

1 A bill to be entitled
2 An act relating to child welfare; providing a short title;
3 creating s. 39.0142, F.S.; requiring photographs and
4 reports of child visitations, subject to availability of
5 equipment; providing for submission and distribution of
6 reports and photographs; amending s. 39.5085, F.S.;
7 providing that an unmarried biological father is not
8 considered a relative for purposes of the Relative
9 Caregiver Program; amending s. 39.521, F.S.; authorizing a
10 court to direct the placement of a parent in a substance
11 abuse facility in which his or her child may also reside;
12 revising provisions concerning the effect of an
13 unfavorable home study on the placement of a child in a
14 home under shelter or postdisposition placement; amending
15 s. 39.621, F.S.; requiring a permanency hearing to be
16 timed so that a child will achieve permanency within 12
17 months; revising the order of preference of permanency
18 goals; creating s. 39.6215, F.S.; requiring certain
19 reports by counties on the numbers of children entering
20 care and achieving permanency; providing financial
21 consequences for failure of children to achieve permanency
22 within a specified period; amending s. 39.801, F.S.;
23 limiting the period for diligent search and inquiry to
24 find a living relative of the child in certain
25 circumstances; amending s. 39.803, F.S.; limiting the
26 period required to conduct a diligent search for an
27 unmarried biological father in certain circumstances;
28 amending s. 39.0136, F.S.; revising provisions relating to

29 | continuances; amending s. 39.809, F.S.; requiring an
30 | adjudicatory hearing to be scheduled consistent with a
31 | specified time period for final orders; limiting
32 | continuances unless required by specified provisions;
33 | requiring entry of a final order within a specified
34 | period; creating s. 39.8056, F.S.; requiring that a child
35 | remain with foster parents until disposition of a petition
36 | to terminate parental rights in certain circumstances;
37 | amending s. 39.812, F.S.; providing that a child placed
38 | with a licensed foster parent or court-ordered custodian
39 | who has applied to adopt the child may not be removed from
40 | that home except in specified circumstances; limiting
41 | visitation of such children; amending s. 39.816, F.S.;
42 | revising provisions relating to development of best
43 | practice guidelines; providing for extensions before a
44 | petition for termination of parental rights may be filed
45 | if a parent is incarcerated but does not meet specified
46 | criteria or is physically incapacitated; revising
47 | provisions relating to demonstration projects; providing
48 | an effective date.

49 |
50 | WHEREAS, although the number of children in foster care has
51 | been reduced in Florida, the length of time a child spends in
52 | foster care has increased, and

53 | WHEREAS, the focus of the Department of Children and Family
54 | Services, the Statewide Guardian Ad Litem Office, and the state
55 | court system should be the prevention of out-of-home placement
56 | of a child, the reduction of the length of stay in foster care,

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57 | and the promotion of adoption as a viable alternative to out-of-
 58 | home placement, NOW, THEREFORE,

59 |
 60 | Be It Enacted by the Legislature of the State of Florida:

61 |
 62 | Section 1. This act may be cited as the "Lambourg Keep
 63 | Families United Act."

64 | Section 2. Section 39.0142, Florida Statutes, is created
 65 | to read:

66 | 39.0142 Photographs and reports of child visits.—Subject
 67 | to the availability of department-issued equipment, all
 68 | caseworkers, guardian ad litem volunteers, and other department-
 69 | authorized volunteers must, upon any visitation, photograph the
 70 | child and submit the photograph and report while at the site
 71 | where the child is located. The report and photograph shall be
 72 | transmitted immediately to all parties to the child's case, the
 73 | court, and any foster parents.

