

CHAPTER 2012-178

Committee Substitute for Committee Substitute for House Bill No. 803

An act relating to child protection; amending s. 39.01, F.S.; revising definitions; amending s. 39.013, F.S.; specifying when jurisdiction attaches for a petition for an injunction to prevent child abuse issued pursuant to specified provisions; amending s. 39.0138, F.S.; revising provisions relating to criminal history records check on persons being considered for placement of a child; requiring a records check through the State Automated Child Welfare Information System; providing for an out-of-state criminal history records check of certain persons who have lived out of state if such records may be obtained; amending s. 39.201, F.S.; providing procedures for calls from a parent or legal custodian seeking assistance for himself or herself which do not meet the criteria for being a report of child abuse, abandonment, or neglect, but show a potential future risk of harm to a child and requiring a referral if a need for community services exists; specifying that the central abuse hotline is the first step in the safety assessment and investigation process; amending s. 39.205, F.S.; permitting discontinuance of an investigation of child abuse, abandonment, or neglect during the course of the investigation if it is determined that the report was false; amending s. 39.301, F.S.; substituting references to a standard electronic child welfare case for a master file; revising requirements for such a file; revising requirements for informing the subject of an investigation; deleting provisions relating to a preliminary determination as to whether an investigation report is complete; revising requirements for child protective investigation activities to be performed to determine child safety; specifying uses for certain criminal justice information accesses by child protection investigators; requiring documentation of the present and impending dangers to each child through use of a standardized safety assessment; revising provisions relating to required protective, treatment, and ameliorative services; revising requirements for the Department of Children and Family Service's training program for staff responsible for responding to reports accepted by the central abuse hotline; requiring the department's training program at the regional and district levels to include results of qualitative reviews of child protective investigation cases handled within the region or district; revising requirements for the department's quality assurance program; amending s. 39.302, F.S.; requiring that a protective investigation must include an interview with the child's parent or legal guardian; amending s. 39.307, F.S.; requiring the department, contracted sheriff's office providing protective investigation services, or contracted case management personnel responsible for providing services to adhere to certain procedures relating to reports of child-on-child sexual abuse; deleting a requirement that an assessment of service and treatment needs to be completed within a specified period; amending s. 39.504, F.S.; revising provisions relating to the process for seeking a child protective injunction; providing for

temporary ex parte injunctions; providing requirements for service on an alleged offender; revising provisions relating to the contents of an injunction; providing for certain relief; providing requirements for notice of a hearing on a motion to modify or dissolve an injunction; providing that a person against whom an injunction is entered does not automatically become a party to a subsequent dependency action concerning the same child; amending s. 39.521, F.S.; requiring a home study report if a child has been removed from the home and will be remaining with a parent; substituting references to the State Automated Child Welfare Information System for the Florida Abuse Hotline Information System applicable to records checks; authorizing submission of fingerprints of certain household members; authorizing requests for national criminal history checks and fingerprinting of any visitor to the home known to the department; amending s. 39.6011, F.S.; providing additional options for the court with respect to case plans; providing for expiration of a child's case plan no later than 12 months after the date the child was adjudicated dependent; conforming a cross-reference to changes made by the act; amending s. 39.621, F.S.; revising terminology relating to permanency determinations; amending s. 39.701, F.S.; providing that a court must schedule a judicial review hearing if the citizen review panel recommends extending the goal of reunification for any case plan beyond 12 months from the date the child was adjudicated dependent, unless specified other events occurred earlier; conforming a cross-reference to changes made by the act; amending s. 39.8055, F.S.; requiring the department to file a petition to terminate parental rights within a certain number of days after the completion of a specified period after the child was sheltered or adjudicated dependent, whichever occurs first; amending s. 39.806, F.S.; providing additional criteria for the court to consider when deciding whether to terminate the parental rights of a parent or legal guardian because the parent or legal guardian is incarcerated; increasing the number of months of failure of the parent or parents to substantially comply with a child's case plan in certain circumstances that constitutes evidence of continuing abuse, neglect, or abandonment and grounds for termination of parental rights; revising a cross-reference; amending s. 402.56, F.S.; providing that the Children and Youth Cabinet shall meet at least four times but no more than six times each year; amending ss. 39.502, 39.823, and 39.828, F.S.; conforming cross-references to changes made by the act; providing an effective date.

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

Section 1. Subsection (1), paragraph (e) of subsection (32), and subsection (33) of section 39.01, Florida Statutes, are amended to read:

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

(1) “Abandoned” or “abandonment” 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, while being able, has made ~~makes~~ no significant

~~contribution to the child's care and maintenance or provision for the child's support and~~ has failed to establish or maintain a substantial and positive relationship with the child, or both. For purposes of this subsection, "establish or maintain a substantial and positive relationship" includes, but is not limited to, frequent and regular contact with the child through frequent and regular visitation or frequent and regular communication to or with the child, and the exercise of parental rights and responsibilities. Marginal efforts and incidental or token visits or communications are not sufficient to establish or maintain a substantial and positive relationship with a child. The term does not include a surrendered newborn infant as described in s. 383.50, 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, repeated incarceration, or extended incarceration of a parent, legal custodian, or caregiver responsible for a child's welfare may support a finding of abandonment.

(32) "Harm" to a child's health or welfare can occur when any person:

(e) Abandons the child. Within the context of the definition of "harm," the term "abandoned the child" or "abandonment of the child" 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, while being able, has made ~~makes~~ no significant contribution to the child's care and maintenance or provision for the child's support and has failed to establish or maintain a substantial and positive relationship with the child, or both. For purposes of this paragraph, "establish or maintain a substantial and positive relationship" includes, but is not limited to, frequent and regular contact with the child through frequent and regular visitation or frequent and regular communication to or with the child, and the exercise of parental rights and responsibilities. Marginal efforts and incidental or token visits or communications are not sufficient to establish or maintain a substantial and positive relationship with a child. The term "abandoned" does not include a surrendered newborn infant as described in s. 383.50, 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, repeated incarceration, or extended incarceration of a parent, legal custodian, or caregiver responsible for a child's welfare may support a finding of abandonment.

