

2010724e2

1
2 A bill to be entitled
3 An act relating to a review of the Department of
4 Children and Family Services under the Florida
5 Government Accountability Act; reenacting and amending
6 s. 20.19, F.S., relating to the establishment of the
7 department; changing the name of the Department of
8 Children and Family Services to the Department of
9 Children and Families; revising provisions relating to
10 the establishment and structure of, and services
11 provided by, the department; providing for operating
12 units called circuits that conform to the geographic
13 boundaries of judicial circuits; providing for the
14 establishment of and requirements for membership and
15 participation in community alliances and community
16 partnerships; amending s. 20.04, F.S.; authorizing the
17 department to establish circuits or regions headed by
18 circuit administrators or region directors and
19 deleting a requirement for statutory enactment for
20 additional divisions or offices in the department;
21 amending s. 20.43, F.S.; revising provisions relating
22 to service area boundaries; amending s. 394.47865,
23 F.S.; deleting obsolete provisions relating to the
24 privatization of South Florida State Hospital;
25 amending s. 394.78, F.S.; deleting an obsolete
26 provision relating to dispute resolution; amending s.
27 402.313, F.S.; revising licensure requirements for
28 family day care homes; amending s. 402.315, F.S.;
29 requiring the county, rather than the department, to

2010724e2

30 bear the costs of licensing family day care homes,
31 under certain circumstances; amending s. 402.40, F.S.;
32 defining the terms "child welfare certification" and
33 "core competency"; requiring that professionals
34 providing child welfare services demonstrate core
35 competency; requiring that the department recognize
36 certain certifications; requiring that certain persons
37 hold active certification; amending s. 409.1671, F.S.;
38 revising provisions relating to lead agencies;
39 requiring the department to annually evaluate each
40 agency; conforming provision to changes made by the
41 act; amending s. 409.1755, F.S.; decreasing the
42 membership of the One Church, One Child of Florida
43 Corporation, to conform to changes made by the act;
44 amending s. 420.621, F.S.; revising the definition of
45 the term "district" to conform to changes made by the
46 act; amending s. 420.622, F.S.; deleting a requirement
47 for the Governor to appoint the executive director of
48 the State Office of Homelessness; conforming a
49 provision; amending ss. 20.195, 39.001, 39.01,
50 39.0121, 39.301, 39.302, 39.303, 39.806, 39.828,
51 49.011, 381.0072, 394.493, 394.4985, 394.67, 394.73,
52 394.74, 394.75, 394.76, 394.82, 394.9084, 397.821,
53 402.49, 409.152, 409.1685, 410.0245, 410.603, 410.604,
54 411.224, 414.24, 415.1113, 420.623, 420.625, 429.35,
55 and 1002.67, F.S.; revising provisions to conform to
56 changes made by the act; correcting cross-references;
57 repealing ss. 39.311, 39.312, 39.313, 39.314, 39.315,
58 39.316, 39.317, and 39.318, F.S., relating to the

2010724e2

59 Family Builders Program; repealing s. 394.9083, F.S.,
60 relating to the Behavioral Health Services Integration
61 Workgroup; repealing s. 402.35, F.S., which provides
62 for department employees to be governed by Department
63 of Management rules; amending s. 39.407, F.S.;
64 requiring the provision of a comprehensive mental
65 health treatment plan; specifying eligibility;
66 prescribing duties for the Department of Children and
67 Family Services; deleting provisions relating to the
68 provision of psychotropic medications to children in
69 out-of-home care; creating s. 39.4071, F.S.; providing
70 legislative findings and intent; providing
71 definitions; requiring that a guardian ad litem be
72 appointed by the court to represent a child in the
73 custody of the Department of Children and Family
74 Services who is prescribed a psychotropic medication;
75 prescribing the duties of the guardian ad litem;
76 requiring that the department or lead agency notify
77 the guardian ad litem of any change in the status of
78 the child; providing for psychiatric evaluation of the
79 child; requiring that express and informed consent and
80 assent be obtained from a child or the child's parent
81 or guardian; providing requirements for a prescribing
82 physician in obtaining consent and assent; providing
83 for the invalidation of a parent's informed consent;
84 requiring the department to seek informed consent from
85 the legal guardian in certain circumstances; requiring
86 the department to file a motion for the administration
87 of psychotropic medication with the final judgment of

2010724e2

88 termination of parental rights under certain
89 circumstances; requiring that a court authorize the
90 administration of psychotropic medication to a child
91 who is in shelter care or in foster care and for whom
92 informed consent from the parents or a legal guardian
93 has not been obtained; providing requirements for the
94 motion to the court; requiring that any party
95 objecting to the administration of psychotropic
96 medication file its objection within a specified
97 period; authorizing the court to obtain a second
98 opinion regarding the proposed administration;
99 requiring that the court hold a hearing if any party
100 objects to the proposed administration; specifying
101 circumstances under which the department may provide
102 psychotropic medication to a child before court
103 authorization is obtained; requiring that the
104 department seek court authorization for continued
105 administration of the medication; providing for an
106 expedited hearing on such motion under certain
107 circumstances; requiring the department to provide
108 notice to all parties and the court for each emergency
109 use of psychotropic medication under certain
110 conditions; providing for discontinuation, alteration,
111 and destruction of medication; requiring that a mental
112 health treatment plan be developed for each child or
113 youth who needs mental health services; requiring
114 certain information to be included in a mental health
115 treatment plan; requiring the department to develop
116 and administer procedures to require the caregiver and

2010724e2

117 prescribing physician to report any adverse side
118 effects; requiring documentation of the adverse side
119 effects; prohibiting the prescription of psychotropic
120 medication to certain children who are in out-of-home
121 care absent certain conditions; requiring review by a
122 licensed child psychiatrist before psychotropic
123 medication is administered to certain children who are
124 in out-of-home care under certain conditions;
125 prohibiting authorization for a child in the custody
126 of the department to participate in any clinical trial
127 designed to evaluate the use of psychotropic
128 medication in children; amending s. 743.0645, F.S.;
129 conforming a cross-reference; directing the Division
130 of Statutory Revision to prepare a reviser's bill;
131 requiring the Agency for Persons with Disabilities to
132 prepare a plan to perform its own administrative and
133 operational functions separate from the department;
134 directing the department to define legal services
135 associated with dependency proceeding and modify lead
136 agency funding; directing the Children and Youth
137 Cabinet to submit a plan to the Legislature addressing
138 the inappropriate and excessive prescribing of
139 psychotropic medication for certain children;
140 providing an effective date.

141
142 Be It Enacted by the Legislature of the State of Florida:

143
144 Section 1. Section 20.19, Florida Statutes, is reenacted
145 and amended to read:

2010724e2

146 (Substantial rewording of section. See
147 s. 20.19, F.S., for present text.)
148 20.19 Department of Children and Families.—There is created
149 a Department of Children and Families.

150 (1) MISSION AND PLAN.—

151 (a) The mission of the Department of Children and Families
152 is to work in partnership with local communities to ensure the
153 safety, well-being, and self-sufficiency of the people served.

154 (b) The department shall develop a strategic plan for
155 fulfilling its mission and establish a set of measurable goals,
156 objectives, performance standards, and quality assurance
157 requirements to ensure that the department is accountable to the
158 people of Florida.

159 (c) To the extent allowed by law and within specific
160 appropriations, the department shall deliver services by
161 contract through private providers.

162 (2) SECRETARY OF CHILDREN AND FAMILIES.—

163 (a) The head of the department is the Secretary of Children
164 and Families. The Governor shall appoint the secretary, who is
165 subject to confirmation by the Senate. The secretary serves at
166 the pleasure of the Governor.

167 (b) The secretary is responsible for planning,
168 coordinating, and managing the delivery of all services that are
169 the responsibility of the department.

170 (c) The secretary shall appoint a deputy secretary who
171 shall act in the absence of the secretary. The deputy secretary
172 is directly responsible to the secretary, performs such duties
173 as are assigned by the secretary, and serves at the pleasure of
174 the secretary.

2010724e2

175 (d) The secretary shall appoint an Assistant Secretary for
176 Substance Abuse and Mental Health and may establish assistant
177 secretary positions as necessary to administer the requirements
178 of this section. All persons appointed to such positions shall
179 serve at the pleasure of the secretary. The department shall
180 integrate substance abuse and mental health programs into the
181 overall structure and priorities of the department.

182 (3) SERVICES PROVIDED.—

183 (a) The department shall establish the following program
184 offices, each of which shall be headed by a program director who
185 shall be appointed by and serve at the pleasure of the
186 secretary:

- 187 1. Adult protection.
- 188 2. Child care licensure.
- 189 3. Domestic violence.
- 190 4. Economic self-sufficiency.
- 191 5. Family safety.
- 192 6. Mental health.
- 193 7. Refugee services.
- 194 8. Substance abuse.
- 195 9. Homelessness.

196 (b) The secretary may appoint additional directors as
197 necessary for the effective management of the program services
198 provided by the department.

199 (4) OPERATING UNITS.—

200 (a) The department shall plan and administer its program
201 services through operating units called "circuits" that conform
202 to the geographic boundaries of the judicial circuits
203 established in s. 26.021. The department may also establish one

2010724e2

204 or more regions consisting of one or more circuits. A region
205 shall provide administrative, management, and infrastructure
206 support to the circuits operating within the region. The region
207 shall consolidate support functions to provide the most
208 efficient use of resources to support the circuits operating
209 within the region.

210 (b) The secretary may appoint a circuit administrator for
211 each circuit and a region director for each region who shall
212 serve at the pleasure of the secretary and shall perform such
213 duties as are assigned by the secretary.

214 (5) COMMUNITY ALLIANCES AND PARTNERSHIPS; ADVISORY GROUPS.—
215 The department may, or at the request of a county government
216 shall, establish in each circuit one or more community alliances
217 or community partnerships. The purpose of a community alliance
218 or community partnership is to provide a focal point for
219 community participation and the governance of community-based
220 services. The membership of a community alliance or community
221 partnership shall represent the diversity of a community and
222 consist of stakeholders, community leaders, client
223 representatives, and entities that fund human services. The
224 secretary may also establish advisory groups at the state level
225 as necessary to ensure and enhance communication and provide
226 liaison with stakeholders, community leaders, and client
227 representatives.

228 (a) The duties of a community alliance or community
229 partnership may include, but are not limited to:

230 1. Participating in joint planning for the effective use of
231 resources in the community, including resources appropriated to
232 the department, and any funds that local funding sources choose

2010724e2

233 to provide.

234 2. Performing a needs assessment and establishing community
235 priorities for service delivery.

236 3. Determining community outcome goals to supplement state-
237 required outcomes.

238 4. Serving as a catalyst for community resource
239 development.

240 5. Providing for community education and advocacy on issues
241 related to service delivery.

242 6. Promoting prevention and early intervention services.

243 (b) If one or more community alliances or community
244 partnerships are established in a circuit, the department shall
245 ensure, to the greatest extent possible, that the formation of
246 each alliance or partnership builds on the strengths of the
247 existing community human services infrastructure.

248 (c) Members of community alliances, community partnerships,
249 and advisory groups shall serve without compensation, but are
250 entitled to reimbursement for per diem and travel expenses in
251 accordance with s. 112.061. The department may also authorize
252 payment for preapproved child care expenses or lost wages for
253 members who are consumers of services provided by the
254 department.

255 (d) Members of community alliances, community partnerships,
256 and advisory groups are subject to part III of chapter 112, the
257 Code of Ethics for Public Officers and Employees.

258 (e) Actions taken by community alliances, community
259 partnerships, and advisory groups must be consistent with
260 department policy and state and federal laws, rules, and
261 regulations.

2010724e2

262 (f) Each member of a community alliance or community
263 partnership must submit annually to the inspector general of the
264 department a disclosure statement of any interest in services
265 provided by the department. Any member who has an interest in a
266 matter under consideration by the community alliance, community
267 partnership, or advisory group must abstain from voting on that
268 matter.

269 (g) All meetings of community alliances, community
270 partnerships, and advisory groups are open to the public
271 pursuant to s. 286.011 and are subject to the public-records
272 provisions of s. 119.07(1).

273 (6) CONSULTATION WITH COUNTIES ON MANDATED PROGRAMS.—It is
274 the intent of the Legislature that when county governments are
275 required by law to participate in the funding of programs
276 serviced by the department, the department shall consult with
277 designated representatives of county governments in developing
278 policies and service delivery plans for those programs.

279 Section 2. Subsection (4) and paragraph (b) of subsection
280 (7) of section 20.04, Florida Statutes, are amended to read:

281 20.04 Structure of executive branch.—The executive branch
282 of state government is structured as follows:

283 (4) Within the Department of Children and Families ~~Family~~
284 ~~Services~~ there are organizational units called "program
285 offices," headed by program directors, and operating units
286 called "circuits," headed by circuit administrators. In
287 addition, there may be "regions," headed by region directors.

288 (7)

289 (b) Within the limitations of this subsection, the head of
290 the department may recommend the establishment of additional

2010724e2

291 divisions, bureaus, sections, and subsections of the department
292 to promote efficient and effective operation of the department.
293 However, additional divisions, or offices in ~~the Department of~~
294 ~~Children and Family Services,~~ the Department of Corrections, and
295 the Department of Transportation, may be established only by
296 specific statutory enactment. New bureaus, sections, and
297 subsections of departments may be initiated by a department and
298 established as recommended by the Department of Management
299 Services and approved by the Executive Office of the Governor,
300 or may be established by specific statutory enactment.

301 Section 3. Paragraph (a) of subsection (4) of section
302 20.195, Florida Statutes, is amended to read:

303 20.195 Department of Children and Family Services; trust
304 funds.—The following trust funds shall be administered by the
305 Department of Children and Family Services:

306 (4) Domestic Violence Trust Fund.

307 (a) Funds to be credited to and uses of the trust fund
308 shall be administered in accordance with the provisions of s.
309 28.101, part XII ~~XIII~~ of chapter 39, and chapter 741.

310 Section 4. Subsection (5) of section 20.43, Florida
311 Statutes, is amended to read:

312 20.43 Department of Health.—There is created a Department
313 of Health.

