CHAPTER 98-280

House Bill No. 4833

An act relating to the Florida Statutes; amending ss. 20.19, 20.316, 26.012, 27.02, 27.151, 27.52, 39.01, 39.40, 39.403, 39.408, 39.41, 39.452, 39.454, 49.011, 95.11, 228.041, 230.2316, 230.23161, 230.335, 232.17, 232.19, 239.117, 240.235, 240.35, 253.025, 316.003, 316.635, 318.143, 318.21, 397.6758, 397.706, 409.145, 409.1685, 409.2564, 409.803, 415.107, 415.5015, 415.503, 415.5086, 415.51, 419.001, 743.0645, 744.309, 784.075, 790.22, 790.23, 877.22, 921.0012, 921.0022, 938.17, 943.0515, 943.0585, 943.059, 944.401, 948.51, 958.04, 958.046, 960.001, 984.03, 984.04, 984.05, 984.071, 984.10, 984.15, 984.16, 984.20, 984.21, 984.22, 984.225, 984.226, 984.23, 984.24, 985.03, 985.213, 985.214, 985.218, 985.231, and 985.306, F.S., to conform to the directive of the Legislature in section 122 of chapter 97-238, Laws of Florida, to incorporate the reorganization of the content of chapter 39, F.S., into chapters 39, 984, and 985, F.S., as provided in chapter 97-238; correcting cross-references.

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

Section 1. Paragraph (o) of subsection (7) of section 20.19, Florida Statutes, is amended to read:

20.19 Department of Children and Family Services.—There is created a Department of Children and Family Services.

(7) HEALTH AND HUMAN SERVICES BOARDS.—

(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 (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.

Reviser's note.—Amended to conform to the transfer of s. 39.025 to s. 985.413 by s. 73, ch. 97-238, Laws of Florida.

Section 2. Paragraph (d) of subsection (6) of section 20.316, Florida Statutes, is amended to read:

20.316 Department of Juvenile Justice.—There is created a Department of Juvenile Justice.

(6) INFORMATION SYSTEMS.—

(d) The management information system shall, at a minimum:

1. Facilitate case management of juveniles referred to or placed in the department's custody.

2. Provide timely access to current data and computing capacity to support the outcome evaluation activities of the Juvenile Justice Advisory Board as provided in s. 985.401 ~~39.003~~, legislative oversight, the Juvenile Justice Estimating Conference, and other research.

3. Provide automated support to the quality assurance and program review functions.

4. Provide automated support to the contract management process.

5. Provide automated support to the facility operations management process.

6. Provide automated administrative support to increase efficiency, provide the capability of tracking expenditures of funds by the department or contracted service providers that are eligible for federal reimbursement, and reduce forms and paperwork.

7. Facilitate connectivity, access, and utilization of information among various state agencies, and other state, federal, local, and private agencies, organizations, and institutions.

8. Provide electronic public access to juvenile justice information, which is not otherwise made confidential by law or exempt from the provisions of s. 119.07(1).

9. Provide a system for the training of information system users and user groups.

Reviser's note.—Amended to conform to the transfer of s. 39.003 to s. 985.401 by s. 61, ch. 97-238, Laws of Florida.

Section 3. Paragraph (c) of subsection (2) of section 26.012, Florida Statutes, is amended to read:

26.012 Jurisdiction of circuit court.—

(2) They shall have exclusive original jurisdiction:

(c) In all cases in equity including all cases relating to juveniles except traffic offenses as provided in chapters ~~39 and~~ 316 and 985;

Reviser's note.—Amended to conform to the legislative directive in s. 122, ch. 97-238, Laws of Florida.

Section 4. Section 27.02, Florida Statutes, is amended to read:

27.02 Duties before court.—The state attorney shall appear in the circuit and county courts within his or her judicial circuit and prosecute or defend on behalf of the state all suits, applications, or motions, civil or criminal, in which the state is a party, except as provided in chapters 39, 984, and 985 ~~chapter 39~~. The intake procedures of chapters 39, 984, and 985 ~~chapter 39~~ shall apply as provided therein.

Reviser's note.—Amended to conform to the legislative directive in s. 122, ch. 97-238, Laws of Florida.

Section 5. Subsection (3) of section 27.151, Florida Statutes, is amended to read:

27.151 Confidentiality of specified executive orders; criteria.—

(3) To maintain the confidentiality of the executive order, the state attorney, upon entering the circuit of assignment, shall immediately have the executive order sealed by the court prior to filing it with the clerk of the circuit court. The Governor may make public any executive order issued pursuant to s. 27.14 or s. 27.15 by a subsequent executive order, and at the expiration of a confidential executive order or any extensions thereof, the executive order and all associated orders and reports shall be open to the public pursuant to chapter 119 unless the information contained in the executive order is confidential pursuant to the provisions of chapter 39, chapter 415, chapter 984, or chapter 985 ~~or chapter 415~~.

Reviser's note.—Amended to conform to the legislative directive in s. 122, ch. 97-238, Laws of Florida.

Section 6. Paragraph (d) of subsection (2) of section 27.52, Florida Statutes, is amended to read:

27.52 Determination of indigency.—

(2)

(d) A nonindigent parent or legal guardian of an accused minor or an accused adult tax-dependent person shall furnish the minor or dependent person with the necessary legal services and costs incident to a delinquency proceeding or, upon transfer of such person for criminal prosecution as an adult pursuant to chapter 985 ~~s. 39.052~~, a criminal prosecution, in which the person has a right to legal counsel under the Constitution of the United States or the Constitution of the State of Florida. The failure of a parent or legal guardian to furnish legal services and costs under this section does not bar the appointment of legal counsel pursuant to s. 27.53. When the public defender, a special assistant public defender appointed pursuant to s. 27.53(2), or appointed private legal counsel is appointed to represent an accused minor or an accused adult tax-dependent person in any proceeding in circuit court or in a criminal proceeding in any other court, the parents or the legal guardian shall be liable for the fees and costs of such representation even if the person is a minor being tried as an adult. Liability for the costs of such representation may be imposed in the form of a lien against the property of the nonindigent parents or legal guardian of the accused minor or accused adult tax-dependent person, which lien is enforceable as provided in s. 27.561 or s. 938.29. The court shall determine the amount of the obligation; and, in determining the amount of the obligation, the court shall follow the procedure outlined by this section.

Reviser's note.—Amended to conform to the legislative directive in s. 122, ch. 97-238, Laws of Florida.

Section 7. Subsection (37) of section 39.01, Florida Statutes, is amended to read:

39.01 Definitions.—When used in this chapter:

(37) "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(1) ~~39.4051(7)~~ or s. 63.062(1)(b).

Reviser's note.—Amended to conform to the reference to parental status in s. 39.4051(1); s. 39.4051(7) relates to release of information.

Section 8. Subsection (2) of section 39.40, Florida Statutes, is amended to read:

39.40 Procedures and jurisdiction.—

(2) The circuit court shall have exclusive original jurisdiction of all proceedings under this part and parts III and~~,~~ 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. Jurisdiction attaches when the

initial shelter petition, dependency petition, or termination 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 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 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.

Reviser's note.—Amended to conform to the redesignation of parts III, V, and VI of chapter 39 as parts II, III, and IV, respectively, necessitated by the repeal and transfer of the provisions of former parts II and IV by ch. 97-238, Laws of Florida.

Section 9. Subsection (1) of section 39.403, Florida Statutes, is amended to read:

39.403 Protective investigation.—

(1) Protective investigation shall be performed by the department. A report or complaint alleging that a child is dependent as a result of child abuse or neglect as defined in s. 415.503 shall be made to the central abuse hotline ~~registry and tracking system~~. Complaints alleging that a child is dependent on any basis other than as a result of child abuse or neglect as defined in s. 415.503 shall be made to the local children, youth, and families office of the department operating in the county in which the child is found or in which the case arose. Any person or agency having knowledge of the facts may make a report or complaint. The complainant shall furnish the protective investigation office or the appropriate service unit of the local children, youth, and families office of the department, whichever is appropriate, facts sufficient to establish the jurisdiction of the court and to support a finding by the court that the child is dependent.

Reviser's note.—Amended to conform to s. 43, ch. 95-228, Laws of Florida, which redesignated the "central abuse registry and tracking system" as the "central abuse hotline" in s. 415.503.

Section 10. Paragraph (a) of subsection (1) of section 39.408, Florida Statutes, is amended to read:

39.408 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 14 days from the date the child is taken into custody, for the parent, guardian, or custodian to admit, deny, or consent to findings of dependency alleged in the petition. If the parent, guardian, or 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 custodian denies any of the allegations of the petition, the court shall hold an adjudicatory hearing within 7 days from the

date of the arraignment hearing unless a continuance is granted pursuant to s. 39.402(10) ~~39.402(11)~~.

Reviser's note.—Amended to conform to the redesignation of s. 39.402(11) as s. 39.402(10) by s. 7, ch. 95-228, Laws of Florida.

Section 11. Paragraph (a) of subsection (2) and subsection (8) of section 39.41, Florida Statutes, are amended to read:

39.41 Powers of disposition.—

(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, guardian, or custodian, and the child when appropriate to participate in treatment and services identified as necessary.

2. Require the parent, guardian, or custodian, and the child when appropriate to participate in mediation if the parent, 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 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 may be terminated by the court whenever the court determines that the child's placement, whether with a parent, another relative, 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 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 held pursuant to s. 39.453, or at a hearing held pursuant to subparagraph (2)(a)9. ~~(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 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 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.

(III) The child and the relative or 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.

b. The court shall retain jurisdiction over the case, and the child shall remain in the long-term custody of the relative or 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 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 nonrelative placement to be no longer in the best interest of the child.

6.a. Approve placement of the child in long-term 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 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 s. 39.453(6)(a) recommends long-term foster care.

b. Long-term 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 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 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 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 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.

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 III ~~V~~ of this chapter.

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 III ~~V~~ of this chapter.

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 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.

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 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.

(8) With respect to a child who is the subject in proceedings under part III ~~V~~ of this chapter, the court shall return the child to the custody of the natural parents upon expiration of the case plan or sooner if the parents have substantially complied with the case plan.

Reviser's note.—Subparagraph (2)(a)5. is amended to conform to the redesignation of subparagraph (1)(a)7. as subparagraph (2)(a)9. by s. 13, ch. 94-164, Laws of Florida. Subparagraphs (2)(a)7. and (2)(a)8. and subsection (8) are amended to conform to the redesignation of part V of chapter 39 as part III necessitated by the repeal and transfer of the provisions of former parts II and IV by ch. 97-238, Laws of Florida.

Section 12. Paragraph (b) of subsection (4) of section 39.452, Florida Statutes, is amended to read:

39.452 Case planning when parents do not participate and the child is in foster care.—

(4)

(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 part IV ~~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 part IV ~~VI~~. Proof of written notification must be filed with the court.

Reviser's note.—Amended to conform to the redesignation of part VI of chapter 39 as part IV necessitated by the repeal and transfer of the provisions of former parts II and IV by ch. 97-238, Laws of Florida.

Section 13. Subsection (2) of section 39.454, Florida Statutes, is amended to read:

39.454 Initiation of termination of parental rights proceedings.—

(2) If, at the time of the 18-month judicial review hearing, a child is not returned to the physical custody of the natural parents, the social service agency shall initiate termination of parental rights proceedings under part IV ~~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. Failure to initiate termination of parental rights proceedings at the time of the 18-month judicial review or within 30 days after such review does not prohibit initiating termination of parental rights proceedings at any other time.

Reviser's note.—Amended to conform to the redesignation of part VI of chapter 39 as part IV necessitated by the repeal and transfer of the provisions of former parts II and IV by ch. 97-238, Laws of Florida.

Section 14. Subsection (13) of section 49.011, Florida Statutes, is amended to read:

49.011 Service of process by publication; cases in which allowed.—Service of process by publication may be made in any court on any person mentioned in s. 49.021 in any action or proceeding:

(13) For termination of parental rights pursuant to part IV ~~VI~~ of chapter 39.

Reviser's note.—Amended to conform to the redesignation of former part VI of chapter 39 necessitated by the repeal or transfer of the provisions of former parts II and IV by ch. 97-238, Laws of Florida.

Section 15. Subsection (7) of section 95.11, Florida Statutes, is amended to read:

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

(7) FOR INTENTIONAL TORTS BASED ON ABUSE.—An action founded on alleged abuse, as defined in s. 39.01, ~~or~~ s. 415.102, or s. 984.03, or incest, as defined in s. 826.04, may be commenced at any time within 7

years after the age of majority, or within 4 years after the injured person leaves the dependency of the abuser, or within 4 years from the time of discovery by the injured party of both the injury and the causal relationship between the injury and the abuse, whichever occurs later.

Reviser's note.—Amended to conform to the legislative directive in s. 122, ch. 97-238, Laws of Florida.

