Chapter 39,
Florida Statutes

with statutes governing normalcy, quality parenting, independent living, the ICPC Articles and Regulations, paternity, adoption, and excerpts from the Rules of Juvenile Procedure

Statutes eff. July 1, 2022

Rules eff. October 1, 2022

A collaborative effort by:

Department of Children and Families

Statewide Guardian ad Litem Office

Office of the State Courts Administrator

Available online at:
https://myflfamilies.com/service-programs/child-welfare/kids/policy/docs/legupdate/Ch39-2022Update.pdf

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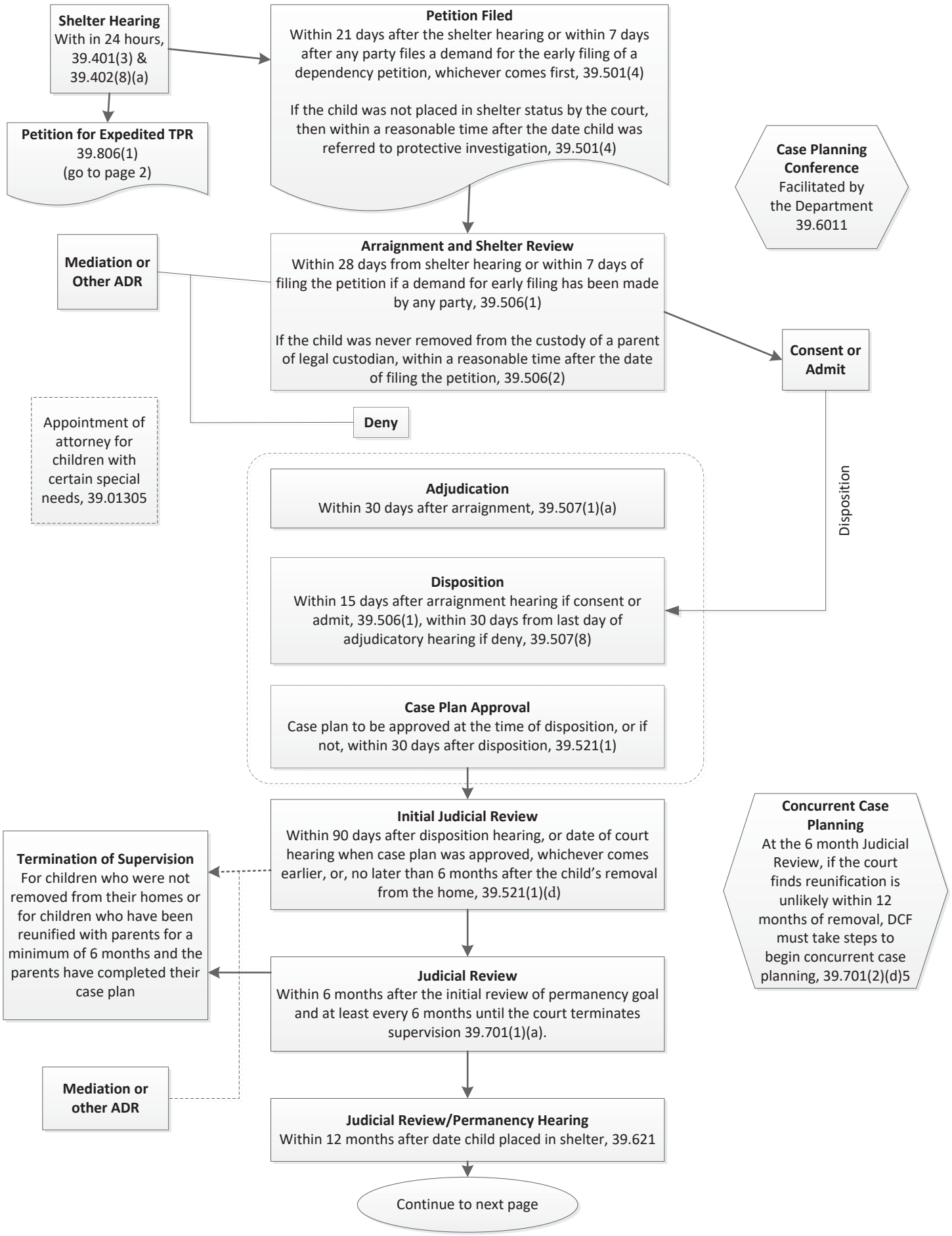

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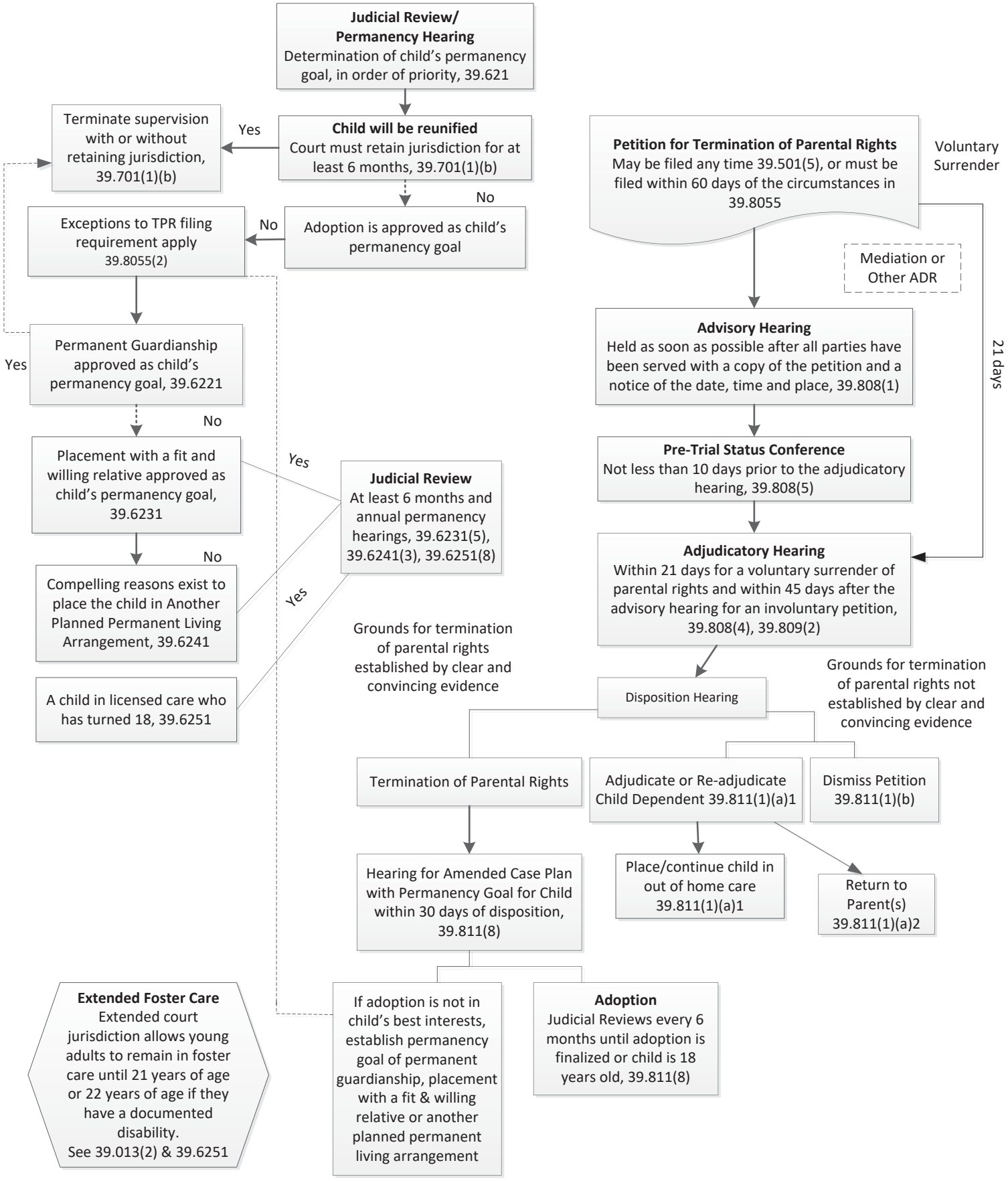

PART I
GENERAL PROVISIONS

39.001 Purposes and intent; personnel standards and screening.–

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

(a) To provide for the care, safety, and protection of children in an environment that fosters healthy social, emotional, intellectual, and physical development; to ensure secure and safe custody; to promote the health and well-being of all children under the state's care; and to prevent the occurrence of child abuse, neglect, and abandonment.

(b) To recognize that most families desire to be competent caregivers and providers for their children and that children achieve their greatest potential when families are able to support and nurture the growth and development of their children. Therefore, the Legislature finds that policies and procedures that provide for prevention and intervention through the department's child protection system should be based on the following principles:

1. The health and safety of the children served shall be of paramount concern.

2. The prevention and intervention should engage families in constructive, supportive, and nonadversarial relationships.

3. The prevention and intervention should intrude as little as possible into the life of the family, be focused on clearly defined objectives, and keep the safety of the child or children as the paramount concern.

4. The prevention and intervention should be based upon outcome evaluation results that demonstrate success in protecting children and supporting families.

(c) To provide a child protection system that reflects a partnership between the department, other agencies, the courts, law enforcement agencies, service providers, and local communities.

(d) To provide a child protection system that is sensitive to the social and cultural diversity of the state.

(e) To provide procedures which allow the department to respond to reports of child abuse, abandonment, or neglect in the most efficient and effective manner that ensures the health and safety of children and the integrity of families.

(f) To preserve and strengthen the child's family ties whenever possible, removing the child from parental custody only when his or her welfare cannot be adequately safeguarded without such removal.

(g) To ensure that the parent or legal custodian from whose custody the child has been taken assists the department to the fullest extent possible in locating relatives suitable to serve as caregivers for the child and provides all medical and educational information, or consent for access thereto, needed to help the child.

(h) To ensure that permanent placement with the biological or adoptive family is achieved as soon as possible for every child in foster care and that no child remains in foster care longer than 1 year.

(i) To secure for the child, when removal of the child from his or her own family is necessary, custody, care, and discipline as nearly as possible equivalent to that which should have been given by the parents; and to ensure, in all cases in which a child must be removed from parental custody, that the child is placed in an approved relative home, licensed foster home, adoptive home, or independent living program that provides the most stable and potentially permanent living arrangement for the child, as determined by the court. All placements shall be in a safe environment where drugs and alcohol are not abused.

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

(k) To make every possible effort, if two or more children who are in the care or under the supervision of the department are siblings, to place the siblings in the same home; and in the event of permanent placement of the siblings, to place them in the same adoptive home or, if the siblings are separated while under the care or supervision of the department or in a permanent placement, to keep them in contact with each other.

(l) To provide judicial and other procedures to assure due process through which children, parents, and guardians and other interested parties are assured fair hearings by a respectful and respected court or other tribunal and the recognition, protection, and enforcement of their constitutional and other legal rights, while ensuring that public safety interests and the authority and dignity of the courts are adequately protected.

(m) To ensure that children under the jurisdiction of the courts are provided equal treatment with respect to goals, objectives, services, and case plans, without regard to the location of their placement. It is the further intent of the Legislature that, when children are removed from their homes, disruption to their education be minimized to the extent possible.

(n) To create and maintain an integrated prevention framework that enables local communities, state agencies, and organizations to collaborate to implement efficient and properly applied evidence-based child abuse prevention practices.

(o) To preserve and strengthen families who are caring for medically complex children.

(p) To provide protective investigations that are conducted by trained persons in a complete and fair manner, that are promptly concluded, and that consider the purposes of this subsection and the general protections provided by law relating to child welfare.

(2) DEPARTMENT CONTRACTS.–The department may contract with the Federal Government, other state departments and agencies, county and municipal governments and agencies, public and private agencies, and private individuals and corporations in carrying out the purposes of, and the responsibilities established in, this chapter.

(a) If the department contracts with a provider for any program for children, all personnel, including owners, operators, employees, and volunteers, in the facility must be of good moral character. A volunteer who assists on an intermittent basis for less than 10 hours per month need not be screened if a person who meets the screening requirement of this section is always present and has the volunteer within his or her line of sight.

(b) The department shall require employment screening, and rescreening no less frequently than once every 5 years, pursuant to chapter 435, using the level 2 standards set forth in that chapter for personnel in programs for children or youths.

(c) The department may grant exemptions from disqualification from working with children as provided in s. 435.07.

(d) The department shall require all job applicants, current employees, volunteers, and contract personnel who currently perform or are seeking to perform child protective investigations to be drug tested pursuant to the procedures and requirements of s. 112.0455, the Drug-Free Workplace Act. The department is authorized to adopt rules, policies, and procedures necessary to implement this paragraph.

(e) The department shall develop and implement a written and performance-based testing and evaluation program to ensure measurable competencies of all employees assigned to manage or supervise cases of child abuse, abandonment, and neglect.

(3) GENERAL PROTECTIONS FOR CHILDREN.–It is a purpose of the Legislature that the children of this state be provided with the following protections:

(a) Protection from abuse, abandonment, neglect, and exploitation.

(b) A permanent and stable home.

(c) A safe and nurturing environment which will preserve a sense of personal dignity and integrity.

(d) Adequate nutrition, shelter, and clothing.

(e) Effective treatment to address physical, social, and emotional needs, regardless of geographical location.

(f) Access to sufficient supports and services for medically complex children to allow them to remain in the least restrictive and most nurturing environment, which includes services in an amount and scope comparable to those services the child would receive in out-of-home care placement.

(g) Equal opportunity and access to quality and effective education, which will meet the individual needs of each child, and to recreation and other community resources to develop individual abilities.

(h) Access to preventive services.

(i) An independent, trained advocate, when intervention is necessary and a skilled guardian or caregiver in a safe environment when alternative placement is necessary.

(j) The ability to contact their guardian ad litem or attorney ad litem, if appointed, by having that individual’s name entered on all orders of the court.

(4) SERVICES FOR MEDICALLY COMPLEX CHILDREN.–The department shall maintain a program of family-centered services and supports for medically complex children. The purpose of the program is to prevent abuse and neglect of medically complex children while enhancing the capacity of families to provide for their children’s needs. Program services must include outreach, early intervention, and the provision of other supports and services to meet the child’s needs. The department shall collaborate with all relevant state and local agencies to provide needed services.

(5) SEXUAL EXPLOITATION SERVICES.–

(a) The Legislature recognizes that child sexual exploitation is a serious problem nationwide and in this state. The children at greatest risk of being sexually exploited are runaways and throwaways. Many of these children have a history of abuse and neglect. The vulnerability of these children starts with isolation from family and friends. Traffickers maintain control of child victims through psychological manipulation, force, drug addiction, or the exploitation of economic, physical, or emotional vulnerability. Children exploited through the sex trade often find it difficult to trust adults because of their abusive experiences. These children make up a population that is difficult to serve and even more difficult to rehabilitate.

(b) The Legislature establishes the following goals for the state related to the status and treatment of sexually exploited children in the dependency process:

1. To ensure the safety of children.

2. To provide for the treatment of such children as dependent children rather than as delinquents.

3. To sever the bond between exploited children and traffickers and to reunite these children with their families or provide them with appropriate guardians.

4. To enable such children to be willing and reliable witnesses in the prosecution of traffickers.

(c) The Legislature finds that sexually exploited children need special care and services in the dependency process, including counseling, health care, substance abuse treatment, educational opportunities, and a safe environment secure from traffickers.

(d) The Legislature further finds that sexually exploited children need the special care and services described in paragraph (c) independent of their citizenship, residency, alien, or immigrant status. It is the intent of the Legislature that this state provide such care and services to all sexually exploited children in this state who are not otherwise receiving comparable services, such as those under the federal Trafficking Victims Protection Act, 22 U.S.C. ss. 7101 et seq.

(6) MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES.–

(a) The Legislature recognizes that early referral and comprehensive treatment can help combat mental illnesses and substance abuse disorders in families and that treatment is cost effective.

(b) The Legislature establishes the following goals for the state related to mental illness and substance abuse treatment services in the dependency process:

1. To ensure the safety of children.

2. To prevent and remediate the consequences of mental illness and substance abuse disorders on families involved in protective supervision or foster care and reduce the occurrences of mental illnesses and substance abuse disorders, including alcohol abuse or related disorders, for families who are at risk of being involved in protective supervision or foster care.

3. To expedite permanency for children and reunify healthy, intact families, when appropriate.

4. To support families in recovery.

(c) The Legislature finds that children in the care of the state's dependency system need appropriate health care services, that the impact of mental illnesses and substance abuse disorders on health indicates the need for health care services to include treatment for mental health and substance abuse disorders for children and parents, where appropriate, and that it is in the state's best interest that such children be provided the services they need to enable them to become and remain independent of state care. In order to provide these services, the state's dependency system must have the ability to identify and provide appropriate intervention and treatment for children with personal or family-related mental illness and substance abuse problems.

(d) It is the intent of the Legislature to encourage the use of the mental health court program model established under [1]s. 394.47892 and the drug court program model established under s. 397.334 and authorize courts to assess children and persons who have custody or are requesting custody of children where good cause is shown to identify and address mental illnesses and substance abuse disorders as the court deems appropriate at every stage of the dependency process. Participation in treatment, including a mental health court program or a treatment-based drug court program, may be required by the court

following adjudication. Participation in assessment and treatment before adjudication is voluntary, except as provided in s. 39.407(16).

(e) It is therefore the purpose of the Legislature to provide authority for the state to contract with mental health service providers and community substance abuse treatment providers for the development and operation of specialized support and overlay services for the dependency system, which will be fully implemented and used as resources permit.

(f) Participation in a mental health court program or a treatment-based drug court program does not divest any public or private agency of its responsibility for a child or adult, but is intended to enable these agencies to better meet their needs through shared responsibility and resources.

(7) PARENTAL, CUSTODIAL, AND GUARDIAN RESPONSIBILITIES.–Parents, custodians, and guardians are deemed by the state to be responsible for providing their children with sufficient support, guidance, and supervision. The state further recognizes that the ability of parents, custodians, and guardians to fulfill those responsibilities can be greatly impaired by economic, social, behavioral, emotional, and related problems. It is therefore the policy of the Legislature that it is the state's responsibility to ensure that factors impeding the ability of caregivers to fulfill their responsibilities are identified through the dependency process and that appropriate recommendations and services to address those problems are considered in any judicial or nonjudicial proceeding. The Legislature also recognizes that time is of the essence for establishing permanency for a child in the dependency system. Therefore, parents must take action to comply with the case plan so permanency with the child may occur within the shortest period of time possible, but no later than 1 year after removal or adjudication of the child, including by notifying the parties and the court of barriers to case plan compliance.

(8) 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 be established.

(9) OFFICE OF ADOPTION AND CHILD PROTECTION.–

(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 is created within the Executive Office of the Governor. The Governor shall appoint a Chief Child Advocate for the office.

(b) The Chief Child Advocate 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 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.

6. Develop 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 (10) 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 head 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. A summary detailing the timeliness of the adoption process for children adopted from within the child welfare system.

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

(10) 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. The Department of Children and Families, the Department of Corrections, the Department of Education, the Department of Health, the Department of Juvenile Justice, the Department of Law Enforcement, and the Agency for Persons with Disabilities 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 statewide 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 submitted 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. A continuum of programs and services necessary for a comprehensive approach to 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. 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 based upon the continuum of programs and services.

h. 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. 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.

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

(11) 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, 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 (10)(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 under this section.

(12) LIBERAL CONSTRUCTION.–It is the intent of the Legislature that this chapter be liberally interpreted and construed in conformity with its declared purposes.

History.--s. 1, ch. 26880, 1951; s. 1, ch. 73-231; s. 1, ch. 78-414; s. 1, ch. 82-62; s. 62, ch. 85-81; s. 1, ch. 85-206; s. 10, ch. 85-248; s. 19, ch. 86-220; s. 1, ch. 90-53; ss. 1, 2, ch. 90-208; s. 2, ch. 90-306; s. 2, ch. 91-33; s. 68, ch. 91-45; s. 13, ch. 91-57; s. 5, ch. 93-156; s. 23, ch. 93-200; s. 19, ch. 93-230; s. 14, ch. 94-134; s. 14, ch. 94-135; ss. 9, 10, ch. 94-209; s. 1332, ch. 95-147; s. 7, ch. 95-152; s. 8, ch. 95-158; ss. 15, 30, ch. 95-228; s. 116, ch. 95-418; s. 1, ch. 96-268; ss. 128, 156, ch. 97-101; s. 69, ch. 97-103; s. 3, ch. 97-237; s. 119, ch. 97-238; s. 8, ch. 98-137; s. 18, ch. 98-403; s. 1, ch. 99-193; s. 13, ch. 2000-139; s. 5, ch. 2000-151; s. 5, ch. 2000-263; s. 34, ch. 2004-267; s. 2, ch. 2006-97; s. 1, ch. 2006-194; s. 2, ch. 2006-227; s. 1, ch. 2007-124; s. 3, ch. 2008-6; s. 1, ch. 2010-114; s. 42, ch. 2011-142; s. 2, ch. 2012-105; s. 19, ch. 2012-116; s. 4, ch. 2013-15; s. 9, ch. 2014-19; s. 2, ch. 2014-224; s. 1, ch. 2016-127; s. 82, ch. 2016-241; s. 28, ch. 2018-111; s. 10, ch. 2019-003; s. 1, ch. 2019-128.

[1]Note.--As amended by s. 82, ch. 2016-241. The amendment by s. 1, ch. 2016-127, uses the reference "s. 394.47892" instead of the reference "chapter 394."

Note.--Former s. 39.20; subsections (3), (5), and (6) former s. 39.002, s. 409.70, subsections (7)-(9) former s. 415.501.

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 and the department as will enable them to fulfill their responsibilities under this chapter.

History.--s. 2, ch. 99-193; s. 2, ch. 2006-194; s. 3, ch. 2007-124.

39.00145 Records concerning children.–

(1) The case record of every child under the supervision of or in the custody of the department, the department's authorized agents, or providers contracting with the department, including community-based care lead agencies and their subcontracted providers, must be maintained in a complete and accurate manner. The case record must contain, at a minimum, the child's case plan required under part VII of this chapter and the full name and street address of all shelters, foster parents, group homes, treatment facilities, or locations where the child has been placed.

(2) Notwithstanding any other provision of this chapter, all records in a child's case record must be made available for inspection, upon request, to the child who is the subject of the case record and to the child's caregiver, guardian ad litem, or attorney.

(a) A complete and accurate copy of any record in a child's case record must be provided, upon request and at no cost, to the child who is the subject of the case record and to the child's caregiver, guardian ad litem, or attorney.

(b) The department shall release the information in a manner and setting that are appropriate to the age and maturity of the child and the nature of the information being released, which may include the release of information in a therapeutic setting, if appropriate. This paragraph does not deny the child access to his or her records.

(c) If a child or the child's caregiver, guardian ad litem, or attorney requests access to the child's case record, any person or entity that fails to provide any record in the case record under assertion of a claim of exemption from the public-records requirements of chapter 119, or fails to provide access within a reasonable time, is subject to sanctions and penalties under s. 119.10.

(d) For the purposes of this subsection, the term "caregiver" is limited to parents, legal custodians, permanent guardians, or foster parents; employees of a residential home, institution, facility, or agency at which the child resides; and other individuals legally responsible for a child's welfare in a residential setting.

(3) If a court determines that sharing information in the child's case record is necessary to ensure access to appropriate services for the child or for the safety of the child, the court may approve the release of confidential records or information contained in them.

(4) Notwithstanding any other provision of law, all state and local agencies and programs that provide services to children or that are responsible for a child's safety, including the Department of Juvenile Justice, the Department of Health, the Agency for Health Care Administration, the Agency for Persons with Disabilities, the Department of Education, the Department of Revenue, the school districts, the Statewide Guardian ad Litem Office, and any provider contracting with such agencies, may share with each other confidential records or information that are confidential or exempt from disclosure under chapter 119 if the records or information are reasonably necessary to ensure access to appropriate services for the child, including child support enforcement services, or for the safety of the child. However:

(a) Records or information made confidential by federal law may not be shared.

(b) This subsection does not apply to information concerning clients and records of certified domestic violence centers, which are confidential under s. 39.908 and privileged under s. 90.5036.

History.--s. 2, ch. 2009-43; s. 1, ch. 2009-34, s. 40, ch. 2011-213.

39.00146 Case record face sheet.–

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

(a) "Multidisciplinary team" has the same meaning as provided in s. 39.4022(2).

(b) "Placement change" has the same meaning as provided in s. 39.4023(2).

(c) "School" has the same meaning as in s. 39.4023(2).

(d) "Sibling" has the same meaning as in s. 39.4024(2).

(2) The case record of every child under the supervision or in the custody of the department or the department's authorized agents, including community-based care lead agencies and their subcontracted providers, must include a face sheet containing relevant information about the child and his or her case, including at least all of the following:

(a) General case information, including, but not limited to:

1. The child's name and date of birth;

2. The current county of residence and the county of residence at the time of the referral;

3. The reason for the referral and any family safety concerns;

4. The personal identifying information of the parents or legal custodians who had custody of the child at the time of the referral, including name, date of birth, and county of residence;

5. The date of removal from the home; and

6. The name and contact information of the attorney or attorneys assigned to the case in all capacities, including the attorney or attorneys that represent the department and the parents, and the guardian ad litem, if one has been appointed.

(b) The name and contact information for any employees of the department, the department's authorized agents, or providers contracting with the department, including community-based care lead agencies and their subcontracted service providers, who have worked with the child, including the child's current and previous case managers, and the supervisor information for such employees.

(c) The personal information of relevant family members and other fictive kin, including, but not limited to, the name and contact information of:

1. The child's parents;

2. The child's siblings, including the location of their current out-of-home placement, if applicable;

3. The child's current caregivers and any previous out-of-home placements;

4. Any other caretaking adults; and

5. All children in the out-of-home placement, if applicable.

(d) A description of any threats of danger placing the child at imminent risk of removal.

(e) A description of individual parent or caregiver concerns for the child.

(f) Any concerns that exist regarding the parent or the current caregiver's ability to:

1. Maintain a safe home;

2. Engage or bond with the child if the child is an infant;

3. Structure daily activities that stimulate the child;

4. Manage the child's behavior; or

5. Make good health decisions for the child.

(g) Any transitions in placement the child has experienced since the child's initial placement and a description of how such transitions were accomplished in accordance with s. 39.4023.

(h) If the child has any siblings and they are not placed in the same out-of-home placement, the reasons the children are not in joint placement and the reasonable efforts that the department or appropriate lead agency will make to provide frequent visitation or other ongoing interaction between the siblings, unless the court determines that the interaction would be contrary to a sibling's safety or well-being in accordance with s. 39.4024.

(i) Information pertaining to recent and upcoming court hearings, including, but not limited to, the date, subject matter, and county of court jurisdiction of the most recent and next scheduled court hearing.

(j) Any other information the department, the department's authorized agents, or providers contracting with the department, including community-based care lead agencies deem relevant.

(3) The department, the department's authorized agents, or providers contracting with the department, including community-based care lead agencies, must ensure that the face sheet for each case is updated at least once per month. This requirement includes ensuring that the department, its authorized agents, or providers contracting with the department gather any relevant information from any subcontracted providers who provide services for the case record information required to be included under this section.

(4) The case record face sheet must be in a uniform and standardized format for use statewide and must be developed, either by the department or a third party, using real-time data from the state child welfare information system. The department may develop a specific case record face sheet or may contract with a

third party to use existing software that, at a minimum, meets the requirements of subsection (2). The case record face sheet developed or contracted for use under this section must be electronic and have the capability to be printed. The community-based care lead agencies shall use this uniform and standardized case record face sheet to comply with this section.

(5) The department shall adopt rules to implement this section.
History.-- s. 1, ch. 2021-169; s. 2, ch. 2022-4.

39.0016 Education of abused, neglected, and abandoned children; agency agreements; children having or suspected of having a disability.–
(1) DEFINITIONS. –As used in this section, the term:

(a) "Children known to the department" means children who are found to be dependent or children in shelter care.

(b) "Department" means the Department of Children and Families or a community-based care lead agency acting on behalf of the Department of Children and Families, as appropriate.

(c) "Surrogate parent" means an individual appointed to act in the place of a parent in educational decisionmaking and in safeguarding a child's rights under the Individuals with Disabilities Education Act and this section.

(2) AGENCY AGREEMENTS.–

(a) The department shall enter into an agreement with the Department of Education regarding the education and related care of children known to the department. Such agreement shall be designed to provide educational access to children known to the department for the purpose of facilitating the delivery of services or programs to children known to the department. The agreement shall avoid duplication of services or programs and shall provide for combining resources to maximize the availability or delivery of services or programs. The agreement must require the Department of Education to access the department's Florida Safe Families Network to obtain information about children known to the department, consistent with the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. s. 1232g.

(b) The department shall enter into agreements with district school boards or other local educational entities regarding education and related services for children known to the department who are of school age and children known to the department who are younger than school age but who would otherwise qualify for services from the district school board. Such agreements shall include, but are not limited to:

1. A requirement that the department shall:

a. Ensure that children known to the department are enrolled in school or in the best educational setting that meets the needs of the child. The agreement shall provide for continuing the enrollment of a child known to the department at the school of origin when, possible if it is in the best interest of the child, with the goal of minimal disruption of education.

b. Notify the school and school district in which a child known to the department is enrolled of the name and phone number of the child known to the department caregiver and caseworker for child safety purposes.

c. Establish a protocol for the department to share information about a child known to the department with the school district, consistent with the Family Educational Rights and Privacy Act, since the sharing of information will assist each agency in obtaining education and related services for the benefit of the child. The protocol must require the district school boards or other local educational entities to access the department's Florida Safe Families Network to obtain information about children known to the department, consistent with the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. s.1232g.

d. Notify the school district of the department's case planning for a child known to the department, both at the time of plan development and plan review. Within the plan development or review process, the

school district may provide information regarding the child known to the department if the school district deems it desirable and appropriate.

e. Show no prejudice against a caregiver who desires to educate at home a child placed in his or her home through the child welfare system.

2. A requirement that the district school board shall:

a. Provide the department with a general listing of the services and information available from the district school board to facilitate educational access for a child known to the department.

b. Identify all educational and other services provided by the school and school district which the school district believes are reasonably necessary to meet the educational needs of a child known to the department.

c. Determine whether transportation is available for a child known to the department when such transportation will avoid a change in school assignment due to a change in residential placement. Recognizing that continued enrollment in the same school throughout the time the child known to the department is in out-of-home care is preferable unless enrollment in the same school would be unsafe or otherwise impractical, the department, the district school board, and the Department of Education shall assess the availability of federal, charitable, or grant funding for such transportation.

d. Provide individualized student intervention or an individual educational plan when a determination has been made through legally appropriate criteria that intervention services are required. The intervention or individual educational plan must include strategies to enable the child known to the department to maximize the attainment of educational goals.

3. A requirement that the department and the district school board shall cooperate in accessing the services and supports needed for a child known to the department who has or is suspected of having a disability to receive an appropriate education consistent with the Individuals with Disabilities Education Act and state implementing laws, rules, and assurances. Coordination of services for a child known to the department who has or is suspected of having a disability may include:

a. Referral for screening.

b. Sharing of evaluations between the school district and the department where appropriate.

c. Provision of education and related services appropriate for the needs and abilities of the child known to the department.

d. Coordination of services and plans between the school and the residential setting to avoid duplication or conflicting service plans.

e. Appointment of a surrogate parent, consistent with the Individuals with Disabilities Education Act and pursuant to subsection (3), for educational purposes for a child known to the department who qualifies

f. For each child known to the department 14 years of age and older, transition planning by the department and all providers, including the department's independent living program staff, to meet the requirements of the local school district for educational purposes.

(c) This subsection establishes standards and not rights. This subsection does not require the delivery of any particular service or level of service in excess of existing appropriations. A person may not maintain a cause of action against the state or any of its subdivisions, agencies, contractors, subcontractors, or agents based upon this subsection becoming law or failure by the Legislature to provide adequate funding for the achievement of these standards. This subsection does not require the expenditure of funds to meet the standards established in this subsection except funds specifically appropriated for such purpose.

(3) CHILDREN HAVING OR SUSPECTED OF HAVING A DISABILITY.–

(a) 1. The Legislature finds that disability is a natural part of the human experience and in no way diminishes the right of individuals to participate in or contribute to society. Improving educational results for children with disabilities is an essential element of our public policy of ensuring equality of opportunity, full participation, independent living, and economic self-sufficiency for individuals with disabilities.

2. The Legislature also finds that research and experience have shown that the education of children with disabilities can be made more effective by:

a. Having high expectations for these children and ensuring their access to the general education curriculum in the regular classroom, to the maximum extent possible.

b. Providing appropriate exceptional student education, related services, and aids and supports in the least restrictive environment appropriate for these children.

c. Having a trained, interested, and consistent educational decisionmaker for the child when the parent is determined to be legally unavailable or when the foster parent is unwilling, has no significant relationship with the child, or is not trained in the exceptional student education process.

3. It is, therefore, the intent of the Legislature that all children with disabilities known to the department, consistent with the Individuals with Disabilities Education Act, have available to them a free, appropriate public education that emphasizes exceptional student education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living and that the rights of children with disabilities are protected.

(b) 1. Each district school superintendent or dependency court must appoint a surrogate parent for a child known to the department who has or is suspected of having a disability, as defined in s. 1003.01(3), when:

a. After reasonable efforts, no parent can be located; or

b. A court of competent jurisdiction over a child under this chapter has determined that no person has the authority under the Individuals with Disabilities Education Act, including the parent or parents subject to the dependency action, or that no person has the authority, willingness, or ability to serve as the educational decisionmaker for the child without judicial action.

2. A surrogate parent appointed by the district school superintendent or the court must be at least 18 years old and have no personal or professional interest that conflicts with the interests of the student to be represented. Neither the district school superintendent nor the court may appoint an employee of the Department of Education, the local school district, a community-based care provider, the Department of Children and Families, or any other public or private agency involved in the education or care of the child as appointment of those persons is prohibited by federal law. This prohibition includes group home staff and therapeutic foster parents. However, a person who acts in a parental role to a child, such as a foster parent or relative caregiver, is not prohibited from serving as a surrogate parent if he or she is employed by such agency, willing to serve, and knowledgeable about the child and the exceptional student education process. The surrogate parent may be a court-appointed guardian ad litem or a relative or nonrelative adult who is involved in the child's life regardless of whether that person has physical custody of the child. Each person appointed as a surrogate parent must have the knowledge and skills acquired by successfully completing training using materials developed and approved by the Department of Education to ensure adequate representation of the child.

3. If a guardian ad litem has been appointed for a child, the district school superintendent must first consider the child's guardian ad litem when appointing a surrogate parent. The district school superintendent must accept the appointment of the court if he or she has not previously appointed a surrogate parent. Similarly, the court must accept a surrogate parent duly appointed by a district school superintendent.

4. A surrogate parent appointed by the district school superintendent or the court must be accepted by any subsequent school or school district without regard to where the child is receiving residential care so that a single surrogate parent can follow the education of the child during his or her entire time in state custody. Nothing in this paragraph or in rule shall limit or prohibit the continuance of a surrogate parent appointment when the responsibility for the student's educational placement moves among and between public and private agencies.

5. For a child known to the department, the responsibility to appoint a surrogate parent resides with both the district school superintendent and the court with jurisdiction over the child. If the court elects to

appoint a surrogate parent, notice shall be provided as soon as practicable to the child's school. At any time the court determines that it is in the best interests of a child to remove a surrogate parent, the court may appoint a new surrogate parent for educational decisionmaking purposes for that child.

6. The surrogate parent shall continue in the appointed role until one of the following occurs:

a. The child is determined to no longer be eligible or in need of special programs, except when termination of special programs is being contested.

b. The child achieves permanency through adoption or legal guardianship and is no longer in the custody of the department.

c. The parent who was previously unknown becomes known, whose whereabouts were unknown is located, or who was unavailable is determined by the court to be available.

d. The appointed surrogate no longer wishes to represent the child or is unable to represent the child.

e. The superintendent of the school district in which the child is attending school, the Department of Education contract designee, or the court that appointed the surrogate determines that the appointed surrogate parent no longer adequately represents the child.

f. The child moves to a geographic location that is not reasonably accessible to the appointed surrogate.

7. The appointment and termination of appointment of a surrogate under this paragraph shall be entered as an order of the court with a copy of the order provided to the child's school as soon as practicable.

8. The person appointed as a surrogate parent under this paragraph must:

a. Be acquainted with the child and become knowledgeable about his or her disability and educational needs.

b. Represent the child in all matters relating to identification, evaluation, and educational placement and the provision of a free and appropriate education to the child.

c. Represent the interests and safeguard the rights of the child in educational decisions that affect the child.

9. The responsibilities of the person appointed as a surrogate parent shall not extend to the care, maintenance, custody, residential placement, or any other area not specifically related to the education of the child, unless the same person is appointed by the court for such other purposes.

10. A person appointed as a surrogate parent shall enjoy all of the procedural safeguards afforded a parent with respect to the identification, evaluation, and educational placement of a student with a disability or a student who is suspected of having a disability.

11. A person appointed as a surrogate parent shall not be held liable for actions taken in good faith on behalf of the student in protecting the special education rights of the child.

(4) TRAINING.—The department shall incorporate an education component into all training programs of the department regarding children known to the department. Such training shall be coordinated with the Department of Education and the local school districts. The department shall offer opportunities for education personnel to participate in such training. Such coordination shall include, but not be limited to, notice of training sessions, opportunities to purchase training materials, proposals to avoid duplication of services by offering joint training, and incorporation of materials available from the Department of Education and local school districts into the department training when appropriate. The department training components shall include:

(a) Training for surrogate parents to include how an ability to learn of a child known to the department is affected by abuse, abandonment, neglect, and removal from the home.

(b) Training for parents in cases in which reunification is the goal, or for preadoptive parents when adoption is the goal, so that such parents learn how to access the services the child known to the department needs and the importance of their involvement in the education of the child known to the department.

(c) Training for caseworkers and foster parents to include information on the right of the child known to the department to an education, the role of an education in the development and adjustment of a child known to the department, the proper ways to access education and related services for the child known to the department, and the importance and strategies for parental involvement in education for the success of the child known to the department.

(d) Training of caseworkers regarding the services and information available through the Department of Education and local school districts, including, but not limited to, the current Sunshine State Standards, the Surrogate Parent Training Manual, and other resources accessible through the Department of Education or local school districts to facilitate educational access for a child known to the department.

History.-- s. 3, ch. 2004-356; s. 1, ch. 2009-35; s. 10, ch. 2014-19; s. 1, ch. 2015-130.

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 no significant contribution to the child's care and maintenance or 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. A man's acknowledgement of paternity of the child does not limit the period of time considered in determining whether the child was abandoned. 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 absence of a parent, legal custodian, or caregiver responsible for a child's welfare, who is a servicemember, by reason of deployment or anticipated deployment as defined in 50 U.S.C. s. 3938(e), may not be considered or used as a factor in determining abandonment. 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.

(2) "Abuse" means any willful act or threatened act that results in any physical, mental, or sexual abuse, injury, or harm that causes or is likely to cause the child's physical, mental, or emotional health to be significantly impaired. Abuse of a child includes the birth of a new child into a family during the course of an open dependency case when the parent or caregiver has been determined to lack the protective capacity to safely care for the children in the home and has not substantially complied with the case plan towards successful reunification or met the conditions for return of the children into the home. Abuse of a child includes acts or omissions. Corporal discipline of a child by a parent or legal custodian for disciplinary purposes does not in itself constitute abuse when it does not result in harm to the child.

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

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

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

(6) “Adult" means any natural person other than a child.

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

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

(9) "Caregiver" means the parent, legal custodian, permanent guardian, adult household member, or other person responsible for a child's welfare as defined in subsection (54).

(10) "Case plan" means a document, as described in s. 39.6011, prepared by the department with input from all parties. The case plan follows the child from the provision of voluntary services through any dependency, foster care, or termination of parental rights proceeding or related activity or process.

(11) "Child" or "youth" means any unmarried person under the age of 18 years who has not been emancipated by order of the court.

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

(13) “Child who has exhibited inappropriate sexual behavior” means a child who has been found by the department or the court to have committed an inappropriate sexual act.

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

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

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

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

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

(e) To have no parent or legal custodians capable of providing supervision and care;

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

(g) To have been sexually exploited and to have no parent, legal custodian, or responsible adult relative currently known and capable of providing the necessary and appropriate supervision and care.

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

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

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

(18) “Concurrent planning” means establishing a permanency goal in a case plan that uses reasonable efforts to reunify the child with the parent, while at the same time establishing another goal that must be one of the following options:

(a) Adoption when a petition for termination of parental rights has been filed or will be filed;
(b) Permanent guardianship of a dependent child under s. 39.6221;
(c) Permanent placement with a fit and willing relative under s. 39.6231; or
(d) Placement in another planned permanent living arrangement under s. 39.6241.

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

(20) "Department" means the Department of Children and Families.

(21) "Diligent efforts by a parent" means a course of conduct which results in a meaningful change in the behavior of a parent that reduces risk to the child in the child's home to the extent that the child may be safely placed permanently back in the home as set forth in the case plan.

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

(23) "Diligent search" means the efforts of a social service agency to locate a parent or prospective parent whose identity or location is unknown, initiated as soon as the social service agency is made aware of the existence of such parent, with the search progress reported at each court hearing until the parent is either identified and located or the court excuses further search.

(24) "Disposition hearing" means a hearing in which the court determines the most appropriate protections, services, and placement for the child in dependency cases.

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

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

(a) Harassing, embarrassing, or harming another person;
(b) Personal financial gain for the reporting person;
(c) Acquiring custody of a child; or

(d) Personal benefit for the reporting person in any other private dispute involving a child.

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

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

(a) The persons reside in the same house or living unit; or

(b) The parent, legal custodian, or adult relative has a legal responsibility by blood, marriage, or court order to support or care for the child.

(28) “Fictive kin” means a person unrelated by birth, marriage, or adoption who has an emotionally significant relationship, which possesses the characteristics of a family relationship, to a child.

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

(30) “Guardian” means a relative, nonrelative, next of kin, or fictive kin who is awarded physical custody of a child in a proceeding brought pursuant to this chapter.

(31) “Guardianship assistance payment” means a monthly cash payment made by the department to a guardian on behalf of an eligible child or young adult.

(32) “Guardianship Assistance Program” means a program that provides benefits to a child’s guardian on behalf of the child. Benefits may be in the form of a guardianship assistance payment, a guardianship nonrecurring payment, or Medicaid coverage.

(33) “Guardianship nonrecurring payment” means a one-time payment of up to $2,000 made by the department to a guardian to assist with the expenses associated with obtaining legal guardianship of a child who is eligible for the Guardianship Assistance Program pursuant to s. 39.6225.

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

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

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

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

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

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

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

a. Sprains, dislocations, or cartilage damage.

b. Bone or skull fractures.

c. Brain or spinal cord damage.

d. Intracranial hemorrhage or injury to other internal organs.

e. Asphyxiation, suffocation, or drowning.

f. Injury resulting from the use of a deadly weapon.

g. Burns or scalding.

h. Cuts, lacerations, punctures, or bites.

i. Permanent or temporary disfigurement.

j. Permanent or temporary loss or impairment of a body part or function.

k. Significant bruises or welts.

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

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

1. Solicit for or engage in prostitution; or

2. Engage in a sexual performance, as defined by chapter 827.

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

(e) Abandons the child. Within the context of the definition of "harm," the term “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 of legal custodian, the caregiver, while being able, has made no significant contribution to the child’s care and maintenance or 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 in 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.

(f) Neglects the child. Within the context of the definition of "harm," the term "neglects the child" means that the parent or other person responsible for the child's welfare fails to supply the child with adequate food, clothing, shelter, or health care, although financially able to do so or although offered financial or other means to do so. However, a parent or legal custodian who, by reason of the legitimate

practice of religious beliefs, does not provide specified medical treatment for a child may not be considered abusive or neglectful for that reason alone, but such an exception does not:

1. Eliminate the requirement that such a case be reported to the department;

2. Prevent the department from investigating such a case; or

3. Preclude a court from ordering, when the health of the child requires it, the provision of medical services by a physician, as defined in this section, or treatment by a duly accredited practitioner who relies solely on spiritual means for healing in accordance with the tenets and practices of a well-recognized church or religious organization.

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

1. A test, administered at birth, which 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; or

2. Evidence of extensive, abusive and chronic use of a controlled substance or alcohol by a parent to the extent that the parent's ability to provide supervision and care for the child has been or is likely to be severely compromised.-

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

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

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

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

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

(l) Makes the child unavailable for the purpose of impeding or avoiding a protective investigation unless the court determines that the parent, legal custodian, or caregiver was fleeing from a situation involving domestic violence.

(35) "Impending danger" means a situation in which family behaviors, attitudes, motives, emotions, or situations pose a threat that may not be currently active but that can be anticipated to become active and to have sever effects on a child at any time.

(36) "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 public or 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 welfare as defined in subsection (54).

(37) "Judge" means the circuit judge exercising jurisdiction pursuant to this chapter.

(38) "Juvenile sexual abuse" means any sexual behavior by a child which occurs without consent, without equality, or as a result of coercion. For purposes of this subsection, the following definitions apply:

(a) "Coercion" means the exploitation of authority or the use of bribes, threats of force, or intimidation to gain cooperation or compliance.

(b) "Consent" means an agreement, including all of the following:

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

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

3. Awareness of potential consequences and alternatives.
4. Assumption that agreement or disagreement will be accepted equally.
5. Voluntary decision.
6. Mental competence.

(c) "Equality" means two participants operating with the same level of power in a relationship, neither being controlled nor coerced by the other.

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

(39) "Legal custody" means a legal status created by a court which vests in a custodian of the person or guardian, whether an agency or an individual, the right to have physical custody of the child and the right and duty to protect, nurture, guide, and discipline the child and to provide him or her with food, shelter, education, and ordinary medical, dental, psychiatric, and psychological care.

(40) “Legal father” means a man married to the mother at the time of conception or birth of their child, unless paternity has been otherwise determined by a court of competent jurisdiction. If the mother was not married to a man at the time of birth or conception of the child, the term means a man named on the birth certificate of the child pursuant to s. 382.013(2), a man determined by a court order to be the father of the child, or a man determined to be the father of the child by the Department of Revenue as provided in s. 409.256.

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

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

(43) "Licensed health care professional" means a physician licensed under chapter 458, an osteopathic physician licensed under chapter 459, a nurse licensed under part I of chapter 464, a physician assistant licensed under chapter 458 or chapter 459, or a dentist licensed under chapter 466.

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

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

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

(47) “Medical neglect” means the failure to provide or the failure to allow needed care as recommended by a health care practitioner for a physical injury, illness, medical condition, or impairment, or the failure to

seek timely and appropriate medical care for a serious health problem that a reasonable person would have recognized as requiring professional medical attention. Medical neglect does not occur if the parent or legal guardian of the child has made reasonable attempts to obtain necessary health care services or the immediate health condition giving rise to the allegation of neglect is a known and expected complication of the child's diagnosis or treatment and:

(a) the recommended care offers limited net benefit to the child and the morbidity or other side effects of the treatment may be considered to be greater than the anticipated benefit; or

(b) the parent or legal guardian received conflicting medical recommendations for treatment from multiple practitioners and did not follow all recommendations.

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

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

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

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

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

Neglect of a child includes acts or omissions.

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

(52) "Nonrelative" means a person unrelated by blood or marriage or a relative outside the fifth degree of consanguinity.

(53) "Office" means the Office of Adoption and Child Protection within the Executive Office of the Governor.

(54) "Other person responsible for a child's welfare" includes the child's legal guardian or foster parent; an employee of any school, public or private child day care center, residential home, institution, facility, or agency; a law enforcement officer employed in any facility, service, or program for children that is operated or contracted by the Department of Juvenile Justice; or any other person legally responsible for the child's welfare in a residential setting; and also includes an adult sitter or relative entrusted with a child's care. For the purpose of departmental investigative jurisdiction, this definition does not include the following persons when they are acting in an official capacity: law enforcement officers, except as otherwise provided in this

subsection; employees of municipal or county detention facilities or employees of the Department of Corrections.

(55) "Out-of-home" means a placement outside of the home of the parents or a parent.

(56) "Parent" means a woman who gives birth to a child and a man whose consent to the adoption of the child would be required under s. 63.062(1). The term “parent” also means legal father as defined in this section. If a child has been legally adopted, the term "parent" means the adoptive mother or father of the child. For purposes of this chapter only, when the phrase "parent or legal custodian" is used, it refers to rights or responsibilities of the parent and, only if there is no living parent with intact parental rights, to the rights or responsibilities of the legal custodian who has assumed the role of the parent. The term does not include an individual whose parental relationship to the child has been legally terminated, or an alleged or prospective parent, unless:

(a) The parental status falls within the terms of s. 39.503(1) or s. 63.062(1); or

(b) Parental status is applied for the purpose of determining whether the child has been abandoned.

(57) "Participant," for purposes of a shelter proceeding, dependency proceeding, or termination of parental rights proceeding, means any person who is not a party but who should receive notice of hearings involving the child, including the actual custodian of the child, the foster parents or the legal custodian of the child, identified prospective parents, and any other person whose participation may be in the best interest of the child. A community-based agency under contract with the department to provide protective services may be designated as a participant at the discretion of the court. Participants may be granted leave by the court to be heard without the necessity of filing a motion to intervene.

(58) "Party" means the parent or parents of the child, the petitioner, the department, the guardian ad litem or the representative of the guardian ad litem program when the program has been appointed, and the child. The presence of the child may be excused by order of the court when presence would not be in the child's best interest. Notice to the child may be excused by order of the court when the age, capacity, or other condition of the child is such that the notice would be meaningless or detrimental to the child.

(59) "Permanency goal" means the living arrangement identified for the child to return to or identified as the permanent living arrangement of the child. The permanency goal is also the case plan goal. If concurrent case planning is being used, reunification may be pursued at the same time that another permanency goal is pursued.

(60) "Permanency plan" means the plan that establishes the placement intended to serve as the child’s permanent home.

(61) "Permanent guardian" means the relative or other adult in a permanent guardianship of a dependent child under s. 39.6221.

(62) "Permanent guardianship of a dependent child" means a legal relationship that a court creates under s. 39.6221 between a child and a relative or other adult approved by the court which is intended to be permanent and self-sustaining through the transfer of parental rights with respect to the child relating to protection, education, care and control of the person, custody of the person, and decisionmaking on behalf of the child.

(63) "Physical injury" means death, permanent or temporary disfigurement, or impairment of any bodily part.

(64) "Physician" means any licensed physician, dentist, podiatric physician, or optometrist and includes any intern or resident.

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

(66) “Present danger” means a significant and clearly observable family condition that is occurring at the current moment and is already endangering or threatening to endanger the child. Present danger threats are conspicuous and require that an immediate protective action be taken to ensure the child’s safety.

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

(68) "Prospective parent" means a person who claims to be, or has been identified as, a person who may be a mother or a father of a child.

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

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

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

(72) “Qualified professional” means a physician or a physician assistant licensed under chapter 458 or chapter 459; a psychiatrist licensed under chapter 458 or chapter 459; a psychologist as defined in s. 490.003(7) or a professional licensed under chapter 491; or a psychiatric nurse as defined in s. 394.455.

(73) "Relative" means a grandparent, great-grandparent, sibling, first cousin, aunt, uncle, great-aunt, great-uncle, niece, or nephew, whether related by the whole or half blood, by affinity, or by adoption. The term does not include a stepparent.

(74) "Reunification services" means social services and other supportive and rehabilitative services provided to the parent of the child, to the child, and, where appropriate, to the relative placement, nonrelative placement, or foster parents of the child, for the purpose of enabling a child who has been placed in out-of-

home care to safely return to his or her parent at the earliest possible time. The health and safety of the child shall be the paramount goal of social services and other supportive and rehabilitative services. The services shall promote the child's need for physical, developmental, mental, and emotional health and a safe, stable, living environment; shall promote family autonomy; and shall strengthen family life, whenever possible.

(75) “Safety plan” means a plan created to control present or impending danger using the least intrusive means appropriate to protect a child when a parent, caregiver, or legal custodian is unavailable, unwilling, or unable to do so.

(76) "Secretary" means the Secretary of Children and Families.

(77) "Sexual abuse of a child" for purposes of finding a child to be dependent means one or more of the following acts:

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

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

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

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

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

2. Any act intended for a valid medical purpose.

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

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

(g) The sexual exploitation of a child, which includes the act of a child offering to engage in or engaging in prostitution, or the act of allowing, encouraging, or forcing a child to:

1. Solicit for or engage in prostitution;

2. Engage in a sexual performance, as defined by chapter 827; or

3. Participate in the trade of human trafficking as provided in s. 787.06(3)(g).

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

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

(80) “Sibling” means:

(a) A child who shares a birth parent or legal parent with one or more other children; or

(b) A child who has lived together in a family with one or more other children whom he or she identifies as siblings.

(81) "Social service agency" means the department, a licensed child-caring agency, or a licensed child-placing agency.

(82) “Social worker” means any person who has a bachelor’s, masters, or doctoral degree in social work.

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

(84) "Substantial compliance" means that the circumstances which caused the creation of the case plan have been significantly remedied to the extent that the well-being and safety of the child will not be endangered upon the child's remaining with or being returned to the child's parent.

(85) "Taken into custody" means the status of a child immediately when temporary physical control over the child is attained by a person authorized by law, pending the child's release or placement.

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

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

History.--s. 1, ch. 26880, 1951; ss. 1, 2, ch. 67-585; s. 3, ch. 69-353; s. 4, ch. 69-365; ss. 19, 35, ch. 69-106; s. 1, ch. 71-117; s. 1, ch. 71-130; s. 10, ch. 71-355; ss. 4, 5, ch. 72-179; ss. 19, 30, ch. 72-404; ss. 2, 23, ch. 73-231; s. 1, ch. 74-368; ss. 15, 27, 28, ch. 75-48; s. 4, ch. 77-147; s. 2, ch. 78-414; s. 9, ch. 79-164; s. 2, ch. 79-203; s. 1, ch. 80-290; ss. 1, 17, ch. 81-218; ss. 4, 15, ch. 84-311; s. 4, ch. 85-80; s. 2, ch. 85-206; ss. 73, 78, ch. 86-220; s. 1, ch. 87-133; s. 1, ch. 87-289; s. 12, ch. 87-397; s. 1, ch. 88-319; s. 10, ch. 88-337; s. 2, ch. 90-53; s. 3, ch. 90-208; s. 3, ch. 90-306; s. 2, ch. 90-309; s. 69, ch. 91-45; s. 1, ch. 91-183; s. 1, ch. 92-158; s. 1, ch. 92-170; ss. 1, 4(1st), 14, ch. 92-287; s. 13, ch. 93-39; s. 6, ch. 93-230; s. 1, ch. 94-164; s. 11, ch. 94-209; s. 50, ch. 94-232; s. 1333, ch. 95-147; s. 8, ch. 95-152; s. 1, ch. 95-212; s. 4, ch. 95-228; s. 1, ch. 95-266; ss. 3, 43, ch. 95-267; s. 3, ch. 96-369; s. 2, ch. 96-398; s. 20, ch. 96-402; s. 23, ch. 97-96; s. 158, ch. 97-101; s. 44, ch. 97-190; s. 4, ch. 97-234; s. 111, ch. 97-238; s. 1, ch. 97-276; s. 1, ch. 98-49; s. 176, ch. 98-166; s. 7, ch. 98-280; s. 20, ch. 98-403; s. 15, ch. 99-2; s. 3, ch. 99-168; s. 2, ch. 99-186; s. 4, ch. 99-193; s. 15, ch. 2000-139; s. 2, ch. 2000-188; s. 82, ch. 2000-318; s. 9, ch. 2000-320; s. 14, ch. 2002-1; s. 2, ch. 2006-62; s. 1, ch. 2006-86; s. 4, ch. 2006-194; s. 4, ch. 2007-124; s. 1, ch. 2008-90; s. 1, ch. 2008-154; s. 1, ch. 2008-245; s.1, ch. 2009-21; s. 3, ch. 2012-105; s. 1, ch. 2012-178; s. 11, ch. 2014-19; s. 14, ch. 2014-160; s. 3, ch. 2014-224; s. 1, ch. 2016-24; s. 1, ch. 2016-71; s. 11, ch. 2016-105; s. 2, ch. 2016-241.; s. 2, ch. 2017-151; s.1, ch. 2018-103; s. 11, ch. 2019-003; s. 1, ch. 2019-142; s.1, ch. 2020-65; s. 3, ch. 2021-51.

39.011 Immunity from liability.–

(1) In no case shall employees or agents of the department or a social service agency acting in good faith be liable for damages as a result of failing to provide services agreed to under the case plan unless the failure to provide such services occurs as a result of bad faith or malicious purpose or occurs in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

(2) The inability or failure of the department or of a social service agency or the employees or agents of the social service agency to provide the services agreed to under the case plan shall not render the state or the social service agency liable for damages unless such failure to provide services occurs in a manner exhibiting wanton or willful disregard of human rights, safety, or property.

(3) A member or agent of a citizen review panel acting in good faith is not liable for damages as a result of any review or recommendation with regard to a dependency matter unless such member or agent exhibits wanton and willful disregard of human rights or safety, or property.

History.--s. 9, ch. 87-289; s. 13, ch. 90-306; s. 7, ch. 97-95; s. 21, ch. 98-403; s. 5, ch. 99-193.
Note.--Former s. 39.455.

39.012 Rules for implementation.–The department shall adopt rules for the efficient and effective management of all programs, services, facilities, and functions necessary for implementing this chapter. Such rules may not conflict with the Florida Rules of Juvenile Procedure. All rules and policies must conform to accepted standards of care and treatment.
History.--s. 2, ch. 87-289; s. 4, ch. 90-208; s. 12, ch. 94-209; s. 1, ch. 97-101; s. 120, ch. 97-238; s. 22, ch. 98-403.

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

(1) Background screening of department employees and applicants; criminal records checks of prospective foster and adoptive parents; and drug testing of protective investigators.

(2) Reporting of child abuse, neglect, and abandonment; reporting of child-on-child sexual abuse; false reporting; child protective investigations; taking a child into protective custody; and shelter procedures.

(3) Confidentiality and retention of department records; access to records; and record requests.

(4) Department and client trust funds.

(5) Requesting of services from Child Protection Teams.

(6) Consent to and provision of medical care and treatment for children in the care of the department.

(7) Federal funding requirements and procedures; foster care and adoption subsidies; and subsidized independent living.

(8) Agreements with law enforcement and other state agencies; access to the National Crime Information Center (NCIC); and access to the parent locator service.

(9) Licensing, registration, and certification of child day care providers, shelter and foster homes, and residential child-caring and child-placing agencies.

(10) The Intensive Crisis Counseling Program and any other early intervention programs and kinship care assistance programs.

(11) Department contracts, pilot programs, and demonstration projects.

(12) Legal and casework procedures, including, but not limited to, mediation, diligent search, stipulations, consents, surrenders, and default, with respect to dependency, termination of parental rights, adoption, guardianship, and kinship care proceedings.

(13) Legal and casework management of cases involving in-home supervision and out-of-home care, including judicial reviews, administrative reviews, case plans, and any other documentation or procedures required by federal or state law.

(14) Injunctions and other protective orders, domestic-violence-related cases, and certification of domestic violence centers.

(15) Provision for making available to all physical custodians and family services counselors the information required by s. 39.6012(2) and for ensuring that this information follows the child until permanency has been achieved.

(16) Provisions for reporting, locating, recovering, and stabilizing children whose whereabouts become unknown while they are involved with the department and for preventing recurrences of such incidents. At a minimum, the rules must:

(a) Provide comprehensive, explicit, and consistent guidelines to be followed by the department's employees and contracted providers when the whereabouts of a child involved with the department is unknown.

(b) Include criteria to determine when a child is missing for purposes of making a report to a law enforcement agency, and require that in all cases in which a law enforcement agency has accepted a case for criminal investigation pursuant to s. 39.301(2) (c) and the child's whereabouts are unknown, the child shall be considered missing and a report made.

(c) Include steps to be taken by employees and contracted providers to ensure and provide evidence that parents and guardian have been advised of the requirements of s. 787.04(3) and that violations are reported.

History.--s. 23, ch. 98-403; s. 6, ch. 99-193; s. 2, ch. 2006-86; s. 2, ch. 2008-245; s. 1, ch. 2010-210, s. 41, ch. 2011-213; s. 12, ch. 2019-003.

39.013 Procedures and jurisdiction; right to counsel.–

(1) All procedures, including petitions, pleadings, subpoenas, summonses, and hearings, in this chapter shall be conducted according to the Florida Rules of Juvenile Procedure unless otherwise provided by law. Parents must be informed by the court of their right to counsel in dependency proceedings at each stage of the dependency proceedings. Parents who are unable to afford counsel must be appointed 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 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 21 years of age, or 22 years of age if the child has a disability with the following exceptions:

(a) If a young adult chooses to leave foster care upon reaching 18 years of age.

(b) If a young adult does not meet the eligibility requirements to remain in foster care under s. 39.6251 or chooses to leave care under that section.

(c) If a young adult 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 young adult's 18th birthday for the purpose of determining whether appropriate services that were required to be provided to the young adult before reaching 18 years of age.

(d) 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.

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

(4) Orders entered pursuant to this chapter which affect the placement of, access to, parental time with, adoption of, or parental rights and responsibilities for a minor child shall take precedence over other orders entered in civil actions or proceedings. However, if the court has terminated jurisdiction, the order may be subsequently modified by a court of competent jurisdiction in any other civil action or proceeding affecting placement of, access to, parental time with, adoption of, or parental rights and responsibilities for the same minor child.

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

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

(7) Children removed from their homes shall be provided equal treatment with respect to goals, objectives, services, and case plans, without regard to the location of their placement.

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

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

(b) Once counsel has entered an appearance or been appointed by the court to represent the parent of the child, the attorney shall continue to represent the parent throughout the proceedings. If the attorney-client relationship is discontinued, the court shall advise the parent of the right to have new counsel retained or appointed for the remainder of the proceedings.

(c)1. A waiver of counsel may not be accepted if it appears that the parent is unable to make an intelligent and understanding choice because of mental condition, age, education, experience, the nature or complexity of the case, or other factors.

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

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

(d) This subsection does not apply to any parent who has voluntarily executed a written surrender of the child and consents to the entry of a court order terminating parental rights.

(10) Court-appointed counsel representing indigent parents at shelter hearings shall be paid from state funds appropriated by general law.

(11) The court shall encourage the Statewide Guardian ad Litem Office to provide greater representation to those children who are within 1 year of transferring out of foster care.

(12) The department shall be represented by counsel in each dependency proceeding. Through its attorneys, department shall make recommendations to the court on issues before the court and may support its recommendations through testimony and other evidence by its own employees, employees of sheriff's offices providing child protection services, employees of its contractors, employees of its contractor's subcontractors, or from any other relevant source.

History.--s. 20, ch. 78-414; s. 5, ch. 84-311; s. 4, ch. 87-289; s. 4, ch. 90-306; s. 2, ch. 92-158; s. 3, ch. 94-164; s. 5, ch. 95-228; s. 8, ch. 98-280; s. 24, ch. 98-403; s. 7, ch. 99-193; s. 16, ch. 2000-139; s. 1, ch. 2002-216; s. 1, ch. 2005-179; s. 3, 2005-239; s. 3, ch. 2006-86; s. 2, ch. 2006-194; s. 2, ch. 2012-178; s. 2, ch. 2013-178; s. 4, ch. 2014-224; s. 3, ch. 2017-151.

Note.--Former s. 39.40.

39.01304 Early childhood court programs.–

(1) A circuit court may create an early childhood court program to serve the needs of infants and toddlers in dependency court. If a circuit court creates an early childhood court program, it may consider all of the following factors:

(a) The court supporting the therapeutic needs of the parent and child in a nonadversarial manner.

(b) A multidisciplinary team made up of key community stakeholders to work with the court to restructure the way the community responds to the needs of abused or neglected children.

(c) A community coordinator to facilitate services and resources for families, serve as a liaison between a multidisciplinary team and the judiciary, and manage data collection for program evaluation and accountability. Subject to appropriation, the Office of the State Courts Administrator may coordinate with each participating circuit court to fill a community coordinator position for the circuit's early childhood court program.

(d) A continuum of mental health services that includes those that support the parent-child relationship and are appropriate for the child and family served.

(2) The Office of the State Courts Administrator shall contract for an evaluation of the early childhood court programs to ensure the quality, accountability, and fidelity of the programs' evidence-based treatment. The Office of the State Courts Administrator may provide, or contract for the provision of, training and technical assistance related to program services, consultation and guidance for difficult cases, and ongoing training for court teams.

History -- s. 2, ch. 2020-138.

39.01305 Appointment of an attorney for a dependent child with certain special needs.–

(1)(a) The Legislature finds that:

1. All children in proceedings under this chapter have important interests at stake, such as health, safety, and well-being and the need to obtain permanency.

2. A dependent child who has certain special needs has a particular need for an attorney to represent the dependent child in proceedings under this chapter, as well as in fair hearings and appellate proceedings, so that the attorney may address the child's medical and related needs and the services and supports necessary for the child to live successfully in the community.

(b) The Legislature recognizes the existence of organizations that provide attorney representation to children in certain jurisdictions through the state. Further, the statewide Guardian Ad Litem Program provides best interest representation for dependent children in every jurisdiction in accordance with state and federal law. The Legislature, therefore, does not intend that funding provided for representation under this section supplant proven and existing organizations representing children. Instead, the Legislature intends that funding provided for representation under this section be an additional resource for the representation of more children in these jurisdictions, to the extent necessary to meet the requirements of this chapter, with the cooperation of existing local organizations or through the expansion of those organizations. The Legislature encourages the expansion of pro bono representation for children. This section is not intended to limit the ability of a pro bono attorney to appear on behalf of a child.

(2) As used in the section, the term "dependent child" means a child who is subject to any proceeding under this chapter. The term does not require that a child be adjudicated dependent for purposes of this section.

(3) As attorney shall be appointed for a dependent child who:

(a) Resides in a skilled nursing facility or is being considered for placement in a skilled nursing home;

(b) Is prescribed a psychotropic medication but declines assent to the psychotropic medication;

(c) Has a diagnosis of a developmental disability as defined in s. 393.063;

(d) Is being placed in a residential treatment center or being considered for placement in a residential treatment center; or

(e) Is a victim of human trafficking as defined in s. 787.06(2)(d).

(4)(a) Before a court may appoint an attorney, who may be compensated pursuant to this section, the court must request a recommendation from the Statewide Guardian Ad Litem Office for an attorney who is willing to represent a child without additional compensation. If such an attorney is available within 15 days after the court's request, the court must appoint that attorney. However, the court may appoint a compensated attorney within the 15-day period if the Statewide Guardian Ad Litem Office informs the court that it will not be able to recommend an attorney within that time period.

(b) After an attorney is appointed, the appointment continues in effect until the attorney is allowed to withdraw or is discharged by the court or until the case is dismissed. An attorney who is appointed under this section to represent the child shall provide the complete range of legal services, from the removal from home or from the initial appointment through all available appellate proceedings. With the permission of the court, the attorney for the dependent child may arrange for supplemental or separate counsel to represent the child in appellate proceedings. A court order appointing an attorney under this section must be in writing.

(5) Unless the attorney has agreed to provide pro bono services, an appointed attorney or organization must be adequately compensated. All appointed attorneys and organizations, including pro bono attorneys, must be provided with access to funding for expert witnesses, depositions, and other due process costs of litigation. Payment of attorney fees and case-related due process costs are subject to appropriations and review by the Justice Administrative Commission for reasonableness. The Justice Administrative Commission shall contract with attorneys appointed by the court. Attorney fees may not exceed $1,000 per child per year.

(6) The department shall develop procedures to identify a dependent child who has a special need specified under subsection (3) and to request that a court appoint an attorney or the child.

(7) The department may adopt rules to administer this section.

(8) This section does not limit the authority of the court to appoint an attorney for a dependent child in a proceeding under this chapter.

(9) Implementation of this section is subject to appropriations expressly made for that purpose.
History.--s. 1, ch. 2014-227; s. 2, ch. 2018-14.

39.0131 Permanent mailing address designation.–Upon the first appearance before the court, each party shall provide to the court a permanent mailing address. The court shall advise each party that this address will be used by the court and the petitioner for notice purposes unless and until the party notifies the court and the petitioner in writing of a new mailing address.
History.--s. 11, ch. 94-164; s. 25, ch. 98-403.
Note.--Former s. 39.4057.

39.0132 Oaths, records, and confidential information.–
(1) The judge, clerks or deputy clerks, or authorized agents of the department shall each have the power to administer oaths and affirmations.

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

(3) The clerk shall keep all court records required by this chapter separate from other records of the circuit court. All court records required by this chapter shall not be open to inspection by the public. All records shall be inspected only upon order of the court by persons deemed by the court to have a proper interest therein, except that, subject to the provisions of s. 63.162, a child and the parents of the child and their attorneys, the guardian ad litem, criminal conflict and civil regional counsels, law enforcement agencies, and the department and its designees shall always have the right to inspect and copy any official record pertaining to the child. The Justice Administrative Commission may inspect court dockets required by this chapter as necessary to audit compensation of court-appointed attorneys. If the docket is insufficient for purposes of the audit, the commission may petition the court for additional documentation as necessary and appropriate. The court may permit authorized representatives of recognized organizations compiling statistics for proper purposes to inspect and make abstracts from official records, under whatever conditions upon their use and disposition the court may deem proper, and may punish by contempt proceedings any violation of those conditions.

(4)(a)1. All information obtained pursuant to this part in the discharge of official duty by any judge, employee of the court, authorized agent of the department, correctional probation officer, or law enforcement agent is confidential and exempt from s. 119.07(1) and may not be disclosed to anyone other than the authorized personnel of the court, the department and its designees, correctional probation officers,

law enforcement agents, the guardian ad litem, criminal conflict and civil regional counsels, and others entitled under this chapter to receive that information, except upon order of the court.

2. a. The following information held by a guardian ad litem is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

(I) Medical, mental health, substance abuse, child care, education, law enforcement, court, social services, and financial records.

(II) Any other information maintained by a guardian ad litem which is identified as confidential information under this chapter.

b. Such confidential and exempt information may not be disclosed to anyone other than the authorized personnel of the court, the department and its designees, correctional probation officers, law enforcement agents, guardians ad litem, and others entitled under this chapter to receive that information, except upon order of the court.

(b) The department shall disclose to the school superintendent the presence of any child in the care and custody or under the jurisdiction or supervision of the department who has a known history of criminal sexual behavior with other juveniles; is an alleged juvenile sex offender, as defined in s. 39.01; or has pled guilty or nolo contendere to, or has been found to have committed, a violation of chapter 794, chapter 796, chapter 800, s. 827.071, or s. 847.0133, regardless of adjudication. Any employee of a district school board who knowingly and willfully discloses such information to an unauthorized person commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(5) All orders of the court entered pursuant to this chapter shall be in writing and signed by the judge, except that the clerk or deputy clerk may sign a summons or notice to appear.

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

(a) Records of proceedings under this chapter forming a part of the record on appeal shall be used in the appellate court in the manner hereinafter provided.

(b) Records necessary therefor shall be admissible in evidence in any case in which a person is being tried upon a charge of having committed perjury.

(c) Records of proceedings under this chapter may be used to prove disqualification pursuant to s. 435.06 and for proof regarding such disqualification in a chapter 120 proceeding.

(d) A final order entered pursuant to an adjudicatory hearing is admissible in evidence in any subsequent civil proceeding relating to placement of, access, to, parental time with, adoption of, or parental rights and responsibilities for the same child or a sibling of that child.

(e) Evidence admitted in any proceeding under this chapter may be admissible in evidence when offered by any party in a subsequent civil proceeding relating to placement of, access to, parental time with, adoption of, or parental rights and responsibilities for the same child or a sibling of that child if:

1. Notice is given to the opposing party or opposing party's counsel of the intent to offer the evidence and a copy of such evidence is delivered to the opposing party or the opposing party's counsel; and

2. The evidence is otherwise admissible in the subsequent civil proceeding.

(7) Final orders, records, and evidence in any proceeding under this chapter which are subsequently admitted in evidence pursuant to subsection (6) remain subject to subsections (3) and (4).

History.--s. 20, ch. 78-414; s. 15, ch. 79-164; s. 3, ch. 87-238; s. 40, ch. 89-526; s. 7, ch. 90-208; s. 13, ch. 90-360; s. 16, ch. 91-57; s. 18, ch. 93-39; s. 32, ch. 95-228; s. 119, ch. 95-418; s. 3, ch. 96-268; s. 16, ch. 96-406; s. 1, ch. 98-158; s. 26, ch. 98-403; s. 16, ch. 99-2; s. 8, ch. 99-193; s. 10, ch. 99-284; s. 17, ch. 2000-139; s. 2, ch. 2005-213; s. 24, ch. 2005-236; s. 4, ch. 2005-239; s.1, ch. 2010-75, s.5, ch. 2022-596.

Note.--Former s. 39.411.

39.0133 Court and witness fees.–In all proceedings under this chapter, no court fees shall be charged against, and no witness fees shall be allowed to, any party to a petition or any parent or legal custodian or child named in a summons. Other witnesses shall be paid the witness fees fixed by law.
History.--s. 20, ch. 78-414; s. 27, ch. 98-403.
Note.--Former s. 39.414.

[1]39.0134 Appointed counsel; compensation.–
(1) If counsel is entitled to receive compensation for representation pursuant to a court appointment in a dependency proceeding or a termination of parental rights proceeding pursuant to this chapter, such compensation shall be paid in accordance with s. 27.5304. The state may acquire and enforce a lien upon court-ordered payment of attorney's fees and costs in the same manner prescribed in s. 938.29.
(2)(a) A parent whose child is dependent, regardless of whether adjudication was withheld, or whose parental rights are terminated and who has received the assistance of the office of criminal conflict and civil regional counsel, or any other court-appointed attorney, or who has received due process services after being found indigent for costs, shall be liable for payment of the assessed application fee under s. 57.082, together with reasonable attorney's fees and costs as determined by the court.

(b) If reasonable attorney's fees or costs are assessed, the court, at its discretion, may make payment of the fees or costs part of any case plan in dependency proceedings. However, a case plan may not remain open for the sole issue of payment of attorney's fees or costs. At the court's discretion, a lien upon court-ordered payment of attorney's fees and costs may be ordered by the court and enforced in the same manner prescribed in s. 938.29.

(c) The clerk of the court shall transfer monthly all attorney's fees and costs collected under this subsection to the Department of Revenue for deposit into the Indigent Civil Defense Trust Fund, to be used as appropriated by the Legislature and consistent with s. 27.5111.
History.--s. 12, ch. 84-311; s. 9, ch. 87-289; s. 28, ch. 98-403; s. 9, ch. 99-193; s. 57, ch. 2003-402; s. 36, ch. 2004-265; s. 19, ch. 2010-162; s. 2, ch. 2016-10.
Note.--Former ss. 39.415, 39.474.

39.0135 Operations and Maintenance Trust Fund.–The department shall deposit all child support payments made to the department pursuant to this chapter into the Operations and Maintenance Trust Fund. The purpose of this funding is to care for children who are committed to the temporary legal custody of the department.
History.--s. 87, ch. 86-220; s. 10, ch. 90-306; s. 16, ch. 96-418; s. 167, ch. 97-101; s. 29, ch. 98-403.
Note.--Former s. 39.418.

39.0136 Time limitations; continuances.–
(1) The Legislature finds that time is of the essence for establishing permanency for a child in the dependency system. Time limitations are a right of the child which may not be waived, extended, or continued at the request of any party except as provided in this section.

(2)(a) All parties and the court must work together to ensure that permanency is achieved as soon as possible for every child through timely performance of their responsibilities under this chapter.

(b) The department shall ensure that parents have the information necessary to contact their case manager. When a new case manager is assigned to a case, the case manager must make a timely and diligent effort to notify the parent and provide updated contact information.

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

(a) Periods of delay resulting from a continuance granted at the request of the child's counsel or the child's guardian ad litem or, if the child is of sufficient capacity to express reasonable consent, at the request

or with the consent of the child. The court must consider the best interests of the child when determining periods of delay under this section.

(b) Periods of delay resulting from a continuance granted at the request of any party if the continuance is granted:

1. Because of an unavailability of evidence that is material to the case if the requesting party has exercised due diligence to obtain evidence and there are substantial grounds to believe that the evidence will be available within 30 days. However, if the requesting party is not prepared to proceed within 30 days, any other party may move for issuance of an order to show cause or the court on its own motion may impose appropriate sanctions, which may include dismissal of the petition.

2. To allow the requesting party additional time to prepare the case and additional time is justified because of an exceptional circumstance.

(c) Reasonable periods of delay necessary to accomplish notice of the hearing to the child's parent or legal custodian; however, the petitioner shall continue regular efforts to provide notice to the parents during the periods of delay.

(4) Notwithstanding subsection (3), in order to expedite permanency for a child, the total time allowed for continuances or extensions of time, including continuances or extensions by the court on its own motion, may not exceed 60 days within any 12-month period for proceedings conducted under this chapter. A continuance or extension of time may be granted only for extraordinary circumstances in which it is necessary to preserve the constitutional rights of a party or if substantial evidence exists to demonstrate that without granting a continuance or extension of time the child's best interests will be harmed.

(5) Notwithstanding subsection (3), a continuance or an extension of time is limited to the number of days absolutely necessary to complete a necessary task in order to preserve the rights of a party or the best interests of a child.

History.--s. 4, ch. 2006-86; s. 2, ch. 2019-128.

39.0137 Federal law; rulemaking authority.–

(1) This chapter does not supersede the requirements of the Indian Child Welfare Act, 25 U.S.C. ss. 1901, et seq., the Multi-Ethnic Placement Act of 1994, Pub. L. No.103-382, as amended, the Servicemembers Civil Relief Act, 50 U.S.C. ss. 3901 et seq., or the implementing regulations for such acts.

(2) The department is encouraged to enter into agreements with recognized American Indian tribes in order to facilitate the implementation of the Indian Child Welfare Act.

(3) The department shall ensure that the Servicemembers Civil Relief Act is observed in cases where a parent, legal custodian, or caregiver responsible for a child's welfare, by virtue of his or her service, is unable to take custody of the child or appear before the court in person.

History.--s. 5, ch. 2006-86; s. 20, ch. 2012-116; s.2, ch. 2020-65.

39.01375 Best interest determination for placement.–The department, community-based care lead agency, or court shall consider all of the following factors when determining whether a proposed placement under this chapter is in the child's best interest:

(1) The child's age.

(2) The physical, mental, and emotional health benefits to the child by remaining in his or her current placement or moving to the proposed placement.

(3) The stability and longevity of the child's current placement.

(4) The established bonded relationship between the child and the current or proposed caregiver.

(5) The reasonable preference of the child, if the child is of a sufficient age and capacity to express a preference.

(6) The recommendation of the child's current caregiver, if applicable.

(7) The recommendation of the child's guardian ad litem, if one has been appointed.

(8) The child's previous and current relationship with a sibling and if the change of legal or physical custody or placement will separate or reunite siblings, evaluated in accordance with s. 39.4024.

(9) The likelihood of the child attaining permanency in the current or proposed placement.

(10) The likelihood the child will be required to change schools or child care placement, the impact of such change on the child, and the parties' recommendations as the timing of the change, including an education transition plan required under s. 39.4023.

(11) The child's receipt of medical, behavioral health, dental, or other treatment services in the current placement; the availability of such services and the degree to which they meet the child's needs; and whether the child will be able to continue to receive services from the same providers and the relative importance of such continuity of care.

(12) The allegations of any abuse, abandonment, or neglect, including sexual abuse and human trafficking history, which caused the child to be placed in out-of-home care and any history of additional allegations of abuse, abandonment, or neglect.

(13) The likely impact on activities that are important to the child and the ability of the child to continue such activities in the proposed placement.

(14) The likely impact on the child's access to education, Medicaid, and independent living benefits if moved to the proposed placement.

(15) Any other relevant factor.

History.--s. 2, ch. 2021-169.

39.0138 Criminal history and other records checks; 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 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. 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. The department must complete the records check within 14 business days after receiving a person's criminal history results, unless additional information is required to complete the processing. 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.

(2)(a) The department shall establish rules for granting an exemption from the fingerprinting requirements under subsection (1) for a household member who has a physical, developmental, or cognitive disability that prevents that person from safely submitting fingerprints.

(b) Before granting an exemption, the department or its designee shall assess and document the physical, developmental, or cognitive limitations that justified the exemption and the effect of such limitations on the safety and well-being of the child being placed in the home.

(c) If a fingerprint exemption is granted, a level 1 screening pursuant to s. 435.03 shall be completed on the person who is granted the exemption.

(3) The department may not place a child with a person other than a parent if the criminal history records check reveals that the person has been convicted of any felony that falls within any of the following categories:

(a) Child abuse, abandonment, or neglect;

(b) Domestic violence;

(c) Child pornography or other felony in which a child was a victim of the offense; or

(d) Homicide, sexual battery, or other felony involving violence, other than felony assault or felony battery when an adult was the victim of the assault or battery, or resisting arrest with violence.

(4) The department may not place a child with a person other than a parent if the criminal history records check reveals that the person has, within the previous 5 years, been convicted of a felony that falls within any of the following categories:

(a) Assault;

(b) Battery;

(c) A drug-related offense; or

(d) Resisting arrest with violence.

(5) The department may place a child in a home that otherwise meets placement requirements if a name check of state and local criminal history records systems does not disqualify the applicant and if the department submits fingerprints to the Department of Law Enforcement for forwarding to the Federal Bureau of Investigation and is awaiting the results of the state and national criminal history records check.

(6) Persons with whom placement of a child is being considered or approved must disclose to the department any prior or pending local, state, or national criminal proceedings in which they are or have been involved.

(7) The department may examine the results of any criminal history records check of any person, including a parent, with whom placement of a child is being considered under this section. The complete criminal history records check must be considered when determining whether placement with the person will jeopardize the safety of the child being placed.

(8)(a) The court may review a decision of the department to grant or deny the placement of a child based upon information from the criminal history records check. The review may be upon the motion of any party, the request of any person who has been denied a placement by the department, or on the court's own motion. The court shall prepare written findings to support its decision in this matter.

(b) A person who is seeking placement of a child but is denied the placement because of the results of a criminal history records check has the burden of setting forth sufficient evidence of rehabilitation to show that the person will not present a danger to the child if the placement of the child is allowed. Evidence of rehabilitation may include, but is not limited to, the circumstances surrounding the incident providing the basis for denying the application, the time period that has elapsed since the incident, the nature of the harm caused to the victim, whether the victim was a child, the history of the person since the incident, whether the person has complied with any requirement to pay restitution, and any other evidence or circumstances indicating that the person will not present a danger to the child if the placement of the child is allowed.

History.--s. 6, ch. 2006-86; s. 3, ch. 2008-245; s. 3, ch. 2012-178; s. 2, ch. 2018-103; s. 3, ch. 2020-138.

39.0139 Visitation or other contact; restrictions.–

(1) SHORT TITLE.--This section may be cited as the "Keeping Children Safe Act."

(2) LEGISLATIVE FINDINGS AND INTENT.--

(a) The Legislature finds that:

1. For some children who are abused, abandoned, or neglected by a parent or other caregiver, abuse may include sexual abuse.

2. These same children are at risk of suffering from further harm during visitation or other contact.

3. Visitation or other contact with the child may be used to influence the child's testimony.

(b) It is the intent of the Legislature to protect children and reduce the risk of further harm to children who have been sexually abused or exploited by a parent or other caregiver by placing additional requirements on judicial determinations related to contact between a parent or caregiver who meets the criteria under paragraph (3)(a) and a child victim in any proceeding pursuant to this chapter.

(3) PRESUMPTION OF DETRIMENT.–

(a) A rebuttable presumption of detriment to a child is created when:

1. A court of competent jurisdiction has found probable cause exists that a parent or caregiver has sexually abused a child as defined in s. 39.01;

2. A parent of caregiver has been found guilty of, regardless of adjudication, or has entered a plea of guilty or nolo contendere to, charges under the following statutes or substantially similar statutes of other jurisdictions:

a. Section 787.04, relating to removing minors from the state or concealing minors contrary to court order;

b. Section 794.011, relating to sexual battery;

c. Section 798.02, relating to lewd and lascivious behavior;

d. Chapter 800, relating to lewdness and indecent exposure;

e. Section 826.04, relating to incest; or

f. Chapter 827, relating to the abuse of children; or

3. A court of competent jurisdiction has determined a parent or caregiver to be a sexual predator as defined in s. 775.21 or a parent or caregiver has received a substantially similar designation under laws of another jurisdiction.

(b) For purposes of this subsection, "substantially similar" has the same meaning as in s. 39.806(1)(d)2.

(c) A person who meets any of the criteria set forth in paragraph (a) may not visit or have contact with a child without a hearing and order by the court.

(4) HEARINGS.–A person who meets any of the criteria set forth in paragraph (3)(a) who seeks to begin or resume contact with the child victim shall have the right to an evidentiary hearing to determine whether contact is appropriate.

(a) Prior to the hearing, the court shall appoint an attorney ad litem or a guardian ad litem for the child if one has not already been appointed. Any attorney ad litem or guardian ad litem appointed shall have special training in the dynamics of child sexual abuse.

(b) At the hearing, the court may receive and rely upon any relevant and material evidence submitted to the extent of its probative value, including written and oral reports or recommendations from the Child Protection Team, the child's therapist, the child's guardian ad litem, or the child's attorney ad litem, even if these reports, recommendations, and evidence may not be admissible under the rules of evidence.

(c) If the court finds the person proves by clear and convincing evidence that the safety, well-being,

and physical, mental, and emotional health of the child is not endangered by such visitation or other contact, the presumption in subsection (3) is rebutted and the court may allow visitation or other contact. The court shall enter a written order setting forth findings of fact and specifying any conditions it finds necessary to protect the child.

(d) If the court finds the person did not rebut the presumption established in subsection (3), the court shall enter a written order setting forth findings of fact and prohibiting or restricting visitation or other contact with the child.

(5) CONDITIONS.–Any visitation or other contact ordered under paragraph (4)(d) shall be:

(a) Supervised by a person who has previously received special training in the dynamics of child sexual abuse; or

(b) Conducted in a supervised visitation program, provided that the program has an agreement with the court and a current affidavit of compliance on file with the chief judge of the circuit in which the program is located affirming that the program has agreed to comply with the minimum standards contained in the administrative order issued by the Chief Justice of the Supreme Court on November 17, 1999, and provided the program has a written agreement with the court and with the department as described in s. 753.05 containing policies and guidelines specifically related to referrals involving child sexual abuse.

(6) ADDITIONAL CONSIDERATIONS.–

(a) Once a rebuttable presumption of detriment has arisen under subsection (3) or if visitation is ordered under subsection (4) and a party or participant, based on communication with the child or other firsthand knowledge, informs the court that a person is attempting to influence the testimony of the child, the court shall hold a hearing within 7 business days to determine whether it is in the best interests of the child to prohibit or restrict visitation or other contact with the person who is alleged to have influenced the testimony of the child.

(b) If a child is in therapy as a result of any finding or conviction contained in paragraph (3)(a) and the child's therapist reports that the visitation or other contact is impeding the child's therapeutic progress, the court shall convene a hearing within 7 business days to review the terms, conditions, or appropriateness of continued visitation or other contact.

History.--s. 1, ch. 2007-109; s. 1, ch. 2011-209; s. 5, ch. 2013-015; s. 37, ch. 2016-24; s. 13, ch. 2019-003.

39.0141 Missing children; report required.–Whenever the whereabouts of a child involved with the department becomes unknown, the department, the community-based care provider, or the sheriff's office providing investigative services for the department shall make reasonable efforts, as defined by rule, to locate the child. If, pursuant to criteria established by rule, the child is determined to be missing, the department, the community-based care provider, or the sheriff's office shall file a report that the child is missing in accordance with s. 937.021.

History.--s. 4, ch. 2008-245.

39.0142 Notifying law enforcement officers of parent or caregiver names.–Beginning March 1, 2021, the Department of Law Enforcement shall provide information to law enforcement officers stating whether a person is a parent or caregiver who is currently the subject of a child protective investigation for alleged child abuse, abandonment, or neglect or is a parent or caregiver of a child who has been allowed to return to or remain in the home under judicial supervision after an adjudication of dependency. The Florida Department of Law Enforcement shall provide this data via a Florida Crime Information Center query into the department's child protection database.

(1) If a law enforcement officer has an interaction with a parent or caregiver as described in this section and the interaction results in the officer having concern about a child's health, safety, or well-being, the officer shall report relevant details of the interaction to the central abuse hotline immediately after the interaction even if the requirements of s. 39.201, relating to a person having actual knowledge or suspicion of abuse, abandonment, or neglect, are not met.

(2) The central abuse hotline shall provide any relevant information to:

(a) The child protective investigator, if the parent or caregiver is the subject of a child protective investigation; or

(b) The child's case manager and the attorney representing the department, if the parent or caregiver has a child under judicial supervision after an adjudication of dependency.

History. -- s. 3, ch. 2020-40

39.0143 Dually-involved children.—Beginning in fiscal year 2022-2023 through fiscal year 2023-2024, the department and the Department of Juvenile Justice shall identify children who are dually involved with both systems of care. The department and the Department of Juvenile Justice shall collaboratively take appropriate action within available resources to meet the needs of dually-involved children more effectively, and shall jointly submit to the Legislature a quarterly report that includes, at a minimum:

(1) Data on the number of children who are dually involved with both systems of care. Such children include, but are not limited to, those who are the subject of any proceeding under this chapter and, at the same time, are under the supervision of the Department of Juvenile Justice under chapter 985, and those children who were previously served by either the department or the Department of Juvenile Justice and come to the attention of either agency after being served.

(2) Data on the number of children who are placed in licensed care after leaving the custody of the Department of Juvenile Justice.

(3) Information on how both departments track children who are or become dually involved.

(4) A summary of the actions taken by both departments to better serve dually-involved children.

History. -- s. 1, ch. 2022-67.

PART II
REPORTING CHILD ABUSE

39.101 Central abuse hotline. –The central abuse hotline is the first step in the safety assessment and investigation process.

(1) ESTABLISHMENT AND OPERATION.–

(a) The department shall operate and maintain a central abuse hotline capable of receiving all reports of known or suspected child abuse, abandonment, or neglect and reports 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 such supervision and care. The hotline must accept reports 24 hours a day, 7 days a week, and such reports must be made in accordance with s. 39.201. The central abuse hotline must be capable of accepting reports made in accordance with s. 39.201 in writing, through a single statewide toll-free telephone number, or through electronic reporting. A person may use any of these methods to make a report to the central abuse hotline.

(b) The central abuse hotline must be operated in such a manner as to enable the department to:

1. Accept reports for investigation when there is reasonable cause to suspect that a child has been or is being abused or neglected or has been abandoned.

2. Determine whether the allegations made by the reporter require an immediate or a 24-hour response in accordance with subsection (2).

3. Immediately identify and locate previous reports or cases of child abuse, abandonment, or neglect through the use of the department's automated tracking system.

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

5. When appropriate, refer reporters who do not allege child abuse, abandonment, or neglect to other organizations that may better resolve the reporter's concerns.

6. Serve as a resource for the evaluation, management, and planning of preventive and remedial services for children who have been abused, abandoned, or neglected.

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

8. Promote public awareness of the central abuse hotline through community-based partner organizations and public service campaigns.

(2) TIMEFRAMES FOR INITIATING INVESTIGATION.–After the central abuse hotline receives a report, the department must determine the timeframe in which to initiate an investigation under chapter 39. Except as provided in s. 39.302 relating to institutional investigations, the department must commence an investigation:

(a) Immediately, regardless of the time of day or night, if it appears that:

1. The immediate safety or well-being of a child is endangered;

2. The family may flee or the child may be unavailable for purposes of conducting a child protective investigation; or

3. The facts reported to the central abuse hotline otherwise so warrant.

(b) Within 24 hours after receipt of a report that does not involve the criteria specified in paragraph (a).

(3) COLLECTION OF INFORMATION AND DATA.–The department shall:

(a)1. Voice-record all incoming or outgoing calls that are received or placed by the central abuse hotline which relate to suspected or known child abuse, abandonment, or neglect and maintain an electronic copy of each report made to the central abuse hotline through a call or electronic reporting.

2. Make the recording or electronic copy of the report made to the central abuse hotline a part of the record of the report. Notwithstanding s. 39.202, the recording or electronic copy may only be released in full to law enforcement agencies and state attorneys for the purposes of investigating and prosecuting criminal charges under s. 39.205, or to employees of the department for the purposes of investigating and seeking administrative fines under s. 39.206.

This paragraph does not prohibit central abuse hotline counselors from using the recordings or the electronic copy of reports for quality assurance or training purposes.

(b)1. Secure and install electronic equipment that automatically provides the central abuse hotline the telephone number from which the call is placed or the Internet protocol address from which the electronic report is received.

2. Enter the telephone number or Internet protocol address into the report of child abuse, abandonment, or neglect for it to become a part of the record of the report.

3. Maintain the confidentiality of such information in the same manner as given to the identity of the reporter under s. 39.202.

(c)1. Update the online form used for reporting child abuse, abandonment, or neglect to include qualifying questions in order to obtain necessary information required to assess need and the timeframes necessary for initiating an investigation under subsection (2).

2. Make the report available in its entirety to the central abuse hotline counselors as needed to update the Florida Safe Families Network or other similar systems.

(d) Monitor and evaluate the effectiveness of the reporting and investigating of suspected child abuse, abandonment, or neglect through the development and analysis of statistical and other information.

(e) Maintain and produce aggregate statistical reports monitoring patterns of child abuse, abandonment, and neglect.

(f)1. Collect and analyze child-on-child sexual abuse reports and include such information in the aggregate statistical reports.

2. Collect and analyze, in separate statistical reports, those reports of child abuse, sexual abuse, and juvenile sexual abuse which are reported from or which occurred on or at:

a. School premises;

b. School transportation;

c. School-sponsored off-campus events;

d. A school readiness program provider determined to be eligible under s. 1002.88;

e. A private prekindergarten provider or a public school prekindergarten provider, as those terms are defined in s. 1002.51(7) and (8), respectively;

f. A public K-12 school as described in s. 1000.04;

g. A private school as defined in s. 1002.01;

h. A Florida College System institution or a state university, as those terms are defined in s. 1000.21(3) and (6), respectively; or

i. A school, as defined in s. 1005.02.

(4) USE OF INFORMATION RECEIVED BY THE CENTRAL ABUSE HOTLINE.–

(a) Information received by the central abuse hotline may not be used for employment screening, except as provided in s. 39.202(2)(a) and (h) or s. 402.302(15).

(b) Information in the central abuse hotline and the department's automated abuse information system may be used by the department, its authorized agents or contract providers, the Department of Health, or county agencies as part of the licensure or registration process pursuant to ss. 402.301- 402.319 and ss. 409.175-409.176.

(c) Information in the central abuse hotline may also be used by the Department of Education for purposes of educator certification discipline and review pursuant to s. 39.202(2)(q).

(5) QUALITY ASSURANCE.–On an ongoing basis, the department's quality assurance program shall review screened-out reports involving three or more unaccepted reports on a single child, when jurisdiction applies, in order to detect such things as harassment and situations that warrant an investigation because of the frequency of the reports or the variety of the sources of the reports. A component of the quality assurance program must analyze unaccepted reports to the central abuse hotline by identified relatives as a part of the review of screened-out reports. The Assistant Secretary for Child Welfare may refer a case for investigation when it is determined, as a result of such review, that an investigation may be warranted.

History.--s. 2, ch. 2021-170.

39.201 Required reports of child abuse, abandonment, or neglect, sexual abuse of a child, and juvenile sexual abuse; required reports of death; reports involving a child who has exhibited inappropriate sexual behavior.—

(1) MANDATORY REPORTING.–

(a)1. A person is required to report immediately to the central abuse hotline established in s. 39.101, in writing, through a call to the toll-free telephone number, or through electronic reporting, if he or she knows, or has reasonable cause to suspect, that any of the following has occurred:

a. Child abuse, abandonment, or neglect by a parent or caregiver, which includes, but is not limited to, when a child is abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child's welfare or when 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 such supervision and care.

b. Child abuse by an adult other than a parent, legal custodian, caregiver, or other person responsible for the child's welfare. The central abuse hotline must immediately electronically transfer such reports to the appropriate county sheriff's office.

2. Any person who knows, or has reasonable cause to suspect, that a child is the victim of sexual abuse or juvenile sexual abuse shall report such knowledge or suspicion to the central abuse hotline, including if the alleged incident involves a child who is in the custody of or under the protective supervision of the department.

Such reports may be made in writing, through the statewide toll-free telephone number, or through electronic reporting.

(b)1. A person from the general public may make a report to the central abuse hotline anonymously if he or she chooses to do so.

2. A person making a report to the central abuse hotline whose occupation is in any of the following categories is required to provide his or her name to the central abuse hotline counselors:

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

b. Health care professional or mental health professional other than a person listed in sub-subparagraph a.;

c. Practitioner who relies solely on spiritual means for healing;

d. School teacher or other school official or personnel;

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

f. Law enforcement officer;

g. Judge; or

h. Animal control officer as defined in s. 828.27(1)(b) or agent appointed under s. 828.03.

(c) Central abuse hotline counselors shall advise persons under subparagraph (b)2. who are making a report to the central abuse hotline that, while their names must be entered into the record of the report, the names of reporters are held confidential and exempt as provided in s. 39.202. Such counselors must receive periodic training in encouraging all reporters to provide their names when making a report.

(2) EXCEPTIONS TO REPORTING.–

(a) An additional report of child abuse, abandonment, or neglect is not required to be made by:

1. A professional who is hired by or who enters into a contract with the department for the purpose of treating or counseling a person as a result of a report of child abuse, abandonment, or neglect if such person was the subject of the referral for treatment or counseling.

2. An officer or employee of the judicial branch when the child is currently being investigated by the department, when there is an existing dependency case, or when the matter has previously been reported to the department if there is reasonable cause to believe that the information is already known to the department. This subparagraph applies only when the information related to the alleged child abuse, abandonment, or neglect has been provided to such officer or employee in the course of carrying out his or her official duties.

3. An officer or employee of a law enforcement agency when the incident under investigation by the law enforcement agency was reported to law enforcement by the central abuse hotline through the electronic transfer of the report or telephone call. The department's central abuse hotline is not required to electronically transfer calls or reports received under sub-subparagraph (1)(a)1.b. to the county sheriff's office if the matter was initially reported to the department by the county sheriff's office or by another law enforcement agency. This subparagraph applies only when the information related to the alleged child abuse, abandonment, or neglect has been provided to the officer or employee of a law enforcement agency or central abuse hotline counselor in the course of carrying out his or her official duties.

(b) Nothing in this section or in the contract with community-based care providers for foster care and related services as specified in s. 409.987 may be construed to remove or reduce the duty and responsibility

of any person, including any employee of the community-based care provider, to report a known or suspected case of child abuse, abandonment, or neglect to the department's central abuse hotline.

(3) ADDITIONAL CIRCUMSTANCES RELATED TO REPORTS.–

(a) *Abuse occurring out of state*.–

1. Except as provided in subparagraph 2., the central abuse hotline may not take a report or call of known or suspected child abuse, abandonment, or neglect when the report or call is related to abuse, abandonment, or neglect that occurred out of state and the alleged perpetrator and alleged victim do not live in this state. The central abuse hotline must instead transfer the information in the report or call to the appropriate state or country.

2. If the alleged victim is currently being evaluated in a medical facility in this state, the central abuse hotline must accept the report or call for investigation and must transfer the information in the report or call to the appropriate state or country.

(b) *Reports received from emergency room physicians*.–The department must initiate an investigation when it receives a report from an emergency room physician.

(c) *Abuse involving impregnation of a child*.–A report must be immediately electronically transferred to the appropriate county sheriff's office or other appropriate law enforcement agency by the central abuse hotline if the report is of an instance of known or suspected child abuse involving impregnation of a child 15 years of age or younger by a person 21 years of age or older under s. 827.04(3). If the report is of known or suspected child abuse under s. 827.04(3), subsection (1) does not apply to health care professionals or other professionals who provide medical or counseling services to pregnant children when such reporting would interfere with the provision of such medical or counseling services.

(d) *Institutional child abuse or neglect.* –Reports involving known or suspected institutional child abuse or neglect must be made and received in the same manner as all other reports made under this section.

(e) *Surrendered newborn infants.*-

1. The central abuse hotline must receive reports involving surrendered newborn infants as described in s. 383.50.

2.a. A report may not be considered a report of child abuse, abandonment, or neglect solely because the infant has been left at a hospital, emergency medical services station, or fire station under s. 383.50.

b. If the report involving a surrendered newborn infant does not include indications of child abuse, abandonment, or neglect other than that necessarily entailed in the infant having been left at a hospital, emergency medical services station, or fire station, the central abuse hotline must provide to the person making the report the name of an eligible licensed child-placing agency that is required to accept physical custody of and to place surrendered newborn infants. The department shall provide names of eligible licensed child-placing agencies on a rotating basis.

3. If the report includes indications of child abuse, abandonment, or neglect beyond that necessarily entailed in the infant having been left at a hospital, emergency medical services station, or fire station, the report must be considered as a report of child abuse, abandonment, or neglect and, notwithstanding chapter 383, is subject to s. 39.395 and all other relevant provisions of this chapter.

(4) REPORTS OF CHILD ABUSE, ABANDONMENT, OR NEGLECT BY A PARENT, LEGAL CUSTODIAN, CAREGIVER, OR OTHER PERSON RESPONSIBLE FOR A CHILD'S WELFARE.–

(a)1. Upon receiving a report made to the central abuse hotline, the department shall determine if the received report meets the statutory criteria for child abuse, abandonment, or neglect.

2. Any report meeting the statutory criteria for child abuse, abandonment, or neglect must be accepted for a child protective investigation pursuant to part III of this chapter.

(b)1. 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 central abuse hotline for response to ameliorate a potential future risk of harm to a child.

2. The department must refer the parent or legal custodian for appropriate voluntary community services if it is determined by the department that a need for community services exists.

(5) REPORTS OF SEXUAL ABUSE OF A CHILD OR JUVENILE SEXUAL ABUSE; REPORTS OF A CHILD WHO HAS EXHIBITED INAPPROPRIATE SEXUAL BEHAVIOR.–

(a)1. Sexual abuse of a child or juvenile sexual abuse must be reported immediately to the central abuse hotline, including any alleged incident involving a child who is in the custody of or under the protective supervision of the department. Such reports may be made in writing, through the statewide toll-free telephone number, or through electronic reporting.

2. Within 48 hours after the central abuse hotline receives a report under subparagraph 1., the department shall conduct an assessment, assist the family in receiving appropriate services under s. 39.307, and send a written report of the allegation to the appropriate county sheriff's office.

(b) Reports involving a child who has exhibited inappropriate sexual behavior must be made and received by the central abuse hotline. Within 48 hours after receiving a report under this paragraph, the department shall conduct an assessment, assist the family in receiving appropriate services under s. 39.307, and send a written report of the allegation to the appropriate county sheriff's office.

(c) The services identified in the assessment conducted under paragraph (a) or paragraph (b) must be provided in the least restrictive environment possible and must include, but are not limited to, child advocacy center services under s. 39.3035 and sexual abuse treatment programs developed and coordinated by the Children's Medical Services Program in the Department of Health under s. 39.303.

(d) The department shall ensure that the facts and results of any investigation of sexual abuse of a child or juvenile sexual abuse involving a child in the custody of or under the protective supervision of the department are made known to the court at the next hearing and are included in the next report to the court concerning the child.

(e)1. In addition to conducting an assessment and assisting the family in receiving appropriate services, the department shall conduct a child protective investigation under part III of this chapter if the incident leading to a report occurs on school premises, on school transportation, at a school-sponsored off-campus event, at a public or private school readiness or prekindergarten program, at a public K-12 school, at a private school, at a Florida College System institution, at a state university, or at any other school. The child protective investigation must include an interview with the child's parent or legal custodian.

2. The department shall orally notify the Department of Education; the law enforcement agency having jurisdiction over the municipality or county in which the school, program, institution, or university is located; and, as appropriate, the superintendent of the school district in which the school is located, the administrative officer of the private school, or the owner of the private school readiness or prekindergarten program provider.

3. The department shall make a full written report to the law enforcement agency having jurisdiction over the municipality or county in which the school, program, institution, or university is located within 3 business days after making the oral report. Whenever possible, any criminal investigation must be coordinated with the department's child protective investigation. Any interested person who has information regarding sexual abuse of a child or juvenile sexual abuse may forward a statement to the department.

(6) MANDATORY REPORTS OF A CHILD DEATH.–Any person required to report or investigate cases of suspected child abuse, abandonment, or neglect who has reasonable cause to suspect that a child died as a result of child abuse, abandonment, or neglect shall report his or her suspicion to the appropriate medical examiner. The medical examiner shall accept the report for investigation and report his or her findings, in

writing, to the local law enforcement agency, the appropriate state attorney, and the department. Autopsy reports maintained by the medical examiner are not subject to the confidentiality requirements under s. 39.202.

History.--s. 3, ch. 2021-170.

39.2015 Critical incident rapid response team; sexual abuse report investigations.–

(1) As part of the department's quality assurance program, the department shall provide an immediate multiagency investigation of certain child deaths or other serious incidents. The purpose of such investigation is to identify root causes and rapidly determine the need to change policies and practices related to child protection and child welfare.

(2) An immediate onsite investigation conducted by a critical incident rapid response team is required for all child deaths reported to the department if the child or another child in his or her family was the subject of a verified report of suspected abuse or neglect during the previous 12 months. The secretary may direct an immediate investigation for other cases involving death or serious injury to a child, including, but not limited to, a death or serious injury occurring during an open investigation.

(3) Each investigation shall be conducted by a multiagency team of at least five professionals with expertise in child protection, child welfare, and organizational management. The team may consist of employees of the department, community-based care lead agencies, Children's Medical Services and community-based care provider organizations; faculty from the institute consisting of public and private universities offering degrees in social work established pursuant to s.1004.615; or any other person with the required expertise. The team shall include, at a minimum, a Child Protection Team medical director, a representative from a child advocacy center under s. 39.3035 who has specialized training in sexual abuse of a child if sexual abuse of the child who is the subject of the report is alleged, or a combination of such specialists if deemed appropriate. The majority of the team must reside in judicial circuits outside the location of the incident. The secretary shall appoint a team leader for each group assigned to an investigation.

(4) An investigation shall be initiated as soon as possible, but no later than 2 business days after the case is reported to the department. A preliminary report on each case shall be provided to the secretary no later than 30 days after the investigation begins.

(5) Each member of the team is authorized to access all information in the case file.

(6) All employees of the department or other state agencies and all personnel from community-based care lead agencies and community-based care lead agency subcontractors must cooperate with the investigation by participating in interviews and timely responding to any requests for information. The members of the team may only access the records and information of contracted provider organizations which are available to the department by law.

(7) The secretary shall develop cooperative agreements with other entities and organizations as necessary to facilitate the work required under this section.

(8) The members of the team may be reimbursed by the department for per diem, mileage, and other reasonable expenses as provided in s. 112.061. The department may also reimburse the team member's employer for the associated salary and benefits during the time the team member is fulfilling the duties required under this section.

(9) Upon completion of the investigation, the department shall make the team's final report, excluding any confidential information, available on its website.

(10) The secretary, in conjunction with the institute established pursuant to s.1004.615, shall develop guidelines for investigations conducted by critical incident rapid response teams and provide training to team members. Such guidelines must direct the teams in the conduct of a root-cause analysis that identifies, classifies, and attributes responsibility for both direct and latent causes for the death or other incident, including organizational factors, preconditions, and specific acts or omissions resulting from either error or a violation of procedures. The department shall ensure that each team member receives training on the guidelines before conducting an investigation.

(11) The department shall conduct investigations of reports of sexual abuse of children in out-of-home care. The purpose of such investigations is to identify root causes and to rapidly determine the need to change policies and practices related to preventing and addressing sexual abuse of children in out-of-home care.

