



Journal of the Senate

Number 22—Regular Session

Tuesday, April 28, 1998

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CALL TO ORDER

The Senate was called to order by President Jennings at 9:00 a.m. A quorum present—38:

| | | | |
|-----------------|-------------|-------------|--------------|
| Madam President | Crist | Jones | Ostalkiewicz |
| Bankhead | Diaz-Balart | Kirkpatrick | Rossin |
| Bronson | Dudley | Klein | Scott |
| Brown-Waite | Dyer | Kurth | Silver |
| Burt | Forman | Latvala | Sullivan |
| Campbell | Grant | Laurent | Thomas |
| Casas | Hargrett | Lee | Turner |
| Childers | Harris | McKay | Williams |
| Clary | Holzendorf | Meadows | |
| Cowin | Horne | Myers | |

Excused: Conferees periodically for purpose of working on Civil Litigation Reform: Senator McKay, Chairman; Senators Burt, Bankhead, Dudley, Rossin, Dyer and Latvala

PRAYER

The following prayer was offered by Bishop John H. Ricard, Bishop of the Diocese of Pensacola-Tallahassee, Pensacola:

O Lord, the Psalmist said many centuries ago, "Unless the Lord build a city, they labor in vain who build it and unless the Lord keep watch, those who watch, watch in vain." We ask you today for the wisdom to know that every good intention, all good efforts, every good deed comes from you and it's brought by you to a successful conclusion.

We ask your continued guidance as this legislative work is brought to a completion. May what we have done promote the human dignity of each person here and in our state. May our legislative efforts secure that no one hungers or thirsts for food or water; that all who need it may find shelter, clothing for their bodies and meaningful work.

Lord, may our efforts be blessed. May the sacrifices we and our families have made be an offering pleasing in your sight, and may you grant each one of us as we bring this session to a successful conclusion, a safe and peaceful journey home to be back with our loved ones. May you forgive whatever injury we may have done through human weakness, and may our love for you be expressed in love for one another.

I would like to conclude with this ancient prayer:

May God support us all the day long 'til the shadows leaven and the evening comes and the busy world is hushed and the fever of life is

over and our work is done. Then, in God's mercy, may God give us a safe lodging and a holy rest in peace at last. Amen.

PLEDGE

Senate Pages Andrew Yancey of Ormond Beach and Raymond Washington of Alachua, led the Senate in the pledge of allegiance to the flag of the United States of America.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Bankhead, by two-thirds vote **CS for SB 1740** was withdrawn from the Committee on Commerce and Economic Opportunities; **CS for SB 1516** was withdrawn from the Committee on Ways and Means; **CS for SB 1180** and **CS for SB 1396** were withdrawn from the Committee on Governmental Reform and Oversight; and **SB 686** and **SB 1106** were withdrawn from the Committee on Judiciary.

On motion by Senator Holzendorf, by two-thirds vote **SB 2174**, **SB 1768**, **SB 1772**, **SB 1926**, **SB 1818**, **SB 1842**, **SB 2254**, **SB 420**, **SB 1856**, **SB 1858**, **SB 2116** and **SB 46** were withdrawn from the committees of reference and further consideration.

On motion by Senator Bankhead, by two-thirds vote **CS for HB 899** was withdrawn from the Committee on Judiciary; **SB 1288** was withdrawn from the Committee on Banking and Insurance; **CS for SB 1726** was withdrawn from the Committee on Commerce and Economic Opportunities; and **CS for SB 1852** was withdrawn from the Committee on Governmental Reform and Oversight.

On motion by Senator Sullivan, by two-thirds vote **SB 992**, **CS for SB 1214**, **CS for CS for SB 2188** and **CS for SB 2244** were withdrawn from the Committee on Ways and Means.

On motion by Senator Turner, by two-thirds vote **SB 1544**, **SB 1870**, **SB 2470** and **SB 2532** were withdrawn from the committees of reference and further consideration.

MOTIONS RELATING TO COMMITTEE MEETINGS

On motion by Senator McKay, the rules were waived and the Senate conferees on Civil Litigation Reform were granted permission to meet this day from 3:30 p.m. until completion.

On motion by Senator McKay, the rules were waived and the Conference Committee on Civil Litigation Reform was granted permission to meet this day from 7:30 p.m. until completion.

CONSIDERATION OF BILLS ON THIRD READING

CS for SB 1466—A bill to be entitled An act relating to liens; amending s. 255.05, F.S.; revising provisions pertaining to the bond of a contractor constructing public buildings; providing for revised time periods for certain claims; revising forms for waiver of right to claim against bond; providing for written statements to the contractor with respect to the nature of labor or services performed in certain circumstances; amending s. 713.01, F.S.; redefining amending s. 713.01, F.S.; redefining the terms "improve," "improvement," "subcontractor," and "sub-subcontractor" to include reference to solid-waste removal; amending s. 713.06, F.S.; revising provisions relating to contractor's affidavit; amending s. 713.132, F.S.; revising requirements pertaining to service of notice of termination; amending s. 713.18, F.S.; revising requirements

pertaining to service of documents; amending s. 713.23, F.S.; amending the timeframe within which certain actions to enforce a claim against the payment bond may commence; providing a form; creating s. 713.235, F.S.; providing for waivers of right to claim against a payment bond; providing forms; amending s. 713.24, F.S.; revising the process for transferring liens to security; providing an effective date.

—as amended April 27 was read the third time by title.

On motion by Senator Dudley, **CS for SB 1466** as amended was passed and certified to the House. The vote on passage was:

Yeas—37

| | | | |
|-----------------|-------------|-------------|--------------|
| Madam President | Crist | Jones | Ostalkiewicz |
| Bankhead | Diaz-Balart | Kirkpatrick | Rossin |
| Bronson | Dudley | Klein | Silver |
| Brown-Waite | Dyer | Kurth | Sullivan |
| Burt | Forman | Latvala | Thomas |
| Campbell | Grant | Laurent | Turner |
| Casas | Hargrett | Lee | Williams |
| Childers | Harris | McKay | |
| Clary | Holzendorf | Meadows | |
| Cowin | Horne | Myers | |

Nays—None

Consideration of **CS for HB 3255** was deferred.

CS for SB 152—A bill to be entitled An act relating to the powers and duties of the Governor; amending s. 14.23, F.S.; regulating the nomination of appointees to federal regional fisheries management councils; providing an effective date.

—was read the third time by title.

On motion by Senator Latvala, **CS for SB 152** was passed and certified to the House. The vote on passage was:

Yeas—37

| | | | |
|-----------------|-------------|-------------|----------|
| Madam President | Crist | Horne | Myers |
| Bankhead | Diaz-Balart | Jones | Rossin |
| Bronson | Dudley | Kirkpatrick | Silver |
| Brown-Waite | Dyer | Klein | Sullivan |
| Burt | Forman | Kurth | Thomas |
| Campbell | Grant | Latvala | Turner |
| Casas | Gutman | Laurent | Williams |
| Childers | Hargrett | Lee | |
| Clary | Harris | McKay | |
| Cowin | Holzendorf | Meadows | |

Nays—None

Vote after roll call:

Yea—Ostalkiewicz

Consideration of **HB 3659** was deferred.

CS for SB 2474—A bill to be entitled An act relating to planning for educational facilities; amending s. 163.3177, F.S.; requiring that the future land use element of a local government’s comprehensive plan include certain criteria relating to location of schools; specifying the date by which such plans must comply and providing effect of noncompliance; providing requirements with respect to the data and analyses on which a public school facilities element should be based; providing for goals, objectives, and policies; providing for a future conditions map; amending s. 163.3180, F.S.; revising requirements for imposition of a school concurrency requirement by a local government and for the local government comprehensive plan or plan amendment to implement such requirement; requiring a public schools facilities element; providing requirements for level of service standards; providing requirements for

designation of service areas; providing requirements with respect to financial feasibility; specifying an availability standard; requiring that intergovernmental coordination requirements be satisfied and providing that certain municipalities are not required to be a signatory of the required interlocal agreement; providing duties of such municipalities to evaluate their status and enter into the interlocal agreement when required, and providing effect of failure to do so; providing requirements for an interlocal agreement; directing the state land planning agency to adopt by rule minimum criteria for review and determination of compliance of a public schools facilities element; amending s. 163.3191, F.S.; providing that the local planning agency’s periodic report on the comprehensive plan shall assess the coordination of the plan with public schools; amending s. 235.185, F.S.; directing school boards to adopt annually 10-year and 20-year work programs in addition to the required 5-year district facilities work program; amending s. 235.19, F.S.; providing a directive to school boards with respect to school location; amending s. 235.193, F.S.; providing requirements for the 5-year district facilities work program with respect to enrollment and population projections; precluding the siting of new schools in certain jurisdictions; providing for interim use of certain criteria and guidelines by the state land planning agency in compliance review of a school concurrency system; providing an alternative concurrency system for counties subject to final order by the Administration Commission; providing an effective date.

—as amended April 27 was read the third time by title.

On motion by Senator Lee, **CS for SB 2474** as amended was passed and certified to the House. The vote on passage was:

Yeas—38

| | | | |
|-----------------|-------------|-------------|--------------|
| Madam President | Crist | Jones | Ostalkiewicz |
| Bankhead | Diaz-Balart | Kirkpatrick | Rossin |
| Bronson | Dudley | Klein | Scott |
| Brown-Waite | Forman | Kurth | Silver |
| Burt | Grant | Latvala | Sullivan |
| Campbell | Gutman | Laurent | Thomas |
| Casas | Hargrett | Lee | Turner |
| Childers | Harris | McKay | Williams |
| Clary | Holzendorf | Meadows | |
| Cowin | Horne | Myers | |

Nays—None

SENATOR BANKHEAD PRESIDING

On motion by Senator Horne, by two-thirds vote **HB 1945** was withdrawn from the Committees on Education; Governmental Reform and Oversight; and Ways and Means.

On motion by Senator Horne, by two-thirds vote—

HB 1945—A bill to be entitled An act relating to public records; amending s. 446.609, F.S.; providing an exemption from public records requirements for the identity of donors to the Florida Endowment Foundation for Florida’s Graduates; providing for future review and repeal; providing a finding of public necessity; providing a contingent effective date.

—a companion measure, was substituted for **SB 1738** as amended and read the second time by title. On motion by Senator Horne, by two-thirds vote **HB 1945** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

| | | | |
|-------------|-------------|-------------|---------|
| Bronson | Cowin | Hargrett | Kurth |
| Brown-Waite | Crist | Harris | Latvala |
| Burt | Diaz-Balart | Holzendorf | Laurent |
| Campbell | Dyer | Horne | Lee |
| Casas | Forman | Jones | McKay |
| Childers | Grant | Kirkpatrick | Meadows |
| Clary | Gutman | Klein | Myers |

| | | | |
|--------------|--------|----------|----------|
| Ostalkiewicz | Scott | Sullivan | Turner |
| Rossin | Silver | Thomas | Williams |

Nays—None

And the title is amended as follows:

On page 1, lines 3 and 4, delete "Choose Life" and insert: Adopt a Child

On motion by Senator Lee, **CS for SB 1430** as amended was passed by the required constitutional three-fifths vote of the membership and certified to the House. The vote on passage was:

Yeas—28

| | | | |
|-----------------|-------------|-------------|--------------|
| Madam President | Clary | Hargrett | McKay |
| Bankhead | Cowin | Harris | Myers |
| Bronson | Crist | Horne | Ostalkiewicz |
| Brown-Waite | Diaz-Balart | Kirkpatrick | Scott |
| Burt | Dudley | Latvala | Sullivan |
| Casas | Grant | Laurent | Thomas |
| Childers | Gutman | Lee | Williams |

Nays—12

| | | | |
|----------|------------|---------|--------|
| Campbell | Geller | Klein | Rossin |
| Dyer | Holzendorf | Kurth | Silver |
| Forman | Jones | Meadows | Turner |

CS for SB 2004—A bill to be entitled An act relating to the Viatical Settlement Act; amending s. 626.9911, F.S.; modifying definitions used in the act and adding a definition of related provider trust; amending s. 626.9913, F.S.; requiring viatical settlement providers to file certain information with the Department of Insurance; specifying applicability of fee and deposit requirements; amending s. 626.9914, F.S.; specifying liability of a viatical settlement provider for a related provider trust; amending s. 626.9921, F.S.; requiring certain providers to file notice with the department; creating s. 626.99235, F.S.; prohibiting misrepresentation; providing disclosure of required information; providing an effective date.

—as amended April 27 was read the third time by title.

On motion by Senator Burt, **CS for SB 2004** as amended was passed and certified to the House. The vote on passage was:

Yeas—38

| | | | |
|-------------|-------------|-------------|--------------|
| Bankhead | Diaz-Balart | Horne | Ostalkiewicz |
| Bronson | Dudley | Kirkpatrick | Rossin |
| Brown-Waite | Dyer | Klein | Scott |
| Burt | Forman | Kurth | Silver |
| Campbell | Geller | Latvala | Sullivan |
| Casas | Grant | Laurent | Thomas |
| Childers | Gutman | Lee | Turner |
| Clary | Hargrett | McKay | Williams |
| Cowin | Harris | Meadows | |
| Crist | Holzendorf | Myers | |

Nays—None

CS for HB 3369—A bill to be entitled An act relating to inland waterway management; amending s. 374.976, F.S.; authorizing the Florida Inland Navigation District and the West Coast Inland Navigation District to enter into cooperative agreements with the Federal Government, participate with the United States Army Corps of Engineers in waterway maintenance projects, engage in anchorage management programs and beach renourishment projects, and enter into ecosystem management agreements with the Department of Environmental Protection; conforming language relating to existing matching fund requirements; repealing s. 374.976(5), F.S., as amended by ch. 96-320, Laws of Florida, to clarify legislative intent with respect to duplicate provisions; amending s. 403.061, F.S.; providing a supplemental process for issuance of joint coastal permits and environmental resource permits for regional waterway management activities; amending s. 311.105, F.S.; correcting cross references; repealing s. 8 of ch. 90-264, Laws of Florida, relating to Sundown review and repeal of the West Coast Inland Navigation District; providing an effective date.

—was read the third time by title.

On motion by Senator Harris, **CS for HB 3369** was passed and certified to the House. The vote on passage was:

Yeas—38

| | | | |
|-------------|-------------|-------------|--------------|
| Bankhead | Diaz-Balart | Horne | Ostalkiewicz |
| Bronson | Dudley | Jones | Rossin |
| Brown-Waite | Dyer | Kirkpatrick | Scott |
| Burt | Forman | Klein | Silver |
| Campbell | Geller | Kurth | Sullivan |
| Casas | Grant | Latvala | Thomas |
| Childers | Gutman | Laurent | Turner |
| Clary | Hargrett | McKay | Williams |
| Cowin | Harris | Meadows | |
| Crist | Holzendorf | Myers | |

Nays—None

HB 3863—A bill to be entitled An act relating to the Coastal Zone Protection Act; amending s. 161.54, F.S.; redefining the term "substantial improvement"; providing an effective date.

—was read the third time by title.

On motion by Senator Brown-Waite, **HB 3863** was passed and certified to the House. The vote on passage was:

Yeas—38

| | | | |
|-------------|-------------|-------------|--------------|
| Bankhead | Diaz-Balart | Horne | Ostalkiewicz |
| Bronson | Dudley | Jones | Rossin |
| Brown-Waite | Dyer | Kirkpatrick | Scott |
| Burt | Forman | Klein | Silver |
| Campbell | Geller | Latvala | Sullivan |
| Casas | Grant | Laurent | Thomas |
| Childers | Gutman | Lee | Turner |
| Clary | Hargrett | McKay | Williams |
| Cowin | Harris | Meadows | |
| Crist | Holzendorf | Myers | |

Nays—None

CS for SB 1430—A bill to be entitled An act relating to license plates; amending ss. 320.08056, 320.08058, F.S.; creating a Choose Life license plate; providing for the distribution of annual use fees received from the sale of such plates; providing certain limitations on the use of such funds; providing a contingent effective date.

—as amended April 27 was read the third time by title.

Senator Klein moved the following amendment which failed to receive the required two-thirds vote:

Amendment 1 (with title amendment)—On page 1, lines 17, 22, 24, delete "Choose Life" and insert: Adopt a Child

CS for SB 1506—A bill to be entitled An act relating to marine resources; amending s. 253.72, F.S.; amending s. 370.01, F.S.; defining food fish for human consumption; providing restrictions for certain areas for harvesting shellfish; amending s. 370.06, F.S.; providing an exemption for totally disabled residents for a restricted species endorsement; providing qualifications for the issuance of a marine life endorsement on a saltwater products license; providing for a moratorium on the issuance of endorsements; providing for the transfer and reissuance of endorsements; providing for a report; amending s. 370.0608, F.S.; revising the distribution of funds collected from the sale of recreational saltwater fishing licenses; amending s. 370.092, F.S.; creating a major violation for the possession of specified nets on certain vessels; providing specific rulemaking authority for the regulation of nets on boats of a specific

length; directing the Marine Fisheries Commission to adopt rules prohibiting the possession and sale of mullet taken in illegal gill or entangling nets; providing a penalty for violations; prohibiting the use of certain nets composed of specified materials; providing a definition; amending s. 370.093, F.S.; authorizing the Marine Fisheries Commission to adopt rules implementing s. 370.093, F.S.; amending s. 370.1405, F.S.; authorizing the Department of Environmental Protection to adopt certain rules; amending s. 370.142, F.S.; providing for a surcharge to be assessed upon the initial transfer of a transferable crawfish trap certificate outside the original transferor's immediate family; prohibiting the lease of lobster trap certificates after July 1, 1998; providing additional penalties for violations relating to traps; providing for the continuation of the Marine Fisheries Commission notwithstanding its scheduled abolition; amending s. 370.13, F.S.; restricting the issuance of stone crab trap numbers until July 1, 2000; providing for renewal under certain circumstances; amending s. 370.135, F.S.; restricting the issuance of new blue crab endorsements for a certain period of time; providing for renewal or replacement under certain circumstances; amending s. 370.021, F.S.; providing additional penalties for violations involving buying saltwater products from an unlicensed seller or the sale of saltwater products by an unlicensed seller; authorizing the suspension, revocation, or denial of renewal of licenses for specified major violations involving finfish, shrimp, marine life species, crawfish, stone crabs, and blue crabs; requiring clerks of courts to certify the final disposition of specified court proceedings to the Department of Environmental Protection; amending s. 370.07, F.S.; authorizing the sharing of wholesale saltwater products dealer reports with other states under specified conditions; providing civil penalties for violation of recordkeeping and reporting requirements; prohibiting a licensed retail dealer or a licensed restaurant from buying saltwater products from any person other than a licensed wholesale or retail dealer; repealing s. 370.1127, F.S., relating to mullet regulation west of the Ochlockonee River; providing an effective date.

—as amended April 27 was read the third time by title.

On motion by Senator Latvala, **CS for SB 1506** as amended was passed and certified to the House. The vote on passage was:

Yeas—38

Table with 4 columns: Bankhead, Diaz-Balart, Jones, Ostalkiewicz, Bronson, Dudley, Kirkpatrick, Rossin, Brown-Waite, Dyer, Klein, Scott, Burt, Geller, Kurth, Silver, Campbell, Grant, Latvala, Sullivan, Casas, Gutman, Laurent, Thomas, Childers, Hargrett, Lee, Turner, Clary, Harris, McKay, Williams, Cowin, Holzendorf, Meadows, Crist, Horne, Myers

Nays—None

CS for CS for HB 3321—A bill to be entitled An act relating to condominiums and cooperatives; amending s. 718.103, F.S.; defining the terms "buyer" and "division"; amending s. 718.104, F.S.; requiring filing of recording information with creation of condominiums; amending s. 718.111, F.S.; providing for the operation of certain condominiums created prior to 1977 as single associations; permitting consolidated financial operation; requiring a developer-controlled association to exercise due diligence to obtain and maintain insurance; providing that failure to obtain and maintain adequate insurance shall constitute a breach of fiduciary responsibility by the developer-appointed members of the board of directors; providing for the recording of certain meetings; providing that records may be obtained in person or by mail; providing that an association with more than 50 units must, upon written request, copy and deliver requested records and charge its actual costs; providing a fine for subsequent violations; amending s. 718.112, F.S.; providing requirements relating to association meetings; providing requirements for eligibility to be a candidate for the board; amending s. 718.116, F.S.; providing for unit owners and the developer to be assessed in accordance with their ownership interest in losses resulting from a natural disaster or an act of God; amending s. 718.117, F.S.; requiring notification of certain mergers or termination; amending s. 718.301, F.S.; providing rulemaking authority for requirements relating to the transition of a condominium; amending s. 718.403, F.S.; requiring filing of recording

information; amending s. 718.502, F.S.; providing certain requirements prior to the closure on any contract for sale or lease of over 5 years; providing rulemaking authority for requirements relating to filing and review programs and timetables; amending s. 718.503, F.S.; providing requirements relating to the closure of a transaction for the purchase of a condominium unit; creating s. 718.621, F.S.; providing rulemaking authority; amending s. 719.103, F.S.; providing definitions; amending s. 719.1035, F.S.; requiring filing of certain information with respect to the creation of a cooperative; amending s. 719.104, F.S.; requiring notification; amending s. 719.106, F.S.; providing requirements relating to association meetings; amending s. 719.301, F.S.; providing rulemaking authority; amending s. 719.403, F.S.; requiring filing of information; amending s. 719.502, F.S.; providing conditions precedent to closing on a contract for sale or specified contracts for lease; providing rulemaking authority; amending s. 719.503, F.S.; providing conditions for closing within the 15-day voidability period; creating s. 719.621, F.S.; providing rulemaking authority; amending s. 721.05, F.S.; conforming a cross-reference; providing an effective date.

—as amended April 27 was read the third time by title.

On motion by Senator Dudley, **CS for CS for HB 3321** as amended was passed and certified to the House. The vote on passage was:

Yeas—39

Table with 4 columns: Bankhead, Diaz-Balart, Horne, Myers, Bronson, Dudley, Jones, Ostalkiewicz, Brown-Waite, Dyer, Kirkpatrick, Rossin, Burt, Forman, Klein, Scott, Campbell, Geller, Kurth, Silver, Casas, Grant, Latvala, Sullivan, Childers, Gutman, Laurent, Thomas, Clary, Hargrett, Lee, Turner, Cowin, Harris, McKay, Williams, Crist, Holzendorf, Meadows

Nays—None

HB 3509—A bill to be entitled An act relating to motor vehicle specialty license plates; amending s. 320.08053, F.S.; revising language with respect to requirements for requests to establish specialty license plates; amending s. 320.08056, F.S.; revising language with respect to specialty license plates to provide criteria for the discontinuance of the issuance of an approved plate; amending s. 320.08062, F.S.; revising language with respect to an annual required audit or report; revising language with respect to annual use fees of special license plates; providing an effective date.

—as amended April 27 was read the third time by title.

Senators Holzendorf and Hargrett offered the following amendment which was moved by Senator Holzendorf and adopted by two-thirds vote:

Amendment 5—On page 2, line 19, after the period (.) insert: *Any private college or university for whom legislation was filed to create a specialty license plate in the 1997 legislative session may reapply for such specialty license plate for consideration in the 1999 legislative session subject to the application fee which was in effect for the 1997 application. All other requirements in current law must be met.*

Senator McKay moved the following amendment which was adopted by two-thirds vote:

Amendment 6 (with title amendment)—On page 6, between lines 7 and 8, insert:

Section 4. Effective July 1, 1999, paragraph (a) of subsection (4) of section 320.08056, Florida Statutes, is amended to read:

320.08056 Specialty license plates.—

(4) The following license plate annual use fees shall be collected for the appropriate specialty license plates:

(a) Manatee license plate, \$20 \$45.

Section 5. Effective July 1, 1999, paragraph (b) of subsection (1) of section 320.08058, Florida Statutes, is amended to read:

320.08058 Specialty license plates.—

(1) MANATEE LICENSE PLATES.—

(b)1- The manatee license plate annual use fee must be deposited into the Save the Manatee Trust Fund, created within the Department of Environmental Protection. The funds deposited in the Save the Manatee Trust Fund may be used only for manatee-related environmental education; manatee research; facilities, as provided in s. 370.12(5)(b); and manatee protection and recovery.

2.—For fiscal year 1996-1997, 25 percent of the manatee license plate annual use fee must be deposited into the Save the Manatee Trust Fund within the Department of Environmental Protection and shall be used for manatee facilities as provided in s. 370.12(5)(b).

Section 6. Effective July 1, 1999, paragraph (t) is added to subsection (1) of section 215.22, Florida Statutes, to read:

215.22 Certain income and certain trust funds exempt.—

(1) The following income of a revenue nature or the following trust funds shall be exempt from the deduction required by s. 215.20(1):

(t) The Save the Manatee Trust Fund.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 13, after the semicolon (;) insert: amending s. 320.08056, F.S.; increasing the annual use fee for manatee license plates; amending s. 320.08058, F.S.; revising the permitted use of such fees; amending s. 215.22, F.S.; exempting the Save the Manatee Trust Fund from certain required contributions to the General Revenue Fund;

On motion by Senator Burt, HB 3509 as amended was passed by the required constitutional three-fifths vote of the membership and certified to the House. The vote on passage was:

Yeas—37

| | | | |
|-------------|------------|--------------|----------|
| Bronson | Dudley | Kirkpatrick | Rossin |
| Brown-Waite | Dyer | Klein | Scott |
| Burt | Geller | Kurth | Silver |
| Campbell | Grant | Latvala | Sullivan |
| Casas | Gutman | Laurent | Thomas |
| Childers | Hargrett | Lee | Turner |
| Clary | Harris | McKay | Williams |
| Cowin | Holzendorf | Meadows | |
| Crist | Horne | Myers | |
| Diaz-Balart | Jones | Ostalkiewicz | |

Nays—1

Forman

CS for HB 3661—A bill to be entitled An act relating to authority of the State Board of Administration to invest public funds; amending s. 215.44, F.S.; requiring the Office of Program Policy Analysis and Government Accountability to conduct or have conducted periodic performance audits of the board's management of trust fund investments and to submit the audit reports to the board and specified individuals; authorizing the State Board of Administration to invest funds of a state agency or unit of local government under certain circumstances; amending s. 215.47, F.S.; revising provisions relating to the investment of public funds and the securities authorized for such investment; providing for the loan of securities; repealing s. 215.455, F.S., relating to the loan of securities, to conform; amending s. 215.50, F.S.; correcting a cross reference, to conform; amending s. 215.515, F.S.; eliminating review by the Department of Management Services of charges of the board for investment services rendered; amending s. 215.835, F.S.; authorizing the board to adopt rules necessary to carry out the provisions and intent of the State Bond Act; amending s. 159.825, F.S.; authorizing the board to adopt rules necessary to carry out provisions of law relating to interest rate waivers for the sale of taxable bonds; amending s. 190.016, F.S.;

correcting a cross reference, to conform; amending s. 218.407, F.S.; revising provisions relating to local government resolutions required for deposit of surplus funds in the Local Government Surplus Funds Trust Fund; amending s. 235.187, F.S.; authorizing covenants that additional funds from lottery and certain similar sources will be available for payments for Classrooms First Program bonds before any other purpose; amending s. 235.2195, F.S.; authorizing covenants that additional funds from lottery and certain similar sources will be available for payments for the 1997 School Capital Outlay Bond Program bonds before any other purpose; creating s. 218.412, F.S.; authorizing the board to adopt rules necessary for the administration of the trust fund; creating s. 413.0115, F.S.; authorizing the board to invest and reinvest the portfolio of stocks, bonds, and mutual funds held by the Division of Blind Services; requiring the division director to make the portfolio available and transfer it to the board for investment; providing intent with respect to a time limitation on the issuance of certain lottery bonds; providing an effective date.

—as amended April 27 was read the third time by title.

On motion by Senator Rossin, CS for HB 3661 as amended was passed and certified to the House. The vote on passage was:

Yeas—38

| | | | |
|-------------|-------------|-------------|--------------|
| Bankhead | Diaz-Balart | Horne | Myers |
| Bronson | Dudley | Jones | Ostalkiewicz |
| Brown-Waite | Dyer | Kirkpatrick | Rossin |
| Burt | Forman | Klein | Scott |
| Campbell | Geller | Kurth | Silver |
| Casas | Grant | Latvala | Thomas |
| Childers | Gutman | Laurent | Turner |
| Clary | Hargrett | Lee | Williams |
| Cowin | Harris | McKay | |
| Crist | Holzendorf | Meadows | |

Nays—None

HB 755—A bill to be entitled An act relating to education; amending s. 110.131, F.S.; deleting the requirement that the Board of Regents comply with recordkeeping and reporting requirements for other-personal-services employment; amending s. 235.055, F.S.; deleting authority of the Board of Regents to construct facilities on leased property and enter into certain leases; amending s. 235.195, F.S.; modifying provisions relating to joint-use facilities; amending s. 240.1201, F.S.; classifying specified Canadian military personnel as residents for tuition purposes; amending s. 240.147, F.S.; correcting a cross reference; amending s. 240.205, F.S.; revising the acquisition and contracting authority of the Board of Regents; amending s. 240.209, F.S.; authorizing procedures to administer an acquisition program; authorizing the Board of Regents to sell, convey, transfer, exchange, trade, or purchase real property and related improvements; providing requirements; amending s. 240.214, F.S.; revising provisions relating to the State University System accountability process; amending s. 240.227, F.S.; revising the acquisition and contracting authority of university presidents; authorizing adjustment of property records and disposal of certain tangible personal property; amending s. 240.289, F.S.; revising rulemaking for credit card, charge card, or debit card use; amending s. 243.151, F.S.; providing a procedure under which a university may construct facilities on leased property; amending s. 287.012, F.S.; excluding the Board of Regents and the State University System from the term "agency" for purposes of state procurement of commodities and services; repealing ss. 240.225, 240.247, 240.4988(4), and 287.017(3), F.S., relating to delegation of authority by the Department of Management Services to the State University System, eradication of salary discrimination, Board of Regents' rules for the Theodore R. and Vivian M. Johnson Scholarship Program, and applicability of purchasing category rules to the State University System; amending s. 240.2475, F.S., relating to the State University System equity accountability program; requiring each state university to maintain an equity plan to increase the representation of women and minorities in faculty and administrative positions; providing for the submission of reports; requiring the development of a plan for achievement of equity; providing for administrative evaluations; requiring the development of a budgetary incentive plan; providing for an appropriation; amending s. 240.3355, F.S., relating to the State Community College System equity accountability program; requiring each community college to maintain a plan to increase the representation of women and

minorities in faculty and administrative positions; providing contents of an employment accountability plan; requiring the development of a plan for corrective action; providing for administrative evaluations; providing for submission of reports; requiring the development of a budgetary incentive plan; providing an effective date.

—as amended April 27 was read the third time by title.

On motion by Senator Grant, **HB 755** as amended was passed and certified to the House. The vote on passage was:

Yeas—39

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|-------------|-------------|-------------|--------------|
| Bankhead | Diaz-Balart | Horne | Myers |
| Bronson | Dudley | Jones | Ostalkiewicz |
| Brown-Waite | Dyer | Kirkpatrick | Rossin |
| Burt | Forman | Klein | Scott |
| Campbell | Geller | Kurth | Silver |
| Casas | Grant | Latvala | Sullivan |
| Childers | Gutman | Laurent | Thomas |
| Clary | Hargrett | Lee | Turner |
| Cowin | Harris | McKay | Williams |
| Crist | Holzendorf | Meadows | |

Nays—None

HB 3659—A bill to be entitled An act relating to trust funds; creating the Crime Stoppers Trust Fund; providing for administration of the fund; providing for termination; providing for review; providing an effective date.

—was read the third time by title.

On motion by Senator Gutman, **HB 3659** was passed by the required constitutional three-fifths vote of the membership and certified to the House. The vote on passage was:

Yeas—38

| | | | |
|-------------|------------|-------------|--------------|
| Bronson | Dudley | Jones | Ostalkiewicz |
| Brown-Waite | Dyer | Kirkpatrick | Rossin |
| Burt | Forman | Klein | Scott |
| Campbell | Geller | Kurth | Silver |
| Casas | Grant | Latvala | Sullivan |
| Childers | Gutman | Laurent | Thomas |
| Clary | Hargrett | Lee | Turner |
| Cowin | Harris | McKay | Williams |
| Crist | Holzendorf | Meadows | |
| Diaz-Balart | Horne | Myers | |

Nays—None

HB 909—A bill to be entitled An act relating to weapons and firearms; providing that a nonresident who is a United States citizen may carry a concealed weapon or firearm in this state if the nonresident has attained a specified age and holds a valid license to carry a concealed weapon or firearm issued in another state; providing that a nonresident is subject to the same laws and restrictions as a licensee in Florida; providing that an out-of-state license to carry a concealed weapon or firearm remains in effect for a certain period following the date the holder of the license establishes legal residence in this state; specifying how legal residence is established; providing an effective date.

—was read the third time by title.

On motion by Senator Williams, **HB 909** was passed and certified to the House. The vote on passage was:

Yeas—32

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|-------------|----------|-------------|-------------|
| Bankhead | Casas | Diaz-Balart | Hargrett |
| Bronson | Childers | Dudley | Harris |
| Brown-Waite | Clary | Dyer | Horne |
| Burt | Cowin | Grant | Kirkpatrick |
| Campbell | Crist | Gutman | Klein |

| | | | |
|---------|---------|--------------|----------|
| Kurth | Lee | Ostalkiewicz | Thomas |
| Latvala | McKay | Scott | Turner |
| Laurent | Myers | Sullivan | Williams |
| Nays—6 | | | |
| Forman | Jones | Rossin | Silver |
| Geller | Meadows | | |

CS for HB 3255—A bill to be entitled An act relating to court costs to fund law enforcement programs; creating s. 938.06, F.S.; imposing an additional court cost on fines for criminal offenses in county and circuit courts; providing for deposit in the Crime Stoppers Trust Fund; amending s. 16.555, F.S.; providing for distribution of such funds in the trust fund by the Department of Legal Affairs to counties to support official Crime Stoppers and their programs; amending s. 318.18, F.S.; including the court cost assessed pursuant to s. 938.15 in court costs for noncriminal traffic infractions; providing an effective date.

—was read the third time by title.

On motion by Senator Gutman, **CS for HB 3255** was passed by the required constitutional three-fifths vote of the membership and certified to the House. The vote on passage was:

Yeas—39

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|-------------|-------------|-------------|--------------|
| Bankhead | Diaz-Balart | Horne | Myers |
| Bronson | Dudley | Jones | Ostalkiewicz |
| Brown-Waite | Dyer | Kirkpatrick | Rossin |
| Burt | Forman | Klein | Scott |
| Campbell | Geller | Kurth | Silver |
| Casas | Grant | Latvala | Sullivan |
| Childers | Gutman | Laurent | Thomas |
| Clary | Hargrett | Lee | Turner |
| Cowin | Harris | McKay | Williams |
| Crist | Holzendorf | Meadows | |

Nays—None

CS for SB 1522—A bill to be entitled An act relating to sentencing; amending s. 2, ch. 97-194, Laws of Florida; clarifying that the Criminal Punishment Code does not apply to capital felonies; amending s. 921.002, F.S.; revising the principles embodied by the Criminal Punishment Code; requiring that the Department of Corrections report on sentencing trends and practices; requiring that the Criminal Justice Estimating Conference make certain estimates with respect to the prison population; requiring the Criminal Justice Estimating Conference to project the impact of proposed changes to the Criminal Punishment Code; authorizing the Department of Corrections to collect scoresheets and report on compliance; amending s. 921.0021, F.S.; clarifying application of the code; amending s. 921.0022, F.S.; providing for ranking certain offenses under the severity ranking chart of the code; specifying the ranking of additional offenses; amending s. 921.0023, F.S., relating to the ranking of unlisted offenses; deleting duplicative provisions; amending s. 921.0024, F.S.; revising the arrangement of the sentencing scoresheet; providing that domestic violence in the presence of a child be included as a multiplier on the offense score of the Criminal Punishment Code; providing for calculating the total sentence points and the lowest permissible sentence; clarifying the calculation of points for a prior capital felony; requiring the imposition of the code sentence when it exceeds the statutory maximum; authorizing a life sentence when the total sentence points equal or exceed a threshold amount; prohibiting discretionary early release for such offenders; requiring that the Department of Corrections consult with certain persons and entities and revise the scoresheet as necessary; requiring the department to distribute copies of scoresheets; creating s. 921.0025, F.S.; providing for the adoption and implementation of sentencing scoresheets; amending s. 921.0026, F.S.; prohibiting the court from imposing a sentence below the lowest permissible sentence unless there are mitigating circumstances; creating s. 921.00265, F.S.; requiring that the court delineate its reasons if the court decreases a defendant's sentence below the lowest permissible sentence; amending s. 775.082, F.S.; providing for the applicability of sentencing structures, based on the date of the offense; amending s. 775.084, F.S.; providing for community control without an adjudication of guilt to be considered a prior conviction under certain circumstances

for purposes of sentencing; requiring that the court submit a report when the court finds it unnecessary to sentence a given defendant as a habitual felony offender, a habitual violent felony offender, or a violent career criminal; amending s. 782.051, F.S.; revising the elements of the offense of committing a felony that causes bodily injury to provide that if a person who perpetrates or attempts to perpetrate certain enumerated felony offenses and who commits, aids, or abets an intentional act that could, but does not, cause the death of another, the person commits a first-degree felony; providing for ranking such offense under the Criminal Punishment Code based on the felony offense committed; amending s. 924.06, F.S.; providing for an appeal of a sentence that exceeds the maximum penalty under s. 775.082, F.S.; amending s. 924.07, F.S.; authorizing the state to appeal a sentence imposed below the lowest sentence permitted under the Criminal Punishment Code; amending s. 944.17, F.S.; revising requirements for the sheriff or chief correctional officer in preparing scoresheets for a prisoner who is transferred to the state correctional system; creating s. 944.70, F.S.; specifying the conditions under which persons convicted of crimes may be released from incarceration; amending s. 944.705, F.S., relating to the release orientation program; conforming cross-references to changes made by the act; amending s. 948.015, F.S.; revising requirements for the presentence investigation report for certain defendants; amending s. 948.034, F.S., relating to probation for certain persons convicted of drug-related offenses; conforming cross-references; conforming provisions to reflect the reorganization of the Department of Health and Rehabilitative Services; amending s. 948.51, F.S., relating to community corrections assistance; conforming a cross-reference; conforming a reference to sentencing scores to reflect changes in sentencing requirements; amending s. 958.04, F.S., relating to judicial disposition of youthful offenders; providing for a sentence imposed outside of the code to be appealed; providing an effective date.

—as amended April 27 was read the third time by title.

On motion by Senator Gutman, **CS for SB 1522** as amended was passed and certified to the House. The vote on passage was:

Yeas—38

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|-------------|-------------|-------------|--------------|
| Bankhead | Diaz-Balart | Horne | Myers |
| Bronson | Dudley | Jones | Ostalkiewicz |
| Brown-Waite | Dyer | Kirkpatrick | Rossin |
| Burt | Forman | Klein | Silver |
| Campbell | Geller | Kurth | Sullivan |
| Casas | Grant | Latvala | Thomas |
| Childers | Gutman | Laurent | Turner |
| Clary | Hargrett | Lee | Williams |
| Cowin | Harris | McKay | |
| Crist | Holzendorf | Meadows | |

Nays—None

CS for SB 814—A bill to be entitled An act relating to public records; creating s. 252.943, F.S.; providing an exemption from public records provisions for information provided by a stationary source subject to the Accidental Release Prevention Program under the federal Clean Air Act; providing an expiration date; providing a finding of public necessity; providing a contingent effective date.

—was read the third time by title.

On motion by Senator Dyer, **CS for SB 814** was passed and certified to the House. The vote on passage was:

Yeas—38

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|-------------|-------------|-------------|--------------|
| Bankhead | Crist | Hargrett | Latvala |
| Bronson | Diaz-Balart | Harris | Laurent |
| Brown-Waite | Dudley | Holzendorf | Lee |
| Burt | Dyer | Horne | McKay |
| Campbell | Forman | Jones | Meadows |
| Childers | Geller | Kirkpatrick | Myers |
| Clary | Grant | Klein | Ostalkiewicz |
| Cowin | Gutman | Kurth | Rossin |

| | | | |
|-----------|----------|--------|----------|
| Scott | Sullivan | Turner | Williams |
| Silver | Thomas | | |
| Nays—None | | | |

CS for SB 1646—A bill to be entitled An act relating to protection of children; amending s. 20.19, F.S.; deleting reference to child protection and sexual abuse treatment teams from responsibilities of the Children and Families Program Office of the Department of Children and Family Services; transferring all powers and duties relating to the child protection teams and the sexual abuse treatment program to the Department of Health, Division of Children's Medical Services; providing the Department of Health with certain authority with respect to transferred positions; amending s. 20.43, F.S.; providing responsibility of the Department of Health to provide services to abused and neglected children through the teams and program; amending ss. 39.4031, 39.4032, and 39.408, F.S., relating to children and family case plan requirements and case staffing, and hearings for dependency cases; providing for coordination with the child protection teams of the Department of Health; amending ss. 119.07, 415.50175, and 415.51, F.S.; providing confidentiality under existing public records exemptions for records of child protection teams and personnel thereof; amending ss. 415.50171, 415.5018, 415.503, 415.5055, and 415.5095, F.S.; clarifying respective responsibilities of the Department of Health and the Department of Children and Family Services, relating to child abuse and neglect cases, policy, and procedures, to child protection teams, and to child sexual abuse cases, pursuant to the transfer of responsibilities under the act; providing duties of the Division of Children's Medical Services; deleting requirements that child protection teams be capable of providing short-term psychological treatment; amending s. 415.501, F.S.; revising participants in the state plan for prevention of child abuse and neglect; creating s. 415.515, F.S.; authorizing rulemaking by the Department of Health; repealing s. 415.5075, F.S., relating to rulemaking; requiring a memorandum of agreement between the Department of Children and Family Services and the Department of Health; providing an effective date.

—as amended April 27 was read the third time by title.

On motion by Senator Myers, **CS for SB 1646** as amended was passed and certified to the House. The vote on passage was:

Yeas—38

| | | | |
|-------------|------------|-------------|--------------|
| Bankhead | Dudley | Jones | Ostalkiewicz |
| Bronson | Dyer | Kirkpatrick | Rossin |
| Brown-Waite | Forman | Klein | Scott |
| Burt | Geller | Kurth | Silver |
| Campbell | Grant | Latvala | Sullivan |
| Casas | Gutman | Laurent | Thomas |
| Childers | Hargrett | Lee | Turner |
| Clary | Harris | McKay | Williams |
| Cowin | Holzendorf | Meadows | |
| Crist | Horne | Myers | |

Nays—None

SB 1266—A bill to be entitled An act relating to license plates; amending ss. 320.08056, 320.08058, F.S.; creating a Barry University license plate; providing for the distribution of annual use fees received from the sale of such plates; providing a contingent effective date.

—as amended April 27 was read the third time by title.

On motion by Senator Forman, **SB 1266** as amended was passed by the required constitutional three-fifths vote of the membership and certified to the House. The vote on passage was:

Yeas—39

| | | | |
|-------------|-------------|----------|-------------|
| Bankhead | Childers | Dyer | Harris |
| Bronson | Clary | Forman | Holzendorf |
| Brown-Waite | Cowin | Geller | Horne |
| Burt | Crist | Grant | Jones |
| Campbell | Diaz-Balart | Gutman | Kirkpatrick |
| Casas | Dudley | Hargrett | Klein |

| | | | |
|---------|--------------|----------|----------|
| Kurth | McKay | Rossin | Thomas |
| Latvala | Meadows | Scott | Turner |
| Laurent | Myers | Silver | Williams |
| Lee | Ostalkiewicz | Sullivan | |

Nays—None

| | | | |
|---------|--------------|----------|----------|
| Latvala | Meadows | Scott | Turner |
| Laurent | Myers | Silver | Williams |
| Lee | Ostalkiewicz | Sullivan | |
| McKay | Rossin | Thomas | |

Nays—None

Consideration of **CS for SB 190** was deferred.

CS for SB 1644—A bill to be entitled An act relating to child care facilities; amending s. 402.305, F.S.; deleting obsolete provisions with respect to the licensure of child care facilities; authorizing the Department of Children and Family Services to adopt different standards for child care facilities that serve children of different ages; providing for the department to adopt the state public school building code for any child care program operated in a public school facility, regardless of the operator of the program; providing criteria for notification of transfer of ownership; providing an effective date.

—was read the third time by title.

On motion by Senator Rossin, **CS for SB 1644** was passed and certified to the House. The vote on passage was:

Yeas—38

| | | | |
|-------------|-------------|-------------|--------------|
| Bankhead | Diaz-Balart | Horne | Ostalkiewicz |
| Bronson | Dudley | Jones | Rossin |
| Brown-Waite | Dyer | Kirkpatrick | Scott |
| Burt | Forman | Klein | Silver |
| Campbell | Geller | Latvala | Sullivan |
| Casas | Grant | Laurent | Thomas |
| Childers | Gutman | Lee | Turner |
| Clary | Hargrett | McKay | Williams |
| Cowin | Harris | Meadows | |
| Crist | Holzendorf | Myers | |

Nays—None

SB 2122—A bill to be entitled An act relating to securities transactions; amending s. 517.12, F.S.; limiting certain assessment fee reductions under certain circumstances; amending s. 517.1203, F.S.; providing for allocations from the Securities Guaranty Fund for certain purposes; providing for certain additional disbursements from the fund; extending the period for filing claims; creating s. 517.1204, F.S.; creating the Investment Fraud Restoration Financing Corporation; providing purposes; providing for a board of directors; providing powers and duties of the corporation; authorizing the department and the corporation to enter into service contracts for certain purposes; authorizing the corporation to issue evidences of indebtedness for payment of certain claims; providing requirements and limitations; authorizing the corporation to validate bond obligations; exempting the corporation from certain taxes and assessments; providing application; prohibiting benefits or earnings of the corporation from inuring to private persons; providing for reversion of corporate property to the Securities Guaranty Fund upon dissolution of the corporation; providing for the State Board of Administration to be trustee of the corporation's securities; authorizing the Auditor General to conduct an audit of the corporation; amending s. 517.131, F.S.; providing a limitation on allocations from the Securities Guaranty Fund under certain circumstances; providing an effective date.

—as amended April 27 was read the third time by title.

On motion by Senator Lee, **SB 2122** as amended was passed and certified to the House. The vote on passage was:

Yeas—38

| | | | |
|-------------|-------------|----------|-------------|
| Bankhead | Childers | Dyer | Harris |
| Bronson | Clary | Forman | Holzendorf |
| Brown-Waite | Cowin | Geller | Horne |
| Burt | Crist | Grant | Kirkpatrick |
| Campbell | Diaz-Balart | Gutman | Klein |
| Casas | Dudley | Hargrett | Kurth |

THE PRESIDENT PRESIDING

SJR 542—A joint resolution proposing an amendment to Section 19 of Article III of the State Constitution relating to state budgeting, planning, and appropriation processes.

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

That the following amendment to Section 19 of Article III of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE III
LEGISLATURE

SECTION 19. State Budgeting, Planning and Appropriations Processes.—

(a) ANNUAL BUDGETING. Effective July 1, 1994, general law shall prescribe the adoption of annual state budgetary and planning processes and require that detail reflecting the annualized costs of the state budget and reflecting the nonrecurring costs of the budget requests shall accompany state department and agency legislative budget requests, the governor's recommended budget, and appropriation bills. For purposes of this subsection, the terms department and agency shall include the judicial branch.

(b) APPROPRIATION BILLS FORMAT. Separate sections within the general appropriation bill shall be used for each major program area of the state budget; major program areas shall include: education enhancement "lottery" trust fund items; education (all other funds); human services; criminal justice and corrections; natural resources, environment, growth management, and transportation; general government; and judicial branch. Each major program area shall include an itemization of expenditures for: state operations; state capital outlay; aid to local governments and nonprofit organizations operations; aid to local governments and nonprofit organizations capital outlay; federal funds and the associated state matching funds; spending authorizations for operations; and spending authorizations for capital outlay. Additionally, appropriation bills passed by the legislature shall include an itemization of specific appropriations that exceed one million dollars (\$1,000,000.00) in 1992 dollars. For purposes of this subsection, "specific appropriation," "itemization," and "major program area" shall be defined by law. This itemization threshold shall be adjusted by general law every four years to reflect the rate of inflation or deflation as indicated in the Consumer Price Index for All Urban Consumers, U.S. City Average, All Items, or successor reports as reported by the United States Department of Labor, Bureau of Labor Statistics or its successor. Substantive bills containing appropriations shall also be subject to the itemization requirement mandated under this provision and shall be subject to the governor's specific appropriation veto power described in Article III, Section 8. This subsection shall be effective July 1, 1994.

(c) APPROPRIATIONS REVIEW PROCESS. Effective July 1, 1993, general law shall prescribe requirements for each department and agency of state government to submit a planning document and supporting budget request for review by the appropriations committees of both houses of the legislature. The review shall include a comparison of the major issues in the planning document and budget requests to those major issues included in the governor's recommended budget. For purposes of this subsection, the terms department and agency shall include the judicial branch.

(d) SEVENTY-TWO HOUR PUBLIC REVIEW PERIOD. Effective November 4, 1992, all general appropriation bills shall be furnished to each member of the legislature, each member of the cabinet, the governor, and the chief justice of the supreme court at least seventy-two hours before final passage thereof, by either house of the legislature.

(e) FINAL BUDGET REPORT. Effective November 4, 1992, a final budget report shall be prepared as prescribed by general law. The final budget report shall be produced no later than the 90th day after the beginning of the fiscal year, and copies of the report shall be furnished to each member of the legislature, the head of each department and agency of the state, the auditor general, and the chief justice of the supreme court.

(f) TRUST FUNDS.

(1) No trust fund of the State of Florida or other public body may be created by law without a three-fifths (3/5) vote of the membership of each house of the legislature in a separate bill for that purpose only.

(2) State trust funds in existence before the effective date of this subsection shall terminate not more than four years after the effective date of this subsection. State trust funds created after the effective date of this subsection shall terminate not more than four years after the effective date of the act authorizing the creation of the trust fund. By law the legislature may set a shorter time period for which any trust fund is authorized.

(3) Trust funds required by federal programs or mandates; trust funds established for bond covenants, indentures, or resolutions, whose revenues are legally pledged by the state or public body to meet debt service or other financial requirements of any debt obligations of the state or any public body; the state transportation trust fund; the trust fund containing the net annual proceeds from the Florida Education Lotteries; the Florida retirement trust fund; trust funds for institutions under the management of the Board of Regents, where such trust funds are for auxiliary enterprises and contracts, grants, and donations, as those terms are defined by general law; trust funds that serve as clearing funds or accounts for the comptroller or state agencies; trust funds that account for assets held by the state in a trustee capacity as an agent or fiduciary for individuals, private organizations, or other governmental units; and other trust funds authorized by this Constitution, are not subject to the requirements set forth in paragraph (2) of this subsection.

(4) All cash balances and income of any trust funds abolished under this subsection shall be deposited into the general revenue fund.

(5) The provisions of this subsection shall be effective November 4, 1992.

(g) BUDGET STABILIZATION FUND. Beginning with the 1994-1995 fiscal year, at least 1% of an amount equal to the last completed fiscal year's net revenue collections for the general revenue fund shall be retained in a budget stabilization fund. The budget stabilization fund shall be increased to at least 2% of said amount for the 1995-1996 fiscal year, at least 3% of said amount for the 1996-1997 fiscal year, at least 4% of said amount for the 1997-1998 fiscal year, and at least 5% of said amount for the 1998-1999 fiscal year. Subject to the provisions of this subsection, the budget stabilization fund shall be maintained at an amount equal to at least 5% of the last completed fiscal year's net revenue collections for the general revenue fund. The budget stabilization fund's principal balance shall not exceed an amount equal to 10% of the last completed fiscal year's net revenue collections for the general revenue fund. The legislature shall provide criteria for withdrawing funds from the budget stabilization fund in a separate bill for that purpose only and only for the purpose of covering revenue shortfalls of the general revenue fund or for the purpose of providing funding for an emergency, as defined by general law. General law shall provide for the restoration of this fund. The budget stabilization fund shall be comprised of funds not otherwise obligated or committed for any purpose.

(h) STATE PLANNING DOCUMENT AND DEPARTMENT AND AGENCY PLANNING DOCUMENT PROCESSES. The governor shall recommend to the legislature biennially any revisions to the state planning document, as defined by law. General law shall require a biennial review and revision of the state planning document, shall require the governor to report to the legislature on the progress in achieving the state planning document's goals, and shall require all departments and agencies of state government to develop planning documents consistent with the state planning document. The state planning document and department and agency planning documents shall remain subject to review and revision by the legislature. The department and agency planning documents shall include a prioritized listing of planned expenditures for review and possible reduction in the event of revenue shortfalls, as defined by general law. To ensure productivity and efficiency in the

executive, legislative, and judicial branches, a quality management and accountability program shall be implemented by general law. For the purposes of this subsection, the terms department and agency shall include the judicial branch. This subsection shall be effective July 1, 1993.

(i) *The Legislature may, as provided by general law, approve, modify, or disapprove, in whole or in part, the budget of each water management district, commencing with the budgets for fiscal year 2000-2001.*

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:

CONSTITUTIONAL AMENDMENT
ARTICLE III, SECTION 19

LEGISLATIVE OVERSIGHT OF WATER MANAGEMENT DISTRICT BUDGETS.—Proposing an amendment to the State Constitution to provide that the Legislature may approve, disapprove, or modify, in whole or in part, the budget of each such district, beginning in fiscal year 2000-2001.

—was read the third time in full.

On motion by Senator Bronson, **SJR 542** was passed by the required constitutional three-fifths vote of the membership and certified to the House. The vote on passage was:

Yeas—26

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|-----------------|-------------|------------|--------------|
| Madam President | Cowin | Holzendorf | Myers |
| Bankhead | Crist | Horne | Ostalkiewicz |
| Bronson | Diaz-Balart | Latvala | Scott |
| Brown-Waite | Dudley | Laurent | Sullivan |
| Burt | Grant | Lee | Williams |
| Casas | Gutman | McKay | |
| Clary | Harris | Meadows | |

Nays—12

| | | | |
|----------|----------|-------------|--------|
| Campbell | Forman | Kirkpatrick | Rossin |
| Childers | Geller | Klein | Thomas |
| Dyer | Hargrett | Kurth | Turner |

Vote after roll call:

Yea—Silver

Nay to Yea—Rossin

Consideration of **CS for SB 244** was deferred.

CS for SB 364—A bill to be entitled An act relating to public records; amending s. 119.07, F.S., relating to inspection, examination, and duplication of records; exempting information pertaining to natural persons in health, medical, patient, or health insurance records from the public records law; providing exceptions; amending s. 286.011, F.S., relating to public meetings; exempting from public discussion portions of public meetings during which the contents of health, medical, patient, or health insurance information pertaining to a natural person are considered; providing exceptions; providing justification for exemptions; providing an effective date.

—was read the third time by title.

On motion by Senator Brown-Waite, **CS for SB 364** was passed and certified to the House. The vote on passage was:

Yeas—39

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|-----------------|----------|----------|-------------|
| Madam President | Casas | Dyer | Harris |
| Bankhead | Childers | Forman | Holzendorf |
| Bronson | Clary | Geller | Horne |
| Brown-Waite | Cowin | Grant | Jones |
| Burt | Crist | Gutman | Kirkpatrick |
| Campbell | Dudley | Hargrett | Klein |

| | | | |
|---------|--------------|----------|----------|
| Kurth | McKay | Rossin | Thomas |
| Latvala | Meadows | Scott | Turner |
| Laurent | Myers | Silver | Williams |
| Lee | Ostalkiewicz | Sullivan | |

Nays—None

CS for HB 4455—A bill to be entitled An act relating to mobile surgical facilities; amending s. 395.001, F.S.; providing legislative intent; amending s. 395.002, F.S.; revising definitions; defining “mobile surgical facility”; amending s. 395.003, F.S.; requiring the licensure of mobile surgical facilities under ch. 395, F.S.; amending s. 395.004, F.S.; requiring a license fee upon application for licensure as a mobile surgical facility; amending s. 395.0161, F.S.; requiring licensure inspections of such facilities under specified circumstances; providing an exception; amending s. 395.0163, F.S.; requiring construction inspections of such facilities under specified circumstances; providing an exception; amending s. 395.1055, F.S.; authorizing the establishment of separate standards for mobile surgical facilities; amending s. 408.036, F.S.; providing an exemption from review and application for certificate of need for mobile surgical facilities; amending s. 395.7015, F.S.; providing for the imposition of an annual assessment upon mobile surgical facilities; providing application; requiring specified mobile surgical facilities in operation prior to the effective date of the act to continue to operate and be subject to the provisions of the act only after the effective date of rules established by the Agency for Health Care Administration; providing an effective date.

—was read the third time by title.

On motion by Senator Bronson, **CS for HB 4455** was passed and certified to the House. The vote on passage was:

Yeas—40

| | | | |
|-----------------|-------------|-------------|--------------|
| Madam President | Crist | Holzendorf | Meadows |
| Bankhead | Diaz-Balart | Horne | Myers |
| Bronson | Dudley | Jones | Ostalkiewicz |
| Brown-Waite | Dyer | Kirkpatrick | Rossin |
| Burt | Forman | Klein | Scott |
| Campbell | Geller | Kurth | Silver |
| Casas | Grant | Latvala | Sullivan |
| Childers | Gutman | Laurent | Thomas |
| Clary | Hargrett | Lee | Turner |
| Cowin | Harris | McKay | Williams |

Nays—None

CS for HB 1377—A bill to be entitled An act relating to motor vehicle emissions and safety inspections; amending s. 325.203, F.S.; providing for biennial emissions inspections; amending ss. 325.209 and 325.210, F.S.; conforming to the act; providing an effective date.

—as amended April 27 was read the third time by title.

On motion by Senator Hargrett, **CS for HB 1377** as amended was passed and certified to the House. The vote on passage was:

Yeas—40

| | | | |
|-----------------|-------------|-------------|--------------|
| Madam President | Crist | Holzendorf | Meadows |
| Bankhead | Diaz-Balart | Horne | Myers |
| Bronson | Dudley | Jones | Ostalkiewicz |
| Brown-Waite | Dyer | Kirkpatrick | Rossin |
| Burt | Forman | Klein | Scott |
| Campbell | Geller | Kurth | Silver |
| Casas | Grant | Latvala | Sullivan |
| Childers | Gutman | Laurent | Thomas |
| Clary | Hargrett | Lee | Turner |
| Cowin | Harris | McKay | Williams |

Nays—None

HB 4483—A bill to be entitled An act instructing the Division of Statutory Revision to make necessary changes to conform the Florida

Statutes to the name change of the Department of Health and Rehabilitative Services and the divestiture of programs of the former department to other departments or agencies; transferring and renumbering ss. 408.601, 408.602, 408.603, and 408.604, F.S.; providing an effective date.

—was read the third time by title.

On motion by Senator Rossin, **HB 4483** was passed and certified to the House. The vote on passage was:

Yeas—40

| | | | |
|-----------------|-------------|-------------|--------------|
| Madam President | Crist | Holzendorf | Meadows |
| Bankhead | Diaz-Balart | Horne | Myers |
| Bronson | Dudley | Jones | Ostalkiewicz |
| Brown-Waite | Dyer | Kirkpatrick | Rossin |
| Burt | Forman | Klein | Scott |
| Campbell | Geller | Kurth | Silver |
| Casas | Grant | Latvala | Sullivan |
| Childers | Gutman | Laurent | Thomas |
| Clary | Hargrett | Lee | Turner |
| Cowin | Harris | McKay | Williams |

Nays—None

CS for SB 1014—A bill to be entitled An act relating to road designations; designating the Gratigny Parkway in Dade County as the “Marlins Expressway”; directing the Department of Transportation to erect suitable markers; designating a portion of State Road 267 in Gadsden County as the “Pat Thomas Parkway”; directing the Department of Transportation to erect suitable markers; designating a portion of State Road 528 in Brevard County as the “Kennedy Space Center Highway”; directing the Department of Transportation to erect suitable markers; designating a portion of the Polk County Highway as the “James Henry Mills Medal of Honor Parkway”; directing the Department of Transportation to erect suitable markers; designating a portion of N.W. 167th Street in Miami Lakes as “Zuly Reyes Road”; directing the Department of Transportation to erect suitable markers; designating State Road 50 within Hernando County as the “Deputy Lonnie Coburn Memorial Highway”; directing the Department of Transportation to erect suitable markers; co-designating the MacArthur Causeway Bridge in Miami-Dade County as the “Trooper Robert G. Smith Bridge”; directing the Department of Transportation to erect suitable markers; designating the Florida Turnpike as the “Ronald Reagan Turnpike”; directing the Department of Transportation to erect suitable markers; designating a portion of State Road 71 South in Jackson County as the “Pete Peterson Parkway”; directing the Department of Transportation to erect suitable markers; designating that portion of State Road 71 extending through Port St. Joe (known as 5th Street) as “Cecil G. Costin, Sr. Boulevard”; directing the Department of Transportation to erect suitable markers; designating a portion of Coral Way in Miami as the “Ofelia Perez-Roura Memorial Way” directing the Department of Transportation to erect suitable markers; providing an effective date.

—as amended April 27 was read the third time by title.

On motion by Senator Gutman, **CS for SB 1014** as amended was passed and certified to the House. The vote on passage was:

Yeas—39

| | | | |
|-----------------|-------------|-------------|--------------|
| Madam President | Crist | Holzendorf | Meadows |
| Bankhead | Diaz-Balart | Horne | Myers |
| Bronson | Dudley | Jones | Ostalkiewicz |
| Brown-Waite | Dyer | Kirkpatrick | Rossin |
| Burt | Forman | Klein | Scott |
| Campbell | Geller | Kurth | Silver |
| Casas | Grant | Latvala | Sullivan |
| Childers | Gutman | Laurent | Turner |
| Clary | Hargrett | Lee | Williams |
| Cowin | Harris | McKay | |

Nays—None

CS for SB 1686—A bill to be entitled An act relating to ad valorem taxation (RAB); amending s. 193.075, F.S.; providing for certain recre-

ation vehicle-type units to be considered mobile homes for purposes of ad valorem taxation; amending s. 197.162, F.S.; providing for discounts on early tax payments; amending s. 197.182, F.S.; providing for automatic refunds of overpayments of tax greater than \$5; amending s. 197.243, F.S.; redefining the term "household" to exclude boarders and renters; amending s. 197.252, F.S.; providing a formula for estimating household income; amending s. 197.253, F.S.; providing for notification by the property appraiser concerning homestead status; amending s. 197.332, F.S.; providing for collection of penalties, interest, and costs for delinquent taxes; amending s. 197.344, F.S.; providing for tax notices for lienholders, trustees, and vendees; amending s. 197.413, F.S.; providing for advertising costs to be added to delinquent taxes at the time of advertising; amending s. 197.432, F.S.; prescribing conditions for bidding on tax certificates; amending s. 197.443, F.S.; providing for recouping costs of advertising void tax certificates; providing for cancellation of tax certificates at the request of the owner; amending s. 197.542, F.S.; authorizing the clerk to refuse certain bids for lands sold at public auction; creating s. 197.4325, F.S.; providing a procedure for handling bad checks received for payment of taxes or tax certificates; providing an effective date.

—was read the third time by title.

On motion by Senator Ostalkiewicz, **CS for SB 1686** was passed and certified to the House. The vote on passage was:

Yeas—39

| | | | |
|-----------------|-------------|-------------|--------------|
| Madam President | Crist | Horne | Myers |
| Bankhead | Diaz-Balart | Jones | Ostalkiewicz |
| Bronson | Dudley | Kirkpatrick | Rossin |
| Brown-Waite | Dyer | Klein | Scott |
| Burt | Forman | Kurth | Silver |
| Campbell | Geller | Latvala | Sullivan |
| Casas | Grant | Laurent | Thomas |
| Childers | Gutman | Lee | Turner |
| Clary | Hargrett | McKay | Williams |
| Cowin | Holzendorf | Meadows | |

Nays—None

CS for SB 1688—A bill to be entitled An act relating to taxation (RAB); amending s. 212.02, F.S.; redefining the term "retail sales" to revise standards for the exclusion of packaging materials; redefining the term "sales price" to exclude certain federal tax; redefining the term "use" to exclude the loan of an automobile for use by a driver education program; amending s. 212.03, F.S.; revising provisions for eligibility for the exemption provided for rental in trailer parks and similar facilities; amending s. 212.031, F.S.; providing partial exemption for rentals of certain property used as residential facilities for the aged; exempting utility charges paid by a tenant in specified circumstances; providing taxability of charges for canceling or terminating a lease; amending s. 212.04, F.S.; providing standards for determining taxability of components of packages sold by travel agents; exempting fees for entering sporting events from the admissions tax when spectators at such events are charged the tax; amending s. 212.05, F.S.; prescribing the entities that are considered selling dealers for purposes of the sales, storage, and use tax on aircraft and boats; providing for return of aircraft to the state without incurring tax liability in certain circumstances; providing taxability for property originally exempt which is converted to the owner's use; providing guidelines for taxability of lease or rental of motor vehicles; providing taxability of sales of newspapers; providing guidelines for taxability of newspaper and magazine inserts; providing taxability of certain sales by florists; providing for calculating tax on prizes distributed by concessionaires; amending s. 212.06, F.S.; providing taxability of newspapers, magazines, and periodicals used by the publisher thereof; amending s. 212.18, F.S.; providing for rules relating to registration of vending machines and newspaper rack machines; providing an effective date.

—was read the third time by title.

On motion by Senator Ostalkiewicz, **CS for SB 1688** was passed and certified to the House. The vote on passage was:

Yeas—37

| | | | |
|-----------------|------------|--------------|----------|
| Madam President | Crist | Kirkpatrick | Rossin |
| Bankhead | Dudley | Klein | Scott |
| Bronson | Dyer | Kurth | Silver |
| Brown-Waite | Geller | Latvala | Sullivan |
| Burt | Grant | Laurent | Thomas |
| Campbell | Hargrett | Lee | Turner |
| Casas | Harris | McKay | Williams |
| Childers | Holzendorf | Meadows | |
| Clary | Horne | Myers | |
| Cowin | Jones | Ostalkiewicz | |

Nays—None

Consideration of **CS for SB 1690** was deferred.

CS for SB 1692—A bill to be entitled An act relating to the tax on sales, use, and other transactions (RAB); amending s. 212.02, F.S.; defining the terms "agricultural commodity," "farmer," and "livestock"; amending s. 212.07, F.S.; prescribing dealer liability for certain tax; prescribing tax liability for sales of race horses in claiming races; amending s. 212.08, F.S.; exempting certain sales of racing dogs; disallowing a sales tax exemption for purchases made by an employee of an exempt organization when such payment is made by the employee; amending s. 212.09, F.S.; revising provisions regulating credits for trade-ins; amending s. 212.17, F.S.; providing for reimbursement of certain taxes paid by dealers; amending s. 212.18, F.S.; providing for revocation of a dealer's certificate of registration; providing an effective date.

—as amended April 27 was read the third time by title.

On motion by Senator Ostalkiewicz, **CS for SB 1692** as amended was passed and certified to the House. The vote on passage was:

Yeas—38

| | | | |
|-----------------|-------------|-------------|--------------|
| Madam President | Crist | Jones | Ostalkiewicz |
| Bankhead | Diaz-Balart | Kirkpatrick | Rossin |
| Bronson | Dudley | Klein | Scott |
| Brown-Waite | Dyer | Kurth | Silver |
| Burt | Geller | Latvala | Sullivan |
| Campbell | Grant | Laurent | Thomas |
| Casas | Hargrett | Lee | Turner |
| Childers | Harris | McKay | Williams |
| Clary | Holzendorf | Meadows | |
| Cowin | Horne | Myers | |

Nays—None

CS for SB 1694—A bill to be entitled An act relating to taxation (RAB); amending s. 212.08, F.S., relating to the tax on sales, use, and other transactions; revising the sales tax exemption provided for food and drinks; providing definitions; exempting additional medical supplies and equipment; defining the term "prescriptions"; revising the exemption for school books and school lunches; providing exemptions with respect to parent-teacher organizations and associations, to schools with grades K through 12, to mobile home lot improvements, and to sales of certain personal property supported through the Veterans Administration; providing a partial exemption for certain commercial fishing vessels; providing guidelines for determining applicability of sales surtaxes to certain transactions; providing an exemption for certain foods, drinks, and other items provided to customers on a complimentary basis by a dealer who sells food products at retail; providing an exemption for foods and beverages donated by such dealers to certain organizations; revising provisions relating to the technical assistance advisory committee established to provide advice in determining the taxability of specific products; providing membership requirements; amending s. 213.22, F.S.; providing for the issuance of technical assistance advisements; providing an effective date.

—was read the third time by title.

On motion by Senator Ostalkiewicz, **CS for SB 1694** was passed and certified to the House. The vote on passage was:

Yeas—39

| | | | |
|-----------------|-------------|-------------|--------------|
| Madam President | Crist | Holzendorf | Myers |
| Bankhead | Diaz-Balart | Horne | Ostalkiewicz |
| Bronson | Dudley | Jones | Rossin |
| Brown-Waite | Dyer | Kirkpatrick | Scott |
| Burt | Forman | Klein | Silver |
| Campbell | Geller | Kurth | Sullivan |
| Casas | Grant | Latvala | Thomas |
| Childers | Gutman | Laurent | Turner |
| Clary | Hargrett | Lee | Williams |
| Cowin | Harris | Meadows | |

Nays—None

CS for SB 1696—A bill to be entitled An act relating to the tax on sales, use, and other transactions (RAB); amending s. 212.08, F.S.; revising eligibility standards for the partial exemption for farm equipment; providing additional uses to which equipment may be put and be eligible for the exemption; revising exemption standards for water; exempting disinfectants, pesticides, weed killers, certain seeds, cuttings, seedlings, plants, and specified packaging items in agricultural use; exempting paint color cards and other color samples available at no charge; providing guidelines for determining applicability of exemption for sales to a governmental entity to sales of tangible personal property to contractors for incorporation into public works; providing guidelines for determining applicability of sales surtaxes to certain transactions; authorizing aircraft to be returned to the state under specified circumstances without incurring tax liability; providing an effective date.

—was read the third time by title.

On motion by Senator Ostalkiewicz, **CS for SB 1696** was passed and certified to the House. The vote on passage was:

Yeas—40

| | | | |
|-----------------|-------------|-------------|--------------|
| Madam President | Crist | Holzendorf | Meadows |
| Bankhead | Diaz-Balart | Horne | Myers |
| Bronson | Dudley | Jones | Ostalkiewicz |
| Brown-Waite | Dyer | Kirkpatrick | Rossin |
| Burt | Forman | Klein | Scott |
| Campbell | Geller | Kurth | Silver |
| Casas | Grant | Latvala | Sullivan |
| Childers | Gutman | Laurent | Thomas |
| Clary | Hargrett | Lee | Turner |
| Cowin | Harris | McKay | Williams |

Nays—None

HB 4143—A bill to be entitled An act relating to emergency telephone number “911” services; amending s. 365.171, F.S.; providing for indemnification and limitation of liability for wireless telecommunications service providers that provide 911 service; providing an effective date.

—was read the third time by title.

On motion by Senator Latvala, **HB 4143** was passed and certified to the House. The vote on passage was:

Yeas—40

| | | | |
|-----------------|-------------|-------------|---------|
| Madam President | Clary | Grant | Klein |
| Bankhead | Cowin | Gutman | Kurth |
| Bronson | Crist | Hargrett | Latvala |
| Brown-Waite | Diaz-Balart | Harris | Laurent |
| Burt | Dudley | Holzendorf | Lee |
| Campbell | Dyer | Horne | McKay |
| Casas | Forman | Jones | Meadows |
| Childers | Geller | Kirkpatrick | Myers |

| | | | |
|--------------|--------|----------|----------|
| Ostalkiewicz | Scott | Sullivan | Turner |
| Rossin | Silver | Thomas | Williams |

Nays—None

Consideration of **CS for CS for HB 757** was deferred.

CS for CS for SB’s 1124, 2048 and 1120—A bill to be entitled An act relating to workforce development; creating an incentive grant program; requiring certain administrative procedures; requiring certain data analysis and reports; providing an implementation schedule; providing a definition; amending s. 229.551, F.S.; providing for nonpublic postsecondary education institutions to use the common course designation and numbering system used by public institutions; amending s. 229.8075, F.S.; requiring job retention data to be collected; amending s. 236.081, F.S.; deleting a school district responsibility for funding certain community college programs; amending s. 239.105, F.S.; amending definitions; amending s. 239.115, F.S., relating to funds for operation of adult general education and vocational education programs; revising provisions relating to workforce development education programs; changing the name of the associate in applied technology degree to the applied technology diploma; revising provisions relating to funding through the Workforce Development Education Fund; providing duties relating to workforce development programs and funding; providing for use of funds; amending s. 239.117, F.S.; revising calculation of fees required of students in workforce development programs; deleting certain requirements for application for student financial assistance; amending ss. 240.3031, 240.311, F.S.; renaming the State Community College System; amending s. 239.213, F.S., relating to vocational-preparatory instruction; deleting obsolete provisions; amending s. 239.229, F.S., relating to vocational standards; conforming provisions; amending s. 239.233, F.S.; requiring job-retention data; amending s. 239.301, F.S.; revising adult general education provisions; amending s. 240.115, F.S.; providing guidelines for awarding credit for transfer students; revising s. 240.35, F.S.; revising calculation of fees required of students in community college programs; amending s. 240.359, F.S.; providing funding for college preparatory coursework; amending ss. 446.011, 446.041, 446.052, F.S.; deleting responsibilities of the Division of Public Schools and Community Education; providing a 1998-1999 fee schedule for certain programs; authorizing waivers; requiring that the Commissioner of Education and the Executive Director of the State Board of Community Colleges investigate issues related to implementing the act; requiring a report to the Governor and the Legislature; creating the Employment Task Force for Adults with Disabilities to review programs that provide education for adults with disabilities; providing for the appointment of members of the task force; requiring that the Department of Education provide staff to assist the task force; providing for reimbursement for travel expenses; requiring that the task force report to the Commissioner of Education; requiring the State Board of Community Colleges to identify procedures to encourage the joint use of facilities for specified programs; requiring the board to report to the Legislature; providing an effective date.

—as amended April 27 was read the third time by title.

On motion by Senator Grant, **CS for CS for SB’s 1124, 2048 and 1120** as amended was passed and certified to the House. The vote on passage was:

Yeas—40

| | | | |
|-----------------|-------------|-------------|--------------|
| Madam President | Crist | Holzendorf | Meadows |
| Bankhead | Diaz-Balart | Horne | Myers |
| Bronson | Dudley | Jones | Ostalkiewicz |
| Brown-Waite | Dyer | Kirkpatrick | Rossin |
| Burt | Forman | Klein | Scott |
| Campbell | Geller | Kurth | Silver |
| Casas | Grant | Latvala | Sullivan |
| Childers | Gutman | Laurent | Thomas |
| Clary | Hargrett | Lee | Turner |
| Cowin | Harris | McKay | Williams |

Nays—None

CS for SB 1270—A bill to be entitled An act relating to public funds; providing for the appropriation of revenues obtained as a result of the settlement of litigation involving the tobacco industry; providing for specified amounts to be appropriated to the Department of Health to continue implementing the Florida Kids Campaign Against Tobacco Pilot Program; providing for additional appropriations of revenues to be used for marketing, education and training, youth programs, and community partnerships; providing an appropriation to the Department of Business and Professional Regulation; requiring that such funds be used to enforce laws governing access to and possession of tobacco products by underage persons; providing for an evaluation of the pilot program; providing for program coordination and administrative support; providing an appropriation to the Working Capital Fund; specifying guidelines to be applied by the Legislature in expending funds paid to the state as a result of the settlement of litigation involving the tobacco industry; providing that funds should be deposited into a trust fund rather than into the General Revenue Fund; providing that funds should be spent on children's health services and on education, training, and enforcement programs; prohibiting the use of such funds to support a national settlement; requiring county health departments to administer certain funds unless granted an exemption; providing an effective date.

—as amended April 27 was read the third time by title.

On motion by Senator Thomas, **CS for SB 1270** as amended was passed and certified to the House. The vote on passage was:

Yeas—40

| | | | |
|-----------------|-------------|-------------|--------------|
| Madam President | Crist | Holzendorf | Meadows |
| Bankhead | Diaz-Balart | Horne | Myers |
| Bronson | Dudley | Jones | Ostalkiewicz |
| Brown-Waite | Dyer | Kirkpatrick | Rossin |
| Burt | Forman | Klein | Scott |
| Campbell | Geller | Kurth | Silver |
| Casas | Grant | Latvala | Sullivan |
| Childers | Gutman | Laurent | Thomas |
| Clary | Hargrett | Lee | Turner |
| Cowin | Harris | McKay | Williams |

Nays—None

CS for HB 3713—A bill to be entitled An act relating to firearms-related licenses; amending ss. 493.6111, 493.6113, F.S.; extending the licensure period for certain licenses; amending s. 790.06, F.S.; extending the licensure period for concealed weapons licenses; requiring persons who conduct or instruct certain gun safety and licensure courses to maintain records; providing an effective date.

—was read the third time by title.

On motion by Senator Harris, **CS for HB 3713** was passed and certified to the House. The vote on passage was:

Yeas—40

| | | | |
|-----------------|-------------|-------------|--------------|
| Madam President | Crist | Holzendorf | Meadows |
| Bankhead | Diaz-Balart | Horne | Myers |
| Bronson | Dudley | Jones | Ostalkiewicz |
| Brown-Waite | Dyer | Kirkpatrick | Rossin |
| Burt | Forman | Klein | Scott |
| Campbell | Geller | Kurth | Silver |
| Casas | Grant | Latvala | Sullivan |
| Childers | Gutman | Laurent | Thomas |
| Clary | Hargrett | Lee | Turner |
| Cowin | Harris | McKay | Williams |

Nays—None

CS for SB 1690—A bill to be entitled An act relating to taxes on sales, use, and other transactions (RAB); amending s. 212.0506, F.S.; revising guidelines for tax liability of service warranties; amending s. 212.0515, F.S.; providing tax liability for sales of nonfood items from vending machines; revising eligibility for rewards; amending s. 212.054, F.S.; revising guidelines for determination of exemption from partial sales

surtaxes; amending s. 212.0598, F.S.; revising provisions relating to determination of air carriers' tax liability; amending s. 212.06, F.S.; revising guidelines for determining tax liability of certain personal property; providing a presumption with respect to tax liability for sales of motor vehicles; providing for a use tax on certain aircraft; defining the terms "real property," "fixtures," and "improvements to real property," for purposes of determining when a person is improving real property; providing guidelines for determining tax liability on rock, shell, fill dirt, and similar materials; providing an effective date.

—was read the third time by title.

On motion by Senator Ostalkiewicz, **CS for SB 1690** was passed and certified to the House. The vote on passage was:

Yeas—40

| | | | |
|-----------------|-------------|-------------|--------------|
| Madam President | Crist | Holzendorf | Meadows |
| Bankhead | Diaz-Balart | Horne | Myers |
| Bronson | Dudley | Jones | Ostalkiewicz |
| Brown-Waite | Dyer | Kirkpatrick | Rossin |
| Burt | Forman | Klein | Scott |
| Campbell | Geller | Kurth | Silver |
| Casas | Grant | Latvala | Sullivan |
| Childers | Gutman | Laurent | Thomas |
| Clary | Hargrett | Lee | Turner |
| Cowin | Harris | McKay | Williams |

Nays—None

CS for CS for HB 757—A bill to be entitled An act relating to public records; providing an exemption from public records requirements for information about patients of home medical equipment providers which is obtained by employees or service providers or the licensing agency; providing an exemption from public records requirements for information obtained by the Agency for Health Care Administration or a home medical equipment provider in connection with background screening of prospective employees of the provider; providing for future review and repeal; providing findings of public necessity; providing a contingent effective date.

—was read the third time by title.

On motion by Senator Brown-Waite, **CS for CS for HB 757** was passed and certified to the House. The vote on passage was:

Yeas—39

| | | | |
|-----------------|-------------|-------------|--------------|
| Madam President | Crist | Holzendorf | Myers |
| Bankhead | Diaz-Balart | Horne | Ostalkiewicz |
| Bronson | Dudley | Jones | Rossin |
| Brown-Waite | Dyer | Kirkpatrick | Scott |
| Burt | Forman | Klein | Silver |
| Campbell | Geller | Kurth | Sullivan |
| Casas | Grant | Latvala | Thomas |
| Childers | Gutman | Lee | Turner |
| Clary | Hargrett | McKay | Williams |
| Cowin | Harris | Meadows | |

Nays—1

Laurent

Vote after roll call:

Nay to Yea—Laurent

SPECIAL ORDER CALENDAR

On motion by Senator Brown-Waite, by two-thirds vote **HB 3217** was withdrawn from the Committees on Children, Families and Seniors; and Ways and Means.

On motion by Senator Brown-Waite—

HB 3217—A bill to be entitled An act relating to the privatization of foster care and related services; amending s. 409.1671, F.S.; providing legislative intent; defining the terms "privatize," "related services," and

"eligible lead community-based provider"; requiring the Department of Children and Family Services to develop a plan to accomplish statewide privatization within a specified time period and to submit the plan to the Governor and to designated legislative officials by a specified date; providing plan requirements; requiring the department to state whether and why privatization cannot be accomplished in a particular district or portion of a district and how the department will address the obstacles to privatization; providing for legal services; requiring that child welfare legal services be provided by specified providers; providing for case management responsibilities; providing for quality assurance; providing requirements for and restrictions upon funding for privatization; creating s. 415.5071, F.S.; providing for a model program for child protective investigative services, to be initiated in specified districts; requiring the department to contract with sheriffs in those districts; providing responsibilities of the department; requiring a report; providing for funding; providing for the creation of a specified committee which shall submit a required report; providing an effective date.

—a companion measure, was substituted for **CS for CS for SB 352** and read the second time by title.

Pursuant to Rule 4.19, **HB 3217** was placed on the calendar of Bills on Third Reading.

On motion by Senator Kirkpatrick—

CS for SB 1162—A bill to be entitled An act relating to computers; creating s. 14.025, F.S., relating to the Governor; recognizing the potential computer problems that may occur in state agencies due to the date change necessitated by the year 2000; authorizing the Governor to reassign resources in the event of a likely computer failure; authorizing the Administration Commission to reassign resources if an agency headed by the Governor and Cabinet or a Cabinet officer is likely to experience a computer failure; requiring the reassignment of resources to conform with the law governing budget amendments; requiring the reassignment of personnel to conform with the law governing employee interchanges; requiring legislative approval if a reassignment of resources is necessary for more than 90 days; authorizing legislative veto of the reassignment of state resources; providing for repeal of the powers granted to the Governor; amending ss. 112.24 and 112.27, F.S., relating to employee interchange programs; clarifying that state agencies may exchange employees; creating s. 282.4045, F.S.; providing legislative findings relating to the adequacy of the state's actions to prevent year 2000 computer failures; protecting the state and units of local government against legal actions that result from a year 2000 computer date calculation failure; providing an effective date.

—was read the second time by title.