Section 16. Subsection (28) of section 228.041, Florida Statutes, is amended to read:

228.041 Definitions.—Specific definitions shall be as follows, and wherever such defined words or terms are used in the Florida School Code, they shall be used as follows:

(28) HABITUAL TRUANT.—A habitual truant is a student who has 15 unexcused absences within 90 calendar days with or without the knowledge or consent of the student's parent or legal guardian, is subject to compulsory school attendance under s. 232.01, and is not exempt under s. 232.06 or s. 232.09, or by meeting the criteria for any other exemption specified by law or rules of the State Board of Education. Such a student must have been the subject of the activities specified in ss. 232.17 and 232.19, without resultant successful remediation of the truancy problem before being dealt with as a child in need of services according to the provisions of chapter 984 ~~39~~.

Reviser's note.—Amended to conform to the transfer of provisions of former part IV of chapter 39, relating to children in need of services, to chapter 984 by ch. 97-238, Laws of Florida.

Section 17. Paragraphs (c) and (d) of subsection (3) of section 230.2316, Florida Statutes, are amended to read:

230.2316 Dropout prevention.—

(3) STUDENT ELIGIBILITY AND PROGRAM CRITERIA.—

(c) A student shall be identified as being a potential dropout based upon one of the following criteria:

1. The student has shown a lack of motivation in school through grades which are not commensurate with documented ability levels or high absenteeism or habitual truancy as defined in s. 228.041(28).

2. The student has not been successful in school as determined by retentions, failing grades, or low achievement test scores and has needs and interests that cannot be met through traditional programs.

3. The student has been identified as a potential school dropout by student services personnel using district criteria. District criteria that are used as a basis for student referral to an educational alternatives program shall identify specific student performance indicators that the educational alternative program seeks to address.

4. The student has documented drug-related or alcohol-related problems, or has immediate family members with documented drug-related or alcohol-related problems that adversely affect the student's performance in school.

5. The student has a history of disruptive behavior in school or has committed an offense that warrants out-of-school suspension or expulsion from school according to the district code of student conduct. For the purposes of this program, "disruptive behavior" is behavior that:

a. Interferes with the student's own learning or the educational process of others and requires attention and assistance beyond that which the traditional program can provide or results in frequent conflicts of a disruptive nature while the student is under the jurisdiction of the school either in or out of the classroom; or

b. Severely threatens the general welfare of students or others with whom the student comes into contact.

6. The student is assigned to a program provided pursuant to chapter 39, chapter 984, or chapter 985 which is sponsored by a state-based or community-based agency or is operated or contracted for by the Department of Children and Family Services or the Department of Juvenile Justice.

(d)1. "Second chance schools" means school district programs provided through cooperative agreements between the Department of Juvenile Justice, private providers, state or local law enforcement agencies, or other state agencies for students who have been disruptive or violent or who have committed serious offenses. As partnership programs, second chance schools are eligible for waivers by the Commissioner of Education from chapters 230-235 and 239 and State Board of Education rules that prevent the provision of appropriate educational services to violent, severely disruptive, or delinquent students in small nontraditional settings or in court-adjudicated settings.

2. A student enrolled in a sixth, seventh, eighth, ninth, or tenth grade class may be assigned to a second chance school if the student meets the following criteria:

a. The student is a habitual truant as defined in s. 228.041(28).

b. The student's excessive absences have detrimentally affected the student's academic progress and the student may have unique needs that a traditional school setting may not meet.

c. The student's high incidences of truancy have been directly linked to a lack of motivation.

d. The student has been identified as at risk of dropping out of school.

3. A student who is habitually truant may be assigned to a second chance school only if the case staffing committee, established pursuant to s. 984.12 ~~39.426~~, determines that such placement could be beneficial to the student and the criteria included in subparagraph 2. are met.

4. A student may be assigned to a second chance school if the school district in which the student resides has a second chance school and if the student meets one of the following criteria:

a. The student habitually exhibits disruptive behavior in violation of the code of student conduct adopted by the school board.

b. The student interferes with the student's own learning or the educational process of others and requires attention and assistance beyond that which the traditional program can provide, or, while the student is under the jurisdiction of the school either in or out of the classroom, frequent conflicts of a disruptive nature occur.

c. The student has committed a serious offense which warrants suspension or expulsion from school according to the district code of student conduct. For the purposes of this program, "serious offense" is behavior which:

(I) Threatens the general welfare of students or others with whom the student comes into contact;

(II) Includes violence;

(III) Includes possession of weapons or drugs; or

(IV) Is harassment or verbal abuse of school personnel or other students.

5. Prior to assignment of students to second chance schools, school boards are encouraged to use alternative programs, such as in-school suspension, which provide instruction and counseling leading to improved student behavior, a reduction in the incidence of truancy, and the development of more effective interpersonal skills.

6. Students assigned to second chance schools must be evaluated by the school's local child study team before placement in a second chance school. The study team shall ensure that students are not eligible for placement in a program for emotionally disturbed children.

7. Students who exhibit academic and social progress and who wish to return to a traditional school shall be evaluated by school district personnel prior to reentering a traditional school.

8. Second chance schools shall be funded at the dropout prevention program weight pursuant to s. 236.081 and may receive school safety funds or other funds as appropriate.

Reviser's note.—Paragraph (3)(c) is amended to conform to the legislative directive in s. 122, ch. 97-238, Laws of Florida. Paragraph (3)(d) is amended to conform to the transfer of s. 39.426 to s. 984.12 by s. 98, ch. 97-238.

Section 18. Subsections (1) and (15) of section 230.23161, Florida Statutes, are amended to read:

230.23161 Educational services in Department of Juvenile Justice programs.—

(1) Students participating in a detention, commitment, or rehabilitation program pursuant to chapter 985 ~~39~~ which is sponsored by a community-based agency or is operated or contracted for by the Department of Juvenile

Justice shall receive educational programs according to rules of the State Board of Education. These students shall be eligible for services afforded to students enrolled in programs pursuant to s. 230.2316 and all corresponding State Board of Education rules.

(15) Department of Juvenile Justice detention and commitment programs may be designated as second chance schools pursuant to s. 230.2316(3)(d). Admission to such programs shall be governed by chapter 985 ~~part II of chapter 39~~.

Reviser's note.—Amended to conform to the legislative directive in s. 122, ch. 97-238, Laws of Florida.

Section 19. Subsection (1) of section 230.335, Florida Statutes, is amended to read:

230.335 Notification of superintendent of certain charges against or convictions of students or employees.—

(1)(a) Notwithstanding the provisions of s. 985.04(4) ~~39.045(8)~~ or any other provision of law to the contrary, a law enforcement agency shall, within 48 hours, notify the appropriate superintendent of schools of the name and address of any employee of the school district who is charged with a felony or with a misdemeanor involving the abuse of a minor child or the sale or possession of a controlled substance. The notification shall include the specific charge for which the employee of the school district was arrested. Such notification shall include other education providers such as the Florida School for the Deaf and the Blind, university developmental research schools, and private elementary and secondary schools.

(b) Notwithstanding the provisions of s. 985.04(4) ~~39.045(8)~~ or any other provision of law to the contrary, the court shall, within 48 hours of the finding, notify the appropriate superintendent of schools of the name and address of any student found to have committed a delinquent act, or who has had adjudication of a delinquent act withheld which, if committed by an adult, would be a felony, or the name and address of any student found guilty of a felony. Notification shall include the specific delinquent act found to have been committed or for which adjudication was withheld, or the specific felony for which the student was found guilty.

Reviser's note.—Amended to conform to the transfer of s. 39.045(8) to s. 985.04(4) by s. 4, ch. 97-238, Laws of Florida.

Section 20. Subsection (2) of section 232.17, Florida Statutes, is amended to read:

232.17 Enforcement of school attendance.—Pursuant to procedures established by the district school board, a designated school representative must complete activities designed to determine the cause and attempt the remediation of truant behavior, as provided in this section.

(2) GIVE WRITTEN NOTICE.—Under the direction of the superintendent, a designated school representative shall give written notice, in person or by return-receipt mail, to the parent, guardian, or other person having

control when no valid reason is found for a child's nonenrollment in school or when the child has a minimum of 3 but fewer than 6 unexcused absences within 90 calendar days, requiring enrollment or attendance within 3 days after the date of notice. If the notice and requirement are ignored, the designated school representative shall report the case to the superintendent, and may refer the case to the case staffing committee, established pursuant to s. 984.12 ~~39.426~~, if the conditions of s. 232.19(3) have been met. The superintendent may take such steps as are necessary to bring criminal prosecution against the parent, guardian, or other person having control.

Reviser's note.—Amended to conform to the transfer of s. 39.426 to s. 984.12 by s. 98, ch. 97-238, Laws of Florida.

Section 21. Subsection (3) of section 232.19, Florida Statutes, is amended to read:

232.19 Court procedure and penalties.—The court procedure and penalties for the enforcement of the provisions of this chapter, relating to compulsory school attendance, shall be as follows:

(3) HABITUAL TRUANCY CASES.—In accordance with procedures established by the district school board, the designated school representative shall refer a student who is habitually truant and the student's family to the children-in-need-of-services and families-in-need-of-services provider or the case staffing committee, established pursuant to s. 984.12 ~~39.426~~, as determined by the cooperative agreement required in this section. The case staffing committee may request the Department of Juvenile Justice or its designee to file a child-in-need-of-services petition based upon the report and efforts of the school district or other community agency or may seek to resolve the truant behavior through the school or community-based organizations or agencies. Prior to and subsequent to the filing of a child-in-need-of-services petition due to habitual truancy, the appropriate governmental agencies must allow a reasonable time to complete actions required by this subsection to remedy the conditions leading to the truant behavior. The following criteria must be met and documented in writing prior to the filing of a petition:

(a) The child must have 15 unexcused absences within 90 calendar days with or without the knowledge or consent of the child's parent or legal guardian, must be subject to compulsory school attendance, and must not be exempt under s. 232.06, s. 232.09, or any other exemption specified by law or the rules of the State Board of Education.

(b) In addition to the actions described in s. 232.17, the school administration must have completed the following activities to determine the cause, and to attempt the remediation, of the child's truant behavior:

1. After a minimum of 3 and prior to 6 unexcused absences within 90 calendar days, one or more meetings must have been held, either in person or by phone, between a designated school representative, the child's parent or guardian, and the child, if necessary, to report and to attempt to solve the truancy problem. However, if the designated school representative has docu-

mented the refusal of the parent or guardian to participate in the meetings, this requirement has been met.

2. Educational counseling must have been provided to determine whether curriculum changes would help solve the truancy problem, and, if any changes were indicated, such changes must have been instituted but proved unsuccessful in remedying the truant behavior. Such curriculum changes may include enrollment of the child in a dropout prevention program that meets the specific educational and behavioral needs of the child, including a second chance school, as provided for in s. 230.2316, designed to resolve truant behavior.

3. Educational evaluation, which may include psychological evaluation, must have been provided to assist in determining the specific condition, if any, that is contributing to the child's nonattendance. The evaluation must have been supplemented by specific efforts by the school to remedy any diagnosed condition.

If a child who is subject to compulsory school attendance is responsive to the interventions described in this paragraph and has completed the necessary requirements to pass the current grade as indicated in the district pupil progression plan, the child shall be passed.

Reviser's note.—Amended to conform to the transfer of s. 39.426 to s. 984.12 by s. 98, ch. 97-238, Laws of Florida.

Section 22. Paragraph (c) of subsection (4) of section 239.117, Florida Statutes, as amended by section 1 of chapter 97-383, Laws of Florida, is amended to read:

239.117 Postsecondary student fees.—

(4) The following students are exempt from the payment of registration, matriculation, and laboratory fees:

(c) A student for whom the state is paying a foster care board payment pursuant to s. 409.145(3) or pursuant to parts II and III ~~III and V~~ of chapter 39, for whom the permanency planning goal pursuant to part III ~~V~~ of chapter 39 is long-term foster care or independent living, or who is adopted from the Department of Children and Family Services after December 31, 1997. Such exemption includes fees associated with enrollment in college-preparatory instruction and completion of the college-level communication and computation skills testing program. Such exemption shall be available to any student adopted from the Department of Children and Family Services after December 31, 1997; however, the exemption shall be valid for no more than 4 years after the date of graduation from high school.

Reviser's note.—Amended to conform to the redesignation of parts III and V of chapter 39 as parts II and III necessitated by the repeal and transfer of the provisions of former parts II and IV by ch. 97-238, Laws of Florida.