(a) At a minimum, the department shall investigate a verified report of sexual abuse of a child in out-of-home care under this subsection if the child was the subject of a verified report of abuse or neglect during the previous 6 months. The investigation must be initiated as soon as possible, but not later than 2 business days after a determination of verified findings of sexual abuse or immediately if a case has been open for 45 days. One investigation shall be initiated for an allegation of sexual abuse that is based on the same act, criminal episode, or transaction regardless of the number of reports that are made about the allegations to the central abuse hotline.

(b) Each investigation must be conducted by, at a minimum, a trained department employee and one or more professionals who are employees of other organizations and who are involved in conducting critical incident rapid response investigations. The investigation, or any part thereof, may be conducted remotely. Subsections (5), (6), (8), and (10) apply to investigations conducted under this subsection. The secretary, in consultation with the institute established under s. 1004.615, shall develop any necessary guidelines specific to such investigations.

(c) A preliminary report on each case must be provided to the secretary no later than 45 days after the investigation begins.

(12) The secretary shall appoint an advisory committee made up of experts in child protection and child welfare, including, but not limited to, the Statewide Medical Director for Child Protection under the Department of Health, a representative from the institute established under s.1004.615, an expert in organizational management, and an attorney with experience in child welfare, to conduct an independent review of investigative reports from the critical incident rapid response teams and sexual abuse report investigations and to make recommendations to improve policies and practices related to child protection and child welfare services. The advisory committee shall meet at least once each quarter to review the critical incident rapid response teams' reports and sexual abuse report investigations and shall submit quarterly reports to the secretary which include findings and recommendations. The secretary shall submit each report to the Governor, the President of the Senate, and the Speaker of the House of Representatives.
History.--s. 6, ch. 2014-224; s. 1, ch. 2015-79; s. 1, ch. 2015-177; s. 14, ch. 2019-003, s. 4, ch. 2021-170.

39.202 Confidentiality of reports and records in cases of child abuse or neglect; exception.–
(1) In order to protect the rights of the child and the child's parents or other persons responsible for the child's welfare, all records held by the department concerning reports of child abandonment, abuse, or neglect, including reports made to the central abuse hotline and all records generated as a result of such reports, shall be confidential and exempt from the provisions of s. 119.07(1) and shall not be disclosed

except as specifically authorized by this chapter. Such exemption from s. 119.07(1) applies to information in the possession of those entities granted access as set forth in this section.

[1](2) Except as provided in subsection (4), access to such records, excluding the name of, or other identifying information with respect to, the reporter which shall be released only as provided in subsection (5), shall be granted only to the following persons, officials, and agencies:

(a) Employees, authorized agents, or contract providers of the department, the Department of Health, the Agency for Persons with Disabilities, the Agency for Health Care Administration, Department of Education, or county agencies responsible for carrying out:

1. Child or adult protective investigations;

2. Ongoing child or adult protective services;

3. Early intervention and prevention services;

4. Healthy Start services;

5. Licensure or approval of adoptive homes, foster homes, child care facilities, facilities licensed under chapters 393 and 394, or family day care homes, providers who receive school readiness funding under part VI of chapter 1002, or other homes used to provide for the care and welfare of children;

6. Employment screening for caregivers in residential group homes and facilities licensed under chapters 393, 394, and 409; or

7. Services for victims of domestic violence when provided by certified domestic violence centers working at the department's request as case consultants or with shared clients.

Also, employees or agents of the Department of Juvenile Justice responsible for the provision of services to children, pursuant to chapters 984 and 985.

(b) Criminal justice agencies of appropriate jurisdiction.

(c) The state attorney of the judicial circuit in which the child resides or in which the alleged abuse or neglect occurred.

(d) The parent or legal custodian of any child who is alleged to have been abused, abandoned, or neglected, and the child, and their attorneys, including any attorney representing a child in civil or criminal proceedings. This access shall be made available no later than 60 days after the department receives the initial report of abuse, neglect, or abandonment. However, any information otherwise made confidential or exempt by law shall not be released pursuant to this paragraph.

(e) Any person alleged in the report as having caused the abuse, abandonment, or neglect of a child. This access shall be made available no later than 60 days after the department receives the initial report of abuse, abandonment, or neglect and, when the alleged perpetrator is not a parent, shall be limited to information involving the protective investigation only and shall not include any information relating to subsequent dependency proceedings. However, any information otherwise made confidential or exempt by law shall not be released pursuant to this paragraph.

(f) A court upon its finding that access to such records may be necessary for the determination of an issue before the court; however, such access shall be limited to inspection in camera, unless the court determines that public disclosure of the information contained therein is necessary for the resolution of an issue then pending before it.

(g) A grand jury, by subpoena, upon its determination that access to such records is necessary in the conduct of its official business.

(h) Any appropriate official of the department, the Agency for Health Care Administration, or the Agency for Persons with Disabilities who is responsible for:

1. Administration or supervision of the department's program for the prevention, investigation, or treatment of child abuse, abandonment, or neglect, or abuse, neglect, or exploitation of a vulnerable adult, when carrying out his or her official function;

2. Taking appropriate administrative action concerning an employee of the department or the agency who is alleged to have perpetrated child abuse, abandonment, or neglect, or abuse, neglect, or exploitation of a vulnerable adult; or

3. Employing and continuing employment of personnel of the department or the agency.

(i) Any person authorized by the department who is engaged in the use of such records or information for bona fide research, statistical, or audit purposes. Such individual or entity shall enter into a privacy and security agreement with the department and shall comply with all laws and rules governing the use of such records and information for research and statistical purposes. Information identifying the subjects of such records or information shall be treated as confidential by the researcher and shall not be released in any form.

(j) The Division of Administrative Hearings for purposes of any administrative challenge.

(k) Any appropriate official of a Florida advocacy council investigating a report of known or suspected child abuse, abandonment, or neglect; the Auditor General or the Office of Program Policy Analysis and Government Accountability for the purpose of conducting audits or examinations pursuant to law; or the guardian ad litem for the child.

(l) Employees or agents of an agency of another state that has comparable jurisdiction to the jurisdiction described in paragraph (a).

(m) The Public Employees Relations Commission for the sole purpose of obtaining evidence for appeals filed pursuant to s. 447.207. Records may be released only after deletion of all information which specifically identifies persons other than the employee.

(n) Employees or agents of the Department of Revenue responsible for child support enforcement activities.

(o) Any person in the event of the death of a child determined to be a result of abuse, abandonment, or neglect. Information identifying the person reporting abuse, abandonment, or neglect shall not be released. Any information otherwise made confidential or exempt by law shall not be released pursuant to this paragraph.

(p) An employee of the local school district who is designated as a liaison between the school district and the department pursuant to an interagency agreement required under s. 39.0016 and the principal of a public school, private school, or charter school where the child is a student. Information contained in the records which the liaison or the principal determines are necessary for a school employee to effectively provide a student with educational services may be released to that employee.

(q) An employee or agent of the Department of Education who is responsible for the investigation or prosecution of misconduct by a certified educator.

(r) Staff of a children's advocacy center that is established and operated under s. 39.3035.

(s) A physician licensed under chapter 458 or chapter 459, a psychologist licensed under chapter 490, or a mental health professional licensed under chapter 491 engaged in the care or treatment of the child.

(t) Persons with whom the department is seeking to place the child or to whom placement has been granted, including foster parents for whom an approved home study has been conducted, the designee of a licensed child-caring agency as defined in s. 39.01(41), an approved relative or nonrelative with whom a child is placed pursuant to s. 39.402, preadoptive parents for whom a favorable preliminary adoptive home study has been conducted, adoptive parents, or an adoption entity acting on behalf of preadoptive or adoptive parents.

(3) The department may release to professional persons such information as is necessary for the diagnosis and treatment of the child or the person perpetrating the abuse or neglect.

(4) Notwithstanding any other provision of law, when a child under investigation or supervision of the department or its contracted service providers is determined to be missing, the following shall apply:

(a) The department may release the following information to the public when it believes the release of the information is likely to assist efforts in locating the child or to promote the safety or well-being of the child:

1. The name of the child and the child's date of birth;

2. A physical description of the child, including at a minimum the height, weight, hair color, eye color, gender, and any identifying physical characteristics of the child; and

3. A photograph of the child.

(b) With the concurrence of the law enforcement agency primarily responsible for investigating the incident, the department may release any additional information it believes likely to assist efforts in locating the child or to promote the safety or well-being of the child.

(c) The law enforcement agency primarily responsible for investigating the incident may release any information received from the department regarding the investigation, if it believes the release of the information is likely to assist efforts in locating the child or to promote the safety or well-being of the child.

The good-faith publication or release of this information by the department, a law enforcement agency, or any recipient of the information as specifically authorized by this subsection shall not subject the person, agency or entity releasing the information to any civil or criminal penalty. This subsection does not authorize the release of the name of the reporter, which may be released only as provided in subsection (5).

[1](5) The department may not release the name of, or other identifying information with respect to, any person reporting child abuse, abandonment, or neglect to any person other than employees of the department responsible for child protective services, the central abuse hotline, law enforcement, the Child Protection Team, or the appropriate state attorney, without the written consent of the person reporting. This does not prohibit the subpoenaing of a person reporting child abuse, abandonment, or neglect when deemed necessary by the court, the state attorney, or the department, provided the fact that such person made the report is not disclosed. Any person who reports a case of child abuse or neglect may, at the time he or she makes the report, request that the department notify him or her that a child protective investigation occurred as a result of the report. Any person specifically listed in s. 39.201(1) who makes a report in his or her official capacity may also request a written summary of the outcome of the investigation. The department shall mail such a notice to the reporter within 10 days after completing the child protective investigation.

(6) All records and reports of the Child Protection Team of the Department of Health are confidential and exempt from the provisions of ss. 119.07(1) and 456.057, and shall not be disclosed, except, upon request, to the state attorney, law enforcement, the department, and necessary professionals, in furtherance of the treatment or additional evaluative needs of the child, by order of the court, or to health plan payors, limited to that information used for insurance reimbursement purposes.

(7) Custodians of records made confidential and exempt under this section must grant access to such records within 7 business days after such records are requested by a legislative committee under s. 11.143, if requested within that timeframe.

(8) The department shall make and keep reports and records of all cases under this chapter and shall preserve the records pertaining to a child and family until the child who is the subject of the record is 30 years of age and may then destroy the records.

(a) Within 90 days after the child leaves the department's custody, the department shall give a notice to the person having legal custody of the child, or to the young adult who was in the department's custody, which specifies how the records may be obtained.

(9) A person who knowingly or willfully makes public or discloses to any unauthorized person any confidential information contained in the central abuse hotline is subject to the penalty provisions of s. 39.205. This notice shall be prominently displayed on the first sheet of any documents released pursuant to this section.

[1](10) The expansion of the public records exemption under this section to include other identifying information with respect to any person reporting child abuse, abandonment, or neglect is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature. If the expansion of the exemption is not saved for repeal, this section shall revert to that in existence on June 30, 2019, except that any other amendments made to this section, other than by this act, are preserved and continue to operate to the extent that such amendments are not dependent upon the portions of text that expire under this subsection.

History.--ss. 1, 2, 3, 4, 5, 6, ch. 63-24; s. 941, ch. 71-136; ss. 1, 1A, ch. 71-97; s. 32, ch. 73-334; s. 65, ch. 74-383; s. 1, ch. 75-101; s. 1, ch. 75-185; s. 4, ch. 76-237; s. 1, ch. 77-77; s. 3, ch. 77-429; ss. 1, 2, ch. 78-322; s. 3, ch. 78-326; s. 22, ch. 78-361; s. 1, ch. 78-379; s. 181, ch. 79-164; s. 1, ch. 79-203; s. 488, ch. 81-259; s. 11, ch. 84-226; s. 39, ch. 85-54; s. 14, ch. 85-224; s. 36, ch. 87-238; s. 2, ch. 88-80; s. 8, ch. 88-219; s. 26, ch. 88-337; s. 5, ch. 89-170; s. 5, ch. 89-278; s. 36, ch. 89-294; s. 2, ch. 89-535; s. 8, ch. 90-50; s. 7, ch. 90-208; s. 54, ch. 90-306; s. 9, ch. 91-57; s. 20, ch. 91-71; ss. 43, 48, ch. 92-58; s. 32, ch. 93-39; s. 16, ch. 93-214; s. 58, ch. 94-218; ss. 25, 46, ch. 95-228; s. 28, ch. 95-267; s. 15, ch. 96-402; s. 275, ch. 96-406; s. 1044, ch. 97-103; s. 15, ch. 97-276; s. 3, ch. 97-299; s. 15, ch. 98-137; s. 32, ch. 98-166; s. 3, ch. 98-255; s. 45, ch. 98-280; s. 32, ch. 98-403; s. 5, ch. 99-168; s. 11, ch. 99-193; s. 1, ch. 99-369; s. 18, ch. 2000-139; s. 2, ch. 2000-217; s. 6, ch. 2000-263; s. 51, ch. 2000-349; s. 12, ch. 2001-60; s. 27, ch. 2001-266; s. 2, ch. 2003-146; s. 1, ch. 2005-173; s. 6, ch. 2006-194; s. 3, ch. 2006-227; s. 2, ch. 2009-34; s. 2, ch. 2009-35; s. 4, ch. 2009-43; s. 2, ch. 2010-210; s. 2, ch. 2016-58; s. 2, ch. 2016-238; s. 4, ch. 2017-151; s. 1, ch. 2019-49; s. 15, ch. 2019-003; s.1, ch. 2020-4; s. 3, ch. 2021-10; s. 5, ch. 2021-170.

[1]**Note.**—Section 1, ch. 2019-49, created subsection (9), which provides that if the expansion of the public records exemption under this section is not saved from repeal by October 2, 2024, "this section shall revert to that in existence on June 30, 2019, except that any other amendments made to this section, other than by this act, are preserved and continue to operate to the extent that such amendments are not dependent upon the portions of text that expire under this subsection." Effective October 2, 2024, subsection (9), redesignated as subsection (10) by s. 5, ch. 2021-170, is repealed, and subsection (2), as amended by s. 15, ch. 2019-3; s. 1, ch. 2019-49; s. 3, ch. 2021-10; and s. 5, ch. 2021-170, and subsection (5), as amended by s. 15, ch. 2019-3, and s. 1, ch. 2019-49, will read:

(2) Except as provided in subsection (4), access to such records, excluding the name of the reporter which shall be released only as provided in subsection (5), shall be granted only to the following persons, officials, and agencies:

(a) Employees, authorized agents, or contract providers of the department, the Department of Health, the Agency for Persons with Disabilities, the Agency for Health Care Administration, the Department of Education, or county agencies responsible for carrying out:

1. Child or adult protective investigations;
2. Ongoing child or adult protective services;
3. Early intervention and prevention services;
4. Healthy Start services;
5. Licensure or approval of adoptive homes, foster homes, child care facilities, facilities licensed under chapters 393 and 394, family day care homes, providers who receive school readiness funding under part VI of chapter 1002, or other homes used to provide for the care and welfare of children;
6. Employment screening for caregivers in residential group homes and facilities licensed under chapters 393, 394, and 409; or
7. Services for victims of domestic violence when provided by certified domestic violence centers working at the department's request as case consultants or with shared clients.

Also, employees or agents of the Department of Juvenile Justice responsible for the provision of services to children, pursuant to chapters 984 and 985.

(b) Criminal justice agencies of appropriate jurisdiction.

(c) The state attorney of the judicial circuit in which the child resides or in which the alleged abuse or neglect occurred.

(d) The parent or legal custodian of any child who is alleged to have been abused, abandoned, or neglected, and the child, and their attorneys, including any attorney representing a child in civil or criminal proceedings. This access shall be made available no later than 60 days after the department receives the initial report of abuse, neglect, or abandonment. However, any information otherwise made confidential or exempt by law shall not be released pursuant to this paragraph.

(e) Any person alleged in the report as having caused the abuse, abandonment, or neglect of a child. This access shall be made available no later than 60 days after the department receives the initial report of abuse, abandonment, or neglect and, when the alleged perpetrator is not a parent, shall be limited to information involving the protective investigation only and shall not include any information relating to subsequent dependency proceedings. However, any information otherwise made confidential or exempt by law shall not be released pursuant to this paragraph.

(f) A court upon its finding that access to such records may be necessary for the determination of an issue before the court; however, such access shall be limited to inspection in camera, unless the court determines that public disclosure of the information contained therein is necessary for the resolution of an issue then pending before it.

(g) A grand jury, by subpoena, upon its determination that access to such records is necessary in the conduct of its official business.

(h) Any appropriate official of the department, the Agency for Health Care Administration, or the Agency for Persons with Disabilities who is responsible for:

1. Administration or supervision of the department's program for the prevention, investigation, or treatment of child abuse, abandonment, or neglect, or abuse, neglect, or exploitation of a vulnerable adult, when carrying out his or her official function;
2. Taking appropriate administrative action concerning an employee of the department or the agency who is alleged to have perpetrated child abuse, abandonment, or neglect, or abuse, neglect, or exploitation of a vulnerable adult; or
3. Employing and continuing employment of personnel of the department or the agency.

(i) Any person authorized by the department who is engaged in the use of such records or information for bona fide research, statistical, or audit purposes. Such individual or entity shall enter into a privacy and security agreement with the department and shall comply with all laws and rules governing the use of such

records and information for research and statistical purposes. Information identifying the subjects of such records or information shall be treated as confidential by the researcher and shall not be released in any form.

(j) The Division of Administrative Hearings for purposes of any administrative challenge.

(k) Any appropriate official of a Florida advocacy council investigating a report of known or suspected child abuse, abandonment, or neglect; the Auditor General or the Office of Program Policy Analysis and Government Accountability for the purpose of conducting audits or examinations pursuant to law; or the guardian ad litem for the child.

(l) Employees or agents of an agency of another state that has comparable jurisdiction to the jurisdiction described in paragraph (a).

(m) The Public Employees Relations Commission for the sole purpose of obtaining evidence for appeals filed pursuant to s. 447.207. Records may be released only after deletion of all information which specifically identifies persons other than the employee.

(n) Employees or agents of the Department of Revenue responsible for child support enforcement activities.

(o) Any person in the event of the death of a child determined to be a result of abuse, abandonment, or neglect. Information identifying the person reporting abuse, abandonment, or neglect shall not be released. Any information otherwise made confidential or exempt by law shall not be released pursuant to this paragraph.

(p) An employee of the local school district who is designated as a liaison between the school district and the department pursuant to an interagency agreement required under s. 39.0016 and the principal of a public school, private school, or charter school where the child is a student. Information contained in the records which the liaison or the principal determines are necessary for a school employee to effectively provide a student with educational services may be released to that employee.

(q) An employee or agent of the Department of Education who is responsible for the investigation or prosecution of misconduct by a certified educator.

(r) Staff of a children's advocacy center that is established and operated under s. 39.3035.

(s) A physician licensed under chapter 458 or chapter 459, a psychologist licensed under chapter 490, or a mental health professional licensed under chapter 491 engaged in the care or treatment of the child.

(t) Persons with whom the department is seeking to place the child or to whom placement has been granted, including foster parents for whom an approved home study has been conducted, the designee of a licensed residential group home, an approved relative or nonrelative with whom a child is placed pursuant to s. 39.402, preadoptive parents for whom a favorable preliminary adoptive home study has been conducted, adoptive parents, or an adoption entity acting on behalf of preadoptive or adoptive parents.

* * * * *

(5) The name of any person reporting child abuse, abandonment, or neglect may not be released to any person other than employees of the department responsible for child protective services, the central abuse hotline, law enforcement, the Child Protection Team, or the appropriate state attorney, without the written consent of the person reporting. This does not prohibit the subpoenaing of a person reporting child abuse, abandonment, or neglect when deemed necessary by the court, the state attorney, or the department, provided the fact that such person made the report is not disclosed. Any person who reports a case of child abuse or neglect may, at the time he or she makes the report, request that the department notify him or her that a child protective investigation occurred as a result of the report. Any person specifically listed in s. 39.201(1) who makes a report in his or her official capacity may also request a written summary of the outcome of the investigation. The department shall mail such a notice to the reporter within 10 days after completing the child protective investigation.

Note.—Former ss. 828.041, 827.07(15); s. 415.51.

39.2021 Release of confidential information.–

(1) Any person or organization, including the Department of Children and Families, may petition the court for an order making public the records of the Department of Children and Families which pertain to investigations of alleged abuse, abandonment, or neglect of a child. The court shall determine whether good cause exists for public access to the records sought or a portion thereof. In making this determination, the court shall balance the best interests of the child who is the focus of the investigation and the interest of that child's siblings, together with the privacy rights of other persons identified in the reports, against the public interest. The public interest in access to such records is reflected in s. 119.01(1), and includes the need for citizens to know of and adequately evaluate the actions of the Department of Children and Families and the court system in providing children of this state with the protections enumerated in s. 39.001. However, this subsection does not contravene s. 39.202, which protects the name of any person reporting the abuse, abandonment, or neglect of a child.

(2) In cases involving serious bodily injury to a child, the Department of Children and Families may petition the court for an order for the immediate public release of records of the department which pertain to the protective investigation. The petition must be personally served upon the child, the child's parent or guardian, and any person named as an alleged perpetrator in the report of abuse, abandonment, or neglect. The court must determine whether good cause exists for the public release of the records sought no later than 24 hours, excluding Saturdays, Sundays, and legal holidays, after the date the department filed the petition with the court. If the court does not grant or deny the petition within the 24-hour time period, the department may release to the public summary information including:

(a) A confirmation that an investigation has been conducted concerning the alleged victim.

(b) The dates and brief description of procedural activities undertaken during the department's investigation.

(c) The date of each judicial proceeding, a summary of each participant's recommendations made at the judicial proceeding, and the ruling of the court.

The summary information shall not include the name of, or other identifying information with respect to, any person identified in any investigation. In making a determination to release confidential information, the court shall balance the best interests of the child who is the focus of the investigation and the interests of that child's siblings, together with the privacy rights of other persons identified in the reports against the public interest for access to public records. However, this subsection does not contravene s. 39.202, which protects the name of any person reporting abuse, abandonment, or neglect of a child.

(3) When the court determines that good cause for public access exists, the court shall direct that the department redact the name of, and other identifying information with respect to, any person identified in any protective investigation report until such time as the court finds that there is probable cause to believe that the person identified committed an act of alleged abuse, abandonment, or neglect.

History.-- s. 1, ch. 2004-335; s. 12, ch. 2014-19.

39.2022 Public disclosure of reported child deaths.–

(1) It is the intent of the Legislature to provide prompt disclosure of the basic facts of all deaths of children from birth through 18 years of age which occur in this state and which are reported to the department's central abuse hotline. Disclosure shall be posted on the department's public website. This section does not limit the public access to records under any other provision of law.

(2) Notwithstanding s. 39.202, if a child death is reported to the central abuse hotline, the department shall post on its website all of the following:

(a) The date of the child's death.

(b) Any allegations of the cause of death or the preliminary cause of death, and the verified cause of death, if known.

(c) The county where the child resided.

(d) The name of the community-based care lead agency, case management agency, or out-of-home licensing agency involved with the child, family, or licensed caregiver, if applicable.

(e) Whether the child has been the subject of any prior verified reports to the department's central abuse hotline.

(f) Whether the child was younger than 5 years of age at the time of his or her death.

History.--s. **7,** ch. 2014-224.

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

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

(b) Except as provided in this chapter, nothing contained in this section shall be deemed to grant immunity, civil or criminal, to any person suspected of having abused, abandoned, or neglected a child, or committed any illegal act upon or against a child.

(2)(a) No resident or employee of a facility serving children may be subjected to reprisal or discharge because of his or her actions in reporting abuse, abandonment, or neglect pursuant to the requirements of this section.

(b) Any person making a report under this section shall have a civil cause of action for appropriate compensatory and punitive damages against any person who causes detrimental changes in the employment status of such reporting party by reason of his or her making such report. Any detrimental change made in the residency or employment status of such person, including, but not limited to, discharge, termination, demotion, transfer, or reduction in pay or benefits or work privileges, or negative evaluations within a prescribed period of time shall establish a rebuttable presumption that such action was retaliatory.

History.--ss. 1, 2, 3, 4, 5, 6, ch. 63-24; s. 941, ch. 71-136; ss. 1, 1A, ch. 71-97; s. 32, ch. 73-334; s. 65, ch. 74-383; s. 1, ch. 75-101; s. 1, ch. 75-185; s. 4, ch. 76-237; s. 1, ch. 77-77; s. 3, ch. 77-429; ss. 1, 2, ch. 78-322; s. 3, ch. 78-326; s. 22, ch. 78-361; s. 1, ch. 78-379; s. 181, ch. 79-164; s. 1, ch. 79-203; s. 27, ch. 88-337; s. 55, ch. 90-306; s. 63, ch. 94-164; s. 73, ch. 97-103; s. 33, ch. 98-403; s. 12, ch. 99-193.

Note.--Former ss. 828.041, 827.07(7); s. 415.511.

39.204 Abrogation of privileged communications in cases involving child abuse, abandonment, or neglect.–The privileged quality of communication between husband and wife and between any professional person and his or her patient or client, and any other privileged communication except that between attorney and client or the privilege provided in s. 90.505, as such communication relates both to the competency of the witness and to the exclusion of confidential communications, shall not apply to any communication involving the perpetrator or alleged perpetrator in any situation involving known or suspected child abuse, abandonment, or neglect and shall not constitute grounds for failure to report as required by s. 39.201 regardless of the source of the information requiring the report, failure to cooperate with law enforcement or the department in its activities pursuant to this chapter, or failure to give evidence in any judicial proceeding relating to child abuse, abandonment, or neglect.

History.--ss. 1, 2, 3, 4, 5, 6, ch. 63-24; s. 941, ch. 71-136; ss. 1, 1A, ch. 71-97; s. 32, ch. 73-334; s. 65, ch. 74-383; s. 1, ch. 75-101; s. 1, ch. 75-185; s. 4, ch. 76-237; s. 1, ch. 77-77; s. 3, ch. 77-429; ss. 1, 2, ch. 78-322; s. 3, ch. 78-326; s. 22, ch. 78-361; s. 1, ch. 78-379; s. 181, ch. 79-164; s. 1, ch. 79-203; s. 2, ch. 85-28; s. 64, ch. 94-164; s. 74, ch. 97-103; s. 34, ch. 98-403; s. 3, ch. 2002-174.

Note.--Former ss. 828.041, 827.07(8); s. 415.512.

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

(1) A person who knowingly and willfully fails to report to the central abuse hotline known or suspected child abuse, abandonment or neglect, or who knowingly and willfully prevents another person from doing so, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A judge subject to discipline pursuant to s. 12, Art. V of the State Constitution may not be subject to criminal prosecution when the information was received in the course of official duties.

(2) Unless the court finds that the person is a victim of domestic violence or that other mitigating circumstances exist, a person who is 18 years of age or older and lives in the same house or living unit as a child who is known or suspected to be a victim of child abuse, neglect of a child, or aggravated child abuse, and knowingly and willfully fails to report the child abuse commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Any Florida College System institution, state university, or nonpublic college, university, or school, as defined in s. 1000.21 or s. 1005.02, whose administrators, upon receiving information from faculty, staff, or other institution employees, knowingly and willfully fail to report to the central abuse hotline known or suspected child abuse, abandonment, or neglect committed on the property of the university, college, or school, or during an event or function sponsored by the university, college, or school, or who knowingly and willfully prevent another person from doing so, shall be subject to fines of $1 million for each such failure.

(a) A Florida College System institution subject to a fine shall be assessed by the State Board of Education.

(b) A state university subject to a fine shall be assessed by the Board of Governors.

(c) A nonpublic college, university, or school subject to a fine shall be assessed by the Commission for Independent Education.

(4) Any Florida College System institution, state university, or nonpublic college, university, or school, as defined in s. 1000.21 or s. 1005.02, whose law enforcement agency fails to report to the central abuse hotline known or suspected child abuse, abandonment, or neglect committed on the property of the university, college, or school, or during an event or function sponsored by the university, college, or school, shall be subject to fines of $1 million for each such failure, assessed in the same manner as specified in subsection (3).

(5) Any Florida College System institution, state university, or nonpublic college, university or school, as defined in s. 1000.21 or s. 1005.02, shall have the right to challenge the determination that the institution acted knowingly and willfully under subsection (3) or subsection (4) in an administrative hearing pursuant to s. 120.57; however, if it is found that actual knowledge and information of known or suspected child abuse was in fact received by the institution's administrators and was not reported, a presumption of a knowing and willful act will be established.

(6) 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 a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(7) The department shall establish procedures for determining whether a false report of child abuse, abandonment, or neglect has been made and for submitting all identifying information relating to such a report to the appropriate law enforcement agency ~~and shall report annually to the Legislature the number of reports referred~~.

(8) If the department or its authorized agent has determined during the course of 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.

(9) A person who knowingly and willfully makes a false report of child abuse, abandonment, or neglect, or who advises another to make a false report, is guilty of a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083. Anyone making a report who is acting in good faith is immune from any liability under this subsection.

(10) The State Board of Education shall adopt rules to implement this section as it relates to Florida College System institutions; the Commission for Independent Education shall adopt rules to implement this section as it relates to nonpublic colleges, universities, and schools; and the Board of Governors shall adopt regulations to implement this section as it relates to state universities.

(11) This section may not be construed to remove or reduce the requirement of any person, including, but not limited to, any employee of a school readiness program provider determined to be eligible under s. 1002.88; a private prekindergarten provider or a public school prekindergarten provider, as those terms are defined in s. 1002.51; a public K-12 school as described in s. 1000.04; a private school as defined in s. 1002.01; a Florida College System institution or a state university, as those terms are defined in s. 1000.21; a college as defined in s. 1005.02; or a school as defined in s. 1005.02, to directly report a known or suspected case of child abuse, abandonment, or neglect or the sexual abuse of a child to the department's central abuse hotline. A person required to report to the central abuse hotline is not relieved of such obligation by notifying his or her supervisor.

History.--ss. 1, 2, 3, 4, 5, 6, ch. 63-24; s. 941, ch. 71-136; ss. 1, 1A, ch. 71-97; s. 32, ch. 73-334; s. 65, ch. 74-383; s. 1, ch. 75-101; s. 1, ch. 75-185; s. 4, ch. 76-237; s. 1, ch. 77-77; s. 3, ch. 77-429; ss. 1, 2, ch. 78-322; s. 3, ch. 78-326; s. 22, ch. 78-361; s. 1, ch. 78-379; s. 181, ch. 79-164; s. 1, ch. 79-203; s. 28, ch. 88-337; s. 56, ch. 90-306; s. 10, ch. 91-57; s. 21, ch. 91-71; s. 251, ch. 91-224; s. 10, ch. 93-25; s. 276, ch. 96-406; s. 4, ch. 98-111; s. 35, ch. 98-403; s. 6, ch. 99-168; s. 3, ch. 2000-217; s. 4, ch. 2002-70; s. 29, ch. 2006-86; s. 25, ch. 2008-245; s. 2, ch. 2012-155; s. 5, ch. 2012-178; s. 3, ch. 2013-051; s. 6, ch. 2021-170; s. 2, ch. 2022-67.

Note.--Former ss. 828.041, 827.07(18); s. 415.513.

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

(1) In addition to any other penalty authorized by this section, chapter 120, or other law, the department may impose a fine, not to exceed $10,000 for each violation, upon a person who knowingly and willfully makes a false report of abuse, abandonment, or neglect of a child, or a person who counsels another to make a false report.

(2) If the department alleges that a person has filed a false report with the central abuse hotline, the department must file a Notice of Intent which alleges the name, age, and address of the individual, the facts constituting the allegation that the individual made a false report, and the administrative fine the department proposes to impose on the person. Each time that a false report is made constitutes a separate violation.

(3) The Notice of Intent to impose the administrative fine must be served upon the person alleged to have filed the false report and the person's legal counsel, if any. Such Notice of Intent must be given by certified mail, return receipt requested.

(4) Any person alleged to have filed the false report is entitled to an administrative hearing, pursuant to chapter 120, before the imposition of the fine becomes final. The person must request an administrative hearing within 60 days after receipt of the Notice of Intent by filing a request with the department. Failure to request an administrative hearing within 60 days after receipt of the Notice of Intent constitutes a waiver of the right to a hearing, making the administrative fine final.

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

(6) In determining the amount of fine to be imposed, if any, the following factors shall be considered:

(a) The gravity of the violation, including the probability that serious physical or emotional harm to any person will result or has resulted, the severity of the actual or potential harm, and the nature of the false allegation.

(b) Actions taken by the false reporter to retract the false report as an element of mitigation, or, in contrast, to encourage an investigation on the basis of false information.

(c) Any previous false reports filed by the same individual.

(7) A decision by the department, following the administrative hearing, to impose an administrative fine for filing a false report constitutes final agency action within the meaning of chapter 120. Notice of the imposition of the administrative fine must be served upon the person and the person's legal counsel, by certified mail, return receipt requested, and must state that the person may seek judicial review of the administrative fine pursuant to s. 120.68.

(8) All amounts collected under this section shall be deposited into an appropriate trust fund of the department.

(9) A person who is determined to have filed a false report of abuse, abandonment, or neglect is not entitled to confidentiality. Subsequent to the conclusion of all administrative or other judicial proceedings concerning the filing of a false report, the name of the false reporter and the nature of the false report shall be made public, pursuant to s. 119.01(1). Such information shall be admissible in any civil or criminal proceeding.

(10) A person who knowingly and willfully makes a false report of abuse, abandonment, or neglect of a child, or a person who counsels another to make a false report may be civilly liable for damages suffered, including reasonable attorney fees and costs, as a result of the filing of the false report. If the name of the person who filed the false report or counseled another to do so has not been disclosed under subsection (9), the department as custodian of the records may be named as a party in the suit until the dependency court determines in a written order upon an in camera inspection of the records and report that there is a reasonable basis for believing that the report was false and that the identity of the reporter may be disclosed for the purpose of proceeding with a lawsuit for civil damages resulting from the filing of the false report. The alleged perpetrator may submit witness affidavits to assist the court in making this initial determination.

(11) Any person making a report who is acting in good faith is immune from any liability under this section and shall continue to be entitled to have the confidentiality of their identity maintained.

History.--s. 65, ch. 94-164; s. 5, ch. 98-111; s. 36, ch. 98-403; s. 13, ch. 99-193.

Note.--Former s. 415.5131.

39.208 Cross-reporting child abuse, abandonment, or neglect and animal cruelty.–

(1) LEGISLATIVE FINDINGS AND INTENT.

(a) The Legislature recognizes that animal cruelty of any kind is a type of interpersonal violence that often co-occurs with child abuse and other forms of family violence, including elder abuse and domestic violence. Early identification of animal cruelty is an important tool in safeguarding children from abuse, abandonment, and neglect; providing needed support to families; and protecting animals.

(b) The Legislature finds that education and training for child protective investigators and animal control officers should include information on the link between the welfare of animals in the family and child safety and protection.

(c) Therefore, it is the intent of the Legislature to require reporting and cross-reporting protocols and collaborative training between child protective investigators and animal control officers to help protect the safety and well-being of children, their families, and their animals.

(2) RESPONSIBILITIES OF CHILD PROTECTIVE INVESTIGATORS.–

(a) Any person who is required to investigate child abuse, abandonment, or neglect under this chapter and who, while acting in his or her professional capacity or within the scope of employment, knows or has reasonable cause to suspect that animal cruelty, as those terms are defined in s. 828.27(1)(a) and (d), respectively, has occurred at the same address shall report such knowledge or suspicion within 72 hours after the child protective investigator becomes aware of the known or suspected animal cruelty to his or her supervisor who shall submit the report to a local animal control agency. The report must include all of the following information:

1. A description of the animal and of the known or suspected animal cruelty.

2. The name and address of the animal's owner or keeper, if that information is available to the child protective investigator.

3. Any other information available to the child protective investigator which might assist an animal control officer, as defined in s. 828.27(1)(b), or law enforcement officer in establishing the cause of the animal cruelty and the manner in which it occurred.

(b) A child protective investigator who makes a report under this section is presumed to have acted in good faith. An investigator acting in good faith who makes a report under this section or who cooperates in an investigation of known or suspected animal cruelty is immune from any civil or criminal liability or administrative penalty or sanction that might otherwise be incurred in connection with making the report or otherwise cooperating.

(3) RESPONSIBILITIES OF ANIMAL CONTROL OFFICERS.–Any person who is required to investigate animal cruelty under chapter 828 and who, while acting in his or her professional capacity or within the scope of employment, knows or has reasonable cause to suspect that a child is abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child's welfare or that a child is in need of supervision and care and does not have a parent, a legal custodian, or a responsible adult relative immediately known and available to provide supervision and care to that child shall immediately report such knowledge or suspicion to the department's central abuse hotline.

(4) PENALTIES.–

(a) A child protective investigator who is required to report known or suspected animal cruelty under subsection (2) and who knowingly and willfully fails to do so commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(b) An animal control officer, as defined in s. 828.27(1)(b), who is required to report known or suspected abuse, abandonment, or neglect of a child under subsection (3) and who knowingly and willfully fails to report an incident of known or suspected abuse, abandonment, or neglect, as required by s. 39.201 is subject to the penalties under s. 39.205.

(5) TRAINING.–The department, in consultation with animal welfare associations, shall develop or adapt and use already available training materials in a 1-hour training course for all child protective investigators and animal control officers on the accurate and timely identification and reporting of child abuse, abandonment, or neglect or animal cruelty and the interconnectedness of such abuse, abandonment, or neglect. The department shall incorporate into the required training for child protective investigators information on the identification of harm to and neglect of animals and the relationship of such activities to child welfare case practice. The 1-hour training course developed for animal control officers must include a component that advises such officers of the mandatory duty to report any known or suspected child abuse, abandonment, or neglect under this section and s. 39.201 and the criminal penalties associated with a violation of failing to report known or suspected child abuse, abandonment, or neglect which is punishable as provided under s. 39.205.

(6) RULEMAKING.–The department shall adopt rules to implement this section.
History.--s. 7, ch. 2021-170.

PART III
PROTECTIVE INVESTIGATIONS

39.301 Initiation of protective investigations.–

(1)(a) 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.

(b) The department shall promptly notify the court of any report to the central abuse hotline that is accepted for a protective investigation and involves a child over whom the court has jurisdiction.

(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 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.
5. The right of the parent or legal custodian to be engaged 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 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)(a)2. 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 file.

(7) An assessment of safety 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)(a) For each report received from the central abuse hotline and accepted for investigation, the department or the sheriff providing child protective investigative services under s. 39.3065, shall perform the following 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 face-to-face interviews with the child and family members.

2. Conduct face-to-face interviews with the child; other siblings, if any; and the parents, legal custodians, or caregivers

3. Assess the child’s residence, including a determination of the composition of the family and 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. 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. Complete assessment of immediate child safety for 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, and continually assess the child’s safety throughout the investigation. 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. Document the present and impending dangers to each child based on the identification of inadequate protective capacity through utilization of a standardized safety assessment instrument. If present or impending danger is identified, the child protective investigator must implement a safety plan or take the child into custody. If present danger is identified and the child is not removed, the child protective investigator shall create and implement a safety plan before leaving the home or the location where there is present danger. If impending danger is identified, the child protective investigator shall create and implement a safety plan as soon as necessary to protect the safety of the child. The child protective investigator may modify the safety plan if he or she identifies additional impending danger.

a. If the child protective investigator implements a safety plan, the plan must be specific, sufficient, feasible, and sustainable in response to the realities of the present or impending danger. A safety plan may be an in-home plan or an out-of-home plan, or a combination of both. A safety plan may include tasks or

responsibilities for a parent, caregiver, or legal custodian. However, a safety plan may not rely on promissory commitments by the parent, caregiver, or legal custodian who is currently not able to protect the child or on services that are not available or will not result in the safety of the child. A safety plan may not be implemented if for any reason the parents, guardian, or legal custodian lacks the capacity or ability to comply with the plan. If the department is not able to develop a plan that is specific, sufficient, feasible, and sustainable, the department shall file a shelter petition. A child protective investigator shall implement separate safety plans for the perpetrator of domestic violence, if the investigator, using reasonable efforts, can locate the perpetrator to implement a safety plan, and for the parent who is a victim of domestic violence as defined in s. 741.28. Reasonable efforts to locate a perpetrator include, but are not limited to, a diligent search pursuant to the same requirements as in s. 39.503. If the perpetrator of domestic violence is not the parent, guardian, or legal custodian of any child in the home and if the department does not intend to file a shelter petition or dependency petition that will assert allegations against the perpetrator as a parent of a child in the home, the child protective investigator shall seek issuance of an injunction authorized by s. 39.504 to implement a safety plan for the perpetrator and impose any other conditions to protect the child. The safety plan for the parent who is a victim of domestic violence may not be shared with the perpetrator. If any party to a safety plan fails to comply with the safety plan resulting in the child being unsafe, the department shall file a shelter petition.

b. The child protective investigator shall collaborate with the community-based care lead agency in the development of the safety plan as necessary to ensure that the safety plan is specific, sufficient, feasible, and sustainable. The child protective investigator shall identify services necessary for the successful implementation of the safety plan. The child protective investigator and the community-based care lead agency shall mobilize service resources to assist all parities in complying with the safety plan. The community-based care lead agency shall prioritize safety plan services to families who have multiple risk factors, including, but not limited to, two or more of the following:

(I) The parent or legal custodian is of young age;

(II) The parent or legal custodian, or an adult currently living in or frequently visiting the home, has a history of substance abuse, mental illness, or domestic violence;

(III) The parent or legal custodian, or an adult currently living in or frequently visiting the home, has been previously found to have physically or sexually abused a child;

(IV) The parent of legal custodian or an adult currently living in or frequently visiting the home has been the subject of multiple allegations by reputable reports of abuse or neglect;

(V) The child is physically or developmentally disabled; or

(VI) The child is 3 years of age or younger.

c. The child protective investigator shall monitor the implementation of the plan to ensure the child’s safety until the case is transferred to the lead agency at which time the lead agency shall monitor the implementation.

d. The department may file a petition for shelter or dependency without a new child protective investigation or the concurrence of the child protective investigator if the child is unsafe but for the use of a safety plan and the parent or caregiver has not sufficiently increased protective capacities within 90 days after the transfer of the safety plan to the lead agency.

(b) 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. Whenever a delay or disability of the child is suspected, the parent must be referred to a local child developmental screening program, such as the Child Find program of the Florida Diagnostic and Learning Resource System, for screening of the child. As applicable, child protective investigators must inform

parents and caregivers how and when to use the injunction process under 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.

(10)(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.

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

(11) The department shall incorporate into its quality assurance program the monitoring of reports that receive a 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.

(12) 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 examining and interviewing the child.

(13) 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)(a) If the department or its agent determines that a child requires immediate or long-term protection through medical or other health care; or 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:

1. 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, mental illness, or domestic violence; or

2. There is a high likelihood of lack of compliance with voluntary services, and such noncompliance would result in the child being unsafe.

(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 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 requires services, 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 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:

1. 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. Such factors must include, but are not limited to, noncompliance with a safety plan or the case plan developed by the department, and the family under this chapter, and prior abuse reports with findings that involve the child, the child's sibling, or the child's caregiver.

2. Requirements that 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 Team pursuant to s. 39.303(4) and (5), the file must include written documentation that the administrative review included the results of the team's evaluation.

(15) 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) 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 to 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) 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 notify the jurisdictionally responsible state attorney, and county sheriff's office or local police department, and, [1]within 3 working days, transmit a [2]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) 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 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 confidential and exempt from s. 119.07(1), except as otherwise provided by court order. A separate record of the investigation of the abuse, abandonment, or neglect may not be maintained by the school or school staff member. Violation of this subsection is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

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

(20) 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.

(21) 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) 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.

(23) If, at any time during a child protective investigation, a child is born into a family under investigation or a child moves into the home under investigation, the child protective investigator shall add the child to the investigation and assess the child's safety pursuant to subsection (7) and paragraph (9) (a).

(24) At the beginning of and throughout an investigation of an allegation of sexual abuse of a child placed in out-of-home care, the child protective investigator must assess and take appropriate protective actions to address the safety of other children in the out-of-home placement, or who are not the subject of the allegation.

History.--s. 38, ch. 98-403; s. 7, ch. 99-168; s. 14, ch. 99-193; s. 4, ch. 2000-217; s. 2, ch. 2001-50; s. 2, ch. 2003-127; s. 2, ch. 2005-173; s. 8, ch. 2006-86; s. 1, ch. 2006-306; s. 6, ch. 2008-245; s. 5, ch. 2009-43;s. 42, ch. 2011-213; s. 6, ch. 2012-178; s. 8, ch. 2014-224; s. 5, ch. 2015-177; s. 5, ch. 2017-151; s. 16, ch. 2019-003; s. 4, ch. 2020-138; s. 8, ch. 2021-170.

[1]**Note.**--As amended by s. 14, ch. 99-193. The amendment by s. 7, ch. 99-168, used "within 3 days."

[2]**Note.**--As amended by s. 14, ch. 99-193. The amendment by s. 7, ch. 99-168, did not include the word "full."

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(36) or (54), 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 timeframe established under s. 39.101(2) and 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 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. The department shall make a full written report to the state attorney within 3 business 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.

(2)(a) If in the course of the child protective investigation, the department finds that a subject of a report, by continued contact with children in care, constitutes a threatened harm to the physical health, mental health, or welfare of the children, the department may restrict a subject's access to the children pending the outcome of the investigation. The department or its agent shall employ the least restrictive means necessary to safeguard the physical health, mental health, and welfare of the children in care. This authority shall apply only to child protective investigations in which there is some evidence that child abuse, abandonment, or neglect has occurred. A subject of a report whose access to children in care has been restricted is entitled to

petition the circuit court for judicial review. The court shall enter written findings of fact based upon the preponderance of evidence that child abuse, abandonment, or neglect did occur and that the department's restrictive action against a subject of the report was justified in order to safeguard the physical health, mental health, and welfare of the children in care. The restrictive action of the department shall be effective for no more than 90 days without a judicial finding supporting the actions of the department.

(b) During an investigation, the alleged perpetrator may be represented by an attorney, at his or her own expense, or may be accompanied by another person, if the attorney or the other person executes an affidavit of understanding with the department and agrees to comply with the confidentiality requirements under s. 39.202. The absence of an attorney or accompanying person does not prevent the department from proceeding with other aspects of the investigation, including interviews with other persons. In institutional child abuse, abandonment, or neglect cases when the institution is not operational and the child cannot otherwise be located, the investigation must commence immediately upon the institution resuming operation. If requested by a state attorney or local law enforcement agency, the department shall furnish all investigative reports to such state attorney or agency.

(c) Upon completion of the department's child protective investigation, the department may make application to the circuit court for continued restrictive action against any person necessary to safeguard the physical health, mental health, and welfare of the children in care.

(3) Pursuant to the restrictive actions described in subsection (2), in cases of institutional abuse, abandonment, or neglect in which the removal of a subject of a report will result in the closure of the facility, and when requested by the owner of the facility, the department may provide appropriate personnel to assist in maintaining the operation of the facility. The department may provide assistance when it can be demonstrated by the owner that there are no reasonable alternatives to such action. The length of the assistance shall be agreed upon by the owner and the department; however, the assistance shall not be for longer than the course of the restrictive action imposed pursuant to subsection (2). The owner shall reimburse the department for the assistance of personnel provided.

(4) The department shall notify the Florida local advocacy council in the appropriate district of the department as to every report of institutional child abuse, abandonment, or neglect in the district in which a client of the department is alleged or shown to have been abused, abandoned, or neglected, which notification shall be made within 48 hours after the department commences its investigation.

(5) The department shall notify the state attorney and the appropriate law enforcement agency of any other child abuse, abandonment, or neglect case in which a criminal investigation is deemed appropriate by the department.

(6) In cases of institutional child abuse, abandonment, or neglect in which the multiplicity of reports of abuse, abandonment, or neglect or the severity of the allegations indicates the need for specialized investigation by the department in order to afford greater safeguards for the physical health, mental health, and welfare of the children in care, the department shall provide a team of persons specially trained in the areas of child abuse, abandonment, and neglect investigations, diagnosis, and treatment to assist the local office of the department in expediting its investigation and in making recommendations for restrictive actions and to assist in other ways deemed necessary by the department in order to carry out the provisions of this section. The specially trained team shall also provide assistance to any investigation of the allegations by local law enforcement and the Department of Law Enforcement.

(7) When an investigation of institutional abuse, neglect, or abandonment 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.

(a) However, if such a person is a licensee of the department and is named in any capacity in three or more reports within a 5-year period, the department may review those reports and determine whether the information contained in the reports is relevant for purposes of determining whether the person's license should be renewed or revoked. If the information is relevant to the decision to renew or revoke the license, the department may rely on the information contained in the report in making that decision.

(b) Likewise, if a person is employed as a caregiver in a residential group home licensed under s. 409.175 and is named in any capacity in three or more reports within a 5-year period, the department may review all reports for the purposes of the employment screening required under s. 409.1415(2)(c).

History.--s. 39, ch. 98-403; s. 8, ch. 99-168; s. 15, ch. 99-193; s. 42, ch. 2000-139; s. 7, ch. 2000-263; s. 3, ch. 2003-127; s. 3, ch. 2005-173; s. 30, ch. 2006-86; s. 7, ch. 2006-194; s. 26, ch. 2008-245; s. 7, ch. 2012-178; s. 51, ch. 2014-224; s. 6, ch. 2017-151; s. 3, ch. 2018-103; s. 14, ch. 2020-138; s. 4, ch. 2021-51; s. 9, ch. 2021-170.

39.303 Child Protection Teams and sexual abuse treatment programs; services; eligible cases.–

(1) The Children's Medical Services Program in the Department of Health shall develop, maintain, and coordinate the services of one or more multidisciplinary Child Protection Teams in each of the service circuits of the Department of Children and Families. Such teams may be composed of appropriate representatives of school districts and appropriate health, mental health, social service, legal service, and law enforcement agencies. The Department of Health and the Department of Children and Families shall maintain an interagency agreement that establishes protocols for oversight and operations of Child Protection Teams and sexual abuse treatment programs. The State Surgeon General and the Deputy Secretary for Children's Medical Services, in consultation with the Secretary of Children and Families and the Statewide Medical Director for Child Protection, shall maintain the responsibility for the screening, employment, and, if necessary, the termination of Child Protection Team medical directors in the 15 circuits.

(2)(a) The Statewide Medical Director for Child Protection must be a physician licensed under chapter 458 or chapter 459 who is a board-certified pediatrician with a subspecialty certification in child abuse from the American Board of Pediatrics. The Statewide Medical Director for Child Protection shall report directly to the Deputy Secretary for Children's Medical Services.

(b) Each Child Protection Team medical director must be a physician licensed under chapter 458 or chapter 459 who is a board-certified physician in pediatrics or family medicine and, within 2 years after the date of employment as a Child Protection Team medical director, obtains a subspecialty certification in child abuse from the American Board of Pediatrics or within 2 years meet the minimum requirements established by a third-party credentialing entity recognizing a demonstrated specialized competence in child abuse pediatrics pursuant to paragraph (d). Each Child Protection Team medical director employed on July 1, 2015, must, by July 1, 2019, either obtain a subspecialty certification in child abuse from the American Board of Pediatrics or meet the minimum requirements established by a third-party credentialing entity recognizing a demonstrated specialized competence in child abuse pediatrics pursuant to paragraph (d). Child Protection Team medical directors shall be responsible for oversight of the teams in the circuits. Each Child Protection Team medical director shall report directly to the Statewide Medical Director for Child Protection.

(c) All medical personnel participating on a Child Protection Team must successfully complete the required Child Protection Team training curriculum as set forth in protocols determined by the Deputy Secretary for Children's Medical Services and the Statewide Medical Director for Child Protection.

(d) Contingent on appropriations, the Department of Health shall approve one or more third-party credentialing entities for the purpose of developing and administering a professional credentialing program for Child Protection Team medical directors. Within 90 days after receiving documentation from a third-party credentialing entity, the department shall approve a third-party credentialing entity that demonstrates compliance with the following minimum standards:

1. Establishment of child abuse pediatrics core competencies, certification standards, testing instruments, and recertification standards according to national psychometric standards.

2. Establishment of a process to administer the certification application, award, and maintenance processes according to national psychometric standards.

3. Demonstrated ability to administer a professional code of ethics and disciplinary process that applies to all certified persons.

4. Establishment of, and ability to maintain, a publicly accessible Internet-based database that contains information on each person who applies for and is awarded certification, such as the person's first and last name, certification status, and ethical or disciplinary history.

5. Demonstrated ability to administer biennial continuing education and certification renewal requirements.

6. Demonstrated ability to administer an education provider program to approve qualified training entities and to provide precertification training to applicants and continuing education opportunities to certified professionals.

(3) The Department of Health shall use and convene the Child Protection Teams to supplement the assessment and protective supervision activities of the family safety and preservation program of the Department of Children and Families. This section does not remove or reduce the duty and responsibility of any person to report pursuant to this chapter all suspected or actual cases of child abuse, abandonment, or neglect or sexual abuse of a child. The role of the Child Protection Teams is to support activities of the program and to provide services deemed by the Child Protection Teams to be necessary and appropriate to abused, abandoned, and neglected children upon referral. The specialized diagnostic assessment, evaluation, coordination, consultation, and other supportive services that a Child Protection Team must be capable of providing include, but are not limited to, the following:

(a) Medical diagnosis and evaluation services, including provision or interpretation of X rays and laboratory tests, and related services, as needed, and documentation of related findings.

(b) Telephone consultation services in emergencies and in other situations.

(c) Medical evaluation related to abuse, abandonment, or neglect, as defined by policy or rule of the Department of Health.

(d) Such psychological and psychiatric diagnosis and evaluation services for the child or the child's parent or parents, legal custodian or custodians, or other caregivers, or any other individual involved in a child abuse, abandonment, or neglect case, as the team may determine to be needed.

(e) Expert medical, psychological, and related professional testimony in court cases.

(f) Case staffings to develop treatment plans for children whose cases have been referred to the team. A Child Protection Team may provide consultation with respect to a child who is alleged or is shown to be abused, abandoned, or neglected, which consultation shall be provided at the request of a representative of the family safety and preservation program or at the request of any other professional involved with a child or the child's parent or parents, legal custodian or custodians, or other caregivers. In every such Child Protection Team case staffing, consultation, or staff activity involving a child, a family safety and preservation program representative shall attend and participate.

(g) Case service coordination and assistance, including the location of services available from other public and private agencies in the community.

(h) Such training services for program and other employees of the Department of Children and

Families, employees of the Department of Health, and other medical professionals as is deemed appropriate to enable them to develop and maintain their professional skills and abilities in handling child abuse, abandonment, and neglect cases. The training service must include training in the recognition of and appropriate responses to head trauma and brain injury in a child under 6 years of age as required by ss. 402.402(2) and 409.988.

(i) Educational and community awareness campaigns on child abuse, abandonment, and neglect in an effort to enable citizens more successfully to prevent, identify, and treat child abuse, abandonment, and neglect in the community.

(j) Child Protection Team assessments that include, as appropriate, medical evaluations, medical consultations, family psychosocial interviews, specialized clinical interviews, or forensic interviews.

A Child Protection Team that is evaluating a report of medical neglect and assessing the health care needs of a medically complex child shall consult with a physician who has experience in treating children with the same condition.

(4) The child abuse, abandonment, and neglect reports that must be referred by the department to Child Protection Teams of the Department of Health for an assessment and other appropriate available support services as set forth in subsection (3) must include cases involving:

(a) Injuries to the head, bruises to the neck or head, burns, or fractures in a child of any age.

(b) Bruises anywhere on a child 5 years of age or under.

(c) Any report alleging sexual abuse of a child.

(d) Any sexually transmitted disease in a prepubescent child.

(e) Reported malnutrition of a child and failure of a child to thrive.

(f) Reported medical neglect of a child.

(g) Any family in which one or more children have been pronounced dead on arrival at a hospital or other health care facility, or have been injured and later died, as a result of suspected abuse, abandonment, or neglect, when any sibling or other child remains in the home.

(h) Symptoms of serious emotional problems in a child when emotional or other abuse, abandonment, or neglect is suspected.

(i) A child who does not live in this state who is currently being evaluated in a medical facility in this state.

(5) All abuse and neglect cases transmitted for investigation to a circuit by the hotline must be simultaneously transmitted to the Child Protection Team for review. For the purpose of determining whether a face-to-face medical evaluation by a Child Protection Team is necessary, all cases transmitted to the Child Protection Team which meet the criteria in subsection (4) must be timely reviewed by:

(a) A physician licensed under chapter 458 or chapter 459 who holds board certification in pediatrics and is a member of a Child Protection Team;

(b) A physician licensed under chapter 458 or chapter 459 who holds board certification in a specialty other than pediatrics, who may complete the review only when working under the direction of the Child Protection Team medical director or a physician licensed under chapter 458 or chapter 459 who holds board certification in pediatrics and is a member of a Child Protection Team;

(c) An advanced practice registered nurse licensed under chapter 464 who has a specialty in pediatrics or family medicine and is a member of a Child Protection Team;

(d) A physician assistant licensed under chapter 458 or chapter 459, who may complete the review only when working under the supervision of the Child Protection Team medical director or a physician licensed under chapter 458 or chapter 459 who holds board certification in pediatrics and is a member of a Child Protection Team; or

(e) A registered nurse licensed under chapter 464, who may complete the review only when working under the direct supervision of the Child Protection Team medical director or a physician licensed under chapter 458 or chapter 459 who holds board certification in pediatrics and is a member of a Child Protection Team.

(6) A face-to-face medical evaluation by a Child Protection Team is not necessary when:

(a) The child was examined for the alleged abuse or neglect by a physician who is not a member of the Child Protection Team, and a consultation between the Child Protection Team medical director or a Child Protection Team board-certified pediatrician, advanced practice registered nurse, physician assistant working under the supervision of a Child Protection Team medical director or a Child Protection Team board-certified pediatrician, or registered nurse working under the direct supervision of a Child Protection Team medical director or a Child Protection Team board-certified pediatrician, and the examining physician concludes that a further medical evaluation is unnecessary;

(b) The child protective investigator, with supervisory approval, has determined, after conducting a child safety assessment, that there are no indications of injuries as described in paragraphs (4)(a)-(h) as reported; or

(c) The Child Protection Team medical director or a Child Protection Team board-certified pediatrician, as authorized in subsection (5), determines that a medical evaluation is not required.

Notwithstanding paragraphs (a), (b), and (c), a Child Protection Team medical director or a Child Protection Team pediatrician, as authorized in subsection (5), may determine that a face-to-face medical evaluation is necessary.

(7) In all instances in which a Child Protection Team is providing certain services to abused, abandoned, or neglected children, other offices and units of the Department of Health, and offices and units of the Department of Children and Families, shall avoid duplicating the provision of those services.

(8) The Department of Health Child Protection Team quality assurance program and the Family Safety Program Office of the Department of Children and Families' shall collaborate to ensure referrals and responses to child abuse, abandonment, and neglect reports are appropriate. Each quality assurance program shall include a review of records in which there are no findings of abuse, abandonment, or neglect, and the findings of these reviews shall be included in each department's quality assurance reports.

(9)(a) Children's Medical Services shall convene a task force to develop a standardized protocol for forensic interviewing of children suspected of having been abused. The Department of Health shall provide staff to the task force as necessary. The task force shall include:

1. A representative from the Florida Prosecuting Attorneys Association.
2. A representative from the Florida Psychological Association.
3. The Statewide Medical Director for Child Protection.
4. A representative from the Florida Public Defender Association.
5. The executive director of the Statewide Guardian Ad Litem Office.
6. A representative from a community-based care lead agency.
7. A representative from Children's Medical Services.
8. A representative from the Florida Sheriffs Association.
9. A representative for the Florida Chapter of the American Academy of Pediatrics.
10. A representative from the Florida Network of Children's Advocacy Centers.
11. Other representatives designated by Children's Medical Services.

(b) Children's Medical Services must provide the standardized protocol to the President of the Senate and the Speaker of the House of Representatives by July 1, 2018.

(c) Members of the task force are not entitled to per diem or other payment for service on the task force.

(10) The Children's Medical Services program in the Department of Health shall develop, maintain, and coordinate the services of one or more sexual abuse treatment programs.

(a) A child under the age of 18 who is alleged to be a victim of sexual abuse, his or her siblings, non-offending caregivers, and family members who have been impacted by sexual abuse are eligible for services.

(b) Sexual abuse treatment programs must provide specialized therapeutic treatment to victims of child sexual abuse, their siblings, non-offending caregivers, and family members to assist in recovery from sexual abuse, to prevent developmental impairment, to restore the children's pre-abuse level of developmental functioning, and to promote healthy, non-abusive relationships. Therapeutic intervention services must include crisis intervention, clinical treatment, and individual, family, and group therapy.

(c) The sexual abuse treatment programs and Child Protection Teams must provide referrals for victims of child sexual abuse and their families, as appropriate.

History.--s. 9, ch. 84-226; s. 63, ch. 85-81; s. 23, ch. 88-337; s. 53, ch. 90-306; s. 24, ch. 95-228; s. 273, ch. 96-406; s. 1043, ch. 97-103; s. 4, ch. 97-237; s. 13, ch. 98-137; s. 31, ch. 98-166; s. 40, ch. 98-403; s. 9, ch. 99-168; s. 42, ch. 99-397; s. 5, ch. 2000-217; s. 2, ch. 2000-367; s. 9, ch. 2006-86; s. 4, ch. 2008-006; s. 4, ch. 2008-6; s. 13, ch. 2014-19; s. 9, ch. 2014-224; s. 2, ch. 2015-177; s. 1, ch. 2017-153; s. 5, ch. 2018-106; s. 17, ch. 2019-003; s. 3, ch. 2019-142; s. 4, ch. 2020-40; s. 1, ch. 2020-133.

Note.--Former s. 415.5055.

39.3031 Rules for implementation of s. 39.303.–The Department of Health, in consultation with the Department of Children and Families, shall adopt rules governing the Child Protection Teams and sexual abuse treatment programs pursuant to s. 39.303, including definitions, organization, roles and responsibilities, eligibility, services and their availability, qualifications of staff, and a waiver-request process.

History.--s. 16, ch. 98-137; s. 17, ch. 99-2; s. 43, ch. 2011-213; s. 14, ch. 2014-19; s. 7, ch. 2015-177; s. 2, ch. 2017-153; s. 18, ch. 2019-003.

39.3032 Memorandum of agreement.–A memorandum of agreement shall be developed between the Department of Children and Families and the Department of Health that specifies how the teams will work with child protective investigation and service staff, that requires joint oversight by the two departments of the activities of the teams, and that specifies how that oversight will be implemented.

History.--s. 17, ch. 98-137; s. 15, ch. 2014-19.

39.3035 Child advocacy centers; standards; state funding.–

(1) Child advocacy centers are facilities that offer multidisciplinary services in a community-based, child-focused environment to children who are alleged to be victims of child abuse, abandonment, or neglect. The children served by such centers may have experienced a variety of types of child abuse, abandonment, or neglect, including, but not limited to, sexual abuse or severe physical abuse. The centers bring together, often in one location, child protective investigators, law enforcement officers, prosecutors, health care professionals, and mental health professionals to provide a coordinated, comprehensive response to victims and their caregivers.

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

(a) Be a private, nonprofit incorporated agency or a governmental entity.

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

(c) Have a neutral, child-focused facility where joint department and law enforcement interviews take place with children in appropriate cases of suspected child sexual abuse or physical abuse. All multidisciplinary agencies shall have a place to interact with the child as investigative or treatment needs require.

(d) Have a minimum designated staff that is supervised and approved by the local board of directors or governmental entity.

(e) Have a multidisciplinary case review team that meets on a regularly scheduled basis or as the caseload of the community requires. The team shall consist of representatives from the Office of the State Attorney, the department, the Child Protection Team, mental health services, law enforcement, and the child advocacy center staff. Medical personnel and a victim's advocate may be part of the team.

(f) Provide case tracking of child abuse cases seen through the center. A center shall also collect data on the number of child abuse cases seen at the center, by sex, race, age, and other relevant data; the number of cases referred for prosecution; and the number of cases referred for mental health therapy. Case records shall be subject to the confidentiality provisions of s. 39.202.

(g) Provide referrals for medical exams and mental health therapy. The center shall provide follow up on cases referred for mental health therapy.

(h) Provide training for various disciplines in the community that deal with child abuse.

(i) Have an interagency commitment, in writing, covering those aspects of agency participation in a multidisciplinary approach to the handling of child sexual abuse and serious physical abuse cases.

(3) Provide assurance that child advocacy center employees and volunteers at the center are trained and screened in accordance with s. 39.001(2).

(4) A child advocacy center within this state may not receive the funds generated pursuant to s. 938.10, state or federal funds administered by a state agency, or any other funds appropriated by the Legislature unless all of the standards of subsection (2) are met and the screening requirement of subsection (3) is met. The Florida Network of Children’s Advocacy Centers, Inc., shall be responsible for tracking and documenting compliance with subsections (2) and (3) for any of the funds it administers to member child advocacy centers.

(a) Funds for the specific purpose of funding children’s advocacy centers shall be appropriated to the Department of Children and Families from funds collected from the additional court cost imposed in cases of certain crimes against minors under s. 938.10. Funds shall be disbursed to the Florida Network of Children’s Advocacy Centers, Inc., as established under this section, for the purpose of providing community-based services that augment, but do not duplicate, services provided by state agencies.

(b) The board of directors of the Florida Network of Children’s Advocacy Centers, Inc., shall retain 10 percent of all revenues collected to be used to match local contributions, at a rate not to exceed an equal match, in communities establishing children’s advocacy centers. The board of directors may use up to 5 percent of the remaining funds to support the activities of the network office and must develop funding criteria and an allocation methodology that ensures an equitable distribution of remaining funds among network participants. The criteria and methodologies must take into account factors that include, but need not be limited to, the center’s accreditation status with respect to the National Children’s Alliance, the number of clients served, and the population of the area being served by the children’s advocacy center.

(c) At the end of each fiscal year, each children’s advocacy center receiving revenue as provided in this section must provide a report to the board of directors of the Florida Network of Children’s Advocacy Centers, Inc., which reflects center expenditures, all sources of revenue received, and outputs that have been

standardized and agreed upon by network members and the board of directors, such as the number of clients served, client demographic information, and number and types of services provided. The Florida Network of Children's Advocacy Centers, Inc., must compile reports from the centers and provide a report to the President of the Senate and the Speaker of the House of Representatives in August of each year.

History.--s. 41, ch. 98-403; s. 16, ch. 99-193; s. 37, ch. 2004-265; s. 6, ch. 2006-1; s. 5, ch. 2008-16; s. 16, ch. 2014-19; s. 6, ch. 2018-110; s. 19, ch. 2019-003; s. 10, ch. 2021-170.

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

(1)(a) Any person required to investigate cases of suspected child abuse, abandonment, or neglect may take or cause to be taken photographs of the areas of trauma visible on a child who is the subject of a report. Any Child Protection Team that examines a child who is the subject of a report must take, or cause to be taken, photographs of any areas of trauma visible on the child. Photographs of physical abuse injuries, or duplicates thereof, shall be provided to the department for inclusion in the investigative file and shall become part of that file. Photographs of sexual abuse trauma shall be made part of the Child Protection Team medical record.

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

(2) Consent for any medical treatment shall be obtained in the following manner.

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

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

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

(c) If a parent or legal custodian of the child is available but refuses to consent to the necessary treatment, a court order shall be required unless the situation meets the definition of an emergency in s. 743.064 or the treatment needed is related to suspected abuse, abandonment, or neglect of the child by a parent or legal custodian. In such case, the department shall have the authority to consent to necessary medical treatment. This authority is limited to the time reasonably necessary to obtain court authorization. In no case shall the department consent to sterilization, abortion, or termination of life support.

(3) Any facility licensed under chapter 395 shall provide to the department, its agent, or a Child Protection Team that contracts with the department any photograph or report on examinations made or X rays taken pursuant to this section, or copies thereof, for the purpose of investigation or assessment of cases of abuse, abandonment, neglect, or exploitation of children.

(4) Any photograph or report on examinations made or X rays taken pursuant to this section, or copies thereof, shall be sent to the department as soon as possible and shall be preserved in permanent form in records held by the department.

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

History.--ss. 1, 2, 3, 4, 5, 6, ch. 63-24; s. 941, ch. 71-136; ss. 1, 1A, ch. 71-97; s. 32, ch. 73-334; s. 65, ch. 74-383; s. 1, ch. 75-101; s. 1, ch. 75-185; s. 4, ch. 76-237; s. 1, ch. 77-77; s. 3, ch. 77-429; ss. 1, 2, ch. 78-322; s. 3, ch. 78-326; s. 22, ch. 78-361; s. 1, ch. 78-379; s. 181, ch. 79-164; s. 1, ch. 79-203; s. 75, ch. 86-220; s. 24, ch. 88-337; s. 35, ch. 89-294; s. 2, ch. 95-185; s. 133, ch. 97-101; s. 71, ch. 97-103; s. 42, ch. 98-403; s. 10, ch. 99-168; s. 17, ch. 99-193; s. 6, ch. 2000-217; s. 83, ch. 2000-318; s. 6, ch. 2009-43; s. 6, ch. 2018-106; s. 20, ch. 2019-003.

Note.--Former ss. 828.041, 827.07(5); s. 415.507.

39.306 Child protective investigations; working agreements with local law enforcement.–The department shall enter into agreements with the jurisdictionally responsible county sheriffs' offices and local police departments that will assume the lead in conducting any potential criminal investigations arising from allegations of child abuse, abandonment, or neglect. The written agreement must specify how the requirements of this chapter will be met. For the purposes of such agreement, the jurisdictionally responsible law enforcement entity is authorized to share Florida criminal history and local criminal history information that is not otherwise exempt from s. 119.07(1) with the district personnel, authorized agent, or contract provider directly responsible for the child protective investigation and emergency child placement. The agencies entering into such agreement must comply with s. 943.0525. Criminal justice information provided by such law enforcement entity shall be used only for the purposes specified in the agreement and shall be provided at no charge. Notwithstanding any other provision of law, the Department of Law Enforcement shall provide to the department electronic access to Florida criminal justice information which is lawfully available and not exempt from s. 119.07(1), only for the purpose of child protective investigations and emergency child placement. As a condition of access to such information, the department shall be required to execute an appropriate user agreement addressing the access, use, dissemination, and destruction of such information and to comply with all applicable laws and regulations, and rules of the Department of Law Enforcement.

History.--s. 44, ch. 98-403; s. 11, ch. 99-168.

39.3065 Sheriffs of certain counties to provide child protective investigative services; procedures; funding.–

(1) As described in this section, the department shall, by the end of fiscal year 1999-2000, transfer all responsibility for child protective investigations for Pinellas County, Manatee County, Broward County, and Pasco County to the sheriff of that county in which the child abuse, neglect, or abandonment is alleged to have occurred. Each sheriff is responsible for the provision of all child protective investigations in his or her county. Each individual who provides these services must complete the training provided to and required of protective investigators employed by the department.

(2) During fiscal year 1998-1999, the department and each sheriff's office shall enter into a contract for the provision of these services. Funding for the services will be appropriated to the department, and the department shall transfer to the respective sheriffs for the duration of fiscal year 1998-1999, funding for the investigative responsibilities assumed by the sheriffs, including federal funds that the provider is eligible for

and agrees to earn and that portion of general revenue funds which is currently associated with the services that are being furnished under contract, and including, but not limited to, funding for all investigative, supervisory, and clerical positions; training; all associated equipment; furnishings; and other fixed capital items. The contract must specify whether the department will continue to perform part or none of the child protective investigations during the initial year. The sheriffs may either conduct the investigations themselves or may, in turn, subcontract with law enforcement officials or with properly trained employees of private agencies to conduct investigations related to neglect cases only. If such a subcontract is awarded, the sheriff must take full responsibility for any safety decision made by the subcontractor and must immediately respond with law enforcement staff to any situation that requires removal of a child due to a condition that poses an immediate threat to the child's life. The contract must specify whether the services are to be performed by departmental employees or by persons determined by the sheriff. During this initial year, the department is responsible for quality assurance, and the department retains the responsibility for the performance of all child protective investigations. The department must identify any barriers to transferring the entire responsibility for child protective services to the sheriffs' offices and must pursue avenues for removing any such barriers by means including, but not limited to, applying for federal waivers. By January 15, 1999, the department shall submit to the President of the Senate, the Speaker of the House of Representatives, and the chairs of the Senate and House committees that oversee departmental activities a report that describes any remaining barriers, including any that pertain to funding and related administrative issues. Unless the Legislature, on the basis of that report or other pertinent information, acts to block a transfer of the entire responsibility for child protective investigations to the sheriffs' offices, the sheriffs of Pasco County, Manatee County, Broward County, and Pinellas County, beginning in fiscal year 1999-2000, shall assume the entire responsibility for such services, as provided in subsection (3).

(3)(a) Beginning in fiscal year 1999-2000, the sheriffs of Pasco County, Manatee County, Broward County, and Pinellas County have the responsibility to provide all child protective investigations in their respective counties. Beginning in fiscal year 2000-2001, the department is authorized to enter into grant agreements with sheriffs of other counties to perform child protective investigations in their respective counties. The sheriffs of other counties with which the department enters into grant agreements shall adopt the child welfare practice model, as periodically modified by the department, that is used by child protective investigators employed by the department.

(b) The sheriffs shall operate, at a minimum, in accordance with the performance standards and outcome measures established by the Legislature for protective investigations conducted by the department.

1. All sheriffs shall operate in accord with the same federal performance standards and metrics that are imposed by federal law, regulation, or funding requirements on child protective investigators employed by the department.

2. Sheriffs of other counties with which the department enters into grant agreements under paragraph (a) shall operate in accordance with the same child welfare practice model principles used by, and the same state performance standards and metrics that are imposed on, child protective investigators employed by the department.

Each individual who provides these services must complete, at a minimum, the training provided to and required of protective investigators employed by the department.

(c) Funds for providing child protective investigations must be identified in the annual appropriation made to the department, which shall award grants for the full amount identified to the respective sheriffs' offices. Notwithstanding ss. 216.181(16)(b) and 216.351, the department may advance payments to the sheriffs for child protective investigations. A sheriff may carry forward documented unexpended state funds from one fiscal year to the next. However, the cumulative amount of state funds carried forward may not exceed 8 percent of the sheriff's office total contract amount or grant agreement amount. Any unexpended state funds in excess of that amount and all unexpended federal funds must be returned to the department.

The funds carried forward may not be used to create increased recurring future obligations or for any type of program or service that is not currently authorized by the existing contract or grant award agreement with the department. The expenditure of funds carried forward must be separately reported to the department. A sheriff must return all unexpended funds to the department if that sheriff's office will no longer be providing child protective investigations. Funds for the child protective investigations may not be integrated into the sheriffs' regular budgets. Budgetary data and other data relating to the performance of child protective investigations must be maintained separately from all other records of the sheriffs' offices and reported to the department as specified in the grant award agreement.

(d) The department and all sheriffs providing child protective investigative services shall collaborate to monitor program performance on an ongoing basis. The department and each sheriff, or his or her designee, shall meet at least quarterly to collaborate on federal and state quality assurance and quality improvement initiatives.

(e) The department shall conduct an annual evaluation of the program performance of all sheriffs providing child protective investigative services.

1. For the sheriffs of Pasco County, Manatee County, Broward County, and Pinellas County, the evaluation shall only be based on the same federal performance standards and metrics, and those state performance standards and metrics that are not specific to or based on the child welfare practice model, that are imposed on child protective investigators employed by the department.

2. For sheriffs of other counties with which the department enters into grant agreements under paragraph (a), this evaluation shall be based on the same child welfare practice model principles used by, and federal and state performance standards and metrics that are imposed on, child protective investigators employed by the department.

The program performance evaluation must be standardized statewide excepting state performance standards and metrics that are not specific to or based on the child welfare practice model not being applicable to certain sheriffs as provided in subparagraph (e)1. The department shall select random cases for evaluation. The program performance evaluation shall be conducted by a team of peer reviewers from the respective sheriffs' offices that perform child protective investigations and representatives from the department.

(f) The department shall produce an annual report regarding, at a minimum, performance quality, outcome-measure attainment, and cost efficiency of the services provided by all sheriffs providing child protective investigative services. The annual report shall include data and information on both the sheriffs' and the department's performance of protective investigations. The department shall submit the annual report to the President of the Senate, the Speaker of the House of Representatives, and the Governor no later than November 1 of each year the sheriffs are receiving general appropriations to provide child protective investigations.

History.--s. 2, ch. 98-180; ss. 12, 53, ch. 99-228; s. 3, ch. 2000-139; ss. 20, 66, ch. 2000-171; s. 5, ch. 2021-51; s. 13, ch. 2001-60; s. 17, ch. 2014-19; s. 2, 2020-152; s.1, ch. 2022-58.

39.3068 Reports of medical neglect.–

(1) Upon receiving a report alleging medical neglect, the department or sheriff's office shall assign the case to a child protective investigator who has specialized training in addressing medical neglect or working with medically complex children if such investigator is available. If a child protective investigator with specialized training is not available, the child protective investigator shall consult with department staff with such expertise.

(2) The child protective investigator who has interacted with the child and the child's family shall promptly contact and provide information to the Child Protection Team. The Child Protection Team shall assist the child protective investigator in identifying immediate responses to address the medical needs of the child

with the priority of maintaining the child in the home of the parents will be able to meet the needs of the child with additional services. The child protective investigator and the Child Protection Team must use a family-centered approach to assess the capacity of the family to meet those needs. A family-centered approach is intended to increase independence on the part of the family, accessibility to programs and services within the community, and collaboration between families and their service providers. The ethnic, cultural, economic, racial, social, and religious diversity of families must be respected and considered in the development and provision of services.

(3) The child shall be evaluated by the Child Protection Team as soon as practicable. If the Child Protection Team reports that medical neglect is substantiated, the department shall convene a case staffing which shall be attended, at a minimum, by the child protective investigator; department legal staff; and representatives from the Child Protection Team that evaluated the child, Children's Medical Services, the Agency for Health Care Administration, the community-based care lead agency, and any providers of services to the child. However, the Agency for Health Care Administration is not required to attend the staffing if the child is not Medicaid eligible. The staffing shall consider, at a minimum, available services, given the family's eligibility for revives; services that are effective in addressing conditions leading to medical neglect allegations; and services that would enable the child to safely remain at home. Any services that are available and effective shall be provided.

History.--s. 10, ch. 2014-224; s. 2, ch. 2015-79; s. 21, ch. 2019-003.

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

(1) Upon receiving a report alleging juvenile sexual abuse or inappropriate sexual behavior as defined in s. 39.01, the department shall assist the family, child, and caregiver in receiving appropriate services to address the allegations of the report.

(a) The department shall ensure that information describing the child's history of child sexual abuse is included in the child's electronic record. This record must also include information describing the services the child has received as a result of his or her involvement with child sexual abuse.

(b) Placement decision for a child who has been involved with child sexual abuse must include consideration of the needs of the child or any other children in the placement.

(c) The department shall monitor the occurrence of child sexual abuse and the provision of service to children involved in child sexual abuse or juvenile sexual abuse, or who have displayed inappropriate sexual behavior.

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

(a) The purpose of the response to a report alleging juvenile sexual abuse behavior or inappropriate sexual 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 abuser 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 abuser or child who has exhibited inappropriate sexual behavior and the victim's caregiver.

(b) The caregiver of the alleged abuser 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 and the nature of any problem or risk to other children.

(c) The assessment of risk and the perceived treatment needs of the alleged abuser 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 abuser 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 must be completed 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 abuser. Services were offered to the alleged abuser or child who has exhibited inappropriate sexual behavior and accepted by the caregiver.

3. Report closed. Services were offered to the alleged abuser 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.

(3) If services have been accepted by the alleged abuser or child who has exhibited inappropriate sexual behavior, the victim, and respective caregivers, the department shall designate a case manager and develop a specific case plan.

(a) Upon receipt of the plan, the caregiver shall indicate its acceptance of the plan in writing.

(b) The case manager shall periodically review the progress toward achieving the objectives of the plan in order to:

1. Make adjustments to the plan or take additional action as provided in this part; or

2. Terminate the case if indicated by successful or substantial achievement of the objectives of the plan.

(4) Services provided to the alleged abuser or child who has exhibited inappropriate sexual behavior, the victim, and respective caregivers or family must be voluntary and of necessary duration.

(5) If the family or caregiver of the alleged abuser or child who has exhibited inappropriate sexual behavior fails to adequately participate or allow for the adequate participation of the child in the services or treatment delineated in the case plan, the case manager may recommend that the department:

(a) Close the case;

(b) Refer the case to mediation or arbitration, if available; or

(c) Notify the appropriate law enforcement agency of failure to comply.

(6) At any time, as a result of additional information, findings of facts, or changing conditions, the department may pursue a child protective investigation as provided in this chapter.

(7) The department may adopt this section.

History.--s. 8, ch. 95-266; s. 50, ch. 95-267; s. 13, ch. 97-98; s. 9, ch. 98-137; s. 45, ch. 98-403; s. 4, ch. 2003-127; s. 7, ch. 2008-245; s. 8, ch. 2012-178; s. 11, ch. 2014-224; s. 6, ch. 2015-2; s. 22, ch. 2019-003.

Note.--Former s. 415.50171.

39.308 Guidelines for onsite child protective investigation.–The Department of Children and Families, in collaboration with the sheriffs' offices, shall develop guidelines for conducting an onsite child protective investigation that specifically does not require the additional activities required by the department and for conducting an enhanced child protective investigation, including determining whether compelling evidence exists that no maltreatment occurred, conducting collateral contacts, contacting the reporter, updating the risk assessment, and providing for differential levels of documentation between an onsite and an enhanced onsite child protective investigation.

History.—s. 11, ch. 2003-127; s. 18, ch. 2014-19.

PART IV
TAKING CHILDREN INTO CUSTODY AND SHELTER HEARINGS

39.395 Detaining a child; medical or hospital personnel.–Any person in charge of a hospital or similar institution, or any physician or licensed health care professional treating a child may detain that child without the consent of the parents, caregiver, or legal custodian, whether or not additional medical treatment is required, if the circumstances are such, or if the condition of the child is such that returning the child to the care or custody of the parents, caregiver, or legal custodian presents an imminent danger to the child's life or physical or mental health. Any such person detaining a child shall immediately notify the department, whereupon the department shall immediately begin a child protective investigation in accordance with the provisions of this chapter and shall make every reasonable effort to immediately notify the parents or legal custodian that such child has been detained. If the department determines, according to the criteria set forth in this chapter, that the child should be detained longer than 24 hours, it shall petition the court through the attorney representing the Department of Children and Families as quickly as possible and not to exceed 24 hours, for an order authorizing such custody in the same manner as if the child were placed in a shelter. The department shall attempt to avoid the placement of a child in an institution whenever possible.
History.--s. 56, ch. 98-403; s. 21, ch. 99-193; s. 19, ch. 2014-19.

39.401 Taking a child alleged to be dependent into custody; law enforcement officers and authorized agents of the department.–
(1) A child may only be taken into custody:

(a) Pursuant to the provisions of this part, based upon sworn testimony, either before or after a petition is filed; or

(b) By a law enforcement officer, or an authorized agent of the department, if the officer or authorized agent has probable cause to support a finding:

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

2. That the parent or legal custodian of the child has materially violated a condition of placement imposed by the court; or

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

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

(a) Release the child to:

1. The parent or legal custodian of the child;

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

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

4. A responsible adult approved by the department; or

(b) Deliver the child to an authorized agent of the department, stating the facts by reason of which the child was taken into custody and sufficient information to establish probable cause that the child is abandoned, abused, or neglected, or otherwise dependent. For such a child for whom there is also probable cause to believe he or she has been sexually exploited, the law enforcement officer shall deliver the child to the department.

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

(3) If the child is taken into custody by, or is delivered to, an authorized agent of the department, the agent shall review the facts supporting the removal with an attorney representing the department. The purpose of the review is to determine whether there is probable cause for the filing of a shelter petition.

(a) If the facts are not sufficient, the child shall immediately be returned to the custody of the parent or legal custodian.

(b) If the facts are sufficient and the child has not been returned to the custody of the parent or legal custodian, the department shall file the petition and schedule a hearing, and the attorney representing the department shall request that a shelter hearing be held within 24 hours after the removal of the child.

(c) While awaiting the shelter hearing, the authorized agent of the department may place the child in out-of-home care, and placement shall be determined based on priority of placements as provided in s. 39.4021 and what is in the child's best interest based on the criteria and factors set out in s. 39.01375.

(d) Placement of a child which is not in a licensed shelter must be preceded by a criminal history records check as required under s. 39.0138.

(e) In addition, the department may authorize placement of a housekeeper/homemaker in the home of a child alleged to be dependent until the parent or legal custodian assumes care of the child.

(4) When a child is taken into custody pursuant to this section, 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 of the child, so far as are known.

(5) Judicial review and approval is required within 24 hours after placement for all nonrelative placements. A nonrelative placement must be for a specific and predetermined period of time, not to exceed 12 months, and shall be reviewed by the court at least every 6 months. If the nonrelative placement continues for longer than 12 months, the department shall request the court to establish permanent guardianship or require that the nonrelative seek licensure as a foster care provider within 30 days after the court decision. Failure to

establish permanent guardianship or obtain licensure does not require the court to change a child's placement unless it is in the best interest of the child to do so.

History.--s. 20, ch. 78-414; s. 4, ch. 87-133; s. 11, ch. 88-337; s. 2, ch. 90-204; s. 226, ch. 95-147; s. 6, ch. 95-228; s. 2, ch. 97-276; s. 57, ch. 98-403; s. 22, ch. 99-193; s. 8, ch. 2008-245; s. 4, ch. 2012-105, s. 4, ch. 2014-161; s. 3, ch. 2021-169.

39.4015 Family finding.–

(1) LEGISLATIVE FINDINGS AND INTENT.–

(a) The Legislature finds that every child who is in out-of-home care has the goal of finding a permanent home, whether achieved by reunifying the child with his or her parents or finding another permanent connection, such as adoption or legal guardianship with a relative or nonrelative who has a significant relationship with the child.

(b) The Legislature finds that while legal permanency is important to a child in out-of-home care, emotional permanency helps increase the likelihood that children will achieve stability and well-being and successfully transition to independent adulthood.

(c) The Legislature also finds that research has consistently shown that placing a child within his or her own family reduces the trauma of being removed from his or her home, is less likely to result in placement disruptions, and enhances prospects for finding a permanent family if the child cannot return home.

(d) The Legislature further finds that the primary purpose of family finding is to facilitate legal and emotional permanency for children who are in out-of-home care by finding and engaging their relatives.

(e) It is the intent of the Legislature that every child in out-of-home care be afforded the advantages that can be gained from the use of family finding to establish caring and long-term or permanent connections and relationships for children and youth in out-of-home care, as well as to establish a long-term emotional support network with family members and other adults who may not be able to take the child into their home but who want to stay connected with the child.

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

(a) "Diligent efforts" means the use of methods and techniques, including, but not limited to, interviews with immediate and extended family and fictive kin, genograms, eco-mapping, case mining, cold calls, and specialized computer searches.

(b) "Family finding" means an intensive relative search and engagement technique used in identifying family and other close adults for children in out-of-home care and involving them in developing and carrying out a plan for the emotional and legal permanency of a child.

(c) "Family group decisionmaking" is a generic term that includes a number of approaches in which family members and fictive kin are brought together to make decisions about how to care for their children and develop a plan for services. The term includes family team conferencing, family team meetings, family group conferencing, family team decisionmaking, family unity meetings, and team decisionmaking, which may consist of several phases and employ a trained facilitator or coordinator.

(3) FAMILY-FINDING PROGRAM. The department, in collaboration with sheriffs' offices that conduct child protective investigations and community-based care lead agencies, shall develop a formal family-finding program to be implemented by child protective investigators and community-based care lead agencies as resources permit.

(a) Family-finding efforts shall begin as soon as a child is taken into custody of the department, pursuant to s. 39.401, and throughout the duration of the case as necessary, finding and engaging with as many family members and fictive kin as possible for each child who may help with care or support for the child. The department or community-based care lead agency must specifically document strategies taken to

locate and engage relatives and fictive kin. Strategies of engagement may include, but are not limited to, asking the relatives and fictive kin to:

1. Participate in a family group decisionmaking conference, family team conferencing, or other family meetings aimed at developing or supporting the family service plan;

2. Attend visitations with the child;

3. Assist in transportation of the child;

4. Provide respite or child care services; or

5. Provide actual kinship care.

(b) The family-finding program shall provide the department and the community-based care lead agencies with best practices for identifying family and fictive kin. The family-finding program must use diligent efforts in family finding and must continue those efforts until multiple relatives and fictive kin are identified. Family-finding efforts by the department and the community-based care lead agency may include, but are not limited to:

1. Searching for and locating adult relatives and fictive kin.

2. Identifying and building positive connections between the child and the child's relatives and fictive kin.

3. Supporting the engagement of relatives and fictive kin in social service planning and delivery of services and creating a network of extended family support to assist in remedying the concerns that led to the child becoming involved with the child welfare system, when appropriate.

4. Maintaining family connections, when possible.

5. Keeping siblings together in care, when in the best interest of each child and when possible.

(c) To be compliant with this section, family-finding efforts must go beyond basic searching tools by exploring alternative tools and methodologies. A basic computer search using the Internet or attempts to contact known relatives at a last known address or telephone number do not constitute effective family finding.

(4) RULEMAKING.–The department may adopt rules to implement this section.

History.—s. 1, ch. 2018-108; s. 4, ch. 2019-142; s. 11, ch. 2021-170.

39.402 Placement in a shelter.–

(1) Unless ordered by the court under this chapter, a child taken into custody shall not be placed in a shelter prior to a court hearing unless there is probable cause to believe that:

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

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

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

(2) A child taken into custody may be placed or continued in a shelter only if one or more of the criteria in subsection (1) applies and the court has made a specific finding of fact regarding the necessity for removal of the child from the home and has made a determination that the provision of appropriate and available services will not eliminate the need for placement.

(3) Whenever a child is taken into custody, the department shall immediately notify the parents or legal custodians, shall provide the parents or legal custodians with a statement setting forth a summary of procedures involved in dependency cases, and shall notify them of their right to obtain their own attorney.

(4) If the department determines that placement in a shelter is necessary under subsections (1) and (2), the authorized agent of the department shall authorize placement of the child in a shelter.

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

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

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

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

(6)(a) The circuit court, or the county court if previously designated by the chief judge of the circuit court for such purpose, shall hold the shelter hearing.

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

(7) A child may not be removed from the home or continued out of the home pending disposition if, with the provision of appropriate and available early intervention or preventive services, including services provided in the home, the child could safely remain at home. If the child's safety and well-being are in danger, the child shall be removed from danger and continue to be removed until the danger has passed. If the child has been removed from the home and the reasons for his or her removal have been remedied, the child may be returned to the home. If the court finds that the prevention or reunification efforts of the department will allow the child to remain safely at home, the court shall allow the child to remain in the home.

(8)(a) A child may not be held in a shelter longer than 24 hours unless an order so directing is entered by the court after a shelter hearing. In the interval until the shelter hearing is held, the decision to place the child in a shelter or release the child from a shelter lies with the protective investigator.

(b) The parents or legal custodians of the child shall be given such notice as best ensures their actual knowledge of the time and place of the shelter hearing. The failure to provide notice to a party or participant does not invalidate an order placing a child in a shelter if the court finds that the petitioner has made a good faith effort to provide such notice. The court shall require the parents or legal custodians present at the hearing to provide to the court on the record the names, addresses, and relationships of all parents, prospective parents, and next of kin of the child, so far as are known.

(c) At the shelter hearing, the court shall:

1. Appoint a guardian ad litem to represent the best interest of the child, unless the court finds that such representation is unnecessary;

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

3. Give the parents or legal custodians an opportunity to be heard and to present evidence; and

4. Inquire of those present at the shelter hearing as to the identity and location of the legal father. In determining who the legal father of the child may be, the court shall inquire under oath of those present at the shelter hearing whether they have any of the following information:

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

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

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

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

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

f. Whether a man is named on the birth certificate of the child pursuant to s. 382.013(2).

g. Whether a man has been determined by a court order to be the father of the child.

h. Whether a man has been determined to be the father of the child by the Department of Revenue as provided in s. 409.256.

(d) At the shelter hearing, in order to continue the child in shelter care:

1. The department must establish probable cause that reasonable grounds for removal exist and that the provision of appropriate and available services will not eliminate the need for placement; or

2. The court must determine that additional time is necessary, which may not exceed 72 hours, in which to obtain and review documents pertaining to the family in order to appropriately determine the risk to the child during which time the child shall remain in the department's custody, if so ordered by the court.

(e) At the shelter hearing, the department shall provide the court copies of any available law enforcement, medical, or other professional reports, and shall also provide copies of abuse hotline reports pursuant to state and federal confidentiality requirements.

(f) At the shelter hearing, the department shall inform the court of:

1. Any identified current or previous case plans negotiated in any district with the parents or caregivers under this chapter and problems associated with compliance;

2. Any adjudication of the parents or caregivers of delinquency;

3. Any past or current injunction for protection from domestic violence; and

4. All of the child's places of residence during the prior 12 months.

(g) At the shelter hearing, each party shall provide to the court a permanent mailing address. The court shall advise each party that this address will be used by the court and the petitioner for notice purposes unless and until the party notifies the court and the petitioner in writing of a new mailing address.

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

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

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

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

4. That based upon the allegations of the petition for placement in shelter care, there is probable cause to believe that the child is dependent or that the court needs additional time, which may not exceed 72

hours, in which to obtain and review documents pertaining to the family in order to appropriately determine the risk to the child.

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

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

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

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

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

6. That the department has made reasonable efforts to place the child in order of priority as provided in s. 39.4021 unless such priority placement is not a placement option or in the best interest of the child based on the criteria and factors set out in s. 39.01375.

7. That the department has made reasonable efforts to keep siblings together if they are removed and placed in out-of-home care unless such placement is not in the best interest of each child. It is preferred that siblings be kept together in a foster home, if available. Other reasonable efforts shall include short-term placement in a group home with the ability to accommodate sibling groups if such a placement is available. The department shall report to the court its efforts to place siblings together unless the court finds that such placement is not in the best interest of a child or his or her sibling.

8. That the court notified the parents, relatives that are providing out-of-home care for the child, or legal custodians of the time, date, and location of the next dependency hearing and of the importance of the active participation of the parents, relatives that are providing out-of-home care for the child, or legal custodians in all proceedings and hearings.

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

10. That the court notified relatives who are providing out-of-home care for a child as a result of the shelter petition being granted that they have the right to attend all subsequent hearings, to submit reports to the court, and to speak to the court regarding the child, if they so desire.

11. That the department has placement and care responsibility for any child who is not placed in the care of a parent at the conclusion of the shelter hearing.

(9)(a) At any shelter hearing, the department shall provide to the court a recommendation for scheduled contact between the child and parents, if appropriate. The court shall determine visitation rights absent a clear and convincing showing that visitation is not in the best interest of the child. Any order for visitation or other contact must conform to s. 39.0139. If visitation is ordered but will not commence within 72 hours of the shelter hearing, the department shall provide justification to the court.

(b) If siblings who are removed from the home cannot be placed together, the department shall provide to the court a recommendation for frequent visitation or other ongoing interaction between the siblings unless this interaction would be contrary to a sibling’s safety or well-being. If visitation among siblings is ordered but will not commence within 72 hours after the shelter hearing, the department shall provide justification to the court for the delay.

(10)(a) The shelter hearing order shall contain a written determination as to whether the department has made a reasonable effort to prevent or eliminate the need for removal or continued removal of the child from the home. This determination must include a description of which specific services, if available, could prevent or eliminate the need for removal or continued removal from the home and the date by which the services are expected to become available.

(b) If services are not available to prevent or eliminate the need for removal or continued removal of the child from the home, the written determination must also contain an explanation describing why the services are not available for the child.

(c) If the department has not made an effort to prevent or eliminate the need for removal, the court shall order the department to provide appropriate and available services to ensure the protection of the child in the home when the services are necessary for the child's health and safety.

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

(b) The court shall request that the parents consent to provide access to the child’s medical records and provide information to the court, the department or its contract agencies, and any guardian ad litem or attorney for the child. If a parent is unavailable or unable to consent or withholds consent and the court determines access to the records and information is necessary to provide services to the child, the court shall issue an order granting access. The court may also order the parents to provide all known medical information to the department and to any others granted access under this subsection.

(c) The court shall request that the parents consent to provide access to the child’s child care records, early education program records, or other educational records and provide information to the court, the department or its contract agencies, and any guardian ad litem or attorney for the child. If a parent is unavailable or unable to consent or withholds consent and the court determines access to the records and information is necessary to provide services to the child, the court shall issue an order granting access.

(d) The court may appoint a surrogate parent or may refer the child to the district school superintendent for appointment of a surrogate parent if the child has or is suspected of having a disability and the parent is unavailable pursuant to s. 39.0016(3)(b).

(12) In the event the shelter hearing is conducted by a judge other than the juvenile court judge, the juvenile court judge shall hold a shelter review on the status of the child within 2 working days after the shelter hearing.

(13) A child may not be held in a shelter under an order so directing for more than 60 days without an adjudication of dependency. A child may not be held in a shelter for more than 30 days after the entry of an order of adjudication unless an order of disposition has been entered by the court.

(14) The time limitations in this section do not include:

(a) Periods of delay resulting from a continuance granted at the request or with the consent of the child's counsel or the child's guardian ad litem, if one has been appointed by the court, or, if the child is of sufficient capacity to express reasonable consent, at the request or with the consent of the child's attorney or the child's guardian ad litem, if one has been appointed by the court, and the child.

(b) Periods of delay resulting from a continuance granted at the request of any party, if the continuance is granted:

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

2. To allow the requesting party additional time to prepare the case and additional time is justified because of an exceptional circumstance.

(c) Reasonable periods of delay necessary to accomplish notice of the hearing to the child's parents or legal custodians; however, the petitioner shall continue regular efforts to provide notice to the parents or legal custodians during such periods of delay.

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

(e) Notwithstanding the foregoing, continuances and extensions of time are limited to the number of days absolutely necessary to complete a necessary task in order to preserve the rights of a party or the best interests of a child. Time is of the essence for the best interests of dependent children in conducting dependency proceedings in accordance with the time limitations set forth in this chapter. Time limitations are a right of the child which may not be waived, extended, or continued at the request of any party in advance of the particular circumstances or need arising upon which delay of the proceedings may be warranted.

(f) Continuances or extensions of time may not total more than 60 days for all parties and the court on its own motion within any 12-month period during proceedings under this chapter. A continuance or extension beyond the 60 days may be granted only for extraordinary circumstances necessary to preserve the constitutional rights of a party or when substantial evidence demonstrates that the child’s best interests will be affirmatively harmed without the granting of a continuance or extension of time.

(15) The department, at the conclusion of the shelter hearing, shall make available to parents or legal custodians seeking voluntary services any referral information necessary for participation in such identified services to allow the parents or legal custodians to begin the services as soon as possible. The parents' or legal custodians' participation in the services may not be considered an admission or other acknowledgment of the allegations in the shelter petition.

(16) At the conclusion of a shelter hearing, the court shall notify all parties in writing of the next scheduled hearing to review the shelter placement. The hearing shall be held no later than 30 days after placement of the child in shelter status, in conjunction with the arraignment hearing, and at such times as are otherwise provided by law or determined by the court to be necessary.

(17) At the shelter hearing, the court shall inquire of the parent whether the parent has relatives who might be considered as a placement for the child. The parent shall provide to the court and all parties identification and location information regarding the relatives. The court shall advise the parent that the parent has a continuing duty to inform the department of any relative who should be considered for placement of the child.

(18) The court shall advise the parents in plain language what is expected of them to achieve reunification with their child, including that:

(a) Parents must take action to comply with the case plan so permanency with the child may occur within the shortest period of time possible, but no later than 1 year after removal or adjudication of the child.

(b) Parents must stay in contact with their attorney and their case manager and provide updated contact information if the parents' phone number, address, or e-mail address changes.

(c) Parents must notify the parties and the court of barriers to completing case plan tasks within a reasonable time after discovering such barriers.

(d) If the parents fail to substantially comply with the case plan, their parental rights may be terminated and that the child's out-of-home placement may become permanent.

History.--s. 20, ch. 78-414; s. 13, ch. 80-290; s. 6, ch. 84-311; s. 5, ch. 85-80; s. 82, ch. 86-220; s. 5, ch. 87-133; s. 5, ch. 87-289; s. 12, ch. 88-337; s. 1, ch. 90-167; s. 7, ch. 90-208; s. 5, ch. 90-306; s. 3, ch. 92-158; s. 3, ch. 92-170; s. 7, ch. 92-287; s. 4, ch. 94-164; s. 58, ch. 94-209; s. 7, ch. 95-228; s. 3, ch. 97-96; s. 3, ch. 97-276; s. 58, ch. 98-403; s. 12, ch. 99-168; s. 23, ch. 99-193; s. 19, ch. 2000-139; s. 6, ch. 2000-151; s. 7, ch. 2000-217; s. 2, ch. 2001-68; s. 2, ch. 2002-216; s. 1, ch. 2005-65; s. 10, ch. 2006-86; s. 2, ch. 2007-109; s. 3, ch. 2009-35; s. 7, ch. 2009-43; s. 12, ch. 2014-224; s. 7, ch. 2017-151; s. 2, ch. 2018-108; s. 3, ch. 2019-128; s. 5, ch. 2019-142; s. 4, ch. 2021-169.

39.4021 Priority placement for out-of-home placements.—

(1) LEGISLATIVE FINDINGS AND INTENT.-The Legislature finds that it is a basic tenet of child welfare practice and the law that a child be placed in the least restrictive, most family-like setting available in close proximity to the home of his or her parents which meets the needs of the child, and that a child be placed in a permanent home in a timely manner.

(2) PLACEMENT PRIORITY.-

(a) When a child cannot safely remain at home with a parent, out-of-home placement options must be considered in the following order:

1. Non-offending parent.

2. Relative caregiver.

3. Adoptive parent of the child's sibling, when the department or community-based care lead agency is aware of such sibling.

4. Fictive kin with a close existing relationship to the child.

5. Nonrelative caregiver that does not have an existing relationship with the child.

6. Licensed foster care.

7. Group or congregate care.

(b) Except as otherwise provided for in ss. 39.4022 and 39.4024, sibling groups must be placed in the same placement whenever possible and if placement together is in the best interest of each child in the sibling group. Placement decisions for sibling groups must be made pursuant to ss. 39.4022 and 39.4024.

(c) Except as otherwise provided for in this chapter, a change to a child's physical or legal placement after the child has been sheltered but before the child has achieved permanency must be made in compliance with this section. Placements made pursuant to s. 63.082(6) are exempt from this section.

History.--s. 5, ch. 2021-169.

39.4022 Multidisciplinary teams; staffings; assessments; report.–

(1) LEGISLATIVE INTENT.–

(a) The Legislature finds that services for children and families are most effective when delivered in the context of a single integrated multidisciplinary team staffing that includes the child, his or her family, natural and community supports, and professionals who join together to empower, motivate, and strengthen a family and collaboratively develop a plan of care and protection to achieve child safety, child permanency, and child and family well-being.

(b) The Legislature also finds that effective assessment through an integrated multidisciplinary team is particularly important for children who are vulnerable due to existing histories of trauma which led to the child's entrance into the child welfare system. This assessment is especially important for young children who are 3 years of age or younger, as a result of the enhanced need for such children to have healthy and stable attachments to assist with necessary brain development. Stable and nurturing relationships in the first years of life, as well as the quality of such relationships, are integral to healthy brain development, providing a foundation for lifelong mental health and determining well-being as an adult.

(2) DEFINITIONS.–For purposes of this section, the term:

(a) "Change in physical custody" means a change by the department or the community-based care lead agency to the child's physical residential address, regardless of whether such change requires a court order changing the legal custody of the child.

(b) "Emergency situation" means that there is an imminent risk to the health or safety of the child, other children, or others in the home or facility if the child remains in the placement.

(c) "Multidisciplinary team" means an integrated group of individuals which meets to collaboratively develop and attempt to reach a consensus decision on the most suitable out-of-home placement, educational placement, or other specified important life decision that is in the best interest of the child.

(3) CREATION AND GOALS.–

(a) Multidisciplinary teams must be established for the purpose of allowing better engagement with families and a shared commitment and accountability from the family and their circle of support.

(b) The multidisciplinary teams must adhere to the following goals:

1. Secure a child's safety in the least restrictive and intrusive placement that can meet his or her needs;

2. Minimize the trauma associated with separation from the child's family and help the child to maintain meaningful connections with family members and others who are important to him or her;

3. Provide input into the proposed placement decision made by the community-based care lead agency and the proposed services to be provided in order to support the child;

4. Provide input into the decision to preserve or maintain the placement, including necessary placement preservation strategies;

5. Contribute to an ongoing assessment of the child and the family's strengths and needs;

6. Ensure that plans are monitored for progress and that such plans are revised or updated as the child's or family's circumstances change; and

7. Ensure that the child and family always remain the primary focus of each multidisciplinary team meeting.

(4) PARTICIPANTS.–

(a) Collaboration among diverse individuals who are part of the child's network is necessary to make the most informed decisions possible for the child. A diverse team is preferable to ensure that the necessary combination of technical skills, cultural knowledge, community resources, and personal relationships is developed and maintained for the child and family. The participants necessary to achieve an appropriately diverse team for a child may vary by child and may include extended family, friends, neighbors, coaches, clergy, coworkers, or others the family identifies as potential sources of support.

1. Each multidisciplinary team staffing must invite the following members:

a. The child, unless he or she is not of an age of capacity to participate in the team;

b. The child's family members and other individuals identified by the family as being important to the child, provided that a parent who has a no contact order or injunction, is alleged to have sexually abused the child, or is subject to a termination of parental rights may not participate;

c. The current caregiver, provided the caregiver is not a parent who meets the criteria of one of the exceptions under sub-subparagraph b.;

d. A representative from the department other than the Children's Legal Services attorney, when the department is directly involved in the goal identified by the staffing;

e. A representative from the community-based care lead agency, when the lead agency is directly involved in the goal identified by the staffing; and

f. The case manager for the child, or his or her case manager supervisor.

g. A representative from the Department of Juvenile Justice if the child is dually involved with both the department and the Department of Juvenile Justice.

2. The multidisciplinary team must make reasonable efforts to have all mandatory invitees attend. However, the multidisciplinary team staffing may not be delayed if the invitees in subparagraph 1. fail to attend after being provided reasonable opportunities.

(b) Based on the particular goal the multidisciplinary team staffing identifies as the purpose of convening the staff as provided under subsection (5), the department or lead agency may also invite to the meeting other professionals, including, but not limited to:

1. A representative from Children's Medical Services;

2. A guardian ad litem, if one is appointed;

3. A school personnel representative who has direct contact with the child;

4. A therapist or other behavioral health professional, if applicable;

5. A mental health professional with expertise in sibling bonding, if the department or lead agency deems such expert is necessary; or

6. Other community providers of services to the child or stakeholders, when applicable.

(c) Members of the multidisciplinary team who are required to attend under subparagraph (a)1. or who are invited to participate under paragraph (b) may attend the multidisciplinary team staffing in person or remotely.

(d) Each multidisciplinary team staffing must be led by a person who serves as a facilitator and whose main responsibility is to help team participants use the strengths within the family to develop a safe plan for the child. The person serving as the facilitator must be a trained professional who is otherwise required to attend the multidisciplinary team staffing under this section in his or her official capacity. Further, the trained professional serving as the facilitator does not need to be the same person for each meeting convened in a child's case under this section or in the service area of the designated lead agency handling a child's case.

(5) SCOPE OF MULTIDISCIPLINARY TEAM.–

(a) A multidisciplinary team staffing must be held when an important decision is required to be made about a child's life, including all of the following:

1. Initial placement decisions for a child who is placed in out-of-home care. A multidisciplinary team staffing required under this subparagraph may occur before the initial placement or, if a staffing is not possible before the initial placement, must occur as soon as possible after initial removal and placement to evaluate the appropriateness of the initial placement and to ensure that any adjustments to the placement, if necessary, are promptly handled.

2. Changes in physical custody after the child is placed in out-of-home care by a court and, if necessary, determination of an appropriate mandatory transition plan in accordance with s. 39.4023.

