

1 A bill to be entitled
2 An act relating to placement of a child in a certified
3 domestic violence center; amending s. 39.01, F.S.;
4 revising the definition of the term "shelter";
5 amending s. 39.4021, F.S.; providing that a certified
6 domestic violence center may be considered a placement
7 priority for a child; amending s. 39.521, F.S.;
8 providing that the Department of Children and Families
9 does not have to provide a home study to the court if
10 placing a child in a certified domestic violence
11 center; authorizing the court to place a child and his
12 or her proposed legal custodian in a certified
13 domestic violence center under certain circumstances;
14 amending s. 63.092, F.S.; providing that placement of
15 a minor in a certified domestic violence center
16 constitutes an at-risk placement; authorizing a
17 certified domestic violence center to serve as a
18 temporary legal residence for a minor; waiving
19 preliminary home study requirements under certain
20 circumstances; providing that the department is not
21 required to conduct an in-person home study of the
22 certified domestic violence center under certain
23 circumstances; providing construction; prohibiting the
24 department from compelling a minor to return to a
25 previously approved residence if certain conditions

are met; requiring the court to consider the totality of the circumstances and not make certain assumptions; providing an effective date.

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

Section 1. Subsection (81) of section 39.01, Florida Statutes, is amended to read:

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

(81) "Shelter" means a placement with a relative or a nonrelative, ~~or~~ in a licensed home or facility, or in a domestic violence center certified under part XII of this chapter for the temporary care of a child who is alleged to be or who has been found to be dependent, pending court disposition before or after adjudication.

Section 2. Paragraph (a) of subsection (2) of section 39.4021, Florida Statutes, is amended to read:

39.4021 Priority placement for out-of-home placements.—

(2) PLACEMENT PRIORITY.—

(a) When a child cannot safely remain at home with a parent, out-of-home placement options must be considered in the following order:

1. Nonoffending parent.
2. Relative caregiver.

51 3. Adoptive parent of the child's sibling, when the
52 department or community-based care lead agency is aware of such
53 sibling.

54 4. Fictive kin with a close existing relationship to the
55 child.

56 5. Nonrelative caregiver that does not have an existing
57 relationship with the child.

58 6. Licensed foster care.

59 7. Group or congregate care.

60 8. A domestic violence center certified under part XII of
61 this chapter.

62 **Section 3. Paragraph (o) of subsection (2) and subsection**
63 **(3) of section 39.521, Florida Statutes, are amended to read:**

64 39.521 Disposition hearings; powers of disposition.—

65 (2) The family functioning assessment must provide the
66 court with the following documented information:

67 (o) If the child has been removed from the home and will
68 be remaining with a relative, parent, or other adult approved by
69 the court, a home study report concerning the proposed placement
70 must ~~shall~~ be provided to the court. Before recommending to the
71 court any out-of-home placement for a child other than placement
72 in a licensed shelter or foster home or domestic violence center
73 certified under part XII of this chapter, the department shall
74 conduct a study of the home of the proposed legal custodians,
75 which must include, at a minimum:

76 1. An interview with the proposed legal custodians to
77 assess their ongoing commitment and ability to care for the
78 child.

79 2. Records checks through the State Automated Child
80 Welfare Information System (SACWIS), and local and statewide
81 criminal and juvenile records checks through the Department of
82 Law Enforcement, on all household members 12 years of age or
83 older. In addition, the fingerprints of any household members
84 who are 18 years of age or older may be submitted to the
85 Department of Law Enforcement for processing and forwarding to
86 the Federal Bureau of Investigation for state and national
87 criminal history information. The department has the discretion
88 to request State Automated Child Welfare Information System
89 (SACWIS) and local, statewide, and national criminal history
90 checks and fingerprinting of any other visitor to the home who
91 is made known to the department. Out-of-state criminal records
92 checks must be initiated for any individual who has resided in a
93 state other than Florida if that state's laws allow the release
94 of these records. The out-of-state criminal records must be
95 filed with the court within 5 days after receipt by the
96 department or its agent.