Section 23. Paragraph (a) of subsection (5) of section 240.235, Florida Statutes, is amended to read:

240.235 Fees.—

(5)(a) Any student for whom the state is paying a foster care board payment pursuant to s. 409.145(3) or parts II and III ~~III and V~~ of chapter 39, for whom the permanency planning goal pursuant to part III ~~V~~ of chapter 39 is long-term foster care or independent living, or who is adopted from the Department of Children and Family Services after December 31, 1997, shall be exempt from the payment of all undergraduate fees, including fees associated with enrollment in college-preparatory instruction or completion of college-level communication and computation skills testing programs. Before a fee exemption can be given, the student shall have applied for and been denied financial aid, pursuant to s. 240.404, which would have provided, at a minimum, payment of all undergraduate fees. Such exemption shall be available to any student adopted from the Department of Children and Family Services after December 31, 1997; however, the exemption shall be valid for no more than 4 years after the date of graduation from high school.

Reviser's note.—Amended to conform to the redesignation of parts III and V of chapter 39 as parts II and III necessitated by the repeal and transfer of the provisions of former parts II and IV by ch. 97-238, Laws of Florida.

Section 24. Paragraph (a) of subsection (2) of section 240.35, Florida Statutes, as amended by section 3 of chapter 97-383, Laws of Florida, is amended to read:

240.35 Student fees.—Unless otherwise provided, the provisions of this section apply only to fees charged for college credit instruction leading to an associate degree, including college-preparatory courses defined in s. 239.105.

(2)(a) Any student for whom the state is paying a foster care board payment pursuant to s. 409.145(3) or parts II and III ~~III and V~~ of chapter 39, for whom the permanency planning goal pursuant to part III ~~V~~ of chapter 39 is long-term foster care or independent living, or who is adopted from the Department of Children and Family Services after December 31, 1997, shall be exempt from the payment of all undergraduate fees, including fees associated with enrollment in college-preparatory instruction or completion of the college-level communication and computation skills testing program. Before a fee exemption can be given, the student shall have applied for and been denied financial aid, pursuant to s. 240.404, which would have provided, at a minimum, payment of all student fees. Such exemption shall be available to any student adopted from the Department of Children and Family Services after December 31, 1997; however, the exemption shall be valid for no more than 4 years after the date of graduation from high school.

Reviser's note.—Amended to conform to the redesignation of parts III and V of chapter 39 as parts II and III necessitated by the repeal and transfer of the provisions of former parts II and IV by ch. 97-238, Laws of Florida.

Section 25. Subsection (17) of section 253.025, Florida Statutes, is amended to read:

253.025 Acquisition of state lands for purposes other than preservation, conservation, and recreation.—

(17) Pursuant to s. 985.41 ~~39.074~~, the Department of Juvenile Justice is responsible for obtaining appraisals and entering into option agreements and agreements for the purchase of state juvenile justice facility sites. An option agreement or agreement for purchase is not binding upon the state until it is approved by the Board of Trustees of the Internal Improvement Trust Fund. The provisions of paragraphs (6)(b), (c), and (d) and (7)(b), (c), and (d) apply to all appraisals, offers, and counteroffers of the Department of Juvenile Justice for state juvenile justice facility sites.

Reviser's note.—Amended to conform to the transfer of s. 39.074 to s. 985.41 by s. 70, ch. 97-238, Laws of Florida.

Section 26. Subsection (65) of section 316.003, Florida Statutes, is amended to read:

316.003 Definitions.—The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them in this section, except where the context otherwise requires:

(65) CHILD.—A child as defined in s. 39.01, s. 984.03, or s. 985.03.

Reviser's note.—Amended to conform to the legislative directive in s. 122, ch. 97-238, Laws of Florida.

Section 27. Subsection (3) and paragraph (a) of subsection (4) of section 316.635, Florida Statutes, are amended to read:

316.635 Courts having jurisdiction over traffic violations; powers relating to custody and detention of minors.—

(3) If a minor is taken into custody for a criminal traffic offense or a violation of chapter 322 and the minor does not demand to be taken before a magistrate, the arresting officer or booking officer shall immediately notify, or cause to be notified, the minor's parents, guardian, or responsible adult relative of the action taken. After making every reasonable effort to give notice, the arresting officer or booking officer may:

(a) Issue a notice to appear pursuant to chapter 901 and release the minor to a parent, guardian, responsible adult relative, or other responsible adult;

(b) Issue a notice to appear pursuant to chapter 901 and release the minor pursuant to s. 903.06;

(c) Issue a notice to appear pursuant to chapter 901 and deliver the minor to an appropriate substance abuse treatment or rehabilitation facility or refer the minor to an appropriate medical facility as provided in s. 901.29. If the minor cannot be delivered to an appropriate substance abuse treatment or rehabilitation facility or medical facility, the arresting officer may deliver the minor to an appropriate intake office of the Department of Juvenile Justice ~~Health and Rehabilitative Services~~, which shall take custody of the minor and make any appropriate referrals; or

(d) If the violation constitutes a felony and the minor cannot be released pursuant to s. 903.03, transport and deliver the minor to an appropriate Department of Juvenile Justice ~~Health and Rehabilitative Services~~ intake office. Upon delivery of the minor to the intake office, the department shall assume custody and proceed pursuant to chapter 984 or chapter 985 ~~39~~.

If action is not taken pursuant to paragraphs (a)-(d), the minor shall be delivered to the Department of Juvenile Justice ~~Health and Rehabilitative Services~~, and the department shall make every reasonable effort to contact the parents, guardian, or responsible adult relative to take custody of the minor. If there is no parent, guardian, or responsible adult relative available, the department may retain custody of the minor for up to 24 hours.

(4) A minor who willfully fails to appear before any court or judicial officer as required by written notice to appear is guilty of contempt of court. Upon a finding by a court, after notice and a hearing, that a minor is in contempt of court for willful failure to appear pursuant to a valid notice to appear, the court may:

(a) For a first offense, order the minor to serve up to 5 days in a staff-secure shelter as defined in chapter 984 or chapter 985 ~~39~~ or, if space in a staff-secure shelter is unavailable, in a secure juvenile detention center.

Reviser's note.—Amended to conform to s. 1, ch. 94-209, Laws of Florida, which created the Department of Juvenile Justice, and to conform to the legislative directive in s. 122, ch. 97-238, Laws of Florida.

Section 28. Paragraph (a) of subsection (2) of section 318.143, Florida Statutes, is amended to read:

318.143 Sanctions for infractions by minors.—

(2) Failure to comply with one or more of the sanctions imposed by the court constitutes contempt of court. Upon a finding by the court, after notice and a hearing, that a minor is in contempt of court for failure to comply with court-ordered sanctions, the court may:

(a) For a first offense, order the minor to serve up to 5 days in a staff-secure shelter as defined in chapter 984 or chapter 985 ~~39~~ or, if space in a staff-secure shelter is unavailable, in a secure juvenile detention center.

Reviser's note.—Amended to conform to the legislative directive in s. 122, ch. 97-238, Laws of Florida.

Section 29. Subsection (1) and paragraph (a) of subsection (2) of section 318.21, Florida Statutes, are 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:

(1) One dollar from every civil penalty shall be paid to the Department of Children and Family ~~Health and Rehabilitative~~ Services for deposit into the Child Welfare Training Trust Fund for child welfare training purposes

pursuant to s. 402.40 ~~404.40~~. One dollar from every civil penalty shall be paid to the Department of Juvenile Justice for deposit into the Juvenile Justice Training Trust Fund for juvenile justice purposes pursuant to s. 985.406 ~~39.024~~.

(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 ~~Health and Rehabilitative~~ 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. 39.4531.

Reviser's note.—Subsection (1) and paragraph (2)(a) are amended to conform to the creation of the Department of Children and Family Services by s. 5, ch. 96-403, Laws of Florida. Subsection (1) is also amended to correct a cross-reference to a nonexistent section and to conform to the transfer of s. 39.024 to s. 985.406 by s. 66, ch. 97-238, Laws of Florida.

Section 30. Effective July 1, 1998, subsection (1) of section 318.21, Florida Statutes, 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:

(1) One dollar from every civil penalty shall be paid to the Department of Children and Family Services for deposit into the Child Welfare Training Trust Fund for child welfare training purposes pursuant to s. 402.40. One dollar from every civil penalty shall be paid to the Department of Juvenile Justice for deposit into the Juvenile Justice Training Trust Fund for juvenile justice purposes pursuant to s. 985.406 ~~39.024~~.

Reviser's note.—Amended to conform to the transfer of s. 39.024 to s. 985.406 by s. 66, ch. 97-238, Laws of Florida.

Section 31. Effective July 1, 1999, subsection (1) of section 318.21, Florida Statutes, 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:

(1) One dollar from every civil penalty shall be paid to the Department of Children and Family Services for deposit into the Child Welfare Training Trust Fund for child welfare training purposes pursuant to s. 402.40. One dollar from every civil penalty shall be paid to the Department of Juvenile Justice for deposit into the Juvenile Justice Training Trust Fund for juvenile justice purposes pursuant to s. 985.406 ~~39.024~~.

Reviser's note.—Amended to conform to the transfer of s. 39.024 to s. 985.406 by s. 66, ch. 97-238, Laws of Florida.

Section 32. Effective July 1, 2000, subsection (1) of section 318.21, Florida Statutes, 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:

(1) One dollar from every civil penalty shall be paid to the Department of Children and Family Services for deposit into the Child Welfare Training Trust Fund for child welfare training purposes pursuant to s. 402.40. One dollar from every civil penalty shall be paid to the Department of Juvenile Justice for deposit into the Juvenile Justice Training Trust Fund for juvenile justice purposes pursuant to s. 985.406 ~~39.024~~.

Reviser's note.—Amended to conform to the transfer of s. 39.024 to s. 985.406 by s. 66, ch. 97-238, Laws of Florida.

Section 33. Effective July 1, 2001, subsection (1) of section 318.21, Florida Statutes, 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:

(1) One dollar from every civil penalty shall be paid to the Department of Children and Family Services for deposit into the Child Welfare Training Trust Fund for child welfare training purposes pursuant to s. 402.40. One dollar from every civil penalty shall be paid to the Department of Juvenile Justice for deposit into the Juvenile Justice Training Trust Fund for juvenile justice purposes pursuant to s. 985.406 ~~39.024~~.

Reviser's note.—Amended to conform to the transfer of s. 39.024 to s. 985.406 by s. 66, ch. 97-238, Laws of Florida.

Section 34. Effective July 1, 2002, subsection (1) of section 318.21, Florida Statutes, 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:

(1) One dollar from every civil penalty shall be paid to the Department of Children and Family Services for deposit into the Child Welfare Training Trust Fund for child welfare training purposes pursuant to s. 402.40. One dollar from every civil penalty shall be paid to the Department of Juvenile Justice for deposit into the Juvenile Justice Training Trust Fund for juvenile justice purposes pursuant to s. 985.406 ~~39.024~~.

Reviser's note.—Amended to conform to the transfer of s. 39.024 to s. 985.406 by s. 66, ch. 97-238, Laws of Florida.

Section 35. Subsections (2), (3), and (4) of section 397.6758, Florida Statutes, are amended to read:

397.6758 Release of client from protective custody, emergency admission, involuntary assessment, involuntary treatment, and alternative involuntary assessment of a minor.—A client involuntarily admitted to a licensed service provider may be released without further order of the court only by a qualified professional in a hospital, a detoxification facility, an addictions receiving facility, or any less restrictive treatment component. Notice of the release must be provided to the applicant in the case of an emergency admission or an alternative involuntary assessment for a minor, or to the petitioner and the court if the involuntary assessment or treatment was court ordered. In the case of a minor client, the release must be:

~~(2) To the department pursuant to s. 39.03;~~

(2)~~(3)~~ To the Department of Children and Family Services pursuant to s. 39.401; or

(3)~~(4)~~ To the Department of Juvenile Justice pursuant to s. 984.13 ~~39.421~~.

Reviser's note.—Subsection (2) is repealed to conform to the repeal of s. 39.03 by s. 17, ch. 90-208, Laws of Florida. Subsection (4) is amended to conform to the transfer of s. 39.421 to s. 984.13 by s. 99, ch. 97-238, Laws of Florida.

Section 36. Subsections (1) and (4) of section 397.706, Florida Statutes, are amended to read:

397.706 Screening, assessment, and disposition of juvenile offenders.—

(1) The substance abuse treatment needs of juvenile offenders and their families must be identified and addressed through diversionary programs and adjudicatory proceedings pursuant to chapter 984 or chapter 985 ~~39~~.

(4) The court may require juvenile offenders and their families to participate in substance abuse assessment and treatment services in accordance with the provisions of chapter 984 or chapter 985 ~~39~~ and may use its contempt powers to enforce its orders.

Reviser's note.—Amended to conform to the legislative directive in s. 122, ch. 97-238, Laws of Florida.

