

1 A bill to be entitled
2 An act relating to child protection; amending s.
3 39.01, F.S.; revising definitions; amending s. 39.013,
4 F.S.; specifying when jurisdiction attaches for a
5 petition for an injunction to prevent child abuse
6 issued pursuant to specified provisions; amending s.
7 39.0138, F.S.; revising provisions relating to
8 criminal history records check on persons being
9 considered for placement of a child; requiring a
10 records check through the State Automated Child
11 Welfare Information System; providing for an out-of-
12 state criminal history records check of certain
13 persons who have lived out of state if such records
14 may be obtained; amending s. 39.201, F.S.; providing
15 procedures for calls from a parent or legal custodian
16 seeking assistance for himself or herself which do not
17 meet the criteria for being a report of child abuse,
18 abandonment, or neglect, but show a potential future
19 risk of harm to a child and requiring a referral if a
20 need for community services exists; specifying that
21 the central abuse hotline is the first step in the
22 safety assessment and investigation process; amending
23 s. 39.205, F.S.; permitting discontinuance of an
24 investigation of child abuse, abandonment, or neglect
25 during the course of the investigation if it is
26 determined that the report was false; amending s.
27 39.301, F.S.; substituting references to a standard
28 electronic child welfare case for a master file;

29 revising requirements for such a file; revising
30 requirements for informing the subject of an
31 investigation; deleting provisions relating to a
32 preliminary determination as to whether an
33 investigation report is complete; revising
34 requirements for child protective investigation
35 activities to be performed to determine child safety;
36 specifying uses for certain criminal justice
37 information accesses by child protection
38 investigators; requiring documentation of the present
39 and impending dangers to each child through use of a
40 standardized safety assessment; revising provisions
41 relating to required protective, treatment, and
42 ameliorative services; revising requirements for the
43 Department of Children and Family Service's training
44 program for staff responsible for responding to
45 reports accepted by the central abuse hotline;
46 requiring the department's training program at the
47 regional and district levels to include results of
48 qualitative reviews of child protective investigation
49 cases handled within the region or district; revising
50 requirements for the department's quality assurance
51 program; amending s. 39.302, F.S.; requiring that a
52 protective investigation must include an interview
53 with the child's parent or legal guardian; amending s.
54 39.307, F.S.; requiring the department, contracted
55 sheriff's office providing protective investigation
56 services, or contracted case management personnel

57 responsible for providing services to adhere to
58 certain procedures relating to reports of child-on-
59 child sexual abuse; deleting a requirement that an
60 assessment of service and treatment needs to be
61 completed within a specified period; amending s.
62 39.504, F.S.; revising provisions relating to the
63 process for seeking a child protective injunction;
64 providing for temporary ex parte injunctions;
65 providing requirements for service on an alleged
66 offender; revising provisions relating to the contents
67 of an injunction; providing for certain relief;
68 providing requirements for notice of a hearing on a
69 motion to modify or dissolve an injunction; providing
70 that a person against whom an injunction is entered
71 does not automatically become a party to a subsequent
72 dependency action concerning the same child; amending
73 s. 39.521, F.S.; requiring a home study report if a
74 child has been removed from the home and will be
75 remaining with a parent; substituting references to
76 the State Automated Child Welfare Information System
77 for the Florida Abuse Hotline Information System
78 applicable to records checks; authorizing submission
79 of fingerprints of certain household members;
80 authorizing requests for national criminal history
81 checks and fingerprinting of any visitor to the home
82 known to the department; amending s. 39.6011, F.S.;
83 providing additional options for the court with
84 respect to case plans; providing for expiration of a

CS/CS/HB 803

2012

child's case plan no later than 12 months after the date the child was adjudicated dependent; conforming a cross-reference to changes made by the act; amending s. 39.621, F.S.; revising terminology relating to permanency determinations; amending s. 39.701, F.S.; providing that a court must schedule a judicial review hearing if the citizen review panel recommends extending the goal of reunification for any case plan beyond 12 months from the date the child was adjudicated dependent, unless specified other events occurred earlier; conforming a cross-reference to changes made by the act; amending s. 39.8055, F.S.; requiring the department to file a petition to terminate parental rights within a certain number of days after the completion of a specified period after the child was sheltered or adjudicated dependent, whichever occurs first; amending s. 39.806, F.S.; providing additional criteria for the court to consider when deciding whether to terminate the parental rights of a parent or legal guardian because the parent or legal guardian is incarcerated; increasing the number of months of failure of the parent or parents to substantially comply with a child's case plan in certain circumstances that constitutes evidence of continuing abuse, neglect, or abandonment and grounds for termination of parental rights; revising a cross-reference; amending s. 402.56, F.S.; providing that the Children and Youth

CS/CS/HB 803

2012

Cabinet shall meet at least four times but no more than six times each year; amending ss. 39.502, 39.823, and 39.828, F.S.; conforming cross-references to changes made by the act; providing an effective date.

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

Section 1. Subsection (1), paragraph (e) of subsection (32), and subsection (33) of section 39.01, Florida Statutes, are amended to read:

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

(1) "Abandoned" or "abandonment" means a situation in which the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the caregiver, while being able, has made ~~makes~~ no significant contribution to the child's care and maintenance or provision for the child's support ~~and~~ has failed to establish or maintain a substantial and positive relationship with the child, or both. For purposes of this subsection, "establish or maintain a substantial and positive relationship" includes, but is not limited to, frequent and regular contact with the child through frequent and regular visitation or frequent and regular communication to or with the child, and the exercise of parental rights and responsibilities. Marginal efforts and incidental or token visits or communications are not sufficient to establish or maintain a substantial and positive relationship with a child. The term does not include a surrendered newborn infant as described in s.

CS/CS/HB 803

2012

141 383.50, a "child in need of services" as defined in chapter 984,
142 or a "family in need of services" as defined in chapter 984. The
143 incarceration, repeated incarceration, or extended incarceration
144 of a parent, legal custodian, or caregiver responsible for a
145 child's welfare may support a finding of abandonment.

146 (32) "Harm" to a child's health or welfare can occur when
147 any person:

148 (e) Abandons the child. Within the context of the
149 definition of "harm," the term "abandoned the child" or
150 "abandonment of the child" means a situation in which the parent
151 or legal custodian of a child or, in the absence of a parent or
152 legal custodian, the caregiver, while being able, has made ~~makes~~
153 no significant contribution to the child's care and maintenance
154 or provision for the child's support ~~and~~ has failed to establish
155 or maintain a substantial and positive relationship with the
156 child, or both. For purposes of this paragraph, "establish or
157 maintain a substantial and positive relationship" includes, but
158 is not limited to, frequent and regular contact with the child
159 through frequent and regular visitation or frequent and regular
160 communication to or with the child, and the exercise of parental
161 rights and responsibilities. Marginal efforts and incidental or
162 token visits or communications are not sufficient to establish
163 or maintain a substantial and positive relationship with a
164 child. The term "abandoned" does not include a surrendered
165 newborn infant as described in s. 383.50, a child in need of
166 services as defined in chapter 984, or a family in need of
167 services as defined in chapter 984. The incarceration, repeated
168 incarceration, or extended incarceration of a parent, legal

169 custodian, or caregiver responsible for a child's welfare may
170 support a finding of abandonment.

171 (33) "Institutional child abuse or neglect" means
172 situations of known or suspected child abuse or neglect in which
173 the person allegedly perpetrating the child abuse or neglect is
174 an employee of a private school, public or private day care
175 center, residential home, institution, facility, or agency or
176 any other person at such institution responsible for the child's
177 care as defined in subsection (47).

