

By Senator Rodriguez

40-00533-26

20261730__

A bill to be entitled

An act relating to child welfare; amending s. 39.01, F.S.; revising the definition of the term "abuse"; amending s. 39.205, F.S.; deleting a provision exempting a judge subject to discipline under the State Constitution from criminal prosecution under certain circumstances; amending s. 61.046, F.S.; revising the definition of the term "parenting plan"; creating s. 61.46, F.S.; defining the term "emergency hearing"; authorizing interested parties to file motions requesting emergency hearings to resolve certain custody or visitation disputes; providing requirements for the motion; requiring a court to immediately review such motion; requiring a court to hold an emergency hearing within a specified period under certain circumstances; requiring a court to give all parties to an emergency hearing certain notice; authorizing a court to issue certain temporary orders during an emergency hearing; requiring a court to hold a full hearing on the merits within a specified period after an emergency hearing; authorizing a court to award sufficient makeup time to a custodial parent and consider additional remedies and sanctions under certain circumstances; amending s. 741.28, F.S.; revising the definition of the term "domestic violence"; amending s. 787.01, F.S.; revising the definition of the term "kidnapping"; amending s. 787.03, F.S.; providing legislative intent; defining the term "lawful custody or visitation"; prohibiting

40-00533-26

20261730__

the infringement of the right of each parent or legal guardian to lawful custody or visitation without due process and a certain court order; prohibiting an individual from interfering with a parent's or legal guardian's lawful custody or visitation by taking an action that keeps a minor or vulnerable adult from the parent or legal guardian; providing criminal penalties; providing that certain court orders do not legitimize certain acts; requiring law enforcement officers to investigate certain reports; authorizing law enforcement officers to locate minors and vulnerable adults and assist parents and legal guardians seeking to enforce certain rights; prohibiting law enforcement officers from taking certain actions; requiring a law enforcement officer concluding an investigation to provide certain notice to the initiating parent or legal guardian and an affidavit that includes certain information to the state attorney's office and the officer's supervisor; requiring that certain documents be filed and electronically maintained in a certain manner; specifying that the venue for prosecution of certain violations is in a certain county; authorizing law enforcement officers to enter certain identifying information into certain databases and seek warrants for recovery of minors and vulnerable adults; providing a specified defense to certain violations; providing a certain presumption; requiring the Department of Law Enforcement to create and distribute

40-00533-26

20261730__

a certain model protocol and training materials;
requiring law enforcement agencies to adopt written
policies for a certain purpose and conduct certain
annual training; amending s. 827.03, F.S.; revising
the definition of the term "child abuse"; amending s.
910.14, F.S.; providing that a person who violates
certain provisions may be tried in any county in which
the person's victim has been taken or confined during
the course of the offense; amending s. 937.0201, F.S.;
revising the definition of the term "missing child";
reenacting ss. 61.125(4)(b), 61.13(2)(c), 61.401,
61.402(3), 95.11(8), 390.01114(2)(b), 393.067(4)(g),
744.309(3), 984.03(2), 1001.42(8)(c), F.S., relating
to parenting coordination; support of children,
parenting and time-sharing, and powers of court;
appointment of guardian ad litem; qualifications of
guardians ad litem; limitations other than for the
recovery of real property; the Parental Notice of and
Consent for Abortion Act; facility licensure; who may
be appointed guardian of a resident ward; definitions;
and powers and duties of a 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. Subsection (2) of section 39.01, Florida
Statutes, is amended to read:

40-00533-26

20261730__

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

(2) "Abuse" means any willful act or threatened act that ~~results in any physical, mental, or sexual abuse, injury, or harm that~~ causes or creates a substantial risk of significant impairment to is likely to cause the child's physical, mental, or emotional health. The term includes any direct or indirect action or omission that impacts the child's well-being, regardless of whether the child recognizes or understands that the action or omission is abusive or whether the action or omission results in actual injury; to be significantly impaired. ~~Abuse of a child includes~~ the birth of a new child into a family during the course of an open dependency case when the parent or caregiver has been determined to lack the protective capacity to safely care for the children in the home and has not substantially complied with the case plan towards successful reunification or met the conditions for return of the children into the home; and any violation of s. 787.03, relating to interference with custody. Whether a willful act or threatened act is abuse depends upon the nature of the act or threat, regardless of the outcome of the act or threat. ~~Abuse of a child includes acts or omissions.~~ Corporal discipline of a child by a parent or legal custodian for disciplinary purposes does not in itself constitute abuse when it does not result in harm to the child.

