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LEGISLATIVE ACTION

Senate

House

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Floor: WD/2R

04/27/2009 06:32 PM

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Senator Rich moved the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

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

39.0016 Education of abused, neglected, and abandoned  
children; agency agreements; children having or suspected of  
having a disability.—

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

(a) "Children known to the department" means children who



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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.

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 rights under the Individuals with  
21 Disabilities Education Act and this section.

22 (2) AGENCY AGREEMENTS.-

23 (a)~~(3)~~ The department shall enter into an agreement with  
24 the Department of Education regarding the education and related  
25 care of children known to the department. Such agreement shall  
26 be designed to provide educational access to children known to  
27 the department for the purpose of facilitating the delivery of  
28 services or programs to children known to the department. The  
29 agreement shall avoid duplication of services or programs and  
30 shall provide for combining resources to maximize the  
31 availability or delivery of services or programs.

32 (b)~~(4)~~ The department shall enter into agreements with  
33 district school boards or other local educational entities  
34 regarding education and related services for children known to  
35 the department who are of school age and children known to the  
36 department who are younger than school age but who would  
37 otherwise qualify for services from the district school board.  
38 Such agreements shall include, but are not limited to:

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

40 a.~~1.~~ Enroll children known to the department in school. The  
41 agreement shall provide for continuing the enrollment of a child



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42 known to the department at the same school, if possible, with  
43 the goal of avoiding disruption of education.

44 ~~b.2.~~ Notify the school and school district in which a child  
45 known to the department is enrolled of the name and phone number  
46 of the child known to the department caregiver and caseworker  
47 for child safety purposes.

48 ~~c.3.~~ Establish a protocol for the department to share  
49 information about a child known to the department with the  
50 school district, consistent with the Family Educational Rights  
51 and Privacy Act, since the sharing of information will assist  
52 each agency in obtaining education and related services for the  
53 benefit of the child.

54 ~~d.4.~~ Notify the school district of the department's case  
55 planning for a child known to the department, both at the time  
56 of plan development and plan review. Within the plan development  
57 or review process, the school district may provide information  
58 regarding the child known to the department if the school  
59 district deems it desirable and appropriate.

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

61 ~~a.1.~~ Provide the department with a general listing of the  
62 services and information available from the district school  
63 board, ~~including, but not limited to, the current Sunshine State~~  
64 ~~Standards, the Surrogate Parent Training Manual, and other~~  
65 ~~resources accessible through the Department of Education or~~  
66 ~~local school districts~~ to facilitate educational access for a  
67 child known to the department.

68 ~~b.2.~~ Identify all educational and other services provided  
69 by the school and school district which the school district  
70 believes are reasonably necessary to meet the educational needs



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71 of a child known to the department.

72 ~~c.3.~~ Determine whether transportation is available for a  
73 child known to the department when such transportation will  
74 avoid a change in school assignment due to a change in  
75 residential placement. Recognizing that continued enrollment in  
76 the same school throughout the time the child known to the  
77 department is in out-of-home care is preferable unless  
78 enrollment in the same school would be unsafe or otherwise  
79 impractical, the department, the district school board, and the  
80 Department of Education shall assess the availability of  
81 federal, charitable, or grant funding for such transportation.

82 ~~d.4.~~ Provide individualized student intervention or an  
83 individual educational plan when a determination has been made  
84 through legally appropriate criteria that intervention services  
85 are required. The intervention or individual educational plan  
86 must include strategies to enable the child known to the  
87 department to maximize the attainment of educational goals.

88 ~~3.(e)~~ A requirement that the department and the district  
89 school board shall cooperate in accessing the services and  
90 supports needed for a child known to the department who has or  
91 is suspected of having a disability to receive an appropriate  
92 education consistent with the Individuals with Disabilities  
93 Education Act and state implementing laws, rules, and  
94 assurances. Coordination of services for a child known to the  
95 department who has or is suspected of having a disability may  
96 include:

97 ~~a.1.~~ Referral for screening.

98 ~~b.2.~~ Sharing of evaluations between the school district and  
99 the department where appropriate.



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100           ~~c.3.~~ Provision of education and related services  
101 appropriate for the needs and abilities of the child known to  
102 the department.

103           ~~d.4.~~ Coordination of services and plans between the school  
104 and the residential setting to avoid duplication or conflicting  
105 service plans.

