

By Senator Garcia

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

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

52  
53 WHEREAS, although the number of children in foster care has  
54 been reduced in Florida, the length of time a child spends in  
55 foster care has increased, and

56 WHEREAS, the focus of the Department of Children and Family  
57 Services, the Statewide Guardian Ad Litem Office, and the state  
58 court system should be the prevention of out-of-home placement

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59 of a child, the reduction of the length of stay in foster care,  
60 and the promotion of adoption as a viable alternative to out-of-  
61 home placement, NOW, THEREFORE,

62  
63 Be It Enacted by the Legislature of the State of Florida:

64  
65 Section 1. This act may be cited as the "Lambourg Keep  
66 Families United Act."

67 Section 2. Section 39.0142, Florida Statutes, is created to  
68 read:

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

77 Section 3. Paragraph (a) of subsection (2) of section  
78 39.5085, Florida Statutes, is amended to read:

79 39.5085 Relative Caregiver Program.—

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

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

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

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

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

112 Section 4. Paragraph (b) of subsection (1) and paragraph  
113 (r) of subsection (2) of section 39.521, Florida Statutes, are  
114 amended to read:

115 39.521 Disposition hearings; powers of disposition.—

116 (1) A disposition hearing shall be conducted by the court,

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117 if the court finds that the facts alleged in the petition for  
118 dependency were proven in the adjudicatory hearing, or if the  
119 parents or legal custodians have consented to the finding of  
120 dependency or admitted the allegations in the petition, have  
121 failed to appear for the arraignment hearing after proper  
122 notice, or have not been located despite a diligent search  
123 having been conducted.

124 (b) When any child is adjudicated by a court to be  
125 dependent, the court having jurisdiction of the child has the  
126 power by order to:

127 1. Require the parent and, when appropriate, the legal  
128 custodian and the child to participate in treatment and services  
129 identified as necessary. The court may require the person who  
130 has custody or who is requesting custody of the child to submit  
131 to a substance abuse assessment or evaluation. The assessment or  
132 evaluation must be administered by a qualified professional, as  
133 defined in s. 397.311. The court may also require such person to  
134 participate in and comply with treatment and services identified  
135 as necessary, including, when appropriate and available,  
136 participation in and compliance with a treatment-based drug  
137 court program established under s. 397.334. In addition to  
138 supervision by the department, the court, including the  
139 treatment-based drug court program, may oversee the progress and  
140 compliance with treatment by a person who has custody or is  
141 requesting custody of the child. When available, the court may  
142 direct the placement of the person who has custody or who is  
143 requesting custody of the child in a substance abuse facility in  
144 which the child may also reside as described in s. 39.816(2)(b).  
145 The court may impose appropriate available sanctions for

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146 noncompliance upon a person who has custody or is requesting  
147 custody of the child or make a finding of noncompliance for  
148 consideration in determining whether an alternative placement of  
149 the child is in the child's best interests. Any order entered  
150 under this subparagraph may be made only upon good cause shown.  
151 This subparagraph does not authorize placement of a child with a  
152 person seeking custody of the child, other than the child's  
153 parent or legal custodian, who requires substance abuse  
154 treatment.

155         2. Require, if the court deems necessary, the parties to  
156 participate in dependency mediation.

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

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175 supervision by the department, no further judicial reviews are  
176 required, so long as permanency has been established for the  
177 child.

178 (2) The predisposition study must provide the court with  
179 the following documented information:

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

188 1. An interview with the proposed legal custodians to  
189 assess their ongoing commitment and ability to care for the  
190 child.

191 2. Records checks through the Florida Abuse Hotline  
192 Information System (FAHIS), and local and statewide criminal and  
193 juvenile records checks through the Department of Law  
194 Enforcement, on all household members 12 years of age or older  
195 and any other persons made known to the department who are  
196 frequent visitors in the home. Out-of-state criminal records  
197 checks must be initiated for any individual designated above who  
198 has resided in a state other than Florida provided that state's  
199 laws allow the release of these records. The out-of-state  
200 criminal records must be filed with the court within 5 days  
201 after receipt by the department or its agent.

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

203 4. A determination of the financial security of the

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204 proposed legal custodians.

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

207 6. Documentation of counseling and information provided to  
208 the proposed legal custodians regarding the dependency process  
209 and possible outcomes.

210 7. Documentation that information regarding support  
211 services available in the community has been provided to the  
212 proposed legal custodians.

213

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

222

223 Any other relevant and material evidence, including other  
224 written or oral reports, may be received by the court in its  
225 effort to determine the action to be taken with regard to the  
226 child and may be relied upon to the extent of its probative  
227 value, even though not competent in an adjudicatory hearing.  
228 Except as otherwise specifically provided, nothing in this  
229 section prohibits the publication of proceedings in a hearing.

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

232 39.621 Permanency determination by the court.—



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

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

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

249 (b) ~~(a)~~ Reunification;

250 (c) Permanent guardianship of a dependent child under s.  
 251 39.6221;

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

254 (e) Placement in another planned permanent living  
 255 arrangement under s. 39.6241.

