

Council Substitute for
Council Substitute for House Bill No. 1309

An act relating to adoption and child protection; amending s. 39.001, F.S.; redesignating the Office of Child Abuse Prevention as the Office of Adoption and Child Protection; revising the purpose of the office; providing for a Chief Child Advocate and providing duties therefor; providing duties and responsibilities of the office; providing for the promotion of adoption and support of adoptive families in the state plan of the office; establishing the Child Abuse Prevention and Permanency Advisory Council and providing for composition thereof; providing additional purposes for district plans of action; creating s. 39.0011, F.S.; authorizing the office to establish a direct-support organization; providing purposes, requirements, and objectives; providing for members of a board of directors of the direct-support organization; requiring the organization to operate under contract with the office; providing guidelines for the use of funds; amending ss. 39.0014 and 39.01, F.S.; conforming references to changes made by the act; amending s. 409.166, F.S.; providing an adoption assistance program for children within the child welfare system; revising legislative intent; revising and providing definitions; requiring the Department of Children and Family Services to collect and maintain certain data; providing adoption assistance in the form of maintenance subsidies, subject to specific appropriations; specifying conditions under which such subsidies are granted; providing for reimbursement for certain expenses; requiring the department to adopt rules; providing appropriations; providing an effective date.

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

Section 1. Subsections (6) through (9) of section 39.001, Florida Statutes, are amended to read:

39.001 Purposes and intent; personnel standards and screening.—

(6) LEGISLATIVE INTENT FOR THE PREVENTION OF ABUSE, ABANDONMENT, AND NEGLECT OF CHILDREN.—The incidence of known child abuse, abandonment, and neglect has increased rapidly over the past 5 years. The impact that abuse, abandonment, or neglect has on the victimized child, siblings, family structure, and inevitably on all citizens of the state has caused the Legislature to determine that the prevention of child abuse, abandonment, and neglect shall be a priority of this state. To further this end, it is the intent of the Legislature that an Office of Adoption and Child Protection Abuse Prevention be established.

(7) OFFICE OF ADOPTION AND CHILD PROTECTION ABUSE PREVENTION.—

(a) For purposes of establishing a comprehensive statewide approach for the promotion of adoption, support of adoptive families, and prevention of

child abuse, abandonment, and neglect, the Office of Adoption and Child Protection Abuse Prevention is created within the Executive Office of the Governor. The Governor shall appoint a Chief Child Advocate ~~director~~ for the office ~~who shall be subject to confirmation by the Senate.~~

(b) The Chief Child Advocate ~~director~~ shall:

1. Assist in developing rules pertaining to the promotion of adoption, support of adoptive families, and implementation of child abuse prevention efforts.

2. Act as the Governor's liaison with state agencies, other state governments, and the public and private sectors on matters that relate to the promotion of adoption, support of adoptive families, and child abuse prevention.

3. Work to secure funding and other support for the state's promotion of adoption, support of adoptive families, and child abuse prevention efforts, including, but not limited to, establishing cooperative relationships among state and private agencies.

4. Develop a strategic program and funding initiative that links the separate jurisdictional activities of state agencies with respect to promotion of adoption, support of adoptive families, and child abuse prevention. The office may designate lead and contributing agencies to develop such initiatives.

5. Advise the Governor and the Legislature on statistics related to the promotion of adoption, support of adoptive families, and child abuse prevention trends in this state, the status of current adoption programs and services, current child abuse prevention programs and services, the funding of adoption, support of adoptive families, and child abuse prevention ~~these~~ programs and services, and the status of the office with regard to the development and implementation of the state strategy for the promotion of adoption, support of adoptive families, and child abuse prevention strategy.

6. Develop ~~child abuse prevention~~ public awareness campaigns to be implemented throughout the state for the promotion of adoption, support of adoptive families, and child abuse prevention.

(c) The office is authorized and directed to:

1. Oversee the preparation and implementation of the state plan established under subsection (8) and revise and update the state plan as necessary.

2. Provide for or make available continuing professional education and training in the prevention of child abuse and neglect.

3. Work to secure funding in the form of appropriations, gifts, and grants from the state, the Federal Government, and other public and private sources in order to ensure that sufficient funds are available for the promotion of adoption, support of adoptive families, and child abuse prevention efforts.

