

By the Committee on Education Pre-K - 12; and Senators Rich,
Dean, and Wilson

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1 A bill to be entitled
2 An act relating to education for children in shelter
3 care or foster care and exceptional students; amending
4 s. 39.0016, F.S.; defining the term "surrogate
5 parent"; providing legislative intent; providing
6 conditions for the district superintendent or court to
7 appoint a surrogate parent for purposes of educational
8 decisionmaking for a child who has or is suspected of
9 having a disability; amending s. 39.202, F.S.;
10 providing for access to certain records to liaisons
11 between school districts and the Department of
12 Children and Family Services; amending s. 39.402,
13 F.S.; requiring access to a child's medical records
14 and educational records if a child is placed in a
15 shelter; amending s. 39.701, F.S.; requiring the court
16 and citizen review panel in judicial reviews to
17 consider testimony by a surrogate parent for
18 educational decisionmaking; providing for additional
19 deliberations relating to appointment of an
20 educational decisionmaker; requiring certain
21 documentation relating to the educational setting;
22 amending s. 1003.21, F.S.; providing access to free
23 public education for children known to the department;
24 authorizing a temporary exemption relating to school
25 attendance; amending s. 1003.22, F.S.; authorizing a
26 temporary exemption from school-entry health
27 examinations for children known to the department;
28 amending s. 1003.57, F.S.; providing definitions;
29 requiring the Department of Children and Family

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30 Services, the Agency for Health Care Administration,
31 and residential facilities licensed by the Agency for
32 Persons with Disabilities to notify certain school
33 districts following the placement of an exceptional
34 student in a private residential care facility;
35 requiring review of the student's individual
36 educational plan; providing for determining
37 responsibility for educational instruction; requiring
38 the school district to report the student for funding
39 purposes; requiring the Department of Education, in
40 consultation with specified agencies, to develop
41 procedures for the placement of students in
42 residential care facilities; requiring the State Board
43 of Education to adopt rules; requiring certain
44 agencies to implement procedures; requiring a
45 cooperative agreement between school districts;
46 providing an exception; providing an effective date.

47
48 Be It Enacted by the Legislature of the State of Florida:

49
50 Section 1. Section 39.0016, Florida Statutes, is amended to
51 read:

52 39.0016 Education of abused, neglected, and abandoned
53 children; agency agreements; children having or suspected of
54 having a disability.—

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

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

58 (b) "Department" means the Department of Children and

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59 Family Services or a community-based care lead agency acting on
60 behalf of the Department of Children and Family Services, as
61 appropriate.

62 (c) "Surrogate parent" means an individual appointed to act
63 in the place of a parent in educational decisionmaking and in
64 safeguarding a child's rights under the Individuals with
65 Disabilities Education Act and this section.

66 ~~(2) The provisions of this section establish goals and not~~
67 ~~rights. This section does not require the delivery of any~~
68 ~~particular service or level of service in excess of existing~~
69 ~~appropriations. A person may not maintain a cause of action~~
70 ~~against the state or any of its subdivisions, agencies,~~
71 ~~contractors, subcontractors, or agents based upon this section~~
72 ~~becoming law or failure by the Legislature to provide adequate~~
73 ~~funding for the achievement of these goals. This section does~~
74 ~~not require the expenditure of funds to meet the goals~~
75 ~~established in this section except funds specifically~~
76 ~~appropriated for such purpose.~~

77 (2) AGENCY AGREEMENTS.-

78 (a)~~(3)~~ The department shall enter into an agreement with
79 the Department of Education regarding the education and related
80 care of children known to the department. Such agreement shall
81 be designed to provide educational access to children known to
82 the department for the purpose of facilitating the delivery of
83 services or programs to children known to the department. The
84 agreement shall avoid duplication of services or programs and
85 shall provide for combining resources to maximize the
86 availability or delivery of services or programs.

87 (b)~~(4)~~ The department shall enter into agreements with

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88 district school boards or other local educational entities
89 regarding education and related services for children known to
90 the department who are of school age and children known to the
91 department who are younger than school age but who would
92 otherwise qualify for services from the district school board.
93 Such agreements shall include, but are not limited to:

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

95 a.1.~~1.~~ Enroll children known to the department in school. The
96 agreement shall provide for continuing the enrollment of a child
97 known to the department at the same school, if possible, with
98 the goal of avoiding disruption of education.

