

STORAGE NAME: h3883s1.hhs

DATE: April 14, 1998

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
HEALTH AND HUMAN SERVICES APPROPRIATIONS
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: CS/HB 3883

RELATING TO: Child Protection

SPONSOR(S): Representative Lynn

COMPANION BILL(S): SB 2170

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) Family Law and Children YEAS 9 NAYS 0
 - (2) Governmental Operations
 - (3) HEALTH AND HUMAN SERVICES APPROPRIATIONS
 - (4)
 - (5)
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I. SUMMARY:

Florida's Dependency Court Improvement Program (DCIP) was established in 1995 when the U.S. Department of Health and Human Services provided funding to the highest court in every state for a comprehensive research project designed to study judicial management of foster care and adoption proceedings involving dependent children. The bill incorporates the recommendations that evolved from this study.

The bill relocates relevant sections of Chapter 415, Florida Statutes, into Chapter 39, Florida Statutes, and reorganizes Chapter 39, Florida Statutes, to reflect an orderly presentation of the dependency process from intake to case outcome. The bill provides attorneys for parents who qualify under indigency standards at shelter hearings, who will continue representation of those parents throughout the duration of the case. The time from the arraignment hearing to the disposition hearing is shortened from 30 to 15 days for those parents who admit or consent to dependency, and the time from the shelter hearing to the arraignment hearing is lengthened from 14 to 28 days to allow for adequate assessment, case planning and trial preparation.

The bill limits the number of times a case may be reviewed by a citizens review panel and requires concurrent case planning for children and families under the jurisdiction of dependency court. The bill requires law enforcement checks of individuals residing in a home which is being considered for placement of a child and requires home studies of relatives who may become permanent custodians of a child.

The federal Adoption and Safe Families Act of 1997 was signed into law in November 1997, and the bill provides for the requirements of that legislation. The health and safety of children is required to be the paramount concern in decisions made at all stages of dependency proceedings. In addition, all children in foster care are required to have a permanency planning review hearing within one year from the date of their removal from home and additional grounds for expediting termination of parental rights under certain circumstances are provided.

There is a fiscal impact from this bill on both the Department of Children and Family Services and the courts.

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II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

PART I - GENERAL PROVISIONS

Currently, the provisions of Florida law pertaining to children and families who interface with the state child protection system are contained in **both chapters 39 and 415**, Florida Statutes. This has resulted in a lack of continuity, a duplicity of language, and confusion in interpretation.

Statements of legislative intent with regard to child safety and protection found in **chapter 39, Florida Statutes**, include the provisions that:

- judicial and other procedures to assure due process to children and other parties are conducted fairly in order to protect constitutional and other legal rights;
- the health and well-being of all children under the care of the state are promoted;
- the child's family ties are preserved and strengthened whenever possible, by removing the child from parental custody only when his or her welfare or public safety cannot be otherwise assured; and
- children of this state are afforded other general protections to include:
 - protection from abuse, neglect, and exploitation;
 - a permanent and stable home;
 - a safe and nurturing environment which will preserve a sense of personal dignity and integrity;
 - adequate nutrition, shelter, and clothing;
 - effective treatment for physical, social, and emotional needs;
 - equal opportunity and access to education, recreation and other community resources; and
 - access to preventive services.

Statements of legislative intent with regard to child safety and protection found in **chapter 415, Florida Statutes**, include the provisions that:

- the legislature recognizes 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;
- state intervention should engage families in constructive, supportive, and nonadversarial relationships and should intrude as little as possible into the life of the family; and
- comprehensive protective services are provided to abused or neglected children found in the state as a result of procedures for required reporting.

Definitions for the terms, "abandoned", "abuse", "child", "family", "parent", and "protective investigation" are among those found in chapter 39, Florida Statutes, while

definitions for the terms, "abused or neglected child", "caregiver", "child abuse or neglect", "child protection team", and "harm" are located in chapter 415, Florida Statutes.

General provisions currently located in **chapter 39, Florida Statutes**, also:

- provide immunity from liability for agents of the Department of Children and Family Services (DCF) when acting in good faith with regards to service provision;
- provide rulemaking authority for the department;
- provide for the parent's right to counsel;
- provide for confidentiality of records required by the chapter; and
- provide for employment screening of department employees.

PART II - REPORTING CHILD ABUSE

Provisions for the reporting of suspected or known child abuse or neglect are currently contained in **chapter 415, Florida Statutes**. The chapter delineates:

- who must report;
- procedures for reporting to the department's central abuse hotline on the statewide toll-free telephone number as well as procedures for the handling by the department of calls received;
- procedures for making and receiving reports of institutional child abuse and incidents involving known or suspected juvenile sexual offenders;
- the requirements for the operation of the central abuse hotline;
- the abrogation of privileged communication in cases involving child abuse or neglect;
- penalties for both failure to report by any person required to report and false reporting; and
- the ability to impose administrative fines up to \$1,000 for false reporting.

PART III - PROTECTIVE INVESTIGATIONS

Provisions for protective investigations required as a result of receipt of an oral or written report of known or suspected child abuse or neglect are currently found in **chapter 415, Florida Statutes**.

The chapter provides time frames for the initiation of protective investigations and specifies information that the department is required to provide to any subject of an investigation, including the right of the subject to obtain his or her own counsel and to participate to the fullest extent possible in determining the nature of the allegation and the nature of any identified problem.

When the report on the investigation is deemed to be complete, the department may file a petition for dependency, if it is determined to be in the best interests of the child. The department may elect instead to provide voluntary protective services to the family or the department may refuse to file a petition for dependency and must then advise the complainant of the right to file such petition.

The chapter provides that for each report received, the department shall perform an onsite child protective investigation to:

- determine the family or household composition, to include identifying information on all individuals residing in the household;
- determine whether there is any indication of any abuse or neglect of any child residing in the household, the extent of injury, abuse or neglect and who is responsible for the abuse or neglect;
- utilize standardized risk assessment instruments to determine immediate and long term risk to each child;
- develop a case plan if necessary; and
- determine the services necessary to ensure and safeguard the child's safety, well being, and development and to provide for delivery of those services.

The chapter also provides procedures for taking a child into custody, procedures for conducting protective investigations of institutional child abuse or neglect, and authorizes the development, maintenance and coordination of multidisciplinary child protection teams in each of the service districts of the department. Requirements for service provision and case eligibility for those teams are also contained in **chapter 415, Florida Statutes**.

Working agreements with local law enforcement to provide the lead in conducting any potential criminal investigations arising from allegations of child abuse or neglect are also provided for.

PART IV - FAMILY BUILDERS PROGRAM

Statutory language relating to the Family Builders Program is currently contained in **chapter 415, Florida Statutes**. Provisions are included for establishment of the Family Builders Program, goals of the program, contracting of services, eligibility for program services, and qualifications of program workers.

PART V - TAKING CHILDREN INTO CUSTODY AND SHELTER HEARINGS

Provisions for taking a child into protective custody by medical personnel is currently in **chapter 415, Florida Statutes**. Any person in charge of a hospital or similar institution or any physician or licensed health care professional treating a child may keep that child without the consent of the parents if the situation so warrants. The department must be notified and if the department determines that the child should remain in protective custody for longer than 24 hours, it shall petition the court for a court order authorizing such custody.

Chapter 39, Florida Statutes, contains the provisions for a child alleged to be dependent to be taken into custody by law enforcement officers and authorized agents of the department. A child may only be taken into custody pursuant to an order of the court issued pursuant to the provisions of the chapter based upon sworn testimony, either before or after a petition is filed, **or** by a law enforcement officer or an authorized agent of the department if there is probable cause to support a finding of reasonable grounds for removal and that removal is necessary to protect the child. Reasonable grounds are specified.

A shelter hearing must be held within 24 hours after the removal of the child and parents or legal custodians of the child shall be noticed of the hearing. At the shelter hearing

the court shall appoint a guardian ad litem if warranted, the department must establish probable cause that reasonable grounds for removal exist and that the provision of services will not eliminate the need for placement, and each party shall provide to the court a permanent mailing address to be used for future notice purposes.

PART VI - PETITIONS, ARRAIGNMENT, ADJUDICATION, and DISPOSITION

Chapter 39, Florida Statutes, contains statutory provisions for dependency petitions. A petition for dependency may be filed by an attorney for the department, or by any other person who has knowledge of the facts alleged or is informed of them and believes that they are true. The filing of the petition initiates all proceedings seeking an adjudication of dependency for a child. Information to be included in the petition is delineated and procedures for notice, process and service to the parents is provided for.