178 Section 2. Subsection (2) of section 39.013, Florida
179 Statutes, is amended to read:

180 39.013 Procedures and jurisdiction; right to counsel.—

181 (2) The circuit court has exclusive original jurisdiction
182 of all proceedings under this chapter, of a child voluntarily
183 placed with a licensed child-caring agency, a licensed child-
184 placing agency, or the department, and of the adoption of
185 children whose parental rights have been terminated under this
186 chapter. Jurisdiction attaches when the initial shelter
187 petition, dependency petition, or termination of parental rights
188 petition, or a petition for an injunction to prevent child abuse
189 issued pursuant to s. 39.504, is filed or when a child is taken
190 into the custody of the department. The circuit court may assume
191 jurisdiction over any such proceeding regardless of whether the
192 child was in the physical custody of both parents, was in the
193 sole legal or physical custody of only one parent, caregiver, or
194 some other person, or was not in the physical or legal custody
195 of any ~~no~~ person when the event or condition occurred that
196 brought the child to the attention of the court. When the court

CS/CS/HB 803

2012

197 obtains jurisdiction of any child who has been found to be
198 dependent, the court shall retain jurisdiction, unless
199 relinquished by its order, until the child reaches 18 years of
200 age. However, if a youth petitions the court at any time before
201 his or her 19th birthday requesting the court's continued
202 jurisdiction, the juvenile court may retain jurisdiction under
203 this chapter for a period not to exceed 1 year following the
204 youth's 18th birthday for the purpose of determining whether
205 appropriate aftercare support, Road-to-Independence Program,
206 transitional support, mental health, and developmental
207 disability services, to the extent otherwise authorized by law,
208 have been provided to the formerly dependent child who was in
209 the legal custody of the department immediately before his or
210 her 18th birthday. If a petition for special immigrant juvenile
211 status and an application for adjustment of status have been
212 filed on behalf of a foster child and the petition and
213 application have not been granted by the time the child reaches
214 18 years of age, the court may retain jurisdiction over the
215 dependency case solely for the purpose of allowing the continued
216 consideration of the petition and application by federal
217 authorities. Review hearings for the child shall be set solely
218 for the purpose of determining the status of the petition and
219 application. The court's jurisdiction terminates upon the final
220 decision of the federal authorities. Retention of jurisdiction
221 in this instance does not affect the services available to a
222 young adult under s. 409.1451. The court may not retain
223 jurisdiction of the case after the immigrant child's 22nd
224 birthday.

CS/CS/HB 803

2012

225 Section 3. Subsection (1) of section 39.0138, Florida
226 Statutes, is amended to read:

227 39.0138 Criminal history and other records checks ~~check~~;
228 limit on placement of a child.—

229 (1) The department shall conduct a records check through
230 the State Automated Child Welfare Information System (SACWIS)
231 and a local and statewide criminal history records check on all
232 persons, including parents, being considered by the department
233 for placement of a child ~~subject to a placement decision~~ under
234 this chapter, including all nonrelative placement decisions, and
235 all members of the household, 12 years of age and older, of the
236 person being considered, ~~and frequent visitors to the household.~~
237 For purposes of this section, a criminal history records check
238 may include, but is not limited to, submission of fingerprints
239 to the Department of Law Enforcement for processing and
240 forwarding to the Federal Bureau of Investigation for state and
241 national criminal history information, and local criminal
242 records checks through local law enforcement agencies of all
243 household members 18 years of age and older and other visitors
244 to the home. An out-of-state criminal history records check must
245 be initiated for any person 18 years of age or older who resided
246 in another state if that state allows the release of such
247 records. A criminal history records check must also include a
248 ~~search of the department's automated abuse information system.~~
249 The department shall establish by rule standards for evaluating
250 any information contained in the automated system relating to a
251 person who must be screened for purposes of making a placement
252 decision.

CS/CS/HB 803

2012

253 Section 4. Paragraph (a) of subsection (2) and subsection
254 (4) of section 39.201, Florida Statutes, are amended to read:

255 39.201 Mandatory reports of child abuse, abandonment, or
256 neglect; mandatory reports of death; central abuse hotline.—

257 (2)(a) Each report of known or suspected child abuse,
258 abandonment, or neglect by a parent, legal custodian, caregiver,
259 or other person responsible for the child's welfare as defined
260 in this chapter, except those solely under s. 827.04(3), and
261 each report that a child is in need of supervision and care and
262 has no parent, legal custodian, or responsible adult relative
263 immediately known and available to provide supervision and care
264 shall be made immediately to the department's central abuse
265 hotline. Such reports may be made on the single statewide toll-
266 free telephone number or via fax or web-based report. Personnel
267 at the department's central abuse hotline shall determine if the
268 report received meets the statutory definition of child abuse,
269 abandonment, or neglect. Any report meeting one of these
270 definitions shall be accepted for the protective investigation
271 pursuant to part III of this chapter. Any call received from a
272 parent or legal custodian seeking assistance for himself or
273 herself which does not meet the criteria for being a report of
274 child abuse, abandonment, or neglect may be accepted by the
275 hotline for response to ameliorate a potential future risk of
276 harm to a child. If it is determined by a child welfare
277 professional that a need for community services exists, the
278 department shall refer the parent or legal custodian for
279 appropriate voluntary community services.

280 (4) The department shall operate ~~establish~~ and maintain a

281 central abuse hotline to receive all reports made pursuant to
282 this section in writing, via fax, via web-based reporting, or
283 through a single statewide toll-free telephone number, which any
284 person may use to report known or suspected child abuse,
285 abandonment, or neglect at any hour of the day or night, any day
286 of the week. The central abuse hotline is the first step in the
287 safety assessment and investigation process. The central abuse
288 hotline shall be operated in such a manner as to enable the
289 department to:

290 (a) Immediately identify and locate prior reports or cases
291 of child abuse, abandonment, or neglect through utilization of
292 the department's automated tracking system.

293 (b) Monitor and evaluate the effectiveness of the
294 department's program for reporting and investigating suspected
295 abuse, abandonment, or neglect of children through the
296 development and analysis of statistical and other information.

297 (c) Track critical steps in the investigative process to
298 ensure compliance with all requirements for any report of abuse,
299 abandonment, or neglect.

300 (d) Maintain and produce aggregate statistical reports
301 monitoring patterns of child abuse, child abandonment, and child
302 neglect. The department shall collect and analyze child-on-child
303 sexual abuse reports and include the information in aggregate
304 statistical reports.

305 (e) Serve as a resource for the evaluation, management,
306 and planning of preventive and remedial services for children
307 who have been subject to abuse, abandonment, or neglect.

308 (f) Initiate and enter into agreements with other states

CS/CS/HB 803

2012

for the purpose of gathering and sharing information contained in reports on child maltreatment to further enhance programs for the protection of children.

Section 5. Subsections (3) and (5) of section 39.205, Florida Statutes, are amended to read:

39.205 Penalties relating to reporting of child abuse, abandonment, or neglect.—

(3) A person who knowingly and willfully makes public or discloses any confidential information contained in the central abuse hotline or in the records of any child abuse, abandonment, or neglect case, except as provided in this chapter, commits ~~is guilty of~~ a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(5) If the department or its authorized agent has determined during the course of ~~after~~ its investigation that a report is a false report, the department may discontinue all investigative activities and shall, with the consent of the alleged perpetrator, refer the report to the local law enforcement agency having jurisdiction for an investigation to determine whether sufficient evidence exists to refer the case for prosecution for filing a false report as defined in s. 39.01. During the pendency of the investigation, the department must notify the local law enforcement agency of, and the local law enforcement agency must respond to, all subsequent reports concerning children in that same family in accordance with s. 39.301. If the law enforcement agency believes that there are indicators of abuse, abandonment, or neglect, it must immediately notify the department, which must ensure the safety

337 of the children. If the law enforcement agency finds sufficient
338 evidence for prosecution for filing a false report, it must
339 refer the case to the appropriate state attorney for
340 prosecution.

