

CHAPTER 99-193

Committee Substitute for Committee Substitute for Senate Bill No. 1666

An act relating to child protection; amending s. 39.001, F.S., relating to purpose and intent of ch. 39, F.S.; conforming and clarifying provisions and references; creating s. 39.0014, F.S.; providing responsibilities of public agencies; amending s. 39.0015, F.S., relating to child abuse prevention training in the district school system; amending s. 39.01, F.S.; revising and conforming definitions; amending s. 39.011, F.S., relating to immunity from liability; amending s. 39.0121, F.S., relating to rulemaking authority; amending s. 39.013, F.S.; clarifying and conforming provisions relating to procedures, jurisdiction, and right to counsel; amending s. 39.0132, F.S.; reducing period the court must preserve records pertaining to a dependent child; providing for admission of termination of parental rights orders as evidence in subsequent proceedings; amending s. 39.0134, F.S.; providing for imposition and enforcement of liens for attorney's fees; amending s. 39.201, F.S.; clarifying provisions relating to mandatory reports of child abuse, abandonment, or neglect; amending s. 39.202, F.S.; revising provisions relating to confidentiality of reports and records; amending s. 39.203, F.S.; clarifying provisions relating to immunity from liability for reporting child abuse, abandonment, or neglect; amending s. 39.206, F.S., relating to imposition of administrative fines for false reporting; amending ss. 39.301 and 39.302, F.S.; revising provisions relating to initiation of protective investigation; amending s. 39.3035, F.S., relating to child advocacy centers; amending s. 39.304, F.S., relating to medical examination and treatment; amending ss. 39.311, 39.312, and 39.313, F.S., relating to the Family Builders Program; amending s. 39.395, F.S., relating to detaining a child; amending s. 39.401, F.S., relating to taking a child into custody; amending s. 39.402, F.S.; revising provisions relating to placement in a shelter; providing for parents' right to continuance of shelter hearing to obtain counsel; requiring the shelter order to require certain financial information from the parent; providing timeframe for review of shelter placement; amending s. 39.407, F.S., relating to medical and psychological examinations; amending s. 39.501, F.S., relating to petition for dependency; amending s. 39.502, F.S., relating to notice, process, and service; amending s. 39.503, F.S., relating to identifying or locating a parent; amending s. 39.504, F.S., relating to injunction pending disposition of petition; amending s. 39.506, F.S.; revising provisions relating to arraignment hearings; specifying when failure of a person to appear constitutes consent to a dependency adjudication; amending s. 39.507, F.S., relating to adjudicatory hearings; amending s. 39.508, F.S.; revising provisions relating to disposition hearings and orders; providing for permanency status of the child; specifying conditions for termination of departmental supervision and cessation of judicial reviews; amending s. 39.5085, F.S.; revising the department's authority to provide a relative caregiver benefit;

amending s. 39.509, F.S., relating to grandparents' rights; amending s. 39.510, F.S., relating to appeal; amending s. 39.601, F.S.; revising and clarifying case-plan requirements; amending s. 39.602, F.S., relating to case planning for a child in out-of-home care; amending s. 39.603, F.S.; conforming timeframes relating to court approvals of case planning; amending s. 39.701, F.S.; revising and clarifying timeframes relating to judicial reviews; specifying that notice is not required for persons present at the previous hearing; providing for a parent's partial compliance with the case plan; requiring that certain updated documentation be furnished to the court; amending s. 39.702, F.S., relating to citizen review panels; amending s. 39.703, F.S., relating to initiation of proceedings to terminate parental rights; amending s. 39.704, F.S., relating to exemption from judicial review; amending s. 39.801, F.S., relating to procedures, jurisdiction, and notice for termination of parental rights; providing notice and consequences regarding failure to appear at advisory hearings; providing for service of subpoenas by agents of the department or guardian ad litem; amending s. 39.802, F.S., relating to petition for termination of parental rights; amending s. 39.805, F.S., relating to answers to petition or pleadings; amending s. 39.806, F.S.; revising grounds for termination of parental rights; revising timeframe for identification or location of parent in provisions relating to termination of parental rights; amending s. 39.807, F.S., relating to right to counsel for indigent parents; revising an exclusion; revising timeframe for provision of certain reports to all parties; amending s. 39.808, F.S., relating to advisory hearing and pretrial status conference; amending s. 39.811, F.S., relating to powers and order of disposition; amending s. 39.814, F.S., relating to oaths, records, and confidential information; amending s. 39.815, F.S., relating to appeal; amending s. 39.822, F.S., relating to appointment of guardian ad litem for abused, abandoned, or neglected child; specifying timeframe for provision of reports to all parties; amending ss. 63.0427 and 419.001, F.S.; conforming cross-references; amending s. 784.046, F.S.; revising provisions relating to petition for injunction for protection against repeat violence; amending s. 409.26731, F.S.; authorizing the Department of Children and Family Services to annually certify local funds for state match for eligible Title IV-E expenditures; requiring a report; amending s. 921.0024, F.S., requiring a sentencing multiplier to be applied when domestic violence is committed in the presence of a minor child; amending s. 901.15, F.S.; providing a preferred arrest policy in the criminal investigation of child abuse; providing immunity for law enforcement for such arrests; providing an effective date.

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

Section 1. Paragraphs (g) and (j) of subsection (1) of section 39.001, Florida Statutes, 1998 Supplement, are amended to read:

39.001 Purposes and intent; personnel standards and screening.—

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

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

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

Section 2. Section 39.0014, Florida Statutes, is created to read:

39.0014 Responsibilities of public agencies.—All state, county, and local agencies shall cooperate, assist, and provide information to the department as will enable it to fulfill its responsibilities under this chapter.

Section 3. Paragraph (b) of subsection (3) and paragraph (a) of subsection (4) of section 39.0015, Florida Statutes, 1998 Supplement, are amended to read:

39.0015 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(1), (2), (30), (44), (46), (53), and (64), 827.04, and 984.03(1), (2), and (39).

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

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

Section 4. Section 39.01, Florida Statutes, 1998 Supplement, is amended to read:

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

(1) “Abandoned” means a situation in which the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the caregiver responsible for the child’s welfare, while being able, makes no provision for the child’s support and makes no effort to communicate with the child, which situation is sufficient to evince a willful rejection of parental obligations. If the efforts of such parent or legal custodian, or caregiver primarily responsible for the child’s welfare, to support and communicate with the child are, in the opinion of the court, only marginal efforts that do not evince a settled purpose to assume all parental duties, the court may declare the child to be

abandoned. The term “abandoned” does not include a “child in need of services” as defined in chapter 984 or a “family in need of services” as defined in chapter 984. The incarceration of a parent, legal custodian, or caregiver responsible for a child’s welfare may support a finding of abandonment.

(2) “Abuse” means any willful act or threatened act that results in any physical, mental, or sexual injury or harm that causes or is likely to cause the child’s physical, mental, or emotional health to be significantly impaired. ~~For the purpose of protective investigations, Abuse of a child includes the acts or omissions of the parent, legal custodian, caregiver, or other person responsible for the child’s welfare.~~ Corporal discipline of a child by a parent or, legal custodian, or caregiver for disciplinary purposes does not in itself constitute abuse when it does not result in harm to the child.

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

(4) “Adjudicatory hearing” means a hearing for the court to determine whether or not the facts support the allegations stated in the petition in dependency cases or in termination of parental rights cases.

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

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

(7) “Alleged juvenile sexual offender” means:

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

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

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

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

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

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

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

- c. Awareness of potential consequences and alternatives.
- d. Assumption that agreement or disagreement will be accepted equally.
- e. Voluntary decision.
- f. Mental competence.

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

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

(9) “Authorized agent” or “designee” of the department means an employee, volunteer, or other person or agency determined by the state to be eligible for state-funded risk management coverage, that is assigned or designated by the department to perform duties or exercise powers pursuant to this chapter.

(10) “Caregiver” means the parent, legal custodian, adult household member, or other person responsible for a child’s welfare as defined in subsection (48) ~~(47)~~.

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

(12) “Child” or “youth” means any unmarried person under the age of 18 years who has not been emancipated by order of the court ~~and who has been alleged or found to be dependent.~~

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

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

(a) To have been abandoned, abused, or neglected by the child’s parent or parents or, legal custodians, ~~or caregivers~~;

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

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

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

(e) To have no parent or legal custodians capable of providing, ~~legal custodian, or caregiver to provide~~ supervision and care; or

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

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

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

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

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

(19) "Department" means the Department of Children and Family Services.

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

(21) "Diligent efforts of social service agency" means reasonable efforts to provide social services or reunification services made by any social service agency that is a party to a case plan.

(22) "Diligent search" means the efforts of a social service agency to locate a parent or prospective parent whose identity or location is unknown,

initiated as soon as the social service agency is made aware of the existence of such parent, with the search progress reported at each court hearing until the parent is either identified and located or the court excuses further search.

(23) "Disposition hearing" means a hearing in which the court determines the most appropriate protections, services, and placement for the child ~~family support services in the least restrictive available setting in dependency cases or in termination of parental rights cases.~~

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

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

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

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

- (a) Harassing, embarrassing, or harming another person;
- (b) Personal financial gain for the reporting person;
- (c) Acquiring custody of a child; or
- (d) Personal benefit for the reporting person in any other private dispute involving a child.

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

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

- (a) The persons reside in the same house or living unit; or
- (b) The parent, legal custodian, ~~caregiver~~, or adult relative has a legal responsibility by blood, marriage, or court order to support or care for the child.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Eliminate the requirement that such a case be reported to the department;
2. Prevent the department from investigating such a case; or
3. Preclude a court from ordering, when the health of the child requires it, the provision of medical services by a physician, as defined in this section, or treatment by a duly accredited practitioner who relies solely on spiritual means for healing in accordance with the tenets and practices of a well-recognized church or religious organization.

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

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

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

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

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

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

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

(31) “Health and human services board” means the body created in each service district of the department pursuant to the provisions of s. 20.19(8).

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

(33) “Judge” means the circuit judge exercising jurisdiction pursuant to this chapter.

(34) “Legal custody” means a legal status created by court order or letter of guardianship which vests in a custodian of the person or guardian,

whether an agency or an individual, the right to have physical custody of the child and the right and duty to protect, train, and discipline the child and to provide him or her with food, shelter, education, and ordinary medical, dental, psychiatric, and psychological care. The legal custodian is the person or entity in whom the legal right to custody is vested. For purposes of this chapter only, when the phrase “parent or legal custodian” is used, it refers to rights or responsibilities of the parent and, only if there is no living parent with intact parental rights, to the rights or responsibilities of the legal custodian who has assumed the role of the parent.

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

(36) “Licensed child-caring agency” means a person, society, association, or agency licensed by the department to care for, receive, and board children.

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

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

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

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

(41) “Long-term relative custodian” means an adult relative who is a party to a long-term custodial relationship created by a court order pursuant to this chapter.

(42) “Long-term ~~relative~~ custody” or “long-term custodial relationship” means the relationship that a juvenile court order creates between a child and an adult relative of the child or other legal custodian caregiver approved by the court when the child cannot be placed in the custody of a ~~natural~~ parent and termination of parental rights is not deemed to be in the best interest of the child. Long-term ~~relative~~ custody confers upon the ~~long-term~~ relative or other legal custodian caregiver the right to physical custody of the child, a right which will not be disturbed by the court except upon request of the legal custodian caregiver or upon a showing that the best interest of the child a material change in circumstances necessitates a change of custody for ~~the best interest of the child~~. A ~~long-term~~ relative or other legal custodian who has been designated as a long-term custodian

caregiver shall have all of the rights and duties of a natural parent, including, but not limited to, the right and duty to protect, train, and discipline the child and to provide the child with food, shelter, and education, and ordinary medical, dental, psychiatric, and psychological care, unless these rights and duties are otherwise enlarged or limited by the court order establishing the long-term custodial relationship.

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

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

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

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

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

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

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

(47) ~~“Other person responsible for a child’s welfare” includes the child’s legal guardian, legal custodian, or foster parent; an employee of a private~~

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

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

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

(49) “Out-of-home” means a placement outside of the home of the parents or a parent.

(50)(49) “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 s. 39.503(1) 39.4051(4) or s. 63.062(1)(b). For purposes of this chapter only, when the phrase “parent or legal custodian” is used, it refers to rights or responsibilities of the parent and, only if there is no living parent with intact parental rights, to the rights or responsibilities of the legal custodian who has assumed the role of the parent.

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

(52)(51) “Party” means the parent or parents legal custodian of the child, the petitioner, the department, the guardian ad litem or the representative of the guardian ad litem program when the program has been appointed, and the child. The presence of the child may be excused by order of the court when presence would not be in the child's best interest. Notice to the child may be excused by order of the court when the age, capacity, or other

condition of the child is such that the notice would be meaningless or detrimental to the child.

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

(54)(53) “Physician” means any licensed physician, dentist, podiatric physician ~~podiatrist~~, or optometrist and includes any intern or resident.

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

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

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

(58)(57) “Protective investigation” means the acceptance of a report alleging child abuse, abandonment, or neglect, as defined in this chapter, by the central abuse hotline or the acceptance of a report of other dependency by the department; the investigation of each report; the determination of whether action by the court is warranted; the determination of the disposition of each report without court or public agency action when appropriate; and the referral of a child to another public or private agency when appropriate.

(59)(58) “Protective investigator” means an authorized agent of the department who receives and investigates reports of child abuse, abandonment, or neglect; who, as a result of the investigation, may recommend that a dependency petition be filed for the child; and who performs other duties necessary to carry out the required actions of the protective investigation function.

(60)(59) “Protective supervision” means a legal status in dependency cases which permits the child to remain safely in his or her own home or other nonlicensed placement under the supervision of an agent of the department and which must be reviewed by the court during the period of supervision.

(61)(60) “Relative” means a grandparent, great-grandparent, sibling, first cousin, aunt, uncle, great-aunt, great-uncle, niece, or nephew, whether

related by the whole or half blood, by affinity, or by adoption. The term does not include a stepparent.

~~(62)~~(61) “Reunification services” means social services and other supportive and rehabilitative services provided to the parent of the child, ~~the legal custodian of the child, or the caregiver of the child, whichever is applicable,~~ to the child, and, where appropriate, to the relative placement, non-relative placement, or foster parents of the child, for the purpose of enabling a child who has been placed in out-of-home care to safely return to his or her parent family at the earliest possible time. The health and safety of the child shall be the paramount goal of social services and other supportive and rehabilitative services. Such services shall promote the child’s need for physical, mental, and emotional health and a safe, stable, living environment, shall promote family autonomy, and shall strengthen family life, whenever possible.

~~(63)~~(62) “Secretary” means the Secretary of Children and Family Services.

~~(64)~~(63) “Sexual abuse of a child” means one or more of the following acts:

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

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

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

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

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

2. Any act intended for a valid medical purpose.

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

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

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

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

~~(65)~~(64) “Shelter” means a placement with a relative or a nonrelative, or in a licensed home or facility, place for the temporary care of a child who is alleged to be or who has been found to be dependent, pending court disposition before or after adjudication.

~~(66)~~(65) “Shelter hearing” means a hearing in which the court determines whether probable cause exists to keep a child in shelter status pending further investigation of the case.

~~(67)~~(66) “Social service agency” means the department, a licensed child-caring agency, or a licensed child-placing agency.

~~(68)~~(67) “Substance abuse” means using, without medical reason, any psychoactive or mood-altering drug, including alcohol, in such a manner as to induce impairment resulting in dysfunctional social behavior.

~~(69)~~(68) “Substantial compliance” means that the circumstances which caused the creation of the case plan have been significantly remedied to the extent that the well-being and safety of the child will not be endangered upon the child’s remaining with or being returned to the child’s parent, ~~legal custodian, or caregiver.~~

~~(70)~~(69) “Taken into custody” means the status of a child immediately when temporary physical control over the child is attained by a person authorized by law, pending the child’s release or placement.

~~(71)~~(70) “Temporary legal custody” means the relationship that a juvenile court creates between a child and an adult relative of the child, legal custodian, ~~or caregiver approved by the court,~~ or other person approved by the court until a more permanent arrangement is ordered. Temporary legal custody confers upon the custodian the right to have temporary physical custody of the child and the right and duty to protect, train, and discipline the child and to provide the child with food, shelter, and education, and ordinary medical, dental, psychiatric, and psychological care, unless these rights and duties are otherwise enlarged or limited by the court order establishing the temporary legal custody relationship.