4. Make recommendations pertaining to agreements or contracts for the establishment and development of:

a. Programs and services for the promotion of adoption, support of adoptive families, and prevention of child abuse and neglect.

b. Training programs for the prevention of child abuse and neglect.

c. Multidisciplinary and discipline-specific training programs for professionals with responsibilities affecting children, young adults, and families.

d. Efforts to promote adoption.

e. Postadoptive services to support adoptive families.

5. Monitor, evaluate, and review the development and quality of local and statewide services and programs for the promotion of adoption, support of adoptive families, and prevention of child abuse and neglect and shall publish and distribute an annual report of its findings on or before January 1 of each year to the Governor, the Speaker of the House of Representatives, the President of the Senate, the secretary of each state agency affected by the report, and the appropriate substantive committees of the Legislature. The report shall include:

a. A summary of the activities of the office.

b. A summary of the adoption data collected and reported to the federal Adoption and Foster Care Analysis and Reporting System (AFCARS) and the federal Administration for Children and Families.

c. A summary of the child abuse prevention data collected and reported to the National Child Abuse and Neglect Data System (NCANDS) and the federal Administration for Children and Families.

~~d.b. A summary detailing the timeliness of the adoption process for children adopted from within the child welfare system demographic and geographic characteristics of families served by the prevention programs.~~

~~e.e. Recommendations, by state agency, for the further development and improvement of services and programs for the promotion of adoption, support of adoptive families, and prevention of child abuse and neglect.~~

~~f.d. The Budget requests, adoption promotion and support needs, and child abuse prevention program needs by state agency.~~

6. Work with the direct-support organization established under s. 39.0011 to receive financial assistance.

(8) PLAN FOR COMPREHENSIVE APPROACH.—

(a) The office shall develop a state plan for the promotion of adoption, support of adoptive families, and prevention of abuse, abandonment, and neglect of children and shall submit the state plan to the Speaker of the House of Representatives, the President of the Senate, and the Governor no

later than December 31, ~~2008~~ 2007. The Department of Children and Family Services, the Department of Corrections, the Department of Education, the Department of Health, the Department of Juvenile Justice, the Department of Law Enforcement, the Agency for Persons with Disabilities, and the Agency for Workforce Innovation shall participate and fully cooperate in the development of the state plan at both the state and local levels. Furthermore, appropriate local agencies and organizations shall be provided an opportunity to participate in the development of the state plan at the local level. Appropriate local groups and organizations shall include, but not be limited to, community mental health centers; guardian ad litem programs for children under the circuit court; the school boards of the local school districts; the Florida local advocacy councils; community-based care lead agencies; private or public organizations or programs with recognized expertise in working with child abuse prevention programs for children and families; private or public organizations or programs with recognized expertise in working with children who are sexually abused, physically abused, emotionally abused, abandoned, or neglected and with expertise in working with the families of such children; private or public programs or organizations with expertise in maternal and infant health care; multidisciplinary child protection teams; child day care centers; law enforcement agencies; and the circuit courts, when guardian ad litem programs are not available in the local area. The state plan to be provided to the Legislature and the Governor shall include, as a minimum, the information required of the various groups in paragraph (b).

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

1. The office shall establish a Child Abuse Prevention and Permanency Advisory Council composed of an adoptive parent who has adopted a child from within the child welfare system and representatives from each state agency and appropriate local agencies and organizations specified in paragraph (a). The advisory council shall serve as the research arm of the office and shall be responsible for:

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

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

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

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

e. Assisting in preparing the state plan for submission to the Legislature and the Governor. Such preparation shall include the incorporation into the state plan of information obtained from the local plans, the cooperative plans with the members of the advisory council, and the plan of action for coordination and integration of state departmental activities. The state plan shall include a section reflecting general conditions and needs, an analysis of variations based on population or geographic areas, identified problems, and recommendations for change. In essence, the state plan shall provide an analysis and summary of each element of the local plans to provide a state-wide perspective. The state plan shall also include each separate local plan of action.

f. Conducting a feasibility study on the establishment of a Children's Cabinet.

