

2010724e1

1  
2 A bill to be entitled  
3 An act relating to a review of the Department of  
4 Children and Family Services under the Florida  
5 Government Accountability Act; reenacting and amending  
6 s. 20.19, F.S., relating to the establishment of the  
7 department; changing the name of the Department of  
8 Children and Family Services to the Department of  
9 Children and Families; revising provisions relating to  
10 the establishment and structure of, and services  
11 provided by, the department; providing for operating  
12 units called circuits that conform to the geographic  
13 boundaries of judicial circuits; providing for the  
14 establishment of and requirements for membership and  
15 participation in community alliances and community  
16 partnerships; amending s. 20.04, F.S.; authorizing the  
17 department to establish circuits or regions headed by  
18 circuit administrators or region directors and  
19 deleting a requirement for statutory enactment for  
20 additional divisions or offices in the department;  
21 amending s. 20.43, F.S.; revising provisions relating  
22 to service area boundaries; amending s. 394.47865,  
23 F.S.; deleting obsolete provisions relating to the  
24 privatization of South Florida State Hospital;  
25 amending s. 394.78, F.S.; deleting an obsolete  
26 provision relating to dispute resolution; amending s.  
27 402.313, F.S.; revising licensure requirements for  
28 family day care homes; amending s. 402.315, F.S.;  
29 requiring the county, rather than the department, to

2010724e1

30 bear the costs of licensing family day care homes,  
31 under certain circumstances; amending s. 402.40, F.S.;  
32 defining the terms "child welfare certification" and  
33 "core competency"; requiring that professionals  
34 providing child welfare services demonstrate core  
35 competency; requiring that the department recognize  
36 certain certifications; requiring that certain persons  
37 hold active certification; amending s. 409.1671, F.S.;  
38 revising provisions relating to lead agencies;  
39 requiring the department to annually evaluate each  
40 agency; conforming provision to changes made by the  
41 act; amending s. 409.1755, F.S.; decreasing the  
42 membership of the One Church, One Child of Florida  
43 Corporation, to conform to changes made by the act;  
44 amending s. 420.621, F.S.; revising the definition of  
45 the term "district" to conform to changes made by the  
46 act; amending s. 420.622, F.S.; deleting a requirement  
47 for the Governor to appoint the executive director of  
48 the State Office of Homelessness; conforming a  
49 provision; amending ss. 20.195, 39.01, 39.0121,  
50 39.301, 39.302, 39.303, 39.806, 39.828, 49.011,  
51 381.0072, 394.493, 394.4985, 394.67, 394.73, 394.74,  
52 394.75, 394.76, 394.82, 394.9084, 397.821, 402.49,  
53 409.152, 409.1685, 410.0245, 410.603, 410.604,  
54 411.224, 414.24, 415.1113, 420.623, 420.625, 429.35,  
55 and 1002.67, F.S.; revising provisions to conform to  
56 changes made by the act; correcting cross-references;  
57 repealing ss. 39.311, 39.312, 39.313, 39.314, 39.315,  
58 39.316, 39.317, and 39.318, F.S., relating to the

2010724e1

59 Family Builders Program; repealing s. 394.9083, F.S.,  
60 relating to the Behavioral Health Services Integration  
61 Workgroup; repealing s. 402.35, F.S., which provides  
62 for department employees to be governed by Department  
63 of Management rules; amending s. 39.407, F.S.;  
64 requiring the provision of a comprehensive mental  
65 health treatment plan; specifying eligibility;  
66 prescribing duties for the Department of Children and  
67 Family Services; deleting provisions relating to the  
68 provision of psychotropic medications to children in  
69 out-of-home care; creating s. 39.4071, F.S.; providing  
70 legislative findings and intent; providing  
71 definitions; requiring that a guardian ad litem be  
72 appointed by the court to represent a child in the  
73 custody of the Department of Children and Family  
74 Services who is prescribed a psychotropic medication;  
75 prescribing the duties of the guardian ad litem;  
76 requiring that the department or lead agency notify  
77 the guardian ad litem of any change in the status of  
78 the child; providing for psychiatric evaluation of the  
79 child; requiring that express and informed consent and  
80 assent be obtained from a child or the child's parent  
81 or guardian; providing requirements for a prescribing  
82 physician in obtaining consent and assent; providing  
83 for the invalidation of a parent's informed consent;  
84 requiring the department to seek informed consent from  
85 the legal guardian in certain circumstances; requiring  
86 the department to file a motion for the administration  
87 of psychotropic medication with the final judgment of

2010724e1

88 termination of parental rights under certain  
89 circumstances; requiring that a court authorize the  
90 administration of psychotropic medication to a child  
91 who is in shelter care or in foster care and for whom  
92 informed consent from the parents or a legal guardian  
93 has not been obtained; providing requirements for the  
94 motion to the court; requiring that any party  
95 objecting to the administration of psychotropic  
96 medication file its objection within a specified  
97 period; authorizing the court to obtain a second  
98 opinion regarding the proposed administration;  
99 requiring that the court hold a hearing if any party  
100 objects to the proposed administration; specifying  
101 circumstances under which the department may provide  
102 psychotropic medication to a child before court  
103 authorization is obtained; requiring that the  
104 department seek court authorization for continued  
105 administration of the medication; providing for an  
106 expedited hearing on such motion under certain  
107 circumstances; requiring the department to provide  
108 notice to all parties and the court for each emergency  
109 use of psychotropic medication under certain  
110 conditions; providing for discontinuation, alteration,  
111 and destruction of medication; requiring that a mental  
112 health treatment plan be developed for each child or  
113 youth who needs mental health services; requiring  
114 certain information to be included in a mental health  
115 treatment plan; requiring the department to develop  
116 and administer procedures to require the caregiver and

2010724e1

117       prescribing physician to report any adverse side  
118       effects; requiring documentation of the adverse side  
119       effects; prohibiting the prescription of psychotropic  
120       medication to certain children who are in out-of-home  
121       care absent certain conditions; requiring review by a  
122       licensed child psychiatrist before psychotropic  
123       medication is administered to certain children who are  
124       in out-of-home care under certain conditions;  
125       prohibiting authorization for a child in the custody  
126       of the department to participate in any clinical trial  
127       designed to evaluate the use of psychotropic  
128       medication in children; amending s. 743.0645, F.S.;  
129       conforming a cross-reference; directing the Division  
130       of Statutory Revision to prepare a reviser's bill;  
131       requiring the Agency for Persons with Disabilities to  
132       prepare a plan to perform its own administrative and  
133       operational functions separate from the department;  
134       directing the department to define legal services  
135       associated with dependency proceeding and modify lead  
136       agency funding; directing the Children and Youth  
137       Cabinet to submit a plan to the Legislature addressing  
138       the inappropriate and excessive prescribing of  
139       psychotropic medication for certain children;  
140       providing an effective date.

141  
142       Be It Enacted by the Legislature of the State of Florida:

143  
144       Section 1. Section 20.19, Florida Statutes, is reenacted  
145       and amended to read:

2010724e1

146 (Substantial rewording of section. See  
147 s. 20.19, F.S., for present text.)  
148 20.19 Department of Children and Families.—There is created  
149 a Department of Children and Families.

150 (1) MISSION AND PLAN.—

151 (a) The mission of the Department of Children and Families  
152 is to work in partnership with local communities to ensure the  
153 safety, well-being, and self-sufficiency of the people served.

154 (b) The department shall develop a strategic plan for  
155 fulfilling its mission and establish a set of measurable goals,  
156 objectives, performance standards, and quality assurance  
157 requirements to ensure that the department is accountable to the  
158 people of Florida.

159 (c) To the extent allowed by law and within specific  
160 appropriations, the department shall deliver services by  
161 contract through private providers.

