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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 and requirements for district  
7           school superintendent or court appointment of a  
8           surrogate parent for educational decisionmaking for a  
9           child who has or is suspected of having a disability;  
10          providing requirements for educational placement;  
11          providing requirements relating to qualifications and  
12          responsibilities of surrogate parents; limiting  
13          liability; amending s. 39.202, F.S.; providing for  
14          access to certain records to liaisons between school  
15          districts and the Department of Children and Family  
16          Services; amending s. 39.402, F.S.; requiring access  
17          to a child's medical records and educational records  
18          if a child is placed in a shelter; authorizing  
19          appointment of a surrogate parent; amending s. 39.701,  
20          F.S.; requiring the court and citizen review panel in  
21          judicial reviews to consider testimony by a surrogate  
22          parent for educational decisionmaking; providing for  
23          additional deliberations relating to appointment of an  
24          educational decisionmaker; requiring certain  
25          documentation relating to the educational setting;  
26          amending s. 1003.21, F.S.; providing access to free  
27          public education for children known to the department;  
28          authorizing a temporary exemption relating to school  
29          attendance; amending s. 1003.22, F.S.; authorizing a

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30 temporary exemption from school-entry health  
31 examinations for children known to the department;  
32 amending s. 1003.57, F.S.; providing definitions;  
33 requiring the Department of Children and Family  
34 Services, the Agency for Health Care Administration,  
35 and residential facilities licensed by the Agency for  
36 Persons with Disabilities to notify certain school  
37 districts following the placement of an exceptional  
38 student in a private residential care facility;  
39 requiring that an exceptional student be enrolled in  
40 school; requiring review of the student's individual  
41 educational plan; providing for determining  
42 responsibility for educational instruction; requiring  
43 the school district to report the student for funding  
44 purposes; requiring the Department of Education, in  
45 consultation with specified agencies, to develop  
46 procedures for the placement of students in  
47 residential care facilities; requiring the State Board  
48 of Education to adopt rules; requiring a cooperative  
49 agreement between the Department of Education and  
50 agencies, to be executed on or before January 1, 2010;  
51 prescribing conditions and requirements for the  
52 agreement; providing an effective date.

53  
54 Be It Enacted by the Legislature of the State of Florida:

55  
56 Section 1. Section 39.0016, Florida Statutes, is amended to  
57 read:

58 39.0016 Education of abused, neglected, and abandoned

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59 children; agency agreements; children having or suspected of  
60 having a disability.—

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

62 (a) “Children known to the department” means children who  
63 are found to be dependent or children in shelter care.

64 (b) “Department” means the Department of Children and  
65 Family Services or a community-based care lead agency acting on  
66 behalf of the Department of Children and Family Services, as  
67 appropriate.

68 (c) “Surrogate parent” means an individual appointed to act  
69 in the place of a parent in educational decisionmaking and in  
70 safeguarding a child’s rights under the Individuals with  
71 Disabilities Education Act and this section.

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

83 (2) AGENCY AGREEMENTS.—

84 (a) ~~(3)~~ The department shall enter into an agreement with  
85 the Department of Education regarding the education and related  
86 care of children known to the department. Such agreement shall  
87 be designed to provide educational access to children known to

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88 the department for the purpose of facilitating the delivery of  
89 services or programs to children known to the department. The  
90 agreement shall avoid duplication of services or programs and  
91 shall provide for combining resources to maximize the  
92 availability or delivery of services or programs.

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

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

101 a.1. Enroll children known to the department in school. The  
102 agreement shall provide for continuing the enrollment of a child  
103 known to the department at the same school, if possible, with  
104 the goal of avoiding disruption of education.

105 b.2. Notify the school and school district in which a child  
106 known to the department is enrolled of the name and phone number  
107 of the child known to the department caregiver and caseworker  
108 for child safety purposes.

109 c.3. Establish a protocol for the department to share  
110 information about a child known to the department with the  
111 school district, consistent with the Family Educational Rights  
112 and Privacy Act, since the sharing of information will assist  
113 each agency in obtaining education and related services for the  
114 benefit of the child.

115 d.4. Notify the school district of the department's case  
116 planning for a child known to the department, both at the time

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117 of plan development and plan review. Within the plan development  
118 or review process, the school district may provide information  
119 regarding the child known to the department if the school  
120 district deems it desirable and appropriate.