~~(72)~~(71) “Victim” means any child who has sustained or is threatened with physical, mental, or emotional injury identified in a report involving child abuse, neglect, or abandonment, or child-on-child sexual abuse.

Section 5. Subsection (3) of section 39.011, Florida Statutes, 1998 Supplement, is amended to read:

39.011 Immunity from liability.—

(3) A member or agent of a citizen review panel acting in good faith is not liable for damages as a result of any review or recommendation with regard to a dependency foster care or shelter care matter unless such member or

agent exhibits wanton and willful disregard of human rights or safety, or property.

Section 6. Subsection (5) of section 39.0121, Florida Statutes, 1998 Supplement, is amended to read:

39.0121 Specific rulemaking authority.—Pursuant to the requirements of s. 120.536, the department is specifically authorized to adopt, amend, and repeal administrative rules which implement or interpret law or policy, or describe the procedure and practice requirements necessary to implement this chapter, including, but not limited to, the following:

(5) Requesting of services from child protection teams and services, and eligible cases.

Section 7. Subsections (3), (4), (5), and (7), paragraphs (a) and (c) of subsection (8), and paragraphs (b) and (d) of subsection (9) of section 39.013, Florida Statutes, 1998 Supplement, are amended to read:

39.013 Procedures and jurisdiction; right to counsel.—

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

(4) The court shall expedite the resolution of the placement issue in cases involving a child who has been removed from the parent family and placed in an out-of-home placement a shelter.

(5) The court shall expedite the judicial handling of all cases when the child has been removed from the parent family and placed in an out-of-home placement a shelter.

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

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

(c)1. No waiver of counsel may be accepted if it appears that the parent, ~~legal custodian, or caregiver~~ is unable to make an intelligent and under-

standing choice because of mental condition, age, education, experience, the nature or complexity of the case, or other factors.

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

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

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

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

1. Because of an unavailability of evidence material to the case when the attorney for the department or petitioner has exercised due diligence to obtain such evidence and there are substantial grounds to believe that such evidence will be available within 30 days. However, if the department or petitioner is not prepared to present its case within 30 days, the parent ~~or guardian~~ may move for issuance of an order to show cause or the court on its own motion may impose appropriate sanctions, which may include dismissal of the petition.

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

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

Section 8. Subsections (2) and (3) of section 39.0132, Florida Statutes, 1998 Supplement, are amended, and paragraph (e) is added to subsection (6) of that section, to read:

39.0132 Oaths, records, and confidential information.—

(2) The court shall make and keep records of all cases brought before it pursuant to this chapter and shall preserve the records pertaining to a dependent child until 7 ~~10~~ years after the last entry was made, or until the child is 18 years of age, whichever date is first reached, and may then destroy them, except that records of cases where orders were entered permanently depriving a parent of the custody of a juvenile shall be preserved permanently. The court shall make official records, consisting of all petitions and orders filed in a case arising pursuant to this part and any other pleadings, certificates, proofs of publication, summonses, warrants, and other writs which may be filed therein.

(3) The clerk shall keep all court records required by this part separate from other records of the circuit court. All court records required by this part shall not be open to inspection by the public. All records shall be inspected only upon order of the court by persons deemed by the court to have a proper

interest therein, except that, subject to the provisions of s. 63.162, a child and the parents, ~~legal custodians, or caregivers~~ of the child and their attorneys, guardian ad litem, law enforcement agencies, and the department and its designees shall always have the right to inspect and copy any official record pertaining to the child. The court may permit authorized representatives of recognized organizations compiling statistics for proper purposes to inspect and make abstracts from official records, under whatever conditions upon their use and disposition the court may deem proper, and may punish by contempt proceedings any violation of those conditions.

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

(e) Orders permanently and involuntarily terminating the rights of a parent shall be admissible as evidence in subsequent termination of parental rights proceedings for a sibling of the child for whom parental rights were terminated.

Section 9. Subsection (1) of section 39.0134, Florida Statutes, 1998 Supplement, is amended to read:

39.0134 Appointed counsel; compensation.—

(1) If counsel is entitled to receive compensation for representation pursuant to a court appointment in a dependency proceeding pursuant to this chapter, such compensation shall be established by each county. The county may acquire and enforce a lien upon court-ordered payment of attorney's fees and costs in accordance with s. 984.08.

Section 10. Subsection (1) of section 39.201, Florida Statutes, 1998 Supplement, is amended to read:

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

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

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

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

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

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

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

(f) Law enforcement officer,

who knows, or has reasonable cause to suspect, that a child is ~~an~~ abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child's welfare child shall report such knowledge or suspicion to the department in the manner prescribed in subsection (2).

Section 11. Subsection (1) and paragraphs (a), (d), and (i) of subsection (2) of section 39.202, Florida Statutes, 1998 Supplement, are amended to read:

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

(1) In order to protect the rights of the child and the child's parents or other persons responsible for the child's welfare, all records held by the department concerning reports of child abandonment, abuse, or neglect, including reports made to the central abuse hotline and all records generated as a result of such reports, shall be confidential and exempt from the provisions of s. 119.07(1) and shall not be disclosed except as specifically authorized by this chapter. Such exemption from s. 119.07(1) applies to information in the possession of those entities granted access as set forth in this section.

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

(a) Employees, authorized agents, or contract providers of the department, the Department of Health, or county agencies responsible for carrying out:

1. Child or adult protective investigations;;
2. Ongoing child or adult protective services;;
3. Healthy Start services; or
4. Licensure or approval of adoptive homes, foster homes, or child care facilities, or family day care homes or informal child care providers who receive subsidized child care funding, 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.

(d) ~~The parent, caregiver,~~ or legal custodian of any child who is alleged to have been abused, abandoned, or neglected, and the child, and their attorneys. 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.

(i) Any person authorized by the department who is engaged in the use of such records or information for bona fide research, statistical, or audit

purposes. Such individual or entity shall enter into a privacy and security agreement with the department and shall comply with all laws and rules governing the use of such records and information for research and statistical purposes. Information identifying the subjects of such records or information shall be treated as confidential by the researcher and shall not be released in any form. However, no information identifying the subjects of the report shall be made available to the researcher.

Section 12. Paragraph (a) of subsection (1) of section 39.203, Florida Statutes, 1998 Supplement, is amended to read:

39.203 Immunity from liability in cases of child abuse, abandonment, or neglect.—

(1)(a) Any person, official, or institution participating in good faith in any act authorized or required by this chapter, or reporting in good faith any instance of child abuse, abandonment, or neglect to the department or any law enforcement agency, shall be immune from any civil or criminal liability which might otherwise result by reason of such action.

Section 13. Subsection (5) of section 39.206, Florida Statutes, 1998 Supplement, is amended to read:

39.206 Administrative fines for false report of abuse, abandonment, or neglect of a child; civil damages.—

(5) At the administrative hearing, the department must prove by a preponderance of the evidence that the person filed a false report with the central abuse hotline. The administrative hearing officer ~~court~~ shall advise any person against whom a fine may be imposed of that person's right to be represented by counsel at the administrative hearing.

Section 14. Subsections (2), (5), (8), (11), (12), and (13), and paragraph (e) of subsection (6), of section 39.301, Florida Statutes, 1998 Supplement, are amended to read:

39.301 Initiation of protective investigations.—

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

1. The names of the investigators and identifying credentials from the department.

2. The purpose of the investigation.

3. The right to obtain his or her own attorney and ways that the information provided by the subject may be used.

4. The possible outcomes and services of the department's response shall be explained to the parent or legal custodian caregiver.

5. The right of the parent ~~or~~, legal custodian, ~~or caregiver~~ to be involved to the fullest extent possible in determining the nature of the allegation and the nature of any identified problem.

(b) The department's training program shall ensure that protective investigators know how to fully inform parents ~~or legal custodians, guardians, and caregivers~~ of their rights and options, including opportunities for audio or video recording of investigators' interviews with parents ~~or legal custodians, guardians, caretakers, or children.~~

(5) The person responsible for the investigation shall make a preliminary determination as to whether the report ~~or complaint~~ is complete, consulting with the attorney for the department when necessary. In any case in which the person responsible for the investigation finds that the report ~~or complaint~~ is incomplete, he or she shall return it without delay to the person or agency originating the report ~~or complaint~~ or having knowledge of the facts, or to the appropriate law enforcement agency having investigative jurisdiction, and request additional information in order to complete the report ~~or complaint~~; however, the confidentiality of any report filed in accordance with this chapter shall not be violated.

~~(a) If it is determined that the report or complaint is complete, after determining that such action would be in the best interests of the child, the attorney for the department shall file a petition for dependency.~~

~~(a)(b) If it is determined that the report or complaint is complete, but the interests of the child and the public will be best served by providing the child care or other treatment voluntarily accepted by the child and the parents, caregivers, or legal custodians, the protective investigator may refer the parent or legal custodian and child for such care or other treatment.~~

(b) If it is determined that the child is in need of the protection and supervision of the court, the department shall file a petition for dependency. A petition for dependency shall be filed in all cases classified by the department as high-risk cases, including, but not limited to, cases involving parents or legal custodians of a young age, the use of illegal drugs, or domestic violence.

~~(c) If the person conducting the investigation refuses to request the attorney for the department to file a petition for dependency is not being filed by the department, the person or agency originating the report complainant shall be advised of the right to file a petition pursuant to this part.~~

(6) For each report it receives, the department shall perform an onsite child protective investigation to:

(e) Based on the information obtained from available sources ~~the caregiver~~, complete the risk assessment instrument within 48 hours after the initial contact and, if needed, develop a case plan.

(8) If the department or its agent determines that a child requires immediate or long-term protection through:

(a) Medical or other health care; or

(b) Homemaker care, day care, protective supervision, or other services to stabilize the home environment, including intensive family preservation services through the Family Builders Program or, the Intensive Crisis Counseling Program, or both; ~~or~~

~~(c) Foster care, shelter care, or other substitute care to remove the child from the custody of the parents, legal guardians, or caregivers,~~

such services shall first be offered for voluntary acceptance unless there are high-risk factors that may impact the ability of the parents or, legal custodians ~~guardians, or caregivers~~ to exercise judgment. Such factors may include the parents' or, legal custodians' ~~guardians', or caregivers'~~ young age or history of substance abuse or domestic violence. The parents or, legal custodians, ~~or caregivers~~ shall be informed of the right to refuse services, as well as the responsibility of the department to protect the child regardless of the acceptance or refusal of services. If the services are refused and the department deems that the child's need for protection so requires, the department shall take the child into protective custody or petition the court as provided in this chapter.

(11) Immediately upon receipt of a report alleging, or immediately upon learning during the course of an investigation, that:

(a) The immediate safety or well-being of a child is endangered;

(b) The family is likely to flee;

(c) A child died as a result of abuse, abandonment, or neglect;

(d) A child is a victim of aggravated child abuse as defined in s. 827.03; ~~or~~

(e) A child is a victim of sexual battery or of sexual abuse,

the department shall orally notify the jurisdictionally responsible state attorney, and county sheriff's office or local police department, and, within 3 working days as soon as practicable, ~~transmit a full written~~ the report to those agencies. The law enforcement agency shall review the report and determine whether a criminal investigation needs to be conducted and shall assume lead responsibility for all criminal fact-finding activities. A criminal investigation shall be coordinated, whenever possible, with the child protective investigation of the department. Any interested person who has information regarding an offense described in this subsection may forward a statement to the state attorney as to whether prosecution is warranted and appropriate.

(12) In a child protective investigation or a criminal investigation, when the initial interview with the child is conducted at school, the department or the law enforcement agency may allow, notwithstanding the provisions of s. 39.0132(4), a school ~~instructional~~ staff member who is known by the child to be present during the initial interview if:

(a) The department or law enforcement agency believes that the school ~~instructional~~ staff member could enhance the success of the interview by his or her presence; and

(b) The child requests or consents to the presence of the school ~~instruc-~~~~tional~~ staff member at the interview.

School ~~instructional~~ staff may ~~only~~ be present only when authorized by this subsection. Information received during the interview or from any other source regarding the alleged abuse or neglect of the child shall be confidential and exempt from the provisions of s. 119.07(1), except as otherwise provided by court order. A separate record of the investigation of the abuse, abandonment, or neglect shall not be maintained by the school or school ~~instructional~~ staff member. Violation of this subsection constitutes a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(13) Within 15 days after the completion of the investigation of cases reported to him or her pursuant to this chapter section, the state attorney shall report his or her findings to the department and shall include in such report a determination of whether or not prosecution is justified and appropriate in view of the circumstances of the specific case.

Section 15. Subsection (1) of section 39.302, Florida Statutes, 1998 Supplement, is amended to read:

39.302 Protective investigations of institutional child abuse, abandonment, or neglect.—

(1) The department shall conduct a child protective investigation of each report of institutional child abuse, abandonment, or neglect. Upon receipt of a report which alleges that an employee or agent of the department, or any other entity or person covered by s. 39.01(32) or ~~(48)~~ (47), acting in an official capacity, has committed an act of child abuse, abandonment, or neglect, the department shall immediately initiate a child protective investigation and orally notify the appropriate state attorney, law enforcement agency, and licensing agency. These agencies shall immediately conduct a joint investigation, unless independent investigations are more feasible. When a facility is exempt from licensing, the department shall inform the owner or operator of the facility of the report. Each agency conducting a joint investigation shall be entitled to full access to the information gathered by the department in the course of the investigation. In all cases, the department shall make a full written report to the state attorney within 3 working days after making the oral report. A criminal investigation shall be coordinated, whenever possible, with the child protective investigation of the department. Any interested person who has information regarding the offenses described in this subsection may forward a statement to the state attorney as to whether prosecution is warranted and appropriate. Within 15 days after the completion of the investigation, the state attorney shall report the findings to the department and shall include in such report a determination of whether or not prosecution is justified and appropriate in view of the circumstances of the specific case.

Section 16. Paragraph (b) of subsection (1) of section 39.3035, Florida Statutes, 1998 Supplement, is amended to read:

39.3035 Child advocacy centers; standards; state funding.—

(1) In order to become eligible for a full membership in the Florida Network of Children's Advocacy Centers, Inc., a child advocacy center in this state shall:

(b) Be a child protection team, or by written agreement incorporate the participation and services of a child protection team, with established community protocols which meet all of the requirements of the National Network of Children's Advocacy Centers, Inc.

Section 17. Subsections (1) and (5) of section 39.304, Florida Statutes, 1998 Supplement, are amended to read:

39.304 Photographs, medical examinations, X rays, and medical treatment of abused, abandoned, or neglected child.—

(1) Any person required to investigate cases of suspected child abuse, abandonment, or neglect may take or cause to be taken photographs of the areas of trauma visible on a child who is the subject of a report. If the areas of trauma visible on a child indicate a need for a medical examination, or if the child verbally complains or otherwise exhibits distress as a result of injury through suspected child abuse, abandonment, or neglect, or is alleged to have been sexually abused, the person required to investigate may cause the child to be referred for diagnosis to a licensed physician or an emergency department in a hospital without the consent of the child's parents, ~~caregiver~~, or legal custodian. Such examination may be performed by any licensed physician or an advanced registered nurse practitioner licensed pursuant to chapter 464. Any licensed physician, or advanced registered nurse practitioner licensed pursuant to chapter 464, who has reasonable cause to suspect that an injury was the result of child abuse, abandonment, or neglect may authorize a radiological examination to be performed on the child without the consent of the child's parent, ~~caregiver~~, or legal custodian.

(5) The county in which the child is a resident shall bear the initial costs of the examination of the allegedly abused, abandoned, or neglected child; however, the parents, ~~caregiver~~, or legal custodian of the child shall be required to reimburse the county for the costs of such examination, other than an initial forensic physical examination as provided in s. 960.28, and to reimburse the department for the cost of the photographs taken pursuant to this section. A medical provider may not bill a child victim, directly or indirectly, for the cost of an initial forensic physical examination.

Section 18. Subsection (1) of section 39.311, Florida Statutes, 1998 Supplement, is amended to read:

39.311 Establishment of Family Builders Program.—

(1) Any Family Builders Program that is established by the department shall provide family preservation services:

- (a) To families whose children are at risk of imminent out-of-home placement because they are dependent;⁵⁷
- (b) To reunite families whose children have been removed and placed in foster care;⁵⁷ and
- (c) To maintain adoptive families intact who are at risk of fragmentation.