Section 37. Paragraph (c) of subsection (3) of section 409.145, Florida Statutes, is amended to read:

409.145 Care of children.—

(3)

(c)1. The department is authorized to provide the services of the children's foster care program to an individual who is enrolled full-time in a postsecondary vocational-technical education program, full-time in a community college program leading toward a vocational degree or an associate degree, or full-time in a university or college, if the following requirements are met:

a. The individual was committed to the legal custody of the department for placement in foster care as a dependent child;

b. The permanency planning goal pursuant to part III ~~V~~ of chapter 39 for the individual is long-term foster care or independent living;

c. The individual has been accepted for admittance to a postsecondary vocational-technical education program, to a community college, or to a university or college;

d. All other resources have been thoroughly explored, and it can be clearly established that there are no alternative resources for placement; and

e. A written service agreement which specifies responsibilities and expectations for all parties involved has been signed by a representative of the department, the individual, and the foster parent or licensed child-caring agency providing the placement resources, if the individual is to continue living with the foster parent or placement resource while attending a postsecondary vocational-technical education program, community college, or university or college. An individual who is to be continued in or placed in independent living shall continue to receive services according to the independent living program and agreement of responsibilities signed by the department and the individual.

2. Any provision of this chapter or any other law to the contrary notwithstanding, when an individual who meets the requirements of subparagraph 1. is in attendance at a community college, college, or university, the department may make foster care payments to such community college, college, or university in lieu of payment to the foster parents or individual, for the purpose of room and board, if not otherwise provided, but such payments shall not exceed the amount that would have been paid to the foster parents had the individual remained in the foster home.

3. The services of the foster care program shall continue only for an individual under this paragraph who is a full-time student but shall continue for not more than:

a. Two consecutive years for an individual in a postsecondary vocational-technical education program;

b. Two consecutive years or four semesters for an individual enrolled in a community college unless the individual is participating in college preparatory instruction or is requiring additional time to complete the college-level communication and computation skills testing program, in which case such services shall continue for not more than 3 consecutive years or six semesters; or

c. Four consecutive years, 8 semesters, or 12 quarters for an individual enrolled in a college or university unless the individual is participating in college-preparatory instruction or is requiring additional time to complete the college-level communication and computation skills testing programs, in which case such services shall continue for not more than 5 consecutive years, 10 semesters, or 15 quarters.

4.a. As a condition for continued foster care services, an individual shall have earned a grade point average of at least 2.0 on a 4.0 scale for the previous term, maintain at least an overall grade point average of 2.0 for only the previous term, and be eligible for continued enrollment in the institution. If the postsecondary vocational-technical school program does not operate on a grade point average as described above, then the individual shall maintain a standing equivalent to the 2.0 grade point average.

b. Services shall be terminated upon completion of, graduation from, or withdrawal or permanent expulsion from a postsecondary vocational-technical education program, community college, or university or college. Services shall also be terminated for failure to maintain the required level of academic achievement.

Reviser's note.—Amended to conform to the redesignation of part V of chapter 39 as part III necessitated by the repeal and transfer of the provisions of former parts II and IV by ch. 97-238, Laws of Florida.

Section 38. Section 409.1685, Florida Statutes, is amended to read:

409.1685 Children in foster care; annual report to Legislature.—The Department of Children and Family Services shall submit a written report to the substantive committees of the Legislature concerning the status of children in foster care and concerning the judicial review mandated by part III ~~V~~ of chapter 39. This report shall be submitted by March 1 of each year and shall include the following information for the prior calendar year:

(1) The number of 6-month and annual judicial reviews completed during that period.

(2) The number of children in foster care returned to a parent, guardian, or relative as a result of a 6-month or annual judicial review hearing during that period.

(3) The number of termination of parental rights proceedings instituted during that period which shall include:

(a) The number of termination of parental rights proceedings initiated pursuant to part III ~~V~~ of chapter 39; and

(b) The total number of terminations of parental rights ordered.

(4) The number of foster care children placed for adoption during that period.

Reviser's note.—Amended to conform to the redesignation of part V of chapter 39 as part III necessitated by the repeal and transfer of the provisions of former parts II and IV by ch. 97-238, Laws of Florida.

Section 39. Subsection (1) of section 409.2564, Florida Statutes, is amended to read:

409.2564 Actions for support.—

(1) In each case in which regular support payments are not being made as provided herein, the department shall institute, within 30 days after determination of the obligor's reasonable ability to pay, action as is necessary to secure the obligor's payment of current support and any arrearage which may have accrued under an existing order of support. The department shall notify the program attorney in the judicial circuit in which the recipient resides setting forth the facts in the case, including the obligor's address, if known, and the public assistance case number. Whenever applicable, the procedures established under the provisions of chapter 88, Uniform Interstate Family Support Act, ~~and~~ chapter 61, Dissolution of Marriage; Support; Custody, ~~and~~ chapter 39, Proceedings Relating to Children ~~Juveniles~~, chapter 984, Children and Families in Need of Services; and chapter 985, Delinquency; Interstate Compact on Juveniles, may govern actions instituted under the provisions of this act, except that actions for support under chapter 39, chapter 984, or chapter 985 brought pursuant to this act shall not require any additional investigation or supervision by the department.

Reviser's note.—Amended to conform to the legislative directive in s. 122, ch. 97-238, Laws of Florida.

Section 40. Paragraph (a) of subsection (1) of section 409.803, Florida Statutes, is amended to read:

409.803 Shelter and foster care services to dependent children.—

(1) It is the intent of the Legislature to:

(a) Facilitate the reunification of families or the permanent placement of a child pursuant to part II ~~parts III and IV~~ of chapter 39 and chapter 984.

Reviser's note.—Amended to conform to the redesignation of part III of chapter 39 as part II necessitated by the repeal or transfer of the provisions of former part II by chapter 97-238, Laws of Florida, and the repeal or transfer to chapter 984 of the provisions of part IV by ch. 97-238.

Section 41. Subsection (8) of section 415.107, Florida Statutes, is amended to read:

415.107 Confidentiality of reports and records.—

(8) The department, upon receipt of the applicable fee, shall search its central abuse registry and tracking system records pursuant to the requirements of ss. ~~39.076,~~ 110.1127, 393.0655, 394.457, 397.451, 400.506, 400.509, 400.512, 402.305(1), 402.3055, 402.313, 409.175, ~~and~~ 409.176, and 985.407 for the existence of a confirmed report made on the personnel as defined in the foregoing provisions. The department shall report the existence of any confirmed report and advise the authorized licensing agency, applicant for licensure, or other authorized agency or person of the results of the search and the date of the report. Prior to a search being conducted, the department or its designee shall notify such person that an inquiry will be made. The department shall notify each person for whom a search is conducted of the results of the search upon request.

Reviser's note.—Amended to conform to the transfer of s. 39.076 to s. 985.407 by s. 67, ch. 97-238, Laws of Florida.

Section 42. Paragraph (b) of subsection (3) of section 415.5015, Florida Statutes, is amended to read:

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

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

(b) "Child abuse" means those acts as defined in ss. 39.01, 415.503, ~~and~~ 827.04, and 984.03.

Reviser's note.—Amended to conform to the legislative directive in s. 122, ch. 97-238, Laws of Florida.

Section 43. Subsection (8) of section 415.503, Florida Statutes, is amended to read:

415.503 Definitions of terms used in ss. 415.502-415.514.—As used in ss. 415.502-415.514:

(8) "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, chapters 39, 984, and 985 ~~chapter 39~~ and this chapter, who is a party to any judicial proceeding as a representative of the child, and who serves until discharged by the court.

Reviser's note.—Amended to conform to the legislative directive in s. 122, ch. 97-238, Laws of Florida.

Section 44. Subsection (1) of section 415.5086, Florida Statutes, is amended to read:

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, s. 984.03, or s. 985.03, the court shall hold a hearing within 24 hours.

Reviser's note.—Amended to conform to the legislative directive in s. 122, ch. 97-238, Laws of Florida.

Section 45. Subsection (2) of section 415.51, Florida Statutes, is amended to read:

415.51 Confidentiality of reports and records in cases of child abuse or neglect.—

(2) Access to such records, excluding the name of the reporter which shall be released only as provided in subsection (4)~~(9)~~, shall be granted only to the following persons, officials, and agencies:

(a) Employees or agents of the department responsible for carrying out child or adult protective investigations, ongoing child or adult protective services, or licensure or approval of adoptive homes, foster homes, or other homes used to provide for the care and welfare of children. Also, employees or agents of the Department of Juvenile Justice responsible for the provision of services to children, pursuant to chapters 984 and 985 ~~parts II and IV of chapter 39~~.

(b) Criminal justice agencies of appropriate jurisdiction.

(c) The state attorney of the judicial circuit in which the child resides or in which the alleged abuse or neglect occurred.

(d) The parent or custodian of any child who is alleged to have been abused, neglected, or abandoned. This access shall be made available no later than 30 days after the department receives the initial report of abuse, neglect, or abandonment. However, any information otherwise made confidential or exempt by law shall not be released pursuant to this paragraph.

(e) Any person alleged in the report as having caused the abuse, neglect, or abandonment of a child. This access shall be made available no later than 30 days after the department receives the initial report of abuse, neglect, or abandonment. However, any information otherwise made confidential or exempt by law shall not be released pursuant to this paragraph.

(f) A court upon its finding that access to such records may be necessary for the determination of an issue before the court; however, such access shall be limited to inspection in camera, unless the court determines that public disclosure of the information contained therein is necessary for the resolution of an issue then pending before it.

(g) A grand jury, by subpoena, upon its determination that access to such records is necessary in the conduct of its official business.

(h) Any appropriate official of the department responsible for:

1. Administration or supervision of the department's program for the prevention, investigation, or treatment of child abuse, abandonment, or neglect when carrying out his or her official function; or

2. Taking appropriate administrative action concerning an employee of the department alleged to have perpetrated institutional child abuse or neglect.

(i) Any person engaged in bona fide research or audit purposes. However, no information identifying the subjects of the report shall be made available to the researcher.

(j) The Division of Administrative Hearings for purposes of any administrative challenge.

(k) Any appropriate official of the human rights advocacy committee investigating a report of known or suspected child abuse, abandonment, or neglect, the Auditor General for the purpose of conducting preliminary or compliance reviews pursuant to s. 11.45, or the guardian ad litem for the child as defined in s. 415.503.

(l) Employees or agents of an agency of another state that has comparable jurisdiction to the jurisdiction described in paragraph (a).

(m) The Public Employees Relations Commission for the sole purpose of obtaining evidence for appeals filed pursuant to s. 447.207. Records may be released only after deletion of all information which specifically identifies persons other than the employee.

Reviser's note.—Amended to conform to the redesignation of subsection (9) as subsection (4) by s. 46, ch. 95-228, Laws of Florida, and to conform to the legislative directive in s. 122, ch. 97-238, Laws of Florida.

Section 46. Paragraph (d) of subsection (1) of section 419.001, Florida Statutes, is amended to read:

419.001 Site selection of community residential homes.—

(1) For the purposes of this section, the following definitions shall apply:

(d) "Resident" means any of the following: an aged person as defined in s. 400.618(3); a physically disabled or handicapped person as defined in s. 760.22(7)(a); a developmentally disabled person as defined in s. 393.063(11); a nondangerous mentally ill person as defined in s. 394.455(16); or a child as defined in s. 39.01(11), s. 984.03(9) or (12), or s. 985.03(8) ~~s. 39.01(12) and (14)~~.

Reviser's note.—Amended to conform to the legislative directive in s. 122, ch. 97-238, Laws of Florida.

Section 47. Subsections (2), (3), and (6) of section 743.0645, Florida Statutes, are amended to read:

743.0645 Other persons who may consent to medical care or treatment of a minor.—

(2) Any of the following persons, in order of priority listed, may consent to the medical care or treatment of a minor who is not committed to the Department of Children and Family Services or the Department of Juvenile Justice ~~Health and Rehabilitative Services~~ or in their ~~its~~ custody under chapter 39, chapter 984, or chapter 985 when, after a reasonable attempt, a person who has the power to consent as otherwise provided by law cannot be contacted by the treatment provider and actual notice to the contrary has not been given to the provider by that person:

(a) A person who possesses a power of attorney to provide medical consent for the minor.

(b) The stepparent.

(c) The grandparent of the minor.

(d) An adult brother or sister of the minor.

(e) An adult aunt or uncle of the minor.

There shall be maintained in the treatment provider's records of the minor documentation that a reasonable attempt was made to contact the person who has the power to consent.

(3) The Department of Children and Family Services or the Department of Juvenile Justice ~~Health and Rehabilitative Services~~ caseworker, case manager, or person primarily responsible for the case management of the child, the administrator of any facility licensed by the department under s. 393.067, s. 394.875, or s. 409.175, or the administrator of any state-operated or state-contracted delinquency residential treatment facility may consent to the medical care or treatment of any minor committed to it or in its custody under chapter 39, chapter 984, or chapter 985, when the person who has the power to consent as otherwise provided by law cannot be contacted and such person has not expressly objected to such consent. There shall be maintained in the records of the minor documentation that a reasonable attempt was made to contact the person who has the power to consent as otherwise provided by law.