74 | Section 3. Paragraph (a) of subsection (2) of section
 75 | 39.5085, Florida Statutes, is amended to read:

76 | 39.5085 Relative Caregiver Program.—

77 | (2) (a) The Department of Children and Family Services
 78 | shall establish and operate the Relative Caregiver Program
 79 | pursuant to eligibility guidelines established in this section
 80 | as further implemented by rule of the department. The Relative
 81 | Caregiver Program shall, within the limits of available funding,
 82 | provide financial assistance to:

83 | 1. Relatives who are within the fifth degree by blood or
 84 | marriage to the parent or stepparent of a child and who are

85 | caring full-time for that dependent child in the role of
 86 | substitute parent as a result of a court's determination of
 87 | child abuse, neglect, or abandonment and subsequent placement
 88 | with the relative under this chapter.

89 | 2. Relatives who are within the fifth degree by blood or
 90 | marriage to the parent or stepparent of a child and who are
 91 | caring full-time for that dependent child, and a dependent half-
 92 | brother or half-sister of that dependent child, in the role of
 93 | substitute parent as a result of a court's determination of
 94 | child abuse, neglect, or abandonment and subsequent placement
 95 | with the relative under this chapter.

96 |
 97 | The placement may be court-ordered temporary legal custody to
 98 | the relative under protective supervision of the department
 99 | pursuant to s. 39.521(1)(b)3., or court-ordered placement in the
 100 | home of a relative as a permanency option under s. 39.6221 or s.
 101 | 39.6231 or under former s. 39.622 if the placement was made
 102 | before July 1, 2006. The Relative Caregiver Program shall offer
 103 | financial assistance to caregivers who are relatives and who
 104 | would be unable to serve in that capacity without the relative
 105 | caregiver payment because of financial burden, thus exposing the
 106 | child to the trauma of placement in a shelter or in foster care.
 107 | An unmarried biological father, as defined in s. 63.032, is not
 108 | considered a relative for purposes of this paragraph.

109 | Section 4. Paragraph (b) of subsection (1) and paragraph
 110 | (r) of subsection (2) of section 39.521, Florida Statutes, are
 111 | amended to read:

112 | 39.521 Disposition hearings; powers of disposition.—

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113 (1) A disposition hearing shall be conducted by the court,
114 if the court finds that the facts alleged in the petition for
115 dependency were proven in the adjudicatory hearing, or if the
116 parents or legal custodians have consented to the finding of
117 dependency or admitted the allegations in the petition, have
118 failed to appear for the arraignment hearing after proper
119 notice, or have not been located despite a diligent search
120 having been conducted.

121 (b) When any child is adjudicated by a court to be
122 dependent, the court having jurisdiction of the child has the
123 power by order to:

124 1. Require the parent and, when appropriate, the legal
125 custodian and the child to participate in treatment and services
126 identified as necessary. The court may require the person who
127 has custody or who is requesting custody of the child to submit
128 to a substance abuse assessment or evaluation. The assessment or
129 evaluation must be administered by a qualified professional, as
130 defined in s. 397.311. The court may also require such person to
131 participate in and comply with treatment and services identified
132 as necessary, including, when appropriate and available,
133 participation in and compliance with a treatment-based drug
134 court program established under s. 397.334. In addition to
135 supervision by the department, the court, including the
136 treatment-based drug court program, may oversee the progress and
137 compliance with treatment by a person who has custody or is
138 requesting custody of the child. When available, the court may
139 direct the placement of the person who has custody or who is
140 requesting custody of the child in a substance abuse facility in

141 which the child may also reside as described in s. 39.816(2)(b).
142 The court may impose appropriate available sanctions for
143 noncompliance upon a person who has custody or is requesting
144 custody of the child or make a finding of noncompliance for
145 consideration in determining whether an alternative placement of
146 the child is in the child's best interests. Any order entered
147 under this subparagraph may be made only upon good cause shown.
148 This subparagraph does not authorize placement of a child with a
149 person seeking custody of the child, other than the child's
150 parent or legal custodian, who requires substance abuse
151 treatment.

152 2. Require, if the court deems necessary, the parties to
153 participate in dependency mediation.