3. Changes in a child's educational placement and, if necessary, determination of an appropriate mandatory transition plan in accordance with s. 39.4023.

4. Placement decisions for a child as required by subparagraph 1., subparagraph 2., or subparagraph 3. which involve sibling groups that require placement in accordance with s. 39.4024.

5. Any other important decisions in the child's life which are so complex that the department or appropriate community-based care lead agency determines convening a multidisciplinary team staffing is necessary to ensure the best interest of the child is maintained.

(b) A multidisciplinary team convened under this section may address multiple needs and decisions under paragraph (a) regarding the child or sibling group for which the team is convened during the same staffing.

(c) This section does not apply to multidisciplinary team staffings that occur for one of the decisions specified in paragraph (a) and that are facilitated by a children's advocacy center in accordance with s. 39.3035. The children's advocacy center that facilitates a staffing is encouraged to include family members or other persons important to the family in the staffing if the children's advocacy center determines it is safe for the child to involve such persons.

(d) This section does not apply to placements made pursuant to s. 63.082(6).

(6) ASSESSMENTS.–

(a)1. The multidisciplinary team staffing participants must, before formulating a decision under this section, gather and consider data and information on the child which is known at the time, including, but not limited to information allowing the team to address the best interest factors under s. 39.01375.

2. Multidisciplinary team staffings may not be delayed to accommodate pending behavioral health screenings or assessments or pending referrals for services.

(b) The assessment conducted by the multidisciplinary team may also use an evidence-based assessment instrument or tool that is best suited for determining the specific decision of the staffing and the needs of that individual child and family.

(c) To adequately prepare for a multidisciplinary staffing team meeting to consider a decision related to a child 3 years of age or younger, all of the following information on the child which is known at the time must be gathered and considered by the team:

1. Identified kin and relatives who express interest in caring for the child, including strategies to overcome potential delays in placing the child with such persons if they are suitable.

2. The likelihood that the child can remain with the prospective caregiver past the point of initial removal and placement with, or subsequent transition to, the caregiver and the willingness of the caregiver to provide care for any duration deemed necessary if placement is made.

3. The prospective caregiver's ability and willingness to:

a. Accept supports related to early childhood development and services addressing any possible developmental delays;

b. Address the emotional needs of the child and accept infant mental health supports, if needed;

c. Help nurture the child during the transition into out-of-home care;

d. Work with the parent to build or maintain the attachment relationship between parent and child;

e. Effectively co-parent with the parent; and

f. Ensure frequent family visits and sibling visits.

4. Placement decisions for each child in out-of-home placement which are made under this paragraph must be reviewed as often as necessary to ensure permanency for that child and to address special issues that may arise which are unique to younger children.

(d)1. If the participants of a multidisciplinary team staffing reach a unanimous consensus decision, it becomes the official position of the community-based care lead agency regarding the decision under subsection (5) for which the team convened. Such decision is binding upon all department and lead agency participants, who are obligated to support it.

2. If the participants of a multidisciplinary team staffing cannot reach a unanimous consensus decision on a plan to address the identified goal, the trained professional acting as the facilitator shall notify the court and the department within 48 hours after the conclusion of the staffing. The department shall then determine how to address the identified goal of the staffing by what is in the child's best interest.

(7) CONVENING A TEAM UPON REMOVAL.–The formation of multidisciplinary team staffing must begin as soon as possible when a child is removed from a home. The multidisciplinary team must convene a staffing no later than 72 hours from the date of a subsequent removal in an emergency situation in accordance with s. 39.4023.

(8) REPORT.–If a multidisciplinary team staffing fails to reach a unanimous consensus decision, the facilitator must prepare and submit a written report to the court within 5 business days after the conclusion of the staffing which details the decision made at the conclusion of the multidisciplinary team staffing under subsection (6) and the positons of the staffing's participants.

(9) CONFIDENTIALITY.–Notwithstanding any other provision of law, participants representing the department and the community-based care lead agency may discuss confidential information during a multidisciplinary team staffing in the presence of individuals who participate in the staffing. Information collected by any agency or entity that that participates in the multidisciplinary team staffing which is confidential and exempt upon collection remains confidential and exempt when discussed in a staffing required under this section. All individuals who participate in the staffing shall maintain the confidentiality of any information shared during the staffing.

(10) CONSTRUCTION.–This section may not construed to mean that multidisciplinary team staffings coordinated by the department or the appropriate lead agency for purposes other than those provided for in subsection (5) before October 1, 2021, are no longer required to be conducted or are required to be conducted in accordance with this section. Further, this section may not be construed to create a duty on the department or lead agency to attend multidisciplinary staffings that the department or lead agency does not attend for any purpose specified in subsection (5) for which the department or lead agency is not required to attend before October 1, 2021.

(11) RULEMAKING. -The department shall adopt rules to implement this section.
History.--s. 6, ch. 2021-169; s.3, ch. 2022-67.

39.40225 Contracts for development of model placement transition plans.– The department shall contract for the development of model placement transition plans and related explanatory material that may be the basis for developing individualized transition plans for children in out-of-home care who are changing placements. Such plans must provide specific recommendations regarding transition plan elements that may include, but are not limited to, the length and pace of the transition and the sequence of steps needed to gradually introduce new caregivers and to build relationships and attachments. The model transition plans shall consider and vary in response to important factors affecting how a child's placement transition should proceed to mitigate trauma and encourage the child's healthy development and the stability of the placement, which may include, but is not limited to, the child's age or developmental stage; the level and type of abuse, neglect, or trauma experienced by the child; attachment to or the length of time the child has spent with the current caregiver; and familiarity with, location of, and attachment to the proposed caregiver. The model transition plans and accompanying explanatory material must be provided to, at a minimum, all staff who develop transition plans for children in out-of-home care, whether such staff work

for the department, a community-based care lead agency, or a subcontracted provider. The model transition plans and accompanying material may also be provided to caregivers and other child welfare professionals.
History.—s. 7, ch. 2021-169.

39.4023 Placement and education transitions; transition plans.–

(1) LEGISLATIVE FINDINGS AND INTENT.–

(a) The Legislature finds that many children in out-of-home care experience multiple changes in placement, and those transitions often result in trauma not only for the child but also for caregivers, families, siblings, and all professionals involved.

(b) The Legislature further finds that poorly planned and executed or improperly timed transitions may adversely impact a child's healthy development as well as the child's continuing capacity to trust, attach to others, and build relationships in the future.

(c) The Legislature finds that the best child welfare practices recognize the need to prioritize the minimization of the number of placements for every child in out-of-home care. Further, the Legislature finds that efforts must be made to support caregivers in order to promote stability. When placement changes are necessary, they must be thoughtfully planned.

(d) The Legislature finds that transition plans are critical when moving all children, including infants, toddlers, school-age children, adolescents, and young adults.

(e) It is the intent of the Legislature that a placement change or an educational change for a child in out-of-home care be achieved ideally through a period of transition that is unique to each child, provides support for all individuals affected by the change, and has flexible planning to allow for changes necessary to meet the needs of the child.

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

(a) "Educational change" means any time a child is moved between schools when such move is not the result of the natural transition from elementary school to middle school or middle school to high school. The term also includes changes in child care or early education programs for infants and toddlers.

(b) "Emergency situation" means that there is an imminent risk to the health or safety of the child, other children, or others in the home or facility if the child remains in the placement.

(c) "Placement change" means any time a child is moved from one caregiver to another, including moves to a foster home, a group home, relatives, prospective guardians, or prospective adoptive parents and removal from or reunification with parents or legal custodian. A child being moved temporarily to respite care for the purpose of providing the primary caregiver relief does not constitute a placement change.

(d) "School" means any child care, early education, elementary, secondary, or postsecondary educational setting.

(3) PLACEMENT TRANSITIONS.–

(a) *Mandatory transition plans.*-Except as otherwise provided, the department or the community-based lead agency shall create and implement an individualized transition plan before each placement change experienced by a child.

(b) *Minimizing placement transitions.*-Once a caregiver accepts the responsibility of caring for a child, the child may be removed from the home of the caregiver only for the reasons specified in s. 409.1415(2)(b)7.

(c) *Services to prevent disruption.*-The community-based care lead agency shall provide any supportive services deemed necessary to a caregiver and a child if the child's current out-of-home placement with the caregiver is in danger of needing modification. The supportive services must be offered in an effort to remedy the factors contributing to the placement being considered unsuitable and therefore contributing to the need for a change in placement.

(d) *Transition planning.*-

1. If the supportive services provided pursuant to paragraph (c) have not been successful to make the maintenance of the placement suitable or if there are other circumstances that require the child to be moved, the department or the community-based care lead agency must convene a multidisciplinary team staffing as required under s. 39.4022 before the child's placement is changed, or within 72 hours of moving the child in an emergency situation, for the purpose of developing an appropriate transition plan.

2. A placement change may occur immediately in an emergency situation without convening a multidisciplinary team staffing. However, a multidisciplinary team staffing must be held within 72 hours after the emergency situation arises.

3. The department or the community-based care lead agency must provide written notice of the planned move at least 14 days before the move or within 72 hours after an emergency situation, to the greatest extent possible and consistent with the child's needs and preferences. The notice must include the reason a placement change is necessary. A copy of the notice must filed with the court and be provided to:

a. The child, unless he or she, due to age or capacity, is unable to comprehend the written notice, which will necessitate the department or lead agency to provide notice in an age-appropriate and capacity-appropriate alternative manner;

b. The child's parents, unless prohibited by court order;

c. The child's out-of-home caregiver;

d. The guardian ad litem, if one is appointed;

e. The attorney for the child, if one is appointed; and

f. The attorney for the department.

4. The transition plan must be developed through cooperation among the persons included in subparagraph 3., and such persons must share any relevant information necessary for its development. Subject to the child's needs and preferences, the transition plan must meet the requirements of s. 409.1415(2)(b)8. and exclude any placement changes that occur between 7 p.m. and 8 a.m.

5. The department or the community-based care lead agency shall file the transition plan with the court within 48 hours after the creation of such plan and provide a copy of the plan to the persons included in subparagraph 3.

(e) *Additional considerations for transitions of infants and children under school age.* -Relationship patterns over the first year of life are important predictors of future relationships. Research demonstrates that babies begin to form a strong attachment to a caregiver at approximately 7 months of age. From that period of time through age 2, moving a child from a caregiver who is the psychological parent is considerably more damaging. Placement decisions must focus on promoting security and continuity for infants and children under 5 years of age in out-of-home care. Transition plans for infants and young children must describe the facts that were considered when each of the following were discussed and must specify what decision was made as to how each of the following applies to the child:

1. The age of the child and the child's current ability to accomplish developmental tasks, with consideration made for whether the child is:

a. Six months of age or younger, thereby indicating that it may be in the child's best interest to move the child sooner rather than later; or

b. Seven months of age or older, but younger than 3 years of age, thereby indicating it may not be a healthy time to move the child.

2. The length of time the child has lived with the current caregiver, the strength of attachment to the current caregiver, and the harm of disrupting a healthy attachment compared to the possible advantage of a change in placement.

3. The relationship, if any, the child has with the new caregiver and whether a reciprocal agreement exists between the current caregiver and the prospective caregiver to maintain the child's relationship with both caregivers.

4. The pace of the transition and whether flexibility exists to accelerate or slow down the transition based on the child's needs and reactions.

(f) *Preparation of prospective caregivers before placement.* -

1. Prospective caregivers must be fully informed of the child's needs and circumstances and be willing and able to accept responsibility for providing high-quality care for such needs and circumstances before placement.

2. The community-based care lead agency shall review with the prospective caregiver the caregiver's roles and responsibilities according to the parenting partnerships plan for children in out-of-home care pursuant to s. 409.1415. The case manager shall sign a copy of the parenting partnerships plan and obtain the signature of the prospective caregiver acknowledging explanation of the requirements before placement.

(4) EDUCATION TRANSITIONS.–

(a) *Findings.*-Children in out-of-home care frequently change child care, early education programs, and schools. These changes can occur when the child first enters out-of-home care, when the child must move from one caregiver to another, or when the child returns home upon reunification. Research shows that children who change schools frequently make less academic progress than their peers and fall further behind with each school change. Additionally, educational instability at any level makes it difficult for children to develop supportive relationships with teachers or peers. State and federal law contain requirements that must be adhered to in order to ensure educational stability for a child in out-of-home care. A child's educational setting should only be changed when maintaining the educational setting is not in the best interest of the child.

(b) *Mandatory educational transition plans.*-The department or the community-based care lead agency shall create and implement an individualized transition plan each time a child experiences a school change.

(c) *Minimizing school changes.*-

1. Every effort must be made to keep a child in the school of origin if it is in the child's best interest. Any placement decision must include thoughtful consideration of which school a child will attend if a school change is necessary.

2. Members of a multidisciplinary team staffing convened for a purpose other than a school change must determine the child's best interest regarding remaining in the school or program of origin if the child's educational options are affected by any other decision being made by the multidisciplinary team.

3. The determination of whether it is in the child's best interest to remain in the school of origin, and if not, of which school the child will attend in the future, must be made in consultation with the following individuals, including, but not limited to, the child; the parents; the caregiver; the child welfare professional; the guardian ad litem, if appointed; the education surrogate, if appointed; child care and educational staff, including teachers and guidance counselors; and the school district representative or foster care liaison. A multidisciplinary team member may contact any of these individuals in advance of a multidisciplinary team staffing to obtain his or her recommendation. An individual may remotely attend the multidisciplinary team staffing if one of the identified goals is related to determining an educational placement. The multidisciplinary team may rely on a report from the child's current school or program district and, if applicable, any other school district being considered for the educational placement if the required school personnel are not available to attend the multidisciplinary team staffing in person or remotely.

4. The multidisciplinary team and the individuals listed in subparagraph 3. must consider, at a minimum, all of the following factors when determining whether remaining in the school or program of origin is in the child's best interest or, if not, when selecting a new school or program:

a. The child's desire to remain in the school or program of origin.

b. The preference of the child's parents or legal guardians.

c. Whether the child has siblings, close friends, or mentors at the school or program of origin.

d. The child's cultural and community connections in the school or program of origin.

e. Whether the child is suspected of having a disability under the Individuals with Disabilities Education Act (IDEA) or s. 504 of the Rehabilitation Act of 1973, or has begun receiving interventions under this state's multitiered system of supports.

f. Whether the child has an evaluation pending for special education and related services under IDEA or s. 504 of the Rehabilitation Act of 1973.

g. Whether the child is a student with a disability under IDEA who is receiving special education and related services or a student with a disability under s. 504 of the Rehabilitation Act of 1973 who is receiving accommodations and services and, if so, whether those required services are available in a school or program other than the school or program of origin.

h. Whether the child is an English Language Learner student and is receiving language services, and if so, whether those required services are available in a school or program other than the school or program of origin.

i. The impact a change to the school or program of origin would have on academic credits and progress toward promotion.

j. The availability of extracurricular activities important to the child.

k. The child's known individualized educational plan or other medical and behavioral health needs and whether such plan or needs are able to be met at a school or program other than the school or program of origin.

l. The child's permanency goal and timeframe for achieving permanency.

m. The child's history of school transfers and how such transfers have impacted the child academically, emotionally, and behaviorally.

n. the length of the commute to the school or program from the child's home or placement and how such commute would impact the child.

o. The length of time the child has attended the school or program of origin.

5. The cost of transportation cannot be a factor in making a best interest determination.

(d) *Transitions between child care and early education programs.*-When a child enters out-of-home care or undergoes a placement change, the child shall, if possible, remain with a familiar child care provider or early education program unless there is an opportunity to transition to a higher quality program. If it is not possible for the child to remain with the familiar child care provider or early education program or transition to a higher quality program, the child's transition plan must be made with the participation of the child's current and future school or program. The plan must give the child an opportunity to say goodbye to important figures in the educational environment.

(e) *Transitions between K-12 schools.*-The transition plan for a transition between K-12 schools must include all of the following:

1. Documentation that the department or community-based care lead agency has made the decision to change the child's school in accordance with paragraph (c). The plan must include a detailed discussion of all factors considered in reaching the decision to change the child's school.

2. Documentation that the department or community-based care lead agency has coordinated, or will coordinate before the school change, with local educational agencies to provide immediate and appropriate enrollment in a new school, including transfer of educational records, any record of a school-entry health examination, and arrangements for transportation to the new school.

3. Discussion of the timing of the proposed school change which addresses the potential impact on the child's education and extracurricular activities. This section must include, at a minimum, grading periods, exam schedules, credit acquisitions, sports eligibility, and participation in extracurricular activities.

4. Details concerning the transportation of the child to school.

(5) TRANSITION PLAN AND DOCUMENTATION.–

(a) The department, in collaboration with the Quality Parenting Initiative, shall develop a form to be completed and updated each time a child in out-of-home care is moved from one placement to another.

(b) A completed form must be attached to the case record face sheet required to be included in the case file pursuant to s. 39.00146. The form must be used statewide and, at a minimum, must include all of the following information:

1. The membership of the multidisciplinary team staffing convened under s. 39.4022 to develop a transition plan for the change in placement and the dates on which the team met.

2. The name of the person who served as the facilitator in that specific multidisciplinary team staffing.

3. The topics considered by the multidisciplinary team staffing in order to ensure an appropriate transition.

4. The recommendations of the multidisciplinary team and the name of each individual or entity responsible for carrying out each recommendation.

(c) The department or the community-based care lead agency shall document all multidisciplinary team staffings and placement transition decisions in the Florida Safe Families Network and must include the information in the social study report for judicial review, as required under s. 39.701.

(6) EXEMPTION.–Placements made pursuant to s. 63.082(6) are exempt from this section.

(7) RULEMAKING.–The department shall adopt rules to implement this section.
History.--s. 8, ch. 2021-169.

39.4024 placement of siblings; visitation; continuing contact. –

(1) LEGISLATIVE FINDINGS.–

(a) The Legislature finds that sibling relationships can provide a significant source of continuity throughout a child's life and are likely to be the longest relationships that most individuals experience. Further, the placement of siblings together can increase the likelihood of achieving permanency and is associated with a significantly higher rate of family reunification.

(b) The Legislature finds that it is beneficial for a child who is placed in out-of-home care to be able to continue existing relationship with his or her siblings, regardless of age, so that they may share their strengths and associations in their everyday and often common experiences.

(c) The Legislature also finds that healthy connections with siblings can serve as a protective factor for children who have been placed in out-of-home care. The Legislature finds that child protective investigators and case workers should be aware of the variety of demographic and external situational factors that may present challenges to placement in order to identify such factors relevant to a particular group of siblings and ensure that these factors are not the sole reasons that siblings are not placed together.

(d) The Legislature also finds that it is the responsibility of all entities and adults involved in a child's life, including, but not limited to, the department, community-based care lead agencies, parents foster parents, guardians ad litem, next of kin, and other persons important to the child to seek opportunities to foster sibling relationships to promote continuity and help sustain family connections.

(e) While there is a presumption in law and policy that it is in the best interest of a child going into out-of-home care to be placed with any siblings, the Legislature finds that overall well-being of the child and family improves when the person or team responsible for placement decisions evaluates the child's sibling and family bonds and prioritizes the bonds that are unique drivers of the child's ability to maintain and develop healthy relationships. The person or team with an understanding of the need to balance all attachment bonds of a child and the potential need to prioritize existing and healthy sibling relationships differently than a potential or unhealthy sibling relationship over a healthy existing bond with a caregiver will result in more stable and healthier placements for all children in out-of-home care.

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

(a) "Lead agency" means a community-based care lead agency under contract with the department to provide care to children in foster care under chapter 409.

(b) "Multidisciplinary team" has the same meaning as provided in s. 39.4022.

(c) "Sibling" means:

1. A child who shares a birth parent or legal parent with one or more other children; or

2. A child who has lived together in a family with one or more other children whom he or she identifies as siblings.

(3) PLACEMENT OF SIBLINGS IN OUT-OF-HOME CARE.–

(a) *General provisions.–*

1. The department or lead agency shall make reasonable efforts to place sibling groups that are removed from their home in the same foster, kinship, adoptive, or guardianship home when it is in the best interest of each sibling and when an appropriate, capable, and willing joint placement for the sibling group is available.

2. If a child enters out-of-home care after his or her sibling, the department or lead agency and the multidisciplinary team shall make reasonable efforts to initially place the child who has entered out-of-home care with his or her siblings in the sibling's existing placement, provided it would not jeopardize the stability of such placement and it is in the best interest for each child.

3. When determining whether to move a child from a current placement to a new placement when such change is initiated by a sibling relationship, all relevant factors must be considered by the multidisciplinary team to ensure that the child is best served by the decision. A uniform policy that does not consider and apply a balancing test to ensure all existing attachment bonds for a child and his or her siblings are honored and evaluated holistically may result in placement decisions or changes of placement decisions that may result in additional trauma.

4. The department and the court are not required to make a change in placement, whether such change is to the physical residential address of the child or the legal custody of the child, to develop a relationship between siblings which did not exist at the time a child is placed in out-of-home care and must determine whether the change in placement is contrary to the child's safety and well-being by evaluating all of the factors in this section and ss. 39.01375, 39.4022, and 39.4023.

(b) *Factors to consider when placing sibling groups.–*

1. At the time a child who is a part of a sibling group is removed from the home, the department or lead agency shall convene a multidisciplinary team staffing in accordance with s. 39.4022 to determine and assess the sibling relationships from the perspective of each child to ensure the best placement of each child in the sibling group. The multidisciplinary team shall consider all relevant factors included in s. 39.01375 and this section, including, but not limited to, the existing emotional ties between and among the siblings, the degree of harm each child is likely to experience as a result of separation, and the standard protocols established by the Quality Parenting Initiative under paragraph (d).

2.a. If the department or the appropriate lead agency is able to locate a caregiver that will accept the sibling group and the multidisciplinary team determines that the placement is suitable for each child, the sibling group must be placed together.

b. If the department or appropriate lead agency is not able to locate a caregiver or placement option that allows the sibling group to be placed together in an initial placement, the department or lead agency must make all reasonable efforts to ensure contact and visitation between siblings placed in separate out-of-home care placements and provide reviews of the placements in accordance with this section.

3. If all the siblings are unable to be placed in an existing placement and the siblings do not have an existing relationship, when determining whether to move any child who is part of the sibling group from his

or her current placement to a new placement that will unite the sibling group, the department or lead agency must consider all of the following additional factors:

a. The presence and quality of current attachment relationships, including:

(I) The quality and length of the attachment of the child to both the current and prospective caregiver;

(II) The age of the child at placement with the current caregiver and the child's current age as well as the ages of any siblings;

(III) The ease with which the child formed an attachment to the current family;

(IV) Any indications of attachment difficulty in the child's history; and

(V) The number of moves and number of caregivers the child has experienced.

b. The potential of the new caregiver to be a primary attachment figure to the sibling group by ensuring care for each child's physical needs and the willingness and availability to meet each child's emotional needs.

c. The quality of existing sibling relationships and the potential quality of sibling relationships that can be formed between the children.

d. The consideration of any costs and benefits of disrupting existing emotional attachments to a primary caregiver to place children in a new placement with siblings, including:

(I) The length and quality of the established and current primary attachment relationships between the siblings and between the siblings and their current caregivers; and

(II) Relationships between any other siblings and whether such relationships appear adequate and not stressful or harmful.

e. The ability to establish and maintain sibling visitation and contact pursuant to this section in a manner and schedule that makes sense for an infant or young child if it is determined that the infant or young child is to remain with his or her primary caregivers rather than be placed with his or her siblings.

f. The ability to establish and maintain contact with the sibling and new caregiver as part of a transition plan developed in accordance with paragraph (c) and s. 39.4023 before changing the child's placement to allow the child, his or her siblings, and new caregiver to adjust and form bonds.

(c) *Transitioning a child after a determination.*-If after considering the provisions and factors described in paragraphs (a) and (b) it is determined that the child would benefit from being placed with his or her siblings, the transition of the child to the new home must be carried out gradually in accordance with s. 39.4023.

(d) *Standards for evaluating sibling placements.*-The department, in collaboration with the Quality Parenting Initiative, must develop standard protocols for the department and lead agency which incorporate the provisions and factors described in paragraphs (a), (b), and (c) and any other factors deemed relevant for use in making decisions about when placing siblings together would be contrary to a child's well-being or safety or decisions providing for frequent visitation and contact under subsection (4).

(4) MAINTAINING CONTACT WHEN SIBLINGS ARE SEPARATED.–

(a) Regular contact among a sibling group that cannot be placed together, especially among siblings with existing attachments to each other, is critical for the siblings to maintain their existing bonds and relationships or to develop such bonds and attachments, if appropriate. The following practices must be considered in helping to maintain or strengthen the relationships of separated siblings:

1. Respect and support the child's ties to his or her birth or legal family, including parents, siblings, and extended family members, must be provided by the caregiver, and he or she must assist the child in maintaining allowable visitation and other forms of communication. The department and lead agency shall provide a caregiver with the information, guidance, training, and support necessary for fulfilling this responsibility.

2. Provide adequate support to address any caregiver concerns and to enhance the caregiver's ability to facilitate contact between siblings who are not in the same out-of-home placement and promote the benefits of sibling contact.

3. Prioritize placements with kinship caregivers who have an established personal relationship with each child so that even when siblings cannot be placed together in the same home, kinship caregivers are more likely to facilitate contact.

4. Prioritize placement of siblings geographically near each other, such as in the same neighborhood or school district, to make it easier for the siblings to see each other regularly.

5. Encourage frequent and regular visitation, if the siblings choose to do so, to allow the children to be actively involved in each other's lives and to participate in celebrations, including, but not limited to, birthdays, graduations, holidays, school and extracurricular activities, cultural customs, and other milestones.

6. Provide other forms of contact when regular in-person meetings are not possible or are not sufficient to meet the needs or desires of the siblings, such as maintaining frequent contact through letters, e-mail, social media, cards, or telephone calls.

7. Coordinate, when possible, joint outings or summer or weekend camp experiences to facilitate time together, including, but not limited to, activities or camps specifically designed for siblings in out-of-home care.

8. Encourage joint respite care to assist the caregivers who are caring for separated siblings to have needed breaks while also facilitating contact among the siblings, including, but not limited to, providing babysitting or respite care for each other. A child being moved temporarily as respite care for the purpose of providing the primary caregiver relief and encouraging and facilitating contact among the siblings does not constitute a placement change or require the convening of a multidisciplinary team.

9. Prohibit the withholding of communication or visitation among the siblings as a form of punishment.

(b) The court may not limit or restrict communication or visitation under this subsection unless there is a finding that the communication or visitation between the child and his or her siblings is contrary to the safety or well-being of the child. If the court makes such a finding, and services are available that would reasonably be expected to ameliorate the risk to the child's safety or well-being that are the basis of the court's finding and that may result in the communication and visitation being restored, the court must direct the department or community-based care lead agency to immediately provide such services.

(5) SUBSEQUENT REVIEWS.–

(a) The department and the lead agency shall periodically, but at least once every 6 months, reassess sibling placement, visitation, and other sibling contact decisions in cases where siblings are separated, not visiting, or not maintaining contact to determine if a change in placement is warranted unless the decision to not place a child with his or her sibling group was made due to such placement being inappropriate, unhealthy, or unsafe for the child.

(b) If a child in a sibling group who has been placed in an out-of-home care placement with his or her siblings does not adjust to the placement, the lead agency must provide services to the caregiver and sibling group in accordance with s. 39.4023(3) to try to prevent the disruption of the placement. If after reasonable efforts are made under s. 39.4023(3), the child still has not adjusted to the out-of-home placement, a multidisciplinary team staffing must be convened to determine what is best for all of the children. The multidisciplinary team shall review the current placement of the sibling group and choose a plan that will be least detrimental to each child. If the team determines that the best decision is to move the child who has not adjusted to a new out-of-home placement, the team must develop a transition plan in accordance with ss. 39.4022 and 39.4023 which ensures the opportunity for the siblings to maintain contact in accordance with subsection (4) of this section.

(c) If it becomes known that a child in out-of-home care has a sibling of whom the child, department, or lead agency was previously unaware, the department or lead agency must convene a multidisciplinary team staffing within a reasonable amount of time after the discovery of such sibling to decide if the current placement or permanency plan requires modification.

(6) ADDITIONAL REQUIREMENTS AND CONSIDERATIONS.–

(a) The department shall promptly provide a child with the location of and contact information for his or her siblings. If the existence or location of or contact information for a child's siblings is not known, the department must make reasonable efforts to ascertain such information.

(b)1. If a child's sibling is also in out-of-home care and such sibling leaves out-of-home care due to emancipation or reunification with his or her parent or guardian, the child must be allowed to communicate with that emancipated or reunified sibling, if the emancipated sibling or the reunified sibling and his or her parent consent.

2. If a child's sibling is also in out-of-home care and such sibling leaves out-of-home care for any reason, including, but not limited to, the reasons in subparagraph 1. and communication is not occurring, the child has a right to have the court consider the appropriateness of continued communication with his or her sibling. The court shall consider the recommendation of the department or community-based care lead agency and any other information deemed relevant by the court.

3. If a child's sibling leaves out-of-home care because he or she is adopted, the child may be allowed to have continued communication with the sibling either by consent of the adoptive parent or by order of the court in accordance with s. 63.0427.

(c) The department or the lead agency must document in writing any decision to separate siblings in the case file as required in s. 39.00146 and document the decision in the Florida Safe Families Network. The documentation must include any efforts made to keep the siblings together, an assessment of the short-term and long-term effects of separation on each child and the sibling group as a whole, and a description of the plan for communication or contact between the children if separation is approved.

(7) EXEMPTION.–Placements made pursuant to s. 63.082(6) are exempt from this section.

(8) RULEMAKING AUTHORITY.–The department shall adopt rules to implement this section.
History.--s. 8, ch. 2021-169.

39.407 Medical, psychiatric, and psychological examination and treatment of child; physical, mental, or substance abuse examination of person with or requesting child custody.–

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

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

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

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

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

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

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

(3)(a)1. Except as otherwise provided in subparagraph (b)1. or paragraph (e), before the department provides psychotropic medications to a child in its custody, the prescribing physician or a psychiatric nurse, as defined in s. 394.455(16), shall attempt to obtain express and informed consent, as defined in s. 394.455(15) and as described in s. 394.459(3)(a), from the child's parent or legal guardian. The department must take steps necessary to facilitate the inclusion of the parent in the child's consultation with the physician or psychiatric nurse, as defined in s 394.455. However, if the parental rights of the parent have been terminated, the parent's location or identity is unknown or cannot reasonably be ascertained, or the parent declines to give express and informed consent, the department may, after consultation with the prescribing physician or psychiatric nurse, as defined in s. 394.455, seek court authorization to provide the psychotropic medications to the child. Unless parental rights have been terminated and if it is possible to do so, the department shall continue to involve the parent in the decisionmaking process regarding the provision of psychotropic medications. If, at any time, a parent whose parental rights have not been terminated provides express and informed consent to the provision of a psychotropic medication, the requirements of this section that the department seek court authorization do not apply to that medication until such time as the parent no longer consents.

2. Any time the department seeks a medical evaluation to determine the need to initiate or continue a psychotropic medication for a child, the department must provide to the evaluating physician or psychiatric nurse, as defined in s. 394.455, all pertinent medical information known to the department concerning that child.

(b)1. If a child who is removed from the home under s. 39.401 is receiving prescribed psychotropic medication at the time of removal and parental authorization to continue providing the medication cannot be obtained, the department may take possession of the remaining medication and may continue to provide the medication as prescribed until the shelter hearing, if it is determined that the medication is a current prescription for that child and the medication is in its original container.

2. If the department continues to provide the psychotropic medication to a child when parental authorization cannot be obtained, the department shall notify the parent or legal guardian as soon as possible that the medication is being provided to the child as provided in subparagraph 1. The child's official departmental record must include the reason parental authorization was not initially obtained and an explanation of why the medication is necessary for the child's well-being.

3. If the department is advised by a physician licensed under chapter 458 or chapter 459 or psychiatric nurse, as defined in s. 394.455, that the child should continue the psychotropic medication and parental authorization has not been obtained, the department shall request court authorization at the shelter hearing to continue to provide the psychotropic medication and shall provide to the court any information in its possession in support of the request. Any authorization granted at the shelter hearing may extend only

until the arraignment hearing on the petition for adjudication of dependency or 28 days following the date of removal, whichever occurs sooner.

4. Before filing the dependency petition, the department shall ensure that the child is evaluated by a physician licensed under chapter 458 or chapter 459 or psychiatric nurse, as defined in s. 394.455, to determine whether it is appropriate to continue the psychotropic medication. If, as a result of the evaluation, the department seeks court authorization to continue the psychotropic medication, a motion for such continued authorization shall be filed at the same time as the dependency petition, within 21 days after the shelter hearing.

(c) Except as provided in paragraphs (b) and (e), the department must file a motion seeking the court's authorization to initially provide or continue to provide psychotropic medication to a child in its legal custody. The motion must be supported by a written report prepared by the department which describes the efforts made to enable the prescribing physician or psychiatric nurse, as defined in s. 394.455, to obtain express and informed consent for providing the medication to the child and other treatments considered or recommended for the child. In addition, the motion must be supported by the prescribing physician's or psychiatric nurse's signed medical report providing:

1. The name of the child, the name and range of the dosage of the psychotropic medication, and that there is a need to prescribe psychotropic medication to the child based upon a diagnosed condition for which such medication is being prescribed.

2. A statement indicating that the physician or psychiatric nurse, as defined in s. 394.455, has reviewed all medical information concerning the child which has been provided.

3. A statement indicating that the psychotropic medication, at its prescribed dosage, is appropriate for treating the child's diagnosed medical condition, as well as the behaviors and symptoms the medication, at its prescribed dosage, is expected to address.

4. An explanation of the nature and purpose of the treatment; the recognized side effects, risks, and contraindications of the medication; drug-interaction precautions; the possible effects of stopping the medication; and how the treatment will be monitored, followed by a statement indicating that this explanation was provided to the child if age appropriate and to the child's caregiver.

5. Documentation addressing whether the psychotropic medication will replace or supplement any other currently prescribed medications or treatments; the length of time the child is expected to be taking the medication; and any additional medical, mental health, behavioral, counseling, or other services that the prescribing physician or psychiatric nurse, as defined in s. 394.455, recommends.

(d)1. The department must notify all parties of the proposed action taken under paragraph (c) in writing or by whatever other method best ensures that all parties receive notification of the proposed action within 48 hours after the motion is filed. If any party objects to the department's motion, that party shall file the objection within 2 working days after being notified of the department's motion. If any party files an objection to the authorization of the proposed psychotropic medication, the court shall hold a hearing as soon as possible before authorizing the department to initially provide or to continue providing psychotropic medication to a child in the legal custody of the department. At such hearing and notwithstanding s. 90.803, the medical report described in paragraph (c) is admissible in evidence. The prescribing physician or psychiatric nurse, as defined in s. 394.455, does not need to attend the hearing or testify unless the court specifically orders such attendance or testimony, or a party subpoenas the physician or psychiatric nurse, as defined in s. 394.455, to attend the hearing or provide testimony. If, after considering any testimony received, the court finds that the department's motion and the physician's or psychiatric nurse's medical report meet the requirements of the subsection and that it is in the child's best interests, the court may order that the department provide or continue to provide the psychotropic medication to the child without additional testimony or evidence. At any hearing held under this paragraph, the court shall further inquire of the department as to whether additional medical, mental health, behavioral, counseling, or other services are being provided to the child by the department which the prescribing physician or psychiatric nurse, as

defined in s. 394.455, considers to be necessary or beneficial in treating the child's medical condition and which the physician or psychiatric nurse, as defined in s. 394.455, recommends or expects to provide to the child in concert with the medication. The court may order additional medical consultation, including consultation with the MedConsult line at the University of Florida, if available, or require the department to obtain a second opinion within a reasonable timeframe as established by the court, not to exceed 21 calendar days, after such order based upon consideration of the best interests of the child. The department must make a referral for an appointment for a second opinion with a physician or psychiatric nurse, as defined in s. 394.455, within 1 working day. The court may not order the discontinuation of prescribed psychotropic medication if such order is contrary to the decision of the prescribing physician or psychiatric nurse, as defined in s. 394.455, unless the court first obtains an opinion from a licensed psychiatrist, if available, or, if not available, a physician licensed under chapter 458 or chapter 459, stating that more likely than not, discontinuing the medication would not cause significant harm to the child. If, however, the prescribing psychiatrist specializes in mental health care for children and adolescents, the court may not order the discontinuation of prescribed psychotropic medication unless the required opinion is also from a psychiatrist who specializes in mental health care for children and adolescents. The court may also order the discontinuation of prescribed psychotropic medication if a child's treating physician, licensed under chapter 458 or chapter 459, or psychiatric nurse, as defined in s. 394.455, states that continuing the prescribed psychotropic medication would cause significant harm to the child due to a diagnosed nonpsychiatric medical condition.

2. The burden of proof at any hearing held under this paragraph shall be by a preponderance of the evidence.

(e)1. If the child's prescribing physician or psychiatric nurse, as defined in s. 394.455, certifies in the signed medical report required in paragraph (c) that delay in providing a prescribed psychotropic medication would more likely than not cause significant harm to the child, the medication may be provided in advance of the issuance of a court order. In such event, the medical report must provide the specific reasons why the child may experience significant harm and the nature and the extent of the potential harm. The department must submit a motion seeking continuation of the medication and the physician's or psychiatric nurse's medical report to the court, the child's guardian ad litem, and all other parties within 3 working days after the department commences providing the medication to the child. The department shall seek the order at the next regularly scheduled court hearing required under this chapter, or within 30 days after the date of the prescription, whichever occurs sooner. If any party objects to the department's motion, the court shall hold a hearing within 7 days.

2. Psychotropic medications may be administered in advance of a court order in hospitals, crisis stabilization units, and in statewide inpatient psychiatric programs. Within 3 working days after the medication is begun, the department must seek court authorization as described in paragraph (c).

(f)1. The department shall fully inform the court of the child's medical and behavioral status as part of the social services report prepared for each judicial review hearing held for a child for whom psychotropic medication has been prescribed or provided under this subsection. As a part of the information provided to the court, the department shall furnish copies of all pertinent medical records concerning the child which have been generated since the previous hearing. On its own motion or on good cause shown by any party, including any guardian ad litem, attorney, or attorney ad litem who has been appointed to represent the child or the child's interests, the court may review the status more frequently than required in this subsection.

2. The court may, in the best interests of the child, order the department to obtain a medical opinion addressing whether the continued use of the medication under the circumstances is safe and medically appropriate.

(g) The department shall adopt rules to ensure that children receive timely access to clinically appropriate psychotropic medications. These rules must include, but need not be limited to, the process for

determining which adjunctive services are needed, the uniform process for facilitating the prescribing physician's or psychiatric nurse's ability to obtain the express and informed consent of the child's parent or guardian, the procedures for obtaining court authorization for the provision of a psychotropic medication, the frequency of medical monitoring and reporting on the status of the child to the court, how the child's parents will be involved in the treatment-planning process if their parental rights have not been terminated, and how caretakers are to be provided information contained in the physician's or psychiatric nurse's signed medical report. The rules must also include uniform forms to be used in requesting court authorization for the use of a psychotropic medication and provide for the integration of each child's treatment plan and case plan. The department must begin the formal rulemaking process within 90 days after the effective date of this act.

(4)(a) A judge may order a child in an out-of-home placement to be examined by a licensed health care professional.

(b) The judge may also order such child to be evaluated by a psychiatrist or a psychologist or, if a developmental disability is suspected or alleged, by the developmental disability diagnostic and evaluation team of the department. If it is necessary to place a child in a residential facility for such evaluation, the criteria and procedure established in s. 394.463(2) or chapter 393 shall be used, whichever is applicable.

(c) The judge may also order such child to be evaluated by a district school board educational needs assessment team. The educational needs assessment provided by the district school board educational needs assessment team shall include, but not be limited to, reports of intelligence and achievement tests, screening for learning disabilities and other handicaps, and screening for the need for alternative education as defined in s. 1001.42.

(5) A judge may order a child in an out-of-home placement to be treated by a licensed health care professional based on evidence that the child should receive treatment. The judge may also order such child to receive mental health or developmental disabilities services from a psychiatrist, psychologist, or other appropriate service provider. Except as provided in subsection (6), if it is necessary to place the child in a residential facility for such services, the procedures and criteria established in s. 394.467 shall be used. A child may be provided mental health services in emergency situations, pursuant to the procedures and criteria contained in s. 394.463(1). Nothing in this section confers jurisdiction on the court with regard to determining eligibility or ordering services under chapter 393.

(6) Children ~~who are~~ in the legal custody of the department may be placed by the department, without prior approval of the court, in a residential treatment center licensed under s. 394.875 or a hospital licensed under chapter 395 for residential mental health treatment only pursuant to this section or may be placed by the court in accordance with an order of involuntary examination or involuntary placement entered pursuant to s. 394.463 or s. 394.467. All children placed in a residential treatment program under this subsection must have a guardian ad litem appointed.

(a) As used in this subsection, the term:

1.~~2.~~ "Least restrictive alternative" means the treatment and conditions of treatment that, separately and in combination, are no more intrusive or restrictive of freedom than reasonably necessary to achieve a substantial therapeutic benefit or to protect the child or adolescent or others from physical injury.

2.~~1.~~ "Residential treatment" or "residential treatment program" means a placement for observation, diagnosis, or treatment of an emotional disturbance in a residential treatment center licensed under s. 394.875 or a hospital licensed under chapter 395.

3. "Suitable for residential treatment" or "suitability" means a determination concerning a child or adolescent with an emotional disturbance as defined in s. 394.492(5) or a serious emotional disturbance as defined in s. 394.492(6) that each of the following criteria is met:

a. The child requires residential treatment.

b. The child is in need of a residential treatment program and is expected to benefit from mental or behavioral health treatment.

c. An appropriate, less restrictive alternative to residential treatment is unavailable.

4. "Therapeutic group home" means a residential treatment center that offers a 24-hour residential program providing community-based mental health treatment and mental health support services to children who meet the criteria in s. 394.492(5) or (6) in a nonsecure, homelike setting.

(b) Whenever the department believes that a child in its legal custody is emotionally disturbed and may need residential treatment, an examination and suitability assessment must be conducted by a qualified evaluator ~~who is~~ appointed by the department ~~Agency for Health Care Administration~~. This suitability assessment must be completed before the placement of the child in a residential treatment program ~~center for emotionally disturbed children and adolescents or a hospital~~.

1. The qualified evaluator for placement in a residential treatment center, other than a therapeutic group home, or a hospital must be a psychiatrist or a psychologist licensed in this state ~~Florida~~ who has at least 3 years of experience in the diagnosis and treatment of serious emotional disturbances in children and adolescents and who has no actual or perceived conflict of interest with any inpatient facility or residential treatment center or program.

2. The qualified evaluator for placement in a therapeutic group home must be a psychiatrist licensed under chapter 458 or chapter 459, a psychologist licensed under chapter 490, or a mental health counselor licensed under chapter 491 who has at least 2 years of experience in the diagnosis and treatment of serious emotional or behavioral disturbance in children and adolescents and who has no actual or perceived conflict of interest with any residential treatment center or program.

(c) Consistent with the requirements of this section ~~Before a child is admitted under this subsection~~, the child shall be assessed for suitability for residential treatment by a qualified evaluator who has conducted an ~~a personal~~ examination and assessment of the child and has made written findings that:

1. The child appears to have an emotional disturbance serious enough to require treatment in a residential treatment program and is reasonably likely to benefit from the treatment.

2. The child has been provided with a clinically appropriate explanation of the nature and purpose of the treatment.

3. All available modalities of treatment less restrictive than residential treatment have been considered, and a less restrictive alternative that would offer comparable benefits to the child is unavailable.

A copy of the written findings of the evaluation and suitability assessment must be provided to the department, to the guardian ad litem, and, if the child is a member of a Medicaid managed care plan, to the plan that is financially responsible for the child's care in residential treatment, all of whom must be provided with the opportunity to discuss the findings with the evaluator.

(d) Immediately upon placing a child in a residential treatment program under this section, the department must notify the guardian ad litem and the court having jurisdiction over the child. Within 5 days after the department's receipt of the assessment, the department shall ~~and must~~ provide the guardian ad litem and the court with a copy of the assessment by the qualified evaluator.

(e) Within 10 days after the admission of a child to a residential treatment program, the director of the residential treatment program or the director's designee must ensure that an individualized plan of treatment has been prepared by the program and has been explained to the child, to the department, and to the guardian ad litem, and submitted to the department. The child must be involved in the preparation of the plan to the maximum feasible extent consistent with his or her ability to understand and participate, and the guardian ad litem and the child's foster parents must be involved to the maximum extent consistent with the child's treatment needs. The plan must include a preliminary plan for residential treatment and aftercare upon completion of residential treatment. The plan must include specific behavioral and emotional goals

against which the success of the residential treatment may be measured. A copy of the plan must be provided to the child, to the guardian ad litem, and to the department.

(f) Within 30 days after admission, the residential treatment program must review the appropriateness and suitability of the child's placement in the program. The residential treatment program must determine whether the child is receiving benefit towards the treatment goals and whether the child could be treated in a less restrictive treatment program. The residential treatment program shall prepare a written report of its findings and submit the report to the guardian ad litem and to the department. The department must submit the report to the court. The report must include a discharge plan for the child. The residential treatment program must continue to evaluate the child's treatment progress every 30 days thereafter and must include its findings in a written report submitted to the department. The department may not reimburse a facility until the facility has submitted every written report that is due.

(g)1. The department must submit, at the beginning of each month, to the court having jurisdiction over the child, a written report regarding the child's progress towards achieving the goals specified in the individualized plan of treatment.

2. The court must conduct a hearing to review the status of the child's residential treatment plan no later than 60 days after the child's admission to the residential treatment program. An independent review of the child's progress towards achieving the goals and objectives of the treatment plan must be completed by a qualified evaluator and submitted to the court before its 60-day review.

3. For any child in residential treatment at the time a judicial review is held pursuant to s. 39.701, the child's continued placement in residential treatment must be a subject of the judicial review.

4. If at any time the court determines that the child is not suitable for continued residential treatment, the court shall order the department to place the child in the least restrictive setting that is best suited to meet his or her needs.

(h) After the initial 60-day review, the court must conduct a review of the child's residential treatment plan every 90 days.

~~(i) The department must adopt rules for implementing timeframes for the completion of suitability assessments by qualified evaluators and a procedure that includes timeframes for completing the 60-day independent review by the qualified evaluators of the child's progress towards achieving the goals and objectives of the treatment plan which review must be submitted to the court. The Agency for Health Care Administration must adopt rules for the registration of qualified evaluators, the procedure for selecting the evaluators to conduct the reviews required under this section, and a reasonable, cost-efficient fee schedule for qualified evaluators.~~

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

(8) Except as otherwise provided herein, nothing in this section shall be deemed to eliminate the right of a parent, legal custodian, or the child to consent to examination or treatment for the child.

(9) Except as otherwise provided herein, nothing in this section shall be deemed to alter the provisions of s. 743.064.

(10) A court shall not be precluded from ordering services or treatment to be provided to the child by a duly accredited practitioner who relies solely on spiritual means for healing in accordance with the tenets and practices of a church or religious organization, when required by the child's health and when requested by the child.

(11) Nothing in this section shall be construed to authorize the permanent sterilization of the child unless such sterilization is the result of or incidental to medically necessary treatment to protect or preserve the life of the child.

(12) For the purpose of obtaining an evaluation or examination, or receiving treatment as authorized pursuant to this section, no child alleged to be or found to be dependent shall be placed in a detention home or other program used primarily for the care and custody of children alleged or found to have committed delinquent acts.

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

(14) Nothing in this section alters the authority of the department to consent to medical treatment for a dependent child when the child has been committed to the department and the department has become the legal custodian of the child.

(15) At any time after the filing of a shelter petition or petition for dependency, when the mental or physical condition, including the blood group, of a parent, caregiver, legal custodian, or other person who has custody or is requesting custody of a child is in controversy, the court may order the person to submit to a physical or mental examination by a qualified professional. The order may be made only upon good cause shown and pursuant to notice and procedures as set forth by the Florida Rules of Juvenile Procedure.

(16) At any time after a shelter petition or petition for dependency is filed, the court may order a person who has custody or is requesting custody of the child to submit to a substance abuse assessment or evaluation. The assessment or evaluation must be administered by a qualified professional, as defined in s. 397.311. The order may be made only upon good cause shown. This subsection does not authorize placement of a child with a person seeking custody, other than the parent or legal custodian, who requires substance abuse treatment.

History.--s. 20, ch. 78-414; s. 14, ch. 80-290; s. 2, ch. 84-226; s. 8, ch. 84-311; s. 74, ch. 86-220; s. 2, ch. 87-238; s. 230, ch. 95-147; s. 11, ch. 95-228; s. 59, ch. 98-403; s. 24, ch. 99-193; s. 1, ch. 2000-265; s. 151, ch. 2000-349; s. 3, ch. 2002-219; s. 885, ch. 2002-387; s. 2, ch. 2005-65; s. 3, ch. 2006-97; s. 4, ch. 2006-227; s. 3, ch. 2016-241; s. 6, ch. 2019-142; s. 15, ch. 2020-39; s.1, ch. 2022-55.

39.4075 Referral of a dependency case to mediation.–

(1) At any stage in a dependency proceeding, any party may request the court to refer the parties to mediation in accordance with chapter 44 and rules and procedures developed by the Supreme Court.

(2) A court may refer the parties to mediation. When such services are available, the court must determine whether it is in the best interests of the child to refer the parties to mediation.

(3) The department shall advise the parties that they are responsible for contributing to the cost of the dependency mediation.

(4) This section applies only to courts in counties in which dependency mediation programs have been established and does not require the establishment of such programs in any county.

History.--s. 7, ch. 94-164; s. 60, ch. 98-403; s. 58, ch. 2003-402.
Note.--Former s. 39.4033.

39.4085 Goals for dependent children; responsibilities; education.–
(1) The Legislature finds that the design and delivery of child welfare services should be directed by the principle that the health and safety of children, including the freedom from abuse, abandonment, or neglect, is of paramount concern and, therefore, establishes the following goals for children in shelter or foster care:

(a) To receive a copy of this act and have it fully explained to them when they are placed in the custody of the department.

(b) To enjoy individual dignity, liberty, pursuit of happiness, and the protection of their civil and legal rights as persons in the custody of the state.

(c) To have their privacy protected, have their personal belongings secure and transported with them, and, unless otherwise ordered by the court, have uncensored communication, including receiving and sending unopened communications and having access to a telephone.

(d) To have personnel providing services who are sufficiently qualified and experienced to assess the risk children face before removal from their homes and to meet the needs of the children once they are in the custody of the department.

(e) To remain in the custody of their parents or legal custodians unless and until there has been a determination by a qualified person exercising competent professional judgment that removal is necessary to protect their physical, mental, or emotional health or safety.

(f) To have a full risk, health, educational, medical and psychological screening and, if needed, assessment and testing upon adjudication into foster care; and to have their photograph and fingerprints included in their case management file.

(g) To be referred to and receive services, including necessary medical, emotional, psychological, psychiatric, and educational evaluations and treatment, as soon as practicable after identification of the need for such services by the screening and assessment process.

(h) To be placed in a home with no more than one other child, unless they are part of a sibling group.

(i) To be placed away from other children known to pose a threat of harm to them, either because of their own risk factors or those of the other child.

(j) To be placed in a home where the shelter or foster caregiver is aware of and understands the child's history, needs, and risk factors.

(k) To be the subject of a plan developed by the counselor and the shelter or foster caregiver to deal with identified behaviors that may present a risk to the child or others.

(l) To be involved and incorporated, if appropriate, in the development of the case plan, to have a case plan which will address their specific needs, and to object to any of the provisions of the case plan.

(m) To receive meaningful case management and planning that will quickly return the child to his or her family or move the child on to other forms of permanency.

(n) To receive regular communication with a case manager, at least once a month, which shall include meeting with the child alone and conferring with the shelter or foster caregiver.

(o) To enjoy regular visitation, at least once a week, with their siblings unless the court orders otherwise.

(p) To enjoy regular visitation with their parents, at least once a month, unless the court orders otherwise.

(q) To receive a free and appropriate education; minimal disruption to their education and retention in their home school, if appropriate; referral to the child study team; all special educational services, including, if appropriate, the appointment of a parent surrogate; and the sharing of all necessary information between the school board and the department, including information on attendance and educational progress.

(r) To be able to raise grievances with the department over the care they are receiving from their caregivers, case managers, or other service providers.

(s) To be heard by the court, if appropriate, at all review hearings.

(t) To have a guardian ad litem appointed to represent, within reason, their best interests and, if appropriate, an attorney ad litem appointed to represent their legal interests; the guardian ad litem and attorney ad litem shall have immediate and unlimited access to the children they represent.

(u) To have all their records available for review by their guardian ad litem and attorney ad litem if they deem such review necessary.

(v) To organize as a group for purposes of ensuring that they receive the services and living conditions to which they are entitled and to provide support for one another while in the custody of the department.

(w) To be afforded prompt access to all available state and federal programs, including, but not limited to: Early Periodic Screening, Diagnosis, and Testing (EPSDT) services, developmental services programs, Medicare and supplemental security income, Children's Medical Services, and programs for severely emotionally disturbed children.

This subsection establishes goals and not rights. This subsection does not require the delivery of any particular service or level of service in excess of existing appropriations. A person does not have a cause of action against the state or any of its subdivisions, agencies, contractors, subcontractors, or agents, based upon the adoption of or failure to provide adequate funding for the achievement of these goals by the Legislature. This subsection does not require the expenditure of funds to meet the goals established in this subsection except those funds specifically appropriated for such purpose.

(2) The department shall operate with the understanding that the rights of children in shelter or foster care are critical to their safety, permanency, and well-being. The department shall work with all stakeholders to help such children become knowledgeable about their rights.

(3)(a) The case manager or other staff shall provide verbal and written instructions to a child entering shelter or foster care to educate the child on identifying and reporting abuse, abandonment, or neglect. The verbal and written instructions must use words and phrasing that each child can understand and must occur in a manner that is most effective for each child. The written instructions are only required if the child is of a sufficient age and understanding to receive such instructions. The case manager or other staff must give each child the opportunity to ask questions about his or her rights and how to identify and report abuse, abandonment, or neglect. The case manager or other staff shall document in court reports and case notes the date the information was provided to the child. The case manager or other staff must review the information with the child every 6 months and upon every placement change until the child leaves shelter or foster care.

(b) District school boards are authorized and encouraged to establish educational programs for students ages 5 through 18 relating to identifying and reporting abuse, abandonment, or neglect and the effects of such abuse, abandonment, or neglect on a child. The district school boards may provide such programs in conjunction with the youth mental health awareness and assistance training program required under s. 1012.584, any other mental health education program offered by the school district, or any of the educational instruction required under s. 1003.42(2).

History.--s. 5, ch. 99-206; s. 12, ch. 2021-170.

39.4087 Department goals and requirements relating to caregivers; dispute resolution.–

(1) To provide the best care to children, the Legislature establishes as goals for the department to treat foster parents, kinship caregivers, and nonrelative caregivers with dignity, respect, and trust while ensuring delivery of child welfare services is focused on the best interest of the child. To that end, regarding foster

parents, kinship caregivers, and nonrelative caregivers caring for dependent children in their home, to the extent not otherwise prohibited by state or federal law and to the extent of current resources, the department will strive to:

(a) Provide a clear explanation to a caregiver on the role of the department, the role of the child's biological family as it relates to the delivery of child welfare services, and the rights and responsibilities of the caregiver.

(b) Provide training and support to the caregiver to help meet the necessary requirements for the daily care of the child and any special needs the child may have.

(c)1. Fully disclose all relevant information regarding the child and the background of his or her biological family. Such disclosure includes, but is not limited to:

a. Any issues relative to the child that may jeopardize the health and safety of the caregiver or other individuals residing in the household or alter the manner in which the caregiver would normally provide care.

b. Any delinquency or criminal record of the child, including, but not limited to, any pending petitions or adjudications of delinquency when the conduct constituting the delinquent act, if committed by an adult, would constitute murder in the first degree, murder in the second degree, rape, robbery, or kidnapping.

c. Information about any physical or sexual abuse the child has experienced.

d. Any behavioral issues that may affect the care and supervision of the child.

e. With parental consent to the extent required by law, any known health history and medical, psychological, or behavioral health issues or needs of the child, including, but not limited to, current infectious diseases the child has or any episodes of hospitalization due to mental or physical illness.

2. A caregiver must maintain the confidentiality of any information provided under this paragraph as required by law.

(d) Allow caregivers to communicate with professionals who work with the child, including, but not limited to, therapists and other behavioral health professionals, physicians and other health care professionals, and teachers.

(e) Provide a means by which a caregiver may contact the community-based care lead agency 24 hours a day, 7 days a week, for the purpose of receiving assistance from the lead agency.

(f) Solicit and consider caregiver input on a child's case plan.

(g) Provide a clear, written explanation to a caregiver of any plan concerning the placement of a child in the caregiver's home. If a plan was not developed before the placement, the department must provide a clear, written explanation to the caregiver once the plan is developed.

(h) Provide information, when it becomes available, on any emergency situation that requires a child to be placed in the caregiver's home.

(i) Allow a caregiver to request the removal of a child from the home without retaliation. However, the caregiver must be open to receiving training or other support services that may mitigate the need for the child's removal. If removal occurs, the caregiver shall cooperate with any transition that is in the best interest of the child to the extent that doing so is safe for the caregiver and other individuals in the caregiver's home.

(j) Inform the caregiver as soon as possible of any decision made by a court or child-caring agency relating to a child who is placed with the caregiver.

(k) Give at least 7 days' notice to a caregiver, to the extent possible, of any meeting or court hearing related to a child in his or her care. The notice must include, at minimum, the name of the judge or hearing officer, the docket number, and the purpose and location of the hearing or meeting. If the department is providing such information to a child's biological parent, the department shall provide notice to the caregiver at the same time as the biological parent.

(l) Consider the caregiver as a placement option for a child if such child, who was formerly placed with the caregiver, reenters out-of-home care and the caregiver agrees to the child being placed with the caregiver upon reentry.

(m) Upon reasonable notice from a caregiver, allow him or her a period of respite.

(n) Upon request, provide a caregiver with copies of all information in the department's records relating to the caregiver.

(2)(a) If a caregiver believes that the department, an employee of the department, an agency under contract with the department, or an employee of such agency has violated this section, and that the violation has harmed or could harm a child who is or was in the custody of the department, or that the violation inhibited the caregiver's ability to meet the child's needs as set forth in the case plan, the caregiver may notify the liaison assigned to the caregiver or the child's case manager. The liaison or case manager must make every attempt to resolve the dispute.

(b) If a caregiver believes the dispute is not adequately resolved by the case manager, the caregiver or the liaison for the caregiver may contact the supervisor of the liaison or the supervisor of the case manager. If the caregiver or the liaison for the caregiver contacts a supervisor in writing, he or she may copy the department on the communication and the department shall maintain a record of any such communication received.

(c) If a caregiver believes that the supervisor of the liaison or the supervisor of the case manager did not adequately resolve the dispute, the caregiver may contact the department, and the department must conduct a review and respond to the caregiver in writing within 30 days after being contacted.

History.—s. 1, ch. 2019-156; s. 13, ch. 2021-170.

39.4091 Participation in childhood activities.–

(1) FINDINGS AND INTENT.—

(a) The Legislature finds that every day parents make important decisions about their child's participation in activities and that caregivers for children in out-of-home care are faced with making the same decisions for a child in their care.

(b) The Legislature also finds that when a caregiver makes decisions, he or she must consider applicable laws, rules, and regulations to safeguard the health and safety of a child in out-of-home care and that those rules and regulations have commonly been interpreted to prohibit children in out-of-home care from participating in extracurricular activities.

(c) The Legislature further finds that participation in these types of activities is important to the child's well-being, not only emotionally, but in developing valuable life-coping skills.

(d) It is the intent of the Legislature to recognize the importance of making every effort to normalize the lives of children in out-of-home care and to empower a caregiver to approve or disapprove a child's participation in activities based on the caregiver's own assessment using a reasonable and prudent parent standard, without prior approval of the department, the caseworker, or the court.

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

(a) "Age-appropriate" means activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity. Age appropriateness is based on the development of cognitive, emotional, physical, and behavioral capacity that is typical for an age or age group.

(b) "Caregiver" means a person with whom the child is placed in out-of-home care, or a designated official for group care facilities licensed by the Department of Children and Families pursuant to s. 409.175.

(c) "Reasonable and prudent parent standard" means the standard characterized by careful and sensible parental decisions that maintain the child's health, safety, and best interests while at the same time encouraging the child's emotional and developmental growth, that a caregiver shall use when determining

whether to allow a child in out-of-home care to participate in extracurricular, enrichment, and social activities.

(3) REQUIREMENTS FOR DECISIONMAKING.—

(a) Each child who comes into care under this chapter is entitled to participate in age-appropriate extracurricular, enrichment, and social activities.

(b) Caregivers must use a reasonable and prudent parent standard in determining whether to give permission for a child in out-of-home care to participate in extracurricular, enrichment, and social activities. When using the reasonable and prudent parent standard, the caregiver shall consider:

1. The child's age, maturity, and developmental level to maintain the overall health and safety of the child.

2. The potential risk factors and the appropriateness of the extracurricular, enrichment, and social activity.

3. The best interest of the child based on information known by the caregiver.

4. The importance of encouraging the child's emotional and developmental growth.

5. The importance of providing the child with the most family-like living experience possible.

6. The behavioral history of the child and the child's ability to safely participate in the proposed activity, as with any other child.

(c) The department and community-based care lead agencies are required to verify that private agencies providing out-of-home services to dependent children have policies consistent with this section and that those agencies promote and protect the ability of dependent children to participate in age-appropriate extracurricular, enrichment, and social activities.

(d) A caregiver as defined in this section is not liable for harm caused to a child in care who participates in an activity approved by the caregiver, provided that the caregiver has acted as a reasonable and prudent parent. This section does not remove or limit any existing liability protection afforded by statute.

(4) RULEMAKING.–The department shall adopt by rule procedures to administer this section.

History.--s. 2, ch. 2013-21; s. 2, ch. 2013-21.

Note: This language reflects changes from HB 215. See similar language in 409.145.

39.4092 Multidisciplinary legal representation model program for parents of children in the dependency system.–

(1) LEGISLATIVE FINDINGS.–

(a) The Legislature finds that the use of a specialized team that includes an attorney, a social worker, and a parent-peer specialist, also known as a multidisciplinary legal representation model program, in dependency judicial matters is effective in reducing safety risks to children and providing families with better outcomes, such as significantly reducing the time the children spend in out-of-home care and achieving permanency more quickly.

(b) The Legislature finds that parents in dependency court often suffer from multiple challenges, such as mental illness, substance use disorder, domestic violence or other trauma, unstable housing, or unemployment. These challenges are often a contributing factor to children experiencing instability or safety risks. While these challenges may result in legal involvement or require legal representation, addressing the underlying challenges in a manner that achieves stability often falls within the core functions of the practice of social work.

(c) The Legislature also finds that social work professionals have a unique skill set, including client assessment and clinical knowledge of family dynamics. This unique skill set allows these professionals to interact and engage with families in meaningful and unique ways that are distinct from the ways in which

the families interact with attorneys or other professional staff involved in dependency matters. Additionally, social work professionals are skilled at quickly connecting families facing crisis to resources that can address the specific underlying challenges.

(d) The Legislature finds that there is a great benefit to using parent-peer specialists in the dependency system, which allows parents who have successfully navigated the dependency system and have been successfully reunified with their children to be paired with parents whose children are currently involved in the dependency system. By working with someone who has personally lived the experience of overcoming great personal crisis, parents currently involved in the dependency system have a greater ability to address the underlying challenges that resulted in the instability and safety risk to their children, to provide a safe and stable home environment, and to be successfully reunified.

(e) The Legislature further finds that current federal law authorizes the reimbursement of a portion of the cost of attorneys for parents and children in eligible cases, whereas such funds were formerly restricted to foster care administrative costs.

(f) The Legislature finds it is necessary to encourage and facilitate the use of a multidisciplinary legal representation model for parents and their children in order to improve outcomes for those families involved in the dependency system and to provide the families who find themselves in a crisis with the best opportunity to be successful in creating safe and stable homes for their children.

(2) ESTABLISHMENT.–Each office of criminal conflict and civil regional counsel established under s. 27.511 may establish a multidisciplinary legal representation model program to serve families in the dependency system.

(3) DUTIES.–

(a) The department shall collaborate with the office of criminal conflict and civil regional counsel to determine and execute any necessary documentation for approval of federal Title IV-E matching funding. The department shall submit such documentation as promptly as possible upon the establishment of a multidisciplinary legal representation model program and shall execute the necessary agreements to ensure the program accesses available federal matching funding for the program in order to help eligible families involved in the dependency system.

(b) An office of criminal conflict and civil regional counsel that establishes a multidisciplinary legal representation model program must, at a minimum:

1. Use a team that consists of an attorney, a forensic social worker, and a parent-peer specialist. For purposes of this section, the term “parent-peer specialist” means a person who has:

a. Previously had his or her child removed from his or her care and placed in out-of-home care.

b. Been successfully reunified with the child for more than 2 years.

c. Received specialized training to become a parent-peer specialist.

2. Comply with any necessary cost-sharing or other agreements to maximize financial resources and enable access to available federal Title IV-E matching funding.

3. Provide specialized training and support for attorneys, forensic social workers, and parent-peer specialists involved in the model program.

4. Collect uniform data on each child whose parent is served by the program and ensure that reporting of data is conducted through the child’s unique identification number in the Florida Safe Families Network or any successor system, if applicable.

5. Develop consistent operational program policies and procedures throughout each region that establishes the model program.

6. Obtain agreements with universities relating to approved placements for social work students to ensure the placement of social workers in the program.

7. Execute conflict of interest agreements with each team member.

(4) REPORTING.–

(a) Beginning October 1, 2022, and annually thereafter through October 1, 2025, each office of criminal conflict and civil regional counsel that establishes a multidisciplinary legal representation model program must submit an annual report to the Office of Program Policy Analysis and Government Accountability. The annual report must use the uniform data collected on each unique child whose parents are served by the program and must detail, at a minimum, all of the following:

1. Reasons the family became involved in the dependency system.

2. Length of time it takes to achieve a permanency goal for children whose parents are served by the program.

3. Frequency of each type of permanency goal achieved by children whose parents are served by the program.

4. Rate of subsequent abuse or neglect which results in the removal of children whose parents are served by the program.

5. Any other relevant factors that tend to show the impact of the use of such multidisciplinary legal representation model programs on the outcomes for children in the dependency system. Each region that has established a model program must agree on the additional factors and how to collect data on such additional factors for the annual report.

(b) The Office of Program Policy Analysis and Government Accountability shall compile the results of the reports required under paragraph (a) and conduct an analysis comparing the reported outcomes from the multidisciplinary legal representation model program to known outcomes of children in the dependency system whose parents are not served by a multidisciplinary legal representation model program. Each office of criminal conflict and civil regional counsel shall provide any additional information or data requested by the Office of Program Policy Analysis and Government Accountability for its analysis. By December 1, 2022, and annually thereafter through December 1, 2025, the Office of Program Policy Analysis and Government Accountability must submit its analysis in a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

History.--s. 14, ch. 2021-170.

PART V
PETITION, ARRAIGNMENT, ADJUDICATION, AND DISPOSITION

39.501 Petition for dependency.–

(1) All proceedings seeking an adjudication that a child is dependent shall be initiated by the filing of a petition by an attorney for the department, or any other person who has knowledge of the facts alleged or is informed of them and believes that they are true.

(2) The purpose of a petition seeking the adjudication of a child as a dependent child is the protection of the child and not the punishment of the person creating the condition of dependency.

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

(b) The form of the petition and its contents shall be determined by rules of juvenile procedure adopted by the Supreme Court.

(c) The petition must specifically set forth the acts or omissions upon which the petition is based and the identity of the person or persons alleged to have committed the acts or omissions, if known. The petition need not contain allegations of acts or omissions by both parents.

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

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

2. A parent or legal custodian named in the petition has participated in mediation and whether a mediation agreement exists;

3. A parent or legal custodian has rejected the voluntary services offered by the department;

4. A parent or legal custodian named in the petition has not fully complied with a safety plan; or

5. The department has determined that voluntary services are not appropriate for the parent or legal custodian and the reasons for such determination.

If the department is the petitioner, it shall provide all safety plans as defined in s. 39.01 involving the parent

or legal custodian to the court.

(4) When a child has been placed in shelter status by order of the court, a petition alleging dependency must be filed within 21 days after the shelter hearing, or within 7 days after any party files a demand for the early filing of a dependency petition, whichever comes first. In all other cases, the petition must be filed within a reasonable time after the date the child was referred to protective investigation. The child's parent or legal custodian must be served with a copy of the petition at least 72 hours before the arraignment hearing.

(5) A petition for termination of parental rights may be filed at any time.

History.--s. 20, ch. 78-414; s. 7, ch. 84-311; s. 1, ch. 85-338; s. 7, ch. 87-289; s. 14, ch. 88-337; s. 6, ch. 90-306; s. 5, ch. 92-170; s. 8, ch. 94-164; s. 62, ch. 98-403; s. 25, ch. 99-193; s. 13, ch. 2014-224.

Note.--Former s. 39.404.

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), in which case notice shall be provided pursuant to subsection (19).

(2) Personal appearance of any person in a hearing before the court obviates the necessity of serving process on that person.

(3) Upon the filing of a petition containing allegations of facts which, if true, would establish that the child is a dependent child, and upon the request of the petitioner, the clerk or deputy clerk shall issue a summons.

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

(5) The summons shall be directed to, and shall be served upon, all parties other than the petitioner.

(6) It is the duty of the petitioner or moving party to notify all participants and parties known to the petitioner or moving party of all hearings subsequent to the initial hearing unless notice is contained in prior court orders and these orders were provided to the participant or party. Proof of notice or provision of orders may be provided by certified mail with a signed return receipt.

(7) Service of the summons and service of pleadings, papers, and notices subsequent to the summons on persons outside this state must be made pursuant to s. 61.509.

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

(9) When an affidavit of diligent search has been filed under subsection (8), the petitioner shall continue to search for and attempt to serve the person sought until excused from further search by the court. The

petitioner shall report on the results of the search at each court hearing until the person is identified or located or further search is excused by the court.

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

(11) Upon the application of a party or the petitioner, the clerk or deputy clerk shall issue, and the court on its own motion may issue, subpoenas requiring attendance and testimony of witnesses and production of records, documents, and other tangible objects at any hearing.

(12) All process and orders issued by the court shall be served or executed as other process and orders of the circuit court and, in addition, may be served or executed by authorized agents of the department or the guardian ad litem.

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

(14) No fee shall be paid for service of any process or other papers by an agent of the department or the guardian ad litem. If any process, orders, or any other papers are served or executed by any sheriff, the sheriff's fees shall be paid by the county.

(15) A party who is identified as a person who has a mental illness or a developmental disability must be informed by the court of the availability of advocacy services through the department, the Arc of Florida, or other appropriate mental health or developmental disability advocacy groups and encouraged to seek such services.

(16) If the party to whom an order is directed is present or represented at the final hearing, service of the order is not required.

(17) The parent or legal custodian of the child, the attorney for the department, the guardian ad litem, the foster or preadoptive parents, and all other parties and participants shall be given reasonable notice of all proceedings and hearings provided for under this part. All foster or preadoptive parents must be provided with at least 72 hours' notice, verbally or in writing, of all proceedings or hearings relating to children in their care or children they are seeking to adopt to ensure the ability to provide input to the court.

(18) In all proceedings under this part, the court shall provide to the parent or legal custodian of the child, at the conclusion of any hearing, a written notice containing the date of the next scheduled hearing. The court shall also include the date of the next hearing in any order issued by the court.

(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) 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) if the relative's involvement is determined to be impeding the dependency process or detrimental to the child's well-being.

History.--s. 20, ch. 78-414; s. 2, ch. 83-255; s. 6, ch. 92-170; s. 9, ch. 94-164; s. 4, ch. 97-276; s. 63, ch. 98-403; s. 26, ch. 99-193; s. 20, ch. 2000-139; s. 1, ch. 2002-65; s. 9, ch. 2008-245; s. 8, ch. 2009-43; s. 17, ch. 2012-178; s. 1, ch. 2013-162.

Note.--Former s. 39.405.

39.503 Identity or location of parent unknown; special procedures.–

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

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

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

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

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

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

(f) Whether a man is named on the birth certificate of the child pursuant to s. 382.013(2).

(g) Whether a man has been determined by a court order to be the father of the child.

(h) Whether a man has been determined to be the father of the child by the Department of Revenue as provided in s. 409.256.

(2) The information required in subsection (1) may be supplied to the court or the department in the form of a sworn affidavit by a person having personal knowledge of the facts.

(3) If the inquiry under subsection (1) identifies any person as a parent or prospective parent, the court shall require notice of the hearing to be provided to that person.

(4) If the inquiry under subsection (1) fails to identify any person as a parent or prospective parent, the court shall so find and may proceed without further notice.

(5) If the inquiry under subsection (1) identifies a parent or prospective parent, and that person's location is unknown, the court shall direct the petitioner to conduct a diligent search for that person before scheduling a disposition hearing regarding the dependency of the child unless the court finds that the best interest of the child requires proceeding without notice to the person whose location is unknown.

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

(7) Any agency contacted by a petitioner with a request for information pursuant to subsection (6) shall release the requested information to the petitioner without the necessity of a subpoena or court order.

(8) If the inquiry and diligent search identifies a prospective parent, that person must be given the opportunity to become a party to the proceedings by completing a sworn affidavit of parenthood and filing it with the court or the department. A prospective parent who files a sworn affidavit of parenthood while the child is a dependent child but no later than at the time of or before the adjudicatory hearing in any termination of parental rights proceeding for the child shall be considered a parent for all purposes under this section unless the other parent contests the determination of parenthood. If the known parent contests the recognition of the prospective parent as a parent, the prospective parent may not be recognized as a parent until proceedings to determine maternity or paternity under chapter 742 have been concluded. However, the prospective parent shall continue to receive notice of hearings as a participant pending results of the chapter 742 proceedings to determine maternity or paternity.

(9) If the diligent search under subsection (5) fails to identify and locate a parent or prospective parent, the court shall so find and may proceed without further notice.

History.--s. 10, ch. 94-164; s. 5, ch. 97-276; s. 64, ch. 98-403; s. 18, ch. 99-2; s. 27, ch. 99-193; s. 21, ch. 2000-139; s. 10, ch. 2008-245; s. 8, ch. 2017-151.
Note.--Former s. 39.4051.

39.504 Injunction 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. If there is a pending dependency proceeding regarding the child whom the injunction is sought to protect, the judge hearing the dependency proceeding must also hear the injunction proceeding regarding the child.

(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.

(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. If the petitioner cannot locate the alleged offender for service after a diligent search pursuant to the same requirements as in s. 39.503 and the filing of an affidavit of diligent search, the court may enter the injunction based on the sworn petition and any affidavits. At the hearing, the court may base its determination on a sworn petition, testimony, or an affidavit and may hear all relevant and material evidence, including oral and written reports, to the extent of its probative value even though it would not be competent evidence at an adjudicatory hearing. 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) 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 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 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. Vacate the home in which the child resides.

7. Comply with the terms of a safety plan implemented in the injunction pursuant to s. 39.301.

(b) Upon proper pleading, the court may award the following relief in a temporary ex parte or final injunction:

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

2. 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 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) 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) 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.

History.--s. 1, ch. 84-226; s. 1, ch. 91-224; s. 228, ch. 95-147; s. 10, ch. 95-228; s. 65, ch. 98-403; s. 28, ch. 99-193; s. 11, ch. 2008-245; s. 9, ch. 2012-178; s. 14, ch. 2014-224; s. 9, ch. 2017-151.

Note.--Former s. 39.4055.

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

History.--s. 20, ch. 78-414; s. 229, ch. 95-147; s. 66, ch. 98-403.

Note.--Former s. 39.406.

39.506 Arraignment hearings.–

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

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

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

(4) At the arraignment hearing, each party shall provide to the court a permanent mailing address. The court shall advise each party that this address will be used by the court and the petitioner for notice purposes unless and until the party notifies the court and the petitioner in writing of a new mailing address.

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

(6) At any arraignment hearing, if the child is in an out-of-home placement, the court shall order visitation rights absent a clear and convincing showing that visitation is not in the best interest of the child. Any order for visitation or other contact must conform to the provisions of s. 39.0139.

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

(8) At the arraignment hearing, the court shall review the necessity for the child's continued placement in the shelter. The court shall also make a written determination regarding the child's continued placement in

shelter within 24 hours after any violation of the time requirements for the filing of a petition or prior to the court's granting any continuance as specified in subsection (5).

(9) At the conclusion of the arraignment hearing, all parties and the relatives who are providing out-of-home care for the child shall be notified in writing by the court of the date, time, and location for the next scheduled hearing.

History.--s. 9, ch. 84-311; s. 12, ch. 94-164; s. 10, ch. 98-280; s. 67, ch. 98-403; s. 29, ch. 99-193; s.3, ch. 2002-216; s. 3, ch. 2007-109; s. 9, ch. 2009-43.
Note.--Former s. 39.408(1).

39.507 Adjudicatory hearings; orders of adjudication.–

(1)(a) The adjudicatory hearing shall be held as soon as practicable after the petition for dependency is filed and in accordance with the Florida Rules of Juvenile Procedure, but no later than 30 days after the arraignment.

(b) Adjudicatory hearings shall be conducted by the judge without a jury, applying the rules of evidence in use in civil cases and adjourning the hearings from time to time as necessary. In a hearing on a petition in which it is alleged that the child is dependent, a preponderance of evidence will be required to establish the state of dependency. Any evidence presented in the dependency hearing which was obtained as the result of an anonymous call must be independently corroborated. In no instance shall allegations made in an anonymous report of abuse, abandonment, or neglect be sufficient to support an adjudication of dependency in the absence of corroborating evidence.

(2) All hearings, except as provided in this section, shall be open to the public, and a person may not be excluded except on special order of the judge, who may close any hearing to the public upon determining that the public interest or the welfare of the child is best served by so doing. The parents or legal custodians shall be allowed to obtain discovery pursuant to the Florida Rules of Juvenile Procedure, provided such discovery does not violate the provisions of s. 39.202. Hearings involving more than one child may be held simultaneously when the children involved are related to each other or were involved in the same case. The child and the parents, caregivers, or legal custodians of the child may be examined separately and apart from each other.

(3) Except as otherwise specifically provided, nothing in this section prohibits the publication of the proceedings in a hearing.

(4) If the court finds at the adjudicatory hearing that the child named in a petition is not dependent, it shall enter an order so finding and dismissing the case.

(5) If the court finds that the child named in the petition is dependent, but finds that no action other than supervision in the child's home is required, it may enter an order briefly stating the facts upon which its finding is based, but withholding an order of adjudication and placing the child's home under the supervision of the department. If the court later finds that the parents of the child have not complied with the conditions of supervision imposed, the court may, after a hearing to establish the noncompliance, but without further evidence of the state of dependency, enter an order of adjudication and shall thereafter have full authority under this chapter to provide for the child as adjudicated. If the child is to remain in an out-of-home placement by order of the court, the court must adjudicate the child dependent.

(6) If the court finds that the child named in a petition is dependent, but chooses not to withhold adjudication or is prohibited from withholding adjudication, it shall incorporate that finding in an order of adjudication entered in the case, briefly stating the facts upon which the finding is made, and the court shall

thereafter have full authority under this chapter to provide for the child as adjudicated.

(7)(a) For as long as a court maintains jurisdiction over a dependency case, only one order adjudicating each child in the case dependent shall be entered. This order establishes the legal status of the child for purposes of proceedings under this chapter and may be based on the conduct of one parent, both parents, or a legal custodian.

(b) However, the court must determine whether each parent or legal custodian identified in the case abused, abandoned, or neglected the child or engaged in conduct that placed the child at substantial risk of imminent abuse, abandonment, or neglect. If a second parent is served and brought into the proceeding after the adjudication and if an evidentiary hearing for the second parent is conducted, the court shall supplement the adjudicatory order, disposition order, and the case plan, as necessary. The petitioner is not required to prove actual harm or actual abuse by the second parent in order for the court to make supplemental findings regarding the conduct of the second parent. The court is not required to conduct an evidentiary hearing for the second parent in order to supplement the adjudicatory order, the disposition order, and the case plan if the requirements of s. 39.506(3) or (5) are satisfied. With the exception of proceedings pursuant to s. 39.811, the child's dependency status may not be retried or readjudicated.

(c) If a court adjudicates a child dependent and the child is in out-of-home care, the court shall inquire of the parent or parents whether the parents have relatives who might be considered as a placement for the child. The parent or parents shall provide the court and all parties with identification and location information for such relatives. The court shall advise the parents in plain language that:

1. Parents must take action to comply with the case plan so permanency with the child may occur within the shortest period of time possible, but no later than 1 year after removal or adjudication of the child.

2. Parents must stay in contact with their attorney and their case manager and provide updated contact information if the parents' phone number, address, or e-mail address changes.

3. Parents must notify the parties and the court of barriers to completing case plan tasks within a reasonable time after discovering such barriers.

4. If the parents fail to substantially comply with the case plan, their parental rights may be terminated and that the child's out-of-home placement may become permanent.

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

(9) An order of adjudication by a court that a child is dependent shall not be deemed a conviction, nor shall the child be deemed to have been found guilty or to be a criminal by reason of that adjudication, nor shall that adjudication operate to impose upon the child any of the civil disabilities ordinarily imposed by or resulting from conviction or disqualify or prejudice the child in any civil service application or appointment.

(10) After an adjudication of dependency, or a finding of dependency in which adjudication is withheld, the court may order a person who has custody or is requesting custody of the child to submit to a mental health or substance abuse disorder assessment or evaluation. The order may be made only upon good cause shown and pursuant to notice and procedural requirements provided under the Florida Rules of Juvenile Procedure. The assessment or evaluation must be administered by an appropriate qualified professional, as defined in s. 39.01 or s. 397.311. The court may also require such person to participate in and comply with treatment and services identified as necessary, including, when appropriate and available, participation in and compliance with a mental health court program established under [1]s. 394.47892 or a treatment-based drug court program

established under s. 397.334. In addition to supervision by the department, the court, including the mental health court program or treatment-based drug court program, may oversee the progress and compliance with treatment by a person who has custody or is requesting custody of the child. The court may impose appropriate available sanctions for noncompliance upon a person who has custody or is requesting custody of the child or make a finding of noncompliance for consideration in determining whether an alternative placement of the child is in the child's best interests. Any order entered under this subsection may be made only upon good cause shown. This subsection does not authorize placement of a child with a person seeking custody, other than the parent or legal custodian, who requires mental health or substance abuse disorder treatment.

History.--s. 20, ch. 78-414; s. 9, ch. 84-311; s. 7, ch. 87-133; s. 12, ch. 94-164; s. 231, ch. 95-147; s. 12, ch. 95-228; s. 68, ch. 98-403; s. 30, ch. 99-193; s. 11, ch. 2006-86; s. 4, ch. 2006-97; s. 12, ch. 2008-245; s. 2, ch. 2016-127; s. 83, ch. 2016-241; s. 10, ch. 2017-151; s. 4, ch. 2019-128.

[1]Note.--As amended by s. 83, ch. 2016-241. The amendment by s. 2, ch. 2016-127, uses the reference "s. 394.47892" instead of the reference "chapter 394."

Note.--Former ss. 39.408(2), 39.409**.**

39.5075 Citizenship or residency status for immigrant child who are dependents.–

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

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

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

1. The child has been found dependent based on allegations of abuse, neglect, or abandonment;
2. The child is eligible for long-term foster care;
3. It is in the best interest of the child to remain in the United States; and
4. The child remains under the jurisdiction of the juvenile court.

(2) Whenever a child is adjudicated dependent, the department or community-based care provider shall determine whether the child is a citizen of the United States. The department or community-based care provider shall report to the court in its first judicial review concerning the child whether the child is a citizen of the United States and, if not, the steps that have been taken to address the citizenship or residency status of the child. Services to children alleged to have been abused, neglected, or abandoned must be provided without regard to the citizenship of the child except where alienage or immigration status is explicitly set forth as a statutory condition of coverage or eligibility.

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

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

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

the child.

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

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

(8) The department shall adopt rules to administer this section.
History.--s. 1, ch. 2005-245.

39.5085 Relative Caregiver Program.–
(1) It is the intent of the Legislature in enacting this section to:

(a) Provide for the establishment of procedures and protocols that serve to advance the continued safety of children by acknowledging the valued resource uniquely available through grandparents, relatives of children, and specified nonrelatives of children pursuant to subparagraph (2)(a)3.

(b) Recognize family relationships in which a grandparent or other relative is the head of a household that includes a child otherwise at risk of foster care placement.

(c) Enhance family preservation and stability by recognizing that most children in such placements with grandparents and other relatives do not need intensive supervision of the placement by the courts or by the department.

(d) Recognize that permanency in the best interests of the child can be achieved through a variety of permanency options, including permanent guardianship under s. 39.6221 if the guardian is a relative, by permanent placement with a fit and willing relative under s. 39.6231, by a relative, guardianship under chapter 744, or adoption, by providing additional placement options and incentives that will achieve permanency and stability for many children who are otherwise at risk of foster care placement because of abuse, abandonment, or neglect, but who may successfully be able to be placed by the dependency court in the care of such relatives.

(e) Reserve the limited casework and supervisory resources of the courts and the department for those cases in which children do not have the option for safe, stable care within the family.

(f) Recognize that a child may have a close relationship with a person who is not a blood relative or a relative by marriage and that such person would be eligible for financial assistance under this section if he or she is able and willing to care for the child and provide a safe, stable home environment.

(2)(a) The Department of Children and Families shall establish, operate, and implement the Relative Caregiver Program by rule of the department. The Relative Caregiver Program shall, within the limits of available funding, provide financial assistance to:

1. Relatives who are within the fifth degree by blood or marriage to the parent or stepparent of a child and who are caring full-time for that dependent child in the role of substitute parent as a result of a court's determination of child abuse, neglect, or abandonment and subsequent placement with the relative under this chapter.

2. Relatives who are within the fifth degree by blood or marriage to the parent or stepparent of a

child and who are caring full-time for that dependent child, and a dependent half-brother or half-sister of that dependent child, in the role of substitute parent as a result of a court's determination of child abuse, neglect, or abandonment and subsequent placement with the relative under this chapter. The placement may be court-ordered temporary legal custody to the relative under protective supervision of the department pursuant to s. 39.521(1)(b)3., or court-ordered placement in the home of a relative as a permanency option under s. 39.6221 or s. 39.6231 or under former 39.622 if the placement was made before July 1, 2006. The Relative Caregiver Program shall offer financial assistance to caregivers who are relatives and who would be unable to serve in that capacity without the relative caregiver payment because of financial burden, thus exposing the child to the trauma of placement in a shelter or in foster care.

3. Nonrelatives who are willing to assume custody and care of a dependent child in the role of substitute parent as a result of a court's determination of child abuse, neglect, or abandonment and subsequent placement with the nonrelative caregiver under this chapter. The court must find that a proposed placement under this subparagraph is in the best interest of the child.

4. A relative or nonrelative caregiver, but the relative or nonrelative caregiver may not receive a Relative Caregiver Program payment if the parent or stepparent of the child resides in the home. However, a relative or nonrelative may receive the Relative Caregiver Program payment for a minor parent who is in his or her care, as well as for the minor parent's child, if both children have been adjudicated dependent and meet all other eligibility requirements. If the caregiver is currently receiving the payment, the Relative Caregiver Program payment must be terminated no later than the first of the following month after the parent or stepparent moves into the home, allowing for 10-day notice of adverse action.

The placement may be court-ordered temporary legal custody to the relative or nonrelative under protective supervision of the department pursuant to s. 39.521(1)(c)3. or court-ordered placement in the home of a relative or nonrelative as a permanency option under s. 39.6221 or s. 39.6231 or under former s. 39.622 if the placement was made before July 1, 2006. The relative Caregiver Program shall offer financial assistance to caregivers who would be unable to serve in that capacity without the caregiver payment because of financial burden, thus exposing the child to the trauma of placement in a shelter or in foster care.

(b) Caregivers who receive assistance under this section must be capable, as determined by a home study, of providing a physically safe environment and a stable, supportive home for the children under their care, and must assure that the children's well-being is met, including, but not limited to, the provision of immunizations, education, and mental health services as needed.

(c) Relatives or nonrelatives who qualify for and participate in the Relative Caregiver Program are not required to meet foster care licensing requirements under s. 409.175.

(d)1. Relatives or nonrelatives who have a child placed with them in out-of-home care and who have obtained licensure as a child-specific level I foster placement, regardless of whether a court has found the child to be dependent, shall receive a monthly payment in accordance with s. 409.145(3) from the date the child is placed in out-of-home care with his or her relatives or with nonrelatives until the child achieves permanency as determined by the court pursuant to s. 39.621.

2. Relatives or nonrelatives who have a child who has been found to be dependent placed with them in out-of-home care shall receive a monthly payment at a rate equal to the rate established in s. 409.145(3) for licensed foster parents, regardless of whether the relatives or nonrelatives have obtained a child-specific level I foster license, from the date the child is found to be dependent or from the date the child is placed with them in out-of-home care, whichever is later, for a period of no more than 6 months or until the child achieves permanency as determined by the court pursuant to s. 39.621, whichever occurs first.

3. Relatives or nonrelatives who have a child who has been found to be dependent placed with them in out-of-home care and who have not obtained a child-specific level I foster license within 6 months from the date of such placement shall receive a monthly payment in an amount determined by department rule from 6 months after the date the child is found to be dependent or from 6 months after the child is placed

with them in out-of-home care, whichever is later, until the relatives or nonrelatives obtain a child-specific level I foster license or until the child achieves permanency as determined by the court pursuant to s. 39.621, whichever occurs first. The monthly payment amount paid to relatives or nonrelatives pursuant to this subparagraph must be less than the monthly payment amount provided to a participant enrolled in the Guardianship Assistance Program pursuant to s. 39.6225.

4. Relatives or nonrelatives who have a child placed in their care by permanent guardianship pursuant to s. 39.6221, in a permanent placement with a fit and willing relative pursuant to s. 39.6231, or under former s. 39.622 if the placement was made before July 1, 2006, and who are not enrolled in the Guardianship Assistance Program pursuant to s. 39.6225 shall receive a monthly payment in an amount determined by department rule which must be less than the monthly payment amount provided to a participant enrolled in the Guardianship Assistance Program under s. 39.6225 ~~Relatives or nonrelatives who are caring for children placed with them by the court pursuant to this chapter shall receive a special monthly caregiver benefit established by rule of the department~~.

(e) Relatives or nonrelatives obtaining monthly payments under this section may also obtain a special benefit payment. The amount of the special benefit payment shall be based on the child's age within a payment schedule established by rule of the department and subject to availability of funding. ~~The statewide average monthly rate for children judicially placed with relatives or nonrelatives who are not licensed as foster homes may not exceed 82 percent of the statewide average foster care rate, and the cost of providing the assistance described in this section to any caregiver may not exceed the cost of providing out-of-home care in emergency shelter or foster care.~~

(f)~~(e)~~ Children receiving cash benefits under this section are not eligible to simultaneously receive WAGES cash benefits under chapter 414.

(g)~~(f)~~ Within available funding, the Relative Caregiver Program shall provide caregivers with family support and preservation services, flexible funds in accordance with s. 409.165, school readiness, and other available services in order to support the child's safety, growth, and healthy development. Children living with caregivers who are receiving assistance under this section shall be eligible for Medicaid coverage.

(h)~~(g)~~ The department may use appropriate available state, federal, and private funds to operate the Relative Caregiver Program. The department may develop liaison functions to be available to relatives or nonrelatives who care for children pursuant to this chapter to ensure placement stability in extended family settings.

(i)~~(h)~~ If the department determines that a nonrelative caregiver has received financial assistance under this section to which he or she is not entitled, the department shall take all necessary steps to recover such payment. The department may make appropriate settlements and may adopt rules to calculate and recover such payments.

History.--s. 1, ch. 98-78; s. 70, ch. 98-403; s. 32, ch. 99-193; s. 24, ch. 2000-139; s. 1, ch. 2002-38; s. 12, ch. 2006-86; s. 2, ch. 2007-5; s. 10, ch. 2009-43; s. 3, ch. 2010-210; s. 20, ch. 2014-19; s. 15, ch. 2014-224; s. 11, ch. 2017-151; s. 5, ch. 2018-103; s. 1, ch. 2022-68.

39.5086 Kinship navigator programs.–

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

(a) "Kinship care" means the full-time care of a child placed in out-of-home care by the court in the home of a relative or fictive kin.

(b) "Kinship navigator program" means a program designed to ensure that kinship caregivers are provided with necessary resources for the preservation of the family.

(c) "Relative" means an individual who is caring full time for a child placed in out-of-home care by the court and who:

1. Is related to the child within the fifth degree by blood or marriage to the parent or stepparent of the child; or

2. Is related to a half-sibling of that child within the fifth degree by blood or marriage to the parent

or stepparent.

(2) PURPOSE AND SERVICES.–

(a) The purpose of a kinship navigator program is to help relative caregivers and fictive kin in the child welfare system to navigate the broad range of services available to them and the children from public, private, community, and faith-based organizations.

(b) Each community-based care lead agency shall establish a kinship navigator program that:

1. Coordinates with other state or local agencies that promote service coordination or provide information and referral services, including any entities that participate in the Florida 211 Network, to avoid duplication or fragmentation of services to kinship care families;

2. Is planned an operated in consultation with kinship caregivers and organizations representing them, youth raised by kinship caregivers, relevant governmental agencies, and relevant community-based or faith-based organizations;

3. Has a toll-free telephone hotline to provide information to link kinship caregivers, kinship support group facilitators, and kinship service providers to:

a. One another;

b. Eligibility and enrollment information for federal, state, and local benefits;

c. Relevant training to assist kinship caregivers in caregiving and in obtaining benefits and services; and

d. Relevant knowledge related to legal options available for child custody, other legal assistance, and help in obtaining legal services.

4. Provides outreach to kinship care families, including by establishing, distributing, and updating a kinship care website, or other relevant guides or outreach materials; and

5. Promotes partnerships between public and private agencies, including schools, community-based or faith-based organizations, and relevant governmental agencies, to increase their knowledge of the needs of kinship care families to promote better services for those families.

(3) RULEMAKING.–The department may adopt rules to implement this section.

History.--s. 3, ch. 2018-108; s. 23, ch. 2019-003; s. 7, ch. 2019-142; s. 15, ch. 2021-170.

39.509 Grandparents rights.–Notwithstanding any other provision of law, a maternal or paternal grandparent as well as a stepgrandparent is entitled to reasonable visitation with his or her grandchild who has been adjudicated a dependent child and taken from the physical custody of the parent unless the court finds that such visitation is not in the best interest of the child or that such visitation would interfere with the goals of the case plan. Reasonable visitation may be unsupervised and, where appropriate and feasible, may be frequent and continuing. Any order for visitation or other contact must conform to the provisions of s. 39.0139.

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

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

been adjudicated a dependent child.

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

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

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

(6) In determining whether grandparental visitation is not in the child's best interest, consideration may be given to the following:

(a) The finding of guilt, regardless of adjudication, or entry or plea of guilty or nolo contendere to charges under the following statutes, or similar statutes of other jurisdictions: s. 787.04, relating to removing minors from the state or concealing minors contrary to court order; s. 794.011, relating to sexual battery; s. 798.02, relating to lewd and lascivious behavior; chapter 800, relating to lewdness and indecent exposure; s. 826.04, relating to incest; or chapter 827, relating to the abuse of children.

(b) The designation by a court as a sexual predator as defined in s. 775.21 or a substantially similar designation under laws of another jurisdiction.

(c) A report of abuse, abandonment, or neglect under ss. 415.101-415.113 or this chapter and the outcome of the investigation concerning such report.

History.--s. 9, ch. 90-273; s. 72, ch. 91-45; s. 7, ch. 93-156; s. 6, ch. 97-95; s. 71, ch. 98-403; s. 33, ch. 99-193; s. 4, ch. 2007-109; s. 38, ch. 2016-24.
Note.--Former s. 39.4105.

39.510 Appeal.–

(1) Any party to the proceeding who is affected by an order of the court, or the department may appeal to the appropriate district court of appeal within the time and in the manner prescribed by the Florida Rules of Appellate Procedure. Appointed counsel shall be compensated as provided in this chapter.

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

(3) The taking of an appeal shall not operate as a supersedeas in any case unless pursuant to an order of the court, except that a permanent order of commitment to a licensed child-placing agency or the department for subsequent adoption shall be suspended while the appeal is pending, but the child shall continue in custody under the order until the appeal is decided.

(4) The case on appeal shall be docketed, and any papers filed in the appellate court shall be entitled, with the initials but not the name of the child and the court case number, and the papers shall remain sealed in the office of the clerk of the appellate court when not in use by the appellate court and shall not be open to public inspection. The decision of the appellate court shall be likewise entitled and shall refer to the child only by initials and court case number.

(5) The original order of the appellate court, with all papers filed in the case on appeal, shall remain in the

office of the clerk of the appellate court, sealed and not open to inspection except by order of the appellate court. The clerk of the appellate court shall return to the circuit court all papers transmitted to the appellate court from the circuit court, together with a certified copy of the order of the appellate court.

History.--s. 20, ch. 78-414; s. 11, ch. 84-311; s. 9, ch. 90-306; s. 8, ch. 92-170; s. 72, ch. 98-403; s. 34, ch. 99-193.

Note.--Former s. 39.413.

PART VI
DISPOSITION; POSTDISPOSITION CHANGE OF CUSTODY

39.521 Disposition hearings; powers of disposition.–

(1) A disposition hearing shall be conducted by the court, if the court finds that the facts alleged in the petition for dependency were proven in the adjudicatory hearing, or if the parents or legal custodians have consented to the finding of dependency or admitted the allegations in the petition, have failed to appear for the arraignment hearing after proper notice, or have not been located despite a diligent search having been conducted.

(a) A written case plan and a family functioning assessment prepared by an authorized agent of the department must be approved by the court. The department must file the case plan and the family functioning assessment with the court, serve copies on the parents of the child, and provide copies to all other parties:

1. Not less than 72 hours before the disposition hearing, if the disposition hearing occurs on or after the 60th day after the date the child was placed in out-of-home care. All such case plans must be approved by the court.

2. Not less than 72 hours before the case plan acceptance hearing, if the disposition hearing occurs before the 60th day after the date the child was placed in out-of-home care and a case plan has not been submitted pursuant to this paragraph, or if the court does not approve the case plan at the disposition hearing. The case plan acceptance hearing must occur within 30 days after the disposition hearing to review and approve the case plan.

(b) The court may grant an exception to the requirement for a family functioning assessment by separate order or within the judge's order of disposition upon finding that all the family and child information required by subsection (2) is available in other documents filed with the court.

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

1. Require the parent and, when appropriate, the legal guardian or the child, to participate in treatment and services identified as necessary. The court may require the person who has custody or who is requesting custody of the child to submit to a mental health or substance abuse disorder assessment or evaluation. The order may be made only upon good cause shown and pursuant to notice and procedural requirements provided under the Florida Rules of Juvenile Procedure. The mental health assessment or evaluation must be administered by a qualified professional as defined in s. 39.01, and the substance abuse assessment or evaluation must be administered by a qualified professional as defined in s. 397.311. The court may also require such person to participate in and comply with treatment and services identified as necessary, including, when appropriate and available, participation in and compliance with a mental health court program established under [1]s. 394.47892 or a treatment-based drug court program established under s. 397.334. Adjudication of a child as dependent based upon evidence of harm as defined in s. 39.01(34)(g) demonstrates good cause, and the court shall require the parent whose actions caused the harm to submit to a substance abuse disorder assessment or evaluation and to participate and comply with treatment and

services identified in the assessment or evaluation as being necessary. In addition to supervision by the department, the court, including the mental health court program or the treatment-based drug court program, may oversee the progress and compliance with treatment by a person who has custody or is requesting custody of the child. The court may impose appropriate available sanctions for noncompliance upon a person who has custody or is requesting custody of the child or make a finding of noncompliance for consideration in determining whether an alternative placement of the child is in the child's best interests. Any order entered under this subparagraph may be made only upon good cause shown. This subparagraph does not authorize placement of a child with a person seeking custody of the child, other than the child's parent or legal custodian, who requires mental health or substance abuse disorder treatment.

2. Require, if the court deems necessary, the parties to participate in dependency mediation.

3. Require placement of the child either under the protective supervision of an authorized agent of the department in the home of one or both of the child's parents or in the home of a relative of the child or another adult approved by the court, or in the custody of the department. Protective supervision continues until the court terminates it or until the child reaches the age of 18, whichever date is first. Protective supervision shall be terminated by the court whenever the court determines that permanency has been achieved for the child, whether with a parent, another relative, or a legal custodian, and that protective supervision is no longer needed. The termination of supervision may be with or without retaining jurisdiction, at the court's discretion, and shall in either case be considered a permanency option for the child. The order terminating supervision by the department must set forth the powers of the custodian of the child and include the powers ordinarily granted to a guardian of the person of a minor unless otherwise specified. Upon the court's termination of supervision by the department, further judicial reviews are not required if permanency has been established for the child.

4. Determine whether the child has a strong attachment to the prospective permanent guardian and whether such guardian has a strong commitment to permanently caring for the child.

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

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

1. The placement or custody of the child.

2. Special conditions of placement and visitation.

3. Evaluation, counseling, treatment activities, and other actions to be taken by the parties, if ordered.

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

5. Continuation or discharge of the Guardian ad Litem, as appropriate.

6. The date, time, and location of the next scheduled review hearing, which must occur within the earlier of:

a. Ninety days after the disposition hearing;

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

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

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

7. If the child is in an out-of-home placement, child support to be paid by the parents, or the guardian of the child's estate if possessed of assets which under law may be disbursed for the care, support, and maintenance of the child. The court may exercise jurisdiction over all child support matters, shall adjudicate the financial obligation, including health insurance, of the child's parents or guardian, and shall enforce the financial obligation as provided in chapter 61. The state's child support enforcement agency shall enforce

child support orders under this section in the same manner as child support orders under chapter 61. Placement of the child shall not be contingent upon issuance of a support order.

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

b. If no suitable relative is found and, the child is placed with the department or a legal custodian or other adult approved by the court, both the department and the court shall consider transferring temporary legal custody to an adult relative approved by the court at a later date, but neither the department nor the court is obligated to so place the child if it is in the child's best interest to remain in the current placement.

For the purposes of this section, "diligent efforts to locate an adult relative" means a search similar to the diligent search for a parent, but without the continuing obligation to search after an initial adequate search is completed.

9. Other requirements necessary to protect the health, safety, and well-being of the child, to preserve the stability of the child's child care, early education program, or any other educational placement, and to promote family preservation or reunification whenever possible.

(f) If the court finds that an in-home safety plan prepared or approved by the department will allow the child to remain safely at home or that conditions for return have been met and an in-home safety plan prepared or approved by the department will allow the child to be safely returned to the home, the court shall allow the child to remain in or return to the home after making a specific finding of fact that the child's safety, well-being, and physical, mental, and emotional health will not be endangered.

(g) If the court places the child in an out-of-home placement, the disposition order must include a written determination that the child cannot safely remain at home with an in-home safety plan and that removal of the child is necessary to protect the child. If the child is removed before the disposition hearing, the order must also include a written determination as to whether, after removal, the department made a reasonable effort to reunify the parent and child. Reasonable efforts to reunify are not required if the court finds that any of the acts listed in s. 39.806(1)(f)-(l) have occurred. The department has the burden of demonstrating that it has made reasonable efforts.

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

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

a. Enter written findings as to whether an in-home safety plan could have prevented removal.

b. If an in-home safety plan was indicated, include a brief written description of what appropriate and available safety management services were initiated.

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

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

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

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

c. The child cannot safely remain at home, because there are no safety management able services being provided, the health and safety of the child cannot be ensured; or

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

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

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

(2) The family functioning assessment must provide the court with the following documented information:

(a) Evidence of maltreatment and the circumstances accompanying the maltreatment.

(b) Identification of all danger threats active in the home.

(c) An assessment of the adult functioning of the parents.

(d) An assessment of the parents' general parenting practices and the parents' disciplinary approach and behavior management methods.

(e) An assessment of the parents' behavioral, emotional, and cognitive protective capacities.

(f) An assessment of child functioning.

(g) A safety analysis describing the capacity for an in-home safety plan to control the conditions that result in the child being unsafe and the specific actions necessary to keep the child safe.

(h) Identification of the conditions for return which would allow the child to be placed safely back into the home with an in-home safety plan and any safety management services necessary to ensure the child's safety.

(i) The reasonable preference of the child, if the court deems the child to be of sufficient intelligence, understanding, and experience to express a preference.

(j) Child welfare history from the department's Statewide Automated Child Welfare Information System (SACWIS) and criminal records check for all caregivers, family members, and individuals residing within the household from which the child was removed.

(k) The complete report and recommendation of the Child Protection Team of the Department of Health or, if no report exists, a statement reflecting that no report has been made.

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

(m) A listing of appropriate and available safety management services for the parent and child to prevent the removal of the child from the home or to reunify the child with the parent after removal, and an explanation of the following:

1. If the services were or were not provided.

2. If the services were provided, the outcome of the services.

3. If the services were not provided, why they were not provided.

4. If the services are currently being provided and if they need to be continued.

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

(o) 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 provided to the court. Before 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), 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. Out-of-state criminal records checks must be initiated for any individual who has resided in a state other than Florida if 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.

8. The reasonable preference of the child, if the court deems the child to be of sufficient intelligence, understanding, and experience to express a preference.

The department may 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.

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

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

(3) When any child is adjudicated by a court to be dependent, the court shall determine the appropriate placement for the child as follows:

(a) If the court determines that the child can safely remain in the home with the parent with whom the child was residing at the time the events or conditions arose that brought the child within the jurisdiction of the court and that remaining in this home is in the best interest of the child, then the court shall order conditions under which the child may remain or return to the home and that this placement be under the protective supervision of the department for not less than 6 months.

(b) If there is a parent with whom the child was not residing at the time the events or conditions arose that brought the child within the jurisdiction of the court who desires to assume custody of the child, the court shall place the child with that parent upon completion of a home study, unless the court finds that such placement would endanger the safety, well-being, or physical, mental, or emotional health of the child. Any party with knowledge of the facts may present to the court evidence regarding whether the placement

will endanger the safety, well-being, or physical, mental, or emotional health of the child. If the court places the child with such parent, it may do either of the following:

1. Order that the parent assume sole custodial responsibilities for the child. The court may also provide for reasonable visitation by the noncustodial parent. The court may then terminate its jurisdiction over the child.

2. Order that the parent assume custody subject to the jurisdiction of the circuit court hearing dependency matters. The court may order that reunification services be provided to the parent from whom the child has been removed, that services be provided solely to the parent who is assuming physical custody in order to allow that parent to retain later custody without court jurisdiction, or that services be provided to both parents, in which case the court shall determine at every review hearing which parent, if either, shall have custody of the child. The standard for changing custody of the child from one parent to another or to a relative or another adult approved by the court shall be the best interest of the child.

(c) If no fit parent is willing or available to assume care and custody of the child, place the child in the temporary legal custody of an adult relative, the adoptive parent of the child's sibling, or another adult approved by the court who is willing to care for the child, under the protective supervision of the department. The department must supervise this placement until the child reaches permanency status in this home, and in no case for a period of less than 6 months. Permanency in a relative placement shall be by adoption, long-term custody, or guardianship.

(d) If the child cannot be safely placed in a nonlicensed placement, the court shall commit the child to the temporary legal custody of the department. Such commitment invests in the department all rights and responsibilities of a legal custodian. The department shall not return any child to the physical care and custody of the person from whom the child was removed, except for court-approved visitation periods, without the approval of the court. Any order for visitation or other contact must conform to the provisions of s. 39.0139. The term of such commitment continues until terminated by the court or until the child reaches the age of 18. After the child is committed to the temporary legal custody of the department, all further proceedings under this section are governed by this chapter.