(33) "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 as defined in subsection (47).

Section 2. Subsection (2) of section 39.013, Florida Statutes, is amended to read:

39.013 Procedures and jurisdiction; right to counsel.—

(2) The circuit court has exclusive original jurisdiction of all proceedings under this chapter, of a child voluntarily placed with a licensed child-caring agency, a licensed child-placing agency, or the department, and of the adoption of children whose parental rights have been terminated under this chapter. Jurisdiction attaches when the initial shelter petition, dependency petition, or termination of parental rights petition, or a petition for an injunction to prevent child abuse issued pursuant to s. 39.504, is filed or when a child is taken into the custody of the department. The circuit court may assume jurisdiction over any such proceeding regardless of whether the child was in the physical custody of both parents, was in the sole legal or physical custody of only one parent, caregiver, or some other person, or was not in the physical or legal custody of any ~~no~~ person when the event or condition occurred that brought the child to the attention of the court. When the court obtains jurisdiction of any child who has been found to be dependent, the court shall retain jurisdiction, unless relinquished by its order, until the child reaches 18 years of age. However, if a youth petitions the court at any time before his or her 19th birthday requesting the court's continued jurisdiction, the juvenile court may retain jurisdiction under this chapter for a period not to exceed 1 year following the youth's 18th birthday for the purpose of determining whether appropriate aftercare support, Road-to-Independence Program, transitional support, mental health, and developmental disability services, to the extent otherwise authorized by law, have been provided to the formerly dependent child who was in the legal custody of the department immediately before his or her 18th birthday. If a petition for special immigrant juvenile status and an application for adjustment of status have been filed on behalf of a foster child 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.

Section 3. Subsection (1) of section 39.0138, Florida Statutes, is amended to read:

39.0138 Criminal history and other records checks ~~check~~; limit on placement of a child.—

(1) The department shall conduct a records check through the State Automated Child Welfare Information System (SACWIS) and a local and statewide criminal history records check on all persons, including parents, being considered by the department for placement of a child ~~subject to a placement decision~~ under this chapter, including all nonrelative placement decisions, and all members of the household, 12 years of age and older, of the person being considered, ~~and frequent visitors to the household~~. For purposes of this section, a criminal history records check may include, but

is not limited to, submission of fingerprints to the Department of Law Enforcement for processing and forwarding to the Federal Bureau of Investigation for state and national criminal history information, and local criminal records checks through local law enforcement agencies of all household members 18 years of age and older and other visitors to the home. An out-of-state criminal history records check must be initiated for any person 18 years of age or older who resided in another state if that state allows the release of such records. A criminal history records check must also include a search of the department's automated abuse information system. The department shall establish by rule standards for evaluating any information contained in the automated system relating to a person who must be screened for purposes of making a placement decision.

Section 4. Paragraph (a) of subsection (2) and subsection (4) of section 39.201, Florida Statutes, are amended to read:

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

(2)(a) Each report of known or suspected child abuse, abandonment, or neglect by a parent, legal custodian, caregiver, or other person responsible for the child's welfare as defined in this chapter, except those solely under s. 827.04(3), and each report that a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care shall be made immediately to the department's central abuse hotline. Such reports may be made on the single statewide toll-free telephone number or via fax or web-based report. Personnel at the department's central abuse hotline shall determine if the report received meets the statutory definition of child abuse, abandonment, or neglect. Any report meeting one of these definitions shall be accepted for the protective investigation pursuant to part III of this chapter. Any call received from a parent or legal custodian seeking assistance for himself or herself which does not meet the criteria for being a report of child abuse, abandonment, or neglect may be accepted by the hotline for response to ameliorate a potential future risk of harm to a child. If it is determined by a child welfare professional that a need for community services exists, the department shall refer the parent or legal custodian for appropriate voluntary community services.

(4) The department shall ~~operate~~ establish and maintain a central abuse hotline to receive all reports made pursuant to this section in writing, via fax, via web-based reporting, or through a single statewide toll-free telephone number, which any person may use to report known or suspected child abuse, abandonment, or neglect at any hour of the day or night, any day of the week. The central abuse hotline is the first step in the safety assessment and investigation process. The central abuse hotline shall be operated in such a manner as to enable the department to:

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

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

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

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

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

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

Section 5. Subsections (3) and (5) of section 39.205, Florida Statutes, are amended to read:

39.205 Penalties relating to reporting of child abuse, abandonment, or neglect.—

(3) A person who knowingly and willfully makes public or discloses any confidential information contained in the central abuse hotline or in the records of any child abuse, abandonment, or neglect case, except as provided in this chapter, commits ~~is guilty of~~ a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(5) If the department or its authorized agent has determined during the course of ~~after~~ its investigation that a report is a false report, the department may discontinue all investigative activities and shall, with the consent of the alleged perpetrator, refer the report to the local law enforcement agency having jurisdiction for an investigation to determine whether sufficient evidence exists to refer the case for prosecution for filing a false report as defined in s. 39.01. During the pendency of the investigation, the department must notify the local law enforcement agency of, and the local law enforcement agency must respond to, all subsequent reports concerning children in that same family in accordance with s. 39.301. If the law enforcement agency believes that there are indicators of abuse, abandonment, or neglect, it must immediately notify the department, which must ensure the safety of the children. If the law enforcement agency finds

sufficient evidence for prosecution for filing a false report, it must refer the case to the appropriate state attorney for prosecution.

Section 6. Section 39.301, Florida Statutes, is amended to read:

39.301 Initiation of protective investigations.—

(1) Upon receiving a report of known or suspected child abuse, abandonment, or neglect, or that a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care, the central abuse hotline shall determine if the report requires an immediate onsite protective investigation. For reports requiring an immediate onsite protective investigation, the central abuse hotline shall immediately notify the department's designated district staff responsible for protective investigations to ensure that an onsite investigation is promptly initiated. For reports not requiring an immediate onsite protective investigation, the central abuse hotline shall notify the department's designated district staff responsible for protective investigations in sufficient time to allow for an investigation. At the time of notification, the central abuse hotline shall also provide information to district staff on any previous report concerning a subject of the present report or any pertinent information relative to the present report or any noted earlier reports.