154 3. Require placement of the child either under the
155 protective supervision of an authorized agent of the department
156 in the home of one or both of the child's parents or in the home
157 of a relative of the child or another adult approved by the
158 court, or in the custody of the department. Protective
159 supervision continues until the court terminates it or until the
160 child reaches the age of 18, whichever date is first. Protective
161 supervision shall be terminated by the court whenever the court
162 determines that permanency has been achieved for the child,
163 whether with a parent, another relative, or a legal custodian,
164 and that protective supervision is no longer needed. The
165 termination of supervision may be with or without retaining
166 jurisdiction, at the court's discretion, and shall in either
167 case be considered a permanency option for the child. The order
168 terminating supervision by the department shall set forth the

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169 powers of the custodian of the child and shall include the
170 powers ordinarily granted to a guardian of the person of a minor
171 unless otherwise specified. Upon the court's termination of
172 supervision by the department, no further judicial reviews are
173 required, so long as permanency has been established for the
174 child.

175 (2) The predisposition study must provide the court with
176 the following documented information:

177 (r) If the child has been removed from the home and will
178 be remaining with a relative or other adult approved by the
179 court, a home study report concerning the proposed placement
180 shall be included in the predisposition report. Prior to
181 recommending to the court any out-of-home placement for a child
182 other than placement in a licensed shelter or foster home, the
183 department shall conduct a study of the home of the proposed
184 legal custodians, which must include, at a minimum:

185 1. An interview with the proposed legal custodians to
186 assess their ongoing commitment and ability to care for the
187 child.

188 2. Records checks through the Florida Abuse Hotline
189 Information System (FAHIS), and local and statewide criminal and
190 juvenile records checks through the Department of Law
191 Enforcement, on all household members 12 years of age or older
192 and any other persons made known to the department who are
193 frequent visitors in the home. Out-of-state criminal records
194 checks must be initiated for any individual designated above who
195 has resided in a state other than Florida provided that state's
196 laws allow the release of these records. The out-of-state

197 criminal records must be filed with the court within 5 days
 198 after receipt by the department or its agent.

199 3. An assessment of the physical environment of the home.

200 4. A determination of the financial security of the
 201 proposed legal custodians.

202 5. A determination of suitable child care arrangements if
 203 the proposed legal custodians are employed outside of the home.

204 6. Documentation of counseling and information provided to
 205 the proposed legal custodians regarding the dependency process
 206 and possible outcomes.

207 7. Documentation that information regarding support
 208 services available in the community has been provided to the
 209 proposed legal custodians.

210
 211 The department may ~~shall~~ not place the child or continue the
 212 placement of the child in a home under shelter or
 213 postdisposition placement if the results of the home study are
 214 unfavorable, and the focus of the department's efforts must
 215 immediately shift towards the child's adoption unless another
 216 placement in compliance with this section can be found unless
 217 ~~the court finds that this placement is in the child's best~~
 218 ~~interest.~~

219
 220 Any other relevant and material evidence, including other
 221 written or oral reports, may be received by the court in its
 222 effort to determine the action to be taken with regard to the
 223 child and may be relied upon to the extent of its probative
 224 value, even though not competent in an adjudicatory hearing.

225 Except as otherwise specifically provided, nothing in this
 226 section prohibits the publication of proceedings in a hearing.

227 Section 5. Subsections (1) and (2) of section 39.621,
 228 Florida Statutes, are amended to read:

229 39.621 Permanency determination by the court.—

230 (1) Time is of the essence for permanency of children in
 231 the dependency system. A permanency hearing must be held at such
 232 time as to enable the child to achieve permanency no later than
 233 12 months after the date the child was removed from the home or
 234 no later than 30 days after a court determines that reasonable
 235 efforts to return a child to either parent are not required,
 236 whichever occurs first. The purpose of the permanency hearing is
 237 to determine when the child will achieve the permanency goal or
 238 whether modifying the current goal is in the best interest of
 239 the child. A permanency hearing must be held at least every 12
 240 months for any child who continues to receive supervision from
 241 the department or awaits adoption.