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

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

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

(6) With respect to a child who is the subject in proceedings under this chapter, the court may issue to the department an order to show cause why it should not return the child to the custody of the parents upon the presentation of evidence that the conditions for return of the child have been met.

(7) The court may enter an order ending its jurisdiction over a child when a child has been returned to the parents, provided the court shall not terminate its jurisdiction or the department's supervision over the child until 6 months after the child's return. The department shall supervise the placement of the child after reunification for at least 6 months with each parent or legal custodian from whom the child was removed. The court shall determine whether its jurisdiction should be continued or terminated in such a case based on a report of the department or agency or the child's Guardian ad Litem, and any other relevant factors; if its jurisdiction is to be terminated, the court shall enter an order to that effect.

History.--s. 20, ch. 78-414; s. 14, ch. 79-164; s. 2, ch. 80-102; s. 15, ch. 80-290; s. 11, ch. 83-217; ss. 9, 10, ch. 84-311; s. 6, ch. 85-80; s. 83, ch. 86-220; s. 8, ch. 87-289; s. 13, ch. 87-397; s. 30, ch. 88-337; s. 1, ch. 90-182; s. 2, ch. 90-211; ss. 7, 8, ch. 90-306; s. 71, ch. 91-45; s. 2, ch. 91-183; s. 5, ch. 92-158; s. 7, ch. 92-170; ss. 12, 13, ch. 94-164; s. 62, ch. 95-228; s. 4, ch. 97-96; s. 8, ch. 97-101; s. 9, ch. 97-276; s. 6, ch. 98-137; s. 11, ch. 98-280; s. 69, ch. 98-403; s. 31, ch. 99-193; s. 23, ch. 2000-139; s. 3, ch. 2001-68; s. 1, ch. 2002-219; s. 5, ch. 2005-239; s. 13, ch. 2006-86; s. 5, ch. 2006-97; s. 5, ch. 2007-109; s. 13, ch. 2008-245; s. 10, ch. 2012-178; s. 3, ch. 2016-127; s. 84, ch. 2016-241; s. 12, ch. 2017-151; s.4, ch. 2018-103; s. 4, ch. 2018-108; s. 24, ch. 2019-003; s. 5, ch. 2019-128.

[1]Note.--As amended by s. 84, ch. 2016-241. The amendment by s. 3, ch. 2016-127, uses the reference "s. 394.47892" instead of the reference "chapter 394."

Note.--Former ss. 39.408(3), (4), 39.41; s. 39.508.

39.522 Postdisposition change of custody.–

(1) The court may change the temporary legal custody or the conditions of protective supervision at a postdisposition hearing, without the necessity of another adjudicatory hearing.

(2)(a) At any time before a child is residing in the permanent placement approved at the permanency hearing, A child who has been placed in the child's own home under the protective supervision of an authorized agent of the department, in the home of a relative, in the home of a legal custodian, or in some other place may be brought before the court by the department or by any other interested person, upon the filing of a motion alleging a need for a change in the conditions of protective supervision or the placement. If any party or the current caregiver denies the need for a change, the court shall hear all parties in person or by counsel, or both.

(b) Upon the admission of a need for a change or after such hearing, the court shall enter an order changing the placement, modifying the conditions of protective supervision, or continuing the conditions of protective supervision as ordered. The standard for changing custody of the child shall be the best interests of the child. When determining whether a change of legal custody or placement is in the best interests of the child, the court shall consider the factors listed in s. 39.01375 and the report filed by the multidisciplinary team, if applicable, unless the change of custody or placement is made pursuant to s. 63.082(6). The court shall also consider the priority of placements established under s. 39.4021 when making a decision regarding the best interest of the child in out-of-home care.

(c) If the child is not placed in foster care, the new placement for the child must meet the home study criteria and court approval under this chapter.

(3)(a) For purposes of this subsection, the term “change in physical custody” means a change by the department or community-based care lead agency to the child’s physical residential address, regardless of whether such change requires a court order to change the legal custody of the child. However, this term does not include a change in placement made pursuant to s. 63.082(6).

(b)1. In a hearing on the change of physical custody under this section, there shall be a rebuttable presumption that it is in the child’s best interest to remain permanently in his or her current physical placement if:

a. The child has been in the same safe and stable placement for 9 consecutive months or more;

b. Reunification is not a permanency option for the child;

c. The caregiver is able, willing, and eligible for consideration as an adoptive parent or permanent custodian for the child;

d. The caregiver is not requesting the change in physical placement; and

e. The change in physical placement being sought is not to reunify the child with his or her parent or sibling or transition the child from a safe and stable nonrelative caregiver to a safe and stable relative caregiver.

2. In order to rebut the presumption established in this paragraph, the court shall hold an evidentiary hearing on the change in physical custody to determine if the change in placement is in the best interest of the child. As part of the evidentiary hearing, the court must consider competent and substantial evidence and testimony related to the factors enumerated in s. 39.01375 and any other evidence deemed relevant to a determination of placement, including evidence from a court-selected neutral and independent licensed professional with expertise in the science and research of child-parent bonding.

3. This presumption may not be rebutted solely by the expressed wishes of a biological parent, a biological relative, or a caregiver of a sibling of the child.

(c)1. The department or community-based care lead agency must notify a current caregiver who has been in the physical custody placement for at least 9 consecutive months and who meets all the established criteria in paragraph (b) of an intent to change the physical custody of the child, and a multidisciplinary team staffing must be held in accordance with ss. 39.4022 and 39.4023 at least 21 days before the intended date for the child's change in physical custody, unless there is an emergency situation as defined in s. 39.4022(2)(b). If there is not a unanimous consensus decision reached by the multidisciplinary team, the department's official position must be provided to the parties within the designated time period as provided for in s. 39.4022.

2. A caregiver who objects to the department's official position on the change in physical custody must notify the court and the department or community-based care lead agency of his or her objection and the intent to request an evidentiary hearing in writing in accordance with this section within 5 days after receiving notice of the department's official position provided under subparagraph 1. The transition of the child to the new caregiver may not begin before the expiration of the 5-day period within which the current caregiver may object.

3. Upon the department or community-based care lead agency receiving written notice of the caregiver's objection, the change to the child's physical custody must be placed in abeyance and the child may not be transitioned to a new physical placement without a court order, unless there is an emergency situation as defined in s. 39.4022(2)(b).

4. Within 7 days after receiving written notice from the caregiver, the court must conduct an initial case status hearing, at which time the court must:

a. Grant party status to the current caregiver who is seeking permanent custody and has maintained physical custody of that child for at least 9 continuous months for the limited purpose of filing a motion for a hearing on the objection and presenting evidence pursuant to this subsection;

b. Appoint an attorney for the child who is the subject of the permanent custody proceeding, in addition to the guardian ad litem, if one is appointed;

c. Advise the caregiver of his or her right to retain counsel for purposes of the evidentiary hearing; and

d. Appoint a court-selected neutral and independent licensed professional with expertise in the science and research of child-parent bonding.

(d) The court must conduct the evidentiary hearing and provide a written order of its findings regarding the placement that is in the best interest of the child no later than 90 days after the date the caregiver provided written notice to the court under this subsection. The court must provide its written order to the department or community-based care lead agency, the caregiver, and the prospective caregiver. The party status granted to the current caregiver under sub-subparagraph (c)4.a. terminates upon the written order by the court, or upon the 90-day time limit established in this paragraph, whichever occurs first.

(e) If the court orders that the physical custody of the child change from the current caregiver after the evidentiary hearing, the department or community-based care lead agency must implement the appropriate transition plan developed in accordance with ss. 39.4022 and 39.4023 or as ordered by the court.

(4) In cases where the issue before the court is whether a child should be reunited with a parent, the court shall review the conditions for return and determine whether the circumstances that caused the out-of-home placement and issues subsequently identified have been remedied to the extent that the return of the child to the home with an in-home safety plan prepared or approved by the department will not be detrimental to the child's safety, well-being, and physical, mental, and emotional health.

(5) In cases where the issue before the court is whether a child who is placed in the custody of a parent should be reunited with the other parent upon a finding that the circumstances that caused the out-of-home placement and issues subsequently identified have been remedied to the extent that the return of the child to the home of the other parent with an in-home safety plan prepared or approved by the department will not be detrimental to the child, the standard shall be that the safety, well-being, and physical, mental, and emotional health of the child would not be endangered by reunification and that reunification would be in the best interest of the child.

(6) In cases in which the issue before the court is whether to place a child in out-of-home care after the child was placed in the child's own home with an in-home safety plan or the child was reunified with a parent or caregiver with an in-home safety plan, the court must consider, at a minimum, the following factors in making its determination whether to place the child in out-of-home care:

(a) The circumstances that caused the child's dependency and other subsequently identified issues.

(b) The length of time the child has been placed in the home with an in-home safety plan.

(c) The parent's or caregiver's current level of protective capacities.

(d) The level of increase, if any, in the parent's or caregiver's protective capacities since the child's placement in the home based on the length of time the child has been placed in the home.

The court shall additionally evaluate the child's permanency goal and change the permanency goal as needed if doing so would be in the best interests of the child. If the court changes the permanency goal, the case plan must be amended pursuant to s. 39.6013(5).

History.--s. 25, ch. 2000-139; s. 14, ch. 2006-86; s. 3, ch. 2013-0021; s. 13, ch. 2017-151; s. 6, ch. 2019-128; s. 5, ch. 2020-138; s. 10, ch. 2021-169.

39.523 Placement in out-of-home care.–

(1) LEGISLATIVE FINDINGS AND INTENT.–

(a) The Legislature finds that it is a basic tenet of child welfare practice and the law that a child be placed in the least restrictive, most family-like setting available in close proximity to the home of his or her parents which meets the needs of the child, and that a child be placed in a permanent home in a timely manner.

(b) The Legislature also finds that there is an association between placements that do not meet the needs of the child and adverse outcomes for the child, that mismatching placements to children's needs has been identified as a factor that negatively impacts placement stability, and that identifying the right placement for each child requires effective assessment.

(c) It is the intent of the Legislature that whenever a child is unable to safely remain at home with a parent, the most appropriate available out-of-home placement shall be chosen after an assessment of the child's needs and the availability of caregivers qualified to meet the child's needs.

(2) ASSESSMENT AND PLACEMENT.–When any child is removed from a home and placed in out-of-home care, a comprehensive placement assessment process shall be completed in accordance with s. 39.4022 to determine the level of care needed by the child and match the child with the most appropriate placement.

(a) The community-based care lead agency or sub-contracted agency with the responsibility for assessment and placement must coordinate a multi-disciplinary team staffing as established in s. 39.4022 with the necessary participants for the stated purpose of the staffing.

(b) The comprehensive placement assessment process may also include the use of an assessment instrument or tool that is best suited for the individual child.

(c) The most appropriate available out-of-home placement shall be chosen after consideration by all members of the multi-disciplinary team of all of the information and data gathered, including the results and recommendations of any evaluations conducted.

(d) Placement decisions for each child in out-of-home placement shall be reviewed as often as necessary to ensure permanency for that child and address special issues related to this population of children.

(e) The department, a sheriff's office acting under s. 39.3065, a community-based care lead agency, or a case management organization must document all placement assessments and placement decisions in the Florida Safe Families Network.

(f) If it is determined during the comprehensive placement assessment process that residential treatment as defined in s. 39.407 would be suitable for the child, the procedures in that section must be followed.

(3) JUDICIAL REVIEW.–At each judicial review, the court shall consider the results of the assessment, the placement decision made for the child, and services provided to the child as required under s. 39.701.

(4) DATA COLLECTION.–The department shall collect the following information by community-based care lead agencies and post it on the Department of Children and Families' website. The information is to be updated on January 1 and July 1 of each year.

(a) The number of children placed with relatives and nonrelatives, in family foster homes, and in residential group care.

(b) An inventory of available services that are necessary to maintain children in the least restrictive setting that meets the needs of the child and a plan for filling any identified gap in those services.

(c) The number of children who were placed based upon the assessment.

(d) An inventory of existing placements for children by type and by community-based care lead agency.

(e) The strategies being used by community-based care lead agencies to recruit, train, and support an adequate number of families to provide home-based family care.

(5) RULEMAKING.–The department shall adopt rules to implement this section.

History. -- s. 2, ch. 2002-219; s. 14, ch. 2017-151; s. 11, ch. 2021-169.

39.524 Safe-harbor Placement.–

(1) Except as provided in s. 39.407 or s. 985.801, a dependent child 6 years of age or older who is suspected of being or has been found to be a victim of commercial sexual exploitation as defined in s. 409.016 must be assessed, and the department or a sheriff's office acting under s. 39.3065 must conduct a multidisciplinary staffing pursuant to s. 409.1754(2), to determine the child's need for services and his or her need for placement in a safe house or safe foster home as provided in s. 409.1678 using the initial screening and assessment instruments provided in s. 409.1754(1). If such placement is determined to be appropriate for the

child as a result of this assessment, the child may be placed in a safe house or safe foster home, if one is available. However, the child may be placed in another setting, if the other setting is more appropriate to the child's needs or if a safe house or safe foster home is unavailable, as long as the child's behaviors are managed so as not to endanger other children served in that setting.

(2) The results of the assessment described in s. 409.1754(1), the multidisciplinary staffing described in s. 409.1754(2), and the actions taken as a result of the assessment must be included in the disposition hearing or next judicial review of the child. At each subsequent judicial review, the court must be advised in writing of the status of the child's placement, with special reference regarding the stability of the placement, any specialized services, and the permanency planning for the child.

(3)(a) By October 1 of each year, the department, with information from community-based care agencies and certain sheriff's offices acting under s. 39.3065, shall report to the Legislature on the prevalence of child commercial sexual exploitation; the specialized services provided and placement of such children; the local service capacity assessed pursuant to s. 409.1754; the placement of children in safe houses and safe foster homes during the year, including the criteria used to determine the placement of children; the number of children who were evaluated for placement; the number of children who were placed based upon the evaluation; the number of children who were not placed; and the department's response to the findings and recommendations made by the Office of Program Policy Analysis and Government Accountability in its annual study on commercial sexual exploitation of children, as required by s. 409.16791.

(b)The department shall maintain data specifying the number of children who were verified as victims of commercial sexual exploitation, who were referred to nonresidential services in the community, who were placed in a safe house or safe foster home, and who were referred to a safe house or safe foster home for whom placement was unavailable, and shall identify the counties in which such placement was unavailable. The department shall include this data in its report under this subsection so that the Legislature may consider this information in developing the General Appropriations Act.

History.--s. 5, ch. 2012-105, s. 3, ch. 2014-161; s. 52, ch. 2014-224; s. 7, ch. 2015-2; s. 63, ch. 2016-241; s. 1, 2017-23; s. 38, ch. 2017-151.

PART VII
CASE PLANS

39.6011 Case plan development.–

(1) The department shall prepare a draft of the case plan for each child receiving services under this chapter. A parent of a child may not be threatened or coerced with the loss of custody or parental rights for failing to admit in the case plan of abusing, neglecting, or abandoning a child. Participating in the development of a case plan is not an admission to any allegation of abuse, abandonment, or neglect, and it is not a consent to a finding of dependency or termination of parental rights. The case plan shall be developed subject to the following requirements:

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

(b) Notwithstanding s. 39.202, the department may discuss confidential information during the case planning conference in the presence of individuals who participate in the conference. All individuals who participate in the conference shall maintain the confidentiality of all information shared during the case planning conference.

(c) The parent may receive assistance from any person or social service agency in preparing the case plan. The social service agency, the department, and the court, when applicable, shall inform the parent of the right to receive such assistance, including the right to assistance of counsel.

(d) If a parent is unwilling or unable to participate in developing a case plan, the department shall document that unwillingness or inability to participate. The documentation must be provided in writing to the parent when available for the court record, and the department shall prepare a case plan conforming as nearly as possible with the requirements set forth in this section. The unwillingness or inability of the parent to participate in developing a case plan does not preclude the filing of a petition for dependency or for termination of parental rights. The parent, if available, must be provided a copy of the case plan and be advised that he or she may, at any time before the filing of a petition for termination of parental rights, enter into a case plan and that he or she may request judicial review of any provision of the case plan with which he or she disagrees at any court hearing set for the child.

(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.

(e) A written notice to the parent that it is the parent's responsibility to take action to comply with the case plan so permanency with the child may occur within the shortest period of time possible, but no later than 1 year after removal or adjudication of the child; the parent must notify the parties and the court of barriers to completing case plan tasks within a reasonable time after discovering such barriers if the parties are not actively working to overcome them; failure of the parent to substantially comply with the case plan may result in the termination of parental rights; and a material breach of the case plan by the parent's action or inaction may result in the filing of a petition for termination of parental rights sooner than the compliance period set forth in the case plan.

(3) The case plan must be signed by all parties, except that the signature of a child may be waived if the child is not of an age or capacity to participate in the case-planning process. Signing the case plan constitutes an acknowledgement that the case plan has been developed by the parties and that they are in agreement as to the terms and conditions contained in the case plan. The refusal of a parent to sign the case plan does not prevent the court from accepting the case plan if the case plan is otherwise acceptable to the court. Signing the case plan does not constitute an admission to any allegation of abuse, abandonment, or neglect and does not constitute consent to a finding of dependency or termination of parental rights. Before signing the case plan, the department shall explain the provisions of the plan to all persons involved in its implementation, including, when appropriate, the child.

(4) Before signing the case plan, the department shall explain the provisions of the plan to all persons involved in its implementation, including, when appropriate, the child. The department shall ensure that the parent has contact information for all entities necessary to complete the tasks in the plan. The department shall explain the strategies included in the plan which the parent can use to overcome barriers to case plan compliance and shall explain that if a barrier is discovered and the parties are not actively working to overcome such barrier, the parent must notify the parties and the court within a reasonable time after discovering such barrier.

(5) The case plan must describe all of the following:

(a) The role of the foster parents or caregivers when developing the services that are to be provided to the child, foster parents, or caregivers.

(b) The responsibility of the parents and caregivers to work together when it is safe to do so, which includes:

1. How the parents and caregivers will work together to successfully implement the case plan.

2. How the case manager will assist the parents and caregivers in developing a productive relationship that includes meaningful communication and mutual support.

3. How the parents and caregivers may notify the court or the case manager if ineffective communication takes place that negatively impact the child.

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

(d) The minimum number of face-to-face meetings to be held each month between the parents and the case managers to review the progress of the plan and the services provided to the child, to eliminate barriers to progress, and to resolve conflicts or disagreements between parents and caregivers, service providers, or any other professionals assisting the parents in the completion of the case plan.

(e) The parent's responsibility for financial support of the child, including, but not limited to, health insurance and child support. The case plan must list the costs associated with any services or treatment that the parent and child are expected to receive which are the financial responsibility of the parent. The determination of child support and other financial support shall be made independently of any determination of indigency under s. 39.013.

(6) When the permanency goal for a child is adoption, the case plan must include documentation of the steps the agency is taking to find an adoptive family or other permanent living arrangement for the child. At a minimum, the documentation shall include recruitment efforts that are specific to the child, such as the use of state, regional, and national adoption exchanges, including electronic exchange systems.

(7) After the case plan has been developed, the department shall adhere to the following procedural requirements:

(a) If the parent's substantial compliance with the case plan requires the department to provide services to the parents or the child and the parents agree to begin compliance with the case plan before the case plan's acceptance by the court, the department shall make the appropriate referrals for services that will allow the parents to begin the agreed-upon tasks and services immediately.

(b) All other referrals for services must be completed as soon as possible, but no later than 7 days after the date of the case plan approval, unless the case plan specifies that a task may not be undertaken until another specified task has been completed or otherwise approved by the court.

(c) After the case plan has been agreed upon and signed by the parties, a copy of the plan must be given immediately to the parties, including the child if appropriate, and to other persons as directed by the court.

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

2. In each case in which a child has been placed in out-of-home care, a case plan must be prepared within 60 days after the department removes the child from the home and shall be submitted to the court before the disposition hearing for the court to review and approve.

3. After jurisdiction attaches, all case plans must be filed with the court and a copy provided to all the parties whose whereabouts are known not less than 3 business days before the disposition hearing. The department shall file with the court, and provide copies to the parties, all case plans prepared before jurisdiction of the court attached.

(8) The case plan must be filed with the court and copies provided to all parties, including the child if appropriate, not less than 3 business days before the disposition hearing.

(9) The case plan must describe a process for making available to all physical custodians and case managers the information required by s. 39.6012(2) and for ensuring that this information follows the child until permanency has been achieved.

History.--s. 15, ch. 2006-86; s. 27, ch. 2008-245; s. 11, ch. 2009-43; s. 11, ch. 2012-178; s. 15, ch. 2017-151; s. 7, ch. 2019-128; s. 6, ch. 2020-138.

39.6012 Case plan tasks; services.–

(1) The services to be provided to the parent and the tasks that must be completed are subject to the following:

(a) The services described in the case plan must be designed to improve the conditions in the home and aid in maintaining the child in the home, facilitate the child's safe return to the home, ensure proper care of the child, or facilitate the child's permanent placement. The services offered must be the least intrusive possible into the life of the parent and child, must focus on clearly defined objectives, and must provide the most efficient path to quick reunification or permanent placement given the circumstances of the case and the child's need for safe and proper care.

(b) The case plan must describe each of the tasks with which the parent must comply and the services to be provided to the parent, specifically addressing the identified problem, including:

1. The type of services or treatment.

2. The date the department will provide each service or referral for the service if the service is being provided by the department or its agent.

3. The date by which the parent must complete each task.

4. The frequency of services or treatment provided. The frequency of the delivery of services or treatment provided shall be determined by the professionals providing the services or treatment on a case-by-case basis and adjusted according to their best professional judgment.

5. The location of the delivery of the services.

6. The staff of the department or service provider accountable for the services or treatment.

7. A description of the measurable objectives, including the timeframes specified for achieving the objectives of the case plan and addressing the identified problem.

8. Strategies to overcome barriers to case plan compliance and an explanation that the parent must notify the parties and the court within a reasonable time after discovering a barrier that the parties are not actively working to overcome such barrier.

(c) If there is evidence of harm as defined in s. 39.01(34)(g), the case plan must include as a required task for the parent whose actions caused the harm that the parent submit to a substance abuse disorder assessment or evaluation and participate and comply with treatment and services identified in the assessment or evaluation as being necessary.

(d) Parents must provide accurate contract information to the department or the contracted case management agency, and update as appropriate, and make proactive contact with the department or the contracted case management agency at least every 14 calendar days to provide information on the status of case plan task completion, barriers to completion, and plans toward reunification.

(2) The case plan must include all available information that is relevant to the child's care including, at a minimum:

(a) A description of the identified needs of the child while in care.

(b) A description of the plan for ensuring that the child receives safe and proper care and that services are provided to the child in order to address the child's needs. To the extent available and accessible, the following health, mental health, and education information and records of the child must be attached to the case plan and updated throughout the judicial-review process:

1. The names and addresses of the child's health, mental health, and educational providers;

2. The child's grade-level performance;

3. The child's school record or, if the child is under the age of school entry, any records from a child care program, early education program, or preschool program;

4. Documentation of compliance or noncompliance with the attendance requirements under s. 39.604, if the child is enrolled in a child care program, early education program, or pre-school program;

5. Assurances that the child's placement takes into account proximity to the school in which the child is enrolled at the time of placement;

6. The child's immunizations;

7. The child's known medical history, including any known health problems;

8. The child's medications, if any; and

9. Any other relevant health, mental health, and education information concerning the child.

(3) In addition to any other requirement, if the child is in an out-of-home placement, the case plan must include:

(a) A description of the type of placement in which the child is to be living.

(b) A description of the parent's visitation rights and obligations and the plan for sibling visitation if the child has siblings and is separated from them.

(c) When appropriate, for a child who is 13 years of age or older, a written description of the programs and services that will help the child prepare for the transition from foster care to independent living.

(d) A discussion of the safety and the appropriateness of the child's placement, which placement is intended to be safe, and the least restrictive and the most family-like setting available consistent with the best interest and special needs of the child and in as close proximity as possible to the child's home.

History.--s. 16, ch. 2006-86; s. 16, ch. 2017-151; s. 6, ch. 2018-103; s. 5, ch. 2018-108; s. 8, ch. 2019-128.

39.6013 Case plan amendments.–

(1) After the case plan has been developed under s. 39.6011, the tasks and services agreed upon in the plan may not be changed or altered in any way except as provided in this section.

(2) The case plan may be amended at any time in order to change the goal of the plan, employ the use of concurrent planning, add or remove tasks the parent must complete to substantially comply with the plan, provide appropriate services for the child, and update the child's health, mental health, and education records required by s. 39.6012.

(3) The case plan may be amended upon approval of the court if all parties are in agreement regarding the amendments to the plan and the amended plan is signed by all parties and submitted to the court with a memorandum of explanation.

(4) The case plan may be amended by the court or upon motion of any party at any hearing to change the goal of the plan, employ the use of concurrent planning, or add or remove tasks the parent must complete in order to substantially comply with the plan if there is a preponderance of evidence demonstrating the need for the amendment. The need to amend the case plan may be based on information discovered or circumstances arising after the approval of the case plan for:

(a) A previously unaddressed condition that, without services, may prevent the child from safely returning to the home or may prevent the child from safely remaining in the home;

(b) The child's need for permanency, taking into consideration the child's age and developmental needs;

(c) The failure of a party to substantially comply with a task in the original case plan, including the ineffectiveness of a previously offered service; or

(d) An error or oversight in the case plan.

(5) The case plan may be amended by the court or upon motion of any party at any hearing to provide appropriate services to the child if there is competent evidence demonstrating the need for the amendment. The reason for amending the case plan may be based on information discovered or circumstances arising after the approval of the case plan regarding the provision of safe and proper care to the child.

(6) When determining whether to amend the case plan, the court must consider the length of time the case has been open, the level of parental engagement to date, the number of case plan tasks completed, the child's type of placement and attachment, and the potential for successful reunification.

(7) The case plan is deemed amended as to the child's health, mental health, and education records required by s. 39.6012 when the child's updated health and education records are filed by the department under s. 39.701(2)(a).

(8) Amendments must include service interventions that are the least intrusive into the life of the parent and child, must focus on clearly defined objectives, and must provide the most efficient path to quick reunification or permanent placement given the circumstances of the case and the child's need for safe and proper care. A copy of the amended plan must be immediately given to the persons identified in s. 39.6011(7)(c).

History.--s. 17, ch. 2006-86; s. 3, ch. 2007-5; s. 12, ch. 2009-43; s. 3, ch. 2013-178; s. 7, ch. 2018-103; s. 9, ch. 2019-128.

39.602 Case planning when parents do not participate and the child is in out-of-home care.–

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

(2) In a case in which the physical, emotional, or mental condition or physical location of the parent is the basis for the parent's nonparticipation, it is the burden of the department to provide substantial evidence to the court that such condition or location has rendered the parent unable or unwilling to participate in the preparation of a case plan, either pro se or through counsel. The supporting documentation must be submitted to the court at the time the plan is filed.

(3) The plan must include, but need not be limited to, the specific services to be provided by the department, the goals and plans for the child, and the time for accomplishing the provisions of the plan and for accomplishing permanence for the child.

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

(b) Before the filing of the plan, the department shall advise each parent, both orally and in writing, that the failure of the parents to substantially comply with a plan may result in the termination of parental rights, but only after notice and hearing as provided in this chapter. If, after the plan has been submitted to the court, an absent parent is located, the department shall advise the parent, both orally and in writing, that the failure of the parents to substantially comply with a plan may result in termination of parental rights, but

only after notice and hearing as provided in this chapter. Proof of written notification must be filed with the court.

History.--s. 9, ch. 87-289; s. 32, ch. 88-337; s. 26, ch. 94-164; s. 17, ch. 95-228; s. 12, ch. 98-280; s. 75, ch. 98-403; s. 36, ch. 99-193.
Note.--Former s. 39.452(1)-(4).

39.6021 Case planning when parents are incarcerated or become incarcerated.–

(1) In a case in which the parent is incarcerated, the department shall obtain information from the facility where the parent is incarcerated to determine how the parent can participate in the preparation and completion of the case plan and receive the services that are available to the parent at the facility. This subsection does not apply if the department has determined that a case plan for reunification with the incarcerated parent will not be offered.

(2) A parent who is incarcerated must be included in case planning and must be provided a copy of any case plan that is developed.

(3) A case plan for a parent who is incarcerated must comply with ss. 39.6011 and 39.6012 to the extent possible, and must give consideration to the regulations of the facility where the parent is incarcerated and to services available at the facility. The department shall attach a list of services available at the facility to the case plan. If the facility does not have a list of available services, the department must note the unavailability of the list in the case plan.

(4) The incarcerated parent is responsible for complying with the facility's procedures and policies to access services or maintain contact with his or her children as provided in the case plan.

(5) If a parent becomes incarcerated after a case plan has been developed, the parties to the case plan must move to amend the case plan if the parent's incarceration has an impact on permanency for the child, including, but not limited to:

(a) Modification of provisions regarding visitation and contact with the child;
(b) Identification of services within the facility; or
(c) Changing the permanency goal or establishing a concurrent case plan goal.

(6) If an incarcerated parent is released before the case plan expires, the case plan must, if appropriate, include tasks that must be completed by the parent and services that must be accessed by the parent upon the parent's release.

(7) If the parent does not participate in preparation of the case plan, the department must include in the case plan a full explanation of the circumstances surrounding his or her nonparticipation and must state the nature of the department's efforts to secure the incarcerated parent's participation.

(8) This section does not prohibit the department or the court from revising a permanency goal after a parent becomes incarcerated or from determining that a case plan with a goal of reunification may not be offered to a parent. This section may not be interpreted as creating additional obligations for a facility which do not exist in the statutes or regulations governing that facility.

History--s. 1, ch. 2018-45.

39.603 Court approvals of case planning.--
(1) All case plans and amendments to case plans must be approved by the court. At the hearing on the case plan, which shall occur in conjunction with the disposition hearing unless otherwise directed by the court, the court shall determine:

(a) All parties who were notified and are in attendance at the hearing, either in person or through a legal representative. The court may appoint a guardian ad litem under Rule 1.210, Florida Rules of Civil Procedure, to represent the interests of any parent, if the location of the parent is known but the parent is not present at the hearing and the development of the plan is based upon the physical, emotional, or mental condition or physical location of the parent.

(b) If the plan is consistent with previous orders of the court placing the child in care.

(c) If the plan is consistent with the requirements for the content of a plan as specified in this chapter.

(d) In involuntary placements, whether each parent was notified of the right to counsel at each stage of the dependency proceedings, in accordance with the Florida Rules of Juvenile Procedure.

(e) Whether each parent whose location was known was notified of the right to participate in the preparation of a case plan and of the right to receive assistance from any other person in the preparation of the case plan.

(f) Whether the plan is meaningful and designed to address facts and circumstances upon which the court based the finding of dependency in involuntary placements or the plan is meaningful and designed to address facts and circumstances upon which the child was placed in out-of-home care voluntarily.

(2) When the court determines that any of the elements considered at the hearing related to the plan have not been met, the court shall require the parties to make necessary amendments to the plan under s. 39.6013. The amended plan must be submitted to the court for review and approval within 30 days after the hearing. A copy of the amended plan must also be provided to each party, if the location of the party is known, at least 3 business days before filing with the court.

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

History.--s. 9, ch. 87-289; s. 32, ch. 88-337; s. 26, ch. 94-164; s. 17, ch. 95-228; s. 76, ch. 98-403; s. 37, ch. 99-193; s. 27, ch. 2000-139; s. 18, ch. 2006-86.
Note.--Former s. 39.452(5).

39.6035 Transition plan.–
(1) During the year after a child reaches 16 years of age, the department and the community-based care lead agency ~~provider~~, in collaboration with the caregiver and any other individual whom the child would like to include, shall assist the child in developing a transition plan. The required transition plan is in addition to standard case management requirements. The transition plan must address specific options for the child to use in obtaining services, including housing, health insurance, education, financial literacy, a driver license, and workforce support and employment services. The plan must also include tasks to establish and maintain naturally occurring mentoring relationships and other personal support services. The transition plan may be as detailed as the child chooses. This plan must ~~shall~~ be updated as needed before the child reaches 18 years of age and after the child reaches 18 years of age if he or she is receiving funding under s. 409.1451(2). In

developing and updating the transition plan, the department and the community-based care lead agency shall:

(a) Provide the child with the documentation required under s. 39.701(3).

(b) Coordinate the transition plan with the independent living provisions in the case plan and, for a child with disabilities, the Individual with Disabilities Education Act transition plan.

(c) Provide information for the financial literacy curriculum for youth offered by the Department of Financial Services.

(d) Provide information about independent living services and programs which is tailored to the individual needs and plans of the child, including, at a minimum, the specific benefits of each program and how such benefits meet the needs and plans of the child, the advantages and disadvantages of participation in each program considering the needs and plans of the child, and the financial value of each program to the child. The community-based care lead agency shall discuss this information with the child, and the child must sign a document indicating that he or she:

1. Received such information.

2. Discussed such information with the community-based care lead agency representative.

3. Understands how such services and benefits would meet his or her individual needs.

4. Understands how such services would assist him or her in accomplishing future plans.

(2) The department and the child shall schedule a time, date, and place for a meeting to assist the child in drafting the transition plan. The time, date, and place must be convenient for the child and any individual whom the child would like to include. This meeting must ~~shall~~ be conducted in the child's primary language.

(3) The transition plan shall be reviewed periodically with the child, the department, and other individuals of the child's choice and updated when necessary before each judicial review so long as the child or young adult remains in care.

(4) The transition plan must be approved by the court before the child's 18th birthday and must be attached to the case plan and updated before each judicial review.

(5) The department or community-based care lead agency shall continue to periodically meet with a young adult to review and, if necessary, update the transition plan beyond his or her 18th birthday if the young adult receives funding under s. 409.1451(2).

History.--s. 4, ch. 2013-178; s. 2, ch. 2017-8; s. 17, ch. 2017-151; s. 3, ch. 2018-102; s. 12, ch. 2021-169; s. 4, ch. 2022-67.

39.604 Rilya Wilson Act; short title; legislative intent; requirements; child care; early education; preschool.–

(1) SHORT TITLE.–This section may be cited as the "Rilya Wilson Act."

(2) LEGISLATIVE INTENT.–The Legislature recognizes that children who are in the care of the state due to abuse, neglect, or abandonment are at increased risk of poor school performance and other behavioral and social problems. It is the intent of the Legislature that children who are currently in the care of the state be provided with an age-appropriate education program to help ameliorate the negative consequences of abuse, neglect, or abandonment.

(3) REQUIREMENTS.–

(a) A child from birth to the age of school entry, who is under court-ordered protective supervision or in out-of-home care and is enrolled in an early education or child care program must attend the program 5

days a week unless the court grants an exception due to the court determining it is in the best interest of a child from birth to age 3 years:

1. With a stay-at-home caregiver to remain at home.

2. With a caregiver who works less than full time to attend an early education or child care program fewer than 5 days a week.

(b) Notwithstanding s. 39.202, the department must notify operators of an early education or child care program, subject to the reporting requirements of this act, of the enrollment of any from birth to the age of school entry, under court-ordered protective supervision or in out-of-home care. If a child is enrolled in an early education or child care program, the child's attendance in the program must be a required task in the safety plan or the case plan developed for a child pursuant to this chapter.

(4) ATTENDANCE.–

(a) A child enrolled in an early education or child care program who meets the requirements of subsection (3) may not be withdrawn from the program without the prior written approval of the department or the community-based care lead agency.

(b)1. If a child covered by this section is absent from the program on a day when he or she is supposed to be present, the person with whom the child resides must report the absence to the program by the end of the business day. If the person with whom the child resides, whether the parent or caregiver, fails to timely report the absence, the absence is considered to be unexcused. The program shall report any unexcused absence or seven consecutive excused absences of a child who is enrolled in the program and covered by this act to the department or the community-based care lead agency by the end of the business day following the unexcused absence or seventh consecutive excused absence.

2. The department or community-based care lead agency shall conduct a site visit to the residence of the child upon receiving a report of two consecutive unexcused absences or seven consecutive excused absences.

3. If the site visit results in a determination that the child is missing, the department or community-based care lead agency shall follow the procedure set forth in s. 39.0141.

4. If the site visit results in a determination that the child is not missing, the parent or caregiver shall be notified that failure to ensure that the child attends the early education or child care program is a violation of the case plan. If more than two site visits are conducted pursuant to this paragraph, staff shall notify the court of the parent or caregiver's noncompliance with the case plan.

(5) EDUCATIONAL STABILITY.–Just as educational stability is important for school-age children, it is also important to minimize disruptions to secure attachments and stable relationships with supportive caregivers of children from birth to school age and to ensure that these attachments are not disrupted due to placement in out-of-home care or subsequent changes in out-of-home placement.

(a) A child must be allowed to remain in the child care or early education setting that he or she attended before entry into out-of-home care, unless the program is not in the best interest of the child.

(b) If it is not in the best interest of the child for him or her to remain in his or her child care or early education setting upon entry into out-of-home care, the caregiver must work with the case manager, guardian ad litem, child care and educational staff, and educational surrogate, if one has been appointed, to determine the best setting for the child. Such setting may be a child care provider that receives a Gold Seal Quality Care designation pursuant to s. 1002.945, a licensed child care provider, a public school provider, or a license-exempt child care provider, including religious-exempt and registered providers, and nonpublic schools.

(c) The department and providers of child care and early education shall develop protocols to ensure continuity if children are required to leave a program because of a change in out-of-home placement.

(6) TRANSITIONS.–In the absence of an emergency, if a child from birth to school age leaves a child care or early education program, the transition must be pursuant to a plan that involves cooperation and sharing of information among all persons involved, that respects the child's developmental stage and associated psychological needs, and that allows for a gradual transition from one setting to another.

History.--s. 1, ch. 2003-292; s. 21, ch. 2014-19; s. 16, ch. 2014-224; s. 6, ch. 2018-108.

PART VIII
PERMANENCY

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 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 the department or awaits adoption.

(2) The permanency goal of maintaining and strengthening the placement with a parent may be used in all of the following circumstances:

(a) If a child has not been removed from a parent, 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.

(b) If a child has been removed from a parent and is placed with the 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.

(c) 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.

(3) The permanency goals available under this chapter, listed in order of preference, are:

(a) Reunification;

(b) Adoption, if a petition for termination of parental rights has been or will be filed;

(c) Permanent guardianship of a dependent child under s. 39.6221;

(d) Permanent placement with a fit and willing relative under s. 39.6231; or

(e) Placement in another planned permanent living arrangement under s. 39.6241.

(4)(a) At least 3 business days before the permanency hearing, the department shall file its judicial review social services report with the court and serve copies of the report on all parties. The report must include a recommended permanency goal for the child, suggest changes to the case plan, if needed, and describe why the recommended goal is in the best interest of the child.

(b) Before the permanency hearing, the department shall advise the child and the individuals with whom the child will be placed about the availability of more permanent and legally secure placements and what type of financial assistance is associated with each placement.

(5) At the permanency hearing, the court shall determine:

(a) Whether the current permanency goal for the child is appropriate or should be changed;

(b) When the child will achieve one of the permanency goals;

(c) Whether the department has made reasonable efforts to finalize the permanency plan currently in effect; and

(d) Whether the frequency, duration, manner, and level of engagement of the parent or legal guardian's visitation with the child meets the case plan requirements.

(6) The best interest of the child is the primary consideration in determining the permanency goal for the child. The court must also consider:

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

(b) Any recommendation of the guardian ad litem.

(7) If a child will not be reunified with a parent, adoption, under chapter 63, is the primary permanency option. If the child is placed with a relative or with a relative of the child's half-brother or half-sister as a permanency option, the court may recognize the permanency of this placement without requiring the relative to adopt the child.

If the court approves a permanency goal of permanent guardianship of a dependent child, placement with a fit and willing relative, or another planned permanent living arrangement, the court shall make findings as to why this permanent placement is established without adoption of the child to follow. If the court approves a permanency goal of another planned permanent living arrangement, the court shall document the compelling reasons for choosing this goal.

(8) The findings of the court regarding reasonable efforts to finalize the permanency plan must be explicitly documented, made on a case-by-case basis, and stated in the court order.

(9) The case plan must list the tasks necessary to finalize the permanency placement and shall be updated at the permanency hearing if necessary. If a concurrent case plan is in place, the court may choose between the permanency goal options presented and shall approve the goal that is in the child's best interest.

(10) The permanency placement is intended to continue until the child reaches the age of majority and may not be disturbed absent a finding by the court that the circumstances of the permanency placement are no longer in the best interest of the child.

(a) If, after a child is residing in the permanent placement approved at the permanency hearing, a parent who has not had his or her parental rights terminated makes a motion for reunification or increased contact with the child, the court shall hold a hearing to determine whether the dependency case should be reopened and whether there should be a modification of the order.

(b) At the hearing, the parent must demonstrate that the safety, well-being, and physical, mental, and emotional health of the child is not endangered by the modification.

(c) The court shall base its decision concerning any motion by a parent for reunification or increased contact with a child on the effect of the decision on the safety, well-being, and physical and emotional health of the child. Factors that must be considered and addressed in the findings of fact of the order on the motion must include:

1. The compliance or noncompliance of the parent with the case plan;

2. The circumstances which caused the child's dependency and whether those circumstances have been resolved;

3. The stability and longevity of the child's placement;

4. The preferences of the child, if the child is of sufficient age and understanding to express a preference;

5. The recommendation of the current custodian; and

6. The recommendation of the guardian ad litem, if one has been appointed.

(11) Placement of a child in a permanent guardianship, with a fit and willing relative, or in another planned permanent living arrangement does not terminate the parent-child relationship, including, but not limited to:

(a) The right of the child to inherit from his or her parents;

(b) The parents' right to consent to the child's adoption; or

(c) The parents' responsibility to provide financial, medical, and other support for the child as ordered by the court.

History. -- s. 28, ch. 2000-139; s. 19, ch. 2006-86; s. 12, ch. 2012-178; s. 18, ch. 2017-151; s. 8, ch. 2018-103; s. 10, ch. 2019-128.

39.6221 Permanent guardianship of a dependent child.–

(1) If a court determines that reunification or adoption is not in the best interest of the child, the court may place the child in a permanent guardianship with a relative or other adult approved by the court if all of the following conditions are met:

(a) The child has been in the placement for not less than the preceding 6 months.

(b) The permanent guardian is suitable and able to provide a safe and permanent home for the child.

(c) The court determines that the child and the relative or other adult are not likely to need supervision or services of the department to ensure the stability of the permanent guardianship.

(d) The permanent guardian has made a commitment to provide for the child until the child reaches the age of majority and to prepare the child for adulthood and independence.

(e) The permanent guardian agrees to give notice of any change in his or her residential address or the residence of the child by filing a written document in the dependency file of the child with the clerk of the court.

(f) The child demonstrates a strong attachment to the prospective permanent guardian and such guardian has a strong commitment to permanently caring for the child.

(2) In its written order establishing a permanent guardianship, the court shall:

(a) List the circumstances or reasons why the child's parents are not fit to care for the child and why reunification is not possible by referring to specific findings of fact made in its order adjudicating the child dependent or by making separate findings of fact;

(b) State the reasons why a permanent guardianship is being established instead of adoption;

(c) Specify the frequency and nature of visitation or contact between the child and his or her parents;

(d) Specify the frequency and nature of visitation or contact between the child and his or her grandparents, under s. 39.509;

(e) Specify the frequency and nature of visitation or contact between the child and his or her siblings; and

(f) Require that the permanent guardian not return the child to the physical care and custody of the person from whom the child was removed without the approval of the court.

(3) The court shall give the permanent guardian a separate order establishing the authority of the permanent guardian to care for the child, and providing any other information the court deems proper which can be provided to persons who are not parties to the proceeding as necessary, notwithstanding the confidentiality provisions of s. 39.202.

(4) A permanent guardianship of a dependent child established under this chapter is not a plenary guardianship and is not subject to the requirements of chapter 744.

(5) The court shall retain jurisdiction over the case and the child shall remain in the custody of the permanent guardian unless the order creating the permanent guardianship is modified by the court. The court shall discontinue regular review hearings and relieve the department of the responsibility for supervising the placement of the child. Notwithstanding the retention of jurisdiction, the placement shall be considered permanency for the child.

(6) Placement of a child in a permanent guardianship does not terminate the parent-child relationship, including:

(a) The right of the child to inherit from his or her parents;

(b) The parents' right to consent to the child's adoption; and

(c) The parents' responsibility to provide financial, medical, and other support for the child as ordered by the court.

(7) The requirements of s. 61.13001 do not apply to permanent guardianships established under this section.

History.--s. 20, ch. 2006-86; s. 4, ch. 2007-5; s. 19, ch. 2017-151; s. 9, ch. 2018-103.

39.6225 Guardianship Assistance Program.–

(1) The department shall establish and operate the Guardianship Assistance Program to provide guardianship assistance payments to relatives who meet the eligibility requirements established in this section. For purposes of administering the program, the term:

(a) “Child” means an individual who has not attained 21 years of age.

(b) “Relative” means fictive kin, relative, or next of kin as those terms are defined in s. 39.01.

(c) “Young adult” means an individual who has attained 18 years of age but who has not attained 21 years of age.

(2) To approve an application for the program, the department shall determine that all of the following requirements have been met:

(a) The child’s placement with the guardian has been approved by the court.

(b) The court has granted legal custody to the guardian pursuant to s. 39.6221.

(c) The guardian has been licensed to care for the child as provided in s. 409.175.

(d) The child was eligible for foster care room and board payments pursuant to s. 409.145 for at least 6 consecutive months while the child resided in the home of the guardian and the guardian was licensed as a foster parent.

(3) A guardian who has entered into a guardianship agreement for a dependent child may also receive guardianship assistance payments for a dependent sibling of that dependent child as a result of a court determination of child abuse, neglect, or abandonment and subsequent placement of the child with the relative under this part.

(4) The department shall complete an annual redetermination of eligibility for recipients of guardianship assistance benefits. If the department determines that a recipient is no longer eligible for guardianship assistance benefits, such benefits shall be terminated.

(5) A guardian with an application approved pursuant to subsection (2) who is caring for a child placed with the guardian by the court pursuant to this part may receive guardianship assistance payments based on the following criteria:

(a) A child eligible for cash benefits through the program is not eligible to simultaneously have payments made on the child's behalf through the Relative Caregiver Program under s. 39.5085, postsecondary education services and supports under s. 409.1451, or child-only cash assistance under chapter 414.

(b) Guardianship assistance payments are not contingent upon continued residency in the state. Guardianship assistance payments must continue for court-approved permanent guardians who move out of state and continue to meet the requirements of this subsection and as specified in department rule. Relicensure of the out-of-state guardian's home is not required for continuity of payments.

(c) Guardianship assistance payments for a child from another state who is placed with a guardian in this state are the responsibility of the other state.

(d) The department shall provide guardianship assistance payments in the amount of $4,000 annually, paid on a monthly basis, or in an amount other than $4,000 annually as determined by the guardian and the department and memorialized in a written agreement between the guardian and the department. The agreement shall take into consideration the circumstances of the guardian and the needs of the child. Changes may not be made without the concurrence of the guardian. However, the amount of the monthly payment may not exceed the foster care maintenance payment that would have been paid during the same period if the child had been in licensed care at his or her designated level of care at the rate established in s. 409.145(3).

(e) Payments made pursuant to this section shall cease when the child attains 18 years of age, except as provided in subsection (9).

(6) Guardianship assistance benefits shall be terminated if:

(a) The child has attained 18 years of age, or the child has attained 21 years of age if he or she meets the requirements of subsection (9);

(b) The child has not attained 18 years of age and the guardian is no longer legally responsible for the support of the child; or

(c)The child no longer receives support from the guardian.

(7) The department shall provide guardianship nonrecurring payments. Eligible expenses include, but are not limited to, the cost of a home study, court costs, attorney fees, and costs of physical and psychological examinations. Such payments are also available for a sibling placed in the same home as the child.

(8) A child receiving assistance under this section is eligible for Medicaid coverage until the child attains 18 years of age, or until the child attains 21 years of age if he or she meets the requirements of subsection (9).

(9) Guardianship assistance payments shall only be made for a young adult whose permanent guardian entered into a guardianship assistance agreement after the child attained 16 years of age but before the child attained 18 years of age if the child is:

(a) Completing secondary education or a program leading to an equivalent credential;

(b) Enrolled in an institution that provides postsecondary or vocational education;

(c) Participating in a program or activity designed to promote or eliminate barriers to employment;

(d) Employed for at least 80 hours per month; or

(e) Unable to participate in programs or activities listed in paragraphs (a) – (d) full time due to a physical, intellectual, emotional, or psychiatric condition that limits participation. Any such barrier to participation must be supported by documentation in the child's case file or school or medical records of a

physical, intellectual, emotional, or psychiatric condition that impairs the child's ability to perform one or more life activities.

(10) The case plan must describe the following for each child with a permanency goal of permanent guardianship in which the guardian is pursuing guardianship assistance:

(a) The manner in which the child meets program eligibility requirements.

(b) The manner in which the department determined that reunification or adoption is not appropriate.

(c) Efforts to discuss adoption with the child's permanent guardian.

(d) Efforts to discuss guardianship assistance with the child's parent or the reasons why efforts were not made.

(e) The reasons why a permanent placement with the prospective guardian is in the best interest of the child.

(f) The reasons why the child is separated from his or her siblings during placement, if applicable.

(g) Efforts to consult the child, if the child is 14 years of age or older, regarding the permanent guardianship arrangement.

(11) The department shall adopt rules to administer the program.

(12) The department shall develop and implement a comprehensive communications strategy in support of relatives and fictive kin who are prospective caregivers. This strategy shall provide such prospective caregivers with information on supports and services available under state law. At a minimum, the department's communication strategy shall involve providing prospective caregivers with information about:

(a) Eligibility criteria, monthly payment rates, terms of payment, and program or licensure requirements for the Relative Caregiver Program, the Guardianship Assistance Program, and licensure as a Level I or Level II family foster home as provided in s. 409.175.

(b) A detailed description of the process for licensure as a Level I or Level II family foster home and for applying for the Relative Caregiver program.

(c) Points of contact for addressing questions or obtaining assistance in applying for programs or licensure.

(13) The department may adopt rules necessary to administer this section.

History.--s.10, ch. 2018-103; s. 8, ch. 2019-142; s. 15, ch. 2020-138; s. 16, ch. 2021-170.

39.6231 Permanent placement with a fit and willing relative.–

(1) If a court finds that reunification or adoption are not in the best interests of a child, the court may place the child with a fit and willing relative as a permanency option if:

(a) The child has been in the placement for at least the preceding 6 months;

(b) The relative has made a commitment to provide for the child until the child reaches the age of majority and to prepare the child for adulthood and independence;

(c) The relative is suitable and able to provide a safe and permanent home for the child; and

(d) The relative agrees to give notice of any change in his or her residence or the residence of the child by filing a written document with the clerk of court.

(2) The department and the guardian ad litem shall provide the court with a recommended list and description of services needed by the child and the family in order to ensure the permanency of the placement.

(3) In its written order placing the child with a fit and willing relative, the court shall:

(a) List the circumstances or reasons why reunification is not possible by referring to specific findings of fact made in its order adjudicating the child dependent or by making separate findings of fact;

(b) State the reasons why permanent placement with a fit and willing relative is being established instead of adoption;

(c) Specify the frequency and nature of visitation or contact between the child and his or her parents;

(d) Specify the frequency and nature of visitation or contact between the child and his or her grandparents, under s. 39.509;

(e) Specify the frequency and nature of visitation or contact between the child and his or her siblings; and

(f) Require that the relative not return the child to the physical care and custody of the person from whom the child was removed without the approval of the court.

(4) The court shall give the relative a separate order establishing his or her authority to care for the child and providing other information the court deems proper which can be provided to entities and individuals who are not parties to the proceeding as necessary, notwithstanding the confidentiality of s. 39.202.

(5) The department shall continue to supervise the placement with the relative until further court order. The court shall continue to review the placement at least once every 6 months.

(6) Each party to the proceeding must be advised by the department and the court that placement with a fit and willing relative does not preclude the possibility of the child returning to the custody of the parent.

(7) The court shall continue to conduct permanency hearings in order to reevaluate the possibility of adoption or permanent guardianship of the child.

History.--s. 21, ch. 2006-86.

39.6241 Another planned permanent living arrangement.–

(1) If a court finds that reunification is not in the best interests of a child, the court may approve placement of the child in another planned permanent living arrangement if:

(a) The court finds a more permanent placement, such as adoption, permanent guardianship, or placement with a fit and willing relative, is not in the best interests of the child;

(b) The department documents reasons why the placement will endure and how the proposed arrangement will be more stable and secure than ordinary foster care;

(c) The court finds that the health, safety, and well-being of the child will not be jeopardized by such an arrangement; and

(d) There are compelling reasons to show that placement in another planned permanent living arrangement is the most appropriate permanency goal. Compelling reasons for such placement may include, but are not limited to:

1. The case of a parent and child who have a significant bond but the parent is unable to care for the child because of an emotional or physical disability, and the child's foster parents have committed to raising him or her to the age of majority and to facilitate visitation with the disabled parent;

2. The case of a child for whom an Indian tribe has identified another planned permanent living arrangement for the child; or

3. The case of a foster child who is 16 years of age or older who chooses to remain in foster care, and the child's foster parents are willing to care for the child until the child reaches 18 years of age.

(2) The department and the guardian ad litem must provide the court with a recommended list and description of services needed by the child, such as independent living services and medical, dental, educational, or psychological referrals, and a recommended list and description of services needed by his or her caregiver.

(3) The department shall continue to supervise the planned permanent living arrangement until the court orders otherwise. The court shall continue to review the placement at least once every 6 months.
History.--s. 22, ch. 2006-86.

39.6251 Continuing care for young adults.–
(1) As used in this section, the term "child" means an individual who has not attained 21 years of age, and the term "young adult" means an individual who has attained 18 years of age but who has not attained 21 years of age.

(2) The primary goal for a child in care is permanency. A child who is living in licensed care on his or her 18th birthday and who has not achieved permanency under s. 39.621, is eligible to remain in licensed care under the jurisdiction of the court and in the care of the department. A child is eligible to remain in licensed care if he or she is:

(a) Completing secondary education or a program leading to an equivalent credential;
(b) Enrolled in an institution that provides postsecondary or vocational education;
(c) Participating in a program or activity designed to promote or eliminate barriers to employment;
(d) Employed for at least 80 hours per month; or
(e) Unable to participate in program or activities listed in (a)-(d) full time due to a physical, intellectual, emotional, or psychiatric condition that limits participation. Any such barrier to participation must be supported by documentation in the child's case file or school or medical records of a physical, intellectual, or psychiatric condition that impairs the child's ability to perform one or more life activities.

The young adult must furnish documentation to the department or lead agency of his or her participation in one of the programs or activities listed in paragraphs (a)-(d), or his or her inability to participate in one of the programs or activities as provided in paragraph (e), or authorize the release of his or her records to the department or lead agency.

(3) The permanency goal for a young adult who chooses to remain in care past his or her 18th birthday is to transition to independence.

(4)(a) The young adult must reside in a supervised living environment that is approved by the department or a community-based care lead agency. The young adult shall live independently, but in an environment in which he or she is provided supervision, case management, and supportive services by the department or lead agency. Such an environment must offer developmentally appropriate freedom and responsibility to prepare the young adult for adulthood. For the purposes of this subsection, a supervised living arrangement may include a licensed foster home, licensed group home, college dormitory, shared housing, apartment, or another housing arrangement if the arrangement is approved by the community-based care lead agency and is acceptable to the young adult. A young adult may continue to reside with the same licensed foster family or group care provider with whom he or she was residing at the time he or she reached the age of 18 years.

(b) Before approving the residential setting in which the young adult will live, the department or community-based care lead agency must ensure that:

1. The young adult will be provided with a level of supervision consistent with his or her individual education, health care needs, permanency plan, and independent living goals as assessed by the department

or lead agency with input from the young adult. Twenty-four hour on-site supervision is not required, however, 24-hour crisis intervention and support must be available.

2. The young adult will live in an independent living environment that offers, at a minimum, life skills instruction, counseling, educational support, employment preparation and placement, and development of support networks. The determination of the type and duration of services shall be based on the young adult's assessed needs, interests, and input and must be consistent with the goals set in the young adult's case plan.

(5) Eligibility for a young adult to remain in extended foster care ends on the earliest of the dates that the young adult:

1. Reaches 21 years of age or, in the case of a young adult with a disability, reaches 22 years of age;
2. Leaves care to live in a permanent home consistent with his or her permanency plan; or
3. Knowingly and voluntarily withdraws his or her consent to participate in extended care.

Withdrawal of consent to participate in extended care shall be verified by the court pursuant to s. 39.701, unless the young adult refuses to participate in any further court proceeding.

(6) A young adult who is between the ages of 18 and 21 and who has left care may return to care by applying to the community-based care lead agency for readmission through the execution of a voluntary placement agreement. The community-based care lead agency shall readmit the young adult if he or she continues to meet the eligibility requirements in this section.

(a) The department shall develop a standard procedure and application packet for readmission to care to be used by all community-based care lead agencies.

(b) Within 30 days after the young adult has been readmitted to care, the community-based care lead agency shall assign a case manager to update the case plan and the transition plan and to arrange for the required services. Updates to the case plan and the transition plan and arrangements for the required services shall be undertaken in consultation with the young adult. The department shall petition the court to reinstate jurisdiction over the young adult. Notwithstanding s. 39.013(2), the court shall resume jurisdiction over the young adult if the department establishes that he or she continues to meet the eligibility requirements in this section.

(7) During each period of time that a young adult is in care, the community-based lead agency shall provide regular case management reviews that must include at least monthly face-to-face meetings with the case manager.

(8) During the time that a young adult is in care, the court shall maintain jurisdiction to ensure that the department and the lead agencies are providing services and coordinate with, and maintain oversight of, other agencies involved in implementing the young adult's case plan, individual education plan, and transition plan. The court shall review the status of the young adult at least every 6 months and hold a permanency review hearing at least annually. If the young adult is appointed a guardian under chapter 744 or a guardian advocate under s. 393.12, at the permanency review hearing the court shall review the necessity of continuing the guardianship and whether restoration of the guardianship proceedings are needed when the young adult reaches 22 years of age. The court may appoint a guardian ad litem or continue the appointment of a guardian ad litem with the young adult's consent. The young adult or any other party to the dependency case may request an additional hearing or review.

(9) The department shall establish a procedure by which a young adult may appeal a determination of eligibility to remain in care that was made by a community-based care lead agency. The procedure must be readily accessible to young adults, must provide for timely decisions, and must provide for an appeal to the

department. The decision of the department constitutes final agency action and is reviewable by the court as provided in s. 120.68.

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

History.—s. 5, ch. 2013-178; s. 2, ch. 2015-112; ss. 26, 28, 89, ch. 2018-10; s. 11, ch. 2018-103; s. 9, ch. 2019-142.

PART IX
JUDICIAL REVIEWS

39.701 Judicial review.–

(1) GENERAL PROVISIONS.–

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

(b)1. The court shall retain jurisdiction over a child returned to his or her parents for a minimum period of 6 months following the reunification, but, at that time, based on a report of the social service agency and the guardian ad litem, if one has been appointed, and any other relevant factors, the court shall make a determination as to whether supervision by the department and the court's jurisdiction shall continue or be terminated.

2. Notwithstanding subparagraph 1., the court must retain jurisdiction over a child if the child is placed in the home with a parent or caregiver with an in-home safety plan and such safety plan remains necessary for the child to reside safely in the home.

(c)1. The court shall review the status of the child and shall hold a hearing as provided in this part at least every 6 months until the child reaches permanency status. The court may dispense with the attendance of the child at the hearing, but may not dispense with the hearing or the presence of other parties to the review unless before the review a hearing is held before a citizen review panel.

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

3. Notice of a hearing by a citizen review panel must be provided as set forth in paragraph (f). At the conclusion of a citizen review panel hearing, each party may propose a recommended order to the chairperson of the panel. Thereafter, the citizen review panel shall submit its report, copies of the proposed recommended orders, and a copy of the panel's recommended order to the court. The citizen review panel's recommended order must be limited to the dispositional options available to the court in paragraph (2)(d). Each party may file exceptions to the report and recommended order of the citizen review panel in accordance with Rule 1.490, Florida Rules of Civil Procedure.

(d)1. The initial judicial review hearing must be held no later than 90 days after the date of the disposition hearing or after the date of the hearing at which the court approves the case plan, whichever comes first, but in no event shall the review be held later than 6 months after the date the child was removed from the home. Citizen review panels may not conduct more than two consecutive reviews without the child and the parties coming before the court for a judicial review.

2. 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, 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.

3. If the child is placed in the custody of the department or a licensed child-placing agency for the purpose of adoptive placement, judicial reviews must be held at least every 6 months until the adoption is finalized.

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

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

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

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

(f) Notice of a judicial review hearing or a citizen review panel hearing, and a copy of the motion for judicial review, if any, must be served by the clerk of the court upon all of the following persons, if available to be served, regardless of whether the person was present at the previous hearing at which the date, time, and location of the hearing was announced:

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

2. The foster parent or legal custodian in whose home the child resides.

3. The parents.

4. The guardian ad litem for the child, or the representative of the guardian ad litem program if the program has been appointed.

5. The attorney for the child.

6. The child, if the child is 13 years of age or older.

7. Any preadoptive parent.

8. Such other persons as the court may direct.

(g) 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). The notice shall include the date, time, and location of the next judicial review hearing.

(h) If a child is born into a family that is under the court’s jurisdiction or a child moves into a home that is under the court’s jurisdiction, the department shall assess the child’s safety and provide notice to the court.

1. The department shall complete an assessment to determine how the addition of a child will impact family functioning. The assessment must be completed at least 30 days before a child is expected to be born or to move into a home, or within 72 hours after the department learns of the pregnancy or addition if the child is expected to be born or to move into the home in less than 30 days. The assessment shall be filed with the court.

2. Once a child is born into a family or a child moves into the home, the department shall complete a progress update and file it with the court.

3. The court has the discretion to hold a hearing on the progress update filed by the department.

(2) REVIEW HEARINGS FOR CHILDREN YOUNGER THAN 18 YEARS OF AGE.–

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

1. A description of the type of placement the child is in at the time of the hearing, including the safety of the child and the continuing necessity for and appropriateness of the placement.

2. Documentation of the diligent efforts made by all parties to the case plan to comply with each applicable provision of the plan.

3. The amount of fees assessed and collected during the period of time being reported.

4. The services provided to the foster family or caregiver in an effort to address the needs of the child as indicated in the case plan.

5. A statement that either:

a. The parent, though able to do so, did not comply substantially with the case plan, and the agency recommendations;

b. The parent did substantially comply with the case plan; or

c. The parent has partially complied with the case plan, with a summary of additional progress needed and the agency recommendations.

6. A statement from the foster parent or caregiver providing any material evidence concerning the well-being of the child, the impact of any services provided to the child, the working relationship between the parents and caregivers, and the return of the child to the parents.

7. A statement concerning the frequency, duration, and results of the parent-child visitation, if any, and the agency and caregiver recommendations for an expansion or restriction of future visitation.

8. The number of times a child has been removed from his or her home and placed elsewhere, the number and types of placements that have occurred, and the reason for the changes in placement.

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

10. If the child has reached 13 years of age but is not yet 18 years of age, a statement from the caregiver on the progress the child has made in acquiring independent living skills.

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

12. Copies of the child’s current health, mental health, and education records as identified in s. 39.6012.

(b) Submission and distribution of reports.–

1. A copy of the social service agency's written report and the written report of the guardian ad litem must be served on all parties whose whereabouts are known; to the foster parents or legal custodians; and to the citizen review panel, at least 72 hours before the judicial review hearing or citizen review panel hearing. The requirement for providing parents with a copy of the written report does not apply to those parents who have voluntarily surrendered their child for adoption or who have had their parental rights to the child terminated.

2. In a case in which the child has been permanently placed with the social service agency, the agency shall furnish to the court a written report concerning the progress being made to place the child for adoption. If the child cannot be placed for adoption, a report on the progress made by the child towards

alternative permanency goals or placements, including, but not limited to, guardianship, long-term custody, long-term licensed custody, or independent living, must be submitted to the court. The report must be submitted to the court at least 72 hours before each scheduled judicial review.

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

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

1. If the parent was advised of the right to receive assistance from any person or social service agency in the preparation of the case plan.

2. If the parent has been advised of the right to have counsel present at the judicial review or citizen review hearings. If not so advised, the court or citizen review panel shall advise the parent of such right.

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

4. Who holds the rights to make educational decisions for the child. If appropriate, the court may refer the child to the district school superintendent for appointment of a surrogate parent or may itself appoint a surrogate parent under the Individuals with Disabilities Education Act and s. 39.0016.

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

6. The compliance or lack of compliance with a visitation contract between the parent and the social service agency for contact with the child, including the frequency, duration, and results of the parent-child visitation and the reason for any noncompliance.

7. The frequency, kind, and duration of contacts among siblings who have been separated during placement, as well as any efforts undertaken to reunite separated siblings if doing so in in the best interests of the child.

8. The compliance or lack of compliance of the parent in meeting specified financial obligations pertaining to the care of the child, including the reason for failure to comply, if applicable.

9. Whether the child is receiving safe and proper care according to s. 39.6012, including, but not limited to, the appropriateness of the child's current placement, including whether the child is in a setting that is as family-like and as close to the parent's home as possible, consistent with the child's best interests and special needs, and including maintaining stability in the child's educational placement, as documented by assurances from the community-based care lead agency that:

a. The placement of the child takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement.

b. The community-based care lead agency has coordinated with appropriate local educational agencies to ensure that the child remains in the school in which the child is enrolled at the time of placement.

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

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

12. For a child who has reached 13 years of age but is not yet 18 years of age, the adequacy of the child's preparation for adulthood and independent living. For a child who is 15 years of age or older, the court shall determine if appropriate steps are being taken for the child to obtain a driver license or learner's driver license.

13. If amendments to the case plan are required. Amendments to the case plan must be made under s. 39.6013.

14. If the parents and caregivers have developed a productive relationship that includes meaningful communication and mutual support.

(d) Orders.–

1. Based upon the criteria set forth in paragraph (c) and the recommended order of the citizen review panel, if any, the court shall determine whether the social service agency shall initiate proceedings to have a child declared a dependent child, return the child to the parent, continue the child in out-of-home care for a specified period of time, or initiate termination of parental rights proceedings for subsequent placement in an adoptive home. Amendments to the case plan must be prepared as provided in s. 39.6013. If the court finds that the prevention or reunification efforts of the department will allow the child to remain safely at home or be safely returned to the home, the court shall allow the child to remain in or return to the home after making a specific finding of fact that the reasons for the creation of the case plan have been remedied to the extent that the child's safety, well-being, and physical, mental, and emotional health will not be endangered.

2. The court shall return the child to the custody of his or her parents at any time it determines that the circumstances that caused the out-of-home placement, and any issues subsequently identified, have been remedied to the extent that returning the child to the home with an in-home safety plan prepared or approved by the department will not be detrimental to the child's safety, well-being, and physical, mental, and emotional health.

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

4. If, at any judicial review, the court finds that the parents have failed to substantially comply with the case plan to the degree that further reunification efforts are without merit and not in the best interest of the child, on its own motion, the court may order the filing of a petition for termination of parental rights, regardless of whether the time period as contained in the case plan for substantial compliance has expired.

5. Within 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. In making such findings, the court shall consider the level of the parent or legal custodian's compliance with the case plan and demonstrated change in protective capacities compared to that necessary to achieve timely reunification within 12 months after the removal of the child from the home. The court shall also consider the frequency, duration, manner, and level or engagement of the parent or legal custodian's visitation with the child in compliance with the case plan. If 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 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.

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

7. If, at any judicial review, the court determines that the child shall remain in out-of-home care in a placement other than with a parent, the court shall order that the department has placement and care responsibility for the child.

(3) REVIEW HEARINGS FOR CHILDREN 16 AND 17 YEARS OF AGE.–At each reviewing hearing held under this subsection, the court shall give the child the opportunity to address the court and provide any information relevant to the child's best interest, particularly in relation to independent living transition services. The foster parent, legal custodian, or guardian ad litem may also provide any information relevant to the child's best interest to the court. In addition to the review and report required under paragraphs (1)(a) and (2)(a), respectively, the court shall:

(a) Inquire about the life skills the child has acquired and whether those services are age appropriate, at the first judicial review hearing held subsequent to the child's 16th birthday. At the judicial review hearing, the department shall provide the court with a report that includes specific information related to the life skills that the child has acquired since the child's 13th birthday, or since the date the child came into foster care, whichever came later. For any child who may meet the requirements for appointment of a guardian advocate under s. 393.12, or a guardian under chapter 744, the updated case plan must be developed in a face-to-face conference with the child, if appropriate; the child's attorney; any court-appointed guardian ad litem; the temporary custodian of the child; and the parent of the child, if the parent's rights have not been terminated.

(b) The court shall hold a judicial review hearing within 90 days after a child's 17th birthday. The court shall issue an order, separate from the order on judicial review, that the disability of nonage of the child has been removed under ss. 743.044, 743.045, 743.046, and 743.047, for any disability that the court finds is in the child's best interest to remove. The department shall include in the social study report for the first judicial review that occurs after the child's 17th birthday written verification that the child has:

1. A current Medicaid card and all necessary information concerning the Medicaid program sufficient to prepare the child to apply for coverage upon reaching the age of 18, if such application is appropriate.

2. A certified copy of the child's birth certificate and, if the child does not have a valid driver license, a Florida identification card issued under s. 322.051.

3. A social security card and information relating to social security insurance benefits if the child is eligible for those benefits. If the child has received such benefits and they are being held in trust for the child, a full accounting of these funds must be provided and the child must be informed as to how to access those funds.

4. All relevant information related to the Road-to-Independence Program under s. 409.1451, including, but not limited to, eligibility requirements, information on participation, and assistance in gaining admission to the program. If the child is eligible for the Road-to-Independence Program, he or she must be advised that he or she may continue to reside with the licensed family home or group care provider with whom the child was residing at the time the child attained his or her 18th birthday, in another licensed family home, or with a group care provider arranged by the department.

5. An open bank account or the identification necessary to open a bank account and to acquire essential banking and budgeting skills.

6. Information on public assistance and how to apply for public assistance.

7. A clear understanding of where he or she will be living on his or her 18th birthday, how living expenses will be paid, and the educational program or school in which he or she will be enrolled.

8. Information related to the ability of the child to remain in care until he or she reaches 21 years of age under s. 39.013.

9. A letter providing the dates that the child is under the jurisdiction of the court.

10. A letter stating that the child is in compliance with financial aid documentation requirements.

11. The child's educational records.

12. The child's entire health and mental health records.

13. The process for accessing the child's case file.

14. A statement encouraging the child to attend all judicial review hearings.

15. Information on how to obtain a driver license or learner's driver license.

(c) At the first judicial review hearing held subsequent to the child's 17th birthday if the court determines pursuant to chapter 744 that there is a good faith basis to believe that the child qualifies for appointment of a guardian advocate, limited guardian, or plenary guardian for the child and that no less restrictive decisionmaking assistance will meet the child's needs:

1. The department shall complete a multidisciplinary report which must include, but is not limited to, a psychosocial evaluation and educational report if such a report has not been completed within the previous 2 years.

2. The department shall identify one or more individuals who are willing to serve as the guardian advocate under s. 393.12 or as the plenary or limited guardian under chapter 744. Any other interested parties or participants may make efforts to identify such a guardian advocate, limited guardian, or plenary guardian. The child's biological or adoptive family members, including the child's parents if the parents' rights have not been terminated, may not be considered for service as the plenary or limited guardian unless the court enters a written order finding that such an appointment is in the child's best interests.

3. Proceedings may be initiated within 180 days after the child's 17th birthday for the appointment of a guardian advocate, plenary guardian, or limited guardian for the child in a separate proceeding in the court division with jurisdiction over guardianship matters and pursuant to chapter 744. The Legislature encourages the use of pro bono representation to initiate proceedings under this section.

4. In the event another interested party or participant initiates proceedings for the appointment of a guardian advocate, plenary guardian, or limited guardian for the child, the department shall provide all necessary documentation and information to the petitioner to complete a petition under s. 393.12 or chapter 744 within 45 days after the first judicial review hearing after the child's 17th birthday.

5. Any proceedings seeking appointment of a guardian advocate or a determination of incapacity and the appointment of a guardian must be conducted in a separate proceeding in the court division with jurisdiction over guardianship matters and pursuant to chapter 744.

(d) If the court finds at the judicial review hearing after the child's 17th birthday that the department has not met its obligations to the child as stated in this part, in the written case plan, or in the provision of independent living services, the court may issue an order directing the department to show cause as to why it has not done so. If the department cannot justify its noncompliance, the court may give the department 30 days within which to comply. If the department fails to comply within 30 days, the court may hold the department in contempt.

(e) If necessary, the court may review the status of the child more frequently during the year before the child's 18th birthday. At the last review hearing before the child reaches 18 years of age, and in addition to the requirements of subsection (2), the court shall:

1. Address whether the child plans to remain in foster care, and, if so, ensure that the child's transition plan includes a plan for meeting one or more of the criteria specified in s. 39.6251.

2. Ensure that the transition plan includes a supervised living arrangement under s. 39.6251.

3. Ensure the child has been informed of:

a. The right to continued support and services from the department and the community-based care lead agency.

b. The right to request termination of dependency jurisdiction and be discharged from foster care.

c. The opportunity to reenter foster care under s. 39.6251.

4. Ensure that the child, if he or she requests termination of dependency jurisdiction and discharge from foster care, has been informed of:

a. Services or benefits for which the child may be eligible based on his or her former placement in foster care, including, but not limited to, the assistance of the Office of Continuing Care under s. 414.56.

b. Services or benefits that may be lost through termination of dependency jurisdiction.

c. Other federal, state, local, or community-based services or supports available to him or her.

(4) REVIEW HEARINGS FOR YOUNG ADULTS IN FOSTER CARE.–During each period of time that a young adult remains in foster care, the court shall review the status of the young adult at least every 6 months and must hold a permanency review hearing at least annually.

(a) The department and community-based care lead agency shall prepare and submit to the court a report, developed in collaboration with the young adult, which addresses the young adult's progress in meeting the goals in the case plan. The report must include progress information related to the young adult's independent living plan and transition plan, if applicable, and shall propose modifications as necessary to further the young adult's goals.

(b) The court shall attempt to determine whether the department and any service provider under contract with the department are providing the appropriate services as provided in the case plan.

(c) If the court believes that the young adult is entitled under department policy or under a contract with a service provider to additional services to achieve the goals enumerated in the case plan, it may order the department to take action to ensure that the young adult receives the identified services.

(d) The young adult or any other party to the dependency case may request an additional hearing or judicial review.

(e) Notwithstanding the provisions of this subsection, if a young adult has chosen to remain in extended foster care after he or she has reached 18 years of age, the department may not close a case and the court may not terminate jurisdiction until the court finds, following a hearing, that the following criteria have been met:

1. Attendance of the young adult at the hearing; or

2. Findings by the court that:

a. The young adult has been informed by the department of his or her right to attend the hearing and has provided written consent to waive this right; and

b. The young adult has been informed of the potential negative effects of early termination of care, the option to reenter care before reaching 21 years of age, the procedure for, and limitations on, reentering care, and the availability of alternative services, and has signed a document attesting that he or she has been so informed and understands these provisions; or

c. The young adult has voluntarily left the program, has not signed the document in sub-subparagraph b., and is unwilling to participate in any further court proceeding.

3. In all permanency hearings or hearings regarding the transition of the young adult from care to independent living, the court shall consult with the young adult regarding the proposed permanency plan, case plan, and individual education plan for the young adult and ensure that he or she has understood the conversation.

(f) If the young adult elects to voluntarily leave extended foster care for the sole purpose of ending a removal episode and immediately thereafter executes a voluntary placement agreement with the department to reenroll in extended foster care, the court shall enter an order finding that the prior removal episode has

ended. Under these circumstances, the court maintains jurisdiction and a petition to reinstate jurisdiction as provided in s. 39.6251(6)(b) is not required.

(g)1. When a young adult enters extended foster care by executing a voluntary placement agreement, the court shall enter an order within 180 days after execution of the agreement that determines whether the placement is in the best interest of the young adult. For purposes of this paragraph, a placement may include a licensed foster home, licensed group home, college dormitory, shared housing, apartment, or another housing arrangement, if the arrangement is approved by the community-based care lead agency and is acceptable to the young adult.

2. When a young adult is in extended foster care, each judicial review order shall provide that the department has placement and care responsibility for the young adult.

3. When a young adult is in extended foster care, the court shall enter an order at least every 12 months that includes a finding of whether the department has made reasonable efforts to finalize the permanency plan currently in effect.

History.--s. 9, ch. 87-289; s. 11, ch. 90-306; s. 3, ch. 90-309; s. 3, ch. 91-183; s. 49, ch. 92-58; s. 6, ch. 92-158; s. 27, ch. 94-164; s. 78, ch. 98-403; s. 38, ch. 99-193; s. 32, ch. 2000-139; s. 2, ch. 2004-362; s. 7, ch. 2005-2; s. 2, ch. 2005-179; s. 23, ch. 2006-86; s. 8. ch. 2006-194; s. 14, ch. 2008-245; s. 4, ch. 2009-35; s. 13, ch. 2009-43; s. 13, ch. 2012-178; s. 6, ch. 2013-178; s. 7, ch. 2014-17; s. 1, ch. 2014-166; s. 17, ch. 2014-224; s. 3, ch. 2015-112; s. 3, ch. 2016-10; s. 3, ch. 2017-8; s. 20, ch. 2017-151; s. 12, ch. 2018-103; s. 10, ch. 2019-142; s. 7, ch. 2020-138; s. 13, ch. 2021-169.

Note.--Former s. 39.453.

39.702 Citizen review panels.–

(1) Citizen review panels may be established in each judicial circuit and shall be authorized by an administrative order executed by the chief judge of each circuit. The court shall administer an oath of office to each citizen review panel member which shall authorize the panel member to participate in citizen review panels and make recommendations to the court pursuant to the provisions of this section.

(2) Citizen review panels shall be administered by an independent not-for-profit agency. For the purpose of this section, an organization that has filed for nonprofit status under the provisions of s. 501(c)(3) of the United States Internal Revenue Code is an independent not-for-profit agency for a period of 1 year after the date of filing. At the end of that 1-year period, in order to continue conducting citizen reviews, the organization must have qualified for nonprofit status under s. 501(c)(3) of the United States Internal Revenue Code and must submit to the chief judge of the circuit court a consumer's certificate of exemption that was issued to the organization by the Florida Department of Revenue and a report of the organization's progress. If the agency has not qualified for nonprofit status, the court must rescind its administrative order that authorizes the agency to conduct citizen reviews. All independent not-for-profit agencies conducting citizen reviews must submit citizen review annual reports to the court.

(3) For the purpose of this section, a citizen review panel shall be composed of five volunteer members and shall conform with the requirements of this chapter. The presence of three members at a panel hearing shall constitute a quorum. Panel members shall serve without compensation.

(4) Based on the information provided to each citizen review panel pursuant to s. 39.701, each citizen review panel shall provide the court with a report and recommendations regarding the placement and dispositional alternatives the court shall consider before issuing a judicial review order.

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

(a) In collaboration with the department, develop policies to assure that citizen review panels comply with all applicable state and federal laws.

(b) Establish policies for the recruitment, selection, retention, and terms of volunteer panel members. Final selection of citizen review panel members shall, to the extent possible, reflect the multicultural

composition of the community which they serve. A criminal background check and personal reference check shall be conducted on each citizen review panel member prior to the member serving on a citizen review panel.

(c) In collaboration with the department, develop, implement, and maintain a training program for citizen review volunteers and provide training for each panel member prior to that member serving on a review panel. Such training may include, but shall not be limited to, instruction on dependency laws, departmental policies, and judicial procedures.

(d) Ensure that all citizen review panel members have read, understood, and signed an oath of confidentiality relating to written or verbal information provided to the panel members for review hearings.

(e) Establish policies to avoid actual or perceived conflicts of interest by panel members during the review process and to ensure accurate, fair reviews of each child dependency case.

(f) Establish policies to ensure ongoing communication with the department and the court.

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

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

(i) Coordinate with existing citizen review panels to ensure consistency of operating procedures, data collection, analysis, and report generation.

(j) Make recommendations as necessary to the court concerning attendance of essential persons at the review and other issues pertinent to an effective review process.

(k) Ensure consistent methods of identifying barriers to the permanent placement of the child and delineation of findings and recommendations to the court.

(6) The department and agents of the department shall submit information to the citizen review panel when requested and shall address questions asked by the citizen review panel to identify barriers to the permanent placement of each child.

History.--s. 12, ch. 90-306; s. 50, ch. 92-58; s. 79, ch. 98-403; s. 39, ch. 99-193.
Note.--Former s. 39.4531.

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

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

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

History.--s. 9, ch. 87-289; s. 14, ch. 90-306; s. 81, ch. 98-403; s. 41, ch. 99-193.
Note.--Former s. 39.456.

PART X
TERMINATION OF PARENTAL RIGHTS

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

(1) All procedures, including petitions, pleadings, subpoenas, summonses, and hearings, in termination of parental rights proceedings shall be according to the Florida Rules of Juvenile Procedure unless otherwise provided by law.

(2) The circuit court shall have exclusive original jurisdiction of a proceeding involving termination of parental rights.

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

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

1. The parents of the child.

2. The legal custodians of the child.

3. If the parents who would be entitled to notice are dead or unknown, a living relative of the child, unless upon diligent search and inquiry no such relative can be found.

4. Any person who has physical custody of the child.

5. Any grandparent entitled to priority for adoption under s. 63.0425.

6. Any prospective parent who has been identified under s. 39.503 or s. 39.803, unless a court order has been entered pursuant to s. 39.503(4) or (9) or s. 39.803(4) or (9) which indicates no further notice is required. Except as otherwise provided in this section, if there is not a legal father, notice of the petition for termination of parental rights must be provided to any known prospective father who is identified under oath before the court or who is identified by a diligent search of the Florida Putative Father Registry. Service of

the notice of the petition for termination of parental rights is not required if the prospective father executes an affidavit of nonpaternity or a consent to termination of his parental rights which is accepted by the court after notice and opportunity to be heard by all parties to address the best interests of the child in accepting such affidavit.

7. The guardian ad litem for the child or the representative of the guardian ad litem program, if the program has been appointed.

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

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

(c) Notice as prescribed by this section may be waived, in the discretion of the judge, with regard to any person to whom notice must be given under this subsection if the person executes, before two witnesses and a notary public or other officer authorized to take acknowledgments, a written surrender of the child to a licensed child-placing agency or the department.

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

(4) Upon the application of any party, the clerk or deputy clerk shall issue, and the court on its own motion may issue, subpoenas requiring the attendance and testimony of witnesses and the production of records, documents, or other tangible objects at any hearing.

(5) All process and orders issued by the court must be served or executed as other process and orders of the circuit court and, in addition, may be served or executed by authorized agents of the department or the guardian ad litem.

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

(7) A fee may not be paid for service of any process or other papers by an agent of the department or the guardian ad litem. If any process, orders, or other papers are served or executed by any sheriff, the sheriff's fees must be paid by the county.

History.--s. 9, ch. 87-289; s. 1, ch. 92-96; s. 32, ch. 94-164; ss. 6, 11, ch. 97-276; s. 83, ch. 98-403; s. 42, ch. 99-193; s. 21, ch. 2017-151.
Note.--Former ss. 39.46, 39.462.

39.802 Petition for termination of parental rights; filing; elements.–
(1) All proceedings seeking an adjudication to terminate parental rights pursuant to this chapter must be initiated by the filing of an original petition by the department, the guardian ad litem, or any other person who has knowledge of the facts alleged or is informed of them and believes that they are true.

(2) The form of the petition is governed by the Florida Rules of Juvenile Procedure. The petition must be in writing and signed by the petitioner under oath stating the petitioner's good faith in filing the petition.

(3) When a petition for termination of parental rights has been filed, the clerk of the court shall set the case before the court for an advisory hearing.

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

(a) That at least one of the grounds listed in s. 39.806 has been met.

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

(c) That the manifest best interests of the child, in accordance with s. 39.810, would be served by the granting of the petition.

(d) That the parents of the child will be informed of the availability of private placement of the child with an adoption entity, as defined in s. 63.032.

(5) When a petition for termination of parental rights is filed under s. 39.806(1), a separate petition for dependency need not be filed and the department need not offer the parents a case plan with a goal of reunification, but may instead file with the court a case plan with a goal of termination of parental rights to allow continuation of services until the termination is granted or until further orders of the court are issued.

(6) The fact that a child has been previously adjudicated dependent as alleged in a petition for termination of parental rights may be proved by the introduction of a certified copy of the order of adjudication or the order of disposition of dependency.

(7) The fact that the parent of a child was informed of the right to counsel in any prior dependency proceeding as alleged in a petition for termination of parental rights may be proved by the introduction of a certified copy of the order of adjudication or the order of disposition of dependency containing a finding of fact that the parent was so advised.

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

History.--s. 9, ch. 87-289; s. 15, ch. 90-306; s. 14, ch. 92-170; ss. 29, 30, ch. 94-164; s. 13, ch. 97-276; s. 84, ch. 98-403; s. 43, ch. 99-193; s. 2, ch. 2001-3; s. 31, ch. 2006-86; s. 1, ch. 2012-81; s. 18, ch. 2014-224.
Note.--Former ss. 39.461, 39.4611.

39.803 Identity or location of parent unknown after filing of termination of parental rights petition; special procedures.–
(1) If the identity or location of a parent is unknown and a petition for termination of parental rights is filed, the court shall conduct under oath the following inquiry of the parent who is available, or, if no parent is

available, of any relative, caregiver, or legal custodian of the child who is present at the hearing and likely to have the information:

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

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

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

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

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

(f) Whether a man is named on the birth certificate of the child pursuant to s. 382.013(2).

(g) Whether a man has been determined by a court order to be the father of the child.

(h) Whether a man has been determined to be the father of the child by the Department of Revenue as provided in s. 409.256.

(2) The information required in subsection (1) may be supplied to the court or the department in the form of a sworn affidavit by a person having personal knowledge of the facts.

(3) If the inquiry under subsection (1) identifies any person as a parent or prospective parent, the court shall require notice of the hearing to be provided to that person.

(4) If the inquiry under subsection (1) fails to identify any person as a parent or prospective parent, the court shall so find and may proceed without further notice.

(5) If the inquiry under subsection (1) identifies a parent or prospective parent, and that person's location is unknown, the court shall direct the petitioner to conduct a diligent search for that person before scheduling an adjudicatory hearing regarding the petition for termination of parental rights to the child unless the court finds that the best interest of the child requires proceeding without actual notice to the person whose location is unknown.

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

(7) Any agency contacted by petitioner with a request for information pursuant to subsection (6) shall release the requested information to the petitioner without the necessity of a subpoena or court order.

(8) If the inquiry and diligent search identifies a prospective parent, that person must be given the opportunity to become a party to the proceedings by completing a sworn affidavit of parenthood and filing it with the court or the department. A prospective parent who files a sworn affidavit of parenthood while the child is a dependent child but no later than at the time of or before the adjudicatory hearing in the

termination of parental rights proceeding for the child shall be considered a parent for all purposes under this section.

(9) If the diligent search under subsection (5) fails to identify and locate a prospective parent, the court shall so find and may proceed without further notice.
History.--s. 85, ch. 98-403; s. 33, ch. 2000-139; s. 22, ch. 2017-151.

39.804 Penalties for false statements of paternity.–Any male person or any mother of a dependent child who knowingly and willfully makes a false statement concerning the paternity of a child in conjunction with a petition to terminate parental rights under this chapter and causes such false statement of paternity to be filed with the court commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. A person who makes a statement claiming paternity in good faith is immune from criminal liability under this section.
History.--s. 34, ch. 94-164; s. 86, ch. 98-403; s. 34, ch. 2000-139.
Note.--Former s. 39.4627.

39.805 No answer required.–No answer to the petition or any other pleading need be filed by any child or parent, but any matters which might be set forth in an answer or other pleading may be pleaded orally before the court or filed in writing as any such person may choose. Notwithstanding the filing of any answer or any pleading, the child or parent shall, prior to the adjudicatory hearing, be advised by the court of the right to counsel and shall be given an opportunity to deny the allegations in the petition for termination of parental rights or to enter a plea to allegations in the petition before the court.
History.--s. 9, ch. 87-289; s. 242, ch. 95-147; s. 87, ch. 98-403; s. 44, ch. 99-193.
Note.--Former s. 39.463.

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 child is not returned to the physical custody of the parents 12 months after the child was sheltered or adjudicated dependent, whichever occurs first;

(b) A petition for termination of parental rights has not otherwise been filed, and the child has been in out-of-home care under the responsibility of the state for 12 of the most recent 22 months, calculated on a cumulative basis, but not including any trial home visits or time during which the child was a runaway;

(c) A parent has been convicted of the murder, manslaughter, aiding or abetting the murder, or conspiracy or solicitation to murder the other parent or another child of the parent, or a felony battery that resulted in serious bodily injury to the child or to another child of the parent; or

(d) A court determines that reasonable efforts to reunify the child and parent are not required.

(2) Notwithstanding subsection (1), the department may choose not to file or join in a petition to terminate the parental rights of a parent if:

(a) The child is being cared for by a relative under s. 39.6231; or

(b) The department has documented in the report to the court a compelling reason for determining that filing such a petition is not in the best interests of the child. Compelling reasons for not filing or joining a petition to terminate parental rights may include, but are not limited to:

1. Adoption is not the appropriate permanency goal for the child.
2. No grounds to file a petition to terminate parental rights exist.
3. The child is an unaccompanied refugee minor as defined in 45 C.F.R. 400.111.
4. There are international legal obligations or compelling foreign-policy reasons that would preclude

terminating parental rights.

5. The department has not provided to the family, consistent with the time period in the case plan, services that the department deems necessary for the safe return of the child to the home.

(3) Upon good cause shown by any party or on its own motion, the court may review the decision by the department that compelling reasons exist for not filing or joining a petition for termination of parental rights.

History.--s. 24, ch. 2006-86; s. 15, ch. 2008-245; s. 14, ch. 2012-178.

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:

(a) When the parent or parents have voluntarily executed a written surrender of the child and consented to the entry of an order giving custody of the child to the department for subsequent adoption and the department is willing to accept custody of the child.

1. The surrender document must be executed before two witnesses and a notary public or other person authorized to take acknowledgments.

2. The surrender and consent may be withdrawn after acceptance by the department only after a finding by the court that the surrender and consent were obtained by fraud or under duress.

(b) Abandonment as defined in s. 39.01(1) or when the identity or location of the parent or parents is unknown and cannot be ascertained by diligent search within 60 days.

(c) When the parent or parents engaged in conduct toward the child or toward other children that demonstrates that the continuing involvement of the parent or parents in the parent-child relationship threatens the life, safety, well-being, or physical, mental, or emotional health of the child irrespective of the provision of services. Provision of services may be evidenced by proof that services were provided through a previous plan or offered as a case plan from a child welfare agency.

(d) When the parent of a child is incarcerated and either:

1. The period of time for which the parent is expected to be incarcerated will constitute a significant 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;

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 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 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 by their action or inaction. 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.

3. The child has been in care for any 12 of the last 22 months and the parents have not substantially complied with the case plan so as to permit reunification under s. 39.522(4) 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.

(f) The parent or parents engaged in egregious conduct or had the opportunity and capability to prevent and knowingly failed to prevent egregious conduct that threatens the life, safety, or physical, mental, or emotional health of the child or the child's sibling. Proof of a nexus between egregious conduct to a child and the potential harm to the child's sibling is not required.

1. As used in this subsection, the term "sibling" means another child who resides with or is cared for by the parent or parents regardless of whether the child is related legally or by consanguinity.

2. As used in this subsection, the term "egregious conduct" means abuse, abandonment, neglect, or any other conduct that is deplorable, flagrant, or outrageous by a normal standard of conduct. Egregious conduct may include an act or omission that occurred only once but was of such intensity, magnitude, or severity as to endanger the life of the child.

(g) The parent or parents have subjected the child or another child to aggravated child abuse as defined in s. 827.03, sexual battery or sexual abuse as defined in s. 39.01, or chronic abuse.

(h) The parent or parents have committed the murder, manslaughter, aiding or abetting the murder, or conspiracy or solicitation to murder the other parent or another child, or a felony battery that resulted in serious bodily injury to the child or to another child. Proof of a nexus between the murder, manslaughter, aiding or abetting the murder, or conspiracy or solicitation to murder the other parent or another child, or a felony battery to a child and the potential harm to a child or another child is not required.

(i) The parental rights of the parent to a sibling of the child have been terminated involuntarily.

(j) The parent or parents have a history of extensive, abusive, and chronic use of alcohol or a controlled substance which renders them incapable of caring for the child, and have refused or failed to complete available treatment for such use during the 3-year period immediately preceding the filing of the petition for the termination of parental rights.

(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, after which the biological mother had the opportunity to participate in substance abuse treatment.

(l) On three or more occasions the child or another child of the parent or parents has been placed in out-of-home care pursuant to this chapter or the law of any state, territory, or jurisdiction of the United States which is substantially similar to this chapter, and the conditions that led to the child's out-of-home placement were caused by the parent or parents.

(m) The court determines by clear and convincing evidence that the child was conceived as a result of an act of sexual battery made unlawful pursuant to s. 794.011, or pursuant to a similar law of another state, territory, possession, or Native American tribe where the offense occurred. It is presumed that termination of parental rights is in the best interest of the child if the child was conceived as a result of the unlawful sexual battery. A petition for termination of parental rights under this paragraph may be filed at any time. The court must accept a guilty plea or conviction of unlawful sexual battery pursuant to s. 794.011 as conclusive proof that the child was conceived by a violation of criminal law as set forth in this subsection.

(n) The parent is convicted of an offense that requires the parent to register as a sexual predator under s. 775.21.

(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 paragraphs (1) (f)-(m) have occurred.

(3) If a petition for termination of parental rights is filed under subsection (1), a separate petition for dependency need not be filed and the department need not offer the parents a case plan having a goal of reunification, but may instead file with the court a case plan having a goal of termination of parental rights to allow continuation of services until the termination is granted or until further orders of the court are issued.

(4) If an expedited termination of parental rights petition is filed, reasonable efforts shall be made to place the child in a timely manner in accordance with the permanency plan, and to complete whatever steps are necessary to finalize the permanent placement of the child.

History.--s. 9, ch. 87-289; s. 16, ch. 90-306; s. 4, ch. 90-309; s. 7, ch. 92-158; s. 35, ch. 94-164; s. 1, ch. 97-226; s. 12, ch. 97-276; s. 88, ch. 98-403; s. 2, ch. 98-417; s. 45, ch. 99-193; s. 35, ch. 2000-139; s. 3, ch. 2001-3; s. 25, ch. 2006-86; s. 16, ch. 2008-245; s. 2, ch. 2009-21; s. 15, ch. 2012-178; s. 1, ch. 2013-132; s. 19, ch. 2014-224; s. 16, ch. 2016-24; s. 16, 2017-37; s. 8, ch. 2017-107; s. 23, ch. 2017-151; s. 11, ch. 2019-128; s. 14, ch. 2021-169.

Note.--Former s. 39.464.

39.807 Right to counsel; guardian ad litem.–

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

(b) Once counsel has been retained or, in appropriate circumstances, appointed to represent the parent of the child, the attorney shall continue to represent the parent throughout the proceedings or until the court has approved discontinuing the attorney-client relationship. If the attorney-client relationship is discontinued, the court shall advise the parent of the right to have new counsel retained or appointed for the remainder of the proceedings.

(c)1. No waiver of counsel may be accepted if it appears that the parent is unable to make an intelligent and understanding choice because of mental condition, age, education, experience, the nature or complexity of the case, or other factors.

2. A waiver of counsel made in court must be of record. A waiver made out of court must be in writing with not less than two attesting witnesses and must be filed with the court. The witnesses shall attest to the voluntary execution of the waiver.

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

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

(2)(a) The court shall appoint a guardian ad litem to represent the best interest of the child in any termination of parental rights proceedings and shall ascertain at each stage of the proceedings whether a guardian ad litem has been appointed.

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

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

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

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

(c) A guardian ad litem is not required to post bond but shall file an acceptance of the office.

(d) A guardian ad litem is entitled to receive service of pleadings and papers as provided by the Florida Rules of Juvenile Procedure.

(e) This subsection does not apply to any voluntary relinquishment of parental rights proceeding.

History.--s. 9, ch. 87-289; s. 17, ch. 90-306; s. 36, ch. 94-164; s. 89, ch. 98-403; s. 46, ch. 99-193; s. 36, ch. 2000-139.
Note.--Former s. 39.465.

39.808 Advisory hearing; pretrial status conference.–

(1) An advisory hearing on the petition to terminate parental rights must be held as soon as possible after all parties have been served with a copy of the petition and a notice of the date, time, and place of the advisory hearing for the petition.

(2) At the hearing the court shall inform the parties of their rights under s. 39.807, shall appoint counsel for the parties in accordance with legal requirements, and shall appoint a guardian ad litem to represent the interests of the child if one has not already been appointed.

(3) The court shall set a date for an adjudicatory hearing to be held within 45 days after the advisory hearing, unless all of the necessary parties agree to some other hearing date.

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

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

and any other matters that may aid in the conduct of the adjudicatory hearing to prevent any undue delay in the conduct of the adjudicatory hearing.
History.--s. 9, ch. 87-289; s. 33, ch. 88-337; s. 18, ch. 90-306; s. 37, ch. 94-164; s. 90, ch. 98-403; s. 47, ch. 99-193.
Note.--Former s. 39.466.

39.809 Adjudicatory hearing.–
(1) In a hearing on a petition for termination of parental rights, the court shall consider the elements required for termination. Each of these elements must be established by clear and convincing evidence before the petition is granted.

(2) The adjudicatory hearing must be held within 45 days after the advisory hearing, but reasonable continuances for the purpose of investigation, discovery, or procuring counsel or witnesses may, when necessary, be granted.

(3) The adjudicatory hearing must be conducted by the judge without a jury, applying the rules of evidence in use in civil cases and adjourning the case from time to time as necessary. For purposes of the adjudicatory hearing, to avoid unnecessary duplication of expense, the judge may consider in-court testimony previously given at any properly noticed hearing, without regard to the availability or unavailability of the witness at the time of the actual adjudicatory hearing, if the recorded testimony itself is made available to the judge. Consideration of such testimony does not preclude the witness being subpoenaed to answer supplemental questions.

(4) All hearings involving termination of parental rights are confidential and closed to the public. Hearings involving more than one child may be held simultaneously when the children involved are related to each other or were involved in the same case. The child and the parents may be examined separately and apart from each other.

(5) The judge shall enter a written order with the findings of fact and conclusions of law.
History.--s. 9, ch. 87-289; s. 19, ch. 90-306; ss. 8, 10, ch. 92-158; s. 38, ch. 94-164; s. 91, ch. 98-403.
Note.--Former s. 39.467.

39.810 Manifest best interests of the child.–In a hearing on a petition for termination of parental rights, the court shall consider the manifest best interests of the child. This consideration shall not include a comparison between the attributes of the parents and those of any persons providing a present or potential placement for the child. For the purpose of determining the manifest best interests of the child, the court shall consider and evaluate all relevant factors, including, but not limited to:

(1) Any suitable permanent custody arrangement with a relative of the child. However, the availability of a nonadoptive placement with a relative may not receive greater consideration than any other factor weighing on the manifest best interest of the child and may not be considered as a factor weighing against termination of parental rights. If a child has been in a stable or preadoptive placement for not less than 6 months, the availability of a different placement, including a placement with a relative, may not be considered as a ground to deny the termination of parental rights.

(2) The ability and disposition of the parent or parents to provide the child with food, clothing, medical care or other remedial care recognized and permitted under state law instead of medical care, and other material needs of the child.

(3) The capacity of the parent or parents to care for the child to the extent that the child's safety, well-being, and physical, mental, and emotional health will not be endangered upon the child's return home.

(4) The present mental and physical health needs of the child and such future needs of the child to the extent that such future needs can be ascertained based on the present condition of the child.

(5) The love, affection, and other emotional ties existing between the child and the child's parent or parents, siblings, and other relatives, and the degree of harm to the child that would arise from the termination of parental rights and duties.

(6) The likelihood of an older child remaining in long-term foster care upon termination of parental rights, due to emotional or behavioral problems or any special needs of the child.

(7) The child's ability to form a significant relationship with a parental substitute and the likelihood that the child will enter into a more stable and permanent family relationship as a result of permanent termination of parental rights and duties.

(8) The length of time that the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity.

(9) The depth of the relationship existing between the child and the present custodian.

(10) The reasonable preferences and wishes of the child, if the court deems the child to be of sufficient intelligence, understanding, and experience to express a preference.

(11) The recommendations for the child provided by the child's guardian ad litem or legal representative.
History.--s. 31, ch. 94-164; s. 18, ch. 95-228; s. 92, ch. 98-403; s. 26, ch. 2006-86.
Note.--Former s. 39.4612.

39.811 Powers of disposition; order of disposition.–
(1) If the court finds that the grounds for termination of parental rights have not been established by clear and convincing evidence, the court shall:

(a) If grounds for dependency have been established, adjudicate or readjudicate the child dependent and:

1. Enter an order placing or continuing the child in out-of-home care under a case plan; or

2. Enter an order returning the child to the parent or parents. The court shall retain jurisdiction over a child returned to the parent or parents for a period of 6 months, but, at that time, based on a report of the social service agency and any other relevant factors, the court shall make a determination as to whether its jurisdiction shall continue or be terminated.

(b) If grounds for dependency have not been established, dismiss the petition.

(2) If the child is in the custody of the department and the court finds that the grounds for termination of parental rights have been established by clear and convincing evidence, the court shall, by order, place the child in the custody of the department for the purpose of adoption.

(3) If the child is in the custody of one parent and the court finds that the grounds for termination of parental rights have been established for the remaining parent by clear and convincing evidence, the court shall enter an order terminating the rights of the parent for whom the grounds have been established and placing the child in the custody of the remaining parent, granting that parent sole parental responsibility for the child.

(4) If the child is neither in the custody of the department nor in the custody of a parent and the court finds that the grounds for termination of parental rights have been established for either or both parents, the court shall enter an order terminating parental rights for the parent or parents for whom the grounds for termination have been established and placing the child with the department or an appropriate legal custodian. If the parental rights of both parents have been terminated, or if the parental rights of only one parent have been terminated and the court makes specific findings based on evidence presented that placement with the remaining parent is likely to be harmful to the child, the court may order that the child be placed with a legal custodian other than the department after hearing evidence of the suitability of the intended placement. Suitability of the intended placement includes the fitness and capabilities of the proposed legal custodian to function as the primary caregiver for a particular child; and the compatibility of the child with the home in which the child is intended to be placed. If the court orders that a child be placed with a legal custodian under this subsection, the court shall appoint a legal custodian as the guardian for the child as provided in s. 744.3021 or s. 39.621. The court may modify the order placing the child in the custody of the legal custodian and revoke the guardianship established under s. 744.3021 or another relationship if the court subsequently finds the placement to be no longer in the best interest of the child.

(5) If the court terminates parental rights, the court shall enter a written order of disposition within 30 days after conclusion of the hearing briefly stating the facts upon which its decision to terminate the parental rights is made. An order of termination of parental rights, whether based on parental consent or after notice served as prescribed in this part, permanently deprives the parents of any right to the child.

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

(a) If the child has only one surviving parent;

(b) If the identity of a prospective parent has been established as unknown after sworn testimony;

(c) If the parent whose rights are being terminated became a parent through a single-parent adoption;

(d) If the protection of the child demands termination of the rights of a single parent; or

(e) If the parent whose rights are being terminated meets any of the criteria specified in s. 39.806(1)(c),(d), (f), (g), (h), (i), (j), (k), (l), (m), or (n).

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

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

(8) If the court terminates parental rights, it shall, in its order of disposition, provide for a hearing, to be scheduled no later than 30 days after the date of disposition, in which the department shall provide to the court an amended case plan that identifies the permanency goal for the child. Reasonable efforts must be made to place the child in a timely manner in accordance with the permanency plan and to complete whatever steps are necessary to finalize the permanent placement of the child. Thereafter, until the adoption

of the child is finalized or the child reaches the age of 18 years, whichever occurs first, the court shall hold hearings at 6-month intervals to review the progress being made toward permanency for the child.

(9) After termination of parental rights, the court shall retain jurisdiction over any child for whom custody is given to a social service agency until the child is adopted. The court shall review the status of the child's placement and the progress being made toward permanent adoptive placement. As part of this continuing jurisdiction, for good cause shown by the guardian ad litem for the child, the court may review the appropriateness of the adoptive placement of the child.

History.--s. 9, ch. 87-289; s. 34, ch. 88-337; s. 21, ch. 90-306; s. 73, ch. 91-45; s. 39, ch. 94-164; s. 2, ch. 97-226; s. 1, ch. 98-50; s. 93, ch. 98-403; s. 48, ch. 99-193; s. 37, ch. 2000-139; s. 4, ch. 2001-3; s. 27, ch. 2006-86; s. 28, ch. 2008-245; s. 2, ch. 2013-132; s. 24, ch. 2017-151; s. 12, ch. 2019-128.

Note.--Former s. 39.469.

39.812 Postdisposition relief; petition for adoption.–

(1) If the department is given custody of a child for subsequent adoption in accordance with this chapter, the department may place the child with an agency as defined in s. 63.032, with a child-caring agency registered under s. 409.176, or in a family home for prospective subsequent adoption. The department may thereafter become a party to any proceeding for the legal adoption of the child and appear in any court where the adoption proceeding is pending and consent to the adoption, and that consent alone shall in all cases be sufficient.

(2) In any subsequent adoption proceeding, the parents are not entitled to notice of the proceeding and are not entitled to knowledge at any time after the order terminating parental rights is entered of the whereabouts of the child or of the identity or location of any person having the custody of or having adopted the child, except as provided by order of the court pursuant to this chapter or chapter 63. In any habeas corpus or other proceeding involving the child brought by any parent of the child, an agent or contract provider of the department may not be compelled to divulge that information, but may be compelled to produce the child before a court of competent jurisdiction if the child is still subject to the guardianship of the department.

(3) The entry of the custody order to the department does not entitle the department to guardianship of the estate or property of the child, but the department shall be the guardian of the person of the child.

(4) The court shall retain jurisdiction over any child placed in the custody of the department until the child is adopted. After custody of a child for subsequent adoption has been given to the department, the court has jurisdiction for the purpose of reviewing the status of the child and the progress being made toward permanent adoptive placement. As part of this continuing jurisdiction, for good cause shown by the guardian ad litem for the child, the court may review the appropriateness of the adoptive placement of the child. When a licensed foster parent or court-ordered custodian has applied to adopt a child who has resided with the foster parent or custodian for at least 6 months and who has previously been permanently committed to the legal custody of the department and the department does not grant the application to adopt, the department may not, in the absence of a prior court order authorizing it to do so, remove the child from the foster home or custodian, except when:

(a) There is probable cause to believe that the child is at imminent risk of abuse or neglect;

(b) Thirty days have expired following written notice to the foster parent or custodian of the denial of the application to adopt, within which period no formal challenge of the department’s decision has been filed; or

(c) The foster parent or custodian agrees to the child’s removal.

(5) The petition for adoption must be filed in the division of the circuit court which entered the judgment terminating parental rights, unless a motion for change of venue is granted pursuant to s. 47.122. A copy of the consent executed by the department must be attached to the petition, unless waived pursuant to s. 63.062(7). The petition must be accompanied by a statement, signed by the prospective adoptive parents, acknowledging receipt of all information required to be disclosed under s. 63.085 and a form provided by the department which details the social and medical history of the child and each parent and includes the social security number and date of birth for each parent, if such information is available or readily obtainable. The prospective adoptive parents may not file a petition for adoption until the judgment terminating parental rights becomes final. An adoption proceeding under this subsection is governed by chapter 63.