The Family Builders Program shall provide programs to achieve long-term changes within families that will allow children to remain with their families ~~as an alternative to the more expensive and potentially psychologically damaging program of out-of-home placement.~~

Section 19. Subsections (1), (5), and (10) of section 39.312, Florida Statutes, 1998 Supplement, are amended to read:

39.312 Goals.—The goals of any Family Builders Program shall be to:

(1) Ensure the protection of the child's ~~child~~ health and safety while working with the family.

(5) Assist and educate parents in ~~Perform~~ household maintenance, budgeting, and purchasing when parents are unable to do so on their own or need temporary relief.

(10) Provide such additional reasonable services for the prevention of child abuse, abandonment, and neglect ~~maltreatment and unnecessary foster care~~ as may be needed in order to strengthen a family at risk.

Section 20. Section 39.313, Florida Statutes, 1998 Supplement, is amended to read:

39.313 Contracting of services.—The department may contract for the delivery of Family Builders Program services by professionally qualified persons or local governments when it determines that it is in the child's ~~family's~~ best interest. The service provider or program operator must submit to the department monthly activity reports covering any services rendered. These activity reports must include project evaluation in relation to individual families being served, as well as statistical data concerning families referred for services who are not served due to the unavailability of resources. The costs of program evaluation are an allowable cost consideration in any service contract negotiated in accordance with this section.

Section 21. Section 39.395, Florida Statutes, 1998 Supplement, is amended to read:

39.395 Detaining a child; medical or hospital personnel.—Any person in charge of a hospital or similar institution, or any physician or licensed health care professional treating a child may detain that child without the consent of the parents, caregiver, or legal custodian, whether or not additional medical treatment is required, if the circumstances are such, or if the condition of the child is such that returning the child to the care or custody of the parents, caregiver, or legal custodian presents an imminent danger

to the child's life or physical or mental health. Any such person detaining a child shall immediately notify the department, whereupon the department shall immediately begin a child protective investigation in accordance with the provisions of this chapter and shall make every reasonable effort to immediately notify the parents, ~~caregiver~~, or legal custodian that such child has been detained. If the department determines, according to the criteria set forth in this chapter, that the child should be detained longer than 24 hours, it shall petition the court through the attorney representing the Department of Children and Family Services as quickly as possible and not to exceed 24 hours, for an order authorizing such custody in the same manner as if the child were placed in a shelter. The department shall attempt to avoid the placement of a child in an institution whenever possible.

Section 22. Paragraph (b) of subsection (1), paragraph (a) of subsection (2), and subsection (3) of section 39.401, Florida Statutes, 1998 Supplement, are amended to read:

39.401 Taking a child alleged to be dependent into custody; law enforcement officers and authorized agents of the department.—

(1) A child may only be taken into custody:

(b) By a law enforcement officer, or an authorized agent of the department, if the officer or authorized agent has probable cause to support a finding or reasonable grounds for removal and that removal is necessary to protect the child. ~~Reasonable grounds for removal are as follows:~~

1. That the child has been abused, neglected, or abandoned, or is suffering from or is in imminent danger of illness or injury as a result of abuse, neglect, or abandonment;

2. That the parent or, legal custodian, ~~caregiver, or responsible adult relative~~ of the child has materially violated a condition of placement imposed by the court; or

3. That the child has no parent, legal custodian, ~~caregiver~~, or responsible adult relative immediately known and available to provide supervision and care.

(2) If the law enforcement officer takes the child into custody, that officer shall:

(a) Release the child to:

1. The parent, ~~caregiver~~, or legal custodian of the child;

2. A responsible adult approved by the court when limited to temporary emergency situations;

3. A responsible adult relative who shall be given priority consideration over a nonrelative placement when this is in the best interests of the child; or

4. A responsible adult approved by the department; or

For cases involving allegations of abandonment, abuse, or neglect, or other dependency cases, within 3 days after such release or within 3 days after delivering the child to an authorized agent of the department, the law enforcement officer who took the child into custody shall make a full written report to the department.

(3) If the child is taken into custody by, or is delivered to, an authorized agent of the department, the authorized agent shall review the facts supporting the removal with an attorney representing the department. The purpose of this review shall be to determine whether probable cause exists for the filing of a shelter petition. If the facts are not sufficient to support the filing of a shelter petition, the child shall immediately be returned to the custody of the parent, ~~caregiver~~, or legal custodian. If the facts are sufficient to support the filing of the shelter petition and the child has not been returned to the custody of the parent or legal custodian, the department shall file the petition and schedule a hearing, and the attorney representing the department of Children and Family Services shall request that a shelter ~~such hearing to be held as quickly as possible, and not to exceed 24 hours after the removal of the child. While awaiting the shelter hearing, the authorized agent of the department may place the child in licensed shelter care or may release the child to a parent or, legal custodian, caregiver, or responsible adult relative who shall be given priority consideration over a licensed placement, or a responsible adult approved by the department when this is in the best interests of the child. Any placement of a child which is not in a licensed shelter must be preceded by a local and state criminal records check, as well as a search of the department's automated abuse information system, on all members of the household, to assess the child's safety within the home. In addition, the department may authorize placement of a housekeeper/homemaker in the home of a child alleged to be dependent until the parent or legal custodian assumes care of the child.~~

Section 23. Subsections (1), (5), (11), and (15), paragraph (b) of subsection (6), and paragraph (f) of subsection (8) of section 39.402, Florida Statutes, 1998 Supplement, are amended to read:

39.402 Placement in a shelter.—

(1) Unless ordered by the court under this chapter, a child taken into custody shall not be placed in a shelter prior to a court hearing unless there is probable cause to believe that are reasonable grounds for removal and removal is necessary to protect the child. Reasonable grounds for removal are as follows: ~~is probable cause to believe that are reasonable grounds for removal and removal is necessary to protect the child. Reasonable grounds for removal are as follows:~~

(a) The child has been abused, neglected, or abandoned, or is suffering from or is in imminent danger of illness or injury as a result of abuse, neglect, or abandonment;

(b) The parent or legal custodian of the child has materially violated a condition of placement imposed by the court; or

(c) The child has no parent, legal custodian, ~~caregiver~~, or responsible adult relative immediately known and available to provide supervision and care.

(5)(a) The parents or legal custodians of the child shall be given such notice as best ensures their actual knowledge notice of the date, time, and location of the shelter hearing. If the parents or legal custodians are outside the jurisdiction of the court, are not known, or cannot be located or refuse or evade service, they shall be given such notice as best ensures their actual knowledge of the date, time, and location of the shelter hearing. The person providing or attempting to provide notice to the parents or legal custodians shall, if the parents or legal custodians are not present at the hearing, advise the court either in person or by sworn affidavit, of the attempts made to provide notice and the results of those attempts.

(b) The parents or legal custodians shall be given written notice that:

1. They will be given an opportunity to be heard and to present evidence at the shelter hearing; and

2. They have the right to be represented by counsel, and, if indigent, the parents have the right to be represented by appointed counsel, at the shelter hearing and at each subsequent hearing or proceeding, pursuant to the procedures set forth in s. 39.013. If the parents or legal custodians appear for the shelter hearing without legal counsel, then, at their request, the shelter hearing may be continued up to 72 hours to enable the parents or legal custodians to consult legal counsel. If a continuance is requested by the parents or legal custodians, the child shall be continued in shelter care for the length of the continuance, if granted by the court.

(6)

(b) The shelter petition filed with the court must address each condition required to be determined by the court in paragraphs (8)(a), ~~and (b), (d), and (f).~~

(8)

(f) The order for placement of a child in shelter care must identify the parties present at the hearing and must contain written findings:

1. That placement in shelter care is necessary based on the criteria in subsections (1) and (2).

2. That placement in shelter care is in the best interest of the child.

3. That continuation of the child in the home is contrary to the welfare of the child because the home situation presents a substantial and immediate danger to the child's physical, mental, or emotional health or safety which cannot be mitigated by the provision of preventive services.

4. That based upon the allegations of the petition for placement in shelter care, there is probable cause to believe that the child is dependent.

5. That the department has made reasonable efforts to prevent or eliminate the need for removal of the child from the home. A finding of reasonable effort by the department to prevent or eliminate the need for removal may be made and the department is deemed to have made reasonable efforts to prevent or eliminate the need for removal if:

a. The first contact of the department with the family occurs during an emergency;

b. The appraisal of the home situation by the department indicates that the home situation presents a substantial and immediate danger to the child's physical, mental, or emotional health or safety which cannot be mitigated by the provision of preventive services;

c. The child cannot safely remain at home, either because there are no preventive services that can ensure the health and safety of the child or because, even with appropriate and available services being provided, the health and safety of the child cannot be ensured; or.

d. The parent or legal custodian is alleged to have committed any of the acts listed as grounds for expedited termination of parental rights in s. 39.806(1)(f)-(i).

6. That the court notified the parents or legal custodians of the time, date, and location of the next dependency hearing ~~subsequent dependency proceedings, including scheduled hearings,~~ and of the importance of the active participation of the parents or legal custodians in all ~~those subsequent proceedings and hearings.~~

7. That the court notified the parents or legal custodians of their right to counsel to represent them at the shelter hearing and at each subsequent hearing or proceeding, and the right of the parents to appointed counsel, pursuant to the procedures set forth in s. 39.013.

(11) If a child is placed in a shelter pursuant to a court order following a shelter hearing, the court shall require in the prepare ~~a shelter hearing order that requiring~~ the parents of the child, or the guardian of the child's estate, if possessed of assets which under law may be disbursed for the care, support, and maintenance of the child, to pay, to the department or institution having custody of the child, fees as established by the department. When the order affects the guardianship estate, a certified copy of the order shall be delivered to the judge having jurisdiction of the guardianship estate. The shelter order shall also require the parents to provide to the department and any other state agency or party designated by the court, within 28 days after entry of the shelter order, the financial information necessary to accurately calculate child support pursuant to s. 61.30.

(15) At the conclusion of a shelter hearing, the court shall notify all parties in writing of the next scheduled hearing to review the shelter placement. Such hearing shall be held no later than 30 days after placement of the child in shelter status, in conjunction with the arraignment hearing, and every 15 days thereafter until the child is released from shelter status.

Section 24. Subsections (1), (2), (3), (4), (5), and (11) of section 39.407, Florida Statutes, 1998 Supplement, are amended to read:

39.407 Medical, psychiatric, and psychological examination and treatment of child; physical or mental examination of parent or person requesting custody of child.—

(1) When any child is removed from the home and maintained in an out-of-home placement taken into custody and is to be detained in shelter care, the department is authorized to have a medical screening performed on the child without authorization from the court and without consent from a parent or legal custodian. Such medical screening shall be performed by a licensed health care professional and shall be to examine the child for injury, illness, and communicable diseases and to determine the need for immunization. The department shall by rule establish the invasiveness of the medical procedures authorized to be performed under this subsection. In no case does this subsection authorize the department to consent to medical treatment for such children.

(2) When the department has performed the medical screening authorized by subsection (1), or when it is otherwise determined by a licensed health care professional that a child who is in an out-of-home placement the custody of the department, but who has not been committed to the department, is in need of medical treatment, including the need for immunization, consent for medical treatment shall be obtained in the following manner:

(a)1. Consent to medical treatment shall be obtained from a parent or legal custodian of the child; or

2. A court order for such treatment shall be obtained.

(b) If a parent or legal custodian of the child is unavailable and his or her whereabouts cannot be reasonably ascertained, and it is after normal working hours so that a court order cannot reasonably be obtained, an authorized agent of the department shall have the authority to consent to necessary medical treatment, including immunization, for the child. The authority of the department to consent to medical treatment in this circumstance shall be limited to the time reasonably necessary to obtain court authorization.

(c) If a parent or legal custodian of the child is available but refuses to consent to the necessary treatment, including immunization, a court order shall be required unless the situation meets the definition of an emergency in s. 743.064 or the treatment needed is related to suspected abuse, abandonment, or neglect of the child by a parent, caregiver, or legal custodian. In such case, the department shall have the authority to consent to necessary medical treatment. This authority is limited to the time reasonably necessary to obtain court authorization.

In no case shall the department consent to sterilization, abortion, or termination of life support.

(3) A judge may order a child in an out-of-home placement ~~the physical custody of the department~~ to be examined by a licensed health care profes-

sional. The judge may also order such child to be evaluated by a psychiatrist or a psychologist, by a district school board educational needs assessment team, or, if a developmental disability is suspected or alleged, by the developmental disability diagnostic and evaluation team of the department. If it is necessary to place a child in a residential facility for such evaluation, then the criteria and procedure established in s. 394.463(2) or chapter 393 shall be used, whichever is applicable. The educational needs assessment provided by the district school board educational needs assessment team shall include, but not be limited to, reports of intelligence and achievement tests, screening for learning disabilities and other handicaps, and screening for the need for alternative education as defined in s. 230.23.

(4) A judge may order a child in an out-of-home placement ~~the physical custody of the department~~ to be treated by a licensed health care professional based on evidence that the child should receive treatment. The judge may also order such child to receive mental health or retardation services from a psychiatrist, psychologist, or other appropriate service provider. If it is necessary to place the child in a residential facility for such services, then the procedures and criteria established in s. 394.467 or chapter 393 shall be used, whichever is applicable. A child may be provided mental health or retardation services in emergency situations, pursuant to the procedures and criteria contained in s. 394.463(1) or chapter 393, whichever is applicable.

(5) When a child is in an out-of-home placement ~~the physical custody of the department~~, a licensed health care professional shall be immediately called if there are indications of physical injury or illness, or the child shall be taken to the nearest available hospital for emergency care.

(11) The parents or legal custodian of a child in an out-of-home placement ~~the physical custody of the department~~ remain financially responsible for the cost of medical treatment provided to the child even if either one or both of the parents or if the legal custodian did not consent to the medical treatment. After a hearing, the court may order the parents or legal custodian, if found able to do so, to reimburse the department or other provider of medical services for treatment provided.

Section 25. Paragraphs (a) and (d) of subsection (3) and subsection (4) of section 39.501, Florida Statutes, 1998 Supplement, are amended to read:

39.501 Petition for dependency.—

(3)(a) The petition shall be in writing, shall identify and list all parents, if known, and all current ~~caregivers or~~ legal custodians of the child, and shall be signed by the petitioner under oath stating the petitioner's good faith in filing the petition. When the petition is filed by the department, it shall be signed by an attorney for the department.

(d) The petitioner must state in the petition, if known, whether:

1. A parent ~~or~~, legal custodian, ~~or caregiver~~ named in the petition has previously unsuccessfully participated in voluntary services offered by the department;

2. A parent or legal custodian named in the petition has participated in mediation and whether a mediation agreement exists;
3. A parent or legal custodian has rejected the voluntary services offered by the department; or
4. The department has determined that voluntary services are not appropriate for the parent or legal custodian ~~this family~~ and the reasons for such determination.

(4) When a child has been placed in shelter status by order of the court, a petition alleging dependency must be filed ~~within 7 days upon demand of a party, but no later than 21 days after the shelter hearing, or within 7 days after any party files a demand for the early filing of a dependency petition, whichever comes first.~~ In all other cases, the petition must be filed within a reasonable time after the date the child was referred to protective investigation. The child's parent, ~~guardian,~~ or legal custodian must be served with a copy of the petition at least 72 hours before the arraignment hearing.

Section 26. Subsections (1), (4), (8), (10), and (13) of section 39.502, Florida Statutes, 1998 Supplement, are amended to read:

39.502 Notice, process, and service.—

(1) Unless parental rights have been terminated, all parents ~~and legal custodians~~ must be notified of all proceedings or hearings involving the child. Notice in cases involving shelter hearings and hearings resulting from medical emergencies must be that most likely to result in actual notice to the parents ~~and legal custodians~~. In all other dependency proceedings, notice must be provided in accordance with subsections (4) through (9).

(4) The summons shall require the person on whom it is served to appear for a hearing at a time and place specified, not less than 72 ~~24~~ hours after service of the summons. A copy of the petition shall be attached to the summons.

(8) It is not necessary to the validity of a proceeding covered by this part that the parents, ~~caregivers, or legal custodians~~ be present if their identity or residence is unknown after a diligent search has been made, but in this event the petitioner shall file an affidavit of diligent search prepared by the person who made the search and inquiry, and the court may appoint a guardian ad litem for the child.

(10) Service by publication shall not be required for dependency hearings and the failure to serve a party or give notice to a participant shall not affect the validity of an order of adjudication or disposition if the court finds that the petitioner has completed a diligent search for that party ~~or participant~~.

(13) Subpoenas may be served within the state by any person over 18 years of age who is not a party to the proceeding and, in addition, may be served by authorized agents of the department or the guardian ad litem.

