

By the Committees on Judiciary; Children, Families, and Elder Affairs; and 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 the education for children in  
3           shelter care or foster care and exceptional students;  
4           amending s. 39.0016, F.S.; defining the term  
5           "surrogate parent"; providing legislative intent;  
6           providing conditions for the district superintendent  
7           or court to appoint a surrogate parent for purposes of  
8           educational decisionmaking for a child who has or is  
9           suspected of having a disability; amending s. 39.202,  
10          F.S.; providing for access to certain records to  
11          liaisons between school districts and the Department  
12          of 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 a cooperative  
44 agreement between the Department of Education and  
45 agencies, to be executed on or before January 1, 2010;  
46 prescribing conditions and requirements for the  
47 agreement; providing an effective date.

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

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

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

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

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

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

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

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

78 (2) AGENCY AGREEMENTS.-

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

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88        (b)~~(4)~~ The department shall enter into agreements with  
89 district school boards or other local educational entities  
90 regarding education and related services for children known to  
91 the department who are of school age and children known to the  
92 department who are younger than school age but who would  
93 otherwise qualify for services from the district school board.  
94 Such agreements shall include, but are not limited to:

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

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

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

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

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

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

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117        a.1. Provide the department with a general listing of the  
118 services and information available from the district school  
119 board, ~~including, but not limited to, the current Sunshine State~~  
120 ~~Standards, the Surrogate Parent Training Manual, and other~~  
121 ~~resources accessible through the Department of Education or~~  
122 ~~local school districts~~ to facilitate educational access for a  
123 child known to the department.

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

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

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

144        3.(e) A requirement that the department and the district  
145 school board shall cooperate in accessing the services and

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

153 ~~a.1.~~ Referral for screening.

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

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

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

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

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

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175 staff, to meet the requirements of the local school district for  
176 educational purposes.

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

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

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

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

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

202 b. Providing appropriate exceptional student education,  
203 related services, and aids and supports in the least restrictive

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204 environment appropriate for these children.

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

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

218 (b)1. A surrogate parent shall be appointed for a child  
219 known to the department who has or is suspected of having a  
220 disability, as defined in s. 1003.01(3), by the dependency court  
221 or by the district school superintendent where the child is  
222 located if:

223 a. After reasonable efforts, a parent cannot be located;

224 b. The court determines that no person has the authority  
225 under the Individuals with Disabilities Education Act or that no  
226 person having such authority is willing or able to serve as the  
227 child's educational decisionmaker; or

228 c. A surrogate parent has not been previously appointed for  
229 the child.

230 2. The minimum qualifications, responsibilities, rights,  
231 and liabilities of a surrogate parent appointed pursuant to this  
232 section are the same as the minimum qualifications,



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233 responsibilities, rights, and liabilities of a surrogate parent  
234 appointed by a district school superintendent in accordance with  
235 rules adopted by the Department of Education.

236 3. Employees of the Department of Education, the child's  
237 local school district, a community-based care provider, the  
238 Department of Children and Family Services, or any other public  
239 or private agency involved in the education or care of the  
240 child; group home staff; and therapeutic foster home parents may  
241 not serve as surrogate parents under this subsection. A person  
242 who acts in a parental role to a child, such as a foster parent  
243 or relative caregiver, a guardian ad litem, or a relative or  
244 other adult involved in the child's life, regardless of whether  
245 that person has physical custody of the child, may serve as a  
246 surrogate parent under this subsection.

247 4. If the court appoints a surrogate parent, the court  
248 shall provide notice to the district school superintendent as  
249 soon as practicable.

250 5. The district school superintendent must accept the  
251 appointment of a surrogate parent made by the dependency court  
252 if he or she has not previously appointed a surrogate parent.  
253 Similarly, the dependency court must accept a surrogate parent  
254 previously appointed by a district school superintendent.

255 6. The appointment of a surrogate parent by a dependency  
256 court must be accepted by any subsequent school without regard  
257 to where the child resides in order for a single surrogate  
258 parent to follow the education of the child during the entire  
259 time the child is known to the department.

260 7. The termination of a surrogate parent appointed pursuant  
261 to this section is governed by the same rules governing the

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262 termination of a surrogate parent appointed by a district school  
263 superintendent.