99 b.2.~~2.~~ Notify the school and school district in which a child
100 known to the department is enrolled of the name and phone number
101 of the child known to the department caregiver and caseworker
102 for child safety purposes.

103 c.3.~~3.~~ Establish a protocol for the department to share
104 information about a child known to the department with the
105 school district, consistent with the Family Educational Rights
106 and Privacy Act, since the sharing of information will assist
107 each agency in obtaining education and related services for the
108 benefit of the child.

109 d.4.~~4.~~ Notify the school district of the department's case
110 planning for a child known to the department, both at the time
111 of plan development and plan review. Within the plan development
112 or review process, the school district may provide information
113 regarding the child known to the department if the school
114 district deems it desirable and appropriate.

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

116 a.1.~~1.~~ Provide the department with a general listing of the

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117 services and information available from the district school
118 board, ~~including, but not limited to, the current Sunshine State~~
119 ~~Standards, the Surrogate Parent Training Manual, and other~~
120 ~~resources accessible through the Department of Education or~~
121 ~~local school districts~~ to facilitate educational access for a
122 child known to the department.

123 b.2. Identify all educational and other services provided
124 by the school and school district which the school district
125 believes are reasonably necessary to meet the educational needs
126 of a child known to the department.

127 c.3. Determine whether transportation is available for a
128 child known to the department when such transportation will
129 avoid a change in school assignment due to a change in
130 residential placement. Recognizing that continued enrollment in
131 the same school throughout the time the child known to the
132 department is in out-of-home care is preferable unless
133 enrollment in the same school would be unsafe or otherwise
134 impractical, the department, the district school board, and the
135 Department of Education shall assess the availability of
136 federal, charitable, or grant funding for such transportation.

137 d.4. Provide individualized student intervention or an
138 individual educational plan when a determination has been made
139 through legally appropriate criteria that intervention services
140 are required. The intervention or individual educational plan
141 must include strategies to enable the child known to the
142 department to maximize the attainment of educational goals.

143 3.(e) A requirement that the department and the district
144 school board shall cooperate in accessing the services and
145 supports needed for a child known to the department who has or

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146 is suspected of having a disability to receive an appropriate
147 education consistent with the Individuals with Disabilities
148 Education Act and state implementing laws, rules, and
149 assurances. Coordination of services for a child known to the
150 department who has or is suspected of having a disability may
151 include:

152 ~~a.1.~~ Referral for screening.

153 ~~b.2.~~ Sharing of evaluations between the school district and
154 the department where appropriate.

155 ~~c.3.~~ Provision of education and related services
156 appropriate for the needs and abilities of the child known to
157 the department.

158 ~~d.4.~~ Coordination of services and plans between the school
159 and the residential setting to avoid duplication or conflicting
160 service plans.

161 ~~e.5.~~ Appointment of a surrogate parent, consistent with the
162 Individuals with Disabilities Education Act and pursuant to
163 subsection (3), for educational purposes for a child known to
164 the department who qualifies ~~as soon as the child is determined~~
165 ~~to be dependent and without a parent to act for the child. The~~
166 ~~surrogate parent shall be appointed by the school district~~
167 ~~without regard to where the child known to the department is~~
168 ~~placed so that one surrogate parent can follow the education of~~
169 ~~the child known to the department during his or her entire time~~
170 ~~in state custody.~~

171 ~~f.6.~~ For each child known to the department 14 years of age
172 and older, transition planning by the department and all
173 providers, including the department's independent living program
174 staff, to meet the requirements of the local school district for

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175 educational purposes.

176 (c) This subsection establishes standards and not rights.
177 This subsection does not require the delivery of any particular
178 service or level of service in excess of existing
179 appropriations. A person may not maintain a cause of action
180 against the state or any of its subdivisions, agencies,
181 contractors, subcontractors, or agents based upon this
182 subsection becoming law or failure by the Legislature to provide
183 adequate funding for the achievement of these standards. This
184 subsection does not require the expenditure of funds to meet the
185 standards established in this subsection except funds
186 specifically appropriated for such purpose.

187 (3) CHILDREN HAVING OR SUSPECTED OF HAVING A DISABILITY.—

188 (a)1. The Legislature finds that disability is a natural
189 part of the human experience and in no way diminishes the right
190 of individuals to participate in or contribute to society.
191 Improving educational results for children with disabilities is
192 an essential element of our public policy of ensuring equality
193 of opportunity, full participation, independent living, and
194 economic self-sufficiency for individuals with disabilities.