162 (2) SECRETARY OF CHILDREN AND FAMILIES.—

163 (a) The head of the department is the Secretary of Children  
164 and Families. The Governor shall appoint the secretary, who is  
165 subject to confirmation by the Senate. The secretary serves at  
166 the pleasure of the Governor.

167 (b) The secretary is responsible for planning,  
168 coordinating, and managing the delivery of all services that are  
169 the responsibility of the department.

170 (c) The secretary shall appoint a deputy secretary who  
171 shall act in the absence of the secretary. The deputy secretary  
172 is directly responsible to the secretary, performs such duties  
173 as are assigned by the secretary, and serves at the pleasure of  
174 the secretary.

2010724e1

175 (d) The secretary shall appoint an Assistant Secretary for  
176 Substance Abuse and Mental Health and may establish assistant  
177 secretary positions as necessary to administer the requirements  
178 of this section. All persons appointed to such positions shall  
179 serve at the pleasure of the secretary. The department shall  
180 integrate substance abuse and mental health programs into the  
181 overall structure and priorities of the department.

182 (3) SERVICES PROVIDED.—

183 (a) The department shall establish the following program  
184 offices, each of which shall be headed by a program director who  
185 shall be appointed by and serve at the pleasure of the  
186 secretary:

- 187 1. Adult protection.
- 188 2. Child care licensure.
- 189 3. Domestic violence.
- 190 4. Economic self-sufficiency.
- 191 5. Family safety.
- 192 6. Mental health.
- 193 7. Refugee services.
- 194 8. Substance abuse.
- 195 9. Homelessness.

196 (b) The secretary may appoint additional directors as  
197 necessary for the effective management of the program services  
198 provided by the department.

199 (4) OPERATING UNITS.—

200 (a) The department shall plan and administer its program  
201 services through operating units called "circuits" that conform  
202 to the geographic boundaries of the judicial circuits  
203 established in s. 26.021. The department may also establish one

2010724e1

204 or more regions consisting of one or more circuits. A region  
205 shall provide administrative, management, and infrastructure  
206 support to the circuits operating within the region. The region  
207 shall consolidate support functions to provide the most  
208 efficient use of resources to support the circuits operating  
209 within the region.

210 (b) The secretary may appoint a circuit administrator for  
211 each circuit and a region director for each region who shall  
212 serve at the pleasure of the secretary and shall perform such  
213 duties as are assigned by the secretary.

214 (5) COMMUNITY ALLIANCES AND PARTNERSHIPS; ADVISORY GROUPS.—  
215 The department may, or at the request of a county government  
216 shall, establish in each circuit one or more community alliances  
217 or community partnerships. The purpose of a community alliance  
218 or community partnership is to provide a focal point for  
219 community participation and the governance of community-based  
220 services. The membership of a community alliance or community  
221 partnership shall represent the diversity of a community and  
222 consist of stakeholders, community leaders, client  
223 representatives, and entities that fund human services. The  
224 secretary may also establish advisory groups at the state level  
225 as necessary to ensure and enhance communication and provide  
226 liaison with stakeholders, community leaders, and client  
227 representatives.

228 (a) The duties of a community alliance or community  
229 partnership may include, but are not limited to:

230 1. Participating in joint planning for the effective use of  
231 resources in the community, including resources appropriated to  
232 the department, and any funds that local funding sources choose

2010724e1

233 to provide.

234 2. Performing a needs assessment and establishing community  
235 priorities for service delivery.

236 3. Determining community outcome goals to supplement state-  
237 required outcomes.

238 4. Serving as a catalyst for community resource  
239 development.

240 5. Providing for community education and advocacy on issues  
241 related to service delivery.

242 6. Promoting prevention and early intervention services.

243 (b) If one or more community alliances or community  
244 partnerships are established in a circuit, the department shall  
245 ensure, to the greatest extent possible, that the formation of  
246 each alliance or partnership builds on the strengths of the  
247 existing community human services infrastructure.

248 (c) Members of community alliances, community partnerships,  
249 and advisory groups shall serve without compensation, but are  
250 entitled to reimbursement for per diem and travel expenses in  
251 accordance with s. 112.061. The department may also authorize  
252 payment for preapproved child care expenses or lost wages for  
253 members who are consumers of services provided by the  
254 department.

255 (d) Members of community alliances, community partnerships,  
256 and advisory groups are subject to part III of chapter 112, the  
257 Code of Ethics for Public Officers and Employees.

258 (e) Actions taken by community alliances, community  
259 partnerships, and advisory groups must be consistent with  
260 department policy and state and federal laws, rules, and  
261 regulations.

2010724e1

262 (f) Each member of a community alliance or community  
263 partnership must submit annually to the inspector general of the  
264 department a disclosure statement of any interest in services  
265 provided by the department. Any member who has an interest in a  
266 matter under consideration by the community alliance, community  
267 partnership, or advisory group must abstain from voting on that  
268 matter.

269 (g) All meetings of community alliances, community  
270 partnerships, and advisory groups are open to the public  
271 pursuant to s. 286.011 and are subject to the public-records  
272 provisions of s. 119.07(1).

273 (6) CONSULTATION WITH COUNTIES ON MANDATED PROGRAMS.—It is  
274 the intent of the Legislature that when county governments are  
275 required by law to participate in the funding of programs  
276 serviced by the department, the department shall consult with  
277 designated representatives of county governments in developing  
278 policies and service delivery plans for those programs.

279 Section 2. Subsection (4) and paragraph (b) of subsection  
280 (7) of section 20.04, Florida Statutes, are amended to read:

281 20.04 Structure of executive branch.—The executive branch  
282 of state government is structured as follows:

283 (4) Within the Department of Children and ~~Family~~ Families  
284 ~~Services~~ there are organizational units called "program  
285 offices," headed by program directors, and operating units  
286 called "circuits," headed by circuit administrators. In  
287 addition, there may be "regions," headed by region directors.

288 (7)

289 (b) Within the limitations of this subsection, the head of  
290 the department may recommend the establishment of additional

2010724e1

291 divisions, bureaus, sections, and subsections of the department  
292 to promote efficient and effective operation of the department.  
293 However, additional divisions, or offices in ~~the Department of~~  
294 ~~Children and Family Services,~~ the Department of Corrections, and  
295 the Department of Transportation, may be established only by  
296 specific statutory enactment. New bureaus, sections, and  
297 subsections of departments may be initiated by a department and  
298 established as recommended by the Department of Management  
299 Services and approved by the Executive Office of the Governor,  
300 or may be established by specific statutory enactment.

301 Section 3. Paragraph (a) of subsection (4) of section  
302 20.195, Florida Statutes, is amended to read:

303 20.195 Department of Children and Family Services; trust  
304 funds.—The following trust funds shall be administered by the  
305 Department of Children and Family Services:

306 (4) Domestic Violence Trust Fund.

307 (a) Funds to be credited to and uses of the trust fund  
308 shall be administered in accordance with the provisions of s.  
309 28.101, part XII ~~XIII~~ of chapter 39, and chapter 741.

310 Section 4. Subsection (5) of section 20.43, Florida  
311 Statutes, is amended to read:

312 20.43 Department of Health.—There is created a Department  
313 of Health.

314 (5) The department shall plan and administer its public  
315 health programs through its county health departments and may,  
316 for administrative purposes and efficient service delivery,  
317 establish up to 15 service areas to carry out such duties as may  
318 be prescribed by the State Surgeon General. ~~The boundaries of~~  
319 ~~the service areas shall be the same as, or combinations of, the~~

2010724e1

320 ~~service districts of the Department of Children and Family~~  
321 ~~Services established in s. 20.19 and, to the extent practicable,~~  
322 ~~shall take into consideration the boundaries of the jobs and~~  
323 ~~education regional boards.~~

324 Section 5. Subsections (18) through (76) of section 39.01,  
325 Florida Statutes, are renumbered as subsections (19) through  
326 (75), respectively, subsection (10) is amended, present  
327 subsection (26) is repealed, and present subsection (27) of that  
328 section is renumbered as subsection (18) and amended, to read:

329 39.01 Definitions.—When used in this chapter, unless the  
330 context otherwise requires:

331 (10) "Caregiver" means the parent, legal custodian,  
332 permanent guardian, adult household member, or other person  
333 responsible for a child's welfare as defined in subsection (46)  
334 ~~(47)~~.