314 (5) The department shall plan and administer its public
315 health programs through its county health departments and may,
316 for administrative purposes and efficient service delivery,
317 establish up to 15 service areas to carry out such duties as may
318 be prescribed by the State Surgeon General. ~~The boundaries of~~
319 ~~the service areas shall be the same as, or combinations of, the~~

2010724e2

320 ~~service districts of the Department of Children and Family~~
321 ~~Services established in s. 20.19 and, to the extent practicable,~~
322 ~~shall take into consideration the boundaries of the jobs and~~
323 ~~education regional boards.~~

324 Section 5. Paragraph (o) is added to subsection (1) of
325 section 39.001, Florida Statutes, to read:

326 39.001 Purposes and intent; personnel standards and
327 screening.—

328 (1) PURPOSES OF CHAPTER.—The purposes of this chapter are:

329 (o) To provide all children and families with a fully
330 integrated, comprehensive approach to handling all cases that
331 involve children and families and a resolution of family
332 disputes in a fair, timely efficient and cost-effective manner.
333 It is the intent of the Legislature that the courts of this
334 state embrace methods of resolving disputes that do not cause
335 additional emotional harm to the children and families who are
336 required to interact with the judicial system. It is the intent
337 of the Legislature to support the development of a unified
338 family court in a revenue neutral manner and to support the
339 efforts of the state courts system to improve the resolution of
340 disputes involving children and families through a fully
341 integrated, comprehensive approach that includes coordinated
342 case management; the concept of "one family, one judge";
343 collaboration with the community for referral to needed
344 services; and methods of alternative dispute resolution. The
345 Legislature supports the goal that the legal system focus on the
346 needs of children who are involved in the litigation, refer
347 families to resources that will make families' relationships
348 stronger, coordinate families' cases to provide consistent

2010724e2

349 results, and strive to leave families in better condition than
350 when the families entered the system.

351 Section 6. Subsections (18) through (76) of section 39.01,
352 Florida Statutes, are renumbered as subsections (19) through
353 (75), respectively, subsection (10) is amended, present
354 subsection (26) is repealed, and present subsection (27) of that
355 section is renumbered as subsection (18) and amended, to read:

356 39.01 Definitions.—When used in this chapter, unless the
357 context otherwise requires:

358 (10) "Caregiver" means the parent, legal custodian,
359 permanent guardian, adult household member, or other person
360 responsible for a child's welfare as defined in subsection (46)
361 ~~(47)~~.

362 ~~(26) "District" means any one of the 15 service districts~~
363 ~~of the department established pursuant to s. 20.19.~~

364 ~~(18)(27) "Circuit District administrator" means the chief~~
365 ~~operating officer of each circuit service district of the~~
366 ~~department as defined in s. 20.19(5) and, where appropriate,~~
367 ~~includes any district administrator whose service district falls~~
368 ~~within the boundaries of a judicial circuit.~~

369 Section 7. Subsection (10) of section 39.0121, Florida
370 Statutes, is amended to read:

371 39.0121 Specific rulemaking authority.—Pursuant to the
372 requirements of s. 120.536, the department is specifically
373 authorized to adopt, amend, and repeal administrative rules
374 which implement or interpret law or policy, or describe the
375 procedure and practice requirements necessary to implement this
376 chapter, including, but not limited to, the following:

377 (10) The ~~Family Builders Program,~~ the Intensive Crisis

2010724e2

378 Counseling Program~~7~~ and any other early intervention programs
379 and kinship care assistance programs.

380 Section 8. Paragraph (a) of subsection (15) of section
381 39.301, Florida Statutes, is amended to read:

382 39.301 Initiation of protective investigations.—

383 (15) (a) If the department or its agent determines that a
384 child requires immediate or long-term protection through:

385 1. Medical or other health care; or

386 2. Homemaker care, day care, protective supervision, or
387 other services to stabilize the home environment, including
388 intensive family preservation services through ~~the Family~~
389 ~~Builders Program~~ or the Intensive Crisis Counseling Program, ~~or~~
390 ~~both,~~

391
392 such services shall first be offered for voluntary acceptance
393 unless there are high-risk factors that may impact the ability
394 of the parents or legal custodians to exercise judgment. Such
395 factors may include the parents' or legal custodians' young age
396 or history of substance abuse or domestic violence.

397 Section 9. Subsection (1) of section 39.302, Florida
398 Statutes, is amended to read:

399 39.302 Protective investigations of institutional child
400 abuse, abandonment, or neglect.—

401 (1) The department shall conduct a child protective
402 investigation of each report of institutional child abuse,
403 abandonment, or neglect. Upon receipt of a report that alleges
404 that an employee or agent of the department, or any other entity
405 or person covered by s. 39.01 (32) ~~(33)~~ or (46) ~~(47)~~, acting in an
406 official capacity, has committed an act of child abuse,

2010724e2

407 abandonment, or neglect, the department shall initiate a child
408 protective investigation within the timeframe established under
409 s. 39.201(5) and orally notify the appropriate state attorney,
410 law enforcement agency, and licensing agency, which shall
411 immediately conduct a joint investigation, unless independent
412 investigations are more feasible. When conducting investigations
413 onsite or having face-to-face interviews with the child,
414 investigation visits shall be unannounced unless it is
415 determined by the department or its agent that unannounced
416 visits threaten the safety of the child. If a facility is exempt
417 from licensing, the department shall inform the owner or
418 operator of the facility of the report. Each agency conducting a
419 joint investigation is entitled to full access to the
420 information gathered by the department in the course of the
421 investigation. A protective investigation must include an onsite
422 visit of the child's place of residence. The department shall
423 make a full written report to the state attorney within 3
424 working days after making the oral report. A criminal
425 investigation shall be coordinated, whenever possible, with the
426 child protective investigation of the department. Any interested
427 person who has information regarding the offenses described in
428 this subsection may forward a statement to the state attorney as
429 to whether prosecution is warranted and appropriate. Within 15
430 days after the completion of the investigation, the state
431 attorney shall report the findings to the department and shall
432 include in the report a determination of whether or not
433 prosecution is justified and appropriate in view of the
434 circumstances of the specific case.

435 Section 10. Section 39.303, Florida Statutes, is amended to

2010724e2

436 read:

437 39.303 Child protection teams; services; eligible cases.—
438 The Children's Medical Services Program in the Department of
439 Health shall develop, maintain, and coordinate the services of
440 one or more multidisciplinary child protection teams in each of
441 the circuits ~~service districts~~ of the Department of Children and
442 Families ~~Family Services~~. Such teams may be composed of
443 appropriate representatives of school districts and appropriate
444 health, mental health, social service, legal service, and law
445 enforcement agencies. The Legislature finds that optimal
446 coordination of child protection teams and sexual abuse
447 treatment programs requires collaboration between the Department
448 of Health and the Department of Children and Families ~~Family~~
449 ~~Services~~. The two departments shall maintain an interagency
450 agreement that establishes protocols for oversight and
451 operations of child protection teams and sexual abuse treatment
452 programs. The State Surgeon General and the Deputy Secretary for
453 Children's Medical Services, in consultation with the Secretary
454 of Children and Families ~~Family Services~~, shall maintain the
455 responsibility for the screening, employment, and, if necessary,
456 the termination of child protection team medical directors, at
457 headquarters and in the circuits ~~15 districts~~. Child protection
458 team medical directors shall be responsible for oversight of the
459 teams in the circuits ~~districts~~.

460 (1) The Department of Health shall utilize and convene the
461 teams to supplement the assessment and protective supervision
462 activities of the family safety and preservation program of the
463 Department of Children and Families ~~Family Services~~. Nothing in
464 this section shall be construed to remove or reduce the duty and

2010724e2

465 responsibility of any person to report pursuant to this chapter
466 all suspected or actual cases of child abuse, abandonment, or
467 neglect or sexual abuse of a child. The role of the teams shall
468 be to support activities of the program and to provide services
469 deemed by the teams to be necessary and appropriate to abused,
470 abandoned, and neglected children upon referral. The specialized
471 diagnostic assessment, evaluation, coordination, consultation,
472 and other supportive services that a child protection team shall
473 be capable of providing include, but are not limited to, the
474 following:

475 (a) Medical diagnosis and evaluation services, including
476 provision or interpretation of X rays and laboratory tests, and
477 related services, as needed, and documentation of findings
478 relative thereto.

479 (b) Telephone consultation services in emergencies and in
480 other situations.

481 (c) Medical evaluation related to abuse, abandonment, or
482 neglect, as defined by policy or rule of the Department of
483 Health.

484 (d) Such psychological and psychiatric diagnosis and
485 evaluation services for the child or the child's parent or
486 parents, legal custodian or custodians, or other caregivers, or
487 any other individual involved in a child abuse, abandonment, or
488 neglect case, as the team may determine to be needed.

489 (e) Expert medical, psychological, and related professional
490 testimony in court cases.

491 (f) Case staffings to develop treatment plans for children
492 whose cases have been referred to the team. A child protection
493 team may provide consultation with respect to a child who is

2010724e2

494 alleged or is shown to be abused, abandoned, or neglected, which
495 consultation shall be provided at the request of a
496 representative of the family safety and preservation program or
497 at the request of any other professional involved with a child
498 or the child's parent or parents, legal custodian or custodians,
499 or other caregivers. In every such child protection team case
500 staffing, consultation, or staff activity involving a child, a
501 family safety and preservation program representative shall
502 attend and participate.

503 (g) Case service coordination and assistance, including the
504 location of services available from other public and private
505 agencies in the community.

506 (h) Such training services for program and other employees
507 of the Department of Children and Families ~~Family Services~~,
508 employees of the Department of Health, and other medical
509 professionals as is deemed appropriate to enable them to develop
510 and maintain their professional skills and abilities in handling
511 child abuse, abandonment, and neglect cases.

512 (i) Educational and community awareness campaigns on child
513 abuse, abandonment, and neglect in an effort to enable citizens
514 more successfully to prevent, identify, and treat child abuse,
515 abandonment, and neglect in the community.

516 (j) Child protection team assessments that include, as
517 appropriate, medical evaluations, medical consultations, family
518 psychosocial interviews, specialized clinical interviews, or
519 forensic interviews.

520

521 All medical personnel participating on a child protection team
522 must successfully complete the required child protection team

2010724e2

523 training curriculum as set forth in protocols determined by the
524 Deputy Secretary for Children's Medical Services and the
525 Statewide Medical Director for Child Protection.

526 (2) The child abuse, abandonment, and neglect reports that
527 must be referred by the department to child protection teams of
528 the Department of Health for an assessment and other appropriate
529 available support services as set forth in subsection (1) must
530 include cases involving:

531 (a) Injuries to the head, bruises to the neck or head,
532 burns, or fractures in a child of any age.

533 (b) Bruises anywhere on a child 5 years of age or under.

534 (c) Any report alleging sexual abuse of a child.

535 (d) Any sexually transmitted disease in a prepubescent
536 child.

537 (e) Reported malnutrition of a child and failure of a child
538 to thrive.

539 (f) Reported medical neglect of a child.

540 (g) Any family in which one or more children have been
541 pronounced dead on arrival at a hospital or other health care
542 facility, or have been injured and later died, as a result of
543 suspected abuse, abandonment, or neglect, when any sibling or
544 other child remains in the home.

545 (h) Symptoms of serious emotional problems in a child when
546 emotional or other abuse, abandonment, or neglect is suspected.

547 (3) All abuse and neglect cases transmitted for
548 investigation to a circuit ~~district~~ by the hotline must be
549 simultaneously transmitted to the Department of Health child
550 protection team for review. For the purpose of determining
551 whether face-to-face medical evaluation by a child protection

2010724e2

552 team is necessary, all cases transmitted to the child protection
553 team which meet the criteria in subsection (2) must be timely
554 reviewed by:

555 (a) A physician licensed under chapter 458 or chapter 459
556 who holds board certification in pediatrics and is a member of a
557 child protection team;

558 (b) A physician licensed under chapter 458 or chapter 459
559 who holds board certification in a specialty other than
560 pediatrics, who may complete the review only when working under
561 the direction of a physician licensed under chapter 458 or
562 chapter 459 who holds board certification in pediatrics and is a
563 member of a child protection team;

564 (c) An advanced registered nurse practitioner licensed
565 under chapter 464 who has a specialty ~~speciality~~ in pediatrics
566 or family medicine and is a member of a child protection team;

567 (d) A physician assistant licensed under chapter 458 or
568 chapter 459, who may complete the review only when working under
569 the supervision of a physician licensed under chapter 458 or
570 chapter 459 who holds board certification in pediatrics and is a
571 member of a child protection team; or

572 (e) A registered nurse licensed under chapter 464, who may
573 complete the review only when working under the direct
574 supervision of a physician licensed under chapter 458 or chapter
575 459 who holds certification in pediatrics and is a member of a
576 child protection team.

577 (4) A face-to-face medical evaluation by a child protection
578 team is not necessary when:

579 (a) The child was examined for the alleged abuse or neglect
580 by a physician who is not a member of the child protection team,

2010724e2

581 and a consultation between the child protection team board-
582 certified pediatrician, advanced registered nurse practitioner,
583 physician assistant working under the supervision of a child
584 protection team board-certified pediatrician, or registered
585 nurse working under the direct supervision of a child protection
586 team board-certified pediatrician, and the examining physician
587 concludes that a further medical evaluation is unnecessary;

588 (b) The child protective investigator, with supervisory
589 approval, has determined, after conducting a child safety
590 assessment, that there are no indications of injuries as
591 described in paragraphs (2) (a)-(h) as reported; or

592 (c) The child protection team board-certified pediatrician,
593 as authorized in subsection (3), determines that a medical
594 evaluation is not required.

595

596 Notwithstanding paragraphs (a), (b), and (c), a child protection
597 team pediatrician, as authorized in subsection (3), may
598 determine that a face-to-face medical evaluation is necessary.

599 (5) In all instances in which a child protection team is
600 providing certain services to abused, abandoned, or neglected
601 children, other offices and units of the Department of Health,
602 and offices and units of the Department of Children and Families
603 ~~Family Services~~, shall avoid duplicating the provision of those
604 services.

605 (6) The Department of Health child protection team quality
606 assurance program and the Department of Children and Families'
607 ~~Family Services'~~ Family Safety Program Office quality assurance
608 program shall collaborate to ensure referrals and responses to
609 child abuse, abandonment, and neglect reports are appropriate.

2010724e2

610 Each quality assurance program shall include a review of records
611 in which there are no findings of abuse, abandonment, or
612 neglect, and the findings of these reviews shall be included in
613 each department's quality assurance reports.

614 Section 11. Paragraph (k) of subsection (1) of section
615 39.806, Florida Statutes, is amended to read:

616 39.806 Grounds for termination of parental rights.—

617 (1) Grounds for the termination of parental rights may be
618 established under any of the following circumstances:

619 (k) A test administered at birth that indicated that the
620 child's blood, urine, or meconium contained any amount of
621 alcohol or a controlled substance or metabolites of such
622 substances, the presence of which was not the result of medical
623 treatment administered to the mother or the newborn infant, and
624 the biological mother of the child is the biological mother of
625 at least one other child who was adjudicated dependent after a
626 finding of harm to the child's health or welfare due to exposure
627 to a controlled substance or alcohol as defined in s.
628 39.01 (31) ~~(32)~~ (g), after which the biological mother had the
629 opportunity to participate in substance abuse treatment.