(2)(a) The department shall immediately forward allegations of criminal conduct to the municipal or county law enforcement agency of the municipality or county in which the alleged conduct has occurred.

(b) As used in this subsection, the term "criminal conduct" means:

1. A child is known or suspected to be the victim of child abuse, as defined in s. 827.03, or of neglect of a child, as defined in s. 827.03.

2. A child is known or suspected to have died as a result of abuse or neglect.

3. A child is known or suspected to be the victim of aggravated child abuse, as defined in s. 827.03.

4. A child is known or suspected to be the victim of sexual battery, as defined in s. 827.071, or of sexual abuse, as defined in s. 39.01.

5. A child is known or suspected to be the victim of institutional child abuse or neglect, as defined in s. 39.01, and as provided for in s. 39.302(1).

6. A child is known or suspected to be a victim of human trafficking, as provided in s. 787.06.

(c) Upon receiving a written report of an allegation of criminal conduct from the department, the law enforcement agency shall review the information in the written report to determine whether a criminal investigation is

warranted. If the law enforcement agency accepts the case for criminal investigation, it shall coordinate its investigative activities with the department, whenever feasible. If the law enforcement agency does not accept the case for criminal investigation, the agency shall notify the department in writing.

(d) The local law enforcement agreement required in s. 39.306 shall describe the specific local protocols for implementing this section.

(3) The department shall maintain a single, standard electronic child welfare case master file for each child whose report is accepted by the central abuse hotline for investigation. Such file must contain information concerning all reports received by the abuse hotline concerning that child and all services received by that child and family. The file must be made available to any department staff, agent of the department, or contract provider given responsibility for conducting a protective investigation.

(4) To the extent practical, all protective investigations involving a child shall be conducted or the work supervised by a single individual in order for there to be broad knowledge and understanding of the child's history. When a new investigator is assigned to investigate a second and subsequent report involving a child, a multidisciplinary staffing shall be conducted which includes new and prior investigators, their supervisors, and appropriate private providers in order to ensure that, to the extent possible, there is coordination among all parties. The department shall establish an internal operating procedure that ensures that all required investigatory activities, including a review of the child's complete investigative and protective services history, are completed by the investigator, reviewed by the supervisor in a timely manner, and signed and dated by both the investigator and the supervisor.

(5)(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~~.

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

6. The duty of the parent or legal custodian to report any change in the residence or location of the child to the investigator and that the duty to report continues until the investigation is closed.

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

(6) Upon commencing an investigation under this part, if a report was received from a reporter under s. 39.201(1)(b), the protective investigator must provide his or her contact information to the reporter within 24 hours after being assigned to the investigation. The investigator must also advise the reporter that he or she may provide a written summary of the report made to the central abuse hotline to the investigator which shall become a part of the electronic child welfare case master file.

(7) An assessment of safety risk and the perceived needs for the child and family shall be conducted in a manner that is sensitive to the social, economic, and cultural environment of the family. This assessment must include a face-to-face interview with the child, other siblings, parents, and other adults in the household and an onsite assessment of the child's residence.

(8) Protective investigations shall be performed by the department or its agent.

~~(9) The person responsible for the investigation shall make a preliminary determination as to whether the report 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 is incomplete, he or she shall return it without delay to the person or agency originating the report 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; however, the confidentiality of any report filed in accordance with this chapter shall not be violated.~~

~~(a) If it is determined that the report 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 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. Factors that the department may consider in determining whether a case is high-risk include, but are not limited to, the young age of the parents or legal custodians; the use of illegal drugs; the~~

~~arrest of the parents or legal custodians on charges of manufacturing, processing, disposing of, or storing, either temporarily or permanently, any substances in violation of chapter 893; or domestic violence.~~

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

~~(9)(10)(a) For each report received from the central abuse hotline and accepted for investigation that meets one or more of the following criteria, the department or the sheriff providing child protective investigative services under s. 39.3065, shall perform the following an onsite child protective investigation activities to determine child safety:~~

~~1. Conduct a review of all relevant, available information specific to the child and family and alleged maltreatment; family child welfare history; local, state, and federal criminal records checks; and requests for law enforcement assistance provided by the abuse hotline. Based on a review of available information, including the allegations in the current report, a determination shall be made as to whether immediate consultation should occur with law enforcement, the child protection team, a domestic violence shelter or advocate, or a substance abuse or mental health professional. Such consultations should include discussion as to whether a joint response is necessary and feasible. A determination shall be made as to whether the person making the report should be contacted before the face-to-face interviews with the child and family members. A report for which there is obvious compelling evidence that no maltreatment occurred and there are no prior reports containing some indicators or verified findings of abuse or neglect with respect to any subject of the report or other individuals in the home. A prior report in which an adult in the home was a victim of abuse or neglect before becoming an adult does not exclude a report otherwise meeting the criteria of this subparagraph from the onsite child protective investigation provided for in this subparagraph. The process for an onsite child protective investigation stipulated in this subsection may not be conducted if an allegation meeting the criteria of this subparagraph involves physical abuse, sexual abuse, domestic violence, substance abuse or substance exposure, medical neglect, a child younger than 3 years of age, or a child who is disabled or lacks communication skills.~~

~~2. Conduct A report concerning an incident of abuse which is alleged to have occurred 2 or more years prior to the date of the report and there are no other indicators of risk to any child in the home.~~

~~(b) The onsite child protective investigation to be performed shall include a face-to-face interviews interview with the child; other siblings, if any; and the parents, legal custodians, or caregivers.; and other adults in the household and an onsite assessment of the child's residence in order to:~~

~~3.1. Assess the child's residence, including a determination of Determine the composition of the family and ~~or~~ household, including the name, address,~~

date of birth, social security number, sex, and race of each child named in the report; any siblings or other children in the same household or in the care of the same adults; the parents, legal custodians, or caregivers; and any other adults in the same household.