Section 2. Subsection (1) of section 39.205, Florida Statutes, is amended to read:

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

40-00533-26

20261730__

117 (1) A person who knowingly and willfully fails to report to
118 the central abuse hotline known or suspected child abuse,
119 abandonment, or neglect, or who knowingly and willfully prevents
120 another person from doing so, commits a felony of the third
121 degree, punishable as provided in s. 775.082, s. 775.083, or s.
122 775.084. ~~A judge subject to discipline pursuant to s. 12, Art. V~~
123 ~~of the State Constitution may not be subject to criminal~~
124 ~~prosecution when the information was received in the course of~~
125 ~~official duties.~~

126 Section 3. Paragraph (a) of subsection (14) of section
127 61.046, Florida Statutes, is amended to read:

128 61.046 Definitions.—As used in this chapter, the term:

129 (14) "Parenting plan" means a document created to govern
130 the relationship between the parents relating to decisions that
131 must be made regarding the minor child and must contain a time-
132 sharing schedule for the parents and child. The issues
133 concerning the minor child may include, but are not limited to,
134 the child's education, health care, and physical, social, and
135 emotional well-being. In creating the plan, all circumstances
136 between the parents, including their historic relationship,
137 domestic violence, and other factors must be taken into
138 consideration.

139 (a) The parenting plan must ~~be~~:

140 1.a. Be developed and agreed to by the parents and approved
141 by a court; or

142 ~~b.2.~~ Be established by the court, with or without the use
143 of a court-ordered parenting plan recommendation, if the parents
144 cannot agree to a plan or the parents agreed to a plan that is
145 not approved by the court; and

40-00533-26

20261730__

146 2. Include a statement that, in accordance with s. 787.03,
147 law enforcement officers shall investigate all reported
148 instances of interference with custody and are authorized to
149 locate the child, accompany a parent seeking to enforce lawful
150 custody or visitation rights, and assist a parent in enforcing
151 lawful custody or visitation rights.

152 Section 4. Section 61.46, Florida Statutes, is created to
153 read:

154 61.46 Emergency hearings in custody and visitation
155 disputes.—

156 (1) DEFINITION.—For purposes of this section, the term
157 “emergency hearing” means an expedited judicial proceeding to
158 address an urgent issue posing a threat of imminent or
159 irreparable harm to a child or vulnerable adult, including, but
160 not limited to, interference with lawful custody or visitation
161 as defined in s. 787.03, which proceeding is intended to provide
162 temporary relief pending a full adjudication of the issue on its
163 merits.

164 (2) CRITERIA.—

165 (a) An interested party may file a motion with a court of
166 appropriate jurisdiction requesting an emergency hearing to
167 resolve a custody or visitation dispute that includes any of the
168 following circumstances:

169 1. A verified violation of s. 741.28, s. 827.03, or s.
170 787.03 exists, creating a credible threat to the physical or
171 emotional well-being of a child or vulnerable adult.

172 2. Immediate action is necessary to prevent significant
173 financial or custodial harm.

174 3. A child or vulnerable adult has been unlawfully removed,

40-00533-26

20261730__

concealed, withheld, or relocated by a parent or caregiver in violation of a court order, shared parenting plan, or applicable law, where delay would endanger the child's physical or emotional well-being or substantially impair the parent-child relationship.

4. A child or vulnerable adult faces imminent abuse or harm as defined in s. 39.01(2) and (37), respectively.

(b) The motion must include a sworn affidavit specifying the alleged violation and urgent need for judicial intervention, which provides:

1. Evidence of a breached court order or parenting plan concerning custody or visitation; or

2. A description of the actions by the alleged offender which interfere with established custody or visitation rights.

(3) EMERGENCY HEARING.—

(a) The court shall immediately review motions received pursuant to this section. If the court determines that any of the circumstances listed in paragraph (2)(a) exist, the court must hold an emergency hearing within 3 business days.

(b) The court shall give all parties to the emergency hearing prompt notice of the time and place of the emergency hearing.

(c) During the emergency hearing, the court may issue temporary orders to protect the child or vulnerable adult, including, but not limited to, orders that do any of the following:

1. Adjust custody or visitation arrangements.

2. Direct the prompt return of the child or vulnerable adult to the lawful custodian.

40-00533-26

20261730__

204 3. Order law enforcement to enforce the orders of the
205 court, including, if necessary, supervised return.

206 (4) FULL HEARING.—A full hearing on the merits must occur
207 within 30 calendar days after an emergency hearing to assess
208 allegations and establish long-term custody or visitation
209 arrangements. A temporary order issued during an emergency
210 hearing remains in effect until modified by order of the court
211 during a full hearing.