Senator Kirkpatrick moved the following amendment which was adopted:

Amendment 1—On page 3, delete line 24 and insert:

(6) *This section is repealed July 1, 2000.*

Senator Diaz-Balart moved the following amendment which was adopted:

Amendment 2—On page 9, line 18, after the period (.) insert: *For purposes of this section, the state's agencies or instrumentalities shall be deemed to include any public or private university school of medicine that is part of a public or private university supported in whole or in part by state funds and that has an affiliation with a local government or state instrumentality under which the medical school's computer system or systems, or diagnostic or therapeutic equipment dependent upon date logic, are used, among other things, in providing clinical patient care services to the public.*

Pursuant to Rule 4.19, **CS for SB 1162** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Clary—

CS for CS for SB's 1190 and 868—A bill to be entitled An act relating to a statewide unified building code; amending s. 468.621, F.S.;

providing an additional ground for certain disciplinary actions; amending ss. 471.033, 481.225, 481.2251, and 481.325, F.S.; providing for additional fines for certain violations of the Florida Building Code; amending s. 468.602, F.S.; clarifying application of an exemption for certain persons; amending ss. 468.609, 468.627, 471.017, 471.019, 481.215, 481.313, 489.115, 489.1455, and 489.5335, F.S.; requiring certificate-holders, licensees, or registrants to prove completion of certain education requirements relating to the Florida Building Code; providing recording requirements for reported continuing education; requiring notification of failure to comply; requiring that action be taken when non-compliance is determined; providing certain core curriculum or continuing education requirements for certain license, certificate, or registration renewals; authorizing certain licensing boards to require certain specialized or advanced education courses; creating s. 455.2286, F.S.; requiring the Department of Business and Professional Regulation to implement an automated information system for certain purposes; providing requirements relating to such system; amending s. 489.103, F.S.; exempting certain residential structures from certain construction contracting requirements; amending s. 489.117, F.S.; clarifying certain information provision requirements for local jurisdictions relating to specialty contractor licensure and discipline; amending s. 489.513, F.S.; requiring local jurisdictions to provide certain information to certain licensing boards; requiring such boards to maintain and provide such information through an automated information system; providing for local responsibility for imposing certain disciplinary action; authorizing imposition of penalties by ordinance; amending s. 489.517, F.S.; requiring certificateholders or registrants to provide proof of completion of certain education courses; authorizing the electrical contractors' licensing board to require certain education courses; amending s. 489.533, F.S.; revising a ground for certain disciplinary action; amending s. 553.06, F.S.; requiring the Florida Building Commission to adopt the State Plumbing Code; amending s. 553.19, F.S.; requiring the commission to adopt certain electrical standards as part of the Florida Building Code and to revise and maintain such standards; amending s. 553.71, F.S.; revising certain definitions; renaming the Board of Building Codes and Standards as the Florida Building g Commission; amending s. 553.72, F.S.; revising legislative intent; amending s. 553.73, F.S.; providing for adoption of the Florida Building Code to replace the State Minimum Building Codes; providing for legislative approval; providing purposes; requiring the Florida Building Commission to adopt the code; providing requirements and criteria for the code; providing for resolution of conflicts between the Florida Building Code and the Florida Fire Prevention Code and the Life Safety Code; providing requirements; providing for local technical amendments to the code; providing procedures and requirements; providing limitations; requiring counties to establish compliance review boards for certain purposes; providing requirements; authorizing local governments to adopt amendments to the code; providing requirements; providing procedures for challenges by affected parties; providing for appeals; requiring the commission to update the code periodically; authorizing the commission to adopt technical amendments to the code under certain circumstances; providing requirements; providing for exempting certain buildings, structures, and facilities from the code; specifying nonapplication of the code under certain circumstances; prohibiting administration or enforcement of the code for certain purposes; amending s. 553.74, F.S.; replacing the State Board of Building Codes and Standards with the Florida Building Commission; providing for additional membership; providing for continuation of terms of existing board members; amending ss. 553.75, 553.76, and 553.77, F.S., to conform; providing additional powers of the commission; requiring commission staff to attend certain meetings; requiring the commission to develop and publish descriptions of roles and responsibilities of certain persons; authorizing the commission to provide plans review and approval of certain public buildings; creating s. 553.781, F.S.; providing for licensee accountability; authorizing local jurisdictions to impose fines and order certain disciplinary action for certain violations of the Florida Building Code; providing for challenges to such actions; requiring the Department of Business and Professional Regulation and local jurisdictions to report such disciplinary actions; providing for disposition and use of such fines; providing construction; providing for suspension of certain permitting privileges under certain circumstance; amending s. 553.79, F.S., to conform; authorizing owners of certain buildings to designate such buildings as threshold buildings for certain purposes; providing for local government enforcement of the Florida Building Code under certain circumstances; amending s. 553.80, F.S.; authorizing certain reinspection fees under certain circumstances; requiring certain agencies to provide support to local governments for certain purposes; specifying certain code enforcement requirements for

state universities, community colleges, and public school districts; preserving authority of certain local governments to enforce code requirements; providing construction; creating s. 553.841, F.S.; providing for establishing a building code training program; providing requirements; providing criteria; authorizing the Florida Building Commission to enter into contracts for certain purposes; requiring the assistance and participation of certain state agencies; creating s. 553.842, F.S.; providing for a system for product evaluation and approval; providing requirements; providing procedures; providing for challenging, review, and appeal of certain evaluations; authorizing the commission to charge fees for certain certifications and reviews; providing exceptions; amending s. 633.01, F.S.; authorizing the Department of Insurance to issue binding interpretations of certain firesafety codes; creating s. 633.0215, F.S.; requiring the Department of Insurance to adopt certain fire prevention and life safety codes; providing requirements; providing for temporary effect of local amendments to such codes; providing providing procedures for adopting or rescinding local amendments to such codes; requiring the department to update such codes periodically; providing for technical amendments to such codes; providing exceptions to application of such codes for certain purposes; amending s. 633.025, F.S.; specifying adoption by local jurisdictions of certain firesafety codes; authorizing local jurisdictions to adopt more stringent firesafety standards under certain circumstances; providing procedures; providing limitations; deleting obsolete provisions; amending s. 633.085, F.S.; clarifying certain inspection duties of the State Fire Marshal; amending s. 633.72, F.S.; specifying cooperation between the Florida Fire Code Advisory Council and the Florida Building Commission under certain circumstances; requiring administrative staff of the State Fire Marshal to attend certain meetings and coordinate efforts for consistency between certain codes; amending ss. 125.69, 161.54, 161.56, 162.21, 166.0415, 489.127, 489.131, 489.531, 489.537, 500.459, 553.18, and 627.351, F.S., to conform; requiring the Florida Building Commission to submit the Florida Building Code to the Legislature for approval; requiring the commission to recommend changes to the law to conform to adoption of the Florida Building Code; providing for future repeal of local amendments to certain building codes; providing for re-adoption; requiring the State Fire Marshal, the Florida Building Commission, and the Commissioner of Education to establish a select committee for certain purposes; providing for committee membership; providing duties of the committee; requiring a report to the Legislature; requiring the Department of Management Services to conduct a pilot project to study the effects of installing an ozonation water treatment system for a cooling tower on state buildings; requiring a report to the Legislature; repealing s. 471.003(2)(f), F.S., relating to engineering faculty exemption from registration requirements; repealing s. 489.539, F.S., relating to adoption of electrical standards; repealing s. 553.73(5), F.S., relating to a presumption of compliance with certain building code requirements; providing for future repeal of s. 489.120, F.S., relating to an automated information system; providing for future repeal of s. 489.129(1)(d), F.S., relating to disciplinary action for knowing violations of building codes; providing for future repeal of parts I, II, and III of chapter 553, F.S., relating to the Florida Plumbing Control Act, the Florida Electrical Code, and glass standards; providing appropriations; providing effective dates.

—was read the second time by title.

An amendment was considered and adopted to conform **CS for CS for SB's 1190 and 868** to **CS for CS for HB 4181**.

Pending further consideration of **CS for CS for SB's 1190 and 868** as amended, on motion by Senator Clary, by two-thirds vote **CS for CS for HB 4181** was withdrawn from the Committees on Community Affairs; Governmental Reform and Oversight; and Ways and Means.

On motion by Senator Clary—

CS for CS for HB 4181—A bill to be entitled An act relating to a statewide unified building code; amending ss. 468.621, F.S.; providing an additional ground for certain disciplinary actions; amending ss. 471.033, 481.225, 481.2251, and 481.325, F.S.; providing for additional fines for certain violations of the Florida Building Code; amending s. 468.602, F.S.; clarifying application of an exemption for certain persons; amending ss. 468.609, 468.627, 471.017, 471.019, 481.215, 481.313, 489.115, 489.1455, and 489.5335, F.S.; requiring certificateholders, licensees, or registrants to prove completion of certain education requirements relating to the Florida Building Code; providing certain core curriculum or continuing education requirements for certain license, certificate, or registration renewals; authorizing certain licensing boards to

require certain specialized or advanced education courses; creating s. 455.2286, F.S.; requiring the Department of Business and Professional Regulation to implement an automated information system for certain purposes; providing requirements relating to such system; amending s. 489.103, F.S.; exempting certain residential structures from certain construction contracting requirements; amending s. 489.117, F.S.; clarifying certain information provision requirements for local jurisdictions relating to specialty contractor licensure and discipline; amending s. 489.513, F.S.; requiring local jurisdictions to provide certain information to certain licensing boards; requiring such boards to maintain and provide such information through an automated information system; providing for local responsibility for imposing certain disciplinary action; authorizing imposition of penalties by ordinance; amending s. 489.517, F.S.; requiring certificateholders or registrants to provide proof of completion of certain education courses; authorizing the electrical contractors' licensing board to require certain education courses; amending s. 489.533, F.S.; revising a ground for certain disciplinary action; amending s. 553.06, F.S.; requiring the Florida Building Commission to adopt the State Plumbing Code; amending s. 553.19, F.S.; requiring the commission to adopt certain electrical standards as part of the Florida Building Code and to revise and maintain such standards; amending s. 553.71, F.S.; revising certain definitions; renaming the Board of Building Codes and Standards as the Florida Building Code Commission; amending s. 553.72, F.S.; revising legislative intent; amending s. 553.73, F.S.; providing for adoption of the Florida Building Code to replace the State Minimum Building Codes; providing for legislative approval; providing purposes; requiring the Florida Building Commission to adopt the code; providing requirements and criteria for the code; providing for resolution of conflicts between the Florida Building Code and the Florida Fire Prevention Code and the Life Safety Code; providing requirements; providing for local technical amendments to the code; providing procedures and requirements; providing limitations; requiring counties to establish compliance review boards for certain purposes; providing requirements; authorizing local governments to adopt amendments to the code; providing requirements; providing procedures for challenges by affected parties; providing for appeals; requiring the commission to update the code periodically; authorizing the commission to adopt technical amendments to the code under certain circumstances; providing requirements; providing for exempting certain buildings, structures, and facilities from the code; specifying nonapplication of the code under certain circumstances; prohibiting administration or enforcement of the code for certain purposes; amending s. 553.74, F.S.; replacing the State Board of Building Codes and Standards with the Florida Building Commission; providing for additional membership; providing for continuation of terms of existing board members; amending ss. 553.75, 553.76, and 553.77, F.S., to conform; providing additional powers of the commission; requiring commission staff to attend certain meetings; requiring the commission to develop and publish descriptions of roles and responsibilities of certain persons; authorizing the commission to provide plans review and approval of certain public buildings; creating s. 553.781, F.S.; providing for licensee accountability; authorizing local jurisdictions to impose fines and order certain disciplinary action for certain violations of the Florida Building Code; providing for challenges to such actions; requiring the Department of Business and Professional Regulation and local jurisdictions to report such disciplinary actions; providing for disposition and use of such fines; providing construction; providing for suspension of certain permitting privileges under certain circumstance; amending s. 553.79, F.S., to conform; authorizing owners of certain buildings to designate such buildings as threshold buildings for certain purposes; providing for local government enforcement of the Florida Building Code under certain circumstances; amending s. 553.80, F.S.; authorizing certain additional permit fees and reinspection fees under certain circumstances; requiring certain agencies to provide support to local governments for certain purposes; specifying certain code enforcement requirements for state universities, community colleges, and public school districts; preserving authority of certain local governments to enforce code requirements; providing construction; creating s. 553.841, F.S.; providing for establishing a building code training program; providing requirements; providing criteria; authorizing the Florida Building Commission to enter into contracts for certain purposes; requiring the assistance and participation of certain state agencies; creating s. 553.842, F.S.; providing for a system for product evaluation and approval; providing requirements; providing procedures; providing for challenging, review, and appeal of certain evaluations; authorizing the commission to charge fees for certain certifications and reviews; providing exceptions; amending s. 553.905, F.S.; exempting certain HVAC equipment from additional insulation requirements; amending s.

633.01, F.S.; authorizing the Department of Insurance to issue declaratory statements of certain firesafety codes; creating s. 633.0215, F.S.; requiring the Department of Insurance to adopt certain fire prevention and life safety codes; providing requirements; providing for temporary effect of local amendments to such codes; providing providing procedures for adopting or rescinding local amendments to such codes; requiring the department to update such codes periodically; providing for technical amendments to such codes; providing exceptions to application of such codes for certain purposes; amending s. 633.025, F.S.; specifying adoption by local jurisdictions of certain firesafety codes; authorizing local jurisdictions to adopt more stringent firesafety standards under certain circumstances; providing procedures; providing limitations; deleting obsolete provisions; amending s. 633.085, F.S.; clarifying certain inspection duties of the State Fire Marshal; amending s. 633.72, F.S.; specifying cooperation between the Florida Fire Code Advisory Council and the Florida Building Commission under certain circumstances; requiring administrative staff of the State Fire Marshal to attend certain meetings and coordinate efforts for consistency between certain codes; amending ss. 125.69, 161.54, 161.56, 162.21, 166.0415, 489.127, 489.131, 489.531, 489.537, 500.459, 553.18, and 627.351, F.S., to conform; requiring the Florida Building Commission to submit the Florida Building Code to the Legislature for approval; requiring the commission to recommend changes to the law to conform to adoption of the Florida Building Code; providing for future repeal of local amendments to certain building codes; providing for reoption; requiring the State Fire Marshal, the Florida Building Commission, and the Commissioner of Education to establish a select committee for certain purposes; providing for committee membership; providing duties of the committee; requiring a report to the Legislature; requiring the Department of Management Services to conduct a pilot project to study the effects of installing an ozonation water treatment system for a cooling tower on state buildings; requiring a report to the Legislature; repealing s. 471.003(2)(f), F.S., relating to engineering faculty exemption from registration requirements; repealing s. 489.539, F.S., relating to adoption of electrical standards; repealing s. 553.73(5), F.S., relating to a presumption of compliance with certain building code requirements; providing for future repeal of s. 489.120, F.S., relating to an automated information system; providing for future repeal of s. 489.129(1)(d), F.S., relating to disciplinary action for knowing violations of building codes; providing for future repeal of parts I, II, and III of chapter 553, F.S., relating to the Florida Plumbing Control Act, the Florida Electrical Code, and glass standards; providing appropriations; providing effective dates.

—a companion measure, was substituted for **CS for CS for SB's 1190 and 868** as amended and read the second time by title.

Pursuant to Rule 4.19, **CS for CS for HB 4181** was placed on the calendar of Bills on Third Reading.

On motion by Senator Campbell, by two-thirds vote **HB 367** was withdrawn from the Committees on Education; and Ways and Means.

On motion by Senator Campbell, the rules were waived and—

HB 367—A bill to be entitled An act relating to education; creating the "Florida Maximum Class Size Study Act"; requiring school districts to reduce the teacher-to-student ratio in certain schools; requiring the Department of Education to conduct a study of the efficacy of class size reductions; providing legislative goals; providing an effective date.

—a companion measure, was substituted for **CS for SB 1374** and read the second time by title.

Senator Campbell moved the following amendment which was adopted:

Amendment 1 (with title amendment)—On page 2, between lines 25 and 26, insert:

Section 2. Subsection (1) of section 233.0612, Florida Statutes, is amended to read:

233.0612 Authorized instruction.—Each school district may provide students with programs and instruction at the appropriate grade levels in areas including, but not limited to, the following:

(1) Character development and law education. *Each school board shall be encouraged to install in the elementary schools of the district a*

program in character development which is the same as or similar to the Character Counts or Character First! Education Series. The programs must be secular in nature and stress such character qualities as attentiveness, patience, and initiative.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 8, after the second semicolon (;) insert: amending s. 233.0612, F.S.; encouraging school boards to install character-development programs in elementary schools;

Pursuant to Rule 4.19, **HB 367** as amended was placed on the calendar of Bills on Third Reading.

On motion by Senator Cowin—

CS for CS for SB 2258—A bill to be entitled An act relating to education; amending s. 231.02, F.S., relating to qualifications of district school system personnel; deleting certain provisions relating to background check; amending s. 231.096, F.S.; revising provisions relating to teaching out-of-field; amending s. 231.15, F.S.; providing State Board of Education duties relating to teacher certification; amending s. 231.17, F.S.; revising provisions relating to qualification for a temporary certificate; amending s. 231.1725, F.S.; deleting provisions relating to employment of noncertificated teachers in critical teacher shortage areas; amending s. 231.261, F.S.; providing rulemaking authority of the Education Practices Commission; amending s. 231.263, F.S.; clarifying provisions relating to the recovery network program for educators; amending s. 231.47, F.S.; conforming a cross-reference; amending s. 231.546, F.S., relating to the Education Standards Commission; deleting duties relating to teacher education centers; amending s. 231.600, F.S.; revising requirements of the school district professional development system; creating s. 231.6002, F.S.; requiring school districts to develop professional development plans; providing for stipends and funding; providing for rules; amending s. 231.601, F.S.; deleting provisions relating to teacher education center purposes; amending s. 231.625, F.S.; deleting provisions relating to a teacher referral and recruitment center; requiring establishment of a teacher recruitment and retention services office; amending s. 231.6255, F.S.; revising provisions relating to the Christa McAuliffe Ambassador for Education Program; creating s. 231.63, F.S.; creating the Florida Educator Hall of Fame; providing for nominations, recommendations, and selection of members; amending s. 20.15, F.S.; creating additional divisions of the Department of Education; amending s. 231.262, F.S.; providing a show-cause process for violations of probation imposed by the Education Practices Commission; amending s. 231.28, F.S.; providing a show-cause process for violation of an order of the Education Practices Commission; providing authority for additional penalties; amending s. 236.081, F.S.; providing for a supplemental capping calculation for those districts whose weighted FTE enrollment is over the weighted FTE ceiling established in the annual appropriations act; providing a procedure for such calculation; repealing s. 236.081(8), F.S., which provides for a caps adjustment supplement for group 2 programs when there are funds remaining in the Florida Education Finance Program appropriation; amending s. 236.25, F.S.; conforming a cross-reference; amending s. 229.57, F.S.; authorizing the Commissioner of Education to establish criteria for exempting a student from taking certain parts of the high school competency test; repealing s. 231.613, F.S., relating to inservice training institutes; providing an effective date.

—was read the second time by title.

Senator Cowin moved the following amendments which were adopted:

Amendment 1—On page 3, line 13, delete "(2)(a)" and insert: (2)(a)

Amendment 2 (with title amendment)—On page 15, line 5 through page 17, line 17, delete sections 11 and 12 and redesignate subsequent sections.

And the title is amended as follows:

On page 1, line 26 through page 2, line 1, delete those lines and insert: professional development system; amending s. 231.625, F.S.; deleting

Amendment 3 (with title amendment)—On page 36, between lines 18 and 19, insert:

Section 23. Paragraph (d) of subsection (5) of section 24.121, Florida Statutes, is amended to read:

24.121 Allocation of revenues and expenditure of funds for public education.—

(5)

(d) ~~Beginning July 1, 1993,~~ No funds shall be released for any purpose from the Educational Enhancement Trust Fund to any school district in which one or more schools do not have an approved school improvement plan pursuant to s. 230.23(16).

Section 24. Paragraph (a) of subsection (1) of section 229.58, Florida Statutes, is amended to read:

229.58 District and school advisory councils.—

(1) ESTABLISHMENT.—

(a) The school board shall establish an advisory council for each school in the district, and shall develop procedures for the election and appointment of advisory council members. A majority of the members of each school advisory council must be persons who are not employed by the school board. Each advisory council shall be composed of the principal and an appropriately balanced number of teachers, education support employees, students, parents, and other business and community citizens who are representative of the ethnic, racial, and economic community served by the school. ~~provided that Vocational-technical center and high school advisory councils shall include students, and middle and junior high school advisory councils may include students. School advisory councils of vocational-technical and adult education centers are not required to include parents as members.~~ Council members representing teachers, education support employees, students, and parents shall be elected by their respective peer groups at the school in a fair and equitable manner as follows:

1. Teachers shall be elected by teachers.
2. Education support employees shall be elected by education support employees.
3. Students shall be elected by students.
4. Parents shall be elected by parents.

The school board shall establish procedures for use by schools in selecting business and community members. Such procedures shall include means of ensuring wide notice of vacancies and for taking input on possible members from local business, chambers of commerce, community and civic organizations and groups, and the public at large. The school board shall review the membership composition of each advisory council. Should the school board determine that the membership elected by the school is not representative of the ethnic, racial, and economic community served by the school, the board shall appoint additional members to achieve proper representation. Although schools should be strongly encouraged to establish school advisory councils, any school district that has a student population of 10,000 or fewer may establish a district advisory council which shall include at least one duly elected teacher from each school in the district. For the purposes of school advisory councils and district advisory councils, the term "teacher" shall include classroom teachers, certified student services personnel, and media specialists. For purposes of this paragraph, "education support employee" means any person employed by a school who is not defined as instructional or administrative personnel pursuant to s. 228.041 and whose duties require 20 or more hours in each normal working week.

Section 25. Paragraph (f) of subsection (3) of section 229.591, Florida Statutes, is amended to read:

229.591 Comprehensive revision of Florida's system of school improvement and education accountability.—

(3) EDUCATION GOALS.—The state as a whole shall work toward the following goals:

(f) Teachers and staff.—The schools, district, *all postsecondary institutions*, and state ensure professional teachers and staff.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 3, line 5, after the semicolon (;) insert: amending s. 24.121, F.S.; deleting obsolete provisions; amending s. 229.58, F.S.; revising provisions governing the membership of school advisory councils; amending s. 229.591, F.S.; revising education goals with respect to post-secondary institutions;

Senator Sullivan moved the following amendment which was adopted:

Amendment 4 (with title amendment)—On page 36, between lines 18 and 19, insert:

Section 2. *Deregulated Public Schools.*—

(1) *PILOT PROGRAM.*—*To provide public schools the same flexibility and accountability afforded charter schools, pilot programs for deregulated public schools shall be conducted in two large, two medium-sized, and two small school districts. For the 1998-1999 school year, no more than six schools per district, to include no more than two high schools, two middle schools, and two elementary schools, may participate in the flexibility program. The following districts are authorized to conduct pilot program in 1998-1999: Palm Beach, Pinellas, Seminole, Leon, Walton, and Citrus Counties.*

(2) *PURPOSE.*—*The purpose of the pilot program for deregulated public schools shall be to:*

- (a) *Improve student learning.*
- (b) *Increase learning opportunities for all students, with special emphasis on expanded learning experiences for students who are identified as academically low achieving.*
- (c) *Encourage the use of different and innovative learning methods.*
- (d) *Increase choice of learning opportunities for students.*
- (e) *Establish a new form of accountability for schools.*
- (f) *Require the measurement of learning outcomes and create innovative measurement tools.*
- (g) *Make the school the unit for improvement.*
- (h) *Relieve schools of paperwork and procedures that are required by the state and the district for purposes other than health, safety, equal opportunity, fiscal accountability and documentation of student achievement.*

(3) *PROPOSAL.*—

(a) *A proposal to be a deregulated school must be developed by the school principal and the school advisory council. A majority of the members of the school advisory council must approve the proposal, and the principal and the school advisory council chairman must sign the proposal. At least 50 percent of the teachers employed at the school must approve the proposal. The school must conduct a survey to show parental support for the proposal.*

(b) *A district school board shall receive and review all proposals for a deregulated public school during July and August. A district school board must by a majority vote approve or deny a proposal no later than 30 days after the proposal is received. If a proposal is denied, the district school board must, within 10 calendar days, articulate in writing the specific reasons based upon good cause supporting its denial of the proposal.*

(c) *The Department of Education may provide technical assistance to an applicant upon written request.*

(d) *The terms and conditions for the operation of a deregulated public school shall be set forth in the proposal. The school district shall not impose unreasonable rules or regulations that violate the intent of giving schools greater flexibility to meet educational goals.*

(4) *ELIGIBLE STUDENTS.*—

(a) *A deregulated school shall be open to all students residing in the school's attendance boundaries as determined by the school district.*

(b) *The deregulated public school shall have maximum flexibility to enroll students under the school district open enrolled plan.*

(5) *REQUIREMENTS.—Like other public schools, a deregulated public school shall:*

(a) *Be nonsectarian in its programs, admission policies, employment practices, and operations.*

(b) *Not charge tuition or fees, except those fees normally charged by other public schools.*

(c) *Meet all applicable state and local health, safety, and civil rights requirements.*

(d) *Not violate the antidiscrimination provisions of section 228.2001, Florida Statutes.*

(e) *Be subject to an annual financial audit in a manner similar to that of other public schools in the district.*

(6) *ELEMENTS OF THE PROPOSAL.—The major issues involving the operation of a deregulated public school shall be considered in advance and written into the proposal.*

(a) *The proposal shall address, and criteria for approval of the proposal shall be based, on:*

1. *The school's mission and the students to be served.*
2. *The focus of the curriculum, the instructional methods to be used, and any distinctive instructional techniques to be employed.*
3. *The current baseline standard of achievement and the outcomes to be achieved and the method of measurement that will be used.*

4. *The methods used to identify the educational strengths and needs of students and how well educational goals and performance standards are met by students attending the school. Students in deregulated and flexible public schools shall, at a minimum, participate in the statewide assessment program.*

5. *In secondary schools, a method for determining that a student has satisfied the requirements for graduation in section 232.246, Florida Statutes.*

6. *A method for resolving conflicts between the school and the district.*

7. *The admissions procedures and dismissal procedures, including the school's code of student conduct.*

8. *The ways by which the school's racial/ethnic balance reflects the community it serves or reflects the racial/ethnic range of other public schools in the same school district.*

9. *The financial and administrative management of the school including a statement of the areas in which the school will have administrative and fiscal autonomy and the areas in which the school will follow school district fiscal and administrative policies.*

10. *The manner in which the school will be insured, including whether or not the school will be required to have liability insurance, and, if so, the terms and conditions thereof and the amounts of coverage.*

11. *The qualifications to be required of the teachers.*

(a) *The school shall make annual progress reports to the district, which upon verification shall be forwarded to the Commissioner of Education at the same time as other annual school accountability reports. The report shall contain at least the following information:*

1. *The school's progress towards achieving the goals outlined in its proposal.*
2. *The information required in the annual school report pursuant to section 229.592, Florida Statutes.*
3. *Financial records of the school, including revenues and expenditures.*

4. *Salary and benefit levels of school employees.*

(c) *A school district shall ensure that the proposal is innovative and consistent with the state education goals established by section 229.591, Florida Statutes.*

(d) *Upon receipt of the annual report required by paragraph (d), the Department of Education shall provide to the State Board of Education, the Commissioner of Education, the President of the Senate, and the Speaker of the House of Representatives with a copy of each report and an analysis and comparison of the overall performance of students, to include all students in deregulated public schools whose scores are counted as part of the norm-referenced assessment tests, versus comparable public school students in the district as determined by norm-referenced assessment tests currently administered in the school district, and, as appropriate, the Florida Writes Assessment Test, the High School Competency Test, and other assessments administered pursuant to section 229.57(3), Florida Statutes.*

(7) *EXEMPTION FROM STATUTES.—*

(a) *A deregulated public school shall operate in accordance with its proposal and shall be exempt from all statutes of the Florida School Code, except those pertaining to civil rights and student health, safety, and welfare, or as otherwise required by this section. A deregulated public school shall not be exempt from the following statutes: chapter 119, relating to public records, and section 286.011, Florida Statutes, relating to public meetings and records, public inspection, and penalties. The school district, upon request of a deregulated public school, may apply to the Commissioner of Education for a waiver of provisions of chapters 230 through 239 which are applicable to deregulated public schools under this section, except that the provisions of chapters 236 or 237 shall not be eligible for waiver if the waiver would affect funding allocations or create inequity in public school funding. The commissioner may grant the waiver if necessary to implement the school program.*

(b) *Teachers employed by or under contract to a deregulated public school shall be certified as required by chapter 231. A deregulated public school may employ or contract with skilled selected noncertified personnel to provide instructional services or to assist instructional staff members as teacher aides in the same manner as defined in chapter 231. A deregulated public school may not employ an individual to provide instructional services or to serve as a teacher aide if the individual's certification or licensure as an educator is suspended or revoked by this or any other state. The qualifications of teachers shall be disclosed to parents.*

(c) *A deregulated public school shall employ or contract with employees who have been fingerprinted as provided in section 231.02, Florida Statutes.*

(8) *REVENUE.—Students enrolled in a deregulated public school, shall be funded in a basic program or a special program, in the same manner as students enrolled in other public schools in the school district.*

(9) *LENGTH OF SCHOOL YEAR.—A deregulated public school shall provide instruction for at least the number of days required by law for other public schools, and may provide instruction for additional days.*

(10) *FACILITIES.—A deregulated public school shall utilize facilities which comply with the State Uniform Building Code for Public Educational Facilities Construction adopted pursuant to section 235.26, Florida Statutes or with applicable state minimum building codes pursuant to chapter 553 and state minimum fire protection codes pursuant to section 633.025, Florida Statutes, as adopted by the authority in whose jurisdiction the facility is located.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 3, line 5, after the semicolon (;) insert: creating pilot programs for deregulated public schools in a maximum of six counties;

Pursuant to Rule 4.19, **CS for CS for SB 2258** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Burt—

CS for SB 2074—A bill to be entitled An act relating to education; authorizing the creation of charter technical career centers; prescribing powers and duties of the Commissioner of Education, the Department of Education, participating district school boards, and community college district boards of trustees, with respect to charter technical career centers; prescribing powers and duties of charter technical career centers and their boards of directors; providing for funding; prescribing rights and duties of employees of centers and of district school board employees and community college employees working at charter technical career centers; providing for the resolution of complaints; providing for revocation of a charter; providing for rules; amending s. 121.021, F.S.; redefining the term “covered group” with respect to the Florida Retirement System to include charter technical career centers; amending s. 121.051, F.S.; providing for optional participation in the Florida Retirement System by employees of charter technical career centers; amending s. 236.081, F.S.; providing for calculating changes in school district funding resulting from a drop in enrollment based on student transfers to a charter technical career center; providing an effective date.

—was read the second time by title.

Senator Burt moved the following amendments which were adopted:

Amendment 1 (with title amendment)—On page 13, lines 5-10, delete those lines

And the title is amended as follows:

On page 1, lines 15 and 16, delete “providing for the resolution of complaints”

Amendment 2 (with title amendment)—On page 15, line 4 through page 18, line 3, delete those lines and insert:

Section 2. Subsections (10) and (34) of section 121.021, Florida Statutes, are amended to read:

121.021 Definitions.—The following words and phrases as used in this chapter have the respective meanings set forth unless a different meaning is plainly required by the context:

(10) “Employer” means any agency, branch, department, institution, university, institution of higher education, or board of the state, or any county agency, branch, department board, district school board, or special district of the state, or any city of the state which participates in the system for the benefit of certain of its employees, or a charter school *or charter technical career center* that participates as provided in s. 121.051(2)(d).

(34) “Covered group” means the officers and employees of an employer who become members under this chapter. “Covered group” applies also when the employer is a *charter technical career center*; charter school, special district, or city for which coverage under this chapter is applied for by the employer and approved for social security coverage by the United States Secretary of Health and Human Services and approved by the administrator for membership under this chapter. Members of a firefighters’ pension trust fund or a municipal police officers’ retirement trust fund, established in accordance with chapter 175 or chapter 185, respectively, shall be considered eligible for membership under this chapter only after holding a referendum and by affirmative majority vote electing coverage under this chapter.

Section 3. Paragraphs (c) and (d) of subsection (2) of section 121.051, Florida Statutes, are amended to read:

121.051 Participation in the system.—

(2) OPTIONAL PARTICIPATION.—

(c) Employees of members of the State Community College System *or charter technical career centers sponsored by members of the State Community College System*, as designated in s. 240.3031, who are members of the Regular Class of the Florida Retirement System and who comply with the criteria set forth in this paragraph and in s. 240.3195 may elect, in lieu of participating in the Florida Retirement System, to

withdraw from the Florida Retirement System altogether and participate in a lifetime monthly annuity program, to be known as the State Community College System Optional Retirement Program, which may be provided by the employing agency under s. 240.3195. Pursuant thereto:

1. The cost to the employer for such annuity shall equal the normal cost portion of the employer retirement contribution which would be required if the employee were a member of the Regular Class, plus the portion of the contribution rate required by s. 112.363(8) that would otherwise be assigned to the Retiree Health Insurance Subsidy Trust Fund, and less an amount approved by the employer to provide for the administration of the optional retirement program. The employer providing such annuity shall contribute an additional amount to the Florida Retirement System Trust Fund equal to the unfunded actuarial accrued liability portion of the Regular Class contribution rate.

2. The decision to participate in such an optional retirement program shall be irrevocable for as long as the employee holds a position eligible for participation. Any service creditable under the Florida Retirement System shall be retained after the member withdraws from the Florida Retirement System; however, additional service credit in the Florida Retirement System shall not be earned while a member of the optional retirement program.

3. Participation in an optional annuity program shall be limited to those employees who satisfy the following eligibility criteria:

a. The employee must be otherwise eligible for membership in the Regular Class of the Florida Retirement System, as provided in s. 121.021(11) and (12).

b. The employee must be employed in a full-time position classified in the Accounting Manual for Florida’s Public Community Colleges as:

(I) Instructional; or

(II) Executive Management, Instructional Management, or Institutional Management, if a community college determines that recruiting to fill a vacancy in the position is to be conducted in the national or regional market, and:

(A) The duties and responsibilities of the position include either the formulation, interpretation, or implementation of policies; or

(B) The duties and responsibilities of the position include the performance of functions that are unique or specialized within higher education and that frequently involve the support of the mission of the community college.

c. The employee must be employed in a position not included in the Senior Management Service Class of the Florida Retirement System, as described in s. 121.055.

4. Participants in the program are subject to the same reemployment limitations, renewed membership provisions, and forfeiture provisions as are applicable to regular members of the Florida Retirement System under ss. 121.091(9), 121.122, and 121.091(5), respectively.

5. Eligible community college employees shall be compulsory members of the Florida Retirement System until, pursuant to the procedures set forth in s. 240.3195, the first day of the next full calendar month following the filing of both a written election to withdraw and a completed application for an individual contract or certificate with the program administrator and receipt of such election by the division.

(d) The governing body of a charter school *or a charter technical career center* may elect to participate in the system upon proper application to the administrator and shall cover its units as approved by the Secretary of Health and Human Services and the administrator. Once this election is made and approved, it may not be revoked, and all present officers and employees selecting coverage under this chapter and all future officers and employees shall be compulsory members of the Florida Retirement System.

Section 4. Section 121.1122, Florida Statutes, is amended to read:

121.1122 Purchase of retirement credit for in-state public service and in-state service in accredited nonpublic, nonsectarian schools and colleges, including charter schools *and charter technical career centers*.—Effective January 1, 1998, a member of the Florida Retirement

System may purchase creditable service for periods of certain public or nonpublic, nonsectarian employment performed in this state, as provided in this section.

(1) PURCHASE OF RETIREMENT CREDIT AUTHORIZED.—Subject to the provisions of subsections (2) and (3), a member of the Florida Retirement System may purchase up to 5 years of retirement credit for:

- (a) Periods of public employment in this state; or
- (b) Periods of employment in charter schools or charter technical career centers or in any nonpublic, nonsectarian school or college in this state that is accredited by the Southern Association of Colleges and Schools.

Credit for 1 year of such service may be purchased for each year of creditable service a member completes under the Florida Retirement System.

(2) LIMITATIONS AND CONDITIONS.—

(a) A member is not eligible to receive credit for in-state service under this section until he or she has completed 10 years of creditable service under the Florida Retirement System, excluding service purchased under this section and out-of-state service claimed and purchased under s. 121.1115.

(b) A member may not purchase and receive credit for more than 5 years of creditable service aggregated under the provisions of this section and s. 121.1115.

(c) Service credit claimed under this section shall be credited only as service in the Regular Class of membership and shall be subject to the provisions of s. 112.65.

(d) A member shall be eligible to receive service credit for in-state service performed after leaving the Florida Retirement System only upon returning to membership and completing at least 1 year of creditable service in the Florida Retirement System following the in-state service.

(e) The service claimed must have been service covered by a retirement or pension plan provided by the employer.

(3) COST.—The cost to purchase retirement credit under this section shall be calculated in the same manner as set forth in s. 121.1115(2) for purchase of credit for out-of-state service.

And the title is amended as follows:

On page 1, lines 18-24, delete those lines and insert: amending s. 121.021, F.S.; redefining the terms “covered group” and “employer” with respect to the Florida Retirement System to include charter technical career centers; amending s. 121.051, F.S.; providing for optional participation in the Florida Retirement System by employees of charter technical career centers; amending s. 121.1122, F.S.; including charter technical career centers with a group for the purchase of certain retirement credit; amending s.

Amendment 3 (with title amendment)—On page 18, between lines 24 and 25, insert:

Section 5. *There is appropriated from the General Revenue Fund the sum of \$3 million, for fiscal year 1998-1999, as a grant and aid to Daytona Beach Community College for planning and design costs for a charter technical career center which will serve Volusia and Flagler County students in grades 11 through 14 on a model basis.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 28, after the semicolon (;) insert: providing an appropriation;

Pursuant to Rule 4.19, **CS for SB 2074** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

RECESS

On motion by Senator Bankhead, the Senate recessed at 12:07 p.m. to reconvene at 1:15 p.m.

AFTERNOON SESSION

The Senate was called to order by the President at 1:23 p.m. A quorum present—40:

| | | | |
|-----------------|-------------|-------------|--------------|
| Madam President | Crist | Holzendorf | Meadows |
| Bankhead | Diaz-Balart | Horne | Myers |
| Bronson | Dudley | Jones | Ostalkiewicz |
| Brown-Waite | Dyer | Kirkpatrick | Rossin |
| Burt | Forman | Klein | Scott |
| Campbell | Geller | Kurth | Silver |
| Casas | Grant | Latvala | Sullivan |
| Childers | Gutman | Laurent | Thomas |
| Clary | Hargrett | Lee | Turner |
| Cowin | Harris | McKay | Williams |

INTRODUCTION OF FORMER SENATOR

Senator Forman introduced former Senator Tom McPherson who was present in the chamber.

SPECIAL ORDER CALENDAR, continued

Consideration of **CS for SB 68** was deferred.

On motion by Senator Forman—

CS for SB 28—A bill to be entitled An act providing for the relief of Frank Roster; providing an appropriation to reimburse him for injuries suffered due, in part, to the negligence of the Department of Transportation; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **CS for SB 28** was placed on the calendar of Bills on Third Reading.

On motion by Senator Meadows, by two-thirds vote **CS for HB 3085** was withdrawn from the Special Master; and the Committees on Community Affairs; and Ways and Means.

On motion by Senator Meadows—

CS for HB 3085—A bill to be entitled An act relating to Palm Beach County; providing for the relief of Kimberly L. Gonzalez; providing for an appropriation to compensate her for injuries and damages sustained as a result of the negligence of the Palm Beach County Sheriff's Department; providing an effective date.

—a companion measure, was substituted for **CS for SB 58** and read the second time by title.

Senator Meadows moved the following amendment which was adopted:

Amendment 1 (with title amendment)—On page 4, between lines 9 and 10, insert:

Section 3. *The claimant and the claimant's attorney shall make payment to the Florida Agency for Health Care Administration the amount due under s. 409.910, Florida Statutes, except that the amount due to the agency shall be reduced by the agency's proportionate share of legal costs and attorney's fees. However, the amount due to the Agency for Health Care Administration shall be reduced by no more than 25 percent. The amount due to the agency shall be calculated based on medical payments paid up to the date that this bill becomes law.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 7, after the semicolon (;) insert: providing for payment of Medicaid liens;

Pursuant to Rule 4.19, **CS for HB 3085** as amended was placed on the calendar of Bills on Third Reading.

On motion by Senator Rossin, by two-thirds vote **HB 1019** was withdrawn from the Committees on Judiciary; and Ways and Means.

On motion by Senator Rossin—

HB 1019—A bill to be entitled An act relating to marriage; creating ss. 741.0305, 741.0306, and 741.0307, F.S., the “Marriage Preparation and Preservation Act of 1998”; providing legislative findings and purpose; requiring the creation of a handbook pertaining to the rights and responsibilities under Florida law of marital partners; amending s. 741.0306, F.S., to provide criteria to be contained in the handbook; amending s. 741.04, F.S.; providing that verification that both parties contemplating marriage have obtained and read the information contained in the handbook created pursuant to s. 741.0307, F.S., is a condition precedent to issuance of a marriage license; amending s. 741.05, F.S., to conform; amending s. 61.21, F.S.; revising provisions relating to the authorized parenting course offered to educate, train, and assist divorcing parents in regard to the consequences of divorce on parents and children; designating such course as the parent education and family stabilization course; providing legislative findings and purpose; authorizing the court in any action between parents in which the custody or support of a minor child is an issue to order parties to attend the family education and stabilization course if the court finds attendance to be in the best interests of the child or children; providing procedures and guidelines for required attendance; requiring parties to file proof of compliance with the court; authorizing a course fee; authorizing each judicial circuit to establish a registry of course providers and sites; authorizing the court to grant exemption from required course attendance; providing parent education and family stabilization course curriculum; providing qualifications and duties of course providers; amending s. 232.246, F.S.; including marriage and relationship education within the life management skills credit required for graduation from high school; amending s. 28.101, F.S.; providing an additional charge for petition for a dissolution of marriage; providing for deposit of such funds in the Family Courts Trust Fund; amending s. 25.388, F.S.; providing an additional source of funding for the Family Courts Trust Fund; providing an effective date.

—a companion measure, was substituted for **CS for CS for SB 1576** and read the second time by title.

Senator Rossin moved the following amendment:

Amendment 1 (with title amendment)—Delete everything after the enacting clause and insert:

Section 1. *This act may be cited as the “Marriage Preparation and Preservation Act of 1998.”*

Section 2. *It is the finding of the Legislature based on reliable research that:*

- (1) *The divorce rate has been accelerating.*
- (2) *Just as the family is the foundation of society, the marital relationship is the foundation of the family. Consequently, strengthening marriages can only lead to stronger families, children, and communities, as well as a stronger economy.*
- (3) *An inability to cope with stress from both internal and external sources leads to significantly higher incidents of domestic violence, child abuse, absenteeism, medical costs, learning and social deficiencies, and divorce.*
- (4) *Relationship skills can be learned.*
- (5) *Once learned, relationship skills can facilitate communication between parties to a marriage and assist couples in avoiding conflict.*
- (6) *Once relationship skills are learned, they are generalized to parenting, the workplace, schools, neighborhoods, and civic relationships.*
- (7) *By reducing conflict and increasing communication, stressors can be diminished and coping can be furthered.*

(8) *When effective coping exists, domestic violence, child abuse, divorce and its effect on children such as absenteeism, medical costs, and learning and social deficiencies, are diminished.*

(9) *The state has a compelling interest in educating its citizens with regard to marriage and, if contemplated, the effects of divorce.*

Section 3. Paragraph (i) of subsection (1) of section 232.246, Florida Statutes, is amended to read:

232.246 General requirements for high school graduation.—

(1) Graduation requires successful completion of either a minimum of 24 academic credits in grades 9 through 12 or an International Baccalaureate curriculum. The 24 credits shall be distributed as follows:

(i) One-half credit in life management skills to include consumer education, positive emotional development, *marriage and relationship skill-based education*, nutrition, prevention of human immunodeficiency virus infection and acquired immune deficiency syndrome and other sexually transmissible diseases, benefits of sexual abstinence and consequences of teenage pregnancy, information and instruction on breast cancer detection and breast self-examination, cardiopulmonary resuscitation, drug education, and the hazards of smoking. Such credit shall be given for a course to be taken by all students in either the 9th or 10th grade.

School boards may award a maximum of one-half credit in social studies and one-half elective credit for student completion of nonpaid voluntary community or school service work. Students choosing this option must complete a minimum of 75 hours of service in order to earn the one-half credit in either category of instruction. Credit may not be earned for service provided as a result of court action. School boards that approve the award of credit for student volunteer service shall develop guidelines regarding the award of the credit, and school principals are responsible for approving specific volunteer activities. A course designated in the Course Code Directory as grade 9 through grade 12 which is taken below the 9th grade may be used to satisfy high school graduation requirements or Florida Academic Scholar’s Certificate Program requirements as specified in a district’s pupil progression plan.

Section 4. Subsection (5) is added to section 741.01, Florida Statutes, to read:

741.01 County court judge or clerk of the circuit court to issue marriage license; fee.—

(5) *The fee charged for each marriage license issued in the state shall be reduced by a sum of \$32.50 for all couples who present valid certificates of completion of a premarital preparation course from a qualified course provider registered under s. 741.0305(5) for a course taken no more than 1 year prior to the date of application for a marriage license. For each license issued that is subject to the fee reduction of this subsection, the clerk is not required to transfer the sum of \$7.50 to the State Treasury for deposit in the Displaced Homemaker Trust Fund pursuant to subsection (3) or to transfer the sum of \$25 to the Supreme Court for deposit in the Family Courts Trust Fund.*

Section 5. Section 741.0305, Florida Statutes, is created to read:

741.0305 Marriage fee reduction for completion of premarital preparation course.—

(1) *A man and a woman who intend to apply for a marriage license under s. 741.04 may, together or separately, complete a premarital preparation course of not less than 4 hours. All individuals shall verify completion of the course by filing with the application a valid certificate of completion from the course provider for each applicant which certificate shall specify whether the course was completed by personal instruction, videotape instruction, instruction via other electronic medium, or a combination of those methods. All individuals who complete a premarital preparation course pursuant to this section must be issued a certificate of completion at the conclusion of the course by their course provider. Upon furnishing such certificate when applying for a marriage license, the individuals shall have their marriage license fee reduced by \$32.50.*

(2) *The premarital preparation course must include instruction regarding:*

- (a) Conflict management.
- (b) Communication skills.
- (c) Financial responsibilities.
- (d) Children and parenting responsibilities.
- (e) Data compiled from available information relating to problems reported by married couples who seek marital or individual counseling.

(3)(a) All individuals electing to participate in a premarital preparation course shall choose from the following list of qualified instructors:

1. A psychologist licensed under chapter 490.
2. A clinical social worker licensed under chapter 491.
3. A marriage and family therapist licensed under chapter 491.
4. A mental health counselor licensed under chapter 491.
5. An official representative of a religious institution which is recognized under s. 496.404(20) if the representative has relevant training.
6. Any other provider designated by a judicial circuit, including, but not limited to, school counselors who are certified to offer such courses. Each judicial circuit may establish a roster of area course providers, including those who offer the course on a sliding fee scale or for free.

(b) The costs of such premarital preparation course shall be paid by the applicant.

(4) Each premarital preparation course provider shall furnish each participant who completes the course with a certificate of completion specifying the name of the participant and the date of completion and whether the course was conducted by personal instruction, videotape instruction, or instruction via other electronic medium, or by a combination of these methods.

(5) All area course providers shall register with the clerk of the circuit court by filing an affidavit in writing attesting to the provider's compliance with the premarital preparation course requirements as set forth in this section and including the course instructor's name and qualifications, including the license number, if any, or, if an official representative of a religious institution, a statement as to relevant training. The affidavit shall also include the addresses where the provider may be contacted.

Section 6. (1) Premarital preparation courses offered and completed by individuals across the state shall be reviewed by researchers from the Florida State University Center for Marriage and Family in order to determine the efficacy of such premarital preparation courses.

(2) Premarital preparation pilot programs may be created by the Florida State University Center for Marriage and Family which will be administered by course providers or by qualified instructors as provided in section 741.0305(3), Florida Statutes. These pilot programs shall offer a premarital preparation course based on statistical information and data obtained by researchers from the Florida State University Center for Marriage and Family.

(3) The Florida State University Center for Marriage and Family shall develop a questionnaire and create a curriculum based on data collected by its researchers. Any curriculum developed by The Florida State University Center for Marriage and Family researchers, shall be the sole property of the Center.

Section 7. Section 741.0306, Florida Statutes, is created to read:

741.0306 Creation of a family law handbook.—

(1) Based upon their willingness to undertake this project, there shall be created by the Family Law Section of The Florida Bar a handbook explaining those sections of Florida law pertaining to the rights and responsibilities under Florida law of marital partners to each other and to their children both during a marriage and upon dissolution. The material in the handbook or other suitable electronic media shall be reviewed for accuracy by the Family Court Steering Committee of the Florida Supreme Court prior to publication and distribution.

(2) Such handbooks shall be available from the clerk of the circuit court upon application for a marriage license. The clerks may also make the information in the handbook available on videotape or other electronic media and are encouraged to provide a list of course providers and sites at which marriage and relationship skill building classes are available.

(3) The information contained in the handbook or other electronic media presentation may be reviewed and updated annually, and may include, but not be limited to:

(a) Pre-nuptial agreements; as a contract and as an opportunity to structure financial arrangements and other aspects of the marital relationship;

(b) Shared parental responsibility for children; the determination of primary residence or custody and secondary residence or routine visitation, holiday, summer and vacation visitation arrangements, telephone access, and the process for notice for changes;

(c) Permanent relocation restrictions on parents with primary residential responsibility;

(d) Child support for minor children; both parents are obligated for support in accordance with applicable child support guidelines;

(e) Property rights, including equitable distribution, special equity, pre-marital property, and non-marital property;

(f) Alimony, including temporary, permanent rehabilitative, and lump sum;

(g) Domestic violence and child abuse and neglect, including penalties and other ramifications of false reporting;

(h) Court process for dissolution with or without legal assistance, including who may attend, the recording of proceedings, how to access those records, and the cost of such access;

(i) Parent education course requirements for divorcing parents with children;

(j) Community resources that are available for separating or divorcing persons and their children; and

(k) Women's rights specified in the Battered Women's Bill of Rights.

(4) The material contained in such a handbook may also be provided through video tape or other suitable electronic media. The information contained in the handbook or other electronic media presentation shall be reviewed and updated annually.

Section 8. Section 741.04, Florida Statutes, is amended to read:

741.04 Marriage license issued.—

(1) No county court judge or clerk of the circuit court in this state shall issue a license for the marriage of any person unless there shall be first presented and filed with him or her an affidavit in writing, signed by both parties to the marriage, providing the social security numbers of each party, made and subscribed before some person authorized by law to administer an oath, reciting the true and correct ages of such parties; unless both such parties shall be over the age of 18 years, except as provided in s. 741.0405; and unless one party is a male and the other party is a female. Pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, each party is required to provide his or her social security number in accordance with this section. Disclosure of social security numbers obtained through this requirement shall be limited to the purpose of administration of the Title IV-D program for child support enforcement.

(2) No county court judge or clerk of the circuit court in this state shall issue a license for the marriage of any person unless there shall be first presented and filed with him or her:

(a) A statement in writing, signed by both parties which specifies whether the parties, separately or together, have completed a premarital preparation course.

(b) A statement that verifies that both parties have obtained and read or otherwise accessed the information contained in the handbook or other electronic media presentation of the rights and responsibilities of parties to a marriage specified in s. 741.0306.

(3) If a couple has not submitted to the clerk valid certificates of completion of a premarital preparation course, the couple will be required to wait 3 days before they may obtain a marriage license. If a couple has submitted valid certificates of completion of a premarital preparation course, they will not be required to wait 3 days before issuance of a marriage license. A county court judge issuing a marriage license may waive the 3-day waiting period for good cause.

Section 9. When applying for a marriage license, an applicant may complete and file with the clerk of the circuit court an unsigned anonymous informational questionnaire which shall be provided by the clerk. The clerk shall, for purposes of anonymity, keep all such questionnaires in a separate file for later distribution by the clerk to researchers from The Florida State University Center for Marriage and Family. These questionnaires must be made available to researchers from the center at their request. Researchers from the center shall develop the questionnaire and distribute them to the clerk of the circuit court in each county.

Section 10. Section 741.05, Florida Statutes, is amended to read:

741.05 Penalty for violation of ss. 741.03, 741.04(1).—Any county court judge, clerk of the circuit court, or other person who shall violate any provision of ss. 741.03 and 741.04(1) shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 11. Section 61.043, Florida Statutes, is amended to read:

61.043 Commencement of a proceeding for dissolution of marriage or for alimony and child support.—

(1) A proceeding for dissolution of marriage or a proceeding under s. 61.09 shall be commenced by filing in the circuit court a petition entitled "In re the marriage of . . . , husband, and . . . , wife." A copy of the petition together with a copy of a summons shall be served upon the other party to the marriage in the same manner as service of papers in civil actions generally.

(2) Upon filing for dissolution of marriage, the petitioner must complete and file with the clerk of the circuit court an unsigned anonymous informational questionnaire. For purposes of anonymity, completed questionnaires must be kept in a separate file for later distribution by the clerk to researchers from The Florida State University Center for Marriage and Family. These questionnaires must be made available to researchers from The Florida State University Center for Marriage and Family at their request. The actual questionnaire shall be formulated by researchers from Florida State University who shall distribute them to the clerk of the circuit court in each county.

Section 12. Subsection (2) of section 61.052, Florida Statutes, is amended to read:

61.052 Dissolution of marriage.—

(2) Based on the evidence at the hearing, which evidence need not be corroborated except to establish that the residence requirements of s. 61.021 are met which may be corroborated by a valid Florida driver's license, a Florida voter's registration card, a valid Florida identification card issued under ss. 322.051, or the testimony or affidavit of a third party, the court shall dispose of the petition for dissolution of marriage when the petition is based on the allegation that the marriage is irretrievably broken as follows:

(a) If there is no minor child of the marriage and if the responding party does not, by answer to the petition for dissolution, deny that the marriage is irretrievably broken, the court shall enter a judgment of dissolution of the marriage if the court finds that the marriage is irretrievably broken.

(b) When there is a minor child of the marriage, or when the responding party denies by answer to the petition for dissolution that the marriage is irretrievably broken, the court may:

1. Order either or both parties to consult with a marriage counselor, psychologist, psychiatrist, minister, priest, rabbi, or any other person

deemed qualified by the court and acceptable to the party or parties ordered to seek consultation; or

2. Continue the proceedings for a reasonable length of time not to exceed 3 months, to enable the parties themselves to effect a reconciliation; or

3. Take such other action as may be in the best interest of the parties and the minor child of the marriage.

If, at any time, the court finds that the marriage is irretrievably broken, the court shall enter a judgment of dissolution of the marriage. If the court finds that the marriage is not irretrievably broken, it shall deny the petition for dissolution of marriage.

Section 13. Section 61.21, Florida Statutes, is amended to read:

61.21 Parenting course authorized; fees; required attendance authorized; contempt.—

(1) LEGISLATIVE FINDINGS; PURPOSE.—It is the finding of the Legislature that:

(a) A large number of children experience the separation or divorce of their parents each year. Parental conflict related to divorce is a societal concern because children suffer potential short-term and long-term detrimental economic, emotional, and educational effects during this difficult period of family transition. This is particularly true when parents engage in lengthy legal conflict.

(b) Parents are more likely to consider the best interests of their children when determining parental arrangements if courts provide families with information regarding the process by which courts make decisions on issues affecting their children and suggestions as to how parents may ease the coming adjustments in family structure for their children.

(c) It has been found to be beneficial to parents who are separating or divorcing to have available an educational program that will provide general information regarding:

1. The issues and legal procedures for resolving custody and child support disputes.

2. The emotional experiences and problems of divorcing adults.

3. The family problems and the emotional concerns and needs of the children.

4. The availability of community services and resources.

(d) Parents who are separating or divorcing are more likely to receive maximum benefit from a program if they attend such program at the earliest stages of their dispute, before extensive litigation occurs and adversarial positions are assumed or intensified.

(2)(4) All judicial circuits in the state shall may approve a parenting course which shall be a course of a minimum of 4 hours designed to educate, train, and assist divorcing parents in regard to the consequences of divorce on parents and children.

(a) The parenting course referred to in this section shall be named *The Parent Education and Family Stabilization Course* and may include, but not be limited to, the following topics as they relate to court actions between parents involving custody, care, visitation, and support of a child or children:

1. Legal aspects of deciding child-related issues between parents.

2. Emotional aspects of separation and divorce on adults.

3. Emotional aspects of separation and divorce on children.

4. Family relationships and family dynamics.

5. Financial responsibilities to a child or children.

6. Issues regarding spousal or child abuse and neglect.

7. Skill-based relationship education that may be generalized to parenting, workplace, school, neighborhood, and civic relationships.

(b) Information regarding spousal and child abuse and neglect shall be included in every parent education and family stabilization course. A list of local agencies that provide assistance with such issues shall also be provided.

(c) The parent education and family stabilization course shall be educational in nature and shall not be designed to provide individual mental health therapy for parents or children, or individual legal advice to parents or children.

(d) Course providers shall not solicit participants from the sessions they conduct to become private clients or patients.

(e) Course providers shall not give individual legal advice or mental health therapy.

(3)(2) All parties to a dissolution of marriage proceeding with minor children or a paternity action which involves issues of parental responsibility shall or a modification of a final judgment action involving shared parental responsibilities, custody, or visitation may be required to complete The Parent Education and Family Stabilization a court approved parenting Course prior to the entry by the court of a final judgment or order modifying the final judgment. The court may excuse a party from attending the parenting course for good cause.

(4)(3) All parties required to complete a parenting course under this section shall begin the course as expeditiously as possible after filing for dissolution of marriage and shall file proof of compliance with the court prior to the entry of the final judgment or order modifying the final judgment.

(5) All parties to a modification of a final judgment involving shared parental responsibilities, custody, or visitation may be required to complete a court-approved parenting course prior to the entry of an order modifying the final judgment.

(6) Each judicial circuit may establish a registry of course providers and sites at which the parent education and family stabilization course required by this section may be completed. The court shall also include within the registry of course providers and sites at least one site in each circuit at which the parent education and family stabilization course may be completed on a sliding fee scale, if available.

(7)(4) A reasonable fee may be charged to each parent attending the course.

(8)(5) Information obtained or statements made by the parties at any educational session required under this statute shall not be considered in the adjudication of a pending or subsequent action, nor shall any report resulting from such educational session become part of the record of the case unless the parties have stipulated in writing to the contrary.

(9)(6) The court may hold any parent who fails to attend a required parenting course in contempt or that parent may be denied shared parental responsibility or visitation or otherwise sanctioned as the court deems appropriate.

(10)(7) Nothing in this section shall be construed to require the parties to a dissolution of marriage to attend a court-approved parenting course together.

(11) The court may, without motion of either party, prohibit the parenting course from being taken together, if there is a history of domestic violence between the parties.

Section 14. Paragraph (d) is added to subsection (1) of section 28.101, Florida Statutes, to read:

28.101 Petitions and records of dissolution of marriage; additional charges.—

(1) When a party petitions for a dissolution of marriage, in addition to the filing charges in s. 28.241, the clerk shall collect and receive:

(d) A charge of \$32.50. On a monthly basis the clerk shall transfer the moneys collected pursuant to this paragraph as follows:

1. An amount of \$7.50 to the State Treasury for deposit in the Displaced Homemaker Trust Fund.

2. An amount of \$25 to the Supreme Court for deposit in the Family Courts Trust Fund.

Section 15. Section 25.388, Florida Statutes, is amended to read:

25.388 Family Courts Trust Fund.—

(1)(a) The trust fund moneys in the Family Courts Trust Fund, administered by the Supreme Court, shall be used to implement family court plans in all judicial circuits of this state.

(b) The Supreme Court, through the Office of the State Courts Administrator, shall adopt a comprehensive plan for the operation of the trust fund and the expenditure of any moneys deposited into the trust fund. The plan shall provide for a comprehensive integrated response to families in litigation, including domestic violence matters, guardian ad litem programs, mediation programs, legal support, training, automation, and other related costs incurred to benefit the citizens of the state and the courts in relation to family law cases. The trust fund shall be used to fund the publication of the handbook created pursuant to s. 741.0306.

(2) As part of its comprehensive plan, the Supreme Court shall evaluate the necessity for an installment plan or a waiver for any or all of the fees based on financial necessity and report such findings to the Legislature.

(3) The trust fund shall be funded with moneys generated from fees assessed pursuant to ss. 28.101 and s. 741.01(4).

Section 16. There is hereby appropriated in fiscal year 1998-1999 the sum of \$75,000 from the General Revenue Fund to the Florida State University Center for Marriage and Family for review of premarital preparation courses, development of premarital preparation pilot programs, and development of a questionnaire and creation of a curriculum based on data collected by its researchers.

Section 17. Part I of chapter 39, Florida Statutes, consisting of sections 39.001, 39.01, 39.011, 39.012, 39.0121, 39.013, 39.0131, 39.0132, 39.0133, 39.0134, and 39.0135, Florida Statutes, shall be entitled to read:

PART I
GENERAL PROVISIONS

Section 18. Section 39.001, Florida Statutes, is amended to read:

39.001 Purposes and intent; personnel standards and screening.—

(1) PURPOSES OF CHAPTER.—The purposes of this chapter are:

(a)(b) To provide for the care, safety, and protection of children in an environment that fosters healthy social, emotional, intellectual, and physical development; to ensure secure and safe custody; and to promote the health and well-being of all children under the state's care.

(b) To recognize that most families desire to be competent caregivers and providers for their children and that children achieve their greatest potential when families are able to support and nurture the growth and development of their children. Therefore, the Legislature finds that policies and procedures that provide for intervention through the department's child protection system should be based on the following principles:

1. The health and safety of the children served shall be of paramount concern.

2. The intervention should engage families in constructive, supportive, and nonadversarial relationships.

3. The intervention should intrude as little as possible into the life of the family, be focused on clearly defined objectives, and take the most parsimonious path to remedy a family's problems.

4. The intervention should be based upon outcome evaluation results that demonstrate success in protecting children and supporting families.

(c) To provide a child protection system that reflects a partnership between the department, other agencies, and local communities.

(d) To provide a child protection system that is sensitive to the social and cultural diversity of the state.

(e) To provide procedures that allow the department to respond to reports of child abuse, abandonment, or neglect in the most efficient and effective manner and that ensure the health and safety of children and the integrity of families.

(c) To ensure the protection of society, by providing for a comprehensive standardized assessment of the child's needs so that the most appropriate control, discipline, punishment, and treatment can be administered consistent with the seriousness of the act committed, the community's long-term need for public safety, the prior record of the child and the specific rehabilitation needs of the child, while also providing whenever possible restitution to the victim of the offense.

(f)(d) To preserve and strengthen the child's family ties whenever possible, removing the child from parental custody only when his or her welfare or the safety and protection of the public cannot be adequately safeguarded without such removal; and, when the child is removed from his or her own family, to secure for the child custody, care, and discipline as nearly as possible equivalent to that which should have been given by the parents; and to assure, in all cases in which a child must be permanently removed from parental custody, that the child be placed in an approved family home, adoptive home, independent living program, or other placement that provides the most stable and permanent living arrangement for the child, as determined by the court.

(g) To ensure that the parent or guardian from whose custody the child has been taken assists the department to the fullest extent possible in locating relatives suitable to serve as caregivers for the child.

(h) To ensure that permanent placement with the biological or adoptive family is achieved as soon as possible for every child in foster care and that no child remains in foster care longer than 1 year.

(i) To secure for the child, when removal of the child from his or her own family is necessary, custody, care, and discipline as nearly as possible equivalent to that which should have been given by the parents; and to ensure, in all cases in which a child must be removed from parental custody, that the child is placed in an approved relative home, licensed foster home, adoptive home, or independent living program that provides the most stable and potentially permanent living arrangement for the child, as determined by the court. All placements shall be in a safe environment where drugs and alcohol are not abused.

(j) To ensure that, when reunification or adoption is not possible, the child will be prepared for alternative permanency goals or placements, to include, but not be limited to, long-term foster care, independent living, custody with a relative on a permanent basis with or without legal guardianship, or custody with a foster parent or caregiver on a permanent basis with or without legal guardianship.

(k) To make every possible effort, when two or more children who are in the care or under the supervision of the department are siblings, to place the siblings in the same home; and in the event of permanent placement of the siblings, to place them in the same adoptive home or, if the siblings are separated, to keep them in contact with each other.

(l)(a) To provide judicial and other procedures to assure due process through which children, parents, and guardians and other interested parties are assured fair hearings by a respectful and respected court or other tribunal and the recognition, protection, and enforcement of their constitutional and other legal rights, while ensuring that public safety interests and the authority and dignity of the courts are adequately protected.

(m) To ensure that children under the jurisdiction of the courts are provided equal treatment with respect to goals, objectives, services, and case plans, without regard to the location of their placement. It is the further intent of the Legislature that, when children are removed from their homes, disruption to their education be minimized to the extent possible.

(e)1.—To assure that the adjudication and disposition of a child alleged or found to have committed a violation of Florida law be exercised with appropriate discretion and in keeping with the seriousness of the offense and the need for treatment services, and that all findings made

under this chapter be based upon facts presented at a hearing that meets the constitutional standards of fundamental fairness and due process.

2.—To assure that the sentencing and placement of a child tried as an adult be appropriate and in keeping with the seriousness of the offense and the child's need for rehabilitative services, and that the proceedings and procedures applicable to such sentencing and placement be applied within the full framework of constitutional standards of fundamental fairness and due process.

(f) To provide children committed to the Department of Juvenile Justice with training in life skills, including career education.

(2) DEPARTMENT CONTRACTS.—The department of Juvenile Justice or the Department of Children and Family Services, as appropriate, may contract with the Federal Government, other state departments and agencies, county and municipal governments and agencies, public and private agencies, and private individuals and corporations in carrying out the purposes of, and the responsibilities established in, this chapter.

(a) When the department of Juvenile Justice or the Department of Children and Family Services contracts with a provider for any program for children, all personnel, including owners, operators, employees, and volunteers, in the facility must be of good moral character. A volunteer who assists on an intermittent basis for less than 40 hours per month need not be screened if the volunteer is under direct and constant supervision by persons who meet the screening requirements.

(b) The department of Juvenile Justice and the Department of Children and Family Services shall require employment screening, and re-screening no less frequently than once every 5 years, pursuant to chapter 435, using the level 2 standards set forth in that chapter for personnel in programs for children or youths.

(c) The department of Juvenile Justice or the Department of Children and Family Services may grant exemptions from disqualification from working with children as provided in s. 435.07.

(d) The department shall require all job applicants, current employees, volunteers, and contract personnel who currently perform or are seeking to perform child protective investigations to be drug-tested pursuant to the procedures and requirements of s. 112.0455, the Drug-Free Workplace Act. The department is authorized to adopt rules, policies, and procedures necessary to implement this paragraph.

(e) The department shall develop and implement a written and performance-based testing and evaluation program, pursuant to s. 20.19(4), to ensure measurable competencies of all employees assigned to manage or supervise cases of child abuse, abandonment, and neglect.

(3) GENERAL PROTECTIONS FOR CHILDREN.—It is a purpose of the Legislature that the children of this state be provided with the following protections:

(a) Protection from abuse, abandonment, neglect, and exploitation.

(b) A permanent and stable home.

(c) A safe and nurturing environment which will preserve a sense of personal dignity and integrity.

(d) Adequate nutrition, shelter, and clothing.

(e) Effective treatment to address physical, social, and emotional needs, regardless of geographical location.

(f) Equal opportunity and access to quality and effective education, which will meet the individual needs of each child, and to recreation and other community resources to develop individual abilities.

(g) Access to preventive services.

(h) An independent, trained advocate, when intervention is necessary and a skilled guardian or caregiver in a safe environment when alternative placement is necessary.

(4) SUBSTANCE ABUSE SERVICES.—The Legislature finds that children in the care of the state's dependency system need appropriate

health care services, that the impact of substance abuse on health indicates the need for health care services to include substance abuse services to children and parents where appropriate, and that it is in the state's best interest that such children be provided the services they need to enable them to become and remain independent of state care. In order to provide these services, the state's dependency system must have the ability to identify and provide appropriate intervention and treatment for children with personal or family-related substance abuse problems. It is therefore the purpose of the Legislature to provide authority for the state to contract with community substance abuse treatment providers for the development and operation of specialized support and overlay services for the dependency system, which will be fully implemented and utilized as resources permit.

(5) **PARENTAL, CUSTODIAL, AND GUARDIAN RESPONSIBILITIES.**—Parents, custodians, and guardians are deemed by the state to be responsible for providing their children with sufficient support, guidance, and supervision. The state further recognizes that the ability of parents, custodians, and guardians to fulfill those responsibilities can be greatly impaired by economic, social, behavioral, emotional, and related problems. It is therefore the policy of the Legislature that it is the state's responsibility to ensure that factors impeding the ability of caregivers to fulfill their responsibilities are identified through the dependency process and that appropriate recommendations and services to address those problems are considered in any judicial or nonjudicial proceeding.

(6) **LEGISLATIVE INTENT FOR THE PREVENTION OF ABUSE, ABANDONMENT, AND NEGLECT OF CHILDREN.**—The incidence of known child abuse, abandonment, and neglect has increased rapidly over the past 5 years. The impact that abuse, abandonment, or neglect has on the victimized child, siblings, family structure, and inevitably on all citizens of the state has caused the Legislature to determine that the prevention of child abuse, abandonment, and neglect shall be a priority of this state. To further this end, it is the intent of the Legislature that a comprehensive approach for the prevention of abuse, abandonment, and neglect of children be developed for the state and that this planned, comprehensive approach be used as a basis for funding.

(7) **PLAN FOR COMPREHENSIVE APPROACH.**—

(a) The department shall develop a state plan for the prevention of abuse, abandonment, and neglect of children and shall submit the plan to the Speaker of the House of Representatives, the President of the Senate, and the Governor no later than January 1, 1983. The Department of Education and the Division of Children's Medical Services of the Department of Health shall participate and fully cooperate in the development of the state plan at both the state and local levels. Furthermore, appropriate local agencies and organizations shall be provided an opportunity to participate in the development of the state plan at the local level. Appropriate local groups and organizations shall include, but not be limited to, community mental health centers; guardian ad litem programs for children under the circuit court; the school boards of the local school districts; the district human rights advocacy committees; private or public organizations or programs with recognized expertise in working with children who are sexually abused, physically abused, emotionally abused, abandoned, or neglected and with expertise in working with the families of such children; private or public programs or organizations with expertise in maternal and infant health care; multidisciplinary child protection teams; child day care centers; law enforcement agencies, and the circuit courts, when guardian ad litem programs are not available in the local area. The state plan to be provided to the Legislature and the Governor shall include, as a minimum, the information required of the various groups in paragraph (b).

(b) The development of the comprehensive state plan shall be accomplished in the following manner:

1. The department shall establish an interprogram task force comprised of the Assistant Secretary for Children and Family Services, or a designee, a representative from the Children and Families Program Office, a representative from the Alcohol, Drug Abuse, and Mental Health Program Office, a representative from the Developmental Services Program Office, a representative from the Office of Standards and Evaluation, and a representative from the Division of Children's Medical Services of the Department of Health. Representatives of the Department of Law Enforcement and of the Department of Education shall serve as *ex officio* members of the interprogram task force. The interprogram task force shall be responsible for:

a. Developing a plan of action for better coordination and integration of the goals, activities, and funding pertaining to the prevention of child abuse, abandonment, and neglect conducted by the department in order to maximize staff and resources at the state level. The plan of action shall be included in the state plan.

b. Providing a basic format to be utilized by the districts in the preparation of local plans of action in order to provide for uniformity in the district plans and to provide for greater ease in compiling information for the state plan.

c. Providing the districts with technical assistance in the development of local plans of action, if requested.

d. Examining the local plans to determine if all the requirements of the local plans have been met and, if they have not, informing the districts of the deficiencies and requesting the additional information needed.

e. Preparing the state plan for submission to the Legislature and the Governor. Such preparation shall include the collapsing of information obtained from the local plans, the cooperative plans with the Department of Education, and the plan of action for coordination and integration of departmental activities into one comprehensive plan. The comprehensive plan shall include a section reflecting general conditions and needs, an analysis of variations based on population or geographic areas, identified problems, and recommendations for change. In essence, the plan shall provide an analysis and summary of each element of the local plans to provide a statewide perspective. The plan shall also include each separate local plan of action.

f. Working with the specified state agency in fulfilling the requirements of subparagraphs 2., 3., 4., and 5.

2. The department, the Department of Education, and the Department of Health shall work together in developing ways to inform and instruct parents of school children and appropriate district school personnel in all school districts in the detection of child abuse, abandonment, and neglect and in the proper action that should be taken in a suspected case of child abuse, abandonment, or neglect, and in caring for a child's needs after a report is made. The plan for accomplishing this end shall be included in the state plan.

3. The department, the Department of Law Enforcement, and the Department of Health shall work together in developing ways to inform and instruct appropriate local law enforcement personnel in the detection of child abuse, abandonment, and neglect and in the proper action that should be taken in a suspected case of child abuse, abandonment, or neglect.

4. Within existing appropriations, the department shall work with other appropriate public and private agencies to emphasize efforts to educate the general public about the problem of and ways to detect child abuse, abandonment, and neglect and in the proper action that should be taken in a suspected case of child abuse, abandonment, or neglect. The plan for accomplishing this end shall be included in the state plan.

5. The department, the Department of Education, and the Department of Health shall work together on the enhancement or adaptation of curriculum materials to assist instructional personnel in providing instruction through a multidisciplinary approach on the identification, intervention, and prevention of child abuse, abandonment, and neglect. The curriculum materials shall be geared toward a sequential program of instruction at the four progression levels, K-3, 4-6, 7-9, and 10-12. Strategies for encouraging all school districts to utilize the curriculum are to be included in the comprehensive state plan for the prevention of child abuse, abandonment, and neglect.

6. Each district of the department shall develop a plan for its specific geographical area. The plan developed at the district level shall be submitted to the interprogram task force for utilization in preparing the state plan. The district local plan of action shall be prepared with the involvement and assistance of the local agencies and organizations listed in paragraph (a), as well as representatives from those departmental district offices participating in the treatment and prevention of child abuse, abandonment, and neglect. In order to accomplish this, the district administrator in each district shall establish a task force on the prevention of child abuse, abandonment, and neglect. The district administrator shall appoint the members of the task force in accordance with the membership requirements of this section. In addition, the district administra-

to shall ensure that each subdistrict is represented on the task force; and, if the district does not have subdistricts, the district administrator shall ensure that both urban and rural areas are represented on the task force. The task force shall develop a written statement clearly identifying its operating procedures, purpose, overall responsibilities, and method of meeting responsibilities. The district plan of action to be prepared by the task force shall include, but shall not be limited to:

a. Documentation of the magnitude of the problems of child abuse, including sexual abuse, physical abuse, and emotional abuse, and child abandonment and neglect in its geographical area.

b. A description of programs currently serving abused, abandoned, and neglected children and their families and a description of programs for the prevention of child abuse, abandonment, and neglect, including information on the impact, cost-effectiveness, and sources of funding of such programs.

c. A continuum of programs and services necessary for a comprehensive approach to the prevention of all types of child abuse, abandonment, and neglect as well as a brief description of such programs and services.

d. A description, documentation, and priority ranking of local needs related to child abuse, abandonment, and neglect prevention based upon the continuum of programs and services.

e. A plan for steps to be taken in meeting identified needs, including the coordination and integration of services to avoid unnecessary duplication and cost, and for alternative funding strategies for meeting needs through the reallocation of existing resources, utilization of volunteers, contracting with local universities for services, and local government or private agency funding.

f. A description of barriers to the accomplishment of a comprehensive approach to the prevention of child abuse, abandonment, and neglect.

g. Recommendations for changes that can be accomplished only at the state program level or by legislative action.

(8) FUNDING AND SUBSEQUENT PLANS.—

(a) All budget requests submitted by the department, the Department of Education, or any other agency to the Legislature for funding of efforts for the prevention of child abuse, abandonment, and neglect shall be based on the state plan developed pursuant to this section.

(b) The department at the state and district levels and the other agencies listed in paragraph (7)(a) shall readdress the plan and make necessary revisions every 5 years, at a minimum. Such revisions shall be submitted to the Speaker of the House of Representatives and the President of the Senate no later than June 30 of each year divisible by 5. An annual progress report shall be submitted to update the plan in the years between the 5-year intervals. In order to avoid duplication of effort, these required plans may be made a part of or merged with other plans required by either the state or Federal Government, so long as the portions of the other state or Federal Government plan that constitute the state plan for the prevention of child abuse, abandonment, and neglect are clearly identified as such and are provided to the Speaker of the House of Representatives and the President of the Senate as required above.

(9)(3) LIBERAL CONSTRUCTION.—It is the intent of the Legislature that this chapter be liberally interpreted and construed in conformity with its declared purposes.

Section 19. Section 415.5015, Florida Statutes, is renumbered as section 39.0015, Florida Statutes, and amended to read:

39.0015 415.5015 Child abuse prevention training in the district school system.—

(1) SHORT TITLE.—This section may be cited as the “Child Abuse Prevention Training Act of 1985.”

(2) LEGISLATIVE INTENT.—It is the intent of the Legislature that primary prevention training for all children in kindergarten through grade 12 be encouraged in the district school system through the training of school teachers, guidance counselors, parents, and children.

(3) DEFINITIONS.—As used in this section:

(a) “Department” means the Department of Education.

(b) “Child abuse” means those acts as defined in ss. 39.01, ~~415.503~~, and 827.04.

(c) “Primary prevention and training program” means a training and educational program for children, parents, and teachers which is directed toward preventing the occurrence of child abuse, including sexual abuse, physical abuse, *child abandonment*, child neglect, and drug and alcohol abuse, and toward reducing the vulnerability of children through training of children and through including coordination with, and training for, parents and school personnel.

(d) “Prevention training center” means a center as described in subsection (5).

(4) PRIMARY PREVENTION AND TRAINING PROGRAM.—A primary prevention and training program shall include all of the following, as appropriate for the persons being trained:

(a) Information provided in a clear and nonthreatening manner, describing the problem of sexual abuse, physical abuse, *abandonment*, neglect, and alcohol and drug abuse, and the possible solutions.

(b) Information and training designed to counteract common stereotypes about victims and offenders.

(c) Crisis counseling techniques.

(d) Available community resources and ways to access those resources.

(e) Physical and behavioral indicators of abuse.

(f) Rights and responsibilities regarding reporting.

(g) School district procedures to facilitate reporting.

(h) Caring for a child’s needs after a report is made.

(i) How to disclose incidents of abuse.

(j) Child safety training and age-appropriate self-defense techniques.

(k) The right of every child to live free of abuse.

(l) The relationship of child abuse to handicaps in young children.

(m) Parenting, including communication skills.

(n) Normal and abnormal child development.

(o) Information on recognizing and alleviating family stress caused by the demands required in caring for a high-risk or handicapped child.

(p) Supports needed by school-age parents in caring for a young child.

(5) PREVENTION TRAINING CENTERS; FUNCTIONS; SELECTION PROCESS; MONITORING AND EVALUATION.—

(a) Each training center shall perform the following functions:

1. Act as a clearinghouse to provide information on prevention curricula which meet the requirements of this section and the requirements of ss. 39.001, 231.17, and 236.0811, ~~and 415.501~~.

2. Assist the local school district in selecting a prevention program model which meets the needs of the local community.

3. At the request of the local school district, design and administer training sessions to develop or expand local primary prevention and training programs.

4. Provide assistance to local school districts, including, but not limited to, all of the following: administration, management, program development, multicultural staffing, and community education, in order to better meet the requirements of this section and of ss. 39.001, 231.17, and 236.0811, ~~and 415.501~~.

5. At the request of the department of ~~Education~~ or the local school district, provide ongoing program development and training to achieve all of the following:

a. Meet the special needs of children, including, but not limited to, the needs of disabled and high-risk children.

b. Conduct an outreach program to inform the surrounding communities of the existence of primary prevention and training programs and of funds to conduct such programs.

6. Serve as a resource to the Department of Children and Family Services and its districts.

(b) The department, in consultation with the Department of ~~Children and Family Health and Rehabilitative Services~~, shall select and award grants by January 1, 1986, for the establishment of three private, nonprofit prevention training centers: one located in and serving South Florida, one located in and serving Central Florida, and one located in and serving North Florida. The department, in consultation with the Department of ~~Children and Family Health and Rehabilitative Services~~, shall select an agency or agencies to establish three training centers which can fulfill the requirements of this section and meet the following requirements:

1. Have demonstrated experience in child abuse prevention training.
2. Have shown capacity for training primary prevention and training programs as *provided for in subsections (3) and defined in subsection (4)*.
3. Have provided training and organizing technical assistance to the greatest number of private prevention and training programs.
4. Have employed the greatest number of trainers with experience in private child abuse prevention and training programs.
5. Have employed trainers which represent the cultural diversity of the area.
6. Have established broad community support.

(c) The department shall monitor and evaluate primary prevention and training programs utilized in the local school districts and shall monitor and evaluate the impact of the prevention training centers on the implementation of primary prevention programs and their ability to meet the required responsibilities of a center as described in this section.

(6) The department of ~~Education~~ shall administer this *section* and in so doing is authorized to adopt rules and standards necessary to implement the specific provisions of this *section*.

Section 20. Section 39.01, Florida Statutes, as amended by chapter 97-276, Laws of Florida, is amended to read:

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

(1) “Abandoned” means a situation in which the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the ~~caregiver person~~ responsible for the child’s welfare, while being able, makes no provision for the child’s support and makes no effort to communicate with the child, which situation is sufficient to evince a willful rejection of parental obligations. If the efforts of such parent or legal custodian, or ~~caregiver person~~ primarily responsible for the child’s welfare, to support and communicate with the child are, in the opinion of the court, only marginal efforts that do not evince a settled purpose to assume all parental duties, the court may declare the child to be abandoned. The term “abandoned” does not include a “child in need of services” as defined in chapter 984 or a “family in need of services” as defined in chapter 984. The incarceration of a parent, legal custodian, or ~~caregiver person~~ responsible for a child’s welfare *may support* ~~does not constitute a bar to~~ a finding of abandonment.

(2) “Abuse” means any willful act or *threatened act* that results in any physical, mental, or sexual injury or *harm* that causes or is likely to cause the child’s physical, mental, or emotional health to be significantly impaired. *For the purpose of protective investigations, abuse of a child includes the acts or omissions of the parent, legal custodian, caregiver, or other person responsible for the child’s welfare.* Corporal discipline of a child by a parent, legal custodian, or ~~caregiver guardian~~ for

disciplinary purposes does not in itself constitute abuse when it does not result in harm to the child ~~as defined in s. 415.503.~~

(3) “Addictions receiving facility” means a substance abuse service provider as defined in chapter 397.

(4) “Adjudicatory hearing” means a hearing for the court to determine whether or not the facts support the allegations stated in the petition ~~as is provided for under s. 39.408(2), in dependency cases, or s. 39.467, in termination of parental rights cases.~~

(5) “Adult” means any natural person other than a child.

(6) “Adoption” means the act of creating the legal relationship between parent and child where it did not exist, thereby declaring the child to be legally the child of the adoptive parents and their heir at law, and entitled to all the rights and privileges and subject to all the obligations of a child born to such adoptive parents in lawful wedlock.

(7) “Alleged juvenile sexual offender” means:

(a) A child 12 years of age or younger who is alleged to have committed a violation of chapter 794, chapter 796, chapter 800, s. 827.071, or s. 847.0133; or

(b) A child who is alleged to have committed any violation of law or delinquent act involving juvenile sexual abuse. “Juvenile sexual abuse” means any sexual behavior that occurs without consent, without equality, or as a result of coercion. For purposes of this paragraph, the following definitions apply:

1. “Coercion” means the exploitation of authority or the use of bribes, threats of force, or intimidation to gain cooperation or compliance.

2. “Equality” means two participants operating with the same level of power in a relationship, neither being controlled nor coerced by the other.

3. “Consent” means an agreement, including all of the following:

a. Understanding what is proposed based on age, maturity, developmental level, functioning, and experience.

b. Knowledge of societal standards for what is being proposed.

c. Awareness of potential consequences and alternatives.

d. Assumption that agreement or disagreement will be accepted equally.

e. Voluntary decision.

f. Mental competence.

Juvenile sexual offender behavior ranges from noncontact sexual behavior such as making obscene phone calls, exhibitionism, voyeurism, and the showing or taking of lewd photographs to varying degrees of direct sexual contact, such as frottage, fondling, digital penetration, rape, fellatio, sodomy, and various other sexually aggressive acts.

(8)(6) “Arbitration” means a process whereby a neutral third person or panel, called an arbitrator or an arbitration panel, considers the facts and arguments presented by the parties and renders a decision which may be binding or nonbinding.

(9)(7) “Authorized agent” or “designee” of the department means an employee, volunteer, or other person or agency determined by the state to be eligible for state-funded risk management coverage, which is a person or agency assigned or designated by the department of Juvenile Justice or the Department of Children and Family Services, as appropriate, to perform duties or exercise powers pursuant to this chapter and includes contract providers and their employees for purposes of providing services to and managing cases of children in need of services and families in need of services.

(10) “Caregiver” means the parent, legal custodian, adult household member, or other person responsible for a child’s welfare as defined in subsection (47).

(8) “Caretaker/homemaker” means an authorized agent of the Department of Children and Family Services who shall remain in the

child's home with the child until a parent, legal guardian, or relative of the child enters the home and is capable of assuming and agrees to assume charge of the child.

(11)(9) "Case plan" or "plan" means a document, as described in s. 39.601 ~~39.4031~~, prepared by the department *with input from all parties, including parents, guardians ad litem, legal custodians, caregivers, and the child. The case plan, that follows the child from the provision of voluntary services through any dependency, foster care, or termination of parental rights proceeding or related activity or process.*

(12)(10) "Child" or ~~"juvenile" or "youth"~~ means any unmarried person under the age of 18 years who has not been emancipated by order of the court and who has been *alleged or found or alleged to be dependent, in need of services, or from a family in need of services; or any married or unmarried person who is charged with a violation of law occurring prior to the time that person reached the age of 18 years.*

(13) "*Child protection team" means a team of professionals established by the department to receive referrals from the protective investigators and protective supervision staff of the department and to provide specialized and supportive services to the program in processing child abuse, abandonment, or neglect cases. A child protection team shall provide consultation to other programs of the department and other persons regarding child abuse, abandonment, or neglect cases.*

(14)(11) "Child who is found to be dependent" means a child who, pursuant to this chapter, is found by the court:

(a) To have been abandoned, abused, or neglected by the child's *parent or parents, legal custodians, or caregivers; or other custodians.*

(b) To have been surrendered to the department of ~~Children and Family Services~~, the former Department of Health and Rehabilitative Services, or a licensed child-placing agency for purpose of adoption.;

(c) To have been voluntarily placed with a licensed child-caring agency, a licensed child-placing agency, an adult relative, the department of ~~Children and Family Services~~, or the former Department of Health and Rehabilitative Services, after which placement, under the requirements of ~~part II~~ of this chapter, a case plan has expired and the parent or parents, *legal custodians, or caregivers* have failed to substantially comply with the requirements of the plan.;

(d) To have been voluntarily placed with a licensed child-placing agency for the purposes of subsequent adoption, and a natural parent or parents *has* signed a consent pursuant to the Florida Rules of Juvenile Procedure.;

(e) To have no parent, legal custodian, or *caregiver responsible adult* relative to provide supervision and care.;

(f) To be at substantial risk of imminent abuse, *abandonment, or neglect* by the parent or parents, *legal custodians, or caregivers* ~~or the custodian.~~

(15)(12) "Child support" means a court-ordered obligation, enforced under chapter 61 and ss. 409.2551-409.2597, for monetary support for the care, maintenance, training, and education of a child.

(16)(13) "Circuit" means any of the 20 judicial circuits as set forth in s. 26.021.

