

1 A bill to be entitled
2 An act relating to proceedings relating to children;
3 amending s. 39.01, F.S.; defining the term "legal
4 father"; revising the definition of the term "parent";
5 conforming provisions; amending s. 39.402, F.S.;
6 specifying additional inquiries to be made at a
7 shelter hearing; amending s. 39.503, F.S.; requiring
8 that specified inquiries relating to the unknown
9 identity or location of a parent in connection with a
10 petition for dependency or shelter be conducted under
11 oath; requiring that additional inquiries be made if
12 no parent or legal custodian is available; requiring
13 that a search of the Florida Putative Father Registry
14 be made; providing for scientific testing to determine
15 maternity or paternity of a child in certain
16 circumstances; providing that if a diligent search
17 fails to identify and locate a prospective parent, the
18 court may proceed without further notice; amending s.
19 39.507, F.S.; providing that, where there has been a
20 dependency trial as to one parent, the Department of
21 Children and Families' demonstration of a risk of harm
22 to the child by the second parent is sufficient for
23 the court to make supplemental findings and order case
24 plan tasks as to the second parent; amending s.
25 39.801, F.S.; revising requirements for adjudicatory
26 hearings; amending s. 39.803, F.S.; requiring that

HB 1237

2016

27 specified inquiries relating to the identity or
28 location of an unknown parent in connection with a
29 termination of parental rights proceeding be conducted
30 under oath; requiring that additional inquiries be
31 made if no parent or legal custodian is available;
32 requiring that a search of the Florida Putative Father
33 Registry be made; providing for scientific testing to
34 determine maternity or paternity of a child in certain
35 circumstances; providing that if a diligent search
36 fails to identify and locate a prospective parent, the
37 court may proceed without further notice; amending s.
38 39.806, F.S.; providing that a child's out-of-home
39 care placements based on substantially similar laws of
40 jurisdictions outside Florida may be relied upon to
41 establish a ground for termination of parental rights
42 if the child or another child is placed in out-of-home
43 care on three or more occasions; amending ss. 39.302,
44 39.524, 394.495, 409.1678, and 960.065, F.S.;

45 conforming provisions; providing an effective date.

46
47 Be It Enacted by the Legislature of the State of Florida:

48
49 Section 1. Subsections (35) through (79) of section 39.01,
50 Florida Statutes, are renumbered as subsections (36) through
51 (80), respectively, present subsections (10), (32), and (49) are
52 amended, and a new subsection (35) is added to that section, to

HB 1237

2016

53 read:

54 39.01 Definitions.—When used in this chapter, unless the
55 context otherwise requires:

56 (10) "Caregiver" means the parent, legal custodian,
57 permanent guardian, adult household member, or other person
58 responsible for a child's welfare as defined in subsection (48)
59 ~~(47)~~.

60 (32) "Institutional child abuse or neglect" means
61 situations of known or suspected child abuse or neglect in which
62 the person allegedly perpetrating the child abuse or neglect is
63 an employee of a private school, public or private day care
64 center, residential home, institution, facility, or agency or
65 any other person at such institution responsible for the child's
66 care as defined in subsection (48) ~~(47)~~.

67 (35) "Legal father" means a man married to the mother at
68 the time of conception or birth of the child, unless paternity
69 is otherwise determined by a court of competent jurisdiction. If
70 no man is married to the mother at the time of birth or
71 conception of the child, the term means a man named on the birth
72 certificate of the child pursuant to s. 382.013(2), determined
73 by a court order to be the father of the child, or determined by
74 an administrative proceeding to be the father of the child.