630 Section 12. Paragraph (a) of subsection (1) of section
631 39.828, Florida Statutes, is amended to read:

632 39.828 Grounds for appointment of a guardian advocate.—

633 (1) The court shall appoint the person named in the
634 petition as a guardian advocate with all the powers and duties
635 specified in s. 39.829 for an initial term of 1 year upon a
636 finding that:

637 (a) The child named in the petition is or was a drug
638 dependent newborn as described in s. 39.01 (31) ~~(32)~~ (g);

2010724e2

639 (b) The parent or parents of the child have voluntarily
640 relinquished temporary custody of the child to a relative or
641 other responsible adult;

642 (c) The person named in the petition to be appointed the
643 guardian advocate is capable of carrying out the duties as
644 provided in s. 39.829; and

645 (d) A petition to adjudicate the child dependent under this
646 chapter has not been filed.

647 Section 13. Subsection (13) of section 49.011, Florida
648 Statutes, is amended to read:

649 49.011 Service of process by publication; cases in which
650 allowed.—Service of process by publication may be made in any
651 court on any party identified in s. 49.021 in any action or
652 proceeding:

653 (13) For termination of parental rights pursuant to part
654 VIII ~~IX~~ of chapter 39 or chapter 63.

655 Section 14. Paragraph (a) of subsection (3) of section
656 381.0072, Florida Statutes, is amended to read:

657 381.0072 Food service protection.—It shall be the duty of
658 the Department of Health to adopt and enforce sanitation rules
659 consistent with law to ensure the protection of the public from
660 food-borne illness. These rules shall provide the standards and
661 requirements for the storage, preparation, serving, or display
662 of food in food service establishments as defined in this
663 section and which are not permitted or licensed under chapter
664 500 or chapter 509.

665 (3) LICENSES REQUIRED.—

666 (a) *Licenses; annual renewals.*—Each food service
667 establishment regulated under this section shall obtain a

2010724e2

668 license from the department annually. Food service establishment
669 licenses shall expire annually and are not transferable from one
670 place or individual to another. However, those facilities
671 licensed by the department's Office of Licensure and
672 Certification, the Child Care Licensure ~~Services~~ Program Office,
673 or the Agency for Persons with Disabilities are exempt from this
674 subsection. It shall be a misdemeanor of the second degree,
675 punishable as provided in s. 381.0061, s. 775.082, or s.
676 775.083, for such an establishment to operate without this
677 license. The department may refuse a license, or a renewal
678 thereof, to any establishment that is not constructed or
679 maintained in accordance with law and with the rules of the
680 department. Annual application for renewal is not required.

681 Section 15. Subsection (3) of section 394.47865, Florida
682 Statutes, is amended to read:

683 394.47865 South Florida State Hospital; privatization.—

684 ~~(3) (a) Current South Florida State Hospital employees who~~
685 ~~are affected by the privatization shall be given first~~
686 ~~preference for continued employment by the contractor. The~~
687 ~~department shall make reasonable efforts to find suitable job~~
688 ~~placements for employees who wish to remain within the state~~
689 ~~Career Service System.~~

690 ~~(b) Any savings that result from the privatization of South~~
691 ~~Florida State Hospital shall be directed to the department's~~
692 ~~service districts 9, 10, and 11 for the delivery of community~~
693 ~~mental health services.~~

694 Section 16. Subsection (2) of section 394.493, Florida
695 Statutes, is amended to read:

696 394.493 Target populations for child and adolescent mental

2010724e2

697 health services funded through the department.-

698 (2) Each mental health provider under contract with the
699 department to provide mental health services to the target
700 population shall collect fees from the parent or legal guardian
701 of the child or adolescent receiving services. The fees shall be
702 based on a sliding fee scale for families whose net family
703 income is at or above 150 percent of the Federal Poverty Income
704 Guidelines. The department shall adopt, by rule, a sliding fee
705 scale for statewide implementation. Fees collected from families
706 shall be retained in the circuit ~~service district~~ and used for
707 expanding child and adolescent mental health treatment services.

708 Section 17. Section 394.4985, Florida Statutes, is amended
709 to read:

710 394.4985 Circuitwide ~~Districtwide~~ information and referral
711 network; implementation.-

712 (1) Each circuit ~~service district~~ of the Department of
713 Children and Families ~~Family Services~~ shall develop a detailed
714 implementation plan for a circuitwide ~~districtwide~~ comprehensive
715 child and adolescent mental health information and referral
716 network to be operational by July 1, 1999. The plan must include
717 an operating budget that demonstrates cost efficiencies and
718 identifies funding sources for the circuit ~~district~~ information
719 and referral network. The plan must be submitted by the
720 department to the Legislature by October 1, 1998. The circuit
721 ~~district~~ shall use existing circuit ~~district~~ information and
722 referral providers if, in the development of the plan, it is
723 concluded that these providers would deliver information and
724 referral services in a more efficient and effective manner when
725 compared to other alternatives. The circuit ~~district~~ information

2010724e2

726 and referral network must include:

727 (a) A resource file that contains information about the
728 child and adolescent mental health services as described in s.
729 394.495, including, but not limited to:

- 730 1. Type of program;
- 731 2. Hours of service;
- 732 3. Ages of persons served;
- 733 4. Program description;
- 734 5. Eligibility requirements; and
- 735 6. Fees.

736 (b) Information about private providers and professionals
737 in the community which serve children and adolescents with an
738 emotional disturbance.

739 (c) A system to document requests for services that are
740 received through the network referral process, including, but
741 not limited to:

- 742 1. Number of calls by type of service requested;
- 743 2. Ages of the children and adolescents for whom services
744 are requested; and
- 745 3. Type of referral made by the network.

746 (d) The ability to share client information with the
747 appropriate community agencies.

748 (e) The submission of an annual report to the department,
749 the Agency for Health Care Administration, and appropriate local
750 government entities, which contains information about the
751 sources and frequency of requests for information, types and
752 frequency of services requested, and types and frequency of
753 referrals made.

754 (2) In planning the information and referral network, the

2010724e2

755 circuit ~~district~~ shall consider the establishment of a 24-hour
756 toll-free telephone number, staffed at all times, for parents
757 and other persons to call for information that concerns child
758 and adolescent mental health services and a community public
759 service campaign to inform the public about information and
760 referral services.

761 Section 18. Subsections (2) through (6) of section 394.67,
762 Florida Statutes, are renumbered as subsections (4) and (8),
763 respectively, and present subsections (7) and (8) are renumbered
764 as subsections (2) and (3), respectively, and amended to read:

765 394.67 Definitions.—As used in this part, the term:

766 (2) ~~(7)~~ "Circuit ~~District~~ administrator" means the person
767 appointed by the Secretary of Children and Families ~~Family~~
768 ~~Services~~ for the purpose of administering a department circuit
769 ~~service-district~~ as set forth in s. 20.19.

770 (3) ~~(8)~~ "Circuit ~~District~~ plan" or "plan" means the combined
771 circuit ~~district~~ substance abuse and mental health plan approved
772 by the circuit ~~district~~ administrator and governing bodies in
773 accordance with this part.

774 Section 19. Section 394.73, Florida Statutes, is amended to
775 read:

776 394.73 Joint alcohol, drug abuse, and mental health service
777 programs in two or more counties.—

778 (1) Subject to rules established by the department, any
779 county within a circuit ~~service-district~~ shall have the same
780 power to contract for alcohol, drug abuse, and mental health
781 services as the department has under existing statutes.

782 (2) In order to carry out the intent of this part and to
783 provide alcohol, drug abuse, and mental health services in

2010724e2

784 accordance with the circuit ~~district~~ plan, the counties within a
785 circuit ~~service district~~ may enter into agreements with each
786 other for the establishment of joint service programs. The
787 agreements may provide for the joint provision or operation of
788 services and facilities or for the provision or operation of
789 services and facilities by one participating county under
790 contract with other participating counties.

791 (3) When a circuit ~~service district~~ comprises two or more
792 counties or portions thereof, it is the obligation of the
793 planning council to submit to the governing bodies, prior to the
794 budget submission date of each governing body, an estimate of
795 the proportionate share of costs of alcohol, drug abuse, and
796 mental health services proposed to be borne by each such
797 governing body.

798 (4) Any county desiring to withdraw from a joint program
799 may submit to the circuit ~~district~~ administrator a resolution
800 requesting withdrawal therefrom together with a plan for the
801 equitable adjustment and division of the assets, property,
802 debts, and obligations, if any, of the joint program.

803 Section 20. Paragraph (a) of subsection (3) of section
804 394.74, Florida Statutes, is amended to read:

805 394.74 Contracts for provision of local substance abuse and
806 mental health programs.—

807 (3) Contracts shall include, but are not limited to:

808 (a) A provision that, within the limits of available
809 resources, substance abuse and mental health crisis services, as
810 defined in s. 394.67 (5) ~~(3)~~, shall be available to any individual
811 residing or employed within the service area, regardless of
812 ability to pay for such services, current or past health

2010724e2

813 condition, or any other factor;

814 Section 21. Subsection (10) of section 394.75, Florida
815 Statutes, is amended to read:

816 394.75 State and circuit ~~district~~ substance abuse and
817 mental health plans.—

818 (10) The circuit ~~district~~ administrator shall ensure that
819 the circuit ~~district~~ plan:

820 (a) Conforms to the priorities in the state plan, the
821 requirements of this part, and the standards adopted under this
822 part;

823 (b) Ensures that the most effective and economical use will
824 be made of available public and private substance abuse and
825 mental health resources in the circuit ~~service-district~~; and

826 (c) Has adequate provisions made for review and evaluation
827 of the services provided in the circuit ~~service-district~~.

828 Section 22. Subsection (2) of section 394.76, Florida
829 Statutes, is amended to read:

830 394.76 Financing of circuit ~~district~~ programs and
831 services.—If the local match funding level is not provided in
832 the General Appropriations Act or the substantive bill
833 implementing the General Appropriations Act, such funding level
834 shall be provided as follows:

835 (2) If in any fiscal year the approved state appropriation
836 is insufficient to finance the programs and services specified
837 by this part, the department shall have the authority to
838 determine the amount of state funds available to each circuit
839 ~~service-district~~ for such purposes in accordance with the
840 priorities in both the state and circuit ~~district~~ plans. The
841 circuit ~~district~~ administrator shall consult with the planning

2010724e2

842 council to ensure that the summary operating budget conforms to
843 the approved plan.

844 Section 23. Subsection (5) of section 394.78, Florida
845 Statutes, is amended to read:

846 394.78 Operation and administration; personnel standards;
847 procedures for audit and monitoring of service providers;
848 ~~resolution of disputes.-~~

849 ~~(5) In unresolved disputes regarding this part or rules~~
850 ~~established pursuant to this part, providers and district health~~
851 ~~and human services boards shall adhere to formal procedures~~
852 ~~specified under s. 20.19(8)(n).~~

853 Section 24. Subsections (3) and (4) of section 394.82,
854 Florida Statutes, are amended to read:

855 394.82 Funding of expanded services.-

856 (3) Each fiscal year, any funding increases for crisis
857 services or community mental health services that are included
858 in the General Appropriations Act shall be appropriated in a
859 lump-sum category as defined in s. 216.011(1)(aa). In accordance
860 with s. 216.181(6)(a), the Executive Office of the Governor
861 shall require the Department of Children and Families ~~Family~~
862 ~~Services~~ to submit a spending plan for the use of funds
863 appropriated for this purpose. The spending plan must include a
864 schedule for phasing in the new community mental health services
865 in each circuit ~~service district~~ of the department and must
866 describe how the new services will be integrated and coordinated
867 with all current community-based health and human services.

868 (4) By January 1, 2004, the crisis services defined in s.
869 394.67 (5) ~~(3)~~ shall be implemented, as appropriate, in the
870 state's public community mental health system to serve children

2010724e2

871 and adults who are experiencing an acute mental or emotional
872 crisis, as defined in s. 394.67(17). By January 1, 2006, the
873 mental health services defined in s. 394.67(15) shall be
874 implemented, as appropriate, in the state's public community
875 mental health system to serve adults and older adults who have a
876 severe and persistent mental illness and to serve children who
877 have a serious emotional disturbance or mental illness, as
878 defined in s. 394.492(6).

879 Section 25. Subsection (1) of section 394.9084, Florida
880 Statutes, is amended to read:

881 394.9084 Florida Self-Directed Care program.—

882 (1) The Department of Children and Families ~~Family~~
883 ~~Services~~, in cooperation with the Agency for Health Care
884 Administration, may provide a client-directed and choice-based
885 Florida Self-Directed Care program in all department circuits
886 ~~service districts~~, in addition to the pilot projects established
887 in district 4 and district 8, to provide mental health treatment
888 and support services to adults who have a serious mental
889 illness. The department may also develop and implement a client-
890 directed and choice-based pilot project in one circuit ~~district~~
891 to provide mental health treatment and support services for
892 children with a serious emotional disturbance who live at home.
893 If established, any staff who work with children must be
894 screened under s. 435.04. The department shall implement a
895 payment mechanism in which each client controls the money that
896 is available for that client's mental health treatment and
897 support services. The department shall establish interagency
898 cooperative agreements and work with the agency, the Division of
899 Vocational Rehabilitation, and the Social Security

2010724e2

900 Administration to implement and administer the Florida Self-
901 Directed Care program.

902 Section 26. Subsection (1) of section 397.821, Florida
903 Statutes, is amended to read:

904 397.821 Juvenile substance abuse impairment prevention and
905 early intervention councils.—

906 (1) Each judicial circuit as set forth in s. 26.021 may
907 establish a juvenile substance abuse impairment prevention and
908 early intervention council composed of at least 12 members,
909 including representatives from law enforcement, the department,
910 school districts, state attorney and public defender offices,
911 the circuit court, the religious community, substance abuse
912 impairment professionals, child advocates from the community,
913 business leaders, parents, and high school students. However,
914 those circuits which already have in operation a council of
915 similar composition may designate the existing body as the
916 juvenile substance abuse impairment prevention and early
917 intervention council for the purposes of this section. Each
918 council shall establish bylaws providing for the length of term
919 of its members, but the term may not exceed 4 years. The circuit
920 ~~substate entity~~ administrator, as defined in s. 20.19, and the
921 chief judge of the circuit court shall each appoint six members
922 of the council. The circuit ~~substate entity~~ administrator shall
923 appoint a representative from the department, a school district
924 representative, a substance abuse impairment treatment
925 professional, a child advocate, a parent, and a high school
926 student. The chief judge of the circuit court shall appoint a
927 business leader and representatives from the state attorney's
928 office, the public defender's office, the religious community,

2010724e2

929 the circuit court, and law enforcement agencies.

