

By Senator Storms

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1 A bill to be entitled
2 An act relating to care of children; creating the
3 “Zahid Jones, Jr., Give Grandparents and Other
4 Relatives a Voice Act”; amending s. 39.201, F.S.;
5 providing for the Department of Children and Family
6 Services to analyze certain unaccepted reports to the
7 central abuse hotline; requiring information to be
8 provided to a reporter; authorizing the submission of
9 a written report; amending s. 39.202, F.S.; expanding
10 access to certain confidential reports of child abuse
11 or neglect to include physicians, psychologists, and
12 mental health professionals; amending s. 39.301, F.S.;
13 requiring information to be provided to a reporter;
14 authorizing the submission of a written report;
15 providing conditions for a relative to be a collateral
16 contact in certain child protective investigations;
17 providing for a relative to request notice of
18 proceedings and hearings relating to protective
19 investigations under certain circumstances; specifying
20 content of the request; conforming cross-references;
21 amending s. 39.304, F.S.; providing for preservation
22 in department records of certain photographs and X
23 rays and reports on medical examinations and
24 treatments of an abused child; amending s. 39.402,
25 F.S.; requiring notification of certain relatives in
26 an order for placement of a child in shelter care of
27 their right to attend hearings, submit reports to the
28 court, and speak to the court; amending s. 39.502,
29 F.S.; providing for certain relatives to receive

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30 notice of dependency hearings under certain
31 circumstances; providing an opportunity for certain
32 relatives to be heard in court; providing an
33 exception; amending s. 39.506, F.S.; providing for
34 certain relatives to receive notice of arraignment
35 hearings under certain circumstances; amending s.
36 39.5085, F.S.; revising legislative intent with regard
37 to the Relative Caregiver Program; authorizing the
38 department to develop liaison functions for certain
39 relatives; amending s. 39.6011, F.S.; requiring a case
40 plan for a child receiving services from the
41 department to include a protocol for notification of
42 certain relatives of proceedings and hearings;
43 amending s. 39.6013, F.S.; conforming a cross-
44 reference; amending s. 39.701, F.S.; requiring an
45 attorney for the department to provide notice to
46 certain relatives of the child regarding upcoming
47 judicial hearings; conforming cross-references;
48 amending s. 39.823, F.S.; conforming a cross-
49 reference; amending s. 683.10, F.S.; designating the
50 first Sunday after Labor Day as "Grandparents' and
51 Family Caregivers' Day"; authorizing the Governor to
52 issue proclamations commemorating the occasion;
53 providing an effective date.

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

56
57 Section 1. This act may be cited as the "Zahid Jones, Jr.,
58 Give Grandparents and Other Relatives a Voice Act."

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59 Section 2. Paragraph (b) of subsection (1) and subsection
60 (7) of section 39.201, Florida Statutes, are amended to read:

61 39.201 Mandatory reports of child abuse, abandonment, or
62 neglect; mandatory reports of death; central abuse hotline.—

63 (1)

64 (b) Reporters in the following occupation categories are
65 required to provide their names to the hotline staff:

66 1. Physician, osteopathic physician, medical examiner,
67 chiropractic physician, nurse, or hospital personnel engaged in
68 the admission, examination, care, or treatment of persons;

69 2. Health or mental health professional other than one
70 listed in subparagraph 1.;

71 3. Practitioner who relies solely on spiritual means for
72 healing;

73 4. School teacher or other school official or personnel;

74 5. Social worker, day care center worker, or other
75 professional child care, foster care, residential, or
76 institutional worker;

77 6. Law enforcement officer; or

78 7. Judge.

79

80 The names of reporters shall be entered into the record of the
81 report, but shall be held confidential and exempt as provided in

82 s. 39.202. If a report received from a reporter under this
83 paragraph is accepted for investigation, the reporter must be

84 provided contact information for the protective investigator

85 within 24 hours after an investigator has been assigned. A

86 reporter under this paragraph may provide a written summary of

87 the report to the investigator which shall become a part of the

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88 master file.