256 Section 6. Section 39.6215, Florida Statutes, is created to  
 257 read:

258 39.6215 Permanency; reporting; program funding.-

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

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262 39.621(2).

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

269 Section 7. Paragraph (a) of subsection (3) of section  
270 39.801, Florida Statutes, is amended to read:

271 39.801 Procedures and jurisdiction; notice; service of  
272 process.—

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

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

281 1. The parents of the child.

282 2. The legal custodians of the child.

283 3. If the parents who would be entitled to notice are dead  
284 or unknown, a living relative of the child, unless upon diligent  
285 search and inquiry, to be completed within 90 days after the  
286 child enters into care, no such relative can be found.

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

288 5. Any grandparent entitled to priority for adoption under  
289 s. 63.0425.

290 6. Any prospective parent who has been identified under s.

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291 39.503 or s. 39.803.

292 7. The guardian ad litem for the child or the  
293 representative of the guardian ad litem program, if the program  
294 has been appointed.

295

296 The document containing the notice to respond or appear must  
297 contain, in type at least as large as the type in the balance of  
298 the document, the following or substantially similar language:

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

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

307 39.803 Identity or location of parent unknown after filing  
308 of termination of parental rights petition; special procedures.-

309 (5) If the inquiry under subsection (1) identifies a parent  
310 or prospective parent, and that person's location is unknown,  
311 the court shall direct the petitioner to conduct a diligent  
312 search for that person before scheduling an adjudicatory hearing  
313 regarding the petition for termination of parental rights to the  
314 child unless the court finds that the best interest of the child  
315 requires proceeding without actual notice to the person whose  
316 location is unknown. If the person whose location is unknown is  
317 an unmarried biological father and the mother files an affidavit  
318 to that effect with 30 days after the child enters care, the  
319 diligent search may not exceed 60 days beyond the date the court

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320 accepts the affidavit.

321 Section 9. Section 39.0136, Florida Statutes, is amended to  
322 read:

323 39.0136 Time limitations; continuances.—

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

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

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

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

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

347 2. To allow the requesting party additional time to prepare  
348 the case and additional time is justified because of an

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349 exceptional circumstance.

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

354 (3) Notwithstanding subsection (2):

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

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

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

370 39.809 Adjudicatory hearing.—

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

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378 subsection (5).

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

382 Section 11. Section 39.8056, Florida Statutes, is created  
383 to read:

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

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

392 39.812 Postdisposition relief; petition for adoption.—

393 (4) (a) The court shall retain jurisdiction over any child  
394 placed in the custody of the department until the child is  
395 adopted. After custody of a child for subsequent adoption has  
396 been given to the department, the court has jurisdiction for the  
397 purpose of reviewing the status of the child and the progress  
398 being made toward permanent adoptive placement. As part of this  
399 continuing jurisdiction, for good cause shown by the guardian ad  
400 litem for the child, the court may review the appropriateness of  
401 the adoptive placement of the child. When a licensed foster  
402 parent or court-ordered custodian has applied to adopt a child  
403 who has resided with the foster parent or custodian for at least  
404 6 months and who has previously been permanently committed to  
405 the legal custody of the department and the department does not  
406 grant the application to adopt, the department may not, in the

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407 absence of a prior court order authorizing it to do so, remove  
408 the child from the foster home or custodian, except when:

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

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

415 3.~~(c)~~ The foster parent or custodian agrees to the child's  
416 removal.

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

422 Section 13. Section 39.816, Florida Statutes, is amended to  
423 read:

424 39.816 Authorization for pilot and demonstration projects.—

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

430 (a) The development of best practice guidelines for  
431 expediting termination of parental rights in cases of child  
432 abuse, abandonment, or neglect if the family is unable to meet  
433 the requirements of a plan of action established by the child  
434 protection team. However, a parent who is incarcerated but does  
435 not meet the criteria established under s. 39.806(1)(d) or a

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436 parent who is physically incapacitated shall be granted an  
437 extension of up to 180 days after the presentation of the plan  
438 of action before the department files a petition for termination  
439 of parental rights.

440 (b) The development of models to encourage the use of  
441 concurrent planning.

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

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

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

450 (f) The development of programs that place children into  
451 preadoptive families without waiting for termination of parental  
452 rights.

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

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

460 (b) Identifying and addressing parental substance abuse  
461 problems that endanger children and result in the placement of  
462 children in out-of-home care. This purpose may be accomplished  
463 through the placement of children with their parents in  
464 residential treatment facilities, including residential



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465 treatment facilities for postpartum depression, that are  
466 specifically designed to serve parents and children together, in  
467 order to promote family reunification, and that can ensure the  
468 health and safety of the children by providing a separate unit  
469 in which the children may reside.

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

475 (d) In cases in which danger to the child is not imminent,  
476 developing a 90-day early intervention process that includes all  
477 family members except children under the age of 13 and is  
478 developed in collaboration with representatives of the  
479 department, the state Guardian Ad Litem Program, and a private  
480 attorney representing the family.

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