106           ~~e.5.~~ Appointment of a surrogate parent, consistent with the  
107 Individuals with Disabilities Education Act and pursuant to  
108 subsection (3), for educational purposes for a child known to  
109 the department who qualifies ~~as soon as the child is determined~~  
110 ~~to be dependent and without a parent to act for the child. The~~  
111 ~~surrogate parent shall be appointed by the school district~~  
112 ~~without regard to where the child known to the department is~~  
113 ~~placed so that one surrogate parent can follow the education of~~  
114 ~~the child known to the department during his or her entire time~~  
115 ~~in state custody.~~

116           ~~f.6.~~ For each child known to the department 14 years of age  
117 and older, transition planning by the department and all  
118 providers, including the department's independent living program  
119 staff, to meet the requirements of the local school district for  
120 educational purposes.

121           ~~(c)(2)~~ The provisions of this subsection ~~section~~ establish  
122 standards ~~goals~~ and not rights. This subsection ~~section~~ does not  
123 require the delivery of any particular service or level of  
124 service in excess of existing appropriations. A person may not  
125 maintain a cause of action against the state or any of its  
126 subdivisions, agencies, contractors, subcontractors, or agents  
127 based upon this subsection ~~section~~ becoming law or failure by  
128 the Legislature to provide adequate funding for the achievement



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129 of these standards ~~goals~~. This subsection ~~section~~ does not  
130 require the expenditure of funds to meet the standards ~~goals~~  
131 established in this subsection ~~section~~ except funds specifically  
132 appropriated for such purpose.

133 (3) CHILDREN HAVING OR SUSPECTED OF HAVING A DISABILITY.-

134 (a)1. The Legislature finds that disability is a natural  
135 part of the human experience and in no way diminishes the right  
136 of individuals to participate in or contribute to society.  
137 Improving educational results for children with disabilities is  
138 an essential element of our public policy of ensuring equality  
139 of opportunity, full participation, independent living, and  
140 economic self-sufficiency for individuals with disabilities. The  
141 Legislature finds that disability is a natural part of the human  
142 experience and in no way diminishes the right of individuals to  
143 participate in or contribute to society. Improving educational  
144 results for children with disabilities is an essential element  
145 of our public policy of ensuring equality of opportunity, full  
146 participation, independent living, and economic self-sufficiency  
147 for individuals with disabilities.

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

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

154 b. Providing appropriate exceptional student education,  
155 related services, and aids and supports in the least restrictive  
156 environment appropriate for these children.

157 c. Having a trained, interested, and consistent educational



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158 decisionmaker for the child when the parent is determined to be  
159 legally unavailable or when the foster parent is unwilling, has  
160 no significant relationship with the child, or is not trained in  
161 the exceptional student education process.

162 3. It is, therefore, the intent of the Legislature that all  
163 children with disabilities known to the department, consistent  
164 with the Individuals with Disabilities Education Act, have  
165 available to them a free, appropriate public education that  
166 emphasizes exceptional student education and related services  
167 designed to meet their unique needs and prepare them for further  
168 education, employment, and independent living and that the  
169 rights of children with disabilities are protected.

170 (b)1. Each district school superintendent or dependency  
171 court must appoint a surrogate parent for a child known to the  
172 department who has or is suspected of having a disability, as  
173 defined in s. 1003.01(3), when:

174 a. After reasonable efforts, no parent can be located; or

175 b. A court of competent jurisdiction over a child under  
176 this chapter has determined that no person has the authority  
177 under the Individuals with Disabilities Education Act, including  
178 the parent or parents subject to the dependency action, or that  
179 no person has the authority, willingness, or ability to serve as  
180 the educational decisionmaker for the child without judicial  
181 action.

182 2. A surrogate parent appointed by the district school  
183 superintendent or the court must be at least 18 years old and  
184 have no personal or professional interest that conflicts with  
185 the interests of the student to be represented. Neither the  
186 district school superintendent nor the court may appoint an



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187 employee of the Department of Education, the local school  
188 district, a community-based care provider, the Department of  
189 Children and Family Services, or any other public or private  
190 agency involved in the education or care of the child as  
191 appointment of those persons is prohibited by federal law. This  
192 prohibition includes group home staff and therapeutic foster  
193 parents. However, a person who acts in a parental role to a  
194 child, such as a foster parent or relative caregiver, is not  
195 prohibited from serving as a surrogate parent if he or she is  
196 employed by such agency, willing to serve, and knowledgeable  
197 about the child and the exceptional student education process.  
198 The surrogate parent may be a court-appointed guardian ad litem  
199 or a relative or nonrelative adult who is involved in the  
200 child's life regardless of whether that person has physical  
201 custody of the child. Each person appointed as a surrogate  
202 parent must have the knowledge and skills acquired by  
203 successfully completing training using materials developed and  
204 approved by the Department of Education to ensure adequate  
205 representation of the child.