264 (4)-(5) TRAINING.—The department shall incorporate an  
265 education component into all training programs of the department  
266 regarding children known to the department. Such training shall  
267 be coordinated with the Department of Education and the local  
268 school districts. The department shall offer opportunities for  
269 education personnel to participate in such training. Such  
270 coordination shall include, but not be limited to, notice of  
271 training sessions, opportunities to purchase training materials,  
272 proposals to avoid duplication of services by offering joint  
273 training, and incorporation of materials available from the  
274 Department of Education and local school districts into the  
275 department training when appropriate. The department training  
276 components shall include:

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

280 (b) Training for parents in cases in which reunification is  
281 the goal, or for preadoptive parents when adoption is the goal,  
282 so that such parents learn how to access the services the child  
283 known to the department needs and the importance of their  
284 involvement in the education of the child known to the  
285 department.

286 (c) Training for caseworkers and foster parents to include  
287 information on the right of the child known to the department to  
288 an education, the role of an education in the development and  
289 adjustment of a child known to the department, the proper ways  
290 to access education and related services for the child known to

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291 the department, and the importance and strategies for parental  
292 involvement in education for the success of the child known to  
293 the department.

294 (d) Training of caseworkers regarding the services and  
295 information available through the Department of Education and  
296 local school districts, including, but not limited to, the  
297 current Sunshine State Standards, the Surrogate Parent Training  
298 Manual, and other resources accessible through the Department of  
299 Education or local school districts to facilitate educational  
300 access for a child known to the department.

301 Section 2. Paragraph (p) of subsection (2) of section  
302 39.202, Florida Statutes, is amended to read:

303 39.202 Confidentiality of reports and records in cases of  
304 child abuse or neglect.—

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

309 (p) An employee of the local school district who is  
310 designated as a liaison between the school district and the  
311 department pursuant to an interagency agreement required under  
312 s. 39.0016 and the principal of a public school, private school,  
313 or charter school where the child is a student. Information  
314 contained in the records which the liaison or the principal  
315 determines are necessary for a school employee to effectively  
316 provide a student with educational services may be released to  
317 that employee.

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

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320 39.402 Placement in a shelter.—

321 (11) (a) If a child is placed in a shelter pursuant to a  
322 court order following a shelter hearing, the court shall require  
323 in the shelter hearing order that the parents of the child, or  
324 the guardian of the child's estate, if possessed of assets which  
325 under law may be disbursed for the care, support, and  
326 maintenance of the child, to pay, to the department or  
327 institution having custody of the child, fees as established by  
328 the department. When the order affects the guardianship estate,  
329 a certified copy of the order shall be delivered to the judge  
330 having jurisdiction of the guardianship estate. The shelter  
331 order shall also require the parents to provide to the  
332 department and any other state agency or party designated by the  
333 court, within 28 days after entry of the shelter order, the  
334 financial information necessary to accurately calculate child  
335 support pursuant to s. 61.30.

336 (b) The court shall request that the parents consent to  
337 provide access to the child's medical records and provide  
338 information to the court, the department or its contract  
339 agencies, and any guardian ad litem or attorney for the child.  
340 If a parent is unavailable or unable to consent or withholds  
341 consent and the court determines that access to the records and  
342 information is necessary in order to provide services to the  
343 child, the court shall issue an order granting access. The court  
344 may also order the parents to ~~The parent or legal guardian shall~~  
345 provide all known medical information to the department and to  
346 any others granted access under this subsection.

347 (c) The court shall request that the parents consent to  
348 provide access to the child's education records and provide

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349 information to the court, the department or its contract  
350 agencies, and any guardian ad litem or attorney for the child.  
351 If a parent is unavailable or unable to consent or withholds  
352 consent and the court determines that access to the records and  
353 information is necessary in order to provide services to the  
354 child, the court shall issue an order granting access.

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

357 39.701 Judicial review.—

358 (8) The court and any citizen review panel shall take into  
359 consideration the information contained in the social services  
360 study and investigation and all medical, psychological, and  
361 educational records that support the terms of the case plan;  
362 testimony by the social services agency, the parent, the foster  
363 parent or legal custodian, the guardian ad litem or surrogate  
364 parent for educational decisionmaking if one has been appointed  
365 for the child, and any other person deemed appropriate; and any  
366 relevant and material evidence submitted to the court, including  
367 written and oral reports to the extent of their probative value.  
368 These reports and evidence may be received by the court in its  
369 effort to determine the action to be taken with regard to the  
370 child and may be relied upon to the extent of their probative  
371 value, even though not competent in an adjudicatory hearing. In  
372 its deliberations, the court and any citizen review panel shall  
373 seek to determine:

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

377 (b) If the parent has been advised of the right to have

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378 counsel present at the judicial review or citizen review  
379 hearings. If not so advised, the court or citizen review panel  
380 shall advise the parent of such right.