930 Section 27. Subsection (1) of section 402.313, Florida
931 Statutes, is amended to read:

932 402.313 Family day care homes.—

933 (1) Family day care homes shall be licensed under this act
934 if they are presently being licensed under an existing county
935 licensing ordinance, if they are participating in the subsidized
936 child care program, or if the board of county commissioners
937 passes a resolution that family day care homes be licensed. If
938 no county authority exists for the licensing of a family day
939 care home and the county passes a resolution requiring
940 licensure, the department shall have the authority to license
941 family day care homes under contract with the county ~~for the~~
942 ~~purchase of service system in the subsidized child care program.~~

943 (a) If not subject to license, family day care homes shall
944 register annually with the department, providing the following
945 information:

- 946 1. The name and address of the home.
- 947 2. The name of the operator.
- 948 3. The number of children served.
- 949 4. Proof of a written plan to provide at least one other
950 competent adult to be available to substitute for the operator
951 in an emergency. This plan shall include the name, address, and
952 telephone number of the designated substitute.
- 953 5. Proof of screening and background checks.
- 954 6. Proof of successful completion of the 30-hour training
955 course, as evidenced by passage of a competency examination,
956 which shall include:
 - 957 a. State and local rules and regulations that govern child

2010724e2

958 care.

959 b. Health, safety, and nutrition.

960 c. Identifying and reporting child abuse and neglect.

961 d. Child development, including typical and atypical

962 language development; and cognitive, motor, social, and self-

963 help skills development.

964 e. Observation of developmental behaviors, including using

965 a checklist or other similar observation tools and techniques to

966 determine a child's developmental level.

967 f. Specialized areas, including early literacy and language

968 development of children from birth to 5 years of age, as

969 determined by the department, for owner-operators of family day

970 care homes.

971 7. Proof that immunization records are kept current.

972 8. Proof of completion of the required continuing education

973 units or clock hours.

974 (b) A family day care home not participating in the

975 subsidized child care program may volunteer to be licensed under

976 the provisions of this act.

977 (c) The department may provide technical assistance to

978 counties and family day care home providers to enable counties

979 and family day care providers to achieve compliance with family

980 day care homes standards.

981 Section 28. Subsection (2) of section 402.315, Florida

982 Statutes, is amended to read:

983 402.315 Funding; license fees.—

984 (2) The county ~~department~~ shall bear the costs of the

985 licensing of family day care homes when contracting with the

986 department pursuant to s. 402.313(1) ~~child care facilities when~~

2010724e2

987 ~~contracted to do so by a county or when directly responsible for~~
988 ~~licensing in a county which fails to meet or exceed state~~
989 ~~minimum standards.~~

990 Section 29. Subsections (2), (3), and (7) of section
991 402.40, Florida Statutes, are amended to read:

992 402.40 Child welfare training.—

993 (2) DEFINITIONS.—As used in this section, the term:

994 (a) “Child welfare certification” means a professional
995 credential awarded by the department or by a credentialing
996 entity recognized by the department to individuals demonstrating
997 core competency in any child welfare services practice area.

998 (b) “Child welfare services” means any intake, protective
999 investigations, preprotective services, protective services,
1000 foster care, shelter and group care, and adoption and related
1001 services program, including supportive services, supervision,
1002 and legal services, provided to children who are alleged to have
1003 been abused, abandoned, or neglected, or who are at risk of
1004 becoming, are alleged to be, or have been found dependent
1005 pursuant to chapter 39.

1006 (c) “Core competency” means the knowledge, skills, and
1007 abilities necessary to carry out work responsibilities.

1008 (d) ~~(b)~~ “Person providing child welfare services” means a
1009 person who has a responsibility for supervisory, legal, direct
1010 care or support related work in the provision of child welfare
1011 services pursuant to chapter 39.

1012 (3) CHILD WELFARE TRAINING PROGRAM.—The department shall
1013 establish a program for training pursuant to the provisions of
1014 this section, and all persons providing child welfare services
1015 shall be required to demonstrate core competency by earning and

2010724e2

1016 maintaining a department or third-party-awarded child welfare
1017 certification and participate in and successfully complete the
1018 program of training pertinent to their areas of responsibility.

1019 (7) CERTIFICATION AND TRAINER QUALIFICATIONS.—The
1020 department shall, in collaboration with the professionals and
1021 providers described in subsection (5), develop minimum standards
1022 for a certification process that ensures that participants have
1023 successfully attained the knowledge, skills, and abilities
1024 necessary to competently carry out their work responsibilities.
1025 The department shall recognize third-party certification for
1026 child welfare services staff which satisfies the core
1027 competencies and meets the certification requirements
1028 established in this section and shall develop minimum standards
1029 for trainer qualifications which must be required of training
1030 academies in the offering of the training curricula. Any person
1031 providing child welfare services shall be required to master the
1032 core competencies and hold an active child welfare certification
1033 components of the curriculum that is ~~are~~ particular to that
1034 person's work responsibilities.

1035 Section 30. Subsection (2) of section 402.49, Florida
1036 Statutes, is amended to read:

1037 402.49 Mediation process established.—

1038 (2) (a) The department shall appoint at least one mediation
1039 panel in each of the department's circuits ~~service districts~~.
1040 Each panel shall have at least three and not more than five
1041 members and shall include a representative from the department,
1042 a representative of an agency that provides similar services to
1043 those provided by the agency that is a party to the dispute, and
1044 additional members who are mutually acceptable to the department

2010724e2

1045 and the agency that is a party to the dispute. Such additional
1046 members may include laypersons who are involved in advocacy
1047 organizations, members of boards of directors of agencies
1048 similar to the agency that is a party to the dispute, members of
1049 families of department clients, members of department planning
1050 councils in the area of services that are the subject of the
1051 dispute, and interested and informed members of the local
1052 community.

1053 (b) If the parties to the conflict agree, a mediation panel
1054 may hear a complaint that is filed outside of the panel's
1055 circuit ~~service district~~.

1056 Section 31. Subsection (3) of section 409.152, Florida
1057 Statutes, is amended to read:

1058 409.152 Service integration and family preservation.—

1059 (3) Each circuit ~~service district~~ of the department shall
1060 develop a family preservation service integration plan that
1061 identifies various programs that can be organized at the point
1062 of service delivery into a logical and cohesive family-centered
1063 services constellation. The plan shall include:

1064 (a) Goals and objectives for integrating services for
1065 families and avoiding barriers to service integration,
1066 procedures for centralized intake and assessment, a
1067 comprehensive service plan for each family, and an evaluation
1068 method of program outcome.

1069 (b) Recommendations for proposed changes to fiscal and
1070 substantive policies, regulations, and laws at local, circuit
1071 ~~district~~, and state delivery levels, including budget and
1072 personnel policies; purchasing flexibility and workforce
1073 incentives; discretionary resources; and incentives to reduce

2010724e2

1074 dependency on government programs and services.

1075 (c) Strategies for creating partnerships with the
1076 community, clients, and consumers of services which establish,
1077 maintain, and preserve family units.

1078 Section 32. Paragraph (e) of subsection (1) and subsection
1079 (8) of section 409.1671, Florida Statutes, are amended, and
1080 paragraph (m) is added to subsection (1) of that section, to
1081 read:

1082 409.1671 Foster care and related services; outsourcing.—

1083 (1)

1084 (e) As used in this section, the term "eligible lead
1085 community-based provider" means a single agency with which the
1086 department contracts ~~shall contract~~ for the provision of child
1087 protective services in a community that is no smaller than a
1088 county. The secretary of the department may authorize more than
1089 one eligible lead community-based provider within a single
1090 county if it ~~when to do so~~ will result in more effective
1091 delivery of foster care and related services. To compete for an
1092 outsourcing project, such agency must have:

1093 1. The ability to coordinate, integrate, and manage all
1094 child protective services in the designated community in
1095 cooperation with child protective investigations.

1096 2. The ability to ensure continuity of care from entry to
1097 exit for all children referred from the protective investigation
1098 and court systems.

1099 3. The ability to provide directly, or contract ~~for~~ through
1100 a local network of providers, for all necessary child protective
1101 services. Such agencies should directly provide no more than 35
1102 percent of all child protective services provided.

2010724e2

1103 4. The willingness to be accountable ~~accept accountability~~
1104 for meeting the outcomes and performance standards related to
1105 child protective services established by the Legislature and the
1106 Federal Government.

1107 5. The capability and the willingness to serve all children
1108 referred to it from the protective investigation and court
1109 systems, regardless of the level of funding allocated to the
1110 community by the state if, ~~provided~~ all related funding is
1111 transferred.

1112 6. The willingness to ensure that each individual who
1113 provides child protective services completes the training
1114 required of child protective service workers by the Department
1115 of Children and Family Services.

1116 7. The ability to maintain eligibility to receive all
1117 federal child welfare funds, including Title IV-E and IV-A
1118 funds, currently being used by the Department of Children and
1119 Family Services.

1120 8. Written agreements with Healthy Families Florida lead
1121 entities in their community, pursuant to s. 409.153, to promote
1122 cooperative planning for the provision of prevention and
1123 intervention services.

1124 9. A board of directors, of which at least 51 percent of
1125 the membership is comprised of persons residing in this state.
1126 Of the state residents, at least 51 percent must also reside
1127 within the service area of the eligible lead community-based
1128 provider.

1129 (m) In order to ensure an efficient and effective
1130 community-based care system, the department shall annually
1131 evaluate each lead agency's success in developing an effective

2010724e2

1132 network of local providers, improving the coordination and
1133 delivery of services to children, and investing appropriated
1134 funds into the community for direct services to children and
1135 families.

1136 (8) Notwithstanding the provisions of s. 215.425, all
1137 documented federal funds earned for the current fiscal year by
1138 the department and community-based agencies which exceed the
1139 amount appropriated by the Legislature shall be distributed to
1140 all entities that contributed to the excess earnings based on a
1141 schedule and methodology developed by the department and
1142 approved by the Executive Office of the Governor. Distribution
1143 shall be pro rata based on total earnings and shall be made only
1144 to those entities that contributed to excess earnings. Excess
1145 earnings of community-based agencies shall be used only in the
1146 circuit ~~service district~~ in which they were earned. Additional
1147 state funds appropriated by the Legislature for community-based
1148 agencies or made available pursuant to the budgetary amendment
1149 process described in s. 216.177 shall be transferred to the
1150 community-based agencies. The department shall amend a
1151 community-based agency's contract to permit expenditure of the
1152 funds.

1153 Section 33. Section 409.1685, Florida Statutes, is amended
1154 to read:

1155 409.1685 Children in foster care; annual report to
1156 Legislature.—The Department of Children and Family Services
1157 shall submit a written report to the substantive committees of
1158 the Legislature concerning the status of children in foster care
1159 and concerning the judicial review mandated by part IX ~~IX~~ of
1160 chapter 39. This report shall be submitted by March 1 of each

2010724e2

1161 year and ~~shall~~ include the following information for the prior
1162 calendar year:

1163 (1) The number of 6-month and annual judicial reviews
1164 completed during that period.

1165 (2) The number of children in foster care returned to a
1166 parent, guardian, or relative as a result of a 6-month or annual
1167 judicial review hearing during that period.

1168 (3) The number of termination of parental rights
1169 proceedings instituted during that period including ~~which shall~~
1170 ~~include~~:

1171 (a) The number of termination of parental rights
1172 proceedings initiated pursuant to former s. 39.703; and

1173 (b) The total number of terminations of parental rights
1174 ordered.

1175 (4) The number of foster care children placed for adoption
1176 during that period.

1177 Section 34. Paragraph (a) of subsection (4) of section
1178 409.1755, Florida Statutes, is amended to read:

1179 409.1755 One Church, One Child of Florida Corporation Act;
1180 creation; duties.—

1181 (4) BOARD OF DIRECTORS.—

1182 (a) The One Church, One Child of Florida Corporation shall
1183 operate subject to the supervision and approval of a board of
1184 directors consisting of 21 ~~23~~ members, with one ~~two~~ directors
1185 representing each circuit ~~service district~~ of the Department of
1186 Children and Families ~~Family Services~~ and one director who shall
1187 be an at-large member.

1188 Section 35. Paragraph (a) of subsection (1) and subsection
1189 (2) of section 410.0245, Florida Statutes, are amended to read:

2010724e2

1190 410.0245 Study of service needs; report; multiyear plan.—

1191 (1) (a) The Adult Protection Services Program Office of the
1192 Department of Children and Families ~~Family Services~~ shall
1193 contract for a study of the service needs of the 18-to-59-year-
1194 old disabled adult population served or waiting to be served by
1195 the community care for disabled adults program. The Division of
1196 Vocational Rehabilitation of the Department of Education and
1197 other appropriate state agencies shall provide information to
1198 the Department of Children and Families ~~Family Services~~ when
1199 requested for the purposes of this study.

1200 (2) Based on the findings of the study, the Adult
1201 Protection Services Program of the Department of Children and
1202 Families ~~Family Services~~ shall develop a multiyear plan which
1203 shall provide for the needs of disabled adults in this state and
1204 shall provide strategies for statewide coordination of all
1205 services for disabled adults. The multiyear plan shall include
1206 an inventory of existing services and an analysis of costs
1207 associated with existing and projected services. The multiyear
1208 plan shall be presented to the Governor, the President of the
1209 Senate, and the Speaker of the House of Representatives every 3
1210 years on or before March 1, beginning in 1992. On or before
1211 March 1 of each intervening year, the department shall submit an
1212 analysis of the status of the implementation of each element of
1213 the multiyear plan, any continued unmet need, and the
1214 relationship between that need and the department's budget
1215 request for that year.

1216 Section 36. Subsections (1) and (2) of section 410.603,
1217 Florida Statutes, are renumbered as subsections (2) and (3),
1218 respectively, and present subsection (3) of that section is

2010724e2

1219 renumbered as subsection (1) and amended to read:

1220 410.603 Definitions relating to Community Care for Disabled
1221 Adults Act.—As used in ss. 410.601-410.606:

1222 (1)~~(3)~~ "Circuit District" means a specified geographic
1223 service area that conforms to the judicial circuits established
1224 in s. 26.021, ~~as defined in s. 20.19~~, in which the programs of
1225 the department are administered and services are delivered.