(17)(14) "Comprehensive assessment" or "assessment" means the gathering of information for the evaluation of ~~a juvenile offender's or a child's and caregiver's~~ physical, *psychiatric, psychological or mental health*, educational, vocational, and social condition and family environment as they relate to the child's *and caregiver's* need for rehabilitative and treatment services, including substance abuse treatment services, mental health services, developmental services, literacy services, medical services, family services, and other specialized services, as appropriate.

(18)(15) "Court," unless otherwise expressly stated, means the circuit court assigned to exercise jurisdiction under this chapter.

(19)(16) "Department," ~~as used in this chapter,~~ means the Department of Children and Family Services.

(20)(17) "Diligent efforts by a parent, *legal custodian, or caregiver*" means a course of conduct which results in a reduction in risk to the child in the child's home that would allow the child to be safely placed permanently back in the home as set forth in the case plan.

(21)(18) "Diligent efforts of social service agency" means reasonable efforts to provide social services or reunification services made by any social service agency ~~as defined in this section~~ that is a party to a case plan.

(22)(19) "Diligent search" means the efforts of a social service agency to locate a parent or prospective parent whose identity or location is unknown, ~~or a relative made known to the social services agency by the parent or custodian of a child. When the search is for a parent, prospective parent, or relative of a child in the custody of the department, this search must be initiated as soon as the social service agency is made aware of the existence of such parent, with the search progress reported at each court hearing until the parent is either identified and located or the court excuses further search. prospective parent, or relative. A diligent search shall include interviews with persons who are likely to have information about the identity or location of the person being sought, comprehensive database searches, and records searches, including searches of employment, residence, utilities, Armed Forces, vehicle registration, child support enforcement, law enforcement, and corrections records, and any other records likely to result in identifying and locating the person being sought. The initial diligent search must be completed within 90 days after a child is taken into custody. After the completion of the initial diligent search, the department, unless excused by the court, shall have a continuing duty to search for relatives with whom it may be appropriate to place the child, until such relatives are found or until the child is placed for adoption.~~

(23)(20) "Disposition hearing" means a hearing in which the court determines the most appropriate *family support dispositional* services in the least restrictive available setting ~~provided for under s. 39.408(3), in dependency cases, or s. 39.469, in termination of parental rights cases.~~

(24) "*District" means any one of the 15 service districts of the department established pursuant to s. 20.19.*

(25)(21) "District administrator" means the chief operating officer of each service district of the department of ~~Children and Family Services~~ as defined in s. 20.19 ~~(7)(6)~~ and, where appropriate, includes *any* each district administrator whose service district falls within the boundaries of a judicial circuit.

(26) "*Expedited termination of parental rights" means proceedings wherein a case plan with the goal of reunification is not being offered.*

(27) "*False report" means a report of abuse, neglect, or abandonment of a child to the central abuse hotline, which report is maliciously made for the purpose of:*

(a) *Harassing, embarrassing, or harming another person;*

(b) *Personal financial gain for the reporting person;*

(c) *Acquiring custody of a child; or*

(d) *Personal benefit for the reporting person in any other private dispute involving a child.*

The term "false report" does not include a report of abuse, neglect, or abandonment of a child made in good faith to the central abuse hotline.

(28)(22) "Family" means a collective body of persons, consisting of a child and a parent, *legal guardian, adult custodian, caregiver, or adult relative, in which:*

(a) *The persons reside in the same house or living unit; or*

(b) *The parent, legal guardian, adult custodian, caregiver, or adult relative has a legal responsibility by blood, marriage, or court order to support or care for the child.*

(29)(23) "Foster care" means care provided a child in a foster family or boarding home, group home, agency boarding home, child care institution, or any combination thereof.

(30) "Harm" to a child's health or welfare can occur when the parent, legal custodian, or caregiver responsible for the child's welfare:

(a) Inflicts or allows to be inflicted upon the child physical, mental, or emotional injury. In determining whether harm has occurred, the following factors must be considered in evaluating any physical, mental, or emotional injury to a child: the age of the child; any prior history of injuries to the child; the location of the injury on the body of the child; the multiplicity of the injury; and the type of trauma inflicted. Such injury includes, but is not limited to:

1. Willful acts that produce the following specific injuries:
 - a. Sprains, dislocations, or cartilage damage.
 - b. Bone or skull fractures.
 - c. Brain or spinal cord damage.
 - d. Intracranial hemorrhage or injury to other internal organs.
 - e. Asphyxiation, suffocation, or drowning.
 - f. Injury resulting from the use of a deadly weapon.
 - g. Burns or scalding.
 - h. Cuts, lacerations, punctures, or bites.
 - i. Permanent or temporary disfigurement.
 - j. Permanent or temporary loss or impairment of a body part or function.

As used in this subparagraph, the term "willful" refers to the intent to perform an action, not to the intent to achieve a result or to cause an injury.

2. Purposely giving a child poison, alcohol, drugs, or other substances that substantially affect the child's behavior, motor coordination, or judgment or that result in sickness or internal injury. For the purposes of this subparagraph, the term "drugs" means prescription drugs not prescribed for the child or not administered as prescribed, and controlled substances as outlined in Schedule I or Schedule II of s. 893.03.

3. Leaving a child without adult supervision or arrangement appropriate for the child's age or mental or physical condition, so that the child is unable to care for the child's own needs or another's basic needs or is unable to exercise good judgment in responding to any kind of physical or emotional crisis.

4. Inappropriate or excessively harsh disciplinary action that is likely to result in physical injury, mental injury as defined in this section, or emotional injury. The significance of any injury must be evaluated in light of the following factors: the age of the child; any prior history of injuries to the child; the location of the injury on the body of the child; the multiplicity of the injury; and the type of trauma inflicted. Corporal discipline may be considered excessive or abusive when it results in any of the following or other similar injuries:

- a. Sprains, dislocations, or cartilage damage.
- b. Bone or skull fractures.
- c. Brain or spinal cord damage.
- d. Intracranial hemorrhage or injury to other internal organs.
- e. Asphyxiation, suffocation, or drowning.
- f. Injury resulting from the use of a deadly weapon.
- g. Burns or scalding.
- h. Cuts, lacerations, punctures, or bites.
- i. Permanent or temporary disfigurement.
- j. Permanent or temporary loss or impairment of a body part or function.

k. Significant bruises or welts.

(b) Commits, or allows to be committed, sexual battery, as defined in chapter 794, or lewd or lascivious acts, as defined in chapter 800, against the child.

(c) Allows, encourages, or forces the sexual exploitation of a child, which includes allowing, encouraging, or forcing a child to:

1. Solicit for or engage in prostitution; or
2. Engage in a sexual performance, as defined by chapter 827.

(d) Exploits a child, or allows a child to be exploited, as provided in s. 450.151.

(e) Abandons the child. Within the context of the definition of "harm," the term "abandons the child" means that the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the person responsible for the child's welfare, while being able, makes no provision for the child's support and makes no effort to communicate with the child, which situation is sufficient to evince a willful rejection of parental obligation. If the efforts of such a parent or legal custodian or person primarily responsible for the child's welfare to support and communicate with the child are only marginal efforts that do not evince a settled purpose to assume all parental duties, the child may be determined to have been abandoned.

(f) Neglects the child. Within the context of the definition of "harm," the term "neglects the child" means that the parent or other person responsible for the child's welfare fails to supply the child with adequate food, clothing, shelter, or health care, although financially able to do so or although offered financial or other means to do so. However, a parent, legal custodian, or caregiver who, by reason of the legitimate practice of religious beliefs, does not provide specified medical treatment for a child may not be considered abusive or neglectful for that reason alone, but such an exception does not:

1. Eliminate the requirement that such a case be reported to the department;
2. Prevent the department from investigating such a case; or
3. Preclude a court from ordering, when the health of the child requires it, the provision of medical services by a physician, as defined in this section, or 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.

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

1. Use by the mother of a controlled substance or alcohol during pregnancy when the child, at birth, is demonstrably adversely affected by such usage; or
2. Continued chronic and severe use of a controlled substance or alcohol by a parent when the child is demonstrably adversely affected by such usage.

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.

(h) Uses mechanical devices, unreasonable restraints, or extended periods of isolation to control a child.

(i) Engages in violent behavior that demonstrates a wanton disregard for the presence of a child and could reasonably result in serious injury to the child.

(j) Negligently fails to protect a child in his or her care from inflicted physical, mental, or sexual injury caused by the acts of another.

(k) Has allowed a child's sibling to die as a result of abuse, abandonment, or neglect.

(31)(24) "Health and human services board" means the body created in each service district of the department of Children and Family Services pursuant to the provisions of s. 20.19(8)(7).

(32) "Institutional child abuse or neglect" means situations of known or suspected child abuse or neglect in which the person allegedly perpetrating the child abuse or neglect is an employee of a private school, public or private day care center, residential home, institution, facility, or agency or any other person at such institution responsible for the child's care.

(33)(25) "Judge" means the circuit judge exercising jurisdiction pursuant to this chapter.

(34)(26) "Legal custody" means a legal status created by court order or letter of guardianship which vests in a custodian of the person or guardian, whether an agency or an individual, the right to have physical custody of the child and the right and duty to protect, train, and discipline the child and to provide him or her with food, shelter, education, and ordinary medical, dental, psychiatric, and psychological care. *The legal custodian is the person or entity in whom the legal right to custody is vested.*

(35) "Legal guardianship" means a judicially created relationship between the child and caregiver which is intended to be permanent and self-sustaining and is provided pursuant to the procedures in chapter 744.

(36)(27) "Licensed child-caring agency" means a person, society, association, or agency licensed by the department of Children and Family Services to care for, receive, and board children.

(37)(28) "Licensed child-placing agency" means a person, society, association, or institution licensed by the department of Children and Family Services to care for, receive, or board children and to place children in a licensed child-caring institution or a foster or adoptive home.

(38)(29) "Licensed health care professional" means a physician licensed under chapter 458, an osteopathic physician licensed under chapter 459, a nurse licensed under chapter 464, a physician assistant certified under chapter 458 or chapter 459, or a dentist licensed under chapter 466.

(39)(30) "Likely to injure oneself" means that, as evidenced by violent or other actively self-destructive behavior, it is more likely than not that within a 24-hour period the child will attempt to commit suicide or inflict serious bodily harm on himself or herself.

(40)(31) "Likely to injure others" means that it is more likely than not that within a 24-hour period the child will inflict serious and unjustified bodily harm on another person.

(41)(32) "Long-term relative custodian" means an adult *relative* who is a party to a long-term custodial relationship created by a court order pursuant to *this chapter s. 39.41(2)(a)5.*

(42)(33) "Long-term relative custody" or "long-term custodial relationship" means the relationship that a juvenile court order creates between a child and an adult relative of the child or *other caregiver* ~~an adult nonrelative~~ approved by the court when the child cannot be placed in the custody of a natural parent and termination of parental rights is not deemed to be in the best interest of the child. Long-term relative custody confers upon the long-term relative or *other caregiver* ~~nonrelative custodian~~ the right to physical custody of the child, a right which will not be disturbed by the court except upon request of the *caregiver* ~~custodian~~ or upon a showing that a material change in circumstances necessitates a change of custody for the best interest of the child. A long-term relative or *other caregiver* ~~nonrelative custodian~~ shall have all of the rights and duties of a natural parent, including, but not limited to, the right and duty to protect, train, and discipline the child and to provide the child with food, shelter, and education, and ordinary medical, dental, psychiatric, and psychological care, unless these rights and duties are otherwise enlarged or limited by the court order establishing the long-term custodial relationship.

(43)(34) "Mediation" means a process whereby a neutral third person called a mediator acts to encourage and facilitate the resolution of a dispute between two or more parties. It is an informal and nonadversarial process with the objective of helping the disputing parties reach a mutually acceptable and voluntary agreement. ~~In mediation, decision-making authority rests with the parties.~~ The role of the mediator includes, but is not limited to, assisting the parties in identifying issues, fostering joint problem solving, and exploring settlement alternatives.

(44) "Mental injury" means an injury to the intellectual or psychological capacity of a child as evidenced by a discernible and substantial impairment in the ability to function within the normal range of performance and behavior.

(45)(35) "Necessary medical treatment" means care which is necessary within a reasonable degree of medical certainty to prevent the deterioration of a child's condition or to alleviate immediate pain of a child.

(46)(36) "Neglect" occurs when the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the *caregiver* ~~person primarily responsible for the child's welfare~~ deprives a child of, or allows a child to be deprived of, necessary food, clothing, shelter, or medical treatment or permits a child 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, *legal custodian*, or *caregiver* ~~guardian~~ legitimately practicing religious beliefs in accordance with a recognized church or religious organization who thereby does not provide specific medical treatment for a child shall not, for that reason alone, be considered a negligent parent, *legal custodian*, or *caregiver* ~~guardian~~; 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:

(a) Medical services from a licensed physician, dentist, optometrist, podiatrist, or other qualified health care provider; or

(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.

For the purpose of protective investigations, neglect of a child includes the acts or omissions of the parent, legal custodian, or caregiver.

(47) "Other person responsible for a child's welfare" includes the child's legal guardian, legal custodian, or foster parent; an employee of a private school, public or private child day care center, residential home, institution, facility, or agency; or any other person legally responsible for the child's welfare in a residential setting; and also includes an adult sitter or relative entrusted with a child's care. *For the purpose of departmental investigative jurisdiction, this definition does not include law enforcement officers, or employees of municipal or county detention facilities or the Department of Corrections, while acting in an official capacity.*

(48)(37) "Next of kin" means an adult relative of a child who is the child's brother, sister, grandparent, aunt, uncle, or first cousin.

(49)(38) "Parent" means a woman who gives birth to a child and a man whose consent to the adoption of the child would be required under s. 63.062(1)(b). If a child has been legally adopted, the term "parent" means the adoptive mother or father of the child. The term does not include an individual whose parental relationship to the child has been legally terminated, or an alleged or prospective parent, unless the parental status falls within the terms of either ~~s. 39.4051(7)~~ or s. 63.062(1)(b).

(50)(39) "Participant," for purposes of a shelter proceeding, dependency proceeding, or termination of parental rights proceeding, means any person who is not a party but who should receive notice of hearings involving the child, including foster parents or *caregivers*, identified prospective parents, grandparents entitled to priority for adoption consideration under s. 63.0425, actual custodians of the child, and any other person whose participation may be in the best interest of the child. Participants may be granted leave by the court to be heard without the necessity of filing a motion to intervene.

(51)(40) "Party," for purposes of a shelter proceeding, dependency proceeding, or termination of parental rights proceeding, means the parent or *legal custodian* of the child, the petitioner, the department, the guardian ad litem or the representative of the guardian ad litem program when the program ~~one~~ has been appointed, and the child. The presence of the child may be excused by order of the court when presence would not be in the child's best interest. Notice to the child may be excused by order of the court when the age, capacity, or other condition of the child is such that the notice would be meaningless or detrimental to the child.

(52) "Physical injury" means death, permanent or temporary disfigurement, or impairment of any bodily part.

(53) "Physician" means any licensed physician, dentist, podiatrist, or optometrist and includes any intern or resident.

(54)(41) "Preliminary screening" means the gathering of preliminary information to be used in determining a child's need for further evaluation or assessment or for referral for other substance abuse services through means such as psychosocial interviews; urine and breathalyzer screenings; and reviews of available educational, delinquency, and dependency records of the child.

(55)(42) "Preventive services" means social services and other supportive and rehabilitative services provided to the parent of the child, the legal *custodian guardian* of the child, or the *caregiver custodian* of the child and to the child for the purpose of averting the removal of the child from the home or disruption of a family which will or could result in the placement of a child in foster care. Social services and other supportive and rehabilitative services shall promote the child's need for *physical, mental, and emotional health* and a safe, ~~continuous~~, stable, living environment, and shall promote family autonomy, and shall strengthen family life, ~~as the first priority~~ whenever possible.

(56)(43) "Prospective parent" means a person who claims to be, or has been identified as, a person who may be a mother or a father of a child.

(57)(44) "Protective investigation" means the acceptance of a report alleging child abuse, *abandonment*, or neglect, as defined in *this chapter s. 415.503*, by the central abuse hotline or the acceptance of a report of other dependency by the ~~department local children, youth, and families office of the Department of Children and Family Services~~; the investigation and classification of each report; the determination of whether action by the court is warranted; the determination of the disposition of each report without court or public agency action when appropriate; and the referral of a child to another public or private agency when appropriate; ~~and the recommendation by the protective investigator of court action when appropriate.~~

(58)(45) "Protective investigator" means an authorized agent of the ~~department of Children and Family Services~~ who receives ~~and~~, investigates, ~~and classifies~~ reports of child abuse, *abandonment*, or neglect as defined in *s. 415.503*; who, as a result of the investigation, may recommend that a dependency petition be filed for the child ~~under the criteria of paragraph (1)(a)~~; and who performs other duties necessary to carry out the required actions of the protective investigation function.

(59)(46) "Protective supervision" means a legal status in dependency cases, ~~child in need of services cases, or family in need of services cases~~ which permits the child to remain *safely* in his or her own home or other placement under the supervision of an agent of the ~~department and which must be reviewed by Department of Juvenile Justice or the Department of Children and Family Services~~, subject to being returned to the court during the period of supervision.

(47) "~~Protective supervision case plan~~" means a document that is prepared by the ~~protective supervision counselor of the Department of Children and Family Services~~, is based upon the voluntary protective supervision of a case pursuant to *s. 39.403(2)(b)*, or a disposition order entered pursuant to *s. 39.41(2)(a)3.*, and that:

(a) Is developed in conference with the parent, guardian, or ~~custodian of the child and, if appropriate, the child and any court appointed guardian ad litem.~~

(b) Is written simply and clearly in the principal language, to the extent possible, of the parent, guardian, or custodian of the child and in English.

(c) Is subject to modification based on changing circumstances and negotiations among the parties to the plan and includes, at a minimum:

1. All services and activities ordered by the court.
2. Goals and specific activities to be achieved by all parties to the plan.
3. Anticipated dates for achieving each goal and activity.

4. ~~Signatures of all parties to the plan.~~

(d) ~~Is submitted to the court in cases where a dispositional order has been entered pursuant to s. 39.41(2)(a)3.~~

(60)(48) "Relative" means a grandparent, great-grandparent, sibling, first cousin, aunt, uncle, great-aunt, great-uncle, niece, or nephew, whether related by the whole or half blood, by affinity, or by adoption. The term does not include a stepparent.

(61)(49) "Reunification services" means social services and other supportive and rehabilitative services provided to the parent of the child, the legal *custodian guardian* of the child, or the *caregiver custodian* of the child, whichever is applicable, to the child, and where appropriate to the foster parents of the child, for the purpose of enabling a child who has been placed in *out-of-home* foster care to *safely* return to his or her family at the earliest possible time. *The health and safety of the child shall be the paramount goal* of social services and other supportive and rehabilitative services. *Such services* shall promote the child's need for *physical, mental, and emotional health* and a safe, ~~continuous~~, stable, living environment, and shall promote family autonomy, and shall strengthen family life, ~~as a first priority~~ whenever possible.

(62) "Secretary" means the Secretary of Children and Family Services.

(63) "Sexual abuse of a child" means one or more of the following acts:

(a) Any penetration, however slight, of the vagina or anal opening of one person by the penis of another person, whether or not there is the emission of semen.

(b) Any sexual contact between the genitals or anal opening of one person and the mouth or tongue of another person.

(c) Any intrusion by one person into the genitals or anal opening of another person, including the use of any object for this purpose, except that this does not include any act intended for a valid medical purpose.

(d) The intentional touching of the genitals or intimate parts, including the breasts, genital area, groin, inner thighs, and buttocks, or the clothing covering them, of either the child or the perpetrator, except that this does not include:

1. Any act which may reasonably be construed to be a normal caregiver responsibility, any interaction with, or affection for a child; or
2. Any act intended for a valid medical purpose.

(e) The intentional masturbation of the perpetrator's genitals in the presence of a child.

(f) The intentional exposure of the perpetrator's genitals in the presence of a child, or any other sexual act intentionally perpetrated in the presence of a child, if such exposure or sexual act is for the purpose of sexual arousal or gratification, aggression, degradation, or other similar purpose.

(g) The sexual exploitation of a child, which includes allowing, encouraging, or forcing a child to:

1. Solicit for or engage in prostitution; or
2. Engage in a sexual performance, as defined by chapter 827.

(64)(50) "Shelter" means a place for the temporary care of a child who is alleged to be or who has been found to be dependent, ~~a child from a family in need of services, or a child in need of services~~, pending court disposition before or after adjudication, or after execution of a court order. "Shelter" may include a facility which provides 24-hour continual supervision for the temporary care of a child who is placed pursuant to *s. 984.14*.

(65)(51) "Shelter hearing" means a hearing in which the court determines whether probable cause exists to keep a child in shelter status pending further investigation of the case ~~provided for under s. 984.14 in family in need of services cases or child in need of services cases.~~

(66)(52) "Social service agency" means the department of Children and Family Services, a licensed child-caring agency, or a licensed child-placing agency.

(53) ~~“Staff secure shelter” means a facility in which a child is supervised 24 hours a day by staff members who are awake while on duty. The facility is for the temporary care and assessment of a child who has been found to be dependent, who has violated a court order and been found in contempt of court, or whom the Department of Children and Family Services is unable to properly assess or place for assistance within the continuum of services provided for dependent children.~~

(67)(54) “Substance abuse” means using, without medical reason, any psychoactive or mood-altering drug, including alcohol, in such a manner as to induce impairment resulting in dysfunctional social behavior.

(68)(55) “Substantial compliance” means that the circumstances which caused the ~~creation of the case plan placement in foster care~~ have been significantly remedied to the extent that the well-being and safety of the child will not be endangered upon the child’s remaining with or being returned to the child’s parent, legal custodian, or caregiver or guardian.

(69)(56) “Taken into custody” means the status of a child immediately when temporary physical control over the child is attained by a person authorized by law, pending the child’s release or placement, detention, placement, or other disposition as authorized by law.

(70)(57) “Temporary legal custody” means the relationship that a juvenile court creates between a child and an adult relative of the child, legal custodian, or caregiver ~~adult nonrelative~~ approved by the court, or other person until a more permanent arrangement is ordered. Temporary legal custody confers upon the custodian the right to have temporary physical custody of the child and the right and duty to protect, train, and discipline the child and to provide the child with food, shelter, and education, and ordinary medical, dental, psychiatric, and psychological care, unless these rights and duties are otherwise enlarged or limited by the court order establishing the temporary legal custody relationship.

(71) “Victim” means any child who has sustained or is threatened with physical, mental, or emotional injury identified in a report involving child abuse, neglect, or abandonment, or child-on-child sexual abuse.

Section 21. Section 39.455, Florida Statutes, is renumbered as section 39.011, Florida Statutes, and amended to read:

~~39.011~~ ~~39.455~~ Immunity from liability.—

(1) In no case shall employees or agents of the ~~department or a social service agency~~ acting in good faith be liable for damages as a result of failing to provide services agreed to under the case plan or permanent placement plan unless the failure to provide such services occurs as a result of bad faith or malicious purpose or occurs in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

(2) The inability or failure of the ~~department or of a social service agency~~ or the employees or agents of the social service agency to provide the services agreed to under the case plan or permanent placement plan shall not render the state or the social service agency liable for damages unless such failure to provide services occurs in a manner exhibiting wanton or willful disregard of human rights, safety, or property.

(3) A member or agent of a citizen review panel acting in good faith is not liable for damages as a result of any review or recommendation with regard to a foster care or shelter care matter unless such member or agent exhibits wanton and willful disregard of human rights or safety, or property.

Section 22. Section 39.012, Florida Statutes, is amended to read:

39.012 Rules for implementation.—The department of Children and Family Services shall adopt rules for the efficient and effective management of all programs, services, facilities, and functions necessary for implementing this chapter. *Such rules may not conflict with the Florida Rules of Juvenile Procedure. All rules and policies must conform to accepted standards of care and treatment.*

Section 23. Section 39.0121, Florida Statutes, is created to read:

39.0121 *Specific rulemaking authority.—Pursuant to the requirements of s. 120.536, the department is specifically authorized to adopt, amend, and repeal administrative rules that implement or interpret law*

or policy, or describe the procedure and practice requirements necessary to implement this chapter, including, but not limited to, the following:

(1) *Background screening of department employees and applicants; criminal records checks of prospective foster and adoptive parents; and drug testing of protective investigators.*

(2) *Reporting of child abuse, neglect, and abandonment; reporting of child-on-child sexual abuse; false reporting; child protective investigations; taking a child into protective custody; and shelter procedures.*

(3) *Confidentiality and retention of department records; access to records; and record requests.*

(4) *Department and client trust funds.*

(5) *Child protection teams and services, and eligible cases.*

(6) *Consent to and provision of medical care and treatment for children in the care of the department.*

(7) *Federal funding requirements and procedures; foster care and adoption subsidies; subsidized independent living; and subsidized child care.*

(8) *Agreements with law enforcement and other state agencies; access to the National Crime Information Center (NCIC); and access to the parent locator service.*

(9) *Licensing, registration, and certification of child day care providers, shelter and foster homes, and residential child-caring and child-placing agencies.*

(10) *The Family Builders Program, the Intensive Crisis Counseling Program, and any other early-intervention programs and kinship care assistance programs.*

(11) *Department contracts, pilot programs, and demonstration projects.*

(12) *Legal and casework procedures, including, but not limited to, mediation, diligent search, stipulations, consents, surrenders, and default, with respect to dependency, termination of parental rights, adoption, guardianship, and kinship care proceedings.*

(13) *Legal and casework management of cases involving in-home supervision and out-of-home care, including judicial reviews, administrative reviews, case plans, and any other documentation or procedures required by federal or state law.*

(14) *Injunctions and other protective orders, domestic-violence-related cases, and certification of domestic violence centers.*

Section 24. Section 39.40, Florida Statutes, is renumbered as section 39.013, Florida Statutes, and amended to read:

~~39.013~~ ~~39.40~~ Procedures and jurisdiction; right to counsel.—

(1) All procedures, including petitions, pleadings, subpoenas, summonses, and hearings, in ~~this chapter dependency cases~~ shall be according to the Florida Rules of Juvenile Procedure unless otherwise provided by law. Parents must be informed by the court of their right to counsel in dependency proceedings at each stage of the dependency proceedings. Parents who are unable to afford counsel and who are threatened with criminal charges based on the facts underlying the dependency petition or a permanent loss of custody of their children must be appointed counsel.

(2) The circuit court shall have exclusive original jurisdiction of all proceedings under ~~parts III, IV, V, and VI of this chapter~~, of a child voluntarily placed with a licensed child-caring agency, a licensed child-placing agency, or the department, and of the adoption of children whose parental rights have been terminated pursuant to this chapter. Jurisdiction attaches when the initial shelter petition, dependency petition, or termination of parental rights petition is filed or when a child is taken into the custody of the department. The circuit court may assume jurisdiction over any such proceeding regardless of whether the child was in the physical custody of both parents, was in the sole legal or physical custody of only one parent, caregiver, or of some other person, or was in the physical or legal custody of no person when the event or condition

occurred that brought the child to the attention of the court. When the court obtains jurisdiction of any child who has been found to be dependent ~~is obtained~~, the court shall retain jurisdiction, unless relinquished by its order, until the child reaches 18 years of age.

(3) ~~When a child is under the jurisdiction of the circuit court pursuant to the provisions of this chapter, the juvenile court, as a division of the circuit court, may exercise the general and equitable jurisdiction over guardianship proceedings pursuant to the provisions of chapter 744, and proceedings for temporary custody of minor children by extended family pursuant to the provisions of chapter 751.~~

(4)(3) ~~The court shall expedite the resolution of the placement issue in cases involving a child who under 4 years of age when the child has been removed from the family and placed in a shelter.~~

(5)(4) ~~The court shall expedite the judicial handling of all cases when the child has been removed from the family and placed in a shelter, and of all cases involving a child under 4 years of age.~~

(6)(5) ~~It is the intent of the Legislature that Children removed from their homes shall be provided equal treatment with respect to goals, objectives, services, and case plans, without regard to the location of their placement, and that placement shall be in a safe environment where drugs and alcohol are not abused. It is the further intent of the Legislature that, when children are removed from their homes, disruption to their education be minimized to the extent possible.~~

(7) ~~For any child who remains in the custody or under the supervision of the department, the court shall, within the 6-month period before the child's 18th birthday, hold a hearing to review the progress of the child while in the custody or under the supervision of the department.~~

(8)(a) ~~At each stage of the proceedings under this chapter, the court shall advise the parent, legal custodian, or caregiver of the right to counsel. The court shall appoint counsel for indigent persons. The court shall ascertain whether the right to counsel is understood. When right to counsel is waived, the court shall determine whether the waiver is knowing and intelligent. The court shall enter its findings in writing with respect to the appointment or waiver of counsel for indigent parties or the waiver of counsel by nonindigent parties.~~

(b) ~~Once counsel has entered an appearance or been appointed by the court to represent the parent of the child, the attorney shall continue to represent the parent throughout the proceedings. If the attorney-client relationship is discontinued, the court shall advise the parent of the right to have new counsel retained or appointed for the remainder of the proceedings.~~

(c)1. ~~No waiver of counsel may be accepted if it appears that the parent, legal custodian, or caregiver is unable to make an intelligent and understanding choice because of mental condition, age, education, experience, the nature or complexity of the case, or other factors.~~

2. ~~A waiver of counsel made in court must be of record.~~

3. ~~If a waiver of counsel is accepted at any hearing or proceeding, the offer of assistance of counsel must be renewed by the court at each subsequent stage of the proceedings at which the parent, legal custodian, or caregiver appears without counsel.~~

(d) ~~This subsection does not apply to any parent who has voluntarily executed a written surrender of the child and consents to the entry of a court order terminating parental rights.~~

(9) ~~The time limitations in this chapter do not include:~~

(a) ~~Periods of delay resulting from a continuance granted at the request or with the consent of the child's counsel or the child's guardian ad litem, if one has been appointed by the court, or, if the child is of sufficient capacity to express reasonable consent, at the request or with the consent of the child.~~

(b) ~~Periods of delay resulting from a continuance granted at the request of the attorney for the department, if the continuance is granted:~~

1. ~~Because of an unavailability of evidence material to the case when the attorney for the department has exercised due diligence to obtain such evidence and there are substantial grounds for believing that such evidence will be available within 30 days. However, if the department is not~~

~~prepared to present its case within 30 days, the parent or guardian may move for issuance of an order to show cause or the court on its own motion may impose appropriate sanctions, which may include dismissal of the petition.~~

2. ~~To allow the attorney for the department additional time to prepare the case and additional time is justified because of an exceptional circumstance.~~

(c) ~~Reasonable periods of delay necessary to accomplish notice of the hearing to the child's parents; however, the petitioner shall continue regular efforts to provide notice to the parents during such periods of delay.~~

(d) ~~Reasonable periods of delay resulting from a continuance granted at the request of the parent or legal custodian of a subject child.~~

(10) ~~Court-appointed counsel representing indigent parents or legal guardians at shelter hearings shall be paid from state funds appropriated by general law.~~

Section 25. ~~Section 39.4057, Florida Statutes, is renumbered as section 39.0131, Florida Statutes.~~

Section 26. ~~Section 39.411, Florida Statutes, is renumbered as section 39.0132, Florida Statutes, and amended to read:~~

~~39.0132 39.411~~ Oaths, records, and confidential information.—

(1) ~~The judge, clerks or deputy clerks, or authorized agents of the department shall each have the power to administer oaths and affirmations.~~

(2) ~~The court shall make and keep records of all cases brought before it pursuant to this chapter and shall preserve the records pertaining to a dependent child until 10 years after the last entry was made, or until the child is 18 years of age, whichever date is first reached, and may then destroy them, except that records of cases where orders were entered permanently depriving a parent of the custody of a juvenile shall be preserved permanently. The court shall make official records, consisting of all petitions and orders filed in a case arising pursuant to this part and any other pleadings, certificates, proofs of publication, summonses, warrants, and other writs which may be filed therein.~~

(3) ~~The clerk shall keep all court records required by this part separate from other records of the circuit court. All court records required by this part shall not be open to inspection by the public. All records shall be inspected only upon order of the court by persons deemed by the court to have a proper interest therein, except that, subject to the provisions of s. 63.162, a child and the parents, or legal custodians, or caregivers of the child and their attorneys, guardian ad litem, law enforcement agencies, and the department and its designees shall always have the right to inspect and copy any official record pertaining to the child. The court may permit authorized representatives of recognized organizations compiling statistics for proper purposes to inspect and make abstracts from official records, under whatever conditions upon their use and disposition the court may deem proper, and may punish by contempt proceedings any violation of those conditions.~~

(4) ~~All information obtained pursuant to this part in the discharge of official duty by any judge, employee of the court, authorized agent of the department, correctional probation officer, or law enforcement agent shall be confidential and exempt from the provisions of s. 119.07(1) and shall not be disclosed to anyone other than the authorized personnel of the court, the department and its designees, correctional probation officers, law enforcement agents, guardian ad litem, and others entitled under this chapter to receive that information, except upon order of the court.~~

(5) ~~All orders of the court entered pursuant to this chapter shall be in writing and signed by the judge, except that the clerk or deputy clerk may sign a summons or notice to appear.~~

(6) ~~No court record of proceedings under this chapter shall be admissible in evidence in any other civil or criminal proceeding, except that:~~

(a) ~~Orders permanently terminating the rights of a parent and committing the child to a licensed child-placing agency or the department for adoption shall be admissible in evidence in subsequent adoption proceedings relating to the child.~~

(b) Records of proceedings under this part forming a part of the record on appeal shall be used in the appellate court in the manner hereinafter provided.

(c) Records necessary therefor shall be admissible in evidence in any case in which a person is being tried upon a charge of having committed perjury.

(d) Records of proceedings under this part may be used to prove disqualification pursuant to s. 435.06 and for proof regarding such disqualification in a chapter 120 proceeding.

Section 27. Section 39.414, Florida Statutes, is renumbered as section 39.0133, Florida Statutes.

Section 28. Section 39.415, Florida Statutes, is renumbered as section 39.0134, Florida Statutes, and amended to read:

~~39.0134~~ ~~39.415~~ Appointed counsel; compensation.—

(1) If counsel is entitled to receive compensation for representation pursuant to a court appointment in a dependency proceeding pursuant to this chapter, such compensation shall be established by each county not exceed \$1,000 at the trial level and \$2,500 at the appellate level.

(2) If counsel is entitled to receive compensation for representation pursuant to court appointment in a termination of parental rights proceeding, such compensation shall not exceed \$1,000 at the trial level and \$2,500 at the appellate level.

Section 29. Section 39.418, Florida Statutes, is renumbered as section 39.0135, Florida Statutes, and amended to read:

~~39.0135~~ ~~39.418~~ Operations and Maintenance Trust Fund.—Effective July 1, 1996, The department of Children and Family Services shall deposit all child support payments made to the department pursuant to this chapter s. ~~39.41(2)~~ into the Operations and Maintenance Trust Fund. The purpose of this funding is to care for children who are committed to the temporary legal custody of the department pursuant to s. ~~39.41(2)(a)8~~.

Section 30. Part II of chapter 39, Florida Statutes, consisting of sections 39.201, 39.202, 39.203, 39.204, 39.205, and 39.206, Florida Statutes, shall be entitled to read:

PART II
REPORTING CHILD ABUSE

Section 31. Section 415.504, Florida Statutes, is renumbered as section 39.201, Florida Statutes, and amended to read:

~~39.201~~ ~~415.504~~ Mandatory reports of child abuse, *abandonment*, or neglect; mandatory reports of death; central abuse hotline.—

(1) Any person, including, but not limited to, any:

(a) Physician, osteopathic physician, medical examiner, chiropractor, nurse, or hospital personnel engaged in the admission, examination, care, or treatment of persons;

(b) Health or mental health professional other than one listed in paragraph (a);

(c) Practitioner who relies solely on spiritual means for healing;

(d) School teacher or other school official or personnel;

(e) Social worker, day care center worker, or other professional child care, foster care, residential, or institutional worker; or

(f) Law enforcement officer,

who knows, or has reasonable cause to suspect, that a child is an abused, abandoned, or neglected child shall report such knowledge or suspicion to the department in the manner prescribed in subsection (2).

(2)(a) Each report of known or suspected child abuse, *abandonment*, or neglect pursuant to this section, except those solely under s. 827.04(3)(4), shall be made immediately to the department's central abuse hotline on the single statewide toll-free telephone number, and,

if the report is of an instance of known or suspected child abuse by a noncaretaker, the call shall be immediately electronically transferred to the appropriate county sheriff's office by the central abuse hotline. If the report is of an instance of known or suspected child abuse involving impregnation of a child under 16 years of age by a person 21 years of age or older solely under s. 827.04(3)(4), the report shall be made immediately to the appropriate county sheriff's office or other appropriate law enforcement agency. If the report is of an instance of known or suspected child abuse solely under s. 827.04(3)(4), the reporting provisions of this subsection do not apply to health care professionals or other persons who provide medical or counseling services to pregnant children when such reporting would interfere with the provision of medical services.

(b) Reporters in occupation categories designated in subsection (1) are required to provide their names to the hotline staff. The names of reporters shall be entered into the record of the report, but shall be held confidential as provided in s. ~~39.202~~ ~~415.51~~.

(c) Reports involving known or suspected institutional child abuse or neglect shall be made and received in the same manner as all other reports made pursuant to this section.

(d) Reports involving a known or suspected juvenile sexual offender shall be made and received by the department.

1. The department shall determine the age of the alleged juvenile sexual offender if known.

2. When the alleged juvenile sexual offender is 12 years of age or younger, the department shall proceed with an investigation of the report pursuant to this part III, immediately electronically transfer the call to the appropriate law enforcement agency office by the central abuse hotline, and send a written report of the allegation to the appropriate county sheriff's office within 48 hours after the initial report is made to the central abuse hotline.

3. When the alleged juvenile sexual offender is 13 years of age or older, the department shall immediately electronically transfer the call to the appropriate county sheriff's office by the central abuse hotline, and send a written report to the appropriate county sheriff's office within 48 hours after the initial report to the central abuse hotline.

(e) Hotline counselors shall receive periodic training in encouraging reporters to provide their names when reporting abuse, *abandonment*, or neglect. Callers shall be advised of the confidentiality provisions of s. ~~39.202~~ ~~415.51~~. The department shall secure and install electronic equipment that automatically provides to the hotline the number from which the call is placed. This number shall be entered into the report of abuse, *abandonment*, or neglect and become a part of the record of the report, but shall enjoy the same confidentiality as provided to the identity of the caller pursuant to s. ~~39.202~~ ~~415.51~~.

(3) Any person required to report or investigate cases of suspected child abuse, *abandonment*, or neglect who has reasonable cause to suspect that a child died as a result of child abuse, *abandonment*, or neglect shall report his or her suspicion to the appropriate medical examiner. The medical examiner shall accept the report for investigation pursuant to s. ~~406.11~~ and shall report his or her findings, in writing, to the local law enforcement agency, the appropriate state attorney, and the department. Autopsy reports maintained by the medical examiner are not subject to the confidentiality requirements provided for in s. ~~39.202~~ ~~415.51~~.

(4)(a) The department shall establish and maintain a central abuse hotline to receive all reports made pursuant to this section in writing or through a single statewide toll-free telephone number, which any person may use to report known or suspected child abuse, *abandonment*, or neglect at any hour of the day or night, any day of the week. The central abuse hotline shall be operated in such a manner as to enable the department to:

(a)1- Immediately identify and locate prior reports or cases of child abuse, *abandonment*, or neglect through utilization of the department's automated tracking system.

(b)2- Monitor and evaluate the effectiveness of the department's program for reporting and investigating suspected abuse, *abandonment*, or neglect of children through the development and analysis of statistical and other information.

(c)3. Track critical steps in the investigative process to ensure compliance with all requirements for any report of abuse, *abandonment*, or neglect.

(d)4. Maintain and produce aggregate statistical reports monitoring patterns of both child abuse, *child abandonment*, and child neglect. The department shall collect and analyze child-on-child sexual abuse reports and include the information in aggregate statistical reports.

(e)5. Serve as a resource for the evaluation, management, and planning of preventive and remedial services for children who have been subject to abuse, *abandonment*, or neglect.

(f)6. Initiate and enter into agreements with other states for the purpose of gathering and sharing information contained in reports on child maltreatment to further enhance programs for the protection of children.

(b) Upon receiving an oral or written report of known or suspected child abuse or neglect, the central abuse hotline shall determine if the report requires an immediate onsite protective investigation. For reports requiring an immediate onsite protective investigation, the central abuse hotline shall immediately notify the department's designated children and families district staff responsible for protective investigations to ensure that an onsite investigation is promptly initiated. For reports not requiring an immediate onsite protective investigation, the central abuse hotline shall notify the department's designated children and families district staff responsible for protective investigations in sufficient time to allow for an investigation, or if the district determines appropriate, a family services response system approach to be commenced within 24 hours. When a district decides to respond to a report of child abuse or neglect with a family services response system approach, the provisions of part III apply. If, in the course of assessing risk and services or at any other appropriate time, responsible district staff determines that the risk to the child requires a child protective investigation, then the department shall suspend its family services response system activities and shall proceed with an investigation as delineated in this part. At the time of notification of district staff with respect to the report, the central abuse hotline shall also provide information on any previous report concerning a subject of the present report or any pertinent information relative to the present report or any noted earlier reports.

(c) Upon commencing an investigation under this part, the child protective investigator shall inform any subject of the investigation of the following:

- 1.—The names of the investigators and identifying credentials from the department.
- 2.—The purpose of the investigation.
- 3.—The right to obtain his or her own attorney and ways that the information provided by the subject may be used.

(d) The department shall make and keep records of all cases brought before it pursuant to this part and shall preserve the records pertaining to a child and family until 7 years after the last entry was made or until the child is 18 years of age. The department shall then destroy the records, except where the child has been placed under the protective supervision of the department, the court has made a finding of dependency, or a criminal conviction has resulted from the facts associated with the report and there is a likelihood that future services of the department may be required.

(5) The department shall be capable of receiving and investigating reports of known or suspected child abuse, *abandonment*, or neglect 24 hours a day, 7 days a week. If it appears that the immediate safety or well-being of a child is endangered, that the family may flee or the child will be unavailable for purposes of conducting a child protective investigation, or that the facts otherwise so warrant, the department shall commence an investigation immediately, regardless of the time of day or night. In all other child abuse, *abandonment*, or neglect cases, a child protective investigation shall be commenced within 24 hours after receipt of the report. In an institutional investigation, the alleged perpetrator may be represented by an attorney, at his or her own expense, or accompanied by another person, if the person or the attorney executes an affidavit of understanding with the department and agrees to comply with the confidentiality provisions of s. 39.202. The absence of an attorney or other

person does not prevent the department from proceeding with other aspects of the investigation, including interviews with other persons. In institutional child abuse cases when the institution is not operating and the child cannot otherwise be located, the investigation shall commence immediately upon the resumption of operation. If requested by a state attorney or local law enforcement agency, the department shall furnish all investigative reports to that agency.

(6)(e) Information in the central abuse hotline may not be used for employment screening except as provided in s. 39.202(2)(a) and (h). Information in the central abuse hotline and the department's automated abuse information system may be used by the department, its automated agents or contract providers, the Department of Health, or county agencies as part of the licensure or registration process pursuant to ss. 402.301-402.319 and ss. 409.175-409.176. Access to the information shall only be granted as set forth in s. 415.511.

(7)(5) This section does not require a professional who is hired by or enters into a contract with the department for the purpose of treating or counseling any person, as a result of a report of child abuse, *abandonment*, or neglect, to again report to the central abuse hotline the abuse, *abandonment*, or neglect that was the subject of the referral for treatment.

Section 32. Section 415.511, Florida Statutes, is renumbered as section 39.203, Florida Statutes, and amended to read:

39.203 415.511 Immunity from liability in cases of child abuse, *abandonment*, or neglect.—

(1)(a) Any person, official, or institution participating in good faith in any act authorized or required by *this chapter ss. 415.502-415.514*, or reporting in good faith any instance of child abuse, *abandonment*, or neglect to any law enforcement agency, shall be immune from any civil or criminal liability which might otherwise result by reason of such action.

(b) Except as provided in *this chapter s. 415.503(10)(f)*, nothing contained in this section shall be deemed to grant immunity, civil or criminal, to any person suspected of having abused, *abandoned*, or neglected a child, or committed any illegal act upon or against a child.

(2)(a) No resident or employee of a facility serving children may be subjected to reprisal or discharge because of his or her actions in reporting abuse, *abandonment*, or neglect pursuant to the requirements of this section.

(b) Any person making a report under this section shall have a civil cause of action for appropriate compensatory and punitive damages against any person who causes detrimental changes in the employment status of such reporting party by reason of his or her making such report. Any detrimental change made in the residency or employment status of such person, including, but not limited to, discharge, termination, demotion, transfer, or reduction in pay or benefits or work privileges, or negative evaluations within a prescribed period of time shall establish a rebuttable presumption that such action was retaliatory.

Section 33. Section 415.512, Florida Statutes, is renumbered as section 39.204, Florida Statutes, and amended to read:

39.204 415.512 Abrogation of privileged communications in cases involving child abuse, *abandonment*, or neglect.—The privileged quality of communication between husband and wife and between any professional person and his or her patient or client, and any other privileged communication except that between attorney and client or the privilege provided in s. 90.505, as such communication relates both to the competency of the witness and to the exclusion of confidential communications, shall not apply to any communication involving the perpetrator or alleged perpetrator in any situation involving known or suspected child abuse, *abandonment*, or neglect and shall not constitute grounds for failure to report as required by s. 39.201 415.504 regardless of the source of the information requiring the report, failure to cooperate with the department in its activities pursuant to *this chapter ss. 415.502-415.514*, or failure to give evidence in any judicial proceeding relating to child abuse, *abandonment*, or neglect.

Section 34. Section 415.513, Florida Statutes, is renumbered as section 39.205, Florida Statutes, and amended to read:

~~39.205 415-513~~ Penalties relating to ~~abuse~~ reporting of *child abuse, abandonment, or neglect*.—

(1) A person who is required by ~~s. 415-504~~ to report known or suspected child abuse, *abandonment*, or neglect and who knowingly and willfully fails to do so, or who knowingly and willfully prevents another person from doing so, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(2) A person who knowingly and willfully makes public or discloses any confidential information contained in the central abuse ~~hotline registry and tracking system~~ or in the records of any child abuse, *abandonment*, or neglect case, except as provided in ~~this chapter ss. 415-502-415-514~~, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(3) The department shall establish procedures for determining whether a false report of child abuse, *abandonment*, or neglect has been made and for submitting all identifying information relating to such a report to the appropriate law enforcement agency and ~~shall report annually to the Legislature the number of reports referred the state attorney for prosecution~~.

(4) *If the department or its authorized agent has determined after its investigation that a report is false, the department shall, with the consent of the alleged perpetrator, refer the report to the local law enforcement agency having jurisdiction of an investigation to determine whether sufficient evidence exists to refer the case for prosecution for filing a false report as defined in s. 39.01(27). During the pendency of the investigation by the local law enforcement agency, the department must notify the local law enforcement agency of, and the local law enforcement agency must respond to, all subsequent reports concerning children in that same family in accordance with s. 39.301. If the law enforcement agency believes that there are indicators of abuse or neglect, it must immediately notify the department, which must assure the safety of the children. If the law enforcement agency finds sufficient evidence for prosecution for filing a false report, it must refer the case to the appropriate state attorney for prosecution.*

~~(5)(4)~~ A person who knowingly and willfully makes a false report of child abuse or neglect, or who advises another to make a false report, is guilty of a ~~felony of the third misdemeanor of the second degree~~, punishable as provided in s. 775.082 or s. 775.083. Anyone making a report who is acting in good faith is immune from any liability under this subsection.

~~(6)(5)~~ Each state attorney shall establish *written* procedures to facilitate the prosecution of persons under this section, *and shall report to the Legislature annually the number of complaints that have resulted in the filing of an information or indictment and the disposition of those complaints under this section.*

Section 35. Section 415.5131, Florida Statutes, is renumbered as section 39.206, Florida Statutes, and amended to read:

~~39.206 415-5131~~ Administrative fines for false report of abuse, *abandonment*, or neglect of a child.—

(1) In addition to any other penalty authorized by this section, chapter 120, or other law, the department may impose a fine, not to exceed \$10,000 ~~\$1,000~~ for each violation, upon a person who knowingly and willfully makes a false report of abuse, *abandonment*, or neglect of a child, or a person who counsels another to make a false report.

(2) If the department alleges that a person has filed a false report with the central abuse ~~hotline registry and tracking system~~, the department must file a Notice of Intent which alleges the name, age, and address of the individual, the facts constituting the allegation that the individual made a false report, and the administrative fine the department proposes to impose on the person. Each time that a false report is made constitutes a separate violation.

(3) The Notice of Intent to impose the administrative fine must be served upon the person alleged to have filed the false report and the person's legal counsel, if any. Such Notice of Intent must be given by certified mail, return receipt requested.

(4) Any person alleged to have filed the false report is entitled to an administrative hearing, pursuant to chapter 120, before the imposition

of the fine becomes final. The person must request an administrative hearing within 60 days after receipt of the Notice of Intent by filing a request with the department. Failure to request an administrative hearing within 60 days after receipt of the Notice of Intent constitutes a waiver of the right to a hearing, making the administrative fine final.

(5) At the hearing, the department must prove by clear and convincing evidence that the person filed a false report with the central abuse ~~hotline registry and tracking system~~. The court shall advise any person against whom a fine may be imposed of that person's right to be represented by counsel at the hearing.

(6) In determining the amount of fine to be imposed, if any, the following factors shall be considered:

(a) The gravity of the violation, including the probability that serious physical or emotional harm to any person will result or has resulted, the severity of the actual or potential harm, and the nature of the false allegation.

(b) Actions taken by the false reporter to retract the false report as an element of mitigation, or, in contrast, to encourage an investigation on the basis of false information.

(c) Any previous false reports filed by the same individual.

(7) A decision by the department, following the administrative hearing, to impose an administrative fine for filing a false report constitutes final agency action within the meaning of chapter 120. Notice of the imposition of the administrative fine must be served upon the person and the person's legal counsel, by certified mail, return receipt requested, and must state that the person may seek judicial review of the administrative fine pursuant to s. 120.68.

(8) All amounts collected under this section shall be deposited into an appropriate trust fund of the department.

(9) A person who is determined to have filed a false report of abuse, *abandonment*, or neglect is not entitled to confidentiality. Subsequent to the conclusion of all administrative or other judicial proceedings concerning the filing of a false report, the name of the false reporter and the nature of the false report shall be made public, pursuant to s. 119.01(1). Such information shall be admissible in any civil or criminal proceeding.

(10) Any person making a report who is acting in good faith is immune from any liability under this section and shall continue to be entitled to have the confidentiality of their identity maintained.

Section 36. Part III of chapter 39, Florida Statutes, consisting of sections 39.301, 39.302, 39.303, 39.3035, 39.304, 39.305, 39.306, and 39.307, Florida Statutes, shall be entitled to read:

PART III

PROTECTIVE INVESTIGATIONS

Section 37. Section 39.301, Florida Statutes, is created to read:

39.301 Initiation of protective investigations.—

(1) *Upon receiving an oral or written report of known or suspected child abuse, abandonment, or neglect, the central abuse hotline shall determine if the report requires an immediate onsite protective investigation. For reports requiring an immediate onsite protective investigation, the central abuse hotline shall immediately notify the department's designated children and families district staff responsible for protective investigations to ensure that an onsite investigation is promptly initiated. For reports not requiring an immediate onsite protective investigation, the central abuse hotline shall notify the department's designated children and families district staff responsible for protective investigations in sufficient time to allow for an investigation. At the time of notification of district staff with respect to the report, the central abuse hotline shall also provide information on any previous report concerning a subject of the present report or any pertinent information relative to the present report or any noted earlier reports.*

(2)(a) *Upon commencing an investigation under this part, the child protective investigator shall inform any subject of the investigation of the following:*

1. The names of the investigators and identifying credentials from the department.

2. The purpose of the investigation.

3. The right to obtain his or her own attorney and ways that the information provided by the subject may be used.

4. The possible outcomes and services of the department's response shall be explained to the caregiver.

5. The right of the parent, legal custodian, or caregiver to be involved to the fullest extent possible in determining the nature of the allegation and the nature of any identified problem.

(b) The department's training program shall ensure that protective investigators know how to fully inform parents, guardians, and caregivers of their rights and options, including opportunities for audio or video recording of investigators' interviews with parents, guardians, caretakers, or children.

(3) An assessment of risk and the perceived needs of the child and family shall be conducted in a manner that is sensitive to the social, economic, and cultural environment of the family.

(4) Protective investigations shall be performed by the department or its agent.

(5) The person responsible for the investigation shall make a preliminary determination as to whether the report or complaint is complete, consulting with the attorney for the department when necessary. In any case in which the person responsible for the investigation finds that the report or complaint is incomplete, he or she shall return it without delay to the person or agency originating the report or complaint or having knowledge of the facts, or to the appropriate law enforcement agency having investigative jurisdiction, and request additional information in order to complete the report or complaint; however, the confidentiality of any report filed in accordance with this chapter shall not be violated.

(a) If it is determined that the report or complaint is complete, after determining that such action would be in the best interests of the child, the attorney for the department shall file a petition for dependency.

(b) If it is determined that the report or complaint is complete, but the interests of the child and the public will be best served by providing the child care or other treatment voluntarily accepted by the child and the parents, caregivers, or legal custodians, the protective investigator may refer the child for such care or other treatment.

(c) If the person conducting the investigation refuses to request that the attorney for the department file a petition for dependency, the complainant shall be advised of the right to file a petition pursuant to this part.

(6) For each report it receives, the department shall perform an onsite child protective investigation to:

(a) Determine the composition of the family or household, including the name, address, date of birth, social security number, sex, and race of each child named in the report; any siblings or other children in the same household or in the care of the same adults; the parents, legal custodians, or caregivers; and any other adults in the same household.

(b) Determine whether there is indication that any child in the family or household has been abused, abandoned, or neglected; the nature and extent of present or prior injuries, abuse, or neglect, and any evidence thereof; and a determination as to the person or persons apparently responsible for the abuse, abandonment, or neglect, including the name, address, date of birth, social security number, sex, and race of each such person.

(c) Determine the immediate and long-term risk to each child by conducting state and federal records checks on the parents, legal custodians, or caregivers, and any other persons in the same household. This information shall be used solely for purposes supporting the detection, apprehension, prosecution, pretrial release, post-trial release, or rehabilitation of criminal offenders or persons accused of the crimes of child abuse, abandonment, or neglect and shall not be further disseminated or used for any other purpose. The department's child protection investigators are

hereby designated a criminal justice agency for the purpose of accessing criminal justice information to be used for enforcing this state's laws concerning the crimes of child abuse, abandonment, and neglect.

(d) Determine the immediate and long-term risk to each child through utilization of standardized risk-assessment instruments.

(e) Based on the information obtained from the caregiver, complete the risk-assessment instrument within 48 hours after the initial contact and, if needed, develop a case plan.

(f) Determine the protective, treatment, and ameliorative services necessary to safeguard and ensure the child's safety and well-being and development, and cause the delivery of those services through the early intervention of the department or its agent.

(7) If the department or its agent is denied reasonable access to a child by the parents, legal custodians, or caregivers and the department deems that the best interests of the child so require, it shall seek an appropriate court order or other legal authority prior to examining and interviewing the child. The department must show cause to the court that it is necessary to examine and interview the child. If the department interviews a child, the interview must be audio recorded or videotaped, unless the court orders otherwise for good cause. The court shall consider the best interests and safety of the child in making such a determination. If the department interviews a child, the interview must be audio recorded or videotaped.

(8) If the department or its agent determines that a child requires immediate or long-term protection through:

(a) Medical or other health care;

(b) Homemaker care, day care, protective supervision, or other services to stabilize the home environment, including intensive family preservation services through the Family Builders Program, the Intensive Crisis Counseling Program, or both; or

(c) Foster care, shelter care, or other substitute care to remove the child from the custody of the parents, legal guardians, or caregivers,

such services shall first be offered for voluntary acceptance unless there are high-risk factors that may impact the ability of the parents, legal guardians, or caregivers to exercise judgment. Such factors may include the parents', legal guardians', or caregivers' young age or history of substance abuse or domestic violence. The parents, legal custodians, or caregivers shall be informed of the right to refuse services, as well as the responsibility of the department to protect the child regardless of the acceptance or refusal of services. If the services are refused and the department deems that the child's need for protection so requires, the department shall take the child into protective custody or petition the court as provided in this chapter.

(9) When a child is taken into custody pursuant to this section, the authorized agent of the department shall request that the child's parent, caregiver, or legal custodian disclose the names, relationships, and addresses of all parents and prospective parents and all next of kin, so far as are known.

(10) No later than 30 days after receiving the initial report, the local office of the department shall complete its investigation.

(11) Immediately upon receipt of a report alleging, or immediately upon learning during the course of an investigation, that:

(a) The immediate safety or well-being of a child is endangered;

(b) The family is likely to flee;

(c) A child has died as a result of abuse, abandonment, or neglect;

(d) A child is a victim of aggravated child abuse as defined in s. 827.03; or

(e) A child is a victim of sexual battery or of sexual abuse,

the department shall orally notify the jurisdictionally responsible state attorney and county sheriff's office or local police department and, as soon as practicable, transmit the report to those agencies. The law enforcement agency shall review the report and determine whether a criminal investigation needs to be conducted and shall assume lead responsibility for all

criminal fact-finding activities. A criminal investigation shall be coordinated, whenever possible, with the child protective investigation of the department. Any interested person who has information regarding an offense described in this subsection may forward a statement to the state attorney as to whether prosecution is warranted and appropriate.

(12) In a child protective investigation or a criminal investigation, when the initial interview with the child is conducted at school, the department or the law enforcement agency may allow, notwithstanding the provisions of s. 39.0132(4), a school instructional staff member who is known by the child to be present during the initial interview if:

(a) The department or law enforcement agency believes that the school instructional staff member could enhance the success of the interview by his or her presence; and

(b) The child requests or consents to the presence of the school instructional staff member at the interview.

School instructional staff may be present only when authorized by this subsection. Information received during the interview or from any other source regarding the alleged abuse or neglect of the child shall be confidential and exempt from the provisions of s. 119.07(1), except as otherwise provided by court order. A separate record of the investigation of the abuse, abandonment, or neglect shall not be maintained by the school or school instructional staff member. Violation of this subsection constitutes a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(13) Within 15 days after the completion of the investigation of cases reported to him or her pursuant to this section, the state attorney shall report his or her findings to the department and shall include in such report a determination of whether or not prosecution is justified and appropriate in view of the circumstances of the specific case.

Section 38. Section 39.302, Florida Statutes, is created to read:

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

(1) The department shall conduct a child protective investigation of each report of institutional child abuse, abandonment, or neglect. Upon receipt of a report that alleges that an employee or agent of the department, or any other entity or person covered by s. 39.01(32) or (47), acting in an official capacity, has committed an act of child abuse, abandonment, or neglect, the department shall immediately initiate a child protective investigation and orally notify the appropriate state attorney, law enforcement agency, and licensing agency. These agencies shall immediately conduct a joint investigation, unless independent investigations are more feasible. When a facility is exempt from licensing, the department shall inform the owner or operator of the facility of the report. Each agency conducting a joint investigation shall be entitled to full access to the information gathered by the department in the course of the investigation. In all cases, the department shall make a full written report to the state attorney within 3 days after making the oral report. A criminal investigation shall be coordinated, whenever possible, with the child protective investigation of the department. Any interested person who has information regarding the offenses described in this subsection may forward a statement to the state attorney as to whether prosecution is warranted and appropriate. Within 15 days after the completion of the investigation, the state attorney shall report the findings to the department and shall include in such report a determination of whether or not prosecution is justified and appropriate in view of the circumstances of the specific case.

(2)(a) If in the course of the child protective investigation, the department finds that a subject of a report, by continued contact with children in care, constitutes a threatened harm to the physical health, mental health, or welfare of the children, the department may restrict the subject's access to the children pending the outcome of the investigation. The department or its agent shall employ the least restrictive means necessary to safeguard the physical health, mental health, and welfare of the children in care. This authority shall apply only to child protective investigations in which there is some evidence that child abuse, abandonment, or neglect has occurred. A subject of a report whose access to children in care has been restricted is entitled to petition the circuit court for judicial review. The court shall enter written findings of fact based upon the preponderance of evidence that child abuse, abandonment, or neglect did occur and that the department's restrictive action against a subject of the

report was justified in order to safeguard the physical health, mental health, and welfare of the children in care. The restrictive action of the department shall be effective for no more than 90 days without a judicial finding supporting the actions of the department.

(b) Upon completion of the department's child protective investigation, the department may make application to the circuit court for continued restrictive action against any person necessary to safeguard the physical health, mental health, and welfare of the children in care.

(3) Pursuant to the restrictive actions described in subsection (2), in cases of institutional abuse, abandonment, or neglect in which the removal of a subject of a report will result in the closure of the facility, and when requested by the owner of the facility, the department may provide appropriate personnel to assist in maintaining the operation of the facility. The department may provide assistance when it can be demonstrated by the owner that there are no reasonable alternatives to such action. The length of the assistance shall be agreed upon by the owner and the department; however, the assistance shall not be for longer than the course of the restrictive action imposed pursuant to subsection (2). The owner shall reimburse the department for the assistance of personnel provided.

(4) The department shall notify the human rights advocacy committee in the appropriate district of the department as to every report of institutional child abuse, abandonment, or neglect in the district in which a client of the department is alleged or shown to have been abused, abandoned, or neglected, which notification shall be made within 48 hours after the department commences its investigation.

(5) The department shall notify the state attorney and the appropriate law enforcement agency of any other child abuse, abandonment, or neglect case in which a criminal investigation is deemed appropriate by the department.

(6) In cases of institutional child abuse, abandonment, or neglect in which the multiplicity of reports of abuse, abandonment, or neglect or the severity of the allegations indicates the need for specialized investigation by the department in order to afford greater safeguards for the physical health, mental health, and welfare of the children in care, the department shall provide a team of persons specially trained in the areas of child abuse, abandonment, and neglect investigations, diagnosis, and treatment to assist the local office of the department in expediting its investigation and in making recommendations for restrictive actions and to assist in other ways deemed necessary by the department in order to carry out the provisions of this section. The specially trained team shall also provide assistance to any investigation of the allegations by local law enforcement and the Department of Law Enforcement.

Section 39. Section 415.5055, Florida Statutes, is renumbered as section 39.303, Florida Statutes, and amended to read:

39.303 415.5055 Child protection teams; services; eligible cases.—The department shall develop, maintain, and coordinate the services of one or more multidisciplinary child protection teams in each of the service districts of the department. Such teams may be composed of representatives of appropriate health, mental health, social service, legal service, and law enforcement agencies. The Legislature finds that optimal coordination of child protection teams and sexual abuse treatment programs requires collaboration between the Department of Health and the Department of Children and Family Services. The two departments shall maintain an interagency agreement that establishes protocols for oversight and operations of child protection teams and sexual abuse treatment programs. The Secretary of Health and the Director of the Division of Children's Medical Services, in consultation with the Secretary of Children and Family Services, shall maintain the responsibility for the screening, employment, and, if necessary, the termination of child protection team medical directors, at headquarters and in the 15 districts. Child protection team medical directors shall be responsible for oversight of the teams in the districts.

(1) The department shall utilize and convene the teams to supplement the assessment and protective supervision activities of the ~~children, youth, and families program~~ of the department. Nothing in this section shall be construed to remove or reduce the duty and responsibility of any person to report pursuant to ~~this chapter s. 415.504~~ all suspected or actual cases of child abuse, abandonment, or neglect or sexual abuse of a child. The role of the teams shall be to support activities of the program and to provide services deemed by the teams to be necessary and appropriate to abused, abandoned, and neglected children

upon referral. The specialized diagnostic assessment, evaluation, coordination, consultation, and other supportive services that a child protection team shall be capable of providing include, but are not limited to, the following:

(a) Medical diagnosis and evaluation services, including provision or interpretation of X rays and laboratory tests, and related services, as needed, and documentation of findings relative thereto.

(b) Telephone consultation services in emergencies and in other situations.

(c) Medical evaluation related to abuse, *abandonment*, or neglect, as defined by department policy or rule.

(d) Such psychological and psychiatric diagnosis and evaluation services for the child or the child's parent or parents, *legal custodian or custodians guardian or guardians*, or other caregivers, or any other individual involved in a child abuse, *abandonment*, or neglect case, as the team may determine to be needed.

(e) Short-term psychological treatment. It is the intent of the Legislature that short-term psychological treatment be limited to no more than 6 months' duration after treatment is initiated, except that the appropriate district administrator may authorize such treatment for individual children beyond this limitation if the administrator deems it appropriate.

(f) Expert medical, psychological, and related professional testimony in court cases.

(g) Case staffings to develop, implement, and monitor treatment plans for children whose cases have been referred to the team. A child protection team may provide consultation with respect to a child who has not been referred to the team, but who is alleged or is shown to be abused, *abandoned*, or *neglected*, which consultation shall be provided at the request of a representative of the children, youth, and families program or at the request of any other professional involved with a child or the child's parent or parents, *legal custodian or custodians guardian or guardians*, or other caregivers. In every such child protection team case staffing, consultation, or staff activity involving a child, a children, youth, and families program representative shall attend and participate.

(h) Case service coordination and assistance, including the location of services available from other public and private agencies in the community.

(i) Such training services for program and other department employees as is deemed appropriate to enable them to develop and maintain their professional skills and abilities in handling child abuse, *abandonment*, and neglect cases.

(j) Educational and community awareness campaigns on child abuse, *abandonment*, and neglect in an effort to enable citizens more successfully to prevent, identify, and treat child abuse, *abandonment*, and neglect in the community.

(2) The child abuse, *abandonment*, and neglect cases that are appropriate for referral by the children, youth, and families program to child protection teams for support services as set forth in subsection (1) include, but are not limited to, cases involving:

(a) Bruises, burns, or fractures in a child under the age of 3 years or in a nonambulatory child of any age.

(b) Unexplained or implausibly explained bruises, burns, fractures, or other injuries in a child of any age.

(c) Sexual abuse of a child in which vaginal or anal penetration is alleged or in which other unlawful sexual conduct has been determined to have occurred.

(d) Venereal disease, or any other sexually transmitted disease, in a prepubescent child.

(e) Reported malnutrition of a child and failure of a child to thrive.

(f) Reported medical, physical, or emotional neglect of a child.

(g) Any family in which one or more children have been pronounced dead on arrival at a hospital or other health care facility, or have been injured and later died, as a result of suspected abuse, *abandonment*, or neglect, when any sibling or other child remains in the home.

(h) Symptoms of serious emotional problems in a child when emotional or other abuse, *abandonment*, or neglect is suspected.

~~(3) All records and reports of the child protection team are confidential and exempt from the provisions of ss. 119.07(1) and 455.241, and shall not be disclosed, except, upon request, to the state attorney, law enforcement, the department, and necessary professionals, in furtherance of the treatment or additional evaluative needs of the child or by order of the court.~~

(3) In all instances in which a child protection team is providing certain services to abused, *abandoned*, or neglected children, other offices and units of the department shall avoid duplicating the provision of those services.

Section 40. Section 39.3035, Florida Statutes, is created to read:

39.3035 Child advocacy centers; standards; state funding.—

(1) In order to become eligible for a full membership in the Florida Network of Children's Advocacy Centers, Inc., a child advocacy center in this state shall:

(a) Be a private, nonprofit incorporated agency or a governmental entity.

(b) Be a child protection team with established community protocols that meet all of the requirements of the National Network of Children's Advocacy Centers, Inc.

(c) Have a neutral, child-focused facility where joint department and law enforcement interviews take place with children in appropriate cases of suspected child sexual abuse or physical abuse. All multidisciplinary agencies shall have a place to interact with the child as investigative or treatment needs require.

(d) Have a minimum designated staff that is supervised and approved by the local board of directors or governmental entity.

(e) Have a multidisciplinary case review team that meets on a regularly scheduled basis or as the caseload of the community requires. The team shall consist of representatives from the Office of the State Attorney, the department, the child protection team, mental health services, law enforcement, and the child advocacy center staff. Medical personnel and a victim's advocate may be part of the team.

(f) Provide case tracking of child abuse cases seen through the center. A center shall also collect data on the number of child abuse cases seen at the center, by sex, race, age, and other relevant data; the number of cases referred for prosecution; and the number of cases referred for mental health therapy. Case records shall be subject to the confidentiality provisions of s. 39.202.

(g) Provide referrals for medical exams and mental health therapy. The center shall provide followup on cases referred for mental health therapy.

(h) Provide training for various disciplines in the community that deal with child abuse.

(i) Have an interagency commitment, in writing, covering those aspects of agency participation in a multidisciplinary approach to the handling of child sexual abuse and serious physical abuse cases.

(2) Provide assurance that child advocacy center employees and volunteers at the center are trained and screened in accordance with s. 39.001(2).

(3) Any child advocacy center within this state that meets the standards of subsection (1) and is certified by the Florida Network of Children's Advocacy Centers, Inc., as being a full member in the organization shall be eligible to receive state funds that are appropriated by the Legislature.

Section 41. Section 415.507, Florida Statutes, is renumbered as section 39.304, Florida Statutes, and amended to read:

~~39.304 415.507~~ Photographs, medical examinations, X rays, and medical treatment of abused, *abandoned*, or neglected child.—

(1) Any person required to investigate cases of suspected child abuse, *abandonment*, or neglect may take or cause to be taken photographs of the areas of trauma visible on a child who is the subject of a report. If the areas of trauma visible on a child indicate a need for a medical examination, or if the child verbally complains or otherwise exhibits distress as a result of injury through suspected child abuse, *abandonment*, or neglect, or is alleged to have been sexually abused, the person required to investigate may cause the child to be referred for diagnosis to a licensed physician or an emergency department in a hospital without the consent of the child's parents, ~~caregiver~~ legal guardian, or legal custodian. Such examination may be performed by an advanced registered nurse practitioner licensed pursuant to chapter 464. Any licensed physician, or advanced registered nurse practitioner licensed pursuant to chapter 464, who has reasonable cause to suspect that an injury was the result of child abuse, *abandonment*, or *neglect* may authorize a radiological examination to be performed on the child without the consent of the child's parent, ~~caregiver~~ legal guardian, or legal custodian.

(2) Consent for any medical treatment shall be obtained in the following manner.

(a)1. Consent to medical treatment shall be obtained from a parent or ~~legal custodian~~ guardian of the child; or

2. A court order for such treatment shall be obtained.

(b) If a parent or ~~legal custodian~~ guardian of the child is unavailable and his or her whereabouts cannot be reasonably ascertained, and it is after normal working hours so that a court order cannot reasonably be obtained, an authorized agent of the department shall have the authority to consent to necessary medical treatment for the child. The authority of the department to consent to medical treatment in this circumstance shall be limited to the time reasonably necessary to obtain court authorization.

(c) If a parent or ~~legal custodian~~ guardian of the child is available but refuses to consent to the necessary treatment, a court order shall be required unless the situation meets the definition of an emergency in s. 743.064 or the treatment needed is related to suspected abuse, *abandonment*, or neglect of the child by a parent or ~~legal custodian~~ guardian. In such case, the department shall have the authority to consent to necessary medical treatment. This authority is limited to the time reasonably necessary to obtain court authorization.

In no case shall the department consent to sterilization, abortion, or termination of life support.

(3) Any facility licensed under chapter 395 shall provide to the department, its agent, or a child protection team that contracts with the department any photograph or report on examinations made or X rays taken pursuant to this section, or copies thereof, for the purpose of investigation or assessment of cases of abuse, *abandonment*, *neglect*, or *exploitation of children*.

(4)(3) Any photograph or report on examinations made or X rays taken pursuant to this section, or copies thereof, shall be sent to the department as soon as possible.

(5)(4) The county in which the child is a resident shall bear the initial costs of the examination of the allegedly abused, *abandoned*, or *neglected* child; however, the parents, ~~caregiver~~ legal guardian, or legal custodian of the child shall be required to reimburse the county for the costs of such examination, other than an initial forensic physical examination as provided in s. 960.28, and to reimburse the department of ~~Children and Family Services~~ for the cost of the photographs taken pursuant to this section. A medical provider may not bill a child victim, directly or indirectly, for the cost of an initial forensic physical examination.

(5) ~~The court shall order a defendant or juvenile offender who pleads guilty or nolo contendere to, or who is convicted of or adjudicated delinquent for, a violation of chapter 794 or chapter 800 to make restitution to the Crimes Compensation Trust Fund or to the county, whichever paid for the initial forensic physical examination, in an amount equal to~~

~~the compensation paid to the medical provider for the cost of the initial forensic physical examination. The order may be enforced by the department in the same manner as a judgment in a civil action.~~

Section 42. Section 415.5095, Florida Statutes, is renumbered as section 39.305, Florida Statutes, and amended to read:

~~39.305 415.5095~~ Intervention and treatment in sexual abuse cases; model plan.—

~~(1) The impact of sexual abuse on the child and family has caused the Legislature to determine that special intervention and treatment must be offered in certain cases so that the child can be protected from further abuse, the family can be kept together, and the abuser can benefit from treatment. To further this end, it is the intent of the Legislature that special funding shall be available in those communities where agencies and professionals are able to work cooperatively to effectuate intervention and treatment in intrafamily sexual abuse cases.~~

(2) The department of ~~Children and Family Services~~ shall develop a model plan for community intervention and treatment of intrafamily sexual abuse in conjunction with the Department of Law Enforcement, ~~the Department of Health~~, the Department of Education, the Attorney General, the state Guardian Ad Litem Program, the Department of Corrections, representatives of the judiciary, and professionals and advocates from the mental health and child welfare community.

Section 43. Section 39.306, Florida Statutes, is created to read:

39.306 Child protective investigations; working agreements with local law enforcement.—The department shall enter into agreements with the jurisdictionally responsible county sheriffs' offices and local police departments that will assume the lead in conducting any potential criminal investigations arising from allegations of child abuse, abandonment, or neglect. The written agreement must specify how the requirements of this chapter will be met. For the purposes of such agreement, the jurisdictionally responsible law enforcement entity is authorized to share Florida criminal history information that is not otherwise exempt from s. 119.07(1) with the district personnel, authorized agent, or contract provider directly responsible for the child protective investigation and emergency child placement. The agencies entering into such agreement must comply with s. 943.0525. Criminal justice information provided by such law enforcement entity shall be used only for the purposes specified in the agreement and shall be provided at no charge. Notwithstanding any other provision of law, the Department of Law Enforcement shall provide to the department electronic access to Florida criminal justice information that is lawfully available and not exempt from s. 119.07(1), only for the purpose of child protective investigations and emergency child placement. As a condition of access to such information, the department shall be required to execute an appropriate user agreement addressing the access, use, dissemination, and destruction of such information and to comply with all applicable laws and regulations and with rules of the Department of Law Enforcement.

Section 44. Section 415.50171, Florida Statutes, is renumbered as section 39.307, Florida Statutes, and amended to read:

~~39.307 415.50171—Family services response system; Reports of child-on-child sexual abuse.—~~

(1) ~~Subject to specific appropriation,~~ Upon receiving a report alleging juvenile sexual abuse as defined in s. 39.01(7)(b), ~~the department shall assist the family in receiving appropriate services 415.50165(7), district staff shall, unless caregiver abuse or neglect is involved, use a family services response system approach to address the allegations of the report.~~

(2) District staff, at a minimum, shall adhere to the following procedures:

(a) The purpose of the response to a report alleging juvenile sexual abuse behavior shall be explained to the caregiver.

1. The purpose of the response shall be explained in a manner consistent with legislative purpose and intent provided in this *chapter* part.

2. The name and office telephone number of the person responding shall be provided to the caregiver of the alleged juvenile sexual offender and victim's caregiver.

3. The possible consequences of the department's response, including outcomes and services, shall be explained to the caregiver of the alleged juvenile sexual offender and the victim's family or caregiver.

(b) The caregiver of the alleged juvenile sexual offender and the caregiver of the victim shall be involved to the fullest extent possible in determining the nature of the allegation and the nature of any problem or risk to other children.

(c) The assessment of risk and the perceived treatment needs of the alleged juvenile sexual offender, the victim, and respective caregivers shall be conducted by the district staff, the child protection team, and other providers under contract with the department to provide services to the caregiver of the alleged offender, the victim, and the victim's caregiver.

(d) The assessment shall be conducted in a manner that is sensitive to the social, economic, and cultural environment of the family.

(e) When necessary, the child protection team shall conduct an evidence-gathering physical examination of the victim.

(f) Based on the information obtained from the alleged juvenile sexual offender, the alleged juvenile sexual offender's caregiver, the victim, and the victim's caregiver, an assessment service and treatment needs report must be completed within 7 days and, if needed, a case plan developed within 30 days.

(g) The department shall classify the outcome of its initial assessment of the report as follows:

1. Report closed. Services were not offered to the alleged juvenile sexual offender because the department determined that there was no basis for intervention.

2. Services accepted by alleged offender. Services were offered to the alleged juvenile sexual offender and accepted by the caregiver.

3. Report closed. Services were offered to the alleged juvenile sexual offender, but were rejected by the caregiver.

4. Notification to law enforcement. Either the risk to the victim's safety and well-being cannot be reduced by the provision of services or the family rejected services, and notification of the alleged delinquent act or violation of law to the appropriate law enforcement agency was initiated.

5. Services accepted by victim. Services were offered to the victim of the alleged juvenile sexual offender and accepted by the caregiver.

6. Report closed. Services were offered to the victim of the alleged juvenile sexual offender, but were rejected by the caregiver.

(3) When services have been accepted by the alleged juvenile sexual offender, victim, and respective caregivers or family, the department shall designate a case manager and develop a specific case plan.

(a) Upon receipt of the plan, the caregiver or family shall indicate its acceptance of the plan in writing.

(b) The case manager shall periodically review the progress toward achieving the objectives of the plan in order to:

1. Make adjustments to the plan or take additional action as provided in this part; or

2. Terminate the case when indicated by successful or substantial achievement of the objectives of the plan.

(4) In the event the family or caregiver of the alleged juvenile sexual offender fails to adequately participate or allow for the adequate participation of the juvenile sexual offender in the services or treatment delineated in the case plan, the case manager may recommend that the department:

(a) Close the case;

(b) Refer the case to mediation or arbitration, if available; or

(c) Notify the appropriate law enforcement agency of failure to comply.

(5) Services to the alleged juvenile sexual offender, the victim, and respective caregivers or family under this section shall be voluntary and of necessary duration.

(6) At any time, as a result of additional information, findings of facts, or changing conditions, the department may pursue a child protective investigation as provided in *this chapter part IV*.

(7) The department is authorized to develop rules and other policy directives necessary to implement the provisions of this section.

Section 45. Part IV of chapter 39, Florida Statutes, consisting of sections 39.311, 39.312, 39.313, 39.314, 39.315, 39.316, 39.317, and 39.318, Florida Statutes, shall be entitled to read:

PART IV

FAMILY BUILDERS PROGRAM

Section 46. Section 415.515, Florida Statutes, is renumbered as section 39.311, Florida Statutes, and amended to read:

~~39.311 415.515~~ Establishment of Family Builders Program.—

(1) Any Family Builders Program that is established by the department of ~~Children and Family Services or the Department of Juvenile Justice~~ shall provide family preservation services to families whose children are at risk of imminent out-of-home placement because they are ~~dependent or delinquent or are children in need of services~~, to reunite families whose children have been removed and placed in foster care, and to maintain adoptive families intact who are at risk of fragmentation. The Family Builders Program shall provide programs to achieve long-term changes within families that will allow children to remain with their families as an alternative to the more expensive and potentially psychologically damaging program of out-of-home placement.

(2) The department of ~~Children and Family Services and the Department of Juvenile Justice~~ may adopt rules to implement the Family Builders Program.

Section 47. Section 415.516, Florida Statutes, is renumbered as section 39.312, Florida Statutes, and amended to read:

~~39.312 415.516~~ Goals.—The goals of any Family Builders Program shall be to:

(1) *Ensure child health and safety while working with the family.*

~~(2)~~(1) Help parents to improve their relationships with their children and to provide better care, nutrition, hygiene, discipline, protection, instruction, and supervision.

~~(3)~~(2) Help parents to provide a better household environment for their children by improving household maintenance, budgeting, and purchasing.

~~(4)~~(3) Provide part-time child care when parents are unable to do so or need temporary relief.

~~(5)~~(4) Perform household maintenance, budgeting, and purchasing when parents are unable to do so on their own or need temporary relief.

~~(6)~~(5) Assist parents and children to manage and resolve conflicts.

~~(7)~~(6) Assist parents to meet the special physical, mental, or emotional needs of their children and help parents to deal with their own special physical, mental, or emotional needs that interfere with their ability to care for their children and to manage their households.

~~(8)~~(7) Help families to discover and gain access to community resources to which the family or children might be entitled and which would assist the family in meeting its needs and the needs of the children, including the needs for food, clothing, housing, utilities, transportation, appropriate educational opportunities, employment, respite care, and recreational and social activities.

~~(9)~~(8) Help families by providing cash or in-kind assistance to meet their needs for food, clothing, housing, or transportation when such needs prevent or threaten to prevent parents from caring for their children, and when such needs are not met by other sources in the community in a timely fashion.

~~(9) Emphasize parental responsibility and facilitate counseling for children at high risk of delinquent behavior and their parents.~~

(10) Provide such additional reasonable services for the prevention of maltreatment and unnecessary foster care as may be needed in order to strengthen a family at risk.

Section 48. Section 415.517, Florida Statutes, is renumbered as section 39.313, Florida Statutes, and amended to read:

~~39.313 415.517~~ Contracting of services.—The department may contract for the delivery of Family Builders Program services by professionally qualified persons or local governments when it determines that it is in the family's best interest. The service provider or program operator must submit to the department monthly activity reports covering any services rendered. These activity reports must include project evaluation in relation to individual families being served, as well as statistical data concerning families referred for services who are not served due to the unavailability of resources. The costs of program evaluation are an allowable cost consideration in any service contract negotiated in accordance with this ~~section subsection~~.

Section 49. Section 415.518, Florida Statutes, is renumbered as section 39.314, Florida Statutes, and amended to read:

~~39.314 415.518~~ Eligibility for Family Builders Program services.—Family Builders Program services must be made available to a family at risk on a voluntary basis, provided the family meets the eligibility requirements as established by rule and there is space available in the program. All members of the families who accept such services are responsible for cooperating fully with the family preservation plan developed for each family under ~~s. 39.315 this section~~. Families in which children are at imminent risk of sexual abuse or physical endangerment perpetrated by a member of their immediate household are not eligible to receive family preservation services unless the perpetrator is in, or has agreed to enter, a program for treatment and the safety of the children may be enhanced through participation in the Family Builders Program.

Section 50. ~~Section 415.519, Florida Statutes, is renumbered as section 39.315, Florida Statutes.~~

Section 51. Section 415.520, Florida Statutes, is renumbered as section 39.316, Florida Statutes, and amended to read:

~~39.316 415.520~~ Qualifications of Family Builders Program workers.—

(1) A public or private agency staff member who provides direct service to an eligible family must possess a bachelor's degree in a human-service-related field and 2 years' experience providing direct services to children, youth, or their families or possess a master's degree in a human-service-related field with 1 year of experience. A person who supervises caseworkers who provide direct services to eligible families must possess a master's degree in a human-service-related field and have at least 2 years of experience in social work or counseling or must possess a bachelor's degree in a human-service-related field and have at least 3 years' experience in social work or counseling.

(2) A person who provides paraprofessional aide services to families must possess a valid high school diploma or a Graduate Equivalency Diploma and must have a minimum of 2 years' experience in working with families with children. Experience in a volunteer capacity while working with families may be included in the 2 years of required experience.

(3) Caseworkers must successfully complete at least 40 hours of intensive training prior to providing direct ~~services service~~ under this program. Paraprofessional aides and supervisors must, within 90 days after hiring, complete a training program prescribed by the department on child abuse, ~~abandonment~~, and neglect and an overview of the children, youth, and families program components and service delivery system. Program supervisors and caseworkers must thereafter complete at least 40 hours of additional training each year in accordance with standards established by the department.

Section 52. ~~Section 415.521, Florida Statutes, is renumbered as section 39.317, Florida Statutes.~~

Section 53. Section 415.522, Florida Statutes, is renumbered as section 39.318, Florida Statutes, and amended to read:

~~39.318 415.522~~ Funding.—The department is authorized to use appropriate state, federal, and private funds within its budget for operating the Family Builders Program. For each child served, the cost of providing home-based services described in this ~~part~~ ~~aet~~ must not exceed the costs of out-of-home care which otherwise would be incurred.

Section 54. Part V of chapter 39, Florida Statutes, consisting of sections 39.395, 39.401, 39.402, 39.407, and 39.4075, Florida Statutes, shall be entitled to read:

PART V

TAKING CHILDREN INTO CUSTODY
AND SHELTER HEARINGS

Section 55. Section 39.395, Florida Statutes, is created to read:

~~39.395~~ Taking a child into protective custody; medical or hospital personnel.—Any person in charge of a hospital or similar institution or any physician or licensed health care professional treating a child may keep that child in his or her custody without the consent of the parents, caregiver, or legal custodian, whether or not additional medical treatment is required, if the circumstances are such, or if the condition of the child is such, that continuing the child in the child's place of residence or in the care or custody of the parents, caregiver, or legal custodian presents an imminent danger to the child's life or physical or mental health. Any such person taking a child into protective custody shall immediately notify the department, whereupon the department shall immediately begin a child protective investigation in accordance with the provisions of this chapter and shall make every reasonable effort to immediately notify the parents, caregiver, or legal custodian that such child has been taken into protective custody. If the department determines, according to the criteria set forth in this chapter, that the child should remain in protective custody longer than 24 hours, it shall petition the court for an order authorizing such custody in the same manner as if the child were placed in a shelter. The department shall attempt to avoid the placement of a child in an institution whenever possible.