206 3. If a guardian ad litem has been appointed for a child,  
207 the district school superintendent must first consider the  
208 child's guardian ad litem when appointing a surrogate parent.  
209 The district school superintendent must accept the appointment  
210 of the court if he or she has not previously appointed a  
211 surrogate parent. Similarly, the court must accept a surrogate  
212 parent duly appointed by a district school superintendent.

213 4. A surrogate parent appointed by the district school  
214 superintendent or the court must be accepted by any subsequent  
215 school or school district without regard to where the child is





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216 receiving residential care so that a single surrogate parent can  
217 follow the education of the child during his or her entire time  
218 in state custody. Nothing in this paragraph or in rule shall  
219 limit or prohibit the continuance of a surrogate parent  
220 appointment when the responsibility for the student's  
221 educational placement moves among and between public and private  
222 agencies.

223 5. For a child known to the department, the responsibility  
224 to appoint a surrogate parent resides with both the district  
225 school superintendent and the court with jurisdiction over the  
226 child. If the court elects to appoint a surrogate parent, notice  
227 shall be provided as soon as practicable to the child's school.  
228 At any time the court determines that it is in the best  
229 interests of a child to remove a surrogate parent, the court may  
230 appoint a new surrogate parent for educational decisionmaking  
231 purposes for that child.

232 6. The surrogate parent shall continue in the appointed  
233 role until one of the following occurs:

234 a. The child is determined to no longer be eligible or in  
235 need of special programs, except when termination of special  
236 programs is being contested.

237 b. The child achieves permanency through adoption or legal  
238 guardianship and is no longer in the custody of the department.

239 c. The parent who was previously unknown becomes known,  
240 whose whereabouts were unknown is located, or who was  
241 unavailable is determined by the court to be available.

242 d. The appointed surrogate no longer wishes to represent  
243 the child or is unable to represent the child.

244 e. The superintendent of the school district in which the



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245 child is attending school, the Department of Education contract  
246 designee, or the court that appointed the surrogate determines  
247 that the appointed surrogate parent no longer adequately  
248 represents the child.

249 f. The child moves to a geographic location that is not  
250 reasonably accessible to the appointed surrogate.

251 7. The appointment and termination of appointment of a  
252 surrogate under this paragraph shall be entered as an order of  
253 the court with a copy of the order provided to the child's  
254 school as soon as practicable.

255 8. The person appointed as a surrogate parent under this  
256 paragraph must:

257 a. Be acquainted with the child and become knowledgeable  
258 about his or her disability and educational needs.

259 b. Represent the child in all matters relating to  
260 identification, evaluation, and educational placement and the  
261 provision of a free and appropriate education to the child.

262 c. Represent the interests and safeguard the rights of the  
263 child in educational decisions that affect the child.

264 9. The responsibilities of the person appointed as a  
265 surrogate parent shall not extend to the care, maintenance,  
266 custody, residential placement, or any other area not  
267 specifically related to the education of the child, unless the  
268 same person is appointed by the court for such other purposes.

269 10. A person appointed as a surrogate parent shall enjoy  
270 all of the procedural safeguards afforded a parent with respect  
271 to the identification, evaluation, and educational placement of  
272 a student with a disability or a student who is suspected of  
273 having a disability.



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274           11. A person appointed as a surrogate parent shall not be  
275 held liable for actions taken in good faith on behalf of the  
276 student in protecting the special education rights of the child.

277           ~~(4)~~(5) TRAINING.—The department shall incorporate an  
278 education component into all training programs of the department  
279 regarding children known to the department. Such training shall  
280 be coordinated with the Department of Education and the local  
281 school districts. The department shall offer opportunities for  
282 education personnel to participate in such training. Such  
283 coordination shall include, but not be limited to, notice of  
284 training sessions, opportunities to purchase training materials,  
285 proposals to avoid duplication of services by offering joint  
286 training, and incorporation of materials available from the  
287 Department of Education and local school districts into the  
288 department training when appropriate. The department training  
289 components shall include:

290           (a) Training for surrogate parents to include how an  
291 ability to learn of a child known to the department is affected  
292 by abuse, abandonment, neglect, and removal from the home.