335 ~~(26) "District" means any one of the 15 service districts~~  
336 ~~of the department established pursuant to s. 20.19.~~

337 (18) ~~(27)~~ "Circuit District administrator" means the chief  
338 operating officer of each circuit service district of the  
339 department as defined in s. 20.19~~(5)~~ and, where appropriate,  
340 ~~includes any district administrator whose service district falls~~  
341 ~~within the boundaries of a judicial circuit.~~

342 Section 6. Subsection (10) of section 39.0121, Florida  
343 Statutes, is amended to read:

344 39.0121 Specific rulemaking authority.—Pursuant to the  
345 requirements of s. 120.536, the department is specifically  
346 authorized to adopt, amend, and repeal administrative rules  
347 which implement or interpret law or policy, or describe the  
348 procedure and practice requirements necessary to implement this

2010724e1

349 chapter, including, but not limited to, the following:

350 (10) The ~~Family Builders Program,~~ the Intensive Crisis  
351 Counseling Program, and any other early intervention programs  
352 and kinship care assistance programs.

353 Section 7. Paragraph (a) of subsection (15) of section  
354 39.301, Florida Statutes, is amended to read:

355 39.301 Initiation of protective investigations.—

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

358 1. Medical or other health care; or

359 2. Homemaker care, day care, protective supervision, or  
360 other services to stabilize the home environment, including  
361 intensive family preservation services through ~~the Family~~  
362 ~~Builders Program~~ or the Intensive Crisis Counseling Program, ~~or~~  
363 ~~both,~~

364  
365 such services shall first be offered for voluntary acceptance  
366 unless there are high-risk factors that may impact the ability  
367 of the parents or legal custodians to exercise judgment. Such  
368 factors may include the parents' or legal custodians' young age  
369 or history of substance abuse or domestic violence.

370 Section 8. Subsection (1) of section 39.302, Florida  
371 Statutes, is amended to read:

372 39.302 Protective investigations of institutional child  
373 abuse, abandonment, or neglect.—

374 (1) The department shall conduct a child protective  
375 investigation of each report of institutional child abuse,  
376 abandonment, or neglect. Upon receipt of a report that alleges  
377 that an employee or agent of the department, or any other entity

2010724e1

378 or person covered by s. 39.01 (32) ~~(33)~~ or (46) ~~(47)~~, acting in an  
379 official capacity, has committed an act of child abuse,  
380 abandonment, or neglect, the department shall initiate a child  
381 protective investigation within the timeframe established under  
382 s. 39.201(5) and orally notify the appropriate state attorney,  
383 law enforcement agency, and licensing agency, which shall  
384 immediately conduct a joint investigation, unless independent  
385 investigations are more feasible. When conducting investigations  
386 onsite or having face-to-face interviews with the child,  
387 investigation visits shall be unannounced unless it is  
388 determined by the department or its agent that unannounced  
389 visits threaten the safety of the child. If a facility is exempt  
390 from licensing, the department shall inform the owner or  
391 operator of the facility of the report. Each agency conducting a  
392 joint investigation is entitled to full access to the  
393 information gathered by the department in the course of the  
394 investigation. A protective investigation must include an onsite  
395 visit of the child's place of residence. The department shall  
396 make a full written report to the state attorney within 3  
397 working days after making the oral report. A criminal  
398 investigation shall be coordinated, whenever possible, with the  
399 child protective investigation of the department. Any interested  
400 person who has information regarding the offenses described in  
401 this subsection may forward a statement to the state attorney as  
402 to whether prosecution is warranted and appropriate. Within 15  
403 days after the completion of the investigation, the state  
404 attorney shall report the findings to the department and shall  
405 include in the report a determination of whether or not  
406 prosecution is justified and appropriate in view of the

2010724e1

407 circumstances of the specific case.

408 Section 9. Section 39.303, Florida Statutes, is amended to  
409 read:

410 39.303 Child protection teams; services; eligible cases.—  
411 The Children's Medical Services Program in the Department of  
412 Health shall develop, maintain, and coordinate the services of  
413 one or more multidisciplinary child protection teams in each of  
414 the circuits ~~service districts~~ of the Department of Children and  
415 Families ~~Family Services~~. Such teams may be composed of  
416 appropriate representatives of school districts and appropriate  
417 health, mental health, social service, legal service, and law  
418 enforcement agencies. The Legislature finds that optimal  
419 coordination of child protection teams and sexual abuse  
420 treatment programs requires collaboration between the Department  
421 of Health and the Department of Children and Families ~~Family~~  
422 ~~Services~~. The two departments shall maintain an interagency  
423 agreement that establishes protocols for oversight and  
424 operations of child protection teams and sexual abuse treatment  
425 programs. The State Surgeon General and the Deputy Secretary for  
426 Children's Medical Services, in consultation with the Secretary  
427 of Children and Families ~~Family Services~~, shall maintain the  
428 responsibility for the screening, employment, and, if necessary,  
429 the termination of child protection team medical directors, at  
430 headquarters and in the circuits ~~15 districts~~. Child protection  
431 team medical directors shall be responsible for oversight of the  
432 teams in the circuits ~~districts~~.

433 (1) The Department of Health shall utilize and convene the  
434 teams to supplement the assessment and protective supervision  
435 activities of the family safety and preservation program of the

2010724e1

436 Department of Children and Families ~~Family Services~~. Nothing in  
437 this section shall be construed to remove or reduce the duty and  
438 responsibility of any person to report pursuant to this chapter  
439 all suspected or actual cases of child abuse, abandonment, or  
440 neglect or sexual abuse of a child. The role of the teams shall  
441 be to support activities of the program and to provide services  
442 deemed by the teams to be necessary and appropriate to abused,  
443 abandoned, and neglected children upon referral. The specialized  
444 diagnostic assessment, evaluation, coordination, consultation,  
445 and other supportive services that a child protection team shall  
446 be capable of providing include, but are not limited to, the  
447 following:

448 (a) Medical diagnosis and evaluation services, including  
449 provision or interpretation of X rays and laboratory tests, and  
450 related services, as needed, and documentation of findings  
451 relative thereto.

452 (b) Telephone consultation services in emergencies and in  
453 other situations.

454 (c) Medical evaluation related to abuse, abandonment, or  
455 neglect, as defined by policy or rule of the Department of  
456 Health.

457 (d) Such psychological and psychiatric diagnosis and  
458 evaluation services for the child or the child's parent or  
459 parents, legal custodian or custodians, or other caregivers, or  
460 any other individual involved in a child abuse, abandonment, or  
461 neglect case, as the team may determine to be needed.

462 (e) Expert medical, psychological, and related professional  
463 testimony in court cases.

464 (f) Case staffings to develop treatment plans for children

2010724e1

465 whose cases have been referred to the team. A child protection  
466 team may provide consultation with respect to a child who is  
467 alleged or is shown to be abused, abandoned, or neglected, which  
468 consultation shall be provided at the request of a  
469 representative of the family safety and preservation program or  
470 at the request of any other professional involved with a child  
471 or the child's parent or parents, legal custodian or custodians,  
472 or other caregivers. In every such child protection team case  
473 staffing, consultation, or staff activity involving a child, a  
474 family safety and preservation program representative shall  
475 attend and participate.