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

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

129 b.2. Identify all educational and other services provided  
130 by the school and school district which the school district  
131 believes are reasonably necessary to meet the educational needs  
132 of a child known to the department.

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

143 d.4. Provide individualized student intervention or an  
144 individual educational plan when a determination has been made  
145 through legally appropriate criteria that intervention services

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146 are required. The intervention or individual educational plan  
147 must include strategies to enable the child known to the  
148 department to maximize the attainment of educational goals.

149 3.(e) A requirement that the department and the district  
150 school board shall cooperate in accessing the services and  
151 supports needed for a child known to the department who has or  
152 is suspected of having a disability to receive an appropriate  
153 education consistent with the Individuals with Disabilities  
154 Education Act and state implementing laws, rules, and  
155 assurances. Coordination of services for a child known to the  
156 department who has or is suspected of having a disability may  
157 include:

158 a.1. Referral for screening.

159 b.2. Sharing of evaluations between the school district and  
160 the department where appropriate.

161 c.3. Provision of education and related services  
162 appropriate for the needs and abilities of the child known to  
163 the department.

164 d.4. Coordination of services and plans between the school  
165 and the residential setting to avoid duplication or conflicting  
166 service plans.

167 e.5. Appointment of a surrogate parent, consistent with the  
168 Individuals with Disabilities Education Act and pursuant to  
169 subsection (3), for educational purposes for a child known to  
170 the department who qualifies ~~as soon as the child is determined~~  
171 ~~to be dependent and without a parent to act for the child. The~~  
172 ~~surrogate parent shall be appointed by the school district~~  
173 ~~without regard to where the child known to the department is~~  
174 ~~placed so that one surrogate parent can follow the education of~~

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175 ~~the child known to the department during his or her entire time~~  
176 ~~in state custody.~~

177 ~~f.6.~~ For each child known to the department 14 years of age  
178 and older, transition planning by the department and all  
179 providers, including the department's independent living program  
180 staff, to meet the requirements of the local school district for  
181 educational purposes.

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

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

194 (a)1. The Legislature finds that disability is a natural  
195 part of the human experience and in no way diminishes the right  
196 of individuals to participate in or contribute to society.

197 Improving educational results for children with disabilities is  
198 an essential element of our public policy of ensuring equality  
199 of opportunity, full participation, independent living, and  
200 economic self-sufficiency for individuals with disabilities.

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

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

207 b. Providing appropriate exceptional student education,  
208 related services, and aids and supports in the least restrictive  
209 environment appropriate for these children.

210 c. Having a trained, interested, and consistent educational  
211 decisionmaker for the child when the parent is determined to be  
212 legally unavailable or when the foster parent is unwilling, has  
213 no significant relationship with the child, or is not trained in  
214 the exceptional student education process.

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

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

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

228 b. A court of competent jurisdiction over a child under  
229 this chapter has determined that no person has the authority  
230 under the Individuals with Disabilities Education Act, including  
231 the parent or parents subject to the dependency action, or that  
232 no person has the authority, willingness, or ability to serve as

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233 the educational decisionmaker for the child without judicial  
234 action.

235 2. A surrogate parent appointed by the district school  
236 superintendent or the court must be at least 18 years old and  
237 have no personal or professional interest that conflicts with  
238 the interests of the student to be represented. Neither the  
239 district school superintendent nor the court may appoint an  
240 employee of the Department of Education, the local school  
241 district, a community-based care provider, the Department of  
242 Children and Family Services, or any other public or private  
243 agency involved in the education or care of the child as  
244 appointment of those persons is prohibited by federal law. This  
245 prohibition includes group home staff and therapeutic foster  
246 parents. However, a person who acts in a parental role to a  
247 child, such as a foster parent or relative caregiver, is not  
248 prohibited from serving as a surrogate parent if he or she is  
249 employed by such agency, willing to serve, and knowledgeable  
250 about the child and the exceptional student education process.  
251 The surrogate parent may be a court-appointed guardian ad litem  
252 or a relative or nonrelative adult who is involved in the  
253 child's life regardless of whether that person has physical  
254 custody of the child. Each person appointed as a surrogate  
255 parent must have the knowledge and skills acquired by  
256 successfully completing training using materials developed and  
257 approved by the Department of Education to ensure adequate  
258 representation of the child.

