

By Senator Albritton

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1                   A bill to be entitled  
2       An act relating to child welfare; amending s. 39.01,  
3       F.S.; providing a definition; conforming cross-  
4       references; amending s. 39.6011, F.S.; requiring a  
5       case plan to include conditions for return of a child  
6       that has been sheltered; requiring that the case plan  
7       describe the responsibility of certain persons to  
8       communicate effectively; requiring the court to be  
9       notified if ineffective communication takes place;  
10      amending s. 39.621, F.S.; providing additional factors  
11      for a court to consider when deciding certain motions;  
12      amending s. 39.701, F.S.; requiring a foster parent or  
13      legal custodian to disclose to the court any  
14      communication not in compliance with the case plan;  
15      requiring a court and citizen review panel to  
16      determine whether communications between certain  
17      parties are effective; providing an additional  
18      requirement for when a court must return a child to  
19      the custody of the child's parents; amending ss.  
20      39.302, 39.521, 39.6012, 322.09, 394.495, 627.746,  
21      934.255, and 960.065, F.S.; conforming cross-  
22      references; providing an effective date.

23  
24   Be It Enacted by the Legislature of the State of Florida:

25  
26       Section 1. Present subsections (20) through (87) of section  
27       39.01, Florida Statutes, are redesignated as subsections (21)  
28       through (88) respectively, subsection (10) and present  
29       subsection (37) are amended, and a new subsection (20) is added

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30 to that section, to read:

31 39.01 Definitions.—When used in this chapter, unless the  
32 context otherwise requires:

33 (10) “Caregiver” means the parent, legal custodian,  
34 permanent guardian, adult household member, or other person  
35 responsible for a child’s welfare as defined in this section  
36 subsection (54).

37 (20) “Conditions for return” means the minimum conditions  
38 that must exist with respect to a specific family’s  
39 circumstances, including, but not limited to, the home  
40 environment and a caregiver’s perception, behavior, protective  
41 capacity, and safety resources, to allow for reunification to  
42 occur with the use of an in-home safety plan.

43 (38)~~(37)~~ “Institutional child abuse or neglect” means  
44 situations of known or suspected child abuse or neglect in which  
45 the person allegedly perpetrating the child abuse or neglect is  
46 an employee of a private school, public or private day care  
47 center, residential home, institution, facility, or agency or  
48 any other person at such institution responsible for the child’s  
49 care as defined in this section ~~subsection (54)~~.

50 Section 2. Present paragraphs (b) through (e) of subsection  
51 (2) of section 39.6011, Florida Statutes, are redesignated as  
52 paragraphs (c) through (f), respectively, present paragraphs (b)  
53 through (d) of subsection (4) are redesignated as paragraphs (c)  
54 through and (e), respectively, a new paragraph (b) is added to  
55 subsection (2) of that section, and a new paragraph (b) is added  
56 to subsection (4) of that section, to read:

57 39.6011 Case plan development.—

58 (2) The case plan must be written simply and clearly in

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59 English and, if English is not the principal language of the  
60 child's parent, to the extent possible in the parent's principal  
61 language. Each case plan must contain:

62 (b) A description of the conditions for return if a child  
63 has been sheltered.

64 (4) The case plan must describe:

65 (b) The responsibility of the parents, foster parents, or  
66 legal custodians to communicate effectively, which includes, but  
67 is not limited to, refraining from harassing or inappropriate  
68 communication, to promote the safety, well-being, and physical,  
69 mental, and emotional health of the child. A parent, foster  
70 parent, or legal custodian shall notify the court if ineffective  
71 communication takes place;

72 Section 3. Subsection (11) of section 39.621, Florida  
73 Statutes, is amended to read:

74 39.621 Permanency determination by the court.—

75 (11) The court shall base its decision concerning any  
76 motion by a parent for reunification or increased contact with a  
77 child on the effect of the decision on the safety, well-being,  
78 and physical, mental, and emotional health of the child. Factors  
79 that must be considered and addressed in the findings of fact of  
80 the order on the motion must include:

81 (a) The compliance or noncompliance of the parent with the  
82 case plan and the likelihood that the parent will complete the  
83 case plan in a reasonable amount of time;