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

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

100 5. A determination of suitable child care arrangements if

101 the proposed legal custodians are employed outside of the home.

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

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

108 8. The reasonable preference of the child, if the court
109 deems the child to be of sufficient intelligence, understanding,
110 and experience to express a preference.

111
112 The department may not place the child or continue the placement
113 of the child in a home under shelter or postdisposition
114 placement if the results of the home study are unfavorable,
115 unless the court finds that this placement is in the child's
116 best interest.

117
118 Any other relevant and material evidence, including other
119 written or oral reports, may be received by the court in its
120 effort to determine the action to be taken with regard to the
121 child and may be relied upon to the extent of its probative
122 value, even though not competent in an adjudicatory hearing.
123 Except as otherwise specifically provided, nothing in this
124 section prohibits the publication of proceedings in a hearing.

125 (3) When any child is adjudicated by a court to be

126 dependent, the court shall determine the appropriate placement
127 for the child as follows:

128 (a) If the court determines that the child can safely
129 remain in the home with the parent with whom the child was
130 residing at the time the events or conditions arose that brought
131 the child within the jurisdiction of the court and that
132 remaining in this home is in the best interest of the child,
133 then the court shall order conditions under which the child may
134 remain or return to the home and that this placement be under
135 the protective supervision of the department for not less than 6
136 months.

137 (b) If there is a parent with whom the child was not
138 residing at the time the events or conditions arose that brought
139 the child within the jurisdiction of the court who desires to
140 assume custody of the child, the court shall place the child
141 with that parent upon completion of a home study, unless the
142 court finds that such placement would endanger the safety, well-
143 being, or physical, mental, or emotional health of the child.
144 Any party with knowledge of the facts may present to the court
145 evidence regarding whether the placement will endanger the
146 safety, well-being, or physical, mental, or emotional health of
147 the child. If the court places the child with such parent, it
148 may do either of the following:

149 1. Order that the parent assume sole custodial
150 responsibilities for the child. The court may also provide for

151 reasonable visitation by the noncustodial parent. The court may
152 then terminate its jurisdiction over the child.

153 2. Order that the parent assume custody subject to the
154 jurisdiction of the circuit court hearing dependency matters.
155 The court may order that reunification services be provided to
156 the parent from whom the child has been removed, that services
157 be provided solely to the parent who is assuming physical
158 custody in order to allow that parent to retain later custody
159 without court jurisdiction, or that services be provided to both
160 parents, in which case the court shall determine at every review
161 hearing which parent, if either, shall have custody of the
162 child. The standard for changing custody of the child from one
163 parent to another or to a relative or another adult approved by
164 the court shall be the best interest of the child.

165 (c) If the court determines that the child can safely
166 remain with a parent, relative, or other adult approved by the
167 court but that it is not safe for the child to reside in the
168 same home as the child was residing at the time the events or
169 conditions arose that brought the child within the jurisdiction
170 of the court, the court may place the child and parent,
171 relative, or other adult approved by the court in a domestic
172 violence center certified under part XII of this chapter if all
173 of the following conditions are met:

174 1. The parent, relative, or other adult approved by the
175 court is fleeing domestic violence.

176 2. The domestic violence center is certified and meets the
177 licensing standards of part XII of this chapter.

178 3. The department is notified within 24 hours after
179 placement of the child in a certified domestic violence center.

180 4. The certified domestic violence center coordinates with
181 the department to provide necessary updates to the department
182 and to coordinate access to the child for case management
183 purposes.

184 (d)~~(e)~~ If no fit parent is willing or available to assume
185 care and custody of the child, place the child in the temporary
186 legal custody of an adult relative, the adoptive parent of the
187 child's sibling, or another adult approved by the court who is
188 willing to care for the child, under the protective supervision
189 of the department. The department must supervise this placement
190 until the child reaches permanency status in this home, and in
191 no case for a period of less than 6 months. Permanency in a
192 relative placement shall be by adoption, long-term custody, or
193 guardianship.