(6)(a) Once a child's adoption is finalized, the community-based care lead agency must make a reasonable effort to contact the adoptive family by telephone 1 year after the date of finalization of the adoption as a postadoption service. For purposes of this subsection, the term "reasonable effort" means the exercise of reasonable diligence and care by the community-based care lead agency to make contact with the adoptive family. At a minimum, the agency must document the following:

1. The number of attempts made by the community-based care lead agency to contact the adoptive family and whether those attempts were successful;

2. The types of postadoption services that were requested by the adoptive family and whether those services were provided by the community-based care lead agency; and

3. Any feedback received by the community-based care lead agency from the adoptive family relating to the quality or effectiveness of the services provided.

(b) The community-based care lead agency must report annually to the department on the outcomes achieved and recommendations for improvement under this subsection.

History.--s. 9, ch. 87-289; s. 41, ch. 94-164; s. 14, ch. 95-228; s. 94, ch. 98-403; s. 5, ch. 2001-3; s. 1, ch. 2004-389; s. 1, ch. 2008-151; s. 4, ch. 2015-130.
Note.--Former s. 39.47.

39.813 Continuing jurisdiction.–The court which terminates the parental rights of a child who is the subject of termination proceedings pursuant to this chapter shall retain exclusive jurisdiction in all matters pertaining to the child's adoption pursuant to chapter 63.

History.--s. 95, ch. 98-403.

39.814 Oaths, records, and confidential information.–

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

(2) The court shall make and keep records of all cases brought before it pursuant to this part and shall preserve the records of proceedings under this part pursuant to the Florida Rules of Judicial Administration. Records of cases where orders were entered permanently depriving a parent of the custody of a child shall be preserved permanently.

(3) The clerk shall keep all court records required by this part separate from other records of the circuit court. All court records required by this part shall not be open to inspection by the public. All records shall be inspected only upon order of the court by persons deemed by the court to have a proper interest therein, except that, custodians of the child and their attorneys, law enforcement agencies, and the department and its designees shall always have the right to inspect and copy any official record pertaining to the child. The court may permit authorized representatives of recognized organizations compiling statistics for proper purposes to inspect and make abstracts from official records, under whatever conditions upon their use and

disposition the court may deem proper, and may punish by contempt proceedings any violation of those conditions.

(4) All information obtained pursuant to this part in the discharge of official duty by any judge, employee of the court, authorized agent of the department, or law enforcement agent shall be confidential and exempt from the provisions of s. 119.07(1) and shall not be disclosed to anyone other than the authorized personnel of the court, the department and its designees, law enforcement agents, and others entitled under this part to receive that information, except upon order of the court.

(5) All orders of the court entered pursuant to this part shall be in writing and signed by the judge, except that the clerk or deputy clerk may sign a summons or notice to appear.

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

(a) Records of proceedings under this part forming a part of the record on appeal shall be used in the appellate court in the manner hereinafter provided.

(b) Records necessary therefor shall be admissible in evidence in any case in which a person is being tried upon a charge of having committed perjury.

(c) A final order entered pursuant to an adjudicatory hearing is admissible in evidence in any subsequent civil proceeding relating to placement of, access to, parental time with, adoption of, or parental rights and responsibilities for the same child or a sibling of that child.

(d) Evidence admitted in any proceeding under this part may be admissible in evidence when offered by any party in a subsequent civil proceeding relating to placement of, access to, parental time with, adoption of, or parental rights and responsibilities for the same child or a sibling of that child if:

1. Notice is given to the opposing party or opposing party's counsel of the intent to offer the evidence and a copy of such evidence is delivered to the opposing party or opposing party's counsel; and

2. The evidence is otherwise admissible in the subsequent civil proceeding.

(7) Final orders, records, and evidence in any proceeding under this part which are subsequently admitted in evidence pursuant to subsection (6) remain subject to subsections (3) and (4).

History.--s. 9, ch. 87-289; s. 14, ch. 90-360; s. 17, ch. 96-406; s. 3, ch. 97-226; s. 96, ch. 98-403; s. 49, ch. 99-193; s. 6, ch. 2005-239.

Note.--Former s. 39.471.

39.815 Appeal.–

(1) Any child, any parent or guardian ad litem of any child, any other party to the proceeding who is affected by an order of the court, or the department may appeal to the appropriate district court of appeal within the time and in the manner prescribed by the Florida Rules of Appellate Procedure. The district court of appeal shall give an appeal from an order terminating parental rights priority in docketing and shall render a decision on the appeal as expeditiously as possible. Appointed counsel shall be compensated as provided in s. 27.5304(6).

(2) An attorney for the department shall represent the state upon appeal. When a notice of appeal is filed in the circuit court, the clerk shall notify the attorney for the department, together with the attorney for the parent, the guardian ad litem, and any attorney for the child.

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

(4) The case on appeal must be docketed and any papers filed in the appellate court must be titled with the initials, but not the name, of the child and the court case number, and the papers must remain sealed in the office of the clerk of the appellate court when not in use by the appellate court and may not be open to public inspection. The decision of the appellate court must be likewise titled and may refer to the child only by initials and court case number.

(5) The original order of the appellate court, with all papers filed in the case on appeal, must remain in the office of the clerk of the appellate court, sealed and not open to inspection except by order of the appellate court. The clerk of the appellate court shall return to the circuit court all papers transmitted to the appellate court from the circuit court, together with a certified copy of the order of the appellate court.

History.--s. 9, ch. 87-289; s. 22, ch. 90-306; s. 1, ch. 90-309; s. 15, ch. 92-170; s. 42, ch. 94-164; s. 97, ch. 98-403; s. 50, ch. 99-193; s. 59, ch. 2003-402; s.22, ch. 2007-62.

Note.--Former s. 39.473.

39.8155 Reinstatement of parental rights.–

(1) After parental rights have been terminated in accordance with this part, the department, the parent whose rights were terminated, or the child may file a motion to reinstate the parent's parental rights. The court may consider a motion to reinstate parental rights if:

(a) The grounds for termination of parental rights were based on s. 39.806(1)(a) or (e)1.-3.

(b) The parent is not the verified perpetrator of sexual or physical abuse of the child.

(c) The parent has not been a perpetrator involved in any verified reports of abuse, neglect, or abandonment since his or her parental rights for the child were terminated.

(d) The parent has not had his or her parental rights terminated for any other child, under any grounds, in this state or any other jurisdiction, since his or her parental rights for the child were terminated.

(e) The child is at least 13 years of age.

(f) The child has not achieved permanency and is not in a preadoptive placement, and at least 36 months have passed since the termination of parental rights.

(2) The court shall dismiss a motion to reinstate parental rights if the criteria are not met in subsection (1).

(3) If a motion to reinstate parental rights is filed, the court shall consider all relevant evidence, including whether:

(a) The child possesses sufficient maturity to express a preference regarding the reinstatement of parental rights.

(b) The child is not in a preadoptive home or under permanent guardianship.

(c) The parent has a documented change in behavior such that, given the current age and maturity of the child, the circumstances that brought the child into care are remedied.

(d) The parent demonstrates sufficient protective capacities, given the child's age, physical and behavioral health, and any other specific characteristics and needs, such that the risk of the child reentering care is low.

(e) Both the parent and child wish to reinstate parental rights.

(f) The child's guardian ad litem recommends the reinstatement of parental rights.

(g) A multidisciplinary team was convened under s. 39.4022 and recommends the reinstatement of parental rights and has developed a plan to transition the child to the former parent's care pursuant to s. 39.4023.

(4) Upon finding that the criteria in subsection (3) are established by clear and convincing evidence, the court shall order the department to conduct supervised visitation and trial home visits between the child and

former parent for at least 3 consecutive months after the completion of a home study. In issuing the order, the court shall consider the transition plan developed by the child's multidisciplinary team. The department shall report to the court at least once every 30 days regarding the former parent's interactions with the child and recommend whether the court should reinstate parental rights. The department shall immediately cease the visitation with the former parent if there is an allegation of abuse, neglect, or abandonment of the child by the parent; if the department determines that the child's safety or well-being is threatened; or that such visitation is not in the child's best interest. The department shall immediately notify the court if it ceases visitation between the child and former parent.

(5) The court may reinstate parental rights upon a finding of clear and convincing evidence that it is in the best interest of the child. Upon ordering reinstatement of parental rights, the court shall place the child in the custody of the former parent with an in-home safety plan. The court shall retain jurisdiction for at least 6 months, during which the department shall supervise the placement and report to the court on the stability of the placement. The court shall determine whether its jurisdiction should be continued or terminated 6 months after reinstating parental rights based on a report from the department or the child's guardian ad litem and any other relevant factors.

History—s. 15, ch. 2021-169.

PART XI
GUARDIANS AD LITEM AND GUARDIAN ADVOCATES

39.820 Definitions.–As used in this chapter, the term:

(1) "Guardian ad litem" as referred to in any civil or criminal proceeding includes the following: the Statewide Guardian ad Litem Office, which includes circuit guardian ad litem programs; a duly certified volunteer, a staff member, a staff attorney, a contract attorney, or a pro bono attorney working on behalf of a guardian ad litem; a court-appointed attorney; or a responsible adult who is appointed by the court to represent the best interests of a child in a proceeding as provided for by law, including, but not limited to, this chapter, who is a party to any judicial proceeding as a representative of the child, and who serves until discharged by the court.

(2) "Guardian advocate" means a person appointed by the court to act on behalf of a drug dependent newborn under this part.

History.--s. 101, ch. 98-403; s. 5, ch. 2020-40.

39.821 Qualifications of guardians ad litem.–

(1) Because of the special trust or responsibility placed in a guardian ad litem, the Guardian ad Litem Program may use any private funds collected by the program, or any state funds so designated, to conduct a security background investigation before certifying a volunteer to serve. A security background investigation must include, but need not be limited to, employment history checks, checks of references, local criminal history records checks through local law enforcement agencies, and statewide criminal history records checks through the Department of Law Enforcement. Upon request, an employer shall furnish a copy of the personnel record for the employee or former employee who is the subject of a security background investigation conducted under this section. The information contained in the personnel record may include, but need not be limited to, disciplinary matters and the reason why the employee was terminated from employment. An employer who releases a personnel record for purposes of a security background investigation is presumed to have acted in good faith and is not liable for information contained

in the record without a showing that the employer maliciously falsified the record. A security background investigation conducted under this section must ensure that a person is not certified as a guardian ad litem if the person has an arrest awaiting final disposition for, been convicted of, regardless of adjudication, entered a plea of nolo contendere or guilty to, or been adjudicated delinquent and the record has not been sealed or expunged for, any offense prohibited under the provisions listed in s. 435.04. All applicants must undergo a level 2 background screening pursuant to chapter 435 before being certified. In analyzing and evaluating the information obtained in the security background investigation, the program must give particular emphasis to past activities involving children, including, but not limited to, child-related criminal offenses or child abuse. The program has the sole discretion in determining whether to certify a person based on his or her security background investigation. The information collected pursuant to the security background investigation is confidential and exempt from s. 119.07(1).

(2) This section does not apply to a certified guardian ad litem who was certified before October 1, 1995, an attorney who is a member in good standing of The Florida Bar, or a licensed professional who has undergone a comparable security background investigation as a condition of licensure within 5 years of applying for certification as a guardian ad litem.

(3) It is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, for any person to willfully, knowingly, or intentionally fail, by false statement, misrepresentation, impersonation, or other fraudulent means, to disclose in any application for a volunteer position or for paid employment with the Guardian ad Litem Program, any material fact used in making a determination as to the applicant's qualifications for such position.

History.--s. 2, ch. 96-109; s. 102, ch. 98-403; s. 19, ch. 99-2; s. 25, ch. 2005-236; s. 2, ch. 2010-114; s. 20, ch. 2010-162; s. 1, ch. 2020-2.

[1]**Note. --** As amended by s. 20, ch. 2010-162. The amendment by s. 2, ch. 2010-114, used an August 1, 2010, date.

Note.--Former s. 415.5077.

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

(1) A guardian ad litem shall be appointed by the court at the earliest possible time to represent the child in any child abuse, abandonment, or neglect judicial proceeding, whether civil or criminal. Any person participating in a civil or criminal judicial proceeding resulting from such appointment shall be presumed prima facie to be acting in good faith and in so doing shall be immune from any liability, civil or criminal, that otherwise might be incurred or imposed.

(2) In those cases in which the parents are financially able, the parent or parents of the child shall reimburse the court, in part or in whole, for the cost of provision of guardian ad litem services. Reimbursement to the individual providing guardian ad litem services shall not be contingent upon successful collection by the court from the parent or parents.

(3) Upon presentation by a guardian ad litem of a court order appointing the guardian ad litem:

(a) An agency, as defined in chapter 119, shall allow the guardian ad litem to inspect and copy records related to the best interests of the child who is the subject of the appointment, including, but not limited to, records made confidential or exempt from s. 119.07(1) or s. 24(a), Art. I of the State Constitution. The guardian ad litem shall maintain the confidential or exempt status of any records shared by an agency under this paragraph.

(b) A person or organization, other than an agency under paragraph (a), shall allow the guardian ad litem to inspect and copy any records related to the best interests of the child who is the subject of the appointment, including, but not limited to, confidential records.

For the purposes of this subsection, the term "records related to the best interests of the child" includes, but is not limited to, medical, mental health, substance abuse, child care, education, law enforcement, court, social services, and financial records.

(4) The guardian ad litem or the program representative shall review all disposition recommendations and changes in placements, and must be present at all critical stages of the dependency proceeding or submit a written report of recommendations to the court. Written reports must be filed with the court and served on all parties whose whereabouts are known at least 72 hours prior to the hearing.
History.--ss. 1, 2, 3, 4, 5, 6, ch. 63-24; s. 941, ch. 71-136; ss. 1, 1A, ch. 71-97; s. 32, ch. 73-334; s. 65, ch. 74-383; s. 1, ch. 75-101; s. 1, ch. 75-185; s. 4, ch. 76-237; s. 1, ch. 77-77; s. 3, ch. 77-429; ss. 1, 2, ch. 78-322; s. 3, ch. 78-326; s. 22, ch. 78-361; s. 1, ch. 78-379; s. 181, ch. 79-164; s. 1, ch. 79-203; s. 10, ch. 84-226; s. 3, ch. 90-211; s. 103, ch. 98-403; s. 51, ch. 99-193; s. 26, ch. 2005-236.
Note.--Former ss. 828.041, 827.07(16); s. 415.508.

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). 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.
History.--s. 2, ch. 89-345; s. 104, ch. 98-403; s. 19, ch. 99-168; s. 5, ch. 2003-127; s. 14, ch. 2009-43; s. 18, ch.2012-178.
Note.--Former s. 415.5082.

39.824 Jurisdiction.—The circuit court shall have exclusive original jurisdiction of a proceeding in which appointment of a guardian advocate is sought. The court shall retain jurisdiction over a child for whom a guardian advocate is appointed until specifically relinquished by court order.
History.—s. 2, ch. 89-345; s. 105, ch. 98-403; s. 21, ch. 2012-116.
Note.—Former s. 415.5083.

39.825 Petition for appointment of a guardian advocate.–A petition for appointment of a guardian advocate may be filed by the department, any relative of the child, any licensed health care professional, or any other interested person. The petition shall be in writing and shall be signed by the petitioner under oath stating his or her good faith in filing the petition. The form of the petition and its contents shall be determined by the Florida Rules of Juvenile Procedure.
History.--s. 2, ch. 89-345; s. 72, ch. 97-103; s. 106, ch. 98-403.
Note.--Former s. 415.5084.

39.826 Process and service.–
(1) Personal appearance of a person in a hearing before the court shall obviate the necessity of serving process upon that person.

(2) Upon the filing of a petition requesting the appointment of a guardian advocate, and upon request of the petitioner, the clerk or deputy clerk shall issue a summons.

(3) The summons shall require the person on whom it is served to appear for a hearing at a time and place specified. Except in cases of medical emergency, the time shall be not less than 24 hours after service of the summons. The summons shall be directed to and shall be served upon the parents. It shall not be necessary

to the validity of a proceeding for the appointment of a guardian advocate that the parents be present if their identity or presence is unknown after a diligent search and inquiry have been made, if they have become residents of a state other than this state, or if they evade service or ignore a summons, but in this event the person who made the search and inquiry shall file a certificate of those facts.

(4) Upon the application of a party, the clerk or deputy clerk shall issue, and the court on its own motion may issue, subpoenas requiring attendance and testimony of witnesses and production of records, documents, or other tangible objects at any hearing.
History.--s. 2, ch. 89-345; s. 107, ch. 98-403.
Note.--Former s. 415.5085.

39.827 Hearing for appointment of a guardian advocate.–
(1) When a petition for appointment of a guardian advocate has been filed with the circuit court, the hearing shall be held within 14 days unless all parties agree to a continuance. If a child is in need of necessary medical treatment as defined in s. 39.01, s. 984.03, or s. 985.03, the court shall hold a hearing within 24 hours.

(2) At the hearing, the parents have the right to be present, to present testimony, to call and cross-examine witnesses, to be represented by counsel at their own expense, and to object to the appointment of the guardian advocate.

(3) The hearing shall be conducted by the judge without a jury, applying the rules of evidence in use in civil cases. In a hearing on a petition for appointment of a guardian advocate, the moving party shall prove all the elements in s. 39.828 by a preponderance of the evidence.

(4) The hearing under this section shall remain confidential and closed to the public. The clerk shall keep all court records required by this part separate from other records of the circuit court. All court records required by this part shall be confidential and exempt from the provisions of s. 119.07(1). All records shall be inspected only upon order of the court by persons deemed by the court to have a proper interest therein, except that a child and the parents or custodians of the child and their attorneys and the department and its designees shall always have the right to inspect and copy any official record pertaining to the child. The court may permit authorized representatives of recognized organizations compiling statistics for proper purposes to inspect and make abstracts from official records, under whatever conditions upon their use and disposition the court may deem proper, and may punish by contempt proceedings any violation of those conditions. All information obtained pursuant to this part in the discharge of official duty by any judge, employee of the court, or authorized agent of the department shall be confidential and exempt from the provisions of s. 119.07(1) and shall not be disclosed to anyone other than the authorized personnel of the court or the department and its designees, except upon order of the court.
History.--s. 2, ch. 89-345; s. 19, ch. 91-71; s. 274, ch. 96-406; s. 44, ch. 98-280; s. 108, ch. 98-403.
Note.--Former s. 415.5086.

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;

(b) The parent or parents of the child have voluntarily relinquished temporary custody of the child to a relative or other responsible adult;

(c) The person named in the petition to be appointed the guardian advocate is capable of carrying out the duties as provided in s. 39.829; and

(d) A petition to adjudicate the child dependent under this chapter has not been filed.

(2) The appointment of a guardian advocate does not remove from the parents the right to consent to medical treatment for their child. The appointment of a guardian advocate does not prevent the filing of a subsequent petition under this chapter to have the child adjudicated dependent.

History.--s. 2, ch. 89-345; s. 62, ch. 94-164; s. 109, ch. 98-403; s. 32, ch. 2006-86; s. 29, ch. 2008-245; s. 19, ch. 2012-178.
Note.--Former s. 415.5087.

39.829 Powers and duties of guardian advocate.–It is the duty of the guardian advocate to oversee the care, health, and medical treatment of the child; to advise the court regarding any change in the status of the child; and to respond to any medical crisis of the child, including providing consent to any needed medical treatment. The guardian advocate shall report to the department if the natural parents abandon the child or if the natural parents reclaim custody of the child.

History.--s. 2, ch. 89-345; s. 110, ch. 98-403.
Note.--Former s. 415.5088.

39.8295 Review and removal of guardian advocate.–

(1) At the end of the initial 1-year appointment, the court shall review the status of the child's care, health, and medical condition for the purpose of determining whether to reauthorize the appointment of the guardian advocate. If the court finds that all of the elements of s. 39.828 are still met, the court shall reauthorize the guardian advocate for another year.

(2) At any time, the court may, upon its own motion, or upon the motion of the department, a family member, or other interested person remove a guardian advocate. A guardian advocate shall be removed if the court finds that the guardian advocate is not properly discharging his or her responsibilities or is acting in a manner inconsistent with his or her appointment, that the parents have assumed parental responsibility to provide for the child, or that the child has been adjudicated dependent pursuant to this chapter.

History.--s. 2, ch. 89-345; s. 111, ch. 98-403.
Note.--Former s. 415.5089.

39.8296 Statewide Guardian ad Litem Office; legislative findings and intent; creation; appointment of executive director; duties of office.–

(1) LEGISLATIVE FINDINGS AND INTENT.–

(a) The Legislature finds that for the past 20 years, the Guardian ad Litem Program has been the only mechanism for best interest representation for children in Florida who are involved in dependency proceedings.

(b) The Legislature also finds that while the Guardian ad Litem Program has been supervised by court administration within the circuit courts since the program's inception, there is a perceived conflict of interest created by the supervision of program staff by the judges before whom they appear.

(c) The Legislature further finds that the Governors Blue Ribbon Task Force concluded that “if there is any program that costs the least and benefits the most, this one is it,” and that the guardian ad litem volunteer is an “indispensable intermediary between the child and the court, between the child and DCF.”

(d) It is therefore the intent of the Legislature to place the Guardian ad Litem Program in an appropriate place and provide a statewide infrastructure to increase functioning and standardization among the local programs currently operating in the 20 judicial circuits.

(2) STATEWIDE GUARDIAN AD LITEM OFFICE.–There is created a Statewide Guardian ad Litem Office within the Justice Administrative Commission. The Justice Administrative Commission shall provide administrative support and service to the office to the extent requested by the executive director within the available resources of the commission. The Statewide Guardian ad Litem Office is not subject to control, supervision, or direction by the Justice Administrative Commission in the performance of its duties, but the employees of the office are governed by the classification plan and salary and benefits plan approved by the Justice Administrative Commission.

(a) The head of the Statewide Guardian ad Litem Office is the executive director, who shall be appointed by the Governor from a list of a minimum of three eligible applicants submitted by a Guardian ad Litem Qualifications Committee. The Guardian ad Litem Qualifications Committee shall be composed of five persons, two persons appointed by the Governor, two persons appointed by the Chief Justice of the Supreme Court, and one person appointed by the Statewide Guardian ad Litem Association. The committee shall provide for statewide advertisement and the receiving of applications for the position of executive director. The Governor shall appoint an executive director from among the recommendations, or the Governor may reject the nominations and request the submission of new nominees. The executive director must have knowledge in dependency law and knowledge of social service delivery systems available to meet the needs of children who are abused, neglected, or abandoned. The executive director shall serve on a full-time basis and shall personally, or through representatives of the office, carry out the purposes and functions of the Statewide Guardian ad Litem Office in accordance with state and federal law. The executive director shall report to the Governor. The executive director shall serve a 3-year term, subject to removal for cause by the Governor. Any person appointed to serve as the executive director may be permitted to serve more than one term.

(b) The Statewide Guardian ad Litem Office shall, within available resources, have oversight responsibilities for and provide technical assistance to all guardian ad litem and attorney ad litem programs located within the judicial circuits.

1. The office shall identify the resources required to implement methods of collecting, reporting, and tracking reliable and consistent case data.

2. The office shall review the current guardian ad litem programs in Florida and other states.

3. The office, in consultation with local guardian ad litem offices, shall develop statewide performance measures and standards.

4. The office shall develop a guardian ad litem training program, which shall include, but is not limited to, training on the recognition of and responses to head trauma and brain injury in a child under 6 years of age. The office shall establish a curriculum committee to develop the training program specified in this subparagraph. The curriculum committee shall include, but not be limited to, dependency judges, directors of circuit guardian ad litem programs, active certified guardians ad litem, a mental health professional who specializes in the treatment of children, a member of a child advocacy group, a representative of a domestic violence advocacy group, an individual with a degree in social work, and a social worker experienced in working with victims and perpetrators of child abuse.

5. The office shall review the various methods of funding guardian ad litem programs, maximize the use of those funding sources to the extent possible, and review the kinds of services being provided by circuit guardian ad litem programs.

6. The office shall determine the feasibility or desirability of new concepts of organization, administration, financing, or service delivery designed to preserve the civil and constitutional rights and fulfill other needs of dependent children.

7. In an effort to promote normalcy and establish trust between a court appointed volunteer guardian ad litem and a child alleged to be abused, abandoned, or neglected under this chapter, a guardian ad litem

may transport a child. However, a guardian ad litem volunteer may not be required or directed by the program or a court to transport a child.

8. The office shall submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court an interim report describing the progress of the office in meeting the goals as described in this section. The office shall submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court a proposed plan including alternatives for meeting the state's guardian ad litem and attorney ad litem needs. This plan may include recommendations for less than the entire state, may include a phase-in system, and shall include estimates of the cost of each of the alternatives. Each year the office shall provide a status report and provide further recommendations to address the need for guardian ad litem services and related issues.

History.--s. 1, ch. 2003-53; s. 91, ch. 2003-399; s. 1, ch. 2006-18; s. 5, ch. 2012-123; s.7, ch. 2020-6; s. 6, ch. 2020-40.

[1]Note. --Section 91, ch. 2003-399, amended paragraph (2)(b) "[i]n order to implement Specific Appropriations 819A-819D of the 2003-2004 General Appropriations Act."

39.8297 County funding for guardian ad litem employees.–

(1) A county and the executive director of the Statewide Guardian Ad Litem Office may enter into an agreement by which the county agrees to provide funds to the local guardian ad litem office in order to employ persons who will assist in the operation of the guardian ad litem program in the county.

(2) The agreement, at a minimum, must provide that:

(a) Funding for the persons who are employed will be provided on at least a fiscal-year basis.

(b) The persons who are employed will be hired, supervised, managed, and terminated by the executive director of the Statewide Guardian Ad Litem Office. The statewide office is responsible for compliance with all requirements of federal and state employment laws, and shall fully indemnify the county from any liability under such laws, as authorized by s. 768.28(19), to the extent such liability is the result of the acts or omissions of the Statewide Guardian Ad Litem Office or its agents or employees.

(c) The county is the employer for purposes of s. 440.10 and chapter 443.

(d) Employees funded by the county under this section and other county employees may be aggregated for purposes of a flexible benefits plan pursuant to s. 125 of the Internal Revenue Code of 1986.

(e) Persons employed under this section may be terminated after a substantial breach of the agreement or because funding to the program has expired.

(3) Persons employed under this section may not be counted in a formula or similar process used by the Statewide Guardian Ad Litem Office to measure personnel needs of a judicial circuit's guardian ad litem program.

(4) Agreements created pursuant to this section do not obligate the state to allocate funds to a county to employ persons in the guardian ad litem program.

History.--s. 6, ch. 2012-123.

39.8298 Guardian ad Litem direct-support organization.–

(1) AUTHORITY.–The Statewide Guardian ad Litem Office created under s. 39.8296 is authorized to create a direct-support organization.

(a) The direct-support organization must be a Florida corporation not for profit, incorporated under the provisions of chapter 617. The direct-support organization shall be exempt from paying fees under s. 617.0122.

(b) The direct-support organization shall be organized and operated to conduct programs and

activities; raise funds; request and receive grants, gifts, and bequests of moneys; acquire, receive, hold, invest, and administer, in its own name, securities, funds, objects of value, or other property, real or personal; and make expenditures to or for the direct or indirect benefit of the Statewide Guardian ad Litem Office.

(c) If the executive director of the Statewide Guardian ad Litem Office determines the direct-support organization is operating in a manner that is inconsistent with the goals and purposes of the Statewide Guardian ad Litem Office or not acting in the best interest of the state, the executive director may terminate the contract and thereafter the organization my not use the name of the Statewide Guardian ad Litem Office.

(2) CONTRACT.–The direct-support organization shall operate under a written contract with the Statewide Guardian ad Litem Office. The written contract must, at a minimum, provide for:

(a) Approval of the articles of incorporation and bylaws of the direct-support organization by the executive director of the Statewide Guardian ad Litem Office.

(b) Submission of an annual budget for the approval by the executive director of the Statewide Guardian ad Litem Office.

(c) The reversion without penalty to the Statewide Guardian ad Litem Office, or to the state if the Statewide Guardian ad Litem Office ceases to exist, of all moneys and property held in trust by the direct-support organization for the Statewide Guardian ad Litem Office if the direct-support organization ceases to exist or if the contract is terminated.

(d) The fiscal year of the direct-support organization, which must begin July 1 of each year and end June 30 of the following year.

(e) The disclosure of material provisions of the contract and the distinction between the Statewide Guardian ad Litem Office and the direct-support organization to donors of gifts, contributions, or bequests, as well as on all promotional and fundraising publications.

(3) BOARD OF DIRECTORS.–The executive director of the Statewide Guardian ad Litem Office shall appoint a board of directors for the direct-support organization. The executive director may designate employees of the Statewide Guardian ad Litem Office to serve on the board of directors. Members of the board shall serve at the pleasure of the executive director.

(4) USE OF PROPERTY AND SERVICES.–The executive director of the Statewide Guardian ad Litem Office:

(a) May authorize the use of facilities and property other than money that are owned by the Statewide Guardian ad Litem Office to used by the direct-support organization.

(b) May authorize the use of personal services provided by employees of the Statewide Guardian ad Litem Office. For the purposes of this section, the term “personal services” includes full-time personnel and part-time personnel as well as payroll processing.

(c) May prescribe the conditions by which the direct-support organization may use property, facilities, or personal services of the office.

(d) Shall not authorize the use of property, facilities, or personal services of the direct-support organization if the organization does not provide equal employment opportunities to all persons, regardless of race, color, religion, sex, age, or national origin.

(5) MONEYS.–Moneys of the direct-support organization may be held in a separate depository account in the name of the direct-support organization and subject to the provisions of the contract with the Statewide Guardian ad Litem Office.

(6) ANNUAL AUDIT.–The direct-support organization shall provide for an annual financial audit in accordance with s. 215.981.

(7) LIMITS ON DIRECT–SUPPORT ORGANIZATION.–The direct-support organization shall not exercise any power under s. 617.0302(12) or (16). No state employee shall receive compensation from the direct-support organization for service on the board of the directors or for services rendered to the direct-support organization.

History.—s. 1, ch. 2007-149; s. 6, ch. 2014-96; s. 1, ch. 2018-38.

PART XII
DOMESTIC VIOLENCE

39.901 Domestic violence centers; legislative findings; requirements.–
(1) The Legislature recognizes that the perpetration of violence by persons against their intimate partners, spouses, ex-spouses, or those with whom they share a child in common poses a significant public health threat that has adverse physical, emotional, and financial impacts on families and communities in this state. The Legislature further finds that it is critical that victims of domestic violence and their dependents have access to safe emergency shelter, advocacy, and crisis intervention services to assist them with the resources necessary to be safe and live free of violence.

(2) To ensure statewide consistency in the provision of confidential, comprehensive, and effective services to victims of domestic violence and their families, the Department of Children and Families shall certify and monitor domestic violence centers. The department and certified domestic violence centers shall serve as partners and together provide a coordinated response to address victim safety, hold batterers accountable, and prevent future violence in this state.
History.--s. 1, ch. 2021-152.

39.902 Definitions.–As used in this part, the term:
(1) "Domestic violence" has the meaning set forth in s. 741.28.

(2) "Domestic violence center" means an agency that provides services to victims of domestic violence, as its primary mission.

(3) "Family or household member" has the meaning set forth in s. 741.28.
History.--s. 2, ch. 78-281; s. 2, ch. 79-402; s. 1, ch. 82-135; s. 71, ch. 83-218; s. 1, ch. 84-128; s. 2, ch. 84-343; s. 17, ch. 92-58; s. 19, ch. 93-200; s. 30, ch. 94-134; s. 30, ch. 94-135; s. 137, ch. 97-101; s. 114, ch. 98-403; s. 3, ch. 2002-55; s. 1, ch. 2012-147; s.1, ch. 2020-6.
Note.--Former s. 409.602; s. 415.602.

39.903 Duties and functions of the department with respect to domestic violence.–The department shall:
(1) Operate the domestic violence program and coordinate and administer statewide activities related to the prevention of domestic violence.

(2) Receive and approve or reject applications for initial certification of domestic violence centers, and annually renew the certification thereafter.

(3) Have the right to enter and inspect the premises of domestic violence centers that are applying for an initial certification or facing potential suspension or revocation of certification to effectively evaluate the state of compliance with minimum standards.

(4) Promote the involvement of certified domestic violence centers in the coordination, development, and planning of domestic violence programming in the circuits.

(5) Coordinate with state agencies that have health, education, or criminal justice responsibilities to raise awareness of domestic violence and promote consistent policy implementation.

(6) Cooperate with, assist in, and participate in, programs of other properly qualified state agencies, including any agency of the Federal Government, schools of medicine, hospitals, and clinics, in planning and conducting research on the prevention of domestic violence and the provision of services to clients.

(7) Contract with an entity or entities for the delivery and management of services for the state's domestic violence program if the department determines that doing so is in the best interest of the state.

(8) Consider applications from certified domestic violence centers for capital improvement grants and award those grants in accordance with s. 39.9055.

(9) Adopt by rule procedures to administer this section, including developing criteria for the approval, suspension, or rejection of certification of domestic violence centers and developing minimum standards for domestic violence centers to ensure the health and safety of the clients in the centers.

History.--s. 3, ch. 78-281; s. 3, ch. 79-402; ss. 2, 3, ch. 84-128; ss. 3, 5, ch. 84-343; s. 31, ch. 94-134; s. 31, ch. 94-135; s. 2, ch. 95-187; s. 55, ch. 96-418; s. 115, ch. 98-403; s. 4, ch. 2002-55; s. 1, ch. 2003-11; s. 2, ch. 2012-147; s. 2, ch. 2020-6.
Note.--Former s. 409.603; s. 415.603.

39.904 Report to the Legislature on the status of domestic violence cases.–On or before January 1 of each year, the department shall furnish to the President of the Senate and the Speaker of the House of Representatives a report on the status of domestic violence in this state, which must include, but need not be limited to, the following:

(1) The incidence of domestic violence in this state.

(2) An identification of the areas of the state where domestic violence is of significant proportions, indicating the number of cases of domestic violence officially reported, as well as an assessment of the degree of unreported cases of domestic violence.

(3) An identification and description of the types of programs in the state which assist victims of domestic violence or persons who commit domestic violence, including information on funding for the programs.

(4) The number of persons who receive services from local certified domestic violence programs that receive funding through the department.

(5) The incidence of domestic violence homicides in the state, including information and data collected from state and local domestic violence fatality review teams.

History.--s. 4, ch. 84-343; s. 138, ch. 97-101; s. 116, ch. 98-403; s. 4, ch. 2012-147; s.4, ch. 2020-6.
Note.--Former s. 415.604.

39.905 Domestic violence centers.–

(1) Domestic violence centers certified under this part must:

(a) Provide a facility which will serve as a center to receive and house persons who are victims of domestic violence. For the purpose of this part, minor children and other dependents of a victim, when such dependents are partly or wholly dependent on the victim for support or services, may be sheltered with the victim in a domestic violence center.

(b) Receive the annual written endorsement of local law enforcement agencies.

(c) Provide minimum services that include, but are not limited to, information and referral services, counseling and case management services, temporary emergency shelter for more than 24 hours, a 24-hour hotline, nonresidential outreach services, training for law enforcement personnel, assessment and appropriate referral of resident children, and educational services for community awareness relative to the incidence of domestic violence, the prevention of such violence, and the services available for persons engaged in or subject to domestic violence. If a 24-hour hotline, professional training, or community education is already provided by a certified domestic violence center within its designated service area, the department may exempt such certification requirements for a new center serving the same service area in order to avoid duplication of services.

(d) Participate in the provision of orientation and training programs developed for law enforcement officers, social workers, and other professionals and paraprofessionals who work with domestic violence victims to better enable such persons to deal effectively with incidents of domestic violence.

(e) Establish and maintain a board of directors composed of at least three citizens, one of whom must be a member of a local, municipal, or county law enforcement agency.

(f) Comply with rules adopted under this part.

(g) File with the department a list of the names of the domestic violence advocates who are employed or who volunteer at the domestic violence center who may claim a privilege under s. 90.5036 to refuse to disclose a confidential communication between a victim of domestic violence and the advocate regarding the domestic violence inflicted upon the victim. The list must include the title of the position held by the advocate whose name is listed and a description of the duties of that position. A domestic violence center must file amendments to this list as necessary.

(h) Demonstrate local need and ability to sustain operations through a history of 18 consecutive months' operation as a domestic violence center, including 12 months' operation of an emergency shelter as provided in paragraph (c), and a business plan which addresses future operations and funding of future operations.

(i) If its center is a new center applying for certification, demonstrate that the services provided address a need identified in the most current statewide needs assessment approved by the department. If the center applying for initial certification proposes providing services in an area that has an existing certified domestic violence center, the center applying for initial certification must demonstrate the unmet need in that service area and describe its efforts to avoid duplication of services.

(2) If the department finds that there is failure by a center to comply with the requirements established, or rules adopted, under this part, the department may deny, suspend, or revoke the certification of the center.

(3) The annual certificate automatically expires on June 30 of each state fiscal year unless the certification is temporarily extended to allow the center to implement a corrective action plan.

(4) The domestic violence centers shall establish procedures to facilitate persons subject to domestic violence to seek services from these centers voluntarily.

(5) Domestic violence centers may be established throughout the state when private, local, state, or federal funds are available and a need is demonstrated.

(6) In order to receive state funds, a center must:

(a) Obtain certification under this part. However, the issuance of a certificate does not obligate the department to provide funding.

(b) Obtain public or private funding from one or more local, municipal, or county sources in an amount that equals at least 25 percent of the amount of funding the center receives from the Domestic Violence Trust Fund established in s. 741.01. Contributions in kind, whether materials, commodities, transportation, office space, other types of facilities, or personal services, may be evaluated and counted as part of the required local funding.

(7)(a) All funds collected and appropriated to the domestic violence program for certified domestic violence centers shall be distributed annually according to an allocation formula approved by the department. In developing the formula, the factors of population, rural characteristics, geographical area, and the incidence of domestic violence must be considered.

(b) A contract between the department and a certified domestic violence center shall contain provisions ensuring the availability and geographic accessibility of services throughout the service area. For this purpose, a center may distribute funds through subcontracts or to center satellites, if such arrangements and any subcontracts are approved by the department.

(8) A certified domestic violence center may carry forward from one fiscal year to the next during the contract period documented unexpended state funds in a cumulative amount that does not exceed 8 percent of its total contract with the department.

(a) The funds carried forward may not be used in a manner that would increase future recurring obligations or for any program or service that is not authorized by the existing contract.

(b) Expenditures of funds carried forward must be separately reported to the department.

(c) Any unexpended funds that remain at the end of the contract period must be returned to the department.

(d) Funds carried forward under this subsection may be retained through any contract renewals as long as the same certified domestic violence center is retained by the department.

History.--s. 5, ch. 78-281; s. 4, ch. 79-402; s. 2, ch. 82-135; s. 4, ch. 82-192; s. 3, ch. 84-128; s. 5, ch. 84-343; s. 32, ch. 94-134; s. 32, ch. 94-135; ss. 3, 8, ch. 95-187; s. 117, ch. 98-403; s. 2, ch. 2003-11; s. 5, ch. 2012-147; s. 5, ch. 2020-6; s. 2, ch. 2021-152.

Note.--Former s. 409.605; s. 415.605.

39.9055 Certified domestic violence centers; capital improvement grant program.–There is established a certified domestic violence center capital improvement grant program.

(1) A certified domestic violence center as defined in s. 39.905 may apply to the department for a capital improvement grant. The grant application must provide information that includes:

(a) A statement specifying the capital improvement that the certified domestic violence center proposes to make with the grant funds.

(b) The proposed strategy for making the capital improvement.

(c) The organizational structure that will carry out the capital improvement.

(d) Evidence that the certified domestic violence center has difficulty in obtaining funding or that funds available for the proposed improvement are inadequate.

(e) Evidence that the funds will assist in meeting the needs of victims of domestic violence and their children in the certified domestic violence center service area.

(f) Evidence of a satisfactory recordkeeping system to account for fund expenditures.

(g) Evidence of ability to generate local match.

(2) Certified domestic violence centers as defined in s. 39.905 may receive funding subject to legislative appropriation, upon application to the department, for projects to construct, acquire, repair, improve, or upgrade systems, facilities, or equipment, subject to availability of funds. An award of funds under this section must be made in accordance with a needs assessment developed by the department. The department annually shall perform this needs assessment and shall rank in order of need those centers that are requesting funds for capital improvement.

(3) The department shall establish criteria for awarding the capital improvement funds that must be used exclusively for support and assistance with the capital improvement needs of the certified domestic violence centers, as defined in s. 39.905.

(4) The department shall ensure that the funds awarded under this section are used solely for the purposes specified in this section. The department will also ensure that the grant process maintains the confidentiality of the location of the certified domestic violence centers, as required under s. 39.908. The total amount of grant moneys awarded under this section may not exceed the amount appropriated for this program.
History.--s. 2, ch. 2000-220; s. 22, ch. 2014-19; s. 6, ch. 2020-6.

39.9057 Unlawful disclosure of certified domestic violence center location; penalties.–Any person who maliciously publishes, disseminates, or discloses any descriptive information or image that may identify the location of the domestic violence center certified under s. 39.905 or who otherwise maliciously discloses the location of a center commits a:

(1) Misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) Felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, upon a second or subsequent conviction.
History.--s. 1, ch. 2021-92.

39.906 Referral to centers and notice of rights.–Any law enforcement officer who investigates an alleged incident of domestic violence shall advise the victim of such violence that there is a domestic violence center from which the victim may receive services. The law enforcement officer shall give the victim immediate notice of the legal rights and remedies available in accordance with the provisions of s. 741.29.
History.--s. 7, ch. 78-281; s. 6, ch. 79-402; s. 6, ch. 84-343; s. 28, ch. 94-134; s. 28, ch. 94-135; s. 118, ch. 98-403.
Note.--Former s. 409.607; s. 415.606.

39.908 Confidentiality of information received by department or domestic violence center.–
(1) Information about clients received by the department or by authorized persons employed by or volunteering services to a domestic violence center, through files, reports, inspection, or otherwise, is confidential and exempt from the provisions of s. 119.07(1). Information about the location of domestic violence centers and facilities is confidential and exempt from the provisions of s. 119.07(1).

(2) Information about domestic violence center clients may not be disclosed without the written consent of the client to whom the information or records pertain. For the purpose of state law regarding searches and seizures, domestic violence centers shall be treated as private dwelling places. Information about a client or the location of a domestic violence center may be given by center staff or volunteers to law enforcement, firefighting, medical, or other personnel in the following circumstances:

(a) To medical personnel in a medical emergency.

(b) Upon a court order based upon an application by a law enforcement officer for a criminal arrest warrant which alleges that the individual sought to be arrested is located at the domestic violence shelter.

(c) Upon a search warrant that specifies the individual or object of the search and alleges that the individual or object is located at the shelter.

(d) To firefighting personnel in a fire emergency.

(e) To any other person necessary to maintain the safety and health standards in the domestic violence shelter.

(f) Information solely about the location of the domestic violence shelter may be given to those with whom the agency has an established business relationship.

(3) The restriction on the disclosure or use of the information about domestic violence center clients does not apply to:

(a) Communications from domestic violence shelter staff or volunteers to law enforcement officers when the information is directly related to a client's commission of a crime or threat to commit a crime on the premises of a domestic violence shelter; or

(b) Reporting suspected abuse of a child or a vulnerable adult as required by law. However, when cooperating with protective investigation services staff, the domestic violence shelter staff and volunteers must protect the confidentiality of other clients at the domestic violence center.

History.--s. 6, ch. 78-281; s. 5, ch. 79-402; s. 7, ch. 84-343; s. 22, ch. 91-71; s. 33, ch. 94-134; s. 33, ch. 94-135; s. 277, ch. 96-406; s. 119, ch. 98-403.
Note.--Former s. 409.606; s. 415.608.

SOCIAL AND ECONOMIC ASSISTANCE
INDEPENDENT LIVING EXCERPTS

409.1415 Parenting partnerships for children in out-of-home care; resources.–

(1) LEGISLATIVE FINDINGS AND INTENT. –

(a) The Legislature finds that reunification is the most common outcome for children in out-of-home care and that caregivers are one of the most important resources to help children reunify with their families.

(b) The Legislature further finds that the most successful caregivers understand that their role goes beyond supporting the children in their care to supporting the children's families, as a whole, and that children and their families benefit when caregivers and birth or legal parents are supported by an agency culture that encourages a meaningful partnership between them and provides quality support.

(c) Therefore, in keeping with national trends, it is the intent of the Legislature to bring caregivers and birth or legal parents together in order to build strong relationships that lead to more successful reunification and more stability for children being fostered in out-of-home care.

(2) PARENTING PARTNERSHIPS.–

(a) In order to ensure that children in out-of-home care achieve legal permanency as soon as possible, to reduce the likelihood that they will reenter care or that other children in the family are abused or neglected or enter out-of-home care, and to ensure that families are fully prepared to resume custody of their children, the department and community-based care lead agencies shall develop and support relationships between caregivers and birth or legal parents of children in out-of-home care, to the extent that it is safe and in the child's best interest, by:

1. Facilitating telephone communication between the caregiver and the birth or legal parent as soon as possible after the child is placed in the home of the caregiver.

2. Facilitating and attending an in-person meeting between the caregiver and the birth or legal parent as soon as possible after the child is placed in the home of the caregiver.

3. Developing and supporting a plan for the birth or legal parent to participate in medical appointments, educational and extracurricular activities, and other events involving the child.

4. Facilitating participation by the caregiver in visitation between the birth or legal parent and the child.

5. Involving the caregiver in planning meetings with the birth or legal parent.

6. Developing and implementing effective transition plans for the child's return home or placement in any other living environment.

7. Supporting continued contact between the caregiver and the child after the child returns home or moves to another permanent living arrangement.

(b) To ensure that a child in out-of-home care receives support for healthy development which gives the child the best possible opportunity for success, caregivers, birth or legal parents, the department, and the

community-based care lead agency shall work cooperatively in a respectful partnership by adhering to the following requirements:

1. All members of the partnership must interact and communicate professionally with one another, must share all relevant information promptly, and must respect confidentiality of all information related to the child and his or her family.

2. The caregiver, the birth or legal parent, the child, if appropriate, the department, and the community-based care lead agency must participate in developing a case plan for the child and the birth or legal parent. All members of the team must work together to implement the case plan. The caregiver must have the opportunity to participate in all team meetings or court hearings related to the child's care and future plans. The department and community-based care lead agency must support and facilitate caregiver participation through timely notification of such meetings and hearings and provide alternative methods for participation for a caregiver who cannot be physically present at a meeting or hearing.

3. A caregiver must strive to provide, and the department and community-based lead agency must support, excellent parenting, which includes:

a. A loving commitment to the child and the child's safety and well-being.

b. Appropriate supervision and positive methods of discipline.

c. Encouragement of the child's strengths.

d. Respect for the child's individuality and likes and dislikes.

e. Providing opportunities to develop the child's interests and skills.

f. Being aware of the impact of trauma on behavior.

g. Facilitating equal participation of the child in family life.

h. Involving the child within his or her community.

i. A commitment to enable the child to lead a normal life.

4. A child in out-of-home care must be placed with a caregiver who has the ability to care for the child, is willing to accept responsibility for providing care, and is willing and able to learn about and be respectful of the child's culture, religion, and ethnicity; special physical or psychological needs; circumstances unique to the child; and family relationships. The department, the community-based care lead agency, and other agencies must provide a caregiver with all available information necessary to assist the caregiver in determining whether he or she is able to appropriately care for a particular child.

5. A caregiver must have access to and take advantage of all training that he or she needs to improve his or her skills in parenting a child who has experienced trauma due to neglect, abuse, or separation from home; to meet the child's special needs; and to work effectively with child welfare agencies, the courts, the schools, and other community and governmental agencies.

6. The department and community-based care lead agency must provide a caregiver with the services and support they need to enable them to provide quality care for the child pursuant to subsection (3).

7. Once a caregiver accepts the responsibility of caring for a child, the child may be removed from the home of the caregiver only if:

a. The caregiver is clearly unable to safely or legally care for the child;

b. The child and the birth or legal parent are reunified;

c. The child is being placed in a legally permanent home in accordance with a case plan or court order; or

d. The removal is demonstrably in the best interests of the child.

8. If a child must leave the caregiver's home for one of the reasons stated in subparagraph 7., and in the absence of an unforeseeable emergency, the transition must be accomplished according to a plan that involves cooperation and sharing of information among all persons involved, respects the child's developmental stage and psychological needs, ensures the child has all of his or her belongings, allows for a

gradual transition from the caregiver's home, and, if possible, allows for continued contact with the caregiver after the child leaves.

9. When the case plan for a child includes reunification, the caregiver, the department, and the community-based care lead agency must work together to assist the birth or legal parent in improving his or her ability to care for and protect the child and to provide continuity for the child.

10. A caregiver must respect and support the child's ties to his or her birth or legal family, including parents, siblings, and extended family members, and must assist the child in maintaining allowable visitation and other forms of communication. The department and community-based care lead agency must provide a caregiver with the information, guidance, training, and support necessary for fulfilling this responsibility.

11. A caregiver must work in partnership with the department and community-based care lead agency to obtain and maintain records that are important to the child's well-being including, but not limited to, child resource records, medical records, school records, photographs, and records of special events and achievements.

12. A caregiver must advocate for a child in his or her care with the child welfare system, the court, and community agencies, including schools, child care providers, health and mental health providers, and employers. The department and community-based care lead agency must support a caregiver in advocating for a child and may not retaliate against the caregiver as a result of this advocacy.

13. A caregiver must be as fully involved in the child's medical, psychological, and dental care as he or she would be for his or her biological child. The department and community-based care lead agency must support and facilitate such participation. The caregiver, the department, and the community-based care lead agency must share information with each other about the child's health and well-being.

14. A caregiver must support a child's school success, including, when possible, maintaining school stability by participating in school activities and meetings. The department and community-based care lead agency must facilitate this participation and be informed of the child's progress and needs.

15. A caregiver must ensure that a child in his or her care who is between 13 and 17 years of age learns and masters independent living skills. The department shall make available training for caregivers developed in collaboration with the Florida Foster and Adoptive Parent Association and the Quality Parenting Initiative on the life skills necessary for children in out-of-home care.

16. The case manager and case manager supervisor must mediate disagreements that occur between a caregiver and the birth or legal parent.

(c) An employee of a residential group home must meet the background screening requirements under s. 39.0138 and the level 2 screening standards for screening under chapter 435. An employee of a residential group home who works directly with a child as a caregiver must meet, at a minimum, the same education and training requirements as caregivers in family foster homes licensed as level II under s. 409.175(5).

(3) RESOURCES AND SUPPORT FOR CAREGIVERS.–

(a) *Foster parents*.–The department shall establish the Foster Information Center to connect current and former foster parents, known as foster parent advocates, to prospective and current foster parents in order to provide information and services, including, but not limited to:

1. Navigating the application and approval process, including timelines for each; preparing for transitioning from approval for placement to accepting a child into the home; and learning about and connecting with any available resources in the prospective foster parent's community.

2. Accessing available resources and services, including, but not limited to, those from the Florida Foster and Adoptive Parent Association, for any current foster parents who need additional assistance.

3. Providing information specific to a foster parent's individual needs.

4. Providing immediate assistance when needed.

(b) *Kinship caregivers*.–

1. A community-based care lead agency shall provide a caregiver with resources and supports that are available and discuss whether the caregiver meets any eligibility criteria for such resources and supports. If the caregiver is unable to access resources and supports beneficial to the well-being of the child, the community-based care lead agency or case management agency must assist the caregiver in initiating access to resources by:

a. Providing referrals to kinship navigation services, if available.

b. Assisting with linkages to community resources and completion of program applications.

c. Scheduling appointments.

d. Initiating contact with community service providers.

2. The community-based care lead agency shall provide each caregiver with a telephone number to call during normal business hours whenever immediate assistance is needed and the child's caseworker is unavailable. The telephone number must be staffed and answered by individuals possessing the knowledge and authority necessary to assist caregivers.

(4) RULEMAKING.–The department shall adopt rules necessary to administer this section.

History -- s. 10, ch. 2020-138; s. 20, ch. 2021-170.

409.145 Care of Children; "reasonable and prudent parent" standard.–The child welfare system of the department shall operate as a coordinated community-based system of care which empowers all caregivers for children in foster care to provide quality parenting, including approving or disapproving a child's participation in activities based on the caregiver's assessment using the "reasonable and prudent parent" standard.

(1) SYSTEM OF CARE.–The department shall develop, implement, and administer a coordinated community-based system of care for children who are found to be dependent and their families. This system of care must be directed toward the following goals:

(a) Prevention of separation of children from their families.

(b) Intervention to allow children to remain safely in their own homes.

(c) Reunification of families who have had children removed from their care.

(d) Safety for children who are separated from their families by providing alternative emergency or longer-term parenting arrangements.

(e) Focus on the well-being of children through emphasis on maintaining educational stability and providing timely health care.

(f) Permanency for children for whom reunification with their families is not possible or is not in the best interest of the child.

(g) The transition to independence and self-sufficiency for older children who remain in foster care through adolescence.

(2) REASONABLE AND PRUDENT PARENT STANDARD.–

(a) Definitions.–As used in this subsection, the term:

1. "Age-appropriate" means an activity or item that is generally accepted as suitable for a child of the same chronological age or level of maturity. Age appropriateness is based on the development of cognitive, emotional, physical, and behavioral capacity which is typical for any age or age group.

2. "Caregiver" means a person with whom the child is placed in out-of-home care, or a designated official for a group care facility licensed by the department under s. 409.175.

3. "Reasonable and prudent parent" standard means the standard of care used by a caregiver in determining whether to allow a child in his or her care to participate in extracurricular, enrichment, and social activities. This standard is characterized by careful and thoughtful parental decisionmaking that is intended to maintain a child's health, safety, and best interest while encouraging the child's emotional and developmental growth.

(b) Application of standard of care.–

1. Every child who comes into out-of-home care pursuant to his chapter is entitled to participate in age-appropriate extracurricular, enrichment, and social activities.

2. Each caregiver shall use the reasonable and prudent parent standard in determining whether to give permission for a child living in out-of-home care to participate in extracurricular, enrichment, or social activities. When using the reasonable and prudent parent standard, the caregiver must consider:

a. The child's age, maturity, and developmental level to maintain the overall health and safety of the child.

b. The potential risk factors and the appropriateness of the extracurricular, enrichment, or social activity.

c. The best interest of the child, based on information known by the caregiver.

d. The importance of encouraging the child's emotional and developmental growth.

e. The importance of providing the child with the most family-like living experience possible.

f. The behavioral history of the child and the child's ability to safely participate in the proposed activity.

(c) Verification of services delivered.–The department and each community-based care lead agency shall verify that private agencies providing out-of-home care services to dependent children have policies in place which are consistent with this section and that these agencies promote and protect the ability of dependent children to participate in age-appropriate extracurricular, enrichment, and social activities.

(d) Limitation of liability.–A caregiver is not liable for harm caused to a child who participates in an activity approved by the caregiver, provided that the caregiver has acted in accordance with the reasonable and prudent parent standard. This paragraph may not be interpreted as removing or limiting any existing liability protection afforded by law.

(3) ~~FOSTER CARE~~ ROOM AND BOARD RATES.–

(a) Effective July 1, 2022 ~~2018~~, room and board rates shall be paid to foster parents, including relative and nonrelative caregivers who are licensed as a level I child-specific foster placement, and to relative and nonrelative caregivers who are participating in the Relative Caregiver Program and receiving payments pursuant to s. 39.5085(2)(d)1. or 2., as follows:

Monthly Room and Board ~~Foster Care~~ Rate		
0-5 Years of Age	6-12 Years of Age	13-21 Years of Age
$517.94 ~~$457.95~~	$531.21 ~~$469.68~~	$621.77 ~~$549.74~~

(b) Each January, foster parents, including relative and nonrelative caregivers who are licensed as a level I child-specific foster placement and relative and nonrelative caregivers who are participating in the Relative Caregiver Program and receiving payments pursuant to s. 39.5085(2)(d)1. or 2., shall receive an annual cost of living increase. The department shall calculate the new room and board rate increase equal to the percentage change in the Consumer Price Index for All Urban Consumers, U.S. City Average, All Items,

not seasonally adjusted, or successor reports, for the preceding December compared to the prior December as initially reported by the United States Department of Labor, Bureau of Labor Statistics. The department shall make available the adjusted room and board rates annually.

(c) ~~Effective July 1, 2019, foster parents of level I family foster homes, as defined in s. 409.175(5)(a) shall receive a room and board rate of $333.~~

~~(d) Effective July 1, 2019, the foster care room and board rate for level II family foster homes as defined in s. 409.175(5)(a) shall be the same as the new rate established for family foster homes as of January 1, 2019.~~

~~(e) Effective January 1, 2020, paragraph (b) shall only apply to level II through level V family foster homes, as defined in s. 409.175 (5) (a).~~

~~(f)~~ The amount of the monthly ~~foster care~~ room and board rate may be increased upon agreement among the department, the community-based care lead agency, and the foster parent.

(d) ~~(g)~~ Effective July 1, 2022 ~~From July 1, 2018, through June 30, 2019~~, community-based care lead agencies providing care under contract with the department shall pay a supplemental room and board payment to foster ~~care~~ parents, including relative and nonrelative caregivers who are licensed as a level I child-specific foster placement and relative and nonrelative caregivers who are participating in the Relative Caregiver Program and receiving payments pursuant to s. 39.5085(2)(d)1. or 2. ~~of all family foster homes~~, on a per-child basis, for providing independent life skills and normalcy supports to children who are 13 through 17 years of age place in their care. The supplemental payment must ~~shall~~ be paid monthly ~~to the foster care parents~~ in addition to the current monthly room and board rate payment. The supplemental monthly payment shall be based on 10 percent of the monthly room and board rate for children 13 through 21 years of age as provided under this section and adjusted annually. ~~Effective July 1, 2019, such supplemental payments shall only be paid to foster parents of level II through level V family foster homes.~~

(4) CHILD CARE SUBSIDY.—Any foster parents and relative or nonrelative caregivers, regardless of whether the relative or nonrelative caregivers are licensed as a level I child-specific foster placement or participate in the Relative Caregiver Program, who have a child placed in out-of-home care in the home between the age of birth to school entry shall receive a payment of $200 per month per child to pay toward the cost of an early learning or child care program.

(5) ~~(4)~~ RULEMAKING.–The Department shall adopt by rule procedures to administer this section.

History. -- s. 1, ch. 69-268; ss. 19, 35, ch. 69-106; s. 1, ch. 70-255; s. 26, ch. 73-334; s. 3, ch. 76-168; s. 273, ch. 77-147; s. 1, ch. 77-457; s. 4, ch. 78-190; s. 5, ch. 78-433; s. 101, ch. 79-164; s. 1, ch. 80-174; ss. 2, 3, ch. 81-318; ss. 1, 3, 4, ch. 83-250; s. 39, ch. 88-337; ss. 3, 4, ch. 93-115; ss. 46, 55, ch. 94-164; s. 42, ch. 97-103; s. 37, ch. 98-280; s. 77, ch. 2000-139; s. 49, ch. 2000-153; s. 1, ch. 2000-180; s. 9, ch. 2000-217; s. 49, ch. 2001-62; ss. 2, 9, ch. 2002-19; s. 991, ch. 2002-387; s. 7, ch. 2013-178; s. 3, ch. 2015-130; s. 20, ch. 2018-103; s. 76, ch. 2019-3; s. 11, ch. 2020-138; s. 2, ch. 2022-68.
Note: This language reflects changes from SB 1036. See similar language in 39.4091.

409.1451 The Road-to-Independence Program.–

(1) LEGISLATIVE FINDINGS AND INTENT.–

(a) The Legislature recognizes that most children and young adults are resilient and, with adequate support, can expect to be successful as independent adults. Not unlike many young adults, some young adults who have lived in foster care need additional support and resources for a period of time after reaching 18 years of age.

(b) The Legislature finds that while it is important to provide young adults who have lived in foster care with education and independent living skills, there is also a need to focus more broadly on creating and preserving family relationships so that young adults have a permanent connection with at least one committed adult who provides a safe and stable parenting relationship.

(c) It is the intent of the Legislature that young adults who choose to participate in the program receive the skills, education, and support necessary to become self-sufficient and leave foster care with a lifelong connection to a supportive adult through the Road-to-Independence Program, either through postsecondary education services and support, as provided in subsection (2), or aftercare services.

(2) POSTSECONDARY EDUCATION SERVICES AND SUPPORT.–

(a) A young adult is eligible for services and support under this subsection if he or she:

1. Was living in licensed care on his or her 18th birthday or is currently living in licensed care; or was at least 16 years of age and was adopted from foster care or placed with a court-approved dependency guardian after spending at least 6 months in licensed care within the 12 months immediately preceding such placement or adoption;

2. Spent at least 6 months in licensed care before reaching his or her 18th birthday;

3. Earned a standard high school diploma pursuant to s. 1002.3105(5), s. 1003.4281, or s. 1003.4282, or its equivalent pursuant to s. 1003.435;

4. Has been admitted for enrollment as a full-time student or its equivalent in an eligible postsecondary educational institution as provided in s. 1009.533. For purposes of this section, the term "full-time" means 9 credit hours or the vocational school equivalent. A student may enroll part-time if he or she has a recognized disability or is faced with another challenge or circumstance that would prevent full-time attendance. A student needing to enroll part-time for any reason other than having a recognized disability must get approval from his or her academic advisor;

5. Has reached 18 years of age but is not yet 23 years of age;

6. Has applied, with assistance from the young adult's caregiver and the community-based lead agency, for any other grants and scholarships for which he or she may qualify;

7. Submitted a Free Application for Federal Student Aid which is complete and error free; and

8. Signed an agreement to allow the department and the community-based care lead agency access to school records.

(b) The amount of the financial assistance shall be as follows:

1. For a young adult who does not remain in foster care and is attending a postsecondary school as provided in s. 1009.533, the amount is $1,720 ~~$1,256~~ monthly.

2. For a young adult who remains in foster care, is attending a postsecondary school, as provided in s. 1009.533, and continues to reside in a licensed foster home, the amount is the established room and board rate for foster parents. This takes the place of the payment provided for in s. 409.145(3).

3. For a young adult who remains in foster care, but temporarily resides away from a licensed foster home for purposes of attending a postsecondary school as provided in s. 1009.533, the amount is $1,720 ~~$1,256~~ monthly. This takes the place of the payment provided for in s. 409.145(3).

4. For a young adult who remains in foster care, is attending a postsecondary school as provided in s. 1009.533, and continues to reside in a licensed group home, the amount is negotiated between the community-based care lead agency and the licensed group home provider.

5. For a young adult who remains in foster care, but temporarily resides away from a licensed group home for purposes of attending a postsecondary school as provided in s. 1009.533, the amount is $1,720 ~~$1,256~~ monthly. This takes the place of a negotiated room and board rate.

6. A young adult is eligible to receive financial assistance during the months when he or she is enrolled in a postsecondary educational institution.

(c) Payment of financial assistance for a young adult who:

1. Has chosen not to remain in foster care and is attending a postsecondary school as provided in s. 1009.533, shall be made to the community-based care lead agency in order to secure housing and utilities,

with the balance being paid directly to the young adult until such time the lead agency and the young adult determine that the young adult can successfully manage the full amount of the assistance.

2. Has remained in foster care under s. 39.6251 and who is attending postsecondary school as provided in s. 1009.533, shall be made directly to the foster parent or group home provider.

3. Community-based care lead agencies or other contracted providers are prohibited from charging a fee associated with administering the Road-to-Independence payments.

(d) Before a young adult receives funding under this subsection, the department, or an agency under contract with the department, shall assess the young adult's financial literacy and executive functioning, self-regulation, and similar skills that are important for successful independent living and the completion of postsecondary education. The assessment must be included as part of the transition plan required under s. 39.6035. Within a reasonable time after completing the assessment, the department, or an agency under contract with the department, must provide information and referrals for any voluntary services that are recommended by the assessment to the young adult to assist in strengthening any necessary skills.

(e)1. ~~(d)1.~~ The department must advertise the availability of the stipend and must provide notification of the criteria and application procedures for the stipend to children and young adults leaving, or who were formerly in, foster care; caregivers; case managers; guidance and family services counselors; principals or other relevant school administrators; and guardians ad litem.

2. If the award recipient transfers from one eligible institution to another and continues to meet eligibility requirements, the award shall be transferred with the recipient.

3. The department, or an agency under contract with the department, shall evaluate each Road-to-Independence award for renewal eligibility on an annual basis. In order to be eligible for a renewal award for the subsequent year, the young adult must:

a. Be enrolled for or have completed the number of hours, or the equivalent, to be considered a full-time student under subparagraph (a)4., unless the young adult qualifies for an exception under subparagraph (a)4.

b. Maintain standards of academic progress as defined by the education institution, except that if the young adult’s progress is insufficient to renew the award at any time during the eligibility period, the young adult may continue to be enrolled for additional terms while attempting to restore eligibility as long as progress towards the required level is maintained.

4. Funds may be terminated during the interim between an award and the evaluation for a renewal award if the department, or an agency under contract with the department, determines that the award recipient is no longer enrolled in an educational institution as described in subparagraph (a)4. or is no longer a resident of this state.

5. The department, or an agency under contract with the department, shall notify a recipient who is terminated and inform the recipient of his or her right to appeal.

6. An award recipient who does not qualify for a renewal award or who chooses not to renew the award may apply for reinstatement. An application for reinstatement must be made before the young adult reaches 23 years of age. In order to be eligible for reinstatement, the young adult must meet the eligibility criteria and the criteria for award renewal for the program.

7. The department, or an agency under contract with the department, shall work with the young adult to create a financial plan that is guided by the young adult's financial goals in meeting his or her needs while in postsecondary education. The financial plan must be included in the transition plan required under s. 39.6035. The department, or an agency under contract with the department, shall review and, if necessary, update the financial plan with the young adult every 6 months until funding under this subsection is no longer provided.

8. The department, or an agency under contract with the department, shall review with the young adult the transition plan required under s. 39.6035 during the year before the young adult graduates from

postsecondary education or the year before the young adult reaches 23 years of age, whichever occurs first. The transition plan must include an assessment of the young adult's current and future needs and challenges for self-sufficiency and address, at a minimum, how the young adult will meet his or her financial needs and obligations when funding under this subsection is no longer provided.

(3) AFTERCARE SERVICES.–

(a)1. Aftercare services are available to a young adult who has reached 18 years of age but is not yet 23 years of age and is:

a. Not in foster care.

b. Temporarily not receiving financial assistance under subsection (2) to pursue postsecondary education.

2. Subject to available funding, aftercare services as specified in subparagraph (b)8. are also available to a young adult who is between the ages of 18 and 22, is receiving financial assistance under subsection (2), is experiencing an emergency situation, and whose resources are insufficient to meet the emergency situation. Such assistance shall be in addition to any amount specified in paragraph (2)(b).

(b) Aftercare services include, but are not limited to, the following:

1. Mentoring and tutoring.

2. Mental health services and substance abuse counseling.

3. Life skills classes, including credit management and preventive health activities.

4. Parenting classes.

5. Job and career skills training.

6. Counselor consultations.

7. Temporary financial assistance for necessities, including, but not limited to, education supplies, transportation expenses, security deposits for rent and utilities, furnishings, household goods, and other basic living expenses.

8. Temporary financial assistance to address emergency situations, including, but not limited to, automobile repairs or large medical expenses.

9. Financial literacy skills training under s. 39.6035(1)(c).

The specific services to be provided under this paragraph shall be determined by an assessment of the young adult and may be provided by the community-based care provider or through referrals in the community.

(c) Temporary assistance provided to prevent homelessness shall be provided as expeditiously as possible and within the limitations defined by the department.

(4) APPEALS PROCESS.–

(a) The department shall have a procedure by which a young adult may appeal the department's refusal to provide Road-to-Independence Program services or support, or the termination of such services or support if funds for such services or support are available.

(b) The appeal procedure must be readily accessible to young adults, must provide for timely decisions, and must provide for an appeal to the department. The decision of the department constitutes final agency action and is reviewable by the court as provided in s. 120.68.

(5) DEPARTMENT RESPONSIBILITIES.–

(a) The services provided under this section are portable across county lines and between community-based care lead agencies.

1. The service needs that are identified in the original or updated transition plan under s. 39.6035 must be provided by the lead agency where the young adult is currently residing but shall be funded by the lead agency that initiated the transition plan.

2. The lead agency with primary case management responsibilities shall provide maintenance payments, case planning, including a written description of all services that will assist a child 16 years of age or older in preparing for the transition from care to independence, as well as regular case reviews that conform with all federal scheduling and content requirements, for all children in foster care who are placed or visiting out-of-state.

(b) Each community-based care lead agency shall at least annually attempt to contact each young adult who has aged out of foster are, who is potentially eligible for continuing care under s. 39.6251 or for the services available under this section, and who is not participating in any of these services. Through this contact, the lead agency shall communicate the continued availability of these programs and the services of the Office of Continuing Care established under s. 414.56. The lead agency shall also inquire into the young adult's needs and refer him or her to other programs that may be of assistance.

(c) Each community-based care lead agency must offer services for intensive independent living development for young adults who have aged out of foster care and have the greatest deficits in life skills.

(6) ACCOUNTABILITY.–The department shall develop outcome measures for the program and other performance measures in order to maintain oversight of the program. No later than January 31 of each year, the department shall prepare a report on the outcome measures and the department's oversight activities and submit the report to the President of the Senate, the Speaker of the House of Representatives, and the committees with jurisdiction over issues relating to children and families in the Senate and the House of Representatives. The report must include:

(a) An analysis of performance on the outcome measures developed under this section reported for each community-based care lead agency and compared with the performance of the department on the same measures.

(b) A description of the department's oversight of the program, including, by lead agency, any programmatic or fiscal deficiencies found, corrective actions required, and current status of compliance.

(c) Any rules adopted or proposed under this section since the last report. For the purposes of the first report, any rules adopted or proposed under this section must be included.

(7) INDEPENDENT LIVING SERVICES ADVISORY COUNCIL.–The secretary shall establish the Independent Living Services Advisory Council for the purpose of reviewing and making recommendations concerning the implementation and operation of s. 39.6251 and the Road-to-Independence Program.

(a) The advisory council shall assess the implementation and operation of the Road-to-Independence Program and advise the department on actions that would improve the ability of the Road-to-Independence Program services to meet the established goals. The advisory council shall keep the department informed of problems being experienced with the services, barriers to the effective and efficient integration of services and support across systems, and successes that the system of services has achieved. The department shall consider, but is not required to implement, the recommendations of the advisory council.

(b)1. The advisory council shall report to the secretary on the status of the implementation of the Road-to-Independence Program, efforts to publicize the availability of the Road-to-Independence Program, the success of the services under the program, problems identified with the program, and recommendations for department or legislative action.

2. The department shall submit a report by December 31 of each year to the Governor, the President of the Senate, and the Speaker of the House of Representatives which includes the recommendations of the advisory council and the department's response. The report must also include the most recent data regarding

the status of and outcomes for young adults who turned 18 years of age while in foster care, relating to education, employment, housing, financial, transportation, health and well-being, and connections, and an analysis of such data and outcomes.

(c) Members of the advisory council shall be appointed by the secretary of the department. The membership of the advisory council must include, at a minimum, young adults who receive services and funding through the Road-to-Independence Program, representatives from the headquarters and regional offices of the department, community-based care lead agencies, the Department of Juvenile Justice, the Department of Economic Opportunity, the Department of Education, the Agency for Health Care Administration, the State Youth Advisory Board, CareerSource Florida, Inc., the Statewide Guardian Ad Litem Office, foster parents, and advocates for children in care. The secretary shall determine the length of the term to be served by each member appointed to the advisory council, which may not exceed 4 years.

(d) The advisory council may consult with children currently in care and young adults who aged out of care regarding their needs, preferences, and concerns related to preparation for, transition to, and support during independent living.

(e) The department shall provide administrative support to the advisory council to accomplish its assigned tasks. The advisory council shall be afforded access to all appropriate data from the department, each community-based care lead agency, and other relevant agencies in order to accomplish the tasks set forth in this section. The data collected may not include any information that would identify a specific child or young adult.

(8) PERSONAL PROPERTY.–Property acquired on behalf of a young adult in this program shall become the personal property of the young adult and is not subject to the requirements of chapter 273 relating to state-owned tangible personal property. Such property continues to be subject to applicable federal laws.

(9) FINANCIAL ASSISTANCE FOR YOUNG ADULTS RECEIVING SERVICES.–Financial awards to young adults receiving services under subsections (2) and (3) and s. 39.6251 may be disregarded for purposes of determining the eligibility for, or the amount of, any other federal or federally supported assistance for which the department is required to determine eligibility for the program.

(10) MEDICAL ASSISTANCE FOR YOUNG ADULTS FORMERLY IN CARE.–The department or community-based care lead agency shall document that eligible young adults are enrolled in Medicaid under s. 409.903(4).

(11) RULEMAKING.–The department shall adopt rules to administer this section.

History.--s. 3, ch. 2002-19; s. 44, ch. 2003-1; s. 6, ch. 2003-146; s. 1, ch. 2004-362; s. 3, ch. 2005-179; ss. 11, 17, ch. 2006-194; s. 2, ch. 2007-147; s. 1, ch. 2008-122; s. 118, ch. 2010-102; s. 4, ch. 2010-158; s. 300, ch. 2011-142; s. 4, ch. 2013-21; s. 39, ch. 2013-35; s. 8, ch. 2013-178; s. 100, ch. 2014-17; s. 4, ch. 2014-39; s. 25, ch. 2014-184; s. 47, ch. 2015-2; s. 15, ch. 2015-98; s. 5, ch. 2017-8; s. 7, ch. 2018-102; s. 13, ch. 2019-142; s. 17, ch. 2020-138; s. 16, ch. 2021-169; s.6, ch. 2022-67, s. 5, ch. 2022-8.

409.14515 Independent living preparation.–The department shall assist children who are in foster care in making the transition to independent living and self-sufficiency as adults. To support opportunities for participation in age-appropriate life skills activities, the department shall:

(1) Identify important life skills that children in out-of-home care should acquire.

(2) Develop a list of age-appropriate activities and responsibilities useful for the development of specific life skills for use by children and their caregivers. The age-appropriate activities must address specific topics

tailored to the needs of each child's developmental stage. For older youth, the list of age-appropriate activities must include, but is not limited to, informing the youth of available independent living services and community resources and how to apply for such services.

(3) Design and disseminate training for caregivers related to building needed life skills. The training must include components that address the challenges of children in foster care in transitioning to adulthood and information on programs for children who are aging out of care under ss. 414.56 and 409.1451, high school completion, applications for financial assistance for higher education, vocational school opportunities, supporting education, and employment opportunities.

(4) Beginning after the child's 13th birthday, regularly assess the degree of life skills acquisition by each child. The department shall share the results of the assessments with the caregiver and support the caregiver in creating, implementing, monitoring, and revising plans as necessary to address the child's life skills deficits, if any.

(5) Provide opportunities for children in foster care to interact with qualified, trained mentors who are committed to engaging reliably with the child long-term.

(6) Develop and implement procedures for children of sufficient age and understanding to directly access and manage the personal allowance they receive from the department.

History.—s. 17, ch. 2021-169.

409.1454 Motor vehicle insurance and driver licenses for children in care and certified unaccompanied homeless youth.–

(1) The Legislature finds that the costs of driver education, licensure and costs incidental to licensure, and motor vehicle insurance for a child in out-of-home care or certain unaccompanied homeless youth certified under s. 743.067 after such child obtains a driver license create an additional barrier to engaging in normal age-appropriate activities and gaining independence and may limit opportunities for obtaining employment and completing educational goals. The Legislature also finds that the completion of an approved driver education course is necessary to develop safe driving skills.

(2) To the extent that funding is available, the department shall establish a program to pay the cost of driver education, licensure and other costs incidental to licensure, and motor vehicle insurance for a child who has completed a driver education program and who is: ~~children~~

(a) In out-of-home care; or

(b) Certified under s. 743.067 as an unaccompanied homeless youth and who is a citizen of the United States or legal resident of this state ~~who have successfully completed a driver education program~~.

(3) If a caregiver, or an individual or not-for-profit entity approved by the caregiver, adds a child to his or her existing insurance policy, the amount paid to the caregiver or approved purchaser may not exceed the increase in cost attributable to the addition of the child to the policy.

(4) Payment must ~~shall~~ be made to eligible recipients in the order of eligibility until available funds are exhausted. If a child determined to be eligible reaches permanency status or turns 18 years of age, the

program may pay for that child to complete a driver education program and obtain a driver license for up to 6 months after the date the child reaches permanency status or 6 months after the date the child turns 18 years of age. A child may be eligible to have the costs of and incidental to licensure paid if he or she demonstrates that such costs are creating barriers to obtaining employment or completing educational goals, if the child meets any of the following criteria:

(a) Is continuing in care under s. 39.6251;~~, or who~~

(b) Was in licensed care when the child reached 18 years of age and is currently receiving postsecondary education services and support under s. 409.1451(2); or

(c) Is an unaccompanied homeless youth certified under s. 743.067 who is a citizen of the United States or legal resident of this state and is:

1. Completing secondary education;

2. Employed at least part time;

3. Attending any postsecondary education program at least part time; or

4. Has a disability that precludes full-time work or education~~, may be eligible to have the costs of licensure and costs incidental to licensure paid if the child demonstrates that such costs are creating barriers for obtaining employment or completing educational goals~~.

(5) The department shall contract with a not-for-profit entity whose mission is to support youth aging out of foster care to develop procedures for operating and administering the program, including, but not limited to:

(a) Determining eligibility, including responsibilities for the child and caregivers.

(b) Developing application and payment forms.

(c) Notifying eligible children, caregivers, group homes, ~~and~~ residential programs, local educational agency liaisons for homeless children and youth, and governmental or nonprofit agencies that provide services to homeless children or youth of the program.

(d) Providing technical assistance to lead agencies, providers, group homes, and residential programs to support removing obstacles that prevent children in foster care from driving.

(e) Publicizing the program, engaging in outreach, and providing incentives to youth participating in the program to encourage the greatest number of eligible children to obtain driver licenses.

History.--s. 2, ch. 2014-166; s. 1, ch. 2017-8; s. 18, ch. 2021-169; s.3, ch. 2022-65.

409.903 Mandatory payments for eligible persons.–The agency shall make payments for medical assistance and related services on behalf of the following persons who the department, or the Social Security Administration by contract with the Department of Children and Families, determines to be eligible, subject to the income, assets, and categorical eligibility tests set forth in federal and state law. Payment on behalf of these Medicaid eligible persons is subject to the availability of moneys and any limitations established by the General Appropriations Act or chapter 216.

(1) Low-income families with children are eligible for Medicaid provided they meet the following requirements:

(a) The family includes a dependent child who is living with a caretaker relative.

(b) The family's income does not exceed the gross income test limit.

(c) The family's countable income and resources do not exceed the applicable Aid to Families with Dependent Children (AFDC) income and resource standards under the AFDC state plan in effect in July 1996, except as amended in the Medicaid state plan to conform as closely as possible to the requirements of the welfare transition program, to the extent permitted by federal law.

(2) A person who receives payments from, who is determined eligible for, or who was eligible for but lost cash benefits from the federal program known as the Supplemental Security Income program (SSI). This category includes a low-income person age 65 or over and a low-income person under age 65 considered to be permanently and totally disabled.

(3) A child under age 21 living in a low-income, two-parent family, and a child under age 7 living with a nonrelative, if the income and assets of the family or child, as applicable, do not exceed the resource limits under the Temporary Cash Assistance Program.

(4) A child who is eligible under Title IV-E of the Social Security Act for subsidized board payments, foster care, or adoption subsidies, and a child for whom the state has assumed temporary or permanent responsibility and who does not qualify for Title IV-E assistance but is in foster care, shelter or emergency shelter care, or subsidized adoption. This category includes:

(a) A young adult who is eligible to receive services under s. 409.1451, until the young adult reaches 21 years of age, without regard to any income, resource, or categorical eligibility test that is otherwise required.

(b) A person who as a child was eligible under Title IV-E of the Social Security Act for foster care or the state-provided foster care and who is a participant in the Road-to-Independence Program.

(c) A child who is eligible for the Guardianship Assistance Program as provided in s. 39.6225.

(5) A pregnant woman for the duration of her pregnancy and for the postpartum period as defined in federal law and rule, or a child under age 1, if either is living in a family that has an income which is at or below 150 percent of the most current federal poverty level, or, effective January 1, 1992, that has an income which is at or below 185 percent of the most current federal poverty level. Such a person is not subject to an assets test. Further, a pregnant woman who applies for eligibility for the Medicaid program through a qualified Medicaid provider must be offered the opportunity, subject to federal rules, to be made presumptively eligible for the Medicaid program.

(6) A child born after September 30, 1983, living in a family that has an income which is at or below 100 percent of the current federal poverty level, who has attained the age of 6, but has not attained the age of 19. In determining the eligibility of such a child, an assets test is not required. A child who is eligible for Medicaid under this subsection must be offered the opportunity, subject to federal rules, to be made presumptively eligible. A child who has been deemed presumptively eligible for Medicaid shall not be enrolled in a managed care plan until the child's full eligibility determination for Medicaid has been completed.

(7) A child living in a family that has an income which is at or below 133 percent of the current federal poverty level, who has attained the age of 1, but has not attained the age of 6. In determining the eligibility of such a child, an assets test is not required. A child who is eligible for Medicaid under this subsection must be offered the opportunity, subject to federal rules, to be made presumptively eligible. A child who has been deemed presumptively eligible for Medicaid shall not be enrolled in a managed care plan until the child's full eligibility determination for Medicaid has been completed.

(8) A person who is age 65 or over or is determined by the agency to be disabled, whose income is at or below 100 percent of the most current federal poverty level and whose assets do not exceed limitations established by the agency. However, the agency may only pay for premiums, coinsurance, and deductibles,

as required by federal law, unless additional coverage is provided for any or all members of this group by s. 409.904(1).

History.--s. 32, ch. 91-282; s. 97, ch. 96-175; s. 27, ch. 98-191; s. 13, ch. 2000-163; s. 95, ch. 2000-165; s. 8, ch. 2000-253; s. 50, ch. 2000-256; s. 8, ch. 2002-19; s. 6, ch. 2004-270; s. 4, ch. 2005-60; s. 13, ch. 2006-194; s. 3, ch. 2007-147; s. 11, ch. 2010-209; s. 10, ch. 2013-178; s. 204, ch. 2014-19; s. 15, ch. 2019-142.

1009.25 Fee exemptions.–

(1) The following students are exempt from the payment of tuition and fees, including lab fees, at a school district that provides workforce education programs, Florida College System institution, or state university:

(a) A student enrolled in a dual enrollment or early admission program pursuant to s. 1007.271.

(b) A student enrolled in an approved apprenticeship program, as defined in s. 446.021.

(c) A student who was the subject of a shelter proceeding, a dependency proceeding, or a termination of parental rights proceeding, and:

1. Is, or was at the time he or she reached 18 years of age, in out-of-home care. ~~the custody of the Department of Children and Families or who,~~

2. Is, or was at the time he or she reached 18 years of age, in the custody of a relative or nonrelative pursuant to s. 39.5085 or s. 39.6225.

3. After spending at least 6 months in the custody of the department after reaching 16 years of age, was placed in a guardianship by the court.

4. After reaching 14 years of age and thereafter spending at least 18 months in out-of-home care, was reunited with his or her parent or parents who were the subject of the dependency proceeding before he or she reaches 18 years of age, including a student who is reunited under s. 39.8155. For a student to be eligible under this subparagraph, the student must be Pell Grant-eligible, and the entity imposing the tuition and fees must verify such eligibility.

5. Was adopted from the department after May 5, 1997.

6. Was placed in a permanent guardianship, regardless of whether the caregiver participates or participated in the Relative Caregiver Program under s. 39.5085, and remains in such guardianship until the student either reaches 18 years of age or, if before reaching 18 years of age, he or she enrolls in an eligible institution.

Such exemption includes fees associated with enrollment in applied academics for adult education instruction. The exemption remains valid until the student reaches 28 years of age.

~~(d) A student who is, or was at the time he or she reached 18 years of age, in the custody of a relative or nonrelative under s. 39.5085 or s. 39.6225 or who was adopted from the Department of Children and Families after May 5, 1997. Such exemption includes fees associated with enrollment in applied academics for adult education instruction. The exemption remains valid until the student reaches 28 years of age.~~

(e) A student enrolled in an employment and training program under the welfare transition program. The local workforce development board shall pay the state university, Florida College System institution, or school district for costs incurred for welfare transition program participants.

(f) A student who meets the definition of homeless children and youths in s. 725 of the McKinney-Vento Homeless Assistance Act, 42 U.S.C. s. 11434a(2) ~~lacks a fixed, regular, and adequate nighttime residence or whose primary nighttime residence is a public or private shelter designed to provide temporary residence, a public or private transitional living program, or a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings~~. This includes a student who would otherwise meet the requirements of this paragraph, as determined by a college or university, but for his or her residence in college or university dormitory housing. The State Board of Education may adopt rules and the Board of Governors may adopt regulations regarding documentation and procedures to implement this

paragraph. Such rules and regulations must consider documentation of a student's circumstance to be adequate if such documentation meets the standards under 20 U.S.C. s. 1087uu-2(a). Any student who is determined to be a homeless child or youth for a preceding award year is presumed to be a homeless child or youth for each subsequent year unless the student informs the institution that the student's circumstances have changed or the institution has specific conflicting information about the student's independence, and has informed the student of this information.

(g) A student who is a proprietor, owner, or worker of a company whose business has been at least 50 percent negatively financially impacted by the buyout of property around Lake Apopka by the State of Florida. Such student may receive a fee exemption only if the student has not received compensation because of the buyout, the student is designated a Florida resident for tuition purposes, pursuant to s. 1009.21, and the student has applied for and been denied financial aid, pursuant to s. 1009.40, which would have provided, at a minimum, payment of all student fees. The student is responsible for providing evidence to the postsecondary education institution verifying that the conditions of this paragraph have been met, including supporting documentation provided by the Department of Revenue. The student must be currently enrolled in, or begin coursework within, a program area by fall semester 2000. The exemption is valid for a period of 4 years after the date that the postsecondary education institution confirms that the conditions of this paragraph have been met.

(h) Pursuant to s. 402.403, child protection and child welfare personnel as defined in s. 402.402 who are enrolled in an accredited bachelor’s degree or master’s degree in social work program, provided that the student attains at least a grade of “B” in all courses for which tuition and fees are exempted.

(2) Each Florida College System institution is authorized to grant student fee exemptions from all fees adopted by the State Board of Education and the Florida College System institution board of trustees for up to 54 full-time equivalent students or 1 percent of the institution’s total full-time equivalent enrollment, whichever is greater, at each institution.

History.--ss. 5, 6, 7, ch. 2002-19; ss. 2, 3, ch. 2002-38; s. 404, ch. 2002-387; s. 118, ch. 2004-357; s. 3, ch. 2004-362; s. 15, ch. 2006-194; s. 1, ch. 2010-68; s. 119, ch. 2011-5; s. 14, ch. 2011-63; s. 23, ch. 2012-134; s. 24, ch. 2012-191; s. 55, ch. 2013-27; s. 29, ch. 2013-51; s. 377, ch. 2014-19; s. 44, ch. 2014-224; s. 54, ch. 2016-216; s. 37, ch. 2017-151; s. 18, ch. 2019-142; s. 7, ch. 2021-162; s. 3, ch. 2021-232; s.7, ch. 2022-65; s.3, ch. 2022-68.

SOCIAL AND ECONOMIC ASSISTANCE
SEXUAL EXPLOITATION

409.1678 Specialized residential options for children who are victims of commercial sexual exploitation.–

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

(a) "Safe foster home" means a foster home certified by the department under this section to care for sexually exploited children.

(b) "Safe house" means a group residential placement certified by the department under this section to care for sexually exploited children.

(2) CERTIFICATION OF SAFE HOUSES AND SAFE FOSTER HOMES.–

(a) A safe house and a safe foster home shall provide a safe, separate, and therapeutic environment tailored to the needs of commercially sexually exploited children who have endured significant trauma and are not eligible for relief and benefits under the federal Trafficking Victims Protection Act, 22 U.S.C. ss. 7101 et seq. Safe houses and safe foster homes shall use a model of treatment that includes strength-based and trauma-informed approaches.

(b) A safe house or a safe foster home must be certified by the department. A residential facility accepting state funds appropriated to provide services to child victims of commercial sexual exploitation must be certified by the department as a safe house or a safe foster home. An entity may not use the designation "safe house" or "safe foster home" and hold itself out as serving child victims of commercial sexual exploitation unless the entity is certified under this section.

(c) To be certified, a safe house must hold a license as a residential child-caring agency, as defined in s. 409.175, and a safe foster home must hold a license as a family foster home, as defined in s. 409.175. A safe house or safe foster home must also:

1. Use strength-based and trauma-informed approaches to care, to the extent possible and appropriate.

2. Serve exclusively one sex.

3. Group child victims of commercial sexual exploitation by age or maturity level.

4. Care for child victims of commercial sexual exploitation in a manner that separates those children from children with other needs. Safe houses and safe foster homes may care for other populations if the children who have not experienced commercial sexual exploitation do not interact with children who have experienced commercial sexual exploitation.

5. Have awake staff members on duty 24 hours a day, if a safe house.

6. Provide appropriate security through facility design, hardware, technology, staffing, and siting, including, but not limited to, external video monitoring or door exit alarms, a high staff-to-client ratio, or being situated in a remote location that is isolated from major transportation centers and common trafficking areas.

7. Meet other criteria established by department rule, which may include, but are not limited to, personnel qualifications, staffing ratios, and type of services offered.

(d) Safe houses and safe foster homes shall provide services tailored to the needs of child victims of commercial sexual exploitation and shall conduct a comprehensive assessment of the service needs of each

resident. In addition to the services required to be provided by residential child caring agencies and family foster homes, safe houses and safe foster homes must provide, arrange for, or coordinate, at a minimum, the following services:

1. Victim-witness counseling.
2. Family counseling.
3. Behavioral health care.
4. Treatment and intervention for sexual assault.
5. Education tailored to the child's individual needs, including remedial education if necessary.
6. Life skills and workforce training.
7. Mentoring by a survivor of commercial sexual exploitation, if available and appropriate for the child.
8. Substance abuse screening and, when necessary, access to treatment.
9. Planning services for the successful transition of each child back to the community.
10. Activities structured in a manner that provides child victims of commercial sexual exploitation with a full schedule.

(e) The community-based care lead agencies shall ensure that foster parents of safe foster homes and staff of safe houses complete intensive training regarding, at a minimum, the needs of child victims of commercial sexual exploitation, the effects of trauma and sexual exploitation, and how to address those needs using strength-based and trauma-informed approaches. The department shall specify the contents of this training by rule and may develop or contract for a standard curriculum. The department may establish by rule additional criteria for the certification of safe houses and safe foster homes that shall address the security, therapeutic, social, health, and educational needs of child victims of commercial sexual exploitation.

(f) The department shall inspect safe houses and safe foster homes before certification and annually thereafter to ensure compliance with the requirements of this section. The department may place a moratorium on referrals and may revoke the certification of a safe house or safe foster home that fails at any time to meet the requirements of, rules adopted under, this section.

(g) The certification period for safe houses and safe foster homes shall run concurrently with the terms of their licenses.

(3) SERVICES WITHIN A RESIDENTIAL TREATMENT CENTER OR HOSPITAL.–Residential treatment centers licensed under s. 394.875, and hospitals licensed under chapter 395 that provide specialized treatment for commercially sexually exploited children in the custody of the department who are placed in these facilities pursuant s. 39.407(6), s. 394.4625, or s.394.467.

(a) The specialized treatment must meet the requirements of subparagraphs (2)(c) 1., 3., 6., and 7, paragraph (2) (d), and the department's treatment standards adopted pursuant to this section. However, a residential treatment center or hospital may prioritize the delivery of certain services among those required under paragraph (2) (d) to meet the specific treatment needs of the child.

(b) The facilities shall ensure that children are served in single-sex groups and that staff working with such children are adequately trained in the effects of trauma and sexual exploitation, the needs of child victims of commercial sexual exploitation, and how to address those needs using strength-based and trauma-informed approaches.

(4) FUNDING FOR SERVICES; CASE MANAGEMENT.–

(a) This section does not prohibit any provider of services for child victims of commercial sexual exploitation from appropriately billing Medicaid for services rendered, from contracting with a local school district for educational services, or from obtaining federal or local funding for services provided, as long as two or more funding sources do not pay for the same specific service that has been provided to a child.

(b) The community-based care lead agency shall ensure that all child victims of commercial sexual exploitation residing in safe houses or safe foster homes or served in residential treatment centers or hospitals pursuant to subsection (3) have a case manager and a case plan, whether or not the child is a dependent child.

(5) SCOPE OF AVAILABILITY OF SERVICES.–To the extent possible provided by law and with authorized funding, the services specified in this section may be available to all child victims of commercial sexual exploitation who are not eligible for relief and benefits under the federal Trafficking Victims Protection Act, 22 U.S.C. ss. 7101 et seq., whether such services are accessed voluntarily, as a condition of probation, through a diversion program, through a proceeding under chapter 39, or through a referral from a local community-based care or social service agency.

(6) LOCATION INFORMATION.–

(a) Information about the location of a safe house, safe foster home, or other residential facility serving child victims of commercial sexual exploitation, as defined in s. 409.016, which is held by an agency, as defined in s. 119.011, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such confidential and exempt information held by an agency before, on, or after the effective date of the exemption.

(b) Information about the location of a safe house, safe foster home, or other residential facility serving child victims of commercial sexual exploitation, as defined in s. 409.016, may be provided to an agency, as defined in s. 119.011, as necessary to maintain health and safety standards and to address emergency situations in the safe house, safe foster home, or other residential facility.

(c) The exemptions from s. 119.07(1) and s. 24(a), Art. I of the State Constitution provided in this subsection do not apply to facilities licensed by the Agency for Health Care Administration.

History.--s. 56, ch. 2014-224; s. 48, ch. 2015-2; s. 1, ch. 2015-147; s. 14, ch. 2016-24; s. 74, ch. 2016-241; s. 40, ch. 2017-151; s. 23, ch. 2018-103; s. 1, ch. 2020-49.

409.1754 Commercial sexual exploitation of children; screening and assessment; training; multidisciplinary staffings; service plans.–

(1) SCREENING AND ASSESSMENT.–

(a) The department shall develop or adopt one or more initial screening and assessment instruments to identify, determine the needs of, plan services for, and determine the appropriate placement for child victims of commercial sexual exploitation who are not eligible for relief and benefits under the federal Trafficking Victims Protection Act, 22 U.S.C. ss. 7101 et seq. The department shall consult state and local agencies, organizations, and individuals involved in the identification and care of such children when developing or adopting initial screening and assessment instruments. Initial screening and assessment instruments shall assess the appropriate placement of child victims of commercial sexual exploitation, including whether placement in a safe house or safe foster home as provided in s. 409.1678 is appropriate, and shall consider, at a minimum, the following factors:

1. Risk of the child running away.
2. Risk of the child recruiting other children into the commercial sex trade.
3. Level of the child's attachment to his or her exploiter.
4. Level and type of trauma that the child has endured.
5. Nature of the child's interactions with law enforcement.
6. Length of time that the child was a victim of commercial sexual exploitation.
7. Extent of any substance abuse by the child.

(b) The initial screening and assessment instruments shall be validated, if possible, and must be used by the department, juvenile assessment centers as provided in s. 985.135, and community-based care lead agencies.

(c) The department shall adopt rules that specify the initial screening and assessment instruments to be used and provide requirements for their use and for the reporting of data collected through their use.

(d) The department, or a sheriff's office acting under s. 39.3065, the Department of Juvenile Justice, and community-based care lead agencies may use additional assessment instruments in the course of serving sexually exploited children.

(2) MULTIDISCIPLINARY STAFFINGS AND SERVICE PLANS.–

(a) The department, or a sheriff's office acting under s. 39.3065, shall conduct a multidisciplinary staffing for each child who is a suspected or verified victim of commercial sexual exploitations. The department or sheriff's office shall coordinate the staffing and invite individuals involved in the child's care, including, but not limited to, the child, if appropriate; the child's family or legal guardian; the child's guardian ad litem; Department of Juvenile Justice staff; school district staff; local health and human services providers; victims' advocates; and any other persons who may be able to assist the child.

(b) The staffing must use the assessment, local services, and local protocols required by this section to develop a service plan. The service plan must identify the needs of the child and his or her family, the local services available to meet those needs, and whether placement in a safe house or safe foster home is needed. If the child is dependent, the case plan required by s. 39.6011 may meet the requirement for a service plan, but must be amended to incorporate the results of the multidisciplinary staffing. If the child is not dependent, the service plan is voluntary and the department or sheriff's office shall provide the plan to the victim and his or her family or legal guardian and offer to make any needed referrals to local service providers.

(c) The services identified in the service plan should be provided in the least restrictive environment and may include, but need not be limited to, the following:

1. Emergency shelter and runaway center services;
2. Outpatient individual or group counseling for the victim and the victim's family or legal guardian;
3. Substance use disorder treatment services;
4. Drop-in centers or mentoring programs;
5. Commercial sexual exploitation treatment programs;
6. Child advocacy center services pursuant to s. 39.3035;
7. Prevention services such as those provided by the Florida Network of Youth and Family Services and the PACE Center for Girls;
8. Family foster care;
9. Therapeutic foster care;
10. Safe houses or safe foster homes;
11. Residential treatment programs; and
12. Employment or workforce training.

(d) The department, or a sheriff's office acting under s. 39.3065, shall follow up with all verified victims of commercial sexual exploitation who are dependent within 6 months of the completion of the child abuse investigation, and such information must be included in the report required under s. 39.524. The followup must determine the following:

1. Whether a referral was made for the services recommended in the service plan;
2. Whether the services were received and, if not, the reasons why;
3. Whether the services or treatments were completed and, if not, the reasons why;
4. Whether the victim has experienced commercial sexual exploitation since the verified report;
5. Whether the victim has run away since the verified report;
6. The type and number of placements, if applicable;

7. The educational status of the child;
8. The employment status of the child; and
9. Whether the child has been involved in the juvenile or criminal justice system.

(e) The department, or a sheriff's office acting under s. 39.3065, shall follow up with all verified victims of commercial sexual exploitation who are not dependent within 6 months after the child abuse investigation is completed and the information must be used in the report required under s. 39.524. The followup for nondependent victims and their families is voluntary, and the victim, family, or legal guardian is not required to respond. The followup must attempt to determine the following:

1. Whether a referral was made for the services recommended in the service plan;
2. Whether the services were received and, if not, the reasons why;
3. Whether the services or treatments were completed and, if not, the reasons why;
4. Whether the victim has experienced commercial sexual exploitation since the verified report;
5. Whether the victim has run away since the verified report;
6. The educational status of the child;
7. The employment status of the child; and
8. Whether the child has been involved in the juvenile or criminal justice system.

(3) TRAINING; LOCAL PROTOCOLS.–

(a) The department, or a sheriff's office action under s. 39.3065, and community-based care lead agencies shall ensure that cases in which a child is alleged, suspected, or known to be a victim of commercial sexual exploitation are assigned to child protective investigators and case managers who have specialized intensive training in handling cases involving a sexually exploited child. The department, sheriff's office, and lead agencies shall ensure that child protective investigators and case managers receive this training before accepting a case involving a commercially sexually exploited child.

(b) The Department of Juvenile Justice shall ensure that juvenile probation staff or contractors administering the detention risk assessment instrument pursuant to s. 985.14 receive specialized intensive training in identifying and serving commercially sexually exploited children.

(c) Each region of the department and each community-based care lead agency shall jointly assess local service capacity to meet the specialized service needs of commercially sexually exploited children and establish a plan to develop the necessary capacity. Each plan shall be developed in consultation with community-based care lead agencies, local law enforcement officials, local school officials, runaway and homeless youth program providers, local probation departments, children's advocacy, centers, guardians ad litem, public defenders, state attorneys' offices, safe houses, and child advocates and service providers who work directly with commercially sexually exploited children.

(d) Each region of the department and each community-based care lead agency shall establish local protocols and procedures for working with commercially sexually exploited children which are responsive to the individual circumstances of each child. The protocols and procedures shall take into account the varying types and levels of trauma endured; whether the commercial sexual exploitation is actively occurring, occurred in the past, or is inactive but likely to recur; and the differing community resources and degrees of familial support that are available. Child protective investigators and case managers must use these protocols and procedures when working with a victim of commercial sexual exploitation.

(4) LOCAL RESPONSE TO HUMAN TRAFFICKING; TRAINING; TASK FORCE.–

(a) To the extent that funds are available, the local regional director may provide training to local law enforcement officials who are likely to encounter child victims of commercial sexual exploitation in the course of their law enforcement duties. Training must address this section and how to identify and obtain appropriate services for such children. The local circuit administrator may contract with a not-for-profit agency with experience working with commercially sexually exploited children to provide the training. Circuits may work cooperatively to provide training, which may be provided on a regional basis. The

department shall assist circuits to obtain available funds for the purpose of conducting law enforcement training from the Office of Juvenile Justice and Delinquency Prevention of the United States Department of Justice.

(b) Circuit administrators or their designees, chief probation officers of the Department of Juvenile Justice or their designees, and the chief operating officers of community-based care lead agencies or their designees shall participate in any task force, committee, council, advisory group, coalition, or other entity in their service area that is involved in coordinating responses to address human trafficking or commercial sexual exploitation of children. If such entity does not exist, the circuit administrator for the department shall initiate one.

History.--s. 1, ch. 2014-161; s. 4, ch. 2017-23; s. 5, ch. 2017-23; s. 53, ch. 2018-110.

SOCIAL AND ECONOMIC ASSISTANCE
ICPC EXCERPTS

[1]409.401 Interstate Compact on the Placement of Children.–The Interstate Compact on the Placement of Children is hereby enacted into law and entered into with all other jurisdictions legally joining therein in form substantially as follows:

INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN

ARTICLE I. Purpose and Policy

It is the purpose and policy of the party states to cooperate with each other in the interstate placement of children to the end that:

(a) Each child requiring placement shall receive the maximum opportunity to be placed in a suitable environment and with persons or institutions having appropriate qualifications and facilities to provide a necessary and desirable degree and type of care.

(b) The appropriate authorities in a state where a child is to be placed may have full opportunity to ascertain the circumstances of the proposed placement, thereby promoting full compliance with applicable requirements for the protection of the child.

(c) The proper authorities of the state from which the placement is made may obtain the most complete information on the basis on which to evaluate a projected placement before it is made.

(d) Appropriate jurisdictional arrangements for the care of children will be promoted.

ARTICLE II. Definitions

As used in this compact:

(a) "Child" means a person who, by reason of minority, is legally subject to parental, guardianship or similar control.

(b) "Sending agency" means a party state, officer or employee thereof; a subdivision of a party state, or officer or employee thereof; a court of a party state; a person, corporation, association, charitable agency or other entity which sends, brings, or causes to be sent or brought any child to another party state.

(c) "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought, whether by public authorities or private persons or agencies, and whether for placement with state or local public authorities or for placement with private agencies or persons.

(d) "Placement" means the arrangement for the care of a child in a family free or boarding home or in a child-caring agency or institution but does not include any institution caring for the mentally ill, mentally defective or epileptic or any institution primarily educational in character, and any hospital or other medical facility.

ARTICLE III. Conditions for Placement

(a) No sending agency shall send, bring, or cause to be sent or brought into any other party state any child for placement in foster care or as a preliminary to a possible adoption unless the sending agency shall comply with each and every requirement set forth in this article and with the applicable laws of the receiving state governing the placement of children therein.

(b) Prior to sending, bringing, or causing any child to be sent or brought into a receiving state for placement in foster care or as a preliminary to a possible adoption, the sending agency shall furnish the appropriate public authorities in the receiving state written notice of the intention to send, bring, or place the child in the receiving state. The notice shall contain:

(1) The name, date and place of birth of the child.

(2) The identity and address or addresses of the parents or legal guardian.

(3) The name and address of the person, agency or institution to or with which the sending agency proposes to send, bring, or place the child.

(4) A full statement of the reasons for such proposed action and evidence of the authority pursuant to which the placement is proposed to be made.

(c) Any public officer or agency in a receiving state which is in receipt of a notice pursuant to paragraph (b) of this article may request of the sending agency, or any other appropriate officer or agency of or in the sending agency's state, and shall be entitled to receive therefrom, such supporting or additional information as it may deem necessary under the circumstances to carry out the purpose and policy of this compact.

(d) The child shall not be sent, brought, or caused to be sent or brought into the receiving state until the appropriate public authorities in the receiving state shall notify the sending agency, in writing, to the effect that the proposed placement does not appear to be contrary to the interests of the child.

ARTICLE IV. Penalty for Illegal Placement

The sending, bringing, or causing to be sent or brought into any receiving state of a child in violation of the terms of this compact shall constitute a violation of the laws respecting the placement of children of both the state in which the sending agency is located or from which it sends or brings the child and of the receiving state. Such violation may be punished or subjected to penalty in either jurisdiction in accordance with its laws. In addition to liability for any such punishment or penalty, any such violation shall constitute full and sufficient grounds for the suspension or revocation of any license, permit, or other legal authorization held by the sending agency which empowers or allows it to place, or care for children.

ARTICLE V. Retention of Jurisdiction

(a) The sending agency shall retain jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, treatment and disposition of the child which it would have had if the child had remained in the sending agency's state, until the child is adopted, reaches majority, becomes self-supporting or is discharged with the concurrence of the appropriate authority in the receiving state. Such jurisdiction shall also include the power to effect or cause the return of the child or its transfer to another location and custody pursuant to law. The sending agency shall continue to have financial responsibility for support and maintenance of the child during the period of the placement. Nothing contained herein shall defeat a claim of jurisdiction by a receiving state sufficient to deal with an act of delinquency or crime committed therein.

(b) When the sending agency is a public agency, it may enter into an agreement with an authorized public or private agency in the receiving state providing for the performance of one or more services in respect of such case by the latter as agent for the sending agency.

(c) Nothing in this compact shall be construed to prevent a private charitable agency authorized to place children in the receiving state from performing services or acting as agent in that state for a private charitable agency of the sending state; nor to prevent the agency in the receiving state from discharging financial responsibility for the support and maintenance of a child who has been placed on behalf of the sending agency without relieving the responsibility set forth in paragraph (a) hereof.

ARTICLE VI. Institutional Care of Delinquent Children

A child adjudicated delinquent may be placed in an institution in another party jurisdiction pursuant to this compact but no such placement shall be made unless the child is given a court hearing on notice to the parent or guardian with opportunity to be heard, prior to being sent to such other party jurisdiction for institutional care and the court finds that:

1. Equivalent facilities for the child are not available in the sending agency's jurisdiction; and

2. Institutional care in the other jurisdiction is in the best interest of the child and will not produce undue hardship.

ARTICLE VII. Compact Administrator

The executive head of each jurisdiction party to this compact shall designate an officer who shall be general coordinator of activities under this compact in his or her jurisdiction and who, acting jointly with like officers of other party jurisdictions, shall have power to promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

ARTICLE VIII. Limitations

This compact shall not apply to:

(a) The sending or bringing of a child into a receiving state by a parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or a guardian and leaving the child with any such relative or nonagency guardian in the receiving state.

(b) Any placement, sending or bringing of a child into a receiving state pursuant to any other interstate compact to which both the state from which the child is sent or brought and the receiving state are party, or to any other agreement between said states which has the force of law.

ARTICLE IX. Enactment and Withdrawal

This compact shall be open to joinder by any state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and, with the consent of Congress, the Government of Canada or any province thereof. It shall become effective with respect to any such jurisdiction when such jurisdiction has enacted the same into law. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until 2 years after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the Governor of each other party jurisdiction. Withdrawal of a party state shall not affect the rights, duties and obligations under this compact of any sending agency therein with respect to a placement made prior to the effective date of withdrawal.

ARTICLE X. Construction and Severability

The provisions of this compact shall be liberally construed to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

History.--s. 1, ch. 74-317; s. 48, ch. 97-103; s. 2, ch. 2009-148.