341 Section 6. Section 39.301, Florida Statutes, is amended to
342 read:

343 39.301 Initiation of protective investigations.—

344 (1) Upon receiving a report of known or suspected child
345 abuse, abandonment, or neglect, or that a child is in need of
346 supervision and care and has no parent, legal custodian, or
347 responsible adult relative immediately known and available to
348 provide supervision and care, the central abuse hotline shall
349 determine if the report requires an immediate onsite protective
350 investigation. For reports requiring an immediate onsite
351 protective investigation, the central abuse hotline shall
352 immediately notify the department's designated district staff
353 responsible for protective investigations to ensure that an
354 onsite investigation is promptly initiated. For reports not
355 requiring an immediate onsite protective investigation, the
356 central abuse hotline shall notify the department's designated
357 district staff responsible for protective investigations in
358 sufficient time to allow for an investigation. At the time of
359 notification, the central abuse hotline shall also provide
360 information to district staff on any previous report concerning
361 a subject of the present report or any pertinent information
362 relative to the present report or any noted earlier reports.

363 (2)(a) The department shall immediately forward
364 allegations of criminal conduct to the municipal or county law

CS/CS/HB 803

2012

enforcement agency of the municipality or county in which the alleged conduct has occurred.

(b) As used in this subsection, the term "criminal conduct" means:

1. A child is known or suspected to be the victim of child abuse, as defined in s. 827.03, or of neglect of a child, as defined in s. 827.03.

2. A child is known or suspected to have died as a result of abuse or neglect.

3. A child is known or suspected to be the victim of aggravated child abuse, as defined in s. 827.03.

4. A child is known or suspected to be the victim of sexual battery, as defined in s. 827.071, or of sexual abuse, as defined in s. 39.01.

5. A child is known or suspected to be the victim of institutional child abuse or neglect, as defined in s. 39.01, and as provided for in s. 39.302(1).

6. A child is known or suspected to be a victim of human trafficking, as provided in s. 787.06.

(c) Upon receiving a written report of an allegation of criminal conduct from the department, the law enforcement agency shall review the information in the written report to determine whether a criminal investigation is warranted. If the law enforcement agency accepts the case for criminal investigation, it shall coordinate its investigative activities with the department, whenever feasible. If the law enforcement agency does not accept the case for criminal investigation, the agency shall notify the department in writing.

393 (d) The local law enforcement agreement required in s.
394 39.306 shall describe the specific local protocols for
395 implementing this section.

396 (3) The department shall maintain a single, standard
397 electronic child welfare case ~~master~~ file for each child whose
398 report is accepted by the central abuse hotline for
399 investigation. Such file must contain information concerning all
400 reports received by the abuse hotline concerning that child and
401 all services received by that child and family. The file must be
402 made available to any department staff, agent of the department,
403 or contract provider given responsibility for conducting a
404 protective investigation.

405 (4) To the extent practical, all protective investigations
406 involving a child shall be conducted or the work supervised by a
407 single individual in order for there to be broad knowledge and
408 understanding of the child's history. When a new investigator is
409 assigned to investigate a second and subsequent report involving
410 a child, a multidisciplinary staffing shall be conducted which
411 includes new and prior investigators, their supervisors, and
412 appropriate private providers in order to ensure that, to the
413 extent possible, there is coordination among all parties. The
414 department shall establish an internal operating procedure that
415 ensures that all required investigatory activities, including a
416 review of the child's complete investigative and protective
417 services history, are completed by the investigator, reviewed by
418 the supervisor in a timely manner, and signed and dated by both
419 the investigator and the supervisor.

420 (5) (a) Upon commencing an investigation under this part,

CS/CS/HB 803

2012

the child protective investigator shall inform any subject of the investigation of the following:

1. The names of the investigators and identifying credentials from the department.

2. The purpose of the investigation.

3. The right to obtain his or her own attorney and ways that the information provided by the subject may be used.

4. The possible outcomes and services of the department's response ~~shall be explained to the parent or legal custodian.~~

5. The right of the parent or legal custodian to be engaged ~~involved~~ to the fullest extent possible in determining the nature of the allegation and the nature of any identified problem and the remedy.

6. The duty of the parent or legal custodian to report any change in the residence or location of the child to the investigator and that the duty to report continues until the investigation is closed.

(b) The investigator shall ~~department's training program shall ensure that protective investigators know how to~~ fully inform parents or legal custodians of their rights and options, including opportunities for audio or video recording of investigators' interviews with parents or legal custodians or children.

(6) Upon commencing an investigation under this part, if a report was received from a reporter under s. 39.201(1)(b), the protective investigator must provide his or her contact information to the reporter within 24 hours after being assigned to the investigation. The investigator must also advise the

449 reporter that he or she may provide a written summary of the
450 report made to the central abuse hotline to the investigator
451 which shall become a part of the electronic child welfare case
452 ~~master~~ file.

453 (7) An assessment of safety ~~risk~~ and the perceived needs
454 for the child and family shall be conducted in a manner that is
455 sensitive to the social, economic, and cultural environment of
456 the family. This assessment must include a face-to-face
457 interview with the child, other siblings, parents, and other
458 adults in the household and an onsite assessment of the child's
459 residence.

460 (8) Protective investigations shall be performed by the
461 department or its agent.

462 ~~(9) The person responsible for the investigation shall~~
463 ~~make a preliminary determination as to whether the report is~~
464 ~~complete, consulting with the attorney for the department when~~
465 ~~necessary. In any case in which the person responsible for the~~
466 ~~investigation finds that the report is incomplete, he or she~~
467 ~~shall return it without delay to the person or agency~~
468 ~~originating the report or having knowledge of the facts, or to~~
469 ~~the appropriate law enforcement agency having investigative~~
470 ~~jurisdiction, and request additional information in order to~~
471 ~~complete the report; however, the confidentiality of any report~~
472 ~~filed in accordance with this chapter shall not be violated.~~

473 ~~(a) If it is determined that the report is complete, but~~
474 ~~the interests of the child and the public will be best served by~~
475 ~~providing the child care or other treatment voluntarily accepted~~
476 ~~by the child and the parents or legal custodians, the protective~~

investigator may refer the parent or legal custodian and child for such care or other treatment.

~~(b) If it is determined that the child is in need of the protection and supervision of the court, the department shall file a petition for dependency. A petition for dependency shall be filed in all cases classified by the department as high risk. Factors that the department may consider in determining whether a case is high risk include, but are not limited to, the young age of the parents or legal custodians; the use of illegal drugs; the arrest of the parents or legal custodians on charges of manufacturing, processing, disposing of, or storing, either temporarily or permanently, any substances in violation of chapter 893; or domestic violence.~~

~~(c) If a petition for dependency is not being filed by the department, the person or agency originating the report shall be advised of the right to file a petition pursuant to this part.~~

(9) (10) (a) For each report received from the central abuse hotline and accepted for investigation that meets one or more of the following criteria, the department or the sheriff providing child protective investigative services under s. 39.3065, shall perform the following an on-site child protective investigation activities to determine child safety:

1. Conduct a review of all relevant, available information specific to the child and family and alleged maltreatment; family child welfare history; local, state, and federal criminal records checks; and requests for law enforcement assistance provided by the abuse hotline. Based on a review of available information, including the allegations in the current report, a

CS/CS/HB 803

2012

determination shall be made as to whether immediate consultation should occur with law enforcement, the child protection team, a domestic violence shelter or advocate, or a substance abuse or mental health professional. Such consultations should include discussion as to whether a joint response is necessary and feasible. A determination shall be made as to whether the person making the report should be contacted before the face-to-face interviews with the child and family members ~~A report for which there is obvious compelling evidence that no maltreatment occurred and there are no prior reports containing some indicators or verified findings of abuse or neglect with respect to any subject of the report or other individuals in the home. A prior report in which an adult in the home was a victim of abuse or neglect before becoming an adult does not exclude a report otherwise meeting the criteria of this subparagraph from the onsite child protective investigation provided for in this subparagraph. The process for an onsite child protective investigation stipulated in this subsection may not be conducted if an allegation meeting the criteria of this subparagraph involves physical abuse, sexual abuse, domestic violence, substance abuse or substance exposure, medical neglect, a child younger than 3 years of age, or a child who is disabled or lacks communication skills.~~

2. Conduct ~~A report concerning an incident of abuse which is alleged to have occurred 2 or more years prior to the date of the report and there are no other indicators of risk to any child in the home.~~

~~(b) The onsite child protective investigation to be~~

CS/CS/HB 803

2012

~~performed shall include a face-to-face interviews interview with the child; other siblings, if any; and the parents, legal custodians, or caregivers.~~ ~~and other adults in the household and an onsite assessment of the child's residence in order to:~~

3.1. Assess the child's residence, including a determination of ~~Determine~~ the composition of the family and ~~or~~ household, including the name, address, date of birth, social security number, sex, and race of each child named in the report; any siblings or other children in the same household or in the care of the same adults; the parents, legal custodians, or caregivers; and any other adults in the same household.