Section 27. Subsections (1) and (6) of section 39.503, Florida Statutes, 1998 Supplement, are amended to read:

39.503 Identity or location of parent ~~or legal custodian~~ unknown; special procedures.—

(1) If the identity or location of a parent ~~or legal custodian~~ is unknown and a petition for dependency or shelter is filed, the court shall conduct the following inquiry of the parent or legal custodian who is available, or, if no parent or legal custodian is available, of any relative or custodian of the child who is present at the hearing and likely to have the information:

(a) Whether the mother of the child was married at the probable time of conception of the child or at the time of birth of the child.

(b) Whether the mother was cohabiting with a male at the probable time of conception of the child.

(c) Whether the mother has received payments or promises of support with respect to the child or because of her pregnancy from a man who claims to be the father.

(d) Whether the mother has named any man as the father on the birth certificate of the child or in connection with applying for or receiving public assistance.

(e) Whether any man has acknowledged or claimed paternity of the child in a jurisdiction in which the mother resided at the time of or since conception of the child, or in which the child has resided or resides.

(6) The diligent search required by subsection (5) must include, at a minimum, inquiries of all relatives of the parent or prospective parent made known to the petitioner, inquiries of all offices of program areas of the department likely to have information about the parent or prospective parent, inquiries of other state and federal agencies likely to have information about the parent or prospective parent, inquiries of appropriate utility and postal providers, and inquiries of appropriate law enforcement agencies. Pursuant to s. 453 of the Social Security Act, 42 U.S.C. s. 653(c)(~~B~~)(4), the department, as the state agency administering Titles IV-B and IV-E of the act, shall be provided access to the federal and state parent locator service for diligent search activities.

Section 28. Paragraph (a) of subsection (1) and paragraph (a) of subsection (3) of section 39.504, Florida Statutes, 1998 Supplement, are amended to read:

39.504 Injunction pending disposition of petition; penalty.—

(1)(a) When a petition for shelter placement ~~detention~~ or a petition for dependency has been filed or when a child has been taken into custody and reasonable cause, as defined in paragraph (b), exists, the court, upon the request of the department, a law enforcement officer, the state attorney, or other responsible person, or upon its own motion, shall have the authority to issue an injunction to prevent any act of child abuse or any unlawful sexual offense involving a child.

(3)(a) In every instance in which an injunction is issued under this section, the purpose of the injunction shall be primarily to protect and promote the best interests of the child, taking the preservation of the child's immediate family into consideration. The effective period of the injunction shall be determined by the court, except that the injunction will expire at the time of the disposition of the petition for shelter placement ~~detention~~ or dependency.

Section 29. Section 39.506, Florida Statutes, 1998 Supplement, is amended to read:

39.506 Arraignment hearings.—

(1) When a child has been sheltered ~~detained~~ by order of the court, an arraignment hearing must be held no later than 28 days after the shelter hearing, or, within 7 days after the date of filing of the dependency petition if a demand for early filing has been made by any party, for the parent or legal custodian to admit, deny, or consent to findings of dependency alleged in the petition. If the parent or legal custodian admits or consents to the findings in the petition, the court shall conduct a disposition hearing within 15 days after the arraignment hearing ~~proceed as set forth in the Florida Rules of Juvenile Procedure~~. However, if the parent or legal custodian denies any of the allegations of the petition, the court shall hold an adjudicatory hearing within 30 days after the date of the arraignment hearing unless a continuance is granted pursuant to this chapter.

(2) When a child is in the custody of the parent or legal custodian, upon the filing of a petition the clerk shall set a date for an arraignment hearing within a reasonable time after the date of the filing. If the parent or legal custodian admits or consents to an adjudication, the court shall conduct a disposition hearing within 15 days after the arraignment hearing ~~proceed as set forth in the Florida Rules of Juvenile Procedure~~. However, if the parent or legal custodian denies any of the allegations of dependency, the court shall hold an adjudicatory hearing within 30 days ~~a reasonable time~~ after the date of the arraignment hearing.

(3) Failure of a person served with notice to personally respond ~~or appear~~ at the arraignment hearing constitutes the person's consent to a dependency adjudication. The document containing the notice to respond or appear must contain, in type at least as large as the balance of the document, the following or substantially similar language: "FAILURE TO ~~RESPOND TO THIS NOTICE OR TO PERSONALLY APPEAR AT THE ARRAIGNMENT HEARING~~ CONSTITUTES CONSENT TO THE ADJUDICATION OF THIS CHILD (OR CHILDREN) AS A DEPENDENT CHILD (OR CHILDREN) AND MAY ULTIMATELY RESULT IN LOSS OF CUSTODY OF THIS CHILD (OR CHILDREN)." If a person appears for the arraignment hearing and the court orders that person to personally appear at the adjudicatory hearing for dependency, stating the date, time, and place of the adjudicatory hearing, then that person's failure to appear for the scheduled adjudicatory hearing constitutes consent to a dependency adjudication.

(4) At the arraignment hearing, each party shall provide to the court a permanent mailing address. The court shall advise each party that this

address will be used by the court and the petitioner for notice purposes unless and until the party notifies the court and the petitioner in writing of a new mailing address.

(5) If at the arraignment hearing the parent or legal custodian consents or admits to the allegations in the petition, the court shall proceed to hold a disposition ~~dispositional~~ hearing no more than 15 days after the date of the arraignment hearing unless a continuance is necessary.

(6) At any arraignment hearing, if the child is in an out-of-home placement, the court shall order visitation rights absent a clear and convincing showing that visitation is not in the best interest of the child.

(7) The court shall review whether the department has made a reasonable effort to prevent or eliminate the need for removal or continued removal of the child from the home. If the court determines that the department has not made such an effort, the court shall order the department to provide appropriate and available services to assure the protection of the child in the home when such services are necessary for the child's physical, mental, or emotional health and safety.

(8) At the arraignment hearing, and no more than every 15 days thereafter until the child is returned home or a disposition hearing has been conducted, the court shall review the necessity for the child's continued placement in the shelter. The court shall also make a written determination regarding the child's continued placement in shelter within 24 hours after any violation of the time requirements for the filing of a petition or prior to the court's granting any continuance as specified in subsection (5).

(9) At the conclusion of the arraignment hearing, all parties shall be notified in writing by the court of the date, time, and location for the next scheduled hearing.

Section 30. Subsections (2), (5), (6), and (7) of section 39.507, Florida Statutes, 1998 Supplement, are amended to read:

39.507 Adjudicatory hearings; orders of adjudication.—

(2) All hearings, except as provided in this section, shall be open to the public, and a person may not be excluded except on special order of the judge, who may close any hearing to the public upon determining that the public interest or the welfare of the child is best served by so doing. ~~However,~~ The parents or legal custodians shall be allowed to obtain discovery pursuant to the Florida Rules of Juvenile Procedure, provided such discovery does not violate. ~~However, nothing in this subsection shall be construed to affect the provisions of s. 39.202.~~ Hearings involving more than one child may be held simultaneously when the children involved are related to each other or were involved in the same case. The child and the parents, caregivers, or legal custodians of the child may be examined separately and apart from each other.

(5) If the court finds that the child named in the petition is dependent, but finds that no action other than supervision in the child's home is required, it may enter an order briefly stating the facts upon which its finding

is based, but withholding an order of adjudication and placing the child's home under the supervision of the department. If the court later finds that the parents, caregivers, or legal custodians of the child have not complied with the conditions of supervision imposed, the court may, after a hearing to establish the noncompliance, but without further evidence of the state of dependency, enter an order of adjudication and shall thereafter have full authority under this chapter to provide for the child as adjudicated. If the child is to remain in an out-of-home placement by order of the court, the court must adjudicate the child dependent.

(6) If the court finds that the child named in a petition is dependent, but chooses not to withhold adjudication or is prohibited from withholding adjudication shall elect not to proceed under subsection (5), it shall incorporate that finding in an order of adjudication entered in the case, briefly stating the facts upon which the finding is made, and the court shall thereafter have full authority under this chapter to provide for the child as adjudicated.

(7) At the conclusion of the adjudicatory hearing, if the child named in the petition is found dependent, the court shall schedule the disposition hearing within 30 days after the last day of the adjudicatory hearing the filing of the adjudicatory order. All parties shall be notified in writing at the conclusion of the adjudicatory hearing by the clerk of the court of the date, time, and location of the disposition hearing.

Section 31. Section 39.508, Florida Statutes, 1998 Supplement, is amended to read:

39.508 Disposition hearings; powers of disposition.—

(1) At the disposition hearing, if the court finds that the facts alleged in the petition for dependency were proven in the adjudicatory hearing, or if the parents, caregivers, or legal custodians have consented to the finding of dependency or admitted the allegations in the petition, have failed to appear for the arraignment hearing after proper notice, or have not been located despite a diligent search having been conducted, the court shall receive and consider a case plan and a predisposition study, which must be in writing and presented by an authorized agent of the department.

(2) The predisposition study shall cover for any dependent child all factors specified in s. 61.13(3), and must also provide the court with the following documented information:

(a) An assessment defining the dangers and risks of returning the child home, including a description of the changes in and resolutions to the initial risks.

(b) A description of what risks are still present and what resources are available and will be provided for the protection and safety of the child.

(c) A description of the benefits of returning the child home.

(d) A description of all unresolved issues.

(e) An abuse registry history and criminal records check for all caregivers, family members, and individuals residing within the household.

(f) The complete report and recommendation of the child protection team of the Department of Health or, if no report exists, a statement reflecting that no report has been made.

(g) All opinions or recommendations from other professionals or agencies that provide evaluative, social, reunification, or other services to the parent and child family.

(h) The availability of appropriate prevention and reunification services for the parent and child family to prevent the removal of the child from the home or to reunify the child with the parent family after removal, including the availability of family preservation services through the Family Builders Program, the Intensive Crisis Counseling Program, or both.

(i) The inappropriateness of other prevention and reunification services that were available.

(j) The efforts by the department to prevent out-of-home placement of the child or, when applicable, to reunify the parent and child family if appropriate services were available, including the application of intensive family preservation services through the Family Builders Program, the Intensive Crisis Counseling Program, or both.

(k) Whether the services were provided to the parent family and child.

(l) If the services were provided, whether they were sufficient to meet the needs of the child and the parent family and to enable the child to remain safely at home or to be returned home.

(m) If the services were not provided, the reasons for such lack of action.

(n) The need for, or appropriateness of, continuing the services if the child remains in the custody of the parent family or if the child is placed outside the home.

(o) Whether dependency family mediation was provided.

(p) If the child has been removed from the home and there is a parent, ~~caregiver~~, or legal custodian who may be considered for custody pursuant to this section, a recommendation as to whether placement of the child with that parent, ~~caregiver~~, or legal custodian would be detrimental to the child.

(q) If the child has been removed from the home and will be remaining with a relative or other adult approved by the court caregiver, a home study report concerning the proposed placement shall be included in the predisposition report.

(r) If the child has been removed from the home, a determination of the amount of child support each parent will be required to pay pursuant to s. 61.30.

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

(3)(a)1. Notwithstanding s. 435.045(1), the department may place a child in a foster home which otherwise meets licensing requirements if state and local criminal records checks do not disqualify the applicant, and the department has submitted fingerprint information to the Florida Department of Law Enforcement for forwarding to the Federal Bureau of Investigation and is awaiting the results of the federal criminal records check.

2. Prospective and approved foster parents must disclose to the department any prior or pending local, state or federal criminal proceedings in which they are or have been involved.

(b)(a) Prior to recommending to the court any out-of-home placement for a child other than placement in a licensed shelter or foster home, the department shall conduct a study of the home of the proposed legal custodians caregivers, which must include, at a minimum:

1. An interview with the proposed legal custodians ~~adult caregivers~~ to assess their ongoing commitment and ability to care for the child.

2. Records checks through the department's automated abuse information system, and local and statewide criminal and juvenile records checks through the Department of Law Enforcement, on all household members 12 years of age or older and any other persons made known to the department who are frequent visitors in the home.

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

4. A determination of the financial security of the proposed legal custodians ~~caregivers~~.

5. A determination of suitable child care arrangements if the proposed legal custodians ~~caregivers~~ are employed outside of the home.

6. Documentation of counseling and information provided to the proposed legal custodians ~~caregivers~~ regarding the dependency process and possible outcomes.

7. Documentation that information regarding support services available in the community has been provided to the proposed legal custodians ~~caregivers~~.

(c)(b) The department shall not place the child or continue the placement of the child in the home of the proposed legal custodians ~~caregivers~~ if the results of the home study are unfavorable.

(4) If placement of the child with anyone other than the child's parent, ~~caregiver, or legal custodian~~ is being considered, the predisposition study

shall include the designation of a specific length of time as to when custody by the parent, ~~caregiver, or legal custodian~~ will be reconsidered.

(5) The predisposition study may not be made before the adjudication of dependency unless the parents, ~~caregivers, or legal custodians~~ of the child consent.

(6) A case plan and predisposition study must be filed with the court and served upon the parents, ~~caregivers, or legal custodians~~ of the child, provided to the representative of the guardian ad litem program, if the program has been appointed, and provided to all other parties not less than 72 hours before the disposition hearing. All such case plans must be approved by the court. If the court does not approve the case plan at the disposition hearing, the court must set a hearing within 30 days after the disposition hearing to review and approve the case plan.

(7) The initial judicial review must be held no later than 90 days after the date of the disposition hearing or after the date of the hearing at which the court approves the case plan, ~~whichever occurs earlier~~, but in no event shall the review be held later than 6 months after the date of the child's removal from the home.

(8) When any child is adjudicated by a court to be dependent, and the court finds that removal of the child from the custody of a parent ~~or, legal custodian, or caregiver~~ is necessary, the court shall first determine whether there is a parent with whom the child was not residing at the time the events or conditions arose that brought the child within the jurisdiction of the court who desires to assume custody of the child and, if such parent requests custody, the court shall place the child with the parent unless it finds that such placement would endanger the safety, well-being, or physical, mental, or emotional health of the child. Any party with knowledge of the facts may present to the court evidence regarding whether the placement will endanger the safety, well-being, or physical, mental, or emotional health of the child. If the court places the child with such parent, it may do either of the following:

(a) Order that the parent assume sole custodial responsibilities for become the legal and physical custodian of the child. The court may also provide for reasonable visitation by the noncustodial parent. The court may ~~shall~~ then terminate its jurisdiction over the child. The custody order shall continue unless modified by a subsequent order of the circuit court hearing dependency matters. The order of the circuit juvenile court hearing dependency matters shall be filed in any dissolution or other custody action or proceeding between the parents and shall take precedence over other custody and visitation orders entered in those actions.

(b) Order that the parent assume custody subject to the jurisdiction of the circuit juvenile court hearing dependency matters. The court may order that reunification services be provided to the parent, ~~caregiver, or legal custodian~~ from whom the child has been removed, that services be provided solely to the parent who is assuming physical custody in order to allow that parent to retain later custody without court jurisdiction, or that services be provided to both parents, in which case the court shall determine at every

review hearing which parent, if either, shall have custody of the child. The standard for changing custody of the child from one parent to another or to a relative or another adult approved by the court shall be the best interest of the child ~~caregiver must meet the home study criteria and court approval pursuant to this chapter.~~

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

1. Require the parent, ~~caregiver~~, or legal custodian, and the child when appropriate, to participate in treatment and services identified as necessary.

2. Require the parent, ~~caregiver~~, or legal custodian, and the child when appropriate, to participate in mediation if the parent, ~~caregiver~~, or legal custodian refused to participate in mediation.

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 another adult a caregiver approved by the court, or in some other suitable place under such reasonable conditions as the court may direct. Protective supervision continues until the court terminates it or until the child reaches the age of 18, whichever date is first. Protective supervision shall be terminated by the court whenever the court determines that permanency has been achieved for the child, whether with a parent, another relative, or a legal custodian, ~~or a caregiver~~, and that protective supervision is no longer needed. The termination of supervision may be with or without retaining jurisdiction, at the court's discretion, and shall in either case be considered a permanency option for the child. The order terminating supervision by the department shall set forth the powers of the custodian of the child and shall include the powers ordinarily granted to a guardian of the person of a minor unless otherwise specified. Upon the court's termination of supervision by the department, no further judicial reviews are required, so long as permanency has been established for the child.

4. Place the child in the temporary legal custody of an adult relative or other adult caregiver approved by the court who is willing to care for the child. The department must supervise this placement until the child reaches permanency status in this home, and in no case for a period of less than 6 months. Permanency in a relative placement shall be by adoption, long-term custody, or guardianship.