381 (c) If a guardian ad litem needs to be appointed for the  
382 child in a case in which a guardian ad litem has not previously  
383 been appointed or if there is a need to continue a guardian ad  
384 litem in a case in which a guardian ad litem has been appointed.

385 (d) Who holds the rights to make educational decisions for  
386 the child if the child has or is suspected of having a  
387 disability, as defined in s. 1003.01(3).

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

391 (f)~~(e)~~ The compliance or lack of compliance with a  
392 visitation contract between the parent and the social service  
393 agency for contact with the child, including the frequency,  
394 duration, and results of the parent-child visitation and the  
395 reason for any noncompliance.

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

400 (h)~~(g)~~ Whether the child is receiving safe and proper care  
401 according to s. 39.6012, including, but not limited to, the  
402 appropriateness of the child's current placement, including  
403 whether the child is in a setting that is as family-like and as  
404 close to the parent's home as possible, consistent with the  
405 child's best interests and special needs, and including  
406 maintaining stability in the child's educational placement, as

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407 documented by assurances from the community-based care provider  
408 that:

409 1. The placement of the child takes into account the  
410 appropriateness of the current educational setting and the  
411 proximity to the school in which the child is enrolled at the  
412 time of placement.

413 2. The community-based care agency has coordinated with  
414 appropriate school district to ensure that the child remains in  
415 the school in which the child is enrolled at the time of  
416 placement.

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

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

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

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

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

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

432 1003.21 School attendance.—

433 (1)

434 (f) Homeless children, as defined in s. 1003.01, and  
435 children who are known to the department, as defined in s.

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436 39.0016, must have access to a free public education and must be  
437 admitted to school in the school district in which they or their  
438 families live. School districts shall assist homeless children  
439 and children who are known to the department to meet the  
440 requirements of subsection (4) and s. 1003.22, as well as local  
441 requirements for documentation.

442 (4) Before admitting a child to kindergarten, the principal  
443 shall require evidence that the child has attained the age at  
444 which he or she should be admitted in accordance with the  
445 provisions of subparagraph (1)(a)2. The district school  
446 superintendent may require evidence of the age of any child whom  
447 he or she believes to be within the limits of compulsory  
448 attendance as provided for by law. If the first prescribed  
449 evidence is not available, the next evidence obtainable in the  
450 order set forth below shall be accepted:

451 (g) If none of these evidences can be produced, an  
452 affidavit of age sworn to by the parent, accompanied by a  
453 certificate of age signed by a public health officer or by a  
454 public school physician, or, if neither of these is available in  
455 the county, by a licensed practicing physician designated by the  
456 district school board, which certificate states that the health  
457 officer or physician has examined the child and believes that  
458 the age as stated in the affidavit is substantially correct. A  
459 homeless child, as defined in s. 1003.01, and a child who is  
460 known to the department, as defined in s. 39.0016, shall be  
461 given temporary exemption from this section for 30 school days.

462 Section 6. Subsection (1) and paragraph (e) of subsection  
463 (5) of section 1003.22, Florida Statutes, are amended to read:  
464 1003.22 School-entry health examinations; immunization



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465 against communicable diseases; exemptions; duties of Department  
466 of Health.—

467 (1) Each district school board and the governing authority  
468 of each private school shall require that each child who is  
469 entitled to admittance to kindergarten, or is entitled to any  
470 other initial entrance into a public or private school in this  
471 state, present a certification of a school-entry health  
472 examination performed within 1 year prior to enrollment in  
473 school. Each district school board, and the governing authority  
474 of each private school, may establish a policy that permits a  
475 student up to 30 school days to present a certification of a  
476 school-entry health examination. A homeless child, as defined in  
477 s. 1003.01, and a child who is known to the department, as  
478 defined in s. 39.0016, shall be given a temporary exemption for  
479 30 school days. Any district school board that establishes such  
480 a policy shall include provisions in its local school health  
481 services plan to assist students in obtaining the health  
482 examinations. However, any child shall be exempt from the  
483 requirement of a health examination upon written request of the  
484 parent of the child stating objections to the examination on  
485 religious grounds.