89 (7) On an ongoing basis, the department's quality assurance
90 program shall review calls, fax reports, and web-based reports
91 to the hotline involving three or more unaccepted reports on a
92 single child, where jurisdiction applies, in order to detect
93 such things as harassment and situations that warrant an
94 investigation because of the frequency or variety of the source
95 of the reports. A component of the quality assurance program
96 shall analyze unaccepted reports to the hotline by identified
97 relatives as a part of the review of screened out calls. The
98 Program Director for Family Safety may refer a case for
99 investigation when it is determined, as a result of this review,
100 that an investigation may be warranted.

101 Section 3. Paragraph (r) is added to subsection (2) of
102 section 39.202, Florida Statutes, to read:

103 39.202 Confidentiality of reports and records in cases of
104 child abuse or neglect.—

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

109 (r) A physician licensed under chapter 458 or chapter 459,
110 a psychologist licensed under chapter 490, or a mental health
111 professional licensed under chapter 491 engaged in the care or
112 treatment of the child.

113 Section 4. Subsections (6) through (23) of section 39.301,
114 Florida Statutes, are renumbered as subsections (7) through
115 (24), respectively, paragraph (c) of present subsection (9),
116 present subsection (10), and paragraph (b) of present subsection

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117 (14) are amended, and a new subsection (6) is added to that
118 section, to read:

119 39.301 Initiation of protective investigations.-

120 (6) Upon commencing an investigation under this part, if a
121 report was received from a reporter under s. 39.201(1)(b), the
122 protective investigator must provide his or her contact
123 information to the reporter within 24 hours after being assigned
124 to the investigation. The investigator must also advise the
125 reporter that he or she may provide a written summary of the
126 report made to the central abuse hotline to the investigator
127 which shall become a part of the master file.

128 (10)-(9)-

129 (c) The determination that a report requires an
130 investigation as provided in this subsection and does not
131 require an enhanced onsite child protective investigation
132 pursuant to subsection (11) ~~(10)~~ must be approved in writing by
133 the supervisor with documentation specifying why additional
134 investigative activities are not necessary.

135 (11)-(10)(a) For each report that meets one or more of the
136 following criteria, the department shall perform an enhanced
137 onsite child protective investigation:

138 1. Any allegation that involves physical abuse, sexual
139 abuse, domestic violence, substance abuse or substance exposure,
140 medical neglect, a child younger than 3 years of age, or a child
141 who is disabled or lacks communication skills.

142 2. Any report that involves an individual who has been the
143 subject of a prior report containing some indicators or verified
144 findings of abuse, neglect, or abandonment.

145 3. Any report that does not contain compelling evidence

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146 that the maltreatment did not occur.

147 4. Any report that does not meet the criteria for an onsite
148 child protective investigation as set forth in subsection (10)
149 ~~(9)~~.

150 (b) The enhanced onsite child protective investigation
151 shall include, but is not limited to:

152 1. A face-to-face interview with the child, other siblings,
153 parents or legal custodians or caregivers, and other adults in
154 the household;

155 2. Collateral contacts;

156 3. Contact with the reporter as required by rule;

157 4. An onsite assessment of the child's residence in
158 accordance with paragraph (10) ~~(9)~~ (b); and

159 5. An updated assessment.

160

161 Detailed documentation is required for the investigative
162 activities.

163 (15) ~~(14)~~

164 (b) The parents or legal custodians shall be informed of
165 the right to refuse services, as well as the responsibility of
166 the department to protect the child regardless of the acceptance
167 or refusal of services. If the services are refused, a
168 collateral contact required under subparagraph (11) (b) 2. shall
169 include a relative, if the protective investigator has knowledge
170 of and the ability to contact a relative. If the services are
171 refused and the department deems that the child's need for
172 protection so requires, the department shall take the child into
173 protective custody or petition the court as provided in this
174 chapter. A relative may submit in writing to the protective

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175 investigator or case manager a request to receive notification
176 of all proceedings and hearings in accordance with s. 39.502.
177 The request shall include the relative's name, address, and
178 phone number and the relative's relationship to the child. The
179 protective investigator or case manager shall forward such
180 request to the attorney for the department.