84 (b) Whether a parent has met the conditions for return in  
85 the case plan, including, but not limited to, demonstrating  
86 necessary changes in protective capacity so that the child's  
87 safety, well-being, and physical, mental, and emotional health

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88 are not endangered if reunification is ordered by the court;

89 (c) The circumstances which caused the child's dependency  
90 and whether those circumstances have been resolved;

91 (d)~~(e)~~ The stability and longevity of the child's  
92 placement;

93 (e)~~(d)~~ The preferences of the child, if the child is of  
94 sufficient age and understanding to express a preference;

95 (f)~~(e)~~ The recommendation of the current custodian; and

96 (g)~~(f)~~ The recommendation of the guardian ad litem, if one  
97 has been appointed.

98 Section 4. Paragraphs (a), (c), and (d) of subsection (2)  
99 of section 39.701, Florida Statutes, are amended to read:

100 39.701 Judicial review.—

101 (2) REVIEW HEARINGS FOR CHILDREN YOUNGER THAN 18 YEARS OF  
102 AGE.—

103 (a) *Social study report for judicial review.*—Before every  
104 judicial review hearing or citizen review panel hearing, the  
105 social service agency shall make an investigation and social  
106 study concerning all pertinent details relating to the child and  
107 shall furnish to the court or citizen review panel a written  
108 report that includes, but is not limited to:

109 1. A description of the type of placement the child is in  
110 at the time of the hearing, including the safety of the child  
111 and the continuing necessity for and appropriateness of the  
112 placement.

113 2. Documentation of the diligent efforts made by all  
114 parties to the case plan to comply with each applicable  
115 provision of the plan.

116 3. The amount of fees assessed and collected during the

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117 period of time being reported.

118 4. The services provided to the foster family or legal  
119 custodian in an effort to address the needs of the child as  
120 indicated in the case plan.

121 5. A statement that either:

122 a. The parent, though able to do so, did not comply  
123 substantially with the case plan, and the agency  
124 recommendations;

125 b. The parent did substantially comply with the case plan;  
126 or

127 c. The parent has partially complied with the case plan,  
128 with a summary of additional progress needed and the agency  
129 recommendations.

130 6. A statement from the foster parent or legal custodian  
131 providing any material evidence concerning the return of the  
132 child to the parent or parents, including, but not limited to,  
133 any communication that is not in compliance with the case plan.

134 7. A statement concerning the frequency, duration, and  
135 results of the parent-child visitation, if any, and the agency  
136 recommendations for an expansion or restriction of future  
137 visitation.

138 8. The number of times a child has been removed from his or  
139 her home and placed elsewhere, the number and types of  
140 placements that have occurred, and the reason for the changes in  
141 placement.

142 9. The number of times a child's educational placement has  
143 been changed, the number and types of educational placements  
144 which have occurred, and the reason for any change in placement.

145 10. If the child has reached 13 years of age but is not yet

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146 18 years of age, a statement from the caregiver on the progress  
147 the child has made in acquiring independent living skills.

148 11. Copies of all medical, psychological, and educational  
149 records that support the terms of the case plan and that have  
150 been produced concerning the parents or any caregiver since the  
151 last judicial review hearing.

152 12. Copies of the child's current health, mental health,  
153 and education records as identified in s. 39.6012.

154 (c) *Review determinations.*—The court and any citizen review  
155 panel shall take into consideration the information contained in  
156 the social services study and investigation and all medical,  
157 psychological, and educational records that support the terms of  
158 the case plan; testimony by the social services agency, the  
159 parent, the foster parent or legal custodian, the guardian ad  
160 litem or surrogate parent for educational decisionmaking if one  
161 has been appointed for the child, and any other person deemed  
162 appropriate; and any relevant and material evidence submitted to  
163 the court, including written and oral reports to the extent of  
164 their probative value. These reports and evidence may be  
165 received by the court in its effort to determine the action to  
166 be taken with regard to the child and may be relied upon to the  
167 extent of their probative value, even though not competent in an  
168 adjudicatory hearing. In its deliberations, the court and any  
169 citizen review panel shall seek to determine:

170 1. If the parent was advised of the right to receive  
171 assistance from any person or social service agency in the  
172 preparation of the case plan.