1226 Section 37. Subsection (2) of section 410.604, Florida
1227 Statutes, is amended to read:

1228 410.604 Community care for disabled adults program; powers
1229 and duties of the department.—

1230 (2) Any person who meets the definition of a disabled adult
1231 pursuant to s. 410.603 (3)~~(2)~~ is eligible to receive the services
1232 of the community care for disabled adults program. However, the
1233 community care for disabled adults program shall operate within
1234 the funds appropriated by the Legislature. Priority shall be
1235 given to disabled adults who are not eligible for comparable
1236 services in programs of or funded by the department or the
1237 Division of Vocational Rehabilitation of the Department of
1238 Education; who are determined to be at risk of
1239 institutionalization; and whose income is at or below the
1240 existing institutional care program eligibility standard.

1241 Section 38. Section 411.224, Florida Statutes, is amended
1242 to read:

1243 411.224 Family support planning process.—The Legislature
1244 establishes a family support planning process to be used by the
1245 Department of Children and Families ~~Family Services~~ as the
1246 service planning process for targeted individuals, children, and
1247 families under its purview.

2010724e2

1248 (1) The Department of Education shall take all appropriate
1249 and necessary steps to encourage and facilitate the
1250 implementation of the family support planning process for
1251 individuals, children, and families within its purview.

1252 (2) To the extent possible within existing resources, the
1253 following populations must be included in the family support
1254 planning process:

1255 (a) Children from birth to age 5 who are served by the
1256 clinic and programs of the Division of Children's Medical
1257 Services of the Department of Health.

1258 (b) Children participating in the developmental evaluation
1259 and intervention program of the Division of Children's Medical
1260 Services of the Department of Health.

1261 (c) Children from age 3 through age 5 who are served by the
1262 Agency for Persons with Disabilities.

1263 (d) Children from birth through age 5 who are served by the
1264 Mental Health Program Office of the Department of Children and
1265 Families ~~Family Services~~.

1266 (e) Participants who are served by the Children's Early
1267 Investment Program established in s. 411.232.

1268 (f) Healthy Start participants in need of ongoing service
1269 coordination.

1270 (g) Children from birth through age 5 who are served by the
1271 voluntary family services, protective supervision, foster care,
1272 or adoption and related services programs of the Child Care
1273 Licensure ~~Services~~ Program Office of the Department of Children
1274 and Families ~~Family Services~~, and who are eligible for ongoing
1275 services from one or more other programs or agencies that
1276 participate in family support planning; however, children served

2010724e2

1277 by the voluntary family services program, where the planned
1278 length of intervention is 30 days or less, are excluded from
1279 this population.

1280 (3) When individuals included in the target population are
1281 served by Head Start, local education agencies, or other
1282 prevention and early intervention programs, providers must be
1283 notified and efforts made to facilitate the concerned agency's
1284 participation in family support planning.

1285 (4) Local education agencies are encouraged to use a family
1286 support planning process for children from birth through 5 years
1287 of age who are served by the prekindergarten program for
1288 children with disabilities, in lieu of the Individual Education
1289 Plan.

1290 (5) There must be only a single-family support plan to
1291 address the problems of the various family members unless the
1292 family requests that an individual family support plan be
1293 developed for different members of that family. The family
1294 support plan must replace individual habilitation plans for
1295 children from 3 through 5 years old who are served by the Agency
1296 for Persons with Disabilities.

1297 (6) The family support plan at a minimum must include the
1298 following information:

1299 (a) The family's statement of family concerns, priorities,
1300 and resources.

1301 (b) Information related to the health, educational,
1302 economic and social needs, and overall development of the
1303 individual and the family.

1304 (c) The outcomes that the plan is intended to achieve.

1305 (d) Identification of the resources and services to achieve

2010724e2

1306 each outcome projected in the plan. These resources and services
1307 are to be provided based on availability and funding.

1308 (7) A family support plan meeting must be held with the
1309 family to initially develop the family support plan and annually
1310 thereafter to update the plan as necessary. The family includes
1311 anyone who has an integral role in the life of the individual or
1312 child as identified by the individual or family. The family
1313 support plan must be reviewed periodically during the year, at
1314 least at 6-month intervals, to modify and update the plan as
1315 needed. Such periodic reviews do not require a family support
1316 plan team meeting but may be accomplished through other means
1317 such as a case file review and telephone conference with the
1318 family.

1319 (8) The initial family support plan must be developed
1320 within a 90-day period. If exceptional circumstances make it
1321 impossible to complete the evaluation activities and to hold the
1322 initial family support plan team meeting within a reasonable
1323 time period, these circumstances must be documented, and the
1324 individual or family must be notified of the reason for the
1325 delay. With the agreement of the family and the provider,
1326 services for which either the individual or the family is
1327 eligible may be initiated before the completion of the
1328 evaluation activities and the family support plan.

1329 (9) The Department of Children and Families ~~Family~~
1330 ~~Services~~, the Department of Health, and the Department of
1331 Education, to the extent that funds are available, must offer
1332 technical assistance to communities to facilitate the
1333 implementation of the family support plan.

1334 (10) The Department of Children and Families ~~Family~~

2010724e2

1335 ~~Services~~, the Department of Health, and the Department of
1336 Education shall adopt rules necessary to implement this act.

1337 Section 39. Section 414.24, Florida Statutes, is amended to
1338 read:

1339 414.24 Integrated welfare reform and child welfare
1340 services.—The department shall develop integrated service
1341 delivery strategies to better meet the needs of families subject
1342 to work activity requirements who are involved in the child
1343 welfare system or are at high risk of involvement in the child
1344 welfare system. To the extent that resources are available, the
1345 department and the Department of Labor and Employment Security
1346 shall provide funds to one or more circuits ~~service districts~~ to
1347 promote development of integrated, nonduplicative case
1348 management within the department, the Department of Labor and
1349 Employment Security, other participating government agencies,
1350 and community partners. Alternative delivery systems shall be
1351 encouraged which include well-defined, pertinent outcome
1352 measures. Other factors to be considered shall include
1353 innovation regarding training, enhancement of existing
1354 resources, and increased private sector and business sector
1355 participation.

1356 Section 40. Subsection (8) of section 415.1113, Florida
1357 Statutes, is amended to read:

1358 415.1113 Administrative fines for false report of abuse,
1359 neglect, or exploitation of a vulnerable adult.—

1360 (8) All amounts collected under this section must be
1361 deposited into the Operations and Maintenance Trust Fund within
1362 the Adult Protection ~~Services~~ Program of the department.

1363 Section 41. Subsections (1) through (3) of section 420.621,

2010724e2

1364 Florida Statutes, are renumbered as subsections (2) through (4),
1365 respectively, and present subsection (4) of that section is
1366 renumbered as subsection (1) and amended to read:

1367 420.621 Definitions.—As used in ss. 420.621-420.628, the
1368 term:

1369 (1)~~(4)~~ "Circuit District" means a specified geographic
1370 service area that conforms to the judicial circuits established
1371 in s. 26.021 ~~service district of the department, as set forth in~~
1372 ~~s. 20.19.~~

1373 Section 42. Subsection (1) of section 420.622, Florida
1374 Statutes, is amended to read:

1375 420.622 State Office on Homelessness; Council on
1376 Homelessness.—

1377 (1) The State Office on Homelessness is created within the
1378 Department of Children and Families ~~Family Services~~ to provide
1379 interagency, council, and other related coordination on issues
1380 relating to homelessness. ~~An executive director of the office~~
1381 ~~shall be appointed by the Governor.~~

1382 Section 43. Subsection (4) of section 420.623, Florida
1383 Statutes, is amended to read:

1384 420.623 Local coalitions for the homeless.—

1385 (4) ANNUAL REPORTS.—The department shall submit to the
1386 Governor, the Speaker of the House of Representatives, and the
1387 President of the Senate, by June 30, an annual report consisting
1388 of a compilation of data collected by local coalitions, progress
1389 made in the development and implementation of local homeless
1390 assistance continuums of care plans in each circuit ~~district~~,
1391 local spending plans, programs and resources available at the
1392 local level, and recommendations for programs and funding.

2010724e2

1393 Section 44. Subsections (4) through (8) of section 420.625,
1394 Florida Statutes, are amended to read:

1395 420.625 Grant-in-aid program.—

1396 (4) APPLICATION PROCEDURE.—Local agencies shall submit an
1397 application for grant-in-aid funds to the circuit ~~district~~
1398 administrator for review. During the first year of
1399 implementation, circuit ~~district~~ administrators shall begin to
1400 accept applications for circuit ~~district~~ funds no later than
1401 October 1, 1988, and by August 1 of each year thereafter for
1402 which funding for this section is provided. Circuit ~~District~~
1403 funds shall be made available to local agencies no more than 30
1404 days after the deadline date for applications for each funding
1405 cycle.

1406 (5) SPENDING PLANS.—The department shall develop guidelines
1407 for the development of spending plans and for the evaluation and
1408 approval by circuit ~~district~~ administrators of spending plans,
1409 based upon such factors as:

1410 (a) The demonstrated level of need for the program.

1411 (b) The demonstrated ability of the local agency or
1412 agencies seeking assistance to deliver the services and to
1413 assure that identified needs will be met.

1414 (c) The ability of the local agency or agencies seeking
1415 assistance to deliver a wide range of services as enumerated in
1416 subsection (3).

1417 (d) The adequacy and reasonableness of proposed budgets and
1418 planned expenditures, and the demonstrated capacity of the local
1419 agency or agencies to administer the funds sought.

1420 (e) A statement from the local coalition for the homeless
1421 as to the steps to be taken to assure coordination and

2010724e2

1422 integration of services in the circuit ~~district~~ to avoid
1423 unnecessary duplication and costs.

1424 (f) Assurances by the local coalition for the homeless that
1425 alternative funding strategies for meeting needs through the
1426 reallocation of existing resources, utilization of volunteers,
1427 and local government or private agency funding have been
1428 explored.

1429 (g) The existence of an evaluation component designed to
1430 measure program outcomes and determine the overall effectiveness
1431 of the local programs for the homeless for which funding is
1432 sought.

1433 (6) ALLOCATION OF GRANT FUNDS TO CIRCUITS ~~DISTRICTS~~.--State
1434 grant-in-aid funds for local initiatives for the homeless shall
1435 be allocated by the department to, and administered by,
1436 department circuits ~~districts~~. Allocations shall be based upon
1437 sufficient documentation of:

1438 (a) The magnitude of the problem of homelessness in the
1439 circuit ~~district~~, and the demonstrated level of unmet need for
1440 services in the circuit ~~district~~ for those who are homeless or
1441 are about to become homeless.

1442 (b) A strong local commitment to seriously address the
1443 problem of homelessness as evidenced by coordinated programs
1444 involving preventive, emergency, and transitional services and
1445 by the existence of active local organizations committed to
1446 serving those who have become, or are about to become, homeless.

1447 (c) Agreement by local government and private agencies
1448 currently serving the homeless not to reduce current
1449 expenditures for services presently provided to those who are
1450 homeless or are about to become homeless if grant assistance is

2010724e2

1451 provided pursuant to this section.

1452 (d) Geographic distribution of circuit ~~district~~ programs to
1453 ensure that such programs serve both rural and urban areas, as
1454 needed.

1455 (7) DISTRIBUTION TO LOCAL AGENCIES.—Circuit ~~District~~ funds
1456 so allocated shall be available for distribution by the circuit
1457 ~~district~~ administrator to local agencies to fund programs such
1458 as those set forth in subsection (3), based upon the
1459 recommendations of the local coalitions in accordance with
1460 spending plans developed by the coalitions and approved by the
1461 circuit ~~district~~ administrator. Not more than 10 percent of the
1462 total state funds awarded under a spending plan may be used by
1463 the local coalition for staffing and administration.

1464 (8) LOCAL MATCHING FUNDS.—Entities contracting to provide
1465 services through financial assistance obtained under this
1466 section shall provide a minimum of 25 percent of the funding
1467 necessary for the support of project operations. In-kind
1468 contributions, whether materials, commodities, transportation,
1469 office space, other types of facilities, or personal services,
1470 and contributions of money or services from homeless persons may
1471 be evaluated and counted as part or all of this required local
1472 funding, in the discretion of the circuit ~~district~~
1473 administrator.

1474 Section 45. Subsection (2) of section 429.35, Florida
1475 Statutes, is amended to read:

1476 429.35 Maintenance of records; reports.—

1477 (2) Within 60 days after the date of the biennial
1478 inspection visit required under s. 408.811 or within 30 days
1479 after the date of any interim visit, the agency shall forward

2010724e2

1480 the results of the inspection to the local ombudsman council in
1481 whose planning and service area, as defined in part II of
1482 chapter 400, the facility is located; to at least one public
1483 library or, in the absence of a public library, the county seat
1484 in the county in which the inspected assisted living facility is
1485 located; and, when appropriate, to the circuit ~~district~~ Adult
1486 Protection Services and Mental Health Program Offices.

1487 Section 46. Paragraph (d) of subsection (3) of section
1488 1002.67, Florida Statutes, is amended to read:

1489 1002.67 Performance standards; curricula and
1490 accountability.—

1491 (3)

1492 (d) Each early learning coalition, the Agency for Workforce
1493 Innovation, and the department shall coordinate with the Child
1494 Care Licensure ~~Services~~ Program Office of the Department of
1495 Children and Families ~~Family Services~~ to minimize interagency
1496 duplication of activities for monitoring private prekindergarten
1497 providers for compliance with requirements of the Voluntary
1498 Prekindergarten Education Program under this part, the school
1499 readiness programs under s. 411.01, and the licensing of
1500 providers under ss. 402.301-402.319.

1501 Section 47. Sections 39.311, 39.312, 39.313, 39.314,
1502 39.315, 39.316, 39.317, 39.318, 394.9083, and 402.35, Florida
1503 Statutes, are repealed.

1504 Section 48. Subsection (3) of section 39.407, Florida
1505 Statutes, is amended to read:

1506 39.407 Medical, psychiatric, and psychological examination
1507 and treatment of child; physical, mental, or substance abuse
1508 examination of person with or requesting child custody.—

2010724e2

1509 (3) (a) All children placed in out-of-home care shall be
1510 provided with a comprehensive behavioral health assessment. The
1511 child protective investigator or dependency case manager shall
1512 submit a referral for such assessment within 7 days after the
1513 child is placed in out-of-home care.

1514 (b) Any child who has been in out-of-home care for more
1515 than 1 year, or who did not receive a comprehensive behavioral
1516 health assessment when placed into out-of-home care, is eligible
1517 to receive a comprehensive behavioral health assessment. Such
1518 assessments evaluate behaviors that give rise to the concern
1519 that the child has unmet mental health needs. Any party to the
1520 dependency proceeding, or the court on its own motion, may
1521 request that an assessment be performed.