4.2. Determine whether there is any indication that any child in the family or household has been abused, abandoned, or neglected; the nature and extent of present or prior injuries, abuse, or neglect, and any evidence thereof; and a determination as to the person or persons apparently responsible for the abuse, abandonment, or neglect, including the name, address, date of birth, social security number, sex, and race of each such person.

5.3. Complete assessment of immediate child safety for ~~Determine the immediate and long-term risk to each child based on available records, interviews, and observations with all persons named in subparagraph 2. and appropriate collateral contacts, which may include other professionals by conducting state and federal records checks, including, when feasible, the records of the Department of Corrections, on the parents, legal custodians, or caregivers, and any other persons in the same household. This information shall be used solely for purposes~~

CS/CS/HB 803

2012

561 ~~supporting the detection, apprehension, prosecution, pretrial~~
562 ~~release, posttrial release, or rehabilitation of criminal~~
563 ~~offenders or persons accused of the crimes of child abuse,~~
564 ~~abandonment, or neglect and shall not be further disseminated or~~
565 ~~used for any other purpose.~~ The department's child protection
566 investigators are hereby designated a criminal justice agency
567 for the purpose of accessing criminal justice information to be
568 used for enforcing this state's laws concerning the crimes of
569 child abuse, abandonment, and neglect. This information shall be
570 used solely for purposes supporting the detection, apprehension,
571 prosecution, pretrial release, posttrial release, or
572 rehabilitation of criminal offenders or persons accused of the
573 crimes of child abuse, abandonment, or neglect and may not be
574 further disseminated or used for any other purpose.

575 6.4. Document the present and impending dangers ~~Determine~~
576 ~~the immediate and long-term risk to each child based on the~~
577 ~~identification of inadequate protective capacity through~~
578 ~~utilization of a standardized safety risk assessment instrument~~
579 ~~instruments.~~

580 (b) Upon completion of the immediate safety assessment,
581 the department shall determine the additional activities
582 necessary to assess impending dangers, if any, and close the
583 investigation.

584 ~~5. Based on the information obtained from available~~
585 ~~sources, complete the risk assessment instrument within 48 hours~~
586 ~~after the initial contact and, if needed, develop a case plan.~~

587 (c) 6. For each report received from the central abuse
588 hotline, the department or the sheriff providing child

CS/CS/HB 803

2012

589 protective investigative services under s. 39.3065, shall
590 determine the protective, treatment, and ameliorative services
591 necessary to safeguard and ensure the child's safety and well-
592 being and development, and cause the delivery of those services
593 through the early intervention of the department or its agent.
594 As applicable, ~~The training provided to staff members who~~
595 ~~conduct~~ child protective investigators ~~investigations~~ must
596 inform parents and caregivers ~~include instruction on~~ how and
597 when to use the injunction process under ~~s. 39.504~~ or s. 741.30
598 to remove a perpetrator of domestic violence from the home as an
599 intervention to protect the child.

600 1. If the department or the sheriff providing child
601 protective investigative services determines that the interests
602 of the child and the public will be best served by providing the
603 child care or other treatment voluntarily accepted by the child
604 and the parents or legal custodians, the parent or legal
605 custodian and child may be referred for such care, case
606 management, or other community resources.

607 2. If the department or the sheriff providing child
608 protective investigative services determines that the child is
609 in need of protection and supervision, the department may file a
610 petition for dependency.

611 3. If a petition for dependency is not being filed by the
612 department, the person or agency originating the report shall be
613 advised of the right to file a petition pursuant to this part.

614 4. At the close of an investigation, the department or the
615 sheriff providing child protective services shall provide to the
616 person who is alleged to have caused the abuse, neglect, or

CS/CS/HB 803

2012

abandonment and the parent or legal custodian a summary of findings from the investigation and provide information about their right to access confidential reports in accordance with s. 39.202.

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

~~(d) A report that meets the criteria specified in this subsection is not precluded from further investigative activities. At any time it is determined that additional investigative activities are necessary for the safety of the child, such activities shall be conducted.~~

(10) (11) (a) The department's training program for staff responsible for responding to reports accepted by the central abuse hotline must also ensure that child protective responders:

1. Know how to fully inform parents or legal custodians of their rights and options, including opportunities for audio or video recording of child protective responder interviews with parents or legal custodians or children.

2. Know how and when to use the injunction process under s. 39.504 or s. 741.30 to remove a perpetrator of domestic violence from the home as an intervention to protect the child.

3. Know how to explain to the parent, legal custodian, or person who is alleged to have caused the abuse, neglect, or abandonment the results of the investigation and to provide

645 information about his or her right to access confidential
646 reports in accordance with s. 39.202, prior to closing the case.

647 (b) To enhance the skills of individual staff members and
648 to improve the region's and district's overall child protection
649 system, the department's training program at the regional and
650 district levels must include results of qualitative reviews of
651 child protective investigation cases handled within the region
652 or district in order to identify weaknesses as well as examples
653 of effective interventions which occurred at each point in the
654 case. For each report that meets one or more of the following
655 criteria, the department shall perform an enhanced onsite child
656 protective investigation:

657 1. Any allegation that involves physical abuse, sexual
658 abuse, domestic violence, substance abuse or substance exposure,
659 medical neglect, a child younger than 3 years of age, or a child
660 who is disabled or lacks communication skills.

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

664 3. Any report that does not contain compelling evidence
665 that the maltreatment did not occur.

666 4. Any report that does not meet the criteria for an
667 onsite child protective investigation as set forth in subsection
668 (10).

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

671 1. A face-to-face interview with the child, other
672 siblings, parents or legal custodians or caregivers, and other

CS/CS/HB 803

2012

~~adults in the household;~~

~~2. Collateral contacts;~~

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

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

~~5. An updated assessment.~~

(c) For all reports received, detailed documentation is
required for the investigative activities.

(11)~~(12)~~ The department shall incorporate into its quality
assurance program the monitoring of ~~the determination of~~ reports
that receive a ~~an onsite~~ child protective investigation to
determine the quality and timeliness of safety assessments,
engagements with families, teamwork with other experts and
professionals, and appropriate investigative activities that are
uniquely tailored to the safety factors associated with each
child and family ~~and those that receive an enhanced onsite child~~
~~protective investigation.~~

(12)~~(13)~~ If the department or its agent is denied
reasonable access to a child by the parents, legal custodians,
or caregivers and the department deems that the best interests
of the child so require, it shall seek an appropriate court
order or other legal authority before ~~prior to~~ examining and
interviewing the child.

(13)~~(14)~~ Onsite visits and face-to-face interviews with
the child or family shall be unannounced unless it is determined
by the department or its agent or contract provider that such
unannounced visit would threaten the safety of the child.