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

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

201 b. Providing appropriate exceptional student education,
202 related services, and aids and supports in the least restrictive
203 environment appropriate for these children.

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204 c. Having a trained, interested, and consistent educational
205 decisionmaker for the child when the parent is determined to be
206 legally unavailable or when the foster parent is unwilling, has
207 no significant relationship with the child, or is not trained in
208 the exceptional student education process.

209 3. It is, therefore, the intent of the Legislature that all
210 children with disabilities known to the department, consistent
211 with the Individuals with Disabilities Education Act, have
212 available to them a free, appropriate public education that
213 emphasizes exceptional student education and related services
214 designed to meet their unique needs and prepare them for further
215 education, employment, and independent living and that the
216 rights of children with disabilities are protected.

217 (b)1. Each district superintendent or dependency court must
218 appoint a surrogate parent for a child known to the department
219 who has or is suspected of having a disability, as defined in s.
220 1003.01(3), when:

221 a. After reasonable efforts, no parent can be located; or
222 b. A court of competent jurisdiction over a child has
223 determined that no person has the authority under the
224 Individuals with Disabilities Education Act or that no person
225 having such authority is willing or able to serve as the
226 educational decisionmaker for the child.

227 2. The dependency court may appoint a surrogate parent for
228 any child who is under its jurisdiction. A surrogate parent
229 appointed by the court must be at least 18 years old. The court
230 may not appoint an employee of the Department of Education, the
231 local school district, a community-based care provider, the
232 Department of Children and Family Services, or any other public

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233 or private agency involved in the education or care of the
234 child, since appointment of those persons is prohibited by
235 federal law. However, a person who acts in a parental role to a
236 child, such as a foster parent or relative caregiver, is not
237 prohibited from serving as a surrogate parent if employed by
238 such agency, willing to serve, and knowledgeable about the child
239 and about the exceptional student education process. Group home
240 staff and therapeutic foster home parents may not be appointed.
241 The surrogate parent may be a court-appointed guardian ad litem,
242 a relative, or other adult involved in the child's life
243 regardless of whether that person has physical custody of the
244 child.

245 3. The district superintendent must accept the appointment
246 of the court or must appoint a surrogate parent within 30 days
247 after notice that the child meets the criteria in this paragraph
248 and no court appointment has been made.

249 4. A surrogate parent appointed by the district
250 superintendent must be accepted by any subsequent school without
251 regard to where the child is receiving residential care so that
252 a single surrogate parent can follow the education of the child
253 during his or her entire time in state custody.

254 5. For a child known to the department, the responsibility
255 to appoint a surrogate parent resides with both the district
256 superintendent and the court that has jurisdiction over the
257 child. If the court elects to appoint a surrogate parent, notice
258 shall be provided as soon as practicable to the child's school.
259 At any time that the court determines that it is in the best
260 interests of a child to remove a surrogate parent, the court may
261 appoint a new surrogate parent for educational decisionmaking

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262 purposes for that child.

263 6. The surrogate parent shall continue in the appointed
264 role until one of the following circumstances occurs:

265 a. The child is determined to no longer be eligible or in
266 need of special programs, except when termination of special
267 programs is being contested;

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

270 c. The parent who was previously unknown becomes known or
271 whose whereabouts were unknown is located or who was unavailable
272 and is determined by the court to be available;

273 d. The appointed surrogate no longer wishes to represent
274 the child or is unable to represent the child;

275 e. The superintendent of the school the child is attending
276 or the Department of Education contract designee or the court
277 that appointed the surrogate determines that the appointed
278 surrogate parent no longer adequately represents the child; or

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

281 7. The appointment and termination of a surrogate under
282 this section must be entered as an order of the court, with a
283 copy of the order provided to the child's school as soon as
284 practicable.

285 8. The person appointed as a surrogate parent under this
286 section must:

287 a. Be acquainted with the child and become knowledgeable
288 about his or her disability and educational needs;

289 b. Represent the child in all matters relating to the
290 identification, evaluation, and educational placement of the

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291 provision of a free and appropriate education to the child; and

292 c. Represent the interests and safeguard the rights of the
293 child in educational decisions that affect the child.

294 9. The responsibilities of the person appointed as a
295 surrogate parent do not extend to the care, maintenance,
296 custody, residential placement, or any other matter not
297 specifically related to the education of the child unless the
298 same person is appointed by the court for other purposes.