293           (b) Training for parents in cases in which reunification is  
294 the goal, or for preadoptive parents when adoption is the goal,  
295 so that such parents learn how to access the services the child  
296 known to the department needs and the importance of their  
297 involvement in the education of the child known to the  
298 department.

299           (c) Training for caseworkers and foster parents to include  
300 information on the right of the child known to the department to  
301 an education, the role of an education in the development and  
302 adjustment of a child known to the department, the proper ways



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303 to access education and related services for the child known to  
304 the department, and the importance and strategies for parental  
305 involvement in education for the success of the child known to  
306 the department.

307 (d) Training of caseworkers regarding the services and  
308 information available through the Department of Education and  
309 local school districts, including, but not limited to, the  
310 current Sunshine State Standards, the Surrogate Parent Training  
311 Manual, and other resources accessible through the Department of  
312 Education or local school districts to facilitate educational  
313 access for a child known to the department.

314 Section 2. Paragraph (p) of subsection (2) of section  
315 39.202, Florida Statutes, is amended to read:

316 39.202 Confidentiality of reports and records in cases of  
317 child abuse or neglect.—

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

322 (p) An employee of the local school district who is  
323 designated as a liaison between the school district and the  
324 department pursuant to an interagency agreement required under  
325 s. 39.0016 and the principal of a public school, private school,  
326 or charter school where the child is a student. Information  
327 contained in the records which the liaison or the principal  
328 determines are necessary for a school employee to effectively  
329 provide a student with educational services may be released to  
330 that employee.

331 Section 3. Subsection (11) of section 39.402, Florida



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332 Statutes, is amended to read:

333 39.402 Placement in a shelter.—

334 (11) (a) If a child is placed in a shelter pursuant to a  
335 court order following a shelter hearing, the court shall require  
336 in the shelter hearing order that the parents of the child, or  
337 the guardian of the child's estate, if possessed of assets which  
338 under law may be disbursed for the care, support, and  
339 maintenance of the child, to pay, to the department or  
340 institution having custody of the child, fees as established by  
341 the department. When the order affects the guardianship estate,  
342 a certified copy of the order shall be delivered to the judge  
343 having jurisdiction of the guardianship estate. The shelter  
344 order shall also require the parents to provide to the  
345 department and any other state agency or party designated by the  
346 court, within 28 days after entry of the shelter order, the  
347 financial information necessary to accurately calculate child  
348 support pursuant to s. 61.30.

349 (b) The court shall request that the parents consent to  
350 provide access to the child's medical records and provide  
351 information to the court, the department or its contract  
352 agencies, and any guardian ad litem or attorney for the child.  
353 If a parent is unavailable or unable to consent or withholds  
354 consent and the court determines access to the records and  
355 information is necessary to provide services to the child, the  
356 court shall issue an order granting access. The court may also  
357 order the parents to ~~The parent or legal guardian shall~~ provide  
358 all known medical information to the department and to any  
359 others granted access under this subsection.

360 (c) The court shall request that the parents consent to



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361 provide access to the child's educational records and provide  
362 information to the court, the department or its contract  
363 agencies, and any guardian ad litem or attorney for the child.  
364 If a parent is unavailable or unable to consent or withholds  
365 consent and the court determines access to the records and  
366 information is necessary to provide services to the child, the  
367 court shall issue an order granting access.

368 (d) The court may appoint a surrogate parent or may refer  
369 the child to the district school superintendent for appointment  
370 of a surrogate parent if the child has or is suspected of having  
371 a disability and the parent is unavailable pursuant to s.  
372 39.0016(3)(b).