(14)~~(15)~~ (a) If the department or its agent determines that

CS/CS/HB 803

2012

a child requires immediate or long-term protection through:

1. Medical or other health care; or

2. Homemaker care, day care, protective supervision, or other services to stabilize the home environment, including intensive family preservation services through the Intensive Crisis Counseling Program,

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

(b) The parents or legal custodians shall be informed of the right to refuse services, as well as the responsibility of the department to protect the child regardless of the acceptance or refusal of services. If the services are refused, a collateral contact ~~required under subparagraph (11)(b)2.~~ shall include a relative, if the protective investigator has knowledge of and the ability to contact a relative. If the services are refused and the department deems that the child's need for protection so requires, the department shall take the child into protective custody or petition the court as provided in this chapter. At any time after the commencement of a protective investigation, a relative may submit in writing to the protective investigator or case manager a request to receive notification of all proceedings and hearings in accordance with s. 39.502. The request shall include the relative's name, address, and phone number and the relative's relationship to the

CS/CS/HB 803

2012

729 child. The protective investigator or case manager shall forward
730 such request to the attorney for the department. The failure to
731 provide notice to either a relative who requests it pursuant to
732 this subsection or to a relative who is providing out-of-home
733 care for a child may ~~shall~~ not result in any previous action of
734 the court at any stage or proceeding in dependency or
735 termination of parental rights under any part of this chapter
736 being set aside, reversed, modified, or in any way changed
737 absent a finding by the court that a change is required in the
738 child's best interests.

739 (c) The department, in consultation with the judiciary,
740 shall adopt by rule criteria that are factors requiring that the
741 department take the child into custody, petition the court as
742 provided in this chapter, or, if the child is not taken into
743 custody or a petition is not filed with the court, conduct an
744 administrative review. If after an administrative review the
745 department determines not to take the child into custody or
746 petition the court, the department shall document the reason for
747 its decision in writing and include it in the investigative
748 file. For all cases that were accepted by the local law
749 enforcement agency for criminal investigation pursuant to
750 subsection (2), the department must include in the file written
751 documentation that the administrative review included input from
752 law enforcement. In addition, for all cases that must be
753 referred to child protection teams pursuant to s. 39.303(2) and
754 (3), the file must include written documentation that the
755 administrative review included the results of the team's
756 evaluation. Factors that must be included in the development of

CS/CS/HB 803

2012

757 the rule include noncompliance with the case plan developed by
758 the department, or its agent, and the family under this chapter
759 and prior abuse reports with findings that involve the child or
760 caregiver.

761 (15)~~(16)~~ When a child is taken into custody pursuant to
762 this section, the authorized agent of the department shall
763 request that the child's parent, caregiver, or legal custodian
764 disclose the names, relationships, and addresses of all parents
765 and prospective parents and all next of kin, so far as are
766 known.

767 (16)~~(17)~~ The department shall complete its protective
768 investigation within 60 days after receiving the initial report,
769 unless:

770 (a) There is also an active, concurrent criminal
771 investigation that is continuing beyond the 60-day period and
772 the closure of the protective investigation may compromise
773 successful criminal prosecution of the child abuse or neglect
774 case, in which case the closure date shall coincide with the
775 closure date of the criminal investigation and any resulting
776 legal action.

777 (b) In child death cases, the final report of the medical
778 examiner is necessary for the department to close its
779 investigation and the report has not been received within the
780 60-day period, in which case the report closure date shall be
781 extended to accommodate the report.

782 (c) A child who is necessary to an investigation has been
783 declared missing by the department, a law enforcement agency, or
784 a court, in which case the 60-day period shall be extended until

CS/CS/HB 803

2012

the child has been located or until sufficient information exists to close the investigation despite the unknown location of the child.

(17)~~(18)~~ Immediately upon learning during the course of an investigation that:

(a) The immediate safety or well-being of a child is endangered;

(b) The family is likely to flee;

(c) A child died as a result of abuse, abandonment, or neglect;

(d) A child is a victim of aggravated child abuse as defined in s. 827.03; or

(e) A child is a victim of sexual battery or of sexual abuse,

the department shall ~~orally~~ notify the jurisdictionally responsible state attorney, and county sheriff's office or local police department, and, within 3 working days, transmit a full written report to those agencies. The law enforcement agency shall review the report and determine whether a criminal investigation needs to be conducted and shall assume lead responsibility for all criminal fact-finding activities. A criminal investigation shall be coordinated, whenever possible, with the child protective investigation of the department. Any interested person who has information regarding an offense described in this subsection may forward a statement to the state attorney as to whether prosecution is warranted and appropriate.

CS/CS/HB 803

2012

813 ~~(18)(19)~~ In a child protective investigation or a criminal
814 investigation, when the initial interview with the child is
815 conducted at school, the department or the law enforcement
816 agency may allow, notwithstanding ~~the provisions of~~ s.

817 39.0132(4), a school staff member who is known by the child to
818 be present during the initial interview if:

819 (a) The department or law enforcement agency believes that
820 the school staff member could enhance the success of the
821 interview by his or her presence; and

822 (b) The child requests or consents to the presence of the
823 school staff member at the interview.

824
825 School staff may be present only when authorized by this
826 subsection. Information received during the interview or from
827 any other source regarding the alleged abuse or neglect of the
828 child is ~~shall be~~ confidential and exempt from ~~the provisions of~~
829 s. 119.07(1), except as otherwise provided by court order. A
830 separate record of the investigation of the abuse, abandonment,
831 or neglect may ~~shall~~ not be maintained by the school or school
832 staff member. Violation of this subsection is ~~constitutes~~ a
833 misdemeanor of the second degree, punishable as provided in s.
834 775.082 or s. 775.083.

835 ~~(19)(20)~~ When a law enforcement agency conducts a criminal
836 investigation into allegations of child abuse, neglect, or
837 abandonment, photographs documenting the abuse or neglect shall
838 ~~will~~ be taken when appropriate.

839 ~~(20)(21)~~ Within 15 days after the case is reported to him
840 or her pursuant to this chapter, the state attorney shall report

CS/CS/HB 803

2012

his or her findings to the department and shall include in such report a determination of whether or not prosecution is justified and appropriate in view of the circumstances of the specific case.

~~(22) In order to enhance the skills of individual staff and to improve the district's overall child protection system, the department's training program at the district level must include periodic reviews of cases handled within the district in order to identify weaknesses as well as examples of effective interventions that occurred at each point in the case.~~

(21) ~~(23)~~ When an investigation is closed and a person is not identified as a caregiver responsible for the abuse, neglect, or abandonment alleged in the report, the fact that the person is named in some capacity in the report may not be used in any way to adversely affect the interests of that person. This prohibition applies to any use of the information in employment screening, licensing, child placement, adoption, or any other decisions by a private adoption agency or a state agency or its contracted providers, except that a previous report may be used to determine whether a child is safe and what the known risk is to the child at any stage of a child protection proceeding.

(22) ~~(24)~~ If, after having been notified of the requirement to report a change in residence or location of the child to the protective investigator, a parent or legal custodian causes the child to move, or allows the child to be moved, to a different residence or location, or if the child leaves the residence on his or her own accord and the parent or legal custodian does not

CS/CS/HB 803

2012

869 notify the protective investigator of the move within 2 business
870 days, the child may be considered to be a missing child for the
871 purposes of filing a report with a law enforcement agency under
872 s. 937.021.