75 (50) ~~(49)~~ "Parent" means a woman who gives birth to a child
76 and a man whose consent to the adoption of the child would be
77 required under s. 63.062(1). The term also means a man married
78 to the mother at the time of conception or birth of the child,

79 unless paternity is otherwise determined by a court of competent
 80 jurisdiction. If no man is married to the mother at the time of
 81 birth or conception of the child, the term includes a man named
 82 on the birth certificate of the child pursuant to s. 382.013(2),
 83 determined by a court order to be the father of the child, or
 84 determined by an administrative proceeding to be the father of
 85 the child. If a child is ~~has been~~ legally adopted, the term
 86 "parent" means the adoptive mother or father of the child. The
 87 term does not include an individual whose parental relationship
 88 to the child has been legally terminated, or an alleged or
 89 prospective parent, unless the parental status falls within the
 90 terms of s. 39.503(1) or s. 63.062(1). For purposes of this
 91 chapter only, when the phrase "parent or legal custodian" is
 92 used, it refers to rights or responsibilities of the parent and,
 93 only if there is no living parent with intact parental rights,
 94 to the rights or responsibilities of the legal custodian who has
 95 assumed the role of the parent.

96 Section 2. Paragraph (c) of subsection (8) of section
 97 39.402, Florida Statutes, is amended to read:

98 39.402 Placement in a shelter.—

99 (8)

100 (c) At the shelter hearing, the court shall:

101 1. Appoint a guardian ad litem to represent the best
 102 interest of the child, unless the court finds that such
 103 representation is unnecessary;

104 2. Inform the parents or legal custodians of their right

105 to counsel to represent them at the shelter hearing and at each
 106 subsequent hearing or proceeding, and the right of the parents
 107 to appointed counsel, pursuant to the procedures set forth in s.
 108 39.013; ~~and~~

109 3. Give the parents or legal custodians an opportunity to
 110 be heard and to present evidence; ~~and-~~

111 4. Inquire of those present at the shelter hearing as to
 112 the identity and location of the legal father. In determining
 113 who the legal father of the child may be, the court shall
 114 inquire under oath of those present at the shelter hearing if
 115 they have any information as to:

116 a. Whether the mother of the child was married at the
 117 probable time of conception of the child or at the time of birth
 118 of the child.

119 b. Whether the mother was cohabiting with a male at the
 120 probable time of conception of the child.

121 c. Whether the mother has received payments or promises of
 122 support with respect to the child or because of her pregnancy
 123 from a man who claims to be the father.

124 d. Whether the mother has named any man as the father on
 125 the birth certificate of the child or in connection with
 126 applying for or receiving public assistance.

127 e. Whether any man has acknowledged or claimed paternity
 128 of the child in a jurisdiction in which the mother resided at
 129 the time of or since conception of the child, or in which the
 130 child has resided or resides.

131 f. Whether a man is named on the birth certificate of the
 132 child pursuant to s. 382.013(2).

133 g. Whether a man has been determined by a court order to
 134 be the father of the child.

135 h. Whether a man has been determined by an administrative
 136 proceeding to be the father of the child.

137 Section 3. Subsections (1), (6), and (8) of section
 138 39.503, Florida Statutes, are amended, and subsection (9) is
 139 added to that section, to read:

140 39.503 Identity or location of parent unknown; special
 141 procedures.—

142 (1) If the identity or location of a parent is unknown and
 143 a petition for dependency or shelter is filed, the court shall
 144 conduct under oath the following inquiry of the parent or legal
 145 custodian who is available, or, if no parent or legal custodian
 146 is available, of any relative or custodian of the child who is
 147 present at the hearing and likely to have the information:

148 (a) Whether the mother of the child was married at the
 149 probable time of conception of the child or at the time of birth
 150 of the child.

151 (b) Whether the mother was cohabiting with a male at the
 152 probable time of conception of the child.

153 (c) Whether the mother has received payments or promises
 154 of support with respect to the child or because of her pregnancy
 155 from a man who claims to be the father.

156 (d) Whether the mother has named any man as the father on

HB 1237

2016

157 the birth certificate of the child or in connection with
158 applying for or receiving public assistance.

159 (e) Whether any man has acknowledged or claimed paternity
160 of the child in a jurisdiction in which the mother resided at
161 the time of or since conception of the child, or in which the
162 child has resided or resides.

163 (f) Whether a man is named on the birth certificate of the
164 child pursuant to s. 382.013(2).

165 (g) Whether a man has been determined by a court order to
166 be the father of the child.