4.2. Determine whether there is any indication that any child in the family or household has been abused, abandoned, or neglected; the nature and extent of present or prior injuries, abuse, or neglect, and any evidence thereof; and a determination as to the person or persons apparently responsible for the abuse, abandonment, or neglect, including the name, address, date of birth, social security number, sex, and race of each such person.

5.3. ~~Complete assessment of immediate child safety for~~ Determine the ~~immediate and long-term risk to each child based on available records, interviews, and observations with all persons named in subparagraph 2. and appropriate collateral contacts, which may include other professionals by conducting state and federal records checks, including, when feasible, the records of the Department of Corrections, on the parents, legal custodians, or caregivers, and any other persons in the same household. This information shall be used solely for purposes supporting the detection, apprehension, prosecution, pretrial release, posttrial release, or rehabilitation of criminal offenders or persons accused of the crimes of child abuse, abandonment, or neglect and shall not be further disseminated or used for any other purpose.~~ The department's child protection investigators are hereby designated a criminal justice agency for the purpose of accessing criminal justice information to be used for enforcing this state's laws concerning the crimes of child abuse, abandonment, and neglect. This information shall be used solely for purposes supporting the detection, apprehension, prosecution, pretrial release, posttrial release, or rehabilitation of criminal offenders or persons accused of the crimes of child abuse, abandonment, or neglect and may not be further disseminated or used for any other purpose.

6.4. Document the present and impending dangers ~~Determine the immediate and long-term risk to each child based on the identification of inadequate protective capacity through utilization of a standardized safety risk assessment instrument instruments.~~

(b) Upon completion of the immediate safety assessment, the department shall determine the additional activities necessary to assess impending dangers, if any, and close the investigation.

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

(c)6. For each report received from the central abuse hotline, the department or the sheriff providing child protective investigative services under s. 39.3065, shall determine the protective, treatment, and ameliorative services necessary to safeguard and ensure the child's safety and well-

being and development, and cause the delivery of those services through the early intervention of the department or its agent. ~~As applicable, The training provided to staff members who conduct child protective investigators investigations must inform parents and caregivers include instruction on how and when to use the injunction process under s. 39.504 or s. 741.30 to remove a perpetrator of domestic violence from the home as an intervention to protect the child.~~

1. If the department or the sheriff providing child protective investigative services determines that 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 or legal custodians, the parent or legal custodian and child may be referred for such care, case management, or other community resources.

2. If the department or the sheriff providing child protective investigative services determines that the child is in need of protection and supervision, the department may file a petition for dependency.

3. If a petition for dependency is not being filed by the department, the person or agency originating the report shall be advised of the right to file a petition pursuant to this part.

4. At the close of an investigation, the department or the sheriff providing child protective services shall provide to the person who is alleged to have caused the abuse, neglect, or abandonment and the parent or legal custodian a summary of findings from the investigation and provide information about their right to access confidential reports in accordance with s. 39.202.

~~(c) The determination that a report requires an investigation as provided in this subsection and does not require an enhanced onsite child protective investigation pursuant to subsection (11) must be approved in writing by the supervisor with documentation specifying why additional investigative activities are not necessary.~~

~~(d) A report that meets the criteria specified in this subsection is not precluded from further investigative activities. At any time it is determined that additional investigative activities are necessary for the safety of the child, such activities shall be conducted.~~

(10)(11)(a) The department's training program for staff responsible for responding to reports accepted by the central abuse hotline must also ensure that child protective responders:

1. Know how to fully inform parents or legal custodians of their rights and options, including opportunities for audio or video recording of child protective responder interviews with parents or legal custodians or children.

2. Know how and when to use the injunction process under s. 39.504 or s. 741.30 to remove a perpetrator of domestic violence from the home as an intervention to protect the child.

3. Know how to explain to the parent, legal custodian, or person who is alleged to have caused the abuse, neglect, or abandonment the results of the investigation and to provide information about his or her right to access confidential reports in accordance with s. 39.202, prior to closing the case.

(b) To enhance the skills of individual staff members and to improve the region's and district's overall child protection system, the department's training program at the regional and district levels must include results of qualitative reviews of child protective investigation cases handled within the region or district in order to identify weaknesses as well as examples of effective interventions which occurred at each point in the case. For each report that meets one or more of the following criteria, the department shall perform an enhanced onsite child protective investigation:

~~1. Any allegation that involves physical abuse, sexual abuse, domestic violence, substance abuse or substance exposure, medical neglect, a child younger than 3 years of age, or a child who is disabled or lacks communication skills.~~

~~2. Any report that involves an individual who has been the subject of a prior report containing some indicators or verified findings of abuse, neglect, or abandonment.~~

~~3. Any report that does not contain compelling evidence that the maltreatment did not occur.~~

~~4. Any report that does not meet the criteria for an onsite child protective investigation as set forth in subsection (10).~~

~~(b) The enhanced onsite child protective investigation shall include, but is not limited to:~~

~~1. A face-to-face interview with the child, other siblings, parents or legal custodians or caregivers, and other adults in the household;~~

~~2. Collateral contacts;~~

~~3. Contact with the reporter as required by rule;~~

~~4. An onsite assessment of the child's residence in accordance with paragraph (10)(b); and~~

~~5. An updated assessment.~~

(c) For all reports received, detailed documentation is required for the investigative activities.

~~(11)(12)~~ The department shall incorporate into its quality assurance program the monitoring of the determination of reports that receive a an onsite child protective investigation to determine the quality and timeliness of safety assessments, engagements with families, teamwork with other

experts and professionals, and appropriate investigative activities that are uniquely tailored to the safety factors associated with each child and family and those that receive an enhanced onsite child protective investigation.

~~(12)~~(13) If the department or its agent is denied reasonable access to a child by the parents, legal custodians, or caregivers and the department deems that the best interests of the child so require, it shall seek an appropriate court order or other legal authority before ~~prior to~~ examining and interviewing the child.

~~(13)~~(14) Onsite visits and face-to-face interviews with the child or family shall be unannounced unless it is determined by the department or its agent or contract provider that such unannounced visit would threaten the safety of the child.