Special procedures when the identity or location of the parent is unknown and the requirements for diligent search are also contained in chapter 39, Florida Statutes.

When a child is detained by order of the court, an **arraignment hearing** must be held within 14 days from the date the child is taken into custody, for the parents to admit, deny, or consent to findings of dependency alleged in the petition. If a parent denies the allegations, an adjudicatory hearing must be held within 7 days from the date of the arraignment unless a continuance is granted. Grounds for continuance are specified.

Failure of a person served with a notice to respond or appear at the arraignment hearing constitutes the person's consent to a dependency adjudication.

At the **arraignment hearing** the court shall:

- order visitation rights unless there is clear and convincing showing that visitation is not in the best interest of the child;
- determine 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 the department has not made such an effort, the court shall order the department to provide appropriate and available services;
- review the necessity for the child's continued placement in shelter; and
- provide all parties with written notice of the date, time, and location of the next scheduled hearing.

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. Adjudicatory hearings are to be conducted by a judge with no jury, and shall be open to the public unless ordered closed by the judge.

If the child named in the petition is found to be not dependent by the court, the court shall enter an order so finding and dismiss the case. If the child named in the petition is found to be dependent by the court, the court may find that no other action is needed other than supervision in the child's home, the court may so order and withhold adjudication. The court may also order adjudication of the child and thereafter have full authority to provide for the child as adjudicated.

If, at the **disposition hearing**, the court finds that the facts alleged in the petition for dependency were proven in the adjudicatory hearing or if the parents have consented to the finding of dependency or admitted to the allegations in the petition, or the parents have failed to appear for the arraignment hearing after proper notice, or have not been located despite a diligent search, the court shall receive and consider a predisposition study. Information to be included in the predisposition study, placement options available to the court, and information to be included in the written order of disposition is prescribed in **chapter 39, Florida Statutes**.

PART VII - CASE PLANS

Statutory language relating to case plans is currently found in **chapter 39, Florida Statutes**. The department or agent of the department shall develop a case plan for each child or child's family receiving services who is a party to any dependency proceeding or process. The case plan must be:

- developed in conference with the parent, guardian, custodian, or any court-appointed guardian ad litem of the child;
- written simply and plainly in English or to the extent possible in the principal language of the parent;
- subject to modification based on changing circumstances;
- signed by all parties; and
- reasonable, accurate, and in compliance with the requirements of the court order.

When the child is receiving services in the child's home, the case plan must be developed within 30 days from the date of the department's initial contact with the child, or within 30 days of the date of a disposition order placing the child under the protective supervision of the department in the child's own home. Specific requirements of the case plan are further delineated in s. 39.4031, Florida Statutes. In the event the parents are unwilling or unable to participate in the development of a case plan, this shall be documented by the department.

In addition, case plans must be limited to as short a period as possible for the accomplishment of its provisions, must meet federal and state requirements, and must be prepared, but not submitted to the court, for a child who will not be in care for longer than 30 days.

At the hearing on the plan the court shall determine:

- that all parties who were noticed are in attendance;
- if the plan is consistent with previous orders of the court placing the child in care;
- if the plan is consistent with the requirements of the content of the plan;
- in involuntary placements, whether the parents were notified of the right to counsel at each stage of the dependency proceedings;
- whether each parent whose location was known was notified of the right to participate in preparation of the case plan; and
- whether the plan is meaningful and designed to address facts and circumstances upon which the court based the finding of dependency or upon which the child was placed in foster care.

PART VIII - JUDICIAL REVIEWS

Currently, the statutory provisions relating to judicial reviews are contained in **chapter 39, Florida Statutes**. The court shall have continuing jurisdiction in accordance with this section and shall review the status of the child as required by s. 39.453, Florida Statutes, or more frequently if the court deems it necessary or desirable.

Citizen review panels may be established to conduct a review of the status of the child. Requirements for the administration of the panels, qualifications, training, selection, and retention of their members, and the duties of the panels are set forth in s.39.4531, Florida Statutes.

PART IX - TERMINATION OF PARENTAL RIGHTS

Statutory provisions for procedures for termination of parental rights are currently in **chapter 39, Florida Statutes**. All proceedings seeking an adjudication to terminate parental rights pursuant to the chapter must be initiated by the filing of an original petition by the department, the guardian ad litem, a licensed child-placing agency, or by any other person who has knowledge of the facts alleged or is informed of them and believes that they are true.

A petition for termination of parental rights filed must contain facts supporting the following allegations:

- **that at least one of the grounds listed in the chapter have been met;**
- **that the parents of the child were informed of their right to counsel at all hearings that they attend 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; and**
- **that the manifest best interests of the child would be served by granting the petition.**

Currently, the grounds for termination of parental rights are:

- **when the parent or parents voluntarily executed a written surrender;**
- **when the identity of the parent or parents is unknown and cannot be ascertained by diligent search within 90 days;**
- **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 threatens the life, or well being of the child irrespective of the provision of services;**
- **when the parent of a child is incarcerated under certain specified circumstances;**
- **when a child has been adjudicated dependent, a case plan has been filed with the court, and the child continues to be abused, neglected, or abandoned by the parents under specified circumstances; and**
- **when the parent or parents engaged in egregious conduct that endangers the life, health, or safety of the child or the child's sibling or had the**

opportunity and capability to prevent the egregious conduct and failed to do so.

The chapter also contains provisions for notice of all proceedings to parents, notice of right to counsel, appointment of a guardian ad litem, and powers of disposition.

PART X - GUARDIANS AD LITEM AND GUARDIAN ADVOCATES

Statutory provisions relating to guardians ad litem and guardian advocates are currently in **chapter 415, Florida Statutes**. The terms “guardian ad litem” and “guardian advocate” are defined as well as qualifications, grounds for appointment, and duties, powers, and responsibilities are delineated.

PART XI - DOMESTIC VIOLENCE

Statutory provisions relating to domestic violence are currently in **chapter 415, Florida Statutes**. Domestic violence is defined to mean any assault, battery, sexual assault, sexual battery, or any criminal offense resulting in physical injury or death of one family or household member by another who is or was residing in the same single dwelling unit.

The duties and functions of the department with respect to domestic violence, as well as certification of domestic violence centers, are also provided for in **chapter 415, Florida Statutes**.

B. EFFECT OF PROPOSED CHANGES:

PART I - GENERAL PROVISIONS

Certain provisions **regarding purpose and legislative intent** as they relate to child protection issues are being relocated from chapter 415, Florida Statutes, to chapter 39, Florida Statutes, in order to create one clearly sequenced statutory scheme. The relocation would eliminate inconsistencies and redundancies currently found in statute. This would result in a reduction of divergent applications of the statutory provisions by both the districts and the judiciary. The requirement by the federal Adoption and Safe Families Act of 1997 that the **health and safety of the children served shall be of paramount concern** is reflected in PART I of chapter 39, Florida Statutes.

All references to the Department of Juvenile Justice and delinquent children are deleted and all references to the family services response system are replaced with the term “child protection system”.

The Department of Children and Family Services currently requires employment screening and the bill provides for rescreening every 5 years. The bill also requires drug testing of department protective investigators.

The bill provides several definitions that would be new or new to chapter 39, Florida Statutes. The definition of “adoption” has been moved from chapter 63, Florida Statutes. Definitions of the terms, including, but not limited to, “alleged juvenile sexual offender”, “child protection team”, “sexual abuse of a child”, and “harm” have been moved from

chapter 415, Florida Statutes. New definitions of the terms, "expedited termination of parental rights" and "shelter hearing" are included at the recommendation of the Dependency Court Improvement Program and the new definition of the term "legal guardianship" is required by federal legislation.

The bill clarifies juvenile court jurisdiction over adoptions, kinship care, and guardianship proceedings which may serve to reduce the number of dependency cases by diverting proceedings to chapter 744, guardianship, or chapter 751, kinship care.

The bill provides for indigent parents to have continued representation by counsel throughout the entire dependency proceedings and would allow counties to establish their own individual compensation rates for appointed counsel in dependency proceedings other than termination of parental rights proceedings.

PART II - REPORTING CHILD ABUSE

The bill relocates the statutory provisions that relate to the reporting of child abuse, abandonment, and neglect from chapter 415, Florida Statutes, to chapter 39, Florida Statutes. The bill also removes references to the family service response system and replaces that term with "child protection system" where appropriate.

HB 3883 provides that except as provided in s. 39.202(2)(a) and (h) contained in HB 3887, 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.