5.a. When the parents have failed to comply with a case plan and the court determines at a judicial review hearing, or at an adjudication hearing held pursuant to 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 other adult caregiver approved by the court willing to care for the child, if all of the following conditions are met:

(I) A case plan describing the responsibilities of the relative or other adult caregiver, the department, and any other party must have been submitted to the court.

(II) The case plan for the child does not include reunification with the parents or adoption by the relative or other adult caregiver.

(III) The child and the relative or other adult caregiver 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, should the parent demonstrate a material change in circumstances and the return of the child to the parent is in the child's best interest.

(V) The court has considered the reasonable preference of the child if the court has found the child to be of sufficient intelligence, understanding, and experience to express a preference.

(VI) The court has considered the recommendation of the guardian ad litem if one has been appointed.

(VII) The relative or other adult has made a commitment to provide for the child until the child reaches the age of majority and to prepare the child for adulthood and independence.

(VIII) The relative or other adult agrees not to return the child to the physical care and custody of the person from whom the child was removed, including for short visitation periods, without the approval of the court.

b. The court shall retain jurisdiction over the case, and the child shall remain in the long-term custody of the relative or other adult caregiver approved by the court until the order creating the long-term custodial relationship is modified by the court. The court shall discontinue regular judicial review hearings and 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. The child must be in the placement for a minimum of 6 continuous months before the court may consider termination of the department's supervision. 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 shall set forth the powers of the custodian of the child and shall include the powers ordinarily granted to a guardian of the person of a minor unless otherwise specified. The court may modify the order terminating supervision of the long-term ~~relative or caregiver~~ placement if it finds that ~~a party to the proceeding has shown a material change in circumstances which causes the long-term relative or caregiver placement is to be~~ no longer in the best interest of the child.

6.a. Approve placement of the child in long-term out-of-home care, when the following conditions are met:

(I) The foster child is 16 years of age or older, unless the court determines that the history or condition of a younger child makes long-term out-of-home care the most appropriate placement.

(II) The child demonstrates no desire to be placed in an independent living arrangement pursuant to this subsection.

(III) The department's social services study pursuant to part VIII recommends long-term out-of-home care.

b. Long-term out-of-home care under the above conditions shall not be considered a permanency option.

b.c. The court may approve placement of the child in long-term out-of-home care, as a permanency option, when all of the following conditions are met:

(I) The child is 14 years of age or older.⁵

(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.⁵

(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.⁵ ~~and~~

(IV) The child has remained in the home for a continuous period of no less than 12 months.

(V) The foster parents and the child view one another as family and consider living together as the best place for the child to be on a permanent basis.

(VI) The department's social services study recommends such placement and finds the child's well-being has been promoted through living with the foster parents.

d. Notwithstanding the retention of jurisdiction and supervision by the department, long-term out-of-home care placements made pursuant to this section shall be considered a permanency option for the child. For purposes of this subsection, supervision by the department shall be defined as a minimum of semiannual visits. The order placing the child in long-term out-of-home care as a permanency option shall set forth the powers of the custodian of the child and shall include the powers ordinarily granted to a guardian of the person of a minor unless otherwise specified. The court may modify the permanency option of long-term out-of-home care if it finds that ~~a party to the proceeding has shown a material change in circumstances which causes the placement~~ is to be no longer in the best interests of the child.

c.e. Approve placement of the child in an independent living arrangement for any foster child 16 years of age or older, if it can be clearly estab-

lished that this type of alternate care arrangement is the most appropriate plan and that the health, safety, and well-being of the child will not be jeopardized by such an arrangement. While in independent living situations, children whose legal custody has been awarded to the department or a licensed child-caring or child-placing agency, or who have been voluntarily placed with such an agency by a parent, guardian, relative, or adult ~~nonrelative~~ approved by the court, continue to be subject to court review provisions.

7. Commit the child to 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 court-approved ~~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 this chapter.

8.a. Change the temporary legal custody or the conditions of protective supervision at a postdisposition hearing ~~subsequent to the initial detention hearing~~, without the necessity of another adjudicatory hearing. A child who has been placed in the child's own home under the protective supervision of an authorized agent of the department, in the home of a relative, in the home of a legal custodian or caregiver, 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 legal custodians deny the need for a change, the court shall hear all parties in person or by counsel, or both. Upon the admission of a need for a change or after such hearing, the court shall enter an order changing the placement, modifying the conditions of protective supervision, or continuing the conditions of protective supervision as ordered. The standard for changing custody of the child shall be the best interest of the child. If the child is not placed in foster care, then the new placement for the child ~~from one parent to another or to a relative or caregiver~~ must meet the home study criteria and court approval pursuant to this chapter.

b. In cases where the issue before the court is whether a child should be reunited with a parent, the court shall determine whether the parent has substantially complied with the terms of the case plan to the extent that the safety, well-being, and physical, mental, and emotional health of the child is not endangered by the return of the child to the home.

(b) The court shall, in its written order of disposition, include all of the following:

1. The placement or custody of the child as provided in paragraph (a).
2. Special conditions of placement and visitation.
3. Evaluation, counseling, treatment activities, and other actions to be taken by the parties, if ordered.

4. The persons or entities responsible for supervising or monitoring services to the child and parent family.

5. Continuation or discharge of the guardian ad litem, as appropriate.

6. The date, time, and location of the next scheduled review hearing, which must occur ~~within 90 days after the disposition hearing~~ or within the earlier of:

a. Ninety days after the disposition hearing;

b. Ninety days after the court accepts the case plan;

~~c.a.~~ Six months after the date of the last review hearing; or

~~d.b.~~ Six months after the date of the child's removal from his or her home, if no review hearing has been held since the child's removal from the home.

7. Other requirements necessary to protect the health, safety, and well-being of the child, to preserve the stability of the child's educational placement, and to promote family preservation or reunification whenever possible.

(c) If the court finds that the prevention or reunification efforts of the department will allow the child to remain safely at home or be safely returned to the home, the court shall allow the child to remain in or return to the home after making a specific finding of fact that the reasons for removal have been remedied to the extent that the child's safety, well-being, and physical, mental, and emotional health will not be endangered.

(d) If the court ~~places~~ ~~commits~~ the child in an out-of-home placement ~~to the temporary legal custody of the department~~, the disposition order must include a written determination that the child cannot safely remain at home with reunification or family preservation services and that removal of the child is necessary to protect the child. If the child has been removed before the disposition hearing, the order must also include a written determination as to whether, after removal, the department has made a reasonable effort to reunify the parent and child, if reasonable efforts are required family. Reasonable efforts to reunify are not required if the court has found that any of the acts listed in s. 39.806(1)(f)-(i) have occurred. The department has the burden of demonstrating that it has made reasonable efforts under this paragraph.

1. For the purposes of this paragraph, the term "reasonable effort" means the exercise of reasonable diligence and care by the department to provide the services delineated in the case plan.

2. In support of its determination as to whether reasonable efforts have been made, the court shall:

a. Enter written findings as to whether or not prevention or reunification efforts were indicated.

b. If prevention or reunification efforts were indicated, include a brief written description of what appropriate and available prevention and reunification efforts were made.

c. Indicate in writing why further efforts could or could not have prevented or shortened the separation of the parent and child family.

3. A court may find that the department has made a reasonable effort to prevent or eliminate the need for removal if:

a. The first contact of the department with the family occurs during an emergency;~~;~~

b. The appraisal by the department of the home situation indicates that it presents a substantial and immediate danger to the child's safety or physical, mental, or emotional health which cannot be mitigated by the provision of preventive services;~~;~~

c. The child cannot safely remain at home, either because there are no preventive services that can ensure the health and safety of the child or, even with appropriate and available services being provided, the health and safety of the child cannot be ensured; or.

d. The parent or legal guardian is alleged to have committed any of the acts listed as grounds for expedited termination of parental rights in s. 39.806(1)(f)-(i).

4. A reasonable effort by the department for reunification of the parent and child family has been made if the appraisal of the home situation by the department indicates that the severity of the conditions of dependency is such that reunification efforts are inappropriate. The department has the burden of demonstrating to the court that reunification efforts were inappropriate.

5. If the court finds that the prevention or reunification effort of the department would not have permitted the child to remain safely at home, the court may commit the child to the temporary legal custody of the department or take any other action authorized by this chapter.

(10)(a) When any child is adjudicated by the court to be dependent and temporary legal custody of the child has been placed with an adult relative, legal guardian, or other adult caregiver approved by the court, a licensed child-caring agency, or the department, the court shall, unless a parent has voluntarily executed a written surrender for purposes of adoption, order the parents, or the guardian of the child's estate if possessed of assets which under law may be disbursed for the care, support, and maintenance of the child, to pay child support to the ~~adult relative, legal guardian, or caregiver~~ caring for the child, the licensed child-caring agency, or the department. The court may exercise jurisdiction over all child support matters, shall adjudicate the financial obligation, including health insurance, of the child's parents or guardian, and shall enforce the financial obligation as provided in chapter 61. The state's child support enforcement agency shall enforce child support orders under this section in the same manner as child support orders under chapter 61.

(b) Placement of the child pursuant to subsection (8) shall not be contingent upon issuance of a support order.

(11)(a) If the court does not commit the child to the temporary legal custody of an adult relative, legal custodian, or other adult caregiver approved by the court, the disposition order shall include the reasons for such a decision and shall include a determination as to whether diligent efforts were made by the department to locate an adult relative, legal custodian, or other adult caregiver willing to care for the child in order to present that placement option to the court instead of placement with the department.

(b) If diligent efforts are made to locate an adult relative willing and able to care for the child but, because no suitable relative is found, the child is placed with the department or a legal custodian or other adult approved by the court caregiver, both the department and the court shall consider transferring temporary legal custody to an adult relative approved by the court at a later date, but neither the department nor the court is obligated to so place the child if it is in the child's best interest to remain in the current placement. For the purposes of this paragraph, "diligent efforts to locate an adult relative" means a search similar to the diligent search for a parent, but without the continuing obligation to search after an initial adequate search is completed.

(12) An agency granted legal custody shall have the right to determine where and with whom the child shall live, but an individual granted legal custody shall exercise all rights and duties personally unless otherwise ordered by the court.

(13) In carrying out the provisions of this chapter, the court may order the ~~natural parents, caregivers,~~ or legal custodians of a child who is found to be dependent to participate in family counseling and other professional counseling activities deemed necessary for the rehabilitation of the child.

(14) With respect to a child who is the subject in proceedings under this chapter, the court shall issue to the department an order to show cause why it should not return the child to the custody of the ~~natural parents, legal custodians, or caregivers~~ upon expiration of the case plan, or sooner if the ~~parents, legal custodians, or caregivers~~ have substantially complied with the case plan.

(15) The court may ~~at any time~~ enter an order ending its jurisdiction over ~~a any child, except that,~~ when a child has been returned to the parents under subsection (14), provided the court shall not terminate its jurisdiction or the department's supervision over the child until 6 months after the child's return. ~~Based on a report of the department or agency or the child's guardian ad litem, and any other relevant factors,~~ The court shall ~~then~~ determine whether its jurisdiction should be continued or terminated in such a case based on a report of the department or agency or the child's guardian ad litem, and any other relevant factors; if its jurisdiction is to be terminated, the court shall enter an order to that effect.

Section 32. Paragraphs (a) and (d) of subsection (2) of section 39.5085, Florida Statutes, 1998 Supplement, are amended to read:

39.5085 Relative Caregiver Program.—

(2)(a) The Department of Children and Family Services shall establish and operate the Relative Caregiver Program pursuant to eligibility guidelines established in this section as further implemented by rule of the department. The Relative Caregiver Program shall, within the limits of available funding, provide financial assistance to relatives who are within the fifth degree by blood or marriage to the parent or stepparent of a child and who are caring full-time for that child in the role of substitute parent as a result of a court's departmental ~~departmental~~ determination of child abuse, neglect, or abandonment and subsequent placement with the relative pursuant to this chapter. Such placement may be either court-ordered temporary legal custody to the relative pursuant to s. 39.508(9)(a)4., or court-ordered placement in the home of a relative under protective supervision of the department pursuant to s. 39.508(9)(a)3. The Relative Caregiver Program shall offer financial assistance to caregivers who are relatives and who would be unable to serve in that capacity without the relative caregiver payment because of financial burden, thus exposing the child to the trauma of placement in a shelter or in foster care.

(d) Relatives who are caring for children placed with them by the court pursuant to this chapter ~~child protection system~~ shall receive a special monthly relative caregiver benefit established by rule of the department. The amount of the special benefit payment shall be based on the child's age within a payment schedule established by rule of the department and subject to availability of funding. The statewide average monthly rate for children judicially placed with relatives who are not licensed as foster homes may not exceed 82 percent of the statewide average foster care rate, nor may the cost of providing the assistance described in this section to any relative caregiver exceed the cost of providing out-of-home care in emergency shelter or foster care.

Section 33. Section 39.509, Florida Statutes, 1998 Supplement, is amended to read:

39.509 Grandparents rights.—Notwithstanding any other provision of law, a maternal or paternal grandparent as well as a stepgrandparent is entitled to reasonable visitation with his or her grandchild who has been adjudicated a dependent child and taken from the physical custody of the parent, ~~custodian, legal guardian, or caregiver~~ unless the court finds that such visitation is not in the best interest of the child or that such visitation would interfere with the goals of the case plan. Reasonable visitation may be unsupervised and, where appropriate and feasible, may be frequent and continuing.

(1) Grandparent visitation may take place in the home of the grandparent unless there is a compelling reason for denying such a visitation. The department's caseworker shall arrange the visitation to which a grandparent is entitled pursuant to this section. The state shall not charge a fee for any costs associated with arranging the visitation. However, the grandparent shall pay for the child's cost of transportation when the visitation is to take place in the grandparent's home. The caseworker shall document the reasons for any decision to restrict a grandparent's visitation.

(2) A grandparent entitled to visitation pursuant to this section shall not be restricted from appropriate displays of affection to the child, such as appropriately hugging or kissing his or her grandchild. Gifts, cards, and letters from the grandparent and other family members shall not be denied to a child who has been adjudicated a dependent child.

(3) Any attempt by a grandparent to facilitate a meeting between the child who has been adjudicated a dependent child and the child's parent or legal, custodian, or any other person legal guardian, or caregiver in violation of a court order shall automatically terminate future visitation rights of the grandparent.

(4) When the child has been returned to the physical custody of his or her parent or permanent custodian, legal guardian, or caregiver, the visitation rights granted pursuant to this section shall terminate.

(5) The termination of parental rights does not affect the rights of grandparents unless the court finds that such visitation is not in the best interest of the child or that such visitation would interfere with the goals of permanency planning for the child.

(6) In determining whether grandparental visitation is not in the child's best interest, consideration may be given to the finding of guilt, regardless of adjudication, or entry or plea of guilty or nolo contendere to charges under the following statutes, or similar statutes of other jurisdictions: s. 787.04, relating to removing minors from the state or concealing minors contrary to court order; s. 794.011, relating to sexual battery; s. 798.02, relating to lewd and lascivious behavior; chapter 800, relating to lewdness and indecent exposure; or chapter 827, relating to the abuse of children. Consideration may also be given to a report finding of confirmed abuse, abandonment, or neglect under ss. 415.101-415.113 or this chapter and the outcome of the investigation concerning such report.

Section 34. Subsections (1) and (2) of section 39.510, Florida Statutes, 1998 Supplement, are amended to read:

39.510 Appeal.—

(1) ~~Any child, parent, guardian ad litem, caregiver, or legal custodian of any child, any other party to the proceeding who is affected by an order of the court, or the department may appeal to the appropriate district court of appeal within the time and in the manner prescribed by the Florida Rules of Appellate Procedure. Appointed counsel shall be compensated as provided in this chapter.~~

(2) When the notice of appeal is filed in the circuit court by a party other than the department, an attorney for the department shall represent the state and the court upon appeal and shall be notified of the appeal by the clerk ~~when the notice of appeal is filed in the circuit court by a party other than the department.~~

Section 35. Section 39.601, Florida Statutes, 1998 Supplement, is amended to read:

39.601 Case plan requirements.—

(1) The department or agent of the department shall develop a case plan for each child ~~or child's family~~ receiving services pursuant to this chapter. A parent, ~~caregiver, or legal custodian~~ of a child may not be required nor coerced through threat of loss of custody or parental rights to admit in the case plan to abusing, neglecting, or abandoning a child. Where dependency mediation services are available and appropriate to the best interests of the child, the court may refer the case to mediation for development of a case plan. This section does not change the provisions of s. 39.807.

