

By the Committees on Governmental Oversight and Accountability;  
Judiciary; and Children, Families, and Elder Affairs; and  
Senator Storms

585-04496-09

20091276c3

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; providing that the  
19          failure to provide notice to a relative does not undo  
20          any previous action of the court absent a finding that  
21          a change is in the child's best interests; conforming  
22          cross-references; amending s. 39.304, F.S.; providing  
23          for preservation in department records of certain  
24          photographs and X rays and reports on medical  
25          examinations and treatments of an abused child;  
26          amending s. 39.402, F.S.; requiring notification of  
27          certain relatives in an order for placement of a child  
28          in shelter care of their right to attend hearings,  
29          submit reports to the court, and speak to the court;

585-04496-09

20091276c3

30 amending s. 39.502, F.S.; providing for certain  
31 relatives to receive notice of dependency hearings  
32 under certain circumstances; providing an opportunity  
33 for certain relatives to be heard in court; providing  
34 an exception; amending s. 39.506, F.S.; providing for  
35 certain relatives to receive notice of arraignment  
36 hearings under certain circumstances; amending s.  
37 39.5085, F.S.; revising legislative intent with regard  
38 to the Relative Caregiver Program; authorizing the  
39 department to develop liaison functions for certain  
40 relatives; amending s. 39.6011, F.S.; requiring a case  
41 plan for a child receiving services from the  
42 department to include a protocol for notification of  
43 certain relatives of proceedings and hearings;  
44 amending s. 39.6013, F.S.; conforming a cross-  
45 reference; amending s. 39.701, F.S.; requiring an  
46 attorney for the department to provide notice to  
47 certain relatives of the child regarding upcoming  
48 judicial hearings; conforming cross-references;  
49 amending s. 39.823, F.S.; conforming a cross-  
50 reference; amending s. 683.10, F.S.; designating the  
51 first Sunday after Labor Day as "Grandparents' and  
52 Family Caregivers' Day"; authorizing the Governor to  
53 issue proclamations commemorating the occasion;  
54 providing an effective date.

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

57  
58 Section 1. This act may be cited as the "Zahid Jones, Jr.,

585-04496-09

20091276c3

59 Give Grandparents and Other Relatives a Voice Act."

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

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

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

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

78 39.202 Confidentiality of reports and records in cases of  
79 child abuse or neglect.—

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

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

585-04496-09

20091276c3

88 Section 4. Subsections (6) through (23) of section 39.301,  
89 Florida Statutes, are renumbered as subsections (7) through  
90 (24), respectively, paragraph (c) of present subsection (9),  
91 present subsection (10), and paragraph (b) of present subsection  
92 (14) are amended, and a new subsection (6) is added to that  
93 section, to read:

94 39.301 Initiation of protective investigations.—

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

103 ~~(10)-(9)~~

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

110 ~~(11)-(10)~~(a) For each report that meets one or more of the  
111 following criteria, the department shall perform an enhanced  
112 onsite child protective investigation:

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

585-04496-09

20091276c3

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

120 3. Any report that does not contain compelling evidence  
121 that the maltreatment did not occur.

122 4. Any report that does not meet the criteria for an onsite  
123 child protective investigation as set forth in subsection (10)  
124 ~~(9)~~.

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

127 1. A face-to-face interview with the child, other siblings,  
128 parents or legal custodians or caregivers, and other adults in  
129 the household;

130 2. Collateral contacts;

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

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

134 5. An updated assessment.

135  
136 Detailed documentation is required for the investigative  
137 activities.

138 (15)~~(14)~~

139 (b) The parents or legal custodians shall be informed of the  
140 right to refuse services, as well as the responsibility of the  
141 department to protect the child regardless of the acceptance or  
142 refusal of services. If the services are refused, a collateral  
143 contact required under subparagraph (11) (b)2. shall include a  
144 relative, if the protective investigator has knowledge of and  
145 the ability to contact a relative. If the services are refused

585-04496-09

20091276c3

146 and the department deems that the child's need for protection so  
147 requires, the department shall take the child into protective  
148 custody or petition the court as provided in this chapter. At  
149 any time after the commencement of a protective investigation, a  
150 relative may submit in writing to the protective investigator or  
151 case manager a request to receive notification of all  
152 proceedings and hearings in accordance with s. 39.502. The  
153 request shall include the relative's name, address, and phone  
154 number and the relative's relationship to the child. The  
155 protective investigator or case manager shall forward such  
156 request to the attorney for the department. The failure to  
157 provide notice to either a relative who requests it pursuant to  
158 this subsection or to a relative who is providing out-of-home  
159 care for a child shall not result in any previous action of the  
160 court at any stage or proceeding in dependency or termination of  
161 parental rights under any part of this chapter being set aside,  
162 reversed, modified, or in any way changed absent a finding by  
163 the court that a change is required in the child's best  
164 interests.