The bill increases the maximum amount of an administrative fine that may be imposed for false reporting from \$1,000 to \$10,000.

PART III - PROTECTIVE INVESTIGATIONS

HB 3883 provides that the provisions relating to child protective investigations currently contained in chapter 415, Florida Statutes, are relocated to chapter 39, Florida Statutes.

The bill provides that 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 prior to examining and interviewing the child. If the department interviews the child, the interview must be audio recorded or videotaped.

The bill provides that state and federal records checks are required on the parents, legal custodians, caregivers, or any other persons in the same household for purposes supporting the detection, apprehension, prosecution, pretrial release, post-trial release, or rehabilitation of criminal offenders or persons accused of the crimes of child abuse, abandonment, or neglect. The information shall not be further disseminated or used for any other purpose.

HB 3883 provides that the Department of Law Enforcement shall provide to the Department of Children and Family Services electronic access to Florida criminal justice

information as specified for the purpose of child protective investigations and emergency child placement.

Part III of chapter 39, Florida Statutes, provides procedures for standards and funding of Children's Advocacy Centers.

PART IV - FAMILY BUILDERS PROGRAM

The statutory provisions governing issues relating to the Family Builders Program are being relocated to a newly created PART IV in chapter 39, Florida Statutes. The language is amended to conform and to reflect cross references. In addition, the first goal of the program shall be to **ensure the health and safety of the child while working with the family, as required by the federal Adoption and Safe Families Act of 1997.**

PART V - TAKING CHILDREN INTO CUSTODY AND SHELTER HEARINGS

This newly created part of chapter 39, Florida Statutes, requires that any placement of a child which is not in a licensed shelter must be preceded by a local and state criminal records check, as well as a search of the department's automated abuse information system, on all members of the household to assess the safety of the child within the home.

The bill provides for the new federal requirement that parents have the right to be represented by counsel at the shelter hearing and at each subsequent hearing or proceeding. If indigent, parents have the right to appointed counsel at the shelter hearing and at each subsequent hearing or proceeding.

PART VI - PETITIONS, ARRAIGNMENT, ADJUDICATION, AND DISPOSITION

The bill adjusts the time frames in dependency proceedings while maintaining judicial control over the child's placement in shelter. A petition alleging dependency must be filed within 7 days upon demand of a party, but no later than 21 days after the shelter hearing. When a child has been detained by order of the court, an arraignment hearing must be held within 7 days after the date of filing of the dependency petition. If the parents consent or admit to the allegations in the petition, the court shall hold a dispositional hearing no more than 15 days after the date of the arraignment hearing unless a continuance is necessary. If the parents deny the allegations of the petition, an adjudicatory hearing must be held no later than 30 days after the arraignment.

This newly created part of chapter 39, Florida Statutes, provides for the federal requirement that the Department of Children and Family Services have access to the federal and state parent locator service for diligent search activities.

The bill also provides that if the child has been removed from the home and will be remaining with a relative or caregiver, a home study report shall be included in the predisposition report. The information required to be included in the home study is delineated by the bill. The elements of the home study would be uniform regardless of the type of placement and would be applicable to temporary, long-term, and adoptive placements.

PART VII - CASE PLANS

The bill adjusts time frames and requirements for case plans to conform with the adjusted times frames for hearings and other proceedings in the dependency process. The adjustments come at the recommendation of the Dependency Court Improvement Program.

The bill also provides for the requirement of the new federal legislation that in the case of a child for whom the permanency plan is adoption or placement in another permanent home, documentation must be made of the steps the agency is taking to find an adoptive family or other permanent living arrangement, and to finalize the adoption or legal guardianship. At a minimum such documentation shall include child-specific recruitment efforts such as the use of state, regional, and national adoption exchanges, including electronic adoption exchanges.

The bill reduces from 18 to 12 months, the allowable time period for a case plan to remain in effect without specific judicial review of permanency options.

PART VIII - JUDICIAL REVIEWS

The newly created Part VIII of chapter 39, Florida Statutes, provides for restrictions on the citizen review panels. Any party may object to the referral of a case to a citizen review panel and when such 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. Citizen review panels shall not conduct more than two consecutive reviews without the child and the parties coming before the court for a judicial review.

The bill provides for judicial reviews at intervals of 6 months for all children in out-of-home care. As required by the new federal legislation, exceptions to the filing of a termination of parental rights petition are provided. A TPR petition need not be filed if: the child is being cared for by a relative who chooses not to adopt the child; the court determines that filing such a petition would not be in the best interests of the child; or the state has not provided to the child's family, when reasonable efforts to return the child are required, such services as the state deems necessary for the safe return of the child to his or her home.

PART IX - TERMINATION OF PARENTAL RIGHTS

The bill adds new grounds for termination of parental rights as required by the 1997 federal legislation. The new grounds, subject to certain exceptions, include subjecting the child to aggravated child abuse, sexual battery or sexual abuse, or chronic abuse; murder, voluntary manslaughter or felony assault of another child, or aiding, abetting, attempting, conspiring or soliciting to commit such acts; and involuntary termination of parental rights to a sibling. The bill also provides for the new federally required time limits for compliance with regard to state implementation of the additional TPR grounds.

The bill also provides statutory authority for the use of concurrent case planning as required by federal legislation.

PART X - GUARDIANS AD LITEM AND GUARDIAN ADVOCATES

The statutory provisions governing issues relating to guardians ad litem and guardian advocates are being relocated from chapter 415, Florida Statutes, to a newly created PART X in chapter 39, Florida Statutes. The current language is amended only to conform and reflect cross references.

PART XI - DOMESTIC VIOLENCE

The statutory provisions governing issues relating to domestic violence are being relocated to a newly created PART X in chapter 39, Florida Statutes. The language is amended only to conform and reflect cross references.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

The bill provides for counsel to be court appointed to indigent parents at shelter hearings with that representation to continue throughout the entire proceedings.

(3) any entitlement to a government service or benefit?

Indigent parents will be eligible for court appointed legal representation in dependency proceedings.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

Not applicable.

(2) what is the cost of such responsibility at the new level/agency?

Not applicable.

(3) how is the new agency accountable to the people governed?

Not applicable.

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

The courts and the Department of Children and Family Services.

- (2) Who makes the decisions?

The courts and the Department of Children and Family Services.

- (3) Are private alternatives permitted?

Yes.

- (4) Are families required to participate in a program?

No.

- (5) Are families penalized for not participating in a program?

Parents may be penalized by having their child removed or parental rights terminated by refusing to participate in service provision or by failing to comply with case plan requirements.

- b. Does the bill directly affect the legal rights and obligations between family members?

Not applicable.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

Not applicable.

(2) service providers?

Not applicable.

(3) government employees/agencies?

Not applicable.

D. STATUTE(S) AFFECTED:

Sections 20.19, 20.43, 39.001, 39.002, 39.01, 39.012, 39.40, 39.401, 39.402, 39.4031, 39.4033, 39.404, 39.405, 39.4051, 39.4055, 39.4057, 39.406, 39.407, 39.408, 39.409, 39.41, 39.4105, 39.411, 39.413, 39.414, 39.415, 39.418, 39.451, 39.452, 39.453, 39.4531, 39.454, 39.455, 39.456, 39.46, 39.461, 39.4611, 39.4612, 39.462, 39.4627, 39.463, 39.464, 39.465, 39.466, 39.467, 39.469, 39.47, 39.471, 39.473, 39.474, 61.13, 61.401, 61.402, 63.052, 63.092, 90.5036, 154.067, 213.053, 216.136, 232.50, 318.21, 384.29, 392.65, 393.063, 395.1023, 400.4174, 400.556, 402.165, 402.166, 409.1672, 409.176, 409.2554, 409.2577, 409.912, 409.9126, 414.065, 415.501, 415.5015, 415.50171, 415.504, 415.5055, 415.507, 415.5077, 415.508, 415.5082, 415.5083, 415.5084, 415.5085, 415.5086, 415.5087, 415.5088, 415.5089, 415.5095, 415.511, 415.512, 415.513, 415.5131, 415.515, 415.516, 415.517, 415.518, 415.519, 415.520, 415.521, 415.522, 415.601, 415.602, 415.603, 415.604, 415.605, 415.606, 415.608, 447.401, 464.018, 490.014, 491.014, 741.30, 744.309, 784.075, 933.18, 943.045, 944.401, 944.705, 984.03, 984.10, 984.15, 984.24, 985.03, 985.303; creating sections 39.0121, 39.301, 39.302, 39.3035, 39.306, 39.395, 39.5085, 39.803, 39.813, 39.816, 39.817, 39.820, 415.5076, 435.045; and repealing sections 39.0195, 39.0196, 39.39, 39.403, 39.4032, 39.4052, 39.4053, 39.449, 39.45, 39.457, 39.459, 39.4625, 39.472, 39.475, 415.5016, 415.50165, 415.5017, 415.50175, 415.5018, 415.50185, 415.5019, 415.502, 415.503, 415.505, 415.506, 415.5075, 415.509, and 415.514.

