district school board,
375 which certificate states that the health officer or physician has
376 examined the child and believes that the age as stated in the
377 affidavit is substantially correct. A homeless child, as defined
378 in s. 1003.01, and a child who is known to the department as
379 defined in s. 39.0016, shall be given a temporary exemption from
380 this section for 30 school days.

381 Section 7. Subsection (1) and paragraph (e) of subsection
382 (5) of section 1003.22, Florida Statutes, are amended to read:

383 1003.22 School-entry health examinations; immunization
384 against communicable diseases; exemptions; duties of Department
385 of Health.--

386 (1) Each district school board and the governing authority
387 of each private school shall require that each child who is
388 entitled to admittance to kindergarten, ~~or is entitled~~ to any
389 other initial entrance into a public or private school in this
390 state, present a certification of a school-entry health
391 examination performed within 1 year prior to enrollment in
392 school. Each district school board, ~~and the governing authority~~
393 of each private school, ~~may~~ establish a policy that permits a
394 student up to 30 school days to present a certification of a
395 school-entry health examination. A homeless child, as defined in
396 s. 1003.01, and a child who is known to the department as defined
397 in s. 39.0016, shall be given a temporary exemption for 30 school
398 days. Any district school board that establishes such a policy
399 shall include provisions in its local school health services plan
400 to assist students in obtaining the health examination
401 ~~examinations~~. However, a ~~any~~ child shall be exempted ~~exempt~~ from
402 the requirement of a health examination upon written request of

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403 the parent of the child stating objections to the examination on
404 religious grounds.

405 (5) The provisions of this section shall not apply if:

406 (e) An authorized school official issues a temporary
407 exemption, for up a period not to exceed 30 school days, to
408 permit a student who transfers into a new county to attend class
409 until his or her records can be obtained. A homeless child, as
410 defined in s. 1003.01, and a child who is known to the department
411 as defined in s. 39.0016, shall be given a temporary exemption
412 for 30 school days. The public school health nurse or authorized
413 private school official is responsible for followup of each such
414 student until proper documentation or immunizations are obtained.
415 An exemption for 30 days may be issued for a student who enters a
416 juvenile justice program to permit the student to attend class
417 until his or her records can be obtained or until the
418 immunizations can be obtained. An authorized juvenile justice
419 official is responsible for followup of each student who enters a
420 juvenile justice program until proper documentation or
421 immunizations are obtained.

422 Section 8. Section 1003.572, Florida Statutes, is created
423 to read:

424 1003.572 Appointment of surrogate parent.--

425 (1) Pursuant to s. 39.0016, the circuit court with
426 jurisdiction over a child who is known to the department shall
427 appoint a surrogate parent for a child who has or is suspected of
428 having a disability as provided in s. 1003.01(3).

429 (2) The surrogate parent shall be appointed without regard
430 to where the child is placed so that a single surrogate parent
431 can follow the education of the child during the entire time the
432 child is in state custody.



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433 (3) An individual qualified to be appointed as a surrogate
434 parent must:

435 (a) Be 18 years of age or older.

436 (b) Have the knowledge, skills, and experience gained
437 through successfully completing training using training materials
438 developed and approved by the Division of Public Schools or
439 comparable knowledge, training, or experience needed to ensure
440 adequate representation of the child.

441 (c) Not have any personal or professional interests that
442 conflict with the interests of the child.

443 (d) Not be an employee of the department, the district
444 school board, a community-based care provider under s. 409.1671,
445 the Department of Children and Family Services, or any other
446 public or private agency involved in the education or care of the
447 child; however:

448 1. An individual who acts in a parental role to a child,
449 such as a foster parent or relative caregiver, may serve as a
450 surrogate parent if employed by such agency in a role not related
451 to the child's care or custody. Group home staff and therapeutic
452 foster home parents are deemed employees who are not acting in a
453 parental role.

454 2. A person who is appointed as a surrogate parent is not
455 considered an employee of an agency solely because he or she is
456 paid by the agency to serve as a surrogate parent.

457 3. A guardian ad litem may serve as a surrogate parent.

458 4. A relative or other adult involved in the child's life
459 may serve as a surrogate parent regardless of whether that person
460 has custody of the child.

461 (4) An individual appointed as a surrogate parent shall:



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462 (a) Become acquainted with the child and be knowledgeable
463 about his or her disabilities and educational needs;

464 (b) Represent the child in all matters relating to the
465 identification, evaluation, and educational placement of the
466 child;

467 (c) Represent the interests and safeguard the rights of the
468 child in educational decisions that affect the child; and

469 (d) Represent the child in all matters relating to the
470 provision of a free, appropriate public education for the child.

471 (5) The responsibilities of an individual appointed as a
472 surrogate parent do not extend to:

473 (a) The care, maintenance, custody, residential placement,
474 or any other area not specifically related to the education of
475 the child; or

476 (b) The identification or evaluation of the child that does
477 not relate specifically to special education.

478 (6) An individual appointed as a surrogate parent is not
479 liable for actions taken in good faith on behalf of the child in
480 protecting the special education rights of the child.

481 (7) This section does not preclude the appointment of a
482 surrogate parent for a student who is gifted as provided in s.
483 1003.01(3).

484 Section 9. This act shall take effect July 1, 2008.

485
486 ===== T I T L E A M E N D M E N T =====

487 And the title is amended as follows:

488 Delete everything before the enacting clause
489 and insert:

490 A bill to be entitled



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491 An act relating to children in shelter care or foster
492 care; amending s. 39.0016, F.S.; revising definitions;
493 providing Legislative intent; providing for the
494 appointment of a surrogate parent to provide educational
495 decisionmaking for a child who has or is suspected of
496 having a disability; amending s. 39.202, F.S.; providing
497 access to certain records to persons serving as liaisons
498 between school districts and the Department of Children
499 and Family Services; amending s. 39.402, F.S.; requiring a
500 court to request access to a child's medical and
501 educational records if a child is placed in shelter care;
502 amending s. 39.701, F.S.; requiring the court and a
503 citizen review panel to the consider testimony by a
504 surrogate parent for educational decisionmaking when
505 conducting judicial reviews; amending s. 1000.21, F.S.;
506 defining the term "surrogate parent" for purposes of the
507 K-20 Education Code; amending s. 1003.21, F.S.; specifying
508 that dependent children have access to free public
509 education for and authorizing a temporary exemption
510 relating thereto; amending s. 1003.22, F.S.; authorizing a
511 temporary exemption from school-entry health examinations
512 for dependent children; creating s. 1003.572, F.S.;
513 requiring a district school board to appoint a surrogate
514 parent for certain children in dependent or in shelter
515 care and who have or are suspected of having a disability;
516 providing qualifications, responsibilities, and immunities
517 for a surrogate parent; providing an effective date.