Section 56. Section 39.401, Florida Statutes, as amended by chapter 97-276, Laws of Florida, is amended to read:

~~39.401~~ Taking a child alleged to be dependent into custody; law enforcement officers and authorized agents of the department.—

(1) A child may only be taken into custody:

(a) Pursuant to an order of the circuit court issued pursuant to the provisions of this part, based upon sworn testimony, either before or after a petition is filed; or

(b) By a law enforcement officer, or an authorized agent of the department, if the officer or *authorized* agent has probable cause to support a finding of reasonable grounds for removal and that removal is necessary to protect the child. Reasonable grounds for removal are as follows:

1. That the child has been abused, neglected, or abandoned, or is suffering from or is in imminent danger of illness or injury as a result of abuse, neglect, or abandonment;

2. That the *parent, legal custodian, caregiver, or responsible adult relative* ~~custodian~~ of the child has materially violated a condition of placement imposed by the court; or

3. That the child has no parent, legal custodian, *caregiver*, or responsible adult relative immediately known and available to provide supervision and care.

(2) If the *law enforcement officer* takes ~~person taking~~ the child into custody ~~is not an authorized agent of the department~~, that ~~officer person~~ shall:

(a) Release the child to:

1. The parent, *caregiver*, or ~~guardian~~, legal custodian of the child;:

2. A responsible adult approved by the court when limited to temporary emergency situations;:

3. A responsible adult relative who shall be given priority consideration over a nonrelative placement *when this is in the best interests of the child*; or

4. A responsible adult approved by the department; ~~within 3 days following such release, the person taking the child into custody shall make a full written report to the department for cases involving allegations of abandonment, abuse, or neglect or other dependency cases; or~~

(b) Deliver the child to an authorized agent of the department, stating the facts by reason of which the child was taken into custody and sufficient information to establish probable cause that the child is abandoned, abused, or neglected, or otherwise dependent ~~and make a full written report to the department within 3 days.~~

For cases involving allegations of abandonment, abuse, or neglect, or other dependency cases, within 3 days after such release or within 3 days after delivering the child to an authorized agent of the department, the law enforcement officer who took the child into custody shall make a full written report to the department.

(3) If the child is taken into custody by, or is delivered to, an authorized agent of the department, the authorized agent shall review the facts supporting the removal with *an attorney representing the department legal staff prior to the emergency shelter hearing*. The purpose of this review shall be to determine whether probable cause exists for the filing of ~~a an~~ emergency shelter petition pursuant to s. 39.402(1). If the facts are not sufficient to support the filing of a *shelter* petition, the child shall immediately be returned to the custody of the parent, *caregiver*, or legal custodian. If the facts are sufficient to support the filing of the *shelter* petition, and the child has not been returned to the custody of the parent, *caregiver*, or legal custodian, the department shall file the *shelter* petition and schedule a *shelter* hearing pursuant to s. 39.402(1), such hearing to be held within 24 hours after the removal of the child. While awaiting the emergency shelter hearing, the authorized agent of the department may place the child in licensed shelter care or may release the child to a parent, ~~guardian~~, legal custodian, *caregiver*, or responsible adult relative who shall be given priority consideration over a ~~licensed nonrelative~~ placement, or responsible adult approved by the department *when this is in the best interests of the child*. Any placement of a child which is not in a licensed shelter must be preceded by a local and state criminal records check, as well as a search of the department's automated abuse information system, on all members of the household, to assess the child's safety within the home. In addition, the department may authorize placement of a housekeeper/homemaker in the home of a child alleged to be dependent until the parent or legal custodian assumes care of the child.

(4) When a child is taken into custody pursuant to this section, the department of ~~Children and Family Services~~ shall request that the child's parent, *caregiver*, or legal custodian disclose the names, relationships, and addresses of all parents and prospective parents and all next of kin of the child, so far as are known.

Section 57. Section 39.402, Florida Statutes, as amended by chapter 97-276, Laws of Florida, is amended to read:

39.402 Placement in a shelter.—

(1) Unless ordered by the court under this chapter, a child taken into custody shall not be placed in a shelter prior to a court hearing unless there are reasonable grounds for removal and removal is necessary to protect the child. Reasonable grounds for removal are as follows:

(a) The child has been abused, neglected, or abandoned, or is suffering from or is in imminent danger of illness or injury as a result of abuse, neglect, or abandonment;

(b) The custodian of the child has materially violated a condition of placement imposed by the court; or

(c) The child has no parent, legal custodian, *caregiver*, or responsible adult relative immediately known and available to provide supervision and care.

(2) A child taken into custody may be placed or continued in a shelter only if one or more of the criteria in subsection (1) applies and the court has made a specific finding of fact regarding the necessity for removal of the child from the home and has made a determination that the

provision of appropriate and available services will not eliminate the need for placement.

(3) Whenever a child is taken into custody, the department shall immediately notify the parents or legal custodians, shall provide the parents or legal custodians with a statement setting forth a summary of procedures involved in dependency cases, and shall notify them of their right to obtain their own attorney.

(4) If the department determines that placement in a shelter is necessary under subsections (1) and (2), the authorized agent of the department shall authorize placement of the child in a shelter.

(5)(a) The parents or legal custodians of the child shall be given actual notice of the date, time, and location of the emergency shelter hearing. If the parents or legal custodians are outside the jurisdiction of the court, are not known, or cannot be located or refuse or evade service, they shall be given such notice as best ensures their actual knowledge of the date, time, and location of the emergency shelter hearing. The person providing or attempting to provide notice to the parents or legal custodians shall, if the parents or legal custodians are not present at the hearing, advise the court either in person or by sworn affidavit, of the attempts made to provide notice and the results of those attempts.

(b) *The parents or legal custodians shall be given written notice that:*

~~(b) At the emergency shelter hearing, the department must establish probable cause that reasonable grounds for removal exist and that the provision of appropriate and available services will not eliminate the need for placement.~~

~~1.(c) They will~~ The parents or legal custodians shall be given an opportunity to be heard and to present evidence at the emergency shelter hearing; *and:*

2. *They have the right to be represented by counsel, and, if indigent, the right to be represented by appointed counsel, at the shelter hearing and at each subsequent hearing or proceeding, pursuant to the procedures set forth in s. 39.013.*

(6)(5)(a) The circuit court, or the county court, if previously designated by the chief judge of the circuit court for such purpose, shall hold the shelter hearing.

(b) The shelter petition filed with the court must address each condition required to be determined by the court in *paragraphs (8)(a) and (b) subsection (7)*.

(7)(6) A child may not be removed from the home or continued out of the home pending disposition if, with the provision of appropriate and available *early-intervention or preventive* services, including services provided in the home, the child could safely remain at home. If the child's safety and well-being are in danger, the child shall be removed from danger and continue to be removed until the danger has passed. If the child has been removed from the home and the reasons for his or her removal have been remedied, the child may be returned to the home. If the court finds that the prevention or reunification efforts of the department will allow the child to remain safely at home, the court shall allow the child to remain in the home.

~~(8)(7)(a) A child may not be held in a shelter longer than 24 hours unless an order so directing is entered by the court after a an emergency shelter hearing. In the interval until the shelter hearing is held, the decision to place the child in a shelter or release the child from a shelter lies with the protective investigator. At the emergency shelter hearing, the court shall appoint a guardian ad litem to represent the child unless the court finds that such representation is unnecessary.~~

(b) The parents or legal custodians of the child shall be given such notice as best ensures their actual knowledge of the time and place of the shelter hearing ~~and shall be given an opportunity to be heard and to present evidence at the emergency shelter hearing. The failure to provide notice to a party or participant does not invalidate an order placing a child in a shelter if the court finds that the petitioner has made a good-faith effort to provide such notice.~~ The court shall require the parents or legal custodians present at the hearing to provide to the court on the record the names, addresses, and relationships of all parents, prospective parents, and next of kin of the child, so far as are known.

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

1. Appoint a guardian ad litem to represent the child, unless the court finds that such representation is unnecessary;

2. Inform the parents or legal custodians of their right to counsel to represent them at the shelter hearing and at each subsequent hearing or proceeding, and the right of the parents to appointed counsel, pursuant to the procedures set forth in s. 39.013; and

3. Give the parents or legal custodians an opportunity to be heard and to present evidence.

(d) At the shelter hearing, the department must establish probable cause that reasonable grounds for removal exist and that the provision of appropriate and available services will not eliminate the need for placement.

(e) At the shelter hearing, each party shall provide to the court a permanent mailing address. The court shall advise each party that this address will be used by the court and the petitioner for notice purposes unless and until the party notifies the court and the petitioner in writing of a new mailing address.

(f)(b) The order for placement of a child in shelter care must identify the parties present at the hearing and must contain written findings:

1. That placement in shelter care is necessary based on the criteria in subsections (1) and (2).

2. That placement in shelter care is in the best interest of the child.

3. That continuation of the child in the home is contrary to the welfare of the child because the home situation presents a substantial and immediate danger to the child's physical, mental, or emotional health or safety which cannot be mitigated by the provision of preventive services.

4. That based upon the allegations of the petition for placement in shelter care, there is probable cause to believe that the child is dependent.

5. That the department has made reasonable efforts to prevent or eliminate the need for removal of the child from the home. A finding of reasonable effort by the department to prevent or eliminate the need for removal may be made and the department is deemed to have made reasonable efforts to prevent or eliminate the need for removal if:

a. The first contact of the department with the family occurs during an emergency.

b. The appraisal of the home situation by the department indicates that the home situation presents a substantial and immediate danger to the child's physical, mental, or emotional health or safety which cannot be mitigated by the provision of preventive services.

c. The child cannot safely remain at home, either because there are no preventive services that can ensure the health and safety of the child or because, even with appropriate and available services being provided, the health and safety of the child cannot be ensured.

6. That the court notified the parents or legal custodians of the subsequent dependency proceedings, including scheduled hearings, and of the importance of the active participation of the parents or legal custodians in those subsequent proceedings and hearings.

7. That the court notified the parents or legal custodians of their right to counsel to represent them at the shelter hearing and at each subsequent hearing or proceeding, and the right of the parents to appointed counsel, pursuant to the procedures set forth in s. 39.013.

~~(e) The failure to provide notice to a party or participant does not invalidate an order placing a child in a shelter if the court finds that the petitioner has made a good faith effort to provide such notice.~~

~~(d) In the interval until the shelter hearing is held under paragraph (a), the decision to place the child in a shelter or release the child from a shelter lies with the protective investigator in accordance with subsection (3).~~

(9) At any shelter hearing, the court shall determine visitation rights absent a clear and convincing showing that visitation is not in the best interest of the child.

(10) The shelter hearing order shall contain a written determination as to whether the department has made a reasonable effort to prevent or eliminate the need for removal or continued removal of the child from the home. If the department has not made such an effort, the court shall order the department to provide appropriate and available services to ensure the protection of the child in the home when such services are necessary for the child's health and safety.

~~(8) A child may not be held in a shelter under an order so directing for more than 21 days unless an order of adjudication for the case has been entered by the court. The parent, guardian, or custodian of the child must be notified of any order directing placement of the child in an emergency shelter and, upon request, must be afforded a hearing within 48 hours, excluding Sundays and legal holidays, to review the necessity for continued placement in the shelter for any time periods as provided in this section. At any arraignment hearing or determination of emergency shelter care, the court shall determine visitation rights absent a clear and convincing showing that visitation is not in the best interest of the child, and the court shall make a written determination as to whether the department has made a reasonable effort to prevent or eliminate the need for removal or continued removal of the child from the home. If the department has not made such an effort, the court shall order the department to provide appropriate and available services to assure the protection of the child in the home when such services are necessary for the child's safety. Within 7 days after the child is taken into custody, a petition alleging dependency must be filed and, within 14 days after the child is taken into custody, an arraignment hearing must be held for the child's parent, guardian, or custodian to admit, deny, or consent to the findings of dependency alleged in the petition.~~

~~(11)(12) If a child is placed in a shelter pursuant to under a court order following a shelter hearing, the court shall prepare a shelter hearing order requiring the parents of the child, or the guardian of the child's estate, if possessed of assets which under law may be disbursed for the care, support, and maintenance of the child, to pay, to the department or institution having custody of the child, fees as established by the department. When the order affects the guardianship estate, a certified copy of the order shall be delivered to the judge having jurisdiction of the guardianship estate.~~

~~(12) In the event the shelter hearing is conducted by a judge other than the juvenile court judge, the juvenile court judge shall hold a shelter review on the status of the child within 2 working days after the shelter hearing.~~

~~(13)(9) A child may not be held in a shelter under an order so directing for more than 60 days without an adjudication of dependency. A child may not be held in a shelter for more than 30 days after the entry of an order of adjudication unless an order of disposition under s. 39.41 has been entered by the court.~~

~~(14)(10) The time limitations in this section subsection (8) do not include:~~

(a) Periods of delay resulting from a continuance granted at the request or with the consent of the child's counsel or the child's guardian ad litem, if one has been appointed by the court, or, if the child is of sufficient capacity to express reasonable consent, at the request or with the consent of the child's attorney or the child's guardian ad litem, if one has been appointed by the court, and the child.

(b) Periods of delay resulting from a continuance granted at the request of the attorney for the department, if the continuance is granted:

1. Because of an unavailability of evidence material to the case when the attorney for the department has exercised due diligence to obtain such evidence and there are substantial grounds to believe that such evidence will be available within 30 days. However, if the department is not prepared to present its case within 30 days, the parent or legal custodian guardian may move for issuance of an order to show cause or the court on its own motion may impose appropriate sanctions, which may include dismissal of the petition.

2. To allow the attorney for the department additional time to prepare the case and additional time is justified because of an exceptional circumstance.

(c) Reasonable periods of delay necessary to accomplish notice of the hearing to the child's parents *or legal custodians*; however, the petitioner shall continue regular efforts to provide notice to the parents *or legal custodians* during such periods of delay.

(d) Reasonable periods of delay resulting from a continuance granted at the request of the parent or legal custodian of a subject child.

(15) *At the conclusion of a shelter hearing, the court shall notify all parties in writing of the next scheduled hearing to review the shelter placement. Such hearing shall be held no later than 30 days after placement of the child in shelter status, in conjunction with the arraignment hearing.*

~~(11) The court shall review the necessity for a child's continued placement in a shelter in the same manner as the initial placement decision was made and shall make a determination regarding the continued placement:~~

~~(a) Within 24 hours after any violation of the time requirements for the filing of a petition or the holding of an arraignment hearing as prescribed in subsection (8); or~~

~~(b) Prior to the court's granting any delay as specified in subsection (10).~~

Section 58. Section 39.407, Florida Statutes, is amended to read:

39.407 Medical, psychiatric, and psychological examination and treatment of child; physical or mental examination of parent, ~~guardian~~, or person requesting custody of child.—

(1) When any child is taken into custody and is to be detained in shelter care, the department is authorized to have a medical screening performed on the child without authorization from the court and without consent from a parent or *legal custodian guardian*. Such medical screening shall be performed by a licensed health care professional and shall be to examine the child for injury, illness, and communicable diseases and to determine the need for immunization. The department shall by rule establish the invasiveness of the medical procedures authorized to be performed under this subsection. In no case does this subsection authorize the department to consent to medical treatment for such children.

(2) When the department has performed the medical screening authorized by subsection (1), or when it is otherwise determined by a licensed health care professional that a child who is in the custody of the department, but who has not been committed to the department ~~pursuant to s. 39.41~~, is in need of medical treatment, including the need for immunization, consent for medical treatment shall be obtained in the following manner:

(a)1. Consent to medical treatment shall be obtained from a parent or *legal custodian guardian* of the child; or

2. A court order for such treatment shall be obtained.

(b) If a parent or *legal custodian guardian* of the child is unavailable and his or her whereabouts cannot be reasonably ascertained, and it is after normal working hours so that a court order cannot reasonably be obtained, an authorized agent of the department shall have the authority to consent to necessary medical treatment, including immunization, for the child. The authority of the department to consent to medical treatment in this circumstance shall be limited to the time reasonably necessary to obtain court authorization.

(c) If a parent or *legal custodian guardian* of the child is available but refuses to consent to the necessary treatment, including immunization, a court order shall be required unless the situation meets the definition of an emergency in s. 743.064 or the treatment needed is related to suspected abuse, *abandonment*, or neglect of the child by a parent, *caregiver*, or *legal custodian guardian*. In such case, the department shall have the authority to consent to necessary medical treatment. This authority is limited to the time reasonably necessary to obtain court authorization.

In no case shall the department consent to sterilization, abortion, or termination of life support.

(3) A judge may order a child in the physical custody of the department to be examined by a licensed health care professional. The judge may also order such child to be evaluated by a psychiatrist or a psychologist, by a district school board educational needs assessment team, or, if a developmental disability is suspected or alleged, by the developmental disability diagnostic and evaluation team of the department. If it is necessary to place a child in a residential facility for such evaluation, then the criteria and procedure established in s. 394.463(2) or chapter 393 shall be used, whichever is applicable. The educational needs assessment provided by the district school board educational needs assessment team shall include, but not be limited to, reports of intelligence and achievement tests, screening for learning disabilities and other handicaps, and screening for the need for alternative education as defined in s. 230.23 ~~230.2315(2)~~.

(4) A judge may order a child in the physical custody of the department to be treated by a licensed health care professional based on evidence that the child should receive treatment. The judge may also order such child to receive mental health or retardation services from a psychiatrist, psychologist, or other appropriate service provider. If it is necessary to place the child in a residential facility for such services, then the procedures and criteria established in s. 394.467 or chapter 393 shall be used, whichever is applicable. A child may be provided mental health or retardation services in emergency situations, pursuant to the procedures and criteria contained in s. 394.463(1) or chapter 393, whichever is applicable.

(5) When a child is in the physical custody of the department, a licensed health care professional shall be immediately called if there are indications of physical injury or illness, or the child shall be taken to the nearest available hospital for emergency care.

(6) Except as otherwise provided herein, nothing in this section shall be deemed to eliminate the right of a parent, *legal custodian guardian*, or the child to consent to examination or treatment for the child.

(7) Except as otherwise provided herein, nothing in this section shall be deemed to alter the provisions of s. 743.064.

(8) A court shall not be precluded from ordering services or treatment to be provided to the child by a duly accredited practitioner who relies solely on spiritual means for healing in accordance with the tenets and practices of a church or religious organization, when required by the child's health and when requested by the child.

(9) Nothing in this section shall be construed to authorize the permanent sterilization of the child unless such sterilization is the result of or incidental to medically necessary treatment to protect or preserve the life of the child.

(10) For the purpose of obtaining an evaluation or examination, or receiving treatment as authorized pursuant to this ~~section subsection~~, no child alleged to be or found to be dependent shall be placed in a detention home or other program used primarily for the care and custody of children alleged or found to have committed delinquent acts.

(11) The parents or *legal custodian guardian* of a child in the physical custody of the department remain financially responsible for the cost of medical treatment provided to the child even if either one or both of the parents or if the *legal custodian guardian* did not consent to the medical treatment. After a hearing, the court may order the parents or *legal custodian guardian*, if found able to do so, to reimburse the department or other provider of medical services for treatment provided.

(12) Nothing in this section alters the authority of the department to consent to medical treatment for a dependent child when the child has been committed to the department ~~pursuant to s. 39.41~~, and the department has become the legal custodian of the child.

(13) At any time after the filing of a *shelter petition* or petition for dependency, when the mental or physical condition, including the blood group, of a parent, *caregiver*, *legal custodian guardian*, or other person requesting custody of a child is in controversy, the court may order the person to submit to a physical or mental examination by a qualified professional. The order may be made only upon good cause shown and pursuant to notice and procedures as set forth by the Florida Rules of Juvenile Procedure.

Section 59. Section 39.4033, Florida Statutes, is renumbered as section 39.4075, Florida Statutes, and amended to read:

~~39.4075~~ ~~39.4033~~ Referral of a dependency case to mediation.—

(1) At any stage in a dependency proceeding, ~~the case staffing committee or~~ any party may request the court to refer the parties to mediation in accordance with chapter 44 and rules and procedures developed by the Supreme Court.

(2) A court may refer the parties to mediation. *When such services are available, the court must determine whether it is in the best interests of the child to refer the parties to mediation.*

(3) The department shall advise the ~~parties~~ ~~parents or legal guardians~~ that they are responsible for contributing to the cost of the ~~dependency family~~ mediation to the extent of their ability to pay.

(4) This section applies only to courts in counties in which dependency mediation programs have been established and does not require the establishment of such programs in any county.

Section 60. Part VI of chapter 39, Florida Statutes, consisting of sections 39.501, 39.502, 39.503, 39.504, 39.505, 39.506, 39.507, 39.508, 39.5085, 39.509, and 39.5101, Florida Statutes, shall be entitled to read:

PART VI
PETITION, ARRAIGNMENT, ADJUDICATION,
AND DISPOSITION

Section 61. Section 39.404, Florida Statutes, is renumbered as section 39.501, Florida Statutes, and amended to read:

~~39.501~~ ~~39.404~~ Petition for dependency.—

(1) All proceedings seeking an adjudication that a child is dependent shall be initiated by the filing of a petition by an attorney for the department, or any other person who has knowledge of the facts alleged or is informed of them and believes that they are true.

(2) The purpose of a petition seeking the adjudication of a child as a dependent child is the protection of the child and not the punishment of the person creating the condition of dependency.

(3)(a) The petition shall be in writing, shall identify and list all parents, if known, and all current *caregivers or legal* custodians of the child, and shall be signed by the petitioner under oath stating the petitioner's good faith in filing the petition. When the petition is filed by the department, it shall be signed by an attorney for the department.

(b) The form of the petition and its contents shall be determined by rules of *juvenile* procedure adopted by the Supreme Court.

(c) The petition must specifically set forth the acts or omissions upon which the petition is based and the identity of the person or persons alleged to have committed the acts or omissions, if known. The petition need not contain allegations of acts or omissions by both parents.

(d) The petitioner must state in the petition, if known, whether:

1. A parent, legal custodian, or ~~caregiver~~ ~~person responsible for the child's welfare~~ named in the petition has *previously* unsuccessfully participated in voluntary services offered by the department;

2. A parent ~~or~~, legal custodian, ~~or person responsible for the child's welfare~~ named in the petition has participated in mediation and whether a mediation agreement exists;

3. A parent ~~or~~, legal custodian, ~~or person responsible for the child's welfare~~ has rejected the voluntary services offered by the department; or

4. The department has determined that voluntary services are not appropriate for this family and the reasons for such determination.

(4) When *a child has been placed in shelter status by order of the court* ~~the child has been taken into custody~~, a petition alleging dependency must be filed within 7 days *upon demand of a party, but no later than 21 days after the shelter hearing* ~~after the date the child is taken into custody~~. In all other cases, the petition must be filed within a

reasonable time after the date the child was referred to protective investigation ~~under s. 39.403~~. *The child's parent, guardian, or custodian must be served with a copy of the petition at least 72 hours before the arraignment hearing.*

(5) A petition for termination of parental rights ~~under s. 39.464~~ may be filed at any time.

Section 62. Section 39.405, Florida Statutes, as amended by chapter 97-276, Laws of Florida, is renumbered as section 39.502, Florida Statutes, and amended to read:

~~39.502~~ ~~39.405~~ Notice, process, and service.—

(1) Unless parental rights have been terminated, all parents *and legal custodians* must be notified of all proceedings *or hearings* involving the child. Notice in cases involving shelter hearings and hearings resulting from medical emergencies must be that most likely to result in actual notice to the parents *and legal custodians*. In all other dependency proceedings, notice must be provided in accordance with subsections (4) through (9).

(2) Personal appearance of any person in a hearing before the court obviates the necessity of serving process on that person.

(3) Upon the filing of a petition containing allegations of facts which, if true, would establish that the child is a dependent child, and upon the request of the petitioner, the clerk or deputy clerk shall issue a summons.

(4) The summons shall require the person on whom it is served to appear for a hearing at a time and place specified, not less than 24 hours after service of the summons. A copy of the petition shall be attached to the summons.

(5) The summons shall be directed to, and shall be served upon, all parties other than the petitioner.

(6) It is the duty of the petitioner or moving party to notify all participants and parties known to the petitioner or moving party of all hearings subsequent to the initial hearing unless notice is contained in prior court orders and these orders were provided to the participant or party. Proof of notice or provision of orders may be provided by certified mail with a signed return receipt.

(7) Service of the summons and service of pleadings, papers, and notices subsequent to the summons on persons outside this state must be made pursuant to s. 61.1312.

(8) It is not necessary to the validity of a proceeding covered by this part that the parents, *caregivers*, or legal custodians be present if their identity or residence is unknown after a diligent search has been made, *but in this event the petitioner shall file an affidavit of diligent search prepared by the person who made the search and inquiry, and the court may appoint a guardian ad litem for the child.*

(9) *When an affidavit of diligent search has been filed under subsection (8), the petitioner shall continue to search for and attempt to serve the person sought until excused from further search by the court. The petitioner shall report on the results of the search at each court hearing until the person is identified or located or further search is excused by the court.*

(10)(9) Service by publication shall not be required for dependency hearings and the failure to serve a party or give notice to a participant shall not affect the validity of an order of adjudication or disposition if the court finds that the petitioner has completed a diligent search for that party or participant.

(11)(10) Upon the application of a party or the petitioner, the clerk or deputy clerk shall issue, and the court on its own motion may issue, subpoenas requiring attendance and testimony of witnesses and production of records, documents, and other tangible objects at any hearing.

(12)(11) All process and orders issued by the court shall be served or executed as other process and orders of the circuit court and, in addition, may be served or executed by authorized agents of the department or the guardian ad litem.

(13)(12) Subpoenas may be served within the state by any person over 18 years of age who is not a party to the proceeding and, in addition, may be served by authorized agents of the department.

(14)(13) No fee shall be paid for service of any process or other papers by an agent of the department or the guardian ad litem. If any process, orders, or any other papers are served or executed by any sheriff, the sheriff's fees shall be paid by the county.

~~(14) Failure of a person served with notice to respond or appear at the arraignment hearing constitutes the person's consent to a dependency adjudication. The document containing the notice to respond or appear must contain, in type at least as large as the balance of the document, the following or substantially similar language: "FAILURE TO RESPOND TO THIS NOTICE OR TO APPEAR AT THIS HEARING CONSTITUTES CONSENT TO THE ADJUDICATION OF THIS CHILD (OR THESE CHILDREN) AS DEPENDENT CHILDREN AND MAY ULTIMATELY RESULT IN LOSS OF CUSTODY OF THIS CHILD."~~

(15) A party who is identified as a *person with mental illness or with a developmental disability* ~~developmentally disabled person~~ must be informed by the court of the availability of advocacy services through the department, the Association for Retarded Citizens, or other appropriate *mental health or developmental disability* advocacy groups and encouraged to seek such services.

(16) If the party to whom an order is directed is present or represented at the final hearing, service of the order is not required.

(17) *The parent or legal custodian of the child, the attorney for the department, the guardian ad litem, and all other parties and participants shall be given reasonable notice of all hearings provided for under this part.*

(18) *In all proceedings under this chapter, the court shall provide to the parent or legal custodian of the child, at the conclusion of any hearing, a written notice containing the date of the next scheduled hearing. The court shall also include the date of the next hearing in any order issued by the court.*

Section 63. Section 39.4051, Florida Statutes, as amended by chapter 97-276, Laws of Florida, is renumbered as section 39.503, Florida Statutes, and amended to read:

~~39.503~~ ~~39.4051~~ Identity or location of parent *or legal custodian* unknown; special procedures.—

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

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

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

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

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

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

(2) The information required in subsection (1) may be supplied to the court or the department in the form of a sworn affidavit by a person having personal knowledge of the facts.

(3) If the inquiry under subsection (1) identifies any person as a parent or prospective parent, the court shall require notice of the hearing to be provided to that person.

(4) If the inquiry under subsection (1) fails to identify any person as a parent or prospective parent, the court shall so find and may proceed without further notice.

(5) If the inquiry under subsection (1) identifies a parent or prospective parent, and that person's location is unknown, *the court shall direct the department to shall conduct a diligent search for that person before the scheduling of a disposition hearing regarding the dependency of the child unless the court finds that the best interest of the child requires proceeding without notice to the person whose location is unknown.*

(6) The diligent search required by subsection (5) must include, at a minimum, inquiries of all relatives of the parent or prospective parent made known to the petitioner, inquiries of all offices of program areas of the department likely to have information about the parent or prospective parent, inquiries of other state and federal agencies likely to have information about the parent or prospective parent, inquiries of appropriate utility and postal providers, and inquiries of appropriate law enforcement agencies. *Pursuant to s. 453 of the Social Security Act, 42 U.S.C. 653(c)(B)(4), the department, as the state agency administering Titles IV-B and IV-E of the act, shall be provided access to the federal and state parent locator service for diligent search activities.*

(7) Any agency contacted by a petitioner with a request for information pursuant to subsection (6) shall release the requested information to the petitioner without the necessity of a subpoena or court order.

(8) If the inquiry and diligent search identifies a prospective parent, that person must be given the opportunity to become a party to the proceedings by completing a sworn affidavit of parenthood and filing it with the court or the department. A prospective parent who files a sworn affidavit of parenthood while the child is a dependent child but no later than at the time of or prior to the adjudicatory hearing in any termination of parental rights proceeding for the child shall be considered a parent for all purposes under this section unless the other parent contests the determination of parenthood. If the known parent contests the recognition of the prospective parent as a parent, the prospective parent shall not be recognized as a parent until proceedings under chapter 742 have been concluded. However, the prospective parent shall continue to receive notice of hearings as a participant pending results of the chapter 742 proceedings.

Section 64. Section 39.4055, Florida Statutes, is renumbered as section 39.504, Florida Statutes, and amended to read:

~~39.504~~ ~~39.4055~~ Injunction pending disposition of petition for ~~detention~~ *or dependency*; penalty.—

(1)(a) When a petition for detention or a petition for dependency has been filed or when a child has been taken into custody and reasonable cause, as defined in paragraph (b), exists, the court, upon the request of the department, a law enforcement officer, the state attorney, or other responsible person, or upon its own motion, shall have the authority to issue an injunction to prevent any act of child abuse or any unlawful sexual offense involving a child.

(b) Reasonable cause for the issuance of an injunction exists if there is evidence of child abuse or an unlawful sexual offense involving a child or if there is a reasonable likelihood of such abuse or offense occurring based upon a recent overt act or failure to act.

(2)(a) Notice shall be provided to the parties as set forth in the Florida Rules of Juvenile Procedure, unless the child is reported to be in imminent danger, in which case the court may issue an injunction immediately. *A judge may issue an emergency injunction pursuant to this section without notice at times when the court is closed for the transaction of judicial business.* When such an immediate injunction is issued, the court shall hold a hearing on the next day of judicial business either to dissolve the injunction or to continue or modify it in accordance with the other provisions of this section.

~~(b) A judge may issue an emergency injunction pursuant to this section at times when the court is closed for the transaction of judicial business. The court shall hold a hearing on the next day of judicial business either to dissolve the emergency injunction or to continue or modify it in accordance with the other provisions of this section.~~

(3)(a) In every instance in which an injunction is issued under this section, the purpose of the injunction shall be primarily to protect and

promote the best interests of the child, taking the preservation of the child's immediate family into consideration. The effective period of the injunction shall be determined by the court, except that the injunction will expire at the time of the disposition of the petition for detention or dependency.

(b) The injunction shall apply to the alleged or actual offender in a case of child abuse or an unlawful sexual offense involving a child. The conditions of the injunction shall be determined by the court, which conditions may include ordering the alleged or actual offender to:

1. Refrain from further abuse or unlawful sexual activity involving a child.
2. Participate in a specialized treatment program.
3. Limit contact or communication with the child victim, other children in the home, or any other child.
4. Refrain from contacting the child at home, school, work, or wherever the child may be found.
5. Have limited or supervised visitation with the child.
6. Pay temporary support for the child or other family members; the costs of medical, psychiatric, and psychological treatment for the child victim incurred as a result of the offenses; and similar costs for other family members.
7. Vacate the home in which the child resides.

(c) At any time prior to the disposition of the petition, the alleged or actual offender may offer the court evidence of changed circumstances as a ground to dissolve or modify the injunction.

(4) A copy of any injunction issued pursuant to this section shall be delivered to the protected party, or a parent or caregiver or an individual acting in the place of a parent who is not the respondent, and to any law enforcement agency having jurisdiction to enforce such injunction. Upon delivery of the injunction to the appropriate law enforcement agency, the agency shall have the duty and responsibility to enforce the injunction.

(5) Any person who fails to comply with an injunction issued pursuant to this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 65. Section 39.406, Florida Statutes, is renumbered as section 39.505, Florida Statutes, and amended to read:

~~39.505~~ **39.406** No answer required.—No answer to the petition or any other pleading need be filed by any child, parent, or legal custodian, but any matters which might be set forth in an answer or other pleading may be pleaded orally before the court or filed in writing as any such person may choose. Notwithstanding the filing of an answer or any pleading, the ~~respondent child or parent~~ shall, prior to an adjudicatory hearing, be advised by the court of the right to counsel and shall be given an opportunity to deny the allegations in the petition for dependency or to enter a plea to allegations in the petition before the court.

Section 66. Section 39.408, Florida Statutes, is renumbered as section 39.506, Florida Statutes, and amended to read:

~~39.506~~ **39.408** Arraignment hearings for dependency cases.—

(1) **ARRAIGNMENT HEARING.**—

(a) When a child has been detained by order of the court, an arraignment hearing must be held, within 7 days after the date of filing of the dependency petition 14 days from the date the child is taken into custody, for the parent, guardian, or legal custodian to admit, deny, or consent to findings of dependency alleged in the petition. If the parent, guardian, or legal custodian admits or consents to the findings in the petition, the court shall proceed as set forth in the Florida Rules of Juvenile Procedure. However, if the parent, guardian, or legal custodian denies any of the allegations of the petition, the court shall hold an adjudicatory hearing within 30 days after 7 days from the date of the arraignment hearing unless a continuance is granted pursuant to this chapter s. 39.402(1).

(2)(b) When a child is in the custody of the parent, guardian, or legal custodian, upon the filing of a petition the clerk shall set a date for an

arraignment hearing within a reasonable time after the date of the filing. If the parent, guardian, or legal custodian admits or consents to an adjudication, the court shall proceed as set forth in the Florida Rules of Juvenile Procedure. However, if the parent, guardian, or legal custodian denies any of the allegations of dependency, the court shall hold an adjudicatory hearing within a reasonable time after the date of the arraignment hearing.

(3) Failure of a person served with notice to respond or appear at the arraignment hearing constitutes the person's consent to a dependency adjudication. The document containing the notice to respond or appear must contain, in type at least as large as the balance of the document, the following or substantially similar language: "FAILURE TO RESPOND TO THIS NOTICE OR TO PERSONALLY APPEAR AT THE ARRAIGNMENT HEARING CONSTITUTES CONSENT TO THE ADJUDICATION OF THIS CHILD (OR CHILDREN) AS A DEPENDENT CHILD (OR CHILDREN) AND MAY ULTIMATELY RESULT IN LOSS OF CUSTODY OF THIS CHILD (OR CHILDREN)."

(4) At the arraignment hearing, each party shall provide to the court a permanent mailing address. The court shall advise each party that this address will be used by the court and the petitioner for notice purposes unless and until the party notifies the court and the petitioner in writing of a new mailing address.

(5)(e) If at the arraignment hearing the parent, guardian, or legal custodian consents or admits to the allegations in the petition, the court shall proceed to hold a dispositional hearing no more than 15 days after the date of the arraignment hearing unless a continuance is necessary at the earliest practicable time that will allow for the completion of a predisposition study.

(6) At any arraignment hearing, the court shall order visitation rights absent a clear and convincing showing that visitation is not in the best interest of the child.

(7) The court shall review whether the department has made a reasonable effort to prevent or eliminate the need for removal or continued removal of the child from the home. If the court determines that the department has not made such an effort, the court shall order the department to provide appropriate and available services to assure the protection of the child in the home when such services are necessary for the child's physical, mental, or emotional health and safety.

(8) At the arraignment hearing, and no more than 15 days thereafter, the court shall review the necessity for the child's continued placement in the shelter. The court shall also make a written determination regarding the child's continued placement in the shelter within 24 hours after any violation of the time requirements for the filing of a petition or prior to the court's granting any continuance as specified in subsection (5).

(9) At the conclusion of the arraignment hearing, all parties shall be notified in writing by the court of the date, time, and location for the next scheduled hearing.

(2) **ADJUDICATORY HEARING.**—

(a) The adjudicatory hearing shall be held as soon as practicable after the petition for dependency is filed and in accordance with the Florida Rules of Juvenile Procedure, but reasonable delay for the purpose of investigation, discovery, or procuring counsel or witnesses shall, whenever practicable, be granted. If the child is in custody, the time limitations provided in s. 39.402 and subsection (1) of this section apply.

(b) Adjudicatory hearings shall be conducted by the judge without a jury, applying the rules of evidence in use in civil cases and adjourning the hearings from time to time as necessary. In a hearing on a petition in which it is alleged that the child is dependent, a preponderance of evidence will be required to establish the state of dependency. Any evidence presented in the dependency hearing which was obtained as the result of an anonymous call must be independently corroborated. In no instance shall allegations made in an anonymous report of abuse be sufficient to support an adjudication of dependency in the absence of corroborating evidence.

(c) All hearings, except as provided in this section, shall be open to the public, and a person may not be excluded except on special order of the judge, who may close any hearing to the public upon determining that the public interest or the welfare of the child is best served by so

doing. However, the parents shall be allowed to obtain discovery pursuant to the Florida Rules of Juvenile Procedure. However, nothing in this paragraph shall be construed to affect the provisions of s. 415.51(9). Hearings involving more than one child may be held simultaneously when the children involved are related to each other or were involved in the same case. The child and the parents or legal custodians of the child may be examined separately and apart from each other.

(3) ~~DISPOSITION HEARING.~~—At the disposition hearing, if the court finds that the facts alleged in the petition for dependency were proven in the adjudicatory hearing, or if the parents 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, the court shall receive and consider a predisposition study, which must be in writing and presented by an authorized agent of the department.

(a) The predisposition study shall cover for any dependent child all factors specified in s. 61.13(3), and must also provide the court with the following documented information:

- 1.—An assessment defining the dangers and risks of returning the child home, including a description of the changes in and resolutions to the initial risks.
- 2.—A description of what risks are still present and what resources are available and will be provided for the protection and safety of the child.
- 3.—A description of the benefits of returning the child home.
- 4.—A description of all unresolved issues.
- 5.—An abuse registry history for all caretakers, family members, and individuals residing within the household.
- 6.—The complete child protection team report and recommendation or, if no report exists, a statement reflecting that no report has been made.
- 7.—All opinions or recommendations from other professionals or agencies that provide evaluative, social, reunification, or other services to the family.
- 8.—The availability of appropriate prevention and reunification services for the family to prevent the removal of the child from the home or to reunify the child with the family after removal, including the availability of family preservation services through the Family Builders Program, the Intensive Crisis Counseling Program, or both.
- 9.—The inappropriateness of other prevention and reunification services that were available.
- 10.—The efforts by the department to prevent out-of-home placement of the child or, when applicable, to reunify the family if appropriate services were available, including the application of intensive family preservation services through the Family Builders Program, the Intensive Crisis Counseling Program, or both.
- 11.—Whether the services were provided to the family and child.
- 12.—If the services were provided, whether they were sufficient to meet the needs of the child and the family and to enable the child to remain at home or to be returned home.
- 13.—If the services were not provided, the reasons for such lack of action.
- 14.—The need for, or appropriateness of, continuing the services if the child remains in the custody of the family or if the child is placed outside the home.
- 15.—Whether family mediation was provided.
- 16.—Whether a multidisciplinary case staffing was conducted and, if so, the results.
- 17.—If the child has been removed from the home and there is a parent who may be considered for custody pursuant to s. 39.41(1), a

recommendation as to whether placement of the child with that parent would be detrimental to the child.

(b) If placement of the child with anyone other than the child's parent or custodian is being considered, the study shall include the designation of a specific length of time as to when custody by the parent or custodian will be reconsidered.

(c) A copy of the predisposition study must be furnished to all parties no later than 48 hours before the disposition hearing.

(d) The predisposition study may not be made before the adjudication of dependency unless the parents or custodians of the child consent.

Any other relevant and material evidence, including other written or oral reports, may be received by the court in its effort to determine the action to be taken with regard to the child and may be relied upon to the extent of its probative value, even though not competent in an adjudicatory hearing. Except as provided in paragraph (2)(c), nothing in this section prohibits the publication of proceedings in a hearing.

(4) ~~NOTICE OF HEARINGS.~~—The parent or legal custodian of the child, the attorney for the department, the guardian ad litem, and all other parties and participants shall be given reasonable notice of all hearings provided for under this section.

Section 67. Section 39.409, Florida Statutes, is renumbered as section 39.507, Florida Statutes, and amended to read:

~~39.507~~ ~~39.409~~ *Adjudicatory hearings; orders of adjudication.*—

(1)(a) *The adjudicatory hearing shall be held as soon as practicable after the petition for dependency is filed and in accordance with the Florida Rules of Juvenile Procedure, but no later than 30 days after the arraignment.*

(b) *Adjudicatory hearings shall be conducted by the judge without a jury, applying the rules of evidence in use in civil cases and adjourning the hearings from time to time as necessary. In a hearing on a petition in which it is alleged that the child is dependent, a preponderance of evidence will be required to establish the state of dependency. Any evidence presented in the dependency hearing which was obtained as the result of an anonymous call must be independently corroborated. In no instance shall allegations made in an anonymous report of abuse, abandonment, or neglect be sufficient to support an adjudication of dependency in the absence of corroborating evidence.*

(2) *All hearings, except as provided in this section, shall be open to the public, and a person may not be excluded except on special order of the judge, who may close any hearing to the public upon determining that the public interest or the welfare of the child is best served by so doing. However, the parents shall be allowed to obtain discovery pursuant to the Florida Rules of Juvenile Procedure. However, nothing in this subsection shall be construed to affect the provisions of s. 39.202. Hearings involving more than one child may be held simultaneously when the children involved are related to each other or were involved in the same case. The child and the parents, caregivers, or legal custodians of the child may be examined separately and apart from each other.*

(3) *Except as otherwise specifically provided, nothing in this section prohibits the publication of the proceedings in a hearing.*

(4)(1) *If the court finds at the adjudicatory hearing that the child named in a petition is not dependent, it shall enter an order so finding and dismissing the case.*

(5)(2) *If the court finds that the child named in the petition is dependent, but finds that no action other than supervision in the child's home is required, it may enter an order briefly stating the facts upon which its finding is based, but withholding an order of adjudication and placing the child's home under the supervision of the department. If the court later finds that the parents, caregivers, or legal custodians of the child have not complied with the conditions of supervision imposed, the court may, after a hearing to establish the noncompliance, but without further evidence of the state of dependency, enter an order of adjudication and shall thereafter have full authority under this chapter to provide for the child as adjudicated.*

(6)(3) *If the court finds that the child named in a petition is dependent, but shall elect not to proceed under subsection (5) (2), it shall*

incorporate that finding in an order of adjudication entered in the case, briefly stating the facts upon which the finding is made, and the court shall thereafter have full authority under this chapter to provide for the child as adjudicated.

(7) *At the conclusion of the adjudicatory hearing, if the child named in the petition is found dependent, the court shall schedule the disposition hearing within 30 days after the filing of the adjudicatory order. All parties shall be notified in writing by the court of the date, time, and location of the disposition hearing.*

(8)(4) An order of adjudication by a court that a child is dependent shall not be deemed a conviction, nor shall the child be deemed to have been found guilty or to be a criminal by reason of that adjudication, nor shall that adjudication operate to impose upon the child any of the civil disabilities ordinarily imposed by or resulting from conviction or disqualification or prejudice the child in any civil service application or appointment.

Section 68. Section 39.41, Florida Statutes, as amended by chapter 97-276, Laws of Florida, is renumbered as section 39.508, Florida Statutes, and amended to read:

~~39.508~~ ~~39.41~~ Powers of disposition.—

(1) *At the disposition hearing, if the court finds that the facts alleged in the petition for dependency were proven in the adjudicatory hearing, or if the parents, caregivers, 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, the court shall receive and consider a case plan and a predisposition study, which must be in writing and presented by an authorized agent of the department.*

(2) *The predisposition study shall cover for any dependent child all factors specified in s. 61.13(3), and must also provide the court with the following documented information:*

(a) *An assessment defining the dangers and risks of returning the child home, including a description of the changes in and resolutions to the initial risks.*

(b) *A description of what risks are still present and what resources are available and will be provided for the protection and safety of the child.*

(c) *A description of the benefits of returning the child home.*

(d) *A description of all unresolved issues.*

(e) *An abuse registry history and criminal records check for all caregivers, family members, and individuals residing within the household.*

(f) *The complete child protection team report and recommendation or, if no report exists, a statement reflecting that no report has been made.*

(g) *All opinions or recommendations from other professionals or agencies that provide evaluative, social, reunification, or other services to the family.*

(h) *The availability of appropriate prevention and reunification services for the family to prevent the removal of the child from the home or to reunify the child with the family after removal, including the availability of family preservation services through the Family Builders Program, the Intensive Crisis Counseling Program, or both.*

(i) *The inappropriateness of other prevention and reunification services that were available.*

(j) *The efforts by the department to prevent out-of-home placement of the child or, when applicable, to reunify the family if appropriate services were available, including the application of intensive family preservation services through the Family Builders Program, the Intensive Crisis Counseling Program, or both.*

(k) *Whether the services were provided to the family and child.*

(l) *If the services were provided, whether they were sufficient to meet the needs of the child and the family and to enable the child to remain safely at home or to be returned home.*

(m) *If the services were not provided, the reasons for such lack of action.*

(n) *The need for, or appropriateness of, continuing the services if the child remains in the custody of the family or if the child is placed outside the home.*

(o) *Whether family mediation was provided.*

(p) *If the child has been removed from the home and there is a parent, caregiver, or legal custodian who may be considered for custody pursuant to this section, a recommendation as to whether placement of the child with that parent, caregiver, or legal custodian would be detrimental to the child.*

(q) *If the child has been removed from the home and will be remaining with a relative or caregiver, a home study report shall be included in the predisposition report.*

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

(3)(a) *Prior to recommending to the court any out-of-home placement for a child other than placement in a licensed shelter or foster home, the department shall conduct a study of the home of the proposed caregivers, which must include, at a minimum:*

1. *An interview with the proposed adult caregivers to assess their ongoing commitment and ability to care for the child.*

2. *Records checks through the department's automated abuse information system, and local and statewide criminal and juvenile records checks through the Department of Law Enforcement, on all household members 12 years of age or older and any other persons made known to the department who are frequent visitors in the home.*

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

4. *A determination of the financial security of the proposed caregivers.*

5. *A determination of suitable child care arrangements if the proposed caregivers are employed outside of the home.*

6. *Documentation of counseling and information provided to the proposed caregivers regarding the dependency process and possible outcomes.*

7. *Documentation that information regarding support services available in the community has been provided to the caregivers.*

(b) *The department shall not place the child or continue the placement of the child in the home of the proposed caregivers if the results of the home study are unfavorable.*

(4) *If placement of the child with anyone other than the child's parent, caregiver, or legal custodian is being considered, the predisposition study shall include the designation of a specific length of time as to when custody by the parent, caregiver, or legal custodian will be reconsidered.*

(5) *The predisposition study may not be made before the adjudication of dependency unless the parents, caregivers, or legal custodians of the child consent.*

(6) *A case plan and predisposition study must be filed with the court and served upon the parents, caregivers, or legal custodians of the child, provided to the representative of the guardian ad litem program, if the program has been appointed, and provided to all other parties not less than 72 hours before the disposition hearing. All such case plans must be approved by the court. If the court does not approve the case plan at the disposition hearing, the court must set a hearing within 30 days after the disposition hearing to review and approve the case plan.*

(7) *The initial judicial review must be held no later than 90 days after the date of the disposition hearing or after the date of the hearing at which the court approves the case plan, but in no event shall the review*

be held later than 6 months after the date of the child's removal from the home.

(8)(1) When any child is adjudicated by a court to be dependent, and the court finds that removal of the child from the custody of a parent, legal custodian, or caregiver is necessary, the court shall first determine whether there is a parent with whom the child was not residing at the time the events or conditions arose that brought the child within the jurisdiction of the court who desires to assume custody of the child and, if such parent requests custody, the court shall place the child with the parent unless it finds that such placement would endanger the safety, and well-being, or physical, mental, or emotional health of the child. Any party with knowledge of the facts may present to the court evidence regarding whether the placement will endanger the safety, and well-being, or physical, mental, or emotional health of the child. If the court places the child with such parent, it may do either of the following:

(a) Order that the parent become the legal and physical custodian of the child. The court may also provide for reasonable visitation by the noncustodial parent. The court shall then terminate its jurisdiction over the child. The custody order shall continue unless modified by a subsequent order of the court. The order of the juvenile court shall be filed in any dissolution or other custody action or proceeding between the parents.

(b) Order that the parent assume custody subject to the jurisdiction of the juvenile court. The court may order that reunification services be provided to the parent, caregiver, or legal custodian or guardian from whom the child has been removed, that services be provided solely to the parent who is assuming physical custody in order to allow that parent to retain later custody without court jurisdiction, or that services be provided to both parents, in which case the court shall determine at every review hearing held every 6 months which parent, if either, shall have custody of the child. The standard for changing custody of the child from one parent to another or to a relative or caregiver must meet the home study criteria and court approval pursuant to this chapter at the review hearings shall be the same standard as applies to changing custody of the child in a custody hearing following a decree of dissolution of marriage.

(9)(2)(a) 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, caregiver, or legal guardian, or custodian, and the child when appropriate, to participate in treatment and services identified as necessary.

2. Require the parent, caregiver, or legal guardian, or custodian, and the child when appropriate, to participate in mediation if the parent, caregiver, or legal guardian, or custodian refused to participate in mediation under s. 39.4033.

3. Place the child under the protective supervision of an authorized agent of the department, either in the child's own home or, the prospective custodian being willing, in the home of a relative of the child or of a caregiver an adult nonrelative approved by the court, or in some other suitable place under such reasonable conditions as the court may direct. Whenever the child is placed under protective supervision pursuant to this section, the department shall prepare a case plan and shall file it with the court. Protective supervision continues until the court terminates it or until the child reaches the age of 18, whichever date is first. Protective supervision shall may be terminated by the court whenever the court determines that permanency has been achieved for the child the child's placement, whether with a parent, another relative, a legal custodian, or a caregiver, or a nonrelative, is stable 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 of Children and Family Services 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.

4. Place the child in the temporary legal custody of an adult relative or caregiver an adult nonrelative approved by the court who is willing to care for the child.

5.a. When the parents have failed to comply with a case plan and the court determines at a judicial review hearing, or at an adjudication

hearing held pursuant to s. 39.453, or at a hearing held pursuant to subparagraph (1)(a)7. of this section, that neither reunification, termination of parental rights, nor adoption is in the best interest of the child, the court may place the child in the long-term custody of an adult relative or caregiver adult nonrelative approved by the court willing to care for the child, if the following conditions are met:

(I) A case plan describing the responsibilities of the relative or caregiver nonrelative, the department, and any other party must have been submitted to the court.

(II) The case plan for the child does not include reunification with the parents or adoption by the relative or caregiver.

(III) The child and the relative or caregiver nonrelative custodian are determined not to need protective supervision or preventive services to ensure the stability of the long-term custodial relationship, or the department assures the court that protective supervision or preventive services will be provided in order to ensure the stability of the long-term custodial relationship.

(IV) Each party to the proceeding agrees that a long-term custodial relationship does not preclude the possibility of the child returning to the custody of the parent at a later date.

(V) The court has considered the reasonable preference of the child if the court has found the child to be of sufficient intelligence, understanding, and experience to express a preference.

(VI) The court has considered the recommendation of the guardian ad litem if one has been appointed.

b. The court shall retain jurisdiction over the case, and the child shall remain in the long-term custody of the relative or caregiver nonrelative approved by the court until the order creating the long-term custodial relationship is modified by the court. The court may relieve the department of the responsibility for supervising the placement of the child whenever the court determines that the placement is stable and that such supervision is no longer needed. Notwithstanding the retention of jurisdiction, the placement shall be considered a permanency option for the child when the court relieves the department of the responsibility for supervising the placement. The order terminating supervision by the department of Children and Family Services 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. The court may modify the order terminating supervision of the long-term relative or caregiver nonrelative placement if it finds that a party to the proceeding has shown a material change in circumstances which causes the long-term relative or caregiver nonrelative placement to be no longer in the best interest of the child.

6.a. Approve placement of the child in long-term out-of-home foster care, when the following conditions are met:

(I) The foster child is 16 years of age or older, unless the court determines that the history or condition of a younger child makes long-term out-of-home foster care the most appropriate placement.

(II) The child demonstrates no desire to be placed in an independent living arrangement pursuant to this subsection.

(III) The department's social services study pursuant to part VIII s. 39.453(6)(a) recommends long-term out-of-home foster care.

b. Long-term out-of-home foster care under the above conditions shall not be considered a permanency option.

c. The court may approve placement of the child in long-term out-of-home foster care, as a permanency option, when all of the following conditions are met:

(I) The child is 14 years of age or older,

(II) The child is living in a licensed home and the foster parents desire to provide care for the child on a permanent basis and the foster parents and the child do not desire adoption,

(III) The foster family has made a commitment to provide for the child until he or she reaches the age of majority and to prepare the child for adulthood and independence, and

(IV) The child has remained in the home for a continuous period of no less than 12 months.

(V) The foster parents and the child view one another as family and consider living together as the best place for the child to be on a permanent basis.

(VI) The department's social services study recommends such placement and finds the child's well-being has been promoted through living with the foster parents.

d. Notwithstanding the retention of jurisdiction and supervision by the department, long-term *out-of-home* foster care placements made pursuant to ~~sub-subparagraph (2)(a)6.c.~~ of this section shall be considered a permanency option for the child. For purposes of this subsection, supervision by the department shall be defined as a minimum of semiannual visits. The order placing the child in long-term *out-of-home* foster care as a permanency option 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. The court may modify the permanency option of long-term *out-of-home* foster care if it finds that a party to the proceeding has shown a material change in circumstances which causes the placement to be no longer in the best interests of the child.

e. *Approve placement of the child in an independent living arrangement for any foster child 16 years of age or older, if it can be clearly established that this type of alternate care arrangement is the most appropriate plan and that the health, safety, and well-being of the child will not be jeopardized by such an arrangement. While in independent living situations, children whose legal custody has been awarded to the department or a licensed child-caring or child-placing agency, or who have been voluntarily placed with such an agency by a parent, guardian, relative, or adult nonrelative approved by the court, continue to be subject to court review provisions.*

~~7. Commit the child to a licensed child-caring agency willing to receive the child. Continued commitment to the licensed child-caring agency, as well as all other proceedings under this section pertaining to the child, are also governed by part V of this chapter.~~

~~7.8. Commit the child to the temporary legal custody of the department. Such commitment invests in the department all rights and responsibilities of a legal custodian. The department shall not return any child to the physical care and custody of the person from whom the child was removed, except for short visitation periods, without the approval of the court. 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 custody of the department, all further proceedings under this section are also governed by part V of this chapter.~~

~~8.9.a. Change the temporary legal custody or the conditions of protective supervision at a postdisposition hearing subsequent to the initial detention hearing, without the necessity of another adjudicatory hearing. A child who has been placed in the child's own home under the protective supervision of an authorized agent of the department, in the home of a relative, in the home of a *legal custodian or caregiver nonrelative*, or in some other place may be brought before the court by the agent of the department who is supervising the placement or by any other interested person, upon the filing of a petition alleging a need for a change in the conditions of protective supervision or the placement. If the parents or other custodians deny the need for a change, the court shall hear all parties in person or by counsel, or both. Upon the admission of a need for a change or after such hearing, the court shall enter an order changing the placement, modifying the conditions of protective supervision, or continuing the conditions of protective supervision as ordered. *The standard for changing custody of the child from one parent to another or to a relative or caregiver must meet the home study criteria and court approval pursuant to this chapter.*~~

~~b. In cases where the issue before the court is whether a child should be reunited with a parent, the court shall determine whether the parent has substantially complied with the terms of the case plan to the extent that the *well-being and safety, well-being, and physical, mental, and emotional health* of the child is not endangered by the return of the child to the home.~~

~~10. Approve placement of the child in an independent living arrangement for any foster child 16 years of age or older, if it can be clearly~~

~~established that this type of alternate care arrangement is the most appropriate plan and that the safety and welfare of the child will not be jeopardized by such an arrangement. While in independent living situations, children whose legal custody has been awarded to the department or a licensed child-caring or child-placing agency, or who have been voluntarily placed with such an agency by a parent, guardian, relative, or adult nonrelative approved by the court, continue to be subject to the court review provisions of s. 39.453.~~

(b) The court shall, in its written order of disposition, include all of the following:

1. The placement or custody of the child as provided in paragraph (a).
2. Special conditions of placement and visitation.
3. Evaluation, counseling, treatment activities, and other actions to be taken by the parties, if ordered.
4. The persons or entities responsible for supervising or monitoring services to the child and family.

5. Continuation or discharge of the guardian ad litem, as appropriate.

6. *The date, time, and location of the next scheduled review hearing, which must occur within 90 days after the disposition hearing or within the earlier of:*

- a. *Six months after the date of the last review hearing; or*
- b. *Six months after the date of the child's removal from his or her home, if no review hearing has been held since the child's removal from the home. The period of time or date for any subsequent case review required by law.*

7. Other requirements necessary to protect the health, safety, and well-being of the child, *to preserve the stability of the child's educational placement*, and to promote family preservation or reunification whenever possible.

(c) If the court finds that the prevention or reunification efforts of the department will allow the child to remain safely at home or be safely returned to the home, the court shall allow the child to remain in or return to the home after making a specific finding of fact that the reasons for removal have been remedied to the extent that the child's safety, *and well-being, and physical, mental, and emotional health* will not be endangered.

~~(d)(5)(a) If the court commits the child to the temporary legal custody of the department, the disposition order must include a written determination that the child cannot *safely* remain at home with reunification or family preservation services and that removal of the child is necessary to protect the child. If the child has been removed before the disposition hearing, the order must also include a written determination as to whether, after removal, the department has made a reasonable effort to reunify the family. The department has the burden of demonstrating that it has made reasonable efforts under this *paragraph subsection*.~~

~~1.(b) For the purposes of this *paragraph subsection*, the term "reasonable effort" means the exercise of reasonable diligence and care by the department to provide the services delineated in the case plan.~~

~~2.(e) In support of its determination as to whether reasonable efforts have been made, the court shall:~~

~~a.1. Enter written findings as to whether or not prevention or reunification efforts were indicated.~~

~~b.2. If prevention or reunification efforts were indicated, include a brief written description of what appropriate and available prevention and reunification efforts were made.~~

~~c.3. Indicate in writing why further efforts could or could not have prevented or shortened the separation of the family.~~

~~3.(d) A court may find that the department has made a reasonable effort to prevent or eliminate the need for removal if:~~

a.1- The first contact of the department with the family occurs during an emergency.

b.2- The appraisal by the department of the home situation indicates that it presents a substantial and immediate danger to the *child's safety or physical, mental, or emotional health* ~~child~~ which cannot be mitigated by the provision of preventive services.

c.3- The child cannot safely remain at home, either because there are no preventive services that can ensure the *health and safety* of the child or, even with appropriate and available services being provided, the *health and safety* of the child cannot be ensured.

4.(e) A reasonable effort by the department for reunification of the family has been made if the appraisal of the home situation by the department indicates that the severity of the conditions of dependency is such that reunification efforts are inappropriate. The department has the burden of demonstrating to the court that reunification efforts were inappropriate.

5.(4) If the court finds that the prevention or reunification effort of the department would not have permitted the child to remain safely at home, the court may commit the child to the temporary legal custody of the department or take any other action authorized by this ~~chapter~~ ~~part~~.

(10)(3)(a) When any child is adjudicated by the court to be dependent and temporary legal custody of the child has been placed with an adult relative, *legal custodian, or caregiver* ~~or adult nonrelative~~ approved by the court ~~willing to care for the child~~, a licensed child-caring agency, or the department, the court shall, unless a parent has voluntarily executed a written surrender for purposes of adoption, order the parents, or the guardian of the child's estate if possessed of assets which under law may be disbursed for the care, support, and maintenance of the child, to pay child support to the adult relative, *legal custodian, or caregiver* ~~or nonrelative~~ caring for the child, the licensed child-caring agency, or the department. The court may exercise jurisdiction over all child support matters, shall adjudicate the financial obligation, including health insurance, of the child's parents or guardian, and shall enforce the financial obligation as provided in chapter 61. The state's child support enforcement agency shall enforce child support orders under this section in the same manner as child support orders under chapter 61.

(b) Placement of the child pursuant to subsection (8) (4) shall not be contingent upon issuance of a support order.

(11)(4)(a) If the court does not commit the child to the temporary legal custody of an adult relative, *legal custodian, or caregiver* ~~or adult nonrelative~~ approved by the court, the disposition order shall include the reasons for such a decision and shall include a determination as to whether diligent efforts were made by the department to locate an adult relative, *legal custodian, or caregiver* willing to care for the child in order to present that placement option to the court instead of placement with the department.

(b) If ~~diligent efforts are a diligent search~~ is made to locate an adult relative willing and able to care for the child but, because no suitable relative is found, the child is placed with the department or a *legal custodian or caregiver* ~~nonrelative custodian~~, both the department and the court shall consider transferring temporary legal custody to ~~an a~~ ~~willing~~ adult relative ~~or adult nonrelative~~ approved by the court at a later date, but neither the department nor the court is obligated to so place the child if it is in the child's best interest to remain in the current placement. *For the purposes of this paragraph, "diligent efforts to locate an adult relative" means a search similar to the diligent search for a parent, but without the continuing obligation to search after an initial adequate search is completed.*

(12)(6) An agency granted legal custody shall have the right to determine where and with whom the child shall live, but an individual granted legal custody shall exercise all rights and duties personally unless otherwise ordered by the court.

(13)(7) In carrying out the provisions of this chapter, the court may order the natural parents, *caregivers*, or *legal custodians* ~~guardian~~ of a child who is found to be dependent to participate in family counseling and other professional counseling activities deemed necessary for the rehabilitation of the child.

(14)(8) With respect to a child who is the subject in proceedings under ~~part V~~ of this chapter, the court shall *issue to the department an order to show cause why it should not return the child to the custody of the natural parents, legal custodians, or caregivers* upon expiration of the case plan, or sooner if the parents, *legal custodians, or caregivers* have substantially complied with the case plan.

(15)(9) The court may at any time enter an order ending its jurisdiction over any child, except that, when a child has been returned to the parents under subsection (14) (8), the court shall not terminate its jurisdiction over the child until 6 months after the *child's* return. Based on a report of the department or agency ~~or the child's guardian ad litem~~, and any other relevant factors, the court shall then determine whether its jurisdiction should be continued or terminated in such a case; if its jurisdiction is to be terminated, the court shall enter an order to that effect.

Section 69. Section 39.5085, Florida Statutes, is created to read:

39.5085 Relative-Caregiver Program.—

(1) *It is the intent of the Legislature in enacting this section to:*

(a) *Recognize family relationships in which a grandparent or other relative is the head of a household that includes a child otherwise at risk of foster care placement.*

(b) *Enhance family preservation and stability by recognizing that most children in such placements with grandparents and other relatives do not need intensive supervision of the placement by the courts or by the department.*

(c) *Provide additional placement options and incentives that will achieve permanency and stability for many children who are otherwise at risk of foster care placement because of abuse, abandonment, or neglect, but who may successfully be able to be placed by the dependency court in the care of such relatives.*

(d) *Reserve the limited casework and supervisory resources of the courts and the department for those cases in which children do not have the option for safe, stable care within the family.*

(2)(a) *The Department of Children and Family Services shall establish and operate the Relative-Caregiver Program pursuant to eligibility guidelines established in this section as further implemented by rule of the department. The Relative-Caregiver Program shall, within the limits of available funding, provide financial assistance to relatives who are within the fifth degree by blood or marriage to the parent or stepparent of a child and who are caring full-time for that child in the role of substitute parent as a result of a departmental determination of child abuse, neglect, or abandonment and subsequent placement with the relative pursuant to chapter 39. Such placement may be either court-ordered temporary legal custody to the relative pursuant to s. 39.508(9) or court-ordered placement in the home of a relative under protective supervision of the department pursuant to s. 39.508(9). The Relative-Caregiver Program shall offer financial assistance to caregivers who are relatives and who would be unable to serve in that capacity without the relative-caregiver payment because of financial burden, thus exposing the child to the trauma of placement in a shelter or in foster care.*

(b) *Caregivers who are relatives and who receive assistance under this section must be capable, as determined by a home study, of providing a physically safe environment and a stable, supportive home for the children under their care, and must assure that the children's well-being is met, including, but not limited to, the provision of immunizations, education, and mental health services as needed.*

(c) *Relatives who qualify for and participate in the Relative-Caregiver Program are not required to meet foster care licensing requirements under s. 409.175.*

(d) *Relatives who are caring for children placed with them by the child protection system shall receive a special monthly relative-caregiver benefit established by rule of the department. The amount of the special benefit payment shall be based on the child's age within a payment schedule established by rule of the department and subject to availability of funding. The statewide average monthly rate for children judicially placed with relatives who are not licensed as foster homes may not exceed 82 percent of the statewide average foster care rate, nor may the cost of*

providing the assistance described in this section to any relative-caregiver exceed the cost of providing out-of-home care in emergency shelter or foster care.

(e) Children receiving cash benefits under this section are not eligible to simultaneously receive WAGES cash benefits under chapter 414.

(f) Within available funding, the Relative-Caregiver Program shall provide relative-caregivers with family support and preservation services, flexible funds in accordance with s. 409.165, subsidized child care, and other available services in order to support the child's safety, growth, and healthy development. Children living with relative-caregivers who are receiving assistance under this section shall be eligible for medicaid coverage.

(g) The department may use appropriate available state, federal, and private funds to operate the Relative-Caregiver Program.

Section 70. Section 39.4105, Florida Statutes, is renumbered as section 39.509, Florida Statutes, and amended to read:

~~39.509~~ ~~39.4105~~ Grandparents rights.—Notwithstanding any other provision of law, a maternal or paternal grandparent as well as a step-grandparent is entitled to reasonable visitation with his or her grandchild who has been adjudicated a dependent child and taken from the physical custody of ~~the his or her~~ parent, custodian, legal guardian, or caregiver unless the court finds that such visitation is not in the best interest of the child or that such visitation would interfere with the goals of the case plan pursuant to s. 39.451. Reasonable visitation may be unsupervised and, where appropriate and feasible, may be frequent and continuing.

(1) Grandparent visitation may take place in the home of the grandparent unless there is a compelling reason for denying such a visitation. The department's caseworker shall arrange the visitation to which a grandparent is entitled pursuant to this section. The state shall not charge a fee for any costs associated with arranging the visitation. However, the grandparent shall pay for the child's cost of transportation when the visitation is to take place in the grandparent's home. The caseworker shall document the reasons for any decision to restrict a grandparent's visitation.

(2) A grandparent entitled to visitation pursuant to this section shall not be restricted from appropriate displays of affection to the child, such as appropriately hugging or kissing his or her grandchild. Gifts, cards, and letters from the grandparent and other family members shall not be denied to a child who has been adjudicated a dependent child.

(3) Any attempt by a grandparent to facilitate a meeting between the child who has been adjudicated a dependent child and the child's parent, custodian, legal guardian, or caregiver in violation of a court order shall automatically terminate future visitation rights of the grandparent.

(4) When the child has been returned to the physical custody of his or her parent or permanent custodian, legal guardian, or caregiver, the visitation rights granted pursuant to this section shall terminate.

(5) ~~The termination of parental rights does not affect the rights of grandparents unless the court finds that such visitation is not in the best interest of the child or that such visitation would interfere with the goals of permanency planning for the child.~~

~~(6)(5)~~ In determining whether grandparental visitation is not in the child's best interest, consideration may be given to the finding of guilt, regardless of adjudication, or entry or plea of guilty or nolo contendere to charges under the following statutes, or similar statutes of other jurisdictions: s. 787.04, relating to removing minors from the state or concealing minors contrary to court order; s. 794.011, relating to sexual battery; s. 798.02, relating to lewd and lascivious behavior; chapter 800, relating to lewdness and indecent exposure; or chapter 827, relating to the abuse of children. Consideration may also be given to a finding of confirmed abuse, abandonment, or neglect under ss. 415.101-415.113 or this chapter and ~~ss. 415.502-415.514~~.

Section 71. Section 39.413, Florida Statutes, is renumbered as section 39.5101, Florida Statutes, and subsection (1) of said section is amended to read:

~~39.5101~~ ~~39.413~~ Appeal.—

(1) Any child, any parent, guardian ad litem, caregiver, or legal custodian of any child, any other party to the proceeding who is affected by an order of the court, or the department may appeal to the appropriate district court of appeal within the time and in the manner prescribed by the Florida Rules of Appellate Procedure. Appointed counsel shall be compensated as provided in ~~this chapter s. 39.415~~.

Section 72. Part VII of chapter 39, Florida Statutes, consisting of sections 39.601, 39.602, and 39.603, Florida Statutes, shall be entitled to read:

PART VII CASE PLANS

Section 73. Section 39.4031, Florida Statutes, are renumbered as section 39.601, Florida Statutes, and amended to read:

~~39.601~~ ~~39.4031~~ Case plan requirements.—

(1) The department or agent of the department shall develop a case plan for each child or child's family receiving services pursuant to this chapter who is a party to any dependency proceeding, activity, or process under this part. A parent, caregiver, or legal guardian, or custodian of a child may not be required or coerced through threat of loss of custody or parental rights to admit in the case plan to abusing, neglecting, or abandoning a child. Where dependency mediation services are available and appropriate to the best interests of the child, the court may refer the case to mediation for development of a case plan. This section does not change the provisions of s. 39.807 ~~39.464~~.

~~(2) The case plan must be:~~

~~(a) The case plan must be developed in conference with the parent, caregiver, or legal guardian, or custodian of the child and, if appropriate, the child and any court-appointed guardian ad litem and, if appropriate, the child. Any parent who believes that his or her perspective has not been considered in the development of a case plan may request referral to mediation pursuant to s. 39.4033 when such services are available.~~

~~(b) The case plan must be written simply and clearly in English and, if English is not the principal language of the child's parent, caregiver, or legal guardian, or custodian, to the extent possible in such principal language.~~

~~(c) The case plan must describe the minimum number of face-to-face meetings to be held each month between the parents, caregivers, or legal custodians and the department's caseworkers to review progress of the plan, to eliminate barriers to progress, and to resolve conflicts or disagreements.~~

~~(d)(e) The case plan must be subject to modification based on changing circumstances.~~

~~(e)(d) The case plan must be signed by all parties.~~

~~(f)(e) The case plan must be reasonable, accurate, and in compliance with the requirements of other court orders.~~

~~(2)(3) When the child or family is receiving services in the child's home, the case plan must be developed within 30 days from the date of the department's initial contact with the child, or within 30 days of the date of a disposition order placing the child under the protective supervision of the department in the child's own home, and must include, in addition to the requirements in subsection (1) (2), at a minimum:~~

~~(a) A description of the problem being addressed that includes the behavior or act of a parent, legal custodian, or caregiver resulting in risk to the child and the reason for the department's intervention.~~

~~(b) A description of the services to be provided to the family and child specifically addressing the identified problem, including:~~

- ~~1. Type of services or treatment.~~
- ~~2. Frequency of services or treatment.~~
- ~~3. Location of the delivery of the services.~~
- ~~4. The accountable department staff or service provider.~~

5. ~~The need for a multidisciplinary case staffing under s. 39.4032.~~

(c) A description of the measurable objectives, including timeframes for achieving objectives, addressing the identified problem.

~~(3)(4)~~ When the child is receiving services in a placement outside the child's home or in foster care, the case plan must be *submitted to the court for approval at the disposition hearing prepared within 30 days after placement and also be approved by the court* and must include, in addition to the requirements in subsections (1) and (2) ~~and (3)~~, at a minimum:

(a) A description of the permanency goal for the child, including the type of placement. *Reasonable efforts to place a child for adoption or with a legal guardian may be made concurrently with reasonable efforts to prevent removal of the child from the home or make it possible for the child to return safely home.*

(b) A description of the type of home or institution in which the child is to be placed.

(c) A description of the financial support obligation to the child, including health insurance, of the child's parent, parents, *caregiver, or legal custodian or guardian.*

(d) A description of the visitation rights and obligations of the parent or parents, *caregiver, or legal custodian* during the period the child is in care.

(e) A discussion of the *safety and* appropriateness of the child's placement, which placement is intended to be *safe, in* the least restrictive and most family-like setting available consistent with the best interest and special needs of the child, and in as close proximity as possible to the child's home. *The plan must also establish the role for the foster parents or custodians in the development of the services that are to be provided to the child, foster parents, or legal custodians. It must also address the child's need for services while under the jurisdiction of the court and implementation of these services in the case plan.*

(f) *A description of the efforts to be undertaken to maintain the stability of the child's educational placement.*

~~(g)(f)~~ A discussion of the department's plans to carry out the judicial determination made by the court, with respect to the child, in accordance with this chapter and applicable federal regulations.

~~(h)(g)~~ A description of the plan for assuring that services outlined in the case plan are provided to the child and the child's parent or parents, *legal custodians, or caregivers*, to improve the conditions in the family home and facilitate either the *safe* return of the child to the home or the permanent placement of the child.

~~(i)(h)~~ A description of the plan for assuring that services as outlined in the case plan are provided to the child and the child's parent or parents, *legal custodians, or caregivers*, to address the needs of the child and a discussion of the appropriateness of the services.

~~(j)(i)~~ A description of the plan for assuring that services are provided to the child and foster parents to address the needs of the child while in foster care, *which shall include an itemized list of costs to be borne by the parent or caregiver associated with any services or treatment that the parent and child are expected to receive.*

~~(k)(j)~~ A written notice to the parent that failure of the parent to substantially comply with the case plan may result in the termination of parental rights, and that a material failure to substantially comply may result in the filing of a petition for termination of parental rights sooner than the compliance periods set forth in the case plan itself. The child protection team shall coordinate its effort with the case staffing committee.

(l) In the case of a child for whom the permanency plan is adoption or placement in another permanent home, documentation of the steps the agency is taking to find an adoptive family or other permanent living arrangement for the child; to place the child with an adoptive family, with a fit and willing relative, with a legal guardian, or in another planned permanent living arrangement; and to finalize the adoption or legal guardianship. At a minimum, such documentation shall include child-specific recruitment efforts such as the use of state, regional, and national adoption exchanges, including electronic exchange systems.

~~(4)(5)~~ In the event that the parents, *legal custodians, or caregivers* are unwilling or unable to participate in the development of a case plan, the department shall document that unwillingness or inability *to participate. Such documentation must be provided and provide* in writing to the parent, *legal custodians, or caregivers* when available for the court record, and then the department shall prepare a case plan conforming as nearly as possible with the requirements set forth in this section. The unwillingness or inability of the parents, *legal custodians, or caregivers* to participate in the development of a case plan shall not in itself bar the filing of a petition for dependency or for termination of parental rights. The parents, *legal custodians, or caregivers*, if available, must be provided a copy of the case plan and be advised that they may, at any time prior to the filing of a petition for termination of parental rights, enter into a case plan and that they may request judicial review of any provision of the case plan with which they disagree at any court review hearing set for the child.

~~(5)(6)~~ The services delineated in the case plan must be designed to improve the conditions in the family home and aid in maintaining the child in the home, to facilitate the *safe* return of the child to the family home, or to facilitate the permanent placement of the child. The service intervention must be the least intrusive possible into the life of the family, must focus on clearly defined objectives, and must provide the most efficient path to quick reunification or permanent placement, *with the child's health and safety being paramount.* To the extent possible, the service intervention must be grounded in outcome evaluation results that demonstrate success in the reunification or permanent placement process. In designing service interventions, generally recognized standards of the professions involved in the process must be taken into consideration.

(6) After jurisdiction attaches, all case plans must be filed with the court and a copy provided to the parents, caregivers, or legal custodians of the child, to the representative of the guardian ad litem program if the program has been appointed, and to all other parties, not less than 72 hours before the disposition hearing. All such case plans must be approved by the court. The department shall also file with the court all case plans prepared before jurisdiction of the court attached. If the court does not accept the case plan, the court shall require the parties to make necessary modifications to the plan. An amended plan must be submitted to the court for review and approval within 30 days after the hearing on the case plan.

(7) The case plan must be limited to as short a period as possible for the accomplishment of its provisions. Unless extended, the plan expires no later than 12 months after the date the child was initially removed from the home or the date the case plan was accepted by the court, whichever comes first.

(8) The case plan must meet applicable federal and state requirements.

(9)(a) In each case in which the custody of a child has been vested, either voluntarily or involuntarily, in the department and the child has been placed in out-of-home care, a case plan must be prepared within 60 days after the department removes the child from the home, and shall be submitted to the court before the disposition hearing, for the court to review and accept. If the preparation of a case plan, in conference with the parents and other pertinent parties, cannot be completed before the disposition hearing, for good cause shown, the court may grant an extension not to exceed 30 days and set a hearing to review and accept the case plan.

(b) The parent or parents, *legal custodians, or caregivers* may receive assistance from any person, or social service agency in the preparation of the case plan.

(c) The social service agency, *the department*, and the court, when applicable, shall inform the parent or parents, *legal custodians, or caregivers* of the right to receive such assistance, including the right to assistance of counsel.

(d) Before the signing of the case plan, the authorized agent of the department shall explain it to all persons involved in its implementation, including, when appropriate, the child.

(e) After the case plan has been agreed upon and signed by the parties involved, a copy of the plan must be given immediately to the parents, the

department or agency, the foster parents or caregivers, the legal custodian, the caregiver, the representative of the guardian ad litem program if the program is appointed, and any other parties identified by the court, including the child, if appropriate.

(f) The case plan may be amended at any time if all parties are in agreement regarding the revisions to the plan and the plan is submitted to the court with a memorandum of explanation. The case plan may also be amended by the court or upon motion of any party at a hearing, based on competent evidence demonstrating the need for the amendment. A copy of the amended plan must be immediately given to the parties specified in paragraph (e).

(10) A case plan must be prepared, but need not be submitted to the court, for a child who will be in care no longer than 30 days unless that child is placed in out-of-home care a second time within a 12-month period.

Section 74. Section 39.452, Florida Statutes, is renumbered as section 39.602, Florida Statutes, and amended to read:

~~39.602~~ ~~39.452~~ Case planning when parents, legal custodians, or caregivers do not participate and the child is in out-of-home foster care.—

(1)(a) In the event the parents, legal custodians, or caregivers will not or cannot participate in preparation of a case plan, the department shall submit a full explanation of the circumstances and a plan for the permanent placement of the child to the court within 30 days after the child has been removed from the home and placed in temporary foster care and schedule a court hearing within 30 days after submission of the plan to the court to review and accept or modify the plan. If preparation cannot be accomplished within 30 days, for good cause shown, the court may grant extensions not to exceed 15 days each for the filing, the granting of which shall be for similar reason to that contained in s. 39.451(4)(a).

(b) In the full explanation of the circumstances submitted to the court, the department shall state the nature of its efforts to secure such persons' parental participation in the preparation of a case plan.

(2) In a case in which the physical, emotional, or mental condition or physical location of the parent is the basis for the parent's nonparticipation, it is the burden of the department to provide substantial evidence to the court that such condition or location has rendered the parent unable or unwilling to participate in the preparation of a case plan, either pro se or through counsel. The supporting documentation must be submitted to the court at the time the plan is filed.

(3) The plan must include, but need not be limited to, the specific services to be provided by the department, the goals and plans for the child, and the time for accomplishing the provisions of the plan and for accomplishing permanence for the child.

(4)(a) At least 72 ~~Seventy-two~~ hours prior to the filing of a plan, all parties ~~each parent~~ must be provided with a copy of the plan developed by the department. If the location of one or both parents is unknown, this must be documented in writing and included in the plan submitted to the court. After the filing of the plan, if the location of an absent parent becomes known, that parent must be served with a copy of the plan.

(b) Before the filing of the plan, the department shall advise each parent, both orally and in writing, that the failure of the parents to substantially comply with a plan which has reunification as its primary goal may result in the termination of parental rights, but only after notice and hearing as provided in this chapter ~~part VI~~. If, after the plan has been submitted to the court, an absent parent is located, the department shall advise the parent, both orally and in writing, that the failure of the parents to substantially comply with a plan which has reunification as its goal may result in termination of parental rights, but only after notice and hearing as provided in this chapter ~~part VI~~. Proof of written notification must be filed with the court.

(5)(a) ~~The court shall set a hearing, with notice to all parties, on the plan or any provisions of the plan, within 30 days after the plan has been received by the court. If the location of a parent is unknown, the notice must be directed to the last permanent address of record.~~

(b) ~~At the hearing on the plan, the court shall determine:~~

1. ~~All parties who were notified and are in attendance at the hearing, either in person or through a legal representative. The court shall appoint a guardian ad litem under Rule 1.210, Florida Rules of Civil Procedure, to represent the interests of any parent, if the location of the parent is known but the parent is not present at the hearing and the development of the plan is based upon the physical, emotional, or mental condition or physical location of the parent.~~

2. ~~If the plan is consistent with previous orders of the court placing the child in care.~~

3. ~~If the plan is consistent with the requirements for the content of a plan as specified in subsection (3).~~

4. ~~In involuntary placements, whether each parent was notified of the right to counsel at each stage of the dependency proceedings, in accordance with the Florida Rules of Juvenile Procedure.~~

5. ~~Whether each parent whose location was known was notified of the right to participate in the preparation of a case plan and of the right to receive assistance from any other person in the preparation of the case plan.~~

6. ~~Whether the plan is meaningful and designed to address facts and circumstances upon which the court based the finding of dependency in involuntary placements or the plan is meaningful and designed to address facts and circumstances upon which the child was placed in foster care voluntarily.~~

(c) ~~When the court determines any of the elements considered at the hearing related to the plan have not been met, the court shall require the parties to make necessary amendments to the plan. The amended plan must be submitted to the court for review and approval within a time certain specified by the court. A copy of the amended plan must also be provided to each parent, if the location of the parent is known.~~

(d) ~~A parent who has not participated in the development of a case plan must be served with a copy of the plan developed by the department if the parent can be located at least 72 hours prior to the court hearing. Any parent is entitled to, and may seek, a court review of the plan prior to the initial 6 months' review and must be informed of this right by the department at the time the department serves the parent with a copy of the plan. If the location of an absent parent becomes known to the department, the department shall inform the parent of the right to a court review at the time the department serves the parent with a copy of the case plan.~~

Section 75. Section 39.603, Florida Statutes, is created to read:

39.603 Court approvals of case planning.

(1) *At the hearing on the plan, which shall occur in conjunction with the disposition hearing unless otherwise directed by the court, the court shall determine:*

(a) *All parties who were notified and are in attendance at the hearing, either in person or through a legal representative. The court shall appoint a guardian ad litem under Rule 1.210, Florida Rules of Civil Procedure, to represent the interests of any parent, if the location of the parent is known but the parent is not present at the hearing and the development of the plan is based upon the physical, emotional, or mental condition or physical location of the parent.*

(b) *If the plan is consistent with previous orders of the court placing the child in care.*

(c) *If the plan is consistent with the requirements for the content of a plan as specified in this chapter.*

(d) *In involuntary placements, whether each parent was notified of the right to counsel at each stage of the dependency proceedings, in accordance with the Florida Rules of Juvenile Procedure.*

(e) *Whether each parent whose location was known was notified of the right to participate in the preparation of a case plan and of the right to receive assistance from any other person in the preparation of the case plan.*

(f) *Whether the plan is meaningful and designed to address facts and circumstances upon which the court based the finding of dependency in*

involuntary placements or the plan is meaningful and designed to address facts and circumstances upon which the child was placed in out-of-home care voluntarily.

(2) *When the court determines any of the elements considered at the hearing related to the plan have not been met, the court shall require the parties to make necessary amendments to the plan. The amended plan must be submitted to the court for review and approval within a time certain specified by the court. A copy of the amended plan must also be provided to each parent, if the location of the parent is known.*

(3) *A parent who has not participated in the development of a case plan must be served with a copy of the plan developed by the department, if the parent can be located, at least 48 hours prior to the court hearing. Any parent is entitled to, and may seek, a court review of the plan prior to the initial review and must be informed of this right by the department at the time the department serves the parent with a copy of the plan. If the location of an absent parent becomes known to the department, the department shall inform the parent of the right to a court review at the time the department serves the parent with a copy of the case plan.*

Section 76. Part VIII of chapter 39, Florida Statutes, consisting of sections 39.701, 39.702, 39.703, and 39.704, Florida Statutes, shall be entitled to read:

PART VIII
JUDICIAL REVIEWS

Section 77. Section 39.453, Florida Statutes, is renumbered as section 39.701, Florida Statutes, and amended to read:

~~39.701~~ 39.453 Judicial review.—

(1)(a) The court shall have continuing jurisdiction in accordance with this section and shall review the status of the child as required by this subsection or more frequently if the court deems it necessary or desirable.

(b) The court shall retain jurisdiction over a child returned to its parents, *caregivers*, or legal guardians for a period of 6 months, but, at that time, based on a report of the social service agency *and the guardian ad litem, if one has been appointed*, and any other relevant factors, the court shall make a determination as to whether its jurisdiction shall continue or be terminated.