E. SECTION-BY-SECTION RESEARCH:

**PART I
GENERAL PROVISIONS**

SECTION 1. Provides a **title for Part I** of chapter 39, Florida Statutes, consisting of **sections 39.001, 39.01, 39.011, 39.012, 39.0121, 39.013, 39.0131, 39.0132, 39.0133, 39.0134, and 39.0135**, Florida Statutes. **Part I** is entitled, **GENERAL PROVISIONS**.

SECTION 2. **Amends and renumbers s. 39.001**, Florida Statutes, **amends and renumbers s. 39.002**, Florida Statutes, as subsections (3), (4), and (5) of s. 39.001, Florida Statutes, and **amends and renumbers s. 415.501**, Florida Statutes, as subsections (6), (7), and (8), of s. 39.001, Florida Statutes. The section:

- retains and reorders parts of existing s. 39.001, Florida Statutes to provide a unified purpose;
- removes language that references the Department of Juvenile Justice and the functions and clients of the department;
- replaces the term “caretaker” with the term “caregiver”;
- adds language from the federal Adoption and Safe Families Act of 1997 requiring the **health and safety of children to be of paramount concern to the child protection system**;
- requires the Department of Children and Family Services to **rescreen** personnel in programs for children or youth no less frequently than once every 5 years;
- provides for the Department of Children and Family Services to require **drug testing** for all job applicants, current employees, volunteers, and contract personnel who currently perform or are seeking to perform child protective investigations;
- requires the Department of Children and Family Services to **develop and implement a written and performance-based testing and evaluation program** to ensure measurable competencies of all employees assigned to cases of child abuse, abandonment, or neglect; and
- contains the provisions for the **development of a state plan** by the Department of Children and Family Services for the prevention of the abuse, abandonment, and neglect of children.

SECTION 3. Amends and renumbers s. 415.5015, Florida Statutes, to provide for the “Child Abuse Prevention Training Act of 1985” for child abuse prevention training in the district school systems.

SECTION 4. Amends s. 39.01, Florida Statutes, to provide definitions as used in this chapter, unless the context otherwise requires. The definitions of “**alleged juvenile sexual offender**”, “**caregiver**”, “**child protection team**”, “**district**”, “**false report**”, “**harm**”, “**institutional child abuse**”, “**mental injury**”, “**other person responsible for a child’s welfare**”, “**physical injury**”, “**physician**”, “**secretary**”, “**sexual abuse of a child**”, and “**victim**” have been moved from **Chapter 415**, Florida Statutes. A number of those definitions have been amended. The definition of “**adoption**” has been moved from **Chapter 63**, Florida Statutes. Definitions have been added for “**expedited termination of parental rights**”, “**legal guardianship**”, and “**next of kin**”. Definitions for “**caretaker/homemaker**”, “**protective supervision case plan**”, and “**staff secure shelter**” have been deleted.

SECTION 5. Renumbers s. 39.455, Florida Statutes, as **section 39.011**, Florida Statutes. The term, “**permanent placement plan**” is deleted at the recommendation of the Dependency Court Improvement Program (DCIP).

SECTION 6. Amends s. 39.012, Florida Statutes, regarding rules for implementation. The section provides for the adoption of rules by the Department of Children and Family Services for implementing the provisions of this chapter.

SECTION 7. Creates s. 39.0121, Florida Statutes, to provide the Department of Children and Family Services with rulemaking authority pursuant to s. 120.536, to implement this chapter. The specific functions the department must carry out in this chapter are delineated.

SECTION 8. Renumbers and amends s. 39.40, Florida Statutes, as **s. 39.013**, Florida Statutes. At the recommendation of the Dependency Court Improvement Program, the section provides that the juvenile court may exercise jurisdiction over guardianship proceedings pursuant to chapter 744 and temporary custody proceedings pursuant to chapter 751 when a child is under the jurisdiction of the court pursuant to the provisions of this chapter. The circuit court shall also have exclusive original jurisdiction of all proceedings under this chapter pertaining to the adoption of children whose parental rights have been terminated pursuant to this chapter. The section also provides that once counsel has entered an appearance or been appointed by the court to represent the parent, the attorney shall continue to represent the parent **throughout the entire proceedings**. The section also contains the "right to counsel" language from **s. 39.465**, Florida Statutes.

SECTION 9. Renumbers s. 39.4057, Florida Statutes, as **s. 39.0131**, Florida Statutes. Section 39.4057, Florida Statutes, requires that upon 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.

SECTION 10. Renumbers and amends s. 39.411, Florida Statutes, as **s. 39.0132**, Florida Statutes. The section pertains to "oaths, records, and confidential information" and is amended to add the **guardian ad litem** to the list of persons authorized to inspect and copy records as well as receive information obtained pertaining to a child as required by this part.

SECTION 11. Renumbers s. 39.414, Florida Statutes, as **s. 39.0133**, Florida Statutes. Section 39.414, Florida Statutes, provides that 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.

SECTION 12. Renumbers and amends ss. 39.415 and 39.474, Florida Statutes, as **s. 39.0134**, Florida Statutes, to provide that if court appointed counsel is entitled to receive compensation for dependency representation in a proceeding pursuant to this chapter, the compensation shall be **established by each county**.

SECTION 13. Amends and renumbers s. 39.418, Florida Statutes, as **s. 39.0135**, Florida Statutes. This section provides for all child support payments made to the Department of Children and Families pursuant to this chapter to be deposited into the Operations and Maintenance Trust Fund.

PART II REPORTING CHILD ABUSE

SECTION 14. Provides a **title for Part II** of chapter 39, Florida Statutes, consisting of **sections 39.201, 39.202, 39.203, 39.204, 39.205 and 39.206**, Florida Statutes. **Part II** is entitled, **REPORTING CHILD ABUSE**.

SECTION 15. Amends and renumbers s. 415.504, Florida Statutes, as s. 39.201, Florida Statutes. This section adds known or suspected “abandonment” to “abuse and neglect” as required to be reported to the child protection system. At the recommendation of the Dependency Court Improvement Program, this section also provides that information in the central abuse hotline and the department’s automated abuse information system may be used by the department, the Department of Health, and others so specified as part of the licensure or registration process relating to child care facilities, family foster homes, residential child-caring agencies, and child-placing agencies.

SECTION 16. Amends and renumbers s. 415.511, Florida Statutes, as s. 39.203, Florida Statutes to add “abandonment” to “abuse and neglect” as a situation reportable to the child abuse hotline for which individuals reporting in good faith are granted immunity from liability.

SECTION 17. Amends and renumbers s. 415.512, Florida Statutes, as s. 39.204, Florida Statutes to add “abandonment” to “abuse and neglect” as a situation in which otherwise privileged communications are abrogated.

SECTION 18. Amends and renumbers s. 415.513, Florida Statutes, as s. 39.205, Florida Statutes to add “abandonment” to “abuse and neglect” as a situation subject to penalty for failure to report.

SECTION 19. Amends and renumbers s. 415.5131, Florida Statutes, as s. 39.206, Florida Statutes to add “abandonment” to “abuse and neglect” as a situation where an individual is subject to an administrative fine for failure to report. The maximum amount of a fine that may be imposed is increased from **\$1,000 to \$10,000**.

PART III PROTECTIVE INVESTIGATIONS

SECTION 20. Provides a title for Part III, chapter 39, Florida Statutes, consisting of sections 39.301, 39.302, 39.303, 39.3035, 39.304, 39.305, 39.306 and 39.307, Florida Statutes. Part III is entitled, **PROTECTIVE INVESTIGATIONS**.

SECTION 21. Creates s. 39.301, Florida Statutes, to consolidate language from ss. 415.403, 415.504, 415.505, and 415.5017, Florida Statutes, regarding the initiation of protective investigations upon receipt of a report of known or suspected child abuse, abandonment, or neglect by the department’s central abuse hotline. Provides that 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 **prior** to examining and interviewing the child. If the department interviews the child, the interview must be **audio recorded or videotaped**.