[1]Note.--Section 409.409, created by s. 2, ch. 2009-148, provides that the existing compact in s. 409.401 will remain in effect until entry into the replacement compact created in s. 409.408. Section 409.408 provides for execution of the new compact by the Governor "[e]ffective July 1, 2009, or upon the enactment of the Interstate Compact for the Placement of Children into law by the 35th compacting state, whichever date occurs later." The contingency has not occurred as of publication of the *2009 Florida Statutes*.

409.402 Financial responsibility for child.–Financial responsibility for any child placed pursuant to the provisions of the Interstate Compact on the Placement of Children shall be determined in accordance with the provisions of Article V thereof in the first instance. However, in the event of partial or complete default of performance thereunder, the provisions of state laws fixing responsibility for the support of children also may be invoked.

History.--s. 2, ch. 74-317.

409.403 Definitions; Interstate Compact on the Placement of Children.–

(1) The "appropriate public authorities" as used in Article III of the Interstate Compact on the Placement of Children shall, with reference to this state, mean the Department of Children and Families, and said department shall receive and act with reference to notices required by said Article III.

(2) As used in paragraph (a) of Article V of the Interstate Compact on the Placement of Children, the phrase "appropriate authority in the receiving state" with reference to this state shall mean the Department of Children and Families.

(3) As used in Article VII of the Interstate Compact on the Placement of Children, the term "executive head" means the Governor. The Governor is hereby authorized to appoint a compact administrator in accordance with the terms of said Article VII.

History.--ss. 3, 4, 8, ch. 74-317; s. 288, ch. 77-147; s. 121, ch. 97-101; s. 190, ch. 2014-19.

409.404 Agreements between party state officers and agencies.–

(1) The officers and agencies of this state and its subdivisions having authority to place children are hereby empowered to enter into agreements with appropriate officers or agencies of or in other party states pursuant to paragraph (b) of Article V of the Interstate Compact on the Placement of Children, s. 409.401. Any such agreement which contains a financial commitment or imposes a financial obligation on this state or subdivision or agency thereof shall not be binding unless it has the approval in writing of the secretary of Children and Families in the case of the state.

(2) Any requirements for visitation, inspection, or supervision of children, homes, institutions, or other agencies in another party state which may apply under the provisions of chapter 63 and this chapter shall be deemed to be met if performed pursuant to an agreement entered into by appropriate agencies of this state or

a subdivision thereof as contemplated by paragraph (b) of Article V of the Interstate Compact on the Placement of Children, s. 409.401.

History.--ss. 5, 6, ch. 74-317; s. 122, ch. 97-101; s. 191, ch. 2014-19.

409.405 Court placement of delinquent children.–Any court having jurisdiction to place delinquent children may place such a child in an institution in another state pursuant to Article VI of the Interstate Compact on the Placement of Children, s. 409.401, and shall retain jurisdiction as provided in Article V thereof.

History.--s. 7, ch. 74-317.

ICPC REGULATIONS

Regulation No. 1
Conversion of Intrastate Placement into Interstate Placement; Relocation of Family Units

Regulation No. 1 as first effective May 1, 1973, amended April 1999, is repealed and is replaced by the following:

The following regulation was amended by the Association of Administrators of the Interstate Compact on the Placement of Children on April 18, 2010, and is declared to be effective as amended as of October 1, 2010.

1. A placement initially intrastate in character becomes an interstate placement subject to the Interstate Compact on the Placement of Children (ICPC) if the child's principal place of abode is moved to another state, except as set forth herein.

2. Intent: This Regulation addresses the request for approval for placement of a child in an approved placement resource in the receiving state where the sending state has already approved the placement in the sending state and the resource now desires to move to the receiving state. The intent of Regulation 1 is to ensure that an already safe and stable placement made by a sending agency in the sending state will continue if the child is relocated to the receiving state. Additionally, it is the intent of this Regulation for supervision of the placement to be uninterrupted, for the family to comply with the requirements of the receiving state, and for both states to comply with all applicable state and federal laws, rules and regulations.

3. Applicability to Relocation: This Regulation shall apply to relocation of a child and the placement resource where supervision is ongoing. A request for a home study solely for the purpose of a periodic assessment of the placement where there is no on-going supervision shall not be governed by this regulation and shall be a matter of courtesy between the states. Nothing shall prohibit a sending state from contracting privately for a periodic assessment of the placement.

4. Applicability to Temporary Relocation: If a child is brought into the receiving state by an approved placement resource for a period of ninety (90) days or less and remains with the approved placement resource, approval of the receiving state is not required. Either the sending or receiving state may request approval of the placement, and, if the request is made, the sending and receiving states shall take the necessary action to process the request if the sending and receiving states agree to do so.

Supervision by the receiving state is not required for a temporary relocation of ninety (90) days or fewer; however, pursuant to section 422(b)(17) of the Social Security Act 422 U.S.C. 622, supervision by the sending agency is required. Supervision may be provided as a courtesy to the sending state. If supervision is requested, the sending state shall provide a Form 100B and the information required in Section 5(b) below.

If a child is brought into the receiving state by an approved placement resource for a temporary placement in excess of ninety (90) days or if the temporary relocation will recur, full compliance with this regulation is required.

The public child placing agency in the sending state is responsible to take action to ensure the ongoing safety of a child placed in a receiving state pursuant to an approved placement under Article III(d) of the ICPC, including return of the child to the sending state as soon as possible when return is requested by the receiving state.

5. Provisional Approval:

(a) In any instance where the decision to relocate into another state is made or it is intended to send or bring the child to the receiving state, or the child and existing family unit have already been sent or brought into the receiving state, an ICPC-100A and its supporting documentation shall be prepared immediately upon the making of the decision, processed within five (5) business days by the sending agency's state compact administrator and transmitted to the receiving state compact administrator with notice of the intended placement date. The sending agency's state compact administrator shall request that the receiving state respond to the case within five (5) business days of receipt of the request and with due regard for the desired time for the child to be sent or brought to the receiving state. If the family unit and child are already present in the receiving state, the receiving state's compact administrator shall determine within five (5) business days of receipt of the 100A and complete home study request packet whether provisional approval shall be granted and provide the decision in writing to the sending state compact administrator by facsimile, mail, overnight mail or electronic transmission, if acceptable.

(b) The documentation provided with a request for prompt handling shall include:

(1) A form ICPC-100A fully completed.

(2) A form 100B if the child is already present in the receiving state

(3) A copy of the court order pursuant to which the sending agency has authority to place the child or, if authority does not derive from a court order, a statement of the basis on which the sending agency has authority to place the child and documentation that supervision is on-going.

(4) A case history for the child, including custodial and social history, chronology of court involvement, social dynamics and a description of any special needs of the child.

(5) In any instance where the sending state has required licensure, certification or approval, a copy of the most recent license, certificate or approval of the qualification of the placement resource(s) and/or their home showing the status of the placement resource(s), as qualified placement resource(s).

(6) A copy of the most recent home study of the placement resource(s) and any updates thereof.

(7) Copies of the progress reports on the family unit for the last six months and the most recent judicial review court report and court order completed in the sending state.

(8) A copy of the child's case/services/permanency plan and any supplements to that plan, if the child has been in care long enough for such a plan to be required.

(9) An explanation of the current status of the child's Title IV-E eligibility under the Federal Social Security Act.

(c) Requests for prompt handling shall be as provided in paragraph 5(a) hereof. Some or all documents may be communicated by express mail or any other recognized method for expedited communication, including electronic transmission, if acceptable. The receiving state shall recognize and give effect to any such expedited transmission of an ICPC-100A and/or supporting documentation, provided that it is legible and appears to be a complete representation of the original. However, the receiving state may request and shall be entitled to receive originals or duly certified copies if it considers them necessary for a legally sufficient record under its laws.

(d) In an instance where a placement resource(s) holds a current license, certificate or approval from the sending state evidencing qualification as a foster parent or other placement resource, the receiving state shall give effect to such license, certificate or approval as sufficient to support a determination of qualification pursuant to Article III(d) of the ICPC, unless the receiving state compact administrator has substantial evidence that the license, certificate, or approval is expired or otherwise not valid. If the receiving state requires licensure as a condition of placement approval, or the receiving state compact administrator determines that the license, certificate, or approval from the sending state has expired or otherwise is not valid, both the sending state and the placement resource shall state in writing that the placement resource will become licensed in the receiving state.

(e) The receiving state shall recognize and give effect to evidence that the placement resource has satisfactorily completed required training for foster parents or other parent training. Such recognition and effect shall be given if:

(i) the training program is shown to be substantially equivalent to training offered for the same purpose in the receiving state; and

(ii) the evidence submitted is in the form of an official certificate or document identifying the training.

6. Initial Home Study Report:

(a) Pursuant to the Safe and Timely Interstate Placement of Foster Children Act of 2006, within sixty (60) days after receiving a home study request, the receiving state shall directly or by contract conduct, complete, and return a report to the sending state on the results of the study of the home environment for purposes of assessing the safety and suitability of the child remaining in the home. The report shall address the extent to which placement in the home would meet the needs of the child. In the event the parts of the home study involving the education and training of the placement resource remain incomplete, the report shall reference such items by including a prospective date of completion.

(b) Approval of the request may be conditioned upon compliance by the placement resource with any licensing or education requirement in the receiving state. If such condition is placed upon approval, a reasonable date for compliance with the education or licensing requirement shall be set forth in the documentation granting approval.

7. Final Approval or Denial:

(a) Pursuant to Article III(d), final approval or denial of the placement resource request shall be provided by the receiving state compact administrator as soon as practical but no later than one-hundred and eighty days (180) days from receipt of the initial home study request.

(b) If necessary or helpful to meet time requirements, the receiving state may communicate its determination pursuant to Article III(d) to the sending agency and the sending agency's state compact administrator by "FAX" or other means of facsimile transmission or electronic transmission, if acceptable.

However, this may not be done before the receiving state compact administrator has actually recorded the determination on the ICPC-100A. The written notice (the completed ICPC-100A) shall be mailed, sent electronically, if acceptable, or otherwise sent promptly to meet Article III(d) written notice requirements.

8. Nothing in this regulation shall be construed to alter the obligation of a receiving state to supervise and report on the placement; nor to alter the requirement that the placement resource(s) comply with the licensing and other applicable laws of the receiving state after arrival therein.

9. A favorable determination made by a receiving state pursuant to Article III(d) of the ICPC and this regulation means that the receiving state is making such determination on the basis of the best evidence available to it in accordance with the requirements of paragraph 5(a) of this regulation and does not relieve any placement resource or other entity of the obligation to comply with the laws of the receiving state as promptly as possible after arrival of the child in the receiving state.

10. The receiving state may decline to provide a favorable determination pursuant to Article III(d) of the Compact if the receiving state compact administrator finds that the child's needs cannot be met under the circumstances of the proposed relocation or until the compact administrator has the documentation identified in subparagraph 5(b) hereof.

11. If it is subsequently determined by the receiving state Compact Administrator that the placement in the receiving state appears to be contrary to the best interest of the child, the receiving state shall notify the sending agency that approval is no longer given and the sending state shall arrange to return the child or make an alternative placement as provided in Article V(a) of the ICPC.

12. Supervision:
Within thirty (30) days of the receiving state compact administrator being notified by the sending state compact administrator or by the placement resource that the placement resource and the child have arrived in the receiving state, the appropriate personnel of the receiving state shall visit the child and the placement resource in the home to ascertain conditions and progress toward compliance with applicable federal and state laws and requirements of the receiving state. Subsequent supervision must include face-to-face visits with the child at least once each month. A majority of visits must occur in the child's home. Face-to-face visits must be performed by a Child Welfare Caseworker in the receiving state. Such supervision visits shall continue until supervision is terminated by the sending state. Concurrence of the receiving state compact administrator for termination of supervision should be sought by the sending state prior to termination. Reports of supervision visits shall be provided to the sending state in accordance with applicable federal laws and as set forth elsewhere in these regulations.
The public child placing agency in the sending state is responsible to take action to ensure the ongoing safety of a child placed in a receiving state pursuant to an approved placement under Article III(d) of the ICPC, including return of the child to the sending state as soon as possible when return is requested by the receiving state.

13. Words and phrases used in this regulation have the same meanings as in the Compact, unless the context clearly requires another meaning.

14. This regulation is adopted pursuant to Article VII of the Interstate Compact on the Placement of Children by action of the Association of Administrators of the Interstate Compact on the Placement of Children at its annual meeting of April 2010.

Regulation No. 2
Public Court Jurisdiction Cases: Placements for Public Adoption or Foster Care in Family Settings and/or with Parents, Relatives

Regulation No. 2, as adopted on May 25, 1977 by the Association of Administrators of the Interstate Compact on the Placement of Children, was repealed April 1999 and is replaced by the following:

The following regulation, adopted by the Association of Administrators of the Interstate Compact on the Placement of Children, is declared to be in effect on and after October 1, 2011. Words and phrases used in this regulation have the same meanings as in the Compact, unless the context clearly requires another meaning. If a court or other competent authority invokes the Compact, the court or other competent authority is obligated to comply with Article V (Retention of Jurisdiction) of the Compact.

1. Intent of Regulation No. 2: The intent of this regulation is to provide at the request of a sending agency, a home study and placement decision by a receiving state for the proposed placement of a child with a proposed caregiver who falls into the category of: placement for public adoption, or foster care and/or with parents, or relatives.

2. Regulation No. 2 does apply to cases involving children who are under the jurisdiction of a court for abuse, neglect or dependency, as a result of action taken by a child welfare agency: The court has the authority to determine supervision, custody and placement of the child or has delegated said authority to the child welfare agency, and the child is being considered for placement in another state.

(a) Children not yet placed with prospective placement resource: This Regulation covers consideration of a placement resource where the child has not yet been placed in the home. ICPC Regulation No. 7 Expedited Home Study can be used instead of Regulation No. 2 for this category when requirements are met for an expedited home study request.

(b) Change of status for children who have already been placed with ICPC approval: This regulation is used when requesting a new home study on the current approved placement resource. This might include an upgrade from unlicensed relative to licensed foster home or to adoption home placement category (see Regulation No. 3 section 2(a) Types of Placement Categories).

(c) Child already placed without ICPC approval, except when the child has relocated with the caregiver to the receiving state pursuant to Regulation 1: When a child has been placed in a receiving state prior to ICPC approval, the case is considered a violation of ICPC and the placement is made with the sending state bearing full liability and responsibility for the safety of the child. The receiving state may request immediate removal of the child until the receiving state has made a decision per ICPC. The receiving state is permitted to proceed, but not required to proceed with the home study/ICPC decision process, as long as the child is placed in violation of ICPC. The receiving state may choose to open the case for ICPC courtesy supervision but is not required to do so, as is required under ICPC Regulation No. 1 Relocation of Family Unit Cases.

3. Placements made without ICPC protection: Regulation No. 2 does not apply to:

(a) A placement with a parent from whom the child was not removed: When the court places the child with a parent from whom the child was not removed, and the court has no evidence that the parent is unfit, does not seek any evidence from the receiving state that the parent is either fit or unfit, and the court relinquishes jurisdiction over the child immediately upon placement with the parent, the receiving state shall have no responsibility for supervision or monitoring for the court having made the placement.

(b) Sending court makes parent placement with courtesy check: When a sending court/agency seeks an independent (not ICPC-related) courtesy check for placement with a parent from whom the child was not removed, the responsibility for credentials and quality of the courtesy check rests directly with the sending

court/agency and the person or party in the receiving state who agree to conduct the courtesy check without invoking the protection of the ICPC home study process. This would not prohibit a sending state from requesting an ICPC.

4. Definitions and placement categories: (See Regulation No. 3)

5. Sending state case documentation required with ICPC-100A request: The documentation provided with a request for prompt handling shall be current and shall include:

(a) A Form ICPC-100A fully completed.

(b) A Form ICPC-100B if the child is already placed without prior approval in the receiving state. The receiving state is not obligated to provide supervision until the placement has been approved with an ICPC-100A signed by the receiving state ICPC office, unless provisional approval has been granted.

(c) A copy of the current court order pursuant to which the sending agency has authority to place the child or, if authority does not derive from a court order, a statement of the basis on which the sending agency has authority to place the child and documentation that supervision is on-going.

(d) Signed statement required from assigned sending agency case manager:

(1) confirming the potential placement resource is interested in being a placement resource for the child and is willing to cooperate with the ICPC process.

(2) including the name and correct physical and mailing address of the placement resource and all available telephone numbers and other contact information for the potential placement resource.

(3) describing the number and type of bedrooms in the home of the placement resource to accommodate the child under consideration and the number of people, including children, who will be residing in the home.

(4) confirming the potential placement resource acknowledges that he/she has sufficient financial resources or will access financial resources to feed, clothe, and care for the child, including child care, if needed.

(5) that the placement resource acknowledges that a criminal records and child abuse history check will be completed for any persons residing in the home required to be screened under the law of the receiving state.

(e) A current case history for the child, including custodial and social history, chronology of court involvement, social dynamics and a description of any special needs of the child.

(f) Any child previously placed with placement resource in sending state: If the placement resource had any child placed with them in the sending state previously, the sending agency shall provide all relevant information regarding said placement to the receiving state, if available.

(g) Service (case) Plan: A copy of the child's case/service/permanency plan and any supplements to that plan, if the child has been in care long enough for a permanency plan to be required.

(h) Title IV-E Eligibility verification: An explanation of the current status of the child's Title IV-E eligibility under the Federal Social Security Act and Title IV-E documentation, if available. Documentation must be provided before placement is approved.

(i) Financial/Medical Plan: A detailed plan of the proposed method for support of the child and provision of medical services.

(j) A copy of the child's Social Security card or official document verifying correct Social Security Number, if available, and a copy of the child's birth certificate, if available.

6. Methods for transmission of documents: Some or all documents may be communicated by express mail or any other recognized method for expedited communication, including FAX and/or electronic transmission, if acceptable by both sending and receiving state. The receiving state shall recognize and give effect to any such expedited transmission of an ICPC-100A and/or supporting documentation, provided that

it is legible and appears to be a complete representation of the original. However, the receiving state may request and shall be entitled to receive originals or duly certified copies of any legal documents if it considers them necessary for a legally sufficient record under its laws. All such transmissions must be sent in compliance with state laws and/or regulations related to the protection of confidentiality.

7. Safe and Timely Interstate Home Study Report to be completed within sixty (60) calendar days. This report is not equivalent to a placement decision.

(a) Timeframe for completion of Safe and Timely Interstate Home Study Report: As quickly as possible, but not more than sixty (60) calendar days after receiving a home study request, the receiving state shall, directly or by contract, complete a study of the home environment for purposes of assessing the safety and suitability of the child being placed in the home. The receiving state shall return to the sending state a report on the results of the home study that shall address the extent to which placement in the home would meet the needs of the child. This report may, or may not, include a decision approving or denying permission to place the child. In the event the parts of the home study involving the education and training of the placement resource remain incomplete, the report shall reference such items by including an anticipated date of completion.

(b) Receiving state placement decision may be postponed: If the receiving state cannot provide a decision regarding approval or denial of the placement at the time of the safe and timely home study report, the receiving state should provide the reason for delay and an anticipated date for a decision regarding the request. Reasons for delay may be such factors as receiving state requires all relatives to be licensed as a foster home therefore ICPC office cannot approve an unlicensed relative placement request until the family has met licensing requirements. If such condition must be met before approval, a reasonable date for compliance shall be set forth in the receiving state transmittal accompanying the initial home study, if possible.

8. Decision by receiving state to approve or deny placement resource (100A).

(a) Timeframe for final decision: Final approval or denial of the placement resource request shall be provided by receiving state Compact Administrator in the form of a signed ICPC-100A, as soon as practical but no later than one hundred and eighty (180) calendar days from receipt of the initial home study request. This six (6)-month window is to accommodate licensure and/or other receiving state requirements applicable to foster or adoption home study requests.

(b) Expedited communication of decision: If necessary or helpful to meet time requirements, the receiving state ICPC office may communicate its determination pursuant to Article III(d) to the sending agency's state Compact Administrator by FAX or other means of facsimile transmission or electronic transmission, if acceptable to both receiving and sending state. However, this may not be done before the receiving state Compact Administrator has actually recorded the determination on the ICPC-100A. The written notice (the completed ICPC-100A) shall be mailed, sent electronically, if acceptable, or otherwise sent promptly to meet Article III(d) written notice requirements. The receiving state home study local agency shall not send the home study and/or recommendation directly to the sending state local agency without approval from the sending and receiving state ICPC offices.

(c) Authority of receiving state to make final decision: The authority of the receiving state is limited to the approval or denial of the placement resource. The receiving state may decline to provide a favorable determination pursuant to Article III(d) of the Compact if the receiving state Compact Administrator finds that based on the home study, the proposed caregiver would be unable to meet the individual needs of the child, including the child's safety, permanency, health, well-being, and mental, emotional and physical development.

(d) Authority of sending court/placing agency: When the receiving state has approved a placement resource, the sending court/placing agency has the final authority to determine whether to use the approved

placement resource in the receiving state. The receiving state ICPC-100A approval expires six months from the date the 100A was signed by receiving state.

9. Reconsideration of an ICPC denial: (requested by the sending ICPC Office)

(a) Sending state may request reconsideration of the denial within 90 days from the date 100A denying placement is signed by receiving state. The request can be with or without a new home study, see items 9(a)(1) and 9(a)(2) below. After 90 days there is nothing that precludes the sending state from requesting a new home study.

(1) Request reconsideration without a new home study: The sending ICPC office can request that the receiving state ICPC office reconsider the denial of placement of the child with the placement resource. If the receiving state ICPC office chooses to overturn the denial it can be based on review of the evidence presented by the sending ICPC office and any other new information deemed appropriate. A new 100A giving an approval without a new home study will be signed.

(2) Request new home study re-examining reasons for original denial: A sending ICPC office may send a new ICPC home study request if the reason for denial has been corrected; i.e., move to new residence with adequate bedrooms. The receiving state ICPC
office is not obligated to activate the new home study request, but it may agree to proceed with a new home study to reconsider the denial decision if it believes the reasons for denial have been corrected. This regulation shall not conflict with any appeal process otherwise available in the receiving state.

(b) Receiving state decision to reverse a prior denied placement: The receiving state ICPC office has 60 days from the date formal request to reconsider denial has been received from the sending state ICPC office. If the receiving state ICPC administrator decides to change the prior decision denying the placement, an ICPC transmittal letter and the new 100A shall be signed reflecting the new decision.

10. Return of child to sending state/Receiving state requests to return child to sending state:

(a) Request to return child to sending state at time of ICPC denial of placement: If the child is already residing in the receiving state with the proposed caregiver at the time of the above decision, and the receiving state Compact Administrator has denied the placement based on 8(c) then the receiving state Compact Administrator may request the sending state to arrange for the return of the child as soon as possible or propose an alternative placement in the receiving state as provided in Article V(a) of the ICPC. That alternative placement resource must be approved by the receiving state before placement is made. Return of the child shall occur within five (5) working days from the date of notice for removal unless otherwise agreed upon between the sending and receiving state ICPC offices.

(b) Request to return child to sending state after receiving state ICPC had previously approved placement: Following approval and placement of the child, if the receiving state Compact Administrator determines that the placement no longer meets the individual needs of the child, including the child's safety, permanency, health, well-being, and mental, emotional, and physical development, then the receiving state Compact Administrator may request that the sending state arrange for the return of the child as soon as possible or propose an alternative placement in the receiving state as provided in Article V(a) of the ICPC. That alternative placement resource must be approved by the receiving state before placement is made. Return of the child shall occur within five (5) working days from the date of notice for removal unless otherwise agreed upon between the sending and receiving state ICPC offices.

The receiving state request for removal may be withdrawn if the sending state arranges services to resolve the reason for the requested removal and the receiving and the sending state Compact Administrators mutually agree to the plan.

11. Supervision for approved placement should be conducted in accordance with ICPC Regulation No. 11.

12. Words and phrases used in this regulation have the same meanings as in the Compact, unless the context clearly requires another meaning.

13. This regulation is adopted pursuant to Article VII of the Interstate Compact on the Placement of Children by action of the Association of Administrators of the Interstate Compact on the Placement of Children at its annual meeting, April 30–May 1, 2011.

Regulation No. 3
Definitions and Placement Categories: Applicability and Exemptions

This Regulation No. 3 is adopted pursuant to Article VII of the Interstate Compact on the Placement of Children.

This Regulation No. 3 as first effective July 2, 2001, was amended by the Association of Administrators of the Interstate Compact on the Placement of children on May 1, 2011 and is declared to be effective as of October 1, 2011.

1. Intent of Regulation No. 3: To provide guidance in navigating the ICPC regulations and to assist its users in understanding which interstate placements are governed by, and which are exempt from, the ICPC.

(a) Nothing in this regulation shall be construed to alter the obligation of a receiving state to supervise and report on the placement; nor to alter the requirement that the placement resource(s) comply with the licensing and other applicable laws of the receiving state after placement of the child in the receiving state.

(b) Age restrictions: The ICPC Articles and Regulations do not specify an age restriction at time of placement, but rather use the broad definition of "child." The sending state law may permit the extension of juvenile court jurisdiction and foster care maintenance payments to eligible youth up to age 21. Consistent with Article V, such youth should be served under ICPC if requested by the sending agency and with concurrence of the receiving state.

2. Placement categories requiring compliance with ICPC: Placement of a child requires compliance with the Compact if such placement is made under one of the following four types of placement categories:

(a) Four types of placement categories:

(1) Adoptions: Placement preliminary to an adoption (independent, private or public adoptions)

(2) Licensed or approved foster homes (placement with related or unrelated caregivers)

(3) Placements with parents and relatives when a parent or relative is not making the placement as defined in Article VIII (a) "Limitations"

(4) Group homes/residential placement of all children, including adjudicated delinquents in institutions in other states as defined in Article VI and Regulation No. 4.

(b) Court involvement and court jurisdiction legal status: The above placement categories may involve placement by persons and/or agencies that at the time of placement may not have any court involvement (i.e., private/independent adoptions and residential placements). Where there is court jurisdiction with an open court case for dependency, abandonment, abuse and/or neglect, the case is considered a public court jurisdiction case, which requires compliance with ICPC Article III (see Regulations No. 1, No. 2, No. 7 and No. 11) note exemption for selected "parent" cases as described below in Section 3, "cases that are exempt from ICPC regulations. In most public court jurisdiction cases the court has taken guardianship and legal custody away from the "offending" caregiver and has given it to a third party at the time placement of the child is made with an alternative caregiver. However, in select cases identified below, the sending court may not have taken guardianship or legal custody away from the

parent/guardian, when the ICPC-100A requesting permission to place is sent to the receiving state. Those cases are identified on the ICPC-100A with the legal status of "court jurisdiction only" as explained below.

(c) Court jurisdiction only: The sending court has an open abuse, neglect or dependency case that establishes court jurisdiction with the authority to supervise, remove and/or place the child. Although the child is not in the guardianship/custody of an agency or the court at the time of completing ICPC-100A, the agency or the court may choose to exert legal authority to supervise and or remove and place the child and therefore is the sending agency. As the sending agency/court it would have specified legal responsibilities per ICPC Article V, including the possible removal of the child if placement in the receiving state disrupts or the receiving state requests removal of the child. There are several possible situations where "court jurisdiction only" might be checked as the "legal status" on the ICPC-100A:

(1) Residential placement (Regulation No. 4): The court has jurisdiction, but in some situations, such as with some probation (delinquent) cases, guardianship remains with the parent/relative, but the court/sending agency is seeking approval to place in a receiving state residential treatment program, and has authority to order placement and removal.

(2) Contingency/concurrent request in cases where removal may become necessary (Regulations No. 2 or No. 7): The child may be in the custody of the offending parent or relative while the public agency tries to bring the family into compliance with court orders and or agency service (case) plan. (Some states call this an order of "protective supervision" or "show cause.") The court may have requested an ICPC home study on a possible alternative caregiver in a receiving state. It is understood at time of placement the court would have guardianship/legal custody and Article V would be binding.

(3) Parent/relative relocated to receiving state (Regulation No. 1): If the sending court selects to invoke ICPC Article V and to retain court jurisdiction even though the family/relative has legal guardianship/custody and has moved to the receiving state, then the sending court may request a home study on the parent/relative who has moved with the child to the receiving state. By invoking ICPC the sending court is bound under Article V. If the receiving state determines the placement to be contrary to the interests of the child, the sending court must order removal of the child and their return to the sending state or utilize an alternative approved placement resource in the receiving state. The ICPC-100A must be signed by the sending judge or authorized agent of the public agency on behalf of the sending court in keeping with ICPC Article V.

3. Placements made without ICPC protection:

(a) A placement with a parent from whom the child was not removed: When the court places the child with a parent from whom the child was not removed, and the court has no evidence that the parent is unfit, does not seek any evidence from the receiving state that the parent is either fit or unfit, and the court relinquishes jurisdiction over the child immediately upon placement with the parent. Receiving state shall have no responsibility for supervision or monitoring for the court having made the placement.

(b) Sending court makes parent placement with courtesy check: When a sending court/agency seeks an independent (not ICPC related) courtesy check for placement with a parent from whom the child was not removed, the responsibility for credentials and quality of the "courtesy check" rests directly with the sending court/agency and the person or party in the receiving state who agree to conduct the "courtesy" check without invoking the protection of the ICPC home study process. This would not prohibit a sending state from requesting an ICPC.

(c) Placements made by private individuals with legal rights to place: Pursuant to Article VIII (a), this Compact does not apply to the sending or bringing of a child into a receiving state by the child's parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or the child's non-agency guardian and leaving the child with any such parent, relative or non-agency guardian in the receiving state, provided that such person who brings, sends, or causes a child to be sent or brought to a receiving state is a person whose full legal right to plan for the child: (1) has been established by law at a time prior to initiation of the

placement arrangement, and (2) has not been voluntarily terminated, or diminished or severed by the action or order of any court.

(d) Placements handled in divorce, paternity or probate courts: The compact does not apply in court cases of paternity, divorce, custody, and probate pursuant to which or in situations where children are being placed with parents or relatives or non-relatives.

(e) Placement of children pursuant to any other Compact: Pursuant to Article VIII (b), the Compact does not apply to any placement, sending or bringing of a child into a receiving state pursuant to any other interstate Compact to which both the state from which the child is sent or brought and the receiving state are party, or to any other agreement between said states which has the force of law.

4. Definitions: The purpose of this section is to provide clarification of commonly used terms in ICPC. Some of these words and definitions can also be found in the Interstate Compact on the Placement of Children, ICPC Regulations, Interstate Compact on Juveniles, and federal statutes and regulations.

(Note: source of definition is identified right after the word prior to the actual definition.)

(1) Adoption: the method provided by state law that establishes the legal relationship of parent and child between persons who are not so related by birth or some other legal determination, with the same mutual rights and obligations that exist between children and their birth parents. This relationship can only be termed adoption after the legal process is complete (see categories or types of ICPC adoptions below).

(2) Adoption categories:

(a) Independent adoption: adoptions arranged by a birth parent, attorney, other intermediary, adoption facilitator or other person or entity as defined by state law.

(b) Private agency adoption: an adoption arranged by a licensed agency whether domestic or international that has been given legal custody or responsibility for the child including the right to place the child for adoption.

(c) Public adoption: Adoptions for public court jurisdiction cases.

(3) Adoption home study: (definition listed under "home studies")

(4) Adjudicated delinquent: a person found to have committed an offense that, if committed by an adult, would be a criminal offense.

(5) Adjudicated status offender: a person found to have committed an offense that would not be a criminal offense if committed by an adult.

(6) Age of majority: the legally defined age at which a person is considered an adult with all the attendant rights and responsibilities of adulthood. The age of majority is defined by state laws, which vary by state and is used in Article V, "…reaches majority, becomes self-supporting or is discharged with the concurrence of the appropriate authority in the receiving state" (see definition below of "child" as it appears in Article II).

(7) Approved placement: the receiving state Compact Administrator has determined that "the proposed placement does not appear to be contrary to the interests of the child."

(8) Boarding home: as used in Article II (d) of the ICPC, means the home of a relative or unrelated individual whether or not the placement recipient receives compensation for care or maintenance of the child, foster care payments, or any other payments or reimbursements on account of the child's being in the home of the placement recipient (has same meaning as family free).

(9) Case history: an organized record concerning an individual, their family and environment that includes social, medical, psychological and educational history and any other additional information that may be useful in determining appropriate placement.

(10) Case plan: (see "service plan" definition)

(11) Central Compact office: the office that receives ICPC placement referrals from sending states and sends ICPC placement referrals to receiving states. In states that have one central Compact office that services the entire state, the term "central Compact office" has the same meaning as "central state Compact office" as described in Regulation No. 5 of the ICPC. In states in which ICPC placement referrals are sent directly to receiving states and received directly from sending states by more than one county or other regional area within the state, the "central Compact office" is the office within each separate county or other region that sends and receives ICPC placement referrals.

(12) Certification: to attest, declare or swear to before a judge or notary public.

(13) Child: a person, who by reason of minority, is legally subject to parental guardianship or similar control.

(14) Child welfare caseworker: a person assigned to manage the cases of dependency children who are in the custody of a public child welfare agency and may include private contract providers of the responsible state agency.

(15) Concurrence to discharge: is when the receiving ICPC office gives the sending agency written permission to terminate supervision and relinquish jurisdiction of its case pursuant to Article V leaving the custody, supervision and care of the child with the placement resource.

(16) Concurrence: is when the receiving and sending Compact Administrator agree to a specific action pursuant to ICPC, i.e., decision as to providers.

(17) Conditions for placement: as established by Article III apply to any placement as defined in Article II(d) and regulations adopted by action of the Association of Administrators of the Interstate Compact on the Placement of Children.

(18) Courtesy: consent or agreement between states to provide a service that is not required by ICPC.

(19) Courtesy check: Process that does not involve the ICPC, used by a sending court to check the home of a parent from whom the child was not removed.

(20) Court jurisdiction only cases: The sending court has an open abuse, neglect or dependency case that establishes court jurisdiction with the authority to supervise and/or remove and place the child for whom the court has not taken guardianship or legal custody.

(21) Custody: (see physical custody, see legal custody)

(22) Emancipation: the point at which a minor becomes self-supporting, assumes adult responsibility for his or her welfare, and is no longer under the care of his or her parents or child placing agency, by operation of law or court order.

(23) Emergency placement: a temporary placement of 30 days or less in duration.

(24) Family free: as used in Article II (d) of the ICPC means the home of a relative or unrelated individual whether or not the placement recipient receives compensation for care or maintenance of the child, foster care payments, or any other payments or reimbursements on account of the child's being in the home of the placement recipient (has same meaning as boarding home).

(25) Family unit: a group of individuals living in one household.

(26) Foster care: If 24-hour-a-day care is provided by the child's parent(s) by reason of a court-ordered placement (and not by virtue of the parent-child relationship), the care is foster care. In addition to the federal definition (45 C.F.R. § 1355.20 "Definitions") this includes 24-hour substitute care for children placed away from their parents or guardians and for whom the state agency has placement and care responsibility. This includes, but is not limited to, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions and pre-adoptive homes. A child is in foster care in accordance with this definition regardless of whether the foster care facility is licensed and payments are made by the state or local agency for the care of the child, whether adoption subsidy payments are being made prior to the finalization of an adoption, or whether there is federal matching of any payments that are made.

(27) Foster home study: (see definition under home studies)

(28) Foster parent: a person, including a relative or non-relative, licensed to provide a home for orphaned, abused, neglected, delinquent or disabled children, usually with the approval of the government or a social service agency.

(29) Guardian [see ICPC Regulation No. 10 section 1(a)]: a public or private agency, organization or institution that holds a valid and effective permanent appointment from a court of competent jurisdiction to have custody and control of a child, to plan for the child, and to do all other things for or on behalf of a child for which a parent would have authority and responsibility for doing so by virtue of an unrestricted parent-child relationship. An appointment is permanent for the purposes of this paragraph if the appointment would allow the guardianship to endure until the child's age of majority without any court review, subsequent to the appointment, of the care that the guardian provides or the status of other permanency planning that the guardian has a professional obligation to carry out.

(30) Home Study (see Safe and Timely Interstate Placement of Foster Children Act of 2006): an evaluation of a home environment conducted in accordance with applicable requirements of the state in which the home is located, to determine whether a proposed placement of a child would meet the individual needs of the child, including the child's safety, permanency, health, well-being, and mental, emotional and physical development.

(a) Adoption home study: a home study conducted for the purpose of placing a child for adoption with a placement resource. The adoption home study is the assessment and evaluation of a prospective adoptive parent(s).

(b) Foster home study: a home study conducted for the purpose of placing a child with a placemen resource who is required to be licensed or approved in accordance with federal and/or receiving state law.

(c) Interstate home study (see Federal Safe and Timely Act): a home study conducted by a state at the request of another state, to facilitate an adoptive or foster care placement in the state of a child in foster care under the responsibility of the state [see foster care definition(s)].

(d) Parent home study: applies to the home study conducted by the receiving state to determine whether a parent placement meets the standards as set forth by the requirements of the receiving state.

(e) Relative home study: a home study conducted for the purpose of placing a child with a relative. Such a home study may or may not require the same level of screening as required for a foster home study or an adoptive home study depending upon the applicable law and/or requirements of the receiving state.

(f) Non-relative home study: a home study conducted for the purpose of placing a child with a non-relative of the child. Such a home study may or may not require the same level of screening as required for a foster home study or an adoptive home study depending upon the applicable law and/or requirements of the receiving state.

(g) Safe and Timely Interstate Home Study Report (see Federal Safe and Timely Act): an interstate home study report completed by a state if the state provides to the state that requested the study, within 60 days after receipt of the request, a report on the results of the study. The preceding sentence shall not be construed to require the state to have completed, within the 60-day period, the parts of the home study involving the education and training of the prospective foster or adoptive parents.

(31) ICPC: The Interstate Compact on the Placement of Children is a Compact between states and parties pursuant to law, to ensure protection and services to children who are placed across state lines.

(32) Independent adoption entity: any individual authorized in the sending state to place children for adoption other than a state, county or licensed private agency. This could include courts, private attorneys and birth parents.

(33) Intrastate: existing or occurring within a state

(34) Interstate: involving, connecting or existing between two or more states.

(35) Interstate home study: (see definition under Home studies)

(36) Jurisdiction: the established authority of a court to determine all matters in relation to the custody, supervision, care and disposition of a child.

(37) Legal custody: court-ordered or statutory right and responsibility to care for a child either temporarily or permanently.

(38) Legal guardianship (see 45 C.F.R. § 1355.20 "Definitions"): a judicially created relationship between child and caretaker that is intended to be permanent and self-sustaining as evidenced by the transfer to the caretaker of the following parental rights with respect to the child: protection, education, care and control of the person, custody of the person, and decision-making. The term legal guardian means the caretaker in such a relationship.

(39) Legal risk placement (legal risk adoption): a placement made preliminarily to an adoption where the prospective adoptive parents acknowledge in writing that a child can be ordered returned to the sending state or the birth mother's state of residence, if different from the sending state, and a final decree of adoption shall not be entered in any jurisdiction until all required consents or termination of parental rights are obtained or are dispensed with in accordance with applicable law.

(40) Member state: a state that has enacted this Compact (see also definition of state).

(41) Non-agency guardian [see ICPC Regulation No. 10 section 1(b)]: an individual holding a currently valid appointment from a court of competent jurisdiction to have all of the authority and responsibility of a guardian as defined in ICPC Regulation No. 10 section 1(a).

(42) Non-custodial parent: a person who, at the time of the commencement of court proceedings in the sending state, does not have sole legal custody of the child or physical custody of a child.

(43) Non-offending parent: the parent who is not the subject of allegations or findings of child abuse or neglect.

(44) Non-relative: a person not connected to the child by blood, marriage or adoption, or otherwise defined by the sending or receiving state.

(45) Parent: a biological, adoptive parent or legal guardian as determined by applicable state law and is responsible for the care, custody and control of a child or upon whom there is legal duty for such care.

(46) Parent home study: (see definition under home studies)

(47) Physical custody: Person or entity with whom the child is placed on a day-to-day basis.

(48) Placement (see ICPC Article II (d) "Definitions"): the arrangement for the care of a child in a family free, in a boarding home or in a child-caring agency or institution, but does not include any institution caring for the mentally ill, mentally defective or epileptic, or any institution primarily educational in character, and any hospital or other medical facility.

(49) Placement resource: the person(s) or facility with whom the child has been or may be placed by a parent or legal custodian; or, placed by the court of jurisdiction in the sending state; or, for whom placement is sought in the receiving state.

(50) Progress report: (see "supervision report" definition)

(51) Provisional approval: an initial decision by the receiving state that the placement is approved subject to receipt of required additional information before final approval is granted.

(52) Provisional denial: the receiving state cannot approve a provisional placement pending a more comprehensive home study or assessment process due to issues that need to be resolved.

(53) Provisional placement: a determination made in the receiving state that the proposed placement is safe and suitable and, to the extent allowable, the receiving state has temporarily waived its standards or requirements otherwise applicable to prospective foster or adoptive parents so as to not delay the placement. Completion of the receiving state requirements regarding training for prospective foster or adoptive parents shall not delay an otherwise safe and suitable placement.

(54) Public child-placing agency: any government child welfare agency or child protection agency or a private entity under contract with such an agency, regardless of whether they act on behalf of a state,

county, municipality or other governmental unit and which facilitates, causes or is involved in the placement of a child from one state to another.

(55) Receiving state (see ICPC Article II (c) "Definitions"): the state to which a child is sent, brought or caused to be sent or brought, whether by public authorities or private persons or agencies, and whether for placement with state or local public authorities or for placement with private agencies or persons.

(56) Relative: a birth or adoptive brother, sister, stepparent, stepbrother, stepsister, uncle, aunt, first cousin, niece, nephew, as well as relatives of half blood or marriage and those denoted by the prefixes of grand and great, including grandparent or great grandparent, or as defined in state statute for the purpose of foster and or adoptive placements.

(57) Non-relative: a person not connected to the child by blood, marriage or adoption.

(58) Relative home study: (see definition under home studies)

(59) Relocation: the movement of a child or family from one state to another.

(60) Residential facility or residential treatment center or group home: a facility providing a level of 24-hour, supervised care that is beyond what is needed for assessment or treatment of an acute condition. For purposes of the Compact, residential facilities do not include institutions primarily educational in character, hospitals or other medical facilities (as used in Regulation 4, they are defined by the receiving state).

(61) Return: the bringing or sending back of a child to the state from which they came.

(62) Sending agency: (see ICPC Article II (b) "Definitions"): a party state, officer or employee thereof; a subdivision of a party state, or officer or employee thereof; a court of a party state; a person, corporation, association, charitable agency or other entity having legal authority over a child who sends, brings, or causes to be sent or brought any child to another party state.

(63) Sending state: the state where the sending agency is located, or the state in which the court holds exclusive jurisdiction over a child, which causes, permits or enables the child to be sent to another state.

(64) Service (case) plan: a comprehensive individualized program of action for a child and his/her family establishing specific goals and objectives and deadlines for meeting these goals and objectives.

(65) State: a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, and any other territory of the United States.

(66) State court: a judicial body of a state that is vested by law with responsibility for adjudicating cases involving abuse, neglect, deprivation, delinquency or status offenses of individuals who have not attained the age of eighteen (18) or as otherwise defined by state law.

(67) Stepparent: a man or woman married to a parent of a child at the time of the intended placement or as otherwise defined by the sending and/or receiving state laws, rules and/or regulations.

(68) Supervision: monitoring of the child and the child's living situation by the receiving state after a child has been placed in a receiving state pursuant to a provisional approval or an approved placement under Article III(d) of the ICPC or pursuant to a child's relocation to a receiving state in accordance with Regulation No. 1 of the ICPC.

(69) Supervision report: provided by the supervising case worker in the receiving state; a written assessment of a child's current placement, school performance and health and medical status, a description of any unmet needs and a recommendation regarding continuation of the placement.

(70) Timely Interstate Home Study: (see definition under home studies)

(71) Visit: as defined in Regulation No. 9.

Regulation No. 4
Residential Placement

Regulation No. 4, as adopted by the Association of Administrators of the Interstate Compact on the Placement of Children on April 20, 1983, was readopted in 1999, was amended in 2001, is replaced by the following:

The following regulation, adopted by the Association of Administrators of the Interstate Compact on the Placement of Children, is declared to be in effect on and after October 1, 2012. Words and phrases used in this regulation have the same meanings as in the Compact, unless the context clearly requires another meaning. If a court or other competent authority invokes the Compact, the court or other competent authority is obligated to comply with Article V (Retention of Jurisdiction) of the Compact.

1. Intent of this Regulation: It is the intent of Regulation # 4 to provide for the protection and safety of children being placed in a residential facility in another state. Residential facility is further defined in Section 3 below.

1. A Approval by Receiving State Prior to Placement: Approval prior to placement is required for the protection of the child and the sending agency making the placement. Sending agency includes the parent, guardian, court or agency ultimately responsible for the planning, financing and placement of the child as designated in section I of the form 100A. (See Article II(b) or Regulation 3 section 4.(62) for full definition of sending agency)

1. B Monitoring of Residential Facility While Child is Placed: While children are placed in the receiving state, the receiving state ICPC office shall keep a record of all children currently placed at the residential facility through the ICPC process. The receiving state ICPC office shall notify the sending state ICPC office of any significant change of status at the residential facility that may be "contrary to the interests of the child" (Article III(d) or may place the safety of the child at risk of which the receiving state ICPC office becomes aware.

1. C Prevent Children from being abandoned in Receiving State: Once the sending agency makes a residential facility placement, the sending agency remains obligated under Article V to retain jurisdiction and responsibility for the child while the child remains in the receiving state until the child becomes independent, self-supporting or the case is closed in concurrence with both the receiving and sending state ICPC offices. The role of the sending and receiving state ICPC offices is to promote compliance with Article V that children are not physically or financially abandoned in a receiving state.

2. Categories of Children: This regulation applies to cases involving children who are being placed in a Residential Facility by the sending agency, regardless of whether the child is under the jurisdiction of a court for delinquency, abuse, neglect or dependency, or as a result of action taken by a child welfare agency.

Age restrictions: (Regulation No. 3 section 1(b)) The ICPC articles and regulations do not specify an age restriction at time of placement, but rather use the broad definition of “child.” The sending state law may permit the extension of juvenile court jurisdiction and foster care maintenance payments to eligible youth up to age 21. Consistent with Article V, such youth should be served under ICPC if requested by the sending agency and with concurrence of the receiving state.

2. A Delinquent Child: Placement by a sending agency involving a delinquent child must comply with Article VI, Institutional Care of Delinquent Children which reads as follows: "A child adjudicated delinquent may be placed in an institution in another party jurisdiction pursuant to this compact but no such placement shall be made unless the child is given a court hearing on notice to the parent or guardian with the opportunity to be heard prior to his being sent to such other party jurisdiction for institutional care and the court finds that:

2.A(1) Equivalent facilities for the child are not available in the sending agency's jurisdiction; and

2.A(2) Institutional care in the other jurisdiction is in the best interest of the child and will not produce undue hardship." (Hardship may apply to the child and their family.)

2.B A Child not yet Placed in Residential Facility in another state: The primary application of this regulation is to request approval to place prior to placement at the residential facility.

2.C Change of status for a child: A new ICPC 100A and documents listed in section 5 are required for a child who has been placed with prior ICPC approval, but now needs to move to a residential facility in this or another state, other than the child's state of origin.

2.D Child already placed without ICPC approval: For the safety and protection of all involved, placement in a residential facility should not occur until after the receiving state has approved the placement pursuant to Article III (d). When a child has been placed in a receiving state prior to ICPC approval, the case is considered a violation of ICPC, and the placement is made with the sending agency and residential facility remaining liable and responsible for the safety of the child. The receiving state may request immediate removal of the child until the receiving state has made a decision per ICPC, in addition to any other remedies available under Article IV. The receiving state is permitted to proceed with the residential facility request for approval, but not required to proceed as long as the child is placed in violation of ICPC.

3. Definition of "Residential Facility" covered by this regulation:

3.A Definition in ICPC Regulation No. 3 section 4.(60) Residential facility or residential treatment center or group home: a facility providing a level of 24-hour, supervised care that is beyond what is needed for assessment or treatment of an acute condition. For purposes of the compact, residential facilities do not include institutions primarily educational in character, hospitals or other medical facilities (as used in Regulation 4, they are defined by the receiving state). Residential facilities may also be called by other names in the receiving state, such as those listed under Type of Care Requested on the ICPC 100A: Group Home Care, Residential Treatment Center, Child Caring Institution, and Institutional Care (Article VI), Adjudicated Delinquent."

3.B The type of license, if any, held by an institution is evidence of its character, but does not determine the need for compliance with ICPC. Whether an institution is either generally exempt from the need to comply with the Interstate Compact on the Placement of Children or exempt in a particular instance is to be determined by the services it actually provides or offers to provide. In making any such determinations, the criteria set forth in this regulation shall be applied.

3.C The type of funding source or sources used to defray the costs of treatment or other services does not determine whether the Interstate Compact on the Placement of Children applies.

4. Definition of institutional facilities not covered by this regulation: In determining whether the sending or bringing of a child to another state is exempt from the provisions of the Interstate Compact on the Placement of Children by reason of the exemption for various classes of institutions in Article II(d), the following concepts and terms shall have the following meanings:

4.A "Primarily educational institution" means an institution which operates one or more programs that can be offered in satisfaction of compulsory school attendance laws, in which the primary purpose of accepting children is to meet their educational needs; and the education institution does not do one or more of the following. (Conditions below would require compliance with this Regulation.)

4.A.1. accepts responsibility for children during the entire year;

4.A.2. provide or hold itself out as providing child care constituting nurture sufficient to substitute for parental supervision and control or foster care;

4.A.3. provide any other services to children, except for those customarily regarded as extracurricular or co-curricular school activities, pupil support services, and those services necessary to

make it possible for the children to be maintained on a twenty-four hour residential basis in the aforementioned school program or programs.

4.B "Hospital or other medical facility" means an institution for the acutely ill which discharges its patients when they are no longer acutely ill, which does not provide or hold itself out as providing child care in substitution for parental care or foster care, and in which a child is placed for the primary purpose of treating an acute medical problem.

4.C "Institution for the mentally ill or mentally defective" minors means a facility which is responsible for treatment of acute conditions, both psychiatric and medical, as well as such custodial care as is necessary for the treatment of such acute conditions of the minors who are either voluntarily committed or involuntarily committed by a court of competent jurisdiction to reside in it. Developmentally disabled has the same meaning as the phrase "mentally defective."

4.D Outpatient Services: If the treatment and care and other services are entirely out-patient in character, an institution for the mentally ill or developmentally disabled may accept a child for treatment and care without complying with ICPC.

5. Sending state case documentation for Residential Facility Request: The documentation provided with a request for prompt handling shall be current and shall include:

5.A Form ICPC-100A fully completed. (required for all residential facility requests)

5.B Form ICPC-100B required for all residential facility requests, if the child is already placed without prior approval in the Receiving state.

5.C Court or Other Authority to Place The Child:

5.C.1. Delinquent child – a copy of the court order indicating the child has been adjudicated delinquent stating that equivalent facilities are not available in the sending agency's jurisdiction and that institutional care in the receiving state is in the best interest of the child and will not produce undue hardship. (See Article VI or Section 2.A above)

5.C.2. Public agency child – For public court jurisdiction cases, the current court order is required indicating the sending agency has authority to place the child or, if authority does not derive from a court order, a written legal document executed in accordance with the laws of the sending state which provides the basis for which the sending agency has authority to place the child and documentation that supervision is on-going or a copy of the voluntary placement agreement, as defined in section 472(f)(2) of the Social Security Act executed by the sending agency and the child's parent or guardian.

5.C.3. Child in the custody of a relative or legal guardian – a current court order or legal document is required indicating the sending agency has the authority to place the child.

5.C.4. Parent placement (no court involvement) – The 100A is required and must be signed by the sending agency with the box checked under legal status indicating the parent has custody or guardianship and any additional documents required by the sending or receiving state.

5.D Letter of Acceptance from the Residential Facility: For some receiving states this is a mandatory document for all placement requests including those submitted by a parent or guardian. It provides the receiving state ICPC office indication that the residential facility has screened the child as an appropriate placement for their facility.

5.E A current case history for the child, (optional for placements requested under 5.C(3) and (4)) including custodial and social history, chronology of court involvement, social dynamics and a description of any special needs of the child.

5.F Service (Case) Plan: (optional for placements requested under 5.C(3) and (4)) A copy of the child's case or service or permanency plan and any supplements to that plan, if the child has been in care long enough for a permanency plan to be required.

5.G Financial and Medical Plan: A written description of the responsibility for payment of the cost of placement of the child in the facility including the name and address of the person or entity that will be

making the payment and the person or entity who will be otherwise financially responsible for the child. It is expected that the medical coverage will be arranged and confirmed between the sending agency and the residential facility prior to the placement.

5.H Title IV-E Eligibility verification: (not required for parent placements) An explanation of the current status of the child's Title IV-E eligibility under the Federal Social Security Act and Title IV-E documentation, if available. Documentation must be provided before placement is approved.

5.I Placement Disruption Agreement: Some states may require a signed Placement Disruption Agreement indicating who will be responsible for the return of the child to the sending state if the child disrupts or a request is made for the child's removal and return to the sending state.

6. Methods for transmission of documents: Some or all documents may be communicated by express mail or any other recognized method for expedited communication, including FAX and secured electronic transmission, if acceptable by both sending and receiving state. The receiving state shall recognize and give effect to any such expedited transmission of an ICPC-100A and supporting documentation, provided that it is legible and appears to be a complete representation of the original. However, the receiving state may request and shall be entitled to receive originals or duly certified copies of any legal documents if it considers them necessary for a legally sufficient record under its laws. All such transmissions must be sent in compliance with state laws and regulations related to the protection of confidentiality.

7. Decision by receiving state to approve or deny placement resource (100A).

7.A Receiving State Decision Process: The receiving state ICPC office reviews the child specific information and the current status of the residential facility. The receiving state ICPC office approves or denies the placement based on a determination that "the proposed placement does not appear to be contrary to the interests of the child". (ICPC Article III(d)) The ICPC office may as part of its review process verify that the residential facility is properly licensed and not under an investigation by law enforcement, child protection or licensing staff for unfit conditions or illegal activities that might place the child at risk of harm.

7.A.1. Receiving state ICPC office may check to make sure the child is an appropriate match for the category of residential facility program.

7.A.2. Receiving state ICPC office may check with the residential facility program to ensure the request to place the child has been fully reviewed and officially accepted before ICPC approval is granted.

7.B Time frame for final decision: Final approval or denial of the placement resource request shall be provided by the receiving state compact administrator in the form of a signed ICPC 100A as soon as practical, but no later than three (3) business days from receipt of the complete request by receiving state ICPC office. It is recognized that some state ICPC offices must obtain clearances from child protection, residential facility licensing and law enforcement before giving approval for a residential facility placement.

7.C Expedited communication of decision: If necessary or helpful to meet time requirements, the receiving state ICPC office may communicate its determination pursuant to Article III(d) to the sending agency's state compact administrator by FAX or other means of electronic transmission, if acceptable to both receiving and sending state. However, this may not be done before the receiving state compact administrator has actually recorded the determination on the ICPC 100A. The written notice (the completed ICPC100A) shall be mailed, sent electronically, if acceptable, or otherwise sent promptly to meet Article III(d) written notice requirements.

7.D Authority of Receiving state to make final decision: The authority of the receiving state is limited to the approval or denial of the placement resource. The receiving state may approve or deny the placement resource if the receiving state compact administrator finds based upon the review of the child specific information and on the review of the current status of the residential facility, "the proposed placement does not appear to be contrary to the interests of the child". (ICPC Article III.(d)).

7.E. Emergency Residential Facility Placement Temporary Decision: Occasionally, residential facility placements need to be made on an emergency basis. In those limited cases, sending and receiving state offices may, with mutual agreement, proceed to authorize emergency placement approval. Such emergency placement decision must be made within one business day or other mutually agreed time frame, based upon receipt by the receiving state of the ICPC 100A request and any other document required by the receiving state to consider such emergency placement; e.g., a financial medical plan and a copy of a court order or other authority to make the placement. If emergency placement approval is temporarily granted, the formal ICPC placement approval will not be final until there has been full compliance with sections 5 and 7 of this regulation.

8. Authority of sending agency: When the receiving state has approved a placement resource, the sending agency has the final authority to determine whether to use the approved placement resource in the receiving state. The receiving state ICPC-100A approval for placement in a residential facility expires thirty calendar days from the date the 100A was signed by the receiving state. The thirty (30) calendar day time frame can be extended upon mutual agreement between the sending and receiving state ICPC offices.

9. Submission of ICPC 100B: Upon determination by the sending agency to use the approved resource, the sending agency is responsible to file an ICPC 100B Notice of Placement with the Sending State ICPC office within three (3) business days of the actual placement. That notice is to be submitted to the receiving state ICPC office, who is to forward the ICPC 100B to the residential facility within five (5) business days of receipt of the ICPC 100B.

10. Supervision Expectations:

10.A Residential Facility: The residential facility is viewed as the agency responsible for the 24-hour care of a child away from the child's parental home. In that capacity the residential facility is responsible for the supervision, protection, safety and well-being of the child. The sending agency making the placement is expected to enter into an agreement with the residential facility as to the program plan or expected level of supervision and treatment and the frequency and nature of any written progress or treatment reports.

10.B Receiving state local child welfare workers and probation staff are not expected to provide any monitoring or supervision of children placed in residential facility programs. The one exception are those children who may become involved in an incident or allegation occurring in the receiving state that may involve the receiving state law enforcement, probation, child protection or ultimately the receiving state court.

10.C "Sending" Agency making placement: The frequency and nature of monitoring visits by the sending agency or individual making the placement is determined by the sending agency in accordance with applicable laws.

11. Return of child to sending state at the request of receiving state:

11.A Request to return child to Sending state at time of ICPC denial of placement: If the child is already placed in the Receiving state residential facility at the time of the decision, and the Receiving state Compact Administrator has denied the placement, then the Receiving state Compact Administrator may request the Sending state ICPC office to facilitate with the sending agency for the return of the child as soon as possible or propose an alternative placement in the Receiving state as provided in Article V(a) of the ICPC. The alternative placement resource must be approved by the receiving state before placement is made. Return of the child shall occur within five (5) business days from the date of notice for removal unless otherwise agreed upon between the sending and receiving state ICPC offices.

11.B Request to return child to sending state after receiving state ICPC had previously approved placement: Following approval and placement of the child in the residential facility, if the receiving state Compact Administrator determines that the placement "appears to be contrary to the interests of the child," then the receiving state compact administrator may request the sending state ICPC office to facilitate with the sending agency for the return of the child as soon as possible or propose an alternative placement in the receiving state as provided in Article V(a) of the ICPC. That alternative placement resource must be approved by the receiving state before placement is made. Return of the child shall occur within five (5) business days from the date of notice for removal, unless otherwise agreed upon between the sending and receiving state ICPC offices.

The receiving state ICPC office's request for removal may be withdrawn if the Sending agency arranges services to resolve the reason for the requested removal and the receiving and the Sending state Compact Administrators mutually agree to the plan.

12. Words and phrases used in this regulation have the same meanings as in the compact, unless the context clearly requires another meaning.

13. This regulation was amended pursuant to Article VII of the Interstate Compact on the Placement of Children by action of the Association of Administrators of the Interstate Compact on the Placement of Children at its annual meeting May 5 through May 7, 2012; such amendment was approved on May 5, 2012 and is effective as of October 1, 2012.

Regulation No. 5
Central State Compact Office

Regulation No. 5 ("Central State Compact Office"), as first effective April 1982, is amended to read as follows:

1. It shall be the responsibility of each state party to the Interstate Compact on the Placement of Children to establish a procedure by which all Compact referrals from and to the state shall be made through a central state compact office. The Compact Office shall also be a resource for inquiries into requirements for placements into the state for children who come under the purview of this Compact.

2. The Association of Administrators of the Interstate Compact on the Placement of Children deems certain appointments of officers who are general coordinators of activities under the Compact in the party states to have been made by the executive heads of states in each instance wherein such an appointment is made by a state official who has authority delegated by the executive head of the state to make such an appointment. Delegated authority to make the appointments described above in this paragraph will be sufficient if it is either: specifically described in the applicable state's documents that establish or control the appointment or employment of the state's officers or employees; a responsibility of the official who has the delegated authority that is customary and accepted in the applicable state; or consistent with the personnel policies or practices of the applicable state. Any general coordinator of activities under the Compact who is or was appointed in compliance with this paragraph is deemed to be appointed by the executive head of the applicable jurisdiction regardless of whether the appointment preceded or followed the adoption of this paragraph.

3. Words and phrases used in this regulation have the same meanings as in the Compact, unless the context clearly requires another meaning.

4. This regulation was first effective on April 20, 1982; was amended as of April 1999; was amended by the Compact Administrators, acting jointly and pursuant to Article VII of the Interstate Compact on the Placement of Children, at their annual meeting of April 2002, with such amendments effective after June 27, 2002 and subsequently amended by the Compact Administrators acting jointly and pursuant to Article VII of the Interstate Compact on the Placement of Children at their annual meeting on May 5, 2012 with such amendments effective July 1, 2012.

Regulation No. 6
Permission to Place Child: Time Limitations, Reapplication

The following regulation, originally adopted in 1991 by the Association of Administrators of the Interstate Compact on the Placement of Children, is amended in 2001 and declared to be in effect, as amended, on and after July 2, 2001.

1. Permission to place a child given pursuant to Article III (d) of the Interstate Compact on the Placement of Children shall be valid and sufficient to authorize the making of the placement identified in the written document ICPC-100A, by which the permission is given for a period of six (6) months commencing on the date when the receiving state compact administrator or his duly authorized representative signs the aforesaid ICPC-100A.

2. If the placement authorized to be made as described in Paragraph 1. of this Regulation is not made within the six (6) months allowed therein, the sending agency may reapply. Upon such reapplication, the receiving state may require the updating of documents submitted on the previous application, but shall not require a new home study unless the laws of the receiving state provide that the previously submitted home study is too old to be currently valid.

3. If a foster care license, institutional license or other license, permit or certificate held by the proposed placement recipient is still valid and in force, or if the proposed placement recipient continues to hold an appropriate license, permit or certificate, the receiving state shall not require that a new license, permit or certificate be obtained in order to qualify the proposed placement recipient to receive the child in placement.

4. Upon a reapplication by the sending agency, the receiving state shall determine whether the needs or condition of the child have changed since it initially authorized the placement to be made. The receiving state may deny the placement if it finds that the proposed placement is contrary to the interests of the child.

5. Words and phrases used in this regulation have the same meanings as in the Compact, unless the context clearly requires another meaning.

6. This regulation was readopted pursuant to Article VII of the Interstate Compact on the Placement of Children by action of the Association of Administrators of the Interstate Compact on the Placement of Children at its annual meeting of April 1999; it is amended pursuant to Article VII of the Interstate Compact on the Placement of Children by action of the Association of Administrators of the Interstate Compact on the Placement of Children at its annual meeting of April 29 through May 2, 2001, was approved May 2, 2001, and is effective in such amended form as of July 2, 2001.

Regulation No. 7
Expedited Placement Decision

The following regulation adopted by the Association of Administrators of the Interstate Compact on the Placement of Children as Regulation No. 7, Priority Placement, as first adopted in 1996, is amended to read as follows:

1. Words and phrases used in this regulation shall have the same meanings as those ascribed to them in the Interstate Compact on the Placement of Children (ICPC). A word or phrase not appearing in ICPC shall have the meaning ascribed to it by special definition in this regulation or, where not so defined, the meaning properly ascribed to it in common usage.

2. This regulation shall hereafter be denoted as Regulation No. 7 for Expedited Placement Decision.

3. Intent of Regulation No. 7: The intent of this regulation is to expedite ICPC approval or denial by a receiving state for the placement of a child with a parent, stepparent, grandparent, adult uncle or aunt, adult brother or sister, or the child's guardian, and to:

(a) Help protect the safety of children while minimizing the potential trauma to children caused by interim or multiple placements while ICPC approval to place with a parent or relative is being sought through a more comprehensive home study process.

(b) Provide the sending state court and/or sending agency with expedited approval or denial. An expedited denial would underscore the urgency for the sending state to explore alternative placement resources.

4. This regulation shall not apply if:

(a) the child has already been placed in violation of the ICPC in the receiving state, unless a visit has been approved in writing by the receiving state Compact Administrator and a subsequent order entered by the sending state court authorizing the visit with a fixed return date in accordance with Regulation No. 9.

(b) the intention of the sending state is for licensed or approved foster care or adoption. In the event the intended placement [must be parent, stepparent, grandparent, adult aunt or uncle, adult brother or sister, or guardian as per Article VIII(a)] is already licensed or approved in the receiving state at the time of the request, such licensing or approval would not preclude application of this regulation.

(c) the court places the child with a parent from whom the child was not removed, the court has no evidence the parent is unfit, does not seek any evidence from the receiving state the parent is either fit or unfit, and the court relinquishes jurisdiction over the child immediately upon placement with the parent.

5. Criteria required before Regulation No. 7 can be requested: Cases involving a child who is under the jurisdiction of a court as a result of action taken by a child welfare agency, the court has the authority to determine custody and placement of the child or has delegated said authority to the child welfare agency, the child is no longer in the home of the parent from whom the child was removed, and the child is being considered for placement in another state with a parent, stepparent, grandparent, adult uncle or aunt, adult brother or sister, or the
child's guardian, must meet at least one of the following criteria in order to be considered a Regulation No. 7 case:

(a) unexpected dependency due to a sudden or recent incarceration, incapacitation or death of a parent or guardian. Incapacitation means a parent or guardian is unable to care for a child due to a medical, mental or physical condition of a parent or guardian, or

(b) the child sought to be placed is four years of age or younger, including older siblings sought to be placed with the same proposed placement resource; or

(c) the court finds that any child in the sibling group sought to be placed has a substantial relationship with the proposed placement resource. Substantial relationship means the proposed placement has a familial or mentoring role with the child, has spent more than cursory time with the child, and has established more than a minimal bond with the child; or

(d) the child is currently in an emergency placement.

6. Provisional approval or denial:

(a) Upon request of the sending agency and agreement of the receiving state to make a provisional determination, the receiving state may, but is not required to, provide provisional approval or denial for the child to be placed with a parent or relative, including a request for licensed placement if the receiving state has a separate licensing process available to relatives that includes waiver of non-safety issues.

Upon receipt of the documentation set forth in Section 7 below, the receiving state shall expedite provisional determination of the appropriateness of the proposed placement resource by:

(1) performing a physical "walk through" by the receiving state's caseworker of the prospective placement's home to assess the residence for risks and appropriateness for placement of the child,

(2) searching the receiving state's child protective services data base for prior reports/investigations on the prospective placement as required by the receiving state for emergency placement of a child in its custody,

(3) performing a local criminal background check on the prospective placement,

(4) undertaking other determinations as agreed upon by the sending and receiving state Compact Administrators, and

(5) providing a provisional written report to the receiving state Compact Administrator as to the appropriateness of the proposed placement.

(b) A request by a sending state for a determination for provisional approval or denial shall be made by execution of an Order of Compliance by the sending state court that includes the required findings for a Regulation No. 7 request and a request for provisional approval or denial.

(c) Determination made under a request for provisional approval or denial shall be completed within seven (7) calendar days of receipt of the completed request packet by the receiving state Compact Administrator. A provisional approval or denial shall be communicated to the sending state Compact Administrator by the receiving state Compact Administrator in writing. This communication shall not include the signed Form 100A until the final decision is made pursuant to Section 9 below.

(d) Provisional placement, if approved, shall continue pending a final approval or denial of the placement by the receiving state or until the receiving state requires the return of the child to the sending state pursuant to paragraph 12 of this regulation.

(e) If provisional approval is given for placement with a parent from whom the child was not removed, the court in the sending state may direct its agency to request concurrence from the sending and receiving state Compact Administrators to place the child with the parent and relinquish jurisdiction over the child after final approval is given. If such concurrence is not given, the sending agency shall retain jurisdiction over the child as otherwise provided under Article V of the ICPC.

(f) A provisional denial means that the receiving state cannot approve a provisional placement pending the more comprehensive home study or assessment process due to issues that need to be resolved.

7. Sending agency steps before sending court enters Regulation No. 7 Order of Compliance: In order for a placement resource to be considered for an ICPC expedited placement decision by a receiving state, the sending agency shall take the following minimum steps prior to submitting a request for an ICPC expedited placement decision:

(a) Obtain either a signed statement of interest from the potential placement resource or a written statement from the assigned case manager in the sending state that following a conversation with the potential placement resource, the potential placement resource confirms appropriateness for the ICPC expedited placement decision process. Such statement shall include the following regarding the potential placement resource:

(1) s/he is interested in being a placement resource for the child and is willing to cooperate with the ICPC process.

(2) s/he fits the definition of parent, stepparent, grandparent, adult brother or sister, adult aunt or uncle, or his or her guardian, under Article VIII(a) of the ICPC.

(3) the name and correct address of the placement resource, all available telephone numbers and other contact information for the potential placement resource, and the date of birth and social security number of all adults in the home.

(4) a detail of the number and type of rooms in the residence of the placement resource to accommodate the child under consideration and the number of people, including children, who will be residing in the home.

(5) s/he has financial resources or will access financial resources to feed, clothe and care for the child.

(6) if required due to age and/or needs of the child, the plan for child care, and how it will be paid for.

(7) s/he acknowledges that a criminal records and child abuse history check will be completed on any persons residing in the home required to be screened under the law of the receiving state and that, to the best knowledge of the placement resource, no one residing in the home has a criminal history or child abuse history that would prohibit the placement.

(8) whether a request is being made for concurrence to relinquish jurisdiction if placement is sought with a parent from whom the child was not removed.

(b) The sending agency shall submit to the sending state court:

(1) the signed written statement noted in 7a, above, and

(2) a statement that based upon current information known to the sending agency, that it is unaware of any fact that would prohibit the child being placed with the placement resource and that it has completed and is prepared to send all required paperwork to the sending state ICPC office, including the ICPC-100A and ICPC Form 101.

8. Sending state court orders: The sending state court shall enter an order consistent with the Form Order for Expedited Placement Decision adopted with this modification of Regulation No. 7 subject to any additions or deletions required by federal law or the law of the sending state. The order shall set forth the factual basis for a finding that Regulation No. 7 applies to the child in question, whether the request includes a request for a provisional approval of the prospective placement and a factual basis for the request. The order must also require completion by the sending agency of ICPC Form 101 for the expedited request.

9. Time frames and methods for processing of ICPC expedited placement decision:

(a) Expedited transmissions: The transmission of any documentation, request for information under paragraph 10, or decisions made under this regulation shall be by overnight mail, facsimile transmission, or any other recognized method for expedited communication, including electronic transmission, if acceptable. The receiving state shall recognize and give effect to any such expedited transmission of an ICPC-100A and/or supporting documentation provided it is legible and appears to be a complete representation of the original. However, the receiving state may request and shall be entitled to receive originals or duly certified copies if it considers them necessary for a legally sufficient record under its laws. Any state Compact

Administrator may waive any requirement for the form of transmission of original documents in the event he or she is confident in the authenticity of the forms and documents provided.

(b) Sending state court orders to the sending state agency: The sending state court shall send a copy of its signed order of compliance to the sending state agency within two (2) business days of the hearing or consideration of the request. The order shall include the name, mailing address, e-mail address, telephone number and FAX number of the clerk of court or a designated court administrator of the sending state court exercising jurisdiction over the child.

(c) Sending agency sends ICPC request to sending state ICPC office: The sending state court shall direct the sending agency to transmit to the sending state Compact Administrator within three (3) business days of receipt of the signed Order of Compliance, a
completed ICPC-100A and Form 101, the statement required under Paragraph 7 above and supporting documentation pursuant to ICPC Article III.

(d) Sending State ICPC office sends ICPC Request to Receiving State ICPC office: Within two (2) business days after receipt of a complete Regulation 7 request, the sending state Compact Administrator shall transmit the complete request for the assessment and for any provisional placement to the receiving state Compact Administrator. The request shall include a copy of the Order of Compliance rendered in the sending state.

(e) Timeframe for receiving state ICPC office to render expedited placement decision: no later than twenty (20) business days from the date that the forms and materials are received by the receiving state Compact Administrator, the receiving state Compact Administrator shall make his or her determination pursuant to Article III(d) of the ICPC and shall send the completed 100-A to the sending state Compact Administrator by expedited transmission.

(f) Timeframe for receiving state ICPC office to send request packet to receiving local agency: The receiving state Compact Administrator shall send the request packet to the local agency in the receiving state for completion within two (2) business days of receipt of the completed packet from the sending state Compact Administrator.

(g) Timeframe for receiving state local agency to return completed home study to central office: The local agency in the receiving state shall return the completed home study to the receiving state Compact Administrator within fifteen (15) business days (including date of receipt) of receipt of the packet from the receiving state Compact Administrator.

(h) Timeframe for receiving state ICPC Compact Administrator to return completed home study to sending state: Upon completion of the decision process under the timeframes in this regulation, the receiving state Compact Administrator shall provide a written report, a 100A approving or denying the placement, and a transmittal of that determination to the sending state Compact Administrator as soon as possible, but no later than three (3) business days after receipt of the packet from the receiving state local agency and no more than twenty (20) business days from the initial date that the complete documentation and forms were received by the receiving state Compact Administrator from the sending state Compact Administrator.

10. Recourse if sending or receiving state determines documentation is insufficient:

(a) In the event the sending state Compact Administrator finds that the ICPC request documentation is substantially insufficient, s/he shall specify to the sending agency what additional information is needed and request such information from the sending agency.

(b) In the event the receiving state Compact Administrator finds that the ICPC request documentation is substantially insufficient, he or she shall specify what additional information is needed and request such information from the sending state Compact Administrator. Until receipt of the requested information from the sending state Compact Administrator, the receiving state is not required to continue with the assessment process.

(c) In the event the receiving state Compact Administrator finds that the ICPC request documentation is lacking needed information but is otherwise sufficient, s/he she shall specify what additional information is needed and request such information from the sending state Compact Administrator. If a provisional placement is being pursued, the
provisional placement evaluation process shall continue while the requested information is located and provided.

(d) Failure by a Compact Administrator in either the sending state or the receiving state to make a request for additional documentation or information under this paragraph within two (2) business days of receipt of the ICPC request and accompanying documentation by him or her shall raise a presumption that the sending agency has met its requirements under the ICPC and this regulation.

11. Failure of receiving state ICPC office or local agency to comply with ICPC Regulation No. 7: Upon receipt of the Regulation No. 7 request, if the receiving state Compact Administrator determines that it will not be possible to meet the timeframes for the Regulation No. 7 request, whether or not a provisional request is made, the receiving state Compact Administrator shall notify the sending state Compact Administrator as soon as practical and set forth the receiving state's intentions in completing the request, including an estimated time for completion or consideration of the request as a regular ICPC request. Such information shall also be transmitted to the sending agency by the sending state Compact Administrator for it to consider other possible alternatives available to it.

If the receiving state Compact Administrator and/or local state agency in the receiving state fail(s) to complete action for the expedited placement request as prescribed in this regulation within the time period allowed, the receiving state shall be deemed to be out of compliance with this regulation and the ICPC. If there appears to be a lack of compliance, the sending state court that sought the provisional placement and expedited placement decision may so inform an appropriate court in the receiving state, provide that court with copies of relevant documentation and court orders entered in the case, and request assistance. Within its jurisdiction and authority, the requested court may render such assistance, including the holding of hearings, taking of evidence, and the making of appropriate orders, for the purpose of obtaining compliance with this regulation and the ICPC.

12. Removal of a child: Following any approval and placement of the child, if the receiving state Compact Administrator determines that the placement no longer meets the individual needs of the child, including the child's safety, permanency, health, well-being, and mental, emotional, and physical development, then the receiving state Compact Administrator may request the sending state Compact Administrator arrange for the immediate return of the child or make alternative placement as provided in Article V (a) of the ICPC. The receiving state request for removal may be withdrawn if the sending state arranges services to resolve the reason for the requested removal and the receiving and sending state Compact Administrators mutually agree to the plan. If no agreement is reached, the sending state shall expedite return of the child to the sending state within five (5) business days unless otherwise agreed in writing between the sending and receiving state Compact Administrators.

13. This regulation as first effective October 1, 1996, and readopted pursuant to Article VII of the Interstate Compact on the Placement of Children by action of the Association of Administrators of the Interstate Compact on the Placement of Children at its annual meeting of April 1999, is amended pursuant to Article VII of the Interstate Compact on the Placement of Children by action of the Association of Administrators of the Interstate Compact on the Placement of Children at its annual meeting of May 1, 2011; the regulation, as amended was approved on May 1, 2011 and is effective as of October 1, 2011.

Regulation No. 8
Change of Placement Purpose

1. An ICPC-100B should be prepared and sent in accordance with its accompanying instructions whenever there is a change of purpose in an existing placement, e.g., from foster care to preadoption even though the placement recipient remains the same. However, when a receiving state or a sending state requests a new ICPC-100A in such a case, it should be provided by the sending agency and transmitted in accordance with usual procedures for processing of ICPC-100As.

2. Words and phrases used in this regulation have the same meanings as in the Compact, unless the context clearly requires another meaning.

3. This regulation is effective on and after April 30, 2000, pursuant to Article VII of the Interstate Compact on the Placement of Children by action of the Association of Administrators of the Interstate Compact on the Placement of Children at its annual meeting of April 30–May 3, 2000.

Regulation No. 9
Definition of a Visit

Regulation No. 9 ("Definition of a Visit"), as first adopted in 1999, is amended to read as follows:

1. A visit is not a placement within the meaning of the Interstate Compact on the Placement of Children (ICPC). Visits and placements are distinguished on the basis of purpose, duration, and the intention of the person or agency with responsibility for planning for the child as to the child's place of abode.

2. The purpose of a visit is to provide the child with a social or cultural experience of short duration, such as a stay in a camp or with a friend or relative who has not assumed legal responsibility for providing child care services.

3. It is understood that a visit for twenty-four (24) hours or longer will necessarily involve the provision of some services in the nature of child care by the person or persons with whom the child is staying. The provision of these services will not, of itself, alter the character of the stay as a visit.

4. If the child's stay is intended to be for no longer than thirty (30) days and if the purpose is as described in Paragraph 2, it will be presumed that the circumstances constitute a visit rather than a placement.

5. A stay or proposed stay of longer than thirty (30) days is a placement or proposed placement, except that a stay of longer duration may be considered a visit if it begins and ends within the period of a child's vacation from school as ascertained from the academic calendar of the school. A visit may not be extended or renewed in a manner which causes or will cause it to exceed thirty (30) days or the school vacation period, as the case may be. If a stay does not from the outset have an express terminal date, or if its duration is not clear from the circumstances, it shall be considered a placement or proposed placement and not a visit.

6. A request for a home study or supervision made by the person or agency which sends or proposes to send a child on a visit and that is pending at the time that the visit is proposed will establish a rebuttable presumption that the intent of the stay or proposed stay is not a visit.

7. A visit as defined in this regulation is not subject to the Interstate Compact on the Placement of Children.

8. Words and phrases used in this regulation have the same meanings as in the Compact, unless the context clearly requires another meaning.

9. This regulation was first adopted as a resolution effective April 26, 1983; was promulgated as a regulation as of April 1999; and is amended by the Compact Administrators, acting jointly and pursuant to Article VII of the Interstate Compact on the Placement of Children, at their annual meeting of April 2002, with such amendments effective after June 27, 2002.

Regulation No. 10
Guardians

Regulation No. 10 ("Guardians"), as first adopted in 1999, is amended to read as follows:

1. Guardian Defined.

As used in the Interstate Compact on the Placement of Children (ICPC) and in this Regulation:

(a) "Guardian" means a public or private agency, organization or institution which holds a valid and effective permanent appointment from a court of competent jurisdiction to have custody and control of a child, to plan for the child, and to do all other things for or on behalf of a child which a parent would have authority and responsibility for doing by virtue of an unrestricted parent-child relationship. An appointment is permanent for the purposes of this paragraph if the appointment would allow the guardianship to endure until the child's age of majority without any court review, subsequent to the appointment, of the care that the guardian provides or the status of other permanency planning which the guardian has a professional obligation to carry out. Guardian also means an individual who is a non-agency guardian as defined in subparagraph (b) hereof.

(b) "Nonagency guardian" means an individual holding a currently valid appointment from a court of competent jurisdiction to have all of the authority and responsibility of a guardian as defined in subparagraph (a) hereof.

2. Prospective Adoptive Parents Not Guardians.

An individual with whom a child is placed as a preliminary to a possible adoption cannot be considered a non-agency guardian of the child, for the purpose of determining applicability of ICPC to the placement, unless the individual would qualify as a lawful recipient of a placement of the child without having to comply with ICPC as provided in Article VIII (a) thereof.

3. Effect of Guardianship on ICPC Placements.

(a) An interstate placement of a child with a nonagency guardian, whose appointment to the guardianship existed prior to consideration of the making of the placement, is not subject to ICPC if the sending agency is the child's parent, stepparent, grandparent, adult brother or sister, or adult uncle or aunt.

(b) An appropriate court of the sending agency's state must continue its jurisdiction over a non-exempt placement until applicability of ICPC to the placement is terminated in accordance with Article V (a) of ICPC.

4. Permanency Status of Guardianship.

(a) A state agency may pursue a guardianship to achieve a permanent placement for a child in the child welfare system, as required by federal or state law. In the case of a child who is already placed in a receiving state in compliance with ICPC, appointment of the placement recipient as guardian by the sending state court is grounds to terminate the applicability of the ICPC when the sending and receiving state compact administrators concur on the termination pursuant to Article V (a). In such an instance, the court

which appointed the guardian may continue its jurisdiction if it is maintainable under another applicable law.

(b) If, subsequent to the making of an interstate placement pursuant to ICPC, a court of the receiving state appoints a non-agency guardian for the child, such appointment shall be construed as a request that the sending agency and the receiving state concur in the discontinuance of the application of ICPC to the placement. Upon concurrence of the sending and receiving states, the sending agency and an appropriate court of the sending state shall close the ICPC aspects of the case and the jurisdiction of the sending agency pursuant to Article V (a) of ICPC shall be dismissed.

5. Guardian Appointed by Parent.
If the statutes of a jurisdiction so provide, a parent who is chronically ill or near death may appoint a guardian for his or her children, which guardianship shall take effect on the death or mental incapacitation of the parent. A nonagency guardian so appointed shall be deemed a nonagency guardian as that term is used in Article VIII (a) of ICPC, provided that such nonagency guardian has all of the powers and responsibilities that a parent would have by virtue of an unrestricted parent-child relationship. A placement with a nonagency guardian as described in this paragraph shall be effective for the purposes of ICPC without court appointment or confirmation unless the statute pursuant to which it is made otherwise provides and if there is compliance with procedures required by the statute. However, the parent must be physically present in the jurisdiction having the statute at the time that he or she makes the appointment or expressly submits to the jurisdiction of the appointing court.

6. Other Definitions of Guardianship Unaffected.
The definitions of "guardian" and "nonagency guardian" contained in this regulation shall not be construed to affect the meaning or applicability of any other definitions of "guardian" or "nonagency guardian" when employed for purposes or to circumstances not having a bearing on placements proposed to be made or made pursuant to ICPC.

7. Words and phrases used in this regulation have the same meanings as in the Compact, unless the context clearly requires another meaning.

8. This regulation was first promulgated in April 1999; it is amended by the Compact Administrators, acting jointly and pursuant to Article VII of the Interstate Compact on the Placement of Children, at their annual meeting of April 2002, with such amendments effective after June 27, 2002.

Regulation No. 11
Responsibility of States to Supervise Children

The following regulation was adopted by the Association of Administrators of the Interstate Compact on the Placement of Children on April 18, 2010 and is declared to be in effect on and after October 1, 2010.

1. Words and phrases used in this regulation have the same meanings as those ascribed to them in the Interstate Compact on the Placement of Children (ICPC). A word or phrase not defined in the ICPC shall have the same meaning ascribed to it in common usage.

2. Definitions:

(a) “Central Compact Office” means the office that receives ICPC placement referrals from sending states and sends ICPC placement referrals to receiving states. In states that have one central compact office that services the entire state, the term “central compact office” has the same meaning as “central state

compact office" as described in Regulation 5 of the ICPC. In states in which ICPC placement referrals are sent directly to receiving states and received directly from sending states by more than one county or other regional area within the state, the "central compact office" is the office within each separate county or other region that sends and receives ICPC placement referrals.

(b) "Child Welfare Caseworker" means a person assigned to manage the cases of dependency children who are in the custody or under the supervision of a public child welfare agency.

(c) "Public Child Placing Agency" means any government child welfare agency or child protection agency or a private entity under contract with such an agency, regardless of whether they act on behalf of a state, county, municipality or other governmental unit and which facilitates, causes or is involved in the placement of a child from one state to another.

(d)"Supervision" means monitoring of the child and the child's living situation by the receiving state after a child has been placed in a receiving state pursuant to an approved placement under Article III(d) of the ICPC or pursuant to a child's relocation to a receiving state in accordance with Regulation 1 of the ICPC.

3. A receiving state must supervise a child placed pursuant to an approved placement under Article III(d) of the Interstate Compact on the Placement of Children (ICPC) if supervision is requested by the sending state, and;

(a) the sending agency is a public child placing agency, and

(b) the agency that completed the home study for placement of the child in the receiving state is a public child placing agency, and

(c) the child's placement is not in a residential treatment center or a group home.

4. Supervision must begin when the child is placed in the receiving state pursuant to an approved placement under Article III(d) of the ICPC and the receiving state has received a form 100B from the sending state indicating the date of the child's placement. Supervision can and should begin prior to receipt of the form 100B if the receiving state has been
informed by other means that the child has been placed pursuant to an approved placement under Article III(d) of the ICPC.

5.(a) Supervision must continue until:

(1) the child reaches the age of majority or is legally emancipated; or

(2) the child's adoption is finalized; or

(3) legal custody of the child is granted to a caregiver or a parent and jurisdiction is terminated by the sending state; or

(4) the child no longer resides at the home approved for placement of the child pursuant to Article III(d) of the ICPC; or

(5) jurisdiction over the child is terminated by the sending state; or

(6) legal guardianship of the child is granted to the child's caregiver in the receiving state; or

(7) the sending state requests in writing that supervision be discontinued, and the receiving state concurs.

(b) Supervision of a child in a receiving state may continue, notwithstanding the occurrence of one of the events listed above in 5(a)(1–7), by mutual agreement of the sending and receiving state's central compact offices.

6. Supervision must include face-to-face visits with the child at least once each month and beginning no later than 30 days from the date on which the child is placed, or 30 days from the date on which the receiving state is notified of the child's placement, if notification occurs after placement. A majority of

visits must occur in the child's home. Face-to-face visits must be performed by a Child Welfare Caseworker in the receiving state. The purpose of face-to-face visits is to help ensure the on-going safety and well being of the child and to gather relevant information to include in written reports back to the Public Child Placing Agency in the sending state. If significant issues of concern are identified during a face-toface visit or at any time during a child's placement, the receiving state shall promptly notify the central compact office in the sending state in writing.

7. The Child Welfare Caseworker assigned to supervise a child placed in the receiving state shall complete a written supervision report at least once every ninety (90) days following the date of the receipt of the form 100B by the receiving state's central compact office notifying the receiving state of the child's placement in the receiving state. Completed reports shall be sent to the central compact office in the sending state from the central compact office in the receiving state. At a minimum such reports shall include the following:

(a) Date and location of each face-to-face contact with the child since the last supervision report was completed.

(b) A summary of the child's current circumstances, including a statement regarding the on-going safety and well-being of the child.

(c) If the child is attending school, a summary of the child's academic performance along with copies of any available report cards, education-related evaluations or Individual Education Program (IEP) documents.

(d) A summary of the child's current health status, including mental health, the dates of any health-related appointments that have occurred since the last supervision report was completed, the identity of any health providers seen, and copies of any available health-related evaluations, reports or other pertinent records.

(e) An assessment of the current placement and caretakers (e.g., physical condition of the home, caretaker's commitment to child, current status of caretaker and family, any changes in family composition, health, financial situation, work, legal involvement, social relationships; child care arrangements).

(f) A description of any unmet needs and any recommendations for meeting identified needs.

(g) If applicable, the supervising caseworker's recommendation regarding continuation of the placement, return of legal custody to a parent or parents with whom the child is residing and termination of the sending state's jurisdiction, finalization of adoption by the child's current caretakers or the granting of legal guardianship to the child's current caretakers.

8.(a) The receiving state shall respond to any report of abuse or neglect of a child placed in the receiving state pursuant to an approved placement under Article III(d) of the ICPC and will respond in the same manner as it would to a report of abuse or neglect of any other child residing in the receiving state.

(b) If the receiving state determines that a child must be removed from his or her home in order to be safe, and it is not possible for the child placing agency in the sending state to move the child at the time that the receiving state makes this determination, the receiving state shall place the child in a safe and appropriate setting in the receiving state. The receiving state shall promptly notify the sending state if a child is moved to another home or other substitute care facility.

(c) The receiving state shall notify the central compact office in the sending state of any report of child abuse or neglect of a child placed in the receiving state pursuant to an approved placement under Article III(d) of the ICPC, regardless of whether or not the report is substantiated. Notification of the central compact office in the sending state will occur as soon as possible after such a report is received.

(d) It is the responsibility of the public child placing agency in the sending state to take action to ensure the ongoing safety of a child placed in a receiving state pursuant to an approved placement under Article III(d) of the ICPC, including return of the child to the sending state as soon as possible when return is requested by the receiving state.

(e) Pursuant to Article V of the ICPC, it is the responsibility of the public child placing agency in the sending state to take timely action to relieve the receiving state of any financial burden the receiving state has incurred as a result of placing a child into substitute care after removing the child from an unsafe home in which the child was previously placed by the public child placing agency in the sending state pursuant to Article III(d) of the ICPC.

9.(a) The child placing agency in the sending state is responsible for case planning for any child placed in a receiving state by the child placing agency in the sending state pursuant to an approved placement under Article III(d) of the ICPC.

(b) The child placing agency in the sending state is responsible for the ongoing safety and well-being of any child placed in a receiving state by the child placing agency in the sending state pursuant to an approved placement under Article III(d) of the ICPC and is responsible for meeting any identified needs of the child that are not being met by other available means.

(c) The receiving state shall be responsible to assist the sending state in locating appropriate resources for the child and/or the placement resource.

(d) The receiving state shall notify the central compact office in the sending state in writing of any unmet needs of a child placed in the receiving state pursuant to an approved placement under Article III(d) of the ICPC.

(e) If the child's needs continue to be unmet after the notification described in (d) above has occurred, the receiving state may require the child placing agency in the sending state to return the child to the sending state. Before requiring the return of the child to the sending state, the receiving state shall take into consideration the negative impact on the child that may result from being removed from his or her home in the receiving state and shall weigh the potential for such negative impact against the potential benefits to the child of being returned to the sending state. Notwithstanding the requirement to consider the potential for such negative impact, the receiving state has sole discretion in determining whether or not to require return of a child to the sending state.

Regulation No. 12
Private/Independent Adoptions

The following regulation, as adopted by the Association of Administrators of the Interstate Compact on the Placement of Children, is declared to in effect on and after October 1, 2012. Words and phrases used in this regulation have the same meanings as in the Compact, unless the context clearly requires another meaning. If a court or other competent authority invokes the Compact, the court or other competent authority is obligated to comply with Article V (Retention of Jurisdiction) of the Compact.

1. **Definitions:**

(a) "Adoption" is the method provided by state law that establishes the legal relationship of parent and child between persons who are not so related by birth or some other legal determination, with the same mutual rights and obligations that exist between children and their birth parents. This relationship can only be termed "adoption" after the legal process for adoption finalization is complete.

(b) "Adoption Home Study" is a home study conducted for the purpose of placing a child for adoption with a placement resource. The adoption home study is the assessment and evaluation of potential adoptive parent.

(c) "Adoption Facilitator" is an individual that is not licensed or approved by a state as an adoption agency, child-placing agency, or attorney, and who is engaged in the matching of birth parents with adoptive parents.

(d) "Independent Adoption" is an adoption arranged by a birth parent or other person or entity as

designated, defined, and authorized by the laws of the applicable state or states, to take custody of and to place children for adoption.

(e) "Independent Adoption Entity" is any individual or entity authorized by the law of the applicable state or states to take custody of and to place children for adoption and to place children for adoption other than a state, county, or licensed private agency.

(f) "Intermediary" is any person or entity who is not an Independent Adoption Entity as defined above, but who acts for or between any parent and any prospective parent, or acts on behalf of either, in connection with the placement of the parent's child born in one state, for adoption by a prospective parent in a different state.

(g) "Legal Risk Placement" means a placement made preliminary to an adoption where the prospective adoptive parents acknowledge in writing that a child can be ordered returned to the sending state or the birth mother's state of residence, if different from the sending state, and a final decree of adoption shall not be entered in any jurisdiction until all required consents or termination of parental rights are obtained or are dispensed with in accordance with applicable law.

(h) "Legal Risk Medical Statement" is an acknowledgment by the prospective adoptive parents that known physical, emotional, or other relevant history of the child has been disclosed.

(i) "Private Agency" is a licensed or state approved agency whether domestic or international that has been given legal authority to place a child for adoption.

(j) "Private Agency Adoption" is an adoption arranged by a licensed or approved agency whether domestic or international that has been given legal custody or responsibility for the child including the right to place the child for adoption.

2. **Intent of Regulation No. 12:** The intent of this regulation is to provide guidance and ICPC requirements for the processing of private agency or independent adoptions. The ICPC process exists to ensure protection and services to children and families involved in executing adoptions across state lines and to ensure that the placement is in compliance with all applicable requirements. It is further the intent of Regulation No. 12 for the sending agency to comply with each and every requirement set forth in Article III of the ICPC that governs the placement of children therein.

3. **Application of Regulation No. 12:** This regulation applies to children being placed for private adoption or independent adoption whether being placed by a private agency or by an Independent Adoption Entity, as defined herein, or with the assistance of an Intermediary, as defined herein, and as in compliance with the other articles and regulations.

4. **Conditions for placement as stated in ICPC Article III:** Prior to sending, brining, or causing any child to be sent or brought into a receiving state for placement in foster care or as a preliminary to a possible adoption, the sending agency shall furnish the appropriate public authorities in the receiving state written notice of the intention to send, bring, or place the child in the receiving state. The notice shall contain:

(a) The name, date, and place of birth of the child.

(b) The identity and address or addresses of the parent or legal guardian. If the identity or address of a birth parent and/or legal parent is not provided, an explanation as to why it has not been provided shall be included to the extent that it is consistent with the laws of the applicable state.

(c) The name and address of the person, agency, or institution to or with which the sending agency proposes to send, bring, or place the child.

(d) A full statement of the reasons for such proposed action and evidence of the authority pursuant to which the placement is proposed to be made.

Compliance with this requirement may be met by submission of the documentation required under Section 6 below.

5. **Legal and financial responsibility during placement:** For placement of a child by a private agency for independent adoption, the private agency shall be:

(a) Legally responsible for the child, including return of the child to the sending state if the adoption does not occur during the period of placement.

(b) Financially responsible for the child absent a contractual agreement to the contrary or a statement by the prospective adoptive parent or parents that they will assume financial responsibility.

6. **Sending agency or party case documentation required with ICPC-100A private agency/independent adoption request:**

(a)For placement by a private agency or independent entity, the required content to accompany a request packet for approval shall include all of the following:

(1) ICPC-100A: Form requesting ICPC approval to make placement;

(2)Cover letter: A request for approval signed by the person requesting approval identifying the child, birth parent(s), the prospective adoptive parent(s), a statement as to how the match was made, name of the intermediary, if any, and the name of the supervising agency and address;

(3) Consent or relinquishment: signed by the parents in accordance with the law of the sending state, and, if requested by the receiving state, in accordance with the laws of the receiving state. If a parent is permitted and elects to follow the laws of a state other than his or her state of residence, then he or she should specifically waive, in writing, the laws of his or her state of residence and acknowledge that he or she has a right to sign a consent under the law of his or her state of residence. The packet shall contain a statement detailing how the rights of all parents shall be legally addressed;

(4) Certification by a licensed attorney or authorized agent of a private adoption agency or independent entity that the consent or relinquishment is in compliance with the applicable laws of the sending state, or where requested, the laws of the receiving state;

(5) Verification of compliance with Indian Child Welfare Act (25 U.S.C. 1901, et. seq.);

(6) Legal risk acknowledgement signed by the prospective adoptive parents, if applicable in either the sending or receiving state;

(7) State of authority: A copy of the current court order pursuant to which the sending agency has authority to place the child or, if the authority does not derive from a court order, a statement of the basis on which the sending agency has authority to place the child and documentation that supervision is on-going;

(8) Current case history for the child, including custodial and social history, chronology of court involvement, social dynamics, education information (if applicable), and a description of any special needs of the child. If an infant, at a minimum, a copy of the medical records of the birth and hospital discharge summary for the child, if the child has been discharged;

(9) Foster home license: If the receiving state placement resource previously lived in the sending state and that state has required licensure, certification, or approval, a copy of the most recent license, certificate, or approval of the qualification of the placement resource(s) and/or their home showing the status of the placement resource as a qualified placement resource, if available. If the receiving state placement resource was previously licensed, certified, or approved as a foster or adoptive parent in the sending state and such license, certificate, or approval was involuntarily revoked, a statement of when such revocation occurred and the reasons for such revocation;

(10) Adoptive home study or approval: A copy of the most recent adoption home study or approval of the prospective adoptive family must be provided, including, in accordance with the law of the receiving state, verification of compliance with federal and state background clearances, including FBI fingerprint and Child Abuse/Neglect clearance and Sex Offender Registry clearance, a copy of any court order approving

the adoptive home (if entered), and a statement by the person or entity that the home is approved or a revised current home study update if the home study is more than 12 months old;

(11) A copy of the Order of Appointment of Legal Guardian, if applicable;

(12) Affidavit of Expenses, if applicable; and

(13) Copy of sending agency's license or certification, if applicable;

(14) Biological parents' information—social history, medical history, ethnic background, reasons for adoption plan, and circumstances of proposed placement. If the child was previously adopted, the adoptive parents shall provide the information set forth in this section for the biological parents, if available;

(15) A written statement from the person or entity that will be providing post-placement supervision (may be included in adoption home study) acknowledging the obligation to provide post-placement supervision; and

(16) Authority for the prospective adoptive parents to provide medical care, if applicable.

(b) If a home study is completed by a licensed private agency in the receiving state, the sending state shall not impose any additional requirements to complete the home study that are not required by the receiving state unless the adoption is finalized in the sending state.

7. **Authorization to travel:** Additional documents may be requested

(a) Except as set forth herein, the child shall not be sent, brought, or caused to be sent or brought into the receiving state until the appropriate public authorities in the receiving state shall notify the sending agency, in writing, to the effect that the proposed placement does not appear to be contrary to the interest of the child. Art. III(d).

(b) The sending and receiving state ICPC office may request additional information or documents prior to finalization of an approved placement. Travel by the prospective adoptive parents into the receiving state with the child shall not occur until the required content of the request packet for approval has been submitted, received and reviewed by the sending and receiving ICPC offices and approval to travel has been given, provided, however, a receiving state may, at its sole discretion, approve travel while awaiting provision of additional documentation requested.

8. **Approval by the receiving state ICPC office:** A provisional or final approval for placement must be obtained in writing from the receiving state ICPC office in accordance with the Interstate Compact on the Placement of Children. A signed Form 100A must be provided by the receiving state if the writing was in any other form. In any event, approval or denial must be given within three (3) business days of the receipt of the completed packet by the receiving state Compact Administrator.

9. Upon placement of a child by the sending agency following approval by the receiving state Compact Administrator, the sending agency shall, within five (5) business days of placement of the child, submit a completed 100B form confirming placement to the sending state Compact Administrator. Upon finalization of the adoption, if the sending agency is a private adoption agency, the private adoption agency shall provide to the sending state Compact Administrator a copy of the final judgment of adoption together with a 100b form for closure, which shall then be sent to the receiving state Compact Administrator within thirty (30) business days of entry of judgment. Upon finalization of an independent adoption, the sending agency or entity shall provide a copy of the final judgment of adoption together with a 100B form for closure within thirty (30) business days of entry of judgment to the sending state Compact Administrator who shall then send it to the receiving state Compact Administrator.

10. **Notification if child placed in violation of Article III:** A child placed into the receiving state prior to a decision for placement constitutes a violation of Article III and the laws respecting the placement of children of both states; subject to liability cited in Article IV. Penalty for Illegal Placement. All parties to the

placement arrangements, including prospective resource parents, the sending agency, private licensed child-placing agency or legal counsel are responsible for notifying the appropriate ICPC authorities in both states of the circumstances and to coordinate action to provide for the safety and well-being of the child pending further action. If a child has been placed in the receiving state in violation of Article III, a Form 100B indicating the date the child was placed in prospective adoptive home, together with items listed in Section 6 above, shall then be filed with the sending state Compact Administrator who shall forward them to the receiving state's Compact Administrator. If all required documents are provided, the sending state and the receiving state shall give due and appropriate consideration to placement as permitted under the sending and receiving state laws.

11. This regulation is adopted pursuant to Article VII of the Interstate Compact on the Placement of Children by action of the Association of Administrators of the Interstate Compact on the Placement of children at its annual meeting May 4 through 7, 2012; such adoption was approved on May 6, 2012 and is effective as of October 1, 2012.

ADOPTION
RELEVANT EXCERPTS

63.082 Execution of consent to adoption or affidavit of nonpaternity; family social and medical history; revocation of consent.–

(1)(a) Consent to an adoption or an affidavit of nonpaternity shall be executed as follows:

1. If by the person to be adopted, by oral or written statement in the presence of the court or by being acknowledged before a notary public and in the presence of two witnesses.

2. If by an agency, by affidavit from its authorized representative.

3. If by any other person, in the presence of the court or by affidavit acknowledged before a notary public and in the presence of two witnesses.

4. If by a court, by an appropriate order or certificate of the court.

(b) A minor parent has the power to consent to the adoption of his or her child and has the power to relinquish his or her control or custody of the child to an adoption entity. Such consent or relinquishment is valid and has the same force and effect as a consent or relinquishment executed by an adult parent. A minor parent, having executed a consent or relinquishment, may not revoke that consent upon reaching the age of majority or otherwise becoming emancipated.

(c) A consent or an affidavit of nonpaternity executed by a minor parent who is 14 years of age or younger must be witnessed by a parent, legal guardian, or court-appointed guardian ad litem.

(d) The notice and consent provisions of this chapter as they relate to the father of a child do not apply in cases in which the child is conceived as a result of a violation of the criminal laws of this or another state or country, including, but not limited to, sexual battery, unlawful sexual activity with certain minors under s. 794.05, lewd acts perpetrated upon a minor, or incest.

(2) A consent that does not name or otherwise identify the adopting parent is valid if the consent contains a statement by the person consenting that the consent was voluntarily executed and that identification of the adopting parent is not required for granting the consent.

(3)(a) The department must provide a family social and medical history form to an adoption entity that intends to place a child for adoption. Forms containing, at a minimum, the same information as the forms promulgated by the department must be attached to the petition to terminate parental rights pending adoption and must contain biological and sociological information or information as to the family medical history regarding the minor and the parents. This form is not required for adoptions of relatives, adult adoptions, or adoptions of stepchildren, unless parental rights are being or were terminated pursuant to chapter 39. The information must be filed with the court in the termination of parental rights proceeding.

(b) A good faith and diligent effort must be made to have each parent whose identity is known and whose consent is required interviewed by a representative of the adoption entity before the consent is executed. A summary of each interview, or a statement that the parent is unidentified, unlocated, or unwilling or unavailable to be interviewed, must be filed with the petition to terminate parental rights pending adoption. The interview may be excused by the court for good cause. This interview is not required

for adoptions of relatives, adult adoptions, or adoptions of stepchildren, unless parental rights are being or were terminated pursuant to chapter 39.

(c) If any person who is required to consent is unavailable because the person cannot be located, an affidavit of diligent search required under s. 63.088 shall be filed.

(d) If any person who is required to consent is unavailable because the person is deceased, the petition to terminate parental rights pending adoption must be accompanied by a certified copy of the death certificate.

In an adoption of a stepchild or a relative, the certified copy of the death certificate of the person whose consent is required may be attached to the petition for adoption if a separate petition for termination of parental rights is not being filed.

(4)(a) An affidavit of nonpaternity may be executed before the birth of the minor; however, the consent to an adoption may not be executed before the birth of the minor except in a preplanned adoption pursuant to s. 63.213.

(b) A consent to the adoption of a minor who is to be placed for adoption may be executed by the birth mother 48 hours after the minor's birth or the day the birth mother is notified in writing, either on her patient chart or in release paperwork, that she is fit to be released from the licensed hospital or birth center, whichever is earlier. A consent by any man may be executed at any time after the birth of the child. The consent is valid upon execution and may be withdrawn only if the court finds that it was obtained by fraud or duress.

(c) If the minor to be adopted is older than 6 months of age at the time of the execution of the consent, the consent to adoption is valid upon execution; however, it is subject to a revocation period of 3 business days.

(d) The consent to adoption or the affidavit of nonpaternity must be signed in the presence of two witnesses and be acknowledged before a notary public who is not signing as one of the witnesses. The notary public must legibly note on the consent or the affidavit the date and time of execution. The witnesses' names must be typed or printed underneath their signatures. The witnesses' home or business addresses must be included. The person who signs the consent or the affidavit has the right to have at least one of the witnesses be an individual who does not have an employment, professional, or personal relationship with the adoption entity or the prospective adoptive parents. The adoption entity must give reasonable advance notice to the person signing the consent or affidavit of the right to select a witness of his or her own choosing. The person who signs the consent or affidavit must acknowledge in writing on the consent or affidavit that such notice was given and indicate the witness, if any, who was selected by the person signing the consent or affidavit. The adoption entity must include its name, address, and telephone number on the consent to adoption or affidavit of nonpaternity.

(e) A consent to adoption being executed by the birth parent must be in at least 12-point boldfaced type and shall contain the following recitation of rights:

CONSENT TO ADOPTION

YOU HAVE THE RIGHT TO SELECT AT LEAST ONE PERSON WHO DOES NOT HAVE AN EMPLOYMENT, PROFESSIONAL, OR PERSONAL RELATIONSHIP WITH THE ADOPTION ENTITY OR THE PROSPECTIVE ADOPTIVE PARENTS TO BE PRESENT WHEN THIS AFFIDAVIT IS EXECUTED AND TO SIGN IT AS A WITNESS. YOU MUST ACKNOWLEDGE ON THIS FORM THAT YOU WERE NOTIFIED OF THIS RIGHT AND YOU MUST INDICATE THE WITNESS OR WITNESSES YOU SELECTED, IF ANY.

YOU DO NOT HAVE TO SIGN THIS CONSENT FORM. YOU MAY DO ANY OF THE FOLLOWING INSTEAD OF SIGNING THIS CONSENT OR BEFORE SIGNING THIS CONSENT:

1. CONSULT WITH AN ATTORNEY;
2. HOLD, CARE FOR, AND FEED THE CHILD UNLESS OTHERWISE LEGALLY PROHIBITED;
3. PLACE THE CHILD IN FOSTER CARE OR WITH ANY FRIEND OR FAMILY MEMBER YOU CHOOSE WHO IS WILLING TO CARE FOR THE CHILD;
4. TAKE THE CHILD HOME UNLESS OTHERWISE LEGALLY PROHIBITED; AND
5. FIND OUT ABOUT THE COMMUNITY RESOURCES THAT ARE AVAILABLE TO YOU IF YOU DO NOT GO THROUGH WITH THE ADOPTION.

