

By the Committees on Judiciary; and Children, Families, and Elder Affairs; and 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; amending s. 39.202, F.S.;
8 expanding access to certain confidential reports of
9 child abuse or neglect to include physicians,
10 psychologists, and mental health professionals;
11 amending s. 39.301, F.S.; requiring information to be
12 provided to a reporter; authorizing the submission of
13 a written report; providing conditions for a relative
14 to be a collateral contact in certain child protective
15 investigations; providing for a relative to request
16 notice of proceedings and hearings relating to
17 protective investigations under certain circumstances;
18 specifying content of the request; conforming cross-
19 references; amending s. 39.304, F.S.; providing for
20 preservation in department records of certain
21 photographs and X rays and reports on medical
22 examinations and treatments of an abused child;
23 amending s. 39.402, F.S.; requiring notification of
24 certain relatives in an order for placement of a child
25 in shelter care of their right to attend hearings,
26 submit reports to the court, and speak to the court;
27 amending s. 39.502, F.S.; providing for certain
28 relatives to receive notice of dependency hearings
29 under certain circumstances; providing an opportunity

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

52
53 Be It Enacted by the Legislature of the State of Florida:

54
55 Section 1. This act may be cited as the "Zahid Jones, Jr.,
56 Give Grandparents and Other Relatives a Voice Act."

57 Section 2. Subsection (7) of section 39.201, Florida
58 Statutes, is amended to read:

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59 39.201 Mandatory reports of child abuse, abandonment, or
60 neglect; mandatory reports of death; central abuse hotline.—

61 (7) On an ongoing basis, the department's quality assurance
62 program shall review calls, fax reports, and web-based reports
63 to the hotline involving three or more unaccepted reports on a
64 single child, where jurisdiction applies, in order to detect
65 such things as harassment and situations that warrant an
66 investigation because of the frequency or variety of the source
67 of the reports. A component of the quality assurance program
68 shall analyze unaccepted reports to the hotline by identified
69 relatives as a part of the review of screened out calls. The
70 Program Director for Family Safety may refer a case for
71 investigation when it is determined, as a result of this review,
72 that an investigation may be warranted.

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

75 39.202 Confidentiality of reports and records in cases of
76 child abuse or neglect.—

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

81 (r) A physician licensed under chapter 458 or chapter 459,
82 a psychologist licensed under chapter 490, or a mental health
83 professional licensed under chapter 491 engaged in the care or
84 treatment of the child.

85 Section 4. Subsections (6) through (23) of section 39.301,
86 Florida Statutes, are renumbered as subsections (7) through
87 (24), respectively, paragraph (c) of present subsection (9),

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88 present subsection (10), and paragraph (b) of present subsection
89 (14) are amended, and a new subsection (6) is added to that
90 section, to read:

91 39.301 Initiation of protective investigations.-

92 (6) Upon commencing an investigation under this part, if a
93 report was received from a reporter under s. 39.201(1)(b), the
94 protective investigator must provide his or her contact
95 information to the reporter within 24 hours after being assigned
96 to the investigation. The investigator must also advise the
97 reporter that he or she may provide a written summary of the
98 report made to the central abuse hotline to the investigator
99 which shall become a part of the master file.

100 (10)-(9)-

101 (c) The determination that a report requires an
102 investigation as provided in this subsection and does not
103 require an enhanced onsite child protective investigation
104 pursuant to subsection (11) ~~(10)~~ must be approved in writing by
105 the supervisor with documentation specifying why additional
106 investigative activities are not necessary.

107 (11)-(10)(a) For each report that meets one or more of the
108 following criteria, the department shall perform an enhanced
109 onsite child protective investigation:

110 1. Any allegation that involves physical abuse, sexual
111 abuse, domestic violence, substance abuse or substance exposure,
112 medical neglect, a child younger than 3 years of age, or a child
113 who is disabled or lacks communication skills.

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

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117 3. Any report that does not contain compelling evidence
118 that the maltreatment did not occur.

119 4. Any report that does not meet the criteria for an onsite
120 child protective investigation as set forth in subsection (10)
121 ~~(9)~~.

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

124 1. A face-to-face interview with the child, other siblings,
125 parents or legal custodians or caregivers, and other adults in
126 the household;

127 2. Collateral contacts;

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

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

131 5. An updated assessment.

132

133 Detailed documentation is required for the investigative
134 activities.

135 (15) ~~(14)~~

136 (b) The parents or legal custodians shall be informed of
137 the right to refuse services, as well as the responsibility of
138 the department to protect the child regardless of the acceptance
139 or refusal of services. If the services are refused, a
140 collateral contact required under subparagraph (11) (b) 2. shall
141 include a relative, if the protective investigator has knowledge
142 of and the ability to contact a relative. If the services are
143 refused and the department deems that the child's need for
144 protection so requires, the department shall take the child into
145 protective custody or petition the court as provided in this

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146 chapter. At any time after the commencement of a protective
147 investigation, a relative may submit in writing to the
148 protective investigator or case manager a request to receive
149 notification of all proceedings and hearings in accordance with
150 s. 39.502. The request shall include the relative's name,
151 address, and phone number and the relative's relationship to the
152 child. The protective investigator or case manager shall forward
153 such request to the attorney for the department.