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

375 39.701 Judicial review.—

376 (8) The court and any citizen review panel shall take into  
377 consideration the information contained in the social services  
378 study and investigation and all medical, psychological, and  
379 educational records that support the terms of the case plan;  
380 testimony by the social services agency, the parent, the foster  
381 parent or legal custodian, the guardian ad litem or surrogate  
382 parent for educational decisionmaking if one has been appointed  
383 for the child, and any other person deemed appropriate; and any  
384 relevant and material evidence submitted to the court, including  
385 written and oral reports to the extent of their probative value.  
386 These reports and evidence may be received by the court in its  
387 effort to determine the action to be taken with regard to the  
388 child and may be relied upon to the extent of their probative  
389 value, even though not competent in an adjudicatory hearing. In



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390 its deliberations, the court and any citizen review panel shall  
391 seek to determine:

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

395 (b) If the parent has been advised of the right to have  
396 counsel present at the judicial review or citizen review  
397 hearings. If not so advised, the court or citizen review panel  
398 shall advise the parent of such right.

399 (c) If a guardian ad litem needs to be appointed for the  
400 child in a case in which a guardian ad litem has not previously  
401 been appointed or if there is a need to continue a guardian ad  
402 litem in a case in which a guardian ad litem has been appointed.

403 (d) Who holds the rights to make educational decisions for  
404 the child. If appropriate, the court may refer the child to the  
405 district school superintendent for appointment of a surrogate  
406 parent or may itself appoint a surrogate parent under the

407 Individuals with Disabilities Education Act and s. 39.0016.(e)  
408 ~~(d)~~ The compliance or lack of compliance of all parties with  
409 applicable items of the case plan, including the parents'  
410 compliance with child support orders.

411 (f)~~(e)~~ The compliance or lack of compliance with a  
412 visitation contract between the parent and the social service  
413 agency for contact with the child, including the frequency,  
414 duration, and results of the parent-child visitation and the  
415 reason for any noncompliance.

416 (g)~~(f)~~ The compliance or lack of compliance of the parent  
417 in meeting specified financial obligations pertaining to the  
418 care of the child, including the reason for failure to comply if



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419 such is the case.

420 (h)~~(g)~~ Whether the child is receiving safe and proper care  
421 according to s. 39.6012, including, but not limited to, the  
422 appropriateness of the child's current placement, including  
423 whether the child is in a setting that is as family-like and as  
424 close to the parent's home as possible, consistent with the  
425 child's best interests and special needs, and including  
426 maintaining stability in the child's educational placement, as  
427 documented by assurances from the community-based care provider  
428 that:

429 1. The placement of the child takes into account the  
430 appropriateness of the current educational setting and the  
431 proximity to the school in which the child is enrolled at the  
432 time of placement.

433 2. The community-based care agency has coordinated with  
434 appropriate local educational agencies to ensure that the child  
435 remains in the school in which the child is enrolled at the time  
436 of placement.

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

439 (j)~~(i)~~ When appropriate, the basis for the unwillingness or  
440 inability of the parent to become a party to a case plan. The  
441 court and the citizen review panel shall determine if the  
442 efforts of the social service agency to secure party  
443 participation in a case plan were sufficient.

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

447 (l)~~(k)~~ If amendments to the case plan are required.





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448 Amendments to the case plan must be made under s. 39.6013.

449 Section 5. Paragraph (f) of subsection (1) and paragraph  
450 (g) of subsection (4) of section 1003.21, Florida Statutes, are  
451 amended to read:

452 1003.21 School attendance.—

453 (1)

454 (f) Homeless children, as defined in s. 1003.01, and  
455 children who are known to the department, as defined in s.  
456 39.0016, must have access to a free public education and must be  
457 admitted to school in the school district in which they or their  
458 families live. School districts shall assist homeless children  
459 and children who are known to the department to meet the  
460 requirements of subsection (4) and s. 1003.22, as well as local  
461 requirements for documentation.

462 (4) Before admitting a child to kindergarten, the principal  
463 shall require evidence that the child has attained the age at  
464 which he or she should be admitted in accordance with the  
465 provisions of subparagraph (1)(a)2. The district school  
466 superintendent may require evidence of the age of any child whom  
467 he or she believes to be within the limits of compulsory  
468 attendance as provided for by law. If the first prescribed  
469 evidence is not available, the next evidence obtainable in the  
470 order set forth below shall be accepted:

471 (g) If none of these evidences can be produced, an  
472 affidavit of age sworn to by the parent, accompanied by a  
473 certificate of age signed by a public health officer or by a  
474 public school physician, or, if neither of these is available in  
475 the county, by a licensed practicing physician designated by the  
476 district school board, which certificate states that the health



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477 officer or physician has examined the child and believes that  
478 the age as stated in the affidavit is substantially correct. A  
479 homeless child, as defined in s. 1003.01, and a child who is  
480 known to the department, as defined in s. 39.0016, shall be  
481 given temporary exemption from this section for 30 school days.