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

167 39.304 Photographs, medical examinations, X rays, and  
168 medical treatment of abused, abandoned, or neglected child.—

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

173 Section 6. Paragraph (h) of subsection (8) of section  
174 39.402, Florida Statutes, is amended to read:

585-04496-09

20091276c3

175 39.402 Placement in a shelter.—

176 (8)

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

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

182 2. That placement in shelter care is in the best interest  
183 of the child.

184 3. That continuation of the child in the home is contrary  
185 to the welfare of the child because the home situation presents  
186 a substantial and immediate danger to the child's physical,  
187 mental, or emotional health or safety which cannot be mitigated  
188 by the provision of preventive services.

189 4. That based upon the allegations of the petition for  
190 placement in shelter care, there is probable cause to believe  
191 that the child is dependent or that the court needs additional  
192 time, which may not exceed 72 hours, in which to obtain and  
193 review documents pertaining to the family in order to  
194 appropriately determine the risk to the child.

195 5. That the department has made reasonable efforts to  
196 prevent or eliminate the need for removal of the child from the  
197 home. A finding of reasonable effort by the department to  
198 prevent or eliminate the need for removal may be made and the  
199 department is deemed to have made reasonable efforts to prevent  
200 or eliminate the need for removal if:

201 a. The first contact of the department with the family  
202 occurs during an emergency;

203 b. The appraisal of the home situation by the department

585-04496-09

20091276c3

204 indicates that the home situation presents a substantial and  
205 immediate danger to the child's physical, mental, or emotional  
206 health or safety which cannot be mitigated by the provision of  
207 preventive services;

208 c. The child cannot safely remain at home, either because  
209 there are no preventive services that can ensure the health and  
210 safety of the child or because, even with appropriate and  
211 available services being provided, the health and safety of the  
212 child cannot be ensured; or

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

216 6. That the court notified the parents, relatives that are  
217 providing out-of-home care for the child, or legal custodians of  
218 the time, date, and location of the next dependency hearing and  
219 of the importance of the active participation of the parents,  
220 relatives that are providing out-of-home care for the child, or  
221 legal custodians in all proceedings and hearings.

222 7. That the court notified the parents or legal custodians  
223 of their right to counsel to represent them at the shelter  
224 hearing and at each subsequent hearing or proceeding, and the  
225 right of the parents to appointed counsel, pursuant to the  
226 procedures set forth in s. 39.013.

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

232 Section 7. Subsection (1) of section 39.502, Florida



585-04496-09

20091276c3

233 Statutes, is amended, and subsection (19) is added to that  
234 section, to read:

235 39.502 Notice, process, and service.—

236 (1) Unless parental rights have been terminated, all  
237 parents must be notified of all proceedings or hearings  
238 involving the child. Notice in cases involving shelter hearings  
239 and hearings resulting from medical emergencies must be that  
240 most likely to result in actual notice to the parents. In all  
241 other dependency proceedings, notice must be provided in  
242 accordance with subsections (4)-(9), except when a relative  
243 requests notification pursuant to s. 39.301(15)(b), in which  
244 case notice shall be provided pursuant to subsection (19).

245 (19) In all proceedings and hearings under this chapter,  
246 the attorney for the department shall notify, orally or in  
247 writing, a relative requesting notification pursuant to s.  
248 39.301(15)(b) of the date, time, and location of such  
249 proceedings and hearings, and notify the relative that he or she  
250 has the right to attend all subsequent proceedings and hearings,  
251 to submit reports to the court, and to speak to the court  
252 regarding the child, if the relative so desires. The court has  
253 the discretion to release the attorney for the department from  
254 notifying a relative who requested notification pursuant to s.  
255 39.301(15)(b) if the relative's involvement is determined to be  
256 impeding the dependency process or detrimental to the child's  
257 well-being.

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

260 39.506 Arraignment hearings.—

261 (9) At the conclusion of the arraignment hearing, all

585-04496-09

20091276c3

262 parties and the relatives who are providing out-of-home care for  
263 the child shall be notified in writing by the court of the date,  
264 time, and location for the next scheduled hearing.

265 Section 9. Paragraphs (a) through (d) of subsection (1) of  
266 section 39.5085, Florida Statutes, are redesignated as  
267 paragraphs (b) through (e), respectively, a new paragraph (a) is  
268 added to subsection (1), and paragraph (g) of subsection (2) of  
269 that section is amended, to read:

270 39.5085 Relative Caregiver Program.—

271 (1) It is the intent of the Legislature in enacting this  
272 section to:

273 (a) Provide for the establishment of procedures and  
274 protocols that serve to advance the continued safety of children  
275 by acknowledging the valued resource uniquely available through  
276 grandparents and relatives of children.

277 (2)

278 (g) The department may use appropriate available state,  
279 federal, and private funds to operate the Relative Caregiver  
280 Program. The department may develop liaison functions to be  
281 available to relatives who care for children pursuant to this  
282 chapter to ensure placement stability in extended family  
283 settings.

