By the Committee on Children, Families, and Elder Affairs; and Senator Gaetz

586-02238-26 20261002c1

A bill to be entitled

An act relating to child welfare; amending s. 39.01, F.S.; revising the definition of the term "harm" to provide that exposure of a child to a controlled substance may be established by evidence of acute or chronic use of a controlled substance by a parent to a specified extent; revising the definition of the term "neglect" to provide that neglect occurs when there is evidence of acute or chronic use of a controlled substance by a parent to a specified extent; reenacting ss. 39.521(1)(c), 39.6012(1)(c), 39.806(1)(k), 61.13(2)(c), 61.401, 61.402(3), 390.01114(2)(b), 744.309(3), 984.03(24), and 1001.42(8)(c), F.S., relating to disposition hearings and powers of disposition; case plan tasks and services; grounds for termination of parental rights; support of children, parenting and time-sharing, and powers of the court; appointment of guardian ad litem; qualifications of guardians ad litem; the Parental Notice of and Consent for Abortion Act; who may be appointed guardian of a resident ward; definitions; and powers and duties of district school board, respectively, to incorporate the amendment made to s. 39.01, F.S., in references thereto; providing an effective date.

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

Section 1. Paragraph (g) of subsection (37) and subsection

(53) of section 39.01, Florida Statutes, are amended to read:

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

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

(g) Exposes a child to a controlled substance or alcohol. Exposure to a controlled substance or alcohol is established by:

1. A test, administered at birth, which indicated that the child's blood, urine, or meconium contained any amount of alcohol or a controlled substance or metabolites of such substances, the presence of which was not the result of medical treatment administered to the mother or the newborn infant; ~~or~~

2. Evidence of extensive, abusive, and chronic use of a controlled substance or alcohol by a parent to the extent that the parent's ability to provide supervision and care for the child has been or is likely to be severely compromised; or

3. Evidence of acute or chronic use of a controlled substance by a parent to the extent that the ongoing threat of the parent's future intoxication compromises the parent's ability to guarantee and provide supervision and care for the child.

As used in this paragraph, the term "controlled substance" means prescription drugs not prescribed for the parent or not administered as prescribed and controlled substances as outlined in Schedule I or Schedule II of s. 893.03.

(53) "Neglect" occurs when:

(a) A child is deprived of, or is allowed to be deprived of, necessary food, clothing, shelter, or medical treatment or a

child is permitted to live in an environment when such deprivation or environment causes the child's physical, mental, or emotional health to be significantly impaired or to be in danger of being significantly impaired. The foregoing circumstances shall not be considered neglect if caused primarily by financial inability unless actual services for relief have been offered to and rejected by such person. A parent or legal custodian legitimately practicing religious beliefs in accordance with a recognized church or religious organization who thereby does not provide specific medical treatment for a child may not, for that reason alone, be considered a negligent parent or legal custodian; however, such an exception does not preclude a court from ordering the following services to be provided, when the health of the child so requires:

1.~~(a)~~ Medical services from a licensed physician, dentist, optometrist, podiatric physician, or other qualified health care provider; or

2.~~(b)~~ Treatment by a duly accredited practitioner who relies solely on spiritual means for healing in accordance with the tenets and practices of a well-recognized church or religious organization.

(b) There is evidence of acute or chronic use of a controlled substance by a parent to the extent that the ongoing threat of the parent's future intoxication results in an environment that causes the child's physical, mental, or emotional safety to be significantly impaired or to be in danger of being significantly impaired.

Neglect of a child includes acts or omissions.

Section 2. For the purpose of incorporating the amendment made by this act to section 39.01, Florida Statutes, in a reference thereto, paragraph (c) of subsection (1) of section 39.521, Florida Statutes, is reenacted to read:

39.521 Disposition hearings; powers of disposition.—

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

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

1. Require the parent and, when appropriate, the legal guardian or the child to participate in treatment and services identified as necessary. The court may require the person who has custody or who is requesting custody of the child to submit to a mental health or substance abuse disorder assessment or evaluation. The order may be made only upon good cause shown and pursuant to notice and procedural requirements provided under the Florida Rules of Juvenile Procedure. The mental health assessment or evaluation must be administered by a qualified professional as defined in s. 39.01, and the substance abuse assessment or evaluation must be administered by a qualified professional as defined in s. 397.311. The court may also

require such person to participate in and comply with treatment and services identified as necessary, including, when appropriate and available, participation in and compliance with a mental health court program established under chapter 394 or a treatment-based drug court program established under s. 397.334. Adjudication of a child as dependent based upon evidence of harm as defined in s. 39.01(37)(g) demonstrates good cause, and the court shall require the parent whose actions caused the harm to submit to a substance abuse disorder assessment or evaluation and to participate and comply with treatment and services identified in the assessment or evaluation as being necessary. In addition to supervision by the department, the court, including the mental health court program or the treatment-based drug court program, may oversee the progress and compliance with treatment by a person who has custody or is requesting custody of the child. The court may impose appropriate available sanctions for noncompliance upon a person who has custody or is requesting custody of the child or make a finding of noncompliance for consideration in determining whether an alternative placement of the child is in the child's best interests. Any order entered under this subparagraph may be made only upon good cause shown. This subparagraph does not authorize placement of a child with a person seeking custody of the child, other than the child's parent or legal custodian, who requires mental health or substance abuse disorder treatment.