~~(14)~~(15)(a) If the department or its agent determines that a child requires immediate or long-term protection through:

1. Medical or other health care; or
2. Homemaker care, day care, protective supervision, or other services to stabilize the home environment, including intensive family preservation services through the Intensive Crisis Counseling Program,

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 to exercise judgment. Such factors may include the parents' or legal custodians' young age or history of substance abuse or domestic violence.

(b) The parents or legal custodians 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, a collateral contact ~~required under subparagraph (11)(b)2.~~ shall include a relative, if the protective investigator has knowledge of and the ability to contact a relative. 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. At any time after the commencement of a protective investigation, a relative may submit in writing to the protective investigator or case manager a request to receive notification of all proceedings and hearings in accordance with s. 39.502. The request shall include the relative's name, address, and phone number and the relative's relationship to the child. The protective investigator or case manager shall forward such request to the attorney for the department. The failure to provide notice to either a relative who requests it pursuant to this subsection or to a relative who is providing out-of-home care for a child may ~~shall~~ not result in any previous action of the court at any stage or proceeding in dependency or termination of parental rights under any part of this chapter being set aside, reversed, modified, or in any

way changed absent a finding by the court that a change is required in the child's best interests.

(c) The department, in consultation with the judiciary, shall adopt by rule criteria that are factors requiring that the department take the child into custody, petition the court as provided in this chapter, or, if the child is not taken into custody or a petition is not filed with the court, conduct an administrative review. If after an administrative review the department determines not to take the child into custody or petition the court, the department shall document the reason for its decision in writing and include it in the investigative file. For all cases that were accepted by the local law enforcement agency for criminal investigation pursuant to subsection (2), the department must include in the file written documentation that the administrative review included input from law enforcement. In addition, for all cases that must be referred to child protection teams pursuant to s. 39.303(2) and (3), the file must include written documentation that the administrative review included the results of the team's evaluation. Factors that must be included in the development of the rule include noncompliance with the case plan developed by the department, or its agent, and the family under this chapter and prior abuse reports with findings that involve the child or caregiver.

~~(15)~~(16) When a child is taken into custody pursuant to this section, the authorized agent of the department shall request that the child's parent, caregiver, or legal custodian disclose the names, relationships, and addresses of all parents and prospective parents and all next of kin, so far as are known.

~~(16)~~(17) The department shall complete its protective investigation within 60 days after receiving the initial report, unless:

(a) There is also an active, concurrent criminal investigation that is continuing beyond the 60-day period and the closure of the protective investigation may compromise successful criminal prosecution of the child abuse or neglect case, in which case the closure date shall coincide with the closure date of the criminal investigation and any resulting legal action.

(b) In child death cases, the final report of the medical examiner is necessary for the department to close its investigation and the report has not been received within the 60-day period, in which case the report closure date shall be extended to accommodate the report.

(c) A child who is necessary to an investigation has been declared missing by the department, a law enforcement agency, or a court, in which case the 60-day period shall be extended until the child has been located or until sufficient information exists to close the investigation despite the unknown location of the child.

~~(17)~~(18) 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, transmit a full written 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.

~~(18)~~(19) 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 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 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 staff member at the interview.

School staff may be present only when authorized by this subsection. Information received during the interview or from any other source regarding the alleged abuse or neglect of the child is 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 may shall not be maintained by the school or school staff member. Violation of this subsection is constitutes a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

~~(19)~~(20) When a law enforcement agency conducts a criminal investigation into allegations of child abuse, neglect, or abandonment, photographs documenting the abuse or neglect shall will be taken when appropriate.

~~(20)~~(21) Within 15 days after the case is reported to him or her pursuant to this chapter, 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.

~~(22) In order to enhance the skills of individual staff and to improve the district's overall child protection system, the department's training program at the district level must include periodic reviews of cases handled within the district in order to identify weaknesses as well as examples of effective interventions that occurred at each point in the case.~~

(21)(23) When an investigation is closed and a person is not identified as a caregiver responsible for the abuse, neglect, or abandonment alleged in the report, the fact that the person is named in some capacity in the report may not be used in any way to adversely affect the interests of that person. This prohibition applies to any use of the information in employment screening, licensing, child placement, adoption, or any other decisions by a private adoption agency or a state agency or its contracted providers, except that a previous report may be used to determine whether a child is safe and what the known risk is to the child at any stage of a child protection proceeding.

(22)(24) If, after having been notified of the requirement to report a change in residence or location of the child to the protective investigator, a parent or legal custodian causes the child to move, or allows the child to be moved, to a different residence or location, or if the child leaves the residence on his or her own accord and the parent or legal custodian does not notify the protective investigator of the move within 2 business days, the child may be considered to be a missing child for the purposes of filing a report with a law enforcement agency under s. 937.021.

Section 7. Subsection (1) of section 39.302, Florida Statutes, 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 that alleges that an employee or agent of the department, or any other entity or person covered by s. 39.01(33) or (47), acting in an official capacity, has committed an act of child abuse, abandonment, or neglect, the department shall initiate a child protective investigation within the time-frame established under s. 39.201(5) and orally notify the appropriate state attorney, law enforcement agency, and licensing agency, which shall immediately conduct a joint investigation, unless independent investigations are more feasible. When conducting investigations onsite or having face-to-face interviews with the child, investigation visits shall be unannounced unless it is determined by the department or its agent that unannounced visits threaten the safety of the child. If 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 is entitled to full access to the information gathered by the department in the course of the

investigation. A protective investigation must include an interview with the child's parent or legal guardian ~~an onsite visit of the child's place of residence~~. 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 the report a determination of whether or not prosecution is justified and appropriate in view of the circumstances of the specific case.

Section 8. Subsection (2) of section 39.307, Florida Statutes, is amended to read:

39.307 Reports of child-on-child sexual abuse.—

(2) The department, contracted sheriff's office providing protective investigation services, or contracted case management personnel responsible for providing services ~~District staff~~, at a minimum, shall adhere to the following procedures:

(a) The purpose of the response to a report alleging juvenile sexual abuse behavior shall be explained to the caregiver.