(a) The case plan must be developed in conference with the parent, ~~caregiver, or legal custodian~~ of the child and any court-appointed guardian ad litem and, if appropriate, the child.

(b) The case plan must be written simply and clearly in English and, if English is not the principal language of the child's parent, ~~caregiver, or legal custodian~~, to the extent possible in such principal language.

(c) The case plan must describe the minimum number of face-to-face meetings to be held each month between the parents, ~~caregivers, or legal custodians~~ and the department's caseworkers to review progress of the plan, to eliminate barriers to progress, and to resolve conflicts or disagreements.

(d) The case plan must be subject to modification based on changing circumstances.

(e) The case plan must be signed by all parties.

(f) The case plan must be reasonable, accurate, and in compliance with the requirements of other court orders.

(2) When the child or parent family is receiving services, the case plan must include, in addition to the requirements in subsection (1), at a minimum:

(a) A description of the problem being addressed that includes the behavior or act of a parent, ~~legal custodian, or caregiver~~ resulting in risk to the child and the reason for the department's intervention.

(b) A description of the tasks with which the parent must comply and the services to be provided to the parent family and child specifically addressing the identified problem, including:

1. Type of services or treatment.
2. Frequency of services or treatment.
3. Location of the delivery of the services.
4. The accountable department staff or service provider.

(c) A description of the measurable objectives, including timeframes for achieving objectives, addressing the identified problem.

(3) When the child is receiving services in an out-of-home a placement outside the child's home or in foster care, the case plan must be filed with submitted to the court, for approval by the court, at least 72 hours prior to at the disposition hearing. The case plan must be served on all parties whose whereabouts are known at least 72 hours prior to the disposition hearing and must include, in addition to the requirements in subsections (1) and (2), at a minimum:

(a) A description of the permanency goal for the child, including the type of placement. Reasonable efforts to place a child in a home that will serve as an adoptive placement if reunification is not successful, for adoption or with a legal custodian, guardian may be made concurrently with reasonable efforts to prevent removal of the child from the home or make it possible for the child to return safely home.

(b) A description of the type of home or institution in which the child is to be placed.

(c) A description of the financial support obligation to the child, including health insurance, of the child's ~~parent, parents, caregiver, or legal custodian~~.

(d) A description of the visitation rights and obligations of the ~~parent or parents, caregiver, or legal custodian~~ during the period the child is in care.

(e) A discussion of the safety and appropriateness of the child's placement, which placement is intended to be safe, the least restrictive and most family-like setting available consistent with the best interest and special needs of the child, and in as close proximity as possible to the child's home. The plan must also establish the role for the foster parents or legal custodians in the development of the services which are to be provided to the child, foster parents, or legal custodians. It must also address the child's need for services while under the jurisdiction of the court and implementation of these services in the case plan.

(f) A description of the efforts to be undertaken to maintain the stability of the child's educational placement.

(g) A discussion of the department's plans to carry out the judicial determination made by the court, with respect to the child, in accordance with this chapter and applicable federal regulations.

(h) A description of the plan for assuring that services outlined in the case plan are provided to the child and the child's parent or parents, ~~legal custodians, or caregivers~~, to improve the conditions in the family home and facilitate either the safe return of the child to the home or the permanent placement of the child.

(i) A description of the plan for assuring that services as outlined in the case plan are provided to the child, ~~and the child's parent or parents, and the child's legal custodians, or caregivers~~, to address the needs of the child, and a discussion of the appropriateness of the services.

(j) A description of the plan for assuring that services are provided to the child and the child's legal custodians or foster parents to address the needs

of the child while in an out-of-home placement ~~foster care~~, which shall include an itemized list of costs to be borne by the parent or ~~caregiver~~ associated with any services or treatment that the parent and child are expected to receive.

(k) A written notice to the parent that failure of the parent to substantially comply with the case plan may result in the termination of parental rights, and that a material failure to substantially comply may result in the filing of a petition for termination of parental rights sooner than the compliance periods set forth in the case plan itself. The case staffing committee shall coordinate its efforts with the child protection team of the Department of Health.

(l) In the case of a child for whom the permanency plan is adoption or placement in another permanent home, documentation of the steps the agency is taking to find an adoptive family or other permanent living arrangement for the child, to place the child with an adoptive family, with a fit and willing relative, with a legal custodian guardian, or in another planned permanent living arrangement, and to finalize the adoption, ~~or legal guardianship, or long-term custodial relationship~~. At a minimum, such documentation shall include child-specific recruitment efforts such as the use of state, regional, and national adoption exchanges, including electronic exchange systems.

(4) In the event that the parents, ~~legal custodians, or caregivers~~ are unwilling or unable to participate in the development of a case plan, the department shall document that unwillingness or inability to participate. Such documentation must be provided in writing to the parent, ~~legal custodians, or caregivers~~ when available for the court record, and then the department shall prepare a case plan conforming as nearly as possible with the requirements set forth in this section. The unwillingness or inability of the parents, ~~legal custodians, or caregivers~~ to participate in the development of a case plan shall not in itself bar the filing of a petition for dependency or for termination of parental rights. The parents, ~~legal custodians, or caregivers~~, if available, must be provided a copy of the case plan and be advised that they may, at any time prior to the filing of a petition for termination of parental rights, enter into a case plan and that they may request judicial review of any provision of the case plan with which they disagree at any court review hearing set for the child.

(5) The services delineated in the case plan must be designed either to improve the conditions in the ~~family~~ home and aid in maintaining the child in the home, to facilitate the safe return of the child to the ~~family~~ home, or to facilitate the permanent placement of the child. The service intervention must be the least intrusive possible into the life of the parent and child family, must focus on clearly defined objectives, and must provide the most efficient path to quick reunification or permanent placement, with the child's health and safety being paramount. To the extent possible, the service intervention must be grounded in outcome evaluation results that demonstrate success in the reunification or permanent placement process. In designing service interventions, generally recognized standards of the professions involved in the process must be taken into consideration.

(6) After jurisdiction attaches, all case plans must be filed with the court and a copy provided to all the parents, caregivers, or legal custodians of the child, to the representative of the guardian ad litem program if the program has been appointed, and to all other parties whose whereabouts are known, not less than 72 hours before the disposition hearing. All such case plans must be approved by the court. The department shall also file with the court all case plans prepared before jurisdiction of the court attached. If, after review of the case plan, the court does not approve accept the case plan, the court shall require the parties to make necessary modifications to the plan. An amended plan must be submitted to the court for review and approval within 30 days after the hearing on the case plan. This amended plan must be served on all parties whose whereabouts are known, at least 72 hours prior to filing with the court.

(7) The case plan must be limited to as short a period as possible for the accomplishment of its provisions. Unless extended, the plan expires no later than 12 months after the date the child was initially removed from the home or the date the case plan was accepted by the court, whichever comes first.

(8) The case plan must meet applicable federal and state requirements.

(9)(a) In each case in which the custody of a child has been vested, either voluntarily or involuntarily, in the department and the child has been placed in out-of-home care, a case plan must be prepared within 60 days after the department removes the child from the home, and shall be submitted to the court before the disposition hearing, for the court to review and approve accept. If the preparation of a case plan, in conference with the parents and other pertinent parties, cannot be completed before the disposition hearing, for good cause shown, the court may grant an extension not to exceed 30 days and set a hearing to review and approve accept the case plan.

(b) The parent or parents, ~~legal custodians, or caregivers~~ may receive assistance from any person or social service agency in the preparation of the case plan.

(c) The social service agency, the department, and the court, when applicable, shall inform the parent or parents, ~~legal custodians, or caregivers~~ of the right to receive such assistance, including the right to assistance of counsel.

(d) Before the signing of the case plan, the authorized agent of the department shall explain it to all persons involved in its implementation, including, when appropriate, the child.

(e) After the case plan has been agreed upon and signed by the parties involved, a copy of the plan must be given immediately to the parents, the department or agency, the foster parents ~~or caregivers~~, the legal custodian, ~~the caregiver~~, the representative of the guardian ad litem program if the program is appointed, and any other parties identified by the court, including the child, if appropriate.

(f) The case plan may be amended at any time if all parties are in agreement regarding the revisions to the plan and the plan is submitted to the

court with a memorandum of explanation, if the court approves such amendment. The case plan may also be amended by the court or upon motion of any party at a hearing, based on competent evidence demonstrating the need for the amendment. A copy of the amended plan must be immediately given to the persons parties specified in paragraph (e).

(10) A case plan must be prepared, but need not be submitted to the court, for a child who will be in care no longer than 30 days unless that child is placed in out-of-home care a second time within a 12-month period.

Section 36. Subsection (1) and paragraph (a) of subsection (4) of section 39.602, Florida Statutes, 1998 Supplement, are amended to read:

39.602 Case planning when parents, ~~legal custodians, or caregivers~~ do not participate and the child is in out-of-home care.—

(1) In the event the parents, ~~legal custodians, or caregivers~~ will not or cannot participate in preparation of a case plan, the department shall submit a full explanation of the circumstances and state the nature of its efforts to secure such persons' participation in the preparation of a case plan.

(4)(a) At least 72 hours prior to the hearing in which the court will consider approval of the case plan filing of a plan, all parties must be provided with a copy of the plan developed by the department. If the location of one or both parents is unknown, this must be documented in writing and included in the plan submitted to the court. After the filing of the plan, if the location of an absent parent becomes known, that parent must be served with a copy of the plan.

Section 37. Subsections (2) and (3) of section 39.603, Florida Statutes, 1998 Supplement, are amended to read:

39.603 Court approvals of case planning.—

(2) When the court determines that any of the elements considered at the hearing related to the plan have not been met, the court shall require the parties to make necessary amendments to the plan. The amended plan must be submitted to the court for review and approval within 30 days after the hearing a time certain specified by the court. A copy of the amended plan must also be provided to each ~~party parent~~, if the location of the ~~party parent~~ is known, at least 72 hours prior to filing with the court.

(3) A parent who has not participated in the development of a case plan must be served with a copy of the plan developed by the department, if the parent can be located, at least 72 48 hours prior to the court hearing. Any parent is entitled to, and may seek, a court review of the plan prior to the initial judicial review and must be informed of this right by the department at the time the department serves the parent with a copy of the plan. If the location of an absent parent becomes known to the department, the department shall inform the parent of the right to a court review at the time the department serves the parent with a copy of the case plan.

Section 38. Section 39.701, Florida Statutes, 1998 Supplement, is amended to read:

39.701 Judicial review.—

(1)(a) The court shall have continuing jurisdiction in accordance with this section and shall review the status of the child at least every 6 months as required by this subsection or more frequently if the court deems it necessary or desirable.

(b) The court shall retain jurisdiction over a child returned to his or her ~~its~~ parents, caregivers, or legal guardians for a minimum period of 6 months following the reunification, but, at that time, based on a report of the social service agency and the guardian ad litem, if one has been appointed, and any other relevant factors, the court shall make a determination as to whether supervision by the department and the court's ~~its~~ jurisdiction shall continue or be terminated.

(2)(a) The court shall review the status of the child and shall hold a hearing as provided in this part at least every 6 months until the child reaches permanency status. The court may dispense with the attendance of the child at the hearing, but may not dispense with the hearing or the presence of other parties to the review unless before the review a hearing is held before a citizen review panel.

(b) Citizen review panels may conduct hearings to review the status of a child. The court shall select the cases appropriate for referral to the citizen review panels and may order the attendance of the parties at the review panel hearings. However, any party may object to the referral of a case to a citizen review panel. Whenever such an objection has been filed with the court, the court shall review the substance of the objection and may conduct the review itself or refer the review to a citizen review panel. All parties retain the right to take exception to the findings or recommended orders of a citizen review panel in accordance with Rule 1.490(h), Florida Rules of Civil Procedure.

(c) Notice of a hearing by a citizen review panel must be provided as set forth in subsection (5). At the conclusion of a citizen review panel hearing, each party may propose a recommended order to the chairperson of the panel. Thereafter, the citizen review panel shall submit its report, copies of the proposed recommended orders, and a copy of the panel's recommended order to the court. The citizen review panel's recommended order must be limited to the dispositional options available to the court in subsection (8). Each party may file exceptions to the report and recommended order of the citizen review panel in accordance with Rule 1.490, Florida Rules of Civil Procedure.

(3)(a) The initial judicial review hearing must be held no later than 90 days after the date of the disposition hearing or after the date of the hearing at which the court approves the case plan, whichever comes first, but in no event shall the review be held later than 6 months after the date the child was removed from the home. Citizen review panels shall not conduct more than two consecutive reviews without the child and the parties coming before the court for a judicial review.

(b) If the citizen review panel recommends extending court extends any case plan beyond 12 months, the court must schedule a judicial review hearing to be conducted by the court within 30 days after receiving the recommendation from the citizen review panel ~~judicial reviews must be held at least every 6 months.~~

(c) If the child is placed in the custody of the department or a licensed child-placing agency for the purpose of adoptive placement, judicial reviews must be held at least every 6 months until ~~the adoption is finalized adoptive placement, to determine the appropriateness of the current placement and the progress made toward adoptive placement.~~

(d) If the department and the court have established a formal agreement that includes specific authorization for particular cases, the department may conduct administrative reviews instead of the judicial reviews for children in out-of-home care. Notices of such administrative reviews must be provided to all parties. However, an administrative review may not be substituted for the first judicial review, and in every case the court must conduct a judicial review at least every 6 months. Any party dissatisfied with the results of an administrative review may petition for a judicial review.

(e) The clerk of the circuit court shall schedule judicial review hearings in order to comply with the mandated times cited in this section.

(f) In each case in which a child has been voluntarily placed with the licensed child-placing agency, the agency shall notify the clerk of the court in the circuit where the child resides of such placement within 5 working days. Notification of the court is not required for any child who will be in out-of-home care no longer than 30 days unless that child is placed in out-of-home care a second time within a 12-month period. If the child is returned to the custody of the parents, caregiver, or legal custodian before the scheduled review hearing or if the child is placed for adoption, the child-placing agency shall notify the court of the child's return or placement within 5 working days, and the clerk of the court shall cancel the review hearing.

(4) The court shall schedule the date, time, and location of the next judicial review during the judicial review hearing and shall list same in the judicial review order.

(5) Notice of a judicial review hearing or a citizen review panel hearing, and a copy of the motion for judicial review, if any including a statement of the dispositional alternatives available to the court, must be served by the clerk of the court upon:

(a) The social service agency charged with the supervision of care, custody, or guardianship of the child, if that agency is not the movant.

(b) The foster parent or legal custodian ~~parents or caregivers~~ in whose home the child resides.

(c) The parents parent, caregiver, or legal custodian from whom the care and custody of the child have been transferred.

- (d) The guardian ad litem for the child, or the representative of the guardian ad litem program if the program has been appointed.
- (e) Any preadoptive parent.
- (f) Such other persons as the court may in its discretion direct.

Service of notice is not required on any of the persons listed in paragraphs (a)-(f) if the person was present at the previous hearing during which the date, time, and location of the hearing was announced.

(6)(a) Prior to every judicial review hearing or citizen review panel hearing, the social service agency shall make an investigation and social study concerning all pertinent details relating to the child and shall furnish to the court or citizen review panel a written report that includes, but is not limited to:

1. A description of the type of placement the child is in at the time of the hearing, including the safety of the child and the continuing necessity for and appropriateness of the placement.
2. Documentation of the diligent efforts made by all parties to the case plan to comply with each applicable provision of the plan.
3. The amount of fees assessed and collected during the period of time being reported.
4. The services provided to the foster family or legal custodian caregivers in an effort to address the needs of the child as indicated in the case plan.
5. A statement that either:
 - a. ~~The parent or legal custodian~~, though able to do so, did not comply substantially with the provisions of the case plan, and the agency recommendations; ~~or~~
 - b. ~~A statement that~~ The parent ~~or legal custodian~~ did substantially comply with the such provisions of the case plan; or
 - c. The parent has partially complied with the provisions of the case plan, with a summary of additional progress needed and the agency recommendations.
6. A statement from the foster parent or legal custodian parents or caregivers providing any material evidence concerning the return of the child to the parent or parents ~~or legal custodians~~.
7. A statement concerning the frequency, duration, and results of the parent-child visitation, if any, and the agency recommendations for an expansion or restriction of future visitation.
8. The number of times a child has been removed from his or her home and placed elsewhere, the number and types of placements that have occurred, and the reason for the changes in placement.