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

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

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

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

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

6. Each district of the department shall develop a plan for its specific geographical area. The plan developed at the district level shall be submit-

ted to the advisory council for utilization in preparing the state plan. The district local plan of action shall be prepared with the involvement and assistance of the local agencies and organizations listed in this paragraph, as well as representatives from those departmental district offices participating in the promotion of adoption, support of adoptive families, and treatment and prevention of child abuse, abandonment, and neglect. In order to accomplish this, the office shall establish a task force on the promotion of adoption, support of adoptive families, and prevention of child abuse, abandonment, and neglect. The office shall appoint the members of the task force in accordance with the membership requirements of this section. The office shall ensure that individuals from both urban and rural areas and an adoptive parent who has adopted a child from within the child welfare system are represented on the task force. The task force shall develop a written statement clearly identifying its operating procedures, purpose, overall responsibilities, and method of meeting responsibilities. The district plan of action to be prepared by the task force shall include, but shall not be limited to:

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

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

c. Information concerning the number of children within the child welfare system available for adoption who need child-specific adoption promotion efforts.

d. A description of programs currently promoting and supporting adoptive families, including information on the impact, cost-effectiveness, and sources of funding of such programs.

e. A description of a comprehensive approach for providing postadoption services. The continuum of services shall include, but not be limited to, sufficient and accessible parent and teen support groups; case management, information, and referral services; and educational advocacy.

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

g.d. A description, documentation, and priority ranking of local needs related to the promotion of adoption, support of adoptive families, and prevention of child abuse, abandonment, and neglect ~~prevention~~ based upon the continuum of programs and services.

h.e. A plan for steps to be taken in meeting identified needs, including the coordination and integration of services to avoid unnecessary duplication and cost, and for alternative funding strategies for meeting needs

through the reallocation of existing resources, utilization of volunteers, contracting with local universities for services, and local government or private agency funding.

i.f. A description of barriers to the accomplishment of a comprehensive approach to the promotion of adoption, support of adoptive families, and prevention of child abuse, abandonment, and neglect.

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

(9) FUNDING AND SUBSEQUENT PLANS.—

(a) All budget requests submitted by the office, the department, the Department of Health, the Department of Education, the Department of Juvenile Justice, the Department of Corrections, the Agency for Persons with Disabilities, the Agency for Workforce Innovation, or any other agency to the Legislature for funding of efforts for the promotion of adoption, support of adoptive families, and prevention of child abuse, abandonment, and neglect shall be based on the state plan developed pursuant to this section.

(b) The office and the other agencies and organizations listed in paragraph (8)(a) shall readdress the state plan and make necessary revisions every 5 years, at a minimum. Such revisions shall be submitted to the Speaker of the House of Representatives and the President of the Senate no later than June 30 of each year divisible by 5. At least biennially, the office shall review the state plan and make any necessary revisions based on changing needs and program evaluation results. An annual progress report shall be submitted to update the state plan in the years between the 5-year intervals. In order to avoid duplication of effort, these required plans may be made a part of or merged with other plans required by either the state or Federal Government, so long as the portions of the other state or Federal Government plan that constitute the state plan for the promotion of adoption, support of adoptive families, and prevention of child abuse, abandonment, and neglect are clearly identified as such and are provided to the Speaker of the House of Representatives and the President of the Senate as required above.

Section 2. Section 39.0011, Florida Statutes, is created to read:

39.0011 Direct-support organization.—

(1) The Office of Adoption and Child Protection may establish a direct-support organization to assist the state in carrying out its purposes and responsibilities regarding the promotion of adoption, support of adoptive families, and prevention of child abuse, abandonment, and neglect by raising money; submitting requests for and receiving grants from the Federal Government, the state or its political subdivisions, private foundations, and individuals; and making expenditures to or for the benefit of the office. The sole purpose for the direct-support organization is to support the office. Such a direct-support organization is an organization that is:

(a) Incorporated under chapter 617 and approved by the Department of State as a Florida corporation not for profit;

(b) Organized and operated to make expenditures to or for the benefit of the office; and

(c) Approved by the office to be operating for the benefit of and in a manner consistent with the goals of the office and in the best interest of the state.

(2) The number of members on the board of directors of the direct-support organization shall be determined by the Chief Child Advocate. Membership on the board of directors of the direct-support organization shall include, but not be limited to, a guardian ad litem; a member of a local advocacy council; a representative from a community-based care lead agency; a representative from a private or public organization or program with recognized expertise in working with child abuse prevention programs for children and families; a representative of a private or public organization or program with recognized expertise in working with children who are sexually abused, physically abused, emotionally abused, abandoned, or neglected and with expertise in working with the families of such children; an individual working at a state adoption agency; and the parent of a child adopted from within the child welfare system.