1. The purpose of the response shall be explained in a manner consistent with legislative purpose and intent provided in this chapter.

2. The name and office telephone number of the person responding shall be provided to the caregiver of the alleged juvenile sexual offender or child who has exhibited inappropriate sexual behavior and the victim's caregiver.

3. The possible consequences of the department's response, including outcomes and services, shall be explained to the caregiver of the alleged juvenile sexual offender or child who has exhibited inappropriate sexual behavior and the victim's caregiver.

(b) The caregiver of the alleged juvenile sexual offender or child who has exhibited inappropriate sexual behavior and the victim's caregiver shall be involved to the fullest extent possible in determining the nature of the sexual behavior concerns ~~allegation~~ and the nature of any problem or risk to other children.

(c) The assessment of risk and the perceived treatment needs of the alleged juvenile sexual offender or child who has exhibited inappropriate sexual behavior, the victim, and respective caregivers shall be conducted by the district staff, the child protection team of the Department of Health, and other providers under contract with the department to provide services to the caregiver of the alleged offender, the victim, and the victim's caregiver.

(d) The assessment shall be conducted in a manner that is sensitive to the social, economic, and cultural environment of the family.

(e) If necessary, the child protection team of the Department of Health shall conduct a physical examination of the victim, which is sufficient to meet forensic requirements.

(f) Based on the information obtained from the alleged juvenile sexual offender or child who has exhibited inappropriate sexual behavior, his or her caregiver, the victim, and the victim’s caregiver, an assessment of service and treatment needs ~~report~~ must be completed ~~within 7 days~~ and, if needed, a case plan developed within 30 days.

(g) The department shall classify the outcome of the report as follows:

1. Report closed. Services were not offered because the department determined that there was no basis for intervention.

2. Services accepted by alleged juvenile sexual offender. Services were offered to the alleged juvenile sexual offender or child who has exhibited inappropriate sexual behavior and accepted by the caregiver.

3. Report closed. Services were offered to the alleged juvenile sexual offender or child who has exhibited inappropriate sexual behavior, but were rejected by the caregiver.

4. Notification to law enforcement. The risk to the victim’s safety and well-being cannot be reduced by the provision of services or the caregiver rejected services, and notification of the alleged delinquent act or violation of law to the appropriate law enforcement agency was initiated.

5. Services accepted by victim. Services were offered to the victim and accepted by the caregiver.

6. Report closed. Services were offered to the victim but were rejected by the caregiver.

Section 9. Section 39.504, Florida Statutes, is amended to read:

39.504 Injunction pending disposition of petition; penalty.—

(1) At any time after a protective investigation has been initiated pursuant to part III of this chapter, the court, upon the request of the department, a law enforcement officer, the state attorney, or other responsible person, or upon its own motion, may, if there is reasonable cause, issue an injunction to prevent any act of child abuse. Reasonable cause for the issuance of an injunction exists if there is evidence of child abuse or if there is a reasonable likelihood of such abuse occurring based upon a recent overt act or failure to act.

(2) The petitioner seeking the injunction shall file a verified petition, or a petition along with an affidavit, setting forth the specific actions by the alleged offender from which the child must be protected and all remedies sought. Upon filing the petition, the court shall set a hearing to be held at the earliest possible time. Pending the hearing, the court may issue a temporary ex parte injunction, with verified pleadings or affidavits as evidence. The temporary ex parte injunction pending a hearing is effective for up to 15 days and the hearing must be held within that period unless continued for good cause shown, which may include obtaining service of process, in which case the temporary ex parte injunction shall be extended for the continuance period. The hearing may be held sooner if the alleged offender has received reasonable notice shall be provided to the parties as set forth in the Florida Rules of Juvenile Procedure, unless the child is reported to be in imminent danger, in which case the court may issue an injunction immediately. A judge may issue an emergency injunction pursuant to this section without notice if the court is closed for the transaction of judicial business. If an immediate injunction is issued, the court must hold a hearing on the next day of judicial business to dissolve the injunction or to continue or modify it in accordance with this section.

(3) Before the hearing, the alleged offender must be personally served with a copy of the petition, all other pleadings related to the petition, a notice of hearing, and, if one has been entered, the temporary injunction. Following the hearing, the court may enter a final injunction. The court may grant a continuance of the hearing at any time for good cause shown by any party. If a temporary injunction has been entered, it shall be continued during the continuance.

~~(4)(3)~~ If an injunction is issued under this section, the primary purpose of the injunction must be to protect and promote the best interests of the child, taking the preservation of the child's immediate family into consideration.

(a) The injunction ~~applies shall apply~~ to the alleged or actual offender in a case of child abuse or acts of domestic violence. The conditions of the injunction shall be determined by the court, which ~~conditions~~ may include ordering the alleged or actual offender to:

1. Refrain from further abuse or acts of domestic violence.
2. Participate in a specialized treatment program.
3. Limit contact or communication with the child victim, other children in the home, or any other child.
4. Refrain from contacting the child at home, school, work, or wherever the child may be found.
5. Have limited or supervised visitation with the child.

~~6.— Pay temporary support for the child or other family members; the costs of medical, psychiatric, and psychological treatment for the child incurred as a result of the offenses; and similar costs for other family members.~~

6.7. Vacate the home in which the child resides.

~~(b) Upon proper pleading, the court may award the following relief in a temporary ex parte or final injunction. If the intent of the injunction is to protect the child from domestic violence, the conditions may also include:~~

~~1. Awarding the Exclusive use and possession of the dwelling to the caregiver or exclusion of ~~excluding~~ the alleged or actual offender from the residence of the caregiver.~~

~~2.— Awarding temporary custody of the child to the caregiver.~~

2.3. ~~Establishing~~ Temporary support for the child or other family members.

~~3. The costs of medical, psychiatric, and psychological treatment for the child incurred due to the abuse, and similar costs for other family members.~~

This paragraph does not preclude an the adult victim of domestic violence from seeking protection for himself or herself under s. 741.30.