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

3. Require placement of the child either under the protective supervision of an authorized agent of the department

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

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

Section 3. For the purpose of incorporating the amendment made by this act to section 39.01, Florida Statutes, in a reference thereto, paragraph (c) of subsection (1) of section 39.6012, Florida Statutes, is reenacted to read:

39.6012 Case plan tasks; services.—

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

(c) If there is evidence of harm as defined in s.

39.01(37)(g), the case plan must include as a required task for the parent whose actions caused the harm that the parent submit to a substance abuse disorder assessment or evaluation and participate and comply with treatment and services identified in the assessment or evaluation as being necessary.

Section 4. For the purpose of incorporating the amendment made by this act to section 39.01, Florida Statutes, in a reference thereto, paragraph (k) of subsection (1) of section 39.806, Florida Statutes, is reenacted 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:

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

Section 5. For the purpose of incorporating the amendment made by this act to section 39.01, Florida Statutes, in a reference thereto, paragraph (c) of subsection (2) of section 61.13, Florida Statutes, is reenacted to read:

61.13 Support of children; parenting and time-sharing; powers of court.—

(2)

(c) The court shall determine all matters relating to parenting and time-sharing of each minor child of the parties in accordance with the best interests of the child and in accordance with the Uniform Child Custody Jurisdiction and Enforcement Act, except that modification of a parenting plan and time-sharing schedule requires a showing of a substantial and material change of circumstances.

1. It is the public policy of this state that each minor child has frequent and continuing contact with both parents after the parents separate or the marriage of the parties is dissolved and to encourage parents to share the rights and responsibilities, and joys, of childrearing. Unless otherwise provided in this section or agreed to by the parties, there is a rebuttable presumption that equal time-sharing of a minor child is in the best interests of the minor child. To rebut this presumption, a party must prove by a preponderance of the evidence that equal time-sharing is not in the best interests of the minor child. Except when a time-sharing schedule is agreed to by the parties and approved by the court, the court must evaluate all of the factors set forth in subsection (3) and make specific written findings of fact when creating or modifying a time-sharing schedule.

2. The court shall order that the parental responsibility for a minor child be shared by both parents unless the court finds that shared parental responsibility would be detrimental to the child. In determining detriment to the child, the court shall consider:

a. Evidence of domestic violence, as defined in s. 741.28;

b. Whether either parent has or has had reasonable cause to believe that he or she or his or her minor child or children are or have been in imminent danger of becoming victims of an act of domestic violence as defined in s. 741.28 or sexual violence as defined in s. 784.046(1)(c) by the other parent against the parent or against the child or children whom the parents share in common regardless of whether a cause of action has been brought or is currently pending in the court;

c. Whether either parent has or has had reasonable cause to believe that his or her minor child or children are or have been in imminent danger of becoming victims of an act of abuse, abandonment, or neglect, as those terms are defined in s. 39.01, by the other parent against the child or children whom the parents share in common regardless of whether a cause of action has been brought or is currently pending in the court; and

d. Any other relevant factors.

3. The following evidence creates a rebuttable presumption that shared parental responsibility is detrimental to the child:

a. A parent has been convicted of a misdemeanor of the first degree or higher involving domestic violence, as defined in s. 741.28 and chapter 775;

b. A parent meets the criteria of s. 39.806(1)(d); or

c. A parent has been convicted of or had adjudication withheld for an offense enumerated in s. 943.0435(1)(h)1.a., and at the time of the offense:

(I) The parent was 18 years of age or older.

(II) The victim was under 18 years of age or the parent believed the victim to be under 18 years of age.

If the presumption is not rebutted after the convicted parent is advised by the court that the presumption exists, shared parental responsibility, including time-sharing with the child, and decisions made regarding the child, may not be granted to the convicted parent. However, the convicted parent is not relieved of any obligation to provide financial support. If the court determines that shared parental responsibility would be detrimental to the child, it may order sole parental responsibility and make such arrangements for time-sharing as specified in the parenting plan as will best protect the child or abused spouse from further harm. Whether or not there is a conviction of any offense of domestic violence or child abuse or the existence of an injunction for protection against domestic violence, the court shall consider evidence of domestic violence or child abuse as evidence of detriment to the child.

