

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

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

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

51
52 Section 1. This act may be cited as the "Zahid Jones, Jr.,
53 Give Grandparents and Other Relatives a Voice Act."

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

56 39.201 Mandatory reports of child abuse, abandonment, or
 57 neglect; mandatory reports of death; central abuse hotline.--

58 (1)

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

61 1. Physician, osteopathic physician, medical examiner,
 62 chiropractic physician, nurse, or hospital personnel engaged in
 63 the admission, examination, care, or treatment of persons;

64 2. Health or mental health professional other than one
 65 listed in subparagraph 1.;

66 3. Practitioner who relies solely on spiritual means for
 67 healing;

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

69 5. Social worker, day care center worker, or other
 70 professional child care, foster care, residential, or
 71 institutional worker;

72 6. Law enforcement officer; or

73 7. Judge.

74
 75 The names of reporters shall be entered into the record of the
 76 report, but shall be held confidential and exempt as provided in
 77 s. 39.202. If a report received from a reporter under this
 78 paragraph is accepted for investigation, the reporter must be
 79 provided contact information for the protective investigator
 80 within 24 hours after an investigator has been assigned. A
 81 reporter under this paragraph may provide a written summary of
 82 the report to the investigator which shall become a part of the
 83 master file.

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

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

98 39.202 Confidentiality of reports and records in cases of
99 child abuse or neglect.--

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

104 (r) A physician licensed under chapter 458 or chapter 459,
105 a psychologist licensed under chapter 490, or a mental health
106 professional licensed under chapter 491 engaged in the care or
107 treatment of the child.

108 Section 4. Subsections (6) through (23) of section 39.301,
109 Florida Statutes, are renumbered as subsections (7) through
110 (24), respectively, paragraph (c) of present subsection (9),
111 present subsection (10), and paragraph (b) of present subsection

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

114 39.301 Initiation of protective investigations.--

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

123 (10)-(9)-

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

130 (11)-(10)(a) For each report that meets one or more of the
131 following criteria, the department shall perform an enhanced
132 onsite child protective investigation:

133 1. Any allegation that involves physical abuse, sexual
134 abuse, domestic violence, substance abuse or substance exposure,
135 medical neglect, a child younger than 3 years of age, or a child
136 who is disabled or lacks communication skills.

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

140 3. Any report that does not contain compelling evidence
 141 that the maltreatment did not occur.

142 4. Any report that does not meet the criteria for an
 143 onsite child protective investigation as set forth in subsection
 144 (10) ~~(9)~~.

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

147 1. A face-to-face interview with the child, other
 148 siblings, parents or legal custodians or caregivers, and other
 149 adults in the household;

150 2. Collateral contacts;

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

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

154 5. An updated assessment.

155
 156 Detailed documentation is required for the investigative
 157 activities.

158 (15) ~~(14)~~

159 (b) The parents or legal custodians shall be informed of
 160 the right to refuse services, as well as the responsibility of
 161 the department to protect the child regardless of the acceptance
 162 or refusal of services. If the services are refused, a
 163 collateral contact required under subparagraph (11)(b)2. shall
 164 include a relative, if the protective investigator has knowledge
 165 of and the ability to contact a relative. If the services are
 166 refused and the department deems that the child's need for
 167 protection so requires, the department shall take the child into

168 protective custody or petition the court as provided in this
 169 chapter. A relative may submit in writing to the protective
 170 investigator or case manager a request to receive notification
 171 of all proceedings and hearings in accordance with s. 39.502.
 172 The request shall include the relative's name, address, and
 173 phone number and the relative's relationship to the child. The
 174 protective investigator or case manager shall forward such
 175 request to the attorney for the department.

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

178 39.304 Photographs, medical examinations, X rays, and
 179 medical treatment of abused, abandoned, or neglected child.--

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

184 Section 6. Paragraph (h) of subsection (8) of section
 185 39.402, Florida Statutes, is amended to read:

186 39.402 Placement in a shelter.--

187 (8)

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

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

193 2. That placement in shelter care is in the best interest
 194 of the child.

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195 3. That continuation of the child in the home is contrary
196 to the welfare of the child because the home situation presents
197 a substantial and immediate danger to the child's physical,
198 mental, or emotional health or safety which cannot be mitigated
199 by the provision of preventive services.

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

206 5. That the department has made reasonable efforts to
207 prevent or eliminate the need for removal of the child from the
208 home. A finding of reasonable effort by the department to
209 prevent or eliminate the need for removal may be made and the
210 department is deemed to have made reasonable efforts to prevent
211 or eliminate the need for removal if:

212 a. The first contact of the department with the family
213 occurs during an emergency;

214 b. The appraisal of the home situation by the department
215 indicates that the home situation presents a substantial and
216 immediate danger to the child's physical, mental, or emotional
217 health or safety which cannot be mitigated by the provision of
218 preventive services;

219 c. The child cannot safely remain at home, either because
220 there are no preventive services that can ensure the health and
221 safety of the child or because, even with appropriate and

222 available services being provided, the health and safety of the
 223 child cannot be ensured; or

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

227 6. That the court notified the parents, relatives that are
 228 providing out-of-home care for the child, or legal custodians of
 229 the time, date, and location of the next dependency hearing and
 230 of the importance of the active participation of the parents,
 231 relatives that are providing out-of-home care for the child, or
 232 legal custodians in all proceedings and hearings.