(6) The Department of Children and Family Services and the Department of Juvenile Justice ~~Health and Rehabilitative Services~~ may adopt rules to implement this section.

Reviser's note.—Amended to conform to the redesignation of the Department of Health and Rehabilitative Services as the Department of Children and Family Services by s. 5, ch. 96-403, Laws of Florida, and to conform to the legislative directive in s. 122, ch. 97-238, Laws of Florida.

Section 48. 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 or neglect against a child as defined in s. 39.01(2) and (36) or s. 984.03(2) and (39)~~(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.

Reviser's note.—Amended to conform to the legislative directive in s. 122, ch. 97-238, Laws of Florida.

Section 49. 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) or s. 985.03(30) ~~39.01(34)~~, on other staff of a detention center or facility as defined in s. 984.03(19) or s. 985.03(19) ~~39.01(23)~~, or on a staff member of a commitment facility as defined in s. 985.03(45)(c), (d), or (e) ~~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.

Reviser's note.—Amended to conform to the legislative directive in s. 122, ch. 97-238, Laws of Florida.

Section 50. Subsections (8) and (9) of section 790.22, Florida Statutes, are amended to read:

790.22 Use of BB guns, air or gas-operated guns, or electric weapons or devices by minor under 16; limitation; possession of firearms by minor under 18 prohibited; penalties.—

(8) Notwithstanding s. 985.213 ~~39.042~~ or s. 985.215(1) ~~39.044(1)~~, if a minor under 18 years of age is charged with an offense that involves the use or possession of a firearm, as defined in s. 790.001, other than a violation of subsection (3), or is charged for any offense during the commission of which the minor possessed a firearm, the minor shall be detained in secure detention, unless the state attorney authorizes the release of the minor, and shall be given a hearing within 24 hours after being taken into custody. ~~Effective April 15, 1994,~~ At the hearing, the court may order that the minor continue to be held in secure detention in accordance with the applicable time periods specified in s. 985.215(5) ~~39.044(5)~~, if the court finds that the minor meets the criteria specified in s. 985.215(2) ~~39.044(2)~~, or if the court finds by clear and convincing evidence that the minor is a clear and present danger to himself or herself or the community. The Department of Juvenile Justice shall prepare a form for all minors charged under this subsection that states the period of detention and the relevant demographic information, including, but not limited to, the sex, age, and race of the minor; whether or not the minor was represented by private counsel or a public defender; the current offense; and the minor's complete prior record, including any pending cases. The form shall be provided to the judge to be considered when determining whether the minor should be continued in secure

detention under this subsection. An order placing a minor in secure detention because the minor is a clear and present danger to himself or herself or the community must be in writing, must specify the need for detention and the benefits derived by the minor or the community by placing the minor in secure detention, and must include a copy of the form provided by the department. The Department of Juvenile Justice must send the form, including a copy of any order, without client-identifying information, to the Division of Economic and Demographic Research of the Joint Legislative Management Committee.

(9) Notwithstanding s. 985.214 ~~39.043~~, if the minor is found to have committed an offense that involves the use or possession of a firearm, as defined in s. 790.001, other than a violation of subsection (3), or an offense during the commission of which the minor possessed a firearm, and the minor is not committed to a residential commitment program of the Department of Juvenile Justice ~~Health and Rehabilitative Services~~, in addition to any other punishment provided by law, the court shall order:

(a) For a first offense, that the minor serve a mandatory period of detention of 5 days in a secure detention facility and perform 100 hours of community service.

(b) For a second or subsequent offense, that the minor serve a mandatory period of detention of 10 days in a secure detention facility and perform not less than 100 nor more than 250 hours of community service.

The minor shall receive credit for time served before adjudication.

Reviser's note.—Amended to conform to the transfer of s. 39.042 to s. 985.213 by s. 21, ch. 97-238, Laws of Florida; the transfer of s. 39.044 to s. 985.215 by s. 23, ch. 97-238; and the transfer of s. 39.043 to s. 985.214 by s. 22, ch. 97-238. Subsection (9) was also amended to conform to the creation of the Department of Juvenile Justice by s. 1, ch. 94-209, Laws of Florida.

Section 51. Subsection (2) of section 790.23, Florida Statutes, is amended to read:

790.23 Felons and delinquents; possession of firearms or electric weapons or devices unlawful.—

(2) This section shall not apply to a person convicted of a felony whose civil rights and firearm authority have been restored, or to a person found to have committed a delinquent act that would be a felony if committed by an adult with respect to which the jurisdiction of the court pursuant to chapter 985 ~~39~~ has expired.

Reviser's note.—Amended to conform to the repeal and transfer of the provisions of former part II of chapter 39, relating to delinquency, to chapter 985 by ch. 97-238, Laws of Florida.

Section 52. Subsection (4) of section 877.22, Florida Statutes, is amended to read:

877.22 Minors prohibited in public places and establishments during certain hours; penalty; procedure.—

(4) If a minor violates a curfew and is taken into custody, the minor shall be transported immediately to a police station or to a facility operated by a religious, charitable, or civic organization that conducts a curfew program in cooperation with a local law enforcement agency. After recording pertinent information about the minor, the law enforcement agency shall attempt to contact the parent of the minor and, if successful, shall request that the parent take custody of the minor and shall release the minor to the parent. If the law enforcement agency is not able to contact the minor's parent within 2 hours after the minor is taken into custody, or if the parent refuses to take custody of the minor, the law enforcement agency may transport the minor to her or his residence or proceed as authorized under part II ~~III~~ of chapter 39.

Reviser's note.—Amended to conform to the redesignation of part III of chapter 39 as part II necessitated by the repeal and transfer of the provisions of former part II by ch. 97-238, Laws of Florida.

Section 53. Paragraph (c) of subsection (3) of section 921.0012, Florida Statutes, is amended to read:

921.0012 Sentencing guidelines offense levels; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
		(c) LEVEL 3
~~39.061~~	~~3rd~~	~~Escapes from juvenile facility (secure detention or residential commitment facility).~~
319.30(4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
319.33(1)(a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
319.33(1)(c)	3rd	Procure or pass title on stolen vehicle.
319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
376.302(5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.

Florida Statute	Felony Degree	Description
501.001(2)(b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
697.08	3rd	Equity skimming.
790.15(3)	3rd	Person directs another to discharge firearm from a vehicle.
796.05(1)	3rd	Live on earnings of a prostitute.
806.10(1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
806.10(2)	3rd	Interferes with or assaults firefighter in performance of duty.
810.09(2)(c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
812.014(2)(c)2.	3rd	Grand theft; $5,000 or more but less than $10,000.
815.04(4)(b)	2nd	Computer offense devised to defraud or obtain property.
817.034(4)(a)3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than $20,000.
817.233	3rd	Burning to defraud insurer.
828.12(2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.
831.29	2nd	Possession of instruments for counterfeiting driver's licenses or identification cards.
838.021(3)(b)	3rd	Threatens unlawful harm to public servant.
843.19	3rd	Injure, disable, or kill police dog or horse.
870.01(2)	3rd	Riot; inciting or encouraging.
893.13(1)(a)2.	3rd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c), (3), or (4) drugs).
893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c), (3), or (4) drugs within 200 feet of university, public housing facility, or public park.
893.13(6)(a)	3rd	Possession of any controlled substance other than felony possession of cannabis.

Florida Statute	Felony Degree	Description
893.13(7)(a)9.	3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.
893.13(7)(a)11.	3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.
918.13(1)(a)	3rd	Alter, destroy, or conceal investigation evidence.
944.401	3rd	Escapes from juvenile facility (secure detention or residential commitment facility).
944.47 (1)(a)1.-2.	3rd	Introduce contraband to correctional facility.
944.47(1)(c)	2nd	Possess contraband while upon the grounds of a correctional institution.

Reviser's note.—Amended to conform to the transfer of s. 39.061 to s. 944.401 by s. 113, ch. 97-238, Laws of Florida.

Section 54. Effective October 1, 1998, paragraph (c) of subsection (3) of section 921.0022, Florida Statutes, is amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
		(c) LEVEL 3
~~39.061~~	~~3rd~~	~~Escapes from juvenile facility (secure detention or residential commitment facility).~~
319.30(4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
319.33(1)(a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
319.33(1)(c)	3rd	Procure or pass title on stolen vehicle.
319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.

Florida Statute	Felony Degree	Description
376.302(5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
501.001(2)(b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
697.08	3rd	Equity skimming.
790.15(3)	3rd	Person directs another to discharge firearm from a vehicle.
796.05(1)	3rd	Live on earnings of a prostitute.
806.10(1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
806.10(2)	3rd	Interferes with or assaults firefighter in performance of duty.
810.09(2)(c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
812.014(2)(c)2.	3rd	Grand theft; $5,000 or more but less than $10,000.
815.04(4)(b)	2nd	Computer offense devised to defraud or obtain property.
817.034(4)(a)3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than $20,000.
817.233	3rd	Burning to defraud insurer.
828.12(2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.
831.29	2nd	Possession of instruments for counterfeiting drivers' licenses.
838.021(3)(b)	3rd	Threatens unlawful harm to public servant.
843.19	3rd	Injure, disable, or kill police dog or horse.
870.01(2)	3rd	Riot; inciting or encouraging.
893.13(1)(a)2.	3rd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c), (3), or (4) drugs).
893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c), (3), or (4) drugs within 200 feet of university, public housing facility, or public park.

Florida Statute	Felony Degree	Description
893.13(6)(a)	3rd	Possession of any controlled substance other than felony possession of cannabis.
893.13(7)(a)9.	3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.
893.13(7)(a)11.	3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.
918.13(1)(a)	3rd	Alter, destroy, or conceal investigation evidence.
944.401	3rd	Escapes from juvenile facility (secure detention or residential commitment facility).
944.47 (1)(a)1.-2.	3rd	Introduce contraband to correctional facility.
944.47(1)(c)	2nd	Possess contraband while upon the grounds of a correctional institution.

Reviser's note.—Amended to conform to the transfer of s. 39.061 to s. 944.401 by s. 113, ch. 97-238, Laws of Florida.

Section 55. Subsection (2) of section 938.17, Florida Statutes, is amended to read:

938.17 County delinquency prevention.—

(2) In counties in which the sheriff's office is a partner in a juvenile justice assessment center pursuant to s. 985.209 ~~39.0471~~, or a partner in a suspension program developed in conjunction with the district school board in the county of the sheriff's jurisdiction, the court shall assess court costs of $3 per case, in addition to any other authorized cost or fine, on every person who, with respect to a charge, indictment, prosecution commenced, or petition of delinquency filed in that county or circuit, pleads guilty, nolo contendere to, or is convicted of, or adjudicated delinquent for, or has an adjudication withheld for, a felony or misdemeanor, or a criminal traffic offense or handicapped parking violation under state law, or a violation of any municipal or county ordinance, if the violation constitutes a misdemeanor under state law.

Reviser's note.—Amended to conform to the transfer of s. 39.0471 to s. 985.209 by s. 17, ch. 97-238, Laws of Florida.

Section 56. Subsection (1) of section 943.0515, Florida Statutes, is amended to read:

943.0515 Retention of criminal history records of minors.—

(1)(a) The Division of Criminal Justice Information Systems shall retain the criminal history record of a minor who is classified as a serious or habitual juvenile offender under chapter 985 ~~39~~ for 5 years after the date the offender reaches 21 years of age, at which time the record shall be expunged unless it meets the criteria of paragraph (2)(a) or paragraph (2)(b).

(b) If the minor is not classified as a serious or habitual juvenile offender under chapter 985 ~~39~~, the division shall retain the minor's criminal history record for 5 years after the date the minor reaches 19 years of age, at which time the record shall be expunged unless it meets the criteria of paragraph (2)(a) or paragraph (2)(b).

Reviser's note.—Amended to conform to the transfer of s. 39.058, relating to the serious or habitual juvenile offender program, to s. 985.31 by s. 54, ch. 97-238, Laws of Florida.