873 Section 7. Subsection (1) of section 39.302, Florida
874 Statutes, is amended to read:

875 39.302 Protective investigations of institutional child
876 abuse, abandonment, or neglect.—

877 (1) The department shall conduct a child protective
878 investigation of each report of institutional child abuse,
879 abandonment, or neglect. Upon receipt of a report that alleges
880 that an employee or agent of the department, or any other entity
881 or person covered by s. 39.01(33) or (47), acting in an official
882 capacity, has committed an act of child abuse, abandonment, or
883 neglect, the department shall initiate a child protective
884 investigation within the timeframe established under s.
885 39.201(5) and ~~orally~~ notify the appropriate state attorney, law
886 enforcement agency, and licensing agency, which shall
887 immediately conduct a joint investigation, unless independent
888 investigations are more feasible. When conducting investigations
889 ~~on-site~~ or having face-to-face interviews with the child,
890 investigation visits shall be unannounced unless it is
891 determined by the department or its agent that unannounced
892 visits threaten the safety of the child. If a facility is exempt
893 from licensing, the department shall inform the owner or
894 operator of the facility of the report. Each agency conducting a
895 joint investigation is entitled to full access to the
896 information gathered by the department in the course of the

CS/CS/HB 803

2012

897 investigation. A protective investigation must include an
898 interview with the child's parent or legal guardian ~~an onsite~~
899 ~~visit of the child's place of residence~~. The department shall
900 make a full written report to the state attorney within 3
901 working days after making the oral report. A criminal
902 investigation shall be coordinated, whenever possible, with the
903 child protective investigation of the department. Any interested
904 person who has information regarding the offenses described in
905 this subsection may forward a statement to the state attorney as
906 to whether prosecution is warranted and appropriate. Within 15
907 days after the completion of the investigation, the state
908 attorney shall report the findings to the department and shall
909 include in the report a determination of whether or not
910 prosecution is justified and appropriate in view of the
911 circumstances of the specific case.

912 Section 8. Subsection (2) of section 39.307, Florida
913 Statutes, is amended to read:

914 39.307 Reports of child-on-child sexual abuse.—

915 (2) The department, contracted sheriff's office providing
916 protective investigation services, or contracted case management
917 personnel responsible for providing services ~~District staff~~, at
918 a minimum, shall adhere to the following procedures:

919 (a) The purpose of the response to a report alleging
920 juvenile sexual abuse behavior shall be explained to the
921 caregiver.

922 1. The purpose of the response shall be explained in a
923 manner consistent with legislative purpose and intent provided
924 in this chapter.

CS/CS/HB 803

2012

925 2. The name and office telephone number of the person
926 responding shall be provided to the caregiver of the alleged
927 juvenile sexual offender or child who has exhibited
928 inappropriate sexual behavior and the victim's caregiver.

929 3. The possible consequences of the department's response,
930 including outcomes and services, shall be explained to the
931 caregiver of the alleged juvenile sexual offender or child who
932 has exhibited inappropriate sexual behavior and the victim's
933 caregiver.

934 (b) The caregiver of the alleged juvenile sexual offender
935 or child who has exhibited inappropriate sexual behavior and the
936 victim's caregiver shall be involved to the fullest extent
937 possible in determining the nature of the sexual behavior
938 concerns ~~allegation~~ and the nature of any problem or risk to
939 other children.

940 (c) The assessment of risk and the perceived treatment
941 needs of the alleged juvenile sexual offender or child who has
942 exhibited inappropriate sexual behavior, the victim, and
943 respective caregivers shall be conducted by the district staff,
944 the child protection team of the Department of Health, and other
945 providers under contract with the department to provide services
946 to the caregiver of the alleged offender, the victim, and the
947 victim's caregiver.

948 (d) The assessment shall be conducted in a manner that is
949 sensitive to the social, economic, and cultural environment of
950 the family.

951 (e) If necessary, the child protection team of the
952 Department of Health shall conduct a physical examination of the

CS/CS/HB 803

2012

victim, which is sufficient to meet forensic requirements.

(f) Based on the information obtained from the alleged juvenile sexual offender or child who has exhibited inappropriate sexual behavior, his or her caregiver, the victim, and the victim's caregiver, an assessment of service and treatment needs ~~report~~ must be completed ~~within 7 days~~ and, if needed, a case plan developed within 30 days.

(g) The department shall classify the outcome of the report as follows:

1. Report closed. Services were not offered because the department determined that there was no basis for intervention.

2. Services accepted by alleged juvenile sexual offender. Services were offered to the alleged juvenile sexual offender or child who has exhibited inappropriate sexual behavior and accepted by the caregiver.

3. Report closed. Services were offered to the alleged juvenile sexual offender or child who has exhibited inappropriate sexual behavior, but were rejected by the caregiver.

4. Notification to law enforcement. The risk to the victim's safety and well-being cannot be reduced by the provision of services or the caregiver rejected services, and notification of the alleged delinquent act or violation of law to the appropriate law enforcement agency was initiated.

5. Services accepted by victim. Services were offered to the victim and accepted by the caregiver.

6. Report closed. Services were offered to the victim but were rejected by the caregiver.

CS/CS/HB 803

2012

981 Section 9. Section 39.504, Florida Statutes, is amended to
982 read:

983 39.504 Injunction pending disposition of petition;
984 penalty.—

985 (1) At any time after a protective investigation has been
986 initiated pursuant to part III of this chapter, the court, upon
987 the request of the department, a law enforcement officer, the
988 state attorney, or other responsible person, or upon its own
989 motion, may, if there is reasonable cause, issue an injunction
990 to prevent any act of child abuse. Reasonable cause for the
991 issuance of an injunction exists if there is evidence of child
992 abuse or if there is a reasonable likelihood of such abuse
993 occurring based upon a recent overt act or failure to act.

994 (2) The petitioner seeking the injunction shall file a
995 verified petition, or a petition along with an affidavit,
996 setting forth the specific actions by the alleged offender from
997 which the child must be protected and all remedies sought. Upon
998 filing the petition, the court shall set a hearing to be held at
999 the earliest possible time. Pending the hearing, the court may
1000 issue a temporary ex parte injunction, with verified pleadings
1001 or affidavits as evidence. The temporary ex parte injunction
1002 pending a hearing is effective for up to 15 days and the hearing
1003 must be held within that period unless continued for good cause
1004 shown, which may include obtaining service of process, in which
1005 case the temporary ex parte injunction shall be extended for the
1006 continuance period. The hearing may be held sooner if the
1007 alleged offender has received reasonable notice ~~shall be~~
1008 ~~provided to the parties as set forth in the Florida Rules of~~

CS/CS/HB 803

2012

~~Juvenile Procedure, unless the child is reported to be in imminent danger, in which case the court may issue an injunction immediately. A judge may issue an emergency injunction pursuant to this section without notice if the court is closed for the transaction of judicial business. If an immediate injunction is issued, the court must hold a hearing on the next day of judicial business to dissolve the injunction or to continue or modify it in accordance with this section.~~

(3) Before the hearing, the alleged offender must be personally served with a copy of the petition, all other pleadings related to the petition, a notice of hearing, and, if one has been entered, the temporary injunction. Following the hearing, the court may enter a final injunction. The court may grant a continuance of the hearing at any time for good cause shown by any party. If a temporary injunction has been entered, it shall be continued during the continuance.

(4)~~(3)~~ If an injunction is issued under this section, the primary purpose of the injunction must be to protect and promote the best interests of the child, taking the preservation of the child's immediate family into consideration.

(a) The injunction applies ~~shall apply~~ to the alleged or actual offender in a case of child abuse or acts of domestic violence. The conditions of the injunction shall be determined by the court, which ~~conditions~~ may include ordering the alleged or actual offender to:

1. Refrain from further abuse or acts of domestic violence.
2. Participate in a specialized treatment program.

CS/CS/HB 803

2012

1037 3. Limit contact or communication with the child victim,
1038 other children in the home, or any other child.

1039 4. Refrain from contacting the child at home, school,
1040 work, or wherever the child may be found.

1041 5. Have limited or supervised visitation with the child.

1042 ~~6. Pay temporary support for the child or other family~~
1043 ~~members; the costs of medical, psychiatric, and psychological~~
1044 ~~treatment for the child incurred as a result of the offenses;~~
1045 ~~and similar costs for other family members.~~

1046 ~~6.7.~~ Vacate the home in which the child resides.