173 2. If the parent has been advised of the right to have  
174 counsel present at the judicial review or citizen review

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175 hearings. If not so advised, the court or citizen review panel  
176 shall advise the parent of such right.

177 3. If a guardian ad litem needs to be appointed for the  
178 child in a case in which a guardian ad litem has not previously  
179 been appointed or if there is a need to continue a guardian ad  
180 litem in a case in which a guardian ad litem has been appointed.

181 4. Who holds the rights to make educational decisions for  
182 the child. If appropriate, the court may refer the child to the  
183 district school superintendent for appointment of a surrogate  
184 parent or may itself appoint a surrogate parent under the  
185 Individuals with Disabilities Education Act and s. 39.0016.

186 5. The compliance or lack of compliance of all parties with  
187 applicable items of the case plan, including the parents'  
188 compliance with child support orders.

189 6. The compliance or lack of compliance with a visitation  
190 contract between the parent and the social service agency for  
191 contact with the child, including the frequency, duration, and  
192 results of the parent-child visitation and the reason for any  
193 noncompliance.

194 7. The frequency, kind, and duration of contacts among  
195 siblings who have been separated during placement, as well as  
196 any efforts undertaken to reunite separated siblings if doing so  
197 is in the best interest of the child.

198 8. The compliance or lack of compliance of the parent in  
199 meeting specified financial obligations pertaining to the care  
200 of the child, including the reason for failure to comply, if  
201 applicable.

202 9. Whether the child is receiving safe and proper care  
203 according to s. 39.6012, including, but not limited to, the

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204 appropriateness of the child's current placement, including  
205 whether the child is in a setting that is as family-like and as  
206 close to the parent's home as possible, consistent with the  
207 child's best interests and special needs, and including  
208 maintaining stability in the child's educational placement, as  
209 documented by assurances from the community-based care provider  
210 that:

211 a. The placement of the child takes into account the  
212 appropriateness of the current educational setting and the  
213 proximity to the school in which the child is enrolled at the  
214 time of placement.

215 b. The community-based care agency has coordinated with  
216 appropriate local educational agencies to ensure that the child  
217 remains in the school in which the child is enrolled at the time  
218 of placement.

219 10. A projected date likely for the child's return home or  
220 other permanent placement.

221 11. When appropriate, the basis for the unwillingness or  
222 inability of the parent to become a party to a case plan. The  
223 court and the citizen review panel shall determine if the  
224 efforts of the social service agency to secure party  
225 participation in a case plan were sufficient.

226 12. For a child who has reached 13 years of age but is not  
227 yet 18 years of age, the adequacy of the child's preparation for  
228 adulthood and independent living. For a child who is 15 years of  
229 age or older, the court shall determine if appropriate steps are  
230 being taken for the child to obtain a driver license or  
231 learner's driver license.

232 13. If amendments to the case plan are required. Amendments

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233 to the case plan must be made under s. 39.6013.

234 14. Whether the parent and foster parent or legal custodian  
235 communicate effectively to promote the safety, well-being, and  
236 physical, mental, and emotional health of the child, which  
237 includes, but is not limited to, refraining from harassing or  
238 inappropriate communication.

239 (d) *Orders.*—

240 1. Based upon the criteria set forth in paragraph (c) and  
241 the recommended order of the citizen review panel, if any, the  
242 court shall determine whether or not the social service agency  
243 shall initiate proceedings to have a child declared a dependent  
244 child, return the child to the parent, continue the child in  
245 out-of-home care for a specified period of time, or initiate  
246 termination of parental rights proceedings for subsequent  
247 placement in an adoptive home. Amendments to the case plan must  
248 be prepared as prescribed in s. 39.6013. If the court finds that  
249 the prevention or reunification efforts of the department will  
250 allow the child to remain safely at home or be safely returned  
251 to the home, the court shall allow the child to remain in or  
252 return to the home after making a specific finding of fact that  
253 the reasons for the creation of the case plan have been remedied  
254 to the extent that the child's safety, well-being, and physical,  
255 mental, and emotional health will not be endangered.

