

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1666

SPONSOR: Committee on Children and Families and Senator Mitchell

SUBJECT: Child Protection

DATE: March 23, 1999 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Barnes</u>	<u>Whiddon</u>	<u>CF</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>JU</u>	_____
3.	_____	_____	<u>FP</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

Committee Substitute for SB 1666 amends sections of ch. 39, F.S., to make technical corrections and to conform and clarify language and references. These changes are necessary as a result of a major reorganization of the chapter during the 1998 session (ch. 98-403, L.O.F.).

This bill amends sections 39.001, 39.0015, 39.01, 39.011, 39.0121, 39.013, 39.0132, 39.0134, 39.201, 39.202, 39.203, 39.206, 39.301, 39.302, 39.3035, 39.304, 39.311, 39.312, 39.313, 39.395, 39.401, 39.402, 39.407, 39.501, 39.502, 39.503, 39.504, 39.506, 39.507, 39.508, 39.5085, 39.509, 39.510, 39.601, 39.602, 39.603, 39.701, 39.702, 39.703, 39.704, 39.801, 39.802, 39.805, 39.806, 39.807, 39.808, 39.811, 39.814, 39.815, 39.822, 63.0427, 419.001, and creates section 39.0014, F.S..

II. Present Situation:

Florida's Dependency Court Improvement Program 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. Chapter 98-403, L.O.F., passed as HB 1019, by the legislature during the 1998 session, incorporated the recommendations that evolved from this study.

HB 1019 relocated relevant sections of ch. 415, F.S., into ch. 39, F.S., and reorganized ch. 39, F.S., to reflect an orderly presentation of the dependency process from intake to case outcome. The bill provided attorneys for parents who qualify under indigency standards at shelter hearings, who will continue representation of those parents throughout the duration of the case. It also increased penalties for false reporting and created the Relative Caregiver Program.

The federal Adoption and Safe Families Act of 1997 was signed into law in November 1997, and HB 1019 also incorporated the requirements of that legislation. The health and safety of children,

rather than family reunification or preservation, is now required to be the paramount concern in decisions made at all stages of dependency proceedings. In addition, all children in foster care are now required to have a permanency planning review hearing within 1 year from the date of their removal from home and additional grounds for expediting termination of parental rights under certain circumstances are provided. Florida became the first state in the nation to enact the provisions of the federal act.

Currently ss. 39.506(3), F.S., and 39.801(3)(d), F.S., provide that the court may enter a consent (default) when a parent fails to respond to the petition for dependency or appear for the arraignment or advisory hearing. Neither ch. 39, F.S., nor the Rules of Juvenile Procedure address the possible entry of a default when the parent fails to appear for the adjudicatory hearing or violates other pretrial orders of the court. Based on the lack of either statutory or procedural authority to enter a default at any stage other than the arraignment or advisory, the appellate courts have been reversing trial court decisions based on defaults entered at other stages of the case. *In re M.M.*, 708 So.2d 990 (Fla 2d DCA 1998); *In re A.L.* 711 So.2d 600 (Fla 2d DCA 1998); *Nickerson v. Department of Children and Families*, 718 So.2d 373 (Fla. 3rd DCA 1998)

III. Effect of Proposed Changes:

Section 1. Amends s. 39.001, F.S., 1998 Supp., to remove the terms “guardian” and “caregiver” and insert the term “legal custodian.” The changes are technical and conforming.

Section 2. Creates s. 39.0014, F.S., to provide that all state, county, and local agencies have a duty to provide cooperation, assistance, and information to the department to enable it to fulfill its responsibilities under ch. 39, F.S.

Section 3. Amends s. 39.0015, F.S., 1998 Supp., to expand a statutory reference and clarify a reference to child abuse.

Section 4. Amends s. 39.01, F.S., 1998 Supp., to clarify and conform definitions as used in ch. 39, F.S. The section also restores a sentence to the definition of “harm” that was inadvertently omitted during the 1998 session pertaining to parents not being subject to criminal investigation solely on the basis of the positive drug toxicology of a newborn infant, and provides a definition for the term “out-of-home.”

Section 5. Amends s. 39.011, F.S., 1998 Supp., to provide a technical and conforming change.

Section 6. Amends s. 39.0121, F.S., 1998 Supp., to reflect that Child Protection Teams are now under the jurisdiction of the Department of Health.

Section 7. Amends s. 39.013, F.S., 1998 Supp., to provide technical and conforming changes.

Section 8. Amends s. 39.0132, F.S., 1998 Supp., to provide technical and conforming changes. The section reduces the time period from 10 to 7 years that the court preserves records relating to a dependent child brought before the court pursuant to ch. 39, F.S. It also adds language related to termination of parental rights to conform to language in s. 39.806(1)(I), F.S., 1998 Supp.

Section 9. Amends s. 39.0134, F.S., 1998 Supp., to provide that counties impose a lien relating to compensation for counsel in dependency proceedings which would be enforced as provided in s. 983.08, F.S.

Section 10. Amends s. 39.201, F.S., 1998 Supp., to provide technical and conforming changes.

Section 11. Amends s. 39.202, F.S., 1998 Supp., to provide technical and conforming changes. The section also clarifies that the Department of Children and Family Services must authorize the use of the department's records for research, statistical or audit purposes. Provides for a privacy and security agreement.

Section 12. Amends s. 39.203, F.S., 1998 Supp., to provide a technical and conforming change.

Section 13. Amends s. 39.206, F.S., 1998 Supp., to provide technical and conforming changes.