167 (h) Whether a man has been determined by an administrative
168 proceeding to be the father of the child.

169 (6) The diligent search required by subsection (5) must
170 include, at a minimum, inquiries of all relatives of the parent
171 or prospective parent made known to the petitioner, inquiries of
172 all offices of program areas of the department likely to have
173 information about the parent or prospective parent, inquiries of
174 other state and federal agencies likely to have information
175 about the parent or prospective parent, inquiries of appropriate
176 utility and postal providers, a thorough search of at least one
177 electronic database specifically designed for locating persons,
178 a search of the Florida Putative Father Registry, and inquiries
179 of appropriate law enforcement agencies. Pursuant to s.
180 453(c)(4) ~~453~~ of the Social Security Act, 42 U.S.C. s.
181 653(c)(4), the department, as the state agency administering
182 Titles IV-B and IV-E of the act, shall be provided access to the

183 federal and state parent locator service for diligent search
184 activities.

185 (8) If the inquiry and diligent search identifies a
186 prospective parent, that person must be given the opportunity to
187 become a party to the proceedings by completing a sworn
188 affidavit of parenthood and filing it with the court or the
189 department. A prospective parent who files a sworn affidavit of
190 parenthood while the child is a dependent child but no later
191 than at the time of or prior to the adjudicatory hearing in any
192 termination of parental rights proceeding for the child shall be
193 considered a parent for all purposes under this section unless
194 the other parent contests the determination of parenthood. If
195 the prospective parent does not file a sworn affidavit of
196 parenthood or if the other parent contests the determination of
197 parenthood, the court may, after considering the best interest
198 of the child, order scientific testing to determine the
199 maternity or paternity of the child. The court shall assess the
200 cost of the paternity determination as a cost of litigation. If
201 the court finds the prospective parent to be a parent as a
202 result of the scientific testing, the court shall enter a
203 judgment of maternity or paternity, shall assess the cost of the
204 scientific testing to the parent, and shall enter an amount of
205 child support to be paid by the parent as determined under s.
206 61.30. If the known parent contests the recognition of the
207 prospective parent as a parent, the prospective parent may ~~shall~~
208 not be recognized as a parent until proceedings to establish

209 paternity are ~~under chapter 742 have been~~ concluded. However,
 210 the prospective parent shall continue to receive notice of
 211 hearings as a participant pending results of the ~~chapter 742~~
 212 proceedings to establish paternity are concluded.

213 (9) If the diligent search under subsection (5) fails to
 214 identify and locate a prospective parent, the court shall so
 215 find and may proceed without further notice.

216 Section 4. Paragraphs (a) and (b) of subsection (7) of
 217 section 39.507, Florida Statutes, are amended to read:

218 39.507 Adjudicatory hearings; orders of adjudication.—

219 (7) (a) For as long as a court maintains jurisdiction over
 220 a dependency case, only one order adjudicating each child in the
 221 case dependent shall be entered. This order establishes the
 222 legal status of the child for purposes of proceedings under this
 223 chapter and may be based on the conduct of one parent, both
 224 parents, or a legal custodian.

225 (b) However, the court must determine whether each parent
 226 or legal custodian identified in the case abused, abandoned, or
 227 neglected the child or engaged in conduct that places the child
 228 at substantial risk of imminent abuse, abandonment, or in a
 229 subsequent evidentiary hearing. If the initial evidentiary
 230 hearing is conducted with only one parent present or having been
 231 served with the petition, the evidentiary hearing shall address
 232 the abuse, abandonment, or neglect alleged in the petition
 233 regardless of whether any of the allegations are made against
 234 that parent. If the second parent is subsequently served and

235 brought into the proceeding after the initial adjudication and
 236 the evidentiary hearing for the second parent is conducted after
 237 ~~subsequent to the~~ initial adjudication of the child, the court
 238 shall supplement the adjudicatory order, disposition order, and
 239 the case plan, as necessary. The petitioner is not required to
 240 show actual harm or actual abuse by the second parent in order
 241 for the court to make supplemental findings regarding the
 242 conduct of the second parent. With the exception of proceedings
 243 pursuant to s. 39.811, the child's dependency status may not be
 244 retried or readjudicated.