259 3. If a guardian ad litem has been appointed for a child,  
260 the district school superintendent must first consider the  
261 child's guardian ad litem when appointing a surrogate parent.

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262 The district school superintendent must accept the appointment  
263 of the court if he or she has not previously appointed a  
264 surrogate parent. Similarly, the court must accept a surrogate  
265 parent duly appointed by a district school superintendent.

266 4. A surrogate parent appointed by the district school  
267 superintendent or the court must be accepted by any subsequent  
268 school or school district without regard to where the child is  
269 receiving residential care so that a single surrogate parent can  
270 follow the education of the child during his or her entire time  
271 in state custody. Nothing in this paragraph or in rule shall  
272 limit or prohibit the continuance of a surrogate parent  
273 appointment when the responsibility for the student's  
274 educational placement moves among and between public and private  
275 agencies.

276 5. For a child known to the department, the responsibility  
277 to appoint a surrogate parent resides with both the district  
278 school superintendent and the court with jurisdiction over the  
279 child. If the court elects to appoint a surrogate parent, notice  
280 shall be provided as soon as practicable to the child's school.  
281 At any time the court determines that it is in the best  
282 interests of a child to remove a surrogate parent, the court may  
283 appoint a new surrogate parent for educational decisionmaking  
284 purposes for that child.

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

287 a. The child is determined to no longer be eligible or in  
288 need of special programs, except when termination of special  
289 programs is being contested.

290 b. The child achieves permanency through adoption or legal

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291 guardianship and is no longer in the custody of the department.

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

295 d. The appointed surrogate no longer wishes to represent  
296 the child or is unable to represent the child.

297 e. The superintendent of the school district in which the  
298 child is attending school, the Department of Education contract  
299 designee, or the court that appointed the surrogate determines  
300 that the appointed surrogate parent no longer adequately  
301 represents the child.

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

304 7. The appointment and termination of appointment of a  
305 surrogate under this paragraph shall be entered as an order of  
306 the court with a copy of the order provided to the child's  
307 school as soon as practicable.

308 8. The person appointed as a surrogate parent under this  
309 paragraph must:

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

312 b. Represent the child in all matters relating to  
313 identification, evaluation, and educational placement and the  
314 provision of a free and appropriate education to the child.

315 c. Represent the interests and safeguard the rights of the  
316 child in educational decisions that affect the child.

317 9. The responsibilities of the person appointed as a  
318 surrogate parent shall not extend to the care, maintenance,  
319 custody, residential placement, or any other area not

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320 specifically related to the education of the child, unless the  
321 same person is appointed by the court for such other purposes.

322 10. A person appointed as a surrogate parent shall enjoy  
323 all of the procedural safeguards afforded a parent with respect  
324 to the identification, evaluation, and educational placement of  
325 a student with a disability or a student who is suspected of  
326 having a disability.

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

330 (4)-(5) TRAINING.—The department shall incorporate an  
331 education component into all training programs of the department  
332 regarding children known to the department. Such training shall  
333 be coordinated with the Department of Education and the local  
334 school districts. The department shall offer opportunities for  
335 education personnel to participate in such training. Such  
336 coordination shall include, but not be limited to, notice of  
337 training sessions, opportunities to purchase training materials,  
338 proposals to avoid duplication of services by offering joint  
339 training, and incorporation of materials available from the  
340 Department of Education and local school districts into the  
341 department training when appropriate. The department training  
342 components shall include:

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

346 (b) Training for parents in cases in which reunification is  
347 the goal, or for preadoptive parents when adoption is the goal,  
348 so that such parents learn how to access the services the child

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349 known to the department needs and the importance of their  
350 involvement in the education of the child known to the  
351 department.

352 (c) Training for caseworkers and foster parents to include  
353 information on the right of the child known to the department to  
354 an education, the role of an education in the development and  
355 adjustment of a child known to the department, the proper ways  
356 to access education and related services for the child known to  
357 the department, and the importance and strategies for parental  
358 involvement in education for the success of the child known to  
359 the department.