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

286 39.6011 Case plan development.—

287 (4) The case plan must describe:

288 (a) The role of the foster parents or legal custodians when  
289 developing the services that are to be provided to the child,  
290 foster parents, or legal custodians;

585-04496-09

20091276c3

291       (b) The responsibility of the case manager to forward a  
292 relative's request to receive notification of all proceedings  
293 and hearings submitted pursuant to s. 39.301(15)(b) to the  
294 attorney for the department;

295       (c)~~(b)~~ The minimum number of face-to-face meetings to be  
296 held each month between the parents and the department's family  
297 services counselors to review the progress of the plan, to  
298 eliminate barriers to progress, and to resolve conflicts or  
299 disagreements; and

300       (d)~~(e)~~ The parent's responsibility for financial support of  
301 the child, including, but not limited to, health insurance and  
302 child support. The case plan must list the costs associated with  
303 any services or treatment that the parent and child are expected  
304 to receive which are the financial responsibility of the parent.  
305 The determination of child support and other financial support  
306 shall be made independently of any determination of indigency  
307 under s. 39.013.

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

310       39.6013 Case plan amendments.—

311       (6) The case plan is deemed amended as to the child's  
312 health, mental health, and education records required by s.  
313 39.6012 when the child's updated health and education records  
314 are filed by the department under s. 39.701(8)~~(7)~~(a).

315       Section 12. Subsections (6) through (9) of section 39.701,  
316 Florida Statutes, are renumbered as subsections (7) through  
317 (10), respectively, a new subsection (6) is added to that  
318 section, and paragraph (c) of subsection (2), paragraph (b) of  
319 present subsection (6), and paragraph (a) of present subsection

585-04496-09

20091276c3

320 (9) are amended, to read:

321 39.701 Judicial review.-

322 (2)

323 (c) Notice of a hearing by a citizen review panel must be  
324 provided as set forth in subsection (5). At the conclusion of a  
325 citizen review panel hearing, each party may propose a  
326 recommended order to the chairperson of the panel. Thereafter,  
327 the citizen review panel shall submit its report, copies of the  
328 proposed recommended orders, and a copy of the panel's  
329 recommended order to the court. The citizen review panel's  
330 recommended order must be limited to the dispositional options  
331 available to the court in subsection (10) ~~(9)~~. Each party may  
332 file exceptions to the report and recommended order of the  
333 citizen review panel in accordance with Rule 1.490, Florida  
334 Rules of Civil Procedure.

335 (6) The attorney for the department shall notify a relative  
336 who submits a request for notification of all proceedings and  
337 hearings pursuant to s. 39.301(15)(b). The notice shall include  
338 the date, time, and location of the next judicial review  
339 hearing.

340 (7) ~~(6)~~

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

348 (10) ~~(9)~~ (a) Based upon the criteria set forth in subsection

585-04496-09

20091276c3

349 (9) ~~(8)~~ and the recommended order of the citizen review panel,  
350 if any, the court shall determine whether or not the social  
351 service agency shall initiate proceedings to have a child  
352 declared a dependent child, return the child to the parent,  
353 continue the child in out-of-home care for a specified period of  
354 time, or initiate termination of parental rights proceedings for  
355 subsequent placement in an adoptive home. Amendments to the case  
356 plan must be prepared as prescribed in s. 39.6013. If the court  
357 finds that the prevention or reunification efforts of the  
358 department will allow the child to remain safely at home or be  
359 safely returned to the home, the court shall allow the child to  
360 remain in or return to the home after making a specific finding  
361 of fact that the reasons for the creation of the case plan have  
362 been remedied to the extent that the child's safety, well-being,  
363 and physical, mental, and emotional health will not be  
364 endangered.

365 Section 13. Section 39.823, Florida Statutes, is amended to  
366 read:

367 39.823 Guardian advocates for drug dependent newborns.—The  
368 Legislature finds that increasing numbers of drug dependent  
369 children are born in this state. Because of the parents'  
370 continued dependence upon drugs, the parents may temporarily  
371 leave their child with a relative or other adult or may have  
372 agreed to voluntary family services under s. 39.301 (15) ~~(14)~~. The  
373 relative or other adult may be left with a child who is likely  
374 to require medical treatment but for whom they are unable to  
375 obtain medical treatment. The purpose of this section is to  
376 provide an expeditious method for such relatives or other  
377 responsible adults to obtain a court order which allows them to

585-04496-09

20091276c3

378 provide consent for medical treatment and otherwise advocate for  
379 the needs of the child and to provide court review of such  
380 authorization.

381 Section 14. Section 683.10, Florida Statutes, is amended to  
382 read:

383 683.10 Grandparents' and Family Caregivers' ~~Grandmother's~~  
384 Day.—

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

388 (2) The Governor may issue annually a proclamation  
389 designating the first Sunday after Labor Day ~~second Sunday of~~  
390 ~~October~~ as Grandparents' and Family Caregivers' ~~Grandmother's~~  
391 Day and calling upon public schools and citizens of the state to  
392 observe the occasion.

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