(3) The direct-support organization shall operate under written contract with the office.

(4) All moneys received by the direct-support organization shall be deposited into an account of the direct-support organization and shall be used by the organization in a manner consistent with the goals of the office.

Section 3. Section 39.0014, Florida Statutes, is amended to read:

39.0014 Responsibilities of public agencies.—All state, county, and local agencies shall cooperate, assist, and provide information to the Office of Adoption and Child Protection Abuse Prevention and the department as will enable them to fulfill their responsibilities under this chapter.

Section 4. Subsection (45) of section 39.01, Florida Statutes, is amended to read:

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

(45) “Office” means the Office of Adoption and Child Protection Abuse Prevention within the Executive Office of the Governor.

Section 5. Section 409.166, Florida Statutes, is amended to read:

409.166 Children within the child welfare system ~~Special needs children;~~ subsidized adoption assistance program.—

(1) LEGISLATIVE INTENT.—It is the intent of the Legislature to protect and promote ~~each every~~ child’s right to the security and stability of a permanent family home. The Legislature intends to make adoption assistance, including financial aid, available to prospective adoptive parents ~~to financial aid which will~~ enable them to adopt a child in the state’s foster care

~~system who, because of his or her special needs, has proven difficult to place in an adoptive home. In providing subsidies for children with special needs in foster homes, it is the intent of the Legislature to reduce state expenditures for long-term foster care. It is also the intent of the Legislature that placement without subsidy be the placement of choice unless it can be shown that such placement is not in the best interest of the child.~~

(2) DEFINITIONS.—As used in this section, the term:

(a) “Special needs child” means:

1. A child whose permanent custody has been awarded to the department or to a licensed child-placing agency; and

2.1. A child who has established significant emotional ties with his or her foster parents; or

2. is not likely to be adopted because he or she is:

a. Eight years of age or older;

b. Developmentally disabled ~~Mentally retarded~~;

c. Physically or emotionally handicapped;

d. Of black or racially mixed parentage; or

e. A member of a sibling group of any age, provided two or more members of a sibling group remain together for purposes of adoption; and

3. Except when the child is being adopted by the child’s foster parents or relative caregivers, a child for whom a reasonable but unsuccessful effort has been made to place the child without providing a maintenance subsidy.

(b) “Adoption assistance” means financial assistance and services provided to a child and his or her adoptive family. Such assistance may include a maintenance subsidy, medical assistance, Medicaid assistance, and reimbursement of nonrecurring expenses associated with the legal adoption. The term also includes a tuition exemption at a postsecondary career program, community college, or state university, and a state employee adoption benefit under s. 110.152.

(c) “Child within the child welfare system” or “child” means a special needs child and any other child who was removed from the child’s caregiver due to abuse or neglect and whose permanent custody has been awarded to the department or to a licensed child-placing agency.

~~(d)(b)~~ “Department” means the Department of Children and Family Services.

(e) “Licensed child-placing agency” has the same meaning as in s. 39.01.

(f)(e) “Maintenance subsidy” means a monthly payment as provided in subsection (4) special services or money payments.

(3) ADMINISTRATION OF PROGRAM.—

(a) The department shall establish and administer an adoption program for ~~special needs~~ children to be carried out by the department or by contract with a licensed child-placing agency. The program shall attempt to increase the number of persons seeking to adopt special needs children and the number of finalized adoptions adoption placements and shall extend adoption assistance subsidies and services, when needed, to the adoptive adopting parents of a special needs child.

(b) The department shall collect and maintain the necessary data and records to evaluate the effectiveness of the program in encouraging and promoting the adoption of children.