245 Section 5. Paragraph (a) of subsection (3) of section
 246 39.801, Florida Statutes, is amended to read:

247 39.801 Procedures and jurisdiction; notice; service of
 248 process.—

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

252 (a) Notice of the date, time, and place of the advisory
 253 hearing for the petition to terminate parental rights and a copy
 254 of the petition must be personally served upon the following
 255 persons, specifically notifying them that a petition has been
 256 filed:

- 257 1. The parents of the child.
- 258 2. The legal custodians of the child.
- 259 3. If the parents who would be entitled to notice are dead
 260 or unknown, a living relative of the child, unless upon diligent

HB 1237

2016

261 search and inquiry no such relative can be found.

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

263 5. Any grandparent entitled to priority for adoption under
264 s. 63.0425.

265 6. Any prospective parent who is ~~has been~~ identified under
266 s. 39.503 or s. 39.803, except where a court order is entered
267 pursuant to s. 39.503(4) or (9) or s. 39.803(4) or (9) that no
268 further notice is required. Except as otherwise provided in this
269 section, if there is no legal father, notice of the petition for
270 termination of parental rights shall be provided to any known
271 prospective father who is identified under oath before the court
272 or who is identified by a diligent search of the Florida
273 Putative Father Registry. Service of the notice of the petition
274 for termination of parental rights is not required if the
275 prospective father executes an affidavit of nonpaternity or a
276 consent to termination of his parental rights which is accepted
277 by the court after notice and opportunity to be heard by all
278 parties to address the best interest of the child in accepting
279 such affidavit.

280 7. The guardian ad litem for the child or the
281 representative of the guardian ad litem program, if the program
282 has been appointed.

283

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

287 "FAILURE TO PERSONALLY APPEAR AT THIS ADVISORY HEARING
288 CONSTITUTES CONSENT TO THE TERMINATION OF PARENTAL RIGHTS OF
289 THIS CHILD (OR CHILDREN). IF YOU FAIL TO APPEAR ON THE DATE AND
290 TIME SPECIFIED, YOU MAY LOSE ALL LEGAL RIGHTS AS A PARENT TO THE
291 CHILD OR CHILDREN NAMED IN THE PETITION ATTACHED TO THIS
292 NOTICE."

293 Section 6. Subsections (1), (6), and (8) of section
294 39.803, Florida Statutes, are amended, and subsection (9) is
295 added to that section, to read:

296 39.803 Identity or location of parent unknown after filing
297 of termination of parental rights petition; special procedures.—

298 (1) If the identity or location of a parent is unknown and
299 a petition for termination of parental rights is filed, the
300 court shall conduct under oath the following inquiry of the
301 parent who is available, or, if no parent is available, of any
302 relative, caregiver, or legal custodian of the child who is
303 present at the hearing and likely to have the information:

304 (a) Whether the mother of the child was married at the
305 probable time of conception of the child or at the time of birth
306 of the child.

307 (b) Whether the mother was cohabiting with a male at the
308 probable time of conception of the child.

309 (c) Whether the mother has received payments or promises
310 of support with respect to the child or because of her pregnancy
311 from a man who claims to be the father.

312 (d) Whether the mother has named any man as the father on

HB 1237

2016

313 the birth certificate of the child or in connection with
314 applying for or receiving public assistance.

315 (e) Whether any man has acknowledged or claimed paternity
316 of the child in a jurisdiction in which the mother resided at
317 the time of or since conception of the child, or in which the
318 child has resided or resides.

319 (f) Whether a man is named on the birth certificate of the
320 child pursuant to s. 382.013(2).

321 (g) Whether a man has been determined by a court order to
322 be the father of the child.

323 (h) Whether a man has been determined by an administrative
324 proceeding to be the father of the child.