299 10. A person appointed as a surrogate parent enjoys all of
300 the procedural safeguards afforded a parent with respect to the
301 identification, evaluation, and educational placement of a
302 student with a disability or a student who is suspected of
303 having a disability.

304 11. A person appointed as a surrogate parent may not be
305 held liable for actions taken in good faith on behalf of the
306 student in protecting the special education rights of the child.

307 (4)(5) TRAINING.—The department shall incorporate an
308 education component into all training programs of the department
309 regarding children known to the department. Such training shall
310 be coordinated with the Department of Education and the local
311 school districts. The department shall offer opportunities for
312 education personnel to participate in such training. Such
313 coordination shall include, but not be limited to, notice of
314 training sessions, opportunities to purchase training materials,
315 proposals to avoid duplication of services by offering joint
316 training, and incorporation of materials available from the
317 Department of Education and local school districts into the
318 department training when appropriate. The department training
319 components shall include:

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

323 (b) Training for parents in cases in which reunification is
324 the goal, or for preadoptive parents when adoption is the goal,
325 so that such parents learn how to access the services the child
326 known to the department needs and the importance of their
327 involvement in the education of the child known to the
328 department.

329 (c) Training for caseworkers and foster parents to include
330 information on the right of the child known to the department to
331 an education, the role of an education in the development and
332 adjustment of a child known to the department, the proper ways
333 to access education and related services for the child known to
334 the department, and the importance and strategies for parental
335 involvement in education for the success of the child known to
336 the department.

337 (d) Training of caseworkers regarding the services and
338 information available through the Department of Education and
339 local school districts, including, but not limited to, the
340 current Sunshine State Standards, the Surrogate Parent Training
341 Manual, and other resources accessible through the Department of
342 Education or local school districts to facilitate educational
343 access for a child known to the department.

344 Section 2. Paragraph (p) of subsection (2) of section
345 39.202, Florida Statutes, is amended to read:

346 39.202 Confidentiality of reports and records in cases of
347 child abuse or neglect.—

348 (2) Except as provided in subsection (4), access to such

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349 records, excluding the name of the reporter which shall be
350 released only as provided in subsection (5), shall be granted
351 only to the following persons, officials, and agencies:

352 (p) An employee of the local school district who is
353 designated as a liaison between the school district and the
354 department pursuant to an interagency agreement required under
355 s. 39.0016 and the principal of a public school, private school,
356 or charter school where the child is a student. Information
357 contained in the records which the liaison or the principal
358 determines are necessary for a school employee to effectively
359 provide a student with educational services may be released to
360 that employee.

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

363 39.402 Placement in a shelter.—

364 (11) (a) If a child is placed in a shelter pursuant to a
365 court order following a shelter hearing, the court shall require
366 in the shelter hearing order that the parents of the child, or
367 the guardian of the child's estate, if possessed of assets which
368 under law may be disbursed for the care, support, and
369 maintenance of the child, to pay, to the department or
370 institution having custody of the child, fees as established by
371 the department. When the order affects the guardianship estate,
372 a certified copy of the order shall be delivered to the judge
373 having jurisdiction of the guardianship estate. The shelter
374 order shall also require the parents to provide to the
375 department and any other state agency or party designated by the
376 court, within 28 days after entry of the shelter order, the
377 financial information necessary to accurately calculate child

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378 support pursuant to s. 61.30.

379 (b) The court shall request that the parents consent to
380 provide access to the child's medical records and provide
381 information to the court, the department or its contract
382 agencies, and any guardian ad litem or attorney for the child.
383 If a parent is unavailable or unable to consent or withholds
384 consent and the court determines that access to the records and
385 information is necessary in order to provide services to the
386 child, the court shall issue an order granting access. The court
387 may also order the parents to ~~The parent or legal guardian shall~~
388 provide all known medical information to the department and to
389 any others granted access under this subsection.

390 (c) The court shall request that the parents consent to
391 provide access to the child's education records and provide
392 information to the court, the department or its contract
393 agencies, and any guardian ad litem or attorney for the child.
394 If a parent is unavailable or unable to consent or withholds
395 consent and the court determines that access to the records and
396 information is necessary in order to provide services to the
397 child, the court shall issue an order granting access.

