

Senate Bill No. 498

An act relating to the residency status of dependent immigrant children; creating s. 39.5075, F.S.; providing definitions; directing the Department of Children and Family Services or a community-based care provider to determine whether a dependent child is a citizen of the United States and to report the information to the court; providing that services to children alleged to have been abused, neglected, or abandoned be provided without regard to the citizenship of the child except where alienage or immigration status is explicitly set as a statutory condition of coverage or eligibility; requiring the case plan to include specified information; directing the department or the community-based care provider to file a petition with the court to determine whether the child meets the criteria for special immigrant juvenile status; directing the department or the community-based care provider to file papers with federal authorities to adjust the child's residency status; authorizing the court to continue jurisdiction of a child whose residency status is being considered by federal authorities; requiring that certain information be given to the court; directing the department to adopt rules; providing an effective date.

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

Section 1. Section 39.5075, Florida Statutes, is created to read:

39.5075 Citizenship or residency status for immigrant children who are dependents.—

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

(a) “Eligible for long-term foster care” means that reunification with a child’s parent is not an appropriate option for permanency for the child.

(b) “May be eligible for special immigrant juvenile status under federal law” means:

1. The child has been found dependent based on allegations of abuse, neglect, or abandonment;

2. The child is eligible for long-term foster care;

3. It is in the best interest of the child to remain in the United States;
and

4. The child remains under the jurisdiction of the juvenile court.

(2) Whenever a child is adjudicated dependent, the department or community-based care provider shall determine whether the child is a citizen of the United States. The department or community-based care provider shall report to the court in its first judicial review concerning the child

whether the child is a citizen of the United States and, if not, the steps that have been taken to address the citizenship or residency status of the child. Services to children alleged to have been abused, neglected, or abandoned must be provided without regard to the citizenship of the child except where alienage or immigration status is explicitly set forth as a statutory condition of coverage or eligibility.

(3) If the child is not a citizen, the department or community-based care provider shall include in the case plan developed for the child a recommendation as to whether the permanency plan for the child will include remaining in the United States. If the case plan calls for the child to remain in the United States, and the child is in need of documentation to effectuate this plan, the department or community-based care provider must evaluate the child's case to determine whether the child may be eligible for special immigrant juvenile status under federal law.

(4) If the child may be eligible for special immigrant juvenile status, the department or community-based care provider shall petition the court for an order finding that the child meets the criteria for special immigrant juvenile status. The ruling of the court on this petition must include findings as to the express wishes of the child, if the child is able to express such wishes, and any other circumstances that would affect whether the best interests of the child would be served by applying for special immigrant juvenile status.

(5) No later than 60 days after an order finding that the child is eligible for special immigrant juvenile status and that applying for this status is in the best interest of the child, the department or community-based care provider shall, directly or through volunteer or contracted legal services, file a petition for special immigrant juvenile status and the application for adjustment of status to the appropriate federal authorities on behalf of the child.

(6) If a petition and application have been filed and the petition and application have not been granted by the time the child reaches 18 years of age, the court may retain jurisdiction over the dependency case solely for the purpose of allowing the continued consideration of the petition and application by federal authorities. Review hearings for the child shall be set solely for the purpose of determining the status of the petition and application. The court's jurisdiction terminates upon the final decision of the federal authorities. Retention of jurisdiction in this instance does not affect the services available to a young adult under s. 409.1451. The court may not retain jurisdiction of the case after the immigrant child's 22nd birthday.

(7) In any judicial review report provided to the court for a child for whom the court has granted the order described in subsection (4), the court shall be advised of the status of the petition and application process concerning the child.

(8) The department shall adopt rules to administer this section.

Section 2. This act shall take effect July 1, 2005.

Approved by the Governor June 17, 2005.

Filed in Office Secretary of State June 17, 2005.