SECTION 22. Creates s. 39.302, Florida Statutes. The section contains language from s. 415.505, Florida Statutes, detailing required procedures for protective investigations of **institutional** child abuse, abandonment, and neglect.

SECTION 23. Amends and renumbers s. 415.5055, Florida Statutes, as s. 39.303, Florida Statutes. Section 415.5055, Florida Statutes, pertains to **child protection teams**, the services provided by those teams, and cases eligible to receive services. The section is amended to add instances of “abandonment” to “abuse and neglect” as a cases eligible for services provided by child protection teams.

SECTION 24. Creates s. 39.3035, Florida Statutes, to provide new language relating to child advocacy centers. The section provides:

- the criteria necessary for a child advocacy center in the state to become eligible for full membership in the Florida Network of Children’s Advocacy Centers, Inc.;
- assurance that child advocacy center employees and volunteers at the center are trained and screened in accordance with s. 39.001(2).
- that any child advocacy center within the state that meets the standards of the section and is certified by the Florida Network of Children’s Advocacy Centers, Inc., shall be eligible to receive state funds that are appropriated by the Legislature.

SECTION 25. Amends and renumbers s. 415.507, Florida Statutes, as s. 39.304, Florida Statutes, to add “abandonment” to “abuse and neglect” as a situation where documentation may be provided by x-rays, photographs, medical examinations, and medical treatment. The section also contains new language to provide that a **hospital or other facility licensed under chapter 395** shall provide to the department, its agent, or a child protection team that contracts with the department any photographs, x-rays, or examination reports made pursuant to this section for purposes of investigation or assessment of cases of abuse, abandonment, neglect or exploitation of a child.

SECTION 26. Amends and renumbers s. 415.5095, Florida Statutes, as s. 39.305, Florida Statutes, to add the Department of Health as a participant in the development of a model plan for community intervention and treatment of intrafamily sexual abuse.

SECTION 27. Creates s. 39.306, Florida Statutes, to provide guidelines for the department in establishing working agreements with local law enforcement in child protective investigations. The section also provides that the Department of Law Enforcement shall provide to the Department of Children and Family Services electronic access to Florida criminal justice information as specified for the purpose of child protective investigations and emergency child placement.

SECTION 28. Amends and renumbers s. 415.50171, Florida Statutes, as s. 39.307, Florida Statutes . This section details procedures required upon receipt of reports of child-on-child sexual abuse and provides that the department shall assist the family in receiving appropriate services.

PART IV FAMILY BUILDERS PROGRAM

SECTION 29. Provides a title for Part IV of chapter 39, Florida Statutes, consisting of sections 39.311, 39.312, 39.313, 39.314, 39.315, 39.316, 39.317, and 39.318, Florida Statutes. Part IV is entitled, FAMILY BUILDERS PROGRAM.

SECTION 30. Amends and renumbers s. 415.515, Florida Statutes, as s. 39.311, Florida Statutes. The section provides for establishment of Family Builder Programs and is amended to remove references to the Department of Juvenile Justice and delinquent children.

SECTION 31. Amends and renumbers s. 415.516, Florida Statutes, as s. 39.312, Florida Statutes, to include language from the federal Adoption and Safe Families Act of 1997, that provides that the **health and safety of the child shall be ensured** while the Family Builders Program is working with the family.

SECTION 32. Amends and renumbers s. 415.517, Florida Statutes, as s. 39.313, Florida Statutes. The section provides for the contracting of Family Builders Program services and the amendments are technical.

SECTION 33. Amends and renumbers s. 415.518, Florida Statutes, as s. 39.314, Florida Statutes. The section provides eligibility requirements for the Family Builders Program and the amendments are technical.

SECTION 34. Renumbers s. 415.519, Florida Statutes, as s. 39.315, Florida Statutes. The section provides requirements for the delivery of Family Builders Program services.

SECTION 35. Amends and renumbers s. 415.520, Florida Statutes, as s. 39.316, Florida Statutes. Information on “abandonment” is added as a requirement of the training program provided to caseworkers working in the Family Builders Programs.

SECTION 36. Renumbers s. 415.521, Florida Statutes, as s. 39.317, Florida Statutes. This section outlines information that must be provided in the outcome evaluation of the Family Builders Programs.

SECTION 37. Amends and renumbers s. 415.522, Florida Statutes, as s. 39.318, Florida Statutes. The section authorizes the department to use funds for operating the Family Builders Program and the amending language is technical.

PART V TAKING CHILDREN INTO CUSTODY AND SHELTER HEARINGS

SECTION 38. Provides a **title for Part V**, chapter 39, Florida Statutes, consisting of **sections 39.395, 39.401, 39.402, 39.407, and 39.4075**, Florida Statutes. **Part V** is entitled, **TAKING CHILDREN INTO CUSTODY AND SHELTER HEARINGS**.

SECTION 39. Creates s. 39.395, Florida Statutes, delineating procedures for **hospital personnel** taking a child into protective custody without the consent of the parents, legal custodian, or caregiver, under certain circumstances. The language in this section is moved from s. 415.506, Florida Statutes.

SECTION 40. Amends s. 39.401, Florida Statutes, (as amended by **chapter 97-276, Laws of Florida**). The section contains procedures for **law enforcement officers and authorized agents of the department** to take a child alleged to be dependent into custody. The section also adds new language as required by the federal Adoption and

Safe Families Act of 1997 to require that any placement of a child who is not in a licensed shelter must **be preceded** by a local and state criminal records check, as well as the department's child abuse information system verification, on all household members in order to assess the safety of the home.

SECTION 41. Amends s. 39.402, Florida Statutes, (as amended by **chapter 97-276, Laws of Florida**), to include new language at the recommendation of the Dependency Court Improvement Program, which provides that parents or legal custodians shall be provided written notice at the shelter hearing that they have the **right to counsel**. If indigent, they have the right to appointed counsel, at the **shelter hearing** and at **all subsequent hearings** or proceedings.

SECTION 42. Amends s. 39.407, Florida Statutes, to replace "guardian" with "legal custodian" as a person who may consent to medical, psychiatric, and psychological examination and treatment of a child taken into custody.

SECTION 43. Amends and renumbers s. 39.4033, Florida Statutes, as **s. 39.4075**, Florida Statutes, to add new language at the recommendation of the Dependency Court Improvement Program that when mediation services are available in a dependency case, the court must determine whether it is in the best interests of the child to refer the parties to mediation.

PART VI PETITION, ARRAIGNMENT, ADJUDICATION, AND DISPOSITION

SECTION 44. Provides a title for Part VI, chapter 39, Florida Statutes, consisting of **sections 39.501, 39.502, 39.503, 39.504, 39.505, 39.506, 39.507, 39.508, 39.5085, 39.509, and 39.510**, Florida Statutes. **Part VI** is entitled, **PETITION, ARRAIGNMENT, ADJUDICATION, AND DISPOSITION**.

SECTION 45. Amends and renumbers s. 39.404, Florida Statutes, as **s. 39.501**, Florida Statutes, to provide that when a child has been placed in shelter status by the court, a petition for dependency must be filed **no later than 21 days after the shelter hearing**.

SECTION 46. Amends and renumbers s. 39.405, Florida Statutes, (as amended by **chapter 97-276, Laws of Florida**), as **s. 39.502**, Florida Statutes. The section adds legal custodians to those persons who must be provided notice of all hearings or proceedings involving the child. The section also restores the diligent search language that was amended by chapter 97-276, L.O.F., to current language.

SECTION 47. Amends and renumbers s. 39.4051, Florida Statutes, (as amended by **chapter 97-276, Laws of Florida**), as **s. 39.503**, Florida Statutes, to provide the Department of Children and Family Services with access to the federal and state parent locator service to be used in diligent search activities. This is required by the federal Adoption and Safe Families Act of 1997.

SECTION 48. Amends and renumbers s. 39.4055, Florida Statutes, as **s. 39.504**, Florida Statutes. The section outlines procedures for issuing injunctions pending disposition of a petition for detention or dependency.

SECTION 49. Amends and renumbers s. 39.406, Florida Statutes, as **s. 39.505**, Florida Statutes, to clarify that prior to an adjudicatory hearing, the **respondent** shall be advised by the court of the right to counsel and shall be given an opportunity to deny the allegations in the dependency petition or to enter a plea to allegations contained in the petition before the court.