476 (g) Case service coordination and assistance, including the  
477 location of services available from other public and private  
478 agencies in the community.

479 (h) Such training services for program and other employees  
480 of the Department of Children and Families ~~Family Services~~,  
481 employees of the Department of Health, and other medical  
482 professionals as is deemed appropriate to enable them to develop  
483 and maintain their professional skills and abilities in handling  
484 child abuse, abandonment, and neglect cases.

485 (i) Educational and community awareness campaigns on child  
486 abuse, abandonment, and neglect in an effort to enable citizens  
487 more successfully to prevent, identify, and treat child abuse,  
488 abandonment, and neglect in the community.

489 (j) Child protection team assessments that include, as  
490 appropriate, medical evaluations, medical consultations, family  
491 psychosocial interviews, specialized clinical interviews, or  
492 forensic interviews.

493

2010724e1

494 All medical personnel participating on a child protection team  
495 must successfully complete the required child protection team  
496 training curriculum as set forth in protocols determined by the  
497 Deputy Secretary for Children's Medical Services and the  
498 Statewide Medical Director for Child Protection.

499 (2) The child abuse, abandonment, and neglect reports that  
500 must be referred by the department to child protection teams of  
501 the Department of Health for an assessment and other appropriate  
502 available support services as set forth in subsection (1) must  
503 include cases involving:

504 (a) Injuries to the head, bruises to the neck or head,  
505 burns, or fractures in a child of any age.

506 (b) Bruises anywhere on a child 5 years of age or under.

507 (c) Any report alleging sexual abuse of a child.

508 (d) Any sexually transmitted disease in a prepubescent  
509 child.

510 (e) Reported malnutrition of a child and failure of a child  
511 to thrive.

512 (f) Reported medical neglect of a child.

513 (g) Any family in which one or more children have been  
514 pronounced dead on arrival at a hospital or other health care  
515 facility, or have been injured and later died, as a result of  
516 suspected abuse, abandonment, or neglect, when any sibling or  
517 other child remains in the home.

518 (h) Symptoms of serious emotional problems in a child when  
519 emotional or other abuse, abandonment, or neglect is suspected.

520 (3) All abuse and neglect cases transmitted for  
521 investigation to a circuit ~~district~~ by the hotline must be  
522 simultaneously transmitted to the Department of Health child

2010724e1

523 protection team for review. For the purpose of determining  
524 whether face-to-face medical evaluation by a child protection  
525 team is necessary, all cases transmitted to the child protection  
526 team which meet the criteria in subsection (2) must be timely  
527 reviewed by:

528 (a) A physician licensed under chapter 458 or chapter 459  
529 who holds board certification in pediatrics and is a member of a  
530 child protection team;

531 (b) A physician licensed under chapter 458 or chapter 459  
532 who holds board certification in a specialty other than  
533 pediatrics, who may complete the review only when working under  
534 the direction of a physician licensed under chapter 458 or  
535 chapter 459 who holds board certification in pediatrics and is a  
536 member of a child protection team;

537 (c) An advanced registered nurse practitioner licensed  
538 under chapter 464 who has a specialty ~~speciality~~ in pediatrics  
539 or family medicine and is a member of a child protection team;

540 (d) A physician assistant licensed under chapter 458 or  
541 chapter 459, who may complete the review only when working under  
542 the supervision of a physician licensed under chapter 458 or  
543 chapter 459 who holds board certification in pediatrics and is a  
544 member of a child protection team; or

545 (e) A registered nurse licensed under chapter 464, who may  
546 complete the review only when working under the direct  
547 supervision of a physician licensed under chapter 458 or chapter  
548 459 who holds certification in pediatrics and is a member of a  
549 child protection team.

550 (4) A face-to-face medical evaluation by a child protection  
551 team is not necessary when:

2010724e1

552 (a) The child was examined for the alleged abuse or neglect  
553 by a physician who is not a member of the child protection team,  
554 and a consultation between the child protection team board-  
555 certified pediatrician, advanced registered nurse practitioner,  
556 physician assistant working under the supervision of a child  
557 protection team board-certified pediatrician, or registered  
558 nurse working under the direct supervision of a child protection  
559 team board-certified pediatrician, and the examining physician  
560 concludes that a further medical evaluation is unnecessary;

561 (b) The child protective investigator, with supervisory  
562 approval, has determined, after conducting a child safety  
563 assessment, that there are no indications of injuries as  
564 described in paragraphs (2) (a)-(h) as reported; or

565 (c) The child protection team board-certified pediatrician,  
566 as authorized in subsection (3), determines that a medical  
567 evaluation is not required.

568  
569 Notwithstanding paragraphs (a), (b), and (c), a child protection  
570 team pediatrician, as authorized in subsection (3), may  
571 determine that a face-to-face medical evaluation is necessary.

572 (5) In all instances in which a child protection team is  
573 providing certain services to abused, abandoned, or neglected  
574 children, other offices and units of the Department of Health,  
575 and offices and units of the Department of Children and Families  
576 ~~Family Services~~, shall avoid duplicating the provision of those  
577 services.

578 (6) The Department of Health child protection team quality  
579 assurance program and the Department of Children and Families'  
580 ~~Family Services'~~ Family Safety Program Office quality assurance

2010724e1

581 program shall collaborate to ensure referrals and responses to  
582 child abuse, abandonment, and neglect reports are appropriate.  
583 Each quality assurance program shall include a review of records  
584 in which there are no findings of abuse, abandonment, or  
585 neglect, and the findings of these reviews shall be included in  
586 each department's quality assurance reports.

587 Section 10. Paragraph (k) of subsection (1) of section  
588 39.806, Florida Statutes, is amended to read:

589 39.806 Grounds for termination of parental rights.—

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

592 (k) A test administered at birth that indicated that the  
593 child's blood, urine, or meconium contained any amount of  
594 alcohol or a controlled substance or metabolites of such  
595 substances, the presence of which was not the result of medical  
596 treatment administered to the mother or the newborn infant, and  
597 the biological mother of the child is the biological mother of  
598 at least one other child who was adjudicated dependent after a  
599 finding of harm to the child's health or welfare due to exposure  
600 to a controlled substance or alcohol as defined in s.

601 39.01 (31) ~~(32)~~ (g), after which the biological mother had the  
602 opportunity to participate in substance abuse treatment.

603 Section 11. Paragraph (a) of subsection (1) of section  
604 39.828, Florida Statutes, is amended to read:

605 39.828 Grounds for appointment of a guardian advocate.—

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

2010724e1

610 (a) The child named in the petition is or was a drug  
611 dependent newborn as described in s. 39.01(31)~~(32)~~(g);

612 (b) The parent or parents of the child have voluntarily  
613 relinquished temporary custody of the child to a relative or  
614 other responsible adult;

615 (c) The person named in the petition to be appointed the  
616 guardian advocate is capable of carrying out the duties as  
617 provided in s. 39.829; and

618 (d) A petition to adjudicate the child dependent under this  
619 chapter has not been filed.

620 Section 12. Subsection (13) of section 49.011, Florida  
621 Statutes, is amended to read:

622 49.011 Service of process by publication; cases in which  
623 allowed.—Service of process by publication may be made in any  
624 court on any party identified in s. 49.021 in any action or  
625 proceeding:

626 (13) For termination of parental rights pursuant to part  
627 VIII ~~IX~~ of chapter 39 or chapter 63.

628 Section 13. Paragraph (a) of subsection (3) of section  
629 381.0072, Florida Statutes, is amended to read:

630 381.0072 Food service protection.—It shall be the duty of  
631 the Department of Health to adopt and enforce sanitation rules  
632 consistent with law to ensure the protection of the public from  
633 food-borne illness. These rules shall provide the standards and  
634 requirements for the storage, preparation, serving, or display  
635 of food in food service establishments as defined in this  
636 section and which are not permitted or licensed under chapter  
637 500 or chapter 509.