256 2. The court shall return the child to the custody of the  
257 parents at any time it determines that:

258 a. The parents have provided evidence that conditions for  
259 return have been met, including, but not limited to, a  
260 demonstrated change in their protective capacity;

261 b. The parents ~~they~~ have substantially complied with the

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262 case plan and are likely to complete it in a reasonable amount  
263 of time; and

264 c. ~~if~~ The court is satisfied that reunification will not  
265 be detrimental to the child's safety, well-being, and physical,  
266 mental, and emotional health.

267 3. If, in the opinion of the court, the social service  
268 agency has not complied with its obligations as specified in the  
269 written case plan, the court may find the social service agency  
270 in contempt, shall order the social service agency to submit its  
271 plans for compliance with the agreement, and shall require the  
272 social service agency to show why the child could not safely be  
273 returned to the home of the parents.

274 4. If, at any judicial review, the court finds that the  
275 parents have failed to substantially comply with the case plan  
276 to the degree that further reunification efforts are without  
277 merit and not in the best interest of the child, on its own  
278 motion, the court may order the filing of a petition for  
279 termination of parental rights, whether or not the time period  
280 as contained in the case plan for substantial compliance has  
281 expired.

282 5. Within 6 months after the date that the child was placed  
283 in shelter care, the court shall conduct a judicial review  
284 hearing to review the child's permanency goal as identified in  
285 the case plan. At the hearing the court shall make findings  
286 regarding the likelihood of the child's reunification with the  
287 parent or legal custodian. In making such findings, the court  
288 shall consider the level of the parent or legal custodian's  
289 compliance with the case plan and demonstrated change in  
290 protective capacities compared to that necessary to achieve

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291 timely reunification within 12 months after the removal of the  
292 child from the home. The court shall also consider the  
293 frequency, duration, manner, and level of engagement of the  
294 parent or legal custodian's visitation with the child in  
295 compliance with the case plan. If the court makes a written  
296 finding that it is not likely that the child will be reunified  
297 with the parent or legal custodian within 12 months after the  
298 child was removed from the home, the department must file with  
299 the court, and serve on all parties, a motion to amend the case  
300 plan under s. 39.6013 and declare that it will use concurrent  
301 planning for the case plan. The department must file the motion  
302 within 10 business days after receiving the written finding of  
303 the court. The department must attach the proposed amended case  
304 plan to the motion. If concurrent planning is already being  
305 used, the case plan must document the efforts the department is  
306 taking to complete the concurrent goal.

307 6. The court may issue a protective order in assistance, or  
308 as a condition, of any other order made under this part. In  
309 addition to the requirements included in the case plan, the  
310 protective order may set forth requirements relating to  
311 reasonable conditions of behavior to be observed for a specified  
312 period of time by a person or agency who is before the court;  
313 and the order may require any person or agency to make periodic  
314 reports to the court containing such information as the court in  
315 its discretion may prescribe.

316 Section 5. Subsection (1) of section 39.302, Florida  
317 Statutes, is amended to read:

318 39.302 Protective investigations of institutional child  
319 abuse, abandonment, or neglect.-

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320 (1) The department shall conduct a child protective  
321 investigation of each report of institutional child abuse,  
322 abandonment, or neglect. Upon receipt of a report that alleges  
323 that an employee or agent of the department, or any other entity  
324 or person covered by s. 39.01 ~~s. 39.01(37) or (54)~~, acting in an  
325 official capacity, has committed an act of child abuse,  
326 abandonment, or neglect, the department shall initiate a child  
327 protective investigation within the timeframe established under  
328 s. 39.201(5) and notify the appropriate state attorney, law  
329 enforcement agency, and licensing agency, which shall  
330 immediately conduct a joint investigation, unless independent  
331 investigations are more feasible. When conducting investigations  
332 or having face-to-face interviews with the child, investigation  
333 visits shall be unannounced unless it is determined by the  
334 department or its agent that unannounced visits threaten the  
335 safety of the child. If a facility is exempt from licensing, the  
336 department shall inform the owner or operator of the facility of  
337 the report. Each agency conducting a joint investigation is  
338 entitled to full access to the information gathered by the  
339 department in the course of the investigation. A protective  
340 investigation must include an interview with the child's parent  
341 or legal guardian. The department shall make a full written  
342 report to the state attorney within 3 working days after making  
343 the oral report. A criminal investigation shall be coordinated,  
344 whenever possible, with the child protective investigation of  
345 the department. Any interested person who has information  
346 regarding the offenses described in this subsection may forward  
347 a statement to the state attorney as to whether prosecution is  
348 warranted and appropriate. Within 15 days after the completion