SECTION 50. Amends and renumbers s. 39.408, Florida Statutes, as **s. 39.506**, Florida Statutes, to **adjust time frames for case processing**. The section provides that when a child has been detained by an order of the court, an arraignment hearing must be held **within 7 days after the date of the filing of the dependency petition**. If the allegations of the petition are denied, an adjudicatory hearing shall be held **within 30 days after the date of the arraignment hearing** unless a continuance is granted.

SECTION 51. Amends and renumbers ss. 39.408 and 39.409, Florida Statutes, as **s. 39.507**, Florida Statutes, to clarify the adjustment of the time frames for case processing. The section provides that the adjudicatory hearing shall be held as soon as practicable after the petition for dependency is filed **but no later than 30 days after the arraignment**. It also provides that if the child named in the petition is found dependent at the adjudicatory hearing, the court shall schedule the disposition hearing **within 30 days after the filing of the adjudicatory order**.

SECTION 52. Amends and renumbers s. 39.408, Florida Statutes, and **s. 39.41**, Florida Statutes, (as amended by **chapter 97-276, Laws of Florida**), as **s. 39.508**, Florida Statutes. The section:

- provides that , if the child has been removed from the home and will be remaining with a relative or caregiver, a home study shall be included in the predisposition report.
- provides the information that must be included in the home study.
- provides for filing and service of the case plan.
- provides that the initial judicial review must be held no later than 90 days after the date of disposition hearing or after the date of the hearing at which the court approves the case, but in no event shall the review be held later than 6 months after the date of the child's removal from home.
- **adds the health and safety of the child language as required by federal legislation.**

SECTION 53. Creates s. 39.5085, Florida Statutes, to provide for a **Relative Caregiver Program**. The section sets out legislative intent, delineates eligibility, provides for financial assistance, and authorized the department to maximize the use of federal funds under Title IV-E and TANF as well as other appropriate funds to operate the program.

SECTION 54. Amends and renumbers s. 39.4105, Florida Statutes, as **s. 39.509**, Florida Statutes. The section relates to grandparents rights and the changes are technical.

SECTION 55. Amends and renumbers s. 39.413, Florida Statutes, as s. 39.510, Florida Statutes. The section relates to appeals and the changes are technical.

PART VII CASE PLANS

SECTION 56. Provides a **title for Part VII**, chapter 39, Florida Statutes, consisting of **sections 39.601, 39.602, and 39.603**, Florida Statutes. **Part VII** is entitled, **CASE PLANS**.

SECTION 57. Amends and renumbers ss. 39.4031 and 39.451, Florida Statutes, as s. 39.601, Florida Statutes. At the recommendation of the Dependency Court Improvement Program, the section provides that where dependency mediation services are available and appropriate to the best interests of the child, the court may refer the case to mediation for development of a case plan. The DCIP also recommends that the case plan must describe the minimum number of face-to-face meetings to be held each month between the parents, caregivers, or legal custodians and the department and that the case plan must:

- establish the role of foster parents or custodians in the development of the services to be provided to a child, foster parents, or custodians;
- address the child's need for services while under the court's jurisdiction; and
- address implementation of these services in the case plan.

The section also provides for the following **federal** requirements:

- reasonable efforts to place a child for adoption or with a legal guardian may be made **concurrently** with reasonable efforts to prevent removal or make it possible for a child to return safely home;
- **documentation of efforts**, including use of state, regional, and national adoption exchanges and electronic exchange systems, the department is taking to find an adoptive family or other permanent living arrangement for the child, when the permanency plan is adoption or placement in another permanent home.
- the case plan 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 comes first. Florida Statute currently allows 18 months for accomplishment of the provisions of the case plan.

SECTION 58. Amends and renumbers s. 39.452, Florida Statutes, as s. 39.602, Florida Statutes, to shorten the period of time prior to the filing of a case plan in which all parties must be provided with a copy of the plan developed by the department. The time period is **reduced from 72 to 48 hours**.

SECTION 59. Amends and renumbers s. 39.452(5), Florida Statutes, as s. 39.603, Florida Statutes, to clarify technical changes to the process of court approvals of case plans.

PART VIII JUDICIAL REVIEWS

SECTION 60. Provides a title for Part VIII, chapter 39, Florida Statutes, consisting of sections **39.701, 39.702, 39.703, and 39.704**, Florida Statutes. **Part VIII** is entitled, **JUDICIAL REVIEWS.**

SECTION 61. Amends and renumbers s. 39.453, Florida Statutes, as **s. 39.701**, Florida Statutes, to provide recommendations by the Dependency Court Improvement Program that:

- the court may refer appropriate cases to **citizen review panels** and may order attendance by the parties. If an objection to the referral is filed, the court shall review the substance of the objection and may conduct the review itself or refer the review to a citizen review panel.
- 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.
- the initial review 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, but in no case shall the review hearing be held later than 6 months after the child was removed from the home.
- additional information to be included in the report provided by the department prior to every judicial review or citizen review hearing.
- if the court extends the time limitation of the case plan, the court must make specific findings concerning the frequency of past parent-child visitation, if any, and the court may authorize expansion or restriction of future visitation.

The section also includes provisions required by **federal** legislation:

- the court shall require a review **no later than 12 months after a child was placed in shelter care.** If at this hearing the child is not returned to the physical custody of the parents, caregivers, or legal custodians, the case plan may be extended with the same goals only if the court finds that the situation of the child is so extraordinary that the plan should be extended. The case plan must document steps the department is taking to find an adoptive parent or other permanent living arrangement for the child.

SECTION 62. Amends and renumbers s. 39.4531, Florida Statutes, as **s. 39.702**, Florida Statutes, to clarify who should be encouraged to attend and participate in citizen review hearings.

SECTION 63. Amends and renumbers s. 39.454, Florida Statutes, as **s. 39.703**, Florida Statutes, to provide circumstances under which a termination of parental rights petition need not be filed as required by **federal** statute. Those circumstances include :

- if the child is being cared for by a relative who chooses not to adopt the child;
- if the court determines that filing such a petition would not be in the best interests of the child; or
- the state has not provided the child's family, when reasonable efforts to return the child are required, consistent with the time period in the state's case plan, such services as the state deems necessary for the safe return of the child to his or her home.

SECTION 64. Amends and renumbers s. 39.456, Florida Statutes, as **s. 39.704**, Florida Statutes, to provide technical changes.

**PART IX
TERMINATION OF PARENTAL RIGHTS**

SECTION 65. Provides a **title for Part IX**, chapter 39, Florida Statutes, consisting of **sections 39.801, 39.802, 39.803, 39.804, 39.805, 39.806, 39.807, 39.808, 39.809, 39.810, 39.811, 39.812, 39.813, 39.814, 39.815, 39.816 and 39.817**, Florida Statutes. **Part IX** is entitled, **TERMINATION OF PARENTAL RIGHTS**.

SECTION 66. **Amends and renumbers ss. 39.46 and 39.462**, Florida Statutes, as **s. 39.801**, Florida Statutes, to provide technical changes.

SECTION 67. **Amends and renumbers ss. 39.461 and 39.4611**, Florida Statutes, as **s. 39.802**, Florida Statutes, to provide that when a case plan with a goal of termination of parental rights is filed with the court, it may allow the continuation of services until the termination is granted or until further orders of the court are issued.

SECTION 68. **Creates s. 39.803**, Florida Statutes, to return **s. 39.4625**, Florida Statutes, as amended by chapter 97-276, L.O.F., to current language regarding special procedures to be followed after the filing of a termination of parental rights petition when the identity or location of the parent is unknown.

SECTION 69. **Renumbers s. 39.4627**, Florida Statutes, as **s. 39.804**, Florida Statutes. The section relates to penalties for false statements of paternity.

SECTION 70. **Amends and renumbers s. 39.463**, Florida Statutes, as **s. 39.805**, Florida Statutes to provide technical changes.

SECTION 71. **Amends and renumbers s. 39.464**, Florida Statutes, (as amended by chapter 97-276, L.O.F.), as **s. 39.806**, Florida Statutes, to include requirements of the **federal** Adoption and Safe Families Act of 1997. Those requirements include:

- **additional grounds for termination of parental rights** to include:
 - when the parent or parents have subjected the 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.
 - when the parent or parents have committed murder or voluntary manslaughter of another child of the parent, a felony assault that results in serious bodily injury to the child or another child of the parent, or aided or abetted, attempted, conspired, or solicited to commit such a murder or voluntary manslaughter or felony assault.
 - when parental rights of the parent to a sibling have been terminated involuntarily.
- **reasonable efforts** to preserve and reunify the family **shall not be required** if a court has determined that any of the above have occurred.
- when 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.