IF YOU DO SIGN THIS CONSENT, YOU ARE GIVING UP ALL RIGHTS TO YOUR CHILD. YOUR CONSENT IS VALID, BINDING, AND IRREVOCABLE EXCEPT UNDER SPECIFIC LEGAL CIRCUMSTANCES. IF YOU ARE GIVING UP YOUR RIGHTS TO A NEWBORN CHILD WHO IS TO BE IMMEDIATELY PLACED FOR ADOPTION UPON THE CHILD'S RELEASE FROM A LICENSED HOSPITAL OR BIRTH CENTER FOLLOWING BIRTH, A WAITING PERIOD WILL BE IMPOSED UPON THE BIRTH MOTHER BEFORE SHE MAY SIGN THE CONSENT FOR ADOPTION. A BIRTH MOTHER MUST WAIT 48 HOURS FROM THE TIME OF BIRTH, OR UNTIL THE DAY THE BIRTH MOTHER HAS BEEN NOTIFIED IN WRITING, EITHER ON HER PATIENT CHART OR IN RELEASE PAPERS, THAT SHE IS FIT TO BE RELEASED FROM A LICENSED HOSPITAL OR BIRTH CENTER, WHICHEVER IS SOONER, BEFORE THE CONSENT FOR ADOPTION MAY BE EXECUTED. ANY MAN MAY EXECUTE A CONSENT AT ANY TIME AFTER THE BIRTH OF THE CHILD. ONCE YOU HAVE SIGNED THE CONSENT, IT IS VALID, BINDING, AND IRREVOCABLE AND CANNOT BE INVALIDATED UNLESS A COURT FINDS THAT IT WAS OBTAINED BY FRAUD OR DURESS.

IF YOU BELIEVE THAT YOUR CONSENT WAS OBTAINED BY FRAUD OR DURESS AND YOU WISH TO INVALIDATE THAT CONSENT, YOU MUST:

1. NOTIFY THE ADOPTION ENTITY, BY WRITING A LETTER, THAT YOU WISH TO WITHDRAW YOUR CONSENT; AND
2. PROVE IN COURT THAT THE CONSENT WAS OBTAINED BY FRAUD OR DURESS.

This statement of rights is not required for the adoption of a relative, an adult, a stepchild, or a child older than 6 months of age. A consent form for the adoption of a child older than 6 months of age at the time of the execution of consent must contain a statement outlining the revocation rights provided in paragraph (c).

(5) A copy or duplicate original of each consent signed in an action for termination of parental rights pending adoption must be provided to the person who executed the consent to adoption. The copy must be hand delivered, with a written acknowledgment of receipt signed by the person whose consent is required at the time of execution. If a copy of a consent cannot be provided as required in this subsection, the adoption entity must execute an affidavit stating why the copy of the consent was not delivered. The original consent and acknowledgment of receipt, or an affidavit stating why the copy of the consent was not delivered, must be filed with the petition for termination of parental rights pending adoption.

(6)(a) If a parent executes a consent for adoption of a minor with an adoption entity or qualified prospective adoptive parents and the minor child is under the supervision of the department, or otherwise subject to the jurisdiction of the dependency court as a result of the entry of a shelter order, a dependency petition, or a

petition for termination of parental rights pursuant to chapter 39, but parental rights have not yet been terminated, the adoption consent is valid, binding, and enforceable by the court.

(b) Upon execution of the consent of the parent, the adoption entity shall be permitted to intervene in the dependency case as a party in interest and must provide the court that acquired jurisdiction over the minor, pursuant to the shelter order or dependency petition filed by the department, a copy of the preliminary home study of the prospective adoptive parents and any other evidence of the suitability of the placement. The preliminary home study must be maintained with strictest confidentiality within the dependency court file and the department's file. A preliminary home study must be provided to the court in all cases in which an adoption entity has intervened pursuant to this section. Unless the court has concerns regarding the qualifications of the home study provider, or concerns that the home study may not be adequate to determine the best interests of the child, the home study provided by the adoption entity shall be deemed to be sufficient and no additional home study needs to be performed by the department.

(c) If an adoption entity files a motion to intervene in the dependency case in accordance with this chapter, the dependency court shall promptly grant a hearing to determine whether the adoption entity has filed the required documents to be permitted to intervene and whether a change of placement of the child is in the best interests of the child. Absent good cause or mutual agreement of the parties, the final hearing on the motion to intervene and the change of placement of the child must be held within 30 days after the filing of the motion, and a written final order shall be filed within 15 days after the hearing.

(d) If after consideration of all relevant factors, including those set forth in paragraph (e), the court determines that the prospective adoptive parents are properly qualified to adopt the minor child and that the adoption is in the best interests of the minor child, the court shall promptly order the transfer of custody of the minor child to the prospective adoptive parents, under the supervision of the adoption entity. The court may establish reasonable requirements for the transfer of custody in the transfer order, including a reasonable period of time to transition final custody to the prospective adoptive parents. The adoption entity shall thereafter provide monthly supervision reports to the department until finalization of the adoption. If the child has been determined to be dependent by the court, the department shall provide information to the prospective adoptive parents at the time they receive placement of the dependent child regarding approved parent training classes available within the community. The department shall file with the court an acknowledgment of the parent's receipt of the information regarding approved parent training classes available within the community.

(e) In determining whether the best interests of the child are served by transferring the custody of the minor child to the prospective adoptive parent selected by the parent or adoption entity, the court shall consider and weigh all relevant factors, including, but not limited to:

1. The permanency offered;

2. The established bonded relationship between the child and the current caregiver in any potential adoptive home in which the child has been residing;

3. The stability of the potential adoptive home in which the child has been residing as well as the desirability of maintaining continuity of placement;

4. The importance of maintaining sibling relationships, if possible;

5. The reasonable preferences and wishes of the child, if the court deems the child to be of sufficient maturity, understanding, and experience to express a preference;

6. Whether a petition for termination of parental rights has been filed pursuant to s. 39.806(1)(f), (g), or (h);

7. What is best for the child; and

8. The right of the parent to determine an appropriate placement for the child.

(f) The adoption entity shall be responsible for keeping the dependency court informed of the status of the adoption proceedings at least every 90 days from the date of the order changing placement of the child until the date of finalization of the adoption.

(g) At the arraignment hearing held pursuant to s. 39.506, in the order that approves the case plan pursuant to s. 39.603, and in the order that changes the permanency goal to adoption pursuant to s. 39.621, the court shall provide written notice to the biological parent who is a party to the case of his or her right to participate in a private adoption plan including written notice of the factors provided in paragraph (e).

(7) If a person is seeking to revoke consent for a child older than 6 months of age:

(a) The person seeking to revoke consent must, in accordance with paragraph (4)(c), notify the adoption entity in writing by certified mail, return receipt requested, within 3 business days after execution of the consent. As used in this subsection, the term "business day" means any day on which the United States Postal Service accepts certified mail for delivery.

(b) Upon receiving timely written notice from a person whose consent to adoption is required of that person's desire to revoke consent, the adoption entity must contact the prospective adoptive parent to arrange a time certain for the adoption entity to regain physical custody of the minor, unless, upon a motion for emergency hearing by the adoption entity, the court determines in written findings that placement of the minor with the person who had legal or physical custody of the child immediately before the child was placed for adoption may endanger the minor or that the person who desires to revoke consent is not required to consent to the adoption, has been determined to have abandoned the child, or is otherwise subject to a determination that the person's consent is waived under this chapter.

(c) If the court finds that the placement may endanger the minor, the court shall enter an order continuing the placement of the minor with the prospective adoptive parents pending further proceedings if they desire continued placement. If the prospective adoptive parents do not desire continued placement, the order must include, but need not be limited to, a determination of whether temporary placement in foster care, with the person who had legal or physical custody of the child immediately before placing the child for adoption, or with a relative is in the best interests of the child and whether an investigation by the department is recommended.

(d) If the person revoking consent claims to be the father of the minor but has not been established to be the father by marriage, court order, or scientific testing, the court may order scientific paternity testing and reserve ruling on removal of the minor until the results of such testing have been filed with the court.

(e) The adoption entity must return the minor within 3 business days after timely and proper notification of the revocation of consent or after the court determines that revocation is timely and in accordance with the requirements of this chapter upon consideration of an emergency motion, as filed pursuant to paragraph (b), to the physical custody of the person revoking consent or the person directed by the court. If the person seeking to revoke consent claims to be the father of the minor but has not been established to be the father by marriage, court order, or scientific testing, the adoption entity may return the minor to the care and custody of the mother, if she desires such placement and she is not otherwise prohibited by law from having custody of the child.

(f) Following the revocation period described in paragraph (a), consent may be set aside only when the court finds that the consent was obtained by fraud or duress.

(g) An affidavit of nonpaternity may be set aside only if the court finds that the affidavit was obtained by fraud or duress.

(h) If the consent of one parent is set aside or revoked in accordance with this chapter, any other consents executed by the other parent or a third party whose consent is required for the adoption of the child may not be used by the parent whose consent was revoked or set aside to terminate or diminish the rights of the other parent or third party whose consent was required for the adoption of the child.

History. -- s. 8, ch. 73-159; s. 17, ch. 77-147; s. 2, ch. 78-190; s. 2, ch. 91-99; s. 7, ch. 92-96; s. 14, ch. 2001-3; s. 15, ch. 2003-58; s. 10, ch. 2008-151; s. 13, ch. 2012-81; s. 9, ch. 2013-15; s. 2, ch. 2016-71.

63.092 Report to the court of intended placement by an adoption entity; at-risk placement; preliminary study.–

(1) REPORT TO THE COURT.–The adoption entity must report any intended placement of a minor for adoption with any person who is not a relative or a stepparent if the adoption entity participates in the intended placement. The report must be made to the court before the minor is placed in the home or within 2 business days thereafter.

(2) AT-RISK PLACEMENT.–If the minor is placed in the prospective adoptive home before the parental rights of the minor's parents are terminated under s. 63.089, the placement is an at-risk placement. If the placement is an at-risk placement, the prospective adoptive parents must acknowledge in writing before the minor may be placed in the prospective adoptive home that the placement is at risk. The prospective adoptive parents shall be advised by the adoption entity, in writing, that the minor is subject to removal from the prospective adoptive home by the adoption entity or by court order at any time prior to the finalization of the adoption.

(3) PRELIMINARY HOME STUDY.–Before placing the minor in the intended adoptive home, a preliminary home study must be performed by a licensed child-placing agency, a child-caring agency registered under s. 409.176, a licensed professional, or an agency described in s. 61.20(2), unless the adoptee is an adult or the petitioner is a stepparent or a relative. If the adoptee is an adult or the petitioner is a stepparent or a relative, a preliminary home study may be required by the court for good cause shown. The department is required to perform the preliminary home study only if there is no licensed child-placing agency, child-caring agency registered under s. 409.176, licensed professional, or agency described in s. 61.20(2), in the county where the prospective adoptive parents reside. The preliminary home study must be made to determine the suitability of the intended adoptive parents and may be completed before identification of a prospective adoptive minor. If the identified prospective adoptive minor is in the custody of the department, a preliminary home study must be completed within 30 days after it is initiated. A favorable preliminary home study is valid for 1 year after the date of its completion. Upon its completion, a signed copy of the home study must be provided to the intended adoptive parents who were the subject of the home study. A minor may not be placed in an intended adoptive home before a favorable preliminary home study is completed unless the adoptive home is also a licensed foster home under s. 409.175. The preliminary home study must include, at a minimum:

(a) An interview with the intended adoptive parents.

(b) Records checks of the department's central abuse registry, which the department shall provide to the entity conducting the preliminary home study, and criminal records correspondence checks under s. 39.0138 through the Department of Law Enforcement on the intended adoptive parents.

(c) An assessment of the physical environment of the home.

(d) A determination of the financial security of the intended adoptive parents.

(e) Documentation of counseling and education of the intended adoptive parents on adoptive parenting, as determined by the entity conducting the preliminary home study. The training specified in s. 409.175(14) shall only be required for persons who adopt children from the department.

(f) Documentation that information on adoption and the adoption process has been provided to the intended adoptive parents.

(g) Documentation that information on support services available in the community has been provided to the intended adoptive parents.

(h) A copy of each signed acknowledgment of receipt of disclosure required by s. 63.085.

If the preliminary home study is favorable, a minor may be placed in the home pending entry of the judgment of adoption. A minor may not be placed in the home if the preliminary home study is unfavorable. If the preliminary home study is unfavorable, the adoption entity may, within 20 days after receipt of a copy of the written recommendation, petition the court to determine the suitability of the intended adoptive home.

A determination as to suitability under this subsection does not act as a presumption of suitability at the final hearing. In determining the suitability of the intended adoptive home, the court must consider the totality of the circumstances in the home. A minor may not be placed in a home in which there resides any person determined by the court to be a sexual predator as defined in s. 775.21 or to have been convicted of an offense listed in s. 63.089(4)(b)2.

History. -- s. 9, ch. 73-159; s. 5, ch. 75-226; s. 18, ch. 77-147; s. 5, ch. 78-190; s. 4, ch. 80-296; s. 3, ch. 82-166; s. 2, ch. 84-28; s. 1, ch. 85-189; s. 9, ch. 92-96; s. 126, ch. 98-403; s. 19, ch. 2001-3; s. 20, ch. 2003-58; s. 14, ch. 2004-371; s. 33, ch. 2006-86; s. 15, ch. 2008-151; s. 18, ch. 2012-81; s. 39, ch. 2016-24; s. 13, ch. 2018-103; s. 8, ch. 2020-138.

63.093 Adoption of children from the child welfare system.–

(1) The department or community-based care lead agency as defined in s. 409.986(3), or its subcontracted agency, must respond to an initial inquiry from a prospective adoptive parent within 7 business days after receipt of the inquiry. The response must inform the prospective adoptive parent of the adoption process and the requirements for adopting a child from the child welfare system.

(2) The department or community-based care lead agency, or its subcontracted agency, must refer a prospective adoptive parent who is interested in adopting a child in the custody of the department to a department-approved adoptive parent training program. A prospective adoptive parent must successfully complete the training program, unless the prospective adoptive parent is a licensed foster parent or a relative or nonrelative caregiver who has:

(a) Attended the training program within the last 5 years; or

(b) Had the child who is available for adoption placed in their home for 6 months or longer and has been determined to understand the challenges and parenting skills needed to successfully parent the child who is available for adoption.

(3) A prospective adoptive parent must complete an adoption application created by the department.

(4) Before a child is placed in an adoptive home, the community-based care lead agency or its subcontracted agency must complete an adoptive home study of a prospective adoptive parent that includes observation, screening, and evaluation of the child and the prospective adoptive parent. An adoptive home study is valid for 12 months after the date on which the study was approved. In addition, the community-based care lead agency or its subcontracted agency must complete a preparation process, as established by department rule, with the prospective adoptive parent.

(5) At the conclusion of the adoptive home study and preparation process, a decision shall be made about the prospective adoptive parent's appropriateness to adopt. This decision shall be reflected in the final recommendation included in the adoptive home study. If the recommendation is for approval, the adoptive parent application file must be submitted to the community-based care lead agency or its subcontracted agency for approval. The community-based care lead agency or its subcontracted agency must approve or deny the home study within 14 business days after receipt of the recommendation.

Notwithstanding subsections (1) and (2), this section does not apply to a child adopted through the process provided in s. 63.082(6).

History -- s. 9, ch. 2020-138.

DETERMINATION OF PARENTAGE
RELEVANT EXCERPTS

742.011 Determination of paternity proceedings; jurisdiction.–Any woman who is pregnant or has a child, any man who has reason to believe that he is the father of a child, or any child may bring proceedings in the circuit court, in chancery, to determine the paternity of the child when paternity has not been established by law or otherwise.
History.--s. 1, ch. 26949, 1951; s. 5, ch. 75-166; s. 13, ch. 83-214; s. 150, ch. 86-220.

742.021 Venue, process, complaint.–
(1) The proceedings must be in the circuit court of the county where the plaintiff resides or the county where the defendant resides.

(2) The complaint shall assert sufficient facts charging the paternity of the child. Upon filing of a complaint seeking to determine paternity, the clerk of court shall issue a notice to each petitioner and to each respondent or defendant along with service of the petition. The notice must be in substantially the following form:

In order to preserve the right to notice and consent to the adoption of the child, an unmarried biological father must, as the "registrant," file a notarized claim of paternity form with the Florida Putative Father Registry maintained by the Office of Vital Statistics of the Department of Health which includes confirmation of his willingness and intent to support the child for whom paternity is claimed in accordance with state law. The claim of paternity may be filed at any time before the child's birth, but a claim of paternity may not be filed after the date a petition is filed for termination of parental rights.

(3) Process served on the defendant must require the defendant to file written defenses to the complaint in the same manner as suits in chancery. Upon application and proof under oath, the court may issue a writ of

ne exeat against the defendant on such terms and conditions and conditioned upon bond in such amount as the court may determine.

History.--s. 2, ch. 26949, 1951; s. 151, ch. 86-220; s. 24, ch. 2008-151.

742.031 Hearings; court orders for support, hospital expenses, and attorney's fee.–

(1) Hearings for the purpose of establishing or refuting the allegations of the complaint and answer shall be held in the chambers and may be restricted to persons, in addition to the parties involved and their counsel, as the judge in his or her discretion may direct. The court shall determine the issues of paternity of the child and the ability of the parents to support the child. Each party's social security number shall be recorded in the file containing the adjudication of paternity. If the court finds that the alleged father is the father of the child, it shall so order. If appropriate, the court shall order the father to pay the complainant, her guardian, or any other person assuming responsibility for the child moneys sufficient to pay reasonable attorney's fees, hospital or medical expenses, cost of confinement, and any other expenses incident to the birth of the child and to pay all costs of the proceeding. Bills for pregnancy, childbirth, and scientific testing are admissible as evidence without requiring third-party foundation testimony, and shall constitute prima facie evidence of amounts incurred for such services or for testing on behalf of the child. The court shall order either or both parents owing a duty of support to the child to pay support pursuant to s. 61.30. The court shall issue, upon motion by a party, a temporary order requiring child support pursuant to s. 61.30 pending an administrative or judicial determination of parentage, if there is clear and convincing evidence of paternity on the basis of genetic tests or other evidence. The court may also make a determination of an appropriate parenting plan, including a time-sharing schedule, in accordance with chapter 61.

(2) If a judgment of paternity contains only a child support award with no parenting plan or time-sharing schedule, the obligee parent shall receive all of the time-sharing and sole parental responsibility without prejudice to the obligor parent. If a paternity judgment contains no such provisions, the mother shall be presumed to have all of the time-sharing and sole parental responsibility.

(3) Pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, each party is required to provide his or her social security number in accordance with this section. Disclosure of social security numbers obtained through this requirement shall be limited to the purpose of administration of the Title IV-D program for child support enforcement.

(4)(a) A court may, upon good cause shown and without a showing of a substantial change of circumstances, modify, vacate, or set aside a temporary support order before or upon entering a final order in a proceeding.

(b) The modification of the temporary support order may be retroactive to the date of the initial entry of the temporary support order; to the date of filing of the initial petition for dissolution of marriage, petition for support, petition determining paternity, or supplemental petition for modification; or to a date prescribed in s. 61.14(1)(a) or s. 61.30(11)(c) or (17), as applicable.

History.--s. 3, ch. 26949, 1951; s. 1, ch. 59-45; s. 152, ch. 86-220; s. 18, ch. 88-176; s. 6, ch. 91-246; s. 1060, ch. 97-102; s. 68, ch. 97-170; s. 2, ch. 2004-47; s. 36, ch. 2008-61.

742.032 Filing of location information.–

(1) Beginning July 1, 1997, each party to any paternity or child support proceeding must file with the tribunal, as defined in chapter 88 and State Case Registry as defined in chapter 61 upon entry of an order, and update as appropriate, information on location and identity of the party, including social security number, residential and mailing addresses, telephone number, driver license number, and name, address,

and telephone number of employer. Beginning October 1, 1998, each party to any paternity or child support proceeding in a non-Title IV-D case shall meet the above requirements for updating the tribunal and State Case Registry.

(2) Beginning July 1, 1997, in any subsequent Title IV-D child support enforcement action between the parties, upon sufficient showing that diligent effort has been made to ascertain the location of such a party, the court of competent jurisdiction shall deem state due process requirements for notice and service of process to be met with respect to the party upon delivery of written notice to the most recent residential or employer address filed with the tribunal and State Case Registry under subsection (1). Beginning October 1, 1998, in any subsequent non-Title IV-D child support enforcement action between the parties, the same requirements for service shall apply.

(3) Pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, each party is required to provide his or her social security number in accordance with this section. Disclosure of social security numbers obtained through this requirement shall be limited to the purpose of administration of the Title IV-D program for child support enforcement.
History.—s. 69, ch. 97-170; s. 39, ch. 98-397.

742.045 Attorney's fees, suit money, and costs.–The court may from time to time, after considering the financial resources of both parties, order a party to pay a reasonable amount for attorney's fees, suit money, and the cost to the other party of maintaining or defending any proceeding under this chapter, including enforcement and modification proceedings. An application for attorney's fees, suit money, or costs, whether temporary or otherwise, shall not require corroborating expert testimony in order to support an award under this chapter. The court may order that the amount be paid directly to the attorney, who may enforce the order in his or her name. In Title IV-D cases, any costs, including filing fees, recording fees, mediation costs, service of process fees, and other expenses incurred by the clerk of the circuit court, shall be assessed only against the nonprevailing obligor after the court makes a determination of the nonprevailing obligor's ability to pay such costs and fees. The Department of Revenue shall not be considered a party for purposes of this section; however, fees may be assessed against the department pursuant to s. 57.105(1).
History.--s. 7, ch. 91-246; s. 7, ch. 93-188; s. 17, ch. 93-208; s. 1, ch. 95-151; s. 1061, ch. 97-102.

742.06 Jurisdiction retained for future orders.–The court shall retain jurisdiction of the cause for the purpose of entering such other and further orders as changing circumstances of the parties may in justice and equity require.
History.--s. 5, ch. 26949, 1951.

742.07 Effect of adoption.–Upon the adoption of a child, for whom support has been ordered, by some person other than the father, the liability of the father for the support of the child shall be terminated.
History.--s. 6, ch. 26949, 1951.

742.08 Default of support payments.–Upon default in payment of any moneys ordered by the court to be paid, the court may enter a judgment for the amount in default, plus interest, administrative costs, filing fees, and other expenses incurred by the clerk of the circuit court which shall be a lien upon all property of the defendant both real and personal. Costs and fees shall be assessed only after the court makes a determination of the nonprevailing party's ability to pay such costs and fees. In Title IV-D cases, any costs, including filing

fees, recording fees, mediation costs, service of process fees, and other expenses incurred by the clerk of the circuit court, shall be assessed only against the nonprevailing obligor after the court makes a determination of the nonprevailing obligor's ability to pay such costs and fees. The Department of Revenue shall not be considered a party for purposes of this section; however, fees may be assessed against the department pursuant to s. 57.105(1). Willful failure to comply with an order of the court shall be deemed a contempt of the court entering the order and shall be punished as such. The court may require bond of the defendant for the faithful performance of his or her obligation under the order of the court in such amount and upon such conditions as the court shall direct.

History.--s. 7, ch. 26949, 1951; s. 27, ch. 92-138; s. 18, ch. 93-208; s. 1062, ch. 97-102; s. 281, ch. 99-8.

742.09 Publishing names; penalty.–Except for the purpose of serving process by publication, as provided under s. 49.011(15), it shall be unlawful for the owner, publisher, manager, or operator of any newspaper, magazine, radio station, or other publication of any kind whatsoever, or any other person responsible therefor, or any radio broadcaster, to publish the name of any of the parties to any court proceeding to determine paternity. A person who violates this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.--s. 8, ch. 26949, 1951; s. 697, ch. 71-136; s. 8, ch. 2007-85.

742.091 Marriage of parents.–If the mother of any child born out of wedlock and the reputed father shall at any time after its birth intermarry, the child shall in all respects be deemed and held to be the child of the husband and wife, as though born within wedlock, and upon the payment of all costs and attorney fees as determined by the court, the cause shall be dismissed and the bond provided for in s. 742.021 shall be void. The record of the proceedings in such cases shall be sealed against public inspection in the interests of the child.

History.--s. 1, ch. 57-267; s. 6, ch. 75-166; s. 4, ch. 90-139.

742.10 Establishment of paternity for children born out of wedlock.–

(1) Except as provided in chapters 39 and 63, this chapter provides the primary jurisdiction and procedures for the determination of paternity for children born out of wedlock. If the establishment of paternity has been raised and determined within an adjudicatory hearing brought under the statutes governing inheritance, or dependency under workers' compensation or similar compensation programs; if an affidavit acknowledging paternity or a stipulation of paternity is executed by both parties and filed with the clerk of the court; if an affidavit, a notarized voluntary acknowledgment of paternity, or a voluntary acknowledgment of paternity that is witnessed by two individuals and signed under penalty of perjury as provided for in s. 382.013 or s. 382.016 is executed by both parties; or if paternity is adjudicated by the Department of Revenue as provided in s. 409.256, such adjudication, affidavit, or acknowledgment constitutes the establishment of paternity for purposes of this chapter. If an adjudicatory proceeding was not held, a notarized voluntary acknowledgment of paternity or voluntary acknowledgment of paternity, which is witnessed by two individuals and signed under penalty of perjury as specified by s. 92.525(2), creates a rebuttable presumption, as defined by s. 90.304, of paternity and is subject to the right of any signatory to rescind the acknowledgment within 60 days after the date the acknowledgment was signed or the date of an administrative or judicial proceeding relating to the child, including a proceeding to establish a support order, in which the signatory is a party, whichever is earlier. Both parents must provide their social security numbers on any acknowledgment of paternity, consent affidavit, or stipulation of paternity. Except for affidavits under seal pursuant to ss. 382.015 and 382.016, the Office of Vital Statistics shall provide certified copies of affidavits to the Title IV-D agency upon request.

(2) Pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, each party is required to provide his or her social security number in accordance with this section. Disclosure of social security numbers obtained through this requirement shall be limited to the purpose of administration of the Title IV-D program for child support enforcement.

(3) The department shall adopt rules which establish the information which must be provided to an individual prior to execution of an affidavit or voluntary acknowledgment of paternity. The information shall explain the alternatives to, the legal consequences of, and the rights, including, if one parent is a minor, any rights afforded due to minority status, and responsibilities that arise from acknowledging paternity.

(4) After the 60-day period referred to in subsection (1), a signed voluntary acknowledgment of paternity shall constitute an establishment of paternity and may be challenged in court only on the basis of fraud, duress, or material mistake of fact, with the burden of proof upon the challenger, and under which the legal responsibilities, including child support obligations of any signatory arising from the acknowledgment may not be suspended during the challenge, except upon a finding of good cause by the court.

(5) Judicial or administrative proceedings are not required or permitted to ratify an unchallenged acknowledgment of paternity.

History.--s. 9, ch. 26949, 1951; s. 10, ch. 27991, 1953; s. 7, ch. 75-166; s. 153, ch. 86-220; s. 28, ch. 92-138; s. 21, ch. 93-208; s. 8, ch. 94-318; s. 70, ch. 97-170; s. 114, ch. 97-237; s. 41, ch. 99-397; s. 22, ch. 2001-53; s. 19, ch. 2004-334; s. 39, ch. 2005-39; s. 25, ch. 2008-151.

742.105 Effect of a determination of paternity from a foreign jurisdiction.–A final order of paternity entered in a foreign jurisdiction, whether resulting from a voluntary acknowledgment or an administrative or judicial process, or an affidavit acknowledging paternity signed in any other state according to its procedures, shall be given the same legal effect as if such final order was entered or affidavit was signed pursuant to this chapter. In any proceeding in this state, a certified copy of the final order of paternity from a foreign jurisdiction shall be conclusive evidence of paternity.

History.--s. 9, ch. 94-318; s. 71, ch. 97-170.

742.107 Determining paternity of child with mother under 16 years of age when impregnated.–
(1) The Legislature intends to facilitate the criminal prosecution of persons 21 years of age or older who have impregnated a child under 16 years of age by ensuring that paternity is determined for a dependent child whose mother was impregnated while under 16 years of age.

(2) Whenever paternity has not been established for a dependent child whose mother was impregnated with the child while under 16 years of age, the mother shall be required to identify the father of the child and cooperate as provided in s. 409.2572, including Human Leukocyte Antigen or other scientific tests.

(3) Whenever the information provided by a mother who was impregnated while under 16 years of age indicates that the alleged father of the child was 21 years of age or older at the time of conception of the child, the Department of Revenue or the Department of Children and Families shall advise the applicant or recipient of public assistance that she is required to cooperate with law enforcement officials in the prosecution of the alleged father.

(4) When the information provided by the applicant or recipient who was impregnated while under age 16 indicates that such person is the victim of child abuse as provided in s. 827.04(3), the Department of

Revenue or the Department of Children and Families shall notify the county sheriff's office or other appropriate agency or official and provide information needed to protect the child's health or welfare.

(5) The confidentiality of any records under this chapter, relating to determination of paternity, does not prohibit the sharing of information for the purpose of cooperating with an ongoing criminal investigation.
History.--s. 5, ch. 96-215; s. 81, ch. 99-3; s. 282, ch. 99-8; s. 287, ch. 2014-19.

742.108 Criminal penalties for false statements of paternity.–Notwithstanding any other provision of law, any person who knowingly and willfully provides false information to the sheriff's office, other law enforcement agency, or governmental agency, or under oath regarding the paternity of a child in conjunction with an application for, or the receipt of, public assistance for a dependent child commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, in addition to remaining subject to any other civil or criminal penalties for perjury or making false statements which are applicable under other provisions of law.
History.--s. 6, ch. 96-215.

742.12 Scientific testing to determine paternity.–
(1) In any proceeding to establish paternity, the court on its own motion may require the child, mother, and alleged fathers to submit to scientific tests that are generally acceptable within the scientific community to show a probability of paternity. The court shall direct that the tests be conducted by a qualified technical laboratory.

(2) In any proceeding to establish paternity, the court may, upon request of a party providing a sworn statement or written declaration as provided by s. 92.525(2) alleging paternity and setting forth facts establishing a reasonable possibility of the requisite sexual contact between the parties or providing a sworn statement or written declaration denying paternity and setting forth facts establishing a reasonable possibility of the nonexistence of sexual contact between the parties, require the child, mother, and alleged fathers to submit to scientific tests that are generally acceptable within the scientific community to show a probability of paternity. The court shall direct that the tests be conducted by a qualified technical laboratory.

(3) The test results, together with the opinions and conclusions of the test laboratory, shall be filed with the court. Any objection to the test results must be made in writing and must be filed with the court at least 10 days prior to the hearing. If no objection is filed, the test results shall be admitted into evidence without the need for predicate to be laid or third-party foundation testimony to be presented. Nothing in this paragraph prohibits a party from calling an outside expert witness to refute or support the testing procedure or results, or the mathematical theory on which they are based. Upon the entry of the order for scientific testing, the court must inform each person to be tested of the procedure and requirements for objecting to the test results and of the consequences of the failure to object.

(4) Test results are admissible in evidence and should be weighed along with other evidence of the paternity of the alleged father unless the statistical probability of paternity equals or exceeds 95 percent. A statistical probability of paternity of 95 percent or more creates a rebuttable presumption, as defined by s. 90.304, that the alleged father is the biological father of the child. If a party fails to rebut the presumption of paternity which arose from the statistical probability of paternity of 95 percent or more, the court may enter a summary judgment of paternity. If the test results show the alleged father cannot be the biological father, the case shall be dismissed with prejudice.

(5) Subject to the limitations in subsection (3), if the test results or the expert analysis of the inherited characteristics is disputed, the court, upon reasonable request of a party, shall order that an additional test be made by the same laboratory or an independent laboratory at the expense of the party requesting additional testing.

(6) Verified documentation of the chain of custody of the blood or other specimens is competent evidence to establish the chain of custody.

(7) The fees and costs for scientific tests shall be paid by the parties in proportions and at times determined by the court unless the parties reach a stipulated agreement which is adopted by the court.
History.--s. 154, ch. 86-220; s. 10, ch. 89-183; s. 10, ch. 94-318; s. 72, ch. 97-170; s. 54, ch. 2001-158.

742.18 Disestablishment of paternity or termination of child support obligation.–
(1) This section establishes circumstances under which a male may disestablish paternity or terminate a child support obligation when the male is not the biological father of the child. To disestablish paternity or terminate a child support obligation, the male must file a petition in the circuit court having jurisdiction over the child support obligation. The petition must be served on the mother or other legal guardian or custodian of the child. If the child support obligation was determined administratively and has not been ratified by a court, then the petition must be filed in the circuit court where the mother or legal guardian or custodian resides. Such a petition must be served on the Department of Revenue and on the mother or legal guardian or custodian. If the mother or legal guardian or custodian no longer resides in the state, the petition may be filed in the circuit court in the county where the petitioner resides. The petition must include:

(a) An affidavit executed by the petitioner that newly discovered evidence relating to the paternity of the child has come to the petitioner's knowledge since the initial paternity determination or establishment of a child support obligation.

(b) The results of scientific tests that are generally acceptable within the scientific community to show a probability of paternity, administered within 90 days prior to the filing of such petition, which results indicate that the male ordered to pay such child support cannot be the father of the child for whom support is required, or an affidavit executed by the petitioner stating that he did not have access to the child to have scientific testing performed prior to the filing of the petition. A male who suspects he is not the father but does not have access to the child to have scientific testing performed may file a petition requesting the court to order the child to be tested.

(c) An affidavit executed by the petitioner stating that the petitioner is current on all child support payments for the child for whom relief is sought or that he has substantially complied with his child support obligation for the applicable child and that any delinquency in his child support obligation for that child arose from his inability for just cause to pay the delinquent child support when the delinquent child support became due.

(2) The court shall grant relief on a petition filed in accordance with subsection (1) upon a finding by the court of all of the following:

(a) Newly discovered evidence relating to the paternity of the child has come to the petitioner's knowledge since the initial paternity determination or establishment of a child support obligation.

(b) The scientific test required in paragraph (1)(b) was properly conducted.

(c) The male ordered to pay child support is current on all child support payments for the applicable child or that the male ordered to pay child support has substantially complied with his child support obligation for the applicable child and that any delinquency in his child support obligation for that child arose from his inability for just cause to pay the delinquent child support when the delinquent child support became due.

(d) The male ordered to pay child support has not adopted the child.

(e) The child was not conceived by artificial insemination while the male ordered to pay child support and the child's mother were in wedlock.

(f) The male ordered to pay child support did not act to prevent the biological father of the child from asserting his paternal rights with respect to the child.

(g) The child was younger than 18 years of age when the petition was filed.

(3) Notwithstanding subsection (2), a court shall not set aside the paternity determination or child support order if the male engaged in the following conduct after learning that he is not the biological father of the child:

(a) Married the mother of the child while known as the reputed father in accordance with s. 742.091 and voluntarily assumed the parental obligation and duty to pay child support;

(b) Acknowledged his paternity of the child in a sworn statement;

(c) Consented to be named as the child's biological father on the child's birth certificate;

(d) Voluntarily promised in writing to support the child and was required to support the child based on that promise;

(e) Received written notice from any state agency or any court directing him to submit to scientific testing which he disregarded; or

(f) Signed a voluntary acknowledgment of paternity as provided in s. 742.10(4).

(4) In the event the petitioner fails to make the requisite showing required by this section, the court shall deny the petition.

(5) In the event relief is granted pursuant to this section, relief shall be limited to the issues of prospective child support payments and termination of parental rights, custody, and visitation rights. The male's previous status as father continues to be in existence until the order granting relief is rendered. All previous lawful actions taken based on reliance on that status are confirmed retroactively but not prospectively. This section shall not be construed to create a cause of action to recover child support that was previously paid.

(6) The duty to pay child support and other legal obligations for the child shall not be suspended while the petition is pending except for good cause shown. However, the court may order the child support to be held in the registry of the court until final determination of paternity has been made.

(7)(a) In an action brought pursuant to this section, if the scientific test results submitted in accordance with paragraph (1)(b) are provided solely by the male ordered to pay child support, the court on its own motion may, and on the petition of any party shall, order the child and the male ordered to pay child support to submit to applicable scientific tests. The court shall provide that such scientific testing be done no more than 30 days after the court issues its order.

(b) If the male ordered to pay child support willfully fails to submit to scientific testing or if the mother or legal guardian or custodian of the child willfully fails to submit the child for testing, the court shall issue an order determining the relief on the petition against the party so failing to submit to scientific testing. If a party shows good cause for failing to submit to testing, such failure shall not be considered willful. Nothing in this paragraph shall prevent the child from reestablishing paternity under s. 742.10.

(c) The party requesting applicable scientific testing shall pay any fees charged for the tests. If the custodian of the child is receiving services from an administrative agency in its role as an agency providing enforcement of child support orders, that agency shall pay the cost of the testing if it requests the test and may seek reimbursement for the fees from the person against whom the court assesses the costs of the action.

(8) If the relief on a petition filed in accordance with this section is granted, the clerk of the court shall, within 30 days following final disposition, forward to the Office of Vital Statistics of the Department of Health a certified copy of the court order or a report of the proceedings upon a form to be furnished by the department, together with sufficient information to identify the original birth certificate and to enable the department to prepare a new birth certificate. Upon receipt of the certified copy or the report, the department shall prepare and file a new birth certificate that deletes the name of the male ordered to pay child support as the father of the child. The certificate shall bear the same file number as the original birth certificate. All other items not affected by the order setting aside a determination of paternity shall be copied as on the original certificate, including the date of registration and filing. If the child was born in a state other than Florida, the clerk shall send a copy of the report or decree to the appropriate birth registration authority of the state where the child was born. If the relief on a petition filed in accordance with this section is granted and the mother or legal guardian or custodian requests that the court change the child's surname, the court may change the child's surname. If the child is a minor, the court shall consider whether it is in the child's best interests to grant the request to change the child's surname.

(9) The rendition of an order granting a petition filed pursuant to this section shall not affect the legitimacy of a child born during a lawful marriage.

(10) If relief on a petition filed in accordance with this section is not granted, the court shall assess the costs of the action and attorney's fees against the petitioner.

(11) Nothing in this section precludes an individual from seeking relief from a final judgment, decree, order, or proceeding pursuant to Rule 1.540, Florida Rules of Civil Procedure, or from challenging a paternity determination pursuant to s. 742.10(4).

History.--s. 1, ch. 2006-265.

PART II. DEPENDENCY AND TERMINATION OF PARENTAL RIGHTS PROCEEDINGS

Part 1. Rules of General Application

RULE 8.000. SCOPE AND PURPOSE

These rules shall govern the procedures in the juvenile division of the circuit court in the exercise of its jurisdiction under Florida law.

Part II of these rules governs the procedures for delinquency cases in the juvenile court. Part IV governs the procedures for families and children in need of services cases in the juvenile court. The Department of Juvenile Justice shall be referred to as the "department" in these parts.

Part III of these rules governs the procedures for dependency cases in the juvenile court. The Department of Children and Family Services shall be referred to as the "department" in that part.

These rules are intended to provide a just, speedy, and efficient determination of the procedures covered by them and shall be construed to secure simplicity in procedure and fairness in administration.

They shall be known as the Florida Rules of Juvenile Procedure and may be cited as Fla. R. Juv. P.

When appropriate the use of singular nouns and pronouns shall be construed to include the plural and the use of plural nouns and pronouns shall be construed to include the singular.

Committee Notes

1991 Amendment. All rules have been edited for style and to remove gender bias. The rules have been reorganized and renumbered to correspond to the types and stages of juvenile proceedings. Cross-references have been changed accordingly.

1992 Amendment. Scope and Purpose, previously found in rules 8.000, 8.200, 8.600, and 8.700, has been consolidated into one rule. Designations of subparts within the delinquency part of the rules have been changed accordingly. Reference to the civil rules, previously found in rule 8.200, has been removed because the rules governing dependency and termination of parental rights proceedings are self-contained and no longer need to reference the Florida Rules of Civil Procedure.

RULE 8.001. COMMUNICATION TECHNOLOGY

Rule 2.530 of the Florida Rules of General Practice and Judicial Administration does not apply to proceedings governed by these rules.

RULE 8.002. DEFINITIONS

Unless otherwise modified by a specific rule of procedure, the following terms have the meanings shown:

(a) Appear or Appearance. The presentation of oneself before the court in person or via communication technology.

(**b) Audio Communication Technology.** Technology that consists of electronic devices, system, applications, and platforms that permit all participants to hear and speak to all other participants in real time.

(c) Audio-Video Communication Technology. Technology that consists of electronic devices, system, applications, and platforms that permit all participants to hear, see, and speak to all other participants in real time.

(d) Communication Technology. Technology that includes audio communication technology or audio-video communication technology.

(e) Hybrid Proceeding or Conducted in a Hybrid Format. Any hearing, trial, status conference, or other proceeding conducted using communication technology with some parties, participants, witnesses, or counsel being physically present in the courtroom or hearing room and some parties, participants, witnesses, or counsel not being physically present in the courtroom or hearing room.

(f) In Person Proceeding or Conducted In Person. Any hearing, trial, status conference, or other proceeding conducted by a judge or magistrate with the parties, participants, witnesses, and counsel being physically present in the courtroom or hearing room.

(g) Location or Place. The physical or virtual site where a proceeding, hearing, or event is conducted.

(h) Present or Presence. The act of appearing before the court in person or via communication technology.

(i) Remote Proceeding or Conducted Remotely. Any hearing, trial, status conference, or other proceeding conducted in whole using communication technology with the parties, participants, witnesses, and counsel not being physically present in the courtroom or hearing room.

RULE 8.004. ELECTRONIC FILING

(a) All documents that are court records, as defined in Florida Rule of General Practice and Judicial Administration 2.430(a)(1), are to be filed by electronic transmission, consistent with the requirements of Florida Rule of General Practice and Judicial Administration 2.525, provided that:

(1) the clerk has the ability to accept and retain such documents

(2) the clerk or the chief judge of the circuit has requested permission to accept documents filed by electronic transmission; and

(3) the supreme court has entered an order granting permission to the clerk to accept documents filed by electronic transmission.

(b) All documents filed by electronic transmission under this rule satisfy any requirement for the filing of an original, except where the court, law, or these rules otherwise provide for the submittal of an original.

(c) The following paper documents or other submissions may be manually submitted to the clerk for filing under the following circumstances:

(1) when the clerk does not have the ability to accept and retain documents by electronic filing or has not had electronic court filing procedures (ECF Procedures) approved by the supreme court;

(2) by any self-represented party or any self-represented nonparty unless specific ECF Procedures provide a means to file documents electronically. However, any self-represented nonparty that is a governmental or public agency and any other agency, partnership, corporation, or business entity acting on behalf of any governmental or public agency may file documents by electronic transmission if such entity has the capability of filing documents electronically;

(3) by attorneys excused from e-mail service pursuant to these rules or Florida Rule of General Practice and Judicial Administration 2.516;

(4) when submitting evidentiary exhibits or filing non-documentary materials;

(5) when the filing involves documents in excess of 25 megabytes (25 MB) in size. For such filings, documents may be transmitted using an electronic storage medium that the clerk has the ability to accept, which may include a CD-ROM, flash drive, or similar storage medium;

(6) when filed in open court, as permitted by the court;

(7) when paper filing is permitted by any approved statewide or local ECF procedures; and

(8) if any court determines that justice so requires.

(d) The filing date for an electronically transmitted document is the date and time that such filing is acknowledged by an electronic stamp, or otherwise, pursuant to any procedure set forth in any electronic court filing procedures (ECF Procedures) approved by the supreme court, or the date the last page of such filing is received by the court or clerk.

(e) Where these rules are silent, Florida Rule of General Practice and Judicial Administration 2.525 controls.

(f) Electronic transmission may be used by a court for the service of all orders, pursuant to Florida Rule of General Practice and Judicial Administration 2.516, and for the service of filings pursuant to any ECF Procedures, provided the clerk, together with input from the chief judge of the circuit, has obtained approval from the supreme court of ECF Procedures containing the specific procedures and program to be used in transmitting the orders and filings.

Part III. Dependency and termination of Parental Rights Proceedings

RULE 8.201. COMMENCEMENT OF PROCEEDINGS

(a) Commencement of Proceedings. Proceedings are commenced when:

(1) an initial shelter petition is filed;

(2) a petition alleging dependency is filed;

(3) a petition for termination of parental rights is filed; or

(4) a petition for an injunction to prevent child abuse under chapter 39, Florida Statutes, is filed;

(5) a petition or affidavit for an order to take into custody is filed; or

(6) any other petition authorized by chapter 39, Florida Statutes, is filed.

(b) File to Be Opened. Upon commencement of any proceeding, the clerk must open a file and assign a case number.

RULE 8.203. APPLICATION OF UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT

Any pleading filed commencing proceedings as set forth in rule 8.201 must be accompanied by an affidavit, to the extent of affiant's personal knowledge, under the Uniform Child Custody Jurisdiction and Enforcement Act. Each party has a continuing duty to inform the court of any custody proceeding in this or any other state of which information is obtained during the proceeding.

RULE 8.205. TRANSFER OF CASES

(a) Transfer of Cases Within Circuit Court. If it should appear at any time in a proceeding initiated in a division other than the division of the circuit court assigned to handle dependency matters that facts are alleged that essentially constitute a dependency or the termination of parental rights, the court may upon consultation with the administrative judge assigned to dependency cases order the transfer of action and the transmittal of all relevant documents to the division assigned to handle dependency matters. The division assigned to handle dependency matters shall then assume jurisdiction only over matters pertaining to dependency, custody, visitation, and child support.

(b) Transfer of Cases Within the State of Florida. The court may transfer any case at any point during the proceeding after adjudication, when adjudication is withheld, or before adjudication where witnesses are available in another jurisdiction, to the circuit court for the county in which is located the domicile or usual residence of the child or such other circuit as the court may determine to be for the best interest of the child and to promote the efficient administration of justice. The transferring court must enter an order transferring its jurisdiction and certifying the case to the proper court, furnishing all parties, the clerk, and the attorney's office handling dependency matters for the state in the receiving court a copy of the order of transfer within 5 days. The clerk must also transmit a certified copy of the file to the receiving court within 5 days.

(c) Transfer of Cases Among States. If it should appear at any time that an action is pending in another state, the court may transfer jurisdiction over the action to a more convenient forum state, may stay the proceedings, or may dismiss the action.

RULE 8.210. PARTIES AND PARTICIPANTS

(a) Parties. For the purpose of these rules the terms "party" and "parties" shall include the petitioner, the child, the parent(s) of the child, the department, and the guardian ad litem or the representative of the guardian ad litem program, when the program has been appointed.

(b) Participants. "Participant" means any person who is not a party but who should receive notice of hearings involving the child. Participants include foster parents or the legal custodian of the child, identified prospective parents, actual custodians of the child, grandparents entitled to notice of an adoption proceeding as provided by law, the state attorney, and any other person whose participation may be in the best interest of the child. The court may add additional participants. Participants may be granted leave by the court to be heard without the necessity of filing a motion to intervene and shall have no other rights of a party except as provided by law.

(c) Parent or Legal Custodian. For the purposes of these rules, when the phrase "parent(s) or legal custodian(s)" is used, it refers to the rights or responsibilities of the parent and, only if there is no living parent with intact parental rights, to the rights or responsibilities of the legal custodian who has assumed the role of the parent.

RULE 8.215. GUARDIAN AD LITEM

(a) Request. At any stage of the proceedings, any party may request or the court may appoint a guardian ad litem to represent any child alleged to be dependent.

(b) Appointment. The court shall appoint a guardian ad litem to represent the child in any proceeding as required by law and shall ascertain at each stage of the proceeding whether a guardian ad litem should be appointed if one has not yet been appointed.

(c) Duties and Responsibilities. The guardian ad litem shall be a responsible adult, who may or may not be an attorney, or a certified guardian ad litem program, and shall have the following responsibilities:

(1) To gather information concerning the allegations of the petition and any subsequent matters arising in the case and, unless excused by the court, to file a written report. This report shall include a summary of the guardian ad litem's findings, a statement of the wishes of the child, and the recommendations of the guardian ad litem and shall be provided to all parties and the court at least 72 hours before the hearing for which the report is prepared.

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

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

(4) To perform such other duties as are consistent with the scope of the appointment.

(d) Bond. A guardian ad litem shall not be required to post bond but shall file an acceptance of the office.

(e) Service. A guardian ad litem shall be entitled to receive service of pleadings and papers as provided by rule 8.225.

(f) Practice of Law by Lay Guardians. The duties of lay guardians shall not include the practice of law.

(g) Substitution or Discharge. The court, on its own motion or that of any party, including the child, may substitute or discharge the guardian ad litem for reasonable cause.

RULE 8.217. ATTORNEY AD LITEM

(a) Request. At any stage of the proceedings, any party may request or the court may consider whether an attorney ad litem is necessary to represent any child alleged, or found, to be dependent, if one has not already been appointed.

(b) Appointment. The court may appoint an attorney ad litem to represent the child in any proceeding as allowed by law. The court must appoint an attorney for the child who is the subject of a motion to modify custody as required by law.

(c) Duties and Responsibilities. The attorney ad litem must be an attorney who has completed any additional requirements as provided by law. The attorney ad litem has the responsibilities provided by law.

(d) Service. Any attorney appointed under this rule is entitled to receive and must provide service of pleadings and documents as provided by rule 8.225.

Committee Note

2022 Amendment. Subdivision (b) was amended in response to ch. 2021-169, Laws of Florida.

RULE 8.220. STYLE OF PLEADING AND ORDERS

All pleadings and orders shall be styled: "In the interest of ....., a child," or: "In the interest of ....., children."

RULE 8.224. PERMANENT MAILING ADDRESS

(a) Designation. On the first appearance before the court, each party must provide a permanent mailing address to the court. The court must advise each party that this address will be used by the court, the petitioner, and other parties for notice unless and until the party notifies the court and the petitioner, in writing, of a new address.

(b) Effect of Filing. On the filing of a permanent address designation with the court, the party then has an affirmative duty to keep the court and the petitioner informed of any address change. Any address change must be filed with the court as an amendment to the permanent address designation within 10 calendar days.

(c) Service to Permanent Mailing Address. Service of any summons, notice, pleadings, subpoenas, or other papers to the permanent mailing address on file with the court will be presumed to be appropriate service.

RULE 8.225. PROCESS, DILIGENT SEARCHES, AND SERVICE OF PLEADINGS AND PAPERS

(a) Summons and Subpoenas.

(1) Summons. Upon the filing of a dependency petition, the clerk shall issue a summons. The

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

(2) Subpoenas. Subpoenas for testimony before the court, for production of tangible evidence, and for taking depositions shall be issued by the clerk of the court, the court on its own motion, or any attorney of record for a party. Subpoenas may be served within the state by any person over 18 years of age who is no a party to the proceeding. In dependency and termination of parental rights proceedings, subpoenas may also be served by authorized agents of the department of the guardian ad litem. Except as otherwise required by this rule, the procedure for issuance of a subpoena by an attorney of record in a proceeding shall be as provided in the Florida Rules of Civil Procedure.

(3) Service of Summons and Other Process to Persons Residing in the State. The summons and other process shall be served upon all parties other than the petitioner as required by law. The summons and other process may be served by authorized agents of the department or the guardian ad litem.

(A) Service by publication shall not be required for dependency hearings and shall be required only for service of summons in a termination of parental rights proceeding for parents whose identities are known but whose whereabouts cannot be determined despite a diligent search. Service by publication in these circumstances shall be considered valid service.

(B) The failure to serve a party or give notice to a participant in a dependency hearing shall not affect the validity of an order of adjudication or disposition if the court finds that the petitioner has completed a diligent search that failed to ascertain the identity or location of that party.

(C) Personal appearance, either physically or by audio-video communication technology, of any person in a hearing before the court eliminates the requirement for serving process upon that person.

(4) Service of Summons and Other Process to Persons Residing Outside of the State in Dependency Proceedings.

(A) Service of the summons and other process on parents, parties, participants, petitioners, or persons outside this state shall be in a manner reasonably calculated to give actual notice, and may be made:

(i) by personal delivery outside this state in a manner prescribed for service of process within this state;

(ii) in a manner prescribed by the law of the place in which service is made for service of process in that place in an action in any of its courts of general jurisdiction;

(iii) by any form of mail addressed to the person to be served and requesting a receipt; or

(iv) as directed by the court. Service by publication shall not be required for dependency hearings.

(B) Notice under this rule shall be served, mailed, delivered, or last published at least 20 days before any hearing in this state.

(C) Proof of service outside this state may be made by affidavit of the person who made the service or in the manner prescribed by the law of this state, the order pursuant to which the service is made, or the law of the place in which the service is made. If service is made by mail, proof may be in a receipt signed by the addressee or other evidence of delivery to the addressee.

(D) Personal appearance, either physically or by audio-video communication technology, of any person in a hearing before the court eliminates the requirement for serving process upon that person.

(5) Service of Persons on Active Military Duty in Dependency Proceedings. In the case of a person on active military duty, service completed pursuant to subdivisions (a)(3) or (a)(4) of this rule must be in compliance with state and federal laws.

(b) Paternity Inquiry and Diligent Search.

(1) Location Unknown. If the location of a parent is unknown and that parent has not filed a permanent address designation with the court, the petitioner shall complete a diligent search as required by law.

(2) Affidavit of Diligent Search. If the location of a parent is unknown after the diligent search has

been completed, the petitioner shall file with the court an affidavit of diligent search executed by the person who made the search and inquiry.

(3) Court Review of Affidavit. The court must review the affidavit of diligent search and enter an order determining whether the petitioner has completed a diligent search as required by law. In termination of parental rights proceedings, the clerk must not certify a notice of action until the court enters an order finding that the petitioner has conducted a diligent search as required by law. In a dependency proceeding, if the court finds that the petitioner has conducted a diligent search, the court may proceed to grant the requested relief of the petitioner as to the parent whose location is unknown without further notice.

(4) Continuing Duty. After filing an affidavit of diligent search in a dependency or termination of parental rights proceeding, the petitioner, and, if the court requires, the department, are under a continuing duty to search for and attempt to serve the parent whose location is unknown until excused from further diligent search by the court. The department shall report on the results of the continuing search at each court hearing until the person is located or until further search is excused by the court.

(c) Identity of Parent Unknown.

(1) If the identity of a parent is unknown, and a petition for dependency, shelter care, or termination of parental rights is filed, the court shall conduct the inquiry required by law. The information required by law may be submitted to the court in the form of a sworn affidavit executed by a person having personal knowledge of the facts.

(2) If the court inquiry fails to identify any person as a parent or prospective parent, the court shall find and may proceed to grant the requested relief of the petitioner as to the unknown parent without further notice.

(d) Identity and Location Determined. If an inquiry or diligent search identifies and locates any person who may be a parent or prospective parent, the court must require that notice of the hearing be provided to that person.

(e) Effect of Failure to Serve. Failure to serve parents whose identity or residence is unknown shall not affect the validity of an order of adjudication or disposition if the court finds the petitioner has completed a diligent search.

(f) Notice and Service of Pleadings and Papers.

(1) Notice of Arraignment Hearings in Dependency Cases. Notice of the arraignment hearing must be served on all parties with the summons and petition. The document containing the notice to appear in a dependency arraignment hearing must contain, in type at least as large as the balance of the document, the following or substantially similar language: "FAILURE TO PERSONALLY APPEAR AT THE ARRAIGNMENT HEARING CONSTITUTES CONSENT TO THE ADJUDICATION OF THIS CHILD (OR THESE CHILDREN) AS A DEPENDENT CHILD (OR CHILDREN) AND MAY ULTIMATELY RESULT IN LOSS OF CUSTODY OF THIS CHILD (OR THESE CHILDREN)." Any preadoptive parents of the children and all participants, including the child's foster parents and relative caregivers, must be notified of the arraignment hearing.

(2) Notice of Assessment of Child Support. Other than as part of a disposition order, if the court, on it own motion or at the request of any party, seeks to impose or enforce a child support obligation on any parent, all parties and participants are entitled to reasonable notice that child support will be addressed at a future hearing.

(3) Notice of Hearings to Participants and Parties Whose Identity or Address are Known. Any preadoptive parents, all participants, including foster parents and relative caregivers, and parties whose identity and address are known must be notified of all proceedings and hearings, unless otherwise provided by law. Notice involving emergency hearings must be that which is most likely to result in actual notice. It is the duty of the petitioner or moving party to notify any preadoptive parents, all participants, including foster parents and relative caregivers, and parties known to the petitioner or moving party of all hearings, except hearings which must be noticed by the court. Additional notice is not required if notice was provided

to the parties in writing by the court or is contained in prior court orders and those orders were provided to the participant or party. All foster or preadoptive parents must be provided at least 72 hours notice, verbally or in writing, of all proceedings or hearings relating to children in their care or children they are seeking to adopt to ensure the ability to provide input to the court. This subdivision shall not be construed to require that any foster parent, preadoptive parent, or relative caregiver be made a party to the proceedings solely on the basis of notice and a right to be heard.

(4) Service of Pleadings, Orders, and Papers. Unless the court orders otherwise, every pleading, order, and paper filed in the action after the initial petition, shall be served on each party or the party's attorney. Nothing herein shall be construed to require that a plea be in writing or that an application for witness subpoena be served.

(5) Method of Service. When service is required or permitted to be made upon a party or participant represented by an attorney, service shall be made upon the attorney unless service upon the party or participant is ordered by the court.

(A) Excusing of Service. Service is excused if the identity or residence of the party or participant is unknown and a diligent search for that person has been completed in accordance with law.

(B) Service by Electronic Mail ("e-mail"). Service of a document by e-mail is made by attaching a copy of the document in PDF format to an e-mail sent to all addresses designated by the attorney or party.

(i) Service on Attorneys. Upon appearing in a proceeding, an attorney must designate a primary e-mail address and may designate no more than two secondary e-mail addresses to which service must be directed in that proceeding. Every document filed by an attorney thereafter must include the primary e-mail address of that attorney and any secondary e-mail addresses. If an attorney does not designate any e-mail address for service, documents may be served on that attorney at the e-mail address on record with The Florida Bar.

(ii) Exception to E-mail Service on Attorneys. Service by an attorney on another attorney must be made by e-mail unless the parties stipulate otherwise. Upon motion by an attorney demonstrating that the attorney has no e-mail account and lacks access to the Internet at the attorney's office, the court may excuse the attorney from the requirements of e-mail service. Service on and by an attorney excused by the court from e-mail service must be by the means provided in subdivision (c)(6) of this rule.

(iii) Service on and by Parties Not Represented by an Attorney. Unless excused pursuant to subdivision (f)(5)(B)(iv), any party not represented by an attorney must serve a designation of a primary e-mail address and also may designate no more than two secondary e-mail addresses to which service must be directed in that proceeding.

(iv) Exceptions to E-mail Service on and by Parties Not Represented by an Attorney.

a. A party who is in custody and who is not represented by an attorney is excused from the requirements of e-mail service.
b. The clerk of court must excuse a party who is not represented by an attorney from the requirements of e-mail service if the party declares on Florida Rule of General Practice and Judicial Administration Form 2.601, under penalties of perjury, that the party does not have an e-mail account or does not have regular access to the Internet.

If a party not represented by an attorney is excused from e-mail service, service on and by that party must be by the means provided in subdivision (f)(6).

(v) Format of E-mail for Service. All documents served by e-mail must be attached to an e-mail message containing a subject line beginning with the words "SERVICE OF COURT DOCUMENT" in all capital letters, followed by the case number of the proceeding in which the documents are being served. The body of the e-mail must identify the court in which the proceeding is pending, the case number, the name of the initial party on each side, the title of each document served with that e-mail, and the sender's name and telephone number. Any e-mail which, together with its attachments, exceeds five megabytes (5MB) in size, must be divided and sent as separate e-mails, numbered in the subject line, no one of which

may exceed 5MB in size.

(vi) Time of Service. Service by e-mail is complete on the date sent and must be treated as service by mail for the computation of time. If the sender learns that the e-mail did not reach the address of the person to be served, the sender must immediately send another copy by e-mail or by a means authorized by subdivision (f)(6).

(6) Service by Other Means. In addition to, and not in lieu of, service by e-mail, service may also be made upon attorneys and parties not represented by an attorney by any of the means specified in this subdivision. If a document is served by more than one method of service, the computation of time for any response to the served document must be based on the method of service that provides the shortest response time. Service on and by all parties and participants who are not represented by an attorney and who are excused from e-mail service, and on and by all attorneys excused from e-mail service, must be made by delivering a copy of the document or by mailing it to the party or participant at their permanent mailing address if one has been provided to the court or to the party, participant, or attorney at their last known address or, if no address is known, by leaving it with the clerk of the court. Service by mail is complete upon mailing. Delivery of a copy within this rule is complete upon:

(A) handing it to the attorney or to the party or participant,

(B) leaving it at the attorney's, party's or participant's office with a clerk or other person in charge thereof,

(C) if there is no one in charge, leaving it in a conspicuous place therein,

(D) if the office is closed or the person to be served has no office, leaving it at the person's usual place of abode with some person of his or her family above 15 years of age and informing such person of the contents, or

(E) transmitting it by facsimile to the attorney's, party's, or participant's office with a cover sheet containing the sender's name, firm, address, telephone number, and facsimile number, and the number of pages transmitted. When service is made by facsimile, a copy must also be served by any other method permitted by this rule. Facsimile service occurs when transmission is complete.

(F) Service by delivery is deemed complete on the date of the delivery.

(7) Filing. All documents must be filed with the court either before service or immediately thereafter. If the original of any bond or other document is required to be an original and is not placed in the court file or deposited with the clerk, a certified copy must be so placed by the clerk.

(8) Filing Defined. The filing of documents with the court as required by these rules must be made by filing them with the clerk, except that the judge may permit documents to be filed with the judge, in which event the judge must note the filing date before him or her on the documents and transmit them to the clerk. The date of filing is that shown on the face of the document by the judge's notation or the clerk's time stamp, whichever is earlier.

(9) Certificate of Service. When any attorney certifies in substance:

"I certify that a copy hereof has been furnished to (here insert name or names and addresses used for service) by (e-mail) (delivery) (mail) (fax) on ..... (date) …...

_____
Attorney"

the certificate must be taken as prima facie proof of such service in compliance with this rule.

(10) Service by Clerk. Service of notices and other documents required to be made by the clerk must also be done as provided in subdivision (c).

(11) Service of Orders.

(A) A copy of all orders or judgments must be transmitted by the court or under its direction to all parties at the time of entry of the order or judgment. No service need be made on parties against whom a

default has been entered except orders setting an action for trial and final judgments that must be prepared and served as provided in subdivision (c)(11)(B). The court may require that orders or judgments be prepared by a party, may require the party to furnish the court with stamped addressed envelopes for service of the order or judgment, and may require that proposed orders and judgments be furnished to all parties before entry by the court of the order or judgment. The court may serve any order or judgment by e-mail to all attorneys and parties not represented by an attorney who have not been excused from e-mail service.

(B) When a final judgment is entered against a party in default, the court must mail a conformed copy of it to the party. The party in whose favor the judgment is entered must furnish the court with a copy of the judgment, unless it is prepared by the court and with the address of the party to be served. If the address is unknown, the copy need not be furnished.

(C) This subdivision is directory and a failure to comply with it does not affect the order or judgment or its finality or any proceedings arising in the action.

RULE 8.226 DETERMINATION OF PARENTHOOD

(a) In General. The court must determine the identity of all parents and prospective parents at the initial hearing in proceedings under chapter 39, Florida Statutes, as provided by law. Nothing in this rule prevents a parent or prospective parent from pursuing remedies under chapter 742, Florida Statutes. The court having jurisdiction over the dependency matter may conduct proceedings under chapter 742, Florida Statutes, either as part of the chapter 39, Florida Statutes, proceeding or in a separate action under chapter 742, Florida Statutes.

(b) Appearance of Prospective Parent.

(1) If a prospective parent appears in the chapter 39, Florida Statutes, proceeding, the court must advise the prospective parent of the right to become a parent in the proceeding by completing a sworn affidavit of parenthood and filing the affidavit with the court or the department. This subdivision does not apply if the court has identified both parents of the child as defined by law.

(2) If the prospective parent seeks to become a parent in the chapter 39, Florida Statutes, proceeding, the prospective parent must complete a sworn affidavit of parenthood and file the affidavit with the court or the department. If a party objects to the entry of the finding that the prospective parent is a parent in the proceeding, or if the court on its own motion requires further proceedings to determine parenthood, the court must not enter an order finding parenthood until proceedings under chapter 742, Florida Statutes, have been concluded. The prospective parent must continue to receive notice of hearings as a participant pending the proceedings under chapter 742, Florida Statutes. If no other party objects and the court does not require further proceedings to determine parenthood, the court must enter an order finding that the prospective parent is a parent in the proceeding.

(3) If the prospective parent is uncertain about parenthood and requests further proof of parenthood, or if there is more than one prospective parent for the same child, the juvenile court may conduct proceedings under chapter 742, Florida Statutes, to determine parenthood. At the conclusion of the chapter 742, Florida Statutes, proceedings, the court must enter an order determining parenthood.

(4) Provided that paternity has not otherwise been established by operation of law or court order, at any time prior to the court entering a finding that the prospective parent is the parent in the proceeding, the prospective parent may complete and file with the court or the department a sworn affidavit of nonpaternity declaring that the prospective parent is not the parent of the child and waiving all potential rights to the child and rights to further notices of hearing and court filings in the proceeding.

(5) If the court has identified both parents of a child as defined by law, the court must not recognize an alleged biological parent as a parent in the proceeding until a court enters an order pursuant to law establishing the alleged biological parent as a parent in the proceeding.

RULE 8.230. PLEADINGS TO BE SIGNED

(a) Pleading to Be Signed by Attorney. Every written document or pleading of a party represented by an attorney shall be signed in the attorney's individual name by such attorney, whose Florida Bar number, address, and telephone number, including area code, shall be stated and who shall be duly licensed to practice law in Florida. The attorney may be required by an order of court to vouch for the authority to represent such party and to give the address of such party. Except when otherwise specifically provided by these rules or applicable statute, pleadings as such need not be verified or accompanied by affidavit.

(b) Pleading to Be Signed by Unrepresented Party. A party who has no attorney but who represents himself or herself shall sign a written pleading or other document to be filed and state his or her address and telephone number, including area code.

(c) Effect of Signing Pleading. The signature of a person shall constitute a certificate that the document or pleading has been read; that to the best of the person's knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay. If a pleading or document is not signed, or is signed with intent to defeat the purpose of this rule, it may be stricken and the action may proceed as though the pleading or document had not been filed.

RULE 8.231. PROVIDING COUNSEL TO DEPENDENT CHILDREN WITH SPECIAL NEEDS WHO HAVE A STATUTORY RIGHT TO COUNSEL

(a) Applicability. This rule applies to children for whom the court must appoint counsel under section 39.01305, Florida Statutes. This rule does not affect the court's authority to appoint counsel for any other child.

(b) Duty of Court. The court must appoint an attorney to represent any child who has special needs as defined in section 39.01305, Florida Statutes, and who is subject to any proceeding under chapter 39, Florida Statutes.

(c) Duties of Attorney. The attorney must provide the child the complete range of legal services, from the removal from the home or from the initial appointment through all available appellate proceedings. With permission of the court, the attorney may arrange for supplemental or separate counsel to represent the child in appellate proceedings.

RULE 8.235. MOTIONS

(a) Motions in General. An application to the court for an order must be made by motion which must be in writing unless made during a hearing; must be signed by the party making the motion or by the party's attorney; must state with particularity the grounds therefor; and must set forth the relief or order sought. The requirement of writing is fulfilled if the motion is stated in a written notice of the hearing of the motion or in a written report to the court for a scheduled hearing provided the notice or report are served on the parties as required by law.

(b) Motion to Dismiss. Any party may file a motion to dismiss any petition, allegations in the petition, or other pleading, setting forth the grounds on which the motion is based. If a motion to dismiss the petition is granted when a child is being sheltered under an order, the child may be continued in shelter under previous order of the court upon the representation that a new or amended petition will be filed.

(c) Sworn Motion to Dismiss. Before the adjudicatory hearing the court may entertain a motion to dismiss the petition or allegations in the petition on the ground that there are no material disputed facts and the undisputed facts do not establish a prima facie case of dependency. The facts on which such motion is based must be specifically alleged and the motion sworn to by the party. The motion must be filed a reasonable time before the date of the adjudicatory hearing. The opposing parties may traverse or demur to this motion. Factual matters alleged in the motion must be deemed admitted unless specifically denied by an

opposing party in a written traverse or demurrer. The motion must be denied if an opposing party files a written traverse that with specificity denies under oath the material fact or facts alleged in the motion to dismiss. The traverse or demurrer must be filed a reasonable period of time before the hearing on the motion to dismiss.

(d) Motion to Sever. A motion may be made for a severance of 2 or more counts of a multi-count petition, or for the severance of the cases of 2 or more children alleged to be dependent in the same petition. The court may grant motions for severance of jointly-brought cases for good cause shown.

Committee Notes

1992 Amendment. This rule allows any party to move for dismissal based on the grounds that there are not material facts in dispute and that these facts are not legally sufficient to prove dependency.

RULE 8.240. COMPUTATION, CONTINUANCE, EXTENSION, AND ENLARGEMENT OF TIME

(a) Computation. Computation of time is governed by Florida Rule of General Practice and Judicial Administration 2.514, except for rules 8.300 and 8.305, to which rule 2.514(a)(2)(C) does not apply and the statutory time period governs.

(b) Enlargement of Time. When by these rules, by a notice given under them, or by order of court an act is required or allowed to be done at or within a specified time, the court for good cause shown, within the limits established by law, and subject to the provisions of subdivision (d) of this rule, may, at any time, in its discretion (1) with or without notice, order the period enlarged if a request is made before the expiration of the period originally prescribed or as extended by a previous order, or (2) on motion made and notice after the expiration of the specified period permit the act to be done when the failure to act was the result of excusable neglect. The court may not, except as provided by law or elsewhere in these rules, extend the time for making a motion for new trial, for rehearing, or vacation of judgment, or for taking an appeal. This rule does not apply to shelter hearings.

(c) Time for Service of Motions and Notice of Hearing. A copy of any written motion that may not be heard ex parte and a copy of the notice of hearing must be served a reasonable time before the time specified for the hearing.

(d) Continuances and Extensions of Time.

(1) A motion for continuance, extension, or waiver of the time standards provided by law and found in this rule must be in writing and signed by the requesting party. On a showing of good cause, the court must allow a motion for continuance or extension to be made more tenus at any time during the proceedings.

(2) A motion for continuance, extension, or waiver of the time standards provided by law must not be made in advance of the particular circumstance or need that would warrant delay of the proceedings.

(3) A motion for continuance, extension, or waiver of the time standards provided by law must state all of the facts that the movant contends entitle the movant to a continuance, extension, or waiver of time including:

(A) the task that must be completed by the movant to preserve the rights of a party or the best interests of the child who is the subject of the proceedings;

(B) the minimum number of days absolutely necessary to complete this task; and

(C) the total number of days the proceedings have been continued at the request of any party within any 12-month period.

(4) These time limitations do not include the following:

(A) Periods of delay resulting from a continuance granted at the request of the child's counsel or the child's guardian ad litem or, if the child is of sufficient capacity to express reasonable consent, at the request of or with the consent of the child.

(B) Periods of delay because of unavailability of evidence that is material to the case if the requesting party has exercised due diligence to obtain the evidence and there are substantial grounds to believe that the evidence will be available within 30 days. However, if the requesting party is not prepared to proceed within 30 days, any other party may move for issuance of an order to show cause or the court on its own motion may impose appropriate sanctions, which may include dismissal of the petition.

(C) Periods of delay to allow the requesting party additional time to prepare the case and additional time is justified because of an exceptional circumstance.

(D) Reasonable periods of delay necessary to accomplish notice of the hearing to the parent or legal custodian.

(5) Notwithstanding subdivision (4), proceedings may not be continued or extended for more than a total of 60 days within any 12-month period. A continuance or extension of time standards beyond 60 days in any 12-month period may be granted only on a finding by the court of extraordinary circumstances and that the continuance or extension of time standards is necessary to preserve the constitutional rights of a party or that there is substantial evidence demonstrating that the child's best interests will be affirmatively harmed without the granting of a continuance or extension of time.

RULE 8.245. DISCOVERY

(a) Scope of Discovery. Unless otherwise limited by the court in accordance with these rules, the scope of discovery is as follows:

(1) In General. Parties may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter of the pending action, whether it relates to the claim or defense of the party seeking discovery or the claim or defense of any other party, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible at the hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

(2) Claims of Privilege or Protection of Trial Preparation Materials. When a party withholds information otherwise discoverable under these rules by claiming that it is privileged or subject to protection as trial preparation material, the party shall make the claim expressly and describe the nature of the document, communications, or things not produced or disclosed in a manner that, without revealing information itself privileged or protected, will allow other parties to assess the applicability of the privilege or protection.

(b) Required Disclosure.

(1) At any time after the filing of a shelter petition, a petition alleging a child to be a dependent child, or a petition for termination of parental rights, on written demand of any party, the party to whom the demand is directed shall disclose and permit inspecting, copying, testing, or photographing matters material to the cause. If the child had no living parent with intact parental rights at the time the dependency allegations arose, then the person who was serving as the legal custodian of the child at that time is entitled to obtain discovery during the pendency of a shelter or dependency petition.

(2) The following information shall be disclosed by any party on demand:

(A) The names and addresses of all persons known to have information relevant to the proof or defense of the petition's allegations.

(B) The statement of any person furnished in compliance with the preceding paragraph. The term "statement" means a written statement made by this person and signed or otherwise adopted or approved by the person, or a stenographic, mechanical, electronic, or other recording, or a transcript of it, or that is a substantially verbatim recital of an oral statement made by this person to an officer or agent of the state and recorded contemporaneously with the making of the oral statement. The court may prohibit any party from

introducing in evidence the material not disclosed, to secure and maintain fairness in the just determination of the cause.

(C) Any written or recorded statement and the substance of any oral statement made by the demanding party or a person alleged to be involved in the same transaction. If the number of oral statements made to any person are so numerous that, as a practical matter, it would be impossible to list the substance of all the oral statements, then the party to whom the demand is directed will disclose that person's identity and the fact that this person has knowledge of numerous statements. This disclosure will allow the demanding party to depose that person.

(D) Tangible papers or objects belonging to the demanding party that are to be used at the adjudicatory hearing.

(E) Reports or statements of experts, including results of physical or mental examinations and of scientific tests, experiments, or comparisons.

(3) The disclosures required by subdivision (a) of this rule shall be made within 10 days from the receipt of the demand for them. Disclosure may be made by allowing the requesting party to review the files of the party from whom discovery is requested after redaction of nondiscoverable information.

(c) Limitations on Disclosure.

(1) On application, the court may deny or partially restrict disclosure authorized by this rule if it finds there is a substantial risk to any person of physical harm, intimidation, bribery, economic reprisals, or unnecessary annoyance or embarrassment resulting from the disclosure, that outweighs any usefulness of the disclosure to the party requesting it.

(2) Disclosure shall not be required of legal research or of records, correspondence, or memoranda, to the extent that they contain the opinion, theories, or conclusions of the parties' attorneys or members of their legal staff.

(d) Production of Documents and Things for Inspection and Other Purposes.

(1) Request; Scope. Any party may request any other party

(A) to produce and permit the party making the request, or someone acting on the requesting party's behalf, to inspect and copy any designated documents, including writings, drawings, graphs, charts, photographs, phono-records, and other data compilations from which information can be obtained, translated, if necessary, by the party to whom the request is directed through detection devices into reasonably usable form, that constitute or contain matters within the scope of subdivision (a) and that are in the possession, custody, or control of the party to whom the request is directed; and

(B) to inspect and copy, test, or sample any tangible things that constitute or contain matters within the scope of subdivision (a) and that are in the possession, custody, or control of the party to whom the request is directed.

(2) Procedure. Without leave of court the request may be served on the petitioner after commencement of proceedings and on any other party with or after service of the summons and initial petition on that party. The request shall set forth the items to be inspected, either by individual item or category, and describe each item and category with reasonable particularity. The request shall specify a reasonable time, place, and manner of making the inspection or performing the related acts. The party to whom the request is directed shall serve a written response within 15 days after service of the request, except that a respondent may serve a response within 30 days after service of the process and initial pleading on that respondent. The court may allow a shorter or longer time. For each item or category the response shall state that inspection and related activities will be permitted as requested unless the request is objected to, in which event the reasons for the objection shall be stated. If an objection is made to part of an item or category, the part shall be specified. When producing documents, the producing party shall either produce them as they are kept in the usual course of business or shall identify them to correspond with the categories in the request. The party submitting the request may move for an order under subdivision (k) concerning any objection, failure to respond to the request, or any part of it, or failure to permit inspection as requested.

(3) Persons Not Parties. This rule does not preclude an independent action against a person not a party for production of documents and things.

(4) Filing of Documents. Unless required by the court, a party shall not file any of the documents or things produced with the response. Documents or things may be filed when they should be considered by the court in determining a matter pending before the court.

(e) Production of Documents and Things Without Deposition.

(1) Request; Scope. A party may seek inspection and copying of any documents or things within the scope of subdivision (d)(1) from a person who is not a party by issuance of a subpoena directing the production of the documents or things when the requesting party does not seek to depose the custodian or other person in possession of the documents or things.

(2) Procedure. A party desiring production under this rule shall serve notice on every other party of the intent to serve a subpoena under this rule at least 5 days before the subpoena is issued if service is by delivery and 10 days before the subpoena is issued if service is by mail. The proposed subpoena shall be attached to the notice and shall state the time, place, and method for production of the documents or things, and the name and address of the person who is to produce the documents or things, if known, and if not known, a general description sufficient to identify the person or the particular class or group to which the person belongs; shall include a designation of the items to be produced; and shall state that the person who will be asked to produce the documents or things has the right to object to the production under this rule and that the person will not be required to surrender the documents or things. A copy of the notice and proposed subpoena shall not be furnished to the person on whom the subpoena is to be served. If any party serves an objection to production under this rule within 10 days of service of the notice, the documents or things shall not be produced under this rule and relief may be obtained under subdivision (g).

(3) Subpoena. If no objection is made by a party under subdivision (e)(2), an attorney of record in the action may issue a subpoena or the party desiring production shall deliver to the clerk for issuance a subpoena and a certificate of counsel or pro se party that no timely objection has been received from any party. The clerk shall issue the subpoena and deliver it to the party desiring production. The subpoena shall be identical to the copy attached to the notice, shall specify that no testimony may be taken, and shall require only production of the documents or things specified in it. The subpoena may give the recipient an option to deliver or mail legible copies of the documents or things to the party serving the subpoena. The person on whom the subpoena is served may condition the preparation of copies on the payment in advance of the reasonable costs of preparing the copies. The subpoena shall require production only in the county of the residence of the custodian or other person in possession of the documents or things or in the county where the documents or things are located or where the custodian or person in possession usually conducts business. If the person on whom the subpoena is served objects at any time before the production of the documents or things, the documents or things shall not be produced under this rule, and relief may be obtained under subdivision (g).

(4) Copies Furnished. If the subpoena is complied with by delivery or mailing of copies as provided in subdivision (e)(3), the party receiving the copies shall furnish a legible copy of each item furnished to any other party who requests it on the payment of the reasonable cost of preparing the copies.

(5) Independent Action. This rule does not affect the right of any party to bring an independent action for production of documents and things.

(f) Protective Orders. On motion by a party or by the person from whom discovery is sought, and for good cause shown, the court in which the action is pending may make any order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense that justice requires, including one or more of the following:

(1) that the discovery not be had;

(2) that the discovery may be had only on specified terms and conditions, including a designation of the time or place;

(3) that the discovery may be had only by a method of discovery other than that selected by the party seeking discovery;

(4) that certain matters not be inquired into, or that the scope of the discovery be limited to certain matters;

(5) that discovery be conducted with no one present except persons designated by the court;

(6) that a deposition after being sealed be opened only by order of the court;

(7) that confidential research or information not be disclosed or be disclosed only in a designated way; and

(8) that the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the court.

If the motion for a protective order is denied in whole or in part, the court may, on such terms and conditions as are just, order that any party or person provide or permit discovery.

(g) Depositions.

(1) Time and Place.

(A) At any time after the filing of the petition alleging a child to be dependent or a petition for termination of parental rights, any party may take the deposition on oral examination of any person who may have information relevant to the allegations of the petition.

(B) The deposition shall be taken in a building in which the adjudicatory hearing may be held, in another place agreed on by the parties, or where the trial court may designate by special or general order. A resident of the state may be required to attend an examination only in the county in which he or she resides, is employed, or regularly transacts business in person.

(2) Procedure.

(A) The party taking the deposition shall give written notice to each other party. The notice shall state the time and place the deposition is to be taken and the name of each person to be examined.

(B) Subpoenas for taking depositions shall be issued by the clerk of the court, the court, or any attorney of record for a party.

(C) After notice to the parties the court, for good cause shown, may extend or shorten the time and may change the place of taking.

(D) Except as otherwise provided by this rule, the procedure for taking the deposition, including the scope of the examination and obtaining protective orders, shall be the same as that provided by the Florida Rules of Civil Procedure.

(3) Use of Deposition. Any deposition taken under this rule may be used at any hearing covered by these rules by any party for the following purposes:

(A) For the purpose of impeaching the testimony of the deponent as a witness.

(B) For testimonial evidence, when the deponent, whether or not a party, is unavailable to testify because of one or more of the following reasons:

(i) He or she is dead.

(ii) He or she is at a greater distance than 100 miles from the place of hearing or is out of the state unless it appears that the absence of the witness was procured by the party offering the deposition.

(iii) The party offering the deposition has been unable to procure the attendance of the witness by subpoena.

(iv) He or she is unable to attend or testify because of age, illness, infirmity, or imprisonment.

(v) It has been shown on application and notice that such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally in open court, to allow the deposition to be used.

(vi) The witness is an expert or skilled witness.

(4) Use of Part of Deposition. If only part of a deposition is offered in evidence by a party, an adverse party may require the party to introduce any other part that in fairness ought to be considered with

the part introduced, and any party may introduce any other parts.

(5) Refusal to Obey Subpoena. A person who refuses to obey a subpoena served on the person for the taking of a deposition may be adjudged in contempt of the court from which the subpoena issued.

(6) Limitations on Use. Except as provided in subdivision (3), no deposition shall be used or read in evidence when the attendance of the witness can be procured. If it appears to the court that any person whose deposition has been taken has absented himself or herself by procurement, inducements, or threats by or on behalf of any party, the deposition shall not be read in evidence on behalf of that party.

(h) Perpetuating Testimony Before Action or Pending Appeal.

(1) Before Action.

(A) Petition. A person who desires to perpetuate the person's own testimony or that of another person regarding any matter that may be cognizable in any court of this state may file a verified petition in the circuit court in the county of the residence of any expected adverse party. The petition shall be titled in the name of the petitioner and shall show:

(i) that the petitioner expects to be a party to an action cognizable in a court of Florida, but is presently unable to bring it or cause it to be brought;

(ii) the subject matter of the expected action and the person's interest in it;

(iii) the facts that the person desires to establish by the proposed testimony and the reasons for desiring to perpetuate it;

(iv) the names or a description of the persons expected to be adverse parties and their names and addresses so far as known; and

(v) the names and addresses of the persons to be examined and the substance of the testimony expected to be elicited from each and asking for an order authorizing the petitioner to take the deposition of the persons to be examined named in the petition for the purpose of perpetuating their testimony.

(B) Notice and Service. The petitioner shall serve a notice on each person named in the petition as an expected adverse party, with a copy of the petition, stating that the petitioner will apply to the court at a time and place in the notice for an order described in the petition. At least 20 days before the date of the hearing, the notice shall be served either within or without the county in the manner provided by law for serving of summons. However, if service cannot with due diligence be made on any expected adverse party named in the petition, the court may order service by publication or otherwise and shall appoint an attorney for persons not served in the manner provided by law for service of summons. The attorney shall represent the adverse party and, if he or she is not otherwise represented, shall cross-examine the deponent.

(C) Order and Examination. If the court is satisfied that the perpetuation of the testimony may prevent a failure or delay of justice, it shall make an order designating or describing the persons whose depositions may be taken and specifying the subject matter of the examination and whether the deposition shall be taken on oral examination or written interrogatories. The deposition may then be taken in accordance with these rules and the court may make orders in accordance with the requirements of these rules. For the purpose of applying these rules to depositions for perpetuating testimony, each reference in them to the court in which the action is pending shall be deemed to refer to the court in which the petition for the deposition was filed.

(D) Use of Deposition. If a deposition to perpetuate testimony is taken under these rules, it may be used in any action involving the same subject matter subsequently brought in any court of Florida in accordance with the provisions of subdivision (g)(3).

(2) Pending Appeal. If an appeal has been taken from a judgment of any court or before the taking of an appeal if the time for it has not expired, the court in which the judgment was rendered may allow the taking of the depositions of witnesses to perpetuate their testimony for use in further proceedings in the court. In such case, the party who desires to perpetuate the testimony may move for leave to take the deposition on the same notice and service as if the action were pending in the court. The motion shall show the names and addresses of persons to be examined, the substance of the testimony expected to be elicited

from each, and the reasons for perpetuating the testimony. If the court finds that the perpetuation is proper to avoid a failure or delay in justice, it may make orders as provided for by this rule and the deposition may then be taken and used in the same manner and under the same conditions as are prescribed in these rules for depositions taken in actions pending in the court.

(3) Perpetuation Action. This rule does not limit the power of a court to entertain an action to perpetuate testimony.

(i) Rules Governing Depositions of Children Under 16.

(1) The taking of a deposition of a child witness or victim under the age of 16 may be limited or precluded by the court for good cause shown.

(2) The court after proper notice to all parties and an evidentiary hearing, based on good cause shown, may set conditions for the deposition of a child under the age of 16 including:

(A) designating the place of the deposition;

(B) designating the length of time of the deposition;

(C) permitting or prohibiting the attendance of any person at the deposition;

(D) requiring the submission of questions before the examination;

(E) choosing a skilled interviewer to pose the questions;

(F) limiting the number or scope of the questions to be asked; or

(G) imposing any other conditions the court feels are necessary for the protection of the child.

(3) Good cause is shown based on, but not limited to, one or more of the following considerations:

(A) The age of the child.

(B) The nature of the allegations.

(C) The relationship between the child victim and the alleged abuser.

(D) The child has undergone previous interviews for the purposes of criminal or civil proceedings that were recorded either by videotape or some other manner of recording and the requesting party has access to the recording.

(E) The examination would adversely affect the child.

(F) The manifest best interests of the child require the limitations or restrictions.

(4) The court, in its discretion, may order the consolidation of the taking of depositions of a child under the age of 16 when the child is the victim or witness in a pending proceeding arising from similar facts or circumstances.

(j) Supplemental Discovery. If, subsequent to compliance with these rules, a party discovers additional witnesses, evidence, or material that the party would have been under a duty to disclose or produce at the time of the previous compliance, the party shall promptly disclose or produce such witnesses, evidence, or material in the same manner as required under these rules for initial discovery.

(k) Sanctions.

(1) If at any time during the course of the proceedings, it is brought to the attention of the court that a party has failed to comply with an applicable discovery rule or with an order issued under an applicable discovery rule, the court may:

(A) order the party to comply with the discovery or inspection of materials not previously disclosed or produced;

(B) grant a continuance;

(C) order a new hearing;

(D) prohibit the party from calling a witness not disclosed or introducing in evidence the material not disclosed; or

(E) enter an order that it deems just under the circumstances.

(2) Willful violation by counsel of an applicable discovery rule or an order issued under it may subject counsel to appropriate sanction by the court.

RULE 8.250. EXAMINATIONS, EVALUATION, AND TREATMENT

(a) Child. Mental or physical examination of a child may be obtained as provided by law.

(b) Parent, Legal Custodian, or Other Person who has Custody or is Requesting Custody. At any time after the filing of a shelter, dependency, or termination of parental rights petition, or after an adjudication of dependency or a finding of dependency when adjudication is withheld, when the mental or physical condition, including the blood group, of a parent, legal custodian, or other person who has custody or is requesting custody of a child is in controversy, any party may request the court to order the person to submit to a physical or mental examination or a substance abuse evaluation or assessment by a qualified professional. The order may be made only on good cause shown and after notice to the person to be examined and to all parties and shall specify the time, place, manner, conditions, and scope of the examination and the person or persons by whom it is to be made. The person whose examination is sought may, after receiving notice of the request for an examination, request a hearing seeking to quash the request. The court may, on its own motion, order a parent, legal custodian, or other person who has custody or is requesting custody to undergo such evaluation, treatment, or counseling activities as authorized by law.

RULE 8.255. GENERAL PROVISIONS FOR HEARINGS

(a) Presence of Counsel. The department must be represented by an attorney at every stage of these proceedings.

(b) Presence of Child.

(1) The child has a right to be present at all hearings.

(2) If the child is present at the hearing, the court may excuse the child from any portion of the hearing when the court determines that it would not be in the child's best interest to remain.

(3) If a child is not present at a hearing, the court shall inquire and determine the reason for the absence of the child. The court shall determine whether it is in the best interest of the child to conduct the hearing without the presence of the child or to continue the hearing to provide the child an opportunity to be present at the hearing.

(4) Any party may file a motion to require or excuse the presence of the child.

(c) Separate Examinations. The child and the parents, caregivers, or legal custodians of the child may be examined separately and apart from each other.

(d) Examination of Child; Special Protections.

(1) Testimony by Child. A child may be called to testify in open court by any party to the proceeding or the court, and may be examined or cross-examined.

(2) In-Camera Examination.

(A) On motion and hearing, the child may be examined by the court outside the presence of other parties as provided by law. The court shall assure that proceedings are recorded, unless otherwise stipulated by the parties.

(B) The motion may be filed by any party or the trial court on its own motion.

(C) The court shall make specific written findings of fact, on the record, as to the basis for its ruling. These findings may include but are not limited to:

(i) the age of the child;

(ii) the nature of the allegation;

(iii) the relationship between the child and the alleged abuser;

(iv) the likelihood that the child would suffer emotional or mental harm if required to testify in open court;

(v) whether the child's testimony is more likely to be truthful if given outside the presence of other parties;

(vi) whether cross-examination would adversely affect the child; and

(vii) the manifest best interest of the child.

(D) The child may be called to testify by means of closed-circuit television or by videotaping as provided by law.

(e) Conducting Hearings. Except as otherwise provided in these rules, proceedings must be conducted as follows.

(1) Evidentiary proceedings must be conducted in person unless the parties agree that a proceeding should be conducted remotely or conducted in a hybrid format, or the court orders it upon good cause shown.

(2) All other proceedings may be conducted remotely or in a hybrid format upon agreement of the parties or by court order unless good cause is otherwise shown.

(3) The court may consider the following factors in determining whether good cause exists: the consent of the parties, the time-sensitivity of the matter, the nature of the relief sought, the resources of the parties and the court, the anticipated duration of the testimony, the need and ability to review and identify documents during testimony, the probative value of the testimony, the geographic location of the witnesses, the cost and inconvenience in requiring the physical presence of the witnesses, the need for confrontation of the witnesses, the need to observe the demeanor of the witnesses, the potential for unfair surprise, and any other matter relevant to the request.

(4) A party who participates in a hearing conducted remotely or conducted in a hybrid format must be given the opportunity to privately and confidentially communicate with counsel during the proceedings.

(f) Taking Testimony.

(1) *Testimony at a Hearing or Trial*. When testifying at a hearing or trial, a witness must be physically present unless otherwise provided by law or these rules. This rule shall not apply to statutory requirements for parents to personally appear at arraignment hearings, advisory hearings, and adjudicatory hearings.

(2) *Communication Technology*. The court may permit a witness to testify at a hearing or trial by communication technology:

(A) when the proceeding is conducted remotely or conducted in a hybrid fashion as permitted by this rule;

(B) by agreement of the parties; or

(C) for good cause shown upon written or oral request of a party. The request must contain an estimate of the length of the proposed testimony. In considering sufficient good cause, the court may weigh and address in its order or its ruling on the record the reasons stated for testimony by communication technology against the potential for prejudice to the objecting party.

(3) *Oath*. Testimony may be taken through audio communication technology only if a notary public or other person authorized to administer oaths in the witness's jurisdiction is physically present with the witness and administers the oath consistent with the laws of the jurisdiction. If testimony is provided at the hearing via audio-video communication technology, the witness may also be sworn remotely using such audio-video communication technology by a person who is qualified and administers the oath consistent with the laws of the witness's jurisdiction or Florida. The oath procedures of this subdivision are not required for hearings where, by law, the court may consider any evidence to the extent of its probative value even though not competent in an adjudicatory hearing and where the parties and the court agree to waive these oath procedures.

(g) Invoking the Rule. Before the examination of any witness the court may, and on the request of any party must, exclude all other witnesses. The court may cause witnesses to be kept separate and to be prevented from communicating with each other until all are examined.

(h) Continuances. As permitted by law, the court may grant a continuance before or during a hearing for good cause shown by any party.

(i) Record. A record of the testimony in all hearings must be made by an official court reporter, a court-approved stenographer, or a recording device. The records of testimony must be preserved as required by law. Official records of testimony must be transcribed only on order of the court.

(j) Notice. When these rules do not require a specific notice, all parties will be given reasonable notice of any hearing.

(k) Written Notice. The court must provide written notice of the right to participate in a private adoption plan, pursuant to chapter 63, Florida Statutes, when requited by law.

RULE 8.257. GENERAL MAGISTRATES

(a) Appointment. Judges of the circuit court may appoint as many general magistrates from among the members of The Florida Bar in the circuit as the judges find necessary, and the general magistrates shall continue in office until removed by the court. The order of appointment must be recorded. Every person appointed as a general magistrate must take the oath required of officers by the Constitution and the oath must be recorded before the magistrate discharges any duties of that office.

(b) Referral.

(1) Consent. No matter shall be heard by a general magistrate without an appropriate order of referral and the consent to the referral of all parties. Consent, as defined in this rule, to a specific referral, once given, cannot be withdrawn without good cause shown before the hearing on the merits of the matter referred. Consent may be express or implied in accordance with the requirements of this rule.

(2) Objection. A written objection to the referral to a general magistrate must be filed within 10 days of the service of the order of referral. If the time set for the hearing is less than 10 days after service of the order of referral, the objection must be filed before commencement of the hearing. Failure to file a written objection within the applicable time period is deemed to be consent to the order of referral.

(3) Order.

(A) The order of referral shall contain the following language in bold type:

A REFERRAL TO A GENERAL MAGISTRATE REQUIRES THE CONSENT OF ALL PARTIES. YOU ARE ENTITLED TO HAVE THIS MATTER HEARD BEFORE A JUDGE. IF YOU DO NOT WANT TO HAVE THIS MATTER HEARD BEFORE THE GENERAL MAGISTRATE, YOU MUST FILE A WRITTEN OBJECTION TO THE REFERRAL WITHIN 10 DAYS OF THE TIME OF SERVICE OF THIS ORDER. IF THE TIME SET FOR THE HEARING IS LESS THAN 10 DAYS AFTER THE SERVICE OF THIS ORDER, THE OBJECTION MUST BE MADE BEFORE THE HEARING. FAILURE TO FILE A WRITTEN OBJECTION WITHIN THE APPLICABLE TIME PERIOD IS DEEMED TO BE A CONSENT TO THE REFERRAL. REVIEW OF THE REPORT AND RECOMMENDATIONS MADE BY THE GENERAL MAGISTRATE SHALL BE BY EXCEPTIONS AS PROVIDED IN FLORIDA RULE OF JUVENILE PROCEDURE 8.257(f). A RECORD, WHICH INCLUDES A TRANSCRIPT OF PROCEEDINGS, ELECTRONIC RECORDING OF PROCEEDINGS, OR STIPULATION BY THE PARTIES OF THE EVIDENCE CONSIDERED BY THE GENERAL MAGISTRATE AT THE PROCEEDINGS, WILL BE REQUIRED TO SUPPORT THE EXCEPTIONS.

(B) The order of referral must state with specificity the matter or matters being referred. The order of referral must also state whether electronic recording or a court reporter is provided by the court.

(4) Setting Hearing. When a referral is made to a general magistrate, any party or the general magistrate may set the action for hearing.

(c) General Powers and Duties. Every general magistrate must perform all of the duties that pertain to the office according to the practice in chancery and rules of court and under the direction of the court. A general magistrate shall be empowered to administer oaths and conduct hearings, which may include the taking of evidence. All grounds for disqualification of a judge shall apply to general magistrates.

(d) Hearings.

(1) The general magistrate must assign a time and place for proceedings as soon as reasonably possible after the referral is made and give notice to each of the parties either directly or by directing counsel to file and serve a notice of hearing. If any party fails to appear, the general magistrate may proceed ex parte or may adjourn the proceeding to a future day, giving notice of the adjournment to the absent party. The general magistrate must proceed with reasonable diligence in every referral and with the least delay practicable. Any party may apply to the court for an order to the general magistrate to speed the proceedings and to make the report and to certify to the court the reason for any delay.

(2) The general magistrate must take testimony and establish a record which may be by electronic means as provided by Florida Rule of General Practice and Judicial Administration 2.535(g)(3) or by a court reporter. The parties may not waive this requirement.

(3) The general magistrate shall have authority to examine under oath the parties and all witnesses on all matters contained in the referral, to require production of all books, papers, writings, vouchers, and other documents applicable to it, and to examine on oath orally all witnesses produced by the parties. The general magistrate may take all actions concerning evidence that can be taken by the circuit court and in the same manner. The general magistrate shall have the same powers as a circuit judge to use communication technology as defined and regulated by Florida Rules of Juvenile Procedure 8.001 and 8.002.

(4) The notice or order setting a matter for hearing must state whether electronic recording or a court reporter is provided by the court. If the court provides electronic recording, the notice must also state that any party may provide a court reporter at that party's expense, subject to the court's approval.

(e) Report.

(1) The general magistrate must file a report that includes findings of fact, conclusions of law, and recommendations and serve copies on all parties. If a court reporter was present, the report must contain the name and address of the reporter.

(2) The report and recommendations must contain the following language in bold type:

SHOULD YOU WISH TO SEEK REVIEW OF THE REPORT AND RECOMMENDATIONS MADE BY THE GENERAL MAGISTRATE, YOU MUST FILE EXCEPTIONS WITHIN 10 DAYS OF SERVICE OF THE REPORT AND RECOMMENDATIONS IN ACCORDANCE WITH FLORIDA RULE OF JUVENILE PROCEDURE 8.257(f). YOU WILL BE REQUIRED TO PROVIDE THE COURT WITH A RECORD SUFFICIENT TO SUPPORT YOUR EXCEPTIONS WITHIN 10 DAYS OF SERVICE OF THE REPORT AND RECOMMENDATIONS OR YOUR EXCEPTIONS WILL BE DENIED. A RECORD ORDINARILY INCLUDES A TRANSCRIPT OF PROCEEDINGS, STIPULATION BY THE PARTIES OF THE EVIDENCE CONSIDERED BY THE GENERAL MAGISTRATE AT THE PROCEEDINGS. THE PERSON SEEKING REVIEW MUST HAVE THE TRANSCRIPT PREPARED FOR THE COURT'S REVIEW.

(f) Exceptions. The parties may file exceptions to the report within 10 days from the time it is served on them. Any party may file cross-exceptions within 5 days from the service of the exceptions. However, the filing of cross-exceptions must not delay the hearing on the exceptions unless good cause is shown. If no exceptions are filed within that period, the court must take appropriate action on the report. If exceptions are filed, they must be heard on reasonable notice by either party or the court.

(g) Record.

(1) For the purpose of the hearing on exceptions, a record, substantially in conformity with this rule, must be provided to the court by the party seeking review. The record shall consist of:

(A) the court file;

(B) all depositions and evidence presented to the general magistrate; and

(C) the transcript of the proceedings, electronic recording of the proceedings, or stipulation by the parties of the evidence considered by the general magistrate at the proceedings.

(2) The transcript of the proceedings, electronic recording of the proceedings, or stipulation by the

parties of the evidence considered by the general magistrate at the proceedings, if any, must be delivered to the judge and provided to all other parties not less than 48 hours before the hearing on exceptions.

(3) If less than a full transcript or electronic recording of the proceedings taken before the general magistrate is ordered prepared by the excepting party, that party must promptly file a notice setting forth the portions of the transcript or electronic recording that have been ordered. The responding party must be permitted to designate any additional portions of the transcript or electronic recording necessary to the adjudication of the issues raised in the exceptions or cross-exceptions.

(4) The cost of the original and all copies of the transcript or electronic recording of the proceedings shall be borne initially by the party seeking review. Should any portion of the transcript or electronic recording be required as a result of a designation filed by the responding party, the party making the designation shall bear the initial cost of the additional transcript or electronic recording.

(h) Prohibition on Magistrate Presiding over Certain Hearings. Notwithstanding the provisions of this rule, a general magistrate must not preside over a shelter hearing under section 39.402, Florida Statutes, an adjudicatory hearing under section 39.507, Florida Statutes, or an adjudicatory hearing under section 39.809, Florida Statutes.

RULE 8.260. ORDERS

(a) General Requirements. All orders of the court must be reduced to writing as soon as possible after they are entered, consistent with orderly procedure, and contain specific findings of fact and conclusions of law signed by the judge as provided by law.

(b) Transmittal to Parties. A copy of all orders must be transmitted to all parties either by the court or under its direction, at the time of the rendition of the order.

(c) Other Options. The court may require:

(1) orders be prepared by a party;

(2) the party serve the order; and

(3) on a case-by-case basis, that proposed orders be furnished to all parties before entry of the order by the court.

(d) Precedence of Orders. Dependency orders must be filed in any dissolution or other custody action or proceeding involving the same child or children. These orders take precedence over other orders affecting the placement of, access to, parental time with, adoption of, or parental rights and responsibilities for the same minor child or children, unless the jurisdiction of the dependency court has been terminated. These orders may be filed under seal and need not be open to inspection by the public.

RULE 8.265. MOTION FOR REHEARING

(a) Basis. After the court has entered an order, any party may move for rehearing upon one or more of the following grounds:

(1) the court erred in the decision of any matter of law arising during the hearing;

(2) a party did not receive a fair and impartial hearing;

(3) any party required to be present at the hearing was not present;

(4) there exists new and material evidence, which, if introduced at the hearing, would probably have changed the court's decision and could not, with reasonable diligence, have been discovered before and produced at the hearing;

(5) the court is without jurisdiction of the proceeding; or

(6) the judgment is contrary to the law and evidence.

(b) Time and Method.

(1) A motion for rehearing may be made and ruled upon immediately after the court announces its

judgment but must be made within 10 days of the rendition of the order.

(2) If the motion is made in writing, it shall be served as provided in these rules for service of other pleadings.

(3) A motion for rehearing shall not toll the time for the taking of an appeal. The court shall rule on the motion for rehearing within 10 days of filing or it is deemed denied.

(c) Court Action.

(1) A rehearing may be granted to all or any of the parties on all or any part of the issues. All orders granting a rehearing must state the specific issues to be reheard and provide for a date and time for the rehearing.

(2) If the motion for rehearing is granted, the court may vacate or modify the order or any part of it and allow additional proceedings as it deems just. It may enter a new judgment, and may order or continue the child in a shelter or out-of-home placement pending further proceedings.

(3) The court on its own initiative may vacate or modify any order within the time limitation provided in subdivision (b).

RULE 8.270. RELIEF FROM JUDGMENTS OR ORDERS

(a) Clerical Mistakes. Clerical mistakes in judgments, orders, or other parts of the record and errors therein arising from oversight or omission may be corrected by the court at any time on its own initiative or on motion of any party, after such notice, if any, as the court orders. During the pendency of an appeal such mistakes may be so corrected before the record on appeal is docketed in the appellate court and thereafter while the appeal is pending may be so corrected with leave of the appellate court.

(b) Extraordinary Relief. On motion and upon such terms as are just, the court may relieve a party or the party's legal representative from an order, judgment, or proceeding for the following reasons:

(1) Mistake, inadvertence, surprise, or excusable neglect.

(2) Newly discovered evidence which by due diligence could not have been discovered in time to move for rehearing.

(3) Fraud (intrinsic or extrinsic), misrepresentation, or other misconduct of any other party.

(4) That the order or judgment or any part thereof is void.

The motion shall be made within a reasonable time, and for reasons (1), (2), and (3) not more than 1 year after the judgment, order, or proceeding was taken.

(c) Limitation. After the court loses jurisdiction of the cause, as provided by law, a motion for relief of judgment or order under subdivision (b) shall not be heard.

RULE 8.276. APPEAL PROCEDURES

Florida Rule of Appellate Procedure 9.146 generally governs appeals in juvenile dependency and termination of parental rights cases.

RULE 8.285. CRIMINAL CONTEMPT

(a) Direct Contempt. A contempt may be punished summarily if the court saw or heard the conduct constituting the contempt committed in the presence of the court. The judgment of guilt of contempt must include a recital of those facts upon which the adjudication of guilt is based. Prior to the adjudication of guilt the court must inform the person accused of the accusation and inquire as to whether there is any cause to show why he or she should not be adjudged guilty of contempt by the court and sentenced. The accused must be given the opportunity to present evidence of excusing or mitigating circumstances. The judgment must be signed by the court and entered of record. Sentence must be pronounced in open court.

(b) Indirect Contempt. An indirect contempt must be prosecuted in the following manner:

(1) Order to Show Cause. The court on its own motion or upon affidavit of any person having knowledge of the facts may issue and sign an order directed to the one accused of contempt, stating the essential facts constituting the contempt charged and requiring the accused to appear before the court to show cause why he or she should not be held in contempt of court. The order must specify the time and place of the hearing, with a reasonable time allowed for the preparation of a defense after service of the order on the one accused. It must be served in the same manner as a summons. Nothing herein shall be construed to prevent the one accused of contempt from waiving the service of process.

(2) Motions; Answer. The accused, personally or by counsel, may move to dismiss the order to show cause, move for a statement of particulars, or answer such order by way of explanation or defense. All motions and the answer must be in writing unless specified otherwise by the court. The accused's omission to file a motion or answer will not be deemed an admission of guilt of the contempt charged.

(3) Order of Arrest; Bail. The court may issue an order of arrest of the one accused of contempt if the court has reason to believe the accused will not appear in response to the order to show cause. The accused is entitled to bail in the manner provided by law in criminal cases.

(4) Arraignment; Hearing. The accused may be arraigned at the hearing, or prior thereto upon request. A hearing to determine the guilt or innocence of the accused must follow a plea of not guilty. The court may conduct a hearing without assistance of counsel or may be assisted by the state attorney or by an attorney appointed for the purpose. The accused is entitled to be represented by counsel, have compulsory process for the attendance of witnesses, and may testify in his or her own defense. All issues of law and fact must be determined by the court.

(5) Disqualification of the Judge. If the contempt charged involves disrespect to or criticism of a judge, the judge must be disqualified by the chief judge of the circuit.

(6) Verdict; Judgment. At the conclusion of the hearing the court must sign and enter of record a judgment of guilty or not guilty. There should be included in a judgment of guilty a recital of the facts constituting the contempt of which the accused has been found and adjudicated guilty.

(7) Sentence. Prior to the pronouncement of sentence the court must inform the accused of the accusation and judgment against him or her and inquire as to whether there is any cause to show why sentence should not be pronounced. The accused must be afforded the opportunity to present evidence of mitigating circumstances. The sentence must be pronounced in open court and in the presence of the one found guilty of contempt.

RULE 8.286. CIVIL CONTEMPT

(a) Applicability. This rule governs indirect civil contempt proceedings in matters related to juvenile dependency. The use of civil contempt sanctions under this rule must be limited to those used to compel compliance with a court order or to compensate a movant for losses sustained as a result of a contemnor's willful failure to comply with a court order. Contempt sanctions intended to punish an offender or to vindicate the authority of the court are criminal in nature and are governed by rule 8.285.

(b) Motion and Notice. Civil contempt may be initiated by motion. The motion must recite the essential facts constituting the acts alleged to be contemptuous. No civil contempt may be imposed without notice to the alleged contemnor and without providing the alleged contemnor with an opportunity to be heard. The civil contempt motion and notice of hearing may be served by mail provided notice by mail is reasonably calculated to apprise the alleged contemnor of the pendency of the proceedings. The notice must specify the time and place of the hearing and must contain the following language: "FAILURE TO APPEARAT THE HEARING MAY RESULT IN THE COURT ISSUING A WRIT OF BODILY ATTACHMENT FOR YOUR ARREST. IF YOU ARE ARRESTED, YOU MAY BE HELD IN JAIL UP TO 48 HOURS BEFORE A HEARING IS HELD."

(c) Hearing. In any civil contempt hearing, after the court makes an express finding that the alleged contemnor had notice of the motion and hearing:

(1) The court must determine whether the movant has established that a prior order was entered and that the alleged contemnor has failed to comply with all or part of the prior order.