1522 (c) The child protective investigator or dependency case
1523 manager is responsible for ensuring that all recommendations in
1524 the comprehensive behavioral health assessment are incorporated
1525 into the child's case plan and that the recommended services are
1526 provided in a timely manner. If, at a case planning conference,
1527 a determination is made that a specific recommendation should
1528 not be included in a child's case plan, a written explanation
1529 must be provided to the court as to why the recommendation is
1530 not being followed.

1531 (d) This subsection does not to prevent a child from
1532 receiving any other form of psychological assessment if needed.

1533 (e) If it is determined that a child is in need of mental
1534 health services, the comprehensive behavioral health assessment
1535 must be provided to the physician involved in developing the
1536 child's mental health treatment plan, pursuant to s. 39.4071(9).

1537 ~~(3) (a) 1. Except as otherwise provided in subparagraph (b) 1.~~

2010724e2

1538 ~~or paragraph (c), before the department provides psychotropic~~
1539 ~~medications to a child in its custody, the prescribing physician~~
1540 ~~shall attempt to obtain express and informed consent, as defined~~
1541 ~~in s. 394.455(9) and as described in s. 394.459(3) (a), from the~~
1542 ~~child's parent or legal guardian. The department must take steps~~
1543 ~~necessary to facilitate the inclusion of the parent in the~~
1544 ~~child's consultation with the physician. However, if the~~
1545 ~~parental rights of the parent have been terminated, the parent's~~
1546 ~~location or identity is unknown or cannot reasonably be~~
1547 ~~ascertained, or the parent declines to give express and informed~~
1548 ~~consent, the department may, after consultation with the~~
1549 ~~prescribing physician, seek court authorization to provide the~~
1550 ~~psychotropic medications to the child. Unless parental rights~~
1551 ~~have been terminated and if it is possible to do so, the~~
1552 ~~department shall continue to involve the parent in the~~
1553 ~~decisionmaking process regarding the provision of psychotropic~~
1554 ~~medications. If, at any time, a parent whose parental rights~~
1555 ~~have not been terminated provides express and informed consent~~
1556 ~~to the provision of a psychotropic medication, the requirements~~
1557 ~~of this section that the department seek court authorization do~~
1558 ~~not apply to that medication until such time as the parent no~~
1559 ~~longer consents.~~

1560 ~~2. Any time the department seeks a medical evaluation to~~
1561 ~~determine the need to initiate or continue a psychotropic~~
1562 ~~medication for a child, the department must provide to the~~
1563 ~~evaluating physician all pertinent medical information known to~~
1564 ~~the department concerning that child.~~

1565 ~~(b)1. If a child who is removed from the home under s.~~
1566 ~~39.401 is receiving prescribed psychotropic medication at the~~

2010724e2

1567 ~~time of removal and parental authorization to continue providing~~
1568 ~~the medication cannot be obtained, the department may take~~
1569 ~~possession of the remaining medication and may continue to~~
1570 ~~provide the medication as prescribed until the shelter hearing,~~
1571 ~~if it is determined that the medication is a current~~
1572 ~~prescription for that child and the medication is in its~~
1573 ~~original container.~~

1574 ~~2. If the department continues to provide the psychotropic~~
1575 ~~medication to a child when parental authorization cannot be~~
1576 ~~obtained, the department shall notify the parent or legal~~
1577 ~~guardian as soon as possible that the medication is being~~
1578 ~~provided to the child as provided in subparagraph 1. The child's~~
1579 ~~official departmental record must include the reason parental~~
1580 ~~authorization was not initially obtained and an explanation of~~
1581 ~~why the medication is necessary for the child's well-being.~~

1582 ~~3. If the department is advised by a physician licensed~~
1583 ~~under chapter 458 or chapter 459 that the child should continue~~
1584 ~~the psychotropic medication and parental authorization has not~~
1585 ~~been obtained, the department shall request court authorization~~
1586 ~~at the shelter hearing to continue to provide the psychotropic~~
1587 ~~medication and shall provide to the court any information in its~~
1588 ~~possession in support of the request. Any authorization granted~~
1589 ~~at the shelter hearing may extend only until the arraignment~~
1590 ~~hearing on the petition for adjudication of dependency or 28~~
1591 ~~days following the date of removal, whichever occurs sooner.~~

1592 ~~4. Before filing the dependency petition, the department~~
1593 ~~shall ensure that the child is evaluated by a physician licensed~~
1594 ~~under chapter 458 or chapter 459 to determine whether it is~~
1595 ~~appropriate to continue the psychotropic medication. If, as a~~

2010724e2

1596 ~~result of the evaluation, the department seeks court~~
1597 ~~authorization to continue the psychotropic medication, a motion~~
1598 ~~for such continued authorization shall be filed at the same time~~
1599 ~~as the dependency petition, within 21 days after the shelter~~
1600 ~~hearing.~~

1601 ~~(c) Except as provided in paragraphs (b) and (c), the~~
1602 ~~department must file a motion seeking the court's authorization~~
1603 ~~to initially provide or continue to provide psychotropic~~
1604 ~~medication to a child in its legal custody. The motion must be~~
1605 ~~supported by a written report prepared by the department which~~
1606 ~~describes the efforts made to enable the prescribing physician~~
1607 ~~to obtain express and informed consent for providing the~~
1608 ~~medication to the child and other treatments considered or~~
1609 ~~recommended for the child. In addition, the motion must be~~
1610 ~~supported by the prescribing physician's signed medical report~~
1611 ~~providing:~~

1612 ~~1. The name of the child, the name and range of the dosage~~
1613 ~~of the psychotropic medication, and that there is a need to~~
1614 ~~prescribe psychotropic medication to the child based upon a~~
1615 ~~diagnosed condition for which such medication is being~~
1616 ~~prescribed.~~

1617 ~~2. A statement indicating that the physician has reviewed~~
1618 ~~all medical information concerning the child which has been~~
1619 ~~provided.~~

1620 ~~3. A statement indicating that the psychotropic medication,~~
1621 ~~at its prescribed dosage, is appropriate for treating the~~
1622 ~~child's diagnosed medical condition, as well as the behaviors~~
1623 ~~and symptoms the medication, at its prescribed dosage, is~~
1624 ~~expected to address.~~

2010724e2

1625 ~~4. An explanation of the nature and purpose of the~~
1626 ~~treatment; the recognized side effects, risks, and~~
1627 ~~contraindications of the medication; drug-interaction~~
1628 ~~precautions; the possible effects of stopping the medication;~~
1629 ~~and how the treatment will be monitored, followed by a statement~~
1630 ~~indicating that this explanation was provided to the child if~~
1631 ~~age appropriate and to the child's caregiver.~~

1632 ~~5. Documentation addressing whether the psychotropic~~
1633 ~~medication will replace or supplement any other currently~~
1634 ~~prescribed medications or treatments; the length of time the~~
1635 ~~child is expected to be taking the medication; and any~~
1636 ~~additional medical, mental health, behavioral, counseling, or~~
1637 ~~other services that the prescribing physician recommends.~~

1638 ~~(d)1. The department must notify all parties of the~~
1639 ~~proposed action taken under paragraph (c) in writing or by~~
1640 ~~whatever other method best ensures that all parties receive~~
1641 ~~notification of the proposed action within 48 hours after the~~
1642 ~~motion is filed. If any party objects to the department's~~
1643 ~~motion, that party shall file the objection within 2 working~~
1644 ~~days after being notified of the department's motion. If any~~
1645 ~~party files an objection to the authorization of the proposed~~
1646 ~~psychotropic medication, the court shall hold a hearing as soon~~
1647 ~~as possible before authorizing the department to initially~~
1648 ~~provide or to continue providing psychotropic medication to a~~
1649 ~~child in the legal custody of the department. At such hearing~~
1650 ~~and notwithstanding s. 90.803, the medical report described in~~
1651 ~~paragraph (c) is admissible in evidence. The prescribing~~
1652 ~~physician need not attend the hearing or testify unless the~~
1653 ~~court specifically orders such attendance or testimony, or a~~

2010724e2

1654 ~~party subpoenas the physician to attend the hearing or provide~~
1655 ~~testimony. If, after considering any testimony received, the~~
1656 ~~court finds that the department's motion and the physician's~~
1657 ~~medical report meet the requirements of this subsection and that~~
1658 ~~it is in the child's best interests, the court may order that~~
1659 ~~the department provide or continue to provide the psychotropic~~
1660 ~~medication to the child without additional testimony or~~
1661 ~~evidence. At any hearing held under this paragraph, the court~~
1662 ~~shall further inquire of the department as to whether additional~~
1663 ~~medical, mental health, behavioral, counseling, or other~~
1664 ~~services are being provided to the child by the department which~~
1665 ~~the prescribing physician considers to be necessary or~~
1666 ~~beneficial in treating the child's medical condition and which~~
1667 ~~the physician recommends or expects to provide to the child in~~
1668 ~~concert with the medication. The court may order additional~~
1669 ~~medical consultation, including consultation with the MedConsult~~
1670 ~~line at the University of Florida, if available, or require the~~
1671 ~~department to obtain a second opinion within a reasonable~~
1672 ~~timeframe as established by the court, not to exceed 21 calendar~~
1673 ~~days, after such order based upon consideration of the best~~
1674 ~~interests of the child. The department must make a referral for~~
1675 ~~an appointment for a second opinion with a physician within 1~~
1676 ~~working day. The court may not order the discontinuation of~~
1677 ~~prescribed psychotropic medication if such order is contrary to~~
1678 ~~the decision of the prescribing physician unless the court first~~
1679 ~~obtains an opinion from a licensed psychiatrist, if available,~~
1680 ~~or, if not available, a physician licensed under chapter 458 or~~
1681 ~~chapter 459, stating that more likely than not, discontinuing~~
1682 ~~the medication would not cause significant harm to the child.~~

2010724e2

1683 ~~If, however, the prescribing psychiatrist specializes in mental~~
1684 ~~health care for children and adolescents, the court may not~~
1685 ~~order the discontinuation of prescribed psychotropic medication~~
1686 ~~unless the required opinion is also from a psychiatrist who~~
1687 ~~specializes in mental health care for children and adolescents.~~
1688 ~~The court may also order the discontinuation of prescribed~~
1689 ~~psychotropic medication if a child's treating physician,~~
1690 ~~licensed under chapter 458 or chapter 459, states that~~
1691 ~~continuing the prescribed psychotropic medication would cause~~
1692 ~~significant harm to the child due to a diagnosed nonpsychiatric~~
1693 ~~medical condition.~~

1694 ~~2. The burden of proof at any hearing held under this~~
1695 ~~paragraph shall be by a preponderance of the evidence.~~

1696 ~~(c)1. If the child's prescribing physician certifies in the~~
1697 ~~signed medical report required in paragraph (c) that delay in~~
1698 ~~providing a prescribed psychotropic medication would more likely~~
1699 ~~than not cause significant harm to the child, the medication may~~
1700 ~~be provided in advance of the issuance of a court order. In such~~
1701 ~~event, the medical report must provide the specific reasons why~~
1702 ~~the child may experience significant harm and the nature and the~~
1703 ~~extent of the potential harm. The department must submit a~~
1704 ~~motion seeking continuation of the medication and the~~
1705 ~~physician's medical report to the court, the child's guardian ad~~
1706 ~~litem, and all other parties within 3 working days after the~~
1707 ~~department commences providing the medication to the child. The~~
1708 ~~department shall seek the order at the next regularly scheduled~~
1709 ~~court hearing required under this chapter, or within 30 days~~
1710 ~~after the date of the prescription, whichever occurs sooner. If~~
1711 ~~any party objects to the department's motion, the court shall~~

2010724e2

1712 ~~hold a hearing within 7 days.~~

1713 ~~2. Psychotropic medications may be administered in advance~~
1714 ~~of a court order in hospitals, crisis stabilization units, and~~
1715 ~~in statewide inpatient psychiatric programs. Within 3 working~~
1716 ~~days after the medication is begun, the department must seek~~
1717 ~~court authorization as described in paragraph (c).~~

1718 ~~(f)1. The department shall fully inform the court of the~~
1719 ~~child's medical and behavioral status as part of the social~~
1720 ~~services report prepared for each judicial review hearing held~~
1721 ~~for a child for whom psychotropic medication has been prescribed~~
1722 ~~or provided under this subsection. As a part of the information~~
1723 ~~provided to the court, the department shall furnish copies of~~
1724 ~~all pertinent medical records concerning the child which have~~
1725 ~~been generated since the previous hearing. On its own motion or~~
1726 ~~on good cause shown by any party, including any guardian ad~~
1727 ~~litem, attorney, or attorney ad litem who has been appointed to~~
1728 ~~represent the child or the child's interests, the court may~~
1729 ~~review the status more frequently than required in this~~
1730 ~~subsection.~~

1731 ~~2. The court may, in the best interests of the child, order~~
1732 ~~the department to obtain a medical opinion addressing whether~~
1733 ~~the continued use of the medication under the circumstances is~~
1734 ~~safe and medically appropriate.~~

1735 ~~(g) The department shall adopt rules to ensure that~~
1736 ~~children receive timely access to clinically appropriate~~
1737 ~~psychotropic medications. These rules must include, but need not~~
1738 ~~be limited to, the process for determining which adjunctive~~
1739 ~~services are needed, the uniform process for facilitating the~~
1740 ~~prescribing physician's ability to obtain the express and~~

2010724e2

1741 ~~informed consent of a child's parent or guardian, the procedures~~
1742 ~~for obtaining court authorization for the provision of a~~
1743 ~~psychotropic medication, the frequency of medical monitoring and~~
1744 ~~reporting on the status of the child to the court, how the~~
1745 ~~child's parents will be involved in the treatment planning~~
1746 ~~process if their parental rights have not been terminated, and~~
1747 ~~how caretakers are to be provided information contained in the~~
1748 ~~physician's signed medical report. The rules must also include~~
1749 ~~uniform forms to be used in requesting court authorization for~~
1750 ~~the use of a psychotropic medication and provide for the~~
1751 ~~integration of each child's treatment plan and case plan. The~~
1752 ~~department must begin the formal rulemaking process within 90~~
1753 ~~days after the effective date of this act.~~

1754 Section 49. Section 39.4071, Florida Statutes, is created
1755 to read:

1756 39.4071 Use of psychotropic medication for children in out
1757 of-home placement.-

1758 (1) LEGISLATIVE FINDINGS AND INTENT.-

1759 (a) The Legislature finds that children in out-of-home
1760 placements often have multiple risk factors that predispose them
1761 to emotional and behavioral disorders and that they receive
1762 mental health services at higher rates and are more likely to be
1763 given psychotropic medications than children from comparable
1764 backgrounds.