~~(c) After termination of parental rights, the court shall retain jurisdiction over any child for whom custody is given to a social service agency until the child is adopted. The jurisdiction of the court after termination of parental rights and custody is given to the agency is for the purpose of reviewing the status of the child and the progress being made toward permanent adoptive placement. As part of this continuing jurisdiction, for good cause shown by the guardian ad litem for the child, the court may review the appropriateness of the adoptive placement of the child.~~

(2)(a) The court shall review the status of the child and shall hold a hearing as provided in *this part* ~~subsection (7)~~. The court may dispense with the attendance of the child at the hearing, but may not dispense with the hearing or the presence of other parties to the review unless before the review a hearing is held before a citizen review panel.

~~(b) Citizen review panels may be established under s. 39.4531 to conduct hearings to a review of the status of a child. The court shall select the cases appropriate for referral to the citizen review panels and may order the attendance of the parties at the review panel hearings. However, any party may object to the referral of a case to a citizen review panel. Whenever such an objection has been filed with the court, the court shall review the substance of the objection and may conduct the review itself or refer the review to a citizen review panel. All parties retain the right to take exception to the findings or recommended orders of a citizen review panel in accordance with Rule 1.490(h), Florida Rules of Civil Procedure.~~

(c) Notice of a hearing by a citizen review panel must be provided as set forth in subsection (5). At the conclusion of a citizen review panel hearing, each party may propose a recommended order to the chairperson of the panel. Thereafter, the citizen review panel shall submit its report, *copies of the proposed recommended orders*, and a copy of the *panel's* recommended order to the court. The citizen review panel's recommended order must be limited to the dispositional options available

to the court in subsection (8). Each party may file exceptions to the report and recommended order of the citizen review panel in accordance with Rule 1.490, Florida Rules of Civil Procedure.

(3)(a) The initial judicial review must be held no later than *90 days after the date of the disposition hearing or after the date of the hearing at which the court approves the case plan, but in no event shall the review be held later than 6 months after the date the child was removed from the home. Citizen review panels shall not conduct more than two consecutive reviews without the child and the parties coming before the court for a judicial review. If the child remains in shelter or foster care, subsequent judicial reviews must be held at least every 6 months after the date of the most recent judicial review until the child is 13 years old and has been in foster care at least 18 months.*

(b) If the court extends *any* the case plan beyond *12* 18 months, judicial reviews must be held at least every 6 months ~~for children under the age of 13 and at least annually for children age 13 and older.~~

(c) If the child is placed in the custody of the department or a licensed child-placing agency for the purpose of adoptive placement, judicial reviews must be held at least every 6 months until adoptive placement, to determine *the appropriateness of the current placement and the progress made toward adoptive placement.*

(d) If the department and the court have established a formal agreement that includes specific authorization for particular cases, the department may conduct administrative reviews instead of the judicial reviews for children in *out-of-home* foster care. Notices of such administrative reviews must be provided to all parties. However, an administrative review may not be substituted for the first judicial review, and in every case the court must conduct a judicial review at least every *6* 12 months. Any party dissatisfied with the results of an administrative review may petition for a judicial review.

(e) The clerk of the circuit court shall schedule judicial review hearings in order to comply with the mandated times cited in *this section* ~~paragraphs (a)–(d)~~.

(f) In each case in which a child has been voluntarily placed with the licensed child-placing agency, the agency shall notify the clerk of the court in the circuit where the child resides of such placement within 5 working days. Notification of the court is not required for any child who will be in *out-of-home* foster care no longer than 30 days unless that child is placed in *out-of-home* foster care a second time within a 12-month period. If the child is returned to the custody of the parents, *caregiver, or legal custodian or guardian* before the scheduled review hearing or if the child is placed for adoption, the child-placing agency shall notify the court of the child's return or placement within 5 working days, and the clerk of the court shall cancel the review hearing.

~~(4) The court shall schedule the date, time, and location of the next judicial review in the judicial review order. The social service agency shall file a petition for review with the court within 10 calendar days after the judicial review hearing. The petition must include a statement of the dispositional alternatives available to the court. The petition must accompany the notice of the hearing served upon persons specified in subsection (5).~~

(5) Notice of a *judicial review hearing or a citizen review panel* the hearing, and a copy of the *motion for judicial review* petition, including a statement of the dispositional alternatives available to the court, must be served by the court upon:

(a) The social service agency charged with the supervision of care, custody, or guardianship of the child, if that agency is not the *movant* petitioner.

(b) The foster parent or parents or *caregivers caretakers* in whose home the child resides.

(c) The parent, *caregiver, or legal custodian guardian, or relative* from whom the care and custody of the child have been transferred.

(d) The guardian ad litem for the child, *or the representative of the guardian ad litem program if the program one* has been appointed.

(e) *Any preadoptive parent.*

(f)(e) Such other persons as the court may in its discretion direct.

(6)(a) *Prior to every judicial review hearing or citizen review panel hearing, the social service agency shall make an investigation and social study concerning all pertinent details relating to the child and shall furnish to the court or citizen review panel a written report that includes, but is not limited to:*

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

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

3. The amount of fees assessed and collected during the period of time being reported.

4. The services provided to the foster family or *caregivers caretakers* in an effort to address the needs of the child as indicated in the case plan.

5. A statement *that concerning whether* the parent or *legal custodian guardian*, though able to do so, did not comply substantially with the provisions of the case plan and the agency recommendations or a statement that the parent or *legal custodian guardian* did substantially comply with such provisions.

6. A statement from the foster parent or parents or *caregivers caretakers* providing any material evidence concerning the return of the child to the parent or parents or *legal custodians*.

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

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

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

(b) A copy of the *social service agency's* written report must be provided to the attorney of record of the parent, parents, or *legal custodians guardian*; to the parent, parents, or *legal custodians guardian*; to the foster parents or *caregivers caretakers*; to each citizen review panel established under s. 39.4531; and to the guardian ad litem for the child, or the representative of the guardian ad litem program if the program one has been appointed by the court, at least 48 hours before the judicial review hearing; or citizen review panel hearing if such a panel has been established under s. 39.4531. The requirement for providing parents or *legal custodians guardians* with a copy of the written report does not apply to those parents or *legal custodians guardians* who have voluntarily surrendered their child for adoption.

(c) In a case in which the child has been permanently placed with the social service agency, the agency shall furnish to the court a written report concerning the progress being made to place the child for adoption. If, as stated in s. 39.451(1), the child cannot be placed for adoption, a report on the progress made by the child in alternative permanency goals or placements, including, but not limited to, long-term foster care, independent living, custody to a relative or *caregiver adult nonrelative* approved by the court on a permanent basis with or without legal guardianship, or custody to a foster parent or *caregiver* on a permanent basis with or without legal guardianship, must be submitted to the court. The report must be submitted to the court at least 48 hours before each scheduled judicial review.

(d) In addition to or in lieu of any written statement provided to the court, the foster parent or *caregivers, or any preadoptive parent, caretakers* shall be given the opportunity to address the court with any information relevant to the best interests of the child at any judicial review hearing.

(7) The court, and any citizen review panel established under s. 39.4531, shall take into consideration the information contained in the social services study and investigation and all medical, psychological, and educational records that support the terms of the case plan; testi-

mony by the social services agency, the parent or *legal custodian guardian*, the foster parent or *caregivers caretakers*, the guardian ad litem if one has been appointed for the child, and any other person deemed appropriate; and any relevant and material evidence submitted to the court, including written and oral reports to the extent of their probative value. In its deliberations, the court, and any citizen review panel established under s. 39.4531, shall seek to determine:

(a) If the parent or *legal custodian guardian* was advised of the right to receive assistance from any person or social service agency in the preparation of the case plan.

(b) If the parent or *legal custodian guardian* has been advised of the right to have counsel present at the judicial review or citizen review hearings. If not so advised, the court or citizen review panel shall advise the parent or *legal custodian guardian* of such right.

(c) If a guardian ad litem needs to be appointed for the child in a case in which a guardian ad litem has not previously been appointed or if there is a need to continue a guardian ad litem in a case in which a guardian ad litem has been appointed.

(d) The compliance or lack of compliance of all parties with applicable items of the case plan, including the parents' compliance with child support orders.

(e) The compliance or lack of compliance with a visitation contract between the parent, *caregiver, or legal custodian or guardian* and the social service agency for contact with the child, including the *frequency, duration, and results of the parent-child visitation and the reason for any noncompliance.*

(f) The compliance or lack of compliance of the parent, *caregiver, or legal custodian or guardian* in meeting specified financial obligations pertaining to the care of the child, including the reason for failure to comply if such is the case.

(g) The appropriateness of the child's current placement, including whether the child is in a setting which is as family-like and as close to the parent's home as possible, consistent with the child's best interests and special needs, *and including maintaining stability in the child's educational placement.*

(h) A projected date likely for the child's return home or other permanent placement.

(i) When appropriate, the basis for the unwillingness or inability of the parent, *caregiver, or legal custodian or guardian* to become a party to a case plan. The court and the citizen review panel shall determine if the *nature of the location or the condition of the parent and the efforts of the social service agency to secure party parental participation in a case plan were sufficient.*

(8)(a) Based upon the criteria set forth in subsection (7) and the recommended order of the citizen review panel, if *any established under s. 39.4531*, the court shall determine whether or not the social service agency shall initiate proceedings to have a child declared a dependent child, return the child to the parent, *legal custodian, or caregiver*, continue the child in *out-of-home foster care* for a specified period of time, or initiate termination of parental rights proceedings for subsequent placement in an adoptive home. Modifications to the plan must be handled as prescribed in s. 39.601 39.451. If the court finds that the prevention or reunification efforts of the department will allow the child to remain safely at home or be safely returned to the home, the court shall allow the child to remain in or return to the home after making a specific finding of fact that the reasons for removal have been remedied to the extent that the child's safety, *and well-being, and physical, mental, and emotional health* will not be endangered.

(b) The court shall return the child to the custody of the parents, *legal custodians, or caregivers* at any time it determines that they have substantially complied with the plan, if the court is satisfied that reunification will not be detrimental to the child's safety, *and well-being, and physical, mental, and emotional health.*

(c) If, in the opinion of the court, the social service agency has not complied with its obligations as specified in the written case plan, the court may find the social service agency in contempt, shall order the social service agency to submit its plans for compliance with the agreement, and shall require the social service agency to show why the child

~~could should~~ not safely be returned immediately to the home of the parents, legal custodians, or caregivers ~~or legal guardian~~.

(d) The court may extend the time limitation of the case plan, or may modify the terms of the plan, based upon information provided by the social service agency, and the guardian ad litem, if one has been appointed, the natural parent or parents, and the foster parents, and any other competent information on record demonstrating the need for the amendment. *If the court extends the time limitation of the case plan, the court must make specific findings concerning the frequency of past parent-child visitation, if any, and the court may authorize the expansion or restriction of future visitation.* Modifications to the plan must be handled as prescribed in s. 39.601 ~~39.451~~. Any extension of a case plan must comply with the time requirements and other requirements specified by this chapter ~~part~~.

(e) If, at any judicial review, the court finds that the parents have failed to substantially comply with the case plan to the degree that further reunification efforts are without merit and not in the best interest of the child, it may authorize the filing of a petition for termination of parental rights, whether or not the time period as contained in the case plan for substantial compliance has elapsed.

(f) *No later than 12 months after the date that the child was placed in shelter care, the court shall conduct a judicial review. At this hearing, if the child is not returned to the physical custody of the parents, caregivers, or legal custodians, the case plan may be extended with the same goals only if the court finds that the situation of the child is so extraordinary that the plan should be extended. The case plan must document steps the department is taking to find an adoptive parent or other permanent living arrangement for the child. If, at the time of the 18-month judicial review or citizen review, the child is not returned to the physical custody of the natural parents, the case plan may be extended only if, at the time of the judicial review or citizen review, the court finds that the situation of the child is so extraordinary that the plan should be extended. The extension must be in accordance with subsection (3).*

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

Section 78. Section 39.4531, Florida Statutes, is renumbered as section 39.702, Florida Statutes, and amended to read:

~~39.702 39.4531~~ Citizen review panels.—

(1) Citizen review panels may be established in each judicial circuit and shall be authorized by an administrative order executed by the chief judge of each circuit. The court shall administer an oath of office to each citizen review panel member which shall authorize the panel member to participate in citizen review panels and make recommendations to the court pursuant to the provisions of this section.

(2) Citizen review panels shall be administered by an independent not-for-profit agency. For the purpose of this section, an organization that has filed for nonprofit status under the provisions of s. 501(c)(3) of the United States Internal Revenue Code is an independent not-for-profit agency for a period of 1 year after the date of filing. At the end of that 1-year period, in order to continue conducting citizen reviews, the organization must have qualified for nonprofit status under s. 501(c)(3) of the United States Internal Revenue Code and must submit to the chief judge of the circuit court a consumer's certificate of exemption that was issued to the organization by the Florida Department of Revenue and a report of the organization's progress. If the agency has not qualified for nonprofit status, the court must rescind its administrative order that authorizes the agency to conduct citizen reviews. All independent not-for-profit agencies conducting citizen reviews must submit citizen review annual reports to the court.

(3) For the purpose of this section, a citizen review panel shall be composed of five volunteer members and shall conform with the requirements of this ~~chapter section~~. The presence of three members at a panel hearing shall constitute a quorum. Panel members shall serve without compensation.

~~(4)(3)~~ Based on the information provided to each citizen review panel pursuant to s. 39.701 ~~39.453~~, each citizen review panel shall provide the court with a report and recommendations regarding the placement and dispositional alternatives the court shall consider before issuing a judicial review order.

~~(5)(4)~~ The ~~An~~ independent not-for-profit agency authorized to administer each citizen review panel shall:

(a) In collaboration with the department, develop policies to assure that citizen review panels comply with all applicable state and federal laws.

(b) Establish policies for the recruitment, selection, retention, and terms of volunteer panel members. Final selection of citizen review panel members shall, to the extent possible, reflect the multicultural composition of the community which they serve. A criminal background check and personal reference check shall be conducted on each citizen review panel member prior to the member serving on a citizen review panel.

(c) In collaboration with the department, develop, implement, and maintain a training program for citizen review volunteers and provide training for each panel member prior to that member serving on a review panel. Such training may include, but shall not be limited to, instruction on dependency laws, departmental policies, and judicial procedures.

(d) Ensure that all citizen review panel members have read, understood, and signed an oath of confidentiality relating to the citizen review ~~hearings and~~ written or verbal information provided to the panel members for review hearings.

(e) Establish policies to avoid actual or perceived conflicts of interest by panel members during the review process and to ensure accurate, fair reviews of each child dependency case.

(f) Establish policies to ensure ongoing communication with the department and the court.

(g) Establish policies to ensure adequate communication with the parent, caregiver, or legal custodian ~~or guardian~~, the foster parent or caregiver, the guardian ad litem, and any other person deemed appropriate.

(h) Establish procedures that encourage attendance and participation of interested persons and parties, including the biological parents, foster parents or caregivers, or a relative or nonrelative with whom the child is placed, at citizen review hearings.

(i) Coordinate with existing citizen review panels to ensure consistency of operating procedures, data collection, and analysis, and report generation.

(j) Make recommendations as necessary to the court concerning attendance of essential persons at the review and other issues pertinent to an effective review process.

(k) Ensure consistent methods of identifying barriers to the permanent placement of the child and delineation of findings and recommendations to the court.

~~(6)(5)~~ The department and agents of the department shall submit information to the citizen review panel when requested and shall address questions asked by the citizen review panel to identify barriers to the permanent placement of each child.

Section 79. Section 39.454, Florida Statutes, is renumbered as section 39.703, Florida Statutes, and amended to read:

~~39.703 39.454~~ Initiation of termination of parental rights proceedings.—

(1) If, in preparation for any judicial review hearing under this ~~chapter part~~, it is the opinion of the social service agency that the parents ~~or legal guardian~~ of the child have not complied with their responsibilities as specified in the written case plan although able to do so, the social service agency shall state its intent to initiate proceedings to terminate parental rights, unless the social service agency can demonstrate to the court that such a recommendation would not be in the child's best interests. If it is the intent of the department or licensed child-placing agency

to initiate proceedings to terminate parental rights, the department or licensed child-placing agency shall file a petition for termination of parental rights no later than 3 months after the date of the previous judicial review hearing. If the petition cannot be filed within 3 months, the department or licensed child-placing agency shall provide a written report to the court outlining the reasons for delay, the progress made in the termination of parental rights process, and the anticipated date of completion of the process.

(2) If, at the time of the ~~12-month~~ ~~18-month~~ judicial review hearing, a child is not returned to the physical custody of the natural parents, caregivers, or legal custodians, the social service agency shall initiate termination of parental rights proceedings under ~~part VI~~ of this chapter within 30 days. Only if the court finds that the situation of the child is so extraordinary and that the best interests of the child will be met by such action at the time of the judicial review may the case plan be extended. If the court decides to extend the plan, the court shall enter detailed findings justifying the decision to extend, as well as the length of the extension. *A termination of parental rights petition need not be filed if: the child is being cared for by a relative who chooses not to adopt the child; the court determines that filing such a petition would not be in the best interests of the child; or the state has not provided the child's family, when reasonable efforts to return a child are required, consistent with the time period in the state's case plan, such services as the state deems necessary for the safe return of the child to his or her home.* Failure to initiate termination of parental rights proceedings at the time of the ~~12-month~~ ~~18-month~~ judicial review or within 30 days after such review does not prohibit initiating termination of parental rights proceedings at any other time.

Section 80. Section 39.456, Florida Statutes, is renumbered as section 39.704, Florida Statutes, and amended to read:

~~39.704~~ ~~39.456~~ Exemptions from judicial review.—*Judicial review This part* does not apply to:

(1) Minors who have been placed in adoptive homes by the department or by a licensed child-placing agency; or

(2) Minors who are refugees or entrants to whom federal regulations apply and who are in the care of a social service agency; or

~~(3) Minors who are the subjects of termination of parental rights cases pursuant to s. 39.464.~~

Section 81. Part IX of chapter 39, Florida Statutes, consisting of sections 39.801, 39.802, 39.803, 39.804, 39.805, 39.806, 39.807, 39.808, 39.809, 39.810, 39.811, 39.812, 39.813, 39.814, 39.815, 39.816, and 39.817, Florida Statutes, shall be entitled to read:

PART IX

TERMINATION OF PARENTAL RIGHTS

Section 82. Section 39.46, Florida Statutes, is renumbered as section 39.801, Florida Statutes, and amended to read:

~~39.801~~ ~~39.46~~ Procedures and jurisdiction; notice; service of process.—

(1) All procedures, including petitions, pleadings, subpoenas, summonses, and hearings, in termination of parental rights proceedings shall be according to the Florida Rules of Juvenile Procedure unless otherwise provided by law.

(2) The circuit court shall have exclusive original jurisdiction of a proceeding involving termination of parental rights.

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

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

1. *The parents of the child.*
2. *The caregivers or legal custodians of the child.*

3. *If the parents who would be entitled to notice are dead or unknown, a living relative of the child, unless upon diligent search and inquiry no such relative can be found.*

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

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

6. *Any prospective parent who has been identified under s. 39.503 or s. 39.803.*

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

The document containing the notice to respond or appear must contain, in type at least as large as the type in the balance of the document, the following or substantially similar language: "FAILURE TO PERSONALLY APPEAR AT THIS ADVISORY HEARING CONSTITUTES CONSENT TO THE TERMINATION OF PARENTAL RIGHTS OF THIS CHILD (OR CHILDREN)."

(b) If a person required to be served with notice as prescribed in paragraph (a) cannot be served, notice of hearings must be given as prescribed by the rules of civil procedure, and service of process must be made as specified by law or civil actions.

(c) Notice as prescribed by this section may be waived, in the discretion of the judge, with regard to any person to whom notice must be given under this subsection if the person executes, before two witnesses and a notary public or other officer authorized to take acknowledgments, a written surrender of the child to a licensed child-placing agency or the department.

(d) If the person served with notice under this section fails to appear at the advisory hearing, the failure to appear shall constitute consent for termination of parental rights by the person given notice.

(4) Upon the application of any party, the clerk or deputy clerk shall issue, and the court on its own motion may issue, subpoenas requiring the attendance and testimony of witnesses and the production of records, documents, or other tangible objects at any hearing.

(5) All process and orders issued by the court must be served or executed as other process and orders of the circuit court and, in addition, may be served or executed by authorized agents of the department or the guardian ad litem.

(6) Subpoenas may be served within the state by any person over 18 years of age who is not a party to the proceeding.

(7) A fee may not be paid for service of any process or other papers by an agent of the department or the guardian ad litem. If any process, orders, or other papers are served or executed by any sheriff, the sheriff's fees must be paid by the county.

Section 83. Section 39.461, Florida Statutes, is renumbered as section 39.802, Florida Statutes, and amended to read:

~~39.802~~ ~~39.461~~ Petition for termination of parental rights; filing; elements.—

(1) All proceedings seeking an adjudication to terminate parental rights pursuant to this chapter must be initiated by the filing of an original petition by the department, the guardian ad litem, or a licensed child-placing agency or by any other person who has knowledge of the facts alleged or is informed of them and believes that they are true.

(2) The form of the petition is governed by the Florida Rules of Juvenile Procedure. The petition must be in writing and signed by the petitioner under oath stating the petitioner's good faith in filing the petition.

(3) When a petition for termination of parental rights has been filed, the clerk of the court shall set the case before the court for an advisory hearing.

(4) A petition for termination of parental rights filed under this chapter must contain facts supporting the following allegations:

- (a) That at least one of the grounds listed in s. 39.806 has been met.*

(b) That the parents of the child were informed of their right to counsel at all hearings that they attend and that a dispositional order adjudicating the child dependent was entered in any prior dependency proceeding relied upon in offering a parent a case plan as described in s. 39.806.

(c) That the manifest best interests of the child, in accordance with s. 39.810, would be served by the granting of the petition.

(5) When a petition for termination of parental rights is filed under s. 39.806(1), a separate petition for dependency need not be filed and the department need not offer the parents a case plan with a goal of reunification, but may instead file with the court a case plan with a goal of termination of parental rights to allow continuation of services until the termination is granted or until further orders of the court are issued.

(6) The fact that a child has been previously adjudicated dependent as alleged in a petition for termination of parental rights may be proved by the introduction of a certified copy of the order of adjudication or the order of disposition of dependency.

(7) The fact that the parent of a child was informed of the right to counsel in any prior dependency proceeding as alleged in a petition for termination of parental rights may be proved by the introduction of a certified copy of the order of adjudication or the order of disposition of dependency containing a finding of fact that the parent was so advised.

(8) Whenever the department has entered into a case plan with a parent with the goal of reunification, and a petition for termination of parental rights based on the same facts as are covered in the case plan is filed prior to the time agreed upon in the case plan for the performance of the case plan, the petitioner must allege and prove by clear and convincing evidence that the parent has materially breached the provisions of the case plan.

Section 84. Section 39.803, Florida Statutes, is created to read:

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

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

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

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

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

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

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

(2) The information required in subsection (1) may be supplied to the court or the department in the form of a sworn affidavit by a person having personal knowledge of the facts.

(3) If the inquiry under subsection (1) identifies any person as a parent or prospective parent, the court shall require notice of the hearing to be provided to that person.

(4) If the inquiry under subsection (1) fails to identify any person as a parent or prospective parent, the court shall so find and may proceed without further notice.

(5) If the inquiry under subsection (1) identifies a parent or prospective parent, and that person's location is unknown, the court shall direct the department to conduct a diligent search for that person before scheduling an adjudicatory hearing regarding the dependency of the child

unless the court finds that the best interest of the child requires proceeding without actual notice to the person whose location is unknown.

(6) The diligent search required by subsection (5) must include, at a minimum, inquiries of all known relatives of the parent or prospective parent, inquiries of all offices of program areas of the department likely to have information about the parent or prospective parent, inquiries of other state and federal agencies likely to have information about the parent or prospective parent, inquiries of appropriate utility and postal providers, and inquiries of appropriate law enforcement agencies.

(7) Any agency contacted by a petitioner with a request for information pursuant to subsection (6) shall release the requested information to the petitioner without the necessity of a subpoena or court order.

(8) If the inquiry and diligent search identifies a prospective parent, that person must be given the opportunity to become a party to the proceedings by completing a sworn affidavit of parenthood and filing it with the court or the department. A prospective parent who files a sworn affidavit of parenthood while the child is a dependent child but no later than at the time of or prior to the adjudicatory hearing in the termination of parental rights proceeding for the child shall be considered a parent for all purposes under this section.

Section 85. Section 39.4627, Florida Statutes, is renumbered as section 39.804, Florida Statutes.

Section 86. Section 39.463, Florida Statutes, is renumbered as section 39.805, Florida Statutes, and amended to read:

~~39.805~~ ~~39.463~~ No answer required.—No answer to the petition or any other pleading need be filed by any child, parent, caregiver, or legal custodian, but any matters which might be set forth in an answer or other pleading may be pleaded orally before the court or filed in writing as any such person may choose. Notwithstanding the filing of any answer or any pleading, the child or parent shall, prior to the adjudicatory hearing, be advised by the court of the right to counsel and shall be given an opportunity to deny the allegations in the petition for termination of parental rights or to enter a plea to allegations in the petition before the court.

Section 87. Section 39.464, Florida Statutes, as amended by chapter 97-276, Laws of Florida, is renumbered as section 39.806, Florida Statutes, and amended to read:

~~39.806~~ ~~39.464~~ Grounds for termination of parental rights.—

(1) The department, the guardian ad litem, a licensed child-placing agency, or any person who has knowledge of the facts alleged or who is informed of said facts and believes that they are true, may petition for the termination of parental rights under any of the following circumstances:

(a) When the parent or parents voluntarily executed a written surrender of the child and consented to the entry of an order giving custody of the child to the department or to a licensed child-placing agency for subsequent adoption and the department or licensed child-placing agency is willing to accept custody of the child.

1. The surrender document must be executed before two witnesses and a notary public or other person authorized to take acknowledgments.

2. The surrender and consent may be withdrawn after acceptance by the department or licensed child-placing agency only after a finding by the court that the surrender and consent were obtained by fraud or duress.

(b) When the identity or location of the parent or parents is unknown and, if the court requires a diligent search pursuant to s. 39.4625, cannot be ascertained by diligent search as provided in s. 39.4625 within 90 days.

(c) When the parent or parents engaged in conduct toward the child or toward other children that demonstrates that the continuing involvement of the parent or parents in the parent-child relationship threatens the life, safety or well-being, or physical, mental, or emotional health of the child irrespective of the provision of services. Provision of services may be evidenced by proof that services were provided through a previous plan or offered as a case plan from a child welfare agency.

(d) When the parent of a child is incarcerated in a state or federal correctional institution and:

1. The period of time for which the parent is expected to be incarcerated will constitute a substantial portion of the period of time before the child will attain the age of 18 years;

2. The incarcerated parent has been determined by the court to be a violent career criminal as defined in s. 775.084, a habitual violent felony offender as defined in s. 775.084, or a sexual predator as defined in s. 775.21; has been convicted of first degree or second degree murder in violation of s. 782.04 or a sexual battery that constitutes a capital, life, or first degree felony violation of s. 794.011; or has been convicted of an offense in another jurisdiction which is substantially similar to one of the offenses listed in this paragraph. As used in this section, the term "substantially similar offense" means any offense that is substantially similar in elements and penalties to one of those listed in this paragraph, and that is in violation of a law of any other jurisdiction, whether that of another state, the District of Columbia, the United States or any possession or territory thereof, or any foreign jurisdiction; and

3. The court determines by clear and convincing evidence that continuing the parental relationship with the incarcerated parent would be harmful to the child and, for this reason, that termination of the parental rights of the incarcerated parent is in the best interest of the child.

(e)(f) A petition for termination of parental rights may also be filed when a child has been adjudicated dependent, a case plan has been filed with the court, and the child continues to be abused, neglected, or abandoned by the parents. In this case, the failure of the parents to substantially comply for a period of 12 months after an adjudication of the child as a dependent child constitutes evidence of continuing abuse, neglect, or abandonment unless the failure to substantially comply with the case plan was due either to the lack of financial resources of the parents or to the failure of the department to make reasonable efforts to reunify the family. Such 12-month period may begin to run only after the entry of a disposition order placing the custody of the child with the department or a person other than the parent and the approval by subsequent filing with the court of a case plan with a goal of reunification with the parent.

(f)(e) When the parent or parents engaged in egregious conduct or had the opportunity and capability to prevent and knowingly failed to prevent egregious conduct threatening the life, safety, or physical, mental, or emotional health that endangers the life, health, or safety of the child or the child's sibling or had the opportunity and capability to prevent egregious conduct that threatened the life, health, or safety of the child or the child's sibling and knowingly failed to do so.

1. As used in this subsection, the term "sibling" means another child who resides with or is cared for by the parent or parents regardless of whether the child is related legally or by consanguinity.

2. As used in this subsection, the term "egregious conduct abuse" means abuse, abandonment, neglect, or any other conduct of the parent or parents that is deplorable, flagrant, or outrageous by a normal standard of conduct. Egregious conduct abuse may include an act or omission that occurred only once but was of such intensity, magnitude, or severity as to endanger the life of the child.

(g) When the parent or parents have subjected the child to aggravated child abuse as defined in s. 827.03, sexual battery or sexual abuse as defined in s. 39.01, or chronic abuse.

(h) When the parent or parents have committed murder or voluntary manslaughter of another child of the parent, or a felony assault that results in serious bodily injury to the child or another child of the parent, or aided or abetted, attempted, conspired, or solicited to commit such a murder or voluntary manslaughter or felony assault.

(i) When the parental rights of the parent to a sibling have been terminated involuntarily.

(2) Reasonable efforts to preserve and reunify families shall not be required if a court of competent jurisdiction has determined that any of the events described in paragraphs (1)(e)-(i) have occurred.

(3)(2) When a petition for termination of parental rights is filed under subsection (1), a separate petition for dependency need not be filed and the department need not offer the parents a case plan with a goal

of reunification, but may instead file with the court a case plan with a goal of termination of parental rights to allow continuation of services until the termination is granted or until further orders of the court are issued.

(4) When an expedited termination of parental rights petition is filed, reasonable efforts shall be made to place the child in a timely manner in accordance with the permanency plan, and to complete whatever steps are necessary to finalize the permanent placement of the child.

Section 88. Section 39.465, Florida Statutes, is renumbered as section 39.807, Florida Statutes, and amended to read:

~~39.807~~ ~~39.465~~ Right to counsel; guardian ad litem.—

(1)(a) At each stage of the proceeding under this part, the court shall advise the parent, ~~guardian, or custodian~~ of the right to have counsel present. The court shall appoint counsel for *indigent insolvent* persons. The court shall ascertain whether the right to counsel is understood and, where appropriate, is knowingly and intelligently waived. The court shall enter its findings in writing with respect to the appointment or waiver of counsel for *indigent insolvent* parties.

(b) Once counsel has been retained or, in appropriate circumstances, appointed to represent the parent of the child, the attorney shall continue to represent the parent throughout the proceedings or until the court has approved discontinuing the attorney-client relationship. If the attorney-client relationship is discontinued, the court shall advise the parent of the right to have new counsel retained or appointed for the remainder of the proceedings.

(c)(b)1. No waiver of counsel may be accepted if it appears that the parent, ~~guardian, or custodian~~ is unable to make an intelligent and understanding choice because of mental condition, age, education, experience, the nature or complexity of the case, or other factors.

2. A waiver of counsel made in court must be of record. A waiver made out of court must be in writing with not less than two attesting witnesses and must be filed with the court. The witnesses shall attest to the voluntary execution of the waiver.

3. If a waiver of counsel is accepted at any stage of the proceedings, the offer of assistance of counsel must be renewed by the court at each subsequent stage of the proceedings at which the parent, ~~guardian, or custodian~~ appears without counsel.

(d)(e) This subsection does not apply to any parent who has voluntarily executed a written surrender of the child and consent to the entry of a court order therefor and who does not deny the allegations of the petition.

(2)(a) The court shall appoint a guardian ad litem to represent the child in any termination of parental rights proceedings and shall ascertain at each stage of the proceedings whether a guardian ad litem has been appointed.

(b) The guardian ad litem has the following responsibilities:

1. To investigate the allegations of the petition and any subsequent matters arising in the case and, unless excused by the court, to file a written report. This report must include a statement of the wishes of the child and the recommendations of the guardian ad litem and must be provided to all parties and the court at least 48 hours before the disposition hearing.

2. To be present at all court hearings unless excused by the court.

3. To represent the interests of the child until the jurisdiction of the court over the child terminates or until excused by the court.

~~4. To perform such other duties and undertake such other responsibilities as the court may direct.~~

(c) A guardian ad litem is not required to post bond but shall file an acceptance of the office.

(d) A guardian ad litem is entitled to receive service of pleadings and papers as provided by the Florida Rules of Juvenile Procedure.

(e) This subsection does not apply to any voluntary relinquishment of parental rights proceeding.

Section 89. Section 39.466, Florida Statutes, is renumbered as section 39.808, Florida Statutes, and amended to read:

~~39.808~~ ~~39.466~~ Advisory hearing; *pretrial status conference*.—

(1) An advisory hearing on the petition to terminate parental rights must be held as soon as possible after all parties have been served with a copy of the petition and a notice of the date, time, and place of the advisory hearing for the petition.

(2) At the hearing the court shall inform the parties of their rights under s. ~~39.807~~ ~~39.465~~, shall appoint counsel for the parties in accordance with legal requirements, and shall appoint a guardian ad litem to represent the interests of the child if one has not already been appointed.

(3) The court shall set a date for an adjudicatory hearing to be held within 45 days after the advisory hearing, unless all of the necessary parties agree to some other hearing date.

(4) An advisory hearing may not be held if a petition is filed seeking an adjudication voluntarily to terminate parental rights. Adjudicatory hearings for petitions for voluntary termination must be held within 21 days after the filing of the petition. Notice of the use of this subsection must be filed with the court at the same time as the filing of the petition to terminate parental rights.

(5) *Not less than 10 days before the adjudicatory hearing, the court shall conduct a prehearing status conference to determine the order in which each party may present witnesses or evidence, the order in which cross-examination and argument shall occur, and any other matters that may aid in the conduct of the adjudicatory hearing, to prevent any undue delay in the conduct of the adjudicatory hearing.*

Section 90. Section 39.467, Florida Statutes, is renumbered as section 39.809, Florida Statutes, and amended to read:

~~39.809~~ ~~39.467~~ Adjudicatory hearing.—

(1) In a hearing on a petition for termination of parental rights, the court shall consider the elements required for termination ~~as set forth in s. 39.461~~. Each of these elements must be established by clear and convincing evidence before the petition is granted.

(2) The adjudicatory hearing must be held within 45 days after the advisory hearing, but reasonable continuances for the purpose of investigation, discovery, or procuring counsel or witnesses may, when necessary, be granted.

(3) The adjudicatory hearing must be conducted by the judge without a jury, applying the rules of evidence in use in civil cases and adjourning the case from time to time as necessary. For purposes of the adjudicatory hearing, to avoid unnecessary duplication of expense, the judge may consider in-court testimony previously given at any properly noticed hearing, without regard to the availability or unavailability of the witness at the time of the actual adjudicatory hearing, if the recorded testimony itself is made available to the judge. Consideration of such testimony does not preclude the witness being subpoenaed to answer supplemental questions.

(4) All hearings involving termination of parental rights are confidential and closed to the public. Hearings involving more than one child may be held simultaneously when the children involved are related to each other or were involved in the same case. The child and the parents ~~or legal custodians~~ may be examined separately and apart from each other.

(5) The judge shall enter a written order with the findings of fact and conclusions of law.

Section 91. Section 39.4612, Florida Statutes, is renumbered as section 39.810, Florida Statutes, is amended to read:

~~39.810~~ ~~39.4612~~ Manifest best interests of the child. In a hearing on a petition for termination of parental rights, the court shall consider the manifest best interests of the child. This consideration shall not include a comparison between the attributes of the parents and those of any

persons providing a present or potential placement for the child. For the purpose of determining the manifest best interests of the child, the court shall consider and evaluate all relevant factors, including, but not limited to:

(1) Any suitable permanent custody arrangement with a relative of the child.

(2) The ability and disposition of the parent or parents to provide the child with food, clothing, medical care or other remedial care recognized and permitted under state law instead of medical care, and other material needs of the child.

(3) The capacity of the parent or parents to care for the child to the extent that the child's *safety, well-being, and physical, mental, and emotional health and well-being* will not be endangered upon the child's return home.

(4) The present mental and physical health needs of the child and such future needs of the child to the extent that such future needs can be ascertained based on the present condition of the child.

(5) The love, affection, and other emotional ties existing between the child and the child's parent or parents, siblings, and other relatives, and the degree of harm to the child that would arise from the termination of parental rights and duties.

(6) The likelihood of an older child remaining in long-term foster care upon termination of parental rights, due to emotional or behavioral problems or any special needs of the child.

(7) The child's ability to form a significant relationship with a parental substitute and the likelihood that the child will enter into a more stable and permanent family relationship as a result of permanent termination of parental rights and duties.

(8) The length of time that the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity.

(9) The depth of the relationship existing between the child and the present custodian.

(10) The reasonable preferences and wishes of the child, if the court deems the child to be of sufficient intelligence, understanding, and experience to express a preference.

(11) The recommendations for the child provided by the child's guardian ad litem or legal representative.

Section 92. Section 39.469, Florida Statutes, is renumbered as section 39.811, Florida Statutes, and amended to read:

~~39.811~~ ~~39.469~~ Powers of disposition; order of disposition.—

(1) If the court finds that the grounds for termination of parental rights have not been established by clear and convincing evidence, the court shall:

(a) If grounds for dependency have been established, adjudicate or readjudicate the child dependent and:

1. Enter an order placing or continuing the child in *out-of-home foster care* under a case plan; or

2. Enter an order returning the child to the parent or parents. The court shall retain jurisdiction over a child returned to the *parent or parents or legal guardians* for a period of 6 months, but, at that time, based on a report of the social service agency and any other relevant factors, the court shall make a determination as to whether its jurisdiction shall continue or be terminated.

(b) If grounds for dependency have not been established, dismiss the petition.

(2) If the child is in *out-of-home foster care* custody of the department and the court finds that the grounds for termination of parental rights have been established by clear and convincing evidence, the court shall, by order, place the child in the custody of the department for the purpose of adoption or place the child in the custody of a licensed child-placing agency for the purpose of adoption.

(3) If the child is in the custody of one parent and the court finds that the grounds for termination of parental rights have been established for the remaining parent by clear and convincing evidence, the court shall enter an order terminating the rights of the parent for whom the grounds have been established and placing the child in the custody of the remaining parent, granting that parent sole parental responsibility for the child.

(4) If the child is neither in the custody of the department of ~~Children and Family Services~~ nor in the custody of a parent and the court finds that the grounds for termination of parental rights have been established for either or both parents, the court shall enter an order terminating parental rights for the parent or parents for whom the grounds for termination have been established and placing the child with an appropriate custodian. If the parental rights of both parents have been terminated, or if the parental rights of only one parent have been terminated and the court makes specific findings based on evidence presented that placement with the remaining parent is likely to be harmful to the child, the court may order that the child be placed with a custodian other than the department after hearing evidence of the suitability of such intended placement. Suitability of the proposed placement includes the fitness and capabilities of the ~~proposed intended placement, with primary consideration being given to the welfare of the child; the fitness and capabilities of the proposed~~ custodian to function as the primary caregiver caretaker for a particular child; and the compatibility of the child with the home in which the child is intended to be placed. If the court orders that a child be placed with a custodian under this subsection, the court shall appoint such custodian as the guardian for the child as provided in s. 744.3021. The court may modify the order placing the child in the custody of the custodian and revoke the guardianship established under s. 744.3021 if the court subsequently finds that a party to the proceeding other than a parent whose rights have been terminated has shown a material change in circumstances which causes the placement to be no longer in the best interest of the child.

(5) If the court terminates parental rights, the court shall enter a written order of disposition briefly stating the facts upon which its decision to terminate the parental rights is made. An order of termination of parental rights, whether based on parental consent or after notice served as prescribed in this part, permanently deprives the parents or legal guardian of any right to the child.

(6) The parental rights of one parent may be severed without severing the parental rights of the other parent only under the following circumstances:

- (a) If the child has only one surviving parent;
- (b) If the identity of a prospective parent has been established as unknown after sworn testimony;
- (c) If the parent whose rights are being terminated became a parent through a single-parent adoption;
- (d) If the protection of the child demands termination of the rights of a single parent; or
- (e) If the parent whose rights are being terminated meets the criteria specified in s. ~~39.806(1)(d)~~ ~~39.464(1)(d)~~.

(7)(a) *The termination of parental rights does not affect the rights of grandparents unless the court finds that continued visitation is not in the best interests of the child or that such visitation would interfere with the goals of permanency planning for the child.*

(b) If the court terminates parental rights, it may order that the parents or relatives of the parent whose rights are terminated be allowed to maintain some contact with the child pending adoption if the best interests of the child support this continued contact, *except as provided in paragraph (a)*. If the court orders such continued contact, the nature and frequency of the contact must be set forth in written order and may be reviewed upon motion of any party, including a prospective adoptive parent if a child has been placed for adoption. If a child is placed for adoption, the nature and frequency of the contact must be reviewed by the court at the time the child is adopted.

(8) If the court terminates parental rights, it shall, in its order of disposition, provide for a hearing, to be scheduled no later than 30 days after the date of disposition, in which the department or the licensed

child-placing agency shall provide to the court a plan for permanency for the child. *Reasonable efforts must be made to place the child in a timely manner in accordance with the permanency plan, and to complete whatever steps are necessary to finalize the permanent placement of the child.* Thereafter, until the adoption of the child is finalized or the child reaches the age of 18 years, whichever occurs first, the court shall hold hearings at 6-month intervals to review the progress being made toward permanency for the child.

(9) *After termination of parental rights, the court shall retain jurisdiction over any child for whom custody is given to a social service agency until the child is adopted. The court shall review the status of the child's placement and the progress being made toward permanent adoptive placement. As part of this continuing jurisdiction, for good cause shown by the guardian ad litem for the child, the court may review the appropriateness of the adoptive placement of the child.*

Section 93. Section 39.47, Florida Statutes, is renumbered as section 39.812, Florida Statutes, and amended to read:

~~39.812~~ ~~39.47~~ Post disposition relief.—

(1) A licensed child-placing agency or the department which is given custody of a child for subsequent adoption in accordance with this chapter may place the child in a family home for prospective subsequent adoption and *the licensed child-placing agency or the department* may thereafter become a party to any proceeding for the legal adoption of the child and appear in any court where the adoption proceeding is pending and consent to the adoption; and that consent alone shall in all cases be sufficient.

(2) In any subsequent adoption proceeding, the parents ~~and legal guardian~~ shall not be entitled to any notice thereof, nor shall they be entitled to knowledge at any time after the order terminating parental rights is entered of the whereabouts of the child or of the identity or location of any person having the custody of or having adopted the child, except as provided by order of the court pursuant to this chapter or chapter 63; and in any habeas corpus or other proceeding involving the child brought by any parent or ~~legal guardian~~ of the child, no agent or contract provider of the licensed child-placing agency or department shall be compelled to divulge that information, but may be compelled to produce the child before a court of competent jurisdiction if the child is still subject to the guardianship of the licensed child-placing agency or department.

(3) The entry of the custody order to the department or licensed child-placing agency shall not entitle the licensed child-placing agency or department to guardianship of the estate or property of the child, but the licensed child-placing agency or department shall be the guardian of the person of the child.

(4) The court shall retain jurisdiction over any child for whom custody is given to a licensed child-placing agency or to the department until the child is adopted. After custody of a child for subsequent adoption has been given to an agency or the department, the court has jurisdiction for the purpose of reviewing the status of the child and the progress being made toward permanent adoptive placement. As part of this continuing jurisdiction, for good cause shown by the guardian ad litem for the child, the court may review the appropriateness of the adoptive placement of the child.

~~(5) The Legislature finds that children are most likely to realize their potential when they have the ability provided by good permanent families rather than spending long periods of time in temporary placements or unnecessary institutions. It is the intent of the Legislature that decisions be consistent with the child's best interests and that the department make proper adoptive placements as expeditiously as possible following a final judgment terminating parental rights.~~

Section 94. Section 39.813, Florida Statutes, is created to read:

39.813 Continuing jurisdiction.—The court that terminates the parental rights of a child who is the subject of termination proceedings pursuant to this chapter shall retain exclusive jurisdiction in all matters pertaining to the child's adoption pursuant to chapter 63.

Section 95. Section 39.471, Florida Statutes, is renumbered as section 39.814, Florida Statutes.

Section 96. Section 39.473, Florida Statutes, is renumbered as section 39.815, Florida Statutes, and subsection (1) of said section is amended to read:

~~39.815~~ ~~39.473~~ Appeal.—

(1) Any child, any parent or guardian ad litem, or legal custodian of any child, any other party to the proceeding who is affected by an order of the court, or the department may appeal to the appropriate district court of appeal within the time and in the manner prescribed by the Florida Rules of Appellate Procedure. The district court of appeal shall give an appeal from an order terminating parental rights priority in docketing and shall render a decision on the appeal as expeditiously as possible. Appointed counsel shall be compensated as provided in s. ~~39.0134~~ ~~39.474~~.

Section 97. Section 39.816, Florida Statutes, is created to read:

39.816 Authorization for pilot and demonstration projects.—

(1) *Contingent upon receipt of a federal grant or contract pursuant to s. 473A(i) of the Social Security Act, 42 U.S.C. 673A(i), enacted November 19, 1997, the department is authorized to establish one or more pilot projects for the following purposes:*

(a) *The development of best practice guidelines for expediting termination of parental rights.*

(b) *The development of models to encourage the use of concurrent planning.*

(c) *The development of specialized units and expertise in moving children toward adoption as a permanency goal.*

(d) *The development of risk-assessment tools to facilitate early identification of the children who will be at risk of harm if returned home.*

(e) *The development of models to encourage the fast-tracking into preadoptive placements of children who have not attained 1 year of age.*

(f) *The development of programs that place children into preadoptive families without waiting for termination of parental rights.*

(2) *Contingent upon receipt of federal authorization and funding pursuant to s. 1130(a) of the Social Security Act, 42 U.S.C. 1320a-9, enacted November 19, 1997, the department is authorized to establish one or more demonstration projects for the following purposes:*

(a) *Identifying and addressing barriers that result in delays to adoptive placements for children in out-of-home care.*

(b) *Identifying and addressing parental substance abuse problems that endanger children and result in the placement of children in out-of-home care. This purpose may be accomplished through the placement of children with their parents in residential treatment facilities, including residential treatment facilities for post-partum depression, which are specifically designed to serve parents and children together, in order to promote family reunification, and which can ensure the health and safety of the children.*

(c) *Addressing kinship care.*

Section 98. Section 39.817, Florida Statutes, is created to read:

39.817 Foster care privatization demonstration pilot project.—A pilot project shall be established through The Ounce of Prevention Fund of Florida to contract with a private entity for a foster care privatization demonstration project. No more than 30 children with a goal of family reunification shall be accepted into the program on a no-eject-or-reject basis as identified by the department. Sibling groups shall be kept together in one placement in their own communities. Foster care parents shall be paid employees of the program. The program shall provide for public/private partnerships, community collaboration, counseling, and medical and legal assistance, as needed. For purposes of identifying measurable outcomes, the pilot project shall be located in a department district with an integrated district management which was selected as a family transition program site, has a population of less than 500,000, has a total caseload of no more than 400, with and without board payment, and has a total foster care case load of no more than 250.

Section 99. Part X of chapter 39, Florida Statutes, consisting of sections 39.820, 39.821, 39.822, 39.823, 39.824, 39.825, 39.826, 39.827, 39.828, 39.829, and 39.8295, Florida Statutes, shall be entitled to read:

PART X

GUARDIANS AD LITEM AND GUARDIAN ADVOCATES

Section 100. Section 39.820, Florida Statutes, is created to read:

39.820 Definitions.—As used in this part, the term:

(1) *“Guardian ad litem” as referred to in any civil or criminal proceeding includes the following: a certified guardian ad litem program; a duly certified volunteer; a staff attorney, contract attorney, or certified pro bono attorney working on behalf of a guardian ad litem or the program; staff members of a program office; a court-appointed attorney; or a responsible adult who is appointed by the court to represent the best interests of a child in a proceeding as provided for by law, including, but not limited to, this chapter, who is a party to any judicial proceeding as a representative of the child, and who serves until discharged by the court.*

(2) *“Guardian advocate” means a person appointed by the court to act on behalf of a drug-dependent newborn pursuant to the provisions of this part.*

Section 101. Section 415.5077, Florida Statutes, is renumbered as section 39.821, Florida Statutes.

Section 102. Section 415.508, Florida Statutes, is renumbered as section 39.822, Florida Statutes, and amended to read:

~~39.822~~ ~~415.508~~ Appointment of guardian ad litem for abused, abandoned, or neglected child.—

(1) A guardian ad litem shall be appointed by the court at the earliest possible time to represent the child in any child abuse, abandonment, or neglect judicial proceeding, whether civil or criminal. Any person participating in a civil or criminal judicial proceeding resulting from such appointment shall be presumed prima facie to be acting in good faith and in so doing shall be immune from any liability, civil or criminal, that otherwise might be incurred or imposed.

(2) In those cases in which the parents are financially able, the parent or parents of the child shall reimburse the court, in part or in whole, for the cost of provision of guardian ad litem services. Reimbursement to the individual providing guardian ad litem services shall not be contingent upon successful collection by the court from the parent or parents.

(3) The guardian ad litem or the program representative shall review all disposition recommendations and changes in placements, and must be present at all critical stages of the dependency proceeding or submit a written report of recommendations to the court.

Section 103. Section 415.5082, Florida Statutes, is renumbered as section 39.823, Florida Statutes, and amended to read:

~~39.823~~ ~~415.5082~~ Guardian advocates for drug dependent newborns.—The Legislature finds that increasing numbers of drug dependent children are born in this state. Because of the parents' continued dependence upon drugs, the parents may temporarily leave their child with a relative or other adult or may have agreed to voluntary family services under s. ~~39.301(8)~~ ~~415.505(1)(c)~~. The relative or other adult may be left with a child who is likely to require medical treatment but for whom they are unable to obtain medical treatment. The purpose of this section is to provide an expeditious method for such relatives or other responsible adults to obtain a court order which allows them to provide consent for medical treatment and otherwise advocate for the needs of the child and to provide court review of such authorization.

Section 104. Section 415.5083, Florida Statutes, is renumbered as section 39.824, Florida Statutes, and amended to read:

~~39.824~~ ~~415.5083~~ Procedures and jurisdiction.—

(1) The Supreme Court is requested to adopt rules of juvenile procedure by October 1, 1989, to implement *this part ss. 415.5082-415.5089*. All procedures, including petitions, pleadings, subpoenas, summonses, and hearings in cases for the appointment of a guardian advocate shall

be according to the Florida Rules of Juvenile Procedure unless otherwise provided by law.

(2) The circuit court shall have exclusive original jurisdiction of a proceeding in which appointment of a guardian advocate is sought. The court shall retain jurisdiction over a child for whom a guardian advocate is appointed until specifically relinquished by court order.

Section 105. *Section 415.5084, Florida Statutes, is renumbered as section 39.825, Florida Statutes.*

Section 106. *Section 415.5085, Florida Statutes, is renumbered as section 39.826, Florida Statutes.*

Section 107. Section 415.5086, Florida Statutes, is renumbered as section 39.827, Florida Statutes, and amended to read:

~~39.827~~ ~~415.5086~~ Hearing for appointment of a guardian advocate.—

(1) When a petition for appointment of a guardian advocate has been filed with the circuit court, the hearing shall be held within 14 days unless all parties agree to a continuance. If a child is in need of necessary medical treatment as defined in s. 39.01, the court shall hold a hearing within 24 hours.

(2) At the hearing, the parents have the right to be present, to present testimony, to call and cross-examine witnesses, to be represented by counsel at their own expense, and to object to the appointment of the guardian advocate.

(3) The hearing shall be conducted by the judge without a jury, applying the rules of evidence in use in civil cases. In a hearing on a petition for appointment of a guardian advocate, the moving party shall prove all the elements in s. ~~39.828~~ ~~415.5087~~ by a preponderance of the evidence.

(4) The hearing under this section shall remain confidential and closed to the public. The clerk shall keep all court records required by *this part ss. 415.5082-415.5089* separate from other records of the circuit court. All court records required by *this part ss. 415.5082-415.5089* shall be confidential and exempt from the provisions of s. 119.07(1). All records shall be inspected only upon order of the court by persons deemed by the court to have a proper interest therein, except that a child and the parents or custodians of the child and their attorneys and the department and its designees shall always have the right to inspect and copy any official record pertaining to the child. The court may permit authorized representatives of recognized organizations compiling statistics for proper purposes to inspect and make abstracts from official records, under whatever conditions upon their use and disposition the court may deem proper, and may punish by contempt proceedings any violation of those conditions. All information obtained pursuant to *this part ss. 415.5082-415.5089* in the discharge of official duty by any judge, employee of the court, or authorized agent of the department, shall be confidential and exempt from the provisions of s. 119.07(1) and shall not be disclosed to anyone other than the authorized personnel of the court or the department and its designees, except upon order of the court.

Section 108. Section 415.5087, Florida Statutes, is renumbered as section 39.828, Florida Statutes, and amended to read:

~~39.828~~ ~~415.5087~~ Grounds for appointment of a guardian advocate.—

(1) The court shall appoint the person named in the petition as a guardian advocate with all the powers and duties specified in s. ~~39.829~~ ~~415.5088~~ for an initial term of 1 year upon a finding that:

(a) The child named in the petition is or was a *drug-dependent drug dependent* newborn as described in s. ~~39.01(30)(g)~~ ~~415.503(10)(a)2~~;

(b) The parent or parents of the child have voluntarily relinquished temporary custody of the child to a relative or other responsible adult;

(c) The person named in the petition to be appointed the guardian advocate is capable of carrying out the duties as provided in s. ~~39.829~~ ~~415.5088~~; and

(d) A petition to adjudicate the child dependent pursuant to *this chapter 39* has not been filed.

(2) The appointment of a guardian advocate does not remove from the parents the right to consent to medical treatment for their child. The appointment of a guardian advocate does not prevent the filing of a subsequent petition under *this chapter 39* to have the child adjudicated dependent.

Section 109. *Section 415.5088, Florida Statutes, is renumbered as section 39.829, Florida Statutes.*

Section 110. Section 415.5089, Florida Statutes, is renumbered as section 39.8295, Florida Statutes, and amended to read:

~~39.8295~~ ~~415.5089~~ Review and removal of guardian advocate.—

(1) At the end of the initial 1-year appointment, the court shall review the status of the child's care, health, and medical condition for the purpose of determining whether to reauthorize the appointment of the guardian advocate. If the court finds that all of the elements of s. ~~39.828~~ ~~415.5087~~ are still met the court shall reauthorize the guardian advocate for another year.

(2) At any time, the court may, upon its own motion, or upon the motion of the department, a family member, or other interested person remove a guardian advocate. A guardian advocate shall be removed if the court finds that the guardian advocate is not properly discharging his or her responsibilities or is acting in a manner inconsistent with his or her appointment, that the parents have assumed parental responsibility to provide for the child, or that the child has been adjudicated dependent pursuant to *this chapter 39*.

Section 111. Part XI of chapter 39, Florida Statutes, consisting of sections 39.901, 39.902, 39.903, 39.904, 39.905, 39.906, and 39.908, Florida Statutes, shall be entitled to read:

PART XI DOMESTIC VIOLENCE

Section 112. *Section 415.601, Florida Statutes, is renumbered as section 39.901, Florida Statutes.*

Section 113. Section 415.602, Florida Statutes, is renumbered as section 39.902, Florida Statutes, and amended to read:

~~39.902~~ ~~415.602~~ Definitions of terms used in ~~ss. 415.601-415.608~~.—
As used in *this part ss. 415.601-415.608*, the term:

(1) ~~“Department” means the Department of Children and Family Services.~~

(2) ~~“District” means a service district of the department as created in s. 20.19.~~

(1)(3) “Domestic violence” means any assault, battery, sexual assault, sexual battery, or any criminal offense resulting in physical injury or death of one family or household member by another who is or was residing in the same single dwelling unit.

(2)(4) “Domestic violence center” means an agency that provides services to victims of domestic violence, as its primary mission.

(3)(5) “Family or household member” means spouses, former spouses, adults related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who have a child in common regardless of whether they have been married or have resided together at any time.

Section 114. Section 415.603, Florida Statutes, is renumbered as section 39.903, Florida Statutes, and amended to read:

~~39.903~~ ~~415.603~~ Duties and functions of the department with respect to domestic violence.—

(1) The department shall:

(a) Develop by rule criteria for the approval or rejection of certification or funding of domestic violence centers.

(b) Develop by rule minimum standards for domestic violence centers to ensure the health and safety of the clients in the centers.

(c) Receive and approve or reject applications for certification of domestic violence centers, and receive and approve or reject applications for funding of domestic violence centers. When approving funding for a newly certified domestic violence center, the department shall make every effort to minimize any adverse economic impact on existing certified centers or services provided within the same district. In order to minimize duplication of services, the department shall make every effort to encourage subcontracting relationships with existing centers within the district. If any of the required services are exempted by the department under s. 39.905(1)(c) 415.605(1)(e), the center shall not receive funding for those services.

(d) Evaluate each certified domestic violence center annually to ensure compliance with the minimum standards. The department has the right to enter and inspect the premises of certified domestic violence centers at any reasonable hour in order to effectively evaluate the state of compliance of these centers with *this part ss. 415.601-415.608* and rules relating to *this part those sections*.

(e) Adopt rules to implement *this part ss. 415.601-415.608*.

(f) Promote the involvement of certified domestic violence centers in the coordination, development, and planning of domestic violence programming in the districts and the state.

(2) The department shall serve as a clearinghouse for information relating to domestic violence.

(3) The department shall enlist the assistance of public and voluntary health, education, welfare, and rehabilitation agencies in a concerted effort to prevent domestic violence and to treat persons engaged in or subject to domestic violence. With the assistance of these agencies, the department, within existing resources, shall formulate and conduct a research and evaluation program on domestic violence. Efforts on the part of these agencies to obtain relevant grants to fund this research and evaluation program must be supported by the department.

(4) The department shall develop and provide educational programs on domestic violence for the benefit of the general public, persons engaged in or subject to domestic violence, professional persons, or others who care for or may be engaged in the care and treatment of persons engaged in or subject to domestic violence.

(5) The department shall cooperate with, assist in, and participate in, programs of other properly qualified agencies, including any agency of the Federal Government, schools of medicine, hospitals, and clinics, in planning and conducting research on the prevention, care, treatment, and rehabilitation of persons engaged in or subject to domestic violence.

(6) The department shall contract with a statewide association whose primary purpose is to represent and provide technical assistance to domestic violence centers. This association shall receive 2 percent of the Domestic Violence Trust Fund for this purpose.

Section 115. Section 415.604, Florida Statutes, is renumbered as section 39.904, Florida Statutes, and amended to read:

~~39.904 415.604~~ Report to the Legislature on the status of domestic violence cases.—On or before January 1 of each year, the department of ~~Children and Family Services~~ shall furnish to the President of the Senate and the Speaker of the House of Representatives a report on the status of domestic violence in this state, which report shall include, but is not limited to, the following:

(1) The incidence of domestic violence in this state.

(2) An identification of the areas of the state where domestic violence is of significant proportions, indicating the number of cases of domestic violence officially reported, as well as an assessment of the degree of unreported cases of domestic violence.

(3) An identification and description of the types of programs in the state that assist victims of domestic violence or persons who commit domestic violence, including information on funding for the programs.

(4) The number of persons who are treated by or assisted by local domestic violence programs that receive funding through the department.

(5) A statement on the effectiveness of such programs in preventing future domestic violence.

(6) An inventory and evaluation of existing prevention programs.

(7) A listing of potential prevention efforts identified by the department; the estimated annual cost of providing such prevention services, both for a single client and for the anticipated target population as a whole; an identification of potential sources of funding; and the projected benefits of providing such services.

Section 116. Section 415.605, Florida Statutes, is renumbered as section 39.905, Florida Statutes, and amended to read:

~~39.905 415.605~~ Domestic violence centers.—

(1) Domestic violence centers certified under *this part ss. 415.601-415.608* must:

(a) Provide a facility which will serve as a center to receive and house persons who are victims of domestic violence. For the purpose of *this part ss. 415.601-415.608*, minor children and other dependents of a victim, when such dependents are partly or wholly dependent on the victim for support or services, may be sheltered with the victim in a domestic violence center.

(b) Receive the annual written endorsement of local law enforcement agencies.

(c) Provide minimum services which include, but are not limited to, information and referral services, counseling and case management services, temporary emergency shelter for more than 24 hours, a 24-hour hotline, training for law enforcement personnel, assessment and appropriate referral of resident children, and educational services for community awareness relative to the incidence of domestic violence, the prevention of such violence, and the care, treatment, and rehabilitation for persons engaged in or subject to domestic violence. If a 24-hour hotline, professional training, or community education is already provided by a certified domestic violence center within a district, the department may exempt such certification requirements for a new center serving the same district in order to avoid duplication of services.

(d) Participate in the provision of orientation and training programs developed for law enforcement officers, social workers, and other professionals and paraprofessionals who work with domestic violence victims to better enable such persons to deal effectively with incidents of domestic violence.

(e) Establish and maintain a board of directors composed of at least three citizens, one of whom must be a member of a local, municipal, or county law enforcement agency.

(f) Comply with rules adopted pursuant to *this part ss. 415.601-415.608*.

(g) File with the department a list of the names of the domestic violence advocates who are employed or who volunteer at the domestic violence center who may claim a privilege under s. 90.5036 to refuse to disclose a confidential communication between a victim of domestic violence and the advocate regarding the domestic violence inflicted upon the victim. The list must include the title of the position held by the advocate whose name is listed and a description of the duties of that position. A domestic violence center must file amendments to this list as necessary.

(h) Demonstrate local need and ability to sustain operations through a history of 18 consecutive months' operation as a domestic violence center, including 12 months' operation of an emergency shelter as *provided in paragraph (c) defined in paragraph (1)(a)*, and a business plan which addresses future operations and funding of future operations.

(i) If its center is a new center applying for certification, demonstrate that the services provided address a need identified in the most current statewide needs assessment approved by the department.

(2) If the department finds that there is failure by a center to comply with the requirements established under *this part ss. 415.601-415.608* or with the rules adopted pursuant thereto, the department may deny, suspend, or revoke the certification of the center.

(3) The annual certificate shall automatically expire on the termination date shown on the certificate.

(4) The domestic violence centers shall establish procedures pursuant to which persons subject to domestic violence may seek services from these centers voluntarily.

(5) Domestic violence centers may be established throughout the state when private, local, state, or federal funds are available.

(6) In order to receive state funds, a center must:

(a) Obtain certification pursuant to *this part ss.—415.601-415.608*. However, the issuance of a certificate will not obligate the department to provide funding.

(b) Receive at least 25 percent of its funding from one or more local, municipal, or county sources, public or private. Contributions in kind, whether materials, commodities, transportation, office space, other types of facilities, or personal services, may be evaluated and counted as part of the required local funding.

(7)(a) All funds collected and appropriated to the domestic violence program shall be distributed annually by the department to each district according to an allocation formula determined by the department. In developing the formula, the department shall consider population, a rural and geographical area factor, and the incidence of domestic violence.

(b) A contract between a district and a certified domestic violence center shall contain provisions assuring the availability and geographic accessibility of services throughout the district. For this purpose, a center may distribute funds through subcontracts or to center satellites, provided such arrangements and any subcontracts are approved by the district.

Section 117. *Section 415.606, Florida Statutes, is renumbered as section 39.906, Florida Statutes.*

Section 118. *Section 415.608, Florida Statutes, is renumbered as section 39.908, Florida Statutes.*

Section 119. Subsections (4) through (20) of section 20.19, Florida Statutes, are renumbered as subsections (5) through (21), respectively, paragraph (b) of present subsection (4), paragraph (o) of present subsection (7), and paragraph (c) of present subsection (20) are amended, and a new subsection (4) is added to that section, to read:

20.19 Department of Children and Family Services.—There is created a Department of Children and Family Services.

(4) *CERTIFICATION PROGRAMS FOR DEPARTMENT EMPLOYEES.—The department is authorized to create certification programs for family safety and preservation employees and agents to ensure that only qualified employees and agents provide child protection services. The department is authorized to develop rules that include qualifications for certification, including training and testing requirements, continuing education requirements for ongoing certification, and decertification procedures to be used to determine when an individual no longer meets the qualifications for certification and to implement the decertification of an employee or agent.*

(5)(4) PROGRAM OFFICES.—

(a) There are created program offices, each of which shall be headed by an assistant secretary who shall be appointed by and serve at the pleasure of the secretary. Each program office shall have the following responsibilities:

1. Ensuring that family services programs are implemented according to legislative intent and as provided in state and federal laws, rules, and regulations.

2. Establishing program standards and performance objectives.

3. Reviewing, monitoring, and ensuring compliance with statewide standards and performance objectives.

4. Conducting outcome evaluations and ensuring program effectiveness.

5. Developing workload and productivity standards.

6. Developing resource allocation methodologies.

7. Compiling reports, analyses, and assessment of client needs on a statewide basis.

8. Ensuring the continued interagency collaboration with the Department of Education for the development and integration of effective programs to serve children and their families.

9. Other duties as are assigned by the secretary.

(b) The following program offices are established and may be consolidated, restructured, or rearranged by the secretary; provided any such consolidation, restructuring, or rearranging is for the purpose of encouraging service integration through more effective and efficient performance of the program offices or parts thereof:

1. Economic Self-Sufficiency Program Office.—The responsibilities of this office encompass income support programs within the department, such as temporary assistance to families with dependent children, food stamps, welfare reform, and state supplementation of the supplemental security income (SSI) program.

2. Developmental Services Program Office.—The responsibilities of this office encompass programs operated by the department for developmentally disabled persons. Developmental disabilities include any disability defined in s. 393.063.

3. Children and Families Program Office.—The responsibilities of this program office encompass early intervention services for children and families at risk; intake services for protective investigation of abandoned, abused, and neglected children; interstate compact on the placement of children programs; adoption; child care; out-of-home care programs and other specialized services to families; and child protection and sexual abuse treatment teams created under chapter 39415, excluding medical direction functions.

4. Alcohol, Drug Abuse, and Mental Health Program Office.—The responsibilities of this office encompass all alcohol, drug abuse, and mental health programs operated by the department.

(8)(7) HEALTH AND HUMAN SERVICES BOARDS.—

(a) There is created at least one health and human services board in each service district for the purpose of encouraging the initiation and support of interagency cooperation and collaboration in addressing family services needs and promoting service integration. The initial membership and the authority to appoint the members shall be allocated among the counties of each district as follows:

1. District 1 has a board composed of 15 members, with 3 at-large members to be appointed by the Governor, and 12 members to be appointed by the boards of county commissioners of the respective counties, as follows: Escambia County, 6 members; Okaloosa County, 3 members; Santa Rosa County, 2 members; and Walton County, 1 member.

2. District 2 has a board composed of 23 members, with 5 at-large members to be appointed by the Governor, and 18 members to be appointed by the boards of county commissioners in the respective counties, as follows: Holmes County, 1 member; Washington County, 1 member; Bay County, 2 members; Jackson County, 1 member; Calhoun County, 1 member; Gulf County, 1 member; Gadsden County, 1 member; Franklin County, 1 member; Liberty County, 1 member; Leon County, 4 members; Wakulla County, 1 member; Jefferson County, 1 member; Madison County, 1 member; and Taylor County, 1 member.

3. District 3 has a board composed of 19 members, with 4 at-large members to be appointed by the Governor, and 15 members to be appointed by the boards of county commissioners of the respective counties, as follows: Hamilton County, 1 member; Suwannee County, 1 member; Lafayette County, 1 member; Dixie County, 1 member; Columbia County, 1 member; Gilchrist County, 1 member; Levy County, 1 member; Union County, 1 member; Bradford County, 1 member; Putnam County, 1 member; and Alachua County, 5 members.

4. District 4 has a board composed of 15 members, with 3 at-large members to be appointed by the Governor, and 12 members to be ap-

pointed by the boards of county commissioners of the respective counties, as follows: Baker County, 1 member; Nassau County, 1 member; Duval County, 7 members; Clay County, 2 members; and St. Johns County, 1 member.

5. District 5 has a board composed of 15 members, with 3 at-large members to be appointed by the Governor, and 12 members to be appointed by the boards of county commissioners of the respective counties, as follows: Pasco County, 3 members; and Pinellas County, 9 members.

6. District 6 has a board composed of 15 members, with 3 at-large members to be appointed by the Governor, and 12 members to be appointed by the boards of county commissioners of the respective counties, as follows: Hillsborough County, 9 members; and Manatee County, 3 members.

7. District 7 has a board composed of 15 members, with 3 at-large members to be appointed by the Governor, and 12 members to be appointed by the boards of county commissioners in the respective counties, as follows: Seminole County, 3 members; Orange County, 5 members; Osceola County, 1 member; and Brevard County, 3 members.

8. District 8 has a board composed of 15 members, with 3 at-large members to be appointed by the Governor, and 12 members to be appointed by the boards of county commissioners in the respective counties, as follows: Sarasota County, 3 members; DeSoto County, 1 member; Charlotte County, 1 member; Lee County, 3 members; Glades County, 1 member; Hendry County, 1 member; and Collier County, 2 members.

9. District 9 has a board composed of 15 members, with 3 at-large members to be appointed by the Governor, and 12 members to be appointed by the Board of County Commissioners of Palm Beach County.

10. District 10 has a board composed of 15 members, with 3 at-large members to be appointed by the Governor, and 12 members to be appointed by the Board of County Commissioners of Broward County.

11. District 11 has two boards, one from Dade County and one from Monroe County. Each board is composed of 15 members, with 3 at-large members to be appointed to each board by the Governor, and 12 members to be appointed by each of the respective boards of county commissioners.

12. District 12 has a board composed of 15 members, with 3 at-large members to be appointed by the Governor, and 12 members to be appointed by the boards of county commissioners of the respective counties, as follows: Flagler County, 3 members; and Volusia County, 9 members.

13. District 13 has a board composed of 15 members, with 3 at-large members to be appointed by the Governor, and 12 members to be appointed by the boards of county commissioners of the respective counties, as follows: Marion County, 4 members; Citrus County, 2 members; Hernando County, 2 members; Sumter County, 1 member; and Lake County, 3 members.

14. District 14 has a board composed of 15 members, with 3 at-large members to be appointed by the Governor, and 12 members to be appointed by the boards of county commissioners of the respective counties, as follows: Polk County, 9 members; Highlands County, 2 members; and Hardee County, 1 member.

15. District 15 has a board composed of 15 members, with 3 at-large members to be appointed by the Governor, and 12 members to be appointed by the boards of county commissioners of the respective counties, as follows: Indian River County, 3 members; Okeechobee County, 1 member; St. Lucie County, 5 members; and Martin County, 3 members.

Notwithstanding any other provisions of this subsection, in districts consisting of two counties, the number of members to be appointed by any one board of county commissioners may not be fewer than three nor more than nine.

(b) At any time after the adoption of initial bylaws pursuant to paragraph (a), a district health and human services board may adopt a bylaw that enlarges the size of the board up to a maximum of 23 members, or otherwise adjusts the size or composition of the board, including a decision to change from a district board to subdistrict boards, or from a

subdistrict board to a district board, if in the judgment of the board, such change is necessary to adequately represent the diversity of the population within the district or subdistrict. In the creation of subdistrict boards, the bylaws shall set the size of the board, not to exceed 15 members, and shall set the number of appointments to be made by the Governor and the respective boards of county commissioners in the subdistrict. The Governor shall be given the authority to appoint no fewer than one-fifth of the members. Current members of the district board shall become members of the subdistrict board in the subdistrict where they reside. Vacancies on a newly created subdistrict board shall be filled from among the list of nominees submitted to the subdistrict nominee qualifications review committee pursuant to subsection (8).

(c) The appointments by the Governor and the boards of county commissioners are from nominees selected by the appropriate district nominee qualifications review committee pursuant to subsection (8). Membership of each board must be representative of its district with respect to age, gender, and ethnicity. For boards having 15 members or fewer, at least two members must be consumers of the department's services. For boards having more than 15 members, there must be at least three consumers on the board. Members must have demonstrated their interest and commitment to, and have appropriate expertise for, meeting the health and family services needs of the community. The Governor shall appoint nominees whose presence on the health and human services board will help assure that the board reflects the demographic characteristics and consumer perspective of each of the service districts.

(d)1. Board members shall submit annually a disclosure statement of health and family services interests to the department's inspector general and the board. Any member who has an interest in a matter under consideration by the board must abstain from voting. Board members are subject to the provisions of s. 112.3145, relating to disclosure of financial interests.

2. Individual providers or employees of provider agencies, other than employees of units of local or state government, may not serve as health and human services board members but may serve in an advisory capacity to the board. Salaried employees of units of local or state government occupying positions providing services under contract with the department may not serve as members of the board. Elected officials who have authority to appoint members to a health and human services board may not serve as members of a board. The district administrator shall serve as a nonvoting ex officio member of the board. A department employee may not be a member of the board.

(e) Appointments to fill vacancies created by the death, resignation, or removal of a member are for the unexpired term. A member may not serve more than two full consecutive terms.

(f) A member who is absent from three meetings within any 12-month period, without having been excused by the chairperson, is deemed to have resigned, and the board shall immediately declare the seat vacant. Members may be suspended or removed for cause by a majority vote of the board members or by the Governor.

(g) Members of the health and human services boards shall serve without compensation, but are entitled to receive reimbursement for per diem and travel expenses as provided in s. 112.061. Payment may also be authorized for preapproved child care expenses or lost wages for members who are consumers of the department's services and for preapproved child care expenses for other members who demonstrate hardship.

(h) Appointees to the health and human services board are subject to the provisions of chapter 112, part III, Code of Ethics for Public Officers and Employees.

(i) Actions taken by the board must be consistent with departmental policy and state and federal laws, rules, and regulations.

(j) The department shall provide comprehensive orientation and training to the members of the boards to enable them to fulfill their responsibilities.

(k) Each health and human services board, and each of its subcommittees, shall hold periodic public meetings and hearings throughout the district to receive input on the development of the district service delivery plan, the legislative budget request, and the performance of the department.

(l) Except as otherwise provided in this section, responsibility and accountability for local family services planning rests with the health and human services boards. All local family-services-related planning or advisory councils shall submit their plans to the health and human services boards. The boards shall provide input on the plan's attention to integrating service delivery at the local level. The health and human services boards may establish additional subcouncils or technical advisory committees.

(m) The health and human services boards shall operate through an annual agreement negotiated between the secretary and the board. Such agreements must include expected outcomes and provide for periodic reports and evaluations of district and board performance and must also include a core set of service elements to be developed by the secretary and used by the boards in district needs assessments to ensure consistency in the development of district legislative budget requests.

(n) The annual agreement between the secretary and the board must include provisions that specify the procedures to be used by the parties to resolve differences in the interpretation of the agreement or disputes as to the adequacy of the parties' compliance with their respective obligations under the agreement.

(o) Health and human services boards have the following responsibilities, with respect to those programs and services assigned to the districts, as developed jointly with the district administrator:

1. Establish district outcome measures consistent with statewide outcomes.
2. Conduct district needs assessments using methodologies consistent with those established by the secretary.
3. Negotiate with the secretary a district performance agreement that:
 - a. Identifies current resources and services available;
 - b. Identifies unmet needs and gaps in services;
 - c. Establishes service and funding priorities;
 - d. Establishes outcome measures for the district; and
 - e. Identifies expenditures and the number of clients to be served, by service.
4. Provide budget oversight, including development and approval of the district's legislative budget request.
5. Provide policy oversight, including development and approval of district policies and procedures.
6. Act as a focal point for community participation in department activities such as:
 - a. Assisting in the integration of all health and social services within the community;
 - b. Assisting in the development of community resources;
 - c. Advocating for community programs and services;
 - d. Receiving and addressing concerns of consumers and others; and
 - e. Advising the district administrator on the administration of service programs throughout the district.
7. Advise the district administrator on ways to integrate the delivery of family and health care services at the local level.
8. Make recommendations which would enhance district productivity and efficiency, ensure achievement of performance standards, and assist the district in improving the effectiveness of the services provided.
9. Review contract provider performance reports.
10. Immediately upon appointment of the membership, develop bylaws that clearly identify and describe operating procedures for the board. At a minimum, the bylaws must specify notice requirements for

all regular and special meetings of the board, the number of members required to constitute a quorum, and the number of affirmative votes of members present and voting that are required to take official and final action on a matter before the board.

11.a. Determine the board's internal organizational structure, including the designation of standing committees. In order to foster the coordinated and integrated delivery of family services in its community, a local board shall use a committee structure that is based on issues, such as children, housing, transportation, or health care. Each such committee must include consumers, advocates, providers, and department staff from every appropriate program area. In addition, each board and district administrator shall jointly identify community entities, including, but not limited to, the Area Agency on Aging, and resources outside the department to be represented on the committees of the board.

b. The district juvenile justice boards established in s. *985.413* ~~39.025~~ constitute the standing committee on issues relating to planning, funding, or evaluation of programs and services relating to the juvenile justice continuum.

12. Participate with the secretary in the selection of a district administrator according to the provisions of paragraph ~~(10)(9)~~(b).

13. Complete an annual evaluation of the district and review the evaluation at a meeting of the board at which the public has an opportunity to comment.

14. Provide input to the secretary on the annual evaluation of the district administrator. The board may request that the secretary submit a written report on the actions to be taken to address negative aspects of the evaluation. At any time, the board may recommend to the secretary that the district administrator be discharged. Upon receipt of such a recommendation, the secretary shall make a formal reply to the board stating the action to be taken with respect to the board's recommendation.

15. Elect a chair and other officers, as specified in the bylaws, from among the members of the board.

~~(21)(20)~~ INNOVATION ZONES.—The health and human services board may propose designation of an innovation zone for any experimental, pilot, or demonstration project that furthers the legislatively established goals of the department. An innovation zone is a defined geographic area such as a district, county, municipality, service delivery area, school campus, or neighborhood providing a laboratory for the research, development, and testing of the applicability and efficacy of model programs, policy options, and new technologies for the department.

(a)1. The district administrator shall submit a proposal for an innovation zone to the secretary. If the purpose of the proposed innovation zone is to demonstrate that specific statutory goals can be achieved more effectively by using procedures that require modification of existing rules, policies, or procedures, the proposal may request the secretary to waive such existing rules, policies, or procedures or to otherwise authorize use of alternative procedures or practices. Waivers of such existing rules, policies, or procedures must comply with applicable state or federal law.

2. For innovation zone proposals that the secretary determines require changes to state law, the secretary may submit a request for a waiver from such laws, together with any proposed changes to state law, to the chairs of the appropriate legislative committees for consideration.

3. For innovation zone proposals that the secretary determines require waiver of federal law, the secretary may submit a request for such waivers to the applicable federal agency.

(b) An innovation zone project may not have a duration of more than 2 years, but the secretary may grant an extension.

(c) The Statewide Health and Human Services Board, in conjunction with the secretary, shall develop a family services innovation transfer network for the purpose of providing information on innovation zone research and projects or other effective initiatives in family services to the health and human services boards established under subsection ~~(8)~~ ~~(7)~~.

(d) Prior to implementing an innovation zone pursuant to the requirements of this subsection and chapter 216, the secretary shall, in conjunction with the Auditor General, develop measurable and valid objectives for such zone within a negotiated reasonable period of time. No more than 15 innovative zones shall be in operation at any one time within the districts.

Section 120. Paragraph (h) of subsection (1) of section 20.43, Florida Statutes, is amended to read:

20.43 Department of Health.—There is created a Department of Health.

(1) The purpose of the Department of Health is to promote and protect the health of all residents and visitors in the state through organized state and community efforts, including cooperative agreements with counties. The department shall:

(h) Provide medical direction for child protection team and sexual abuse treatment functions created under chapter 39 415.

Section 121. Paragraph (b) of subsection (2) of section 61.13, Florida Statutes, is amended to read:

61.13 Custody and support of children; visitation rights; power of court in making orders.—

(2)

(b)1. The court shall determine all matters relating to custody 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 Act. It is the public policy of this state to assure 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. After considering all relevant facts, the father of the child shall be given the same consideration as the mother in determining the primary residence of a child irrespective of the age or sex of the child.

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. Evidence that a parent has been convicted of a felony of the third degree or higher involving domestic violence, as defined in s. 741.28 and chapter 775, or meets the criteria of s. 39.806(1)(d) ~~39.464(1)(d)~~, creates a rebuttable presumption of detriment to the child. If the presumption is not rebutted, shared parental responsibility, including visitation, residence of 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 visitation 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.

a. 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 primary residence, education, medical and dental care, and any other responsibilities that the court finds unique to a particular family.

b. The court shall order "sole parental responsibility, with or without visitation rights, to the other parent when it is in the best interests of" the minor child.

c. The court may award the grandparents visitation rights with a minor child if it is in the child's best interest. Grandparents have legal standing to seek judicial enforcement of such an award. This section does not require that grandparents be made parties or given notice of dissolution pleadings or proceedings, nor do grandparents have legal standing as "contestants" as defined in s. 61.1306. A court may not order that a child be kept within the state or jurisdiction of the court solely for the purpose of permitting visitation by the grandparents.

3. 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 a parent because the parent is not the child's primary residential parent.

Section 122. Section 61.401, Florida Statutes, is amended to read:

61.401 Appointment of guardian ad litem.—In an action for dissolution of marriage, modification, parental responsibility, custody, or visitation, 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 ~~415.503(3)~~, 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 123. Section 61.402, Florida Statutes, is amended to read:

61.402 Qualifications of guardians ad litem.—A guardian ad litem must be either a citizen certified by the Guardian Ad Litem Program to act in family law cases or an attorney who is a member in good standing of The Florida Bar. Prior to certifying a guardian ad litem to be appointed under this chapter, the Guardian Ad Litem Program must conduct a security background investigation as provided in s. 39.821 ~~415-5077~~.

Section 124. Subsection (4) of section 63.052, Florida Statutes, is amended to read:

63.052 Guardians designated; proof of commitment.—

(4) If a child is voluntarily surrendered to an intermediary for subsequent adoption and the adoption does not become final within 180 days, the intermediary must report to the court on the status of the child and the court may at that time proceed under s. 39.701 ~~39.453~~ or take action reasonably necessary to protect the best interest of the child.

Section 125. Paragraph (b) of subsection (2) of section 63.092, Florida Statutes, is amended to read:

63.092 Report to the court of intended placement by an intermediary; preliminary study.—

(2) PRELIMINARY HOME STUDY.—Before placing the minor in the intended adoptive home, a preliminary home study must be performed by a licensed child-placing agency, a licensed professional, or agency described in s. 61.20(2), unless the petitioner is a stepparent, a spouse of the birth parent, or a relative. The preliminary study shall be completed within 30 days after the receipt by the court of the intermediary's report, but in no event may the child be placed in the prospective adoptive home prior to the completion of the preliminary study unless ordered by the court. If the petitioner is a stepparent, a spouse of the birth parent, or a relative, the preliminary home study may be required by the court for good cause shown. The department is required to perform the preliminary home study only if there is no licensed child-placing agency, licensed professional, or agency described in s. 61.20(2), in the county where the prospective adoptive parents reside. The preliminary home study must be made to determine the suitability of the intended adoptive parents and may be completed prior to identification of a prospective adoptive child. A favorable preliminary home study is valid for 1 year after the date of its completion. A child must not be placed in an intended adoptive home before a favorable preliminary home study is completed unless the adoptive home is also a licensed foster home under s. 409.175. The preliminary home study must include, at a minimum:

(b) Records checks of the department's central abuse registry ~~under chapter 415 and statewide~~ criminal records correspondence checks *pursuant to s. 435.045* through the Department of Law Enforcement on the intended adoptive parents;

If the preliminary home study is favorable, a minor may be placed in the home pending entry of the judgment of adoption. A minor may not be placed in the home if the preliminary home study is unfavorable. If the

preliminary home study is unfavorable, the intermediary or petitioner may, within 20 days after receipt of a copy of the written recommendation, petition the court to determine the suitability of the intended adoptive home. A determination as to suitability under this subsection does not act as a presumption of suitability at the final hearing. In determining the suitability of the intended adoptive home, the court must consider the totality of the circumstances in the home.

Section 126. Subsection (2) of section 90.5036, Florida Statutes, is amended to read:

90.5036 Domestic violence advocate-victim privilege.—

(2) A victim has a privilege to refuse to disclose, and to prevent any other person from disclosing, a confidential communication made by the victim to a domestic violence advocate or any record made in the course of advising, counseling, or assisting the victim. The privilege applies to confidential communications made between the victim and the domestic violence advocate and to records of those communications only if the advocate is registered under s. 39.905 ~~415.605~~ at the time the communication is made. This privilege includes any advice given by the domestic violence advocate in the course of that relationship.

Section 127. Section 154.067, Florida Statutes, is amended to read:

154.067 Child abuse and neglect cases; duties.—The Department of Health shall adopt a rule requiring every county health department, as described in s. 154.01, to adopt a protocol that, at a minimum, requires the county health department to:

(1) Incorporate in its health department policy a policy that every staff member has an affirmative duty to report, pursuant to chapter 39 445, any actual or suspected case of child abuse, *abandonment*, or neglect; and

(2) In any case involving suspected child abuse, *abandonment*, or neglect, designate, at the request of the department, a staff physician to act as a liaison between the county health department and the Department of Children and Family Services office that is investigating the suspected abuse, *abandonment*, or neglect, and the child protection team, as defined in s. 39.01 ~~415.503~~, when the case is referred to such a team.