181 Section 5. Subsection (4) of section 39.304, Florida
182 Statutes, is amended to read:

183 39.304 Photographs, medical examinations, X rays, and
184 medical treatment of abused, abandoned, or neglected child.—

185 (4) Any photograph or report on examinations made or X rays
186 taken pursuant to this section, or copies thereof, shall be sent
187 to the department as soon as possible and shall be preserved in
188 permanent form in records held by the department.

189 Section 6. Paragraph (h) of subsection (8) of section
190 39.402, Florida Statutes, is amended to read:

191 39.402 Placement in a shelter.—

192 (8)

193 (h) The order for placement of a child in shelter care must
194 identify the parties present at the hearing and must contain
195 written findings:

196 1. That placement in shelter care is necessary based on the
197 criteria in subsections (1) and (2).

198 2. That placement in shelter care is in the best interest
199 of the child.

200 3. That continuation of the child in the home is contrary
201 to the welfare of the child because the home situation presents
202 a substantial and immediate danger to the child's physical,
203 mental, or emotional health or safety which cannot be mitigated

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204 by the provision of preventive services.

205 4. That based upon the allegations of the petition for
206 placement in shelter care, there is probable cause to believe
207 that the child is dependent or that the court needs additional
208 time, which may not exceed 72 hours, in which to obtain and
209 review documents pertaining to the family in order to
210 appropriately determine the risk to the child.

211 5. That the department has made reasonable efforts to
212 prevent or eliminate the need for removal of the child from the
213 home. A finding of reasonable effort by the department to
214 prevent or eliminate the need for removal may be made and the
215 department is deemed to have made reasonable efforts to prevent
216 or eliminate the need for removal if:

217 a. The first contact of the department with the family
218 occurs during an emergency;

219 b. The appraisal of the home situation by the department
220 indicates that the home situation presents a substantial and
221 immediate danger to the child's physical, mental, or emotional
222 health or safety which cannot be mitigated by the provision of
223 preventive services;

224 c. The child cannot safely remain at home, either because
225 there are no preventive services that can ensure the health and
226 safety of the child or because, even with appropriate and
227 available services being provided, the health and safety of the
228 child cannot be ensured; or

229 d. The parent or legal custodian is alleged to have
230 committed any of the acts listed as grounds for expedited
231 termination of parental rights in s. 39.806(1)(f)-(i).

232 6. That the court notified the parents, relatives that are

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233 providing out-of-home care for the child, or legal custodians of
234 the time, date, and location of the next dependency hearing and
235 of the importance of the active participation of the parents,
236 relatives that are providing out-of-home care for the child, or
237 legal custodians in all proceedings and hearings.

238 7. That the court notified the parents or legal custodians
239 of their right to counsel to represent them at the shelter
240 hearing and at each subsequent hearing or proceeding, and the
241 right of the parents to appointed counsel, pursuant to the
242 procedures set forth in s. 39.013.

243 8. That the court notified relatives who are providing out-
244 of-home care for a child as a result of the shelter petition
245 being granted, and any relative requesting notification pursuant
246 to s. 39.301(15)(b), that they have the right to attend all
247 subsequent hearings, to submit reports to the court, and to
248 speak to the court regarding the child, if they so desire.