1765 (b) The Legislature also finds that the use of psychotropic
1766 medications for the treatment of children in out-of-home
1767 placements who have emotional and behavioral disturbances has
1768 increased over recent years. While the increased use of
1769 psychotropic medications is paralleled by an increase in the

2010724e2

1770 rate of the coadministration of two or more psychotropic
1771 medications, data on the safety and efficacy of many of the
1772 psychotropic medications used in children and research
1773 supporting the coadministration of two or more psychotropic
1774 medications in this population is limited.

1775 (c) The Legislature further finds that significant
1776 challenges are encountered in providing quality mental health
1777 care to children in out-of-home placements. Not uncommonly,
1778 children in out-of-home placements are subjected to multiple
1779 placements and many service providers, with communication
1780 between providers often poor, resulting in fragmented medical
1781 and mental health care. The dependable, ongoing therapeutic and
1782 caregiving relationships these children need are hampered by the
1783 high turnover among child welfare caseworkers and care
1784 providers. Furthermore, children in out-of-home placements,
1785 unlike children from intact families, often have no consistent
1786 interested party who is available to coordinate treatment and
1787 monitoring plans or to provide longitudinal oversight of care.

1788 (d) The Legislature recognizes the important role the
1789 Guardian ad Litem Program has played in Florida's dependency
1790 system for the past 30 years serving the state's most vulnerable
1791 children through the use of trained volunteers, case
1792 coordinators, child advocates and attorneys. The program's
1793 singular focus is on the child and its mission is to advocate
1794 for the best interest of the child. It is often the guardian ad
1795 litem who is the constant in a child's life, maintaining
1796 consistent contact with the child, the child's caseworkers, and
1797 others involved with the child, including family, doctors,
1798 teachers, and service providers. Studies have shown that a child

2010724e2

1799 assigned a guardian ad litem will, on average, experience fewer
1800 placement changes than a child without a guardian ad litem. It
1801 is therefore the intent of the Legislature that children in out-
1802 of-home placements who may benefit from psychotropic medications
1803 receive those medications safely as part of a comprehensive
1804 mental health treatment plan requiring the appointment of a
1805 guardian ad litem whose responsibility is to monitor the plan
1806 for compliance and suitability as to the child's best interest.

1807 (2) DEFINITIONS.—As used in this section, the term:

1808 (a) "Behavior analysis" means services rendered by a
1809 provider who is certified by the Behavior Analysis Certification
1810 Board in accordance with chapter 393.

1811 (b) "Obtaining assent" means a process by which a provider
1812 of medical services helps a child achieve a developmentally
1813 appropriate awareness of the nature of his or her condition,
1814 informs the child of what can be expected through tests and
1815 treatment, makes a clinical assessment of the child's
1816 understanding of the situation and the factors influencing how
1817 he or she is responding, and solicits an expression of the
1818 child's willingness to adhere to the proposed care. The mere
1819 absence of an objection by the child may not be construed as
1820 assent.

1821 (c) "Comprehensive behavioral health assessment" means an
1822 in-depth and detailed assessment of the child's emotional,
1823 social, behavioral, and developmental functioning within the
1824 family home, school, and community. A comprehensive behavioral
1825 health assessment includes direct observation of the child in
1826 the home, school, and community, as well as in the clinical
1827 setting, and adheres to the requirements in the Florida Medicaid

2010724e2

1828 Community Behavioral Health Services Coverage and Limitations
1829 Handbook.

1830 (d) "Express and informed consent" means a process by which
1831 a provider of medical services obtains voluntary consent from a
1832 parent whose rights have not been terminated or a legal guardian
1833 of the child who has received full, accurate, and sufficient
1834 information and an explanation about the child's medical
1835 condition, medication, and treatment in order to enable the
1836 parent or guardian to make a knowledgeable decision without any
1837 element of fraud, deceit, duress, or other form of coercion.

1838 (e) "Mental health treatment plan" means a plan that lists
1839 the particular mental health needs of the child and the services
1840 that will be provided to address those needs. If the plan
1841 includes prescribing psychotropic medication to a child in out-
1842 of-home placement, the plan must also include the information
1843 required under subsection (9).

1844 (f) "Psychotropic medication" means a prescription
1845 medication that is used for the treatment of mental disorders
1846 and includes, without limitation, hypnotics, antipsychotics,
1847 antidepressants, antianxiety agents, sedatives, stimulants, and
1848 mood stabilizers.

1849 (3) APPOINTMENT OF GUARDIAN AD LITEM.—

1850 (a) If not already appointed, a guardian ad litem shall be
1851 appointed by the court at the earliest possible time to
1852 represent the best interests of a child in out-of-home placement
1853 who is prescribed a psychotropic medication or is being
1854 evaluated for the initiation of psychotropic medication.
1855 Pursuant to s. 39.820, the appointed guardian ad litem is a
1856 party to any judicial proceeding as a representative of the

2010724e2

1857 child and serves until discharged by the court.

1858 (b) Pursuant to this section, the guardian ad litem shall
1859 participate in the development of the mental health treatment
1860 plan, monitor whether all requirements of the mental health
1861 treatment plan are being provided to the child, including
1862 counseling, behavior analysis, or other services, medications,
1863 and treatment modalities; and notice the court of the child's
1864 objections, if any, to the mental health treatment plan. The
1865 guardian ad litem shall prepare and submit to the court a
1866 written report every 45 days or as directed by the court,
1867 advising the court and the parties as to the status of the care,
1868 health, and medical treatment of the child pursuant to the
1869 mental health treatment plan and any change in the status of the
1870 child. The guardian ad litem must immediately notify parties as
1871 soon as a medical emergency of the child becomes known. The
1872 guardian ad litem shall ensure that the prescribing physician
1873 has been provided with all pertinent medical information
1874 concerning the child.

1875 (c) The department and the community-based care lead agency
1876 shall notify the court and the guardian ad litem, and, if
1877 applicable, the child's attorney, in writing within 24 hours
1878 after any change in the status of the child, including, but not
1879 limited to, a change in placement, a change in school, a change
1880 in medical condition or medication, or a change in prescribing
1881 physician, other service providers, counseling, or treatment
1882 scheduling.

1883 (4) PSYCHIATRIC EVALUATION OF CHILD.—Whenever the
1884 department believes that a child in its legal custody may need
1885 psychiatric treatment, an evaluation must be conducted by a

2010724e2

1886 physician licensed under chapter 458 or chapter 459.

1887 (5) EXPRESS AND INFORMED CONSENT AND ASSENT.—If, at the
1888 time of removal from his or her home, a child is being provided,
1889 or at any time is being evaluated for the initiation of,
1890 prescribed psychotropic medication under this section, express
1891 and informed consent and assent shall be sought by the
1892 prescribing physician.

1893 (a) The prescribing physician shall obtain assent from the
1894 child, unless the prescribing physician determines that it is
1895 not appropriate. In making this assessment, the prescribing
1896 physician shall consider the capacity of the child to make an
1897 independent decision based on his or her age, maturity, and
1898 psychological and emotional state. If the physician determines
1899 that it is not appropriate, the physician must document the
1900 decision in the mental health treatment plan. If the physician
1901 determines it is appropriate and the child refuses to give
1902 assent, the physician must document the child's refusal in the
1903 mental health treatment plan.

1904 1. Assent from a child shall be sought in a manner that is
1905 understandable to the child using a developmentally appropriate
1906 assent form. The child shall be provided with sufficient
1907 information, such as the nature and purpose of the medication,
1908 how it will be administered, the probable risks and benefits,
1909 alternative treatments and the risks and benefits thereof, and
1910 the risks and benefits of refusing or discontinuing the
1911 medication, and when it may be appropriately discontinued.
1912 Assent may be oral or written and must be documented by the
1913 prescribing physician.

1914 2. Oral assent is appropriate for a child who is younger

2010724e2

1915 than 7 years of age. Assent from a child who is 7 to 13 years of
1916 age may be sought orally or in a simple form that is written at
1917 the second-grade or third-grade reading level. A child who is 14
1918 years of age or older may understand the language presented in
1919 the consent form for parents or legal guardians. If so, the
1920 child may sign the consent form along with the parent or legal
1921 guardian. Forms for parents and older children shall be written
1922 at the sixth grade to eighth-grade reading level.

1923 3. In each case where assent is obtained, a copy of the
1924 assent documents must be provided to the parent or legal
1925 guardian and the guardian ad litem, with the original assent
1926 documents becoming a part of the child's mental health treatment
1927 plan and filed with the court.

1928 (b) Express and informed consent for the administration of
1929 psychotropic medication may be given only by a parent whose
1930 rights have not been terminated or a legal guardian of the child
1931 who has received full, accurate, and sufficient information and
1932 an explanation about the child's medical condition, medication,
1933 and treatment in order to enable the parent or guardian to make
1934 a knowledgeable decision. A sufficient explanation includes, but
1935 need not be limited to, the following information, which must be
1936 provided and explained in plain language by the prescribing
1937 physician to the parent or legal guardian: the child's
1938 diagnosis, the symptoms to be addressed by the medication, the
1939 name of the medication and its dosage ranges, the reason for
1940 prescribing it, and its purpose or intended results; benefits,
1941 side effects, risks, and contraindications, including effects of
1942 not starting or stopping the medication; method for
1943 administering the medication and how it will monitored;

2010724e2

1944 potential drug interactions; alternative treatments to
1945 psychotropic medication; a plan to reduce or eliminate ongoing
1946 medication when medically appropriate; the counseling,
1947 behavioral analysis, or other services used to complement the
1948 use of medication, if applicable; and that the parent or legal
1949 guardian may revoke the consent at any time.

1950 1. Express and informed consent may be oral or written and
1951 must be documented by the prescribing physician. If the
1952 department or the physician is unable to obtain consent from the
1953 parent or legal guardian, the reasons must be documented.

1954 2. If express and informed consent is obtained, a copy of
1955 the consent documents must be provided to the parent or legal
1956 guardian and the guardian ad litem, with the original consent
1957 documents becoming a part of the child's mental health treatment
1958 plan and filed with the court.

1959 (c) The informed consent of any parent whose whereabouts
1960 are unknown for 60 days, who is adjudicated incapacitated, who
1961 does not have regular and frequent contact with the child, who
1962 later revokes assent, or whose parental rights are terminated
1963 after giving consent, is invalid. If the informed consent of a
1964 parent becomes invalid, the department may seek informed consent
1965 from any other parent or legal guardian. If the informed consent
1966 provided by a parent whose parental rights have been terminated
1967 is invalid and no other parent or legal guardian gives informed
1968 consent, the department shall file a motion for the
1969 administration of psychotropic medication along with the motion
1970 for final judgment of termination of parental rights.

1971 (d) If consent is revoked or becomes invalid the department
1972 shall immediately notify all parties and, if applicable, the

2010724e2

1973 child's attorney. Medication shall be continued until such time
1974 as the court rules on the motion.

1975 (e) A medication may not be discontinued without explicit
1976 instruction from a physician as to how to safely discontinue the
1977 medication.

1978 (6) ADMINISTRATION OF PSYCHOTROPIC MEDICATION TO A CHILD IN
1979 SHELTER CARE OR IN FOSTER CARE WHEN INFORMED CONSENT HAS NOT
1980 BEEN OBTAINED.—

1981 (a) Motion for court authorization for administration of
1982 psychotropic medications.

1983 1. If a physician who has evaluated the child prescribes
1984 psychotropic medication as part of the mental health treatment
1985 plan and the child's parents or legal guardians have not
1986 provided express and informed consent as provided by law or such
1987 consent is invalid as set forth in paragraph (5) (c), the
1988 department or its agent shall file a motion with the court
1989 within 3 working days to authorize the administration of the
1990 psychotropic medication before the administration of the
1991 medication, except as provided in subsection (7). In each case
1992 in which a motion is required, the motion must include:

1993 a. A written report by the department describing the
1994 efforts made to enable the prescribing physician to obtain
1995 express and informed consent and describing other treatments
1996 attempted, considered, and recommended for the child; and

1997 b. The prescribing physician's completed and signed mental
1998 health treatment plan.

1999 2. The department must file a copy of the motion with the
2000 court and, within 48 hours after filing the motion, notify all
2001 parties in writing, or by whatever other method best ensures

2010724e2

2002 that all parties receive notification, of its proposed
2003 administration of psychotropic medication to the child.

2004 3. If any party objects to the proposed administration of
2005 the psychotropic medication to the child, that party must file
2006 its objection within 2 working days after being notified of the
2007 department's motion. A party may request an extension of time to
2008 object for good cause shown if such extension would be in the
2009 best interests of the child. Any extension must be for a
2010 specific number of days not to exceed the time absolutely
2011 necessary.

2012 4. Lack of assent from the child is deemed a timely
2013 objection from the child.

2014 (b) Court action on motion for administration of
2015 psychotropic medication.

2016 1. If no party timely files an objection to the
2017 department's motion and the motion is legally sufficient, the
2018 court may enter its order authorizing the proposed
2019 administration of the psychotropic medication without a hearing.
2020 Based on its determination of the best interests of the child,
2021 the court may order additional medical consultation, including
2022 consultation with the MedConsult line at the University of
2023 Florida, if available, or require the department to obtain a
2024 second opinion within a reasonable time established by the
2025 court, not to exceed 21 calendar days. If the court orders an
2026 additional medical consultation or second medical opinion, the
2027 department shall file a written report including the results of
2028 this additional consultation or a copy of the second medical
2029 opinion with the court within the time required by the court,
2030 and serve a copy of the report on all parties.

2010724e2

2031 2. If any party timely files its objection to the proposed
2032 administration of the psychotropic medication, the court shall
2033 hold a hearing as soon as possible on the department's motion.

2034 a. The signed mental health treatment plan of the
2035 prescribing physician is admissible in evidence at the hearing.

2036 b. The court shall ask the department whether additional
2037 medical, mental health, behavior analysis, counseling, or other
2038 services are being provided to the child which the prescribing
2039 physician considers to be necessary or beneficial in treating
2040 the child's medical condition and which the physician recommends
2041 or expects to be provided to the child along with the
2042 medication.

2043 3. The court may order additional medical consultation or a
2044 second medical opinion, as provided in this paragraph.

2045 4. After considering the department's motion and any
2046 testimony received, the court may enter its order authorizing
2047 the department to provide or continue to provide the proposed
2048 psychotropic medication. The court must find a compelling
2049 governmental interest that the proposed psychotropic medication
2050 is in the child's best interest. In so determining the court
2051 shall, at a minimum, consider the following factors:

2052 a. The severity and likelihood of risks associated with the
2053 treatment.