242 (2) The permanency goals available under this chapter,
 243 listed in order of preference, are:

244 (a)~~(b)~~ Adoption, if a petition for termination of parental
 245 rights has been or will be filed;

246 (b)~~(a)~~ Reunification;

247 (c) Permanent guardianship of a dependent child under s.
 248 39.6221;

249 (d) Permanent placement with a fit and willing relative
 250 under s. 39.6231; or

251 (e) Placement in another planned permanent living
 252 arrangement under s. 39.6241.

253 Section 6. Section 39.6215, Florida Statutes, is created
 254 to read:

255 39.6215 Permanency; reporting; program funding.—

256 (1) Each county shall report to the department, on a
 257 quarterly basis, the number of children entering care and the
 258 number of children achieving a permanency goal as listed in s.
 259 39.621(2).

260 (2) Effective October 1, 2012, each quarter the department
 261 shall reduce funds allocated to a county for permanency-related
 262 programs for the next quarter based on the county's percentage
 263 of children who entered the system in the corresponding quarter
 264 during the previous year for which data is available who failed
 265 to achieve permanency within a 12-month period.

266 Section 7. Paragraph (a) of subsection (3) of section
 267 39.801, Florida Statutes, is amended to read:

268 39.801 Procedures and jurisdiction; notice; service of
 269 process.—

270 (3) Before the court may terminate parental rights, in
 271 addition to the other requirements set forth in this part, the
 272 following requirements must be met:

273 (a) Notice of the date, time, and place of the advisory
 274 hearing for the petition to terminate parental rights and a copy
 275 of the petition must be personally served upon the following
 276 persons, specifically notifying them that a petition has been
 277 filed:

- 278 1. The parents of the child.
- 279 2. The legal custodians of the child.
- 280 3. If the parents who would be entitled to notice are dead

281 or unknown, a living relative of the child, unless upon diligent
 282 search and inquiry, to be completed within 90 days after the
 283 child enters into care, no such relative can be found.

284 4. Any person who has physical custody of the child.

285 5. Any grandparent entitled to priority for adoption under
 286 s. 63.0425.

287 6. Any prospective parent who has been identified under s.
 288 39.503 or s. 39.803.

289 7. The guardian ad litem for the child or the
 290 representative of the guardian ad litem program, if the program
 291 has been appointed.

292
 293 The document containing the notice to respond or appear must
 294 contain, in type at least as large as the type in the balance of
 295 the document, the following or substantially similar language:

296 "FAILURE TO PERSONALLY APPEAR AT THIS ADVISORY HEARING
 297 CONSTITUTES CONSENT TO THE TERMINATION OF PARENTAL RIGHTS OF
 298 THIS CHILD (OR CHILDREN). IF YOU FAIL TO APPEAR ON THE DATE AND
 299 TIME SPECIFIED, YOU MAY LOSE ALL LEGAL RIGHTS AS A PARENT TO THE
 300 CHILD OR CHILDREN NAMED IN THE PETITION ATTACHED TO THIS
 301 NOTICE."

302 Section 8. Subsection (5) of section 39.803, Florida
 303 Statutes, is amended to read:

304 39.803 Identity or location of parent unknown after filing
 305 of termination of parental rights petition; special procedures.—

306 (5) If the inquiry under subsection (1) identifies a
 307 parent or prospective parent, and that person's location is
 308 unknown, the court shall direct the petitioner to conduct a

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309 diligent search for that person before scheduling an
310 adjudicatory hearing regarding the petition for termination of
311 parental rights to the child unless the court finds that the
312 best interest of the child requires proceeding without actual
313 notice to the person whose location is unknown. If the person
314 whose location is unknown is an unmarried biological father and
315 the mother files an affidavit to that effect with 30 days after
316 the child enters care, the diligent search may not exceed 60
317 days beyond the date the court accepts the affidavit.