Section 57. Paragraph (a) of subsection (4) of section 943.0585, Florida Statutes, is amended to read:

943.0585 Court-ordered expunction of criminal history records.—The courts of this state have jurisdiction over their own procedures, including the maintenance, expunction, and correction of judicial records containing criminal history information to the extent such procedures are not inconsistent with the conditions, responsibilities, and duties established by this section. Any court of competent jurisdiction may order a criminal justice agency to expunge the criminal history record of a minor or an adult who complies with the requirements of this section. The court shall not order a criminal justice agency to expunge a criminal history record until the person seeking to expunge a criminal history record has applied for and received a certificate of eligibility for expunction pursuant to subsection (2). A criminal history record that relates to a violation of chapter 794, s. 800.04, s. 817.034, s. 827.071, chapter 839, s. 893.135, or a violation enumerated in s. 907.041 may not be expunged, without regard to whether adjudication was withheld, if the defendant was found guilty of or pled guilty or nolo contendere to the offense, or if the defendant, as a minor, was found to have committed, or pled guilty or nolo contendere to committing, the offense as a delinquent act. The court may only order expunction of a criminal history record pertaining to one arrest or one incident of alleged criminal activity, except as provided in this section. The court may, at its sole discretion, order the expunction of a criminal history record pertaining to more than one arrest if the additional arrests directly relate to the original arrest. If the court intends to order the expunction of records pertaining to such additional arrests, such intent must be specified in the order. A criminal justice agency may not expunge any record pertaining to such additional arrests if the order to expunge does not articulate the intention of the court to expunge a record pertaining to more than one arrest. This section does not prevent the court from ordering the expunction of only a portion of a criminal history record pertaining to one arrest or one incident of alleged criminal activity. Notwithstanding any law to the contrary, a criminal justice agency may comply with laws, court orders, and official requests of other jurisdictions relating to expunction, correction, or confidential handling of criminal history records or information derived therefrom. This section does not confer

any right to the expunction of any criminal history record, and any request for expunction of a criminal history record may be denied at the sole discretion of the court.

(4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.—Any criminal history record of a minor or an adult which is ordered expunged by a court of competent jurisdiction pursuant to this section must be physically destroyed or obliterated by any criminal justice agency having custody of such record; except that any criminal history record in the custody of the department must be retained in all cases. A criminal history record ordered expunged that is retained by the department is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution and not available to any person or entity except upon order of a court of competent jurisdiction. A criminal justice agency may retain a notation indicating compliance with an order to expunge.

(a) The person who is the subject of a criminal history record that is expunged under this section or under other provisions of law, including former s. 893.14, former s. 901.33, and former s. 943.058, may lawfully deny or fail to acknowledge the arrests covered by the expunged record, except when the subject of the record:

1. Is a candidate for employment with a criminal justice agency;

2. Is a defendant in a criminal prosecution;

3. Concurrently or subsequently petitions for relief under this section or s. 943.059;

4. Is a candidate for admission to The Florida Bar;

5. Is seeking to be employed or licensed by or to contract with the Department of Children and Family ~~Health and Rehabilitative~~ Services or the Department of Juvenile Justice or to be employed or used by such contractor or licensee in a sensitive position having direct contact with children, the developmentally disabled, the aged, or the elderly as provided in ~~s. 39.076,~~ s. 110.1127(3), s. 393.063(14), s. 394.4572(1), s. 397.451, s. 402.302(8), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s. 415.1075(4), s. 985.407, or chapter 400; or

6. Is seeking to be employed or licensed by the Office of Teacher Education, Certification, Staff Development, and Professional Practices of the Department of Education, any district school board, or any local governmental entity that licenses child care facilities.

Reviser's note.—Amended to conform to the creation of the Department of Children and Family Services by s. 5, ch. 96-403, Laws of Florida; creation of the Department of Juvenile Justice by s. 1, ch. 94-209, Laws of Florida; and the transfer of s. 39.076 to s. 985.407 by s. 67, ch. 97-238, Laws of Florida.

Section 58. Paragraph (a) of subsection (4) of section 943.059, Florida Statutes, is amended to read:

943.059 Court-ordered sealing of criminal history records.—The courts of this state shall continue to have jurisdiction over their own procedures, including the maintenance, sealing, and correction of judicial records containing criminal history information to the extent such procedures are not inconsistent with the conditions, responsibilities, and duties established by this section. Any court of competent jurisdiction may order a criminal justice agency to seal the criminal history record of a minor or an adult who complies with the requirements of this section. The court shall not order a criminal justice agency to seal a criminal history record until the person seeking to seal a criminal history record has applied for and received a certificate of eligibility for sealing pursuant to subsection (2). A criminal history record that relates to a violation of chapter 794, s. 800.04, s. 817.034, s. 827.071, chapter 839, s. 893.135, or a violation enumerated in s. 907.041 may not be sealed, without regard to whether adjudication was withheld, if the defendant was found guilty of or pled guilty or nolo contendere to the offense, or if the defendant, as a minor, was found to have committed or pled guilty or nolo contendere to committing the offense as a delinquent act. The court may only order sealing of a criminal history record pertaining to one arrest or one incident of alleged criminal activity, except as provided in this section. The court may, at its sole discretion, order the sealing of a criminal history record pertaining to more than one arrest if the additional arrests directly relate to the original arrest. If the court intends to order the sealing of records pertaining to such additional arrests, such intent must be specified in the order. A criminal justice agency may not seal any record pertaining to such additional arrests if the order to seal does not articulate the intention of the court to seal records pertaining to more than one arrest. This section does not prevent the court from ordering the sealing of only a portion of a criminal history record pertaining to one arrest or one incident of alleged criminal activity. Notwithstanding any law to the contrary, a criminal justice agency may comply with laws, court orders, and official requests of other jurisdictions relating to sealing, correction, or confidential handling of criminal history records or information derived therefrom. This section does not confer any right to the sealing of any criminal history record, and any request for sealing a criminal history record may be denied at the sole discretion of the court.

(4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.—A criminal history record of a minor or an adult which is ordered sealed by a court of competent jurisdiction pursuant to this section is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution and is available only to the person who is the subject of the record, to the subject's attorney, to criminal justice agencies for their respective criminal justice purposes, or to those entities set forth in subparagraphs (a)1., 4., 5., and 6. for their respective licensing and employment purposes.

(a) The subject of a criminal history record sealed under this section or under other provisions of law, including former s. 893.14, former s. 901.33, and former s. 943.058, may lawfully deny or fail to acknowledge the arrests covered by the sealed record, except when the subject of the record:

1. Is a candidate for employment with a criminal justice agency;

2. Is a defendant in a criminal prosecution;

3. Concurrently or subsequently petitions for relief under this section or s. 943.0585;

4. Is a candidate for admission to The Florida Bar;

5. Is seeking to be employed or licensed by or to contract with the Department of Children and Family ~~Health and Rehabilitative~~ Services or the Department of Juvenile Justice or to be employed or used by such contractor or licensee in a sensitive position having direct contact with children, the developmentally disabled, the aged, or the elderly as provided in ~~s. 39.076,~~ s. 110.1127(3), s. 393.063(14), s. 394.4572(1), s. 397.451, s. 402.302(8), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s. 415.103, s. 985.407, or chapter 400; or

6. Is seeking to be employed or licensed by the Office of Teacher Education, Certification, Staff Development, and Professional Practices of the Department of Education, any district school board, or any local governmental entity which licenses child care facilities.

Reviser's note.—Amended to conform to the creation of the Department of Children and Family Services by s. 5, ch. 96-403, Laws of Florida, and the transfer of s. 39.076 to s. 985.407 by s. 67, ch. 97-238, Laws of Florida.

Section 59. 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.

Reviser's note.—Amended to conform to the legislative directive in s. 122, ch. 97-238, Laws of Florida.

Section 60. The introductory paragraph of subsection (2) of section 948.51, Florida Statutes, is amended to read:

948.51 Community corrections assistance to counties or county consortiums.—

(2) ELIGIBILITY OF COUNTIES AND COUNTY CONSORTIUMS.—A county, or a consortium of two or more counties, may contract with the Department of Corrections for community corrections funds as provided in this section. In order to enter into a community corrections partnership contract, a county or county consortium must have a public safety coordinating council established under s. 951.26 and must designate a county officer or agency to be responsible for administering community corrections funds received from the state. The public safety coordinating council shall prepare,

develop, and implement a comprehensive public safety plan for the county, or the geographic area represented by the county consortium, and shall submit an annual report to the Department of Corrections concerning the status of the program. In preparing the comprehensive public safety plan, the public safety coordinating council shall cooperate with the district juvenile justice board, established under s. 985.413, and the county juvenile justice council, established under s. 985.414 ~~39.025~~, in order to include programs and services for juveniles in the plan. To be eligible for community corrections funds under the contract, the initial public safety plan must be approved by the governing board of the county, or the governing board of each county within the consortium, and the Secretary of Corrections based on the requirements of this section. If one or more other counties develop a unified public safety plan, the public safety coordinating council shall submit a single application to the department for funding. Continued contract funding shall be pursuant to subsection (5)~~(6)~~. The plan for a county or county consortium must cover at least a 5-year period and must include:

Reviser's note.—Amended to conform to the transfer of the provisions of s. 39.025, relating to district juvenile justice boards to s. 985.413 by s. 73, ch. 97-238, Laws of Florida; the creation of s. 985.414, relating to county juvenile justice councils, by s. 74, ch. 97-238; and the redesignation of subsection (6) as subsection (5) by s. 43, ch. 95-283, Laws of Florida.

Section 61. Paragraph (a) of subsection (1) of section 958.04, Florida Statutes, is amended to read:

958.04 Judicial disposition of youthful offenders.—

(1) The court may sentence as a youthful offender any person:

(a) Who is at least 18 years of age or who has been transferred for prosecution to the criminal division of the circuit court pursuant to chapter 985 ~~39~~;

Reviser's note.—Amended to conform to the legislative directive in s. 122, ch. 97-238, Laws of Florida.

Section 62. Section 958.046, Florida Statutes, is amended to read:

958.046 Placement in county-operated boot camp programs for youthful offenders.—In counties where there are county-operated youthful offender boot camp programs, other than boot camps described in ~~s. 39.057 or~~ s. 958.04 or s. 985.309, the court may sentence a youthful offender to such a boot camp. In county-operated youthful offender boot camp programs, juvenile offenders shall not be commingled with youthful offenders.

Reviser's note.—Amended to conform to the transfer of s. 39.057 to s. 985.309 by s. 53, ch. 97-238, Laws of Florida.

Section 63. Paragraphs (b) and (j) of subsection (1) of section 960.001, Florida Statutes, are amended to read:

960.001 Guidelines for fair treatment of victims and witnesses in the criminal justice and juvenile justice systems.—

(1) The Department of Legal Affairs, the state attorneys, the Department of Corrections, the Department of Juvenile Justice, the Parole Commission, the State Courts Administrator and circuit court administrators, the Department of Law Enforcement, and every sheriff's department, police department, or other law enforcement agency as defined in s. 943.10(4) shall develop and implement guidelines for the use of their respective agencies, which guidelines are consistent with the purposes of this act and s. 16(b), Art. I of the State Constitution and are designed to implement the provisions of s. 16(b), Art. I of the State Constitution and to achieve the following objectives:

(b) Information for purposes of notifying victim or appropriate next of kin of victim or other designated contact of victim.—In the case of a homicide, pursuant to chapter 782; or a sexual offense, pursuant to chapter 794; or an attempted murder or sexual offense, pursuant to chapter 777; or stalking, pursuant to s. 784.048; or domestic violence, pursuant to s. 25.385:

1. The arresting law enforcement officer or personnel of an organization that provides assistance to a victim or to the appropriate next of kin of the victim or other designated contact must request that the victim or appropriate next of kin of the victim or other designated contact complete a victim notification card. However, the victim or appropriate next of kin of the victim or other designated contact may choose not to complete the victim notification card.

2. Unless the victim or the appropriate next of kin of the victim or other designated contact waives the option to complete the victim notification card, a copy of the victim notification card must be filed with the incident report or warrant in the sheriff's office of the jurisdiction in which the incident report or warrant originated. The notification card shall, at a minimum, consist of:

a. The name, address, and phone number of the victim; or

b. The name, address, and phone number of the appropriate next of kin of the victim; or

c. The name, address, and phone number of a designated contact other than the victim or appropriate next of kin of the victim; and

d. Any relevant identification or case numbers assigned to the case.

3. The chief administrator, or a person designated by the chief administrator, of a county jail, municipal jail, juvenile detention facility, or residential commitment facility shall make a reasonable attempt to notify the alleged victim or appropriate next of kin of the alleged victim or other designated contact within 4 hours following the release of the defendant on bail or, in the case of a juvenile offender, upon the release from residential detention or commitment. If the chief administrator, or designee, is unable to contact the alleged victim or appropriate next of kin of the alleged victim or other designated contact by telephone, the chief administrator, or designee, must send to the alleged victim or appropriate next of kin of the alleged

victim or other designated contact a written notification of the defendant's release.

4. Unless otherwise requested by the victim or the appropriate next of kin of the victim or other designated contact, the information contained on the victim notification card must be sent by the chief administrator, or designee, of the appropriate facility to the subsequent correctional or residential commitment facility following the sentencing and incarceration of the defendant, and unless otherwise requested by the victim or the appropriate next of kin of the victim or other designated contact, he or she must be notified of the release of the defendant from incarceration as provided by law.