360 (d) Training of caseworkers regarding the services and  
361 information available through the Department of Education and  
362 local school districts, including, but not limited to, the  
363 current Sunshine State Standards, the Surrogate Parent Training  
364 Manual, and other resources accessible through the Department of  
365 Education or local school districts to facilitate educational  
366 access for a child known to the department.

367 Section 2. Paragraph (p) of subsection (2) of section  
368 39.202, Florida Statutes, is amended to read:

369 39.202 Confidentiality of reports and records in cases of  
370 child abuse or neglect.—

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

375 (p) An employee of the local school district who is  
376 designated as a liaison between the school district and the  
377 department pursuant to an interagency agreement required under

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378 s. 39.0016 and the principal of a public school, private school,  
379 or charter school where the child is a student. Information  
380 contained in the records which the liaison or the principal  
381 determines are necessary for a school employee to effectively  
382 provide a student with educational services may be released to  
383 that employee.

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

386 39.402 Placement in a shelter.—

387 (11) (a) If a child is placed in a shelter pursuant to a  
388 court order following a shelter hearing, the court shall require  
389 in the shelter hearing order that the parents of the child, or  
390 the guardian of the child's estate, if possessed of assets which  
391 under law may be disbursed for the care, support, and  
392 maintenance of the child, to pay, to the department or  
393 institution having custody of the child, fees as established by  
394 the department. When the order affects the guardianship estate,  
395 a certified copy of the order shall be delivered to the judge  
396 having jurisdiction of the guardianship estate. The shelter  
397 order shall also require the parents to provide to the  
398 department and any other state agency or party designated by the  
399 court, within 28 days after entry of the shelter order, the  
400 financial information necessary to accurately calculate child  
401 support pursuant to s. 61.30.

402 (b) The court shall request that the parents consent to  
403 provide access to the child's medical records and provide  
404 information to the court, the department or its contract  
405 agencies, and any guardian ad litem or attorney for the child.  
406 If a parent is unavailable or unable to consent or withholds

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407 consent and the court determines access to the records and  
408 information is necessary to provide services to the child, the  
409 court shall issue an order granting access. The court may also  
410 order the parents to ~~The parent or legal guardian shall provide~~  
411 all known medical information to the department and to any  
412 others granted access under this subsection.

413 (c) The court shall request that the parents consent to  
414 provide access to the child's educational records and provide  
415 information to the court, the department or its contract  
416 agencies, and any guardian ad litem or attorney for the child.  
417 If a parent is unavailable or unable to consent or withholds  
418 consent and the court determines access to the records and  
419 information is necessary to provide services to the child, the  
420 court shall issue an order granting access.

421 (d) The court may appoint a surrogate parent or may refer  
422 the child to the district school superintendent for appointment  
423 of a surrogate parent if the child has or is suspected of having  
424 a disability and the parent is unavailable pursuant to s.  
425 39.0016(3)(b).

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

428 39.701 Judicial review.—

429 (8) The court and any citizen review panel shall take into  
430 consideration the information contained in the social services  
431 study and investigation and all medical, psychological, and  
432 educational records that support the terms of the case plan;  
433 testimony by the social services agency, the parent, the foster  
434 parent or legal custodian, the guardian ad litem or surrogate  
435 parent for educational decisionmaking if one has been appointed

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436 for the child, and any other person deemed appropriate; and any  
437 relevant and material evidence submitted to the court, including  
438 written and oral reports to the extent of their probative value.  
439 These reports and evidence may be received by the court in its  
440 effort to determine the action to be taken with regard to the  
441 child and may be relied upon to the extent of their probative  
442 value, even though not competent in an adjudicatory hearing. In  
443 its deliberations, the court and any citizen review panel shall  
444 seek to determine:

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

448 (b) If the parent has been advised of the right to have  
449 counsel present at the judicial review or citizen review  
450 hearings. If not so advised, the court or citizen review panel  
451 shall advise the parent of such right.

452 (c) If a guardian ad litem needs to be appointed for the  
453 child in a case in which a guardian ad litem has not previously  
454 been appointed or if there is a need to continue a guardian ad  
455 litem in a case in which a guardian ad litem has been appointed.

456 (d) Who holds the rights to make educational decisions for  
457 the child. If appropriate, the court may refer the child to the  
458 district school superintendent for appointment of a surrogate  
459 parent or may itself appoint a surrogate parent under the  
460 Individuals with Disabilities Education Act and s. 39.0016.(e).