233 7. That the court notified the parents or legal custodians
 234 of their right to counsel to represent them at the shelter
 235 hearing and at each subsequent hearing or proceeding, and the
 236 right of the parents to appointed counsel, pursuant to the
 237 procedures set forth in s. 39.013.

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

244 Section 7. Subsection (1) of section 39.502, Florida
 245 Statutes, is amended, and subsection (19) is added to that
 246 section, to read:

247 39.502 Notice, process, and service.--

248 (1) Unless parental rights have been terminated, all
 249 parents must be notified of all proceedings or hearings

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250 involving the child. Notice in cases involving shelter hearings
251 and hearings resulting from medical emergencies must be that
252 most likely to result in actual notice to the parents. In all
253 other dependency proceedings, notice must be provided in
254 accordance with subsections (4)-(9), except when a relative
255 requests notification pursuant to s. 39.301(15)(b), in which
256 case notice shall be provided pursuant to subsection (19).

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

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

271 39.506 Arraignment hearings.--

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

276 Section 9. Paragraphs (a) through (d) of subsection (1) of
277 section 39.5085, Florida Statutes, are redesignated as

278 paragraphs (b) through (e), respectively, a new paragraph (a) is
 279 added to subsection (1), and paragraph (g) of subsection (2) of
 280 that section is amended, to read:

281 39.5085 Relative Caregiver Program.--

282 (1) It is the intent of the Legislature in enacting this
 283 section to:

284 (a) Provide for the establishment of procedures and
 285 protocols that serve to advance the continued safety of children
 286 by acknowledging the valued resource uniquely available through
 287 grandparents and relatives of children.

288 (2)

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

295 Section 10. Paragraphs (b) and (c) of subsection (4) of
 296 section 39.6011, Florida Statutes, are redesignated as
 297 paragraphs (c) and (d), respectively, and a new paragraph (b) is
 298 added to that subsection to read:

299 39.6011 Case plan development.--

300 (4) The case plan must describe:

301 (b) The responsibility of the case manager to forward a
 302 relative's request to receive notification of all proceedings
 303 and hearings submitted pursuant to s. 39.301(15)(b) to the
 304 attorney for the department;

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

307 39.6013 Case plan amendments.--

308 (6) The case plan is deemed amended as to the child's
 309 health, mental health, and education records required by s.
 310 39.6012 when the child's updated health and education records
 311 are filed by the department under s. 39.701(8)~~(7)~~(a).

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

318 39.701 Judicial review.--

319 (2)

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

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

337 ~~(7)-(6)~~

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

345 ~~(10)-(9)~~(a) Based upon the criteria set forth in subsection
 346 ~~(9) (8)~~ and the recommended order of the citizen review panel,
 347 if any, the court shall determine whether or not the social
 348 service agency shall initiate proceedings to have a child
 349 declared a dependent child, return the child to the parent,
 350 continue the child in out-of-home care for a specified period of
 351 time, or initiate termination of parental rights proceedings for
 352 subsequent placement in an adoptive home. Amendments to the case
 353 plan must be prepared as prescribed in s. 39.6013. If the court
 354 finds that the prevention or reunification efforts of the
 355 department will allow the child to remain safely at home or be
 356 safely returned to the home, the court shall allow the child to
 357 remain in or return to the home after making a specific finding
 358 of fact that the reasons for the creation of the case plan have
 359 been remedied to the extent that the child's safety, well-being,

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360 and physical, mental, and emotional health will not be
 361 endangered.

362 Section 13. Section 39.823, Florida Statutes, is amended
 363 to read:

364 39.823 Guardian advocates for drug dependent
 365 newborns.--The Legislature finds that increasing numbers of drug
 366 dependent children are born in this state. Because of the
 367 parents' continued dependence upon drugs, the parents may
 368 temporarily leave their child with a relative or other adult or
 369 may have agreed to voluntary family services under s.

370 39.301(15) ~~(14)~~. The relative or other adult may be left with a
 371 child who is likely to require medical treatment but for whom
 372 they are unable to obtain medical treatment. The purpose of this
 373 section is to provide an expeditious method for such relatives
 374 or other responsible adults to obtain a court order which allows
 375 them to provide consent for medical treatment and otherwise
 376 advocate for the needs of the child and to provide court review
 377 of such authorization.

378 Section 14. Section 683.10, Florida Statutes, is amended
 379 to read:

380 683.10 Grandparents' and Family Caregivers' ~~Grandmother's~~
 381 Day.--

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

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

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388 | Day and calling upon public schools and citizens of the state to
389 | observe the occasion.

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