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

156 39.304 Photographs, medical examinations, X rays, and
157 medical treatment of abused, abandoned, or neglected child.—

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

162 Section 6. Paragraph (h) of subsection (8) of section
163 39.402, Florida Statutes, is amended to read:

164 39.402 Placement in a shelter.—

165 (8)

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

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

171 2. That placement in shelter care is in the best interest
172 of the child.

173 3. That continuation of the child in the home is contrary
174 to the welfare of the child because the home situation presents

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175 a substantial and immediate danger to the child's physical,
176 mental, or emotional health or safety which cannot be mitigated
177 by the provision of preventive services.

178 4. That based upon the allegations of the petition for
179 placement in shelter care, there is probable cause to believe
180 that the child is dependent or that the court needs additional
181 time, which may not exceed 72 hours, in which to obtain and
182 review documents pertaining to the family in order to
183 appropriately determine the risk to the child.

184 5. That the department has made reasonable efforts to
185 prevent or eliminate the need for removal of the child from the
186 home. A finding of reasonable effort by the department to
187 prevent or eliminate the need for removal may be made and the
188 department is deemed to have made reasonable efforts to prevent
189 or eliminate the need for removal if:

190 a. The first contact of the department with the family
191 occurs during an emergency;

192 b. The appraisal of the home situation by the department
193 indicates that the home situation presents a substantial and
194 immediate danger to the child's physical, mental, or emotional
195 health or safety which cannot be mitigated by the provision of
196 preventive services;

197 c. The child cannot safely remain at home, either because
198 there are no preventive services that can ensure the health and
199 safety of the child or because, even with appropriate and
200 available services being provided, the health and safety of the
201 child cannot be ensured; or

202 d. The parent or legal custodian is alleged to have
203 committed any of the acts listed as grounds for expedited

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204 termination of parental rights in s. 39.806(1)(f)-(i).

205 6. That the court notified the parents, relatives that are
206 providing out-of-home care for the child, or legal custodians of
207 the time, date, and location of the next dependency hearing and
208 of the importance of the active participation of the parents,
209 relatives that are providing out-of-home care for the child, or
210 legal custodians in all proceedings and hearings.

211 7. That the court notified the parents or legal custodians
212 of their right to counsel to represent them at the shelter
213 hearing and at each subsequent hearing or proceeding, and the
214 right of the parents to appointed counsel, pursuant to the
215 procedures set forth in s. 39.013.

216 8. That the court notified relatives who are providing out-
217 of-home care for a child as a result of the shelter petition
218 being granted that they have the right to attend all subsequent
219 hearings, to submit reports to the court, and to speak to the
220 court regarding the child, if they so desire.

221 Section 7. Subsection (1) of section 39.502, Florida
222 Statutes, is amended, and subsection (19) is added to that
223 section, to read:

224 39.502 Notice, process, and service.—

225 (1) Unless parental rights have been terminated, all
226 parents must be notified of all proceedings or hearings
227 involving the child. Notice in cases involving shelter hearings
228 and hearings resulting from medical emergencies must be that
229 most likely to result in actual notice to the parents. In all
230 other dependency proceedings, notice must be provided in
231 accordance with subsections (4)-(9), except when a relative
232 requests notification pursuant to s. 39.301(15)(b), in which

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233 case notice shall be provided pursuant to subsection (19).

234 (19) In all proceedings and hearings under this chapter,
235 the attorney for the department shall notify, orally or in
236 writing, a relative requesting notification pursuant to s.
237 39.301(15) (b) of the date, time, and location of such
238 proceedings and hearings, and notify the relative that he or she
239 has the right to attend all subsequent proceedings and hearings,
240 to submit reports to the court, and to speak to the court
241 regarding the child, if the relative so desires. The court has
242 the discretion to release the attorney for the department from
243 notifying a relative who requested notification pursuant to s.
244 39.301(15) (b) if the relative's involvement is determined to be
245 impeding the dependency process or detrimental to the child's
246 well-being.

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

249 39.506 Arraignment hearings.—

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

254 Section 9. Paragraphs (a) through (d) of subsection (1) of
255 section 39.5085, Florida Statutes, are redesignated as
256 paragraphs (b) through (e), respectively, a new paragraph (a) is
257 added to subsection (1), and paragraph (g) of subsection (2) of
258 that section is amended, to read:

259 39.5085 Relative Caregiver Program.—

260 (1) It is the intent of the Legislature in enacting this
261 section to:

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262 (a) Provide for the establishment of procedures and
263 protocols that serve to advance the continued safety of children
264 by acknowledging the valued resource uniquely available through
265 grandparents and relatives of children.