4. In ordering shared parental responsibility, the court may consider the expressed desires of the parents and may grant to one party the ultimate responsibility over specific aspects of the child's welfare or may divide those responsibilities between the parties based on the best interests of the child. Areas of responsibility may include education, health care, and any other responsibilities that the court finds unique to a particular family.

5. The court shall order sole parental responsibility for a minor child to one parent, with or without time-sharing with the other parent if it is in the best interests of the minor child.

6. There is a rebuttable presumption against granting time-sharing with a minor child if a parent has been convicted of or had adjudication withheld for an offense enumerated in s.

943.0435(1)(h)1.a., and at the time of the offense:

a. The parent was 18 years of age or older.

b. The victim was under 18 years of age or the parent believed the victim to be under 18 years of age.

A parent may rebut the presumption upon a specific finding in writing by the court that the parent poses no significant risk of harm to the child and that time-sharing is in the best interests of the minor child. If the presumption is rebutted, the court must consider all time-sharing factors in subsection (3) when developing a time-sharing schedule.

7. Access to records and information pertaining to a minor child, including, but not limited to, medical, dental, and school records, may not be denied to either parent. Full rights under this subparagraph apply to either parent unless a court order specifically revokes these rights, including any restrictions on these rights as provided in a domestic violence injunction. A parent having rights under this subparagraph has the same rights upon request as to form, substance, and manner of access as are available to the other parent of a child, including, without limitation, the right to in-person communication with medical, dental, and education providers.

Section 6. For the purpose of incorporating the amendment made by this act to section 39.01, Florida Statutes, in a reference thereto, section 61.401, Florida Statutes, is reenacted to read:

61.401 Appointment of guardian ad litem.—In an action for dissolution of marriage or for the creation, approval, or modification of a parenting plan, if the court finds it is in

the best interest of the child, the court may appoint a guardian ad litem to act as next friend of the child, investigator or evaluator, not as attorney or advocate. The court in its discretion may also appoint legal counsel for a child to act as attorney or advocate; however, the guardian and the legal counsel shall not be the same person. In such actions which involve an allegation of child abuse, abandonment, or neglect as defined in s. 39.01, which allegation is verified and determined by the court to be well-founded, the court shall appoint a guardian ad litem for the child. The guardian ad litem shall be a party to any judicial proceeding from the date of the appointment until the date of discharge.

Section 7. For the purpose of incorporating the amendment made by this act to section 39.01, Florida Statutes, in a reference thereto, subsection (3) of section 61.402, Florida Statutes, is reenacted to read:

61.402 Qualifications of guardians ad litem.—

(3) Only a guardian ad litem who qualifies under paragraph (1)(a) or paragraph (1)(c) may be appointed to a case in which the court has determined that there are well-founded allegations of child abuse, abandonment, or neglect as defined in s. 39.01.

Section 8. For the purpose of incorporating the amendment made by this act to section 39.01, Florida Statutes, in a reference thereto, paragraph (b) of subsection (2) of section 390.01114, Florida Statutes, is reenacted to read:

390.01114 Parental Notice of and Consent for Abortion Act.—

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

(b) "Child abuse" means abandonment, abuse, harm, mental injury, neglect, physical injury, or sexual abuse of a child as

those terms are defined in ss. 39.01, 827.04, and 984.03.

Section 9. For the purpose of incorporating the amendment made by this act to section 39.01, Florida Statutes, in a reference thereto, subsection (3) of section 744.309, Florida Statutes, is reenacted to read:

744.309 Who may be appointed guardian of a resident ward.—

(3) DISQUALIFIED PERSONS.—No person who has been convicted of a felony or who, from any incapacity or illness, is incapable of discharging the duties of a guardian, or who is otherwise unsuitable to perform the duties of a guardian, shall be appointed to act as guardian. Further, no person who has been judicially determined to have committed abuse, abandonment, or neglect against a child as defined in s. 39.01 or s. 984.03(1), (2), and (24), or who has been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under s. 435.04 or similar statute of another jurisdiction, shall be appointed to act as a guardian. Except as provided in subsection (5) or subsection (6), a person who provides substantial services to the proposed ward in a professional or business capacity, or a creditor of the proposed ward, may not be appointed guardian and retain that previous professional or business relationship. A person may not be appointed a guardian if he or she is in the employ of any person, agency, government, or corporation that provides service to the proposed ward in a professional or business capacity, except that a person so employed may be appointed if he or she is the spouse, adult child, parent, or sibling of the proposed ward or the court determines that the potential conflict of interest is insubstantial and that the appointment would clearly

be in the proposed ward's best interest. The court may not appoint a guardian in any other circumstance in which a conflict of interest may occur.