212 (5) MAKEUP TIME AND ADDITIONAL REMEDIES.—If the court finds
213 at a full hearing that a parent unreasonably refused to honor a
214 time-sharing agreement in the parenting plan, the court must do
215 all of the following:

216 (a) Award sufficient makeup time to the parent whose
217 custodial time was denied, pursuant to s. 61.13(4)(c).

218 (b) Consider additional remedies and sanctions, including,
219 but not limited to, fines, community service, and supervised
220 visitation, to deter future violations and protect the integrity
221 of the court-ordered parenting plan or time-sharing agreement.

222 Section 5. Subsection (2) of section 741.28, Florida
223 Statutes, is amended to read:

224 741.28 Domestic violence; definitions.—As used in ss.
225 741.28-741.31:

226 (2) "Domestic violence" means any assault, aggravated
227 assault, battery, aggravated battery, sexual assault, sexual
228 battery, stalking, aggravated stalking, kidnapping as defined in
229 s. 787.01, false imprisonment as defined in s. 787.02,
230 interference with lawful custody or visitation as defined in s.
231 787.03, or any other criminal offense resulting in physical
232 injury or death of one family or household member by another

40-00533-26

20261730__

family or household member. The term includes interference with lawful custody or visitation which occurs through the taking or retaining by one family or household member of another family or household member who is a minor or vulnerable adult before the entry of a court order or agreed-upon parenting plan establishing lawful custody or visitation.

Section 6. Subsection (1) of section 787.01, Florida Statutes, is amended to read:

787.01 Kidnapping; kidnapping of child under age 13 or vulnerable adult, aggravating circumstances.—

(1) (a) The term “kidnapping” means forcibly, secretly, or by threat confining, abducting, or imprisoning another person against her or his will and without lawful authority, when such conduct involves any of the following ~~with intent to~~:

1. Holding such person ~~Held~~ for ransom or reward or as a shield or hostage.

2. Committing or facilitating the ~~Commit or facilitate~~ commission of any felony.

3. Inflicting ~~Inflict~~ bodily harm upon or terrorizing ~~to terrorize~~ the victim or another person.

4. Interfering ~~Interfere~~ with the performance of any governmental or political function.

5. Interfering with lawful custody or visitation as defined in s. 787.03.

(b) The confinement, abduction, or imprisonment of a child under the age of 13 or a vulnerable adult is against her or his will within the meaning of this subsection if such confinement, abduction, or imprisonment is without the consent of all of her or his parents ~~parent~~ or legal guardians ~~guardian~~.

40-00533-26

20261730__

Section 7. Section 787.03, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 787.03, F.S., for present text.)

787.03 Interference with lawful custody or visitation; defenses; penalties.—

(1) It is the intent of the Legislature that interference with lawful custody or visitation be treated as a criminal act rather than as a private matter.

(2) As used in this section, the term "lawful custody or visitation" means the rights of a parent or legal guardian to the care, control, and companionship of a minor or vulnerable adult, whether arising by statute, consistent with a court order, or by operation of law, including the right to all of the following:

(a) Communicate between the minor or vulnerable adult and the other parent or legal guardian in person, by telephone, text, video call, e-mail, or other electronic means without interference.

(b) Have physical access to the minor or vulnerable adult during court-ordered or agreed-upon custody or visitation periods without denial or limitation.

(c) Participate in timely custody exchanges, visitation, or parenting time without delay or absence, except when reasonable notice or a verifiable lawful excuse exists.

(d) Be free from allegations of abuse, neglect, or other misconduct which are unfounded, unsubstantiated, or without probable cause, and which have the effect of disrupting, delaying, or otherwise undermining the lawful custody or

40-00533-26

20261730__

visitation of a parent or legal guardian.

(3) The right of each parent or legal guardian to lawful custody or visitation may not be infringed without due process and a valid court order expressly removing or restricting such lawful custody or visitation.

(4) An individual, including a parent or legal guardian, may not interfere with a parent or legal guardian's lawful custody or visitation, or cause another person to so interfere, by taking, enticing, inviting, concealing, or withholding a minor or vulnerable adult from a parent or legal guardian, or by taking any other action that keeps a minor or vulnerable adult from a parent or legal guardian. An individual who violates this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5) A court order obtained for lawful custody or visitation after a violation of this section has occurred does not legitimize the violation.