9. The number of times a child's educational placement has been changed, the number and types of educational placements which have occurred, and the reason for any change in placement.

10. Copies of all medical, psychological, and educational records that support the terms of the case plan and that have been produced concerning the child, parents, or any caregiver since the last judicial review hearing.

(b) A copy of the social service agency's written report and the written report of the guardian ad litem must be provided to the attorney of record of the ~~parent, parents, or legal custodians~~; to the ~~parent, parents, or legal custodians~~; to the foster parents or legal custodians caregivers; to each citizen review panel; and to the guardian ad litem for the child, or the representative of the guardian ad litem program if the program has been appointed by the court, at least 72 48 hours before the judicial review hearing, or citizen review panel hearing. The requirement for providing ~~parents or legal custodians~~ with a copy of the written report does not apply to those ~~parents or legal custodians~~ who have voluntarily surrendered their child for adoption or who have had their parental rights to the child terminated.

(c) In a case in which the child has been permanently placed with the social service agency, the agency shall furnish to the court a written report concerning the progress being made to place the child for adoption. If the child cannot be placed for adoption, a report on the progress made by the child towards ~~in~~ alternative permanency goals or placements, including, but not limited to, long-term foster care, independent living, custody to a relative or other adult caregiver approved by the court on a permanent basis with or without legal guardianship, or custody to a foster parent or legal custodian caregiver on a permanent basis with or without legal guardianship, must be submitted to the court. The report must be submitted to the court at least 72 48 hours before each scheduled judicial review.

(d) In addition to or in lieu of any written statement provided to the court, the foster parent or legal custodian caregivers, or any preadoptive parent, shall be given the opportunity to address the court with any information relevant to the best interests of the child at any judicial review hearing.

(7) The court and any citizen review panel shall take into consideration the information contained in the social services study and investigation and all medical, psychological, and educational records that support the terms of the case plan; testimony by the social services agency, the parent ~~or legal custodian~~, the foster parent or legal custodian caregivers, the guardian ad litem if one has been appointed for the child, and any other person deemed appropriate; and any relevant and material evidence submitted to the court, including written and oral reports to the extent of their probative value. These reports and evidence may be received by the court in its effort to determine the action to be taken with regard to the child and may be relied upon to the extent of its probative value, even though not competent in an adjudicatory hearing. In its deliberations, the court and any citizen review panel shall seek to determine:

(a) If the parent ~~or legal custodian~~ was advised of the right to receive assistance from any person or social service agency in the preparation of the case plan.

(b) If the parent ~~or legal custodian~~ has been advised of the right to have counsel present at the judicial review or citizen review hearings. If not so advised, the court or citizen review panel shall advise the parent ~~or legal custodian~~ of such right.

(c) If a guardian ad litem needs to be appointed for the child in a case in which a guardian ad litem has not previously been appointed or if there is a need to continue a guardian ad litem in a case in which a guardian ad litem has been appointed.

(d) The compliance or lack of compliance of all parties with applicable items of the case plan, including the parents' compliance with child support orders.

(e) The compliance or lack of compliance with a visitation contract between the parent, caregiver, ~~or legal custodian~~ and the social service agency for contact with the child, including the frequency, duration, and results of the parent-child visitation and the reason for any noncompliance.

(f) The compliance or lack of compliance of the parent, caregiver, ~~or legal custodian~~ in meeting specified financial obligations pertaining to the care of the child, including the reason for failure to comply if such is the case.

(g) The appropriateness of the child's current placement, including whether the child is in a setting which is as family-like and as close to the parent's home as possible, consistent with the child's best interests and special needs, and including maintaining stability in the child's educational placement.

(h) A projected date likely for the child's return home or other permanent placement.

(i) When appropriate, the basis for the unwillingness or inability of the parent, caregiver, ~~or legal custodian~~ to become a party to a case plan. The court and the citizen review panel shall determine if the efforts of the social service agency to secure party participation in a case plan were sufficient.

(8)(a) Based upon the criteria set forth in subsection (7) and the recommended order of the citizen review panel, if any, the court shall determine whether or not the social service agency shall initiate proceedings to have a child declared a dependent child, return the child to the parent, ~~legal custodian, or caregiver,~~ continue the child in out-of-home care for a specified period of time, or initiate termination of parental rights proceedings for subsequent placement in an adoptive home. Modifications to the plan must be handled as prescribed in s. 39.601. If the court finds that the prevention or reunification efforts of the department will allow the child to remain safely at home or be safely returned to the home, the court shall allow the child to remain in or return to the home after making a specific finding of fact that the reasons for the creation of the case plan ~~removal~~ have been

remedied to the extent that the child's safety, well-being, and physical, mental, and emotional health will not be endangered.

(b) The court shall return the child to the custody of the parents, ~~legal custodians, or caregivers~~ at any time it determines that they have substantially complied with the case plan, if the court is satisfied that reunification will not be detrimental to the child's safety, well-being, and physical, mental, and emotional health.

(c) If, in the opinion of the court, the social service agency has not complied with its obligations as specified in the written case plan, the court may find the social service agency in contempt, shall order the social service agency to submit its plans for compliance with the agreement, and shall require the social service agency to show why the child could not safely be returned to the home of the parents, ~~legal custodians, or caregivers~~.

(d) The court may extend the time limitation of the case plan, or may modify the terms of the plan, based upon information provided by the social service agency, and the guardian ad litem, if one has been appointed, the parent or parents, and the foster parents or legal custodian, and any other competent information on record demonstrating the need for the amendment. If the court extends the time limitation of the case plan, the court must make specific findings concerning the frequency of past parent-child visitation, if any, and the court may authorize the expansion or restriction of future visitation. Modifications to the plan must be handled as prescribed in s. 39.601. Any extension of a case plan must comply with the time requirements and other requirements specified by this chapter.

(e) If, at any judicial review, the court finds that the parents have failed to substantially comply with the case plan to the degree that further reunification efforts are without merit and not in the best interest of the child, it may authorize the filing of a petition for termination of parental rights, whether or not the time period as contained in the case plan for substantial compliance has elapsed.

(f) No later than 12 months after the date that the child was placed in shelter care, the court shall conduct a judicial review to plan for the child's permanency. At this hearing, if the child is not returned to the physical custody of the parents, ~~caregivers, or legal custodians~~, the case plan may be extended with the same goals only if the court finds that the situation of the child is so extraordinary that the plan should be extended. The case plan must document steps the department is taking to find an adoptive parent or other permanent living arrangement for the child.

(g) The court may issue a protective order in assistance, or as a condition, of any other order made under this part. In addition to the requirements included in the case plan, the protective order may set forth requirements relating to reasonable conditions of behavior to be observed for a specified period of time by a person or agency who is before the court; and such order may require any such person or agency to make periodic reports to the court containing such information as the court in its discretion may prescribe.

Section 39. Paragraphs (g) and (h) of subsection (5) of section 39.702, Florida Statutes, 1998 Supplement, are amended to read:

39.702 Citizen review panels.—

(5) The independent not-for-profit agency authorized to administer each citizen review panel shall:

(g) Establish policies to ensure adequate communication with the parent, ~~caregiver, or legal custodian,~~ the foster parent or legal custodian caregiver, the guardian ad litem, and any other person deemed appropriate.

(h) Establish procedures that encourage attendance and participation of interested persons and parties, including the ~~biological~~ parents, foster parents, or legal custodian caregivers, ~~or a relative or nonrelative~~ with whom the child is placed, at citizen review hearings.

Section 40. Subsection (2) of section 39.703, Florida Statutes, 1998 Supplement, is amended to read:

39.703 Initiation of termination of parental rights proceedings.—

(2) If, at the time of the 12-month judicial review hearing, a child is not returned to the physical custody of the parents, ~~caregivers, or legal custodians,~~ the social service agency shall initiate termination of parental rights proceedings under this chapter within 30 days. Only if the court finds that the situation of the child is so extraordinary and that the best interests of the child will be met by such action at the time of the judicial review may the case plan be extended. If the court decides to extend the plan, the court shall enter detailed findings justifying the decision to extend, as well as the length of the extension. A termination of parental rights petition need not be filed if: the child is being cared for by a relative who chooses not to adopt the child but who is willing, able, and suitable to serve as the legal custodian for the child until the child reaches 18 years of age; the court determines that filing such a petition would not be in the best interests of the child; or the state has not provided the child's parent family, when reasonable efforts to return a child are required, consistent with the time period in the state's case plan, such services as the state deems necessary for the safe return of the child to his or her home. Failure to initiate termination of parental rights proceedings at the time of the 12-month judicial review or within 30 days after such review does not prohibit initiating termination of parental rights proceedings at any other time.

Section 41. Section 39.704, Florida Statutes, 1998 Supplement, is amended to read:

39.704 Exemptions from judicial review.—Judicial review does not apply to:

(1) Minors who have been placed in adoptive homes by ~~the department or by~~ a licensed child-placing agency; or

(2) Minors who are refugees or entrants to whom federal regulations apply and who are in the care of a social service agency.

Section 42. Paragraphs (a), (b), and (d) of subsection (3) and subsection (6) of section 39.801, Florida Statutes, 1998 Supplement, are amended to read:

39.801 Procedures and jurisdiction; notice; service of process.—

(3) Before the court may terminate parental rights, in addition to the other requirements set forth in this part, the following requirements must be met:

(a) Notice of the date, time, and place of the advisory hearing for the petition to terminate parental rights and a copy of the petition must be personally served upon the following persons, specifically notifying them that a petition has been filed:

1. The parents of the child.
2. The ~~caregivers or~~ legal custodians of the child.
3. If the parents who would be entitled to notice are dead or unknown, a living relative of the child, unless upon diligent search and inquiry no such relative can be found.
4. Any person who has physical custody of the child.
5. Any grandparent entitled to priority for adoption under s. 63.0425.
6. Any prospective parent who has been identified under s. 39.503 or s. 39.803.
7. The guardian ad litem for the child or the representative of the guardian ad litem program, if the program has been appointed.

The document containing the notice to respond or appear must contain, in type at least as large as the type in the balance of the document, the following or substantially similar language: “FAILURE TO PERSONALLY APPEAR AT THIS ADVISORY HEARING CONSTITUTES CONSENT TO THE TERMINATION OF PARENTAL RIGHTS OF THIS CHILD (OR CHILDREN). IF YOU FAIL TO APPEAR ON THE DATE AND TIME SPECIFIED, YOU MAY LOSE ALL LEGAL RIGHTS AS A PARENT TO THE CHILD OR CHILDREN NAMED IN THE PETITION ATTACHED TO THIS NOTICE.”

(b) If a party person required to be served with notice as prescribed in paragraph (a) cannot be served, notice of hearings must be given as prescribed by the rules of civil procedure, and service of process must be made as specified by law or civil actions.

(d) If the person served with notice under this section fails to personally appear at the advisory hearing, the failure to personally appear shall constitute consent for termination of parental rights by the person given notice. If a parent appears for the advisory hearing and the court orders that parent to personally appear at the adjudicatory hearing for the petition for termination of parental rights, stating the date, time, and location of said hearing,

then failure of that parent to personally appear at the adjudicatory hearing shall constitute consent for termination of parental rights.

(6) Subpoenas may be served within the state by any person over 18 years of age who is not a party to the proceeding and, in addition, may be served or executed by authorized agents of the department or of the guardian ad litem.

Section 43. Subsection (1), paragraph (b) of subsection (4), and subsection (8), of section 39.802, Florida Statutes, 1998 Supplement, are amended to read:

39.802 Petition for termination of parental rights; filing; elements.—

(1) All proceedings seeking an adjudication to terminate parental rights pursuant to this chapter must be initiated by the filing of an original petition by the department, the guardian ad litem, ~~or~~ a licensed child-placing agency, or ~~by~~ any other person who has knowledge of the facts alleged or is informed of them and believes that they are true.

(4) A petition for termination of parental rights filed under this chapter must contain facts supporting the following allegations:

(b) That the parents of the child were informed of their right to counsel at all hearings that they attended ~~attend~~ and that a dispositional order adjudicating the child dependent was entered in any prior dependency proceeding relied upon in offering a parent a case plan as described in s. 39.806.

(8) ~~If Whenever~~ the department has entered into a case plan with a parent with the goal of reunification, and a petition for termination of parental rights based on the same facts as are covered in the case plan is filed prior to the time agreed upon in the case plan for the performance of the case plan, then the petitioner must allege and prove by clear and convincing evidence that the parent has materially breached the provisions of the case plan.

Section 44. Section 39.805, Florida Statutes, 1998 Supplement, is amended to read:

39.805 No answer required.—No answer to the petition or any other pleading need be filed by any child ~~or~~, parent, ~~caregiver, or legal custodian,~~ but any matters which might be set forth in an answer or other pleading may be pleaded orally before the court or filed in writing as any such person may choose. Notwithstanding the filing of any answer or any pleading, the child or parent shall, prior to the adjudicatory hearing, be advised by the court of the right to counsel and shall be given an opportunity to deny the allegations in the petition for termination of parental rights or to enter a plea to allegations in the petition before the court.

Section 45. Paragraphs (b), (d), (e), and (h) of subsection (1) of section 39.806, Florida Statutes, 1998 Supplement, are amended to read:

39.806 Grounds for termination of parental rights.—

(1) The department, the guardian ad litem, a licensed child-placing agency, or any person who has knowledge of the facts alleged or who is informed of said facts and believes that they are true, may petition for the termination of parental rights under any of the following circumstances:

(b) When the identity or location of the parent or parents is unknown and cannot be ascertained by diligent search within 60 ~~90~~ days.

(d) When the parent of a child is incarcerated in a state or federal correctional institution and either:

1. The period of time for which the parent is expected to be incarcerated will constitute a substantial portion of the period of time before the child will attain the age of 18 years;

2. The incarcerated parent has been determined by the court to be a violent career criminal as defined in s. 775.084, a habitual violent felony offender as defined in s. 775.084, or a sexual predator as defined in s. 775.21; has been convicted of first degree or second degree murder in violation of s. 782.04 or a sexual battery that constitutes a capital, life, or first degree felony violation of s. 794.011; or has been convicted of an offense in another jurisdiction which is substantially similar to one of the offenses listed in this paragraph. As used in this section, the term "substantially similar offense" means any offense that is substantially similar in elements and penalties to one of those listed in this paragraph, and that is in violation of a law of any other jurisdiction, whether that of another state, the District of Columbia, the United States or any possession or territory thereof, or any foreign jurisdiction; or and

3. The court determines by clear and convincing evidence that continuing the parental relationship with the incarcerated parent would be harmful to the child and, for this reason, that termination of the parental rights of the incarcerated parent is in the best interest of the child.

(e) A petition for termination of parental rights may also be filed when a child has been adjudicated dependent, a case plan has been filed with the court, and the child continues to be abused, neglected, or abandoned by the parents. In this case, the failure of the parents to substantially comply for a period of 12 months after an adjudication of the child as a dependent child or the child's placement into shelter care, whichever came first, constitutes evidence of continuing abuse, neglect, or abandonment unless the failure to substantially comply with the case plan was due either to the lack of financial resources of the parents or to the failure of the department to make reasonable efforts to reunify the parent and child family. Such 12-month period may begin to run only after the child's placement into shelter care or the entry of a disposition order placing the custody of the child with the department or a person other than the parent and the approval by the court of a case plan with a goal of reunification with the parent, whichever came first.

(h) When the parent or parents have committed murder or voluntary manslaughter of another child ~~of the parent~~, or a felony assault that results in serious bodily injury to the child or another child ~~of the parent~~, or aided

or abetted, attempted, conspired, or solicited to commit such a murder or voluntary manslaughter or felony assault.

Section 46. Paragraphs (a) and (d) of subsection (1) and paragraph (b) of subsection (2) of section 39.807, Florida Statutes, 1998 Supplement, are amended to read:

39.807 Right to counsel; guardian ad litem.—

(1)(a) At each stage of the proceeding under this part, the court shall advise the parent of the right to have counsel present. The court shall appoint counsel for indigent ~~parents~~ persons. The court shall ascertain whether the right to counsel is understood and, where appropriate, is knowingly and intelligently waived. The court shall enter its findings in writing with respect to the appointment or waiver of counsel for indigent ~~parents~~ parties.

(d) This subsection does not apply to any parent who has voluntarily executed a written surrender of the child and consent to the entry of a court order therefor ~~and who does not deny the allegations of the petition.~~

(2)

(b) The guardian ad litem has the following responsibilities:

1. To investigate the allegations of the petition and any subsequent matters arising in the case and, unless excused by the court, to file a written report. This report must include a statement of the wishes of the child and the recommendations of the guardian ad litem and must be provided to all parties and the court at least 72 ~~48~~ hours before the disposition hearing.