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349 of the investigation, the state attorney shall report the  
350 findings to the department and shall include in the report a  
351 determination of whether or not prosecution is justified and  
352 appropriate in view of the circumstances of the specific case.

353 Section 6. Paragraph (c) of subsection (1) of section  
354 39.521, Florida Statutes, is amended to read:

355 39.521 Disposition hearings; powers of disposition.—

356 (1) A disposition hearing shall be conducted by the court,  
357 if the court finds that the facts alleged in the petition for  
358 dependency were proven in the adjudicatory hearing, or if the  
359 parents or legal custodians have consented to the finding of  
360 dependency or admitted the allegations in the petition, have  
361 failed to appear for the arraignment hearing after proper  
362 notice, or have not been located despite a diligent search  
363 having been conducted.

364 (c) When any child is adjudicated by a court to be  
365 dependent, the court having jurisdiction of the child has the  
366 power by order to:

367 1. Require the parent and, when appropriate, the legal  
368 guardian or the child to participate in treatment and services  
369 identified as necessary. The court may require the person who  
370 has custody or who is requesting custody of the child to submit  
371 to a mental health or substance abuse disorder assessment or  
372 evaluation. The order may be made only upon good cause shown and  
373 pursuant to notice and procedural requirements provided under  
374 the Florida Rules of Juvenile Procedure. The mental health  
375 assessment or evaluation must be administered by a qualified  
376 professional as defined in s. 39.01, and the substance abuse  
377 assessment or evaluation must be administered by a qualified

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378 professional as defined in s. 397.311. The court may also  
379 require such person to participate in and comply with treatment  
380 and services identified as necessary, including, when  
381 appropriate and available, participation in and compliance with  
382 a mental health court program established under chapter 394 or a  
383 treatment-based drug court program established under s. 397.334.  
384 Adjudication of a child as dependent based upon evidence of harm  
385 as defined in s. 39.01 ~~s. 39.01(35)(g)~~ demonstrates good cause,  
386 and the court shall require the parent whose actions caused the  
387 harm to submit to a substance abuse disorder assessment or  
388 evaluation and to participate and comply with treatment and  
389 services identified in the assessment or evaluation as being  
390 necessary. In addition to supervision by the department, the  
391 court, including the mental health court program or the  
392 treatment-based drug court program, may oversee the progress and  
393 compliance with treatment by a person who has custody or is  
394 requesting custody of the child. The court may impose  
395 appropriate available sanctions for noncompliance upon a person  
396 who has custody or is requesting custody of the child or make a  
397 finding of noncompliance for consideration in determining  
398 whether an alternative placement of the child is in the child's  
399 best interests. Any order entered under this subparagraph may be  
400 made only upon good cause shown. This subparagraph does not  
401 authorize placement of a child with a person seeking custody of  
402 the child, other than the child's parent or legal custodian, who  
403 requires mental health or substance abuse disorder treatment.

404       2. Require, if the court deems necessary, the parties to  
405 participate in dependency mediation.

406       3. Require placement of the child either under the

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407 protective supervision of an authorized agent of the department  
 408 in the home of one or both of the child's parents or in the home  
 409 of a relative of the child or another adult approved by the  
 410 court, or in the custody of the department. Protective  
 411 supervision continues until the court terminates it or until the  
 412 child reaches the age of 18, whichever date is first. Protective  
 413 supervision shall be terminated by the court whenever the court  
 414 determines that permanency has been achieved for the child,  
 415 whether with a parent, another relative, or a legal custodian,  
 416 and that protective supervision is no longer needed. The  
 417 termination of supervision may be with or without retaining  
 418 jurisdiction, at the court's discretion, and shall in either  
 419 case be considered a permanency option for the child. The order  
 420 terminating supervision by the department must set forth the  
 421 powers of the custodian of the child and include the powers  
 422 ordinarily granted to a guardian of the person of a minor unless  
 423 otherwise specified. Upon the court's termination of supervision  
 424 by the department, further judicial reviews are not required if  
 425 permanency has been established for the child.