638 (3) LICENSES REQUIRED.—

2010724e1

639 (a) *Licenses; annual renewals.*—Each food service  
640 establishment regulated under this section shall obtain a  
641 license from the department annually. Food service establishment  
642 licenses shall expire annually and are not transferable from one  
643 place or individual to another. However, those facilities  
644 licensed by the department's Office of Licensure and  
645 Certification, the Child Care Licensure Services Program Office,  
646 or the Agency for Persons with Disabilities are exempt from this  
647 subsection. It shall be a misdemeanor of the second degree,  
648 punishable as provided in s. 381.0061, s. 775.082, or s.  
649 775.083, for such an establishment to operate without this  
650 license. The department may refuse a license, or a renewal  
651 thereof, to any establishment that is not constructed or  
652 maintained in accordance with law and with the rules of the  
653 department. Annual application for renewal is not required.

654 Section 14. Subsection (3) of section 394.47865, Florida  
655 Statutes, is amended to read:

656 394.47865 South Florida State Hospital; privatization.—

657 ~~(3)(a) Current South Florida State Hospital employees who~~  
658 ~~are affected by the privatization shall be given first~~  
659 ~~preference for continued employment by the contractor. The~~  
660 ~~department shall make reasonable efforts to find suitable job~~  
661 ~~placements for employees who wish to remain within the state~~  
662 ~~Career Service System.~~

663 ~~(b) Any savings that result from the privatization of South~~  
664 ~~Florida State Hospital shall be directed to the department's~~  
665 ~~service districts 9, 10, and 11 for the delivery of community~~  
666 ~~mental health services.~~

667 Section 15. Subsection (2) of section 394.493, Florida

2010724e1

668 Statutes, is amended to read:

669 394.493 Target populations for child and adolescent mental  
670 health services funded through the department.—

671 (2) Each mental health provider under contract with the  
672 department to provide mental health services to the target  
673 population shall collect fees from the parent or legal guardian  
674 of the child or adolescent receiving services. The fees shall be  
675 based on a sliding fee scale for families whose net family  
676 income is at or above 150 percent of the Federal Poverty Income  
677 Guidelines. The department shall adopt, by rule, a sliding fee  
678 scale for statewide implementation. Fees collected from families  
679 shall be retained in the circuit ~~service district~~ and used for  
680 expanding child and adolescent mental health treatment services.

681 Section 16. Section 394.4985, Florida Statutes, is amended  
682 to read:

683 394.4985 Circuitwide ~~Districtwide~~ information and referral  
684 network; implementation.—

685 (1) Each circuit ~~service district~~ of the Department of  
686 Children and Families ~~Family Services~~ shall develop a detailed  
687 implementation plan for a circuitwide ~~districtwide~~ comprehensive  
688 child and adolescent mental health information and referral  
689 network to be operational by July 1, 1999. The plan must include  
690 an operating budget that demonstrates cost efficiencies and  
691 identifies funding sources for the circuit ~~district~~ information  
692 and referral network. The plan must be submitted by the  
693 department to the Legislature by October 1, 1998. The circuit  
694 ~~district~~ shall use existing circuit ~~district~~ information and  
695 referral providers if, in the development of the plan, it is  
696 concluded that these providers would deliver information and

2010724e1

697 referral services in a more efficient and effective manner when  
698 compared to other alternatives. The circuit ~~district~~ information  
699 and referral network must include:

700 (a) A resource file that contains information about the  
701 child and adolescent mental health services as described in s.  
702 394.495, including, but not limited to:

- 703 1. Type of program;
- 704 2. Hours of service;
- 705 3. Ages of persons served;
- 706 4. Program description;
- 707 5. Eligibility requirements; and
- 708 6. Fees.

709 (b) Information about private providers and professionals  
710 in the community which serve children and adolescents with an  
711 emotional disturbance.

712 (c) A system to document requests for services that are  
713 received through the network referral process, including, but  
714 not limited to:

- 715 1. Number of calls by type of service requested;
- 716 2. Ages of the children and adolescents for whom services  
717 are requested; and
- 718 3. Type of referral made by the network.

719 (d) The ability to share client information with the  
720 appropriate community agencies.

721 (e) The submission of an annual report to the department,  
722 the Agency for Health Care Administration, and appropriate local  
723 government entities, which contains information about the  
724 sources and frequency of requests for information, types and  
725 frequency of services requested, and types and frequency of

2010724e1

726 referrals made.

727 (2) In planning the information and referral network, the  
728 circuit ~~district~~ shall consider the establishment of a 24-hour  
729 toll-free telephone number, staffed at all times, for parents  
730 and other persons to call for information that concerns child  
731 and adolescent mental health services and a community public  
732 service campaign to inform the public about information and  
733 referral services.

734 Section 17. Subsections (2) through (6) of section 394.67,  
735 Florida Statutes, are renumbered as subsections (4) and (8),  
736 respectively, and present subsections (7) and (8) are renumbered  
737 as subsections (2) and (3), respectively, and amended to read:

738 394.67 Definitions.—As used in this part, the term:

739 (2)~~(7)~~ "Circuit ~~District~~ administrator" means the person  
740 appointed by the Secretary of Children and Families ~~Family~~  
741 ~~Services~~ for the purpose of administering a department circuit  
742 ~~service-district~~ as set forth in s. 20.19.

743 (3)~~(8)~~ "Circuit ~~District~~ plan" or "plan" means the combined  
744 circuit ~~district~~ substance abuse and mental health plan approved  
745 by the circuit ~~district~~ administrator and governing bodies in  
746 accordance with this part.

747 Section 18. Section 394.73, Florida Statutes, is amended to  
748 read:

749 394.73 Joint alcohol, drug abuse, and mental health service  
750 programs in two or more counties.—

751 (1) Subject to rules established by the department, any  
752 county within a circuit ~~service-district~~ shall have the same  
753 power to contract for alcohol, drug abuse, and mental health  
754 services as the department has under existing statutes.

2010724e1

755 (2) In order to carry out the intent of this part and to  
756 provide alcohol, drug abuse, and mental health services in  
757 accordance with the circuit ~~district~~ plan, the counties within a  
758 circuit ~~service district~~ may enter into agreements with each  
759 other for the establishment of joint service programs. The  
760 agreements may provide for the joint provision or operation of  
761 services and facilities or for the provision or operation of  
762 services and facilities by one participating county under  
763 contract with other participating counties.

764 (3) When a circuit ~~service district~~ comprises two or more  
765 counties or portions thereof, it is the obligation of the  
766 planning council to submit to the governing bodies, prior to the  
767 budget submission date of each governing body, an estimate of  
768 the proportionate share of costs of alcohol, drug abuse, and  
769 mental health services proposed to be borne by each such  
770 governing body.

771 (4) Any county desiring to withdraw from a joint program  
772 may submit to the circuit ~~district~~ administrator a resolution  
773 requesting withdrawal therefrom together with a plan for the  
774 equitable adjustment and division of the assets, property,  
775 debts, and obligations, if any, of the joint program.

776 Section 19. Paragraph (a) of subsection (3) of section  
777 394.74, Florida Statutes, is amended to read:

778 394.74 Contracts for provision of local substance abuse and  
779 mental health programs.—

780 (3) Contracts shall include, but are not limited to:

781 (a) A provision that, within the limits of available  
782 resources, substance abuse and mental health crisis services, as  
783 defined in s. 394.67 (5) ~~(3)~~, shall be available to any individual

2010724e1

784 residing or employed within the service area, regardless of  
785 ability to pay for such services, current or past health  
786 condition, or any other factor;

787 Section 20. Subsection (10) of section 394.75, Florida  
788 Statutes, is amended to read:

789 394.75 State and circuit ~~district~~ substance abuse and  
790 mental health plans.—

791 (10) The circuit ~~district~~ administrator shall ensure that  
792 the circuit ~~district~~ plan:

793 (a) Conforms to the priorities in the state plan, the  
794 requirements of this part, and the standards adopted under this  
795 part;

796 (b) Ensures that the most effective and economical use will  
797 be made of available public and private substance abuse and  
798 mental health resources in the circuit ~~service-district~~; and

799 (c) Has adequate provisions made for review and evaluation  
800 of the services provided in the circuit ~~service-district~~.