266 (2)

267 (g) The department may use appropriate available state,
268 federal, and private funds to operate the Relative Caregiver
269 Program. The department may develop liaison functions to be
270 available to relatives who care for children pursuant to this
271 chapter to ensure placement stability in extended family
272 settings.

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

275 39.6011 Case plan development.—

276 (4) The case plan must describe:

277 (a) The role of the foster parents or legal custodians when
278 developing the services that are to be provided to the child,
279 foster parents, or legal custodians;

280 (b) The responsibility of the case manager to forward a
281 relative's request to receive notification of all proceedings
282 and hearings submitted pursuant to s. 39.301(15)(b) to the
283 attorney for the department;

284 (c) ~~(b)~~ The minimum number of face-to-face meetings to be
285 held each month between the parents and the department's family
286 services counselors to review the progress of the plan, to
287 eliminate barriers to progress, and to resolve conflicts or
288 disagreements; and

289 (d) ~~(e)~~ The parent's responsibility for financial support of
290 the child, including, but not limited to, health insurance and

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291 child support. The case plan must list the costs associated with
292 any services or treatment that the parent and child are expected
293 to receive which are the financial responsibility of the parent.
294 The determination of child support and other financial support
295 shall be made independently of any determination of indigency
296 under s. 39.013.

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

299 39.6013 Case plan amendments.—

300 (6) The case plan is deemed amended as to the child's
301 health, mental health, and education records required by s.
302 39.6012 when the child's updated health and education records
303 are filed by the department under s. 39.701(8)~~(7)~~(a).

304 Section 12. Subsections (6) through (9) of section 39.701,
305 Florida Statutes, are renumbered as subsections (7) through
306 (10), respectively, a new subsection (6) is added to that
307 section, and paragraph (c) of subsection (2), paragraph (b) of
308 present subsection (6), and paragraph (a) of present subsection
309 (9) are amended, to read:

310 39.701 Judicial review.—

311 (2)

312 (c) Notice of a hearing by a citizen review panel must be
313 provided as set forth in subsection (5). At the conclusion of a
314 citizen review panel hearing, each party may propose a
315 recommended order to the chairperson of the panel. Thereafter,
316 the citizen review panel shall submit its report, copies of the
317 proposed recommended orders, and a copy of the panel's
318 recommended order to the court. The citizen review panel's
319 recommended order must be limited to the dispositional options

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320 available to the court in subsection (10) ~~(9)~~. Each party may
321 file exceptions to the report and recommended order of the
322 citizen review panel in accordance with Rule 1.490, Florida
323 Rules of Civil Procedure.

324 (6) The attorney for the department shall notify a relative
325 who submits a request for notification of all proceedings and
326 hearings pursuant to s. 39.301(15)(b). The notice shall include
327 the date, time, and location of the next judicial review
328 hearing.

329 ~~(7)(6)~~

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

337 ~~(10)(9)~~(a) Based upon the criteria set forth in subsection
338 (9) ~~(8)~~ and the recommended order of the citizen review panel,
339 if any, the court shall determine whether or not the social
340 service agency shall initiate proceedings to have a child
341 declared a dependent child, return the child to the parent,
342 continue the child in out-of-home care for a specified period of
343 time, or initiate termination of parental rights proceedings for
344 subsequent placement in an adoptive home. Amendments to the case
345 plan must be prepared as prescribed in s. 39.6013. If the court
346 finds that the prevention or reunification efforts of the
347 department will allow the child to remain safely at home or be
348 safely returned to the home, the court shall allow the child to

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349 remain in or return to the home after making a specific finding
350 of fact that the reasons for the creation of the case plan have
351 been remedied to the extent that the child's safety, well-being,
352 and physical, mental, and emotional health will not be
353 endangered.

354 Section 13. Section 39.823, Florida Statutes, is amended to
355 read:

356 39.823 Guardian advocates for drug dependent newborns.—The
357 Legislature finds that increasing numbers of drug dependent
358 children are born in this state. Because of the parents'
359 continued dependence upon drugs, the parents may temporarily
360 leave their child with a relative or other adult or may have
361 agreed to voluntary family services under s. 39.301(15) ~~(14)~~. The
362 relative or other adult may be left with a child who is likely
363 to require medical treatment but for whom they are unable to
364 obtain medical treatment. The purpose of this section is to
365 provide an expeditious method for such relatives or other
366 responsible adults to obtain a court order which allows them to
367 provide consent for medical treatment and otherwise advocate for
368 the needs of the child and to provide court review of such
369 authorization.

370 Section 14. Section 683.10, Florida Statutes, is amended to
371 read:

372 683.10 Grandparents' and Family Caregivers' ~~Grandmother's~~
373 Day.—

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

377 (2) The Governor may issue annually a proclamation

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378 designating the first Sunday after Labor Day ~~second Sunday of~~
379 ~~October~~ as Grandparents' and Family Caregivers' Grandmother's
380 Day and calling upon public schools and citizens of the state to
381 observe the occasion.

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