426 4. Determine whether the child has a strong attachment to  
 427 the prospective permanent guardian and whether such guardian has  
 428 a strong commitment to permanently caring for the child.

429 Section 7. Paragraph (c) of subsection (1) of section  
 430 39.6012, Florida Statutes, is amended to read:

431 39.6012 Case plan tasks; services.—

432 (1) The services to be provided to the parent and the tasks  
 433 that must be completed are subject to the following:

434 (c) If there is evidence of harm as defined in s. 39.01 ~~s.~~  
 435 ~~39.01(35)(g)~~, the case plan must include as a required task for

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436 the parent whose actions caused the harm that the parent submit  
437 to a substance abuse disorder assessment or evaluation and  
438 participate and comply with treatment and services identified in  
439 the assessment or evaluation as being necessary.

440 Section 8. Subsection (4) of section 322.09, Florida  
441 Statutes, is amended to read:

442 322.09 Application of minors; responsibility for negligence  
443 or misconduct of minor.—

444 (4) Notwithstanding subsections (1) and (2), if a caregiver  
445 of a minor who is under the age of 18 years and is in out-of-  
446 home care as defined in s. 39.01 ~~s. 39.01(49)~~, an authorized  
447 representative of a residential group home at which such a minor  
448 resides, the caseworker at the agency at which the state has  
449 placed the minor, or a guardian ad litem specifically authorized  
450 by the minor's caregiver to sign for a learner's driver license  
451 signs the minor's application for a learner's driver license,  
452 that caregiver, group home representative, caseworker, or  
453 guardian ad litem does not assume any obligation or become  
454 liable for any damages caused by the negligence or willful  
455 misconduct of the minor by reason of having signed the  
456 application. Before signing the application, the caseworker,  
457 authorized group home representative, or guardian ad litem shall  
458 notify the caregiver or other responsible party of his or her  
459 intent to sign and verify the application.

460 Section 9. Paragraph (p) of subsection (4) of section  
461 394.495, Florida Statutes, is amended to read:

462 394.495 Child and adolescent mental health system of care;  
463 programs and services.—

464 (4) The array of services may include, but is not limited

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465 to:

466 (p) Trauma-informed services for children who have suffered  
467 sexual exploitation as defined in s. 39.01 ~~s. 39.01(77)(g)~~.

468 Section 10. Section 627.746, Florida Statutes, is amended  
469 to read:

470 627.746 Coverage for minors who have a learner's driver  
471 license; additional premium prohibited.—An insurer that issues  
472 an insurance policy on a private passenger motor vehicle to a  
473 named insured who is a caregiver of a minor who is under the age  
474 of 18 years and is in out-of-home care as defined in s. 39.01 ~~s.~~  
475 ~~39.01(49)~~ may not charge an additional premium for coverage of  
476 the minor while the minor is operating the insured vehicle, for  
477 the period of time that the minor has a learner's driver  
478 license, until such time as the minor obtains a driver license.

479 Section 11. Paragraph (c) of subsection (1) of section  
480 934.255, Florida Statutes, is amended to read:

481 934.255 Subpoenas in investigations of sexual offenses.—

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

483 (c) "Sexual abuse of a child" means a criminal offense  
484 based on any conduct described in s. 39.01 ~~s. 39.01(71)~~.

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

487 960.065 Eligibility for awards.—

488 (5) A person is not ineligible for an award pursuant to  
489 paragraph (2) (a), paragraph (2) (b), or paragraph (2) (c) if that  
490 person is a victim of sexual exploitation of a child as defined  
491 in s. 39.01 ~~s. 39.01(77)(g)~~.

492 Section 13. This act shall take effect October 1, 2019.