801 Section 21. Subsection (2) of section 394.76, Florida  
802 Statutes, is amended to read:

803 394.76 Financing of circuit ~~district~~ programs and  
804 services.—If the local match funding level is not provided in  
805 the General Appropriations Act or the substantive bill  
806 implementing the General Appropriations Act, such funding level  
807 shall be provided as follows:

808 (2) If in any fiscal year the approved state appropriation  
809 is insufficient to finance the programs and services specified  
810 by this part, the department shall have the authority to  
811 determine the amount of state funds available to each circuit  
812 ~~service-district~~ for such purposes in accordance with the

2010724e1

813 priorities in both the state and circuit ~~district~~ plans. The  
814 circuit ~~district~~ administrator shall consult with the planning  
815 council to ensure that the summary operating budget conforms to  
816 the approved plan.

817 Section 22. Subsection (5) of section 394.78, Florida  
818 Statutes, is amended to read:

819 394.78 Operation and administration; personnel standards;  
820 procedures for audit and monitoring of service providers;  
821 ~~resolution of disputes.-~~

822 ~~(5) In unresolved disputes regarding this part or rules~~  
823 ~~established pursuant to this part, providers and district health~~  
824 ~~and human services boards shall adhere to formal procedures~~  
825 ~~specified under s. 20.19(8)(n).~~

826 Section 23. Subsections (3) and (4) of section 394.82,  
827 Florida Statutes, are amended to read:

828 394.82 Funding of expanded services.-

829 (3) Each fiscal year, any funding increases for crisis  
830 services or community mental health services that are included  
831 in the General Appropriations Act shall be appropriated in a  
832 lump-sum category as defined in s. 216.011(1)(aa). In accordance  
833 with s. 216.181(6)(a), the Executive Office of the Governor  
834 shall require the Department of Children and Families ~~Family~~  
835 ~~Services~~ to submit a spending plan for the use of funds  
836 appropriated for this purpose. The spending plan must include a  
837 schedule for phasing in the new community mental health services  
838 in each circuit ~~service district~~ of the department and must  
839 describe how the new services will be integrated and coordinated  
840 with all current community-based health and human services.

841 (4) By January 1, 2004, the crisis services defined in s.

2010724e1

842 394.67(5)~~(3)~~ shall be implemented, as appropriate, in the  
843 state's public community mental health system to serve children  
844 and adults who are experiencing an acute mental or emotional  
845 crisis, as defined in s. 394.67(17). By January 1, 2006, the  
846 mental health services defined in s. 394.67(15) shall be  
847 implemented, as appropriate, in the state's public community  
848 mental health system to serve adults and older adults who have a  
849 severe and persistent mental illness and to serve children who  
850 have a serious emotional disturbance or mental illness, as  
851 defined in s. 394.492(6).

852 Section 24. Subsection (1) of section 394.9084, Florida  
853 Statutes, is amended to read:

854 394.9084 Florida Self-Directed Care program.—

855 (1) The Department of Children and Families ~~Family~~  
856 ~~Services~~, in cooperation with the Agency for Health Care  
857 Administration, may provide a client-directed and choice-based  
858 Florida Self-Directed Care program in all department circuits  
859 ~~service districts~~, in addition to the pilot projects established  
860 in district 4 and district 8, to provide mental health treatment  
861 and support services to adults who have a serious mental  
862 illness. The department may also develop and implement a client-  
863 directed and choice-based pilot project in one circuit ~~district~~  
864 to provide mental health treatment and support services for  
865 children with a serious emotional disturbance who live at home.  
866 If established, any staff who work with children must be  
867 screened under s. 435.04. The department shall implement a  
868 payment mechanism in which each client controls the money that  
869 is available for that client's mental health treatment and  
870 support services. The department shall establish interagency

2010724e1

871 cooperative agreements and work with the agency, the Division of  
872 Vocational Rehabilitation, and the Social Security  
873 Administration to implement and administer the Florida Self-  
874 Directed Care program.

875 Section 25. Subsection (1) of section 397.821, Florida  
876 Statutes, is amended to read:

877 397.821 Juvenile substance abuse impairment prevention and  
878 early intervention councils.—

879 (1) Each judicial circuit as set forth in s. 26.021 may  
880 establish a juvenile substance abuse impairment prevention and  
881 early intervention council composed of at least 12 members,  
882 including representatives from law enforcement, the department,  
883 school districts, state attorney and public defender offices,  
884 the circuit court, the religious community, substance abuse  
885 impairment professionals, child advocates from the community,  
886 business leaders, parents, and high school students. However,  
887 those circuits which already have in operation a council of  
888 similar composition may designate the existing body as the  
889 juvenile substance abuse impairment prevention and early  
890 intervention council for the purposes of this section. Each  
891 council shall establish bylaws providing for the length of term  
892 of its members, but the term may not exceed 4 years. The circuit  
893 ~~substate entity~~ administrator, as defined in s. 20.19, and the  
894 chief judge of the circuit court shall each appoint six members  
895 of the council. The circuit ~~substate entity~~ administrator shall  
896 appoint a representative from the department, a school district  
897 representative, a substance abuse impairment treatment  
898 professional, a child advocate, a parent, and a high school  
899 student. The chief judge of the circuit court shall appoint a

2010724e1

900 business leader and representatives from the state attorney's  
901 office, the public defender's office, the religious community,  
902 the circuit court, and law enforcement agencies.

903 Section 26. Subsection (1) of section 402.313, Florida  
904 Statutes, is amended to read:

905 402.313 Family day care homes.—

906 (1) Family day care homes shall be licensed under this act  
907 if they are presently being licensed under an existing county  
908 licensing ordinance, if they are participating in the subsidized  
909 child care program, or if the board of county commissioners  
910 passes a resolution that family day care homes be licensed. If  
911 no county authority exists for the licensing of a family day  
912 care home and the county passes a resolution requiring  
913 licensure, the department shall have the authority to license  
914 family day care homes under contract with the county ~~for the~~  
915 ~~purchase of service system in the subsidized child care program.~~

916 (a) If not subject to license, family day care homes shall  
917 register annually with the department, providing the following  
918 information:

- 919 1. The name and address of the home.
- 920 2. The name of the operator.
- 921 3. The number of children served.
- 922 4. Proof of a written plan to provide at least one other  
923 competent adult to be available to substitute for the operator  
924 in an emergency. This plan shall include the name, address, and  
925 telephone number of the designated substitute.
- 926 5. Proof of screening and background checks.
- 927 6. Proof of successful completion of the 30-hour training  
928 course, as evidenced by passage of a competency examination,

2010724e1

929 which shall include:

930 a. State and local rules and regulations that govern child  
931 care.

932 b. Health, safety, and nutrition.

933 c. Identifying and reporting child abuse and neglect.

934 d. Child development, including typical and atypical  
935 language development; and cognitive, motor, social, and self-  
936 help skills development.

937 e. Observation of developmental behaviors, including using  
938 a checklist or other similar observation tools and techniques to  
939 determine a child's developmental level.

940 f. Specialized areas, including early literacy and language  
941 development of children from birth to 5 years of age, as  
942 determined by the department, for owner-operators of family day  
943 care homes.