Section 128. Subsection (15) of section 213.053, Florida Statutes, is amended to read:

213.053 Confidentiality and information sharing.—

(15) The department may disclose confidential taxpayer information contained in returns, reports, accounts, or declarations filed with the department by persons subject to any state or local tax to the child support enforcement program, to assist in the location of parents who owe or potentially owe a duty of support pursuant to Title IV-D of the Social Security Act, their assets, their income, and their employer, *and to the Department of Children and Family Services for the purpose of diligent search activities pursuant to chapter 39*. Nothing in this subsection authorizes the disclosure of information if such disclosure is prohibited by federal law. Employees of the child support enforcement program *and of the Department of Children and Family Services* are bound by the same requirements of confidentiality and the same penalties for violation of the requirements as the department.

Section 129. Paragraph (a) of subsection (8) of section 216.136, Florida Statutes, is amended to read:

216.136 Consensus estimating conferences; duties and principals.—

(8) CHILD WELFARE SYSTEM ESTIMATING CONFERENCE.—

(a) Duties.—The Child Welfare System Estimating Conference shall develop the following information relating to the child welfare system:

1. Estimates and projections of the number of initial and additional reports of child abuse, *abandonment*, or neglect made to the central abuse ~~hotline registry and tracking system~~ maintained by the Department of *Children and Family Health and Rehabilitative Services* as established in s. 39.201(4) ~~415.504(4)(a)~~.

2. Estimates and projections of the number of children who are alleged to be victims of child abuse, *abandonment*, or neglect and are in need of placement in a ~~an~~ emergency shelter.

In addition, the conference shall develop other official information relating to the child welfare system of the state which the conference determines is needed for the state planning and budgeting system. The Department of *Children and Family Health and Rehabilitative Services* shall provide information on the child welfare system requested by the Child Welfare System Estimating Conference, or individual conference principals, in a timely manner.

Section 130. Section 232.50, Florida Statutes, is amended to read:

232.50 Child abuse, *abandonment*, and neglect policy.—Every school board shall by March 1, 1985:

(1) Post in a prominent place in each school a notice that, pursuant to chapter 39 445, all employees or agents of the district school board have an affirmative duty to report all actual or suspected cases of child abuse, *abandonment*, or neglect, have immunity from liability if they report such cases in good faith, and have a duty to comply with child protective investigations and all other provisions of law relating to child abuse, *abandonment*, and neglect. The notice shall also include the statewide toll-free telephone number of the state abuse registry.

(2) Provide that the superintendent, or the superintendent's designee, at the request of the Department of *Children and Family Health and Rehabilitative Services*, will act as a liaison to the Department of *Children and Family Health and Rehabilitative Services* and the child protection team, as defined in s. 39.01 ~~415.503~~, when in a case of suspected child abuse, *abandonment*, or neglect or an unlawful sexual offense involving a child the case is referred to such a team; except that this subsection may in no instance be construed as relieving or restricting the Department of *Children and Family Health and Rehabilitative Services* from discharging its duty and responsibility under the law to investigate and report every suspected or actual case of child abuse, *abandonment*, or neglect or unlawful sexual offense involving a child.

Each district school board shall comply with the provisions of this section, and such board shall notify the Department of Education and the Department of *Children and Family Health and Rehabilitative Services* of its compliance by March 1, 1985.

Section 131. Paragraph (a) of subsection (2) of section 318.21, Florida Statutes, as amended by section 2(1) of chapter 97-235, Laws of Florida, is amended to read:

318.21 Disposition of civil penalties by county courts.—All civil penalties received by a county court pursuant to the provisions of this chapter shall be distributed and paid monthly as follows:

(2) Of the remainder:

(a) Fifteen and six-tenths percent shall be paid to the General Revenue Fund of the state, except that the first \$300,000 shall be deposited into the Grants and Donations Trust Fund in the Department of Children and Family Services for administrative costs, training costs, and costs associated with the implementation and maintenance of Florida foster care citizen review panels as provided for in s. 39.702 ~~39.4534~~.

Section 132. Effective July 1, 1999, paragraph (a) of subsection (2) of section 318.21, as amended by section 3(1) of chapter 97-235, Laws of Florida, is amended to read:

318.21 Disposition of civil penalties by county courts.—All civil penalties received by a county court pursuant to the provisions of this chapter shall be distributed and paid monthly as follows:

(2) Of the remainder:

(a) Ten and six-tenths percent shall be paid to the General Revenue Fund of the state, except that the first \$300,000 shall be deposited into the Grants and Donations Trust Fund in the Department of Children and Family Services for administrative costs, training costs, and costs associated with the implementation and maintenance of Florida foster care citizen review panels as provided for in s. 39.702 ~~39.4534~~.

Section 133. Effective July 1, 2000, paragraph (a) of subsection (2) of section 318.21, Florida Statutes, as amended by section 4(1) of chapter 97-235, Laws of Florida, is amended to read:

318.21 Disposition of civil penalties by county courts.—All civil penalties received by a county court pursuant to the provisions of this chapter shall be distributed and paid monthly as follows:

(2) Of the remainder:

(a) Five and six-tenths percent shall be paid to the General Revenue Fund of the state, except that the first \$300,000 shall be deposited into the Grants and Donations Trust Fund in the Department of Children and Family Services for administrative costs, training costs, and costs associated with the implementation and maintenance of Florida foster care citizen review panels as provided for in s. 39.702 ~~39.4531~~.

Section 134. Effective July 1, 2001, paragraph (a) of subsection (2) of section 318.21, Florida Statutes, as amended by section 5(1) of chapter 97-235, Laws of Florida, is amended to read:

318.21 Disposition of civil penalties by county courts.—All civil penalties received by a county court pursuant to the provisions of this chapter shall be distributed and paid monthly as follows:

(2) Of the remainder:

(a) Twenty and six-tenths percent shall be paid to the County Article V Trust Fund, except that the first \$300,000 shall be deposited into the Grants and Donations Trust Fund in the Department of Children and Family Services for administrative costs, training costs, and costs associated with the implementation and maintenance of Florida foster care citizen review panels as provided for in s. 39.702 ~~39.4531~~.

Section 135. Effective July 1, 2002, paragraph (a) of subsection (2) of section 318.21, Florida Statutes, as amended by section 6 of chapter 97-235, Laws of Florida, is amended to read:

318.21 Disposition of civil penalties by county courts.—All civil penalties received by a county court pursuant to the provisions of this chapter shall be distributed and paid monthly as follows:

(2) Of the remainder:

(a) Twenty and six-tenths percent shall be paid to the General Revenue Fund of the state, except that the first \$300,000 shall be deposited into the Grants and Donations Trust Fund in the Department of Children and Family Services for administrative costs, training costs, and costs associated with the implementation and maintenance of Florida foster care citizen review panels as provided for in s. 39.702 ~~39.4531~~.

Section 136. Paragraph (e) of subsection (1) of section 384.29, Florida Statutes, is amended to read:

384.29 Confidentiality.—

(1) All information and records held by the department or its authorized representatives relating to known or suspected cases of sexually transmissible diseases are strictly confidential and exempt from the provisions of s. 119.07(1). Such information shall not be released or made public by the department or its authorized representatives, or by a court or parties to a lawsuit upon revelation by subpoena, except under the following circumstances:

(e) When made to the proper authorities as required by *chapter 39* or chapter 415.

Section 137. Paragraph (e) of subsection (1) of section 392.65, Florida Statutes, is amended to read:

392.65 Confidentiality.—

(1) All information and records held by the department or its authorized representatives relating to known or suspected cases of tuberculosis or exposure to tuberculosis shall be strictly confidential and exempt from s. 119.07(1). Such information shall not be released or made public by the department or its authorized representatives or by a court or parties to a lawsuit, except that release may be made under the following circumstances:

(e) When made to the proper authorities as required by *chapter 39* or chapter 415.

Section 138. The introductory paragraph of subsection (14) of section 393.063, Florida Statutes, is amended to read:

393.063 Definitions.—For the purposes of this chapter:

(14) "Direct service provider," also known as "caregiver" in *chapters 39 and chapter 415* or "caretaker" in provisions relating to employment security checks, means a person 18 years of age or older who has direct contact with individuals with developmental disabilities and is unrelated to the individuals with developmental disabilities.

Section 139. Section 395.1023, Florida Statutes, is amended to read:

395.1023 Child abuse and neglect cases; duties.—Each licensed facility shall adopt a protocol that, at a minimum, requires the facility to:

(1) Incorporate a facility policy that every staff member has an affirmative duty to report, pursuant to chapter 39 ~~415~~, any actual or suspected case of child abuse, *abandonment*, or neglect; and

(2) In any case involving suspected child abuse, *abandonment*, or neglect, designate, at the request of the department, a staff physician to act as a liaison between the hospital and the Department of Children and Family Services office which is investigating the suspected abuse, *abandonment*, or neglect, and the child protection team, as defined in s. 39.01 ~~415-503~~, when the case is referred to such a team.

Each general hospital and appropriate specialty hospital shall comply with the provisions of this section and shall notify the agency and the department of its compliance by sending a copy of its policy to the agency and the department as required by rule. The failure by a general hospital or appropriate specialty hospital to comply shall be punished by a fine not exceeding \$1,000, to be fixed, imposed, and collected by the agency. Each day in violation is considered a separate offense.

Section 140. Section 400.4174, Florida Statutes, is amended to read:

400.4174 Reports of abuse in facilities.—When an employee, volunteer, administrator, or owner of a facility has a confirmed report of adult abuse, neglect, or exploitation, as defined in s. 415.102, or a *judicially determined report* of child abuse, *abandonment*, or neglect, as defined in s. 39.01 ~~415-503~~, and the protective investigator knows that the individual is an employee, volunteer, administrator, or owner of a facility, the agency shall be notified of the ~~confirmed~~ report.

Section 141. Paragraph (c) of subsection (2) of section 400.556, Florida Statutes, is amended to read:

400.556 Denial, suspension, revocation of license; administrative fines; investigations and inspections.—

(2) Each of the following actions by the owner of an adult day care center or by its operator or employee is a ground for action by the agency against the owner of the center or its operator or employee:

(c) A confirmed report of adult abuse, neglect, or exploitation, as defined in s. 415.102, or a *report* of child abuse, *abandonment*, or neglect, as defined in s. 39.01 ~~415-503~~, which report has been upheld following a hearing held pursuant to chapter 120 or a waiver of such hearing.

Section 142. Paragraph (a) of subsection (8) of section 402.165, Florida Statutes, is amended to read:

402.165 Statewide Human Rights Advocacy Committee; confidential records and meetings.—

(8)(a) In the performance of its duties, the Statewide Human Rights Advocacy Committee shall have:

1. Authority to receive, investigate, seek to conciliate, hold hearings on, and act on complaints which allege any abuse or deprivation of constitutional or human rights of clients.

2. Access to all client records, files, and reports from any program, service, or facility that is operated, funded, licensed, or regulated by the Department of *Children and Family Health and Rehabilitative Services* and any records which are material to its investigation and which are in the custody of any other agency or department of government. The committee's investigation or monitoring shall not impede or obstruct matters under investigation by law enforcement or judicial authorities. Access shall not be granted if a specific procedure or prohibition for reviewing records is required by federal law and regulation which supersedes state law. Access shall not be granted to the records of a private licensed practitioner who is providing services outside agencies and facilities and whose client is competent and refuses disclosure.

3. Standing to petition the circuit court for access to client records which are confidential as specified by law. The petition shall state the specific reasons for which the committee is seeking access and the intended use of such information. The court may authorize committee access to such records upon a finding that such access is directly related to an investigation regarding the possible deprivation of constitutional or human rights or the abuse of a client. Original client files, records, and reports shall not be removed from the Department of *Children and Family Health and Rehabilitative Services* or agency facilities. Under no circumstance shall the committee have access to confidential adoption records in accordance with the provisions of ss. ~~39.0132 39.411~~, 63.022, and 63.162. Upon completion of a general investigation of practices and procedures of the Department of *Children and Family Health and Rehabilitative Services*, the committee shall report its findings to that department.

Section 143. Paragraph (a) of subsection (8) of section 402.166, Florida Statutes, is amended to read:

402.166 District human rights advocacy committees; confidential records and meetings.—

(8)(a) In the performance of its duties, a district human rights advocacy committee shall have:

1. Access to all client records, files, and reports from any program, service, or facility that is operated, funded, licensed, or regulated by the Department of *Children and Family Health and Rehabilitative Services* and any records which are material to its investigation and which are in the custody of any other agency or department of government. The committee's investigation or monitoring shall not impede or obstruct matters under investigation by law enforcement or judicial authorities. Access shall not be granted if a specific procedure or prohibition for reviewing records is required by federal law and regulation which supersedes state law. Access shall not be granted to the records of a private licensed practitioner who is providing services outside agencies and facilities and whose client is competent and refuses disclosure.

2. Standing to petition the circuit court for access to client records which are confidential as specified by law. The petition shall state the specific reasons for which the committee is seeking access and the intended use of such information. The court may authorize committee access to such records upon a finding that such access is directly related to an investigation regarding the possible deprivation of constitutional or human rights or the abuse of a client. Original client files, records, and reports shall not be removed from Department of *Children and Family Health and Rehabilitative Services* or agency facilities. Upon no circumstances shall the committee have access to confidential adoption records in accordance with the provisions of ss. ~~39.0132 39.411~~, 63.022, and 63.162. Upon completion of a general investigation of practices and procedures of the Department of *Children and Family Health and Rehabilitative Services*, the committee shall report its findings to that department.

Section 144. Section 409.1672, Florida Statutes, is amended to read:

409.1672 Incentives for department employees.—In order to promote accomplishing the goal of family preservation, family reunification, or permanent placement of a child in an adoptive home, the department may, pursuant to s. 110, chapter 92-142, Laws of Florida, or subsequent legislative authority and within existing resources, develop monetary performance incentives such as bonuses, salary increases, and educational enhancements for department employees engaged in positions and activities related to the child welfare system under chapter 39, ~~chapter 415~~, or this chapter who demonstrate outstanding work in these areas.

Section 145. Subsection (8) and paragraph (c) of subsection (9) of section 409.176, Florida Statutes, are amended to read:

409.176 Registration of residential child-caring agencies and family foster homes.—

(8) The provisions of chapters ~~39 415~~ and 827 regarding child abuse, *abandonment*, and neglect and the provisions of s. 409.175 and chapter 435 regarding screening apply to any facility registered under this section.

(9) The qualified association may deny, suspend, or revoke the registration of a Type II facility which:

(c) Violates the provisions of chapter ~~39 415~~ or chapter 827 regarding child abuse, *abandonment*, and neglect or the provisions of s. 409.175 or chapter 435 regarding screening.

The qualified association shall notify the department within 10 days of the suspension or revocation of the registration of any Type II facility registered under this section.

Section 146. Paragraph (b) of subsection (10) of section 409.2554, Florida Statutes, is amended to read:

409.2554 Definitions.—As used in ss. 409.2551-409.2598, the term:

(10) "Support" means:

(b) Support for a child who is placed under the custody of someone other than the custodial parent pursuant to s. ~~39.508 39.41~~.

Section 147. Section 409.2577, Florida Statutes, is amended to read:

409.2577 Parent locator service.—The department shall establish a parent locator service to assist in locating parents who have deserted their children and other persons liable for support of dependent children. The department shall use all sources of information available, including the Federal Parent Locator Service, and may request and shall receive information from the records of any person or the state or any of its political subdivisions or any officer thereof. Any agency as defined in s. 120.52, any political subdivision, and any other person shall, upon request, provide the department any information relating to location, salary, insurance, social security, income tax, and employment history necessary to locate parents who owe or potentially owe a duty of support pursuant to Title IV-D of the Social Security Act. This provision shall expressly take precedence over any other statutory nondisclosure provision which limits the ability of an agency to disclose such information, except that law enforcement information as provided in s. 119.07(3)(i) is not required to be disclosed, and except that confidential taxpayer information possessed by the Department of Revenue shall be disclosed only to the extent authorized in s. 213.053(15). Nothing in this section requires the disclosure of information if such disclosure is prohibited by federal law. Information gathered or used by the parent locator service is confidential and exempt from the provisions of s. 119.07(1). Additionally, the department is authorized to collect any additional information directly bearing on the identity and whereabouts of a person owing or asserted to be owing an obligation of support for a dependent child. Information gathered or used by the parent locator service is confidential and exempt from the provisions of s. 119.07(1). The department may make such information available only to public officials and agencies of this state; political subdivisions of this state; the custodial parent, legal guardian, attorney, or agent of the child; and other states seeking to locate parents who have deserted their children and other persons liable for support of dependents, for the sole purpose of establishing, modifying, or enforcing their liability for support, *and shall make such information available to the Department of Children and Family Services for the purpose of diligent search activities pursuant to chapter 39*. If the department has reasonable evidence of domestic violence or child abuse and the disclosure of information could be harmful to the custodial parent or the child of such parent, the child support program director or designee shall notify the *Department of Children and Family Services and the Secretary of the United States Department of Health and Human Services* of this evidence. Such evidence is sufficient grounds for the department to disapprove an application for location services.

Section 148. Subsection (29) of section 409.912, Florida Statutes, is amended to read:

409.912 Cost-effective purchasing of health care.—The agency shall purchase goods and services for Medicaid recipients in the most cost-effective manner consistent with the delivery of quality medical care. The agency shall maximize the use of prepaid per capita and prepaid aggregate fixed-sum basis services when appropriate and other alternative service delivery and reimbursement methodologies, including competitive bidding pursuant to s. 287.057, designed to facilitate the cost-effective purchase of a case-managed continuum of care. The agency shall also require providers to minimize the exposure of recipients to the need for acute inpatient, custodial, and other institutional care and the inappropriate or unnecessary use of high-cost services.

(29) Each managed care plan that is under contract with the agency to provide health care services to Medicaid recipients shall annually conduct a background check with the Florida Department of Law Enforcement of all persons with ownership interest of 5 percent or more or executive management responsibility for the managed care plan and shall submit to the agency information concerning any such person who has been found guilty of, regardless of adjudication, or has entered a plea of nolo contendere or guilty to, any of the offenses listed in s. 435.03 or has a confirmed report of abuse, neglect, or exploitation pursuant to part I of chapter 415.

Section 149. Paragraph (a) of subsection (1) of section 409.9126, Florida Statutes, is amended to read:

409.9126 Children with special health care needs.—

(1) As used in this section:

(a) “Children’s Medical Services network” means an alternative service network that includes health care providers and health care facilities specified in chapter 391 and ss. 39.303, 383.15-383.21, and 383.216; ~~and 415.5055.~~

Section 150. Paragraph (f) of subsection (5) of section 414.065, Florida Statutes, is amended to read:

414.065 Work requirements.—

(5) CONTINUATION OF TEMPORARY CASH ASSISTANCE FOR CHILDREN; PROTECTIVE PAYEES.—

(f) If the department is unable to designate a qualified protective payee or authorized representative, a referral shall be made under the provisions of chapter 39 ~~415~~ for protective intervention.

Section 151. Section 435.045, Florida Statutes, is created to read:

435.045 Requirements for prospective foster or adoptive parents.—

(1) Unless an election provided for in subsection (2) is made with respect to the state, the department shall conduct criminal records checks equivalent to the level 2 screening required in s. 435.04(1) for any prospective foster or adoptive parent before the foster or adoptive parent may be finally approved for placement of a child on whose behalf foster care maintenance payments or adoption assistance payments under s. 471 of the Social Security Act, 42 U.S.C. 671, are to be made. Approval shall not be granted:

(a) In any case in which a record check reveals a felony conviction for child abuse, abandonment, or neglect; for spousal abuse; for a crime against children, including child pornography, or for a crime involving violence, including rape, sexual assault, or homicide but not including other physical assault or battery, if the department finds that a court of competent jurisdiction has determined that the felony was committed at any time; and

(b) In any case in which a record check reveals a felony conviction for physical assault, battery, or a drug-related offense, if the department finds that a court of competent jurisdiction has determined that the felony was committed within the past 5 years.

(2) For purposes of this section, and ss. 39.401(3) and 39.508(9)(b) and (10)(a), the department and its authorized agents or contract providers are hereby designated a criminal justice agency for the purposes of accessing criminal justice information, including National Crime Information Center information, to be used for enforcing Florida’s laws concerning the crimes of child abuse, abandonment, and neglect. This information shall be used solely for purposes supporting the detection, apprehension, prosecution, pretrial release, posttrial release, or rehabilitation of criminal offenders or persons accused of the crimes of child abuse, abandonment, or neglect and shall not be further disseminated or used for any other purposes.

(3) Subsection (2) shall not apply if the Governor has notified the Secretary of the United States Department of Health and Human Services in writing that the state has elected to make subsection (2) inapplicable to the state, or if the Legislature, by law, has elected to make subsection (2) inapplicable to the state.

Section 152. Section 447.401, Florida Statutes, is amended to read:

447.401 Grievance procedures.—Each public employer and bargaining agent shall negotiate a grievance procedure to be used for the settlement of disputes between employer and employee, or group of employees, involving the interpretation or application of a collective bargaining agreement. Such grievance procedure shall have as its terminal step a final and binding disposition by an impartial neutral, mutually selected by the parties; however, when the issue under appeal is an allegation of abuse, abandonment, or neglect by an employee under s. 39.201 or s. 415.1075 ~~or s. 415.504~~, the grievance may not be decided until the abuse, abandonment, or neglect of a child has been judicially determined or until a confirmed report of abuse or neglect of a disabled adult or elderly person has been upheld pursuant to the procedures for appeal in s. ss. 415.1075 ~~and 415.504~~. However, an arbiter or other neutral shall not have the power to add to, subtract from, modify, or alter the terms of a collective bargaining agreement. If an employee organization is certified as the bargaining agent of a unit, the grievance procedure then in existence may be the subject of collective bargaining, and any agreement which is reached shall supersede the previously existing procedure. All public employees shall have the right to a fair and equitable grievance procedure administered without regard to membership or nonmembership in any organization, except that certified employee organizations shall not be required to process grievances for employees who are not members of the organization. A career service employee shall have the option of utilizing the civil service appeal procedure, an unfair labor practice procedure, or a grievance procedure established under this section, but such employee is precluded from availing himself or herself to more than one of these procedures.

Section 153. Paragraph (d) of subsection (1) of section 464.018, Florida Statutes, is amended to read:

464.018 Disciplinary actions.—

(1) The following acts shall be grounds for disciplinary action set forth in this section:

(d) Being found guilty, regardless of adjudication, of any of the following offenses:

1. A forcible felony as defined in chapter 776.
2. A violation of chapter 812, relating to theft, robbery, and related crimes.
3. A violation of chapter 817, relating to fraudulent practices.
4. A violation of chapter 800, relating to lewdness and indecent exposure.
5. A violation of chapter 784, relating to assault, battery, and culpable negligence.
6. A violation of chapter 827, relating to child abuse.
7. A violation of chapter 415, relating to protection from abuse, neglect, and exploitation.
8. A violation of chapter 39, relating to child abuse, abandonment, and neglect.

Section 154. Paragraph (a) of subsection (2) of section 490.014, Florida Statutes, is amended to read:

490.014 Exemptions.—

(2) No person shall be required to be licensed or provisionally licensed under this chapter who:

(a) Is a salaried employee of a government agency; developmental services program, mental health, alcohol, or drug abuse facility operating pursuant to chapter 393, chapter 394, or chapter 397; subsidized child care program, subsidized child care case management program, or child care resource and referral program operating pursuant to chapter 402; child-placing or child-caring agency licensed pursuant to chapter 409; domestic violence center certified pursuant to chapter 39 ~~415~~; accredited academic institution; or research institution, if such employee is performing duties for which he or she was trained and hired solely within the confines of such agency, facility, or institution.

Section 155. Paragraph (a) of subsection (4) of section 491.014, Florida Statutes, is amended to read:

491.014 Exemptions.—

(4) No person shall be required to be licensed, provisionally licensed, registered, or certified under this chapter who:

(a) Is a salaried employee of a government agency; developmental services program, mental health, alcohol, or drug abuse facility operating pursuant to chapter 393, chapter 394, or chapter 397; subsidized child care program, subsidized child care case management program, or child care resource and referral program operating pursuant to chapter 402; child-placing or child-caring agency licensed pursuant to chapter 409; domestic violence center certified pursuant to chapter 39 445; accredited academic institution; or research institution, if such employee is performing duties for which he or she was trained and hired solely within the confines of such agency, facility, or institution.

Section 156. Paragraph (b) of subsection (3) of section 741.30, Florida Statutes, is amended to read:

741.30 Domestic violence; injunction; powers and duties of court and clerk; petition; notice and hearing; temporary injunction; issuance of injunction; statewide verification system; enforcement.—

(3)

(b) The sworn petition shall be in substantially the following form:

PETITION FOR INJUNCTION FOR PROTECTION AGAINST DOMESTIC VIOLENCE

Before me, the undersigned authority, personally appeared Petitioner (Name), who has been sworn and says that the following statements are true:

(a) Petitioner resides at: (address)

(Petitioner may furnish address to the court in a separate confidential filing if, for safety reasons, the petitioner requires the location of the current residence to be confidential.)

(b) Respondent resides at: (last known address)

(c) Respondent's last known place of employment: (name of business and address)

(d) Physical description of respondent:

Race. . . .

Sex. . . .

Date of birth. . . .

Height. . . .

Weight. . . .

Eye color. . . .

Hair color. . . .

Distinguishing marks or scars. . . .

(e) Aliases of respondent:

(f) Respondent is the spouse or former spouse of the petitioner or is any other person related by blood or marriage to the petitioner or is any other person who is or was residing within a single dwelling unit with the petitioner, as if a family, or is a person with whom the petitioner has a child in common, regardless of whether the petitioner and respondent are or were married or residing together, as if a family.

(g) The following describes any other cause of action currently pending between the petitioner and respondent:

The petitioner should also describe any previous or pending attempts by the petitioner to obtain an injunction for protection against domestic violence in this or any other circuit, and the results of that attempt Case numbers should be included if available.

(h) Petitioner has suffered or has reasonable cause to fear imminent domestic violence because respondent has:

(i) Petitioner alleges the following additional specific facts: (mark appropriate sections)

. . . . Petitioner is the custodian of a minor child or children whose names and ages are as follows:

. . . . Petitioner needs the exclusive use and possession of the dwelling that the parties share.

. . . . Petitioner is unable to obtain safe alternative housing because:

. . . . Petitioner genuinely fears that respondent imminently will abuse, remove, or hide the minor child or children from petitioner because:

(j) Petitioner genuinely fears imminent domestic violence by respondent.

(k) Petitioner seeks an injunction: (mark appropriate section or sections)

. . . . Immediately restraining the respondent from committing any acts of domestic violence.

. . . . Restraining the respondent from committing any acts of domestic violence.

. . . . Awarding to the petitioner the temporary exclusive use and possession of the dwelling that the parties share or excluding the respondent from the residence of the petitioner.

. . . . Awarding temporary custody of, or temporary visitation rights with regard to, the minor child or children of the parties, or prohibiting or limiting visitation to that which is supervised by a third party.

. . . . Establishing temporary support for the minor child or children or the petitioner.

. . . . Directing the respondent to participate in a batterers' intervention program or other treatment pursuant to s. 39.901 445.601.

. . . . Providing any terms the court deems necessary for the protection of a victim of domestic violence, or any minor children of the victim, including any injunctions or directives to law enforcement agencies.

Section 157. Subsection (3) of section 744.309, Florida Statutes, is amended 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(2) and (47), or who has a confirmed report of abuse, neglect, or exploitation which has been uncontested or upheld pursuant to the provisions of ss. 415.104 and 415.1075 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 158. Section 784.075, Florida Statutes, is amended to read:

784.075 Battery on detention or commitment facility staff.—A person who commits a battery on an intake counselor or case manager, as defined in s. 984.03(31) 39.01(34), on other staff of a detention center or facility as defined in s. 984.03(19) 39.01(23), or on a staff member of a

commitment facility as defined in s. 985.03(45) ~~39.01(59)(c), (d), or (e)~~, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. For purposes of this section, a staff member of the facilities listed includes persons employed by the Department of Juvenile Justice, persons employed at facilities licensed by the Department of Juvenile Justice, and persons employed at facilities operated under a contract with the Department of Juvenile Justice.

Section 159. Section 933.18, Florida Statutes, is amended to read:

933.18 When warrant may be issued for search of private dwelling.—No search warrant shall issue under this chapter or under any other law of this state to search any private dwelling occupied as such unless:

- (1) It is being used for the unlawful sale, possession, or manufacture of intoxicating liquor;
- (2) Stolen or embezzled property is contained therein;
- (3) It is being used to carry on gambling;
- (4) It is being used to perpetrate frauds and swindles;
- (5) The law relating to narcotics or drug abuse is being violated therein;
- (6) A weapon, instrumentality, or means by which a felony has been committed, or evidence relevant to proving said felony has been committed, is contained therein;
- (7) One or more of the following misdemeanor child abuse offenses is being committed there:
 - (a) Interference with custody, in violation of s. 787.03.
 - (b) Commission of an unnatural and lascivious act with a child, in violation of s. 800.02.
 - (c) Exposure of sexual organs to a child, in violation of s. 800.03.
- (8) It is in part used for some business purpose such as a store, shop, saloon, restaurant, hotel, or boardinghouse, or lodginghouse;
- (9) It is being used for the unlawful sale, possession, or purchase of wildlife, saltwater products, or freshwater fish being unlawfully kept therein; or
- (10) The laws in relation to cruelty to animals have been or are being violated therein, except that no search pursuant to such a warrant shall be made in any private dwelling after sunset and before sunrise unless specially authorized by the judge issuing the warrant, upon a showing of probable cause. Property relating to the violation of such laws may be taken on a warrant so issued from any private dwelling in which it is concealed or from the possession of any person therein by whom it shall have been used in the commission of such offense or from any person therein in whose possession it may be.

If, during a search pursuant to a warrant issued under this section, a child is discovered and appears to be in imminent danger, the law enforcement officer conducting such search may remove the child from the private dwelling and take the child into protective custody pursuant to *chapter 39 ss. 415-506*. The term "private dwelling" shall be construed to include the room or rooms used and occupied, not transiently but solely as a residence, in an apartment house, hotel, boardinghouse, or lodginghouse. No warrant shall be issued for the search of any private dwelling under any of the conditions hereinabove mentioned except on sworn proof by affidavit of some creditable witness that he or she has reason to believe that one of said conditions exists, which affidavit shall set forth the facts on which such reason for belief is based.

Section 160. Subsection (10) of section 943.045, Florida Statutes, is amended to read:

943.045 Definitions; ss. 943.045-943.08.—The following words and phrases as used in ss. 943.045-943.08 shall have the following meanings:

- (10) "Criminal justice agency" means:
 - (a) A court.

- (b) The department.
- (c) The Department of Juvenile Justice.

(d) *The Department of Children and Family Services' Protective Investigations, which investigates the crimes of abuse and neglect.*

(e) Any other governmental agency or subunit thereof which performs the administration of criminal justice pursuant to a statute or rule of court and which allocates a substantial part of its annual budget to the administration of criminal justice.

Section 161. Section 944.401, Florida Statutes, is amended to read:

944.401 Escapes from secure detention or residential commitment facility.—An escape from any secure detention facility maintained for the temporary detention of children, pending adjudication, disposition, or placement; an escape from any residential commitment facility defined in s. 985.03(45) ~~39.01(59)~~, maintained for the custody, treatment, punishment, or rehabilitation of children found to have committed delinquent acts or violations of law; or an escape from lawful transportation thereto or therefrom constitutes escape within the intent and meaning of s. 944.40 and is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 162. Subsection (3) of section 944.705, Florida Statutes, is amended to read:

944.705 Release orientation program.—

(3) Any inmate who claims to be a victim of domestic violence as defined in s. 741.28 shall receive, as part of the release orientation program, referral to the nearest domestic violence center certified under *chapter 39 ss. 415-601-415-608*.

Section 163. Subsections (2) and (41) of section 984.03, Florida Statutes, as amended by chapter 97-276, Laws of Florida, are amended to read:

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

(2) "Abuse" means any willful act that results in any physical, mental, or sexual injury that causes or is likely to cause the child's physical, mental, or emotional health to be significantly impaired. Corporal discipline of a child by a parent or guardian for disciplinary purposes does not in itself constitute abuse when it does not result in harm to the child as defined in s. 39.01 ~~415-503~~.

(41) "Parent" means a woman who gives birth to a child and a man whose consent to the adoption of the child would be required under s. 63.062(1)(b). If a child has been legally adopted, the term "parent" means the adoptive mother or father of the child. The term does not include an individual whose parental relationship to the child has been legally terminated, or an alleged or prospective parent, unless the parental status falls within the terms of either s. 39.503 ~~39-4051(7)~~ or s. 63.062(1)(b).

Section 164. Subsection (4) of section 984.10, Florida Statutes, is amended to read:

984.10 Intake.—

(4) If the department has reasonable grounds to believe that the child has been abandoned, abused, or neglected, it shall proceed pursuant to the provisions of ~~s. 415-505~~ and chapter 39.

Section 165. Paragraphs (a) and (c) of subsection (3) of section 984.15, Florida Statutes, are amended to read:

984.15 Petition for a child in need of services.—

(3)(a) The parent, guardian, or legal custodian may file a petition alleging that a child is a child in need of services if:

- 1. The department waives the requirement for a case staffing committee.
- 2. The department fails to convene a meeting of the case staffing committee within 7 days, excluding weekends and legal holidays, after

receiving a written request for such a meeting from the child's parent, guardian, or legal custodian.

3. The parent, guardian, or legal custodian does not agree with the plan for services offered by the case staffing committee.

4. The department fails to provide a written report within 7 days after the case staffing committee meets, as required under s. 984.12(8) 39.426(8).

(c) The petition must be in writing and must set forth specific facts alleging that the child is a child in need of services as defined in s. 984.03(9) 39.04. The petition must also demonstrate that the parent, guardian, or legal custodian has in good faith, but unsuccessfully, participated in the services and processes described in ss. 984.11 and 984.12 39.424 and 39.426.

Section 166. Section 984.24, Florida Statutes, is amended to read:

984.24 Appeal.—The state, any child, or the family, guardian ad litem, or legal custodian of any child who is affected by an order of the court pursuant to this chapter ~~part~~ may appeal to the appropriate district court of appeal within the time and in the manner prescribed by the Florida Rules of Appellate Procedure ~~and pursuant to s. 39.413.~~

Section 167. Subsection (42) of section 985.03, Florida Statutes, as amended by chapter 97-276, Laws of Florida, is amended to read:

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

(42) "Parent" means a woman who gives birth to a child and a man whose consent to the adoption of the child would be required under s. 63.062(1)(b). If a child has been legally adopted, the term "parent" means the adoptive mother or father of the child. The term does not include an individual whose parental relationship to the child has been legally terminated, or an alleged or prospective parent, unless the parental status falls within the terms of either s. 39.503 39.4051(7) or s. 63.062(1)(b).

Section 168. Paragraph (c) of subsection (4) of section 985.303, Florida Statutes, is amended to read:

985.303 Neighborhood restorative justice.—

(4) DEFERRED PROSECUTION PROGRAM; PROCEDURES.—

(c) The board shall require the parent or legal guardian of the juvenile who is referred to a Neighborhood Restorative Justice Center to appear with the juvenile before the board at the time set by the board. In scheduling board meetings, the board shall be cognizant of a parent's or legal guardian's other obligations. The failure of a parent or legal guardian to appear at the scheduled board meeting with his or her child or ward may be considered by the juvenile court as an act of child neglect as defined by s. 39.01 415.503(3), and the board may refer the matter to the Department of Children and Family Services for investigation under the provisions of chapter 39 415.

Section 169. Sections 39.002, 39.0195, 39.0196, 39.39, 39.403, 39.4032, 39.4052, 39.4053, 39.408(3), (4), 39.449, 39.45, 39.451, 39.457, 39.459, 39.4611, 39.462, 39.4625, 39.472, 39.474, 39.475, 415.501, 415.5016, 415.50165, 415.5017, 415.50175, 415.5018, 415.50185, 415.5019, 415.502, 415.503, 415.505, 415.506, 415.5075, 415.509, and 415.514, Florida Statutes, are repealed.

Section 170. *There is hereby appropriated to the Department of Children and Families in a lump sum, \$11,000,000 from the Federal Grants Trust Fund to implement the Relative-Caregiver Program. The source of funding shall be the Temporary Assistance to Needy Families Block Grant. Any expenditures from the Temporary Assistance for Needy Families block grant shall be expended in accordance with the requirements and limitations of part A of Title IV of the Social Security Act, as amended or any other applicable federal requirement or limitation.*

Section 171. *There is hereby appropriated to the Justice Administration Commission \$3,500,000 from the General Revenue Fund for the purpose of implementing sections 24, 57, and 88 of this act.*

Section 172. Except as otherwise provided in this act and except for sections 1 through 15 of this act, which shall take effect January 1, 1999, this act shall take effect October 1, 1998.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to families and children; creating the "Marriage Preparation and Preservation Act"; providing legislative findings; amending s. 232.246, F.S.; prescribing a high school graduation requirement; amending s. 741.01, F.S.; providing for a reduction of the marriage license fee under certain circumstances; creating a waiting period before a marriage license is issued; creating s. 741.0305, F.S.; providing for a premarital preparation course; providing for modification of marriage license fees; specifying course providers; providing course contents; providing for a review of such courses; providing for compilation of information and report of findings; providing for pilot programs; creating s. 741.0306, F.S.; providing for creation of a marriage law handbook created by the Family Law Section of The Florida Bar; providing for information that may be included in the handbook; amending s. 741.04, F.S.; prohibiting issuance of a marriage license until petitioners verify certain facts and complete a questionnaire; providing for a waiting period; providing for a waiver of the waiting period; amending s. 741.05, F.S.; conforming provisions; amending s. 61.043, F.S.; providing for completion of an informational questionnaire upon filing for dissolution of marriage; amending s. 61.052, F.S.; specifying documents that may be used to corroborate residency requirements; amending s. 61.21, F.S.; revising provisions relating to the authorized parenting course offered to educate, train, and assist divorcing parents in regard to the consequences of divorce on parents and children; providing legislative findings and purpose; requiring judicial circuits to approve a parenting course; requiring parties to a dissolution proceeding with a minor child to attend a court-approved parenting family course; providing procedures and guidelines and course objectives; requiring parties to file proof of compliance with the court; authorizing the court to require parties to a modification of a final judgment of dissolution to take the course under certain circumstances; amending s. 28.101, F.S.; providing a fee for filing for dissolution of marriage; amending s. 25.388, F.S.; providing funding for the marriage law handbook; providing an appropriation; reorganizing and revising ch. 39, F.S.; providing for part I of that chapter, entitled "General Provisions"; amending s. 39.001, F.S.; revising purposes and intent; providing for personnel standards and screening and for drug testing; renumbering and amending s. 415.5015, F.S., relating to child abuse prevention training in the district school system; amending s. 39.01, F.S.; revising definitions; renumbering and amending s. 39.455, F.S., relating to immunity from liability for agents of the Department of Children and Family Services or a social service agency; amending s. 39.012, F.S., and creating s. 39.0121, F.S.; providing authority and requirements for department rules; renumbering and amending s. 39.40, F.S., relating to procedures and jurisdiction; providing for right to counsel; renumbering s. 39.4057, F.S., relating to permanent mailing address designation; renumbering and amending s. 39.411, F.S., relating to oaths, records, and confidential information; renumbering s. 39.414, F.S., relating to court and witness fees; renumbering and amending s. 39.415, F.S., relating to providing for compensation of appointed counsel; renumbering and amending s. 39.418, F.S., relating to the Operations and Maintenance Trust Fund; providing for part II of ch. 39, F.S., entitled "Reporting Child Abuse"; renumbering and amending s. 415.504, F.S., relating to mandatory reports of child abuse, abandonment, or neglect; renumbering and amending s. 415.511, F.S., relating to immunity from liability in cases of child abuse, abandonment, or neglect; renumbering and amending s. 415.512, F.S., relating to abrogation of privileged communications in cases of child abuse, abandonment, or neglect; renumbering and amending s. 415.513, F.S.; deleting the requirement for the Department of Children and Family Services to provide information to the state attorney; providing for the Department of Children and Family Services to report annually to the Legislature the number of reports referred to law enforcement agencies; providing for investigation by local law enforcement agencies of possible false reports; providing for law enforcement agencies to refer certain reports to the state attorney for prosecution; providing for law enforcement entities to handle certain reports of abuse or neglect during the pendency of such an investigation; providing procedures; specifying the penalty for knowingly and willfully making, or advising another to make, a false report; providing for state attorneys to report annually to the Legislature the number of complaints that have resulted in informations or indictments; renumbering and amending s. 415.5131, F.S.; increasing an administrative fine for false reporting; providing for part III of ch. 39, F.S., entitled "Protective Investigations"; creating s. 39.301, F.S.; providing for child protective investigations; creating s. 39.302, F.S.; providing for protective investigations of institutional child abuse, abandonment, or neglect; renumbering and amending s. 415.5055, F.S.,

relating to child protection teams and services and eligible cases; creating s. 39.3035, F.S.; providing standards for child advocacy centers eligible for state funding; renumbering and amending s. 415.507, F.S., relating to photographs, medical examinations, X rays, and medical treatment of an abused, abandoned, or neglected child; renumbering and amending s. 415.5095, F.S., relating to a model plan for intervention and treatment in sexual abuse cases; creating s. 39.306, F.S.; providing for working agreements with local law enforcement to perform criminal investigations; renumbering and amending s. 415.50171, F.S., relating to reports of child-on-child sexual abuse; providing for part IV of ch. 39, F.S., entitled "Family Builders Program"; renumbering and amending s. 415.515, F.S., relating to establishment of the program; renumbering and amending s. 415.516, F.S., relating to goals of the program; renumbering and amending s. 415.517, F.S., relating to contracts for services; renumbering and amending s. 415.518, F.S., relating to family eligibility; renumbering s. 415.519, F.S., relating to delivery of services; renumbering and amending s. 415.520, F.S., relating to qualifications of program workers; renumbering s. 415.521, F.S., relating to outcome evaluation; renumbering and amending s. 415.522, F.S., relating to funding; providing for part V of ch. 39, F.S., entitled "Taking Children into Custody and Shelter Hearings"; creating s. 39.395, F.S.; providing for medical or hospital personnel taking a child into protective custody; amending s. 39.401, F.S.; providing for law enforcement officers or authorized agents of the department taking a child alleged to be dependent into custody; amending s. 39.402, F.S., relating to placement in a shelter; amending s. 39.407, F.S., relating to physical and mental examination and treatment of a child and physical or mental examination of a person requesting custody; renumbering and amending s. 39.4033, F.S., relating to referral of a dependency case to mediation; providing for part VI of ch. 39, F.S., entitled "Petition, Arraignment, Adjudication, and Disposition"; renumbering and amending s. 39.404, F.S., relating to petition for dependency; renumbering and amending s. 39.405, F.S., relating to notice, process, and service; renumbering and amending s. 39.4051, F.S., relating to procedures when the identity or location of the parent, legal custodian, or caregiver is unknown; renumbering and amending s. 39.4055, F.S., relating to injunction pending disposition of a petition for detention or dependency; renumbering and amending s. 39.406, F.S., relating to answers to petitions or other pleadings; renumbering and amending s. 39.408, F.S., relating to arraignment hearings; renumbering and amending s. 39.409, F.S., relating to adjudicatory hearings and orders; renumbering and amending s. 39.41, F.S., relating to disposition hearings and powers of disposition; creating s. 39.5085, F.S.; establishing the Relative-Caregiver Program; directing the Department of Children and Family Services to establish and operate the Relative-Caregiver Program; providing financial assistance within available resources to relatives caring for children; providing for financial assistance and support services to relatives caring for children placed with them by the child protection system; providing for rules establishing eligibility guidelines, caregiver benefits, and payment schedule; renumbering and amending s. 39.4105, F.S., relating to grandparents' rights; renumbering and amending s. 39.413, F.S., relating to appeals; providing for part VII of ch. 39, F.S., entitled "Case Plans"; renumbering and amending s. 39.4031, F.S., relating to case plan requirements and case planning for children in out-of-home care; renumbering and amending s. 39.452, F.S., relating to case planning for children in out-of-home care when the parents, legal custodians, or caregivers do not participate; creating s. 39.603, F.S.; providing for court approvals of case planning; providing for part VIII of ch. 39, F.S., entitled "Judicial Reviews"; renumbering and amending s. 39.453, F.S., relating to judicial review of the status of a child; renumbering and amending s. 39.4531, F.S., relating to citizen review panels; renumbering and amending s. 39.454, F.S., relating to initiation of proceedings for termination of parental rights; renumbering and amending s. 39.456, F.S.; revising exemptions from judicial review; providing for part IX of ch. 39, F.S., entitled "Termination of Parental Rights"; renumbering and amending s. 39.46, F.S., relating to procedures, jurisdiction, and service of process; renumbering and amending s. 39.461, F.S., relating to petition for termination of parental rights, and filing and elements thereof; creating s. 39.803, F.S.; providing procedures when the identity or location of the parent is unknown after filing a petition for termination of parental rights; renumbering s. 39.4627, F.S., relating to penalties for false statements of paternity; renumbering and amending s. 39.463, F.S., relating to petitions and pleadings for which no answer is required; renumbering and amending s. 39.464, F.S., relating to grounds for termination of paternal rights; renumbering and amending s. 39.465, F.S., relating to right to counsel and appointment of a guardian ad litem; renumbering and amending s. 39.466, F.S., relating to advisory hearings; renumbering and amending s. 39.467, F.S., relating to adjudicatory hearings; renumbering and amending s.

39.4612, F.S., relating to the manifest best interests of the child; renumbering and amending s. 39.469, F.S., relating to powers of disposition and order of disposition; renumbering and amending s. 39.47, F.S., relating to post-disposition relief; creating s. 39.813, F.S.; providing for continuing jurisdiction of the court that terminates parental rights over all matters pertaining to the child's adoption; renumbering s. 39.471, F.S., relating to oaths, records, and confidential information; renumbering and amending s. 39.473, F.S., relating to appeal; creating s. 39.816, F.S.; authorizing certain pilot and demonstration projects contingent on receipt of federal grants or contracts; creating s. 39.817, F.S.; providing for a foster care demonstration pilot project; providing for part X of ch. 39, F.S., entitled "Guardians Ad Litem and Guardian Advocates"; creating s. 39.820, F.S.; providing definitions; renumbering s. 415.5077, F.S., relating to qualifications of guardians ad litem; renumbering and amending s. 415.508, F.S., relating to appointment of a guardian ad litem for an abused, abandoned, or neglected child; renumbering and amending s. 415.5082, F.S., relating to guardian advocates for drug dependent newborns; renumbering and amending s. 415.5083, F.S., relating to procedures and jurisdiction; renumbering s. 415.5084, F.S., relating to petition for appointment of a guardian advocate; renumbering s. 415.5085, F.S., relating to process and service; renumbering and amending s. 415.5086, F.S., relating to hearing for appointment of a guardian advocate; renumbering and amending s. 415.5087, F.S., relating to grounds for appointment of a guardian advocate; renumbering s. 415.5088, F.S., relating to powers and duties of the guardian advocate; renumbering and amending s. 415.5089, F.S., relating to review and removal of a guardian advocate; providing for part XI of ch. 39, F.S., entitled "Domestic Violence"; renumbering s. 415.601, F.S., relating to legislative intent regarding treatment and rehabilitation of victims and perpetrators; renumbering and amending s. 415.602, F.S., relating to definitions; renumbering and amending s. 415.603, F.S., relating to duties and functions of the department; renumbering and amending s. 415.604, F.S., relating to an annual report to the Legislature; renumbering and amending s. 415.605, F.S., relating to domestic violence centers; renumbering s. 415.606, F.S., relating to referral to such centers and notice of rights; renumbering s. 415.608, F.S., relating to confidentiality of information received by the department or a center; amending s. 20.19, F.S.; providing for certification programs for family safety and preservation employees of the department; providing for rules; amending ss. 20.43, 61.13, 61.401, 61.402, 63.052, 63.092, 90.5036, 154.067, 216.136, 232.50, 318.21, 384.29, 392.65, 393.063, 395.1023, 400.4174, 400.556, 402.165, 402.166, 409.1672, 409.176, 409.2554, 409.912, 409.9126, 414.065, 447.401, 464.018, 490.014, 491.014, 741.30, 744.309, 784.075, 933.18, 944.401, 944.705, 984.03, 984.10, 984.15, 984.24, 985.03, 985.303, F.S.; correcting cross-references; conforming related provisions and references; amending ss. 213.053 and 409.2577, F.S.; authorizing disclosure of certain confidential taxpayer and parent locator information for diligent search activities under ch. 39, F.S.; creating s. 435.045, F.S.; providing background screening requirements for prospective foster or adoptive parents; amending s. 943.045, F.S.; providing that the Department of Children and Family Services is a "criminal justice agency" for purposes of the criminal justice information system; repealing s. 39.002, F.S., relating to intent; repealing s. 39.0195, F.S., relating to sheltering unmarried minors and aiding unmarried runaways; repealing s. 39.0196, F.S., relating to children locked out of the home; repealing ss. 39.39, 39.449, and 39.459, F.S., relating to definition of "department"; repealing s. 39.403, F.S., relating to protective investigation; repealing s. 39.4032, F.S., relating to multidisciplinary case staffing; repealing s. 39.4052, F.S., relating to affirmative duty of written notice to adult relatives; repealing s. 39.4053, F.S., relating to diligent search after taking a child into custody; repealing s. 39.408(3), (4), F.S., relating to disposition hearings and notice of hearings; repealing s. 39.45, F.S., relating to legislative intent regarding foster care; repealing s. 39.451, F.S., relating to case planning; repealing s. 39.457, F.S., relating to a pilot program in Leon County to provide additional benefits to children in foster care; repealing s. 39.4611, F.S., relating to elements of petitions; repealing s. 39.462, F.S., relating to process and services; repealing s. 39.4625, F.S., relating to identity or location of parent unknown after filing of petition for termination of parental rights; repealing s. 39.472, F.S., relating to court and witness fees; repealing s. 39.474, F.S., relating to compensation of counsel; repealing s. 39.475, F.S., relating to rights of grandparents; repealing s. 415.501, F.S., relating to the state plan for prevention of abuse and neglect; repealing ss. 415.5016, 415.50165, 415.5017, 415.50175, 415.5018, 415.50185, and 415.5019, F.S., relating to purpose and legislative intent, definitions, procedures, confidentiality of records, district authority and responsibilities, outcome evaluation, and rules for the family services response system;

repealing s. 415.502, F.S., relating to legislative intent for comprehensive protective services for abused or neglected children; repealing s. 415.503, F.S., relating to definitions; repealing s. 415.505, F.S., relating to child protective investigations and investigations of institutional child abuse or neglect; repealing s. 415.506, F.S., relating to taking a child into protective custody; repealing s. 415.5075, F.S., relating to rules for medical screening and treatment of children; repealing s. 415.509, F.S., relating to public agencies' responsibilities for prevention, identification, and treatment of child abuse and neglect; repealing s. 415.514, F.S., relating to rules for protective services; providing appropriations; providing effective dates.

WHEREAS, the Florida Legislature endorses and encourages marriage as a means of promoting stability and continuity in society, and

WHEREAS, children of divorced parents can suffer long-lasting adverse consequences from the break-up of their parents' relationship and the existing family law system, and

WHEREAS, recent annual statistics show that for every two marriages in Florida, one ends in divorce, and

WHEREAS, the state has a compelling interest in promoting those relationships which inure to the benefit of Florida's children, and

WHEREAS, the state has a compelling interest in educating its citizens with regard to the responsibilities of marriage and, if contemplated, the effects of divorce, NOW, THEREFORE,

Senator Rossin moved the following amendment to **Amendment 1** which was adopted:

Amendment 1A—On page 4, line 25, delete "must" and insert: *may*

Senator Ostalkiewicz moved the following amendment to **Amendment 1** which failed:

Amendment 1B—On page 82, delete line 25 and insert:

(10) *In lieu of, or subsequent to, the administrative procedures provided in this section, a person who knowingly and willfully makes a false report of abuse, abandonment, or neglect of a child, or a person who counsels another to make a false report may be civilly liable for damages suffered including reasonable attorney fees and costs as a result of the filing of the false report. If the name of the person who filed the false report or counseled another to do so has not been disclosed under subsection (9), the department as custodian of the records may be named as a party in the suit until the court determines upon an in camera inspection of the records and report that there is a reasonable basis for believing that the report was false and that the identity of the reporter may be disclosed for the purpose of proceeding with a lawsuit for civil damages resulting from the filing of the false report. The alleged perpetrator may submit witness affidavits to assist the court in making this initial determination.*

(11) ~~(10)~~ Any person making a report who is acting in good

The vote was:

Yeas—15

| | | | |
|----------|----------|--------------|----------|
| Childers | Grant | Laurent | Scott |
| Clary | Gutman | Lee | Sullivan |
| Cowin | Hargrett | McKay | Williams |
| Crist | Horne | Ostalkiewicz | |

Nays—16

| | | | |
|-------------|--------|---------|--------|
| Bankhead | Dyer | Klein | Myers |
| Brown-Waite | Forman | Kurth | Rossin |
| Burt | Geller | Latvala | Silver |
| Campbell | Jones | Meadows | Turner |

Senator Ostalkiewicz moved the following amendment to **Amendment 1**:

Amendment 1C—On page 112, line 11, after "may" insert: *, except in an emergency, after receiving oral or written authorization from a court of competent jurisdiction,*

Further consideration of **Amendment 1C** was deferred.

Senator Ostalkiewicz moved the following amendment to **Amendment 1**:

Amendment 1D—On page 113, delete line 15 and insert: *for removal and, except in an emergency, has received oral or written authorization from a court of competent jurisdiction that removal is necessary to protect the*

Further consideration of **Amendment 1D** was deferred.

Senator Dudley moved the following amendment to **Amendment 1**:

Amendment 1E (with title amendment)—On page 203, line 14 through page 223, line 27, delete those lines and insert:

Section 83. Section 39.461, Florida Statutes, is renumbered as section 39.802, Florida Statutes, and amended to read:

~~39.802~~ ~~39.461~~ *Petition for termination of parental rights; filing; elements.—*

(1) All proceedings seeking an adjudication to terminate parental rights pursuant to this chapter must be initiated by the filing of an original petition by the department, the guardian ad litem, ~~or a licensed child-placing agency~~ or by any other person who has knowledge of the facts alleged or is informed of them and believes that they are true.

(2) The form of the petition is governed by the Florida Rules of Juvenile Procedure. The petition must be in writing and signed by the petitioner *or, if the department is the petitioner, by an employee of the department*, under oath stating the petitioner's good faith in filing the petition.

(3) When a petition for termination of parental rights has been filed, the clerk of the court shall set the case before the court for an advisory hearing.

(4) *A petition for termination of parental rights filed under this chapter must contain facts supporting the following allegations:*

(a) *That at least one of the grounds listed in s. 39.806 has been met.*

(b) *That the parents of the child were informed of their right to counsel at all hearings that they attend and that a dispositional order adjudicating the child dependent was entered in any prior dependency proceeding relied upon in offering a parent a case plan as described in s. 39.806.*

(c) *That the manifest best interests of the child, in accordance with s. 39.810, would be served by the granting of the petition.*

(5) *When a petition for termination of parental rights is filed under s. 39.806(1), a separate petition for dependency need not be filed and the department need not offer the parents a case plan with a goal of reunification, but may instead file with the court a case plan with a goal of termination of parental rights to allow continuation of services until the termination is granted or until further orders of the court are issued.*

(6) *The fact that a child has been previously adjudicated dependent as alleged in a petition for termination of parental rights may be proved by the introduction of a certified copy of the order of adjudication or the order of disposition of dependency.*

(7) *The fact that the parent of a child was informed of the right to counsel in any prior dependency proceeding as alleged in a petition for termination of parental rights may be proved by the introduction of a certified copy of the order of adjudication or the order of disposition of dependency containing a finding of fact that the parent was so advised.*

(8) *Whenever the department has entered into a case plan with a parent with the goal of reunification, and a petition for termination of parental rights based on the same facts as are covered in the case plan is filed prior to the time agreed upon in the case plan for the performance of the case plan, the petitioner must allege and prove by clear and convincing evidence that the parent has materially breached the provisions of the case plan.*

Section 84. Section 39.803, Florida Statutes, is created to read:

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

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

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

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

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

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

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

(2) The information required in subsection (1) may be supplied to the court or the department in the form of a sworn affidavit by a person having personal knowledge of the facts.

(3) If the inquiry under subsection (1) identifies any person as a parent or prospective parent, the court shall require notice of the hearing to be provided to that person.

(4) If the inquiry under subsection (1) fails to identify any person as a parent or prospective parent, the court shall so find and may proceed without further notice.

(5) If the inquiry under subsection (1) identifies a parent or prospective parent, and that person's location is unknown, the court shall direct the department to conduct a diligent search for that person before scheduling an adjudicatory hearing regarding the dependency of the child unless the court finds that the best interest of the child requires proceeding without actual notice to the person whose location is unknown.

(6) The diligent search required by subsection (5) must include, at a minimum, inquiries of all known relatives of the parent or prospective parent, inquiries of all offices of program areas of the department likely to have information about the parent or prospective parent, inquiries of other state and federal agencies likely to have information about the parent or prospective parent, inquiries of appropriate utility and postal providers, and inquiries of appropriate law enforcement agencies.

(7) Any agency contacted by a petitioner with a request for information pursuant to subsection (6) shall release the requested information to the petitioner without the necessity of a subpoena or court order.

(8) If the inquiry and diligent search identifies a prospective parent, that person must be given the opportunity to become a party to the proceedings by completing a sworn affidavit of parenthood and filing it with the court or the department. A prospective parent who files a sworn affidavit of parenthood while the child is a dependent child but no later than at the time of or prior to the adjudicatory hearing in the termination of parental rights proceeding for the child shall be considered a parent for all purposes under this section.

Section 85. Section 39.4627, Florida Statutes, is renumbered as section 39.804, Florida Statutes.

Section 86. Section 39.463, Florida Statutes, is renumbered as section 39.805, Florida Statutes, and amended to read:

~~39.805~~ ~~39.463~~ No answer required.—No answer to the petition or any other pleading need be filed by any child, parent, caregiver, or legal custodian, but any matters which might be set forth in an answer or other pleading may be pleaded orally before the court or filed in writing as any such person may choose. Notwithstanding the filing of any answer or any pleading, the child or parent shall, prior to the adjudicatory hearing, be advised by the court of the right to counsel and shall be given an opportunity to deny the allegations in the petition for termination of parental rights or to enter a plea to allegations in the petition before the court.

Section 87. Section 39.464, Florida Statutes, as amended by chapter 97-276, Laws of Florida, is renumbered as section 39.806, Florida Statutes, and amended to read:

~~39.806~~ ~~39.464~~ Grounds for termination of parental rights.—

(1) The department, the guardian ad litem, a ~~licensed child-placing agency~~, or any person related to the child who has knowledge of the facts alleged or who is informed of said facts and believes that they are true, may petition for the termination of parental rights under any of the following circumstances:

(a) When the parent or parents voluntarily executed a written surrender of the child and consented to the entry of an order giving custody of the child to the department ~~or to a licensed child-placing agency~~ for subsequent adoption and the department ~~or licensed child-placing agency~~ is willing to accept custody of the child.

1. The surrender document must be executed before two witnesses and a notary public or other person authorized to take acknowledgments.

2. The surrender and consent may be withdrawn after acceptance by the department ~~or licensed child-placing agency~~ only after a finding by the court that the surrender and consent were obtained by fraud or duress.

(b) When the identity or location of the parent or parents is unknown and, ~~if the court requires a diligent search pursuant to s. 39.4625,~~ cannot be ascertained by diligent search ~~as provided in s. 39.4625~~ within 90 days.

(c) When the parent or parents engaged in conduct toward the child or toward other children that demonstrates that the continuing involvement of the parent or parents in the parent-child relationship threatens the life, safety ~~or~~ well-being, or physical, mental, or emotional health of the child irrespective of the provision of services. Provision of services ~~may be~~ is evidenced by proof that services were provided through a previous plan or offered as a case plan from a child welfare agency.

(d) When the parent of a child is incarcerated in a state or federal correctional institution and:

1. The period of time for which the parent is expected to be incarcerated will constitute a substantial portion of the period of time before the child will attain the age of 18 years;

2. The incarcerated parent has been determined by the court to be a violent career criminal as defined in s. 775.084, a habitual violent felony offender as defined in s. 775.084, or a sexual predator as defined in s. 775.21; has been convicted of first degree or second degree murder in violation of s. 782.04 or a sexual battery that constitutes a capital, life, or first degree felony violation of s. 794.011; or has been convicted of an offense in another jurisdiction which is substantially similar to one of the offenses listed in this paragraph. As used in this section, the term "substantially similar offense" means any offense that is substantially similar in elements and penalties to one of those listed in this paragraph, and that is in violation of a law of any other jurisdiction, whether that of another state, the District of Columbia, the United States or any possession or territory thereof, or any foreign jurisdiction; and

3. The court determines by clear and convincing evidence that continuing the parental relationship with the incarcerated parent would be harmful to the child and, for this reason, that termination of the parental rights of the incarcerated parent is in the best interest of the child.

~~(e)(f)~~ A petition for termination of parental rights may also be filed when a child has been adjudicated dependent, a case plan has been filed with the court, and the child continues to be abused, neglected, or abandoned by the parents. In this case, the failure of the parents to substantially comply for a period of 12 months after an adjudication of the child as a dependent child constitutes evidence of continuing abuse, neglect, or abandonment unless the failure to substantially comply with the case plan was due either to the lack of financial resources of the parents or to the failure of the department to make reasonable efforts to reunify the family. Such 12-month period may begin to run only after the entry of a disposition order placing the custody of the child with the department or a person other than the parent and the ~~approval by subsequent filing~~ with the court of a case plan with a goal of reunification with the parent.

~~(f)(e)~~ When the parent or parents engaged in egregious conduct or had the opportunity and capability to prevent and knowingly failed to prevent egregious conduct threatening the life, safety, or physical, mental, or emotional health that endangers the life, health, or safety of the child or the child's sibling or had the opportunity and capability to prevent egregious conduct that threatened the life, health, or safety of the child or the child's sibling and knowingly failed to do so.

1. As used in this subsection, the term "sibling" means another child who resides with or is cared for by the parent or parents regardless of whether the child is related legally or by consanguinity.

2. As used in this subsection, the term "egregious conduct abuse" means *abuse, abandonment, neglect, or any other* conduct of the parent or parents that is deplorable, flagrant, or outrageous by a normal standard of conduct. Egregious ~~conduct abuse~~ may include an act or omission that occurred only once but was of such intensity, magnitude, or severity as to endanger the life of the child.

(g) When the parent or parents have subjected the child to aggravated child abuse as defined in s. 827.03, sexual battery or sexual abuse as defined in s. 39.01, or chronic abuse.

(h) When the parent or parents have committed murder or voluntary manslaughter of another child of the parent, or a felony assault that results in serious bodily injury to the child or another child of the parent, or aided or abetted, attempted, conspired, or solicited to commit such a murder or voluntary manslaughter or felony assault.

(i) When the parental rights of the parent to a sibling have been terminated involuntarily.

(2) Reasonable efforts to preserve and reunify families shall not be required if a court of competent jurisdiction has determined that any of the events described in paragraphs (1)(e)-(i) have occurred.

~~(3)(2)~~ When a petition for termination of parental rights is filed under subsection (1), a separate petition for dependency need not be filed and the department need not offer the parents a case plan with a goal of reunification, but may instead file with the court a case plan with a goal of termination of parental rights to allow continuation of services until the termination is granted or until further orders of the court are issued.

(4) When an expedited termination of parental rights petition is filed, reasonable efforts shall be made to place the child in a timely manner in accordance with the permanency plan, and to complete whatever steps are necessary to finalize the permanent placement of the child.

Section 88. Section 39.465, Florida Statutes, is renumbered as section 39.807, Florida Statutes, and amended to read:

~~39.807 39.465~~ Right to counsel; guardian ad litem.—

(1)(a) At each stage of the proceeding under this part, the court shall advise the parent, ~~guardian, or custodian~~ of the right to have counsel present. The court shall appoint counsel for *indigent insolvent* persons. The court shall ascertain whether the right to counsel is understood and, where appropriate, is knowingly and intelligently waived. The court shall enter its findings in writing with respect to the appointment or waiver of counsel for *indigent insolvent* parties.

(b) Once counsel has been retained or, in appropriate circumstances, appointed to represent the parent of the child, the attorney shall continue to represent the parent throughout the proceedings or until the court has approved discontinuing the attorney-client relationship. If the attorney-client relationship is discontinued, the court shall advise the parent of the right to have new counsel retained or appointed for the remainder of the proceedings.

~~(c)(b)~~1. No waiver of counsel may be accepted if it appears that the parent, ~~guardian, or custodian~~ is unable to make an intelligent and understanding choice because of mental condition, age, education, experience, the nature or complexity of the case, or other factors.

2. A waiver of counsel made in court must be of record. A waiver made out of court must be in writing with not less than two attesting witnesses and must be filed with the court. The witnesses shall attest to the voluntary execution of the waiver.

3. If a waiver of counsel is accepted at any stage of the proceedings, the offer of assistance of counsel must be renewed by the court at each subsequent stage of the proceedings at which the parent, ~~guardian, or custodian~~ appears without counsel.

~~(d)(e)~~ This subsection does not apply to any parent who has voluntarily executed a written surrender of the child and consent to the entry of a court order therefor and who does not deny the allegations of the petition.

(2)(a) The court shall appoint a guardian ad litem to represent the child in any termination of parental rights proceedings and shall ascertain at each stage of the proceedings whether a guardian ad litem has been appointed.

(b) The guardian ad litem has the following responsibilities:

1. To investigate the allegations of the petition and any subsequent matters arising in the case and, unless excused by the court, to file a written report. This report must include a statement of the wishes of the child and the recommendations of the guardian ad litem and must be provided to all parties and the court at least 48 hours before the disposition hearing.

2. To be present at all court hearings unless excused by the court.

3. To represent the interests of the child until the jurisdiction of the court over the child terminates or until excused by the court.

~~4. To perform such other duties and undertake such other responsibilities as the court may direct.~~

(c) A guardian ad litem is not required to post bond but shall file an acceptance of the office.

(d) A guardian ad litem is entitled to receive service of pleadings and papers as provided by the Florida Rules of Juvenile Procedure.

(e) This subsection does not apply to any voluntary relinquishment of parental rights proceeding.

Section 89. Section 39.466, Florida Statutes, is renumbered as section 39.808, Florida Statutes, and amended to read:

~~39.808 39.466~~ Advisory hearing; pretrial status conference.—

(1) An advisory hearing on the petition to terminate parental rights must be held as soon as possible after all parties have been served with a copy of the petition and a notice of the date, time, and place of the advisory hearing for the petition.

(2) At the hearing the court shall inform the parties of their rights under s. ~~39.807 39.465~~, shall appoint counsel for the parties in accordance with legal requirements, and shall appoint a guardian ad litem to represent the interests of the child if one has not already been appointed.

(3) The court shall set a date for an adjudicatory hearing to be held within 45 days after the advisory hearing, unless all of the necessary parties agree to some other hearing date.

(4) An advisory hearing may not be held if a petition is filed seeking an adjudication voluntarily to terminate parental rights. Adjudicatory hearings for petitions for voluntary termination must be held within 21 days after the filing of the petition. Notice of the use of this subsection must be filed with the court at the same time as the filing of the petition to terminate parental rights.

(5) Not less than 10 days before the adjudicatory hearing, the court shall conduct a prehearing status conference to determine the order in which each party may present witnesses or evidence, the order in which cross-examination and argument shall occur, and any other matters that may aid in the conduct of the adjudicatory hearing, to prevent any undue delay in the conduct of the adjudicatory hearing.

Section 90. Section 39.467, Florida Statutes, is renumbered as section 39.809, Florida Statutes, and amended to read:

~~39.809 39.467~~ Adjudicatory hearing.—

(1) In a hearing on a petition for termination of parental rights, the court shall consider the elements required for termination ~~as set forth in s. 39.4611~~. Each of these elements must be established by clear and convincing evidence before the petition is granted.

(2) The adjudicatory hearing must be held within 45 days after the advisory hearing, but reasonable continuances for the purpose of investigation, discovery, or procuring counsel or witnesses may, when necessary, be granted.

(3) The adjudicatory hearing must be conducted by the judge without a jury, applying the rules of evidence in use in civil cases and adjourning the case from time to time as necessary. For purposes of the adjudicatory hearing, to avoid unnecessary duplication of expense, the judge may consider in-court testimony previously given at any properly noticed hearing, without regard to the availability or unavailability of the witness at the time of the actual adjudicatory hearing, if the recorded testimony itself is made available to the judge. Consideration of such testimony does not preclude the witness being subpoenaed to answer supplemental questions.

(4) All hearings involving termination of parental rights are confidential and closed to the public. Hearings involving more than one child may be held simultaneously when the children involved are related to each other or were involved in the same case. The child and the parents ~~or legal custodians~~ may be examined separately and apart from each other.

(5) The judge shall enter a written order with the findings of fact and conclusions of law.

Section 91. Section 39.4612, Florida Statutes, is renumbered as section 39.810, Florida Statutes, is amended to read:

~~39.810~~ ~~39.4612~~ Manifest best interests of the child. In a hearing on a petition for termination of parental rights, the court shall consider the manifest best interests of the child. This consideration shall not include a comparison between the attributes of the parents and those of any persons providing a present or potential placement for the child. For the purpose of determining the manifest best interests of the child, the court shall consider and evaluate all relevant factors, including, but not limited to:

(1) Any suitable permanent custody arrangement with a relative of the child.

(2) The ability and disposition of the parent or parents to provide the child with food, clothing, medical care or other remedial care recognized and permitted under state law instead of medical care, and other material needs of the child.

(3) The capacity of the parent or parents to care for the child to the extent that the child's *safety, well-being, and physical, mental, and emotional* health ~~and well-being~~ will not be endangered upon the child's return home.

(4) The present mental and physical health needs of the child and such future needs of the child to the extent that such future needs can be ascertained based on the present condition of the child.

(5) The love, affection, and other emotional ties existing between the child and the child's parent or parents, siblings, and other relatives, and the degree of harm to the child that would arise from the termination of parental rights and duties.

(6) The likelihood of an older child remaining in long-term foster care upon termination of parental rights, due to emotional or behavioral problems or any special needs of the child.

(7) The child's ability to form a significant relationship with a parental substitute and the likelihood that the child will enter into a more stable and permanent family relationship as a result of permanent termination of parental rights and duties.

(8) The length of time that the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity.

(9) The depth of the relationship existing between the child and the present custodian.

(10) The reasonable preferences and wishes of the child, if the court deems the child to be of sufficient intelligence, understanding, and experience to express a preference.

(11) The recommendations for the child provided by the child's guardian ad litem or legal representative.

Section 92. Section 39.469, Florida Statutes, is renumbered as section 39.811, Florida Statutes, and amended to read:

~~39.811~~ ~~39.469~~ Powers of disposition; order of disposition.—

(1) If the court finds that the grounds for termination of parental rights have not been established by clear and convincing evidence, the court shall:

(a) If grounds for dependency have been established, adjudicate or readjudicate the child dependent and:

1. Enter an order placing or continuing the child in *out-of-home foster* care under a case plan; or

2. Enter an order returning the child to the parent or parents. The court shall retain jurisdiction over a child returned to the *parent or parents* ~~or legal guardians~~ for a period of 6 months, but, at that time, based on a report of the social service agency and any other relevant factors, the court shall make a determination as to whether its jurisdiction shall continue or be terminated.

(b) If grounds for dependency have not been established, dismiss the petition.

(2) If the child is in *out-of-home foster* care custody of the department and the court finds that the grounds for termination of parental rights have been established by clear and convincing evidence, the court shall, by order, place the child in the custody of the department for the purpose of adoption ~~or place the child in the custody of a licensed child-placing agency for the purpose of adoption~~.

(3) If the child is in the custody of one parent and the court finds that the grounds for termination of parental rights have been established for the remaining parent by clear and convincing evidence, the court shall enter an order terminating the rights of the parent for whom the grounds have been established and placing the child in the custody of the remaining parent, granting that parent sole parental responsibility for the child.

(4) If the child is neither in the custody of the department ~~of Children and Family Services~~ nor in the custody of a parent and the court finds that the grounds for termination of parental rights have been established for either or both parents, the court shall enter an order terminating parental rights for the parent or parents for whom the grounds for termination have been established and placing the child with an appropriate custodian. If the parental rights of both parents have been terminated, or if the parental rights of only one parent have been terminated and the court makes specific findings based on evidence presented that placement with the remaining parent is likely to be harmful to the child, the court may order that the child be placed with a custodian other than the department after hearing evidence of the suitability of such intended placement. Suitability of the intended placement includes the fitness ~~and capabilities of the proposed intended placement, with primary consideration being given to the welfare of the child; the fitness and capabilities of the proposed~~ custodian to function as the primary *caregiver caretaker* for a particular child; and the compatibility of the child with the home in which the child is intended to be placed. If the court orders that a child be placed with a custodian under this subsection, the court shall appoint such custodian as the guardian for the child as provided in s. 744.3021. The court may modify the order placing the child in the custody of the custodian and revoke the guardianship established under s. 744.3021 if the court subsequently finds that a party to the proceeding other than a parent whose rights have been terminated has shown a material change in circumstances which causes the placement to be no longer in the best interest of the child.

(5) If the court terminates parental rights, the court shall enter a written order of disposition briefly stating the facts upon which its decision to terminate the parental rights is made. An order of termination of parental rights, whether based on parental consent or after notice served as prescribed in this part, permanently deprives the parents ~~or legal guardian~~ of any right to the child.

(6) The parental rights of one parent may be severed without severing the parental rights of the other parent only under the following circumstances:

- (a) If the child has only one surviving parent;
- (b) If the identity of a prospective parent has been established as unknown after sworn testimony;
- (c) If the parent whose rights are being terminated became a parent through a single-parent adoption;
- (d) If the protection of the child demands termination of the rights of a single parent; or
- (e) If the parent whose rights are being terminated meets the criteria specified in s. 39.806(1)(d) ~~39.464(1)(d)~~.

(7)(a) *The termination of parental rights does not affect the rights of grandparents unless the court finds that continued visitation is not in the best interests of the child or that such visitation would interfere with the goals of permanency planning for the child.*

(b) If the court terminates parental rights, it may order that the parents or relatives of the parent whose rights are terminated be allowed to maintain some contact with the child pending adoption if the best interests of the child support this continued contact, *except as provided in paragraph (a)*. If the court orders such continued contact, the nature and frequency of the contact must be set forth in written order and may be reviewed upon motion of any party, including a prospective adoptive parent if a child has been placed for adoption. If a child is placed for adoption, the nature and frequency of the contact must be reviewed by the court at the time the child is adopted.

(8) If the court terminates parental rights, it shall, in its order of disposition, provide for a hearing, to be scheduled no later than 30 days after the date of disposition, in which the department ~~or the licensed child-placing agency~~ shall provide to the court a plan for permanency for the child. *Reasonable efforts must be made to place the child in a timely manner in accordance with the permanency plan, and to complete whatever steps are necessary to finalize the permanent placement of the child.* Thereafter, until the adoption of the child is finalized or the child reaches the age of 18 years, whichever occurs first, the court shall hold hearings at 6-month intervals to review the progress being made toward permanency for the child.

(9) *After termination of parental rights, the court shall retain jurisdiction over any child for whom custody is given to a social service agency until the child is adopted. The court shall review the status of the child's placement and the progress being made toward permanent adoptive placement. As part of this continuing jurisdiction, for good cause shown by the guardian ad litem for the child, the court may review the appropriateness of the adoptive placement of the child.*

Section 93. Section 39.47, Florida Statutes, is renumbered as section 39.812, Florida Statutes, and amended to read:

~~39.812~~ ~~39.47~~ *Postdisposition Post-disposition relief.*—

(1) ~~A licensed child-placing agency or~~ The department ~~that~~ which is given custody of a child for subsequent adoption in accordance with this chapter may place the child in a family home for prospective subsequent adoption and ~~the licensed child-placing agency or the department may thereafter become a party to any proceeding for the legal adoption of the child and appear in any court where the adoption proceeding is pending and consent to the adoption; and that consent alone shall in all cases be sufficient.~~

(2) In any subsequent adoption proceeding, the parents ~~are and legal guardian shall not be entitled to any notice of the proceeding and are not thereof, nor shall they be entitled to knowledge at any time after the order terminating parental rights is entered of the whereabouts of the child or of the identity or location of any person having the custody of or having adopted the child, except as provided by order of the court pursuant to this chapter or chapter 63; and in any habeas corpus or other proceeding involving the child brought by any parent or legal guardian of the child, an agent or contract provider of the licensed child-placing agency or department may not shall be compelled to divulge that information, but may be compelled to produce the child before a court of~~

competent jurisdiction if the child is still subject to the guardianship of the ~~licensed child-placing agency or~~ department.

(3) The entry of the custody order to the department ~~does or licensed child-placing agency shall not entitle the licensed child-placing agency or~~ department to guardianship of the estate or property of the child, but the ~~licensed child-placing agency or~~ department shall be the guardian of the person of the child.

(4) The court shall retain jurisdiction over any child for whom custody is given to ~~a licensed child-placing agency or to~~ the department until the child is adopted. After custody of a child for subsequent adoption has been given to ~~an agency or~~ the department, the court has jurisdiction for the purpose of reviewing the status of the child and the progress being made toward permanent adoptive placement. As part of this continuing jurisdiction, for good cause shown by the guardian ad litem for the child, the court may review the appropriateness of the adoptive placement of the child. *The petition for adoption must be filed in the division of the circuit court which issued the judgment terminating parental rights. A copy of the consent required under s. 63.062(4) and executed by the department must be attached to the petition for adoption. The petition for adoption must be accompanied by a form created by the department which details the social and medical history of each birth parent and includes the social security number and date of birth for each birth parent, if such information is available or readily obtainable. The person seeking to adopt the minor may not file a petition for adoption until the order terminating parental rights becomes final. An adoption proceeding under this subsection is governed by chapter 63, as limited under s. 63.037.*

~~(5) The Legislature finds that children are most likely to realize their potential when they have the ability provided by good permanent families rather than spending long periods of time in temporary placements or unnecessary institutions. It is the intent of the Legislature that decisions be consistent with the child's best interests and that the department make proper adoptive placements as expeditiously as possible following a final judgment terminating parental rights.~~

Section 94. Section 63.022, Florida Statutes, is amended to read:

63.022 Legislative intent.—

(1) It is the intent of the Legislature to protect and promote the well-being of persons being adopted and their birth and adoptive parents and to provide to all children who can benefit by it a permanent family life, and, whenever possible, to maintain sibling groups.

(2) The basic safeguards intended to be provided by this *chapter* are that:

- (a) The *minor child* is legally free for adoption.
- (b) The required persons consent to the adoption or the parent-child relationship is terminated by judgment of the court.
- (c) The required social studies are completed and the court considers the reports of these studies prior to judgment on adoption petitions.
- (d) All placements of minors for adoption are reported to the Department of Children and Family Services.
- (e) A sufficient period of time elapses during which the *minor child* has lived within the proposed adoptive home under the guidance of the department or a licensed child-placing agency.
- (f) All expenditures by *adoption entities intermediaries* placing, and persons independently adopting, a minor are reported to the court and become a permanent record in the file of the adoption proceedings.

(g) Social and medical information concerning the *minor child* and the birth parents is furnished by the birth parent when available and filed with the court *before a final hearing on a petition to terminate parental rights pending adoption consent to the adoption when a minor is placed by an intermediary.*

(h) A new birth certificate is issued after entry of the adoption judgment.

(i) At the time of the hearing, the court ~~may is authorized to~~ order temporary substitute care when it determines that the minor is in an unsuitable home.

(j) The records of all proceedings concerning custody and adoption of *minor* children are confidential and exempt from the provisions of s. 119.07(1), except as provided in s. 63.162.

(k) The birth parent, the adoptive parent, and the *minor* child receive the same or similar safeguards, guidance, counseling, and supervision in an intermediary adoption as they receive in an agency or department adoption.

(l) In all matters coming before the court pursuant to this *chapter act*, the court shall enter such orders as it deems necessary and suitable to promote and protect the best interests of the person to be adopted.

Section 95. Section 63.032, Florida Statutes, is amended to read:

63.032 Definitions.—As used in this *chapter act*, unless the context otherwise requires, the term:

(1) “Department” means the Department of Children and Family Services.

(2) “Child” means a son or daughter, whether by birth or adoption.

(3) “Court” means any circuit court of this state and, when the context requires, the court of any state that is empowered to grant petitions for adoption.

(4) “Minor” means a person under the age of 18 years.

(5) “Adult” means a person who is not a minor.

(6) “Person” includes a natural person, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, or association, and any other legal entity.

(7) “Agency” means any child-placing agency licensed by the department pursuant to s. 63.202 to place minors for adoption.

(8) “Intermediary” means an attorney or physician who is licensed or authorized to practice in this state and who has reported the intended placement of a *minor* for adoption under s. 63.092 or, for the purpose of adoptive placements of children from out of state with citizens of this state, a child-placing agency licensed in another state that is qualified by the department.

(9) “To place” or “placement” means the process of a person giving a child up for adoption and the prospective parents receiving and adopting the child, and includes all actions by any person or agency participating in the process.

(10) “Adoption” means the act of creating the legal relationship between parent and child where it did not exist, thereby declaring the child to be legally the child of the adoptive parents and their heir at law and entitled to all the rights and privileges and subject to all the obligations of a child born to such adoptive parents in lawful wedlock.

(11) “Suitability of the intended placement” includes the fitness of the intended placement, with primary consideration being given to the welfare of the child; the fitness and capabilities of the adoptive parent or parents to function as parent or parents for a particular child; any *familial relationship between the child and the prospective placement*; and the compatibility of the child with the home in which the child is intended to be placed.

(12) “Primary residence and place of employment in Florida” means a person lives and works in this state at least 6 months of the year and intends to do so for the foreseeable future or military personnel who designate Florida as their place of residence in accordance with the Soldiers’ and Sailors’ Civil Relief Act of 1940 or employees of the United States Department of State living in a foreign country who designate Florida as their place of residence.

(13) “Primarily lives and works outside Florida” means anyone who does not meet the definition of “primary residence and place of employment in Florida.”

(14) “Abandoned” means a situation in which the parent or legal custodian of a child, while being able, makes no provision for the child’s support and makes no effort to communicate with the child, which situation is sufficient to evince a willful rejection of parental obligations. If,

in the opinion of the court, the efforts of such parent or legal custodian to support and communicate with the child are only marginal efforts that do not evince a settled purpose to assume all parental duties, the court may declare the child to be abandoned. In making this decision, the court may consider the conduct of a father towards the child’s mother during her pregnancy.

(15) “Adoption entity” means the department under chapter 39; an agency under chapter 63 or, at the request of the department, under chapter 39; or an intermediary under chapter 63, placing a person for adoption.

Section 96. Section 63.037, Florida Statutes, is created to read:

63.037 Proceedings applicable to cases resulting from a termination of parental rights under chapter 39.—A case in which a *minor* becomes available for adoption after the parental rights of each parent have been terminated by a court order issued pursuant to chapter 39 will be governed by s. 39.47 and this chapter. Adoption proceedings filed under chapter 39 are exempt from the following provisions of this chapter: disclosure requirements for the adoption entity provided in s. 63.085; general provisions governing termination of parental rights pending adoption provided in s. 63.087; notice and service provisions governing termination of parental rights pending adoption provided in s. 63.088; and procedures for terminating parental rights pending adoption provided in s. 63.089.

Section 97. Section 63.038, Florida Statutes, is created to read:

63.038 Prohibited acts.—A person who knowingly and willfully provides false information under this chapter or who, with the intent to defraud, accepts benefits related to the same pregnancy from more than one agency or intermediary without disclosing that fact to each entity commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. In addition to any other penalty or liability allowed by law, a person who knowingly and willfully provides false information under this chapter or who, with intent to defraud, accepts benefits related to the same pregnancy from more than one agency or intermediary without disclosing that fact to each entity and to any prospective adoptive parent providing sums for the payment of the benefits is liable for sums paid by anyone who paid sums permitted under this chapter in anticipation of or in connection with an adoption. A person seeking to collect moneys under this section may do so by filing a civil action or may be awarded restitution in a criminal prosecution.

Section 98. Section 63.039, Florida Statutes, is created to read:

63.039 Duty of adoption entity to prospective adoptive parents; sanctions.—

(1) An adoption entity placing a *minor* for adoption has an affirmative duty to follow the requirements of this chapter, specifically the following provisions, which protect and promote the well-being of persons being adopted and their birth and adoptive parents by promoting certainty, finality, and permanency for such persons:

(a) Provide written initial disclosure to the adoptive parent at the time and in the manner required under s. 63.085(1);

(b) Obtain a written statement by the adoptive parent acknowledging receipt of the written initial disclosure and distribute copies of that acknowledgment at the time and in the manner required under s. 63.085(3);

(c) Provide written initial and postbirth disclosure to the birth parent at the time and in the manner required under s. 63.085;

(d) Obtain a written statement by the birth parent acknowledging receipt of the written initial and postbirth disclosure and distribute copies of that acknowledgment at the time and in the manner required under s. 63.085(3);

(e) When a written consent for adoption is obtained, obtain the consent at the time and in the manner required under s. 63.082;

(f) When a written consent or affidavit of nonpaternity for adoption is obtained, obtain a consent or affidavit of nonpaternity that contains the language required under s. 63.062 or s. 63.082;

(g) Include in the petition to terminate parental rights pending adoption all information required under s. 63.087(6)(e);

(h) Obtain and file the affidavit of inquiry required under s. 63.088(3);

(i) When the identity of a person whose consent to adoption is necessary under this chapter is known but the location of such a person is unknown, conduct the due-diligence search and file the affidavit required under s. 63.088(4);

(j) Serve the petition and notice of hearing to terminate parental rights pending adoption at the time and in the manner required by s. 63.088; and

(k) Hold the hearings required under this chapter no sooner than permitted by this chapter.