482 Section 6. Subsection (1) and paragraph (e) of subsection  
483 (5) of section 1003.22, Florida Statutes, are amended to read:

484 1003.22 School-entry health examinations; immunization  
485 against communicable diseases; exemptions; duties of Department  
486 of Health.—

487 (1) Each district school board and the governing authority  
488 of each private school shall require that each child who is  
489 entitled to admittance to kindergarten, or is entitled to any  
490 other initial entrance into a public or private school in this  
491 state, present a certification of a school-entry health  
492 examination performed within 1 year prior to enrollment in  
493 school. Each district school board, and the governing authority  
494 of each private school, may establish a policy that permits a  
495 student up to 30 school days to present a certification of a  
496 school-entry health examination. A homeless child, as defined in  
497 s. 1003.01, and a child who is known to the department, as  
498 defined in s. 39.0016, shall be given a temporary exemption for  
499 30 school days. Any district school board that establishes such  
500 a policy shall include provisions in its local school health  
501 services plan to assist students in obtaining the health  
502 examinations. However, any child shall be exempt from the  
503 requirement of a health examination upon written request of the  
504 parent of the child stating objections to the examination on  
505 religious grounds.



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

507 (e) An authorized school official issues a temporary  
508 exemption, for a period not to exceed 30 school days, to permit  
509 a student who transfers into a new county to attend class until  
510 his or her records can be obtained. A homeless child, as defined  
511 in s. 1003.01, and a child who is known to the department, as  
512 defined in s. 39.0016, shall be given a temporary exemption for  
513 30 school days. The public school health nurse or authorized  
514 private school official is responsible for followup of each such  
515 student until proper documentation or immunizations are  
516 obtained. An exemption for 30 days may be issued for a student  
517 who enters a juvenile justice program to permit the student to  
518 attend class until his or her records can be obtained or until  
519 the immunizations can be obtained. An authorized juvenile  
520 justice official is responsible for followup of each student who  
521 enters a juvenile justice program until proper documentation or  
522 immunizations are obtained.

523 Section 7. Subsections (3) and (4) are added to section  
524 1003.57, Florida Statutes, to read:

525 1003.57 Exceptional students instruction.

526 (3) (a) For purposes of this subsection and subsection (4),  
527 the term:

528 1. "Agency" means the Department of Children and Family  
529 Services or its contracted lead agency, the Agency for Persons  
530 with Disabilities, and the Agency for Health Care  
531 Administration.

532 2. "Exceptional student" means an exceptional student, as  
533 defined in s. 1003.01, who has a disability.

534 3. "Receiving school district" means the district in which



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535 a private residential care facility is located.

536 4. "Placement" means the funding or arrangement of funding  
537 by an agency for all or a part of the cost for an exceptional  
538 student to reside in a private residential care facility and the  
539 placement crosses school district lines.

540 (b) Within 10 business days after an exceptional student is  
541 placed in a private residential care facility by an agency, the  
542 agency or private residential care facility licensed by the  
543 agency, as appropriate, shall provide written notification of  
544 the placement to the school district where the student is  
545 currently counted for funding purposes under s. 1011.62 and the  
546 receiving school district. The exceptional student shall be  
547 enrolled in school and receive a free and appropriate public  
548 education, special education, and related services while the  
549 notice and procedures regarding payment are pending. This  
550 paragraph applies when the placement is for the primary purpose  
551 of addressing residential or other noneducational needs and the  
552 placement crosses school district lines.

553 (c) Within 10 business days after receiving the  
554 notification, the receiving school district must review the  
555 student's individual educational plan (IEP) to determine if the  
556 student's IEP can be implemented by the receiving school  
557 district or by a provider or facility under contract with the  
558 receiving school district. The receiving school district shall:

559 1. Provide educational instruction to the student;

560 2. Contract with another provider or facility to provide  
561 the educational instruction;

562 3. Contract with the private residential care facility in  
563 which the student resides to provide the educational



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564 instruction; or

565 4. Decline to provide or contract for educational  
566 instruction.