944 7. Proof that immunization records are kept current.

945 8. Proof of completion of the required continuing education  
946 units or clock hours.

947 (b) A family day care home not participating in the  
948 subsidized child care program may volunteer to be licensed under  
949 the provisions of this act.

950 (c) The department may provide technical assistance to  
951 counties and family day care home providers to enable counties  
952 and family day care providers to achieve compliance with family  
953 day care homes standards.

954 Section 27. Subsection (2) of section 402.315, Florida  
955 Statutes, is amended to read:

956 402.315 Funding; license fees.—

957 (2) The county ~~department~~ shall bear the costs of the

2010724e1

958 licensing of family day care homes when contracting with the  
959 department pursuant to s. 402.313(1) child care facilities when  
960 contracted to do so by a county or when directly responsible for  
961 licensing in a county which fails to meet or exceed state  
962 minimum standards.

963 Section 28. Subsections (2), (3), and (7) of section  
964 402.40, Florida Statutes, are amended to read:

965 402.40 Child welfare training.—

966 (2) DEFINITIONS.—As used in this section, the term:

967 (a) “Child welfare certification” means a professional  
968 credential awarded by the department or by a credentialing  
969 entity recognized by the department to individuals demonstrating  
970 core competency in any child welfare services practice area.

971 (b) “Child welfare services” means any intake, protective  
972 investigations, preprotective services, protective services,  
973 foster care, shelter and group care, and adoption and related  
974 services program, including supportive services, supervision,  
975 and legal services, provided to children who are alleged to have  
976 been abused, abandoned, or neglected, or who are at risk of  
977 becoming, are alleged to be, or have been found dependent  
978 pursuant to chapter 39.

979 (c) “Core competency” means the knowledge, skills, and  
980 abilities necessary to carry out work responsibilities.

981 (d) ~~(b)~~ “Person providing child welfare services” means a  
982 person who has a responsibility for supervisory, legal, direct  
983 care or support related work in the provision of child welfare  
984 services pursuant to chapter 39.

985 (3) CHILD WELFARE TRAINING PROGRAM.—The department shall  
986 establish a program for training pursuant to the provisions of

2010724e1

987 this section, and all persons providing child welfare services  
988 shall be required to demonstrate core competency by earning and  
989 maintaining a department or third-party-awarded child welfare  
990 certification and participate in and successfully complete the  
991 program of training pertinent to their areas of responsibility.

992 (7) CERTIFICATION AND TRAINER QUALIFICATIONS.—The  
993 department shall, in collaboration with the professionals and  
994 providers described in subsection (5), develop minimum standards  
995 for a certification process that ensures that participants have  
996 successfully attained the knowledge, skills, and abilities  
997 necessary to competently carry out their work responsibilities.  
998 The department shall recognize third-party certification for  
999 child welfare services staff which satisfies the core  
1000 competencies and meets the certification requirements  
1001 established in this section and shall ~~develop minimum standards~~  
1002 ~~for trainer qualifications which must be required of training~~  
1003 ~~academies in the offering of the training curricula.~~ Any person  
1004 providing child welfare services shall be required to master the  
1005 core competencies and hold an active child welfare certification  
1006 components of the curriculum that is are particular to that  
1007 person's work responsibilities.

1008 Section 29. Subsection (2) of section 402.49, Florida  
1009 Statutes, is amended to read:

1010 402.49 Mediation process established.—

1011 (2) (a) The department shall appoint at least one mediation  
1012 panel in each of the department's circuits ~~service districts~~.  
1013 Each panel shall have at least three and not more than five  
1014 members and shall include a representative from the department,  
1015 a representative of an agency that provides similar services to

2010724e1

1016 those provided by the agency that is a party to the dispute, and  
1017 additional members who are mutually acceptable to the department  
1018 and the agency that is a party to the dispute. Such additional  
1019 members may include laypersons who are involved in advocacy  
1020 organizations, members of boards of directors of agencies  
1021 similar to the agency that is a party to the dispute, members of  
1022 families of department clients, members of department planning  
1023 councils in the area of services that are the subject of the  
1024 dispute, and interested and informed members of the local  
1025 community.

1026 (b) If the parties to the conflict agree, a mediation panel  
1027 may hear a complaint that is filed outside of the panel's  
1028 circuit ~~service district~~.

1029 Section 30. Subsection (3) of section 409.152, Florida  
1030 Statutes, is amended to read:

1031 409.152 Service integration and family preservation.—

1032 (3) Each circuit ~~service district~~ of the department shall  
1033 develop a family preservation service integration plan that  
1034 identifies various programs that can be organized at the point  
1035 of service delivery into a logical and cohesive family-centered  
1036 services constellation. The plan shall include:

1037 (a) Goals and objectives for integrating services for  
1038 families and avoiding barriers to service integration,  
1039 procedures for centralized intake and assessment, a  
1040 comprehensive service plan for each family, and an evaluation  
1041 method of program outcome.

1042 (b) Recommendations for proposed changes to fiscal and  
1043 substantive policies, regulations, and laws at local, circuit  
1044 ~~district~~, and state delivery levels, including budget and

2010724e1

1045 personnel policies; purchasing flexibility and workforce  
1046 incentives; discretionary resources; and incentives to reduce  
1047 dependency on government programs and services.

1048 (c) Strategies for creating partnerships with the  
1049 community, clients, and consumers of services which establish,  
1050 maintain, and preserve family units.

1051 Section 31. Paragraph (e) of subsection (1) and subsection  
1052 (8) of section 409.1671, Florida Statutes, are amended, and  
1053 paragraph (m) is added to subsection (1) of that section, to  
1054 read:

1055 409.1671 Foster care and related services; outsourcing.—

1056 (1)

1057 (e) As used in this section, the term "eligible lead  
1058 community-based provider" means a single agency with which the  
1059 department contracts ~~shall contract~~ for the provision of child  
1060 protective services in a community that is no smaller than a  
1061 county. The secretary of the department may authorize more than  
1062 one eligible lead community-based provider within a single  
1063 county if it ~~when to do so~~ will result in more effective  
1064 delivery of foster care and related services. To compete for an  
1065 outsourcing project, such agency must have:

1066 1. The ability to coordinate, integrate, and manage all  
1067 child protective services in the designated community in  
1068 cooperation with child protective investigations.

1069 2. The ability to ensure continuity of care from entry to  
1070 exit for all children referred from the protective investigation  
1071 and court systems.

1072 3. The ability to provide directly, or contract ~~for~~ through  
1073 a local network of providers, for all necessary child protective

2010724e1

1074 services. Such agencies should directly provide no more than 35  
1075 percent of all child protective services provided.

1076 4. The willingness to be accountable ~~accept accountability~~  
1077 for meeting the outcomes and performance standards related to  
1078 child protective services established by the Legislature and the  
1079 Federal Government.

1080 5. The capability and the willingness to serve all children  
1081 referred to it from the protective investigation and court  
1082 systems, regardless of the level of funding allocated to the  
1083 community by the state if, ~~provided~~ all related funding is  
1084 transferred.

1085 6. The willingness to ensure that each individual who  
1086 provides child protective services completes the training  
1087 required of child protective service workers by the Department  
1088 of Children and Family Services.

1089 7. The ability to maintain eligibility to receive all  
1090 federal child welfare funds, including Title IV-E and IV-A  
1091 funds, currently being used by the Department of Children and  
1092 Family Services.

1093 8. Written agreements with Healthy Families Florida lead  
1094 entities in their community, pursuant to s. 409.153, to promote  
1095 cooperative planning for the provision of prevention and  
1096 intervention services.

1097 9. A board of directors, of which at least 51 percent of  
1098 the membership is comprised of persons residing in this state.  
1099 Of the state residents, at least 51 percent must also reside  
1100 within the service area of the eligible lead community-based  
1101 provider.