318 Section 9. Section 39.0136, Florida Statutes, is amended
319 to read:

320 39.0136 Time limitations; continuances.—

321 (1) The Legislature finds that time is of the essence for
322 establishing permanency for a child in the dependency system.
323 Time limitations are a right of the child which may not be
324 waived, extended, or continued at the request of any party
325 except as provided in this section.

326 (2) The time limitations in this chapter do not include:

327 (a) Periods of delay resulting from a continuance granted
328 at the request of the child's counsel or the child's guardian ad
329 litem or, if the child is of sufficient capacity to express
330 reasonable consent, at the request or with the consent of the
331 child. The court must consider the best interests of the child
332 when determining periods of delay under this section.

333 (b) Periods of delay resulting from a continuance granted
334 at the request of any party if the continuance is granted:

335 1. Because of an unavailability of evidence that is
336 material to the case if the requesting party has exercised due

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337 diligence to obtain evidence and there are substantial grounds
338 to believe that the evidence will be available within 30 days.
339 However, if the requesting party is not prepared to proceed
340 within 30 days, any other party may move for issuance of an
341 order to show cause or the court on its own motion may impose
342 appropriate sanctions, which may include dismissal of the
343 petition.

344 2. To allow the requesting party additional time to
345 prepare the case and additional time is justified because of an
346 exceptional circumstance.

347 (c) Reasonable periods of delay necessary to accomplish
348 notice of the hearing to the child's parent or legal custodian;
349 however, the petitioner shall continue regular efforts to
350 provide notice to the parents during the periods of delay.

351 (3) Notwithstanding subsection (2) :r

352 (a) In order to expedite permanency for a child, the total
353 time allowed for continuances or extensions of time may not
354 exceed 60 days within any 12-month period for proceedings
355 conducted under this chapter. A continuance or extension of time
356 may be granted only for extraordinary circumstances in which it
357 is necessary to preserve the constitutional rights of a party or
358 if substantial evidence exists to demonstrate that without
359 granting a continuance or extension of time the child's best
360 interests will be harmed.

361 (b) ~~(4) Notwithstanding subsection (2),~~ A continuance or an
362 extension of time is limited to the number of days absolutely
363 necessary to complete a necessary task in order to preserve the
364 rights of a party or the best interests of a child.

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365 Section 10. Subsections (2) and (5) of section 39.809,
 366 Florida Statutes, are amended to read:

367 39.809 Adjudicatory hearing.—

368 (2) The adjudicatory hearing must be held within 45 days
 369 after the advisory hearing on a schedule consistent with the
 370 time required for a final order under subsection (5). ~~but~~
 371 ~~reasonable~~ Continuances for the purpose of investigation,
 372 discovery, or procuring counsel or witnesses may, ~~when~~
 373 ~~necessary,~~ be granted only when consistent with s. 39.0136(3)(b)
 374 and consistent with the time required for a final order under
 375 subsection (5).

376 (5) The judge shall enter a written order with the
 377 findings of fact and conclusions of law within 90 days after
 378 completion of service on all parties.

379 Section 11. Section 39.8056, Florida Statutes, is created
 380 to read:

381 39.8056 Foster parents; effect of petition.—If foster
 382 parents have been approved after a home study to adopt a foster
 383 child, the child shall be placed with the foster parents upon
 384 the filing of the termination of parental rights petition and
 385 shall reside with the foster parents until disposition of the
 386 petition.

387 Section 12. Subsection (4) of section 39.812, Florida
 388 Statutes, is amended to read:

389 39.812 Postdisposition relief; petition for adoption.—

390 (4) (a) The court shall retain jurisdiction over any child
 391 placed in the custody of the department until the child is
 392 adopted. After custody of a child for subsequent adoption has

393 | been given to the department, the court has jurisdiction for the
 394 | purpose of reviewing the status of the child and the progress
 395 | being made toward permanent adoptive placement. As part of this
 396 | continuing jurisdiction, for good cause shown by the guardian ad
 397 | litem for the child, the court may review the appropriateness of
 398 | the adoptive placement of the child. When a licensed foster
 399 | parent or court-ordered custodian has applied to adopt a child
 400 | who has resided with the foster parent or custodian for at least
 401 | 6 months and who has previously been permanently committed to
 402 | the legal custody of the department and the department does not
 403 | grant the application to adopt, the department may not, in the
 404 | absence of a prior court order authorizing it to do so, remove
 405 | the child from the foster home or custodian, except when:

406 | ~~1.(a)~~ There is probable cause to believe that the child is
 407 | at imminent risk of abuse or neglect;

408 | ~~2.(b)~~ Thirty days have expired following written notice to
 409 | the foster parent or custodian of the denial of the application
 410 | to adopt, within which period no formal challenge of the
 411 | department's decision has been filed; or

412 | ~~3.(e)~~ The foster parent or custodian agrees to the child's
 413 | removal.

414 | (b) After a child has been placed with a licensed foster
 415 | parent or court-ordered custodian who has applied to adopt the
 416 | child, that child may not be removed from that home except as
 417 | provided in paragraph (a). Such a child is not subject to
 418 | visitation unless there is a preexisting visitation arrangement.

419 | Section 13. Section 39.816, Florida Statutes, is amended
 420 | to read:

421 39.816 Authorization for pilot and demonstration
 422 projects.—

423 (1) Contingent upon receipt of a federal grant or contract
 424 pursuant to s. 473A(i) of the Social Security Act, 42 U.S.C. s.
 425 673A(i), enacted November 19, 1997, the department is authorized
 426 to establish one or more pilot projects for the following
 427 purposes:

428 (a) The development of best practice guidelines for
 429 expediting termination of parental rights in cases of child
 430 abuse, abandonment, or neglect if the family is unable to meet
 431 the requirements of a plan of action established by the child
 432 protection team. However, a parent who is incarcerated but does
 433 not meet the criteria established under s. 39.806(1)(d) or a
 434 parent who is physically incapacitated shall be granted an
 435 extension of up to 180 days after the presentation of the plan
 436 of action before the department files a petition for termination
 437 of parental rights.

438 (b) The development of models to encourage the use of
 439 concurrent planning.

440 (c) The development of specialized units and expertise in
 441 moving children toward adoption as a permanency goal.

442 (d) The development of risk assessment tools to facilitate
 443 early identification of the children who will be at risk of harm
 444 if returned home.

445 (e) The development of models to encourage the fast-
 446 tracking of children who have not attained 1 year of age, into
 447 preadoptive placements.

448 (f) The development of programs that place children into

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449 preadoptive families without waiting for termination of parental
450 rights.

451 (2) Contingent upon receipt of federal authorization and
452 funding pursuant to s. 1130(a) of the Social Security Act, 42
453 U.S.C. s. 1320a-9, enacted November 19, 1997, the department is
454 authorized to establish one or more demonstration projects for
455 the following purposes:

456 (a) Identifying and addressing barriers that result in
457 delays to adoptive placements for children in out-of-home care.

458 (b) Identifying and addressing parental substance abuse
459 problems that endanger children and result in the placement of
460 children in out-of-home care. This purpose may be accomplished
461 through the placement of children with their parents in
462 residential treatment facilities, including residential
463 treatment facilities for postpartum depression, that are
464 specifically designed to serve parents and children together, in
465 order to promote family reunification, and that can ensure the
466 health and safety of the children by providing a separate unit
467 in which the children may reside.

468 (c) Addressing kinship care by including next of kin, as
469 defined in s. 39.01, in the early intervention and
470 decisionmaking process. An unmarried biological father, as
471 defined in s. 63.032, is not considered next of kin for purposes
472 of this paragraph.

473 (d) In cases in which danger to the child is not imminent,
474 developing a 90-day early intervention process that includes all
475 family members except children under the age of 13 and is
476 developed in collaboration with representatives of the

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477 department, the state Guardian Ad Litem Program, and a private
478 attorney representing the family.

479 Section 14. This act shall take effect July 1, 2011.