567  
568 If the receiving school district declines to provide or contract  
569 for the educational instruction, the school district in which  
570 the legal residence of the student is located shall provide or  
571 contract for the educational instruction to the student. The  
572 school district that provides educational instruction or  
573 contracts to provide educational instruction shall report the  
574 student for funding purposes pursuant s. 1011.62.

575 (d)1. The Department of Education, in consultation with the  
576 agencies and school districts, shall develop procedures for  
577 written notification to school districts regarding the placement  
578 of an exceptional student in a residential care facility. The  
579 procedures must:

580 a. Provide for written notification of a placement that  
581 crosses school district lines; and

582 b. Identify the entity responsible for the notification for  
583 each facility that is operated, licensed, or regulated by an  
584 agency.

585 2. The State Board of Education shall adopt the procedures  
586 by rule pursuant to ss. 120.536(1) and 120.54 and the agencies  
587 shall implement the procedures.

588  
589 The requirements of paragraphs (c) and (d) do not apply to  
590 written agreements among school districts which specify each  
591 school district's responsibility for providing and paying for  
592 educational services to an exceptional student in a residential



593 care facility. However, each agreement must require a school  
594 district to review the student's IEP within 10 business days  
595 after receiving the notification required under paragraph (b).

596 (4) The Department of Education and agencies shall enter  
597 into an agreement for interagency coordination regarding the  
598 placement of exceptional students in residential facilities,  
599 consistent with federal law and regulations, on or before  
600 January 1, 2010. The agreement shall identify the  
601 responsibilities of each party and ensure that students receive  
602 special education and related services necessary to receive a  
603 free and appropriate public education. The agreement shall also  
604 establish procedures for:

- 605 (a) Resolving interagency disputes;
- 606 (b) Ensuring the provision of services during the pendency  
607 of a dispute; and
- 608 (c) Ensuring continued Medicaid eligibility as deemed  
609 appropriate.

610 Section 8. This act shall take effect July 1, 2009.

612 ===== T I T L E A M E N D M E N T =====

613 And the title is amended as follows:

614 Delete everything before the enacting clause  
615 and insert:

616 A bill to be entitled  
617 An act relating to education for children in shelter  
618 care or foster care and exceptional students; amending  
619 s. 39.0016, F.S.; defining the term "surrogate  
620 parent"; providing legislative intent; providing  
621 conditions and requirements for district school



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622 superintendent or court appointment of a surrogate  
623 parent for educational decisionmaking for a child who  
624 has or is suspected of having a disability; providing  
625 requirements for educational placement; providing  
626 requirements relating to qualifications and  
627 responsibilities of surrogate parents; limiting  
628 liability; amending s. 39.202, F.S.; providing for  
629 access to certain records to liaisons between school  
630 districts and the Department of Children and Family  
631 Services; amending s. 39.402, F.S.; requiring access  
632 to a child's medical records and educational records  
633 if a child is placed in a shelter; authorizing  
634 appointment of a surrogate parent; amending s. 39.701,  
635 F.S.; requiring the court and citizen review panel in  
636 judicial reviews to consider testimony by a surrogate  
637 parent for educational decisionmaking; providing for  
638 additional deliberations relating to appointment of an  
639 educational decisionmaker; requiring certain  
640 documentation relating to the educational setting;  
641 amending s. 1003.21, F.S.; providing access to free  
642 public education for children known to the department;  
643 authorizing a temporary exemption relating to school  
644 attendance; amending s. 1003.22, F.S.; authorizing a  
645 temporary exemption from school-entry health  
646 examinations for children known to the department;  
647 amending s. 1003.57, F.S.; providing definitions;  
648 requiring the Department of Children and Family  
649 Services, the Agency for Health Care Administration,  
650 and residential facilities licensed by the Agency for



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651 Persons with Disabilities to notify certain school  
652 districts following the placement of an exceptional  
653 student in a private residential care facility;  
654 requiring that an exceptional student be enrolled in  
655 school; requiring review of the student's individual  
656 educational plan; providing for determining  
657 responsibility for educational instruction; requiring  
658 the school district to report the student for funding  
659 purposes; requiring the Department of Education, in  
660 consultation with specified agencies, to develop  
661 procedures for the placement of students in  
662 residential care facilities; requiring the State Board  
663 of Education to adopt rules; requiring a cooperative  
664 agreement between the Department of Education and  
665 agencies, to be executed on or before January 1, 2010;  
666 prescribing conditions and requirements for the  
667 agreement; providing an effective date.