5. If the defendant was arrested pursuant to a warrant issued or taken into custody pursuant to s. 985.207 ~~39.037~~ in a jurisdiction other than the jurisdiction in which the defendant is being released, and the alleged victim or appropriate next of kin of the alleged victim or other designated contact does not waive the option for notification of release, the chief correctional officer or chief administrator of the facility releasing the defendant shall make a reasonable attempt to immediately notify the chief correctional officer of the jurisdiction in which the warrant was issued or the juvenile was taken into custody pursuant to s. 985.207 ~~39.037~~, and the chief correctional officer of that jurisdiction shall make a reasonable attempt to notify the alleged victim or appropriate next of kin of the alleged victim or other designated contact, as provided in this paragraph, that the defendant has been or will be released.

(j) Notification of right to request restitution.—Law enforcement agencies and the state attorney shall inform the victim of the victim's right to request and receive restitution pursuant to ~~s. 39.054(1)(a) or~~ s. 775.089 or s. 985.231(1)(a)1., and of the victim's rights of enforcement under ss. ~~39.022 and~~ 775.089(6) and 985.201 in the event an offender does not comply with a restitution order. The state attorney shall seek the assistance of the victim in the documentation of the victim's losses for the purpose of requesting and receiving restitution. In addition, the state attorney shall inform the victim if and when restitution is ordered.

Reviser's note.—Paragraph (1)(b) was amended to conform to the transfer of s. 39.037 to s. 985.207 by s. 15, ch. 97-238, Laws of Florida. Paragraph (1)(j) was amended to conform to the legislative directive in s. 122, ch. 97-238, and to conform to the transfer of s. 39.022 to s. 985.201 by s. 9, ch. 97-238.

Section 64. Subsection (40) of section 984.03, Florida Statutes, is amended to read:

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

(40) "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(1) ~~39.4051(7)~~ or s. 63.062(1)(b).

Reviser's note.—Amended to conform to the reference to parental status in s. 39.4051(1); s. 39.4051(7) relates to release of information.

Section 65. Subsection (1) of section 984.04, Florida Statutes, is amended to read:

984.04 Families in need of services and children in need of services; procedures and jurisdiction.—

(1) It is the intent of the Legislature to address the problems of families in need of services by providing them with an array of services designed to preserve the unity and integrity of the family and to emphasize parental responsibility for the behavior of their children. Services to families in need of services and children in need of services shall be provided on a continuum of increasing intensity and participation by the parent and child. Judicial intervention to resolve the problems and conflicts that exist within a family shall be limited to situations in which a resolution to the problem or conflict has not been achieved through service, treatment, and family intervention after all available less restrictive resources have been exhausted. In creating this chapter ~~part~~, the Legislature recognizes the need to distinguish the problems of truants, runaways, and children beyond the control of their parents, and the services provided to these children, from the problems and services designed to meet the needs of abandoned, abused, neglected, and delinquent children. In achieving this recognition, it shall be the policy of the state to develop short-term, temporary services and programs utilizing the least restrictive method for families in need of services and children in need of services.

Reviser's note.—Amended to conform to the arrangement of chapter 984, which is not divided into parts.

Section 66. Section 984.05, Florida Statutes, is amended to read:

984.05 Rules relating to habitual truants; adoption by Department of Education and Department of Juvenile Justice.—The Department of Juvenile Justice and the Department of Education shall work together on the development of, and shall adopt, rules as necessary for the implementation of ss. 232.19, ~~and~~ 984.03(29), and 985.03(27).

Reviser's note.—Amended to conform to the legislative directive in s. 122, ch. 97-238, Laws of Florida.

Section 67. Section 984.071, Florida Statutes, is amended to read:

984.071 Information packet.—The Department of Juvenile Justice, in collaboration with the Department of Children and Family Services and the Department of Education, shall develop and publish an information packet that explains the current process under this chapter ~~part IV of chapter 39~~ for obtaining assistance for a child in need of services or a family in need of services and the community services and resources available to parents of troubled or runaway children. In preparing the information packet, the

Department of Juvenile Justice shall work with school district superintendents, juvenile court judges, county sheriffs, and other local law enforcement officials in order to ensure that the information packet lists services and resources that are currently available within the county in which the packet is distributed. Each information packet shall be annually updated and shall be available for distribution by January 1, 1998. The school district shall distribute this information packet to parents of truant children and to other parents upon request or as deemed appropriate by the school district. In addition, the Department of Juvenile Justice shall distribute the information packet to state and local law enforcement agencies. Any law enforcement officer who has contact with the parent of a child who is locked out of the home or who runs away from home shall make the information available to the parent.

Reviser's note.—Amended to conform to the legislative directive in s. 122, ch. 97-238, Laws of Florida.

Section 68. Subsection (3) of section 984.10, Florida Statutes, is amended to read:

984.10 Intake.—

(3) If the representative of the department determines that in his or her judgment the interests of the family, the child, and the public will be best served by providing the family and child services and treatment voluntarily accepted by the child and the parents or legal custodians, the departmental representative may refer the family or child to an appropriate service and treatment provider. As part of the intake procedure, the departmental representative shall inform the parent or legal custodian, in writing, of the services and treatment available to the child and family by department providers or community agencies and the rights and responsibilities of the parent or legal guardian under this chapter ~~part~~.

Reviser's note.—Amended to conform to the arrangement of chapter 984, which is not divided into parts.

Section 69. 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 ~~39.01~~. 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 ~~39.424~~ and 984.12 ~~39.426~~.

Reviser's note.—Paragraph (3)(a) is amended to conform to the transfer of s. 39.426(8) to s. 984.12(8) by s. 98, ch. 97-238, Laws of Florida. Paragraph (3)(c) is amended to conform to the correct location of the definition and the transfer of ss. 39.424 and 39.426 to ss. 984.11 and 984.12 by ss. 97 and 98, ch. 97-238, respectively.

Section 70. Subsection (5) of section 984.16, Florida Statutes, is amended to read:

984.16 Process and service.—

(5) The jurisdiction of the court shall attach to the child and the parent, custodian, or legal guardian of the child and the case when the summons is served upon the child or a parent or legal or actual custodian of the child or when the child is taken into custody with or without service of summons and after filing of a petition for a child in need of services, and thereafter the court may control the child and case in accordance with this chapter ~~part~~.

Reviser's note.—Amended to conform to the arrangement of chapter 984, which is not divided into parts.

Section 71. Paragraph (c) of subsection (1) of section 984.20, Florida Statutes, is amended to read:

984.20 Hearings for child-in-need-of-services cases.—

(1) ARRAIGNMENT HEARING.—

(c) If at the arraignment hearing the child and the parent, guardian, or custodian consents or admits to the allegations in the petition and the court determines that the petition meets the requirements of s. 984.15(3)(e) ~~39.436(3)(e)~~, the court shall proceed to hold a disposition hearing at the earliest practicable time that will allow for the completion of a predisposition study.

Reviser's note.—Amended to conform to the transfer of s. 39.436 to s. 984.15 by s. 101, ch. 97-238, Laws of Florida.

Section 72. Subsections (2) and (3) of section 984.21, Florida Statutes, are amended to read:

984.21 Orders of adjudication.—

(2) If the court finds that the child named in the petition is a child in need of services, but finds that no action other than supervision in the 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 and family under the supervision of the department. If the court later finds that the parent, guardian, or custodian 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 the child in need of services, enter an order of adjudication and shall thereafter have full authority under this chapter ~~part~~ to provide for the child as adjudicated.

(3) If the court finds that the child named in a petition is a child in need of services, but elects not to proceed under subsection (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 ~~part~~ to provide for the child as adjudicated.

Reviser's note.—Amended to conform to the arrangement of chapter 984, which is not divided into parts.

Section 73. Subsection (4) of section 984.22, Florida Statutes, is amended to read:

984.22 Powers of disposition.—

(4) All payments of fees made to the department pursuant to this chapter, or child support payments made to the department pursuant to subsection (3), shall be deposited in the General Revenue Fund. In cases in which the child is placed in foster care with the Department of Children and Family Services, such child support payments shall be deposited in the Community Resources Development ~~Foster Care, Group Home, Developmental Training, and Supported Employment Programs~~ Trust Fund.

Reviser's note.—Amended to conform to the redesignation of the Foster Care, Group Home, Developmental Training, and Supported Employment Programs Trust Fund as the Community Resources Development Trust Fund by s. 52, ch. 96-418, Laws of Florida.

Section 74. Paragraph (b) of subsection (1) and subsections (5) and (6) of section 984.225, Florida Statutes, are amended to read:

984.225 Powers of disposition; placement in a staff-secure shelter.—

(1) Subject to specific legislative appropriation, the court may order that a child adjudicated as a child in need of services be placed for up to 90 days in a staff-secure shelter if:

(b) The child refuses to remain under the reasonable care and custody of his or her parent, guardian, or legal custodian, as evidenced by repeatedly running away from home. The court may not order that a child be placed in a staff-secure facility unless:

1. The child has failed to successfully complete an alternative treatment program or to comply with a court-ordered sanction; and

2. The child has been placed in a residential program on at least one prior occasion pursuant to a court order under this chapter ~~part~~.

This subsection applies after other alternative, less-restrictive remedies have been exhausted. The court may order that a child be placed in a staff-secure shelter. The department, or an authorized representative of the department, must verify to the court that a bed is available for the child. If the department or an authorized representative of the department verifies that a bed is not available, the court shall stay the placement until a bed is available. The department will place the child's name on a waiting list. The child who has been on the waiting list the longest will get the next available bed.

(5) The department is deemed to have exhausted the reasonable remedies offered under this chapter ~~part~~ if, at the end of the commitment period, the parent, guardian, or legal custodian continues to refuse to allow the child to remain at home or creates unreasonable conditions for the child's return. If, at the end of the commitment period, the child is not reunited with his or her parent, guardian, or custodian due solely to the continued refusal of the parent, guardian, or custodian to provide food, clothing, shelter, and parental support, the child is considered to be threatened with harm as a result of such acts or omissions, and the court shall direct that the child be handled in every respect as a dependent child. Jurisdiction shall be transferred to the Department of Children and Family Services and the child's care shall be governed under parts II ~~III~~ and III of chapter 39 ~~V~~.

(6) The court shall review the child's commitment once every 45 days as provided in s. 984.20 ~~39.44~~. The court shall determine if the parent, guardian, or custodian has reasonably participated in and financially contributed to the child's counseling and treatment program. The court shall also determine whether the department's efforts to reunite the family have been reasonable. If the court finds an inadequate level of support or participation by the parent, guardian, or custodian prior to the end of the commitment period, the court shall direct that the child be handled in every respect as a dependent child. Jurisdiction shall be transferred to the Department of Children and Family Services and the child's care shall be governed under parts II ~~III~~ and III of chapter 39 ~~V~~.

Reviser's note.—Paragraph (1)(b) and subsection (5) are amended to conform to the arrangement of chapter 984, which is not divided into parts. Subsections (5) and (6) are amended to conform to the redesignation of parts III and V of chapter 39 as parts II and III necessitated by the repeal and transfer of the provisions of former parts II and IV by ch. 97-238, Laws of Florida, and the assignment of this section at its present location to conform to the legislative directive in s. 122, ch. 97-238. Subsection (6) is also amended to conform to the transfer of s. 39.44 to s. 984.20 by s. 106, ch. 97-238.

Section 75. Subsections (1), (2), and (4) of section 984.226, Florida Statutes, are amended to read:

984.226 Pilot program for a physically secure facility; contempt of court.—

(1) Subject to specific legislative appropriation, the Department of Juvenile Justice shall establish a pilot program within a single judicial circuit

for the purpose of operating one or more physically secure facilities designated exclusively for the placement of children in need of services who are found in direct contempt or indirect contempt of a valid court order. If any party files a petition that a child is a child in need of services within such judicial circuit, the child must be represented by counsel at each court appearance. If the child is indigent, the court shall appoint an attorney to represent the child as provided under s. 985.203 ~~39.041~~. Nothing precludes the court from requesting reimbursement of attorney's fees and costs from the nonindigent parent or legal guardian.

(2) If a child adjudicated as a child in need of services is held in direct contempt or indirect contempt of a valid court order, as an alternative to placing the child in a staff-secure facility as provided under ~~s. 39.0145 or~~ s. 984.225 or s. 985.216, the court may order that the child be placed within the circuit in a physically secure facility operated under the pilot program. A child may be committed to the facility only if the department, or an authorized representative of the department, verifies to the court that a bed is available for the child at the physically secure facility and the child has:

(a) Run away from a staff-secure shelter following placement under ~~s. 39.0145 or~~ s. 984.225 or s. 985.216; or

(b) Committed at least two prior acts of direct or indirect contempt.