(6) Law enforcement officers shall investigate all reported violations of this section. As part of such investigation:

(a) Law enforcement officers may do all of the following:

1. Locate minors and vulnerable adults.

2. Accompany and assist parents and legal guardians seeking to enforce lawful custody or visitation rights.

(b) Law enforcement officers may not do any of the following:

1. Adjudicate the merits of custody or visitation disputes.

2. Consider the preferences of a minor or vulnerable adult.

3. Decline to enforce this section on the basis that a civil proceeding is pending.

40-00533-26

20261730__

320 4. Remove a minor or vulnerable adult from a parent or
321 guardian if doing so would cause physical injury to the minor or
322 vulnerable adult.

323 (7)(a) Upon concluding an investigation conducted under
324 this section, the law enforcement officer shall do all of the
325 following:

326 1. Immediately provide the parent or legal guardian who
327 initiated the investigation with written notice of the legal
328 rights and remedies specified in the notice required under s.
329 741.29(1)(d).

330 2. If he or she determines that probable cause for arrest
331 does not exist, the officer must prepare a detailed affidavit
332 and promptly submit it to the state attorney's office and the
333 officer's supervisor for review. At a minimum, the affidavit
334 must include all of the following:

335 a. The names, ages, genders, and relationships of all minor
336 children and vulnerable adults involved.

337 b. Copies of any parenting plan, court order, or other
338 agreement determining lawful custody and visitation.

339 c. Copies of any witness statement obtained during the
340 investigation.

341 d. A written explanation of his or her basis for
342 determining that probable cause for arrest does not exist.

343 (b) All documents related to an investigation under this
344 section must be filed and electronically maintained in
345 accordance with s. 943.1702.

346 (8) Venue for prosecution of a violation of subsection (4)
347 is the county in which the law, court order, or agreed-upon
348 parenting plan requires the minor or vulnerable adult to reside,

40-00533-26

20261730__

349 be present, or be delivered at the time of the violation,
350 regardless of the actual location of the minor or vulnerable
351 adult.

352 (9) Law enforcement officers may enter the identifying
353 information of a minor or vulnerable adult who is the subject of
354 an agreed-upon parenting plan, a court order, or an
355 investigation under this section into state and federal missing-
356 child databases and may seek warrants for the recovery of the
357 minor or vulnerable adult consistent with ss. 61.501-61.542.

358 (10) It is a defense to a violation of subsection (4) if
359 the defendant establishes, by clear and convincing evidence,
360 that the actions were necessary to protect the minor, vulnerable
361 adult, or himself or herself from imminent harm, provided that
362 the defendant files a complaint with law enforcement in the
363 county in which the minor or vulnerable adult resided at the
364 time of the taking or withholding as soon as is reasonably
365 practicable within 24 hours after the taking or withholding.
366 This defense is barred if a complaint is not filed within 24
367 hours after the taking or withholding.

368 (11) Proof that a person has not attained 18 years of age
369 creates the presumption that the defendant knew the minor's age
370 or acted in reckless disregard thereof.

371 (12) The Department of Law Enforcement shall create and
372 distribute a model protocol and training materials to law
373 enforcement agencies for enforcing lawful custody or visitation.
374 Each law enforcement agency shall adopt written policies for
375 responding to interference with lawful custody or visitation and
376 conduct annual training for law enforcement personnel and victim
377 advocates.

40-00533-26

20261730__

Section 8. Paragraph (b) of subsection (1) of section 827.03, Florida Statutes, is amended to read:

827.03 Abuse, aggravated abuse, and neglect of a child; penalties.—

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

(b) "Child abuse" means:

1. Intentional infliction of physical or mental injury upon a child;

2. An intentional act that could reasonably be expected to result in physical or mental injury to a child; ~~or~~

3. Active encouragement of any person to commit an act that results or could reasonably be expected to result in physical or mental injury to a child; or

4. A violation of s. 787.03, relating to interference with lawful custody or visitation.

Section 9. Section 910.14, Florida Statutes, is amended to read:

910.14 Kidnapping.—A person who commits an offense provided for in s. 787.01, ~~or~~ s. 787.02, s. 787.03, or s. 787.04 may be tried in any county in which the person's victim has been taken or confined during the course of the offense.

Section 10. Subsection (3) of section 937.0201, Florida Statutes, is amended to read:

937.0201 Definitions.—As used in this chapter, the term:

(3) "Missing child" means a person younger than 18 years of age whose ~~temporary or permanent~~ residence or last known location was ~~is in, or is believed to be in,~~ this state, whose location is unknown to at least one parent or legal guardian with lawful custody or visitation as defined in s. 787.03 ~~has~~

40-00533-26

20261730__

~~not been determined~~, and who has been reported as missing to a law enforcement agency. The term includes a person younger than 18 years of age who is withheld in violation of a parenting plan, a court order, or applicable law, including through conduct that violates s. 787.01(1)(b) or s. 787.03.