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

487 (e) An authorized school official issues a temporary  
488 exemption, for a period not to exceed 30 school days, to permit  
489 a student who transfers into a new county to attend class until  
490 his or her records can be obtained. A homeless child, as defined  
491 in s. 1003.01, and a child who is known to the department, as  
492 defined in s. 39.0016, shall be given a temporary exemption for  
493 30 school days. The public school health nurse or authorized

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494 private school official is responsible for followup of each such  
495 student until proper documentation or immunizations are  
496 obtained. An exemption for 30 days may be issued for a student  
497 who enters a juvenile justice program to permit the student to  
498 attend class until his or her records can be obtained or until  
499 the immunizations can be obtained. An authorized juvenile  
500 justice official is responsible for followup of each student who  
501 enters a juvenile justice program until proper documentation or  
502 immunizations are obtained.

503 Section 7. Subsections (3) and (4) are added to section  
504 1003.57, Florida Statutes, to read:

505 1003.57 Exceptional students instruction.-

506 (3) (a) For purposes of this subsection and subsection (4),  
507 the term:

508 1. "Agency" means the Department of Children and Family  
509 Services or its contracted lead agency, the Agency for Persons  
510 with Disabilities, and the Agency for Health Care  
511 Administration.

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

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

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

520 (b) Within 10 business days after an exceptional student is  
521 placed in a private residential care facility by an agency, the  
522 agency or private residential care facility licensed by the

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523 agency, as appropriate, shall provide written notification of  
524 the placement to the school district where the student is  
525 currently counted for funding purposes under s. 1011.62 and the  
526 receiving school district. This paragraph applies when the  
527 placement is for the primary purpose of addressing residential  
528 or other noneducational needs and the placement crosses school  
529 district lines.

530 (c) Within 10 business days after receiving the  
531 notification, the receiving school district must review the  
532 student's individual educational plan (IEP) to determine if the  
533 student's IEP can be implemented by the receiving school  
534 district or by a provider or facility under contract with the  
535 receiving school district. The receiving school district shall:

- 536 1. Provide educational instruction to the student;
- 537 2. Contract with another provider or facility to provide  
538 the educational instruction;
- 539 3. Contract with the private residential care facility in  
540 which the student resides to provide the educational  
541 instruction; or
- 542 4. Decline to provide or contract for educational  
543 instruction.

544  
545 If the receiving school district declines to provide or contract  
546 for the educational instruction, the school district in which  
547 the legal residence of the student is located shall provide or  
548 contract for the educational instruction to the student. The  
549 school district that provides educational instruction or  
550 contracts to provide educational instruction shall report the  
551 student for funding purposes pursuant s. 1011.62.

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552 (d)1. The Department of Education, in consultation with the  
553 agencies and school districts, shall develop procedures for  
554 written notification to school districts regarding the placement  
555 of an exceptional student in a residential care facility. The  
556 procedures must:

557 a. Provide for written notification of a placement that  
558 crosses school district lines; and

559 b. Identify the entity responsible for the notification for  
560 each facility that is operated, licensed, or regulated by an  
561 agency.

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

565  
566 The requirements of paragraphs (c) and (d) do not apply to  
567 written agreements among school districts which specify each  
568 school district's responsibility for providing and paying for  
569 educational services to an exceptional student in a residential  
570 care facility. However, each agreement must require a school  
571 district to review the student's IEP within 10 business days  
572 after receiving the notification required under paragraph (b).

573 (4) The Department of Education and agencies shall enter  
574 into an agreement for interagency coordination regarding the  
575 placement of exceptional students in residential facilities,  
576 consistent with federal law and regulations, on or before  
577 January 1, 2010. The agreement shall identify the  
578 responsibilities of each party and ensure that students receive  
579 special education and related services necessary to receive a  
580 free appropriate public education. The agreement shall also

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581 establish procedures for:

582 (a) Resolving interagency disputes;

583 (b) Ensuring the provision of services during the pendency  
584 of a dispute; and

585 (c) Ensuring continued Medicaid eligibility as deemed  
586 appropriate.

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