325 (6) The diligent search required by subsection (5) must
326 include, at a minimum, inquiries of all known relatives of the
327 parent or prospective parent, inquiries of all offices of
328 program areas of the department likely to have information about
329 the parent or prospective parent, inquiries of other state and
330 federal agencies likely to have information about the parent or
331 prospective parent, inquiries of appropriate utility and postal
332 providers, a thorough search of at least one electronic database
333 specifically designed for locating persons, a search of the
334 Florida Putative Father Registry, and inquiries of appropriate
335 law enforcement agencies. Pursuant to s. 453(c)(4) of the Social
336 Security Act, 42 U.S.C. s. 653(c)(4), the department, as the
337 state agency administering Titles IV-B and IV-E of the act,
338 shall be provided access to the federal and state parent locator

339 service for diligent search activities. If the known parent
340 contests the recognition of the prospective parent as a parent,
341 the prospective parent may not be recognized as a parent until
342 proceedings to establish paternity are concluded. However, the
343 prospective parent shall continue to receive notice of hearings
344 as a participant pending until proceedings to establish
345 paternity are concluded.

346 (8) If the inquiry and diligent search identifies a
347 prospective parent, that person must be given the opportunity to
348 become a party to the proceedings by completing a sworn
349 affidavit of parenthood and filing it with the court or the
350 department. A prospective parent who files a sworn affidavit of
351 parenthood while the child is a dependent child but no later
352 than at the time of or prior to the adjudicatory hearing in the
353 termination of parental rights proceeding for the child shall be
354 considered a parent for all purposes under this section. If the
355 prospective parent does not file a sworn affidavit of parenthood
356 or if the other parent contests the determination of parenthood,
357 the court may, after considering the best interest of the child,
358 order scientific testing to determine the maternity or paternity
359 of the child. The court shall assess the cost of the paternity
360 determination as a cost of litigation. If the court finds the
361 prospective parent to be a parent as a result of the scientific
362 testing, the court shall enter a judgment of maternity or
363 paternity, shall assess the cost of the scientific testing to
364 the parent, and shall enter an amount of child support to be

HB 1237

2016

365 paid by the parent as determined under s. 61.30. If the known
366 parent contests the recognition of the prospective parent as a
367 parent, the prospective parent may not be recognized as a parent
368 until proceedings to establish paternity are concluded. However,
369 the prospective parent shall continue to receive notice of
370 hearings as a participant pending results of the until
371 proceedings to establish paternity are concluded.

372 (9) If the diligent search under subsection (5) fails to
373 identify and locate a prospective parent, the court shall so
374 find and may proceed without further notice.

375 Section 7. Paragraph (1) of subsection (1) of section
376 39.806, Florida Statutes, is amended to read:

377 39.806 Grounds for termination of parental rights.—

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

380 (1) On three or more occasions the child or another child
381 of the parent or parents has been placed in out-of-home care
382 pursuant to this chapter or the law of any state, territory, or
383 jurisdiction of the United States that is substantially similar
384 to this chapter, and the conditions that led to the child's out-
385 of-home placement were caused by the parent or parents.

386 Section 8. Subsection (1) of section 39.302, Florida
387 Statutes, is amended to read:

388 39.302 Protective investigations of institutional child
389 abuse, abandonment, or neglect.—

390 (1) The department shall conduct a child protective

391 investigation of each report of institutional child abuse,
392 abandonment, or neglect. Upon receipt of a report that alleges
393 that an employee or agent of the department, or any other entity
394 or person covered by s. 39.01(32) or (48) ~~(47)~~, acting in an
395 official capacity, has committed an act of child abuse,
396 abandonment, or neglect, the department shall initiate a child
397 protective investigation within the timeframe established under
398 s. 39.201(5) and notify the appropriate state attorney, law
399 enforcement agency, and licensing agency, which shall
400 immediately conduct a joint investigation, unless independent
401 investigations are more feasible. When conducting investigations
402 or having face-to-face interviews with the child, investigation
403 visits shall be unannounced unless it is determined by the
404 department or its agent that unannounced visits threaten the
405 safety of the child. If a facility is exempt from licensing, the
406 department shall inform the owner or operator of the facility of
407 the report. Each agency conducting a joint investigation is
408 entitled to full access to the information gathered by the
409 department in the course of the investigation. A protective
410 investigation must include an interview with the child's parent
411 or legal guardian. The department shall make a full written
412 report to the state attorney within 3 working days after making
413 the oral report. A criminal investigation shall be coordinated,
414 whenever possible, with the child protective investigation of
415 the department. Any interested person who has information
416 regarding the offenses described in this subsection may forward