2054 b. The magnitude and likelihood of benefits expected from
2055 the treatment.

2056 c. The child's prognosis without the proposed psychotropic
2057 medication.

2058 d. The availability and effectiveness of alternative
2059 treatments.

2010724e2

2060 e. The wishes of the child concerning treatment
2061 alternatives.

2062 f. The recommendation of the parents or legal guardian.

2063 g. The recommendation of the guardian ad litem.

2064 (7) ADMINISTRATION OF PSYCHOTROPIC MEDICATION TO A CHILD IN
2065 OUT-OF-HOME CARE BEFORE COURT AUTHORIZATION HAS BEEN OBTAINED.-

2066 The department may provide continued administration of
2067 psychotropic medication to a child before authorization by the
2068 court has been obtained only as provided in this subsection.

2069 (a) If a child is removed from the home and taken into
2070 custody under s. 39.401, the department may continue to
2071 administer a current prescription of psychotropic medication;
2072 however, the department shall request court authorization for
2073 the continued administration of the medication at the shelter
2074 hearing. This request shall be included in the shelter petition.

2075 1. The department shall provide all information in its
2076 possession to the court in support of its request at the shelter
2077 hearing. The court may authorize the continued administration of
2078 the psychotropic medication only until the arraignment hearing
2079 on the petition for adjudication, or for 28 days following the
2080 date of the child's removal, whichever occurs first.

2081 2. If the department believes, based on the required
2082 physician's evaluation, that it is appropriate to continue the
2083 psychotropic medication beyond the time authorized by the court
2084 at the shelter hearing, the department shall file a motion
2085 seeking continued court authorization at the same time that it
2086 files the dependency petition, but within 21 days after the
2087 shelter hearing.

2088 (b) If the department believes, based on the certification

2010724e2

2089 of the prescribing physician, that delay in providing the
2090 prescribed psychotropic medication would, more likely than not,
2091 cause significant harm to the child, the department shall
2092 administer the medication immediately. The department must
2093 submit a motion to the court seeking continuation of the
2094 medication within 3 working days after the department begins
2095 providing the medication to the child.

2096 1. The motion seeking authorization for the continued
2097 administration of the psychotropic medication must include all
2098 information required in this section. The required medical
2099 report must also include the specific reasons why the child may
2100 experience significant harm, and the nature and the extent of
2101 the potential harm, resulting from a delay in authorizing the
2102 prescribed medication.

2103 2. The department shall serve the motion on all parties
2104 within 3 working days after the department begins providing the
2105 medication to the child.

2106 3. The court shall hear the department's motion at the next
2107 regularly scheduled court hearing required by law, or within 30
2108 days after the date of the prescription, whichever occurs first.
2109 However, if any party files an objection to the motion, the
2110 court must hold a hearing within 7 days.

2111 (c) The department may authorize, in advance of a court
2112 order, the administration of psychotropic medications to a child
2113 in its custody in a hospital, crisis stabilization unit or
2114 receiving facility, therapeutic group home, or statewide
2115 inpatient psychiatric program. If the department does so, it
2116 must file a motion to seek court authorization for the continued
2117 administration of the medication within 3 working days as

2010724e2

2118 required in this section.

2119 (d) If a child receives a one-time dose of a psychotropic
2120 medication during a crisis, the department shall provide
2121 immediate notice to all parties and to the court of each such
2122 emergency use.

2123 (8) DISCONTINUATION OR ALTERATION OF MEDICATION;
2124 DESTRUCTION OF MEDICATION.—A party may not alter the provision
2125 of prescribed psychotropic medication in any way except upon
2126 order of the court or advice of a physician.

2127 (a) On the motion of any party or its own motion, the court
2128 may order the discontinuation of a medication already
2129 prescribed. Such discontinuation must be performed in
2130 consultation with a physician in such a manner as to minimize
2131 risk to the child.

2132 (b) The child's repeated refusal to take or continue to
2133 take a medication shall be treated as a motion to discontinue
2134 the medication and shall be set for hearing as soon as possible
2135 but within 7 days after knowledge of such repeated refusal.

2136 (c) Upon any discontinuation of a medication, the
2137 department shall document the date and reason for the
2138 discontinuation and notify all parties. The guardian ad litem
2139 must be notified within 24 hours as previously provided herein.

2140 (d) The department shall ensure the destruction of any
2141 medication no longer being taken by the prescribed child.

2142 (9) DEVELOPMENT OF MENTAL HEALTH TREATMENT PLAN.—Upon the
2143 determination that a child needs mental health services, a
2144 mental health treatment plan must be developed which lists the
2145 particular mental health needs of the child and the services
2146 that will be provided to address those needs. If possible, the

2010724e2

2147 plan shall be developed in a face-to-face conference with the
2148 child, the child's parents, case manager, physician, therapist,
2149 legal guardian, guardian ad litem, and any other interested
2150 party. The mental health treatment plan shall be incorporated
2151 into the case plan as tasks for the department and may be
2152 amended under s. 39.6013.

2153 (a) If the mental health treatment plan involves the
2154 provision of psychotropic medication, the plan must include:

2155 1. The name of the child, a statement indicating that there
2156 is a need to prescribe psychotropic medication based upon a
2157 diagnosed condition for which there is an evidence base for the
2158 medication that is being prescribed, a statement indicating the
2159 compelling governmental interest in prescribing the psychotropic
2160 medication, and the name and range of the dosage of the
2161 psychotropic medication.

2162 2. A statement indicating that the physician has reviewed
2163 all medical information concerning the child which has been
2164 provided by the department or community-based care lead agency
2165 and briefly listing all information received.

2166 3. A medication profile, including all medications the
2167 child is prescribed or will be prescribed, any previously
2168 prescribed medications if known, and whether those medications
2169 are being added, continued, or discontinued upon implementation
2170 of the mental health treatment plan.

2171 4. A statement indicating that the psychotropic medication,
2172 at its prescribed dosage, is appropriate for treating the
2173 child's diagnosed medical condition, as well as the behaviors
2174 and symptoms that the medication, at its prescribed dosage, is
2175 expected to address.

2010724e2

2176 5. An explanation of the nature and purpose of the
2177 treatment; the recognized side effects, risks, and
2178 contraindications of the medication, including procedures for
2179 reporting adverse effects; drug-interaction precautions; the
2180 possible effects of stopping or not initiating the medication;
2181 and how the treatment will be monitored, followed by a statement
2182 indicating that this explanation was provided to the child if
2183 developmentally appropriate and to the child's caregiver.

2184 6. Documentation addressing whether the psychotropic
2185 medication will replace or supplement any other currently
2186 prescribed medications or treatments; the length of time the
2187 child is expected to be taking the medication; a plan for the
2188 discontinuation of any medication if medically appropriate; and
2189 any additional medical, mental health, behavioral, counseling,
2190 or other services that the prescribing physician recommends as
2191 part of a comprehensive treatment plan.

2192 7. A document describing those observable behaviors
2193 warranting psychotropic treatment, the means for obtaining
2194 reliable frequency data on these same observable behaviors, and
2195 the reporting of this data with sufficient frequency to support
2196 medication decisions.

2197 (b) The department shall develop and administer procedures
2198 to require the caregiver and prescribing physician to report any
2199 adverse side effects of the medication to the department or its
2200 designee and the guardian ad litem. Any adverse side effects
2201 must be documented in the mental health treatment plan and
2202 medical records for the child.

2203 (10) REVIEW FOR ADMINISTRATION OF PSYCHOTROPIC MEDICATION
2204 FOR CHILDREN FROM BIRTH THROUGH 10 YEARS OF AGE IN OUT-OF-HOME

2010724e2

2205 CARE.—

2206 (a) Absent a finding of a compelling state interest, a
2207 psychotropic medication may not be authorized by the court for
2208 any child from birth through 10 years of age who is in out-of-
2209 home placement. Based on a finding of a compelling state
2210 interest but before a psychotropic medication is authorized by
2211 the court for such child, a review of the administration must be
2212 obtained from a child psychiatrist who is licensed under chapter
2213 458 or chapter 459. The results of this review must be provided
2214 to the child and the parent or legal guardian before final
2215 express and informed consent is given.

2216 (b) In advance of a court order, the department may
2217 authorize the administration of psychotropic medications to a
2218 child from birth through 10 years of age in its custody in the
2219 following levels of residential care:

- 2220 1. Hospital;
- 2221 2. Crisis stabilization unit or receiving facility;
- 2222 3. Therapeutic group home; or
- 2223 4. Statewide inpatient psychiatric program.

2224

2225 These levels of care demonstrate the requirement of a compelling
2226 state interest through the extensive admission criteria being
2227 met. If the department does so, it must file a motion to seek
2228 court authorization for the continued administration of the
2229 medication within 3 working days.

2230 (c) If a child receives a one-time dose of a psychotropic
2231 medication during a crisis, the department shall provide
2232 immediate notice to all parties and to the court of each such
2233 emergency use.

2010724e2

2234 (11) CLINICAL TRIALS.—A child in the custody of the
2235 department may not participate in a clinical trial that is
2236 designed to develop new psychotropic medications or evaluate
2237 their application to children.

2238 (12) JUDICIAL REVIEW HEARINGS.—The department shall fully
2239 inform the court of the child's medical and behavioral status as
2240 part of the social services report prepared for each judicial
2241 review hearing held for a child for whom psychotropic medication
2242 has been prescribed or provided under this subsection. As a part
2243 of the information provided, the department shall furnish copies
2244 of all pertinent medical records concerning the child which have
2245 been generated since the previous hearing. On its own motion or
2246 on good cause shown by any party, including any guardian ad
2247 litem, attorney, or attorney ad litem who has been appointed to
2248 represent the child or the child's interests, the court may
2249 review the status more frequently than required under this
2250 subsection.

2251 (13) ADOPTION OF RULES.—The department may adopt rules to
2252 ensure that children receive timely access to mental health
2253 services, including, but not limited to, clinically appropriate
2254 psychotropic medications. These rules must include, but need not
2255 be limited to, the process for determining which adjunctive
2256 services are needed, the uniform process for facilitating the
2257 prescribing physician's ability to obtain the express and
2258 informed consent of a child's parent or legal guardian, the
2259 procedures for obtaining court authorization for the provision
2260 of a psychotropic medication, the frequency of medical
2261 monitoring and reporting on the status of the child to the
2262 court, how the child's parents will be involved in the

2010724e2

2263 treatment-planning process if their parental rights have not
2264 been terminated, and how caretakers are to be provided
2265 information contained in the physician's signed mental health
2266 treatment plan. The rules must also include uniform forms or
2267 standardized information to be used on a statewide basis in
2268 requesting court authorization for the use of a psychotropic
2269 medication and provide for the integration of each child's
2270 mental health treatment plan and case plan. The department must
2271 begin the formal rulemaking process within 90 days after July 1,
2272 2010.

2273 Section 50. Paragraph (b) of subsection (1) of section
2274 743.0645, Florida Statutes, is amended to read:

2275 743.0645 Other persons who may consent to medical care or
2276 treatment of a minor.—

2277 (1) As used in this section, the term:

2278 (b) "Medical care and treatment" includes ordinary and
2279 necessary medical and dental examination and treatment,
2280 including blood testing, preventive care including ordinary
2281 immunizations, tuberculin testing, and well-child care, but does
2282 not include surgery, general anesthesia, provision of
2283 psychotropic medications, or other extraordinary procedures for
2284 which a separate court order, power of attorney, or informed
2285 consent as provided by law is required, except as provided in s.
2286 39.4071 ~~s. 39.407(3)~~.

2287 Section 51. The Division of Statutory Revision of the Joint
2288 Legislative Management Committee is directed to prepare a
2289 reviser's bill for introduction at a subsequent session of the
2290 Legislature to change the term "Department of Children and
2291 Family Services" to "Department of Children and Families," the

2010724e2

2292 term "Secretary of Children and Family Services" to "Secretary
2293 of Children and Families," and the term "district administrator"
2294 to "circuit administrator," as that term relates to the
2295 responsibilities of the Department of Children and Families,
2296 wherever that term appears in the Florida Statutes.

2297 Section 52. The Agency for Persons with Disabilities is
2298 directed to prepare a plan that will enable it to perform all of
2299 its own administrative and operational functions separate from
2300 the Department of Children and Family Services by July 1, 2015.
2301 The plan must identify resource requirements and a timeframe for
2302 completing the transfer of responsibilities from the Department
2303 of Children and Family Services, including submittal of a
2304 detailed justification for each position the agency estimates it
2305 would need to become administratively self-sufficient; an
2306 analysis of each function to determine if the Department of
2307 Children and Family Services could provide the service more
2308 efficiently on a reimbursed cost basis through an interagency
2309 agreement; and an estimate of the costs and benefits to be
2310 derived through the separation. The Department of Children and
2311 Family Services is directed to cooperate with the agency in
2312 preparing the plan. The plan shall be presented to the Speaker
2313 of the House of Representatives, the President of the Senate,
2314 and the appropriate substantive committees by January 15, 2011.

2315 Section 53. The Department of Children and Families,
2316 through its Office of General Counsel and in consultation with
2317 its contracted legal services providers and lead agency
2318 administrators, shall define the types of legal services
2319 associated with dependency proceedings. These legal services
2320 include, but are not limited to, service of process, court

2010724e2

2321 reporter and transcription services, expert witnesses, and legal
2322 publication. The department shall delineate the specific costs
2323 each lead agency will pay for those defined legal services, and
2324 by contract amendment, modify lead agency funding amounts to
2325 shift funding and responsibility for those costs to the
2326 department through its Office of General Counsel.

2327 Section 54. The Children and Youth Cabinet created pursuant
2328 to s. 402.56, Florida Statutes, is directed to submit a plan to
2329 the Legislature by January 15, 2011, for addressing the
2330 inappropriate and excessive prescribing of psychotropic
2331 medication for children who are in the custody of the Department
2332 of Children and Family Services, who are clients of the Agency
2333 for Persons with Disabilities, and who are otherwise on
2334 Medicaid.

2335 (1) At a minimum, the plan must include:

2336 (a) The identification of all agencies and entities, public
2337 and private, which are responsible for monitoring the care of
2338 children who are being prescribed psychotropic medication;

2339 (b) The development of a plan for interagency cooperation
2340 in identifying and reporting prescribers; and

2341 (c) An analysis of the prescribing practices of Medicaid
2342 providers for these populations of children.

2343 (2) The Children and Youth Cabinet shall also include
2344 suggestions for any legislative changes necessary to implement
2345 the plan.

2346 Section 55. This act shall take effect July 1, 2010.