Section 10. For the purpose of incorporating the amendment made by this act to section 39.01, Florida Statutes, in a reference thereto, subsection (24) of section 984.03, Florida Statutes, is reenacted to read:

984.03 Definitions.—When used in this chapter, the term:

(24) "Neglect" has the same meaning as in s. 39.01(53).

Section 11. For the purpose of incorporating the amendment made by this act to section 39.01, Florida Statutes, in a reference thereto, paragraph (c) of subsection (8) of section 1001.42, Florida Statutes, is reenacted to read:

1001.42 Powers and duties of district school board.—The district school board, acting as a board, shall exercise all powers and perform all duties listed below:

(8) STUDENT WELFARE.—

(c)1. In accordance with the rights of parents enumerated in ss. 1002.20 and 1014.04, adopt procedures for notifying a student's parent if there is a change in the student's services or monitoring related to the student's mental, emotional, or physical health or well-being and the school's ability to provide a safe and supportive learning environment for the student. The procedures must reinforce the fundamental right of parents to make decisions regarding the upbringing and control of their children by requiring school district personnel to encourage a student to discuss issues relating to his or her well-being with his or her parent or to facilitate discussion of the issue with the parent. The procedures may not prohibit

parents from accessing any of their student's education and health records created, maintained, or used by the school district, as required by s. 1002.22(2).

2. A school district may not adopt procedures or student support forms that prohibit school district personnel from notifying a parent about his or her student's mental, emotional, or physical health or well-being, or a change in related services or monitoring, or that encourage or have the effect of encouraging a student to withhold from a parent such information. School district personnel may not discourage or prohibit parental notification of and involvement in critical decisions affecting a student's mental, emotional, or physical health or well-being. This subparagraph does not prohibit a school district from adopting procedures that permit school personnel to withhold such information from a parent if a reasonably prudent person would believe that disclosure would result in abuse, abandonment, or neglect, as those terms are defined in s. 39.01.

3. Classroom instruction by school personnel or third parties on sexual orientation or gender identity may not occur in prekindergarten through grade 8, except when required by ss. 1003.42(2)(o)3. and 1003.46. If such instruction is provided in grades 9 through 12, the instruction must be age-appropriate or developmentally appropriate for students in accordance with state standards. This subparagraph applies to charter schools.

4. Student support services training developed or provided by a school district to school district personnel must adhere to student services guidelines, standards, and frameworks established by the Department of Education.

5. At the beginning of the school year, each school district shall notify parents of each health care service offered at their student's school and the option to withhold consent or decline any specific service in accordance with s. 1014.06. Parental consent to a health care service does not waive the parent's right to access his or her student's educational or health records or to be notified about a change in his or her student's services or monitoring as provided by this paragraph.

6. Before administering a student well-being questionnaire or health screening form to a student in kindergarten through grade 3, the school district must provide the questionnaire or health screening form to the parent and obtain the permission of the parent.

7. Each school district shall adopt procedures for a parent to notify the principal, or his or her designee, regarding concerns under this paragraph at his or her student's school and the process for resolving those concerns within 7 calendar days after notification by the parent.

a. At a minimum, the procedures must require that within 30 days after notification by the parent that the concern remains unresolved, the school district must either resolve the concern or provide a statement of the reasons for not resolving the concern.

b. If a concern is not resolved by the school district, a parent may:

(I) Request the Commissioner of Education to appoint a special magistrate who is a member of The Florida Bar in good standing and who has at least 5 years' experience in

administrative law. The special magistrate shall determine facts relating to the dispute over the school district procedure or practice, consider information provided by the school district, and render a recommended decision for resolution to the State Board of Education within 30 days after receipt of the request by the parent. The State Board of Education must approve or reject the recommended decision at its next regularly scheduled meeting that is more than 7 calendar days and no more than 30 days after the date the recommended decision is transmitted. The costs of the special magistrate shall be borne by the school district. The State Board of Education shall adopt rules, including forms, necessary to implement this subparagraph.

(II) Bring an action against the school district to obtain a declaratory judgment that the school district procedure or practice violates this paragraph and seek injunctive relief. A court may award damages and shall award reasonable attorney fees and court costs to a parent who receives declaratory or injunctive relief.

c. Each school district shall adopt and post on its website policies to notify parents of the procedures required under this subparagraph.

d. Nothing contained in this subparagraph shall be construed to abridge or alter rights of action or remedies in equity already existing under the common law or general law.

Section 12. This act shall take effect July 1, 2026.