HB 1237

2016

417 a statement to the state attorney as to whether prosecution is
418 warranted and appropriate. Within 15 days after the completion
419 of the investigation, the state attorney shall report the
420 findings to the department and shall include in the report a
421 determination of whether or not prosecution is justified and
422 appropriate in view of the circumstances of the specific case.

423 Section 9. Subsection (1) of section 39.524, Florida
424 Statutes, is amended to read:

425 39.524 Safe-harbor placement.—

426 (1) Except as provided in s. 39.407 or s. 985.801, a
427 dependent child 6 years of age or older who has been found to be
428 a victim of sexual exploitation as defined in s. 39.01(70)(g)
429 ~~39.01(69)(g)~~ must be assessed for placement in a safe house or
430 safe foster home as provided in s. 409.1678 using the initial
431 screening and assessment instruments provided in s. 409.1754(1).
432 If such placement is determined to be appropriate for the child
433 as a result of this assessment, the child may be placed in a
434 safe house or safe foster home, if one is available. However,
435 the child may be placed in another setting, if the other setting
436 is more appropriate to the child's needs or if a safe house or
437 safe foster home is unavailable, as long as the child's
438 behaviors are managed so as not to endanger other children
439 served in that setting.

440 Section 10. Paragraph (p) of subsection (4) of section
441 394.495, Florida Statutes, is amended to read:

442 394.495 Child and adolescent mental health system of care;

443 programs and services.—

444 (4) The array of services may include, but is not limited
445 to:

446 (p) Trauma-informed services for children who have
447 suffered sexual exploitation as defined in s. 39.01(70)(g)
448 ~~39.01(69)(g)~~.

449 Section 11. Paragraph (c) of subsection (1) and paragraphs
450 (a) and (b) of subsection (6) of section 409.1678, Florida
451 Statutes, are amended to read:

452 409.1678 Specialized residential options for children who
453 are victims of sexual exploitation.—

454 (1) DEFINITIONS.—As used in this section, the term:

455 (c) "Sexually exploited child" means a child who has
456 suffered sexual exploitation as defined in s. 39.01(70)(g)
457 ~~39.01(69)(g)~~ and is ineligible for relief and benefits under the
458 federal Trafficking Victims Protection Act, 22 U.S.C. ss. 7101
459 et seq.

460 (6) LOCATION INFORMATION.—

461 (a) Information about the location of a safe house, safe
462 foster home, or other residential facility serving victims of
463 sexual exploitation, as defined in s. 39.01(70)(g) ~~39.01(69)(g)~~,
464 which is held by an agency, as defined in s. 119.011, is
465 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
466 of the State Constitution. This exemption applies to such
467 confidential and exempt information held by an agency before,
468 on, or after the effective date of the exemption.

HB 1237

2016

469 (b) Information about the location of a safe house, safe
470 foster home, or other residential facility serving victims of
471 sexual exploitation, as defined in s. 39.01(70)(g) ~~39.01(69)(g)~~,
472 may be provided to an agency, as defined in s. 119.011, as
473 necessary to maintain health and safety standards and to address
474 emergency situations in the safe house, safe foster home, or
475 other residential facility.

476 Section 12. Subsection (5) of section 960.065, Florida
477 Statutes, is amended to read:

478 960.065 Eligibility for awards.—

479 (5) A person is not ineligible for an award pursuant to
480 paragraph (2)(a), paragraph (2)(b), or paragraph (2)(c) if that
481 person is a victim of sexual exploitation of a child as defined
482 in s. 39.01(70)(g) ~~39.01(69)(g)~~.

483 Section 13. This act shall take effect July 1, 2016.