(4) Prior to being committed to a physically secure facility, the child must be afforded all rights of due process required under s. 985.216 ~~39.0145~~. While in the physically secure facility, the child shall receive appropriate assessment, treatment, and educational services that are designed to eliminate or reduce the child's truant, ungovernable, or runaway behavior. The child and family shall be provided with family counseling and other support services necessary for reunification.

Reviser's note.—Amended to conform to the transfer of s. 39.041 to s. 985.203 by s. 11, ch. 97-238, Laws of Florida, and the transfer of s. 39.0145 to s. 985.216 by s. 24, ch. 97-238.

Section 76. Section 984.23, Florida Statutes, is amended to read:

984.23 Court and witness fees.—In all proceedings under this chapter ~~part~~, no court fees shall be charged against, and no witness fees shall be allowed to, any party to a petition or any parent or legal custodian or child named in a summons. Other witnesses shall be paid the witness fees fixed by law.

Reviser's note.—Amended to conform to the arrangement of chapter 984, which is not divided into parts.

Section 77. 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.

Reviser's note.—Amended to conform to the arrangement of chapter 984, which is not divided into parts.

Section 78. Subsection (41) of section 985.03, Florida Statutes, is amended to read:

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

(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. 39.4051(1) ~~39.4051(7)~~ or s. 63.062(1)(b).

Reviser's note.—Amended to conform to the reference to parental status in s. 39.4051(1); s. 39.4051(7) relates to release of information.

Section 79. Paragraph (b) of subsection (2) of section 985.213, Florida Statutes, is amended to read:

985.213 Use of detention.—

(2)

(b)1. The risk assessment instrument for detention care placement determinations and orders shall be developed by the Department of Juvenile Justice in agreement with representatives appointed by the following associations: the Conference of Circuit Judges of Florida, the Prosecuting Attorneys Association, and the Public Defenders Association. Each association shall appoint two individuals, one representing an urban area and one representing a rural area. The parties involved shall evaluate and revise the risk assessment instrument as is considered necessary using the method for revision as agreed by the parties. The risk assessment instrument shall take into consideration, but need not be limited to, prior history of failure to appear, prior offenses, offenses committed pending adjudication, any unlawful possession of a firearm, theft of a motor vehicle or possession of a stolen motor vehicle, and community control status at the time the child is taken into custody. The risk assessment instrument shall also take into consideration appropriate aggravating and mitigating circumstances, and shall be designed to target a narrower population of children than s. 985.215(2). The risk assessment instrument shall also include any information concerning the child's history of abuse and neglect. The risk assessment shall indicate whether detention care is warranted, and, if detention care is warranted, whether the child should be placed into secure, nonsecure, or home detention care.

2. If, at the detention hearing, the court finds a material error in the scoring of the risk assessment instrument, the court may amend the score to reflect factual accuracy.

3. A child who is charged with committing an offense of domestic violence as defined in s. 741.28(1) and who does not meet detention criteria may be held in secure detention if the court makes specific written findings that:

a. The offense of domestic violence which the child is charged with committing caused physical injury to the victim;

b. Respite care for the child is not available; and

c. It is necessary to place the child in secure detention in order to protect the victim from further injury.

The child may not be held in secure detention under this subparagraph for more than 48 hours unless ordered by the court. After 48 hours, the court shall hold a hearing if the state attorney or victim requests that secure detention be continued. The child may continue to be held in secure detention if the court makes a specific, written finding that secure detention is necessary to protect the victim from further injury. However, the child may not be held in secure detention beyond the time limits set forth in s. 985.215 ~~39.044~~.

Reviser's note.—Amended to conform to the transfer of s. 39.044 to s. 985.215 by s. 23, ch. 97-238, Laws of Florida.

Section 80. Subsection (2) of section 985.214, Florida Statutes, is amended to read:

985.214 Prohibited uses of detention.—

(2) A child alleged to be dependent under part II ~~III~~ of ~~this~~ chapter 39 may not, under any circumstances, be placed into secure detention care.

Reviser's note.—Amended to conform to the legislative directive in s. 122, ch. 97-238, Laws of Florida.

Section 81. Paragraph (a) of subsection (6) of section 985.218, Florida Statutes, is amended to read:

985.218 Petition.—

(6)(a) If a petition has been filed alleging that a child has committed a delinquent act or violation of law, and no demand for speedy trial has been made ~~pursuant to paragraph (d)~~, the adjudicatory hearing on the petition must be commenced within 90 days after the earlier of:

1. The date the child is taken into custody; or

2. The date the petition is filed.

Reviser's note.—Amended to conform to the fact that paragraph (6)(d) never existed.

Section 82. Paragraph (a) of subsection (1) of section 985.231, Florida Statutes, is amended to read:

985.231 Powers of disposition in delinquency cases.—

(1)(a) The court that has jurisdiction of an adjudicated delinquent child may, by an order stating the facts upon which a determination of a sanction and rehabilitative program was made at the disposition hearing:

1. Place the child in a community control program or an aftercare program under the supervision of an authorized agent of the Department of Juvenile Justice or of any other person or agency specifically authorized and appointed by the court, whether in the child's own home, in the home of a relative of the child, or in some other suitable place under such reasonable conditions as the court may direct. A community control program for an adjudicated delinquent child must include a penalty component such as restitution in money or in kind, community service, a curfew, revocation or suspension of the driver's license of the child, or other nonresidential punishment appropriate to the offense and must also include a rehabilitative program component such as a requirement of participation in substance abuse treatment or in school or other educational program.

a. A restrictiveness level classification scale for levels of supervision shall be provided by the department, taking into account the child's needs and risks relative to community control supervision requirements to reasonably ensure the public safety. Community control programs for children shall be supervised by the department or by any other person or agency specifically authorized by the court. These programs must include, but are not limited to, structured or restricted activities as described in this subparagraph, and shall be designed to encourage the child toward acceptable and functional social behavior. If supervision or a program of community service is ordered by the court, the duration of such supervision or program must be consistent with any treatment and rehabilitation needs identified for the child and may not exceed the term for which sentence could be imposed if the child were committed for the offense, except that the duration of such supervision or program for an offense that is a misdemeanor of the second degree, or is equivalent to a misdemeanor of the second degree, may be for a period not to exceed 6 months. When restitution is ordered by the court, the amount of restitution may not exceed an amount the child and the parent or guardian could reasonably be expected to pay or make. A child who participates in any work program under this part is considered an employee of the state for purposes of liability, unless otherwise provided by law.

b. The court may conduct judicial review hearings for a child placed on community control for the purpose of fostering accountability to the judge and compliance with other requirements, such as restitution and community service. The court may allow early termination of community control for a child who has substantially complied with the terms and conditions of community control.

c. If the conditions of the community control program or the aftercare program are violated, the agent supervising the program as it relates to the child involved, or the state attorney, may bring the child before the court on a petition alleging a violation of the program. Any child who violates the conditions of community control or aftercare must be brought before the court if sanctions are sought. A child taken into custody under s. 985.207 ~~39.037~~ for violating the conditions of community control or aftercare shall be held in a consequence unit if such a unit is available. The child shall be afforded a hearing within 24 hours after being taken into custody to determine the existence of probable cause that the child violated the conditions of community control or aftercare. A consequence unit is a secure facility

specifically designated by the department for children who are taken into custody under s. 985.207 for violating community control or aftercare, or who have been found by the court to have violated the conditions of community control or aftercare. If the violation involves a new charge of delinquency, the child may be detained under s. 985.215 in a facility other than a consequence unit. If the child is not eligible for detention for the new charge of delinquency, the child may be held in the consequence unit pending a hearing and is subject to the time limitations specified in s. 985.215. If the child denies violating the conditions of community control or aftercare, the court shall appoint counsel to represent the child at the child's request. Upon the child's admission, or if the court finds after a hearing that the child has violated the conditions of community control or aftercare, the court shall enter an order revoking, modifying, or continuing community control or aftercare. In each such case, the court shall enter a new disposition order and, in addition to the sanctions set forth in this paragraph, may impose any sanction the court could have imposed at the original disposition hearing. If the child is found to have violated the conditions of community control or aftercare, the court may:

(I) Place the child in a consequence unit in that judicial circuit, if available, for up to 5 days for a first violation, and up to 15 days for a second or subsequent violation.

(II) Place the child on home detention with electronic monitoring. However, this sanction may be used only if a consequence unit is not available.

(III) Modify or continue the child's community control program or aftercare program.

(IV) Revoke community control or aftercare and commit the child to the department.

d. Notwithstanding s. 743.07 and paragraph (d), and except as provided in s. 985.31, the term of any order placing a child in a community control program must be until the child's 19th birthday unless he or she is released by the court, on the motion of an interested party or on its own motion.

2. Commit the child to a licensed child-caring agency willing to receive the child, but the court may not commit the child to a jail or to a facility used primarily as a detention center or facility or shelter.

3. Commit the child to the Department of Juvenile Justice at a restrictiveness level defined in s. 985.03(45). Such commitment must be for the purpose of exercising active control over the child, including, but not limited to, custody, care, training, urine monitoring, and treatment of the child and furlough of the child into the community. Notwithstanding s. 743.07 and paragraph (d), and except as provided in s. 985.31, the term of the commitment must be until the child is discharged by the department or until he or she reaches the age of 21.

4. Revoke or suspend the driver's license of the child.

5. Require the child and, if the court finds it appropriate, the child's parent or guardian together with the child, to render community service in a public service program.

6. As part of the community control program to be implemented by the Department of Juvenile Justice, or, in the case of a committed child, as part of the community-based sanctions ordered by the court at the disposition hearing or before the child's release from commitment, order the child to make restitution in money, through a promissory note cosigned by the child's parent or guardian, or in kind for any damage or loss caused by the child's offense in a reasonable amount or manner to be determined by the court. The clerk of the circuit court shall be the receiving and dispensing agent. In such case, the court shall order the child or the child's parent or guardian to pay to the office of the clerk of the circuit court an amount not to exceed the actual cost incurred by the clerk as a result of receiving and dispensing restitution payments. The clerk shall notify the court if restitution is not made, and the court shall take any further action that is necessary against the child or the child's parent or guardian. A finding by the court, after a hearing, that the parent or guardian has made diligent and good faith efforts to prevent the child from engaging in delinquent acts absolves the parent or guardian of liability for restitution under this subparagraph.

7. Order the child and, if the court finds it appropriate, the child's parent or guardian together with the child, to participate in a community work project, either as an alternative to monetary restitution or as part of the rehabilitative or community control program.

8. Commit the child to the Department of Juvenile Justice for placement in a program or facility for serious or habitual juvenile offenders in accordance with s. 985.31. Any commitment of a child to a program or facility for serious or habitual juvenile offenders must be for an indeterminate period of time, but the time may not exceed the maximum term of imprisonment that an adult may serve for the same offense. The court may retain jurisdiction over such child until the child reaches the age of 21, specifically for the purpose of the child completing the program.

9. In addition to the sanctions imposed on the child, order the parent or guardian of the child to perform community service if the court finds that the parent or guardian did not make a diligent and good faith effort to prevent the child from engaging in delinquent acts. The court may also order the parent or guardian to make restitution in money or in kind for any damage or loss caused by the child's offense. The court shall determine a reasonable amount or manner of restitution, and payment shall be made to the clerk of the circuit court as provided in subparagraph 6.

10. Subject to specific appropriation, commit the juvenile sexual offender to the Department of Juvenile Justice for placement in a program or facility for juvenile sexual offenders in accordance with s. 985.308. Any commitment of a juvenile sexual offender to a program or facility for juvenile sexual offenders must be for an indeterminate period of time, but the time may not exceed the maximum term of imprisonment that an adult may serve for the

same offense. The court may retain jurisdiction over a juvenile sexual offender until the juvenile sexual offender reaches the age of 21, specifically for the purpose of completing the program.

Reviser's note.—Amended to conform to the transfer of s. 39.037 to s. 985.207 by s. 15, ch. 97-238, Laws of Florida.

Section 83. Paragraph (d) of subsection (1) of section 985.306, Florida Statutes, is amended to read:

985.306 Delinquency pretrial intervention program.—

(1)

(d) Any entity, whether public or private, providing pretrial substance abuse education, treatment intervention, and a urine monitoring program under this section must contract with the county or appropriate governmental entity, and the terms of the contract must include, but need not be limited to, the requirements established for private entities under s. 948.15(3) ~~948.15(2)~~. It is the intent of the Legislature that public or private entities providing substance abuse education and treatment intervention programs involve the active participation of parents, schools, churches, businesses, law enforcement agencies, and the department or its contract providers.

Reviser's note.—Amended to conform to the redesignation of s. 948.15(2) as s. 948.15(3) by s. 42, ch. 95-283, Laws of Florida.

Became a law without the Governor's approval May 28, 1998.

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