461 ~~(d)~~ The compliance or lack of compliance of all parties  
462 with applicable items of the case plan, including the parents'  
463 compliance with child support orders.

464 (f) ~~(e)~~ The compliance or lack of compliance with a

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465 visitation contract between the parent and the social service  
466 agency for contact with the child, including the frequency,  
467 duration, and results of the parent-child visitation and the  
468 reason for any noncompliance.

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

473 (h)~~(g)~~ Whether the child is receiving safe and proper care  
474 according to s. 39.6012, including, but not limited to, the  
475 appropriateness of the child's current placement, including  
476 whether the child is in a setting that is as family-like and as  
477 close to the parent's home as possible, consistent with the  
478 child's best interests and special needs, and including  
479 maintaining stability in the child's educational placement, as  
480 documented by assurances from the community-based care provider  
481 that:

482 1. The placement of the child takes into account the  
483 appropriateness of the current educational setting and the  
484 proximity to the school in which the child is enrolled at the  
485 time of placement.

486 2. The community-based care agency has coordinated with  
487 appropriate local educational agencies to ensure that the child  
488 remains in the school in which the child is enrolled at the time  
489 of placement.

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

492 (j)~~(i)~~ When appropriate, the basis for the unwillingness or  
493 inability of the parent to become a party to a case plan. The

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494 court and the citizen review panel shall determine if the  
495 efforts of the social service agency to secure party  
496 participation in a case plan were sufficient.

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

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

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

505 1003.21 School attendance.—

506 (1)

507 (f) Homeless children, as defined in s. 1003.01, and  
508 children who are known to the department, as defined in s.  
509 39.0016, must have access to a free public education and must be  
510 admitted to school in the school district in which they or their  
511 families live. School districts shall assist homeless children  
512 and children who are known to the department to meet the  
513 requirements of subsection (4) and s. 1003.22, as well as local  
514 requirements for documentation.

515 (4) Before admitting a child to kindergarten, the principal  
516 shall require evidence that the child has attained the age at  
517 which he or she should be admitted in accordance with the  
518 provisions of subparagraph (1)(a)2. The district school  
519 superintendent may require evidence of the age of any child whom  
520 he or she believes to be within the limits of compulsory  
521 attendance as provided for by law. If the first prescribed  
522 evidence is not available, the next evidence obtainable in the

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523 order set forth below shall be accepted:

524 (g) If none of these evidences can be produced, an  
525 affidavit of age sworn to by the parent, accompanied by a  
526 certificate of age signed by a public health officer or by a  
527 public school physician, or, if neither of these is available in  
528 the county, by a licensed practicing physician designated by the  
529 district school board, which certificate states that the health  
530 officer or physician has examined the child and believes that  
531 the age as stated in the affidavit is substantially correct. A  
532 homeless child, as defined in s. 1003.01, and a child who is  
533 known to the department, as defined in s. 39.0016, shall be  
534 given temporary exemption from this section for 30 school days.

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

537 1003.22 School-entry health examinations; immunization  
538 against communicable diseases; exemptions; duties of Department  
539 of Health.—

540 (1) Each district school board and the governing authority  
541 of each private school shall require that each child who is  
542 entitled to admittance to kindergarten, or is entitled to any  
543 other initial entrance into a public or private school in this  
544 state, present a certification of a school-entry health  
545 examination performed within 1 year prior to enrollment in  
546 school. Each district school board, and the governing authority  
547 of each private school, may establish a policy that permits a  
548 student up to 30 school days to present a certification of a  
549 school-entry health examination. A homeless child, as defined in  
550 s. 1003.01, and a child who is known to the department, as  
551 defined in s. 39.0016, shall be given a temporary exemption for

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552 30 school days. Any district school board that establishes such  
553 a policy shall include provisions in its local school health  
554 services plan to assist students in obtaining the health  
555 examinations. However, any child shall be exempt from the  
556 requirement of a health examination upon written request of the  
557 parent of the child stating objections to the examination on  
558 religious grounds.