2. To be present at all court hearings unless excused by the court.

3. To represent the interests of the child until the jurisdiction of the court over the child terminates or until excused by the court.

Section 47. Subsections (4) and (5) of section 39.808, Florida Statutes, 1998 Supplement, are amended to read:

39.808 Advisory hearing; pretrial status conference.—

(4) An advisory hearing ~~is not required~~ ~~may not be held~~ if a petition is filed seeking an adjudication ~~for termination of voluntarily to terminate parental rights based on a voluntary surrender of parental rights.~~ Adjudicatory hearings for petitions for voluntary termination must be held within 21 days after the filing of the petition. Notice of the use of this subsection must be filed with the court at the same time as the filing of the petition to terminate parental rights.

(5) Not less than 10 days before the adjudicatory hearing on a petition for involuntary termination of parental rights, the court shall conduct a ~~pretrial prehearing~~ status conference to determine the order in which each party may present witnesses or evidence, the order in which cross-examination and argument shall occur, and any other matters that may aid

in the conduct of the adjudicatory hearing to prevent any undue delay in the conduct of the adjudicatory hearing.

Section 48. Subsections (2), (4), (7), and (8), and paragraph (e) of subsection (6) of section 39.811, Florida Statutes, 1998 Supplement, are amended to read:

39.811 Powers of disposition; order of disposition.—

(2) If the child is in the ~~out-of-home care~~ custody of the department and the court finds that the grounds for termination of parental rights have been established by clear and convincing evidence, the court shall, by order, place the child in the custody of the department or ~~for the purpose of adoption or place the child in the custody of~~ a licensed child-placing agency for the purpose of adoption.

(4) If the child is neither in the custody of the department nor in the custody of a parent and the court finds that the grounds for termination of parental rights have been established for either or both parents, the court shall enter an order terminating parental rights for the parent or parents for whom the grounds for termination have been established and placing the child with the department or an appropriate legal custodian. If the parental rights of both parents have been terminated, or if the parental rights of only one parent have been terminated and the court makes specific findings based on evidence presented that placement with the remaining parent is likely to be harmful to the child, the court may order that the child be placed with a legal custodian other than the department after hearing evidence of the suitability of such intended placement. Suitability of the intended placement includes the fitness and capabilities of the proposed legal custodian to function as the primary caregiver for a particular child; and the compatibility of the child with the home in which the child is intended to be placed. If the court orders that a child be placed with a legal custodian under this subsection, the court shall appoint such legal custodian as the guardian for the child as provided in s. 744.3021. The court may modify the order placing the child in the custody of the legal custodian and revoke the guardianship established under s. 744.3021 if the court subsequently finds ~~that a party to the proceeding other than a parent whose rights have been terminated has shown a material change in circumstances which causes~~ the placement to be no longer in the best interest of the child.

(6) The parental rights of one parent may be severed without severing the parental rights of the other parent only under the following circumstances:

(e) If the parent whose rights are being terminated meets any of the criteria specified in s. 39.806(1)(d) and (f)-(i).

(7)(a) The termination of parental rights does not affect the rights of grandparents unless the court finds that continued visitation is not in the best interests of the child or that such visitation would interfere with the permanency goals of permanency planning for the child.

(b) If the court terminates parental rights, it may, as appropriate, order that the parents, siblings, or relatives of the parent whose rights are terminated be allowed to maintain some communication or contact with the child pending adoption if the best interests of the child support this continued communication or contact, except as provided in paragraph (a). If the court orders such continued communication or contact, which may include, but is not limited to, visits, letters, and cards or telephone calls, the nature and frequency of the communication or contact must be set forth in written order and may be reviewed upon motion of any party, or including, for purposes of this subsection, an identified prospective adoptive parent. If a child is placed for adoption, the nature and frequency of the communication or contact must be reviewed by the court at the time the child is placed for adoption adopted.

(8) If the court terminates parental rights, it shall, in its order of disposition, provide for a hearing, to be scheduled no later than 30 days after the date of disposition, in which the department or the licensed child-placing agency shall provide to the court an amended case a plan which identifies the for permanency goal for the child. Reasonable efforts must be made to place the child in a timely manner in accordance with the permanency plan and to complete whatever steps are necessary to finalize the permanent placement of the child. Thereafter, until the adoption of the child is finalized or the child reaches the age of 18 years, whichever occurs first, the court shall hold hearings at 6-month intervals to review the progress being made toward permanency for the child.

Section 49. Subsection (1) and paragraph (a) of subsection (6) of section 39.814, Florida Statutes, 1998 Supplement, are amended to read:

39.814 Oaths, records, and confidential information.—

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

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

(a) Orders terminating the rights of a parent are admissible in evidence in subsequent adoption proceedings relating to the child and in subsequent termination of parental rights proceedings concerning a sibling of the child.

Section 50. Subsection (3) of section 39.815, Florida Statutes, 1998 Supplement, is amended to read:

39.815 Appeal.—

(3) The taking of an appeal does not operate as a supersedeas in any case unless the court so orders. However, a termination of parental rights order with placement of the child with a licensed child-placing agency or the department for subsequent adoption is suspended while the appeal is pending, but the child shall continue in an out-of-home placement custody under the order until the appeal is decided.

Section 51. Subsection (3) of section 39.822, Florida Statutes, 1998 Supplement, is amended to read:

39.822 Appointment of guardian ad litem for abused, abandoned, or neglected child.—

(3) The guardian ad litem or the program representative shall review all disposition recommendations and changes in placements, and must be present at all critical stages of the dependency proceeding or submit a written report of recommendations to the court. Written reports must be filed with the court and served on all parties whose whereabouts are known at least 72 hours prior to the hearing.

Section 52. Subsection (1) of section 63.0427, Florida Statutes, 1998 Supplement, is amended to read:

63.0427 Adopted minor's right to continued communication or contact with siblings.—

(1) A child whose parents have had their parental rights terminated and whose custody has been awarded to the department pursuant to s. 39.811 ~~39.469~~, and who is the subject of a petition for adoption under this chapter, shall have the right to have the court consider the appropriateness of postadoption communication or contact, including, but not limited to, visits, letters and cards, or telephone calls, with his or her siblings who are not included in the petition for adoption. The court shall determine if the best interests of the child support such continued communication or contact and shall consider the following in making such determination:

- (a) Any orders of the court pursuant to s. 39.811(7) ~~39.469(7)~~.
- (b) Recommendations of the department, the foster parents if other than the adoptive parents, and the guardian ad litem.
- (c) Statements of prospective adoptive parents.
- (d) Any other information deemed relevant and material by the court.

If the court determines that the child's best interests will be served by postadoption communication or contact with any sibling, the court shall so order, stating the nature and frequency for the communication or contact. This order shall be made a part of the final adoption order, but in no event shall continuing validity of the adoption be contingent upon such postadoption communication or contact, nor shall the ability of the adoptive parents and child to change residence within or outside the State of Florida be impaired by such communication or contact.

Section 53. Paragraph (d) of subsection (1) of section 419.001, Florida Statutes, 1998 Supplement, 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: a frail elder as defined in s. 400.618; a physically disabled or handicapped person as defined in s. 760.22(7)(a); a developmentally disabled person as defined in s. 393.063(12)(11); a nondangerous mentally ill person as defined in s. 394.455(18); or a child as defined in s. 39.01(14)(11), s. 984.03(9) or (12), or s. 985.03(8).

Section 54. Paragraph (a) of subsection (2), paragraph (a) of subsection (4), and paragraph (b) of subsection (9) of section 784.046, Florida Statutes, are amended to read:

784.046 Action by victim of repeat violence for protective injunction; powers and duties of court and clerk of court; filing and form of petition; notice and hearing; temporary injunction; issuance; statewide verification system; enforcement.—

(2) There is created a cause of action for an injunction for protection in cases of repeat violence.

(a) Any person who is the victim of repeat violence or the parent or legal guardian of any minor child who is living at home and who seeks an injunction for protection against repeat violence on behalf of the minor child has standing in the circuit court to file a sworn petition for an injunction for protection against repeat violence.

(4)(a) The sworn petition shall allege the incidents of repeat violence and shall include the specific facts and circumstances which form the basis upon which relief is sought. With respect to a minor child who is living at home, the parent or legal guardian of the minor child must have been an eye-witness to, or have direct physical evidence or affidavits from eye-witnesses of, the specific facts and circumstances which form the basis upon which relief is sought.

(9)

(b) If the respondent is arrested by a law enforcement officer under s. 901.15(10)(8) for committing an act of repeat violence in violation of a repeat violence injunction for protection, the respondent shall be held in custody until brought before the court as expeditiously as possible for the purpose of enforcing the injunction and for admittance to bail in accordance with chapter 903 and the applicable rules of criminal procedure, pending a hearing.

Section 55. Section 409.26731, Florida Statutes, is amended to read:

409.26731 Certification of local funds as state match for federally funded services; federal waivers.—~~In order to implement Specific Appropriations 330 and 334 through 352 of the 1997-1998 General Appropriations Act, the Department of Children and Family Services is authorized to certify local funds not to exceed \$5 million as state match for children's mental health services funded by Medicaid in excess of the amount of state general revenue matching funds appropriated for such services through the 1997-1998 General Appropriations Act. The department is also authorized to certify local~~

~~funds not to exceed \$5 million as state match for eligible Title IV-E expenditures services for children under the supervision and custody of the state in excess of the amount of state general revenue matching funds appropriated for such services by the 1997-1998 General Appropriations Act in Specific Appropriations 334 through 352. Federal Medicaid or Title IV-E funds provided to the state as federal financial participation consequent to certified local matching funds shall automatically be passed through to the local entity jurisdiction that provided the certified local match. Notwithstanding the provisions of s. 215.425, all such federal Title IV-E funds earned for the current fiscal year as a result of using certified local match, except for up to 5 percent of such earnings that the department is authorized to retain for administrative purposes, shall be distributed as set forth in this section and this process shall not impact the department's allocation to any district. All of the provisions of this section are based upon federal approval of the provisions as specifically limited in this section and shall not become effective if any further modifications are required of the state, unless and until federal approval has been obtained. The department shall annually prepare a report to be submitted to the Legislature no later than January 1 documenting the specific activities undertaken during the previous fiscal year pursuant to this section. The Agency for Health Care Administration is authorized to apply for federal waivers to modify the state Medicaid plan to include optional Medicaid in-home and therapeutic services for Medicaid-eligible children if the state match for such services is provided by local funds certified by the department as state match. Such services shall be available only in communities that provide the certified match.~~

Section 56. Paragraph (b) in subsection (1) of s. 921.0024, Florida Statutes, 1998 Supplement, is amended to read:

921.0024 Criminal Punishment Code; worksheet computations; score-sheets.—

(1)

(b) WORKSHEET KEY:

Legal status points are assessed when any form of legal status existed at the time the offender committed an offense before the court for sentencing. Four (4) sentence points are assessed for an offender's legal status.

Community sanction violation points are assessed when a community sanction violation is before the court for sentencing. Six (6) sentence points are assessed for each community sanction violation, and each successive community sanction violation; however, if the community sanction violation includes a new felony conviction before the sentencing court, twelve (12) community sanction violation points are assessed for such violation, and for each successive community sanction violation involving a new felony conviction. Multiple counts of community sanction violations before the sentencing court shall not be a basis for multiplying the assessment of community sanction violation points.

Prior serious felony points: If the offender has a primary offense or any additional offense ranked in level 8, level 9, or level 10, and one or more prior

serious felonies, a single assessment of 30 points shall be added. For purposes of this section, a prior serious felony is an offense in the offender's prior record that is ranked in level 8, level 9, or level 10 under s. 921.0022 or s. 921.0023 and for which the offender is serving a sentence of confinement, supervision, or other sanction or for which the offender's date of release from confinement, supervision, or other sanction, whichever is later, is within 3 years before the date the primary offense or any additional offense was committed.

Prior capital felony points: If the offender has one or more prior capital felonies in the offender's criminal record, points shall be added to the subtotal sentence points of the offender equal to twice the number of points the offender receives for the primary offense and any additional offense. A prior capital felony in the offender's criminal record is a previous capital felony offense for which the offender has entered a plea of nolo contendere or guilty or has been found guilty; or a felony in another jurisdiction which is a capital felony in that jurisdiction, or would be a capital felony if the offense were committed in this state.

Possession of a firearm, semiautomatic firearm, or machine gun: If the offender is convicted of committing or attempting to commit any felony other than those enumerated in s. 775.087(2) while having in his possession: a firearm as defined in s. 790.001(6), an additional 18 sentence points are assessed; or if the offender is convicted of committing or attempting to commit any felony other than those enumerated in s. 775.087(3) while having in his possession a semiautomatic firearm as defined in s. 775.087(3) or a machine gun as defined in s. 790.001(9), an additional 25 sentence points are assessed.

Sentencing multipliers:

Drug trafficking: If the primary offense is drug trafficking under s. 893.135, the subtotal sentence points are multiplied, at the discretion of the court, for a level 7 or level 8 offense, by 1.5. The state attorney may move the sentencing court to reduce or suspend the sentence of a person convicted of a level 7 or level 8 offense, if the offender provides substantial assistance as described in s. 893.135(4).

Law enforcement protection: If the primary offense is a violation of the Law Enforcement Protection Act under s. 775.0823(2), the subtotal sentence points are multiplied by 2.5. If the primary offense is a violation of s. 775.0823(3), (4), (5), (6), (7), or (8), the subtotal sentence points are multiplied by 2.0. If the primary offense is a violation of s. 784.07(3) or s. 775.0875(1), or of the Law Enforcement Protection Act under s. 775.0823(9) or (10), the subtotal sentence points are multiplied by 1.5.

Grand theft of a motor vehicle: If the primary offense is grand theft of the third degree involving a motor vehicle and in the offender's prior record, there are three or more grand thefts of the third degree involving a motor vehicle, the subtotal sentence points are multiplied by 1.5.

Criminal street gang member: If the offender is convicted of the primary offense and is found to have been a member of a criminal street gang at the time of the commission of the primary offense pursuant to s. 874.04, the subtotal sentence points are multiplied by 1.5.

Domestic violence in the presence of a child: If the offender is convicted of the primary offense and the primary offense is a crime of domestic violence, as defined in s. 741.28, which was committed in the presence of a child under 16 years of age who is a family household member as defined in s. 741.28(2) with the victim or perpetrator, the subtotal sentence points are multiplied, ~~at the discretion of the court,~~ by 1.5.

Section 57. Subsection (7) of section 901.15, Florida Statutes, 1998 Supplement, is amended and subsections (8) and (9) are added to that section to read:

901.15 When arrest by officer without warrant is lawful.—A law enforcement officer may arrest a person without a warrant when:

(7) There is probable cause to believe that the person has committed:

(a) an act of domestic violence, as defined in s. 741.28.

~~(b) Child abuse, as defined in s. 827.04(2) and (3).~~

~~(c) Any battery upon another person, as defined in s. 784.03.~~

~~(d) An act of criminal mischief or a graffiti-related offense as described in s. 806.13.~~

~~With respect to an arrest for an act of domestic violence, The decision to arrest shall not require consent of the victim or consideration of the relationship of the parties. It is the public policy of this state to strongly discourage arrest and charges of both parties for domestic violence on each other and to encourage training of law enforcement and prosecutors in this area. A law enforcement officer who acts in good faith and exercises due care in making an arrest under this subsection, under s. 741.31(4) or s. 784.047, or pursuant to a foreign order of protection accorded full faith and credit pursuant to s. 741.315, is immune from civil liability that otherwise might result by reason of his or her action.~~

(8) There is probable cause to believe that the person has committed child abuse, as defined in s. 827.03. The decision to arrest shall not require consent of the victim or consideration of the relationship of the parties. It is the public policy of this state to protect abused children by strongly encouraging the arrest and prosecution of persons who commit child abuse. A law enforcement officer who acts in good faith and exercises due care in making an arrest under this subsection is immune from civil liability that otherwise might result by reason of his or her action.

(9) There is probable cause to believe that the person has committed:

(a) Any battery upon another person, as defined in s. 784.03.

(b) An act of criminal mischief or a graffiti-related offense as described in s. 806.13.

Section 58. This act shall take effect July 1, 1999.

Approved by the Governor May 26, 1999.

Filed in Office Secretary of State May 26, 1999.