249 Section 7. Subsection (1) of section 39.502, Florida
250 Statutes, is amended, and subsection (19) is added to that
251 section, to read:

252 39.502 Notice, process, and service.—

253 (1) Unless parental rights have been terminated, all
254 parents must be notified of all proceedings or hearings
255 involving the child. Notice in cases involving shelter hearings
256 and hearings resulting from medical emergencies must be that
257 most likely to result in actual notice to the parents. In all
258 other dependency proceedings, notice must be provided in
259 accordance with subsections (4)-(9), except when a relative
260 requests notification pursuant to s. 39.301(15)(b), in which
261 case notice shall be provided pursuant to subsection (19).

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262 (19) In all proceedings under this part, the attorney for
263 the department shall notify, orally or in writing, a relative
264 requesting notification pursuant to s. 39.301(15)(b) of the
265 date, time, and location of such proceedings, and make all
266 reasonable efforts to ensure that all relatives who have
267 requested notification pursuant to s. 39.301(15)(b) are given an
268 opportunity to be heard by the court if the relative so desires.
269 The court has the discretion to release the attorney for the
270 department from notifying a relative who requested notification
271 pursuant to s. 39.301(15)(b) if the relative's involvement is
272 determined to be impeding the dependency process or detrimental
273 to the child's well-being.

274 Section 8. Subsection (9) of section 39.506, Florida
275 Statutes, is amended to read:

276 39.506 Arraignment hearings.—

277 (9) At the conclusion of the arraignment hearing, all
278 parties and the relatives who are providing out-of-home care for
279 the child shall be notified in writing by the court of the date,
280 time, and location for the next scheduled hearing.

281 Section 9. Paragraphs (a) through (d) of subsection (1) of
282 section 39.5085, Florida Statutes, are redesignated as
283 paragraphs (b) through (e), respectively, a new paragraph (a) is
284 added to subsection (1), and paragraph (g) of subsection (2) of
285 that section is amended, to read:

286 39.5085 Relative Caregiver Program.—

287 (1) It is the intent of the Legislature in enacting this
288 section to:

289 (a) Provide for the establishment of procedures and
290 protocols that serve to advance the continued safety of children

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291 by acknowledging the valued resource uniquely available through
292 grandparents and relatives of children.

293 (2)

294 (g) The department may use appropriate available state,
295 federal, and private funds to operate the Relative Caregiver
296 Program. The department may develop liaison functions to be
297 available to relatives who care for children pursuant to this
298 chapter to ensure placement stability in extended family
299 settings.

300 Section 10. Subsection (4) of section 39.6011, Florida
301 Statutes, is amended to read:

302 39.6011 Case plan development.—

303 (4) The case plan must describe:

304 (a) The role of the foster parents or legal custodians when
305 developing the services that are to be provided to the child,
306 foster parents, or legal custodians;

307 (b) The responsibility of the case manager to forward a
308 relative's request to receive notification of all proceedings
309 and hearings submitted pursuant to s. 39.301(15)(b) to the
310 attorney for the department;

311 (c) ~~(b)~~ The minimum number of face-to-face meetings to be
312 held each month between the parents and the department's family
313 services counselors to review the progress of the plan, to
314 eliminate barriers to progress, and to resolve conflicts or
315 disagreements; and

316 (d) ~~(e)~~ The parent's responsibility for financial support of
317 the child, including, but not limited to, health insurance and
318 child support. The case plan must list the costs associated with
319 any services or treatment that the parent and child are expected

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320 to receive which are the financial responsibility of the parent.
321 The determination of child support and other financial support
322 shall be made independently of any determination of indigency
323 under s. 39.013.

324 Section 11. Subsection (6) of section 39.6013, Florida
325 Statutes, is amended to read:

326 39.6013 Case plan amendments.—

327 (6) The case plan is deemed amended as to the child's
328 health, mental health, and education records required by s.
329 39.6012 when the child's updated health and education records
330 are filed by the department under s. 39.701(8)~~(7)~~(a).