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

560 (e) An authorized school official issues a temporary  
561 exemption, for a period not to exceed 30 school days, to permit  
562 a student who transfers into a new county to attend class until  
563 his or her records can be obtained. A homeless child, as defined  
564 in s. 1003.01, and a child who is known to the department, as  
565 defined in s. 39.0016, shall be given a temporary exemption for  
566 30 school days. The public school health nurse or authorized  
567 private school official is responsible for followup of each such  
568 student until proper documentation or immunizations are  
569 obtained. An exemption for 30 days may be issued for a student  
570 who enters a juvenile justice program to permit the student to  
571 attend class until his or her records can be obtained or until  
572 the immunizations can be obtained. An authorized juvenile  
573 justice official is responsible for followup of each student who  
574 enters a juvenile justice program until proper documentation or  
575 immunizations are obtained.

576 Section 7. Subsections (3) and (4) are added to section  
577 1003.57, Florida Statutes, to read:

578 1003.57 Exceptional students instruction.—

579 (3) (a) For purposes of this subsection and subsection (4),  
580 the term:

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581 1. "Agency" means the Department of Children and Family  
582 Services or its contracted lead agency, the Agency for Persons  
583 with Disabilities, and the Agency for Health Care  
584 Administration.

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

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

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

593 (b) Within 10 business days after an exceptional student is  
594 placed in a private residential care facility by an agency, the  
595 agency or private residential care facility licensed by the  
596 agency, as appropriate, shall provide written notification of  
597 the placement to the school district where the student is  
598 currently counted for funding purposes under s. 1011.62 and the  
599 receiving school district. The exceptional student shall be  
600 enrolled in school and receive a free and appropriate public  
601 education, special education, and related services while the  
602 notice and procedures regarding payment are pending. This  
603 paragraph applies when the placement is for the primary purpose  
604 of addressing residential or other noneducational needs and the  
605 placement crosses school district lines.

606 (c) Within 10 business days after receiving the  
607 notification, the receiving school district must review the  
608 student's individual educational plan (IEP) to determine if the  
609 student's IEP can be implemented by the receiving school

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610 district or by a provider or facility under contract with the  
611 receiving school district. The receiving school district shall:

612 1. Provide educational instruction to the student;

613 2. Contract with another provider or facility to provide  
614 the educational instruction;

615 3. Contract with the private residential care facility in  
616 which the student resides to provide the educational  
617 instruction; or

618 4. Decline to provide or contract for educational  
619 instruction.

620  
621 If the receiving school district declines to provide or contract  
622 for the educational instruction, the school district in which  
623 the legal residence of the student is located shall provide or  
624 contract for the educational instruction to the student. The  
625 school district that provides educational instruction or  
626 contracts to provide educational instruction shall report the  
627 student for funding purposes pursuant s. 1011.62.

628 (d)1. The Department of Education, in consultation with the  
629 agencies and school districts, shall develop procedures for  
630 written notification to school districts regarding the placement  
631 of an exceptional student in a residential care facility. The  
632 procedures must:

633 a. Provide for written notification of a placement that  
634 crosses school district lines; and

635 b. Identify the entity responsible for the notification for  
636 each facility that is operated, licensed, or regulated by an  
637 agency.

638 2. The State Board of Education shall adopt the procedures

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639 by rule pursuant to ss. 120.536(1) and 120.54 and the agencies  
640 shall implement the procedures.

641  
642 The requirements of paragraphs (c) and (d) do not apply to  
643 written agreements among school districts which specify each  
644 school district's responsibility for providing and paying for  
645 educational services to an exceptional student in a residential  
646 care facility. However, each agreement must require a school  
647 district to review the student's IEP within 10 business days  
648 after receiving the notification required under paragraph (b).

649 (4) The Department of Education and agencies shall enter  
650 into an agreement for interagency coordination regarding the  
651 placement of exceptional students in residential facilities,  
652 consistent with federal law and regulations, on or before  
653 January 1, 2010. The agreement shall identify the  
654 responsibilities of each party and ensure that students receive  
655 special education and related services necessary to receive a  
656 free appropriate public education. The agreement shall also  
657 establish procedures for:

658 (a) Resolving interagency disputes;

659 (b) Ensuring the provision of services during the pendency  
660 of a dispute; and

661 (c) Ensuring continued Medicaid eligibility as deemed  
662 appropriate.

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