(2) An adoption entity that materially fails to meet a duty specified in subsection (1), may be liable to the prospective adoptive parents for all sums paid by the prospective adoptive parents or on their behalf in anticipation of or in connection with an adoption.

(3) If a court finds that a consent taken under this chapter was obtained by fraud or duress attributable to the adoption entity, the court must award all sums paid by the prospective adoptive parents or on their behalf in anticipation of or in connection with the adoption. The court may also award reasonable attorney's fees and costs incurred by the prospective adoptive parents in connection with the adoption and any litigation related to placement or adoption of a minor. An award under this subsection must be paid directly to the prospective adoptive parents by the adoption entity.

(4) If a person whose consent to an adoption is necessary under s. 63.062 prevails in an action to set aside a consent to adoption, a judgment terminating parental rights pending adoption, or a judgment of adoption, the court must award a reasonable attorney's fee to the prevailing party. An award under this subsection is to be paid by the adoption entity if the court finds that the acts or omissions of the entity were the basis for the court's order granting relief to the prevailing party.

(5) The court must provide to The Florida Bar any order that imposes sanctions under this section against an attorney, whether acting as an adoption agency or as an intermediary. The court must provide to the Department of Children and Family Services any order that imposes sanctions under this section against an agency. The order must be provided within 30 days after the date that the order was issued.

Section 99. Section 63.052, Florida Statutes, is amended to read:

63.052 Guardians designated; proof of commitment.—

(1) For minors who have been placed for adoption with and permanently committed to an agency, the agency shall be the guardian of the person of the *minor child*; for those who have been placed for adoption with and permanently committed to the department, the department shall be the guardian of the person of the *minor child*.

(2) For minors who have been voluntarily surrendered to an intermediary through an execution of consent to adoption, the intermediary shall be responsible for the child until the time a court orders preliminary approval of placement of the child in the prospective adoptive home, at which time the prospective adoptive parents become guardians pending finalization of adoption. *Until a court has terminated parental rights pending adoption and has ordered preliminary approval of placement of the minor in the adoptive home, the minor must be placed in the care of a birth relative, placed in foster care, or placed in the care of a prospective adoptive home that has received a favorable home study by a licensed child placing agency, a licensed professional, or an agency described in s. 61.20(2) within 1 year before such placement of the minor with the prospective adoptive parents. The fact that a minor is temporarily placed with the prospective adoptive parents does not give rise to a presumption that the parental rights of the birth parents will subsequently be terminated.*

(2) For minors who have been placed for adoption with or voluntarily surrendered to an agency, but have not been permanently committed to the agency, the agency shall have the responsibility and authority to provide for the needs and welfare for such minors. For those minors placed for adoption with or voluntarily surrendered to the department, but not permanently committed to the department, the department shall have the responsibility and authority to provide for the needs and wel-

fare for such minors. ~~The adoption entity may department, an intermediary, or a licensed child-placing agency has the authority to~~ authorize all appropriate medical care for a *minor child* who has been placed for adoption with or voluntarily surrendered to them. The provisions of s. 627.6578 shall remain in effect notwithstanding the guardianship provisions in this section.

(3) If a minor is surrendered to an intermediary for subsequent adoption and a suitable prospective adoptive home is not available under s. 63.092 at the time the minor is surrendered to the intermediary or, if the minor is a newborn admitted to a licensed hospital or birth center, at the time the minor is discharged from the hospital or birth center the minor must be placed in licensed foster care, ~~the intermediary shall be responsible for the child~~ until a suitable prospective adoptive home is available under s. 63.092.

(4) If a *minor child* is voluntarily surrendered to an intermediary for subsequent adoption and the adoption does not become final within 180 days, the intermediary must report to the court on the status of the *minor child* and the court may at that time proceed under s. 39.453 or take action reasonably necessary to protect the best interest of the *minor child*.

(5) The recital in the written consent given by the department that the *minor child* sought to be adopted has been permanently committed to the department shall be prima facie proof of such commitment. The recital in the written consent given by a licensed child-placing agency or the declaration in an answer or recommendation filed by a licensed child-placing agency that the *minor child* has been permanently committed and the child-placing agency is duly licensed by the department shall be prima facie proof of such commitment and of such license.

(6) Unless otherwise authorized by law, the department is not responsible for expenses incurred by licensed child-placing agencies or intermediaries participating in placement of a *minor child* for the purposes of adoption.

(7) *The court retains jurisdiction over a minor who has been placed for adoption until the adoption is final. After a minor is placed with an adoption entity or prospective adoptive parent, the court has jurisdiction for the purpose of reviewing the status of the minor and the progress being made toward permanent adoptive placement. As part of this continuing jurisdiction, for good cause shown by a person whose consent to an adoption is required under s. 63.062, by a party to any proceeding involving the minor, or upon the court's own motion, the court may review the appropriateness of the adoptive placement of the minor.*

Section 100. Section 63.062, Florida Statutes, is amended to read:

63.062 Persons required to consent to adoption.—

(1) ~~Unless supported by one or more of the grounds enumerated under s. 63.089(3) consent is excused by the court,~~ a petition to terminate parental rights pending adoption ~~adopt a minor~~ may be granted only if written consent has been executed as provided in s. 63.082 after the birth of the minor *or notice has been served under s. 63.088 to by:*

(a) The mother of the minor.

(b) The father of the minor, if:

1. The minor was conceived or born while the father was married to the mother.;

2. The minor is his child by adoption.;

3. The minor has been established by court proceeding to be his child.

(c) *If there is no father as set forth in subsection (b), any man for whom the minor has been established to be his child by scientific tests that are generally acceptable within the scientific community to show a probability of paternity.*

(d) *If there is no father as set forth in subsection (b) or subsection (c), any man who:*

1.4. He Has acknowledged in writing, signed in the presence of a competent witness, that he is the father of the minor and has filed such acknowledgment with the Office of Vital Statistics of the Department of Health.;

2.5. He Has provided the child or the mother during her pregnancy with support in a repetitive, customary manner.;

3. Has been identified by the birth mother as a person she has reason to believe may be the father of the minor in an action to terminate parental rights pending adoption pursuant to this chapter; or

4. Is a party in any pending proceeding in which paternity, custody, or termination of parental rights regarding the minor is at issue.

(e)(e) The minor, if more than 12 years of age, unless the court in the best interest of the minor dispenses with the minor's consent.

(2) Any person whose consent is required under paragraph (1)(b), paragraph (1)(c), or paragraph (1)(d) may execute an affidavit of nonpaternity in lieu of a consent under this section and by doing so waives notice to all court proceedings after the date of execution. An affidavit of nonpaternity must be executed under s. 63.082 and the person executing the affidavit must receive disclosure under s. 63.085 prior to signing the affidavit. An affidavit of nonpaternity must be in substantially the following form:

AFFIDAVIT OF NONPATERNITY

- 1. I have personal knowledge of the facts stated herein.
2. I have been told that has a child. I shall not establish or claim paternity for this child.
3. The child noted herein was not conceived or born while the birth mother was married to me. I AM NOT MARRIED TO THE BIRTH MOTHER, nor do I intend to marry the birth mother.
4. I have not provided the birth mother with child support or pre-birth support; I have not provided her with prenatal care nor assisted her with medical expenses; I have not provided the birth mother or her child or unborn child with support of any kind, nor do I intend to do so.
5. I have no interest in assuming the responsibilities of parenthood for this child. I will not acknowledge in writing to be the father of this child nor institute court proceedings to establish the child to be mine.
6. I do not object to any decision or arrangements ... makes regarding this child, including adoption.

I WAIVE NOTICE OF ANY AND ALL PROCEEDINGS TO TERMINATE PARENTAL RIGHTS OR FINALIZE AN ADOPTION UNDER THIS CHAPTER.

(3)(2) The court may require that consent be executed by:

- (a) Any person lawfully entitled to custody of the minor; or
(b) The court having jurisdiction to determine custody of the minor, if the person having physical custody of the minor has no authority to consent to the adoption.

(4)(3) The petitioner must make good faith and diligent efforts as provided under s. 63.088 to notify, and obtain written consent from, the persons required to consent to adoption under s. 63.062 within 60 days after filing the petition. These efforts may include conducting interviews and record searches to locate those persons, including verifying information related to location of residence, employment, service in the Armed Forces, vehicle registration in this state, and corrections records.

(5)(4) If parental rights to the minor have previously been terminated, a licensed child-placing agency or the department with which the minor child has been placed for subsequent adoption may provide consent to the adoption. In such case, no other consent is required.

(6)(5) A petition to adopt an adult may be granted if:

- (a) Written consent to adoption has been executed by the adult and the adult's spouse, if any.
(b) Written consent to adoption has been executed by the birth parents, if any, or proof of service of process has been filed, showing notice has been served on the parents as provided in this chapter section.

Section 101. Section 63.082, Florida Statutes, is amended to read:

63.082 Execution of consent or affidavit of nonpaternity; family medical history; withdrawal of consent.—

(1) Consent or an affidavit of nonpaternity shall be executed as follows:

- (a) If by the person to be adopted, by oral or written statement in the presence of the court or by being acknowledged before a notary public.
(b) If by an agency, by affidavit from its authorized representative.
(c) If by any other person, in the presence of the court or by affidavit.
(d) If by a court, by an appropriate order or certificate of the court.

(2) A consent that does not name or otherwise identify the adopting parent is valid if the consent contains a statement by the person consenting that the consent was voluntarily executed and that identification of the adopting parent is not required for granting the consent.

(3)(a) The department must provide a consent form and a family social and medical history form to an adoption entity that intermediary who intends to place a child for adoption. The forms completed by the birth parents must be attached to the petition to terminate parental rights pending adoption and must contain such biological and sociological information, or such information as to the family medical history, regarding the minor child and the birth parents as is required by the department. The information must be incorporated into the final home investigation report specified in s. 63.125. The court may also require that the birth mother and birth father must be interviewed by a representative of the department, a licensed child-placing agency, or a professional pursuant to s. 63.092 before the consent is executed, unless the birth parent is found to be an unlocated parent or an unidentified parent. A summary of each interview, or a statement that the parent is unlocated or unidentified, must be filed with the petition to terminate parental rights pending adoption and included in the final home study filed under s. 63.125.

(b) Consent executed by the department, by a licensed child-placing agency, or by an appropriate order or certificate of the court under s. 63.062(3)(b) must be attached to the petition to terminate parental rights pending adoption and must be accompanied by a family medical history that includes such information concerning the medical history of the child and the birth parents as is available or readily obtainable.

(c) If any executed consent or social and medical history is unavailable because the person whose consent is required is unlocated or unidentified, the petition must be accompanied by the affidavit of due diligence required under s. 63.088.

(4)(a) The consent to an adoption or affidavit of nonpaternity shall not for voluntary surrender must be executed before after the birth of the minor.

(b) A consent to adoption of a minor who is to be placed for adoption under s. 63.052 upon the minor's release following birth from a licensed hospital or birth center, shall not be executed sooner than:

- 1. 48 hours from the time of the minor's birth; or
2. The day the birth mother is determined in writing, either on a patient chart or in release paperwork to be fit for release from a licensed hospital or birth center; whichever is sooner.

A consent executed under this paragraph is valid upon execution and thereafter may only be withdrawn when the court finds that it was obtained by fraud or under duress.

(c) When the minor to be adopted is not placed under s. 63.052 upon the minor's release following birth from a licensed hospital or birth center, the consent may be executed at any time after the birth of the minor. While such consent is valid upon execution, it is subject to a 3-day revocation period under subsection (7).

(d) The consent or affidavit of nonpaternity must be signed child, in the presence of two witnesses, and be acknowledged before a notary public who is not signing as one of the witnesses. The notary public must legibly note on the consent or affidavit of nonpaternity the date and time the consent or affidavit of nonpaternity was executed. The witnesses'

names must be typed or printed underneath their signatures. *The witnesses, and their home or business addresses and social security numbers, driver's license numbers, or state identification card numbers must be included. The absence of a social security number, driver's license number, or state identification card number shall not be deemed to invalidate the consent. The person who signs the consent or affidavit has the right to have at least one of the witnesses be an individual who does not have a partnership, employment, agency, or other professional or personal relationship with the adoption entity or the prospective adoptive parents. The person who signs the consent or affidavit of nonpaternity must be given reasonable notice of the right to select a witness of his or her own choosing. The person who signs the consent or affidavit of nonpaternity must acknowledge in writing on the consent or affidavit that such notice was given and indicate the witness, if any, who was selected by the person signing the consent or affidavit. A consent to adoption must contain, in at least 16-point boldfaced type, an acknowledgement of the birth parent's rights in substantially the following form:*

YOU DO NOT HAVE TO SIGN THIS CONSENT FORM. YOU HAVE THE RIGHT TO DO ANY OF THE FOLLOWING INSTEAD OF SIGNING THIS CONSENT OR BEFORE SIGNING THIS CONSENT:

- (A) CONSULT WITH AN ATTORNEY;
- (B) HOLD, CARE FOR, AND FEED THE CHILD;
- (C) PLACE THE CHILD IN FOSTER CARE OR WITH ANY FRIEND OR FAMILY MEMBER YOU CHOOSE WHO IS WILLING TO CARE FOR YOUR CHILD;
- (D) TAKE THE CHILD HOME; AND
- (E) FIND OUT ABOUT THE COMMUNITY RESOURCES THAT ARE AVAILABLE TO YOU IF YOU DO NOT GO THROUGH WITH THE ADOPTION.

IF YOU DO SIGN THIS CONSENT, YOU ARE RELINQUISHING ALL RIGHTS TO YOUR CHILD. YOUR CONSENT IS VALID AND BINDING UNLESS WITHDRAWN AS PERMITTED BY LAW. WHEN RELINQUISHING YOUR RIGHTS TO A CHILD WHO IS TO BE PLACED FOR ADOPTION UNDER S. 63.052, F.S., UPON THE MINOR'S RELEASE FOLLOWING BIRTH FROM A LICENSED HOSPITAL OR BIRTH CENTER, A WAITING PERIOD WILL BE IMPOSED BEFORE YOU MAY SIGN THE CONSENT FOR ADOPTION. YOU WILL BE REQUIRED TO WAIT 48 HOURS FROM THE TIME OF BIRTH, OR UNTIL THE BIRTH MOTHER HAS BEEN NOTIFIED IN WRITING, EITHER ON HER CHART OR IN RELEASE PAPERS THAT SHE IS FIT TO BE RELEASED FROM A LICENSED HOSPITAL OR BIRTHING CENTER, WHICHEVER IS SOONER, BEFORE YOU MAY SIGN THE CONSENT FOR ADOPTION. ONCE YOU HAVE SIGNED THE CONSENT, IT IS VALID AND BINDING AND CANNOT BE WITHDRAWN UNLESS A COURT FINDS THAT IT WAS OBTAINED THROUGH FRAUD OR UNDER DURESS. IF YOU ARE RELINQUISHING YOUR RIGHTS TO A CHILD WHO IS NOT PLACED UNDER S. 63.052, F.S., UPON THE MINOR'S RELEASE FOLLOWING BIRTH FROM A LICENSED HOSPITAL OR BIRTH CENTER, THE CONSENT MAY BE EXECUTED AT ANY TIME AFTER THE BIRTH OF THE MINOR. WHILE SUCH CONSENT IS VALID UPON EXECUTION, IT IS SUBJECT TO A 3-DAY REVOCATION PERIOD.

WHEN THE REVOCATION PERIOD APPLIES, YOU MAY WITHDRAW YOUR CONSENT FOR ANY REASON IF YOU DO SO WITHIN 3 BUSINESS DAYS AFTER THE DATE YOU SIGNED THE CONSENT OR 1 BUSINESS DAY AFTER THE DATE OF THE BIRTH MOTHER'S DISCHARGE FROM A LICENSED HOSPITAL OR BIRTH CENTER, WHICHEVER IS LATER.

YOU MAY DO THIS BY NOTIFYING THE ADOPTION ENTITY IN WRITING THAT YOU ARE WITHDRAWING YOUR CONSENT. YOU MAY DO THIS BY PRESENTING A LETTER AT A UNITED STATES POST OFFICE AND ASKING THAT THE LETTER BE SENT BY CERTIFIED UNITED STATES MAIL WITH RETURN RECEIPT REQUESTED WITHIN 3 BUSINESS DAYS AFTER THE DATE YOU SIGNED THE CONSENT OR 1 BUSINESS DAY AFTER THE DATE OF THE BIRTH MOTHER'S DISCHARGE FROM A LICENSED HOSPITAL OR BIRTH CENTER, WHICHEVER IS LATER. AS USED IN THIS SECTION, THE TERM "BUSINESS DAY" MEANS A DAY ON WHICH THE

UNITED STATES POST OFFICE ACCEPTS CERTIFIED MAIL FOR DELIVERY. THE COST OF THIS MUST BE PAID AT THE TIME OF MAILING AND THE RECEIPT SHOULD BE RETAINED AS PROOF THAT CONSENT WAS WITHDRAWN IN A TIMELY MANNER.

THE ADOPTION ENTITY YOU SHOULD NOTIFY IS: (Name of Adoption Entity), (Address of Adoption Entity), (Phone Number of Adoption Entity). FOLLOWING 3 BUSINESS DAYS AFTER THE DATE YOU SIGNED THE CONSENT OR 1 BUSINESS DAY AFTER THE DATE OF THE BIRTH MOTHER'S DISCHARGE FROM A LICENSED HOSPITAL OR BIRTH CENTER, WHICHEVER IS LATER, YOU MAY WITHDRAW YOUR CONSENT ONLY IF YOU CAN PROVE IN COURT THAT CONSENT WAS OBTAINED BY FRAUD OR DURESS.

(5) Before any consent to adoption or affidavit of nonpaternity is executed by a birth parent, but after the birth of the child, all requirements of disclosure under s. 63.085 must be met.

(6) A copy of each consent signed in an action for termination of parental rights pending adoption must be provided to each person whose consent is required under s. 63.062. A copy of each consent must be hand delivered, with a written acknowledgement of receipt signed by the person whose consent is required, or mailed by first class United States mail to the address of record in the court file. If a copy of a consent cannot be provided as required in this section, the adoption entity must execute an acknowledgement that states the reason the copy of the consent is undeliverable. The original consent and acknowledgment of receipt, or the acknowledgment of mailing by the adoption entity, must be filed with the petition for termination of parental rights pending adoption.

(7)(5) Consent executed under subsection (4) paragraph (c) may be withdrawn for any reason by notifying the adoption entity in writing by certified United States mail, return receipt requested, not later than 3 business days after execution of the consent or 1 business day after the date of the birth mother's discharge from a licensed hospital or birth center, whichever occurs later. As used in this subsection, the term "business day" means a day on which the United States Post Office accepts certified mail for delivery. Upon receiving written notice from a person of that person's desire to withdraw consent, the adoption entity must contact the prospective adoptive parent to arrange a time certain for the adoption entity to regain physical custody of the child, unless upon motion for emergency hearing by the adoption entity, the court determines in written findings that placement of the minor with the person withdrawing consent may endanger the minor. If the court finds that such placement may endanger the minor, the court must enter an order regarding continued placement of the child. The order shall include, but not be limited to, whether temporary placement in foster care is appropriate, whether an investigation by the Department of Children and Families is recommended, and whether a relative within the third degree is available for the temporary placement. In addition, if the person withdrawing consent claims to be the father of the minor but has not been established to be the father by marriage, court order, or scientific testing, the court may order scientific paternity testing and reserve ruling on removal of the child until the results of such testing have been filed with the court. The adoption entity must return the minor within 3 days to the physical custody of the person withdrawing consent. Thereafter, consent may be withdrawn only when the court finds that the consent was obtained by fraud or duress. An affidavit of nonpaternity may be withdrawn only if the court finds that the affidavit of nonpaternity was obtained by fraud. The adoption entity must include its name, address, and telephone number on the consent form.

Section 102. Section 63.085, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 63.085, F.S., for present text.)

63.085 Disclosure by adoption entity.—

(1) DISCLOSURE REQUIRED TO BIRTH PARENTS AND PROSPECTIVE ADOPTIVE PARENTS.—Not later than 7 days after a person seeking to adopt a minor or a person seeking to place a minor for adoption contacts an adoption entity in person or provides the adoption entity with a mailing address, the entity must provide a written disclosure statement to that person. If a birth parent did not initially contact the adoption entity, the written disclosure must be provided within 7 days after that birth parent is identified and located. The written disclosure statement must be in substantially the following form:

ADOPTION DISCLOSURE

THE STATE OF FLORIDA REQUIRES THAT THIS FORM BE PROVIDED TO ALL PERSONS CONSIDERING ADOPTION TO ADVISE THEM OF THE FOLLOWING FACTS REGARDING ADOPTION UNDER FLORIDA LAW:

1. Under section 63.212, Florida Statutes, the existence of a placement or adoption contract signed by the birth parent or adoptive parent, prior approval of that contract by the court, or payment of any expenses permitted under Florida law does not obligate anyone to sign a consent or ultimately place a minor for adoption.

2. Under section 63.092, Florida Statutes, a favorable preliminary home study and a home investigation of the prospective adoptive home must be completed as required by chapter 63, Florida Statutes, before the minor may be placed in that home.

3. Under section 63.082, Florida Statutes, a consent for adoption or affidavit of nonpaternity may not be signed until after the birth of the minor. The consent or affidavit of nonpaternity is valid and binding upon execution unless withdrawn as permitted under section 63.082, Florida Statutes. If the minor is to be placed for adoption upon leaving the hospital, the consent may not be signed until 48 hours after birth or the day the birth mother is released from the hospital. If the minor is not placed for adoption upon leaving the hospital, a 3-day revocation period applies. Consent may be withdrawn for any reason by notifying the adoption entity in writing. In order to withdraw consent, the written withdrawal of consent must be mailed no later than 3 business days after execution of the consent or 1 business day after the date of the birth mother's discharge from a licensed hospital or birth center, whichever occurs later. The letter must be mailed certified mail, return receipt requested. This is done by presenting it at any United States Post Office, and asking that the letter be sent by certified United States mail with return receipt requested. The cost of this must be paid at the time of mailing and the receipt should be retained as proof that consent was withdrawn in a timely manner. For purposes of this chapter, the term "business day" means a day on which the United States Post Office accepts certified mail for delivery. Upon receiving written notice from a person of that person's desire to withdraw consent, the adoption entity must contact the prospective adoptive parent to arrange a time certain to regain physical custody of the child. The adoption entity must return the minor within 3 days to the physical custody of the person withdrawing consent. Thereafter, consent may be withdrawn only if the court finds that consent was obtained by fraud. An affidavit of nonpaternity, once executed, may be withdrawn only if the court finds that it was obtained by fraud.

4. Under section 63.082, Florida Statutes, a person who signs a consent or affidavit of nonpaternity for adoption must be given reasonable notice of his or her right to select a person who does not have a partnership, employment, agency, or other professional or personal relationship with the adoption entity or the prospective adoptive parents to be present when the consent or affidavit of nonpaternity is executed and to sign the consent or affidavit as a witness.

5. Under section 63.088, Florida Statutes, specific and extensive efforts are required by law to attempt to obtain the consents required under section 63.062, Florida Statutes. If these efforts are unsuccessful, an order terminating parental rights pending adoption may not be issued by the court until those requirements have been met and an affidavit of service has been filed with the court.

6. Under Florida law, an intermediary may represent the legal interests of only the adoptive parents, not of any birth parent. Each person whose consent to an adoption is required under section 63.062, Florida Statutes, including each birth parent, is entitled to seek independent legal advice and representation before signing any document or surrendering parental rights.

7. Under section 63.089, Florida Statutes, the termination of parental rights will occur simultaneously with the entry of a judgment terminating parental rights pending adoption.

8. Under section 63.182, Florida Statutes, an action or proceeding of any kind to vacate, set aside, or otherwise nullify an order of adoption or an underlying order terminating parental rights pending adoption on any ground, including fraud or duress, must be filed within 1 year after entry of the order terminating parental rights pending adoption.

9. Under section 63.182, Florida Statutes, for 1 year after the entry of a judgment of adoption, any irregularity or procedural defect in the adoption proceeding may be the subject of an appeal contesting the validity of the judgment.

10. Under section 63.089, Florida Statutes, a judgment terminating parental rights pending adoption is voidable and any later judgment of adoption of that minor is voidable if, upon the motion of a birth parent, the court finds that any person knowingly gave false information that prevented the birth parent from timely making known his or her desire to assume parental responsibilities toward the minor or meeting the requirements under chapter 63, Florida Statutes, to exercise his or her parental rights. A motion under section 63.089, Florida Statutes, must be filed with the court originally entering the judgment. The motion must be filed within a reasonable time, but not later than 1 year after the date the judgment to which the motion is directed was entered.

11. Under section 63.165, Florida Statutes, the State of Florida maintains a registry of adoption information. Information about the registry is available from the Department of Children and Family Services.

12. Under section 63.032, Florida Statutes, a court may find that a birth parent has abandoned his or her child based on conduct during the pregnancy or based on conduct after the child is born. In addition, under section 63.089, Florida Statutes, the failure of a birth parent to respond to notices of proceedings involving his or her child shall result in termination of parental rights of a birth parent. A lawyer can explain what a birth parent must do to protect his or her parental rights. Any birth parent wishing to protect his or her parental rights should act IMMEDIATELY.

13. Each birth parent and adoptive parent is entitled to independent legal advice and representation. Attorney information may be obtained from the yellow pages, The Florida Bar's lawyer referral service, and local legal aid offices and bar associations.

14. There are counseling services available in the community to assist in making a parenting decision. Consult the yellow pages of the telephone directory.

15. Medical and social services support is available if the birth parent wishes to retain parental rights and responsibilities. Consult the Department of Children and Family Services.

(2) **ACKNOWLEDGMENT OF DISCLOSURE.**—The adoption entity must obtain a written statement acknowledging receipt of the disclosure required under subsection (1) and signed by the persons receiving the disclosure or, if it is not possible to obtain such an acknowledgement, the adoption entity must execute an affidavit stating why an acknowledgement could not be obtained. A copy of the acknowledgement or receipt of the disclosure must be provided to the person signing it. A copy of the acknowledgement or affidavit executed by the adoption entity in lieu of the disclosure must be maintained in the file of the adoption entity. The original acknowledgement or affidavit must be filed with the court. In the case of a disclosure provided under subsection (1), the original acknowledgement or affidavit must be included in the preliminary home study required in s. 63.092(3).

(3) **POST-BIRTH DISCLOSURE TO BIRTH PARENTS.**—Before execution of any consent to adoption by a birth parent, but after the birth of the minor, all requirements of subsections (1) and (2) for making certain disclosures to a birth parent and obtaining a written acknowledgement of receipt must be repeated.

Section 103. Section 63.087, Florida Statutes, is created to read:

63.087 Proceeding to terminate parental rights pending adoption; general provisions.—

(1) **INTENT.**—It is the intent of the Legislature to provide a proceeding in which the court determines whether a minor is legally available for adoption through a separate proceeding to address termination of parental rights prior to the filing of a petition for adoption.

(2) **GOVERNING RULES.**—The Florida Family Law Rules of Procedure govern a proceeding to terminate parental rights pending adoption unless otherwise provided by law.

(3) **JURISDICTION.**—A court of this state which is competent to decide child welfare or custody matters has jurisdiction to hear all mat-

ters arising from a proceeding to terminate parental rights pending adoption. All subsequent proceedings for the adoption of the minor, if the petition for termination is granted, must be conducted by the same judge as these proceedings whenever possible.

(4) *VENUE*.—A petition to terminate parental rights pending adoption must be filed in the county where the child resided for the prior 6 months or, if the child is younger than 6 months of age, in the county where the birth mother or birth father resided at the time of the execution of the consent to adoption or the affidavit of nonpaternity, or, if there is no consent or affidavit of nonpaternity executed by a birth parent, in the county where the birth mother resides.

(5) *PREREQUISITE FOR ADOPTION*.—A petition for adoption may not be filed until 30 days after the date the judge signed the judgment terminating parental rights pending adoption under this chapter, unless the adoptee is an adult or the minor has been the subject of a judgment terminating parental rights under chapter 39.

(6) *PETITION*.—

(a) A proceeding seeking to terminate parental rights pending adoption pursuant to this chapter must be commenced by the filing of an original petition after the birth of the minor.

(b) The petition may be filed by a birth parent or legal guardian of the minor.

(c) The petition must be entitled: "In the Matter of the Proposed Adoption of a Minor Child."

(d) If a petition for a declaratory statement under s. 63.102 has previously been filed, a subsequent petition to terminate parental rights pending adoption may, at the request of any party or on the court's own motion, be consolidated with that previous action. If the petition to terminate parental rights pending adoption is consolidated with a prior petition filed under this chapter for which a filing fee has been paid, the petitioner may not be charged a subsequent or additional filing fee.

(e) The petition to terminate parental rights pending adoption must be in writing and signed by the petitioner under oath stating the petitioner's good faith in filing the petition. A written consent, affidavit of nonpaternity, or affidavit of due diligence under s. 63.088, for each person whose consent is required under s. 63.062, must be attached.

(f) The petition must include:

1. The minor's name, gender, date of birth, and place of birth. The petition must contain all names by which the minor is or has been known, including the minor's legal name at the time of the filing of the petition, to allow interested parties to the action, including birth parents, legal guardians, persons with custodial or visitation rights to the minor, and persons entitled to notice pursuant to the Uniform Child Custody Jurisdiction Act or the Indian Child Welfare Act, to identify their own interest in the action.

2. If the petition is filed before the day the minor is 6 months old and if the identity or location of the birth father is unknown, each city in which the birth mother resided or traveled during the 12 months prior to the minor's birth, including the county and state in which that city is located.

3. Unless the consent of each person whose consent is required under s. 63.062 or an affidavit of nonpaternity is attached to the petition, the name and address or, if a specific address is unknown, the city, including the county and state in which that city is located, of:

- a. The minor's mother;
- b. Any man whom the mother reasonably believes may be the minor's father; and
- c. Any legal custodian of the minor.

If a required name or address is not known, the petition must so state.

4. All information required by the Uniform Child Custody Jurisdiction Act and the Indian Child Welfare Act.

5. A statement of the grounds under s. 63.089 upon which the petition is based.

6. The name, address, and telephone number of any adoption entity seeking to place the minor for adoption.

7. The name, address, and phone number of the division of the circuit in which the petition is to be filed.

(7) *ANSWER NOT REQUIRED*.—An answer to the petition or any pleading need not be filed by any minor, parent, or legal custodian, but any matter that might be set forth in an answer or other pleading may be pleaded orally before the court or filed in writing as any such person may choose. Notwithstanding the filing of any answer or any pleading, any person present at the hearing to terminate parental rights pending adoption whose consent to adoption is required under s. 63.062 must:

(a) Be advised by the court that he or she has a right to ask that the hearing be reset for a later date so that the person may consult with an attorney;

(b) Be given an opportunity to deny the allegations in the petition; and

(c) Be given the opportunity to challenge the validity of any consents or affidavits of nonpaternity signed by any person.

Section 104. Section 63.088, Florida Statutes, is created to read:

63.088 Proceeding to terminate parental rights pending adoption; notice and service.—

(1) *INITIATE LOCATION AND IDENTIFICATION PROCEDURES*.—When the location or identity of a person whose consent to an adoption is required but is not known, the adoption entity must begin the inquiry and diligent search process required by this section not later than 7 days after the date on which the person seeking to place a minor for adoption has evidenced in writing to the entity a desire to place the minor for adoption with that entity or not later than 7 days after the date any money is provided as permitted under this chapter by the adoption entity for the benefit of the person seeking to place a minor for adoption.

(2) *LOCATION AND IDENTITY KNOWN*.—Before the court may determine that a minor is available for adoption, and in addition to the other requirements set forth in this chapter, each person whose consent is required under s. 63.062, who has not executed an affidavit of nonpaternity, and whose location and identity has been determined by compliance with the procedures in this section must be personally served, pursuant to chapter 48, at least 30 days before the hearing with a copy of the petition to terminate parental rights pending adoption and with notice in substantially the following form:

NOTICE OF PETITION AND HEARING
TO TERMINATE PARENTAL RIGHTS PENDING ADOPTION

A petition to terminate parental rights pending adoption has been filed. A copy of the petition is being served with this notice. There will be a hearing on the petition to terminate parental rights pending adoption on ... (date) ... at ... (time) ... before ... (judge) ... at ... (location, including complete name and street address of the courthouse) The court has set aside ... (amount of time) ... for this hearing.

UNDER SECTION 63.089, FLORIDA STATUTES, FAILURE TO FILE A WRITTEN RESPONSE TO THIS NOTICE WITH THE COURT OR TO APPEAR AT THIS HEARING CONSTITUTES GROUNDS UPON WHICH THE COURT SHALL END ANY PARENTAL RIGHTS YOU MAY HAVE REGARDING THE MINOR CHILD.

(3) *REQUIRED INQUIRY*.—In all cases filed under this section, the court must conduct the following inquiry of the person who is placing the minor for adoption and of any relative or custodian of the minor who is present at the hearing and likely to have the following information:

(a) Whether the mother of the minor was married at any time when conception of the minor may have occurred or at the time of the birth of the minor;

(b) Whether the mother was cohabiting with a male at any time when conception of the minor may have occurred;

(c) Whether the mother has received payments or promises of support with respect to the minor or, because of her pregnancy, from any person she has reason to believe may be the father;

(d) Whether the mother has named any person as the father on the birth certificate of the minor or in connection with applying for or receiving public assistance;

(e) Whether any person has acknowledged or claimed paternity of the minor; and

(f) Whether the mother knows the identity of any person whom she has reason to believe may be the father.

The information required under this subsection may be provided to the court in the form of a sworn affidavit by a person having personal knowledge of the facts, addressing each inquiry enumerated in this subsection. The inquiry required under this subsection may be conducted before the birth of the minor.

(4) **LOCATION UNKNOWN; IDENTITY DETERMINED.**—If the inquiry by the court under subsection (3) identifies any person whose consent is required under s. 63.062 and who has not executed an affidavit of nonpaternity, and the location of the person from whom consent is required is unknown, the adoption entity must conduct a diligent search for that person which must include the following inquiries:

(a) The person's current address, or any previous address, through an inquiry of the United States Post Office through the Freedom of Information Act;

(b) The last known employment of the person, including the name and address of the person's employer. Inquiry should be made of the last known employer as to any address to which wage and earnings statements (W-2 forms) of the person have been mailed. Inquiry should be made of the last known employer as to whether the person is eligible for a pension or profit-sharing plan and any address to which pension or other funds have been mailed;

(c) Union memberships the person may have held or unions that governed the person's particular trade or craft in the area where the person last resided;

(d) Regulatory agencies, including those regulating licensing in the area where the person last resided;

(e) Names and addresses of relatives to the extent such can be reasonably obtained from the petitioner or other sources, contacts with those relatives, and inquiry as to the person's last known address. The petitioner shall pursue any leads of any addresses where the person may have moved. Relatives include, but are not limited to, parents, brothers, sisters, aunts, uncles, cousins, nieces, nephews, grandparents, great grandparents, former in-laws, stepparents, and stepchildren;

(f) Information as to whether or not the person may have died, and if so, the date and location;

(g) Telephone listings in the area where the person last resided;

(h) Inquiries of law enforcement agencies in the area where the person last resided;

(i) Highway patrol records in the state where the person last resided;

(j) Department of Corrections records in the state where the person last resided;

(k) Hospitals in the area where the person last resided;

(l) Records of utility companies, including water, sewer, cable TV, and electric companies in the area where the person last resided;

(m) Records of the Armed Forces of the United States as to whether there is any information as to the person;

(n) Records of the tax assessor and tax collector in the area where the person last resided; and

(o) Search of one Internet data bank locator service.

Any person contacted by a petitioner who is requesting information pursuant to this subsection must release the requested information to the petitioner, except when prohibited by law, without the necessity of a subpoena or court order. An affidavit of diligent search executed by the petitioner and the adoption entity must be filed with the court confirming

completion of each aspect of the diligent search enumerated in this subsection and specifying the results. The diligent search required under this subsection may be conducted before the birth of the minor.

(5) **LOCATION NOT DETERMINED OR IDENTITY UNKNOWN.**—This subsection only applies if, as to any person whose consent is required under s. 63.062 and who has not executed an affidavit of nonpaternity, the location or identity of the person is unknown and the inquiry under subsection (3) fails to identify the person or the due diligence search under subsection (4) fails to locate the person. The unlocated or unidentified person must be served notice under s. 63.088(2), of the petition and hearing to terminate parental rights pending adoption by constructive service in the manner provided in chapter 49 in each county identified in the petition, as provided in s. 63.087(6). The notice, in addition to all information required in the petition under s. 63.087(6) and chapter 49, must contain a physical description, including, but not limited to, age, race, hair and eye color, and approximate height and weight of the minor's mother and of any person the mother reasonably believes may be the father; the minor's date of birth; and any date and city, including the county and state in which the city is located, in which conception may have occurred. If any of the facts that must be included in the petition under this subsection are unknown and cannot be reasonably ascertained, the petition must so state.

Section 105. Section 63.089, Florida Statutes, is created to read:

63.089 Proceeding to terminate parental rights pending adoption.—

(1) **HEARING.**—The court may terminate parental rights pending adoption only after a full evidentiary hearing.

(2) **HEARING PREREQUISITES.**—The court may hold the hearing only when:

(a) For each person whose consent is required under s. 63.062:

1. A consent under s. 63.082 has been executed and filed within the court;

2. An affidavit of nonpaternity under s. 63.082 has been executed and filed with the court; or

3. Notice has been provided under ss. 63.087 and 63.088;

(b) For each notice and petition that must be served under ss. 63.087 and 63.088:

1. At least 30 days have elapsed since the date of personal service and an affidavit of service has been filed with the court;

2. At least 60 days have elapsed since the first date of publication of constructive service and an affidavit of service has been filed with the court; or

3. An affidavit of nonpaternity which affirmatively waives service has been executed and filed with the court;

(c) The minor named in the petition has been born; and

(d) The petition contains all information required under s. 63.087 and all affidavits of inquiry, due diligence, and service required under s. 63.088 have been obtained and filed with the court.

(3) **GROUND FOR TERMINATING PARENTAL RIGHTS PENDING ADOPTION.**—The court may issue a judgment terminating parental rights pending adoption if the court determines by clear and convincing evidence that each person whose consent to an adoption is required under s. 63.062:

(a) Has executed a valid consent that has not been withdrawn under s. 63.082 and the consent was obtained according to the requirements of this chapter;

(b) Has executed an affidavit of nonpaternity and the affidavit was obtained according to the requirements of this chapter;

(c) Has been properly served notice of the proceeding in accordance with the requirements of this chapter and has failed to file a written answer or appear at the evidentiary hearing resulting in the order terminating parental rights pending adoption;

(d) Has abandoned the minor as abandonment is defined in s. 63.032(14);

(e) Is a parent of the person to be adopted, which parent has been judicially declared incapacitated with restoration of competency found to be medically improbable;

(f) Is a legal guardian or lawful custodian of the person to be adopted, other than a parent, who has failed to respond in writing to a request for consent for a period of 60 days or, after examination of his or her written reasons for withholding consent, is found by the court to be withholding his or her consent unreasonably; or

(g) Is the spouse of the person to be adopted who has failed to consent, and the failure of the spouse to consent to the adoption is excused by reason of prolonged and unexplained absence, unavailability, incapacity, or circumstances that are found by the court to constitute unreasonable withholding of consent.

(4) **FINDING OF ABANDONMENT.**—A finding of abandonment resulting in a termination of parental rights must be based upon clear and convincing evidence. A finding of abandonment may not be based upon a lack of emotional support to a birth mother during her pregnancy.

(a) In making a determination of abandonment the court must consider:

1. Whether the actions alleged to constitute abandonment demonstrate a willful disregard for the safety of the child or unborn child;

2. Whether other persons prevented the person alleged to have abandoned the child from making the efforts referenced in this subsection;

3. Whether the person alleged to have abandoned the child, while being able, refused to provide financial support when such support was requested by the child's legal guardian or custodian;

4. Whether the person alleged to have abandoned the child, while being able, refused to pay for medical treatment when such payment was requested by the child's legal guardian or custodian and those expenses were not covered by insurance or other available sources;

5. Whether the amount of support provided or medical expenses paid was appropriate, taking into consideration the needs of the child and relative means and resources available to the person alleged to have abandoned the child and available to the child's legal guardian or custodian during the period the child allegedly was abandoned; and

6. Whether the child's legal guardian or custodian made the child's whereabouts known to the person alleged to have abandoned the child; advised that person of the needs of the child or the needs of the mother of an unborn child with regard to the pregnancy; or informed that person of events such as medical appointments and tests relating to the child or, if unborn, the pregnancy.

(b) The child has been abandoned when the parent of a child is incarcerated on or after October 1, 1998, in a state or federal correctional institution and sentenced to a term of incarceration of 8 years or longer, regardless of how long the person is actually incarcerated under that sentence or how long the person will be incarcerated after October 1, 1998, and:

1. The period of time for which the parent is expected to be incarcerated will constitute a substantial portion of the period of time before the child will attain the age of 18 years;

2. The incarcerated parent has been determined by the court to be a violent career criminal as defined in s. 775.084, a habitual violent felony offender as defined in s. 775.084, or a sexual predator as defined in s. 775.21; has been convicted of first degree or second degree murder in violation of s. 782.04 or a sexual battery that constitutes a capital, life, or first degree felony violation of s. 794.011; or has been convicted of an offense in another jurisdiction which is substantially similar to one of the offenses listed in this paragraph. As used in this section, the term "substantially similar offense" means any offense that is substantially similar in elements and penalties to one of those listed in this paragraph, and that is in violation of a law of any other jurisdiction, whether that of another state, the District of Columbia, the United States or any possession or territory thereof, or any foreign jurisdiction; and

3. The court determines by clear and convincing evidence that continuing the parental relationship with the incarcerated parent would be harmful to the child and, for this reason, that termination of the parental rights of the incarcerated parent is in the best interest of the child.

(c) The only conduct of a father toward a mother during pregnancy that the court may consider in determining whether the child has been abandoned is conduct that occurred after reasonable and diligent efforts have been made to inform the father that he is, or may be, the father of the child.

(5) **DISMISSAL OF CASE WITH PREJUDICE.**—If the court does not find by clear and convincing evidence that parental rights of a birth parent should be terminated pending adoption, the court must dismiss the case with prejudice and that birth parent's parental rights remain in full force under the law. Parental rights may not be terminated based upon a consent that the court finds has been timely withdrawn under s. 63.082 or a consent or affidavit of nonpaternity that the court finds was obtained by fraud. The court must enter an order based upon written findings providing for the placement of the minor. The court may order scientific testing to determine the paternity of the minor at any time during which the court has jurisdiction over the minor. Further proceedings, if any, regarding the minor must be brought in a separate custody action under chapter 61, a dependency action under chapter 39, or a paternity action under chapter 742.

(6) **A JUDGMENT TERMINATING PARENTAL RIGHTS PENDING ADOPTION.**—

(a) The judgment terminating parental rights pending adoption must be in writing and contain findings of fact as to the grounds for terminating parental rights pending adoption.

(b) The clerk of the court shall mail a copy of the judgment within 24 hours after filing to the department, the petitioner, and the respondent. The clerk shall execute a certificate of each mailing.

(c) A judgment terminating parental rights pending adoption is voidable and any later judgment of adoption of that minor is voidable if, upon the motion of a birth parent, the court finds that a person knowingly gave false information that prevented the birth parent from timely making known his or her desire to assume parental responsibilities toward the minor or meeting the requirements under this chapter to exercise his or her parental rights. A motion under this paragraph must be filed with the court originally entering the judgment. The motion must be filed within a reasonable time, but not later than 1 year after the date the termination of parental rights final order was entered.

(d) Not later than 30 days after the filing of a motion under this subsection, the court must conduct a preliminary hearing to determine what contact, if any, shall be permitted between a birth parent and the child pending resolution of the motion. Such contact shall only be considered if it is requested by a birth parent who has appeared at the hearing. If the court orders contact between a birth parent and child, the order must be issued in writing as expeditiously as possible and must state with specificity any provisions regarding contact with persons other than those with whom the child resides.

(e) At the preliminary hearing, the court, upon the motion of any party or its own motion, may order scientific testing to determine the paternity of the minor if the person seeking to set aside the judgment is alleging to be the child's birth father and that fact has not previously been determined by legitimacy or scientific testing. The court may order supervised visitation with a person from whom scientific testing for paternity has been ordered conditional upon the filing of those test results with the court and such results establish that person's paternity of the minor.

(f) No later than 45 days after the preliminary hearing, the court must conduct a final hearing on the motion to set aside the judgment and issue its written order as expeditiously as possible thereafter.

(7) **RECORDS; CONFIDENTIAL INFORMATION.**—All records pertaining to a petition to terminate parental rights pending adoption are records related to the subsequent adoption of the minor and are subject to the provisions of s. 63.162, as such provisions apply to records of an adoption proceeding. The confidentiality provisions of this chapter do not apply to the extent information regarding persons or proceedings must be made available as specified under s. 63.088.

Section 106. Section 63.092, Florida Statutes, is amended to read:

63.092 Report to the court of intended placement by an intermediary; preliminary study.—

(1) REPORT TO THE COURT.—The *adoption entity intermediary* must report any intended placement of a minor for adoption with any person not related within the third degree or a stepparent if the *adoption entity intermediary* has knowledge of, or participates in, such intended placement. The report must be made to the court before the minor is placed in the home.

(2) AT-RISK PLACEMENT.—*If the minor is placed in the prospective adoptive home before the parental rights of the minor's birth parents are terminated under s. 63.089, the placement is an at-risk placement. If the placement is an at-risk placement, the prospective adoptive parents must acknowledge in writing before the minor may be placed in the prospective adoptive home that the placement is at risk and that the minor is subject to removal from the prospective adoptive home by the adoption entity or by court order.*

(3)(2) PRELIMINARY HOME STUDY.—Before placing the minor in the intended adoptive home, a preliminary home study must be performed by a licensed child-placing agency, a licensed professional, or agency described in s. 61.20(2), unless the petitioner is a stepparent, a spouse of the birth parent, or a relative. The preliminary study shall be completed within 30 days after the receipt by the court of the *adoption entity's intermediary's* report, but in no event may the *minor child* be placed in the prospective adoptive home prior to the completion of the preliminary study unless ordered by the court. If the petitioner is a stepparent, a spouse of the birth parent, or a relative, the preliminary home study may be required by the court for good cause shown. The department is required to perform the preliminary home study only if there is no licensed child-placing agency, licensed professional, or agency described in s. 61.20(2), in the county where the prospective adoptive parents reside. The preliminary home study must be made to determine the suitability of the intended adoptive parents and may be completed prior to identification of a prospective adoptive *minor child*. A favorable preliminary home study is valid for 1 year after the date of its completion. A *minor child* may not be placed in an intended adoptive home before a favorable preliminary home study is completed unless the adoptive home is also a licensed foster home under s. 409.175. The preliminary home study must include, at a minimum:

- (a) An interview with the intended adoptive parents;
- (b) Records checks of the department's central abuse registry under chapter 415 and statewide criminal records correspondence checks through the Department of Law Enforcement on the intended adoptive parents;
- (c) An assessment of the physical environment of the home;
- (d) A determination of the financial security of the intended adoptive parents;
- (e) Documentation of counseling and education of the intended adoptive parents on adoptive parenting;
- (f) Documentation that information on adoption and the adoption process has been provided to the intended adoptive parents;
- (g) Documentation that information on support services available in the community has been provided to the intended adoptive parents; *and*
- (h) A copy of *each* the signed *acknowledgement statement* required by s. 63.085; ~~and~~
- (i) ~~A copy of the written acknowledgment required by s. 63.085(1).~~

If the preliminary home study is favorable, a minor may be placed in the home pending entry of the judgment of adoption. A minor may not be placed in the home if the preliminary home study is unfavorable. If the preliminary home study is unfavorable, the intermediary or petitioner may, within 20 days after receipt of a copy of the written recommendation, petition the court to determine the suitability of the intended adoptive home. A determination as to suitability under this subsection does not act as a presumption of suitability at the final hearing. In determining the suitability of the intended adoptive home, the court must consider the totality of the circumstances in the home.

Section 107. Section 63.097, Florida Statutes, is amended to read:

63.097 Fees.—

(1) *The following fees, costs, and expenses may be assessed by the adoption entity or paid by the adoption entity on behalf of the prospective adoptive parents:*

(a) *Reasonable living expenses of the birth mother which the birth mother is unable to pay due to involuntary unemployment, medical disability due to the pregnancy which is certified by a medical professional who has examined the birth mother, or any other disability defined in s. 110.215. Reasonable living expenses are rent, utilities, basic telephone service, food, necessary clothing, transportation, and items included in the affidavit filed under s. 63.132 and found by the court to be necessary for the health of the unborn child.*

(b) *Reasonable and necessary medical expenses.*

(c) *Expenses necessary to comply with the requirements of this chapter including, but not limited to, service of process under s. 63.088, a due diligence search under s. 63.088, a preliminary home study under s. 63.092, and a final home study under s. 63.125.*

(d) *Court filing expenses, court costs, and other litigation expenses.*

(e) *Costs associated with advertising under s. 63.212(1)(h).*

(f) *The following professional fees:*

1. *A reasonable hourly fee necessary to provide legal representation to the adoptive parents in a proceeding filed under this chapter.*

2. *A reasonable hourly fee for contact with the birth parent related to the adoption. In determining a reasonable hourly fee under this subparagraph, the court must consider if the tasks done were clerical or of such a nature that the matter could have been handled by support staff at a lesser rate than the rate for legal representation charged under subparagraph 1. This includes, but need not be limited to, tasks such as transportation, transmitting funds, arranging appointments, and securing accommodations. This does not include obtaining a birth parent's signature on any document.*

3. *A reasonable hourly fee for counseling services provided to a birth parent or adoptive parent by a psychologist licensed under chapter 490 or a clinical social worker, marriage and family therapist, or mental health counselor licensed under chapter 491.*

(2) *Prior approval of the court is not required until the cumulative total of amounts permitted under subsection (1) exceeds:*

(a) *\$2,500 in legal or other fees;*

(b) *\$500 in court costs; or*

(c) *\$3,000 in expenditures.*

(3) *Any fees, costs, or expenditures not included in subsection (1) or prohibited under subsection (4) require court approval prior to payment and must be based on a finding of extraordinary circumstances.*

(4) *The following fees, costs, and expenses are prohibited:*

1. *Any fee or expense that constitutes payment for locating a minor for adoption.*

2. *Cumulative expenses in excess of a total of \$500 related to the minor, the pregnancy, a birth parent, or adoption proceeding which are incurred prior to the date the prospective adoptive parent retains the adoption entity.*

3. *Any lump-sum payment to the entity which is nonrefundable directly to the payor or which is not itemized on the affidavit filed under s. 63.132.*

4. *Any fee on the affidavit which does not specify the service that was provided and for which the fee is being charged, such as a fee for facilitation, acquisition, or other similar service, or which does not identify the date the service was provided, the time required to provide the service, the person or entity providing the service, and the hourly fee charged.*

~~(1) APPROVAL OF FEES TO INTERMEDIARIES.—Any fee over \$1,000 and those costs as set out in s. 63.212(1)(d) over \$2,500, paid to an intermediary other than actual, documented medical costs, court costs, and hospital costs must be approved by the court prior to assessment of the fee by the intermediary and upon a showing of justification for the larger fee.~~

~~(5)(2) FEES FOR AGENCIES OR THE DEPARTMENT.—When an intermediary uses the services of a licensed child-placing agency, a professional, any other person or agency pursuant to s. 63.092, or, if necessary, the department, the person seeking to adopt the child must pay the licensed child-placing agency, professional, other person or agency, or the department an amount equal to the cost of all services performed, including, but not limited to, the cost of conducting the preliminary home study, counseling, and the final home investigation. The court, upon a finding that the person seeking to adopt the child is financially unable to pay that amount, may order that such person pay a lesser amount.~~

Section 108. Section 63.102, Florida Statutes, is amended to read:

63.102 Filing of petition; venue; proceeding for approval of fees and costs.—

(1) *After a court order terminating parental rights has been issued, a proceeding for adoption may shall be commenced by filing a petition entitled, "In the Matter of the Adoption of . . ." in the circuit court. The person to be adopted shall be designated in the caption in the name by which he or she is to be known if the petition is granted. If the child is placed for adoption by an agency, Any name by which the minor child was previously known may shall not be disclosed in the petition, the notice of hearing, or the judgment of adoption.*

(2) A petition for adoption or for a declaratory statement as to the adoption contract shall be filed in the county where the petitioner or petitioners or the *minor child* resides or where the agency or *intermediary* with in which the *minor child* has been placed is located.

(3) Except for adoptions involving placement of a *minor child* with a relative within the third degree of consanguinity, a petition for adoption in an adoption handled by an intermediary shall be filed within 30 working days after placement of a *minor child* with a parent seeking to adopt the *minor child*. If no petition is filed within 30 days, any interested party, including the state, may file an action challenging the prospective adoptive parent's physical custody of the *minor child*.

(4) If the filing of the petition for adoption or for a declaratory statement as to the adoption contract in the county where the petitioner or *minor child* resides would tend to endanger the privacy of the petitioner or *minor child*, the petition for adoption may be filed in a different county, provided the substantive rights of any person will not thereby be affected.

(5) A proceeding for prior approval of fees and costs may be commenced any time after an agreement is reached between the birth mother and the adoptive parents by filing a petition for declaratory statement on the agreement entitled "In the Matter of the Proposed Adoption of a Minor Child" in the circuit court.

(a) *The petition must be filed jointly by the adoption entity and each person who enters into the agreement.*

(b) *A contract for the payment of fees, costs, and expenditures permitted under this chapter must be in writing, and any person who enters into the contract has 3 business days in which to cancel the contract. To cancel the contract, the person must notify the adoption entity in writing by certified United States mail, return receipt requested, no later than 3 business days after signing the contract. For the purposes of this subsection, the term "business day" means a day on which the United States Post Office accepts certified mail for delivery. If the contract is canceled within the first 3 business days, the person who cancels the contract does not owe any legal, intermediary, or other fees, but may be responsible for the adoption entity's actual costs during that time.*

(c) *The court may grant prior approval only of fees and expenditures permitted under s. 63.097. A prior approval of prospective fees and costs does not create a presumption that these items will subsequently be approved by the court under s. 63.132 unless such a finding is supported by the evidence submitted at that time. The court retains jurisdiction to*

order an adoption entity to refund to the person who enters into the contract any sum or portion of a sum preapproved under this subsection if, upon submission of a complete accounting of fees, costs, and expenses in an affidavit required under s. 63.132, the court finds the fees, costs, and expenses actually incurred to be less than the sums approved prospectively under this subsection.

(d) *The contract may not require, and the court may not approve, any lump-sum payment to the entity which is nonrefundable to the payor or any amount that constitutes payment for locating a minor for adoption.*

(e) *If a petition for adoption is filed under this section subsequent to the filing of a petition for a declaratory statement or a petition to terminate parental rights pending adoption, the previous petition may, at the request of any party or on the court's own motion, be consolidated with the petition for adoption. If the petition for adoption is consolidated with a prior petition filed under this chapter for which a filing fee has been paid, the petitioner may not be charged any subsequent or additional filing fee.*

~~(f) Prior approval of fees and costs by the court does not obligate the birth parent to ultimately relinquish the minor for adoption. If a petition for adoption is subsequently filed, the petition for declaratory statement and the petition for adoption must be consolidated into one case.~~

Section 109. Section 63.112, Florida Statutes, is amended to read:

63.112 Petition for adoption; description; report or recommendation, exceptions; mailing.—

(1) A sufficient number of copies of the petition for adoption shall be signed and verified by the petitioner and filed with the clerk of the court so that service may be made under subsection (4) and shall state:

- (a) The date and place of birth of the person to be adopted, if known;
- (b) The name to be given to the person to be adopted;
- (c) The date petitioner acquired custody of the minor and the name of the person placing the minor;
- (d) The full name, age, and place and duration of residence of the petitioner;
- (e) The marital status of the petitioner, including the date and place of marriage, if married, and divorces, if any;
- (f) The facilities and resources of the petitioner, including those under a subsidy agreement, available to provide for the care of the minor to be adopted;
- (g) A description and estimate of the value of any property of the person to be adopted;
- (h) ~~The case style and date of entry of the order terminating parental rights or the judgment declaring a minor available for adoption name and address, if known, of any person whose consent to the adoption is required, but who has not consented, and facts or circumstances that excuse the lack of consent; and~~

(i) The reasons why the petitioner desires to adopt the person.

(2) The following documents are required to be filed with the clerk of the court at the time the petition is filed:

(a) ~~A certified copy of the court order terminating parental rights under chapter 39 or the judgment declaring a minor available for adoption under this chapter. The required consents, unless consent is excused by the court.~~

(b) The favorable preliminary home study of the department, licensed child-placing agency, or professional pursuant to s. 63.092, as to the suitability of the home in which the minor has been placed.

(c) The surrender document must include documentation that ~~an interview was~~ interviews were held with:

1. ~~The birth mother, if parental rights have not been terminated;~~
2. ~~The birth father, if his consent to the adoption is required and parental rights have not been terminated; and~~

3. the ~~minor child~~, if older than 12 years of age, unless the court, in the best interest of the ~~minor child~~, dispenses with the ~~minor's child's~~ consent under s. 63.062(1)(e) ~~63.062(1)(e)~~.

~~The court may waive the requirement for an interview with the birth mother or birth father in the investigation for good cause shown.~~

(3) Unless ordered by the court, no report or recommendation is required when the placement is a stepparent adoption or when the ~~minor child~~ is related to one of the adoptive parents within the third degree.

(4) The clerk of the court shall mail a copy of the petition within 24 hours after filing, and execute a certificate of mailing, to the department and the agency placing the minor, if any.

Section 110. Section 63.122, Florida Statutes, is amended to read:

63.122 Notice of hearing on petition.—

(1) After the petition to adopt a minor is filed, the court must establish a time and place for hearing the petition. The hearing ~~may~~ must not be held sooner than 30 days after the date the judgment terminating parental rights was entered or sooner than 90 days after the date the ~~minor was placed~~ the placing of the minor in the physical custody of the petitioner. The minor must remain under the supervision of the department, an intermediary, or a licensed child-placing agency until the adoption becomes final. When the petitioner is a spouse of the birth parent, the hearing may be held immediately after the filing of the petition.

(2) Notice of hearing must be given as prescribed by the rules of civil procedure, and service of process must be made as specified by law for civil actions.

(3) Upon a showing by the petitioner that the privacy of the petitioner or ~~minor child~~ may be endangered, the court may order the names of the petitioner or ~~minor child~~, or both, to be deleted from the notice of hearing and from the copy of the petition attached thereto, provided the substantive rights of any person will not thereby be affected.

(4) Notice of the hearing must be given by the petitioner to the adoption entity that places the minor.:

~~(a) The department or any licensed child-placing agency placing the minor.~~

~~(b) The intermediary.~~

~~(c) Any person whose consent to the adoption is required by this act who has not consented, unless such person's consent is excused by the court.~~

~~(d) Any person who is seeking to withdraw consent.~~

(5) After filing the petition to adopt an adult, a notice of the time and place of the hearing must be given to any person whose consent to the adoption is required but who has not consented. The court may order an appropriate investigation to assist in determining whether the adoption is in the best interest of the persons involved.

Section 111. Section 63.125, Florida Statutes, is amended to read:

63.125 Final home investigation.—

(1) The final home investigation must be conducted before the adoption becomes final. The investigation may be conducted by a licensed child-placing agency or a professional in the same manner as provided in s. 63.092 to ascertain whether the adoptive home is a suitable home for the minor and whether the proposed adoption is in the best interest of the minor. Unless directed by the court, an investigation and recommendation are not required if the petitioner is a stepparent or if the ~~minor child~~ is related to one of the adoptive parents within the third degree of consanguinity. The department is required to perform the home investigation only if there is no licensed child-placing agency or professional pursuant to s. 63.092 in the county in which the prospective adoptive parent resides.

(2) The department, the licensed child-placing agency, or the professional that performs the investigation must file a written report of the investigation with the court and the petitioner within 90 days after the date the petition is filed.

(3) The report of the investigation must contain an evaluation of the placement with a recommendation on the granting of the petition for adoption and any other information the court requires regarding the petitioner or the minor.

(4) The department, the licensed child-placing agency, or the professional making the required investigation may request other state agencies or child-placing agencies within or outside this state to make investigations of designated parts of the inquiry and to make a written report to the department, the professional, or other person or agency.

(5) The final home investigation must include:

(a) The information from the preliminary home study.

(b) After the ~~minor child~~ is placed in the intended adoptive home, two scheduled visits with the ~~minor child~~ and the ~~minor's child's~~ adoptive parent or parents, one of which visits must be in the home, to determine the suitability of the placement.

(c) The family *social and* medical history as provided in s. 63.082.

(d) Any other information relevant to the suitability of the intended adoptive home.

(e) Any other relevant information, as provided in rules that the department may adopt.

Section 112. Section 63.132, Florida Statutes, is amended to read:

63.132 Affidavit Report of expenditures and receipts.—

(1) At least 10 days before the hearing on the petition for adoption, the petitioner and any adoption entity ~~intermediary~~ must file two copies of an affidavit under this section.

(a) The affidavit must be signed by the adoption entity and the prospective adoptive parents. A copy of the affidavit must be provided to the adoptive parents at the time the affidavit is executed.

(b) The affidavit must itemize ~~containing a full accounting of~~ all disbursements and receipts of anything of value, including professional and legal fees, made or agreed to be made by or on behalf of the petitioner and any adoption entity ~~intermediary~~ in connection with the adoption or in connection with any prior proceeding to terminate parental rights which involved the minor who is the subject of the petition for adoption. The affidavit must also include, for each fee itemized, the service provided for which the fee is being charged, the date the service was provided, the time required to provide the service, the person or entity that provided the service, and the hourly fee charged.

(c) The clerk of the court shall forward a copy of the affidavit to the department. The department must retain these records for 5 years. Copies of affidavits received by the department under this subsection must be provided upon the request of any person. The department must redact all identifying references to the minor, the birth parent, or the adoptive parent from any affidavit released by the department. The name of the adoption entity may not be redacted. The intent of this paragraph is to create a resource for adoptive parents and others wishing to obtain information about the cost of adoption in this state.

(d) The affidavit ~~report~~ must show any expenses or receipts incurred in connection with:

1.(a) The birth of the minor.

2.(b) The placement of the minor with the petitioner.

3.(c) The medical or hospital care received by the mother or by the minor during the mother's prenatal care and confinement.

4.(d) The living expenses of the birth mother. The living expenses must be documented in detail to apprise the court of the exact expenses incurred.

5.(e) The services relating to the adoption or to the placement of the minor for adoption that were received by or on behalf of the petitioner, the adoption entity ~~intermediary~~, either ~~birth natural~~ parent, the minor, or any other person.

The affidavit must state whether any of these expenses were or are eligible to be paid for by collateral sources, including, but not limited to, health insurance, Medicaid, Medicare, or public assistance.

(2) The court may require such additional information as is deemed necessary.

(3) The court must issue a separate order approving or disapproving the fees, costs, and expenditures itemized in the affidavit. The court may approve only fees, costs, and expenditures allowed under s. 63.097. The court may reject in whole or in part any fee, cost, or expenditure listed if the court finds that the expense is:

- (a) Contrary to this chapter;
- (b) Not supported by a receipt in the record, if the expense is not a fee of the adoption entity; or
- (c) Not deemed by the court to be a reasonable fee or expense, taking into consideration the requirements of this chapter and the totality of the circumstances.

(4)(3) This section does not apply to an adoption by a stepparent whose spouse is a ~~birth natural~~ or adoptive parent of the ~~minor child~~.

Section 113. Section 63.142, Florida Statutes, is amended to read:

63.142 Hearing; judgment of adoption.—

(1) *APPEARANCE*.—The petitioner and the person to be adopted shall appear at the hearing on the petition for adoption, unless:

- (a) The person is a minor under 12 years of age; or
- (b) The presence of either is excused by the court for good cause.

(2) *CONTINUANCE*.—The court may continue the hearing from time to time to permit further observation, investigation, or consideration of any facts or circumstances affecting the granting of the petition.

(3) *DISMISSAL*.—

(a) If the petition is dismissed, the court shall determine the person that is to have custody of the minor.

(b) If the petition is dismissed, the court shall state with specificity the reasons for the dismissal.

(4) *JUDGMENT*.—At the conclusion of the hearing, after when the court determines that the date for a birth parent to file an appeal of a valid judgment terminating that birth parent's parental rights has passed and no appeal is pending all necessary consents have been obtained and that the adoption is in the best interest of the person to be adopted, a judgment of adoption shall be entered.

(a) A judgment terminating parental rights pending adoption is voidable and any later judgment of adoption of that minor is voidable if, upon the motion of the birth parent, the court finds that any person knowingly gave false information that prevented the birth parent from timely making known his or her desire to assume parental responsibilities toward the minor or meeting the requirements under this chapter to exercise his or her parental rights. A motion under this paragraph must be filed with the court that entered the original judgment. The motion must be filed within a reasonable time, but not later than 1 year after the date the termination of parental rights final order was entered.

(b) Not later than 30 days after the filing of a motion under this subsection, the court must conduct a preliminary hearing to determine what contact, if any, shall be permitted between a birth parent and the child pending resolution of the motion. Such contact shall only be considered if it is requested by a birth parent who has appeared at the hearing. If the court orders contact between a birth parent and child, the order must be issued in writing as expeditiously as possible and must state with specificity any provisions regarding contact with persons other than those with whom the child resides.

(c) At the preliminary hearing, the court, upon the motion of any party or its own motion, may order scientific testing to determine the paternity of the minor if the person seeking to set aside the judgment is alleging to be the child's birth father and that fact has not previously been

determined by legitimacy or scientific testing. The court may order supervised visitation with a person from whom scientific testing for paternity has been ordered conditional upon the filing of those test results with the court and such results establish that person's paternity of the minor.

(d) No later than 45 days after the preliminary hearing, the court must conduct a final hearing on the motion to set aside the judgment and issue its written order as expeditiously as possible thereafter.

Section 114. Section 63.152, Florida Statutes, is amended to read:

63.152 Application for new birth record.—Within 30 days after entry of a judgment of adoption, the clerk of the court, and in agency adoptions, any child-placing agency licensed by the department, shall prepare a certified statement of the entry for the state registrar of vital statistics on a form provided by the registrar. The clerk of the court must mail a copy of the form completed under this section to the state registry of adoption information under s. 63.165. A new birth record containing the necessary information supplied by the certificate shall be issued by the registrar on application of the adopting parents or the adopted person.

Section 115. Section 63.165, Florida Statutes, is amended to read:

63.165 State registry of adoption information; duty to inform and explain.—Notwithstanding any other law to the contrary, the department shall maintain a registry with the last known names and addresses of an adoptee and his or her ~~birth natural~~ parents and adoptive parents; the certified statement of the final decree of adoption provided by the clerk of the court under s. 63.152; and any other identifying information that which the adoptee, ~~birth natural~~ parents, or adoptive parents desire to include in the registry. The department shall maintain the registry records for the time required by rules adopted by the department in accordance with this chapter or for 99 years, whichever period is greater. The registry shall be open with respect to all adoptions in the state, regardless of when they took place. The registry shall be available for those persons choosing to enter information therein, but no one shall be required to do so.

(1) Anyone seeking to enter, change, or use information in the registry, or any agent of such person, shall present verification of his or her identity and, if applicable, his or her authority. A person who enters information in the registry shall be required to indicate clearly the persons to whom he or she is consenting to release this information, which persons shall be limited to the adoptee and the ~~birth natural~~ mother, ~~birth natural~~ father, adoptive mother, adoptive father, ~~birth natural~~ siblings, and maternal and paternal ~~birth natural~~ grandparents of the adoptee. Except as provided in this section, information in the registry is confidential and exempt from the provisions of s. 119.07(1). Consent to the release of this information may be made in the case of a minor adoptee by his or her adoptive parents or by the court after a showing of good cause. At any time, any person may withdraw, limit, or otherwise restrict consent to release information by notifying the department in writing.

(2) The department may charge a reasonable fee to any person seeking to enter, change, or use information in the registry. The department shall deposit such fees in a trust fund to be used by the department only for the efficient administration of this section. The department and agencies shall make counseling available for a fee to all persons seeking to use the registry, and the department shall inform all affected persons of the availability of such counseling.

(3) The department, intermediary, or licensed child-placing agency must inform the birth parents before parental rights are terminated, and the adoptive parents before placement, in writing, of the existence and purpose of the registry established under this section, but failure to do so does not affect the validity of any proceeding under this chapter.

Section 116. Section 63.182, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 63.182, F.S., for present text.)

63.182 Statute of repose.—An action or proceeding of any kind to vacate, set aside, or otherwise nullify an order of adoption or an underlying order terminating parental rights on any ground, including fraud or duress, must be filed within 1 year after entry of the order terminating parental rights.

Section 117. Section 63.207, Florida Statutes, is amended to read:

63.207 Out-of-state placement.—

(1) Unless the *minor child* is to be placed with a relative within the third degree or with a stepparent, *or is a special needs child as defined in s. 409.166*, an adoption entity may not ~~no person except an intermediary, an agency, or the department shall:~~

(a) Take or send a *minor child* out of the state for the purpose of placement for adoption; or

(b) Place or attempt to place a *minor child* for the purpose of adoption with a family who primarily lives and works outside Florida in another state. ~~An intermediary may place or attempt to place a child for adoption in another state only if the child is a special needs child as that term is defined in s. 409.166.~~ If an adoption entity intermediary is acting under this subsection, the *adoption entity intermediary* shall file a petition for declaratory statement pursuant to s. 63.102 for prior approval of fees and costs. The court shall review the costs pursuant to s. 63.097. The petition for declaratory statement must be converted to a petition for an adoption upon placement of the *minor child* in the home. The circuit court in this state must retain jurisdiction over the matter until the adoption becomes final. The adoptive parents must come to this state to have the adoption finalized. Violation of the order subjects the *adoption entity intermediary* to contempt of court and to the penalties provided in s. 63.212.

(2) An *adoption entity intermediary* may not counsel a birth mother to leave the state for the purpose of giving birth to a child outside the state in order to secure a fee in excess of that permitted under s. 63.097 when it is the intention that the child is to be placed for adoption outside the state.

(3) When applicable, the Interstate Compact on the Placement of Children authorized in s. 409.401 shall be used in placing children outside the state for adoption.

Section 118. Section 63.212, Florida Statutes, is amended to read:

63.212 Prohibited acts; penalties for violation.—

(1) It is unlawful for any person:

(a) Except ~~an adoption entity the department, an intermediary, or an agency~~, to place or attempt to place a *minor child* for adoption with a person who primarily lives and works outside this state unless the *minor child* is placed with a relative within the third degree or with a stepparent *or is a special needs child as defined in s. 409.166*. An *adoption entity intermediary* may place or attempt to place a special needs child for adoption with a person who primarily lives and works outside this state only if the *adoption entity intermediary* has a declaratory statement from the court establishing the fees to be paid *under s. 63.207*. This requirement does not apply if the *minor child* is placed with a relative within the third degree or with a stepparent.

(b) Except ~~an adoption entity the department, an intermediary, or an agency~~, to place or attempt to place a *minor child* for adoption with a family whose primary residence and place of employment is in another state unless the *minor child* is placed with a relative within the third degree or with a stepparent. An *adoption entity intermediary* may place or attempt to place a special needs child for adoption with a family whose primary residence and place of employment is in another state only if the *adoption entity intermediary* has a declaratory statement from the court establishing the fees to be paid. This requirement does not apply if the *special needs child* is placed with a relative within the third degree or with a stepparent.

(c) Except ~~an adoption entity the Department of Children and Family Services, an agency, or an intermediary~~, to place or attempt to place within the state a *minor child* for adoption unless the *minor child* is placed with a relative within the third degree or with a stepparent. This prohibition, however, does not apply to a person who is placing or attempting to place a *minor child* for the purpose of adoption with the *adoption entity Department of Children and Family Services or an agency or through an intermediary*.

(d) To sell or surrender, or to arrange for the sale or surrender of, a *minor child* to another person for money or anything of value or to receive such minor child for such payment or thing of value. If a *minor child* is being adopted by a relative within the third degree or by a

stepparent, or is being adopted through *an adoption entity, this paragraph does not prohibit the Department of Children and Family Services, an agency, or an intermediary, nothing herein shall be construed as prohibiting the person who is contemplating adopting the child from paying, under s. 63.097 and s. 63.132, the actual prenatal care and living expenses of the mother of the child to be adopted, nor from paying, under s. 63.097 and s. 63.132, the actual living and medical expenses of such mother for a reasonable time, not to exceed 6 weeks, if medical needs require such support, after the birth of the minor child.*

(e) Having the rights and duties of a parent with respect to the care and custody of a minor to assign or transfer such parental rights for the purpose of, incidental to, or otherwise connected with, selling or offering to sell such rights and duties.

(f) To assist in the commission of any act prohibited in paragraph (a), paragraph (b), paragraph (c), paragraph (d), or paragraph (e).

(g) Except ~~an adoption entity the Department of Children and Family Services or an agency~~, to charge or accept any fee or compensation of any nature from anyone for making a referral in connection with an adoption.

(h) Except ~~an adoption entity the Department of Children and Family Services, an agency, or an intermediary~~, to advertise or offer to the public, in any way, by any medium whatever that a *minor child* is available for adoption or that a *minor child* is sought for adoption; and further, it is unlawful for any person to publish or broadcast any such advertisement without including a Florida license number of the agency *or; attorney, or physician* placing the advertisement.

(i) To contract for the purchase, sale, or transfer of custody or parental rights in connection with any child, ~~or~~ in connection with any fetus yet unborn, or in connection with any fetus identified in any way but not yet conceived, in return for any valuable consideration. Any such contract is void and unenforceable as against the public policy of this state. However, fees, costs, and other incidental payments made in accordance with statutory provisions for adoption, foster care, and child welfare are permitted, and a person may agree to pay expenses in connection with a preplanned adoption agreement as specified below, but the payment of such expenses may not be conditioned upon the transfer of parental rights. Each petition for adoption which is filed in connection with a preplanned adoption agreement must clearly identify the adoption as a preplanned adoption arrangement and must include a copy of the preplanned adoption agreement for review by the court.

1. Individuals may enter into a preplanned adoption arrangement as specified herein, but such arrangement shall not in any way:

a. Effect final transfer of custody of a child or final adoption of a child, without review and approval of the department and the court, and without compliance with other applicable provisions of law.

b. Constitute consent of a mother to place her child for adoption until 7 days following birth, and unless the court making the custody determination or approving the adoption determines that the mother was aware of her right to rescind within the 7-day period following birth but chose not to rescind such consent.

2. A preplanned adoption arrangement shall be based upon a preplanned adoption agreement ~~that must which shall~~ include, but need not be limited to, the following terms:

a. That the volunteer mother agrees to become pregnant by the fertility technique specified in the agreement, to bear the child, and to terminate any parental rights and responsibilities to the child she might have through a written consent executed at the same time as the preplanned adoption agreement, subject to a right of rescission by the volunteer mother any time within 7 days after the birth of the child.

b. That the volunteer mother agrees to submit to reasonable medical evaluation and treatment and to adhere to reasonable medical instructions about her prenatal health.

c. That the volunteer mother acknowledges that she is aware that she will assume parental rights and responsibilities for the child born to her as otherwise provided by law for a mother, if the intended father and intended mother terminate the agreement before final transfer of custody is completed, or if a court determines that a parent clearly

specified by the preplanned adoption agreement to be the biological parent is not the biological parent, or if the preplanned adoption is not approved by the court pursuant to the Florida Adoption Act.

d. That an intended father who is also the biological father acknowledges that he is aware that he will assume parental rights and responsibilities for the child as otherwise provided by law for a father, if the agreement is terminated for any reason by any party before final transfer of custody is completed or if the planned adoption is not approved by the court pursuant to the Florida Adoption Act.

e. That the intended father and intended mother acknowledge that they may not receive custody or the parental rights under the agreement if the volunteer mother terminates the agreement or if the volunteer mother rescinds her consent to place her child for adoption within 7 days after birth.

f. That the intended father and intended mother may agree to pay all reasonable legal, medical, psychological, or psychiatric expenses of the volunteer mother related to the preplanned adoption arrangement, and may agree to pay the reasonable living expenses of the volunteer mother. No other compensation, whether in cash or in kind, shall be made pursuant to a preplanned adoption arrangement.

g. That the intended father and intended mother agree to accept custody of and to assert full parental rights and responsibilities for the child immediately upon the child's birth, regardless of any impairment to the child.

h. That the intended father and intended mother shall have the right to specify the blood and tissue typing tests to be performed if the agreement specifies that at least one of them is intended to be the biological parent of the child.

i. That the agreement may be terminated at any time by any of the parties.

3. A preplanned adoption agreement shall not contain any provision:

a. To reduce any amount paid to the volunteer mother if the child is stillborn or is born alive but impaired, or to provide for the payment of a supplement or bonus for any reason.

b. Requiring the termination of the volunteer mother's pregnancy.

4. An attorney who represents an intended father and intended mother or any other attorney with whom that attorney is associated shall not represent simultaneously a female who is or proposes to be a volunteer mother in any matter relating to a preplanned adoption agreement or preplanned adoption arrangement.

5. Payment to agents, finders, and intermediaries, including attorneys and physicians, as a finder's fee for finding volunteer mothers or matching a volunteer mother and intended father and intended mother is prohibited. Doctors, psychologists, attorneys, and other professionals may receive reasonable compensation for their professional services, such as providing medical services and procedures, legal advice in structuring and negotiating a preplanned adoption agreement, or counseling.

6. As used in this paragraph, the term:

a. "Blood and tissue typing tests" include, but are not limited to, tests of red cell antigens, red cell isoenzymes, human leukocyte antigens, and serum proteins.

b. "Child" means the child or children conceived by means of an insemination that is part of a preplanned adoption arrangement.

c. "Fertility technique" means artificial embryonation, artificial insemination, whether in vivo or in vitro, egg donation, or embryo adoption.

d. "Intended father" means a male who, as evidenced by a preplanned adoption agreement, intends to have the parental rights and responsibilities for a child conceived through a fertility technique, regardless of whether the child is biologically related to the male.

e. "Intended mother" means a female who, as evidenced by a preplanned adoption agreement, intends to have the parental rights and

responsibilities for a child conceived through a fertility technique, regardless of whether the child is biologically related to the female.

f. "Parties" means the intended father and intended mother, the volunteer mother and her husband, if she has a husband, who are all parties to the preplanned adoption agreement.

g. "Preplanned adoption agreement" means a written agreement among the parties that specifies the intent of the parties as to their rights and responsibilities in the preplanned adoption arrangement, consistent with the provisions of this act.

h. "Preplanned adoption arrangement" means the arrangement through which the parties enter into an agreement for the volunteer mother to bear the child, for payment by the intended father and intended mother of the expenses allowed by this act, for the intended father and intended mother to assert full parental rights and responsibilities to the child if consent to adoption is not rescinded after birth by the volunteer mother, and for the volunteer mother to terminate, subject to a right of rescission, in favor of the intended father and intended mother all her parental rights and responsibilities to the child.

i. "Volunteer mother" means a female person at least 18 years of age who voluntarily agrees, subject to a right of rescission, that if she should become pregnant pursuant to a preplanned adoption arrangement, she will terminate in favor of the intended father and intended mother her parental rights and responsibilities to the child.

(2) *This section does not* ~~Nothing herein shall be construed to~~ prohibit a licensed child-placing agency from charging fees reasonably commensurate to the services provided.

(3) It is unlawful for any *adoption entity intermediary* to fail to report to the court, prior to placement, the intended placement of a *minor child* for purposes of adoption with any person not a stepparent or a relative within the third degree, if the *adoption entity intermediary* participates in such intended placement.

(4) It is unlawful for any *adoption entity intermediary* to charge any fee over \$1,000 and those costs as set out in paragraph (1)(d) over \$2,500, other than for actual documented medical costs, court costs, and hospital costs unless such fee is approved by the court prior to the assessment of the fee by the *adoption entity intermediary* and upon a showing of justification for the larger fee.

(5) It is unlawful for any *adoption entity intermediary* to counsel a birth mother to leave the state for the purpose of giving birth to a child outside the state in order to secure a fee in excess of that permitted under s. 63.097 when it is the intention that the child be placed for adoption outside the state.

(6) It is unlawful for any *adoption entity intermediary* to obtain a preliminary home study or final home investigation and fail to disclose the existence of the study to the court.

(7) A person who violates any provision of this section, excluding paragraph (1)(h), is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A person who violates paragraph (1)(h) is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.083; and each day of continuing violation shall be considered a separate offense.

Section 119. *Section 63.072, Florida Statutes, is repealed.*

Section 120. *Any petition for adoption filed before October 1, 1998, shall be governed by the law in effect at the time the petition was filed.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 297, line 30 through page 298, line 24, delete those lines and insert: process; renumbering and amending s. 39.461, F.S., relating to petition for termination of parental rights, and filing and elements thereof; removing provisions authorizing licensed child-placing agencies to file actions to terminate parental rights; creating s. 39.803, F.S.; providing procedures when the identity or location of the parent is unknown after filing a petition for termination of parental rights; renumbering s. 39.4627, F.S., relating to penalties for false statements of paternity; renumbering and amending s. 39.463, F.S., relating to petitions

and pleadings for which no answer is required; deleting references to licensed child-placing agencies; renumbering and amending s. 39.464, F.S., relating to grounds for termination of paternal rights; renumbering and amending s. 39.465, F.S., relating to right to counsel and appointment of a guardian ad litem; renumbering and amending s. 39.466, F.S., relating to advisory hearings; renumbering and amending s. 39.467, F.S., relating to adjudicatory hearings; renumbering and amending s. 39.4612, F.S., relating to the manifest best interests of the child; renumbering and amending s. 39.469, F.S., relating to powers of disposition and order of disposition; renumbering and amending s. 39.47, F.S., relating to postdisposition relief; providing additional requirements for a petition for adoption; prohibiting filing such petition until the order terminating parental rights is final; amending s. 63.022, F.S.; revising legislative intent with respect to adoptions in this state; amending s. 63.032, F.S.; revising definitions; defining the term "adoption entity"; creating s. 63.037, F.S.; exempting adoption proceedings that result from a termination of parental rights under ch. 39, F.S., from certain provisions of ch. 63, F.S.; creating s. 63.038, F.S.; providing criminal penalties for committing certain fraudulent acts; creating s. 63.039, F.S.; providing sanctions and an award of attorney's fees under certain circumstances; amending s. 63.052, F.S.; providing for placement of a minor pending adoption; specifying the jurisdiction of the court over a minor who has been placed for adoption; amending s. 63.062, F.S.; specifying additional persons who must consent to an adoption, execute an affidavit of nonpaternity, or receive notice of proceedings to terminate parental rights; permitting an affidavit of nonpaternity under certain circumstances; amending s. 63.082, F.S.; revising requirements for executing a consent to an adoption; providing a time period for withdrawing consent; providing additional disclosure requirements; amending s. 63.085, F.S.; specifying information that must be disclosed to persons seeking to adopt a minor and to the birth parents; creating s. 63.087, F.S.; requiring that a separate proceeding be conducted by the court to determine whether a birth parent's parental rights should be terminated; providing for rules, jurisdiction, and venue for such proceedings; providing requirements for the petition and hearing; creating s. 63.088, F.S.; providing requirements for identifying and locating a person who is required to consent to an adoption or receive notice of proceedings to terminate parental rights; providing requirements for the notice; providing requirements for conducting a diligent search for such person whose location is unknown; requiring that an unlocated or unidentified person be served notice by constructive service; providing that failure to respond or appear constitutes grounds to terminate parental rights pending adoption; creating s. 63.089, F.S.; providing procedures for the proceeding to terminate parental rights pending adoption; specifying the matters to be determined; specifying grounds upon which parental rights may be terminated; providing for procedures following a judgment; providing for records to be made part of the subsequent adoption; amending s. 63.092, F.S.; providing requirements to be met if a prospective placement in an adoptive home is an at-risk placement; defining at-risk placement; amending s. 63.097, F.S.; revising requirements for the court in approving specified fees and costs; amending s. 63.102, F.S.; revising requirements for filing a petition for adoption; providing requirements for prior approval of fees and costs; amending s. 63.112, F.S.; revising requirements for the information that must be included in a petition for adoption; amending s. 63.122, F.S.; revising the time requirements for hearing a petition for adoption; amending s. 63.125, F.S., relating to the final home investigation; conforming provisions to changes made by the act; amending s. 63.132, F.S.; revising requirements for the report of expenditures and receipts which is filed with the court; amending s. 63.142, F.S.; specifying circumstances under which a judgment terminating parental rights pending adoption is voidable; providing for an evidentiary hearing to determine the minor's placement following a motion to void such a judgment; amending s. 63.152, F.S.; requiring that the clerk of the court mail a copy of a new birth record to the state registry of adoption information; amending s. 63.165, F.S.; requiring that a copy of the certified statement of final decree of adoption be included in the state registry of adoption information; requiring that the Department of Children and Family Services maintain such information for a specified period; amending s. 63.182, F.S.; requiring that an action to vacate an order of adoption or an order terminating parental rights pending adoption be filed within a specified period after entry of the order; amending s. 63.207, F.S.; revising provisions that limit the placement of a minor in another state for adoption; amending s. 63.212, F.S., relating to prohibitions and penalties with respect to adoptions; conforming provisions to changes made by the act; repealing s. 63.072, F.S., relating to persons who may waive required consent to an adoption; requiring that a petition for adoption be governed by the law in effect at the time the petition is filed; creating s. 39.813,

POINT OF ORDER

Senator Silver raised a point of order that pursuant to Rule 7.1 **Amendment 1E** was not germane to the bill.