331 Section 12. Subsections (6) through (9) of section 39.701,
332 Florida Statutes, are renumbered as subsections (7) through
333 (10), respectively, a new subsection (6) is added to that
334 section, and paragraph (c) of subsection (2), paragraph (b) of
335 present subsection (6), and paragraph (a) of present subsection
336 (9) are amended, to read:

337 39.701 Judicial review.—

338 (2)

339 (c) Notice of a hearing by a citizen review panel must be
340 provided as set forth in subsection (5). At the conclusion of a
341 citizen review panel hearing, each party may propose a
342 recommended order to the chairperson of the panel. Thereafter,
343 the citizen review panel shall submit its report, copies of the
344 proposed recommended orders, and a copy of the panel's
345 recommended order to the court. The citizen review panel's
346 recommended order must be limited to the dispositional options
347 available to the court in subsection (10) ~~(9)~~. Each party may
348 file exceptions to the report and recommended order of the

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349 citizen review panel in accordance with Rule 1.490, Florida
350 Rules of Civil Procedure.

351 (6) The attorney for the department shall notify a relative
352 who submits a request for notification of all proceedings and
353 hearings pursuant to s. 39.301(15)(b). The notice shall include
354 the date, time, and location of the next judicial review
355 hearing.

356 (7)~~(6)~~

357 (b) At the first judicial review hearing held subsequent to
358 the child's 17th birthday, in addition to the requirements of
359 subsection (8) ~~(7)~~, the department shall provide the court with
360 an updated case plan that includes specific information related
361 to independent living services that have been provided since the
362 child's 13th birthday, or since the date the child came into
363 foster care, whichever came later.

364 (10)~~(9)~~ (a) Based upon the criteria set forth in subsection
365 (9) ~~(8)~~ and the recommended order of the citizen review panel,
366 if any, the court shall determine whether or not the social
367 service agency shall initiate proceedings to have a child
368 declared a dependent child, return the child to the parent,
369 continue the child in out-of-home care for a specified period of
370 time, or initiate termination of parental rights proceedings for
371 subsequent placement in an adoptive home. Amendments to the case
372 plan must be prepared as prescribed in s. 39.6013. If the court
373 finds that the prevention or reunification efforts of the
374 department will allow the child to remain safely at home or be
375 safely returned to the home, the court shall allow the child to
376 remain in or return to the home after making a specific finding
377 of fact that the reasons for the creation of the case plan have

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378 been remedied to the extent that the child's safety, well-being,
379 and physical, mental, and emotional health will not be
380 endangered.

381 Section 13. Section 39.823, Florida Statutes, is amended to
382 read:

383 39.823 Guardian advocates for drug dependent newborns.—The
384 Legislature finds that increasing numbers of drug dependent
385 children are born in this state. Because of the parents'
386 continued dependence upon drugs, the parents may temporarily
387 leave their child with a relative or other adult or may have
388 agreed to voluntary family services under s. 39.301(15)(14). The
389 relative or other adult may be left with a child who is likely
390 to require medical treatment but for whom they are unable to
391 obtain medical treatment. The purpose of this section is to
392 provide an expeditious method for such relatives or other
393 responsible adults to obtain a court order which allows them to
394 provide consent for medical treatment and otherwise advocate for
395 the needs of the child and to provide court review of such
396 authorization.

397 Section 14. Section 683.10, Florida Statutes, is amended to
398 read:

399 683.10 Grandparents' and Family Caregivers' ~~Grandmother's~~
400 Day.—

401 (1) The first Sunday after Labor Day ~~second Sunday of~~
402 ~~October~~ of each year is designated "Grandparents' and Family
403 Caregivers' ~~Grandmother's~~ Day."

404 (2) The Governor may issue annually a proclamation
405 designating the first Sunday after Labor Day ~~second Sunday of~~
406 ~~October~~ as Grandparents' and Family Caregivers' ~~Grandmother's~~

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407 Day and calling upon public schools and citizens of the state to
408 observe the occasion.

409 Section 15. This act shall take effect July 1, 2009.