Section 14. Amends s. 39.301, F.S., 1998 Supp., to provide technical and conforming changes. New language is added relating to dependency petitions and to clarify intent language in s. 39.301(8)(c). Time frames are specified to conform to those in s. 39.302, F.S., 1998 Supp.

Section 15. Amends s. 39.302, F.S., 1998 Supp., to provide technical and conforming changes.

Section 16. Amends s. 39.3035, F.S., 1998 Supp., to clarify the definition of a Child Advocacy Center. A child advocacy center may either be a child protection team or have a child protection team as a component of the center.

Section 17. Amends s. 39.304, F.S., 1998 Supp., to provide technical and conforming changes.

Section 18. Amends s. 39.311, F.S., 1998 Supp., to provide a technical change.

Section 19. Amends s. 39.312, F.S., 1998 Supp., to clarify the intent of the federal Adoption and Safe Families Act and to provide technical and conforming changes.

Section 20. Amends s. 39.313, F.S., 1998 Supp., to conform to the intent of the federal Adoption and Safe Families Act.

Section 21. Amends s. 39.395, F.S., 1998 Supp., to provide a technical and conforming change.

Section 22. Amends s. 39.401, F.S., 1998 Supp., to provide technical and conforming changes. It also restores to the statute language that was inadvertently omitted.

Section 23. Amends s. 39.402, F.S., 1998 Supp., to provide technical and conforming changes. It also adds new language to clarify the parents' right to a continuance at the shelter hearing in order to obtain counsel and to require parents to provide to the Department of Children and Family Services within 28 days of the shelter hearing the financial information necessary to calculate child support pursuant to s. 61.30, F.S.

Section 24. Amends s. 39.407, F.S., 1998 Supp., to provide technical and conforming changes.

Section 25. Amends s. 39.501, F.S., 1998 Supp., to provide technical and conforming changes.

Section 26. Amends s. 39.502, F.S., 1998 Supp., to provide technical and conforming changes.

Section 27. Amends s. 39.503, F.S., 1998 Supp., to provide technical and conforming changes.

Section 28. Amends s. 39.504, F.S., 1998 Supp., to remove language relating to the Department of Juvenile Justice.

Section 29. Amends s. 39.506, F.S., 1998 Supp., to provide technical and conforming changes. It also adds language to include a Dependency Court Improvement Committee recommendation to clarify that it is unnecessary to move forward with an adjudicatory trial when a parent fails to appear.

Section 30. Amends s. 39.507, F.S., 1998 Supp., to provide technical and conforming changes.

Section 31. Amends s. 39.508, F.S., 1998 Supp., to provide technical and conforming changes and to clarify that the adult with whom the child is living is to be included in the predisposition report.

Section 32. Amends s. 39.5085, F.S., 1998 Supp., to provide technical, conforming and clarifying changes.

Section 33. Amends s. 39.509, F.S., 1998 Supp., to provide technical and conforming changes.

Section 34. Amends s. 39.510, F.S., 1998 Supp., to provide technical and conforming changes.

Section 35. Amends s. 39.601, F.S., 1998 Supp., to provide technical and conforming changes and clarifying that the case plan includes a description of the tasks with which the parent must comply.

Section 36. Amends s. 39.602, F.S., 1998 Supp., to provide technical and conforming changes.

Section 37. Amends s. 39.603, F.S., 1998 Supp., to provide technical, conforming, and clarifying that an amended case plan is to be submitted to the court for review and approval within 30 days after the court hearing and a copy of the amended plan is to be provided to each party at least 72 hours prior to filing it with the court.

Section 38. Amends s. 39.701, F.S., 1998 Supp., to provide technical and conforming changes. New language is added to provide for a statement related to partial compliance by parents with the provisions of a case to be included in a report submitted by the Department of Children and Family Services to the court prior to a judicial review hearing or citizen review panel hearing.

Section 39. Amends s. 39.702, F.S., 1998 Supp., to provide technical and conforming changes.

Section 40. Amends s. 39.703, F.S., 1998 Supp., to provide technical and conforming changes.

Section 41. Amends s. 39. 704, F.S., 1998 Supp., to provide a technical change.

Section 42. Amends s. 39.801, F.S., 1998 Supp., to provide technical and conforming changes.

Section 43. Amends s. 39.802, F.S., 1998 Supp., to provide technical changes.

Section 44. Amends s. 39.805, F.S., 1998 Supp., to provide a technical change.

Section 45. Amends s. 39. 806, F.S., 1998 Supp., to provide technical and conforming changes.

Section 46. Amends s. 39.807, F.S., 1998 Supp., to provide conforming changes.

Section 47. Amends s. 39.808, F.S., 1998 Supp., to provide technical, conforming, and clarifying provisions relating to termination of parental rights advisory hearings specifying that an advisory hearing is not required in cases of voluntary surrender of parental rights.

Section 48. Amends s. 39.811, F.S., 1998 Supp., to provide technical, conforming, and clarifying provisions relating to termination of parental rights specifying that the court is authorized to place a child with the Department of Children and Family Services under certain circumstances.

Section 49. Amends s. 39.814, F.S., 1998 Supp., to provide technical and conforming changes.

Section 50. Amends s. 39. 39.815, F.S., 1998 Supp., to provide a technical change.

Section 51. Amends s. 39.822, F.S., 1998 Supp., to provide a conforming change.

Section 52. Amends s. 63.0427, F.S., 1998 Supp., to correct a statutory reference.

Section 53. Amends s. 419.001, F.S., 1998 Supp., to correct a statutory reference.

Section 54. Provides for an effective date of July 1, 1999.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