~~(c) The terms of the final injunction shall remain in effect until modified or dissolved by the court. The petitioner, respondent, or caregiver may move at any time to modify or dissolve the injunction. Notice of hearing on the motion to modify or dissolve the injunction must be provided to all parties, including the department. The injunction is valid and enforceable in all counties in the state.~~

~~(5)(4) Service of process on the respondent shall be carried out pursuant to s. 741.30. The department shall deliver a copy of any injunction issued pursuant to this section to the protected party or to a parent, caregiver, or individual acting in the place of a parent who is not the respondent. Law enforcement officers may exercise their arrest powers as provided in s. 901.15(6) to enforce the terms of the injunction.~~

~~(6)(5) Any person who fails to comply with an injunction issued pursuant to this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.~~

~~(7) The person against whom an injunction is entered under this section does not automatically become a party to a subsequent dependency action concerning the same child.~~

Section 10. Paragraph (r) of subsection (2) of section 39.521, Florida Statutes, is amended to read:

39.521 Disposition hearings; powers of disposition.—

(2) The predisposition study must provide the court with the following documented information:

(r) If the child has been removed from the home and will be remaining with a relative, parent, or other adult approved by the court, a home study report concerning the proposed placement shall be included in the predisposition report. ~~Before~~ 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, which must include, at a minimum:

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

2. Records checks through the State Automated Child Welfare Information System (SACWIS) Florida Abuse Hotline Information System (FAHIS), 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. In addition, the fingerprints of any household members who are 18 years of age or older may be submitted to the Department of Law Enforcement for processing and forwarding to the Federal Bureau of Investigation for state and national criminal history information. The department has the discretion to request State Automated Child Welfare Information System (SACWIS) and local, statewide, and national criminal history checks and fingerprinting of any other visitor to the home who is made known to the department and any other persons made known to the department who are frequent visitors in the home. Out-of-state criminal records checks must be initiated for any individual ~~designated above~~ who has resided in a state other than Florida if provided that state's laws allow the release of these records. The out-of-state criminal records must be filed with the court within 5 days after receipt by the department or its agent.

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

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

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

6. Documentation of counseling and information provided to the proposed legal custodians 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.

The department ~~may~~ shall not place the child or continue the placement of the child in a home under shelter or postdisposition placement if the results of the home study are unfavorable, unless the court finds that this placement is in the child's best interest.

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.

Section 11. Subsection (2) and paragraph (b) of subsection (4) of section 39.6011, Florida Statutes, are amended to read:

39.6011 Case plan development.—

(2) The case plan must be written simply and clearly in English and, if English is not the principal language of the child's parent, to the extent possible in the parent's principal language. Each case plan must contain:

(a) A description of the identified problem being addressed, including the parent's behavior or acts resulting in risk to the child and the reason for the intervention by the department.

(b) The permanency goal.

(c) If concurrent planning is being used, a description of the permanency goal of reunification with the parent or legal custodian in addition to a description of one of the remaining permanency goals described in s. 39.01.

1. If a child has not been removed from a parent, but is found to be dependent, even if adjudication of dependency is withheld, the court may leave the child in the current placement with maintaining and strengthening the placement as a permanency option.

2. If a child has been removed from a parent and is placed with a parent from whom the child was not removed, the court may leave the child in the placement with the parent from whom the child was not removed with maintaining and strengthening the placement as a permanency option.

3. If a child has been removed from a parent and is subsequently reunified with that parent, the court may leave the child with that parent with maintaining and strengthening the placement as a permanency option.

(d) The date the compliance period expires. The case plan must be limited to as short a period as possible for accomplishing its provisions. The plan's compliance period expires no later than 12 months after the date the child was initially removed from the home, the child was adjudicated dependent, or the date the case plan was accepted by the court, whichever occurs first sooner.

(e) 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 breach of the case plan may result in the

filing of a petition for termination of parental rights sooner than the compliance period set forth in the case plan.

(4) The case plan must describe:

(b) The responsibility of the case manager to forward a relative's request to receive notification of all proceedings and hearings submitted pursuant to s. ~~39.301(14)(b)~~ ~~39.301(15)(b)~~ to the attorney for the department;

Section 12. Subsection (1) of section 39.621, Florida Statutes, is amended to read:

39.621 Permanency determination by the court.—

(1) Time is of the essence for permanency of children in the dependency system. A permanency hearing must be held no later than 12 months after the date the child was removed from the home or within ~~no later than~~ 30 days after a court determines that reasonable efforts to return a child to either parent are not required, whichever occurs first. The purpose of the permanency hearing is to determine when the child will achieve the permanency goal or whether modifying the current goal is in the best interest of the child. A permanency hearing must be held at least every 12 months for any child who continues to be supervised by ~~receive supervision from~~ the department or awaits adoption.

Section 13. Paragraph (b) of subsection (3), subsection (6), and paragraph (e) of subsection (10) of section 39.701, Florida Statutes, are amended to read:

39.701 Judicial review.—

(3)

(b) If the citizen review panel recommends extending the goal of reunification for any case plan beyond 12 months from the date the child was removed from the home, ~~or~~ the case plan was adopted, or the child was adjudicated dependent, whichever date came first, 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.

(6) The attorney for the department shall notify a relative who submits a request for notification of all proceedings and hearings pursuant to s. ~~39.301(14)(b)~~ ~~39.301(15)(b)~~. The notice shall include the date, time, and location of the next judicial review hearing.

(10)

(e) Within ~~No later than~~ 6 months after the date that the child was placed in shelter care, the court shall conduct a judicial review hearing to review the child's permanency goal as identified in the case plan. At the hearing the court shall make findings regarding the likelihood of the child's reunification with the parent or legal custodian within 12 months after the removal of the

child from the home. If, ~~at this hearing,~~ the court makes a written finding that it is not likely that the child will be reunified with the parent or legal custodian within 12 months after the child was removed from the home, the department must file with the court, and serve on all parties, a motion to amend the case plan under s. 39.6013 and declare that it will use concurrent planning for the case plan. The department must file the motion within no later than 10 business days after receiving the written finding of the court. The department must attach the proposed amended case plan to the motion. If concurrent planning is already being used, the case plan must document the efforts the department is taking to complete the concurrent goal.