398 (d) The court may appoint a surrogate parent or may refer
399 the child to the district superintendent for the appointment of
400 a surrogate parent if the child has or is suspected of having a
401 disability and the parent is unavailable pursuant to s.
402 39.0016(3)(b).

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

405 39.701 Judicial review.—

406 (8) The court and any citizen review panel shall take into

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407 consideration the information contained in the social services
408 study and investigation and all medical, psychological, and
409 educational records that support the terms of the case plan;
410 testimony by the social services agency, the parent, the foster
411 parent or legal custodian, the guardian ad litem or surrogate
412 parent for educational decisionmaking if one has been appointed
413 for the child, and any other person deemed appropriate; and any
414 relevant and material evidence submitted to the court, including
415 written and oral reports to the extent of their probative value.
416 These reports and evidence may be received by the court in its
417 effort to determine the action to be taken with regard to the
418 child and may be relied upon to the extent of their probative
419 value, even though not competent in an adjudicatory hearing. In
420 its deliberations, the court and any citizen review panel shall
421 seek to determine:

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

425 (b) If the parent has been advised of the right to have
426 counsel present at the judicial review or citizen review
427 hearings. If not so advised, the court or citizen review panel
428 shall advise the parent of such right.

429 (c) If a guardian ad litem needs to be appointed for the
430 child in a case in which a guardian ad litem has not previously
431 been appointed or if there is a need to continue a guardian ad
432 litem in a case in which a guardian ad litem has been appointed.

433 (d) Who holds the rights to make educational decisions for
434 the child. If appropriate, the court may refer the child to the
435 district superintendent for appointment of a surrogate parent or

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436 may itself appoint a surrogate parent under the Individuals with
437 Disabilities Education Act and s. 39.0016.

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

441 ~~(f)~~ ~~(e)~~ The compliance or lack of compliance with a
442 visitation contract between the parent and the social service
443 agency for contact with the child, including the frequency,
444 duration, and results of the parent-child visitation and the
445 reason for any noncompliance.

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

450 ~~(h)~~ ~~(g)~~ Whether the child is receiving safe and proper care
451 according to s. 39.6012, including, but not limited to, the
452 appropriateness of the child's current placement, including
453 whether the child is in a setting that is as family-like and as
454 close to the parent's home as possible, consistent with the
455 child's best interests and special needs, and including
456 maintaining stability in the child's educational placement, as
457 documented by assurances from the community-based care provider
458 that:

459 1. The placement of the child takes into account the
460 appropriateness of the current educational setting and the
461 proximity to the school in which the child is enrolled at the
462 time of placement.

463 2. The community-based care agency has coordinated with
464 appropriate school district to ensure that the child remains in

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465 the school in which the child is enrolled at the time of
466 placement.

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

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

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

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

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

482 1003.21 School attendance.—

483 (1)

484 (f) Homeless children, as defined in s. 1003.01, and
485 children who are known to the department, as defined in s.
486 39.0016, must have access to a free public education and must be
487 admitted to school in the school district in which they or their
488 families live. School districts shall assist homeless children
489 and children who are known to the department to meet the
490 requirements of subsection (4) and s. 1003.22, as well as local
491 requirements for documentation.

492 (4) Before admitting a child to kindergarten, the principal
493 shall require evidence that the child has attained the age at

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494 which he or she should be admitted in accordance with the
495 provisions of subparagraph (1)(a)2. The district school
496 superintendent may require evidence of the age of any child whom
497 he or she believes to be within the limits of compulsory
498 attendance as provided for by law. If the first prescribed
499 evidence is not available, the next evidence obtainable in the
500 order set forth below shall be accepted:

501 (g) If none of these evidences can be produced, an
502 affidavit of age sworn to by the parent, accompanied by a
503 certificate of age signed by a public health officer or by a
504 public school physician, or, if neither of these is available in
505 the county, by a licensed practicing physician designated by the
506 district school board, which certificate states that the health
507 officer or physician has examined the child and believes that
508 the age as stated in the affidavit is substantially correct. A
509 homeless child, as defined in s. 1003.01, and a child who is
510 known to the department, as defined in s. 39.0016, shall be
511 given temporary exemption from this section for 30 school days.