1047 (b) Upon proper pleading, the court may award the
1048 following relief in a temporary ex parte or final injunction ~~if~~
1049 ~~the intent of the injunction is to protect the child from~~
1050 ~~domestic violence, the conditions may also include:~~

1051 1. ~~Awarding the~~ Exclusive use and possession of the
1052 dwelling to the caregiver or exclusion of ~~excluding~~ the alleged
1053 or actual offender from the residence of the caregiver.

1054 ~~2. Awarding temporary custody of the child to the~~
1055 ~~caregiver.~~

1056 ~~2.3.~~ Establishing Temporary support for the child or other
1057 family members.

1058 3. The costs of medical, psychiatric, and psychological
1059 treatment for the child incurred due to the abuse, and similar
1060 costs for other family members.

1061
1062 This paragraph does not preclude an ~~the~~ adult victim of domestic
1063 violence from seeking protection for himself or herself under s.
1064 741.30.

CS/CS/HB 803

2012

1065 (c) The terms of the final injunction shall remain in
1066 effect until modified or dissolved by the court. The petitioner,
1067 respondent, or caregiver may move at any time to modify or
1068 dissolve the injunction. Notice of hearing on the motion to
1069 modify or dissolve the injunction must be provided to all
1070 parties, including the department. The injunction is valid and
1071 enforceable in all counties in the state.

1072 (5)~~(4)~~ Service of process on the respondent shall be
1073 carried out pursuant to s. 741.30. The department shall deliver
1074 a copy of any injunction issued pursuant to this section to the
1075 protected party or to a parent, caregiver, or individual acting
1076 in the place of a parent who is not the respondent. Law
1077 enforcement officers may exercise their arrest powers as
1078 provided in s. 901.15(6) to enforce the terms of the injunction.

1079 (6)~~(5)~~ Any person who fails to comply with an injunction
1080 issued pursuant to this section commits a misdemeanor of the
1081 first degree, punishable as provided in s. 775.082 or s.
1082 775.083.

1083 (7) The person against whom an injunction is entered under
1084 this section does not automatically become a party to a
1085 subsequent dependency action concerning the same child.

1086 Section 10. Paragraph (r) of subsection (2) of section
1087 39.521, Florida Statutes, is amended to read:

1088 39.521 Disposition hearings; powers of disposition.—

1089 (2) The predisposition study must provide the court with
1090 the following documented information:

1091 (r) If the child has been removed from the home and will
1092 be remaining with a relative, parent, or other adult approved by

CS/CS/HB 803

2012

1093 the court, a home study report concerning the proposed placement
1094 shall be included in the predisposition report. Before ~~Prior to~~
1095 recommending to the court any out-of-home placement for a child
1096 other than placement in a licensed shelter or foster home, the
1097 department shall conduct a study of the home of the proposed
1098 legal custodians, which must include, at a minimum:

1099 1. An interview with the proposed legal custodians to
1100 assess their ongoing commitment and ability to care for the
1101 child.

1102 2. Records checks through the State Automated Child
1103 Welfare Information System (SACWIS) ~~Florida Abuse Hotline~~
1104 ~~Information System (FAHIS)~~, and local and statewide criminal and
1105 juvenile records checks through the Department of Law
1106 Enforcement, on all household members 12 years of age or older.
1107 In addition, the fingerprints of any household members who are
1108 18 years of age or older may be submitted to the Department of
1109 Law Enforcement for processing and forwarding to the Federal
1110 Bureau of Investigation for state and national criminal history
1111 information. The department has the discretion to request State
1112 Automated Child Welfare Information System (SACWIS) and local,
1113 statewide, and national criminal history checks and
1114 fingerprinting of any other visitor to the home who is made
1115 known to the department ~~and any other persons made known to the~~
1116 ~~department who are frequent visitors in the home.~~ Out-of-state
1117 criminal records checks must be initiated for any individual
1118 ~~designated above~~ who has resided in a state other than Florida
1119 if provided that state's laws allow the release of these
1120 records. The out-of-state criminal records must be filed with

CS/CS/HB 803

2012

the court within 5 days after receipt by the department or its agent.

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

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

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

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

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

The department may ~~shall~~ not place the child or continue the placement of the child in a home under shelter or postdisposition placement if the results of the home study are unfavorable, unless the court finds that this placement is in the child's best interest.

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

CS/CS/HB 803

2012

Section 11. Subsection (2) and paragraph (b) of subsection (4) of section 39.6011, Florida Statutes, are amended to read:

39.6011 Case plan development.—

(2) The case plan must be written simply and clearly in English and, if English is not the principal language of the child's parent, to the extent possible in the parent's principal language. Each case plan must contain:

(a) A description of the identified problem being addressed, including the parent's behavior or acts resulting in risk to the child and the reason for the intervention by the department.

(b) The permanency goal.

(c) If concurrent planning is being used, a description of the permanency goal of reunification with the parent or legal custodian in addition to a description of one of the remaining permanency goals described in s. 39.01.

1. If a child has not been removed from a parent, but is found to be dependent, even if adjudication of dependency is withheld, the court may leave the child in the current placement with maintaining and strengthening the placement as a permanency option.

2. If a child has been removed from a parent and is placed with a parent from whom the child was not removed, the court may leave the child in the placement with the parent from whom the child was not removed with maintaining and strengthening the placement as a permanency option.

3. If a child has been removed from a parent and is subsequently reunified with that parent, the court may leave the

CS/CS/HB 803

2012

child with that parent with maintaining and strengthening the placement as a permanency option.

(d) The date the compliance period expires. The case plan must be limited to as short a period as possible for accomplishing its provisions. The plan's compliance period expires no later than 12 months after the date the child was initially removed from the home, the child was adjudicated dependent, or the date the case plan was accepted by the court, whichever occurs first ~~sooner~~.

(e) A written notice to the parent that failure of the parent to substantially comply with the case plan may result in the termination of parental rights, and that a material breach of the case plan may result in the filing of a petition for termination of parental rights sooner than the compliance period set forth in the case plan.

(4) The case plan must describe:

(b) The responsibility of the case manager to forward a relative's request to receive notification of all proceedings and hearings submitted pursuant to s. 39.301(14)(b) ~~39.301(15)(b)~~ to the attorney for the department;

Section 12. Subsection (1) of section 39.621, Florida Statutes, is amended to read:

39.621 Permanency determination by the court.—

(1) Time is of the essence for permanency of children in the dependency system. A permanency hearing must be held no later than 12 months after the date the child was removed from the home or within ~~no later than~~ 30 days after a court determines that reasonable efforts to return a child to either

CS/CS/HB 803

2012

parent are not required, whichever occurs first. The purpose of the permanency hearing is to determine when the child will achieve the permanency goal or whether modifying the current goal is in the best interest of the child. A permanency hearing must be held at least every 12 months for any child who continues to be supervised by ~~receive supervision from~~ the department or awaits adoption.

Section 13. Paragraph (b) of subsection (3), subsection (6), and paragraph (e) of subsection (10) of section 39.701, Florida Statutes, are amended to read:

39.701 Judicial review.—

(3)

(b) If the citizen review panel recommends extending the goal of reunification for any case plan beyond 12 months from the date the child was removed from the home, ~~or~~ the case plan was adopted, or the child was adjudicated dependent, whichever date came first, the court must schedule a judicial review hearing to be conducted by the court within 30 days after receiving the recommendation from the citizen review panel.

(6) The attorney for the department shall notify a relative who submits a request for notification of all proceedings and hearings pursuant to s. 39.301(14)(b) ~~39.301(15)(b)~~. The notice shall include the date, time, and location of the next judicial review hearing.