SECTION 72. Amends and renumbers s. 39.465, Florida Statutes, as s. 39.807, Florida Statutes, to provide counsel for indigent parents throughout the proceedings at the recommendation of the Dependency Court Improvement Program.

SECTION 73. Amends and renumbers s. 39.466, Florida Statutes, as s. 39.808, Florida Statutes, to provide that not less than 10 days before the adjudicatory hearing, the court shall conduct a prehearing 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. This language comes as a recommendation of the DCIP.

SECTION 74. Amends and renumbers s. 39.467, Florida Statutes, as s. 39.809, Florida Statutes, to provide technical changes.

SECTION 75. Amends and renumbers s. 39.4612, Florida Statutes, as s. 39.810, Florida Statutes, to add the health and safety of the child language required by federal statute.

SECTION 76. Amends and renumbers s. 39.469, Florida Statutes, as s. 39.811, Florida Statutes, to clarify in this part that 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 goals of permanency planning for the child. The section also provides for the federal requirement that 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.

SECTION 77. Amends and renumbers s. 39.47, Florida Statutes, as s. 39.812, Florida Statutes, to clarify that a licensed child-placing agency or the department which is given custody of a child for subsequent adoption may become a party to any proceeding for the legal adoption of the child and appear in any court where the adoption proceeding is pending.

SECTION 78. Creates s. 39.813, Florida Statutes, to provide that when the court terminates parental rights to a child who is the subject of termination proceedings pursuant to this chapter, that court shall retain exclusive jurisdiction in all matters pertaining to the child's adoption pursuant to chapter 63.

SECTION 79. Renumbers s. 39.471, Florida Statutes, as s. 39.814, Florida Statutes.

SECTION 80. Amends and renumbers s. 39.473, Florida Statutes, as s. 39.815, Florida Statutes, to provide technical changes.

SECTION 81. Creates s. 39.816, Florida Statutes, to provide authorization for pilot and demonstration projects as prescribed by the federal Adoption and Safe Families Act of 1997.

SECTION 82. Creates s. 39.817, Florida Statutes, to provide for a foster care privatization pilot.

**TITLE X
GUARDIANS AD LITEM AND GUARDIAN ADVOCATES**

SECTION 83. Provides a title for Part X, chapter 39, Florida Statutes, consisting of sections 39.820, 39.821, 39.822, 39.823, 39.824, 39.825, 39.826, 39.827, 39.828, 39.829 and 39.8295. Part X is entitled, **GUARDIANS AD LITEM AND GUARDIAN ADVOCATES.**

SECTION 84. Creates s. 39.820, Florida Statutes, to include definitions for the terms “guardian ad litem” and “guardian advocate”.

SECTION 85. Renumbers s. 415.5077, Florida Statutes, as s. 39.821, Florida Statutes. The section provides the qualifications of guardians ad litem.

SECTION 86. Amends and renumbers s. 415.508, Florida Statutes, as s. 39.822, Florida Statutes, to add “abandonment” of a child to abuse and neglect of a child as a situation in which a guardian ad litem shall be appointed.

SECTION 87. Renumbers and amends s. 415.5082, Florida Statutes, as s. 39.823, Florida Statutes, to provide technical changes to the section relating to the appointment of guardian advocates for drug dependent newborns.

SECTION 88. Renumbers and amends s. 415.5083, Florida Statutes, as s. 39.824, Florida Statutes, to provide technical changes to the section relating to procedures and jurisdiction over the appointment of a guardian advocate.

SECTION 89. Renumbers s. 415.5084, Florida Statutes, as s. 39.825, Florida Statutes. The section relates to the petition for the appointment of a guardian advocate.

SECTION 90. Renumbers s. 415.5085, Florida Statutes, as s. 39.826, Florida Statutes. The section relates to process and service.

SECTION 91. Renumbers and amends s. 415.5086, Florida Statutes, as s. 39.827, Florida Statutes, to provide technical changes to the section regarding the hearing for the appointment of a guardian advocate.

SECTION 92. Renumbers and amends s. 415.5087, Florida Statutes, as s. 39.828, Florida Statutes, to make technical changes in the section relating to the grounds for the appointment of a guardian advocate.

SECTION 93. Renumbers s. 415.5088, Florida Statutes, as s. 39.829, Florida Statutes. The section provides the powers and duties of the guardian advocate.

SECTION 94. Renumbers and amends s. 415.5089, Florida Statutes, as s. 39.8295, Florida Statutes, to provide technical changes to the section relating to the review and removal of a guardian advocate.

**TITLE XI
DOMESTIC VIOLENCE**

SECTION 95. Provides a title for Part XI, chapter 39, Florida Statutes, consisting of sections 39.901, 39.902, 39.903, 39.904, 39.905, 39.906, and 39.908. Part XI is entitled, **DOMESTIC VIOLENCE**.

SECTION 96. Renumbers s. 415.601, Florida Statutes, as s. 39.901, Florida Statutes.

SECTION 97. Amends and renumbers s. 415.602, Florida Statutes, as s. 39.902, Florida Statutes, to delete definitions already occurring in chapter 39.

SECTION 98. Amends and renumbers s. 415.603, Florida Statutes, as s. 39.903, Florida Statutes, to correct a technical reference.

SECTION 99. Amends and renumbers s. 415.604, Florida Statutes, as s. 39.904, Florida Statutes, to correct a technical reference.

SECTION 100. Amends and renumbers s. 415.605, Florida Statutes, as s. 39.905, Florida Statutes, to correct technical references.

SECTION 101. Renumbers s. 415.606, Florida Statutes, as s. 39.906, Florida Statutes.

SECTION 102. Renumbers s. 415.608, Florida Statutes, as s. 39.908, Florida Statutes.

TECHNICAL SECTIONS

SECTION 103. Amends s. 20.19, Florida Statutes, to correct a reference and to authorize the department to create certification programs for family safety and preservation employees and agents to ensure that only qualified employees and agents provide child protections services.

SECTION 104. Amends s. 20.43, Florida Statutes, to correct a reference.

SECTION 105. Amends s. 61.13, Florida Statutes, to correct a reference.

SECTION 106. Amends s. 61.401, Florida Statutes, to correct a reference.

SECTION 107. Amends s. 61.402, Florida Statutes, to correct a reference.

SECTION 108. Amends s. 63.052, Florida Statutes, to correct a reference.

SECTION 109. Amends s. 63.092, Florida Statutes, to correct a reference.

SECTION 110. Amends s. 90.5036, Florida Statutes, to correct a reference.

SECTION 111. Amends s. 154.067, Florida Statutes, to correct a reference.

SECTION 112. Amends s. 213.053, Florida Statutes, to provide the Department of Children and Family Services access to confidential taxpayer information contained in

returns, reports, accounts, or declarations filed with the Department of Revenue for the purpose of diligent search activities pursuant to chapter 39.

SECTION 113. Amends s. 216.136, Florida Statutes, to add maintaining estimates and projections of “abandonment” reports to the duties of the Child Welfare System Estimating Conference.

SECTION 114. Amends s. 232.50, Florida Statutes, to add “abandonment” to the types of instances that school personnel are required to report to the statewide abuse registry.

SECTION 115. Amends s. 318.21, Florida Statutes, to correct a reference.

SECTION 116. Amends s. 318.21, Florida Statutes, to correct a reference.

SECTION 117. Amends s. 318.21, Florida Statutes, to correct a reference.

SECTION 118. Amends s. 318.21, Florida Statutes, to correct a reference.

SECTION 119. Amends s. 318.21, Florida Statutes, to correct a reference.

SECTION 120. Amends s. 384.29, Florida Statutes, to correct a reference.

SECTION 121. Amends s. 392.65, Florida Statutes, to correct a reference.

SECTION 122. Amends s. 393.063, Florida Statutes, to correct a reference.

SECTION 123. Amends s. 395.1023, Florida Statutes, to add “abandonment” to the abuse and neglect protocol to be followed by hospitals and facilities licensed pursuant to chapter 395..

SECTION 124. Amends s. 400.4174, Florida Statutes, to add “abandonment” to types of reports to be made in nursing homes and related facilities.

SECTION 125. Amends s. 400.556, Florida Statutes, to correct a reference.

SECTION 126. Amends s. 402.165, Florida Statutes, to correct a reference.

SECTION 127. Amends s. 402.166, Florida Statutes, to correct a reference.

SECTION 128. Amends s. 409.1672, Florida Statutes, to correct a reference.