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

514 1003.22 School-entry health examinations; immunization
515 against communicable diseases; exemptions; duties of Department
516 of Health.—

517 (1) Each district school board and the governing authority
518 of each private school shall require that each child who is
519 entitled to admittance to kindergarten, or is entitled to any
520 other initial entrance into a public or private school in this
521 state, present a certification of a school-entry health
522 examination performed within 1 year prior to enrollment in

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523 school. Each district school board, and the governing authority
524 of each private school, may establish a policy that permits a
525 student up to 30 school days to present a certification of a
526 school-entry health examination. A homeless child, as defined in
527 s. 1003.01, and a child who is known to the department, as
528 defined in s. 39.0016, shall be given a temporary exemption for
529 30 school days. Any district school board that establishes such
530 a policy shall include provisions in its local school health
531 services plan to assist students in obtaining the health
532 examinations. However, any child shall be exempt from the
533 requirement of a health examination upon written request of the
534 parent of the child stating objections to the examination on
535 religious grounds.

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

537 (e) An authorized school official issues a temporary
538 exemption, for a period not to exceed 30 school days, to permit
539 a student who transfers into a new county to attend class until
540 his or her records can be obtained. A homeless child, as defined
541 in s. 1003.01, and a child who is known to the department, as
542 defined in s. 39.0016, shall be given a temporary exemption for
543 30 school days. The public school health nurse or authorized
544 private school official is responsible for followup of each such
545 student until proper documentation or immunizations are
546 obtained. An exemption for 30 days may be issued for a student
547 who enters a juvenile justice program to permit the student to
548 attend class until his or her records can be obtained or until
549 the immunizations can be obtained. An authorized juvenile
550 justice official is responsible for followup of each student who
551 enters a juvenile justice program until proper documentation or

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552 immunizations are obtained.

553 Section 7. Subsections (3) and (4) are added to section
554 1003.57, Florida Statutes, to read:

555 1003.57 Exceptional students instruction.-

556 (3) (a) For purposes of this subsection and subsection (4),
557 the term:

558 1. "Agency" means the Department of Children and Family
559 Services or its contracted lead agency, the Agency for Persons
560 with Disabilities, and the Agency for Health Care
561 Administration.

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

564 3. "Receiving school district" means the district in which
565 a private residential care facility is located.

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

570 (b) Within 10 business days after an exceptional student is
571 placed in a private residential care facility by an agency, the
572 agency or private residential care facility licensed by the
573 agency, as appropriate, shall provide written notification of
574 the placement to the school district where the student is
575 currently counted for funding purposes under s. 1011.62 and the
576 receiving school district. This paragraph applies when the
577 placement is for the primary purpose of addressing residential
578 or other noneducational needs and the placement crosses school
579 district lines.

580 (c) Within 10 business days after receiving the

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581 notification, the school district must review the student's
582 individual educational plan (IEP) to determine if the student's
583 IEP can be implemented by the school district or by a provider
584 or facility under contract with the school district. The school
585 district shall:

- 586 1. Provide educational instruction to the student;
587 2. Contract with another provider or facility to provide
588 the educational instruction;
589 3. Contract with the private residential care facility in
590 which the student resides to provide the educational
591 instruction; or
592 4. Decline to provide or contract for educational
593 instruction.

594
595 If the school district declines to provide or contract for the
596 educational instruction, the school district that is located
597 within the legal residence of the student shall provide or
598 contract for the educational instruction to the student. The
599 school district that provides educational instruction or
600 contracts to provide educational instruction shall report the
601 student for funding purposes pursuant s. 1011.62.

602 (d)1. The Department of Education, in consultation with the
603 agencies and school districts, shall develop procedures for
604 written notification to school districts regarding the placement
605 of an exceptional student in a residential care facility. The
606 procedures must:

- 607 a. Provide for written notification of a placement that
608 crosses school district lines; and
609 b. Identify the entity responsible for the notification for

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610 each facility that is operated, licensed, or regulated by an
611 agency.

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

615 3. A residential care facility that is licensed by the
616 Agency for Persons with Disabilities shall provide written
617 notification to school districts when an exceptional student is
618 placed in the residential care facility.

619
620 The requirements of paragraphs (c) and (d) do not apply to
621 written agreements among school districts which specify each
622 school district's responsibility for providing and paying for
623 educational services to an exceptional student in a residential
624 care facility. However, each agreement must require a school
625 district to review the student's IEP within 10 business days
626 after receiving the notification required under paragraph (b).

627 (4) The Department of Education and agencies shall enter
628 into an agreement for interagency coordination which
629 incorporates the elements set forth in 34 C.F.R. s. 300.154.

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