



State of Florida
Department of Children and Families

Charlie Crist
Governor

George H. Sheldon
Secretary

DATE: June 22, 2009

TO: Regional Directors

THROUGH: John Cooper, Acting Assistant Secretary for Operations
David L. Fairbanks, Assistant Secretary for Programs

FROM: *Patricia Bradland for*
Alan Abramowitz, State Director, Office of Family Safety

SUBJECT: Implementation of SB 1128

PURPOSE: At the conclusion of the 2009 legislative session, Governor Charlie Crist signed into law SB 1128: An act relating to the education for children in shelter care or foster care and exceptional students. The bill contains a number of provisions aimed to deter foster children from dropping out of high school and to help speed up school enrollment. This memorandum outlines key provisions of this law that impact children involved in the child protection process. The new law has an effective date of July 1, 2009.

BACKGROUND: The federal Individuals with Disabilities Education Act (IDEA) requires states to make a free appropriate public education available to all resident children with disabilities between the ages of 3 and 21. Under Florida law, the Department and the district school board are required to cooperate in accessing services and supports for a child who has been sheltered or adjudicated dependent and who has or is suspected of having a disability. In this context, as soon as a child is determined to be dependent and without a parent to act on his or her behalf, a surrogate parent may be appointed.

Senate Bill 1128 expands the current laws and will provide the state's disabled foster care children a surrogate parent appointed by a school district superintendent or dependency court to oversee educational decision and protect children's rights.

KEY IMPLEMENTATION PROVISIONS:

1. The legislature finds that disability is a natural part of the human experience and that improving education results for children with disabilities is an essential element of public policy. It is the intent for children with disabilities known to the Department to have a free, appropriate public education designed to meet their unique needs and prepare them for further education, employment and independent living. The term disability is defined in s. 1003.01(3), F.S.

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2. "Surrogate parent" has been added to definitions outlined in s. 39.0016, F.S. Surrogate parent means an individual appointed to act in the place of a parent in educational decision making and in safeguarding a child's rights under the Individuals with Disabilities Education Act and in s. 39.0016, F.S.
3. The surrogate parent's responsibility is to be an educational decision maker for the child unless appointed for an additional purpose. The surrogate parent is not liable for actions taken in good faith on behalf of the student in protecting the special education rights of the child.
4. The court must appoint a "surrogate parent" for the child if:
 - a) a parent of a child with disabilities or suspected of having disabilities cannot be located, or
 - b) a court determined that no person has the authority, willingness, or ability to serve as the educational decision maker for the child.

The district school superintendent also has the authority to appoint a surrogate parent for a child known to the Department who has or is suspected of having a disability.

5. The court order appointing the surrogate parent shall be entered by the court regardless of who makes the appointment. The court can remove a surrogate parent if it is in the child's best interest.
6. The surrogate parent must:
 - Be acquainted with the child and become knowledgeable about his or her disability and educational needs.
 - Represent the child in all matters relating to identification, evaluation and educational placement.
 - Represent the interests and safeguard the rights of the child in educational decisions that affect the child.
 - Successfully complete training using materials developed by the Department of Education to ensure adequate representation of the child.
7. If an "exceptional student" (one with a disability) is placed in a private residential care facility by an agency, within 10 business days the agency must provide written notification of the placement to the school district where the student is currently counted for funding purposes under F.S. 1011.62.
8. An interagency agreement between Department of Education and other agencies for interagency coordination must be entered on or before January 1, 2010.

9. If a parent refused to or is unavailable to consent to access the child's medical or educational records by the Department, its contract providers, or the Guardian ad Litem, then the court may order such access pursuant to F.S. 39.402(11)(c).

ACTION REQUIRED: Please disseminate this memorandum to all family safety professionals within your local system of care for review of these key provisions to SB 1128. The attached powerpoint presentation can be used as a guide to train staff on the new mandates.

CONTACT INFORMATION: Should you have any questions, please contact Chris Compton at 850-443-6646, or via e-mail at chris_compton@dcf.state.fl.us.

Attachment