Section 14. Paragraph (a) of subsection (1) of section 39.8055, Florida Statutes, is amended to read:

39.8055 Requirement to file a petition to terminate parental rights; exceptions.—

(1) The department shall file a petition to terminate parental rights within 60 days after any of the following if:

(a) ~~The At the time of the 12-month judicial review hearing,~~ a child is not returned to the physical custody of the parents 12 months after the child was sheltered or adjudicated dependent, whichever occurs first;

Section 15. Paragraphs (d), (e), and (k) of subsection (1) and subsection (2) of section 39.806, Florida Statutes, are amended to read:

39.806 Grounds for termination of parental rights.—

(1) Grounds for the termination of parental rights may be established under any of the following circumstances:

(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 significant substantial portion of the child's minority. When determining whether the period of time is significant, the court shall consider the child's age and the child's need for a permanent and stable home. The period of time begins on the date that the parent enters into incarceration 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 subparagraph, 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

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. When determining harm, the court shall consider the following factors:

- a. The age of the child.
- b. The relationship between the child and the parent.
- c. The nature of the parent's current and past provision for the child's developmental, cognitive, psychological, and physical needs.
- d. The parent's history of criminal behavior, which may include the frequency of incarceration and the unavailability of the parent to the child due to incarceration.
- e. Any other factor the court deems relevant.

(e) When a child has been adjudicated dependent, a case plan has been filed with the court, and:

1. The child continues to be abused, neglected, or abandoned by the parent or parents. The failure of the parent or parents to substantially comply with the case plan for a period of 12 ~~9~~ months after an adjudication of the child as a dependent child or the child's placement into shelter care, whichever occurs first, constitutes evidence of continuing abuse, neglect, or abandonment unless the failure to substantially comply with the case plan was due to the parent's lack of financial resources or to the failure of the department to make reasonable efforts to reunify the parent and child. The 12-month ~~9-month~~ period begins 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 court's approval of a case plan having the goal of reunification with the parent, whichever occurs first; or

2. The parent or parents have materially breached the case plan. Time is of the essence for permanency of children in the dependency system. In order to prove the parent or parents have materially breached the case plan, the court must find by clear and convincing evidence that the parent or parents are unlikely or unable to substantially comply with the case plan before time to comply with the case plan expires.

(k) A test administered at birth that indicated that the child's blood, urine, or meconium contained any amount of alcohol or a controlled substance or metabolites of such substances, the presence of which was

not the result of medical treatment administered to the mother or the newborn infant, and the biological mother of the child is the biological mother of at least one other child who was adjudicated dependent after a finding of harm to the child’s health or welfare due to exposure to a controlled substance or alcohol as defined in s. 39.01(32)(g), after which the biological mother had the opportunity to participate in substance abuse treatment.

(2) Reasonable efforts to preserve and reunify families are not required if a court of competent jurisdiction has determined that any of the events described in paragraphs ~~(1)(b)-(d) or (f)-(l)~~ (1)(e)-(l) have occurred.

Section 16. Paragraph (c) of subsection (3) of section 402.56, Florida Statutes, is amended to read:

402.56 Children’s cabinet; organization; responsibilities; annual report.

(3) ORGANIZATION.—There is created the Children and Youth Cabinet, which is a coordinating council as defined in s. 20.03.

(c) ~~The cabinet shall meet for its organizational session no later than October 1, 2007. Thereafter,~~ The cabinet shall meet at least four ~~six~~ times each year, but no more than six times each year, in different regions of the state in order to solicit input from the public and any other individual offering testimony relevant to the issues considered. Each meeting must include a public comment session.

Section 17. Subsections (1) and (19) of section 39.502, Florida Statutes, are amended to read:

39.502 Notice, process, and service.—

(1) Unless parental rights have been terminated, all parents 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. In all other dependency proceedings, notice must be provided in accordance with subsections (4)-(9), except when a relative requests notification pursuant to s. ~~39.301(14)(b)~~ 39.301(15)(b), in which case notice shall be provided pursuant to subsection (19).

(19) In all proceedings and hearings under this chapter, the attorney for the department shall notify, orally or in writing, a relative requesting notification pursuant to s. ~~39.301(14)(b)~~ 39.301(15)(b) of the date, time, and location of such proceedings and hearings, and notify the relative that he or she has the right to attend all subsequent proceedings and hearings, to submit reports to the court, and to speak to the court regarding the child, if the relative so desires. The court has the discretion to release the attorney for the department from notifying a relative who requested notification pursuant to s. ~~39.301(14)(b)~~ 39.301(15)(b) if the relative’s involvement is determined to be impeding the dependency process or detrimental to the child’s well-being.

Section 18. Section 39.823, Florida Statutes, is amended to read:

39.823 Guardian advocates for drug dependent newborns.—The Legislature finds that increasing numbers of drug dependent children are born in this state. Because of the parents’ continued dependence upon drugs, the parents may temporarily leave their child with a relative or other adult or may have agreed to voluntary family services under s. ~~39.301(14)~~ 39.301(15). The relative or other adult may be left with a child who is likely to require medical treatment but for whom they are unable to obtain medical treatment. The purpose of this section is to provide an expeditious method for such relatives or other responsible adults to obtain a court order which allows them to provide consent for medical treatment and otherwise advocate for the needs of the child and to provide court review of such authorization.

Section 19. Paragraph (a) of subsection (1) of section 39.828, Florida Statutes, is amended to read:

39.828 Grounds for appointment of a guardian advocate.—

(1) The court shall appoint the person named in the petition as a guardian advocate with all the powers and duties specified in s. 39.829 for an initial term of 1 year upon a finding that:

(a) The child named in the petition is or was a drug dependent newborn as described in s. ~~39.01(32)(g)~~;

Section 20. This act shall take effect July 1, 2012.

Approved by the Governor April 27, 2012.

Filed in Office Secretary of State April 27, 2012.