SECTION 129. Amends s. 409.176, Florida Statutes, to add “abandonment” to the provisions of chapter 39 and chapter 827 as they relate to screening pursuant to s. 409.175 and chapter 435.

SECTION 130. Amends s. 409.2554, Florida Statutes, to correct a reference.

SECTION 131. Amends s. 409.2577, Florida Statutes, to make information in the Department of Revenue’s parent locator service available to the Department of Children and Family Services for the purpose of diligent search activities pursuant to chapter 39.

SECTION 132. Amends s. 409.912, Florida Statutes, to correct a reference.

SECTION 133. Amends s. 409.9126, Florida Statutes, to correct a reference.

SECTION 134. Amends s. 414.065, Florida Statutes, to correct a reference.

SECTION 135. Creates s. 435.045, Florida Statutes, to provide records checks requirements for prospective foster or adoptive parents.

SECTION 136. Amends s. 447.401, Florida Statutes, to include an allegation of abandonment as an instance in which a grievance may not be decided until the abandonment of a child has been judicially determined.

SECTION 137. Amends s. 464.018, Florida Statutes, to add a violation of chapter 39, relating to abuse, abandonment, and neglect as grounds for disciplinary actions set forth in this section.

SECTION 138. Amends s. 490.014, Florida Statutes, to correct a reference.

SECTION 139. Amends s. 491.014, Florida Statutes, to correct a reference.

SECTION 140. Amends s. 741.30, Florida Statutes, to correct a reference.

SECTION 141. Amends s. 744.309, Florida Statutes, to correct a reference.

SECTION 142. Amends s. 784.075, Florida Statutes, to correct a reference.

SECTION 143. Amends s. 933.18, Florida Statutes, to correct a reference.

SECTION 144. Amends s. 943.045, Florida Statutes, to include the Department of Children and Family Services as a criminal justice agency.

SECTION 145. Amends s. 944.401, Florida Statutes, to correct a reference.

SECTION 146. Amends s. 944.705, Florida Statutes, to correct a reference.

SECTION 147. Amends s. 984.03, Florida Statutes, to correct a reference.

SECTION 148. Amends s. 984.10, Florida Statutes, to correct a reference.

SECTION 149. Amends s. 984.15, Florida Statutes, to correct a reference.

SECTION 150. Amends s. 984.24, Florida Statutes, to correct a reference.

SECTION 151. Amends s. 985.03, Florida Statutes, to correct a reference.

SECTION 152. Amends s. 985.303, Florida Statutes, to correct a reference.

SECTION 153. Repeals ss. 39.0195, 39.0196, 39.39, 39.403, 39.4032, 39.4052, 39.4053, 39.449, 39.45, 39.457, 39.459, 39.4625, 39.472, 39.475, 415.5016, 415.50165, 415.5017, 415.50175, 415.5018, 415.50185, 415.5019, 415.502, 415.503, 415.505, 415.506, 415.5075, 415.509, and 415.514, Florida Statutes.

SECTION 154. Provides for an effective date of October 1 of the year in which enacted.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

State Courts System: Not applicable

Department of Children and Family Services: FY 98-99 - \$597,026 for additional hearings, and \$143,250 for audio and videotaping - see fiscal note.

Guardian ad litem program: \$116,000 for audio and videotaping - see fiscal note.

2. Recurring Effects:

State Courts System: HB 3883 provides for attorney representation of parents in dependency court proceedings. General Revenue dollars would be reimbursed to counties on a case-by-case basis.

Amount Year 1 (FY 98-99)	Amount Year 2 (FY 99-00)	Amount Year 3 (FY 00-01)
\$4,998,800	\$5,248,740	\$5,511,177

Department of Children and Family Services: \$1,362,336 per year + clerical support for extra hearings and \$72,000 for audio and videotaping - see fiscal note.

Guardian ad litem program - \$96,000 for audio and videotaping - see fiscal note.

3. Long Run Effects Other Than Normal Growth:

State Courts System: Not applicable

Department of Children and Family Services: See fiscal note.

4. Total Revenues and Expenditures:

State Courts System:

Amount Year 1	Amount Year 2	Amount Year 3
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(FY 98-99)	(FY 99-00)	(FY 00-01)
\$4,998,800	\$5,248,740	\$5,511,177

Department of Children and Family Services: See fiscal note.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

Local government would have to establish a procedure for reimbursement of attorney fees on a case-by-case basis.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

The Department of Children and Family Services reports that 5 additional hearings are proposed in HB 3883. Assuming that each of the two new judicial reviews would run ½ hour, for a total of 1 hour; each of the two new shelter hearings would run ½ hour, for a total of 1 hour; and that the termination of parental rights status conference would run 1 hour; the additional hearings represent a total of 3 additional hours of court time. Also assuming that 2 hours of legal preparation time are required for every hour of court time, the total additional legal and casework time would be 9 hours.

Based on an estimated 10,000 children in care, the additional hearings represent 90,000 additional legal and casework hours per year, if every child were to require all hearings. However, assuming that each child would require at least 1 hearing, the total would average 30,000 additional attorney and casework hours per year.

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Available senior attorney hours equal 1872 hours per year. Available casework hours equal 1928 hours per year. The 30,000 additional hours would require 16.025 additional attorney and 15.56 caseworkers. Rounded off this equals 16 attorneys and 16 caseworkers. Adequate clerical support, either FTE or OPS, also needs to be considered, but is not estimated here.

Based on January, 1998, cost estimates, first-year non-recurring costs would total \$584,576; recurring costs would total \$1,362,336 per year.

Drug testing for protective investigators - There are currently 830 protective investigators statewide. At an average cost of \$15 per test, the total first year cost for testing would be \$12,450. The annual turnover rate for protective investigators averages 20%, thus continuation cost would be \$2,490 per year.

Audio-recording and Videotaping - There would be a fiscal impact of the requirement for the department or "any agency" to audio-record or videotape all interviews with a child. This would include circuit guardian ad litem programs as well as private agencies who contract with the department to assess or treat children. Equipment costs as well as cost of tapes and storage would have to be considered. Video cameras range from \$600 to \$1,200 each, for an average of \$900. Five cameras per district would total \$67,000 for initial startup. Video tapes cost an average of \$2 each, so that an average of 100 tapes per district per month would cost \$36,000 per year. Tapes could not be reused since they would become a part of the case record. Audio recorders cost from \$35 to \$65 each, for an average of \$50. Five tape recorders per district would total \$3,750. An average of 100 tapes per district at \$2 each would equal \$36,000 per year. These tapes could also not be reused. The total first year startup costs to the department for videotaping, including tapes, would be \$103,500. The total first year startup costs to the department for audio recording, including tapes, would be \$39,750. Recurring costs to the department for either audio recording or videotaping would be \$36,000 per year.

Total cost of videotaping to the statewide guardian ad litem program, conservatively based on one video camera for each of the 20 judicial circuits, and 100 tapes per month per circuit would be \$66,000 for the first year startup costs and \$48,000 per year recurring costs for tapes. Total cost of audio recording to the statewide program, conservatively based on two tape recorders per circuit and 100 tapes per month per circuit would be \$50,000 for the first year startup costs, and \$48,000 per year recurring cost for tapes.

Cost to private agencies for videotaping, assuming that 4 contracted private agencies per district, each purchasing one video camera, conduct a total of 100 interviews or counseling sessions per month, would be \$90,000 total startup costs for the first year, and \$36,000 recurring cost for tapes per year. Costs for audio recording, assuming the same 4 contracted private agencies per district, each purchasing two tape recorders, conduct the same number of interviews per month, would be \$39,000 for the first year startup costs and \$36,000 per year recurring costs for tapes.

Relative-Caregiver Program - Additional funding of \$11,000,000 is required to implement provisions creating the Relative Caregiver Program in the Department of Children and Families. The department estimates that approximately 8000 children could be eligible

for kinship care. The monthly cost per child ranges from \$253 to \$331 depending on the child's age.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Family Law and Children adopted the bill and amendments at the March 18, 1998 committee meeting. Those amendments have been incorporated into a committee substitute.

VII. SIGNATURES:

COMMITTEE ON FAMILY LAW AND CHILDREN:

Prepared by:

Legislative Research Director:

Carol E. Preston

Stephanie Olin

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AS FURTHER REVISED BY THE COMMITTEE ON HEALTH AND HUMAN SERVICES
APPROPRIATIONS:

Prepared by:

Legislative Research Director:

Eliza Hawkins

Lynn S. Dixon