(10)

(e) Within ~~No later than~~ 6 months after the date that the child was placed in shelter care, the court shall conduct a judicial review hearing to review the child's permanency goal as

CS/CS/HB 803

2012

1232 identified in the case plan. At the hearing the court shall make
1233 findings regarding the likelihood of the child's reunification
1234 with the parent or legal custodian within 12 months after the
1235 removal of the child from the home. ~~If, at this hearing,~~ the
1236 court makes a written finding that it is not likely that the
1237 child will be reunified with the parent or legal custodian
1238 within 12 months after the child was removed from the home, the
1239 department must file with the court, and serve on all parties, a
1240 motion to amend the case plan under s. 39.6013 and declare that
1241 it will use concurrent planning for the case plan. The
1242 department must file the motion within ~~no later than~~ 10 business
1243 days after receiving the written finding of the court. The
1244 department must attach the proposed amended case plan to the
1245 motion. If concurrent planning is already being used, the case
1246 plan must document the efforts the department is taking to
1247 complete the concurrent goal.

1248 Section 14. Paragraph (a) of subsection (1) of section
1249 39.8055, Florida Statutes, is amended to read:

1250 39.8055 Requirement to file a petition to terminate
1251 parental rights; exceptions.—

1252 (1) The department shall file a petition to terminate
1253 parental rights within 60 days after any of the following if:

1254 (a) ~~The At the time of the 12-month judicial review~~
1255 ~~hearing,~~ a child is not returned to the physical custody of the
1256 parents 12 months after the child was sheltered or adjudicated
1257 dependent, whichever occurs first;

CS/CS/HB 803

2012

Section 15. Paragraphs (d), (e), and (k) of subsection (1) and subsection (2) of section 39.806, Florida Statutes, are amended to read:

39.806 Grounds for termination of parental rights.—

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

(d) When the parent of a child is incarcerated ~~in a state or federal correctional institution~~ and either:

1. The period of time for which the parent is expected to be incarcerated will constitute a significant ~~substantial~~ portion of the child's minority. When determining whether the period of time is significant, the court shall consider the child's age and the child's need for a permanent and stable home. The period of time begins on the date that the parent enters into incarceration ~~period of time before the child will attain the age of 18 years;~~

2. The incarcerated parent has been determined by the court to be a violent career criminal as defined in s. 775.084, a habitual violent felony offender as defined in s. 775.084, or a sexual predator as defined in s. 775.21; has been convicted of first degree or second degree murder in violation of s. 782.04 or a sexual battery that constitutes a capital, life, or first degree felony violation of s. 794.011; or has been convicted of an offense in another jurisdiction which is substantially similar to one of the offenses listed in this paragraph. As used in this section, the term "substantially similar offense" means any offense that is substantially similar in elements and penalties to one of those listed in this subparagraph, and that

CS/CS/HB 803

2012

1286 is in violation of a law of any other jurisdiction, whether that
1287 of another state, the District of Columbia, the United States or
1288 any possession or territory thereof, or any foreign
1289 jurisdiction; or

1290 3. The court determines by clear and convincing evidence
1291 that continuing the parental relationship with the incarcerated
1292 parent would be harmful to the child and, for this reason, that
1293 termination of the parental rights of the incarcerated parent is
1294 in the best interest of the child. When determining harm, the
1295 court shall consider the following factors:

1296 a. The age of the child.

1297 b. The relationship between the child and the parent.

1298 c. The nature of the parent's current and past provision
1299 for the child's developmental, cognitive, psychological, and
1300 physical needs.

1301 d. The parent's history of criminal behavior, which may
1302 include the frequency of incarceration and the unavailability of
1303 the parent to the child due to incarceration.

1304 e. Any other factor the court deems relevant.

1305 (e) When a child has been adjudicated dependent, a case
1306 plan has been filed with the court, and:

1307 1. The child continues to be abused, neglected, or
1308 abandoned by the parent or parents. The failure of the parent or
1309 parents to substantially comply with the case plan for a period
1310 of 12 ~~9~~ months after an adjudication of the child as a dependent
1311 child or the child's placement into shelter care, whichever
1312 occurs first, constitutes evidence of continuing abuse, neglect,
1313 or abandonment unless the failure to substantially comply with

CS/CS/HB 803

2012

1314 the case plan was due to the parent's lack of financial
1315 resources or to the failure of the department to make reasonable
1316 efforts to reunify the parent and child. The 12-month ~~9-month~~
1317 period begins to run only after the child's placement into
1318 shelter care or the entry of a disposition order placing the
1319 custody of the child with the department or a person other than
1320 the parent and the court's approval of a case plan having the
1321 goal of reunification with the parent, whichever occurs first;
1322 or

1323 2. The parent or parents have materially breached the case
1324 plan. Time is of the essence for permanency of children in the
1325 dependency system. In order to prove the parent or parents have
1326 materially breached the case plan, the court must find by clear
1327 and convincing evidence that the parent or parents are unlikely
1328 or unable to substantially comply with the case plan before time
1329 to comply with the case plan expires.

1330 (k) A test administered at birth that indicated that the
1331 child's blood, urine, or meconium contained any amount of
1332 alcohol or a controlled substance or metabolites of such
1333 substances, the presence of which was not the result of medical
1334 treatment administered to the mother or the newborn infant, and
1335 the biological mother of the child is the biological mother of
1336 at least one other child who was adjudicated dependent after a
1337 finding of harm to the child's health or welfare due to exposure
1338 to a controlled substance or alcohol as defined in s.
1339 39.01(32)(g), after which the biological mother had the
1340 opportunity to participate in substance abuse treatment.

1341 (2) Reasonable efforts to preserve and reunify families

CS/CS/HB 803

2012

are not required if a court of competent jurisdiction has determined that any of the events described in paragraphs (1)(b)-(d) or (f)-(1) ~~(1)(e)-(1)~~ have occurred.

Section 16. Paragraph (c) of subsection (3) of section 402.56, Florida Statutes, is amended to read:

402.56 Children's cabinet; organization; responsibilities; annual report.—

(3) ORGANIZATION.—There is created the Children and Youth Cabinet, which is a coordinating council as defined in s. 20.03.

(c) ~~The cabinet shall meet for its organizational session no later than October 1, 2007. Thereafter,~~ The cabinet shall meet at least four ~~six~~ times each year, but no more than six times each year, in different regions of the state in order to solicit input from the public and any other individual offering testimony relevant to the issues considered. Each meeting must include a public comment session.

Section 17. Subsections (1) and (19) of section 39.502, Florida Statutes, are amended to read:

39.502 Notice, process, and service.—

(1) Unless parental rights have been terminated, all parents must be notified of all proceedings or hearings involving the child. Notice in cases involving shelter hearings and hearings resulting from medical emergencies must be that most likely to result in actual notice to the parents. In all other dependency proceedings, notice must be provided in accordance with subsections (4)-(9), except when a relative requests notification pursuant to s. 39.301(14)(b) ~~39.301(15)(b)~~, in which case notice shall be provided pursuant

CS/CS/HB 803

2012

to subsection (19).

(19) In all proceedings and hearings under this chapter, the attorney for the department shall notify, orally or in writing, a relative requesting notification pursuant to s. 39.301(14)(b) ~~39.301(15)(b)~~ of the date, time, and location of such proceedings and hearings, and notify the relative that he or she has the right to attend all subsequent proceedings and hearings, to submit reports to the court, and to speak to the court regarding the child, if the relative so desires. The court has the discretion to release the attorney for the department from notifying a relative who requested notification pursuant to s. 39.301(14)(b) ~~39.301(15)(b)~~ if the relative's involvement is determined to be impeding the dependency process or detrimental to the child's well-being.

Section 18. Section 39.823, Florida Statutes, is amended to read:

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

CS/CS/HB 803

2012

the needs of the child and to provide court review of such authorization.

Section 19. Paragraph (a) of subsection (1) of section 39.828, Florida Statutes, is amended to read:

39.828 Grounds for appointment of a guardian advocate.—

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

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

Section 20. This act shall take effect July 1, 2012.