The President referred the point to Senator Bankhead, Chairman of the Committee on Rules and Calendar.

On motion by Senator Rossin, further consideration of **HB 1019** with pending **Amendment 1**, **Amendment 1C**, **Amendment 1D** and **Amendment 1E** was deferred.

On motion by Senator Latvala—

CS for CS for SB's 2024 and 2648—A bill to be entitled An act relating to the Florida Forever Program; creating s. 259.202, F.S.; providing for the Florida Forever Program Act; providing legislative findings and intent relating to the acquisition of lands for conservation, ecosystem restoration, recreation, water resource and water supply development, and urban green space and recreational opportunities; providing a process for surplus Florida Forever lands; authorizing the sale of up to \$3 billion in bonds to implement the Florida Forever Program; providing for alternatives to fee simple acquisitions, providing a limitation on such acquisitions; providing a funding mechanism for the State Lands Management Trust Fund, which is to be created by general law; providing for the continuation of existing debt service payments for prior bond issues; providing uses for the State Lands Management Trust Fund; creating the Preservation 2000 Program Review Study Commission; providing for membership of the commission and its duties; requiring a report; providing an appropriation; amending s. 259.032, F.S.; revising eligibility requirements for payments in lieu of taxes; providing for payments in lieu of taxes to school boards, as well as to Glades County to compensate the county for its tax loss due to the opening of a prison; amending s. 259.041, F.S.; authorizing the Division of State Lands to use appraisal reports provided by nonprofit organizations or public agencies; amending s. 259.101, F.S.; requiring the Department of Environmental Protection to fund certain fixed capital outlay projects; requiring the Southwest Florida Water Management District to fund water supply development activities; providing a limitation and requirements; requiring the South Florida Water Management District to fund Everglades restoration; requiring an extraordinary vote of the Board of Trustees of the Internal Improvement Trust Fund before an acquisition may be made in a county having more than 35 percent of its lands in public ownership; providing a limitation on the acquisition of projects using less than fee acquisition alternatives; delaying the redistribution of certain funds; revising accounting procedures relating to a redistribution of certain Preservation 2000 moneys; amending s. 373.59, F.S.; revising eligibility requirements for payments in lieu of taxes; providing for payments in lieu of taxes to school boards; authorizing the Board of Trustees of the Internal Improvement Trust Fund to transfer specified lands to Walton County at a specified price, providing limitations on the use of those lands; amending s. 253.82, F.S.; providing for all transportation easements acquired under the Murphy Act to be conveyed to the Department of Transportation or the governmental entity currently having title to the adjacent roadway; requiring the establishment of a procedure for review of deeds containing transportation reservations acquired under the Murphy Act; setting requirements for the review process; providing for compensation of certain property owners when the reservation denies current economic use of the property; providing for mediation or arbitration; amending ss. 712.04, 712.05, F.S.; providing for the release of certain easements held by governmental entities; providing for preservation of certain road easement reservations pursuant to a road project scheduled to begin within a specified period; amending s. 201.15, F.S.; revising the amounts of tax revenues to be distributed for debt service on the Preservation 2000 Program and the Florida Forever Program; providing an effective date.

—was read the second time by title.

Senator Bronson moved the following amendment which failed:

Amendment 1 (with title amendment)—On page 9, line 30 through page 10, line 5, delete those lines and insert:

(4) *Proceeds from the sale of bonds to implement the Florida Forever Program may be used for acquisition or management activities and improvements on lands acquired under the program. Such management*

activities and improvements include the control of upland and wetland invasive plant species; the control burning of lands; the fencing of lands; the construction, reconstruction, repair, and renovation of service facilities, such as sanitary facilities and other public-use buildings; and the provision of utility services, such as garbage services and other management activities to improve and protect lands acquired under the program.

Section 2. *The Legislature finds that the sale of bonds to implement the Florida Forever Program is an appropriate mechanism to meet the needs of future generations to enjoy the outdoors and natural resources of Florida forever and intends that the sale of up to \$1.5 billion in bonds be authorized over the 10-year period beginning July 1, 2001, and ending July 1, 2010. Sixty percent of bond proceeds shall be used for land management activities as specified in section 259.202(4), Florida Statutes, and 40 percent of bond proceeds shall be used for the acquisition of lands that exhibit a need for protection based on scientific research.*

And the title is amended as follows:

On page 1, lines 11 and 12, delete those lines and insert: surplusings Florida Forever lands; authorizing use of bond proceeds for management activities and certain improvements; authorizing the sale of up to \$1.5 billion in bonds to

Senator Latvala moved the following amendments which were adopted:

Amendment 2—On page 16, lines 5-7, delete those lines and insert:

3. *Beginning in fiscal year 1998-1999 and thereafter, to school boards in counties with a population of 100,000 or less which do not contain all or a portion of an area of critical state concern designated pursuant to chapter 380 that levy the maximum millage pursuant to s. 236.25(1) and (2) and to school boards in counties with a population of less than 100,000 which contain all or a portion of an area of critical state concern designated pursuant to chapter 380.*

Amendment 3—On page 17, line 3, before the period (.) insert: , except the payment amount for school boards in counties with a population of 100,000 or less which do not contain all or a portion of an area of critical state concern designated pursuant to chapter 380 shall be calculated based only on the value of the millage levied pursuant to s. 236.25(1) and (2) on purchases completed after July 1, 1998

Senator Diaz-Balart offered the following amendment which was moved by Senator Latvala and adopted:

Amendment 4—On page 22, line 25, after the period (.) insert: *Extra consideration shall also be given to projects that are joint acquisitions with other governmental entities.*

Senator Latvala moved the following amendments which were adopted:

Amendment 5—On page 26, lines 19-26, delete those lines and insert: designated pursuant to chapter 380; and, beginning in fiscal year 1998-1999, to school boards in counties with a population of 100,000 or less which do not contain all or a portion of an area of critical state concern designated pursuant to chapter 380 that levy the maximum millage pursuant to s. 236.25(1) and (2) and to school boards in counties with a population of less than 100,000 which contain all or a portion of an area of critical state concern designated pursuant to chapter 380.

Amendment 6—On page 27, line 3, before the period (.) insert: , except the payment amount for school boards in counties with a population of 100,000 or less which do not contain all or a portion of an area of critical state concern designated pursuant to chapter 380 shall be calculated based only on the value of the millage levied pursuant to s. 236.25(1) and (2) on purchases completed after July 1, 1998

Senator Clary moved the following amendment which was adopted:

Amendment 7—On page 27, line 29 through page 28, line 1, delete those lines and insert:

Section 10. (1) *Notwithstanding any provision to the contrary in chapter 259 or chapter 253, Florida Statutes, the Board of Trustees of the Internal Improvement Trust Fund, pursuant to chapters 93-184 and 95-275, Laws of Florida, shall convey the lands located*

Senator Latvala moved the following amendment which was adopted:

Amendment 8 (with title amendment)—On page 31, between lines 15 and 16, insert:

Section 12. Subsection (1) of section 380.504, Florida Statutes, is amended to read:

380.504 Florida Communities Trust; creation; membership; expenses.—

(1) There is created within the Department of Community Affairs a nonregulatory state agency and instrumentality, which shall be a public body corporate and politic, known as the "Florida Communities Trust." The governing body of the trust shall consist of:

(a) The Secretary of Community Affairs, and the Secretary of Environmental Protection, and the director of the Division of Historical Resources in the Department of State; and

(b) Three public members whom the Governor shall appoint subject to Senate confirmation.

The Governor shall appoint a former elected official of a local government, a representative of a nonprofit organization as defined in this part, and a representative of the development industry. The Secretary of Community Affairs may designate his or her assistant secretary or the director of the Division of Resource Planning and Management to serve in his or her absence. The Secretary of Environmental Protection may appoint his or her assistant executive director, the deputy assistant director for Land Resources, the director of the Division of State Lands, or the director of the Division of Recreation and Parks to serve in his or her absence. The Secretary of Community Affairs shall be the chair of the governing body of the trust. The Governor shall make his or her appointments upon the expiration of any current terms or within 60 days after the effective date of the resignation of any member.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 3, line 11, after the semicolon (;) insert: amending s. 380.504, F.S.; revising the membership of the governing body of the Florida Communities Trust;

Pursuant to Rule 4.19, **CS for CS for SB's 2024 and 2648** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Latvala—

SJR 1008—A joint resolution proposing an amendment to Section 14 of Article VII of the State Constitution, relating to bonds for pollution control and abatement and other water facilities, decreasing debt service requirements for the bonds.

—was read the second time by title.

The Committee on Rules and Calendar recommended the following amendment which was moved by Senator Latvala and adopted:

Amendment 1 (with title amendment)—Delete everything after the resolving clause and insert:

That the following amendment to Section 11 of Article VII of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE VII
FINANCE AND TAXATION

SECTION 11. State bonds; revenue bonds.—

(a) State bonds pledging the full faith and credit of the state may be issued only to finance or refinance the cost of state fixed capital outlay projects authorized by law, and purposes incidental thereto, upon approval by a vote of the electors; provided state bonds issued pursuant to this subsection may be refunded without a vote of the electors at a lower net average interest cost rate. The total outstanding principal of state bonds issued pursuant to this subsection shall never exceed fifty percent of the total tax revenues of the state for the two preceding fiscal years, excluding any tax revenues held in trust under the provisions of this constitution.

(b) Moneys sufficient to pay debt service on state bonds as the same becomes due shall be appropriated by law.

(c) Any state bonds pledging the full faith and credit of the state issued under this section or any other section of this constitution may be combined for the purposes of sale.

(d) Revenue bonds may be issued by the state or its agencies without a vote of the electors to finance or refinance the cost of state fixed capital outlay projects authorized by law, and purposes incidental thereto, and shall be payable solely from funds derived directly from sources other than state tax revenues.

(e) *Bonds pledging all or part of a dedicated state tax revenue may be issued by the state in the manner provided by general law to finance or refinance the acquisition and improvement of land, water areas, and related property interests and resources for the purposes of conservation, outdoor recreation, water resource development, restoration of natural systems, and historic preservation.*

(f)(e) Each project, building, or facility to be financed or refinanced with revenue bonds issued under this section shall first be approved by the Legislature by an act relating to appropriations or by general law.

Be It Further Resolved that the following statement be placed on the ballot:

CONSTITUTIONAL AMENDMENT
ARTICLE VII, SECTION 11

STATE BONDS; REVENUE BONDS.—Proposing an amendment to the State Constitution to allow bonds to be issued pledging all or part of a dedicated state tax revenue as provided by general law to finance the acquisition and improvement of land, water areas, and related property interests for the purpose of conservation, outdoor recreation, water resource development, restoration of natural systems, and historic preservation.

And the title is amended as follows:

Delete everything before the resolving clause and insert: Senate Joint Resolution No. 1008 A joint resolution proposing an amendment to Section 11 of Article VII of the State Constitution, relating to revenue bonds for natural resource conservation, outdoor recreation, and water resource development purposes.

Pursuant to Rule 4.19, **SJR 1008** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Latvala—

CS for SB 1338—A bill to be entitled An act relating to a special election to be held on September 1, 1998, pursuant to Section 5 of Article XI of the State Constitution, for the approval or rejection by the electors of Florida of a joint resolution amending Section 11 of Article VII of the State Constitution, which authorizes the issuance of state bonds to finance or refinance conservation, outdoor recreation, and water resource development projects; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **CS for SB 1338** was placed on the calendar of Bills on Third Reading.

On motion by Senator Brown-Waite—

CS for SB's 312 and 2298—A bill to be entitled An act relating to water resource management; amending s. 373.016, F.S.; providing legislative policy relating to state and regional water resource management; encouraging use of water from sources nearest the area of need; providing an exception; amending s. 373.196, F.S.; clarifying legislative intent that water resource development is a function of the water management districts; amending s. 373.1962, F.S.; providing an exemption for water supply authorities under certain circumstances from certain factors for consumptive use permits; amending s. 373.223, F.S.; directing the Department of Environmental Protection or water management district governing board to consider certain factors when determining the public interest for the transport and use of water across county boundaries or outside the watershed; amending s. 373.229, F.S.; requiring additional information in permit applications for proposed transport and use of water pursuant to s. 373.223(2), F.S.; reenacting s. 373.536(5)(c), F.S.; clarifying intent with respect to language inadvertently omitted by legislative action; amending ss. 373.036, 373.209, 373.226, 373.421, F.S.; correcting cross-references; providing an effective date.

—was read the second time by title.

The Committee on Community Affairs recommended the following amendments which were moved by Senator Brown-Waite and adopted:

Amendment 1—On page 4, line 17, after “Project” insert: *, and anywhere in the state when the transport and use of water is supplied exclusively for bottled water as defined in s. 500.03(1)(d),*

Amendment 2—On page 3, line 2, after “(d)” insert: *, nor shall it apply to the transport and use of reclaimed water for electrical power production by an electric utility as defined in section 366.02(2)*

SENATOR BANKHEAD PRESIDING

The Committee on Community Affairs recommended the following amendment which was moved by Senator Brown-Waite and failed:

Amendment 3—On page 3, line 25, after “373.1963(1)” insert: *, if applicable,*

Senator Latvala moved the following amendment which was adopted:

Amendment 4—On page 3, line 25, after “373.1963(1)” insert: *(b)*

Senator Clary moved the following amendment which was adopted:

Amendment 5—On page 4, line 17, after “Project” insert: *, any water use permit applications pending as of April 1, 1998, with the Northwest Florida Water Management District*

Senator Laurent moved the following amendment which was adopted:

Amendment 6—On page 4, line 22, delete “*or outside the watershed from which it is taken*”

Senators McKay and Laurent offered the following amendment which was moved by Senator McKay and adopted:

Amendment 7—On page 5, between lines 17 and 18, insert:

(g) The value of the existing capital investment in water-related infrastructure made by the applicant.

Senator Laurent moved the following amendment which was adopted:

Amendment 8—On page 5, line 31 through page 6, line 1, delete those lines and insert: *and use of water across county boundaries shall include information*

Pursuant to Rule 4.19, **CS for SB's 312 and 2298** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Latvala, by two-thirds vote **CS for HB 4027** was withdrawn from the Committees on Natural Resources and Community Affairs.

On motion by Senator Latvala, by two-thirds vote—

CS for HB 4027—A bill to be entitled An act relating to regional water supply authorities; amending s. 120.52, F.S.; providing that a member government is not considered a party in administrative proceedings under certain conditions; amending s. 373.1963, F.S.; revising criteria for governance of the West Coast Regional Water Supply Authority and its member governments under interlocal agreements; declaring legislative intent to supersede other laws; repealing s. 373.1963(5), F.S., relating to a process for review of a consumptive use permit; amending s. 682.02, F.S.; providing for the arbitration of certain controversies concerning water use; amending s. 768.28, F.S.; allowing an authority to indemnify its member governments; providing an effective date.

—a companion measure, was substituted for **CS for SB 1442** and by two-thirds vote read the second time by title.

Pursuant to Rule 4.19, **CS for HB 4027** was placed on the calendar of Bills on Third Reading.

THE PRESIDENT PRESIDING

On motion by Senator Laurent, by two-thirds vote **CS for CS for HB 4141** was withdrawn from the Committee on Natural Resources.

On motion by Senator Laurent, by two-thirds vote—

CS for CS for HB 4141—A bill to be entitled An act relating to water resources; creating s. 373.45923, F.S.; providing legislative findings and intent; authorizing the South Florida Water Management District to participate as local sponsor for the Restudy of the Central and Southern Florida Project; providing duties of the Joint Legislative Committee on Everglades Oversight; providing for public hearings; providing reporting requirements; providing for project cooperation agreements; providing for legislative authorization; providing an effective date.

—a companion measure, was substituted for **CS for SB 2356** and by two-thirds vote read the second time by title.

Pursuant to Rule 4.19, **CS for CS for HB 4141** was placed on the calendar of Bills on Third Reading.

On motion by Senator Laurent—

CS for SB 2542—A bill to be entitled An act relating to wastewater treatment systems; amending s. 381.0065, F.S.; revising guidelines and procedures for granting variances for such systems; revising membership of the department's variance review and advisory committee; providing criteria for use of guttering; amending s. 381.0068, F.S.; revising duties and procedures of the department's technical review and advisory panel; providing for the transfer of a certain amount from the Solid Waste Trust Fund to the State Housing Trust Fund for the purposes of funding wastewater treatment systems; providing an effective date.

—was read the second time by title.

Senator Laurent moved the following amendment which was adopted:

Amendment 1 (with title amendment)—On page 10, line 23 through page 11, line 19, delete section 7 and redesignate subsequent sections.

And the title is amended as follows:

On page 1, lines 11-14, delete those lines and insert: panel; providing

Pursuant to Rule 4.19, **CS for SB 2542** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Holzendorf, by two-thirds vote **CS for HB 3035** was withdrawn from the Committees on Judiciary; and Ways and Means.

On motion by Senator Holzendorf, the rules were waived and—

CS for HB 3035—A bill to be entitled An act for the relief of Freddie Lee Pitts and Wilbert Lee; providing for a hearing to be conducted by the Division of Administrative Hearings; requiring the Department of Legal Affairs to represent the state; providing a contingent appropriation to compensate Freddie Lee Pitts and Wilbert Lee, if appropriate; providing a contingent appropriation for the payment of attorneys' fees; providing an effective date.

—a companion measure, was substituted for **CS for SB 68** and read the second time by title.

Senators Holzendorf and Dudley offered the following amendment which was moved by Senator Holzendorf:

Amendment 1—Delete everything after the enacting clause and insert:

Section 1. *The Division of Administrative Hearings is directed to appoint an administrative law judge to conduct a hearing and determine whether a basis for equitable relief exists for the purpose of compensating claimants Freddie Lee Pitts and Wilbert Lee for any wrongful act or omission of the State of Florida, or officials thereof, which affected the fundamental fairness of the criminal proceedings against the claimants and resulted in their convictions. In conducting the hearing, the administrative law judge shall review the trial and appellate record of the criminal cases against the claimants, the record of the legislative proceedings, and the Cabinet pardon proceedings and shall report on the fundamental fairness thereof. The Department of Legal Affairs is directed to provide representation for the State of Florida.*

Section 2. *If the administrative law judge determines by a preponderance of the evidence that the State of Florida, or officials, thereof, committed a wrongful act and that a basis for equitable relief exists, the administrative law judge is authorized to award claimants Freddie Lee Pitts and Wilbert Lee the amount of \$500,000 each. The determination of the administrative law judge shall be reported to the President of the Florida Senate and the Speaker of the Florida House of Representatives no later than August 1, 1998. The Comptroller is authorized to draw a warrant in satisfaction of the relief awarded by the administrative law judge as provided in this act, and the State Treasurer is directed to pay the same out of funds appropriated in section 3 of this act.*

Section 3. *The amount of \$1,250,000 is hereby appropriated from the General Revenue Fund in the State Treasury to fund any amounts awarded to Freddie Lee Pitts and Wilbert Lee pursuant to this act, including amounts awarded pursuant to section 4 of this act.*

Section 4. *In addition to any funds awarded to claimants, if the claimants are determined to be prevailing parties, the administrative law judge is authorized to award a reasonable attorney's fee including all costs to the claimants in an amount not to exceed 25 percent of the compensation awarded.*

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

Senators Jones and Klein offered the following amendment to **Amendment 1** which was moved by Senator Jones and failed:

Amendment 1A—On page 2, lines 5-13, delete those lines and insert: *Wilbert Lee the amount of \$1 million each. The determination of the administrative law judge shall be reported to the President of the Florida Senate and the Speaker of the Florida House of Representatives no later than August 1, 1998. The Comptroller is authorized to draw a warrant in satisfaction of the relief awarded by the administrative law judge as provided in this act, and the State Treasurer is directed to pay the same out of funds appropriated in section 3 of this act.*

Section 3. *The amount of \$2.5 million is hereby*

Senator Silver moved the following amendment to **Amendment 1** which was adopted:

Amendment 1B—On page 1, between lines 16 and 17, insert:

Section 1. *This act may be cited as the "Maurice Rosen Act."*

(Redesignate subsequent sections.)

Amendment 1 as amended was adopted.

On motion by Senator Holzendorf, further consideration of **CS for HB 3035** as amended was deferred.

MOTION

On motion by Senator Bankhead, the rules were waived and time of recess was extended until 7:30 p.m. this day.

RECESS

The President declared the Senate in informal recess at 5:22 p.m. to reconvene at 5:30 p.m.

CALL TO ORDER

The Senate was called to order by the President at 5:37 p.m. A quorum present.

SPECIAL ORDER CALENDAR, continued

On motion by Senator Rossin, the Senate resumed consideration of—

HB 1019—A bill to be entitled An act relating to marriage; creating ss. 741.0305, 741.0306, and 741.0307, F.S., the "Marriage Preparation and Preservation Act of 1998"; providing legislative findings and purpose; requiring the creation of a handbook pertaining to the rights and responsibilities under Florida law of marital partners; amending s. 741.0306, F.S., to provide criteria to be contained in the handbook; amending s. 741.04, F.S.; providing that verification that both parties contemplating marriage have obtained and read the information contained in the handbook created pursuant to s. 741.0307, F.S., is a condition precedent to issuance of a marriage license; amending s. 741.05, F.S., to conform; amending s. 61.21, F.S.; revising provisions relating to the authorized parenting course offered to educate, train, and assist divorcing parents in regard to the consequences of divorce on parents and children; designating such course as the parent education and family stabilization course; providing legislative findings and purpose; authorizing the court in any action between parents in which the custody or support of a minor child is an issue to order parties to attend the family education and stabilization course if the court finds attendance to be in the best interests of the child or children; providing procedures and guidelines for required attendance; requiring parties to file proof of compliance with the court; authorizing a course fee; authorizing each judicial circuit to establish a registry of course providers and sites; authorizing the court to grant exemption from required course attendance; providing parent education and family stabilization course curriculum; providing qualifications and duties of course providers; amending s. 232.246, F.S.; including marriage and relationship education within the life management skills credit required for graduation from high school; amending s. 28.101, F.S.; providing an additional charge for petition for a dissolution of marriage; providing for deposit of such funds in the Family Courts Trust Fund; amending s. 25.388, F.S.; providing an additional source of funding for the Family Courts Trust Fund; providing an effective date.

—with pending **Amendment 1**, **Amendment 1C**, **Amendment 1D** and **Amendment 1E** with a pending point of order by Senator Silver. **Amendment 1C** and **Amendment 1D** by Senator Ostalkiewicz were withdrawn.

RULING ON POINT OF ORDER

Recommendation by Senator Bankhead, Chairman of the Committee on Rules and Calendar, on Senator Silver's point of order on **Amendment 1E** by Senator Dudley: We have applied the standard Mason's Manual as well as the Senate's Germanity analysis procedures to Senator Dudley's Amendment to Senator Rossin's Amendment:

Test One: *Do they relate to the same subject?* Yes, they relate to the same subject, in large part. They both have significant termination of parental rights sections in them, and they both have significant permanent placement leading to adoption provisions in them.

Test Two: *Are they in a natural and logical sequence?* Yes, both are in logical and natural sequence to each other—they have intertwined provisions. One takes up where the other leaves off.

Test Three: *Does the amendment by Senator Dudley introduce an independent new question?* Well, they are both independent bills in the system, but not on a new subject.

Accordingly, I recommend to you that the amendment by Senator Dudley is germane and that Senator Silver's point of order is not well taken.

Ruling by the President

The President ruled the point of order not well taken.

The question recurred on **Amendment 1E** by Senator Dudley which was adopted.

Senator Campbell moved the following amendment to **Amendment 1** which was adopted:

Amendment 1F—On page 82, delete line 25 and insert:

(10) *A person who knowingly and willfully makes a false report of abuse, abandonment, or neglect of a child, or a person who counsels another to make a false report may be civilly liable for damages suffered including reasonable attorney fees and costs as a result of the filing of the false report. If the name of the person who filed the false report or counseled another to do so has not been disclosed under subsection (9), the department as custodian of the records may be named as a party in the suit until the court determines upon an in camera inspection of the records and report that there is a reasonable basis for believing that the report was false and that the identity of the reporter may be disclosed for the purpose of proceeding with a lawsuit for civil damages resulting from the filing of the false report. The alleged perpetrator may submit witness affidavits to assist the court in making this initial determination.*

(11) ~~(10)~~ Any person making a report who is acting in good

Senator Rossin moved the following amendment to **Amendment 1** which was adopted:

Amendment 1G—On page 9, delete line 31 and insert: *marriage license. Exceptions must be granted to non-Florida residents seeking a marriage license from the state and for individuals asserting hardship. Marriage license fee waivers shall continue to be available to all eligible individuals. For state residents, a county court judge issuing a marriage*

Amendment 1 as amended was adopted.

Pursuant to Rule 4.19, **HB 1019** as amended was placed on the calendar of Bills on Third Reading.

The Senate resumed consideration of—

CS for HB 3035—A bill to be entitled An act for the relief of Freddie Lee Pitts and Wilbert Lee; providing for a hearing to be conducted by the Division of Administrative Hearings; requiring the Department of Legal Affairs to represent the state; providing a contingent appropriation to compensate Freddie Lee Pitts and Wilbert Lee, if appropriate; providing a contingent appropriation for the payment of attorneys' fees; providing an effective date.

—which was previously considered and amended this day.

RECONSIDERATION OF AMENDMENT

On motion by Senator Holzendorf, the Senate reconsidered the vote by which **Amendment 1** as amended was adopted.

Senators Jones and Klein offered the following amendment to **Amendment 1** which was moved by Senator Jones and adopted:

Amendment 1C—On page 2, line 8, delete "August" and insert: *July*

Amendment 1 as amended was adopted.

On motion by Senator Holzendorf, by two-thirds vote **CS for HB 3035** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

| | | | |
|-----------------|-------------|-------------|--------------|
| Madam President | Crist | Holzendorf | Meadows |
| Bankhead | Diaz-Balart | Horne | Myers |
| Bronson | Dudley | Jones | Ostalkiewicz |
| Brown-Waite | Dyer | Kirkpatrick | Rossin |
| Burt | Forman | Klein | Scott |
| Campbell | Geller | Kurth | Silver |
| Casas | Grant | Latvala | Sullivan |
| Childers | Gutman | Laurent | Turner |
| Clary | Hargrett | Lee | Williams |
| Cowin | Harris | McKay | |

Nays—1

Thomas

On motion by Senator Campbell, the Senate resumed consideration of—

HB 367—A bill to be entitled An act relating to education; creating the “Florida Maximum Class Size Study Act”; requiring school districts to reduce the teacher-to-student ratio in certain schools; requiring the Department of Education to conduct a study of the efficacy of class size reductions; providing legislative goals; providing an effective date.

—which was previously considered and amended this day.

Senator Williams moved the following amendment which failed:

Amendment 2—On page 1, line 15, after “*district*” insert: , *which has more than ten elementary schools,*

The vote was:

Yeas—12

| | | | |
|----------|-------------|---------|--------------|
| Bankhead | Grant | Laurent | Ostalkiewicz |
| Bronson | Horne | McKay | Sullivan |
| Geller | Kirkpatrick | Myers | Williams |

Nays—22

| | | | |
|----------|-------------|---------|--------|
| Campbell | Diaz-Balart | Jones | Rossin |
| Casas | Dudley | Klein | Scott |
| Childers | Forman | Kurth | Silver |
| Clary | Gutman | Latvala | Turner |
| Cowin | Hargrett | Lee | |
| Crist | Holzendorf | Meadows | |

Pursuant to Rule 4.19, **HB 367** as amended was placed on the calendar of Bills on Third Reading.

On motion by Senator Latvala, the rules were waived and the Senate reverted to—

CONSIDERATION OF BILLS ON THIRD READING

CS for SB 244—A bill to be entitled An act relating to drycleaning solvent cleanup; amending s. 376.30, F.S.; providing legislative intent regarding drycleaning solvents; amending s. 376.301, F.S.; providing definitions; amending s. 376.303, F.S.; providing for late fees for registration renewals; amending s. 376.3078, F.S.; providing legislative intent regarding voluntary cleanup; providing that certain deductibles must be deposited into the Water Quality Assurance Trust Fund; clarifying circumstances under which drycleaning restoration fund may not be used; providing additional criteria for determining eligibility for rehabilitation; specifying when certain deductibles must be paid; amending the date after which no restoration funds may be used for drycleaning site rehabilitation; clarifying who may apply jointly for participation in the program; providing certain liability immunity for certain adjacent landowners; providing for contamination cleanup criteria that incorporate risk-based corrective action principles to be adopted by rule; requiring certain third-party liability insurance coverage for each operating facility; eliminating a tax credit for small spills at drycleaning facilities;

allowing certain group coverage policies; specifying the circumstances under which work may proceed on the next site rehabilitation task without prior approval; requiring the Department of Environmental Protection to give priority consideration to the processing and approval of permits for voluntary cleanup projects; providing the conditions under which further rehabilitation may be required; providing for continuing application of certain immunity for real property owners; requiring the Department of Environmental Protection to attempt to negotiate certain agreements with the U.S. Environmental Protection Agency; amending s. 376.308, F.S.; protecting certain immunity for real property owners; amending s. 376.313, F.S.; correcting a statutory cross-reference; amending s. 376.70, F.S.; clarifying certain registration provisions; requiring certain facilities to pay the gross receipts tax; providing for the payment of taxes and the determination of eligibility in the program; amending s. 376.75, F.S.; providing that the tax on perchloroethylene is not subject to sales tax; amending ss. 287.0595, 316.302, F.S.; correcting statutory cross-references; amending s. 213.053, F.S.; authorizing the Department of Revenue to release certain information to certain persons; providing an effective date.

—as amended April 27 was read the third time by title.

Senator McKay moved the following amendment:

Amendment 1 (with title amendment)—On page 2, between lines 29 and 30, insert:

Section 1. Section 199.1055, Florida Statutes, is created to read:

199.1055 Contaminated site rehabilitation tax credit.—

(1) *AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.—*

(a) *A credit in the amount of 35 percent of the costs of voluntary cleanup activity that is integral to site rehabilitation at the following sites is allowed against any tax due for a taxable year under s. 199.032, less any credit allowed by s. 220.68 for that year:*

1. *A drycleaning-solvent-contaminated site eligible for state-funded site rehabilitation under s. 376.3078(3);*

2. *A drycleaning-solvent-contaminated site at which cleanup is undertaken by the real property owner pursuant to s. 376.3078(11), if the real property owner is not also, and has never been, the owner or operator of the drycleaning facility where the contamination exists; or*

3. *A brownfield site in a designated brownfield area under s. 376.80.*

(b) *A taxpayer, or multiple taxpayers working jointly to clean up a single site, may not receive more than \$250,000 per year in tax credits for each site voluntarily rehabilitated. Multiple taxpayers shall receive tax credits in the same proportion as their contribution to payment of cleanup costs. Subject to the same conditions and limitations as provided in this section a municipality or county which voluntarily rehabilitates a site may receive not more than \$250,000 per year in tax credits which it can subsequently transfer subject to the provisions in (g).*

(c) *If the credit granted under this section is not fully used in any one year because of insufficient tax liability on the part of the taxpayer, the unused amount may be carried forward for a period not to exceed 5 years.*

(d) *A taxpayer that receives a credit under s. 220.1845 is ineligible to receive credit under this section in a given tax year.*

(e) *A taxpayer that receives state-funded site rehabilitation pursuant to s. 376.3078(3) for rehabilitation of a drycleaning-solvent-contaminated site is ineligible to receive credit under this section for costs incurred by the taxpayer in conjunction with the rehabilitation of that site during the same time period that state-administered site rehabilitation was underway.*

(f) *The total amount of the tax credits which may be granted under this section and s. 220.1845 is \$5 million annually.*

(g) 1. *Tax credits that may be available under this section to an entity eligible under s. 376.3078(1) may be transferred after a merger or acquisition to the surviving or acquiring entity and used in the same manner with the same limitations.*

2. The entity or its surviving or acquiring entity as described in (g)1., may transfer any unused credit in whole or in units of no less than 25 percent of the remaining credit. The entity acquiring such credit may use it in the same manner and with the same limitation as described in this section. Such transferred credits may not be transferred again although they may succeed to a surviving or acquiring entity subject to the same conditions and limitations as described in this section.

3. In the event the credit provided for under this section is reduced either as a result of a determination by the Department of Environmental Protection or an examination or audit by the Department of Revenue, such tax deficiency shall be recovered from the first entity, or the surviving or acquiring entity, to have claimed such credit up to the amount of credit taken. Any subsequent deficiencies shall be assessed against any entity acquiring and claiming such credit, or in the case of multiple succeeding entities in the order of credit succession.

(h) In order to encourage completion of site rehabilitation at contaminated sites being voluntarily cleaned up and eligible for a tax credit under this section, the taxpayer may claim an additional 10 percent of the total cleanup costs, not to exceed \$50,000, in the final year of cleanup as evidenced by the Department of Environmental Protection issuing a "No Further Action" order for that site.

(2) **FILING REQUIREMENTS.**—Any taxpayer that wishes to obtain credit under this section must submit with its return a tax credit certificate approving partial tax credits issued by the Department of Environmental Protection under s. 376.30781.

(3) **ADMINISTRATION; AUDIT AUTHORITY; TAX CREDIT FORFEITURE.**—

(a) The Department of Revenue may adopt rules to prescribe any necessary forms required to claim a tax credit under this section and to provide the administrative guidelines and procedures required to administer this section.

(b) In addition to its existing audit and investigation authority relating to chapters 199 and 220, the Department of Revenue may perform any additional financial and technical audits and investigations, including examining the accounts, books, or records of the tax credit applicant, which are necessary to verify the site-rehabilitation costs included in a tax credit return and to ensure compliance with this section. The Department of Environmental Protection shall provide technical assistance, when requested by the Department of Revenue, on any technical audits performed under this section.

(c) It is grounds for forfeiture of previously claimed and received tax credits if the Department of Revenue determines, as a result of either an audit or information received from the Department of Environmental Protection, that a taxpayer received tax credits under this section to which the taxpayer was not entitled. In the case of fraud, the taxpayer shall be prohibited from claiming any future tax credits under this section or s. 220.1845.

1. The taxpayer is responsible for returning forfeited tax credits to the Department of Revenue and such funds shall be paid into the General Revenue Fund of the state.

2. The taxpayer shall file with the Department of Revenue an amended tax return or such other report as the Department of Revenue prescribes by rule and shall pay any required tax within 60 days after the taxpayer receives notification from the Department of Environmental Protection pursuant to s. 376.30781 that previously approved tax credits have been revoked or modified, if uncontested, or within 60 days after a final order is issued following proceedings involving a contested revocation or modification order.

3. A notice of deficiency may be issued by the Department of Revenue at any time within 5 years after the date the taxpayer receives notification from the Department of Environmental Protection pursuant to s. 376.30781 that previously approved tax credits have been revoked or modified. If a taxpayer fails to notify the Department of Revenue of any change in its tax credit claimed, a notice of deficiency may be issued at any time. In either case, the amount of any proposed assessment set forth in such notice of deficiency shall be limited to the amount of any deficiency resulting under this section from the recomputation of the taxpayer's tax for the taxable year.

4. Any taxpayer that fails to report and timely pay any tax due as a result of the forfeiture of its tax credit is in violation of this section and is subject to applicable penalty and interest.

Section 2. Subsection (10) of section 220.02, Florida Statutes, is amended to read:

220.02 Legislative intent.—

(10) It is the intent of the Legislature that credits against either the corporate income tax or the franchise tax be applied in the following order: those enumerated in s. 220.68, those enumerated in s. 631.719(1), those enumerated in s. 631.705, those enumerated in s. 220.18, those enumerated in s. 631.828, those enumerated in s. 220.181, those enumerated in s. 220.183, those enumerated in s. 220.182, those enumerated in s. 220.1895, those enumerated in s. 221.02, those enumerated in s. 220.184, those enumerated in s. 220.186, and those enumerated in s. 220.188, and those enumerated in s. 220.1845.

Section 3. Section 220.1845, Florida Statutes, is created to read:

220.1845 Contaminated site rehabilitation tax credit.—

(1) **AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.**—

(a) A credit in the amount of 35 percent of the costs of voluntary cleanup activity that is integral to site rehabilitation at the following sites is allowed against any tax due for a taxable year under this chapter:

1. A drycleaning-solvent-contaminated site eligible for state-funded site rehabilitation under s. 376.3078(3);

2. A drycleaning-solvent-contaminated site at which cleanup is undertaken by the real property owner pursuant to s. 376.3078(11), if the real property owner is not also, and has never been, the owner or operator of the drycleaning facility where the contamination exists; or

3. A brownfield site in a designated brownfield area under s. 376.80.

(b) A taxpayer, or multiple taxpayers working jointly to clean up a single site, may not receive more than \$250,000 per year in tax credits for each site voluntarily rehabilitated. Multiple taxpayers shall receive tax credits in the same proportion as their contribution to payment of cleanup costs. Subject to the same conditions and limitations as provided in this section a municipality or county which voluntarily rehabilitates a site may receive not more than \$250,000 per year in tax credits which it can subsequently transfer subject to the provisions in (h).

(c) If the credit granted under this section is not fully used in any one year because of insufficient tax liability on the part of the corporation, the unused amount may be carried forward for a period not to exceed 5 years. The carryover credit may be used in a subsequent year when the tax imposed by this chapter for that year exceeds the credit for which the corporation is eligible in that year under this section after applying the other credits and unused carryovers in the order provided by s. 220.02(10).

(d) A taxpayer that files a consolidated return in this state as a member of an affiliated group under s. 220.131(1) may be allowed the credit on a consolidated return basis up to the amount of tax imposed upon and paid by the taxpayer that incurred the rehabilitation costs.

(e) A taxpayer that receives credit under s. 199.1055 is ineligible to receive credit under this section in a given tax year.

(f) A taxpayer that receives state-funded site rehabilitation under s. 376.3078(3) for rehabilitation of a drycleaning-solvent-contaminated site is ineligible to receive credit under this section for costs incurred by the taxpayer in conjunction with the rehabilitation of that site during the same time period that state-administered site rehabilitation was underway.

(g) The total amount of the tax credits which may be granted under this section and s. 199.1055 is \$5 million annually.

(h) 1. Tax credits that may be available under this section to an entity eligible under s. 376.30781 may be transferred after a merger or acquisition to the surviving or acquiring entity and used in the same manner and with the same limitations.

2. The entity or its surviving or acquiring entity as described in (h)1., may transfer any unused credit in whole or in units of no less than 25 percent of the remaining credit. The entity acquiring such credit may use it in the same manner and with the same limitation as described in this section. Such transferred credits may not be transferred again although they may succeed to a surviving or acquiring entity subject to the same conditions and limitations as described in this section.

3. In the event the credit provided for under this section is reduced either as a result of a determination by the Department of Environmental Protection or an examination or audit by the Department of Revenue, such tax deficiency shall be recovered from the first entity, or the surviving or acquiring entity, to have claimed such credit up to the amount of credit taken. Any subsequent deficiencies shall be assessed against any entity acquiring and claiming such credit, or in the case of multiple succeeding entities in the order of credit succession.

(i) In order to encourage completion of site rehabilitation at contaminated sites being voluntarily cleaned up and eligible for a tax credit under this section, the taxpayer may claim an additional 10 percent of the total cleanup costs, not to exceed \$50,000, in the final year of cleanup as evidenced by the Department of Environmental Protection issuing a "No Further Action" order for that site.

(2) **FILING REQUIREMENTS.**—Any corporation that wishes to obtain credit under this section must submit with its return a tax credit certificate approving partial tax credits issued by the Department of Environmental Protection under s. 376.30781.

(3) **ADMINISTRATION; AUDIT AUTHORITY; TAX CREDIT FORFEITURE.**—

(a) The Department of Revenue may adopt rules to prescribe any necessary forms required to claim a tax credit under this section and to provide the administrative guidelines and procedures required to administer this section.

(b) In addition to its existing audit and investigation authority relating to chapters 199 and 220, the Department of Revenue may perform any additional financial and technical audits and investigations, including examining the accounts, books, or records of the tax credit applicant, which are necessary to verify the site-rehabilitation costs included in a tax credit return and to ensure compliance with this section. The Department of Environmental Protection shall provide technical assistance, when requested by the Department of Revenue, on any technical audits performed pursuant to this section.

(c) It is grounds for forfeiture of previously claimed and received tax credits if the Department of Revenue determines, as a result of either an audit or information received from the Department of Environmental Protection, that a taxpayer received tax credits pursuant to this section to which the taxpayer was not entitled. In the case of fraud, the taxpayer shall be prohibited from claiming any future tax credits under this section or s. 199.1055.

1. The taxpayer is responsible for returning forfeited tax credits to the Department of Revenue and such funds shall be paid into the General Revenue Fund of the state.

2. The taxpayer shall file with the Department of Revenue an amended tax return or such other report as the Department of Revenue prescribes by rule and shall pay any required tax within 60 days after the taxpayer receives notification from the Department of Environmental Protection pursuant to s. 376.30781 that previously approved tax credits have been revoked or modified, if uncontested, or within 60 days after a final order is issued following proceedings involving a contested revocation or modification order.

3. A notice of deficiency may be issued by the Department of Revenue at any time within 5 years after the date the taxpayer receives notification from the Department of Environmental Protection pursuant to s. 376.30781 that previously approved tax credits have been revoked or modified. If a taxpayer fails to notify the Department of Revenue of any change in its tax credit claimed, a notice of deficiency may be issued at any time. In either case, the amount of any proposed assessment set forth in such notice of deficiency shall be limited to the amount of any deficiency resulting under this section from the recomputation of the taxpayer's tax for the taxable year.

4. Any taxpayer that fails to report and timely pay any tax due as a result of the forfeiture of its tax credit is in violation of this section and is subject to applicable penalty and interest.

Section 4. Section 376.30781, Florida Statutes, is created to read:

376.30781 *Partial tax credits for rehabilitation of drycleaning-solvent-contaminated sites and brownfield sites in designated brownfield areas; application process; rulemaking authority; revocation authority.*—

(1) The Legislature finds that:

(a) To facilitate property transactions and economic growth and development, it is in the interest of the state to encourage the cleanup, at the earliest possible time, of drycleaning-solvent-contaminated sites and brownfield sites in designated brownfield areas.

(b) It is the intent of the Legislature to encourage the voluntary cleanup of drycleaning-solvent-contaminated sites and brownfield sites in designated brownfield areas by providing a partial tax credit for the restoration of such property in specified circumstances.

(2)(a) A credit in the amount of 35 percent of the costs of voluntary cleanup activity that is integral to site rehabilitation at the following sites is allowed pursuant to ss. 199.1055 and 220.1845:

1. A drycleaning-solvent-contaminated site eligible for state-funded site rehabilitation under s. 376.3078(3);

2. A drycleaning-solvent-contaminated site at which cleanup is undertaken by the real property owner pursuant to s. 376.3078(10), if the real property owner is not also, and has never been, the owner or operator of the drycleaning facility where the contamination exists; or

3. A brownfield site in a designated brownfield area under s. 376.80.

(b) A taxpayer, or multiple taxpayers working jointly to clean up a single site, may not receive more than \$250,000 per year in tax credits for each site voluntarily rehabilitated. Multiple taxpayers shall receive tax credits in the same proportion as their contribution to payment of cleanup costs. Tax credits are available only for site rehabilitation conducted during the tax year in which the tax credit application is submitted.

(c) In order to encourage completion of site rehabilitation at contaminated sites that are being voluntarily cleaned up and that are eligible for a tax credit under this section, the tax credit applicant may claim an additional 10 percent of the total cleanup costs, not to exceed \$50,000, in the final year of cleanup as evidenced by the Department of Environmental Protection issuing a "No Further Action" order for that site.

(3) The Department of Environmental Protection shall be responsible for allocating the tax credits provided for in ss. 199.1055 and 220.1845, not to exceed a total of \$5 million in tax credits annually.

(4) To claim the credit, each applicant must apply to the Department of Environmental Protection for an allocation of the \$5 million annual credit by December 31 on a form developed by the Department of Environmental Protection in cooperation with the Department of Revenue. The form shall include an affidavit from each applicant certifying that all information contained in the application, including all records of costs incurred and claimed in the tax credit application, are true and correct. If the application is submitted pursuant to subparagraph (2)(a)2., the form must include an affidavit signed by the real property owner stating that it is not, and has never been, the owner or operator of the drycleaning facility where the contamination exists. Approval of partial tax credits must be accomplished on a first-come, first-served basis based upon the date complete applications are received by the Division of Waste Management. An applicant shall submit only one application per site per year. To be eligible for a tax credit the applicant must:

(a) Have entered into a voluntary cleanup agreement with the Department of Environmental Protection for a drycleaning-solvent-contaminated site or a Brownfield Site Rehabilitation Agreement, as applicable; and

(b) Have paid all deductibles pursuant to s. 376.3078(3)(d) for eligible drycleaning-solvent-cleanup program sites.

(5) To obtain the tax credit certificate, an applicant must annually file an application for certification, which must be received by the Depart-

ment of Environmental Protection by December 31. The applicant must provide all pertinent information requested on the tax credit application form, including, at a minimum, the name and address of the applicant and the address and tracking identification number of the eligible site. Along with the application form, the applicant must submit the following:

(a) A nonrefundable review fee of \$250 made payable to the Water Quality Assurance Trust Fund to cover the administrative costs associated with the department's review of the tax credit application;

(b) Copies of contracts and documentation of contract negotiations, accounts, invoices, sales tickets, or other payment records from purchases, sales, leases, or other transactions involving actual costs incurred for that tax year related to site rehabilitation, as that term is defined in ss. 376.301 and 376.79;

(c) Proof that the documentation submitted pursuant to paragraph (b) has been reviewed and verified by an independent certified public accountant in accordance with standards established by the American Institute of Certified Public Accountants. Specifically, the certified public accountant must attest to the accuracy and validity of the costs incurred and paid by conducting an independent review of the data presented by the applicant. Accuracy and validity of costs incurred and paid would be determined once the level of effort was certified by an appropriate professional registered in this state in each contributing technical discipline. The certified public accountant's report would also attest that the costs included in the application form are not duplicated within the application. A copy of the accountant's report shall be submitted to the Department of Environmental Protection with the tax credit application; and

(d) A certification form stating that site rehabilitation activities associated with the documentation submitted pursuant to paragraph (b) have been conducted under the observation of, and related technical documents have been signed and sealed by, an appropriate professional registered in this state in each contributing technical discipline. The certification form shall be signed and sealed by the appropriate registered professionals stating that the costs incurred were integral, necessary, and required for site rehabilitation, as that term is defined in ss. 376.301 and 376.79.

(6) The certified public accountant and appropriate registered professionals submitting forms as part of a tax credit application must verify such forms. Verification must be accomplished as provided in s. 92.525(1)(b) and subject to the provisions of s. 92.525(3).

(7) The Department of Environmental Protection shall review the tax credit application and any supplemental documentation submitted by each applicant, for the purpose of verifying that the applicant has met the qualifying criteria in subsections (2) and (4) and has submitted all required documentation listed in subsection (5). Upon verification that the applicant has met these requirements, the department shall issue a written decision granting eligibility for partial tax credits (a tax credit certificate) in the amount of 35 percent of the total costs claimed, subject to the \$250,000 limitation, for the tax year in which the tax credit application is submitted based on the report of the certified public accountant and the certifications from the appropriate registered technical professionals.

(8) On or before March 1, the Department of Environmental Protection shall inform each eligible applicant of the amount of its partial tax credit and provide each eligible applicant with a tax credit certificate that must be submitted with its tax return to the Department of Revenue to claim the tax credit. Credits will not result in the payment of refunds if total credits exceed the amount of tax owed.

(9) If an applicant does not receive a tax credit allocation due to an exhaustion of the \$5-million annual tax credit authorization, such application will then be included in the same first-come, first-served order in the next year's annual tax credit allocation, if any, based on the prior year application.

(10) The Department of Environmental Protection may adopt rules to prescribe the necessary forms required to claim tax credits under this section and to provide the administrative guidelines and procedures required to administer this section. Prior to the adoption of rules regulating the tax credit application, the department shall, by September 1, 1998, establish reasonable interim application requirements and forms.

(11) The Department of Environmental Protection may revoke or modify any written decision granting eligibility for partial tax credits under this section if it is discovered that the tax credit applicant submitted any false statement, representation, or certification in any application, record, report, plan, or other document filed in an attempt to receive partial tax credits under this section. The Department of Environmental Protection shall immediately notify the Department of Revenue of any revoked or modified orders affecting previously granted partial tax credits. Additionally, the taxpayer must notify the Department of Revenue of any change in its tax credit claimed.

(12) An owner, operator, or real property owner who receives state-funded site rehabilitation under s. 376.3078(3) for rehabilitation of a drycleaning-solvent-contaminated site is ineligible to receive a tax credit under s. 199.1055 or s. 220.1845 for costs incurred by the taxpayer in conjunction with the rehabilitation of that site during the same time period that state-administered site rehabilitation was underway.

Section 5. Paragraph (o) is added to subsection (7) of section 213.053, Florida Statutes, to read:

213.053 Confidentiality and information sharing.—

(7) Notwithstanding any other provision of this section, the department may provide:

(o) Information relative to ss. 199.1055, 220.1845, and 376.30781 to the Department of Environmental Protection in the conduct of its official business.

Disclosure of information under this subsection shall be pursuant to a written agreement between the executive director and the agency. Such agencies, governmental or nongovernmental, shall be bound by the same requirements of confidentiality as the Department of Revenue. Breach of confidentiality is a misdemeanor of the first degree, punishable as provided by s. 775.082 or s. 775.083.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, between lines 2 and 3, insert: creating s. 199.1055, F.S.; providing for a contaminated site rehabilitation tax credit against the intangible personal property tax; authorizing the Department of Revenue to adopt rules; amending s. 220.02, F.S.; providing for an additional cross-reference; creating s. 220.1845, F.S.; providing for a contaminated site rehabilitation tax credit against the corporate income tax; authorizing the Department of Revenue to adopt rules; creating s. 376.30781, F.S.; providing for a partial tax credit for the rehabilitation of drycleaning-solvent-contaminated sites and brownfield sites; providing for the Department of Environmental Protection to allocate such partial credits; providing procedures for application for tax credits; providing for a non-refundable review fee; providing verification requirements; authorizing the Department of Environmental Protection to adopt rules; providing for revocation or modification of eligibility for tax credit under certain conditions; amending s. 213.053, F.S.; providing for information-sharing;

Senator McKay moved the following amendments to **Amendment 1** which were adopted by two-thirds vote:

Amendment 1A—On page 8, line 1, delete "\$5 million" and insert: \$2 million

Amendment 1B (with title amendment)—On page 17, line 10, insert:

Section 16. The \$4,000,000 appropriated from the General Revenue Fund Specific Appropriation 1727 for Brownfield Redevelopment in the Conference Report on House Bill 4201 is hereby reduced by \$1 million and the \$1 million is to cover the cost of tax credit provisions authorized by this act.

And the title is amended as follows:

On page 18, line 11, after the semicolon (;) insert: reducing appropriation provisions for fiscal year 1998-1999 for brownfield redevelopment activities;

Amendment 1 as amended was adopted by two-thirds vote.

On motion by Senator Latvala, **CS for SB 244** as amended was passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—39

| | | | |
|-----------------|-------------|-------------|--------------|
| Madam President | Crist | Holzendorf | Meadows |
| Bankhead | Diaz-Balart | Horne | Myers |
| Bronson | Dudley | Jones | Ostalkiewicz |
| Brown-Waite | Dyer | Kirkpatrick | Rossin |
| Burt | Forman | Klein | Scott |
| Campbell | Geller | Kurth | Silver |
| Casas | Grant | Latvala | Sullivan |
| Childers | Gutman | Laurent | Turner |
| Clary | Hargrett | Lee | Williams |
| Cowin | Harris | McKay | |

Nays—None

SPECIAL ORDER CALENDAR, continued

On motion by Senator Gutman—

CS for SB 2060—A bill to be entitled An act relating to the Legal Immigrant's Temporary Income Bridge Program; amending s. 10, ch. 97-259, Laws of Florida; providing that unused program funds for the current fiscal year may be used for food stamps for legal immigrants who are in the naturalization and citizenship process or in the process of seeking an exemption thereto and who are children, recipients of Supplemental Security Income, or persons of a specified age; providing an appropriation; providing an effective date.

—was read the second time by title.

Senator Gutman moved the following amendment which was adopted:

Amendment 1—On page 3, lines 8 and 9, delete those lines and insert: 54 percent of the funds provided. Total administrative charges

Pursuant to Rule 4.19, **CS for SB 2060** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

CS for SB 1992—A bill to be entitled An act relating to criminal justice; amending s. 415.5018, F.S.; requiring that the Department of Law Enforcement provide the Department of Children and Family Services with access to certain criminal justice information for purposes of child protective investigations and emergency child placement; amending s. 775.13, F.S., relating to the registration of convicted felons; providing a definition; providing an exemption from registration requirements for certain registered sexual offenders; amending s. 775.21, F.S.; revising the Florida Sexual Predators Act; defining terms; prescribing criteria and procedures for designation as a sexual predator; requiring that fingerprints be made if a sexual predator is not imprisoned; prescribing registration and notification requirements; providing registration requirements with respect to a sexual predator who is supervised by the Department of Corrections or by a federal agency or who is in the custody of a local jail; providing notification requirements for a sexual predator who intends to reside in another state or jurisdiction; providing for removal of designation as a sexual predator; providing penalties for failing to comply with duties imposed on persons so designated; requiring the Department of Law Enforcement and the Department of Corrections to verify the addresses of sexual predators; prohibiting misuse and misrepresentation of public records information and providing penalties; creating s. 775.24, F.S.; specifying that it is the duty of the court to uphold laws governing sexual predators and sexual offenders; providing certain requirements for the court if a person meets the criteria for designation as a sexual predator or for classification as a sexual offender; creating s. 775.25, F.S.; specifying jurisdictions in which a sexual predator or sexual offender may be prosecuted for an act or for failure to act; amending s. 943.043, F.S.; authorizing the Department of Law Enforcement to provide information on sexual offenders and sexual predators through the Internet; providing civil immunity for certain persons and entities who provide information regarding sexual offenders and sexual predators; amending s. 943.0435, F.S.; revising definitions; specifying sexual offenders who must report and identify themselves; revising reporting requirements; providing civil immunity for specified

persons and entities that administer such reporting requirements; providing for certain persons to be relieved from such reporting requirements; requiring that the Department of Law Enforcement verify the addresses of certain sexual offenders; providing requirements for a sexual offender who intends to reside in another state or jurisdiction; requiring that a sexual offender maintain registration for life, except under specified circumstances; amending s. 943.325, F.S.; providing for drawing blood specimens from certain convicted persons committed to a county jail for purposes of DNA analysis; providing for obtaining blood specimens from a person who is not incarcerated following conviction; providing for a statewide protocol for securing such specimens; providing that certain medical facilities and personnel and persons who assist a law enforcement officer in withdrawing blood specimens are not civilly or criminally liable for such actions; providing for an application to the court for an order authorizing that a person be taken into custody for the purpose of providing blood specimens; providing that failure to comply with certain requirements is not grounds for challenging the validity of a blood specimen or excluding evidence based on a blood specimen; amending ss. 944.605, 947.177, F.S.; prescribing penalties for inmates who refuse to submit to the taking of a digitized photograph; amending ss. 944.606, 944.607, F.S.; revising provisions governing notification concerning the release of sexual offenders; specifying persons with respect to whom such provisions apply; requiring that fingerprints be made if the sexual offender is not imprisoned; providing registration requirements with respect to a sexual offender who is in the custody of a local jail or who is supervised by the Department of Corrections or by a federal agency; providing civil immunity for specified persons and entities who release information concerning such offenders; amending s. 948.01, F.S.; providing that after a specified date, an offender who commits certain specified sexual offenses is ineligible for administrative probation; amending s. 948.03, F.S.; providing that conditions of probation and community control for specified offenders do not require oral pronouncement and shall be standard conditions of supervision; providing an effective date.

—was read the second time by title. On motion by Senator Burt, by two-thirds vote **CS for SB 1992** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

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|-----------------|-------------|-------------|--------------|
| Madam President | Crist | Holzendorf | Meadows |
| Bankhead | Diaz-Balart | Horne | Myers |
| Bronson | Dudley | Jones | Ostalkiewicz |
| Brown-Waite | Dyer | Kirkpatrick | Rossin |
| Burt | Forman | Klein | Scott |
| Campbell | Geller | Kurth | Silver |
| Casas | Grant | Latvala | Sullivan |
| Childers | Gutman | Laurent | Thomas |
| Clary | Hargrett | Lee | Turner |
| Cowin | Harris | McKay | Williams |

Nays—None

MOTIONS

On motion by Senator Bankhead, the rules were waived and time of recess was extended until completion of motions and announcements.

On motion by Senator Bankhead, by two-thirds vote all bills remaining on the Special Order Calendar this day were established as the Special Order Calendar for Wednesday, April 29.

REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bills to be placed on the Special Order Calendar for Tuesday, April 28, 1998: CS for CS for SB 352, CS for SB 1162, CS for CS for SB's 1190 and 868, CS for SB 1374, CS for CS for SB 2258, CS for SB 2074, CS for SB 68, CS for SB 28, CS for SB 58, CS for CS for SB 1576, CS for CS for SB's 2024 and 2648, SJR 1008, CS for SB 1338, CS for SB's 312 and 2298, CS for SB 1442, CS for SB 2356, CS for SB 2542, CS for SB 2060, CS for SB 1992, CS for SB 570, CS for SB 440, SJR 246, CS for SB 640, CS for CS for SB 882, SB 1582, CS for SB 336, SB 2454, CS for SB 1900, CS for SB 1450, CS for SB 328, CS for SB 338, CS for CS for SB 742, CS for SB 916, CS for CS for SB 1314, CS for SB 1564, CS for SB 984, CS for SB

1608, CS for SB 1952, SB 704, CS for SB 434, SB 500, CS for CS for SB 1512, SB 192, SB 1504, SB 1082, SB 936, SB 1950, CS for SB 1922, CS for SB 2014, CS for SB 452, CS for SB 2282, CS for SB 2480, CS for CS for SB 1074, CS for SB 2342, CS for SB 2172, SB 404, CS for CS for SB 714, CS for CS for SB 1760, CS for SB 1060, CS for SB 1924, CS for SB 772, SB 1300, SB 1302, CS for SB 2484, CS for SB 2076, CS for SB 1426, SB 2090, CS for CS for SB 1456, SB 1034, CS for SB 2132, CS for SB 2080, CS for SB 1620, SB 1954, CS for SB 462, SB 1416, SJR 82, CS for SB 270, CS for CS for SB 2336, CS for SB 1028, CS for SB 1664, CS for SB 2100, CS for SB 2158, CS for SB 300, SJR 610, CS for CS for SB 2198, CS for SB 1396, CS for SB 1516, CS for SB 1932, CS for SB 1572, SB 2302, CS for SB 268, CS for SB 2214, CS for SB 1814, CS for SB 1486, SR 2108, CS for SB 924, CS for CS for SB 1994, SB 732, SB 1940, SJR 2140, CS for SB 1934, CS for SB 1114, CS for SB 524, CS for SB 986, SB 1032, SB 2190, CS for SB 1066, CS for SB 792, SB 1220, SB 970, HB 1747, CS for SB 562, CS for CS for CS for SB 938, SB 612, SB 1080, CS for SB 1868, CS for SB 2084, CS for CS for CS for SB 92, CS for SB 680, CS for SB 994, CS for SB 710, CS for SB 1748, SJR 1610, CS for CS for SB 2352, HB 3689, CS for SB 296, CS for SB 1134, CS for CS for SB 1554, CS for SB 1636, SB 464, CS for SB 1742, CS for CS for SB 388, CS for SB 2170, CS for SB 2150, CS for SB 380, CS for SB 1142, CS for SB 2054, CS for SB 1612, CS for SB 1614

Respectfully submitted,
W. G. (Bill) Bankhead, Chairman

The Committee on Rules and Calendar submits the following bills to be placed on the Special Order Trust Fund Calendar for Tuesday, April 28, 1998: SB 2370, SB 2372, SB 2374, SB 2376, SB 2378, SB 2380, SB 2382, SB 2384, SB 2386, SB 2388, SB 2390, SB 2392, SB 2394, SB 2396, SB 2398, SB 2400, SB 2402, SB 2404, SB 2406, SB 2408, SB 2410, SB 2412, SB 2414, SB 2416, SB 2418, SB 2420, SB 2422, SB 2424, SB 2426, SB 2428, SB 2430, SB 2432, SB 2434, SB 2436, SB 2438, SB 2440, SB 2444, SB 2446, SB 2448, SB 2450, SB 2452, SB 2456, SB 2458, SB 2460, SB 2462, SB 2464, SB 2466, SB 2490, SB 2492, SB 2494, SB 2496, SB 2498, SB 2506, SB 2508, SB 2510, SB 2512, SB 2514, SB 2516, SB 2518, SB 2520

Respectfully submitted,
W. G. (Bill) Bankhead, Chairman

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

FIRST READING

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for HB 73, CS for HB 3581, CS for HB 3663, HB 3669, HB 3725, HB 3749, HB 3829, HB 3831, HB 3833, HB 3919, CS for HB 4027, HB 4029, HB 4033, CS for HB 4101, CS for HB 4125, CS for CS for HB 4141, HB 4171, HB 4173, HB 4249, HB 4285, HB 4287, HB 4291, HB 4293, HB 4305, HB 4319, HB 4391, HB 4397, HB 4463, HB 4467, HB 4547, HB 4703, HB 4769, HB 4777, HB 4799; has passed as amended CS for HB 117, HB 3139, CS for HB 3257, HB 3309, CS for HB 3495, CS for HB 3709, CS for HB 3771, CS for HB 4267, HB 4311 and requests the concurrence of the Senate.

John B. Phelps, Clerk

By the Committee on Tourism and Representative Bradley and others—

CS for HB 73—A bill to be entitled An act relating to tax on sales, use, and other transactions; amending s. 212.04, F.S.; exempting admissions to certain collegiate tournament games, baseball all-star games, and postseason collegiate football games from the tax on admissions; providing an effective date.

—was referred to the Committees on Ways and Means Subcommittee E (Finance and Tax); Ways and Means; Commerce and Economic Opportunities; and Community Affairs.

By the Committee on Crime and Punishment; and Representative Effman and others—

CS for HB 3581—A bill to be entitled An act relating to child care facilities; creating the “Jeremy Fiedelholz Safe Day Care Act”; amending s. 402.319, F.S.; increasing a penalty for violations relating to licensure or operation of a child care facility or family day care home; providing a penalty for making other misrepresentations to certain persons regarding such licensure or operation; providing a penalty for negligence or intentional act and the parent or guardian relied on a misrepresentation; amending s. 921.0022, F.S.; providing for ranking of violations on the offense severity ranking chart; providing an effective date.

—was referred to the Committees on Children, Families and Seniors; Criminal Justice; and Ways and Means.

By the Committee on Regulated Services and Representative Westbrook and others—

CS for HB 3663—A bill to be entitled An act relating to jai alai permitholders; amending s. 550.01215, F.S.; allowing any jai alai permitholder to apply, during a specified period, for licensure to conduct performances in fiscal year 1998-1999; requiring the Division of Pari-mutuel Wagering to issue the license within a specified period of time; amending s. 550.09511, F.S.; qualifying the provision that jai alai permitholders should pay their fair share of taxes on pari-mutuel wagering; providing that the amount of taxes on handle and admissions which is imposed on such a permitholder should not exceed the permitholder’s operating earnings and that permitholders may apply any excess amount against future taxes due; defining the term “operating earnings”; providing an effective date.

—was referred to the Committees on Regulated Industries; and Ways and Means.

By Representative Sindler and others—

HB 3669—A bill to be entitled An act relating to Orange County; amending chapter 96-521, Laws of Florida, relating to the issuance of special alcoholic beverage vendor licenses to entities located within an entertainment/resort complex located in Orange County and to the conditions therefor; redefining a term and expanding boundaries; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committees on Regulated Industries; and Rules and Calendar.

By Representative Melvin and others—

HB 3725—A bill to be entitled An act relating to North Bay Fire Control District, Okaloosa County; recreating and reenacting the North Bay Fire Control District as an independent fire control district operating pursuant to the terms of chapter 191, Florida Statutes; describing the boundaries of said district; establishing a governing body for the district; authorizing the district to levy up to 2 mills of ad valorem tax as previously approved by referendum vote; providing severability; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Boyd—

HB 3749—A bill to be entitled An act relating to the Town of Horsehoe Beach, Dixie County; authorizing unrestricted use of fuel taxes under certain circumstances; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committees on Transportation; and Rules and Calendar.

By Representative Sindler and others—

HB 3829—A bill to be entitled An act relating to the Zellwood Drainage and Water Control District, Orange County; repealing chapter 20715, Laws of Florida, 1941, chapter 24323, Laws of Florida, 1947; providing for dissolution of the district contingent upon purchase or acquisition of all property within district boundaries by the St. Johns River Water Management District on or before September 30, 1998; providing for a plan to allocate district assets and liabilities; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Wallace and others—

HB 3831—A bill to be entitled An act relating to the Carrollwood Recreation District, Hillsborough County; consolidating, compiling, and codifying extant laws pertaining to the district; providing legislative intent; deleting provisions that have expired, have had their effect, have served their purpose, or have been impliedly repealed or superseded; replacing incorrect cross-references and citations; correcting grammatical, typographical, and like errors; removing inconsistencies, redundancies, and unnecessary repetition; improving clarity and facilitating correct interpretation; providing notice that the district is an independent special district approved by referendum; adding definitions; providing for election of trustees; revising ballot language requirements; providing that the district elect one secretary; providing that the board is a public body and shall conduct its business accordingly; conforming the law to s. 768.28, F.S., relating to trustees' civil liability and immunity from suit; consolidating the powers and duties of the board into a single section; conforming the law to the actual business practices of the district, routine in nature but not previously enumerated, including the power and duty to perform duties required by general law, when applicable, relating to special districts and to the levy of non-ad valorem assessments, to operate, supervise, and maintain recreational facilities or to contract for same, to insure the facilities, properties, operation, and trustees of the district, to establish, charge, and collect fees for use of the facilities, to direct the supervisor to place certain referenda on the ballot, and to employ personnel, including security guards and certified law enforcement officers; conforming the law to the requirements of ch. 197, F.S., relating to non-ad valorem assessments; providing for dissolution of the district in accordance with general law; providing a savings clause; repealing chs. 72-565, 75-385, 81-394, 84-445, Laws of Florida, relating to the district; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Tamargo and others—

HB 3833—A bill to be entitled An act relating to the Tampa Sports Authority; amending sections 13A and 13C of chapter 96-520, Laws of Florida; adding mandatory components of performance audits; clarifying requirements for contracting for performance audits; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Wallace and others—

HB 3919—A bill to be entitled An act relating to Hillsborough County; amending chapter 67-945, Laws of Florida, as amended; providing for

the election of school board members at the time of the first primary and general elections as provided by law; providing for any runoff to be held at the same time as the general election; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committee on Water and Resource Management; and Representative Littlefield and others—

CS for HB 4027—A bill to be entitled An act relating to regional water supply authorities; amending s. 120.52, F.S.; providing that a member government is not considered a party in administrative proceedings under certain conditions; amending s. 373.1963, F.S.; revising criteria for governance of the West Coast Regional Water Supply Authority and its member governments under interlocal agreements; declaring legislative intent to supersede other laws; repealing s. 373.1963(5), F.S., relating to a process for review of a consumptive use permit; amending s. 682.02, F.S.; providing for the arbitration of certain controversies concerning water use; amending s. 768.28, F.S.; allowing an authority to indemnify its member governments; providing an effective date.

—was referred to the Committees on Natural Resources and Community Affairs.

By Representative K. Pruitt—

HB 4029—A bill to be entitled An act relating to the St. Lucie County Port and Airport Authority; providing for the dissolution of the St. Lucie County Port and Airport Authority; providing for the transfer of assets, including real property and liabilities of the authority, to the Board of County Commissioners of St. Lucie County; providing for contracts of this authority to remain in effect; providing for liberal construction; providing for the repeal of chapter 97-377, Laws of Florida; providing for severability; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Maygarden and others—

HB 4033—A bill to be entitled An act relating to the City of Pensacola, Escambia County; amending subsection (2) of s. 4 and subsection (6) of s. 100 of chapter 15425, Laws of Florida, 1931, as amended; providing for establishing the date of city council elections and alternative method of qualifying a candidate for ballot by city ordinance; providing for repeal of conflicting laws; providing for severability; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committee on Education Innovation and Representative Byrd and others—

CS for HB 4101—A bill to be entitled An act relating to education; amending s. 232.246, F.S.; revising credit requirements for high school graduation; creating s. 233.0616, F.S.; encouraging elementary schools and middle schools to implement personal fitness programs and providing for the allocation of funds; providing for the allocation of funds for upgrading a physical education specialist position in the Department of Education; providing effective dates.

—was referred to the Committees on Education; and Ways and Means.

By the Committees on Governmental Operations, Tourism and Representative Barreiro and others—

CS for HB 4125—A bill to be entitled An act relating to public records; amending s. 288.1254, F.S.; providing an exemption from public records requirements for information held by the Office of Entertainment Industry Commissioner relating to specified information with respect to the business activities of private persons, partnerships, or corporations in the entertainment industry, when such confidentiality is requested; providing a penalty for violation of the act; providing for future review and repeal; providing a finding of public necessity; providing a contingent effective date.

—was referred to the Committees on Commerce and Economic Opportunities; and Governmental Reform and Oversight.

By the Committees on Environmental Protection; Water and Resource Management; and Representative Saunders and others—

CS for CS for HB 4141—A bill to be entitled An act relating to water resources; creating s. 373.45923, F.S.; providing legislative findings and intent; authorizing the South Florida Water Management District to participate as local sponsor for the Restudy of the Central and Southern Florida Project; providing duties of the Joint Legislative Committee on Everglades Oversight; providing for public hearings; providing reporting requirements; providing for project cooperation agreements; providing for legislative authorization; providing an effective date.

—was referred to the Committee on Natural Resources.

By Representative Stabins—

HB 4171—A bill to be entitled An act relating to the Hernando County Law Library; amending ch. 65-1627, Laws of Florida, as amended; providing membership of the law library board; revising powers and duties of the board; providing for fees to fund the library; providing for determination of fee amounts; revising powers and duties of the board of county commissioners with respect to the library; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Byrd and others—

HB 4173—A bill to be entitled An act relating to Hillsborough County; amending chapter 96-519, Laws of Florida; revising the Hillsborough County Civil Service Act to exempt the judiciary from the act; providing for review of certain actions adversely affecting certain employees within the Administrative Office of the Courts; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Horan—

HB 4249—A bill to be entitled An act relating to Monroe County; amending ch. 97-345, Laws of Florida; correcting a scrivener's error; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Rayson—

HB 4285—A bill to be entitled An act relating to the Town of Davie, Broward County; extending and enlarging the corporate limits of the

Town of Davie to include specified unincorporated lands within said corporate limits; redefining the town limits; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Rayson—

HB 4287—A bill to be entitled An act relating to the Town of Davie, Broward County; extending and enlarging the corporate limits of the Town of Davie to include specified unincorporated lands within said corporate limits; redefining the town limits; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Rayson—

HB 4291—A bill to be entitled An act relating to the City of Pembroke Pines, Broward County; extending and enlarging the corporate limits of the City of Pembroke Pines to include specified unincorporated lands within said corporate limits; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Culp and others—

HB 4293—A bill to be entitled An act relating to the Town of Davie, Broward County; extending and enlarging the corporate limits of the Town of Davie to include specified unincorporated lands within said corporate limits; redefining the town limits; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Culp and others—

HB 4305—A bill to be entitled An act relating to Hillsborough County; providing for the consolidation of the job training partnership programs of the City of Tampa and of Hillsborough County; providing for employees who are transferred from the city to the county to elect, within a specified deadline, to remain in the City of Tampa pension plan or to transfer to the Florida Retirement System; providing procedures for making the election; providing that county job training partnership program employees who are hired after a specified date become members of the Florida Retirement System; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Putnam—

HB 4319—A bill to be entitled An act relating to Polk County; amending ch. 88-443, Laws of Florida, to revise provisions relating to a personnel system for the Sheriff's Office, a personnel board, board members' powers and duties, board expenditures, a classified service, new positions and vacancies, probationary periods, hearings, appointments, rules, policies, pay plans, rights, and benefits; providing for a Members Nominating Committee for selecting board members; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Harrington—

HB 4391—A bill to be entitled An act relating to the City of Punta Gorda, Charlotte County; prohibiting the taking of saltwater fish, except by hook and line, from within any manmade saltwater canal in the City of Punta Gorda; providing a penalty; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committee on Education Innovation and Representative Melvin—

HB 4397—A bill to be entitled An act relating to general requirements for high school graduation; amending s. 232.246, F.S.; providing for the award of credit toward graduation for students who act as tutors; specifying requirements for student tutors and evaluation procedures; correcting cross references; providing an effective date.

—was referred to the Committees on Education; and Ways and Means.

By Representative Rayson—

HB 4463—A bill to be entitled An act relating to the City of Sunrise, Broward County; creating the South Broward Utility Advisory Board; providing for membership, qualifications, terms, responsibilities, and powers of the board; providing an appropriation; providing a limitation of the power of the board; providing for adoption of procedures and regulations; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Rayson—

HB 4467—A bill to be entitled An act relating to Tindall Hammock Irrigation and Soil Conservation District, Broward County; codifying the district's charter, chapter 27428, Laws of Florida, 1951, as amended; providing a provision that the district is an independent special district; providing for the appointment of the board of supervisors; providing for correction of scrivener's errors; revising obsolete constitution and statute references; revising obsolete roadway and agency references; providing that all rights, title, and ownership of property owned by the district will continue to be owned by the district and that all obligations, contracts, rules, resolutions, and regulations of the district will continue in effect and be valid as to the district; repealing all prior special acts of the Legislature relating to the Tindall Hammock Irrigation and Soil Conservation District; providing that this act shall take precedence over any conflicting law to the extent of such conflict; providing severability; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Livingston—

HB 4547—A bill to be entitled An act relating to Lee County; amending chapter 63-1552, Laws of Florida, as amended; providing methods by which the hospital Board of Directors of Lee County may invest its funds; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committee on Financial Services and Representative Safley and others—

HB 4703—A bill to be entitled An act relating to the workers' compensation joint underwriting plan; amending s. 627.311, F.S., relating to joint underwriters and joint reinsurers; revising the composition of the board of governors of the workers' compensation joint underwriting plan; prohibiting insurers from providing workers' compensation insurance to persons under certain circumstances; deleting an obsolete provision; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Banking and Insurance.

By Representative Rayson—

HB 4769—A bill to be entitled An act relating to Broward County and the South Broward Hospital District; amending chapter 24415, Laws of Florida, 1947, as amended; providing that the South Broward Hospital District is not a "public body" or "taxing authority" for purposes of part III, chapter 163, F.S.; providing an exception with respect to community redevelopment agencies created before a specified date; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committees on Community Affairs; and Rules and Calendar.

By Representative Burroughs and others—

HB 4777—A bill to be entitled An act relating to Santa Rosa County; amending chapter 79-561, Laws of Florida, as amended, relating to the Santa Rosa County Civil Service Board; providing for additional supervisory personnel to be included within the definition of an "unclassified service" position; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Rayson—

HB 4799—A bill to be entitled An act relating to the City of Deerfield Beach, Broward County; extending and enlarging the corporate limits of the City of Deerfield Beach to include specified unincorporated lands within said corporate limits; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committee on Business Development and International Trade; and Representative Culp and others—

CS for HB 117—A bill to be entitled An act relating to the tax on sales, use, and other transactions; amending s. 212.08, F.S.; providing an exemption for the Gasparilla Distance Classic Association, Inc., in specified circumstances; providing an effective date.

—was referred to the Committees on Ways and Means Subcommittee E (Finance and Tax); Ways and Means; and Commerce and Economic Opportunities.

By Representative Ogles and others—

HB 3139—A bill to be entitled An act relating to offenses that evidence prejudice; amending s. 775.085, F.S.; providing enhanced penalties for offenses that show evidence of prejudice against the victim, based on the victim's mental or physical disability or advanced age; providing

definitions; providing that certain offenses shall not be deemed as evincing prejudice under certain circumstances; providing an effective date.

—was referred to the Committee on Criminal Justice.

By the Committee on Crime and Punishment; and Representative Sindler and others—

CS for HB 3257—A bill to be entitled An act relating to liabilities for driving offenses; amending s. 316.193, F.S., relating to the offense of driving under the influence and penalties; providing third degree felony penalties for a third or subsequent conviction for driving under the influence; conforming provisions with respect to fine amounts and prison terms; removing surplusage to improve clarity and facilitate correct interpretation; reenacting s. 318.143(1), (4), and (5), F.S., relating to sanctions for infractions by minors, s. 318.17(3) and (8), F.S., relating to excepted offenses, s. 322.03(2), F.S., relating to driver's license requirement and penalties for violation of requirement, s. 322.0602(2)(a), F.S., relating to Youthful Drunk Driver Visitation Program, s. 322.12(2), F.S., relating to examination of driver's license applicants, s. 322.25(5), F.S., relating to forwarding of surrendered licenses and reporting of certain convictions, s. 322.2615(1), (2), (7), (8)(b), (10)(b), and (14), F.S., relating to suspension of license and right to review, s. 322.2616(1)(a), (15), and (18), F.S., relating to suspension of license of person under 21 years of age and right to review, s. 322.264(1)(b), F.S., relating to definition of "habitual traffic offender," s. 322.271(2)(a) and (c) and (4), F.S., relating to authority to modify revocation, cancellation, or suspension order, s. 322.282(2)(a), F.S., relating to procedure when court revokes or suspends license or driving privilege and orders reinstatement, s. 322.291, F.S., relating to driver improvement school course requirements for certain violators, s. 322.44, F.S., relating to Driver License Compact, s. 322.62(3), F.S., relating to driving-under-the-influence violations by commercial motor vehicle operators, s. 322.63(2)(d) and (6), F.S., relating to alcohol or drug testing of commercial motor vehicle operators, s. 322.64(1), (2), (7)(a), (8)(b), (14), and (15), F.S., relating to driving with unlawful blood-alcohol level and refusal to submit to breath, urine, or blood test by holder of commercial driver's license, s. 327.35(6), F.S., relating to boating-under-the-influence offenses and penalties, s. 397.405(10), F.S., relating to certain licensure exemptions, s. 440.09(7)(b), F.S., relating to worker's compensation coverage, s. 493.6101(1)(d), F.S., relating to certain license requirements, s. 627.758(4), F.S., relating to conditions and limit for surety on auto club traffic arrest bond and bail bond; s. 790.06(2)(f) and (10)(f), F.S., relating to license to carry concealed weapon or firearm, s. 903.36(2), F.S., relating to guaranteed arrest bond certificates as cash bail, s. 921.0022(3), (g), (h), and (i), F.S., relating to the Criminal Punishment Code offense severity ranking chart, s. 938.07, F.S., relating to court costs for the offense of driving under the influence, s. 938.21, F.S., relating to alcohol and drug abuse programs, s. 938.23(1), F.S., relating to assistance grants for alcohol and other drug abuse programs, and s. 960.03(3)(b), F.S., relating to certain definitions with respect to crimes compensation, to incorporate said amendment in references; amending s. 921.0022, F.S.; conforming provisions in the Criminal Punishment Code offense severity ranking chart; amending s. 318.1451, F.S.; revising language with respect to driver improvement schools; providing for the distribution of certain pamphlets; providing an effective date.

—was referred to the Committees on Criminal Justice; and Ways and Means.

By Representative Fischer and others—

HB 3309—A bill to be entitled An act relating to education; amending s. 229.58, F.S.; revising provisions relating to membership of school advisory councils; providing an effective date.

—was referred to the Committee on Education.

By the Committee on Crime and Punishment; and Representative Ball and others—

CS for HB 3495—A bill to be entitled An act relating to guidelines for fair treatment of victims and witnesses in the justice system; amending s. 960.001, F.S.; allowing specified state agencies to participate in crime prevention and educational activities; providing an effective date.

—was referred to the Committee on Governmental Reform and Oversight.

By the Committee on Crime and Punishment; and Representative Dockery and others—

CS for HB 3709—A bill to be entitled An act relating to voyeurism; creating s. 810.14, F.S., relating to the offense of voyeurism; prohibiting a person, with lewd, lascivious, or indecent intent, from secretly observing, photographing, filming, videotaping, or recording another person located in a dwelling, structure, or conveyance providing a reasonable expectation of privacy; providing for conviction and sentencing of the offense separately from other offenses; providing penalties; providing third degree felony penalties upon conviction of a second or subsequent offense of voyeurism; providing an effective date.

—was referred to the Committees on Criminal Justice; and Ways and Means.

By the Committee on Environmental Protection and Representative Sembler and others—

CS for HB 3771—A bill to be entitled An act relating to recreational lands; providing purposes; amending s. 110.501, F.S.; revising the definition of "volunteer" to include persons who consent to certain use of real property; amending s. 260.012, F.S.; revising declaration of policy and legislative intent relating to the "Florida Greenways and Trails Act"; creating s. 260.0125, F.S.; providing rights and benefits of landowners whose lands are designated as greenways or trails; requiring the Department of Environmental Protection to post certain notices of trespass; providing for penalties; amending s. 260.013, F.S.; revising definitions; amending s. 260.014, F.S.; requiring the landowner's specific written consent for designation of lands as a part of the statewide system of greenways and trails; amending ss. 260.0141 and 260.018, F.S.; restricting certain construction or use of planning materials; amending s. 260.016, F.S., relating to powers of the department; providing for rules; providing penalties; providing for fees; providing for a process for designation of lands as a part of the state system of greenways and trails; authorizing negotiations with private landowners; authorizing incentives for certain landowners; directing the Department of Environmental Protection to erect a suitable memorial to Marjorie Harris Carr on the Cross Florida Greenways State Recreation Area; amending s. 259.041, F.S.; authorizing the Division of State Lands to use appraisals provided by a public agency or nonprofit organization; amending s. 259.101, F.S.; revising the date that certain unencumbered funds in the Preservation 2000 Trust Fund will be redistributed; amending s. 372.57, F.S.; providing for a recreational user permit fee to hunt, fish, or otherwise use for outdoor recreational purposes, land leased by Game and Fresh Water Fish Commission from private nongovernmental owners; providing for the sale of specified lands by the Board of Trustees of the Internal Improvement Trust Fund; providing for the deposit of funds from the sale; providing an effective date.

—was referred to the Committees on Natural Resources; and Governmental Reform and Oversight.

By the Committee on Financial Services and Representative Wiles—

CS for HB 4267—A bill to be entitled An act relating to employee leasing; creating s. 627.192, F.S.; providing purposes; providing definitions; authorizing certain lessors to secure workers' compensation insurance coverage on leased employees under certain circumstances; providing procedures; requiring such lessors to provide certain information to insurers for certain purposes; providing for cancellation or nonrenewal of such insurance under certain circumstances; providing for notice;

providing an exception; providing for assigning an experience modification factor to lessees under a terminated employee leasing arrangement; requiring notice; providing application; prohibiting lessees from entering into employee leasing relationships or from being eligible for certain workers' compensation coverage under certain circumstances; requiring insurers to conduct audits of employee leasing companies for certain purposes; specifying procedures; requiring the insured to pay additional premiums if the lessor or lessee fails to provide certain audit access; providing an exception; providing application; providing an effective date.

—was referred to the Committees on Banking and Insurance; Commerce and Economic Opportunities; and Ways and Means.

By Representative Culp and others—

HB 4311—A bill to be entitled An act relating to debtors and creditors; amending s. 222.21, F.S.; providing an exemption from legal process; providing an effective date.

—was referred to the Committees on Banking and Insurance; Health Care; and Ways and Means.

RETURNING MESSAGES—FINAL ACTION

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 250, CS for SB 280, CS for SB 290, SB 400, CS for CS for SB 442, SB 444, CS for SB 486, CS for SB 498, SB 526, SB 540, SB 564, SB 660, SB 766, SB 790, CS for SB 832, SB 884, SB 892, CS for SB 926, CS for CS for SB 1024, SB 1058, CS for SB 1152, CS for SB 1176, SB 1232, SB 1260, SB 1262, SB 1266, CS for SB 1294, SB 1306, CS for SB 1332, CS for SB 1342, CS for SB 1346, SB 1348, CS for SB 1410, CS

for SB 1466, CS for SB 1584, CS for SB 1646, SB 1700, CS for SB 1702, CS for SB 1716, SB 1720, CS for SB 1722, SB 1724, CS for SB 1752, SB 1762, CS for CS for SB 1800, SB 1898, CS for SB 1960, CS for SB 2004, CS for SB 2092, SB 2122 and SB 2222.

John B. Phelps, Clerk

The bills contained in the foregoing messages were ordered enrolled.

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has accepted the Conference Committee Report as an entirety and passed CS for SB 1402, as amended by the Conference Committee Report.

John B. Phelps, Clerk

The bill contained in the foregoing message was ordered engrossed and then enrolled.

CORRECTION AND APPROVAL OF JOURNAL

The Journal of April 27 was corrected and approved.

CO-SPONSORS

Senators Forman—CS for SB 2150; Holzendorf—SJR 246; Jones—SJR 246; Kirkpatrick—SJR 246; Meadows—SJR 246; Sullivan—SJR 246

RECESS

On motion by Senator Bankhead, the Senate recessed at 7:32 p.m. to reconvene at 9:00 a.m., Wednesday, April 29.