(4) ADOPTION ASSISTANCE.—

~~(a)(b)~~ A maintenance subsidy shall Authorization for subsidized adoption placement is to be granted only when all other resources available to a ~~place~~ the child in ~~question~~ have been thoroughly explored and when it can be clearly established that this is the most acceptable plan for providing permanent placement for the child. The maintenance Adoption subsidy may will not be used as a substitute for adoptive parent recruitment or as an inducement to adopt a child who might be placed without providing a subsidy through nonsubsidized means. However, it shall be the policy of the department that no child be denied adoption if providing a maintenance when subsidy would make adoption possible. The best interest of the child shall be the deciding factor in every case. This section does not Nothing contained herein shall prohibit foster parents from applying to adopt a special needs child placed in their care. Foster parents or relative caregivers must be asked if they would adopt without a maintenance subsidy.

~~(c) The department shall keep the necessary records to evaluate the effectiveness of the program in encouraging and promoting the adoption of special needs children.~~

(4) ELIGIBILITY FOR SERVICES.—

~~(b)(a)~~ The department shall provide adoption assistance may pay either one or both of the following subsidies to the adoptive adopting parents, subject to specific appropriation,:

1. in the amount of \$5,000 annually, paid on a monthly basis, for the support and maintenance of a special needs child until the 18th birthday of such child or, a monthly payment in an amount other than \$5,000 annually as determined by through agreement between the adoptive parents and the department and memorialized in a written agreement between the adoptive parents and the department. The agreement shall take into consideration the circumstances of the adoptive adopting parents and the needs of the child being adopted, ~~and~~ The amount of subsidy may be adjusted readjusted periodically based upon changes in the needs of the child or circumstances of the adoptive parents. Changes shall not be made without the concurrence of the adoptive parents those circumstances. However, in no case shall the amount of the ~~adoption subsidy~~ monthly payment exceed the foster care

maintenance payment ~~that which~~ would have been paid during the same period if the child had been in a foster family home. ~~Such payment shall be negotiated yearly between the parents and the department.~~

~~(c)2.~~ The department may provide adoption assistance to the adoptive parents, subject to specific appropriation, for medical assistance initiated after the adoption of the child for medical, surgical, hospital, and related services needed as a result of a physical or mental condition of the child which existed before the adoption and is not covered by Medicaid, Children's Medical Services, or Children's Mental Health Services. Such assistance, a subsidy which may be initiated at any time but shall terminate on or before the child's 18th birthday.

(5) ELIGIBILITY FOR SERVICES.—

~~(a)(b)~~ As a condition of providing adoption assistance under this section for continuation of the subsidy, the adoptive parents must enter into an adoption-assistance agreement with the department which specifies the financial assistance and other services to be provided shall file a sworn statement with the department at least once each year to include any social or financial conditions which may have changed.

~~(b)(e)~~ A child who is handicapped at the time of adoption shall be eligible for services through of the Division of Children's Medical Services network established under part I of chapter 391 if the child was eligible for such services prior to the adoption.

~~(6)(5)~~ WAIVER OF ADOPTION FEES.—The adoption fees shall be waived for all adoptive parents ~~who participate in the program~~ who adopt children in the custody of the department. Fees may be waived for families who adopt children in the custody of a licensed child-placing agency agencies or who adopt children through independent adoptions, and who receive or may be eligible for maintenance subsidies through the department. Retroactive reimbursement of fees ~~is may not be~~ required for families who adopt children in the custody of licensed child-placing agencies.

~~(7)(6)~~ REIMBURSEMENT FOR EXPENSES.—The department is authorized to reimburse, retroactive to January 1, 1987, up to \$1,000 in nonrecurring expenses related to the adoption of a child which have been incurred by adoptive parents who participate in the program for up to \$1,000 in nonrecurring expenses the parents incurred relating to the adoption. For purposes of this subsection, "nonrecurring expenses" means one-time expenses, such as attorney's fees, court costs, birth certificate fees, travel expenses, agency fees, and physical examination fees.

~~(8)(7)~~ RULES.—The department shall ~~adopt promulgate all necessary~~ rules to administer implement the provisions of this section.

Section 6. The sum of \$2,991,305 in recurring funds from the General Revenue Fund, \$2,335,445 in recurring funds from the Federal Grants Trust Fund, and \$346,772 in recurring funds from the Welfare Transition Trust Fund are appropriated to the Department of Children and Family Services

for the purpose of providing maintenance subsidies as provided in s. 409.166, Florida Statutes.

Section 7. This act shall take effect July 1, 2007.

Approved by the Governor June 12, 2007.

Filed in Office Secretary of State June 12, 2007.