194 (e)~~(d)~~ If the child cannot be safely placed in a
195 nonlicensed placement, the court shall commit the child to the
196 temporary legal custody of the department. Such commitment
197 invests in the department all rights and responsibilities of a
198 legal custodian. The department shall not return any child to
199 the physical care and custody of the person from whom the child
200 was removed, except for court-approved visitation periods,

without the approval of the court. Any order for visitation or other contact must conform to the provisions of s. 39.0139. The term of such commitment continues until terminated by the court or until the child reaches the age of 18. After the child is committed to the temporary legal custody of the department, all further proceedings under this section are governed by this chapter.

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 shall set forth the powers of the custodian of the child and shall 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, no further judicial reviews are required, so long as permanency has been established for the child.

Section 4. Subsection (2) of section 63.092, Florida

226 **Statutes, is amended and subsection (4) is added to that**
227 **section, to read:**

228 63.092 Report to the court of intended placement by an
229 adoption entity; at-risk placement; preliminary study.—

230 (2) AT-RISK PLACEMENT.—If the minor is placed in the
231 prospective adoptive home or in a certified domestic violence
232 center before the parental rights of the minor's parents are
233 terminated under s. 63.089, the placement is an at-risk
234 placement. If the placement is an at-risk placement in a
235 prospective adoptive home, the prospective adoptive parents must
236 acknowledge in writing before the minor may be placed in the
237 prospective adoptive home that the placement is at risk. The
238 prospective adoptive parents must ~~shall~~ be advised by the
239 adoption entity, in writing, that the minor is subject to
240 removal from the prospective adoptive home by the adoption
241 entity or by court order at any time before ~~prior to~~ the
242 finalization of the adoption.

243 (4) DOMESTIC VIOLENCE EMERGENCIES.—

244 (a) In an emergency domestic violence situation, a
245 domestic violence center certified under part XII of chapter 39
246 may serve as a temporary legal residence for a minor. The
247 preliminary home study required under subsection (3) is
248 temporarily waived as long as all of the following conditions
249 are met:

250 1. A preliminary home study of the certified domestic

251 violence center is initiated within 15 business days after the
252 minor begins residing at such center.

253 2. The minor's placement at the certified domestic
254 violence center is documented as an at-risk placement under
255 subsection (2).

256 3. Final approval of the minor's placement is completed
257 within 30 days after the minor begins residing at the certified
258 domestic violence center.

259 (b)1. The department is not required to conduct an in-
260 person home study of the certified domestic violence center and
261 instead may:

262 a. Rely on the certification of the domestic violence
263 center as a measure for baseline safety compliance; or

264 b. Accept a signed affidavit from the board of directors
265 of the certified domestic violence center verifying appropriate
266 living conditions for and supervision of the minor within such
267 center.

268 2. Compliance with subparagraph 1. constitutes a modified
269 safety assessment and satisfies all statutory requirements for
270 safety assessments.

271 (c) The existence of an approved preliminary home study
272 does not, by itself, constitute grounds for overriding the
273 placement of a minor in a certified domestic violence center.
274 The department may not compel a minor to return to a previously
275 approved residence if all of the following occur:

276 1. The parent, relative, or other adult with which the
277 court approved the minor to be placed is fleeing domestic
278 violence.

279 2. The domestic violence center is certified and meets the
280 licensing standards of part XII of chapter 39.

281 3. The board of directors of the certified domestic
282 violence center affirms that placement of the minor within the
283 care of such center is appropriate.

284 (d) The court shall consider the totality of the
285 circumstances, including any risk of harm to the minor, and may
286 not presume that a previously approved home is preferable solely
287 because it received a favorable preliminary home study.

288 **Section 5.** This act shall take effect upon becoming a law.