Section 11. 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 (4) of section 61.125, Florida Statutes, is reenacted to read:

61.125 Parenting coordination.—

(4) DOMESTIC VIOLENCE ISSUES.—

(b) In determining whether there has been a history of domestic violence, the court shall consider whether a party has committed an act of domestic violence as defined s. 741.28, or child abuse as defined in s. 39.01, against the other party or any member of the other party's family; engaged in a pattern of behaviors that exert power and control over the other party and that may compromise the other party's ability to negotiate a fair result; or engaged in behavior that leads the other party to have reasonable cause to believe he or she is in imminent danger of becoming a victim of domestic violence. The court shall consider and evaluate all relevant factors, including, but not limited to, the factors listed in s. 741.30(6)(b).

Section 12. 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.—

40-00533-26

20261730__

(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;

40-00533-26

20261730__

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.

40-00533-26

20261730__

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

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

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

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

40-00533-26

20261730__

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 13. 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

40-00533-26

20261730__

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 14. 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 15. For the purpose of incorporating the amendment made by this act to section 39.01, Florida Statutes, in a reference thereto, subsection (8) of section 95.11, Florida Statutes, is reenacted to read:

95.11 Limitations other than for the recovery of real property.—Actions other than for recovery of real property shall be commenced as follows:

(8) FOR INTENTIONAL TORTS BASED ON ABUSE.—An action founded

40-00533-26

20261730__

on alleged abuse, as defined in s. 39.01 or s. 415.102; incest, as defined in s. 826.04; or an action brought pursuant to s. 787.061 may be commenced at any time within 7 years after the age of majority, or within 4 years after the injured person leaves the dependency of the abuser, or within 4 years from the time of discovery by the injured party of both the injury and the causal relationship between the injury and the abuse, whichever occurs later.

Section 16. 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 17. For the purpose of incorporating the amendment made by this act to section 39.01, Florida Statutes, in a reference thereto, paragraph (g) of subsection (4) of section 393.067, Florida Statutes, is reenacted to read:

393.067 Facility licensure.—

(4) The application shall be under oath and shall contain the following:

(g) Certification that the staff of the facility or adult day training program will receive training to detect, report, and prevent sexual abuse, abuse, neglect, exploitation, and abandonment, as defined in ss. 39.01 and 415.102, of residents and clients.

40-00533-26

20261730__

610 Section 18. For the purpose of incorporating the amendment
611 made by this act to section 39.01, Florida Statutes, in a
612 reference thereto, subsection (3) of section 744.309, Florida
613 Statutes, is reenacted to read:

614 744.309 Who may be appointed guardian of a resident ward.—

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

40-00533-26

20261730__

639 appoint a guardian in any other circumstance in which a conflict
640 of interest may occur.

641 Section 19. For the purpose of incorporating the amendment
642 made by this act to section 39.01, Florida Statutes, in a
643 reference thereto, subsection (2) of section 984.03, Florida
644 Statutes, is reenacted to read:

645 984.03 Definitions.—When used in this chapter, the term:

646 (2) "Abuse" has the same meaning as in s. 39.01(2).

647 Section 20. For the purpose of incorporating the amendment
648 made by this act to section 39.01, Florida Statutes, in a
649 reference thereto, paragraph (c) of subsection (8) of section
650 1001.42, Florida Statutes, is reenacted to read:

651 1001.42 Powers and duties of district school board.—The
652 district school board, acting as a board, shall exercise all
653 powers and perform all duties listed below:

654 (8) STUDENT WELFARE.—

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

40-00533-26

20261730__

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

40-00533-26

20261730__

697 district shall notify parents of each health care service
698 offered at their student's school and the option to withhold
699 consent or decline any specific service in accordance with s.
700 1014.06. Parental consent to a health care service does not
701 waive the parent's right to access his or her student's
702 educational or health records or to be notified about a change
703 in his or her student's services or monitoring as provided by
704 this paragraph.

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

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

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

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

722 (I) Request the Commissioner of Education to appoint a
723 special magistrate who is a member of The Florida Bar in good
724 standing and who has at least 5 years' experience in
725 administrative law. The special magistrate shall determine facts

40-00533-26

20261730__

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 21. This act shall take effect July 1, 2026.