(2) If the court finds the movant has established all of the requirements in subdivision (c)(1) of this rule, the court must:

(A) if the alleged contemnor is present, determine whether the alleged contemnor had the present ability to comply with the prior court order; or

(B) if the alleged contemnor fails to appear, set a reasonable purge based on the circumstances of the parties. The court may issue a writ of bodily attachment and direct that, upon execution of the writ of bodily attachment, the alleged contemnor be brought before the court within 48 hours for a hearing on whether the alleged contemnor has the present ability to comply with the prior court order and, if so, whether the failure to comply is willful.

(d) Order and Sanctions. After hearing the testimony and evidence presented, the court must enter a written order granting or denying the motion for contempt.

(1) An order finding the alleged contemnor to be in contempt must contain a finding that a prior order was entered, that the alleged contemnor has failed to comply with the prior court order, that the alleged contemnor had the present ability to comply, and that the alleged contemnor willfully failed to comply with the prior court order. The order must contain a recital of the facts on which these findings are based.

(2) If the court grants the motion for contempt, the court may impose appropriate sanctions to obtain compliance with the order including incarceration, attorneys' fees and costs, compensatory or coercive fines, and any other coercive sanction or relief permitted by law provided the order includes a purge provision as set forth in subdivision (e) of this rule.

(e) Purge. If the court orders incarceration, a coercive fine, or any other coercive sanction for failure to comply with a prior order, the court must set conditions for purge of the contempt, based on the contemnor's present ability to comply. The court must include in its order a separate affirmative finding that the contemnor has the present ability to comply with the purge and the factual basis for that finding. The court may grant the contemnor a reasonable time to comply with the purge conditions. If the court orders incarceration but defers incarceration for more than 48 hours to allow the contemnor a reasonable time to comply with the purge conditions, and the contemnor fails to comply within the time provided, the movant must file an affidavit of noncompliance with the court. The court then may issue a writ of bodily attachment. Upon incarceration, the contemnor must be brought before the court within 48 hours for a determination of whether the contemnor continues to have the present ability to comply with the purge.

(f) Review after Incarceration. Notwithstanding the provisions of this rule, at any time after a contemnor is incarcerated, the court on its own motion or motion of any party may review the contemnor's present ability to comply with the purge and the duration of incarceration and modify any prior orders.

(g) Other Relief. When there is a failure to comply with a court order but the failure is not willful, nothing in this rule shall be construed as precluding the court from granting such relief as may be appropriate under the circumstances.

RULE 8.290. DEPENDENCY MEDIATION

(a) Definitions. The following definitions apply to this rule:

(1) "Dependency matters" means proceedings arising under chapter 39, Florida Statutes.

(2) "Dependency mediation" means mediation of dependency matters.

(3) "Mediation" means a process whereby a neutral third person called a mediator acts to encourage and facilitate the resolution of a dispute between two or more parties. It is an informal and nonadversarial

process with the objective of helping the disputing parties reach a mutually acceptable and voluntary agreement. In mediation, decision-making authority rests with the parties. The role of the mediator includes, but is not limited to, assisting the parties in identifying issues, fostering joint problem-solving, and exploring settlement alternatives.

(b) Applicability. This rule applies only to mediation of dependency matters.

(c) Compliance with Statutory Time Requirements. Dependency mediation must be conducted in compliance with the statutory time requirements for dependency matters.

(d) Referral. Except as provided by this rule, all matters and issues described in subdivision (a)(1) may be referred to mediation. All referrals to mediation must be in written form, advise the parties of their right to counsel, set a date for hearing before the court to review the progress of the mediation, and may provide that mediation be conducted in person, by communication technology, or by a combination thereof. Absent direction in the referral, mediation must be conducted in person, unless the parties stipulate or the court, on its own motion or on motion by a party, otherwise orders that the proceeding be conducted by communication technology or by a combination of communication technology and in-person participation. The mediator or mediation program must be appointed by the court or stipulated to by the parties. If the court refers the matter to mediation, the mediation order must address all applicable provisions of this rule. The mediation order must be served on all parties and on counsel under the provisions of these rules.

(e) Appointment of the Mediator.

(1) Court Appointment. The court, in the order of referral to mediation, must appoint a certified dependency mediator selected by rotation or by such other procedures as may be adopted by administrative order of the chief judge in the circuit in which the action is pending.

(2) Party Stipulation. Within 10 days of the filing of the order of referral to mediation, the parties may agree upon a stipulation with the court designating:

(A) another certified dependency mediator, other than a senior judge presiding over civil cases as a judge in that circuit, to replace the one selected by the judge; or

(B) a mediator, other than a senior judge, who is not certified as a mediator but who, in the opinion of the parties and upon review by the presiding judge, is otherwise qualified by training or experience to mediate all or some of the issues in the particular case.

(f) Fees. Dependency mediation referrals may be made to a mediator or mediation program that charges a fee. Any order of referral to a mediator or mediation program charging a fee must advise the parties that they may timely object to mediation on grounds of financial hardship. On the objection of a party or the court's own motion, the court may, after considering the objecting party's ability to pay and any other pertinent information, reduce or eliminate the fee.

(g) Objection to Mediation. Within 10 days of the filing of the order of referral to mediation, any party or participant ordered to mediation may make a written objection to the court about the order of referral if good cause for such objection exists. If a party objects, mediation must not be conducted until the court rules on the objection.

(h) Scheduling. The mediation conference may be held at any stage of the proceedings. Unless otherwise scheduled by the court, the mediator or the mediation program must schedule the mediation conference.

(i) Disqualification of the Mediator. Any party may move to enter an order disqualifying a mediator for good cause. If the court rules that a mediator is disqualified from mediating a case, an order must be entered with the name of a qualified replacement. Nothing in this provision precludes mediators from disqualifying themselves or refusing any assignment.

(j) Substitute Mediator. If a mediator agreed upon by the parties or appointed by a court cannot serve, a substitute mediator can be agreed upon or appointed in the same manner as the original mediator. A mediator must not mediate a case assigned to another mediator without the agreement of the parties or approval of the court. A substitute mediator must have the same qualifications as the original mediator.

(k) Discovery. Unless stipulated by the parties or ordered by the court, the mediation process must not suspend discovery.

(l) Appearances.

(1) Order Naming or Prohibiting Attendance of Parties. The court must enter an order naming the parties and the participants who must appear at the mediation and any parties or participants who are prohibited from appearing at the mediation. Additional participants may be included by court order or by mutual agreement of all parties. The order may provide for mediation to be conducted in person, by communication technology, or a combination thereof.

(2) Presence of Adult Parties and Participants. Unless otherwise agreed to by the parties or ordered by the court, any party or participant ordered to mediation must be present at the mediation conference either in person or, if permitted by court order or written stipulation of the parties, via communication technology. Persons representing an agency, department, or program must have full authority to enter into an agreement that is binding on that agency, department, or program. In the discretion of the mediator, and with the agreement of the attending parties, dependency mediation may proceed in the absence of any party or participant ordered to mediation.

(3) Appearance of Counsel. In the discretion of the mediator, and with the agreement of the attending parties, dependency mediation may proceed in the absence of counsel unless otherwise ordered by the court.

(4) Appearance of Child. The court may prohibit the child from appearing at mediation upon determining that such appearance is not in the best interest of the child. No minor child is required to appear at mediation unless the court has previously determined by written order that it is in the child's best interest to be physically present. The court must specify in the written order of referral to mediation any special protections necessary for the child's appearance.

(5) Sanctions for Failure to Appear. If a party or participant ordered to mediation fails to appear at a duly-noticed mediation conference without good cause, the court, on motion of any party or on its own motion, may impose sanctions. Sanctions against the party or participant failing to appear may include one or more of the following: contempt of court, an award of mediator fees, an award of attorney fees, an award of costs, or other remedies as deemed appropriate by the court.

(m) Caucus with Parties and Participants. During the mediation session, the mediator may meet and consult privately with any party, participant or counsel.

(n) Continuances. The mediator may end the mediation session at any time and may set new times for reconvening the mediation. No further notification is required for parties or participants present at the mediation session.

(o) Report on Mediation.

(1) If agreement is reached on all or part of any matter or issue, including legal or factual issues to be determined by the court, the agreement must be immediately reduced to writing, signed by the attending parties, and promptly submitted to the court by the mediator with copies to all parties and counsel. Signatures may be original, electronic, or facsimile, and may be in counterparts.

(2) If the parties do not reach an agreement as to any matter as a result of mediation, the mediator must report the lack of an agreement to the court without comment or recommendation.

(p) Court Hearing and Order On Mediated Agreement. On receipt of a full or partial mediation agreement, the court must hold a hearing and enter an order accepting or rejecting the agreement consistent with the best interest of the child. The court may modify the terms of the agreement with the consent of all parties to the agreement.

(q) Imposition of Sanctions On Breach of Agreement. In the event of any breach or failure to perform under the court-approved agreement, the court, on a motion of any party or on its own motion, may impose sanctions. The sanctions may include contempt of court, vacating the agreement, imposition of costs and attorney fees, or any other remedy deemed appropriate by the court.

RULE 8.292. APPOINTMENT AND DISCHARGE OF SURROGATE PARENT

(a) Appointment. Unless appointed by the district school superintendent, the court must appoint a surrogate parent for a child known to the department who has or is suspected of having a disability when

(1) after reasonable efforts, no parent can be located; or

(2) a court of competent jurisdiction over a child under chapter 39, Florida Statutes, has determined that no person has the authority under the Individuals with Disabilities Education Act, including the parent or parents subject to the dependency action, or no person has the authority, willingness, or ability to serve as the educational decision maker for the child without judicial action.

(b) Who May Be Appointed. The surrogate parent must meet the minimum criteria established by law.

(c) Recognition of Surrogate Parent. The dependency court and school district must recognize the initial individual appointed as surrogate parent.

(d) Duties and Responsibilities. The surrogate parent must be acquainted with the child and become knowledgeable about the child's disability and education needs and

(1) must represent the child in all matters relating to identification, evaluation, and educational placement and the provision of a free and appropriate education to the child;

(2) must represent the interests and safeguard the rights of the child in educational decisions that affect the child, and enjoy all the procedural safeguards afforded a parent regarding the identification, evaluation, and educational placement of a student with a disability or a student who is suspected of having a disability; and

(3) does not have the authority to represent the interests of the child regarding the child's care, maintenance, custody, residential placement, or any other area not specifically related to the education of the child, unless the same person is appointed by the court for those purposes.

(e) Notice of Appointment. When the court appoints a surrogate parent, notice must be provided as soon as practicable to the child's school.

(f) Substitution or Discharge. The court may, through a determination of the best interest of the child or as otherwise established by law, find that it is appropriate to substitute or discharge the surrogate parent. The surrogate parent must continue in the appointed role until discharged.

B. TAKING CHILDREN INTO CUSTODY AND SHELTER HEARINGS

RULE 8.300. TAKING INTO CUSTODY

(a) Affidavit. An affidavit or verified petition may be filed alleging facts under existing law sufficient to establish grounds to take a child into custody. The affidavit or verified petition shall:

(1) be in writing and signed;

(2) specify the name, address, date of birth, and sex of the child, or, if unknown, designate the child by any name or description by which he or she can be identified with reasonable certainty;

(3) specify that the child is of an age subject to the jurisdiction of the court; and

(4) state the reasons the child should be taken into custody.

(b) Criteria for Order. The court may issue an order to take a child into custody based on sworn testimony meeting the criteria in subdivision (a).

(c) Order. The order to take into custody shall:

(1) be in writing and signed;

(2) specify the name, address, and sex of the child or, if unknown, designate the child by any name or description by which he or she can be identified with reasonable certainty;

(3) specify that the child is of an age subject to the jurisdiction of the court;

(4) state the reasons the child should be taken into custody;

(5) order that the child be held in a suitable place pending transfer of physical custody to an authorized agent of the department; and

(6) state the date when issued, and the county and court where issued.

RULE 8.305. SHELTER PETITION, HEARING, AND ORDER

(a) Shelter Petition. If a child has been or is to be removed from the home and maintained in an out-of-home placement for more than 24 hours, the person requesting placement shall file a written petition that shall:

(1) specify the name, address, date of birth, and sex of the child or, if unknown, designate the child by any name or description by which he or she can be identified with reasonable certainty and shall indicate whether the child has a special need requiring appointment of counsel as defined in section 39.01305, Florida Statutes;

(2) specify the name and address, if known, of the child's parents or legal custodian and how each was notified of the shelter hearing;

(3) if the child has been removed from the home, state the date and time of the removal;

(4) specify that the child is of an age subject to the jurisdiction of the court;

(5) state the reasons the child needs to be placed in a shelter;

(6) list the reasonable efforts, if any, that were made by the department to prevent or eliminate the need for the removal or continued removal of the child from the home or, if no such efforts were made, a description of the emergency that prevented these efforts;

(7) recommend where the child is to be placed or the agency to be responsible for placement;

(8) if the children are currently not placed together, specify the reasonable efforts of the department to keep the siblings together after the removal from the home, why a foster home is not available to place the siblings, or why it is not in the best interest of the child that all the siblings be placed together in out-of-home care;

(9) specify ongoing visitation or interaction between the siblings or if sibling visitation or interaction is not recommended, specify why visitation or interaction would be contrary to the safety or well-being of the child; and

(10) be signed by the petitioner and, if represented by counsel, by the petitioner's attorney.

(b) Shelter Hearing.

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

(2) The court shall conduct an informal hearing on the petition within the time limits provided by law. The court shall determine at the hearing the existence of probable cause to believe the child is dependent and whether the other criteria provided by law for placement in a shelter have been met. The shelter hearing may be continued for up to 72 hours with the child remaining in shelter care if either:

(A) the parents or legal custodians appear for the shelter hearing without legal counsel and request a continuance to consult with legal counsel; or

(B) the court determines that additional time is necessary to obtain and review documents pertaining to the family to appropriately determine the risk to the child.

(3) The issue of probable cause shall be determined in a nonadversarial manner, applying the standard of proof necessary for an arrest warrant.

(4) At the hearing, all interested persons present shall have an opportunity to be heard and present evidence on the criteria for placement provided by law.

(5) The court may base its determination on a sworn complaint, testimony, or an affidavit and may hear all relevant and material evidence, including oral and written reports, to the extent of its probative value even though it would not be competent at an adjudicatory hearing.

(6) The court shall advise the parent or legal custodian of:

(A) the right to be represented by counsel as provided by law;

(B) the reason the child is in custody and why continued placement is requested;

(C) the right to present placement alternatives; and

(D) the importance of the parents' or legal custodians' active participation in subsequent proceedings and hearings as well as the time, date, and location of the next hearing or the communication technology information or conference line phone number to enable them to attend the next hearing remotely.

(7) The court shall appoint:

(A) a guardian ad litem to represent the child unless the court finds representation unnecessary;

(B) an attorney to represent the child if the court finds the appointment necessary or required by law; and

(C) an attorney for indigent parents unless waived by the parent.

(8) The court shall determine visitation rights absent a clear and convincing showing that visitation is not in the best interest of the child.

(9) If the identity of a parent is unknown, the court must conduct the inquiry required by law.

(10) The court shall inquire of the parents whether the parents have relatives, fictive kin, or nonrelatives who might be considered for placement of the child. The parents shall provide to the court and all parties identification and location information regarding the relatives, fictive kin, or nonrelatives. The court shall advise the parents that the parents have a continuing duty to inform the department of any relatives, fictive kin, or nonrelatives who should be considered for placement of the child.

(11) The court shall advise the parents in plain language what is expected of them to achieve reunification with their child, including that:

(A) parents must take action to comply with the case plan so permanency with the child may occur with the shortest period of time possible, but no later than 1 year after removal or adjudication of the child;

(B) parents must stay in contact with their attorney and their case manager and provide updated contact information if the parents' phone number, address, or e-mail address changes;

(C) parents must notify the parties and the court of barriers to completing case plan tasks within a reasonable time after discovering such barriers; and

(D) if the parents fail to substantially comply with the case plan their parental rights may be terminated and the child's out-of-home placement may become permanent.

(12) The court must request that the parents consent to provide access to the child's medical record and to the child's child care records, early education program records, or other educational records and provide information to the court, the department, or its contract agencies, and any guardian ad litem or attorney for the child. If a parent is unavailable, is unable to consent, or with holds consent and the court determines access to the records and information is necessary to provide services for the child, the court shall issue an order granting access.

(13) The court may order the parents to provide all known medical information to the department and to any others granted access.

(14) If the child has or is suspected of having a disability and the parent is unavailable pursuant to law, the court must appoint a surrogate parent or refer the child to the district school superintendent for appointment of a surrogate parent.

(15) If the shelter hearing is conducted by a judge other than a judge assigned to hear dependency cases, a judge assigned to hear dependency cases shall hold a shelter review on the status of the child within

2 working days after the shelter hearing.

(c) Shelter Order. An order granting shelter care must identify the parties present at the hearing and contain written findings that:

(1) placement in shelter care is necessary based on the criteria provided by law;

(2) placement in shelter care is in the best interest of the child;

(3) the department made reasonable efforts to place the child in the order of priority provided to Chapter 39, Florida Statutes, or why such priority placement is not a placement option or in the best interest of the child based on the criteria established by law;

(4) keep the siblings together after the removal from the home and specifies if the children are currently not placed together, why a foster home is not available or why it is not in the best interest of the child that all the siblings be placed together in out-of-home care;

(5) specifies on-going visitation or interaction between the siblings or if sibling visitation or interaction is not ordered, specifies why visitation or interaction would be contrary to the safety or well-being of the child and, if services are available that would reasonably be expected to ameliorate the risk to the child's safety or well-being and may result in the communication and visitation being restored, directs the department to immediately provide such services;

(6) continuation of the child in the home is contrary to the welfare of the child because the home situation presents a substantial and immediate danger to the child's physical, mental, or emotional health or safety that cannot be mitigated by the provision of preventive services;

(7) there is probable cause to believe the child is dependent;

(8) the department has made reasonable efforts to prevent or eliminate the need for removal of the child from the home, including a description of which specific services, if available, could prevent or eliminate the need for removal or continued removal from the home, the date by which the services are expected to become available, and, if services are not available to prevent or eliminate the need for removal or continued removal of the child from the home, an explanation of why the services are not available for the child;

(9) the court notified the parents, relatives who are providing out-of-home care for the child, or legal custodians of the time, date, and location of the next dependency hearing, and of the importance of their active participation in all subsequent proceedings and hearings;

(10) the court notified the parents or legal custodians of their right to counsel as provided by law;

(11) the court notified relatives who are providing out-of-home care for a child, as a result of the shelter petition being granted, that they have the right to attend all subsequent hearings, to submit reports to the court, and to speak to the court regarding the child, if they so desire; and

(12) the department has placement and care responsibility for any child who is not placed in the care of a parent at the conclusion of the shelter hearing.

(d) Release from Shelter Care. No child shall be released from shelter care after a shelter order has been entered except on order of the court unless the shelter order authorized release by the department.

Committee Note

2022 Amendment. Multiple Sections of this rule were amended in response to ch. 2021-169, Laws of Florida.

C. PETITION, ARRAIGNMENT, ADJUDICATION, AND DISPOSITION

RULE 8.310. DEPENDENCY PETITIONS

(a) Contents.

(1) A dependency petition may be filed as provided by law. Each petition shall be entitled a petition for dependency and shall allege sufficient facts showing the child to be dependent based upon applicable law.

(2) The petition shall contain allegations as to the identity and residence of the parents or legal custodians, if known.

(3) The petition shall identify the age, sex, and name of the child. Two or more children may be the subject of the same petition.

(4) Two or more allegations of dependency may appear in the same petition, in separate counts. The petition need not contain allegations of acts or omissions by both parents.

(5) The petition must describe what voluntary services, safety planning and/or dependency mediation the parents or legal custodians were offered and the outcome of each.

(6) The petition shall identify each child who has a special need requiring appointment of counsel as defined in section 39.013005, Florida Statutes.

(b) Verification. The petition shall be signed stating under oath the signer's good faith in filing the petition. No objection to a petition on the grounds that it was not signed or verified, as herein provided, shall be entertained after a plea to the merits.

(c) Amendments. At any time prior to the conclusion of an adjudicatory hearing, an amended petition may be filed or the petition may be amended by motion; however, after a written answer or plan has been filed, amendments shall be permitted only with the permission of the court, unless all parties consent. Amendments shall be freely permitted in the interest of justice and the welfare of the child. A continuance may be granted on motion and a showing that the amendment prejudices or materially affects any party.

(d) Defects and Variances. No petition or any count thereof shall be dismissed, or any judgment vacated, on account of any defect in the form of the petition or of misjoinder of counts. If the court is of the opinion that the petition is so vague, indistinct, and indefinite as to mislead the child, parent, or legal custodian and prejudice any of them in the preparation of a defense, the petitioner may be required to furnish a more definite statement.

(e) Voluntary Dismissal. The petitioner without leave of the court, at any time prior to entry of an order of adjudication, may request a voluntary dismissal of the petition or any allegations of the petition by serving a notice requesting dismissal on all parties, or, if during a hearing, by so stating on the record. The petition or any allegations in the petition shall be dismissed. If the petition is dismissed, the court loses jurisdiction unless another party adopts the petition within 72 hours.

Committee Notes

1991 Amendment. (c) The time limit for amending a petition had been extended to be consistent with civil pleading procedures. The best interest of the child requires liberal amendments. The procedures for determining if a party has been prejudiced have not been changed.

(e) This section has been reworded to provide a procedure for notice to all parties before dismissal and to allow adoption of a petition by another party.

RULE 8.315. ARRAIGNMENTS AND PREHEARING CONFERENCES

(a) Arraignment.

(1) Before the adjudicatory hearing, the court must conduct a hearing to determine whether an admission, consent, or denial to the petition shall be entered, and whether the parties are represented by counsel or are entitled to appointed counsel as provided by law.

(2) If an admission or consent is entered and no denial is entered by any other parent or legal custodian, the court must enter a written order finding dependency based on the allegations of the dependency petition by a preponderance of the evidence. The court shall schedule a disposition hearing to be conducted within 15 days. If a denial is entered, the court shall set an adjudicatory hearing within the period of time provided by law and appoint counsel when required.

(3) If one parent enters an admission or consent and the other parent who is present enters a denial to the allegations of the dependency petition, the court must enter a written order finding dependency based on

the allegations of the dependency petition that pertain to the parent who enters an admission or consent by a preponderance of the evidence. The court must then reserve ruling on whether the parent who entered the denial contributed to the dependency status of the child pursuant to the statutory definition of a dependent child until the parent enters an admission or consent to the dependency petition, the court conducts an adjudicatory hearing, or the issue is otherwise resolved.

(4) If one parent enters an admission or consent and the identity or location of the other parent is unknown, the court must enter a written order finding dependency based on the allegations of the dependency petition by a preponderance of the evidence. The court must then reserve ruling on whether the parent whose identity or location is unknown contributed to the dependency status of the child pursuant to the statutory definition of a dependent child until the parent enters an admission or consent to the dependency petition, the court conducts an adjudicatory hearing, or the court proceeds as provided by law regarding a parent whose identity or location is unknown.

(5) If the court enters a written order finding dependency, the court must schedule a disposition hearing to be conducted within 15 days. If a denial is entered, the court must set an adjudicatory hearing within the period of time provided by law and appoint counsel when required.

(b) Withdrawal of Plea. The court may for good cause, at any time before the beginning of a disposition hearing, permit an admission of the allegations of the petition or a consent to dependency to be withdrawn and, if an adjudication has been entered, set aside the adjudication. In a subsequent adjudicatory hearing the court shall disregard an admission or consent that has been withdrawn.

(c) Prehearing Conference. Before any adjudicatory hearing, the court may set or the parties may request that a prehearing conference be held to determine the order in which each party may present witnesses or evidence, the order in which cross-examination and argument shall occur, which witnesses will be physically present and which will appear via communication technology, how a remote witness's identity will be confirmed, and any other matters that may aid in the conduct of the adjudicatory hearing to prevent any undue delay in the adjudicatory hearing. The court may also enter findings on the record of any stipulations entered into by the parties and consider any other matters that may aid in the conduct of the adjudicatory hearing.

(d) Status Hearing. Within 60 days of the filing of the petition, a status hearing must be held with all parties present unless an adjudicatory or disposition hearing has begun. Subsequent status hearings must be held every 30 days unless an adjudicatory or disposition hearing has begun.

RULE 8.320. PROVIDING COUNSEL TO PARTIES

(a) Duty of the Court.

(1) At each stage of the dependency proceeding, the court shall advise the parent of the right to have counsel present.

(2) The court shall appoint counsel to indigent parents or others who are so entitled as provided by law, unless appointment of counsel is waived by that person.

(3) The court shall ascertain whether the right to counsel is understood.

(4) At each stage of the dependency proceeding, the court shall appoint an attorney to represent a child with special needs as defined in chapter 39, Florida Statutes, and who is not already presented by an attorney.

(b) Waiver of Counsel.

(1) No waiver of counsel shall be accepted where it appears that the parent is unable to make an intelligent and understanding choice because of age, education, experience, the nature or complexity of the case, or other factors.

(2) A waiver of counsel made in court shall be of record. The court shall question the party in sufficient detail to ascertain that the waiver is made knowingly, intelligently, and voluntarily.

(3) If a waiver is accepted at any stage of the proceedings, the offer of assistance of counsel shall be renewed by the court at each subsequent stage of the proceedings at which the party appears without counsel.

RULE 8.325. ANSWERS AND PLEADINGS

(a) No Answer Required. No written answer to the petition need be filed by the parent or legal custodian. The parent or legal custodian of the child may enter an oral or written answer to the petition or remain silent.

(b) Denial of Allegations. If the parent or legal custodian denies the allegations of the petition, remains silent, or pleads evasively, the court shall enter a denial of dependency and set the case for an adjudicatory hearing.

(c) Admission of or Consent to Dependency. The parent or legal custodian may admit or consent to a finding of dependency. The court shall determine that any admission or consent to a finding of dependency is made voluntarily and with a full understanding of the nature of the allegations and the possible consequences of the admission or consent, and that the parent has been advised of the right to be represented by counsel. The court shall incorporate these findings into its order in addition to findings of fact specifying the act or acts causing dependency, by whom committed, and facts on which the findings are based.

RULE 8.330. ADJUDICATORY HEARINGS

(a) Hearing by Judge. The adjudicatory hearing shall be conducted by the judge, without a jury, utilizing the rules of evidence in use in civil cases. At this hearing the court shall determine whether the allegations of the dependency petition have been sustained by a preponderance of the evidence. If the court is of the opinion that the allegations are sustained by clear and convincing evidence, it may enter an order so stating.

(b) Examination of Witnesses. A party may call any person as a witness. A party shall have the right to examine or cross-examine all witnesses. However, the child and the parents, caregivers, or legal custodians of the child may be examined separately and apart from each other.

(c) Presence of Parties. All parties have the right to be present at all hearings. A party may appear in person or, at the discretion of the court for good cause shown, by communication technology. No party shall be excluded from any hearing unless so ordered by the court for disruptive behavior or as provided by law. If a person appears for the arraignment hearing and the court orders that person to personally appear at the adjudicatory hearing for dependency, stating the date, time, and place of the adjudicatory hearing, then that person's failure to appear for the scheduled adjudicatory hearing constitutes consent to a dependency adjudication.

(d) Joint and Separate Hearings. When 2 or more children are alleged to be dependent children, the hearing may be held simultaneously when the several children involved are related to each other or involved in the same case, unless the court orders separate hearings.

(e) Motion for Judgment of Dismissal. In all proceedings, if at the close of the evidence for the petitioner the court is of the opinion that the evidence is insufficient to warrant a finding of dependency, it may, and on the motion of any party shall, enter an order dismissing the petition for insufficiency of the evidence or find that allegations in the petition have not been sustained. If the court finds that allegations in the petition have not been sustained but does not dismiss the petition, the parties, including all parents, shall continue to receive pleadings, notices, and documents and to have the right to be heard.

(f) Dismissal. If the court shall find that the allegations in the petition have not been sustained, it shall enter an order dismissing the case for insufficiency of the evidence or find that allegations in the

petition have not been sustained. If the court finds that allegations in the petition have not been sustained but does not dismiss the petition, the parties, including all parents, shall continue to receive pleadings, notices, and documents and to have the right to be heard.

Committee Notes

1991 Amendment. (a) This change gives the court the option of making a finding based on a higher burden of proof to eliminate the need for a repetitive hearing on the same evidence if a termination of parental rights petition is filed.

RULE 8.332. ORDERING FINDING DEPENDENCY

(a) Finding of Dependency. In all cases in which dependency is established, the court must enter a written order stating the legal basis for a finding of dependency, specifying the facts upon which the finding of dependency is based, and stating whether the court made the finding by a preponderance of the evidence or by clear and convincing evidence. The court must include the dates of the adjudicatory hearing, if any, in the order.

(b) Adjudication of Dependency.

(1) If the court finds that the child named in the petition is dependency, the court must enter an order adjudicating the child dependent if the child is placed or will continue to be placed in an out-of-home placement. Following a finding of dependency, the court must schedule a disposition hearing within 30 days after the last day of the adjudicatory hearing pursuant to these rules.

(2) If the court enters findings that only one parent contributed to the dependency status of the child but allegations of dependency remain unresolved as to the other parent, the court must enter a written order finding dependency based on the allegations of the dependency petition concerning the one parent. The court must then reserve ruling on findings regarding the other parent based on the unresolved allegations until the parent enters an admission or consent to the dependency petition, the court conducts an evidentiary hearing on the allegations, the court proceeds as provided by law regarding a parent whose identity or location is unknown, or the issue is otherwise resolved.

(3) The court may enter an order adjudicating the child dependent if the child remains in or is returned to the home.

(4) For as long as a court maintains jurisdiction over a dependency case, only one order adjudicating each child in the case dependent shall be entered. This order establishes the legal status of the child for purposes of proceedings under chapter 39, Florida Statutes, and may be based on the conduct of one parent, both parents, or a legal custodian. With the exception of proceedings pursuant to a termination of parental rights, the child's dependency status may not be retried or readjudicated. All subsequent orders finding that a parent contributed to the dependency status of the child shall supplement the initial order of adjudication.

(c) Withhold of Adjudication of Dependency.

(1) If the court finds that the child named in the petition is dependent, but finds that no action other than supervision in the child's home is required, it may enter an order briefly stating the facts on which its finding is based, but withholding an order of adjudication and placing the child in the child's home under the supervision of the department. The department must file a case plan and the court must review the case plan pursuant to these rules.

(2) If the court later finds that the parents of the child have not complied with the conditions of supervision imposed, including the case plan, the court may, after a hearing to establish the noncompliance, but without further evidence of the state of dependency, enter an order of adjudication and shall thereafter have full authority under this chapter to provide for the child as adjudicated. If the child is to remain in an out-of-home placement by order of the court, the court must adjudicate the child dependent. If the court adjudicates the child dependent, the court must then conduct a disposition hearing.

(d) Failure to Substantially Comply. The court must advise the parents in plain language that:

(1) parents must take action to comply with the case plan so permanency with the child may occur

within the shortest period of time possible, but no later than 1 year after removal or adjudication of the child;

(2) parents must stay in contact with their attorney and their case manager and provide updated contact information if the parents' phone number, address, or e-mail address changes;

(3) parents must notify the parties and the court of barriers to completing case plan tasks within a reasonable time after discovering such barriers; and

(4) if the parents fail to substantially comply with the case plan, their parental rights may be terminated and the child's out-of-home placement may become permanent.

(e) Inquiry Regarding Relatives for Placement. If the child is in out-of-home care, the court must inquire of the parent or parents whether the parent or parents have relatives who might be considered as placement for the child. The parent or parents must provide to the court and all parties identification and location information for the relatives.

RULE 8.335. ALTERNATIVES PENDING DISPOSITION

If the court finds that the evidence supports the allegations of the petition, it may make a finding of dependency as provided by law. If the reports required by law are available, the court may proceed to disposition or continue the case for a disposition hearing. If the case is continued, the court may refer the case to appropriate agencies for additional study and recommendation. The court may order the child continued in placement, designate the placement or the agency that will be responsible for the child's placement, and enter such other orders deemed necessary to protect the health, safety, and well-being of the child, including diagnosis, evaluation, treatment, and visitation.

RULE 8.340. DISPOSITION HEARINGS

(a) Information Available to Court. At the disposition hearing, the court, after establishing compliance with the dispositional considerations, determinations, and discussions required by law, may receive any relevant and material evidence helpful in determining the proper disposition to be made. It must include written reports required by law, and may include, but is not limited to, any psychiatric or psychological evaluations of the child or his or her parent, caregiver, or legal custodian that may be obtained and that are relevant and material. Such evidence may be received by the court and may be relied upon to the extent of its probative value, even though not competent in an adjudicatory hearing.

(b) Disclosure to Parties. All parties are entitled to disclosure of all information in all reports submitted to the court.

(c) Orders of Disposition. The court shall in its written order of disposition include:

(1) the placement or custody of the child;

(2) special conditions of placement and visitation;

(3) evaluation, counseling, treatment activities, and other actions to be taken by the parties, if ordered;

(4) persons or entities responsible for supervising or monitoring services to the child and parent;

(5) continuation or discharge of the guardian ad litem, as appropriate;

(6) date, time, and location and communication technology information to be used to facilitate remote attendance at the next scheduled review hearing, as required by law;

(7) child support payments, if the child is in an out-of-home placement;

(8) if the child is placed in foster care, the reasons why the child was not placed in the legal custody of an adult relative, legal custodian, or other adult approved by the court and a further determination as to whether diligent efforts were made by the department to locate an adult relative, legal custodian, or other adult willing to care for the child instead of placement with the department;

(9) such other requirements to protect the health, safety, and well-being of the child to preserve the stability of the child's child care, early education program, or any other educational placement, and to promote family preservation or reunification whenever possible; and

(10) approval of the case plan and any reports required by law as filed with the court. If the court does not approve the case plan at the disposition hearing, the court must set a hearing within 30 days after the disposition hearing to review and approve the case plan.

RULE 8.345. POST-DISPOSITION RELIEF

(a) Motion for Modification of Placement. At any time before a child is residing in the permanent placement approved at the permanency hearing, a child who has been placed in his or her own home, in the home of a relative, or in some other place, under the supervision or legal custody of the department, may be brought before the court by the department or any interested person on a motion for modification of placement. The court may enter an order making the change in placement without a hearing unless a party or the current caregiver objects to the change. If any party or the current caregiver objects to the change of placement, the court must conduct a hearing and thereafter enter an order changing the placement, modifying the conditions of placement, continuing placement as previously ordered, or placing the child with the department or a licensed child-caring agency.

(b) Standard for Changing Custody.

(1) Generally. The standard for changing custody of the child must be the best interests of the child as provided by law. When determining whether a change of legal custody or placement is in the best interests of the child, the court must consider the best interests factors provided by law, the report filed by the multidisciplinary team, if applicable, and the priority of placements as provided by law, or as otherwise provided by law.

(2) Rebuttable presumption.

(A) In a hearing on a change of physical custody when the child has been in the same safe and stable placement for 9 consecutive months or more, a rebuttable presumption that it is in the child's best interest to remain permanently in his or her current placement applies as required by law.

(B) A caregiver who objects to the department's official position on the change in physical custody must notify the court and the department of his or her objection and the intent to request an evidentiary hearing in writing within 5 days after receiving notice of the department's official position.

(C) Within 7 days after receiving written notice from the caregiver, the court must conduct an initial case status hearing, at which time the court must:

(i) grant limited purpose party status to the current caregiver who is seeking permanent custody and has maintained physical custody of that child for at least 9 continuous months for the limited purpose of filing a motion for a hearing on the objection and presenting evidence pursuant to this rule;

(ii) appoint an attorney for the child who is the subject of the permanent custody proceeding, in addition to the guardian ad litem, if one is appointed;

(iii) advise the caregiver of his or her right to retain counsel for purposes of the evidentiary hearing; and

(iv) appoint a court-selected neutral and independent licensed professional with expertise in the science and research of child-parent bonding.

(D) The court must conduct the evidentiary hearing and provide a written order of its findings regarding the placement that is in the best interest of the child no later than 90 days after the date the caregiver provided written notice to the court. The court must provide its written order to the department, the caregiver, and the prospective caregiver.

(3) Reunification.

(A) In cases in which the issue before the court is whether a child should be reunited with a parent,

and the child is currently placed with someone other than a parent, the court must review the conditions for return and determine whether the circumstances that caused the out-of-home placement and issues subsequently identified have been remedied to the extent that the return of the child to the home with an in-home safety plan prepared or approved by the department will not be detrimental to the child's safety, well-being, and physical, mental, and emotional health.

(B) In cases in which the issue before the court is whether a child who is placed in the custody of a parent should be reunited with the other parent upon a finding that the circumstances that caused the out-of-home placement and issues subsequently identified have been remedied to the extent that the return of the child to the home of the other parent with an in-home safety plan prepared or approved by the department will not be detrimental to the child, the court must determine that the safety, well-being, and physical, mental, and emotional health of the child would not be endangered by reunification and that reunification would be in the best interest of the child.

(4) Removal from Home. In cases in which the issue before the court is whether to place a child in out-of-home care after the child was placed in the child's own home with an in-home safety plan or the child was reunified with a parent or caregiver with an in-home safety plan, the court must consider, at a minimum, the following factors in making its determination whether to place the child in out-of-home care:

(A) The circumstances that cause the child's dependency and other subsequently identified issues.

(B) The length of time the child has been placed in the home with an in-home safety plan.

(C) The parent's or caregiver's current level of protective capacities.

(D) The level of increase, if any, in the parent's or caregiver's protective capacities since the child's placement in the home based on the length of time the child has been placed in the home.

(c) Change of Permanency Goal. The court shall additionally evaluate the child's permanency goal and change the permanency goal as needed if doing so would be in the best interests of the child. If the court changes the permanency goal, the case plan must be amended pursuant to law.

(d) Motion for Termination of Supervision or Jurisdiction. Any party requesting termination of agency supervision or the jurisdiction of the court or both shall do so by written motion or in a written report to the court. The court must hear all parties present and enter an order terminating supervision or terminating jurisdiction and supervision or continuing them as previously ordered. The court shall not terminate jurisdiction unless the child is returned to the parent and has been in the placement for at least 6 months, the child is adopted, or the child attains the age of 18, unless the court has extended jurisdiction.

Committee Note

2022 Amendment. Multiple Sections of this rule were amended in response to ch. 2021-169, Laws of Florida.

RULE 8.347. MOTION TO SUPPLEMENT ORDER OF ADJUDICATION, DISPOSITION ORDER, AND CASE PLAN

(a) Motion. After the court has entered an order of adjudication of dependency, any party may file a motion for the court to supplement the order of adjudication with findings that a parent or legal custodian contributed to the dependency status of the child pursuant to the statutory definition of a dependent child. The motion may also request that the court supplement the disposition order and the case plan.

(b) Contents.

(1) The motion must identify the age, sex, and name of the children whose parent or legal custodian is the subject of the motion.

(2) The motion must specifically identify the parent or legal custodian who is the subject of the motion.

(3) The motion must allege sufficient facts showing that a parent or legal custodian contributed to the dependency status of the child pursuant to the statutory definition of a dependent child.

(c) Verification. The motion must be signed under oath, stating that the signer is filing the motion in good faith.

(d) Amendments. At any time prior to the conclusion of an evidentiary hearing on the motion, an amended motion may be filed or the motion may be amended by oral motion. A continuance may be granted on motion and a showing that the amendment prejudices or materially affects any party.

(e) Notice.

(1) In General. Parents or legal custodians who have previously been properly served with the dependency petition or who have previously appeared in the dependency proceeding shall be served with a notice of hearing and copies of the motion and the initial order of adjudication of dependency in the same manner as the service of documents that are filed after the service of the initial dependency petition as provided in these rules. The notice shall require the person on whom it is served to appear for the preliminary hearing on the motion at a time and place specified, not less than 72 hours after service of the motion. The document containing the notice to respond or appear must contain, in type at least as large as the balance of the document, the following or substantially similar language: "FAILURE TO PERSONALLY APPEAR AT THE PRELIMINARY HEARING ON THE MOTION CONSTITUTES YOUR CONSENT TO THE COURT'S FINDING THAT YOU CONTRIBUTED TO THE DEPENDENCY STATUS OF THE CHILD PURSUANT TO THE STATUTORY DEFINITION OF A DEPENDENT CHILD AND MAY ULTIMATLEY RESULT IN LOSS OF CUSTODY OF THIS CHILD (OR CHILDREN)."

(2) Summons.

(A) Parents or legal custodians who have not been properly served with the dependency petition or who have not previously appeared in the dependency proceeding must be properly served with a summons and copies of the motion and the initial order of adjudication of dependency. The summons must require the person on whom it is served to appear for a preliminary hearing on the motion at a time and place specified, not less than 72 hours after service of the summons. The summons must contain, in type at least as large as the balance of the document, the following or substantially similar language: "FAILURE TO PERSONALLY APPEAR AT THE PRELIMINARY HEARING ON THE MOTION CONSTITUTES YOUR CONSENT TO THE COURT'S FINDNG THAT YOU CONTRIBUTED TO THE DEPENDENCY STATUS OF THE CHILD PURSUANT TO THE STATUTORY DEFINITION OF A DEPENDENT CHILD AND MAY ULTIMATLEY RESULT IN LOSS OF CUSTODY OF THIS CHILD (OR CHILDREN)."

(B) Upon the filing of the motion and upon request, the clerk shall issue a summons.

(C) The movant shall not be required to serve a summons on a parent or legal custodian who has previously been properly served with the dependency petition or who has appeared in the dependency proceeding.

(D) The summons shall be served in the same manner as service of a dependency petition as required by law.

(E) Service by publication of the motion shall not be required.

(F) If the location of the party to be served is unknown, the court may enter an order granting the motion only if the movant has properly served the person subject to the motion, the person subject to the motion has appeared in the proceeding, or the movant has conducted a diligent search and filed with the court an affidavit of diligent search.

(G) Personal appearance of any person in a hearing before the court on the motion eliminates the requirement for serving process upon that person.

(H) A party may consent to service or summons by e-mail by providing a primary e-mail address to the clerk of court.

(f) Preliminary Hearing on Motion.

(1) The court must conduct a preliminary hearing and determine whether the parent or legal custodian who is the subject of the motion:

(A) has been properly served with the summons or notice, and with copies of the motion and initial order of adjudication of dependency;

(B) is represented by counsel or is entitled to appointed counsel as provided by law; and

(C) wishes to challenge the motion or consent to the court granting the motion.

(2) If the parent or legal custodian who is the subject of the motion wishes to challenge the motion, the court must schedule an evidentiary hearing on the motion within 30 days.

(3) If the parent or legal custodian who is the subject of the motion wishes to consent to the motion without admitting or denying the allegations of the motion, the court shall enter an order supplementing the initial order of adjudication of dependency based on the sworn allegations of the motion. Failure of the person properly served with notice to personally appear at the preliminary hearing on the motion constitutes the person's consent to the court's finding that the person contributed to the dependency status of the child pursuant to the statutory definition of a dependent child.

(g) Evidentiary Hearing.

(1) Hearing Procedures. The hearing shall be conducted in the same manner and with the same procedures as the adjudicatory hearing on the dependency petition as provided in these rules.

(2) Motion for Judgment Denying Motion. In all proceedings, if at the close of the evidence for the movant, the court is of the opinion that the evidence is insufficient to warrant findings that a parent or legal custodian contributed to the dependency status of the child pursuant to the statutory definition of a dependent child, it may, and on the motion of any party must, enter an order denying the motion for insufficiency of the evidence.

(3) Denial of Motion. If the court, at the conclusion of the evidence, finds that the allegations in the motion have not been sustained, the court shall enter an order denying the motion.

(4) Granting of the Motion. If the court finds that the movant has proven the allegations of the motion, the court shall enter an order granting the motion as provided in these rules.

(5) Failure to Appear. If a person appears for the preliminary hearing on the motion and the court orders that person to personally appear at the evidentiary hearing on the motion, stating the date, time, and place of the evidentiary hearing, then that person's failure to appear for the scheduled evidentiary hearing constitutes consent to the court's finding that the person contributed to the dependency status of the child pursuant to the statutory definition of a dependent child.

(h) Supplemental Order of Adjudication.

(1) If the parent or legal custodian consents to the motion and its allegations or if the court finds that the movant has proven the allegations of the motion at an evidentiary hearing, the court shall enter a written order granting the motion and specifying facts that support findings that a parent or legal custodian contributed to the dependency status of the child pursuant to the statutory definition of a dependent child and stating whether the court made the finding by a preponderance of the evidence or by clear and convincing evidence.

(2) If necessary, the court shall schedule a supplemental disposition hearing within 15 days.

(3) The court shall advise the parent who is the subject of the motion that if the parent fails to substantially comply with the case plan, parental rights may be terminated.

(4) If the child is in out-of-home placement, the court shall inquire of the parents whether the parents have relatives who might be considered as placement for the child. The parents shall provide to the court and to all parties the identity and location of the relatives.

(i) Supplemental Disposition Hearing.

(1) Hearing. If necessary, the court shall conduct a supplemental disposition hearing pursuant to the same procedures for a disposition hearing and case plan review hearing as provided by law.

(2) Supplemental Reports and Case Plan.

(A) A written case plan and any reports required by law prepared by an authorized agent of the department must be filed with the court, served upon the parents of the child, provided to the representative of the guardian ad litem program, if the program has been appointed, and provided to all other parties not less than 72 hours before the supplemental disposition hearing.

(B) The court may grant an exception to the requirement for any reports required by law by separate order or within the judge's order of disposition upon a finding that all the family and child information required by law is available in other documents filed with the court.

(3) Supplemental Order of Disposition. The court shall in its written supplemental order of disposition include:

(A) the placement or custody of the child;

(B) special conditions of placement and visitation;

(C) evaluation, counseling, treatment activities, and other actions to be taken by the parties, when ordered;

(D) the names of the supervising or monitoring agencies, and the continuation or discharge of the guardian ad litem, when appropriate;

(E) the date, time, and location for the next case review as required by law;

(F) child support payments, if the child is in an out-of-home placement;

(G) if the child is placed in foster care, the reasons why the child was not placed in the legal custody of an adult relative, legal custodian, or other adult approved by the court;

(H) approval of the case plan and any reports required by law or direction to amend the case plan within 30 days; and

(I) such other requirements as are deemed necessary to protect the health, safety, and well-being of the child.

RULE 8.350. PLACEMENT OF CHILD INTO RESIDENTIAL TREATMENT CENTER AFTER ADJUDICATION OF DEPENDENCY

(a) Placement.

(1) Treatment Center Defined. Any reference in this rule to a residential treatment center is to a residential treatment center or facility licensed under section 394.875, Florida Statutes, for residential mental health treatment. Any reference to hospital is to a hospital licensed under chapter 395, Florida Statutes, for residential mental health treatment. This rule does not apply to placement under sections 394.463 or 394.467, Florida Statutes.

(2) Basis for Placement. The placement of any child who has been adjudicated dependent for residential mental health treatment shall be as provided by law.

(3) Assessment by Qualified Evaluator. Whenever the department believes that a child in its legal custody may require placement in a residential treatment center or hospital, the department shall arrange to have the child assessed by a qualified evaluator as provided by law and shall file notice of this with the court and all parties. Upon the filing of this notice by the department, the court shall appoint a guardian ad litem for the child, if one has not already been appointed, and shall also appoint an attorney for the child. All appointments pursuant to this rule shall conform to the provisions of rules 8.231. Both the guardian ad litem and attorney, shall meet the child and shall have the opportunity to discuss the child’s suitability for residential treatment with the qualified evaluator conducting the assessment. Upon the completion of the evaluator’s written assessment, the department shall provide a copy to the court and to all parties. The guardian ad litem shall also provide a written report to the court and to all parties indicating the guardian ad litem’s recommendation as to the child’s placement in residential treatment and the child’s wishes.

(4) Motion for Placement. If the department seeks to place the child in a residential treatment center or hospital, the department shall immediately file a motion for placement of the child with the court.

This motion shall include a statement as to why the child is suitable for this placement and why less restrictive alternatives are not appropriate and also shall include the written findings of the qualified evaluator. The motion shall state whether all parties, including the child, are in agreement. Copies of the motion must be served on the child's attorney and all parties and participants.

(5) Immediate Placement. If the evaluator's written assessment indicates that the child requires immediate placement in a residential treatment center or hospital and that such placement cannot wait for a hearing, then the department may place the child pending a hearing, unless the court orders otherwise.

(6) Guardian ad Litem. The guardian ad litem must be represented by an attorney at all proceedings under this rule, unless the guardian ad litem is acting as an attorney.

(7) Status Hearing. Upon the filing of a motion for placement, the court shall set the matter for a status hearing within 48 hours, excluding weekends and holidays. The department shall timely provide notice of the date, time, and place of the hearing to all parties and participants.

(8) Notice of Hearing. The child's attorney or guardian ad litem shall notify the child of the date, time, and place and communication technology information for the hearing. No hearing shall proceed without the presence of the child's attorney. The guardian ad litem may be excused by the court for good cause shown.

(9) Disagreement with Placement. If no party disagrees with the department's motion at the status hearing, then the motion for placement may be approved by the court. However, if any party, including the child, disagrees, then the court shall set the matter for hearing within 10 working days.

(10) Presence of Child. The child shall be present at the hearing unless the court determines pursuant to subdivision (c) that a court appearance is not in the child's best interest. In such circumstances, the child shall be provided the opportunity to express his or her views to the court by a method deemed appropriate by the court.

(11) Hearing on Placement.

(A) At the hearing, the court shall consider, at a minimum, all of the following:

(i) based on an independent assessment of the child, the recommendation of a department representative or authorized agent that the residential treatment or hospitalization is in the child's best interest and a showing that the placement is the least restrictive available alternative;

(ii) the recommendation of the guardian ad litem;

(iii) the written findings of the evaluation and suitability assessment prepared by a qualified evaluator; and

(iv) the views regarding placement in residential treatment that the child expresses to the court.

(B) All parties shall be permitted to present evidence and witnesses concerning the suitability of the placement.

(C) If the court determines that the child is not suitable for residential treatment, the court shall order the department to place the child in the least restrictive setting that is best suited to meet the child's needs.

(b) Continuing Residential Placement Reviews.

(1) The court shall conduct a hearing to review the status of the child's residential treatment plan no later than 60 days after the child's admission to the residential treatment program. An independent review of the child's progress toward achieving the goals and objectives of the treatment plan must be completed by a qualified evaluator and submitted to the court and all parties in writing at least 72 hours before the 60 day review hearing.

(2) Review hearings shall be conducted every 3 months thereafter, until the child is placed in a less restrictive setting. At each 3-month review hearing, if the child is not represented by an attorney, the court shall appoint counsel. At the 3-month review hearing the court shall determine whether the child disagrees with continued placement.

(3) If the court determines at any hearing that the child is not suitable for continued residential treatment, the court shall order the department to place the child in the least restrictive setting that is best suited

to meet the child's needs.

(c) Presence of Child. The child shall be present at all court hearings unless the court finds that the child's mental or physical condition is such that a court appearance is not in the child's best interest. In such circumstances, the child shall be provided the opportunity to express his or her views to the court by a method deemed appropriate by the court.

(d) Standard of Proof. At the hearing, the court shall determine whether the evidence supporting involuntary commitment of a dependent child to a residential mental health treatment facility is clear and convincing.

RULE 8.355. ADMINISTRATION OF PSYCHOTROPIC MEDICATION TO A CHILD IN SHELTER CARE OR IN FOSTER CARE WHEN PARENTAL CONSENT HAS NOT BEEN OBTAINED

(a) Motion for Court Authorization for Administration of Psychotropic Medications.

(1) Whenever the department believes that a child in its physical or legal custody requires the administration of a psychotropic medication, and the child's parents or legal guardians have not provided express and informed consent as provided by law, the department or its agent shall file a motion with the court to authorize the administration of the psychotropic medication before the administration of the medication, except as provided in subdivision (c) of this rule. In all cases in which a motion is required, the motion shall include the following information:

(A) the written report of the department describing the efforts made to enable the prescribing physician or psychiatric nurse to obtain express and informed consent for providing the medication to the child and describing other treatments considered or recommended for the child;

(B) the prescribing physician's or psychiatric nurse's signed medical report, as required by law; and

(C) whether the prescribing physician or psychiatric nurse has obtained the child's assent to take the medication.

(2) If the child declines to assent to the proposed administration of psychotropic medication the court shall appoint an attorney to represent the child and a hearing shall be held on the department's motion. The appointment shall conform to the provisions of rule 8.231.

(3) The department must serve a copy of the motion, and notify all parties and the child's attorney, if appointed, of its proposed administration of psychotropic medication to the child in writing, or by whatever other method best ensures that all parties receive notification of the proposed action, within 48 hours after filing the motion for court authorization.

(4) If any party other than the child objects to the proposed administration of the psychotropic medication to the child, that party must file its objection within 2 working days after being notified of the department's motion.

(b) Court Action on Department's Motion for Administration of Psychotropic Medication.

(1) If the child assents and no party timely files an objection to the department's motion, the court may enter its order authorizing the proposed administration of the psychotropic medication without a hearing. Based on its determination of the best interests of the child, the court may order additional medical consultation or require the department to obtain a second opinion within a reasonable time, not more than 21 calendar days. When the court orders an additional medical consultation or second medical opinion, the department shall file a written report including the results of this additional consultation or a copy of the second medical opinion with the court within the time required by the court, and shall serve a copy of the report as required by subdivision (a)(2) of this rule.

(2) If the child does not assent to the medication or any party timely files its objection to the proposed administration of the psychotropic medication to the child, the court shall hold a hearing as soon as possible on the department's motion.

(A) At such hearing, the medical report of the prescribing physician or psychiatric nurse is admissible in evidence.

(B) At such hearing, the court shall ask the department whether additional medical, mental health, behavioral, counseling, or other services are being provided to the child that the prescribing physician or psychiatric nurse considers to be necessary or beneficial in treating the child's medical condition, and which the physician or psychiatric nurse recommends or expects to be provided to the child with the medication.

(C) The court may order additional medical consultation or a second medical opinion, as provided in subdivision (b)(1) of this rule.

(D) After considering the department's motion and any testimony received, the court may order that the department provide or continue to provide the proposed psychotropic medication to the child, on a determination that it is in the child's best interest to do so.

(c) Emergency Situations.

(1) Shelter Care. When a child is initially removed from the home and taken into custody under section 39.401, Florida Statutes, and the department continues to administer a current prescription of psychotropic medication to the child, the department shall request court authorization for the continued administration of the medication at the shelter hearing. This request shall be included in the shelter petition.

(A) The department shall provide all information in its possession to the court in support of its request at the shelter hearing. The court may authorize the continued administration of the psychotropic medication only until the arraignment hearing on the petition for adjudication, or for 28 days following the date of the child's removal, whichever occurs first.

(B) When the department believes, based on the required physician's evaluation, that it is appropriate to continue the psychotropic medication beyond the time authorized by the court at the shelter hearing, the department shall file a motion seeking continued court authorization at the same time as it files the dependency petition, within 21 days after the shelter hearing.

(2) When Delay Would Cause Significant Harm. Whenever the department believes, based on the certification of the prescribing physician or psychiatric nurse, that delay in providing the prescribed psychotropic medication to the child would, more likely than not, cause significant harm to the child, the department must submit a motion to the court seeking continuation of the medication within 3 working days after the department begins providing the medication to the child.

(A) The motion seeking authorization for the continued administration of the psychotropic medication to the child shall include all information required in subdivision (a)(1) of this rule. The required medical report must also include the specific reasons why the child may experience significant harm, and the nature and the extent of the potential harm, resulting from a delay in authorizing the prescribed medication.

(B) The department shall serve the motion on all parties within 3 working days after the department begins providing the medication to the child.

(C) The court shall hear the department's motion at the next regularly scheduled court hearing required by law, or within 30 days after the date of the prescription, whichever occurs sooner. However, if any party files an objection to the motion, the court shall hold a hearing within 7 days.

(3) In Emergency Psychiatric Placements. The department may authorize the administration of psychotropic medications to a child in its custody in advance of a court order in hospitals, crisis stabilization units, and in statewide inpatient psychiatric programs. Should the department do so, it must seek court authorization for the continued administration of the medication as required in subdivision (a) of this rule.

D. CASE PLANS

RULE 8.400. CASE PLAN DEVELOPMENT

(a) Case Planning Conference. The case plan must be developed in a face-to-face conference with the parents, the guardian ad litem, attorney ad litem and, if appropriate, the child and the temporary custodian of the child.

(b) Contents. The case plan must be written simply and clearly in English and the principal language of the parents, if possible. Each case plan must contain

(1) a description of the 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;

(2) a permanency goal;

(3) if it is a concurrent plan, a description of the permanency goal of reunification with the parent or legal custodian and one of the remaining permanency goals;

(4) the date the compliance period expires;

(5) a written notice to the parent that it is the parent's responsibility to take action to comply with the case plan so permanency with the child may occur within the shortest period of time possible, but no later than 1 year after removal or adjudication of the child; the parent must notify the parties and the court of barriers to completing case plan tasks within a reasonable time after discovering such barriers if the parties are not actively working to overcome them; 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 by the parent's action or inaction may result in the filing of a petition for termination of parental rights sooner than the expiration of the compliance period;

(6) a written notice to the parents and caregivers that it is their responsibility to take action to work together where it is safe to do so towards the success of the case plan; and

(7) if the parent is incarcerated, the list of services available at the facility.

(c) Expiration of Case Plan. The case plan compliance period expires no later than 12 months after the date the child was initially removed from the home or the date the case plan was accepted by the court, whichever occurs first.

(d) Department Responsibility.

(1) The department shall prepare a draft of a case plan for each child receiving services under chapter 39, Florida Statutes.

(2) The department shall document, in writing, a parent's unwillingness or inability to participate in the development of the case plan, provide the written documentation to the parent when available for the court record, and prepare a case plan.

(3) Before signing the case plan, the department must explain the provisions of the plan to all persons involved in its implementation, including, when appropriate, the child. The department shall ensure that the parent has contact information for all entities necessary to complete the tasks in the plan. The department must explain the strategies included in the plan which the parent can use to overcome barriers to case plan compliance and shall explain that if a barrier is discovered and the parties are not actively working to over such barrier, the parent must notify the parties and the court within a reasonable time after discovering such barrier.

(4) After the case plan has been developed, and before acceptance by the court, the department shall make the appropriate referrals for services that will allow the parents to begin the agreed-upon tasks and services immediately if the parents agree to begin compliance.

(5) The department must immediately give the parties, including the child if appropriate, a signed copy of the agreed-upon case plan.

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

(7) The department must prepare a case plan for a child in out of home care within 60 days after the department removes the child from the home and shall submit the plan to the court before the disposition

hearing for the court to review and approve.

(8) Not less than 3 business days before the disposition or case plan review hearing, the department must file a case plan with the court.

(9) After jurisdiction attaches, the department shall file with the court all case plans, including all case plans prepared before jurisdiction of the court attached. The department shall provide a copy of the case plans filed to all the parties whose whereabouts are known, not less than 3 business days before the disposition or case plan review hearing.

(10) The department must attach a copy of the child's transition plan, if applicable, to the case plan.

(e) Signature. The case plan must be signed by all parties except the child, if the child is not of an age or capacity to participate in the case planning process.

(f) Service. Each party, including the child, if appropriate, must be provided with a copy of the case plan not less than 3 business days before the disposition or case plan review hearing. If the location of a parent is unknown, this fact must be documented in writing and included in the plan.

RULE 8.401. CASE PLAN DEVELOPMENT FOR YOUNG ADULTS

(a) Case Planning Conference. The case plan must be developed in a face-to-face conference with the young adult, the guardian ad litem, attorney ad litem and, when appropriate, the legal guardian of the young adult, if the young adult is not of the capacity to participate in the case planning process.

(b) Contents. The case plan must be written simply and clearly in English and the principal language of the young adult. Each case plan must contain:

(1) a description of the services, including independent living services, to be provided to the young adult;

(2) a copy of the young adult's transition plan

(3) the permanency goal of transition from licensed care to independent living; and

(4) the date the compliance period expires.

(c) Department Responsibility.

(1) After the case plan has been developed, the department must prepare the written case plan for each young adult receiving services under chapter 39, Florida Statutes.

(2) After the case plan has been developed, and before acceptance by the court, the department must make the appropriate referrals for services that will allow the young adult to begin receiving the agreed-upon services immediately.

(3) The department must immediately provide the young adult a signed copy of the agreed-upon case plan.

(4) Not less than 3 business days before a judicial review or permanency hearing, the department must file the case plan with the court.

(5) The department must attach a copy of the young adult's transition plan to the case plan.

(d) Signature. The case plan must be signed by the young adult, all parties and, when appropriate, the legal guardian if the young adult is not of the capacity to participate in the case planning process.

(e) Service. Each party must be served with a copy of the case plan not less than 3 business days before the judicial review hearing. If the location of the young adult is unknown, this fact must be documented in writing and filed with the court.

(f) Re-admitted to Care. If the department petitions the court for reinstatement of jurisdiction after a young adult has been re-admitted to care under chapter 39, Florida Statutes, the department must file an updated case plan.

RULE 8.410. APPROVAL OF CASE PLANS

(a) Hearing. The court shall review the contents of the case plan at the disposition or case plan review hearing unless a continuance for the filing of the case plan has been granted by the court.

(b) Determinations by Court. At the hearing, the court shall determine if:

(1) The plan is consistent with the previous orders of the court placing the child in care.

(2) The plan is consistent with the requirements for the content of a case plan as provided by law.

(3) The parents were advised of their right to have counsel present at all prior hearings and the parents were advised of their right to participate in the preparation of the case plan and to have counsel or any other person assist in the preparation of the case plan.

(4) The case plan is meaningful and designed to address the facts, circumstances, and problems on which the court based its order of dependency for the child.

(5) The plan adequately addresses the goals and needs of the child.

(c) Amendment of Initial Case Plan. During the hearing, if the court determines that the case plan does not meet statutory requirements and include previous court orders, it shall order the parties to make amendments to the plan. The amended plan must be submitted to the court within 30 days for another hearing and approval. A copy of the amended plan must be provided to each party, if the location of the party is known, at least 3 business days before filing with the court. If the parties do not agree on the final terms, the court shall order those conditions and tasks it believes must be accomplished to obtain permanency for the child. In addition, the court may order the department to provide those services necessary to assist in achieving the goal of the case plan.

(d) Entry of Findings. The court shall enter its findings with respect to the review of the case plan in writing and make specific findings on each element required by law to be included in a case plan.

(e) Review Hearing. The court will set a hearing to review the performance of the parties to the case plan no later than 90 days after the disposition hearing or the hearing at which the case plan was approved, 6 months from the date on which the child was removed from the home, or 6 months from the date of the last judicial review, whichever comes first.

RULE 8.415. JUDICIAL REVIEW OF DEPENDENCY CASES

(a) Required Review. All dependent children must have their status reviewed as provided by law. Any party may petition the court for a judicial review as provided by law.

(b) Scheduling Hearings.

(1) Initial Review Hearing. The court must determine when the first review hearing must be held and the clerk of the court must immediately schedule the review hearing. In no case may the hearing be scheduled for later than 6 months from the date of removal from the home or 90 days from the disposition or case plan approval hearing, whichever comes first. In every case, the court must conduct a judicial review at least every 6 months.

(2) Subsequent Review Hearings. At each judicial review hearing, the court must schedule the next judicial review hearing which must be conducted within 6 months. The clerk of the court, at the judicial review hearing, must provide the parties, the social service agency charged with the supervision of care, custody, or guardianship of the child, the foster parent or caregiver in whose home the child resides, any preadoptive parent, and such other persons as the court my direct with written notice of the date, time, and location of the next judicial review hearing.

(3) Review Hearings for Children 16 Years of Age. The court must provide the child the opportunity to address the court and must review the child's independent living transition services. The foster parent, legal custodian, or guardian ad litem may also provide any information relevant to the child's best interest to the court. At the first hearing after the child's 16th birthday, the court must inquire about the life skills the child has acquired and whether they are age appropriate, and the department must provide a

report that includes specific information as to the life skills the child has acquired since the child's 13th birthday, or since the child came into foster care, whichever came later.

(4) Review Hearings for Children 17 Years of Age. The court must hold a judicial review hearing within 90 days after a child's 17th birthday. The court must also issue an order, separate from the order on judicial review, that the specific disabilities of nonage of the child have been removed pursuant to sections 743.044, 743.045, 743.046, and 743.047, Florida Statutes, as well as any other disabilities of nonage that the court finds to be in the child's best interest to remove. The court must continue to hold timely judicial review hearings. The department must update the child's transition plan before each judicial review hearing as required by law. If necessary, the court may review the status of the child more frequently during the year before the child's 18th birthday. At the last review hearing before the child reaches 18 years of age, the court must also address whether the child plans to remain in foster care, and, if so, ensure that the child's transition plan complies with the law. The court must approve the child's transition plan before the child's 18th birthday.

(5) Review Hearings for Young Adults in Foster Care. The court must review the status of a young adult at least every six months and must hold a permanency review hearing at least annually while the young adult remains in foster care. The young adult or any other party to the dependency case may request an additional hearing or judicial review.

(c) Report. In all cases, the department or its agent must prepare a report to the court. The report must contain facts showing the court to have jurisdiction of the cause as a dependency case. It must contain information as to the identity and residence of the parent, if known, and the caregiver, the dates of the original dependency adjudication and any subsequent judicial review proceedings, the results of any safe-harbor placement assessment including the status of the child's placement, and a request for one or more of the following forms of relief:

(1) that the child's placement be changed;

(2) that the case plan be continued to permit the parents or social service agency to complete the tasks assigned to them in the agreement;

(3) that proceedings be instituted to terminate parental rights and legally free the child for adoption; or

(4) that the child has a special need as defined in section 39.01305, Florida Statutes, who is not represented by an attorney, and who requires appointment of an attorney.

(d) Service. A copy of the report containing recommendations and, if not previously provided by the court, a notice of review hearing must be served on all persons who are required by law to be served at least 72 hours before the judicial review hearing.

(e) Information Available to Court. At the judicial review hearing the court may receive any relevant and material evidence pertinent to the cause. This must include written reports required by law and may include, but must not be limited to, any psychiatric or psychological evaluations of the child or parent or caregiver that may be obtained and that are material and relevant. This evidence may be received by the court and relied on to the extent of its probative value, even though it may not be competent in an adjudicatory hearing.

(f) Court Action.

(1) The court must hold a hearing to review the compliance of the parties with the case plan and to determine what assigned tasks were and were not accomplished and the reasons for any noncompliance. The court must also determine the frequency, kind, and duration of contacts among siblings who have been separated during placement, as well as any efforts undertaken to reunite separated siblings, if doing so is in the best interest of the child.

(2) If the court determines that the circumstances that caused the out-of-home placement, and any issues subsequently identified, have been remedied to the extent that returning the child to the home with an in-home safety plan prepared or approved by the department will not detrimental to the child's safety, well-

being, and physical, mental, and emotional health, the court must return the child to the custody of the parents.

(3) If the court finds that the social service agency has not complied with its obligations, the court may find the social service agency to be in contempt, must order the social service agency to submit its plan for compliance with the case plan, and must require the social service agency to show why the child could not be safely returned to the home of the parents. If the court finds that the child could not be safely returned to the parents, it must extend the case plan for a period of not more than 6 months to allow the social service agency to comply with its obligations under the case plan.

(4) At any judicial review held under section 39.701(3), Florida Statutes, if, in the opinion of the court, the department has not met its obligations to the child as stated in the written case plan or in the provision of independent living services, the court may issue an order directing the department to show cause as to why it has not done so. If the department cannot justify its noncompliance, the court may give the department 30 days within which to comply and, on failure to comply, the court may hold the department in contempt.

(5) The court shall appoint an attorney to represent a child with special needs as required by rule 8.231, and who is not already represented by an attorney.

(6) If, at any judicial review, the court determines that the child shall remain in the out-of-home care in a placement other than with a parent, the court shall order that the department has placement and care responsibility for the child.

(7) The court must enter a written order on the conclusion of the review hearing including a statement of the facts, those findings it was directed to determine by law, a determination of the future course of the proceedings, and the date, time, and place of the next hearing.

(8) When a young adult is in extended foster care, each judicial review order shall provide that the department has placement and care responsibility for the young adult. When a young adult is in extended foster care, the court shall enter an order at least every 12 months that includes a finding of whether the department has made reasonable efforts to finalize the permanency plan currently in effect.

(g) Jurisdiction.

(1) When a child is returned to the parents, the court must not terminate its jurisdiction over the child until 6 months after the return. Based on a report of the department and any other relevant factors, the court must then determine whether jurisdiction should be continued or terminated. If its jurisdiction is to be terminated, it must enter an order to that effect. The court must retain jurisdiction over a child if the child is placed in the home with a parent or caregiver with an in-home safety plan and such safety plan remains necessary for the child to reside safely in the home.

(2) When a child has not been returned to the parent, but has been permanently committed to the department for subsequent adoption, the court must continue to hold judicial review hearings on the status of the child at least every 6 months until the adoption is finalized. These hearings must be held in accordance with these rules.

(3) If a young adult petitions the court at any time before his or her 19th birthday requesting the court's continued jurisdiction, the court may retain or reinstate jurisdiction for a period of time not to continue beyond the date of the young adult's 19th birthday for the purpose of determining whether appropriate services that were required to be provided to the young adult before reaching 18 years of age have been provided.

(4) If a young adult has chosen to remain in extended foster care after he or she has reached 18 years of age, the department may not close a case and the court may not terminate jurisdiction until the court finds, following a hearing, that the appropriate statutory criteria have been met.

(5) If the young adult elects to voluntarily leave extended foster care for the sole purpose of ending a removal episode and immediately thereafter executes a voluntary placement agreement with the department to reenroll in extended foster care, the court shall enter an order finding that the prior removal episode has

ended. Under these circumstances, the court maintains jurisdiction and a petition to reinstate jurisdiction as provided by laws is not required. When a young adult enters extended foster car by executing a voluntary placement agreement, the court shall enter an order within 180 days after execution of the agreement that determines whether the placement is in the best interest of the young adult.

(6) 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 solely for the purpose of allowing the continued consideration of the petition and application by federal authorities. Review hearings must be set solely for the purpose of determining the status of the petition and application. The court's jurisdiction must terminate on the final decision of the federal authorities, or on the immigrant child's 22nd birthday, whichever occurs first.

(h) Administrative Review. The department, under a formal agreement with the court in particular cases, may conduct administrative reviews instead of judicial reviews for children in out-of-home placement. Notice must be provided to all parties. An administrative review may not be substituted for the first judicial review or any subsequent 6-month review. Any party may petition the court for a judicial review as provided by law.

(i) Concurrent Planning.

(1) At the initial judicial review hearing, the court must 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. In making such findings, the court shall consider the level of the parent or legal custodian's compliance with the case plan and demonstrated change in protective capacities compared to that necessary to achieve timely reunification within 12 months after the removal of the child from the home. The court shall also consider the frequency, duration, manner, and level of engagement of the parent or legal custodian's visitation with the child in compliance with the case plan.

(2) If 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 a motion to amend the case plan and declare that it will use concurrent planning for the case plan.

(3) The department must file the motion to amend the case plan no later than 10 business days after receiving the written finding of the court and attach the proposed amended case plan to the motion.

(4) If concurrent planning is already being used, the case plan must document the efforts the department is making to complete the concurrent goal.

Committee Notes

1991 Adoption. The rule allows for certain forms of relief pertinent to foster care review. It allows the court to order commencement of a termination of parental rights proceeding if the parents are not in compliance. The court is also permitted to extend or modify the plan.

2022 Amendment. Section (b) of this rule was amended in response to ch. 2021-169, Laws of Florida.

RULE 8.420. CASE PLAN AMENDMENTS

(a) Modifications. After the case plan has been developed, the tasks and services agreed upon in the plan may not be changed or altered except as follows.

(1) The case plan may be amended at any time to change the goal of the plan, employ the use of concurrent planning, add or remove tasks the parent must complete to substantially comply with the plan, provide appropriate services for the child, and update the child's health, mental health, and education records.

(2) The case plan may be amended on approval of the court if all parties are in agreement regarding the amendments to the plan and the amended plan is signed by all parties and submitted to the court with a memorandum of explanation.

(3) The case plan may be amended by the court or on motion of any party at any hearing to change the goal of the plan, employ the use of concurrent planning, or add or remove the tasks the parent must complete in order to substantially comply with the plan, if there is a preponderance of evidence demonstrating the need for the amendment.

(4) The case plan may be amended by the court or on motion of any party at any hearing to provide appropriate services to the child if there is competent evidence demonstrating the need for the amendment.

(5) The case plan is deemed amended as to the child's health, mental health, and education records when the child's updated health and education records are filed by the department.

When determining whether to amend the case plan, the court must consider the length of time the case has been open, the level of parental engagement to date, the number of case plan tasks completed, the child's type of placement and attachment, and the potential for successful reunification.

(b) Basis to Amend the Case Plan. The need to amend the case plan may be based on information discovered or circumstances arising after the approval of the case plan for:

(1) a previously unaddressed condition that, without services, may prevent the child from safely returning to or remaining in the home;

(2) the child's need for permanency;

(3) the failure of a party to substantially comply with a task in the original case plan, including the ineffectiveness of a previously offered service;

(4) an error or oversight in the case plan;

(5) information discovered or circumstances arising after the approval of the plan regarding the provision of safe and proper care for the child; or

(6) incarceration of a parent after a case plan has been developed if the parent's incarceration has an impact on permanency for the child, including, but not limited to:

(A) modification of provisions regarding visitation and contact with the child;

(B) identification of services within the facility; or

(C) changing the permanency goal or establishing a concurrent case plan goal.

(c) Service. A copy of the amended plan must be immediately given to all parties.

RULE 8.425. PERMANENCY HEARINGS

(a) Required Review. A permanency hearing must be held no later than 12 months after the date the child was removed from the home or within 30 days after a court determines that reasonable efforts to return a child to either parent are not required, whichever occurs first. A permanency hearing must be held at least every 12 months for any child who continues to be supervised by the department or awaits adoption.

(b) Determinations at Hearing.

(1) The court shall determine:

(A) whether the current permanency goal for the child is appropriate or should be changed;

(B) when the child will achieve one of the permanency goals;

(C) whether the department has made reasonable efforts to finalize the permanency plan currently in effect; and

(D) whether the frequency, duration, manner, and level of engagement of the parent or legal guardian's visitation with the child meets the case plan requirements.

(2) The court shall approve a permanency goal for the child as provided by law choosing from the following options, listed in order of preference:

(A) reunification;

(B) adoption, if a petition for termination of parental rights has been or will be filed;

(C) permanent guardianship of a dependent child under section 39.6221, Florida Statutes;

(D) permanent placement with a fit and willing relative under section 39.6231, Florida Statutes; or

(E) placement in another planned permanent living arrangement under section 39.6241, Florida Statutes.

(3) The best interest of the child is the primary consideration in determining the permanency goal. The court must also consider the reasonable preference of the child if the court has found the child to be of sufficient intelligence, understanding, and experience to express a preference and any recommendation of the guardian ad litem.

(c) Case Plan. The case plan must list the tasks necessary to finalize the permanency placement and shall be amended at the permanency hearing if necessary. If a concurrent case plan is in place, the court shall approve a single goal that is in the child's best interest.

(d) Permanency Order.

(1) The findings of the court regarding reasonable efforts to finalize the permanency plan must be explicitly documented, made on a case-by-case basis, and stated in the court order.

(2) The court shall enter an order approving the permanency goal for the child.

(3) If the court approves a permanency goal of permanent guardianship of a dependent child, placement with a fit and willing relative, or another planned permanent living arrangement, the court shall make findings as to why this permanent placement is established without adoption of the child to follow. The department and the guardian ad litem must provide the court with a recommended list and description of services needed by the child, such as independent living services and medical, dental, educational, or psychological referrals, and a recommended list and description of services needed by his or her caregiver.

(4) If the court establishes a permanent guardianship for the child, the court’s written order shall:

(A) transfer parental rights with respect to the child relating to protection, education, care and control of the person, custody of the person, and decision-making on behalf of the child to the permanent guardian;

(B) list the circumstances or reasons why the child’s parents are not fit to care for the child and why reunification is not possible by referring to specific findings of fact made in its order adjudicating the child dependent or by making separate findings of fact;

(C) state the reasons why a permanent guardianship is being established instead of adoption;

(D) specify the frequency and nature of visitation or contact between the child and his or her parents, siblings, and grandparents;

(E) require that the permanent guardian not return the child to the physical care and custody of the person from whom the child was removed without the approval of the court; and

(F) state whether the child demonstrates a strong attachment to the prospective permanent guardian and such guardian has a strong commitment to permanently caring for the child.

(5) The court shall retain jurisdiction over the case and the child shall remain in the custody of the permanent guardian unless the order creating the permanent guardianship is modified by the court. The court shall discontinue regular review hearings and relieve the department of the responsibility for supervising the placement of the child. Notwithstanding the retention of jurisdiction, the placement shall be considered permanency for the child.

(6) If the court permanently places a child with a fit and willing relative, the court's written order shall:

(A) list the circumstances or reasons why reunification is not possible by referring to specific findings of fact made in its order adjudicating the child dependent or by making separate findings of fact;

(B) state the reasons why permanent placement with a fit and willing relative is being established instead of adoption;

(C) specify the frequency and nature of visitation or contact between the child and his or her parents, siblings, and grandparents; and

(D) require that the relative not return the child to the physical care and custody of the person from whom the child was removed without the approval of the court.

(7) If the court establishes another planned permanent living arrangement as the child's permanency option:

(A) The court must find that a more permanent placement, such as adoption, permanent guardianship, or placement with a fit and willing relative, is not in the best interests of the child.

(B) The department shall document reasons why the placement will endure and how the proposed arrangement will be more stable and secure than ordinary foster care.

(C) The court must find that the health, safety, and well-being of the child will not be jeopardized by such an arrangement.

(D) The court must find that compelling reasons exist to show that placement in another planned permanent living arrangement is the most appropriate permanency goal.

(e) Entry of Separate Order Establishing Permanency. If the court permanently places a child in a permanent guardianship or with a fit and willing relative, the court shall enter a separate order establishing the authority of the permanent guardian or relative to care for the child, reciting that individual's powers and authority with respect to the child and providing any other information the court deems proper which can be provided to persons who are not parties to the proceeding as necessary, notwithstanding the confidentiality provisions of chapter 39, Florida Statutes.

(f) Recommendations for Sustaining Permanency. If the court approves a goal of placement with a fit and willing relative or another planned permanent living arrangement, the department and the guardian ad litem must provide the court with a recommended list and description of services needed by the child, and a recommended list and description of services needed by his or her caregiver.

RULE 8.430. MODIFICATION OF PERMANENCY ORDER

(a) Best Interests of Child. The permanency placement is intended to continue until the child reaches the age of majority and may not be disturbed absent a finding by the court that the circumstances of the permanency placement are no longer in the best interest of the child.

(b) Request for Modification by a Parent.

(1) If, after a child is residing in the permanent placement approved at the permanency hearing, a parent who has not had his or her parental rights terminated makes a motion for reunification or increased contact with the child, the court shall first hold a hearing to determine whether the dependency case should be reopened and whether there should be a modification of the order. At the hearing, the parent must demonstrate that the safety, well-being, and physical, mental, and emotional health of the child is not endangered by the modification.

(2) The court shall base its decision concerning any motion by a parent for reunification or increased contact with a child on the effect of the decision on the safety, well-being, and physical and emotional health of the child. Factors that must be considered and addressed in the findings of fact of the order on the motion must include:

(A) the compliance or noncompliance of the parent with the case plan;

(B) the circumstances which caused the child's dependency and whether those circumstances have been resolved;

(C) the stability and length of the child's placement;

(D) the preference of the child, if the child is of sufficient age and understanding to express a preference;

(E) the recommendation of the current custodian; and

(F) the recommendation of the guardian ad litem, if one has been appointed.

RULE 8.435. REINSTATEMENT OF JURISDICTION FOR YOUNG ADULT

(a) Petition for Reinstatement of Jurisdiction.

(1) If a young adult who is between the ages of 18 and 21, or 22 if the young adult has a disability, is re-admitted to foster care, the department shall petition the court to reinstate jurisdiction over the young adult.

(2) The petition for reinstatement of jurisdiction must be in writing and specify that the young adult meets the eligibility requirements for readmission to foster care as provided by law. The petition shall indicate whether the young adult has a special need requiring appointment of counsel as required by section 39.01305, Florida Statutes. The petition is not required to be sworn and notarized.

(3) The department shall serve the young adult and any party a copy of the petition for reinstatement of jurisdiction.

(b) Hearing on Petition for Reinstatement of Jurisdiction.

(1) Upon filing of the petition for reinstatement of jurisdiction, the court shall schedule and conduct a hearing on the petition for reinstatement of jurisdiction.

(2) The department shall serve the young adult and any party a notice of the hearing on the petition for reinstatement of jurisdiction.

(c) Order on Petition for Reinstatement of Jurisdiction.

(1) If the department establishes that the young adult meets the eligibility requirements for readmission to foster care as provided by law, the court shall enter an order reinstating jurisdiction over the young adult.

(2) In the order reinstating jurisdiction, the court shall schedule a judicial review hearing to take place within 6 months.

(3) The court shall appoint an attorney to represent a young adult with special needs as defined in section 39.01305, Florida Statutes, who is not already represented by an attorney.

E. TERMINATION OF PARENTAL RIGHTS

RULE 8.500. PETITION

(a) Initiation of Proceedings:

(1) All proceedings seeking the termination of parental rights to a child shall be initiated by the filing of an original petition in the pending dependency action, if any.

(2) A petition for termination of parental rights may be filed at any time by the department, the guardian ad litem, or any person having knowledge of the facts. Each petition shall be titled a petition for termination of parental rights.

(3) When provided by law, a separate petition for dependency need not be filed.

(b) Contents.

(1) The petition shall contain allegations as to the identity and residence of the parents, if known.

(2) The petition shall identify the age, sex, and name of the child. Two or more children may be the subject of the same petition.

(3) The petition shall include facts supporting allegations that each of the applicable statutory elements for termination of parental rights has been met.

(4) When required by law, the petition shall contain a showing that the parents were offered a case plan and did not substantially comply with it.

(5) The petition shall contain an allegation that the parents will be informed of the availability of private placement of the child with an adoption entity, as defined in chapter 63, Florida Statutes.

(6) The petition shall have a certified copy of the birth certificate of each child named in it attached unless the petitioner, after diligent search and inquiry, is unable to produce it, in which case the petition

shall state the date and place of birth of each child, unless these matters cannot be ascertained after diligent search and inquiry or for other good cause.

(c) Verification. The petition shall be signed under oath stating the good faith of the petitioner in filing it. No objection to a petition on the grounds that it was not signed or verified as required shall be entertained after a plea to the merits.

(d) Amendments. At any time before the conclusion of an adjudicatory hearing, an amended petition may be filed or the petition may be amended by motion. However, after a written answer has been filed or the adjudicatory hearing has commenced, amendments shall be permitted only with the permission of the court unless all parties consent. Amendments shall be freely permitted in the interest of justice and the welfare of the child. A continuance shall be granted on motion and a showing that the amendment prejudices or materially affects any party.

(e) Defects and Variances. No petition or any count of it shall be dismissed, or any judgment vacated, because of any defect in the form of the petition or of misjoinder of counts. If the court is of the opinion that the petition is so vague, indistinct, and indefinite as to mislead the parent and prejudice him or her in the preparation of a defense, the petitioner will be required to furnish a more definite statement.

(f) Voluntary Dismissal. The petitioner, without leave of the court, at any time before entry of an order of adjudication, may request a voluntary dismissal of the petition by serving a notice of request of dismissal on all parties or, if during a hearing, by so stating on the record. The petition shall be dismissed and the court loses jurisdiction unless another party adopts the petition within 72 hours. Unless otherwise stated, the dismissal shall be without prejudice.

(g) Parental Consent.

(1) The parents of the child may consent to the petition for termination of parental rights at any time, in writing or orally, on the record.

(2) If, before the filing of the petition for termination of parental rights, the parents have consented to the termination of parental rights and executed surrenders and waivers of notice of hearing as provided by law, this shall be alleged in the petition and copies shall be attached to the petition and presented to the court.

(3) If the parents appear and enter an oral consent on the record to the termination of parental rights, the court shall determine the basis on which a factual finding may be made and shall incorporate these findings into its order of disposition.

RULE 8.505. PROCESS AND SERVICE

(a) Personal Service. On the filing of a petition requesting the termination of parental rights, a copy of the petition and notice of the date, time, and place of the advisory hearing must be personally, or via primary e-mail address upon a party's consent, served on

(1) the parents;

(2) the legal custodians or caregivers of the child;

(3) if the natural parents are dead or unknown, a living relative of the child, unless on diligent search and inquiry no relative can be found;

(4) any person who has physical custody of the child;

(5) any grandparents entitled by law to notice of the adoption proceeding;

(6) any prospective parent identified by law, unless a court order has been entered which indicates no further notice is required, or if the prospective father executes an affidavit of nonpaternity or a consent to termination of his parental rights which is accepted by the court after notice and opportunity to be heard by all parties to address the best interests of the child in accepting such affidavit;

(7) the guardian ad litem for the child or the representative of the guardian ad litem program, if the program has been appointed;

(8) the attorney ad litem for the child if one has been appointed; and

(9) any other person as provided by law.

(b) Contents. The document containing the notice to appear shall notify the required persons of the filing of the petition and must contain in type at least as large as the balance of the document the following or substantially similar language:

"FAILURE TO PERSONALLY APPEAR AT THE ADVISORY HEARING CONSTITUTES CONSENT TO THE TERMINATION OF PARENTAL RIGHTS OF THIS CHILD (THESE CHILDREN). IF YOU FAIL TO APPEAR ON THE DATE AND TIME SPECIFIED, YOU MAY LOSE ALL LEGAL RIGHTS AS A PARENT TO THE CHILD OR CHILDREN NAMED IN THE PETITION ATTACHED TO THIS NOTICE."

(c) Constructive Service. Parties whose identities are known and on whom personal service of process cannot be effected shall be served by publication as provided by law. The notice of action shall contain the initials of the child and the child's date of birth. There shall be no other identifying information of the child in the notice of action. The notice of action shall include the full name and last known address of the person subject to the notice. The notice of action shall not contain the name or any other identifying information of the other parents or prospective parents who are not subject to the notice.

(d) Waiver of Service. Service of process may be waived, as provided by law, for persons who have executed a written surrender of the child to the department.

RULE 8.510. ADVISORY HEARING AND PRETRIAL STATUS CONFERENCES

(a) Advisory Hearing.

(1) An advisory hearing on the petition to terminate parental rights must be held as soon as possible after service of process can be effected, but no less than 72 hours following service of process. Personal appearance of any person at the advisory hearing eliminates the time requirement for serving process on that person.

(2) The court must:

(A) advise the parents of their right to counsel including the right to an effective attorney and appoint an attorney in accordance with legal requirements;

(B) advise the parents of the availability of private placement of the child with an adoption entity, as defined in chapter 63, Florida Statutes;

(C) determine whether an admission, consent, or denial to the petition shall be entered; and

(D) appoint a guardian ad litem if one has not already been appointed.

(3) If a parent served with notice fails to personally appear at the advisory hearing, the court shall enter a consent to the termination of parental rights petition for the parent who failed to personally appear.

(4) If an admission or consent is entered by all parents for a named child included in the petition for termination of parental rights and the court finds that termination of parental rights is in the best interest of the child, the court shall proceed to disposition alternatives as provided by law.

(5) If a denial is entered, the court shall set an adjudicatory hearing within the period of time provided by law or grant a continuance until the parties have sufficient time to proceed to an adjudicatory hearing.

(b) Pretrial Status Conference. Not less than 10 days before the adjudicatory hearing on a petition for involuntary termination of parental rights, the court shall conduct a pretrial status conference to determine the order in which each party may present witnesses or evidence, the order in which cross-examination and argument shall occur, which witnesses will be physically present and which will appear via audio-video communication technology, and any other matters that may aid in the conduct of the adjudicatory hearing.

(c) Voluntary Terminations. An advisory hearing may not be held if a petition is filed seeking an adjudication to voluntarily terminate parental rights. Adjudicatory hearings for petitions for voluntary

termination must be set within 21 days of the filing of the petition. Notice of intent to rely on this sub-division must be filed with the court as required by law.

RULE 8.515. PROVIDING COUNSEL TO PARTIES

(a) Duty of the Court.

(1) At each hearing, the court shall advise unrepresented parents of their right to have counsel present, unless the parents have voluntarily executed a written surrender of the child and consent to the entry of a court order terminating parental rights.

(2) The court shall appoint counsel for indigent parents as provided by law. The court may appoint counsel for other parties as provided by law.

(3) The court shall ascertain whether the right to counsel is understood. If the right to counsel is waived by any parent the court shall ascertain if the right to counsel is knowingly and intelligently waived.

(4) The court shall enter its findings with respect to the appointment or waiver of counsel of indigent parents or the waiver of the right to have counsel present.

(5) Once counsel has been retained or appointed to represent a parent, the attorney shall continue to represent the parent throughout the proceedings or until the court has approved discontinuing the attorney-client relationship. If the attorney-client relationship is discontinued, the court shall advise the parent of the right to have new counsel retained or appointed for the remainder of the proceedings.

(b) Waiver of Counsel.

(1) No waiver shall be accepted if it appears that the parent is unable to make an intelligent and understanding choice because of mental condition, age, education, experience, the nature or complexity of the case, or other factors.

(2) A waiver of counsel shall be made in court and be of record. The court shall question the parent in sufficient detail to ascertain that the waiver is made knowingly and intelligently.

(3) If a waiver is accepted at any hearing, the offer of assistance of counsel shall be renewed by the court at each subsequent hearing at which the parent appears without counsel.

RULE 8.517. WITHDRAWAL AND APPOINTMENT OF ATTORNEY

(a) Withdrawal of Attorney after Order Adjudicating Child Dependent. After an order of adjudication of dependency or an order of dependency disposition has been entered, the attorney of record for a parent or legal custodian in a dependency proceeding shall not be permitted to withdraw as the attorney until the following have occurred:

(1) The attorney certifies that after discussing appellate remedies with the parent or legal custodian, the parent or legal custodian elects not to appeal the order; or

(2) The attorney certifies that after discussing appellate remedies with the parent or legal custodian, the parent or legal custodian elects to appeal the order, and

(A) a notice of appeal containing the signatures of the attorney and the parent or legal custodian has been filed or a notice of appeal containing the signature only of the attorney has been filed if the parent or legal custodian elects to appeal but is unable to personally timely sign the notice and that an amended notice of appeal containing the parent's or legal custodian's signature will be filed;

(B) directions to clerk, if necessary, have been filed;

(C) a motion to transcribe the requisite proceedings has been filed;

(D) a designation to the court reporter specifying the proceedings that must be transcribed in order to obtain review of the issues on appeal and designating the parties to receive a copy of the transcripts has been filed; and

(E) an order appointing appellate counsel, if any, has been entered.

Conformed copies of each of these documents shall be attached to the motion to withdraw.

(3) If the attorney is unable to contact the parent or legal custodian regarding appellate remedies, the attorney certifies and describes the efforts made to contact the parent or legal custodian.

(b) Withdrawal of Attorney after Order Terminating Parental Rights. After an order terminating parental rights has been entered, the attorney of record for a parent in a termination of parental rights proceeding shall not be permitted to withdraw as attorney until the following have occurred:

(1) Discussion of Appeal.

(A) The attorney certifies that after discussing appellate remedies with the parent, the parent elects not to appeal the order terminating parental rights; or

(B) The attorney certifies that after discussing appellate remedies with the parent, the parent elects to appeal the order terminating parental rights; and

(i) a notice of appeal containing the signatures of the attorney and the parent has been filed or a notice of appeal containing the signature only of the attorney has been filed if the parent elects to appeal but is unable to personally timely sign the notice and that an amended notice of appeal containing the parent's signature will be filed;

(ii) directions to clerk, if necessary, have been filed;

(iii) a motion to transcribe the requisite proceedings has been filed;

(iv) a designation to the court reporter specifying the proceedings that must be transcribed in order to obtain review of the issues on appeal and designating the parties to receive a copy of the transcripts has been filed; and

(v) an order appointing appellate counsel, if any, has been entered.

Conformed copies of each of these documents shall be attached to the motion to withdraw.

(2) Discussion of Ineffective Assistance of Counsel Claim.

(A) The attorney certifies that after discussing the right of a parent to file a motion claiming ineffective assistance of counsel, the parent elects not to file the motion, or

(B) The attorney certifies that after discussing the right of the parent to file a motion claiming ineffective assistance of counsel, the parent elects to file a motion. Consequently, the attorney must immediately seek to withdraw from representation of the parent.

(3) Inability to Discuss Remedies. If the attorney is unable to contact the parent regarding appellate remedies and the right to file a motion claiming ineffective assistance of counsel, the attorney certifies and describes the efforts made to contact the parent.

(c) Appointment of Appellate Counsel. If the court permits the attorney to withdraw, the court must expeditiously appoint appellate counsel for indigent parents pursuant to law. The indigent parent is not entitled to a court-appointed attorney in any trial court proceeding regarding a motion claiming ineffective assistance of counsel. However, a parent may independently retain an attorney to assist in any trial court proceeding regarding a motion claiming ineffective assistance of counsel.

(d) Service of Order Appointing Attorney. Following rendition of an order appointing appellate counsel, the court must serve the order on the appointed appellate counsel and the clerk of the appellate court.

Committee Note

Amendment 2017. Significant amendments were made to create a process for claiming ineffective assistance of counsel in termination of parental rights proceedings. *J.B., etc. v. Florida Department of Children and Families,* 170 So. 3d 780 (Fla. 2015). A parent's right to appointed counsel is governed by sections 39.013(9)a. and 27.511, Florida Statutes.

RULE 8.520. ANSWERS AND RESPONSIVE PLEADINGS

(a) No Written Answer Required. No answer to the petition need be filed by the parent. The parent of the child may enter an oral or written answer to the petition or appear and remain silent.

(b) Plea of Denial. If the parent denies the allegations of the petition, appears and remains silent, or pleads evasively, the court shall enter a denial and shall set the case for an adjudicatory hearing.

(c) Plea of Admission or Consent. If the parent appears and enters a plea of admission or consent to the termination of parental rights, the court shall determine that the admission or consent is made voluntarily and with a full understanding of the nature of the allegations and the possible consequences of the plea and that the parent has been advised of the right to be represented by counsel. The court shall incorporate these findings into its order of disposition, in addition to findings of fact specifying the act or acts causing the termination of parental rights.

RULE 8.525. ADJUDICATORY HEARINGS

(a) Hearing by Judge. The adjudicatory hearing shall be conducted by the judge without a jury using the rules of evidence for civil cases. At this hearing the court shall determine whether the elements required by law for termination of parental rights have been established by clear and convincing evidence.

(b) Time of Hearing. The adjudicatory hearing shall be held within 45 days after the advisory hearing, unless all necessary parties stipulate to some other hearing date. Reasonable continuances may be granted for purposes of investigation, discovery, procuring counsel or witnesses, or for other good cause shown.

(c) Examination of Witnesses. A party may call any person, including a child, as a witness. A party shall have the right to examine or cross-examine all witnesses.

(d) Presence of Parties. All parties have the right to be present at all termination hearings. A party may appear in person or, at the discretion of the court for good cause shown, by communication technology. No party shall be excluded from any hearing unless so ordered by the court for disruptive behavior or as provided by law. If a parent appears for the advisory hearing and the court orders that parent to personally appear at the adjudicatory hearing for the petition for termination of parental rights, stating the date, time, and location of this hearing, then failure of that parent to personally appear at the adjudicatory hearing shall constitute consent for termination of parental rights.

(e) Examination of Child. The court may hear the testimony of the child outside the physical presence of the parties as provided by rule 8.255. Counsel for the parties shall be present during all examinations. The court may limit the manner in which counsel examine the child.

(f) Previous Testimony Admissible. To avoid unnecessary duplication of expenses, in-court testimony previously given at any properly noticed hearing may be admitted, without regard to the availability of the witnesses, if the recorded testimony itself is made available. Consideration of previous testimony does not preclude the parties from calling the witness to answer supplemental questions.

(g) Joint and Separate Hearings. When 2 or more children are the subject of a petition for termination of parental rights, the hearings may be held simultaneously if the children are related to each other or involved in the same case, unless the court orders separate hearings.

(h) Motion for Judgment of Dismissal. In all termination of parental rights proceedings, if at the close of the evidence for the petitioner the parents move for a judgment of dismissal and the court is of the opinion that the evidence is insufficient to sustain the grounds for termination alleged in the petition, it shall enter an order denying the termination and proceed with dispositional alternatives as provided by law.

(i) Advisement of Right to Appeal and File Ineffective Assistance of Council Motion. At the conclusion of the adjudicatory hearing, the court must orally inform the parents of the right to appeal any order terminating parental rights to the district court of appeal and the right to file a motion in the circuit court claiming that counsel provided ineffective assistance.

(j) Order.

(1) Terminating Parental Rights.

(A) If the court finds after all of the evidence has been presented that the elements and one of the

grounds for termination of parental rights have been established by clear and convincing evidence, the court shall enter a written order terminating parental rights and proceed with dispositional alternatives as provided by law within 30 days after conclusion of the adjudicatory hearing.

(B) The order must contain the findings of fact and conclusions of law on which the decision was based. The court shall include the dates of the adjudicatory hearing in the order.

(C) The order must include a brief statement informing the parents of the right to appeal the order to district court of appeal and the right to file a motion in the circuit court alleging that counsel provided ineffective assistance and a brief explanation of the procedure for filing such a claim.

(D) The parties may stipulate, or the court may order, that parents or relatives of the parent whose rights are terminated be allowed to maintain some contact with the child. If the court orders continued contact, the nature and frequency of this contact must be stated in a written order. The visitation order may be reviewed on motion of any party, including a prospective adoptive parent, and must be reviewed by the court at the time the child is placed for adoption.

(2) Denying Termination of Parental Rights. If the court finds after all of the evidence has been presented that the grounds for termination of parental rights have not been established by clear and convincing evidence, but that the grounds for dependency have been established by a preponderance of the evidence, the court shall adjudicate or readjudicate the child dependent and proceed with dispositional alternatives as provided by law.

(3) Dismissing Petition. If the court finds after all of the evidence has been presented that the allegations in the petition do not establish grounds for dependency or termination of parental rights, it shall enter an order dismissing the petition.

RULE 8.530. PARENT'S MOTION CLAIMING INEFFECTIVE ASSISTANCE OF COUNSEL FOLLOWING ORDER TERMINATING PARENTAL RIGHTS

(a) Duty of the Court to Advise. At the conclusion of the termination of parental rights adjudicatory hearing, the court must orally inform the parents who are represented by an attorney of the right to appeal an order terminating parental rights to the district court of appeal and the right to file a motion in the circuit court claiming that an attorney provided ineffective assistance if the court enters an order terminating parental rights. In addition, the written order terminating parental rights must include a brief statement informing the parents of the right to file a motion claiming ineffective assistance of counsel and a brief explanation of the procedure for filing the motion.

(b) Duty of Attorney to Advise. After entry of an order terminating parental rights, an attorney must discuss appellate remedies with the parent and determine whether the parent elects to appeal the order terminating parental rights. The attorney must also inquire whether the parent intends to file a motion claiming ineffective assistance of counsel. If the parent states an intention to file a motion claiming ineffective assistance of counsel, then the attorney must immediately seek withdrawal pursuant to these rules.

(c) Motion and Jurisdiction. After the court has entered a written order terminating parental rights, a parent may file a motion in the circuit court claiming that the parent's attorney provided ineffective assistance. If a notice of appeal of the order terminating parental rights is filed, the trial court continues to have jurisdiction to consider a motion claiming ineffective assistance of counsel.

(d) Court-Appointed Attorney.

(1) An indigent parent is not entitled to a court-appointed attorney to assist the parent in preparing, filing, or litigating a motion claiming ineffective assistance of counsel. However, the parent may independently obtain an attorney to represent the parent in pursuing the motion.

(2) An indigent parent is otherwise entitled to a court-appointed attorney as provided by law in both the trial and appellate court in a termination of parental rights proceeding, and is entitled to a court-

appointed attorney concerning appellate review of the trial court's order on the motion for ineffective assistance of counsel.

(e) Time Limitations. A motion claiming ineffective assistance of counsel must be filed within 20 days of the date the court entered the written order terminating parental rights.

(f) Toll of Time for Appeal. The timely filing of a motion claiming ineffective assistance of counsel tolls rendition of the order terminating parental rights for purposes of appeal until the circuit court enters an order on the motion or for 50 days from the date the court entered the written order terminating parental rights, whichever occurs first.

(g) Contents of Motion.

(1) The motion must be in writing and under oath stating that all of the facts stated are true and correct.

(2) The motion must contain the case name and number and identify the date the written order terminating parental rights was entered.

(3) The motion must contain the current mailing address and e-mail address, if any, and the phone number(s) of the parent filing the motion for the purpose of receiving notices and orders.

(4) The motion must identify specific acts or omissions in the attorney's representation of the parent during the termination of parental rights proceedings that constituted a failure to provide reasonable, professional assistance and explain how the acts or omissions prejudiced the parent's case to such an extent that but for counsel's deficient performance the parent's rights would not have been terminated.

(h) Amendments to Motion. If the motion claiming ineffective assistance of counsel is timely filed, the parent may file amended motions without permission of the court within 20 days from the date the court entered the written order terminating parental rights. The court may order the moving parent to file an amended motion as provided in this rule.

(i) Delivery of Motion to Judge. On filing of the motion, the clerk of court must immediately provide the motion and court file to the judge who entered the order terminating parental rights.

(j) Response to Motion. No answer or responsive pleading is required from any other party to the termination of parental rights proceeding.

(k) Service of the Motion. The parent claiming ineffective assistance of counsel must serve the motion on all parties to the termination of parental rights proceeding and to the attorney the parent claims provided ineffective assistance.

(l) Summary Denial of Motion.

(1) Untimely Motion. The court must enter an order within 5 days from the date the motion or amended motion was filed summarily denying with prejudice any motion filed after the 20-day limitation for filing. The order shall be considered the final order for purposes of appeal.

(2) Insufficient Motion. If the motion or amended motion is legally insufficient as alleged, the court may enter an order summarily denying the motion within 5 days from the date the motion or amended motion was filed. A motion is legally insufficient when the allegations of ineffective assistance of counsel during the termination of parental rights proceedings, if taken as true, did not prejudice the parent's case to such an extent that but for counsel's deficient performance the parent's rights would not have been terminated. The order denying a motion as legally insufficient must set forth the basis for the conclusion the motion is legally insufficient. The court must not summarily deny a motion as insufficient for reason other than legally insufficient allegations claiming ineffective assistance of counsel. If the court denies the motion as legally insufficient and does not direct the filing of an amended motion, then the order shall be considered the final order for purposes of appeal.

(m) Order for Amended Motion. If the motion or amended motion is legally insufficient as alleged, the court may enter an order within 5 days from the date the motion, or amended motion, was filed authorizing the moving parent to file an amended motion within 10 days of the date of the written order permitting amendment.

(n) Evidentiary Hearing on Motion.

(1) Scheduling of Hearing. If the motion is timely and, in the court's opinion, contains sufficient allegations, the court must conduct an evidentiary hearing as expeditiously as possible in light of the other time limitations in this rule.

(2) Notice of Hearing. The court must issue a notice of the hearing on the motion to the parties and participants of the termination of parental rights proceeding and to the attorney who the parent claimed provided ineffective assistance. The notice must state the issues to be determined and that the moving parent is required to present evidence at the hearing on the motion.

(3) Record of Termination of Parental Rights Adjudicatory Hearing. If necessary, the court may order an expedited record for review, which may include an electronic recording in lieu of a transcript, of the termination of parental rights adjudicatory hearing. If the judge conducting the motion hearing is different from the judge who presided at the termination of parental rights adjudicatory hearing, the court must order an expedited record for review, which may include an electronic recording in lieu of a transcript, of the termination of parental rights adjudicatory hearing.

(4) Burden to Present Evidence and Proof. At the evidentiary hearing, the moving parent has the burden of presenting evidence and the burden of proving specific acts or omissions of an attorney's representation of the parent during the termination of parental rights proceedings that constituted a failure to provide reasonable, professional assistance, and how the errors or omissions prejudiced the parent's case to such an extent that but for counsel's deficient performance the parent's rights would not have been terminated. All other parties may present evidence regarding the claims raised.

(5) Order from Evidentiary Hearing. At the conclusion of the hearing on the motion, the court must enter an order granting or denying the motion within 5 days from the evidentiary hearing.

(A) Grant of Motion. If the court determines that the attorney during the termination of parental rights proceedings failed to provide reasonable, professional assistance and that the errors or omissions prejudiced the parent's case to such an extent that but for counsel's deficient performance the parent's rights would not have been terminated, the court must enter an order granting the motion stating the reasons for granting the motion and vacating the order terminating parental rights without prejudice In the order, the court must schedule an adjudicatory hearing on the petition for termination of parental rights to take place no later than 45 days from the order granting the motion. The court must then appoint an attorney to represent the parent in further proceedings, as provided by law.

(B) Denial of Motion. If the court determines that the attorney during the termination of parental rights proceedings provided reasonable, professional assistance or determines that no errors or omissions prejudiced the parent's case in the termination proceedings to such an extent that but for counsel's deficient performance the parent's rights would not have been terminated, the court must enter an order denying the motion, stating the reasons for denial. The order resolves all the claims raised in the motion and shall be considered the final order for purposes of appeal.

(o) Failure to Enter Order. If the court does not enter an order granting or denying the motion within 50 days from the date the court entered the written order terminating parental rights, the motion shall be deemed denied with prejudice.

(p) Service of Order. The clerk of the court must serve any order entered under this rule on the parties, including to the moving parent at the parent's address on file with the clerk, within 48 hours from the rendition of the order indicating the date of service by an appropriate certificate of service.

(q) Successive Motions. No second or successive motion claiming ineffective assistance of counsel shall be allowed except as provided in the rule. No motion for rehearing shall be allowed in response to the court's ruling on the motion claiming ineffective assistance of counsel.

(r) Appeals. Florida Rule of Appellate Procedure 9.146 applies to the appeal of an order on a motion claiming ineffective assistance of counsel in termination of parental rights proceedings.

RULE 8.535. POSTDISPOSITION HEARINGS

(a) Initial Hearing. If the court terminates parental rights, a postdisposition hearing must be set within 30 days after the date of disposition. At the hearing, the department or licensed child-placing agency shall provide to the court a plan for permanency for the child.

(b) Subsequent Hearings. Following the initial postdisposition hearing, the court shall hold hearings every 6 months to review progress being made toward permanency for the child until the child is adopted or reaches the age of 18, whichever occurs first. Review hearings for alternative forms of permanent placement shall be held as provided by law.

(c) Continuing Jurisdiction. The court that terminates the parental rights to a child under chapter 39, Florida Statutes, shall retain exclusive jurisdiction in all matters pertaining to the child's adoption under chapter 63, Florida Statutes. The petition for adoption must be filed in the division of the circuit court that entered the judgment terminating parental rights, unless a motion for change of venue is granted as provided by law.

(d) Withholding Consent to Adopt.

(1) When a petition for adoption and a favorable home study under section 39.812(5), Florida Statutes, have been filed and the department's consent has not been filed, the court shall conduct a hearing to determine if the department has unreasonably withheld consent.

(2) In reviewing whether the department unreasonably withheld its consent to adopt, the court shall determine whether the department abused its discretion by withholding consent to the adoption by the petitioner. In making this determination, the court shall consider all relevant information, including information obtained or otherwise used by the department in selecting the adoptive family, pursuant to Florida Administrative Code Chapter 65C.

(3) If the court determines that the department unreasonably withheld consent to adopt, and the petitioner has filed with the court a favorable home study as required by law, the court shall incorporate its findings into a written order with specific findings of fact as to how the department abused its discretion in withholding its consent to adopt, and the consent of the department shall be waived.

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