1102 (m) In order to ensure an efficient and effective

2010724e1

1103 community-based care system, the department shall annually  
1104 evaluate each lead agency's success in developing an effective  
1105 network of local providers, improving the coordination and  
1106 delivery of services to children, and investing appropriated  
1107 funds into the community for direct services to children and  
1108 families.

1109 (8) Notwithstanding the provisions of s. 215.425, all  
1110 documented federal funds earned for the current fiscal year by  
1111 the department and community-based agencies which exceed the  
1112 amount appropriated by the Legislature shall be distributed to  
1113 all entities that contributed to the excess earnings based on a  
1114 schedule and methodology developed by the department and  
1115 approved by the Executive Office of the Governor. Distribution  
1116 shall be pro rata based on total earnings and shall be made only  
1117 to those entities that contributed to excess earnings. Excess  
1118 earnings of community-based agencies shall be used only in the  
1119 circuit ~~service district~~ in which they were earned. Additional  
1120 state funds appropriated by the Legislature for community-based  
1121 agencies or made available pursuant to the budgetary amendment  
1122 process described in s. 216.177 shall be transferred to the  
1123 community-based agencies. The department shall amend a  
1124 community-based agency's contract to permit expenditure of the  
1125 funds.

1126 Section 32. Section 409.1685, Florida Statutes, is amended  
1127 to read:

1128 409.1685 Children in foster care; annual report to  
1129 Legislature.—The Department of Children and Family Services  
1130 shall submit a written report to the substantive committees of  
1131 the Legislature concerning the status of children in foster care

2010724e1

1132 and concerning the judicial review mandated by part IX \* of  
1133 chapter 39. This report shall be submitted by March 1 of each  
1134 year and ~~shall~~ include the following information for the prior  
1135 calendar year:

1136 (1) The number of 6-month and annual judicial reviews  
1137 completed during that period.

1138 (2) The number of children in foster care returned to a  
1139 parent, guardian, or relative as a result of a 6-month or annual  
1140 judicial review hearing during that period.

1141 (3) The number of termination of parental rights  
1142 proceedings instituted during that period including ~~which shall~~  
1143 ~~include~~:

1144 (a) The number of termination of parental rights  
1145 proceedings initiated pursuant to former s. 39.703; and

1146 (b) The total number of terminations of parental rights  
1147 ordered.

1148 (4) The number of foster care children placed for adoption  
1149 during that period.

1150 Section 33. Paragraph (a) of subsection (4) of section  
1151 409.1755, Florida Statutes, is amended to read:

1152 409.1755 One Church, One Child of Florida Corporation Act;  
1153 creation; duties.—

1154 (4) BOARD OF DIRECTORS.—

1155 (a) The One Church, One Child of Florida Corporation shall  
1156 operate subject to the supervision and approval of a board of  
1157 directors consisting of 21 ~~23~~ members, with one ~~two~~ directors  
1158 representing each circuit ~~service district~~ of the Department of  
1159 Children and Families ~~Family Services~~ and one director who shall  
1160 be an at-large member.

2010724e1

1161 Section 34. Paragraph (a) of subsection (1) and subsection  
1162 (2) of section 410.0245, Florida Statutes, are amended to read:  
1163 410.0245 Study of service needs; report; multiyear plan.—

1164 (1) (a) The Adult Protection Services ~~Program~~ Office of the  
1165 Department of Children and Families ~~Family Services~~ shall  
1166 contract for a study of the service needs of the 18-to-59-year-  
1167 old disabled adult population served or waiting to be served by  
1168 the community care for disabled adults program. The Division of  
1169 Vocational Rehabilitation of the Department of Education and  
1170 other appropriate state agencies shall provide information to  
1171 the Department of Children and Families ~~Family Services~~ when  
1172 requested for the purposes of this study.

1173 (2) Based on the findings of the study, the Adult  
1174 Protection Services Program of the Department of Children and  
1175 Families ~~Family Services~~ shall develop a multiyear plan which  
1176 shall provide for the needs of disabled adults in this state and  
1177 shall provide strategies for statewide coordination of all  
1178 services for disabled adults. The multiyear plan shall include  
1179 an inventory of existing services and an analysis of costs  
1180 associated with existing and projected services. The multiyear  
1181 plan shall be presented to the Governor, the President of the  
1182 Senate, and the Speaker of the House of Representatives every 3  
1183 years on or before March 1, beginning in 1992. On or before  
1184 March 1 of each intervening year, the department shall submit an  
1185 analysis of the status of the implementation of each element of  
1186 the multiyear plan, any continued unmet need, and the  
1187 relationship between that need and the department's budget  
1188 request for that year.

1189 Section 35. Subsections (1) and (2) of section 410.603,

2010724e1

1190 Florida Statutes, are renumbered as subsections (2) and (3),  
1191 respectively, and present subsection (3) of that section is  
1192 renumbered as subsection (1) and amended to read:

1193 410.603 Definitions relating to Community Care for Disabled  
1194 Adults Act.—As used in ss. 410.601-410.606:

1195 (1)~~(3)~~ "Circuit District" means a specified geographic  
1196 service area that conforms to the judicial circuits established  
1197 in s. 26.021, ~~as defined in s. 20.19~~, in which the programs of  
1198 the department are administered and services are delivered.

1199 Section 36. Subsection (2) of section 410.604, Florida  
1200 Statutes, is amended to read:

1201 410.604 Community care for disabled adults program; powers  
1202 and duties of the department.—

1203 (2) Any person who meets the definition of a disabled adult  
1204 pursuant to s. 410.603(3)~~(2)~~ is eligible to receive the services  
1205 of the community care for disabled adults program. However, the  
1206 community care for disabled adults program shall operate within  
1207 the funds appropriated by the Legislature. Priority shall be  
1208 given to disabled adults who are not eligible for comparable  
1209 services in programs of or funded by the department or the  
1210 Division of Vocational Rehabilitation of the Department of  
1211 Education; who are determined to be at risk of  
1212 institutionalization; and whose income is at or below the  
1213 existing institutional care program eligibility standard.

1214 Section 37. Section 411.224, Florida Statutes, is amended  
1215 to read:

1216 411.224 Family support planning process.—The Legislature  
1217 establishes a family support planning process to be used by the  
1218 Department of Children and Families ~~Family Services~~ as the

2010724e1

1219 service planning process for targeted individuals, children, and  
1220 families under its purview.

1221 (1) The Department of Education shall take all appropriate  
1222 and necessary steps to encourage and facilitate the  
1223 implementation of the family support planning process for  
1224 individuals, children, and families within its purview.

1225 (2) To the extent possible within existing resources, the  
1226 following populations must be included in the family support  
1227 planning process:

1228 (a) Children from birth to age 5 who are served by the  
1229 clinic and programs of the Division of Children's Medical  
1230 Services of the Department of Health.

1231 (b) Children participating in the developmental evaluation  
1232 and intervention program of the Division of Children's Medical  
1233 Services of the Department of Health.

1234 (c) Children from age 3 through age 5 who are served by the  
1235 Agency for Persons with Disabilities.

1236 (d) Children from birth through age 5 who are served by the  
1237 Mental Health Program Office of the Department of Children and  
1238 Families ~~Family Services~~.

1239 (e) Participants who are served by the Children's Early  
1240 Investment Program established in s. 411.232.

1241 (f) Healthy Start participants in need of ongoing service  
1242 coordination.

1243 (g) Children from birth through age 5 who are served by the  
1244 voluntary family services, protective supervision, foster care,  
1245 or adoption and related services programs of the Child Care  
1246 Licensure ~~Services~~ Program Office of the Department of Children  
1247 and Families ~~Family Services~~, and who are eligible for ongoing

2010724e1

1248 services from one or more other programs or agencies that  
1249 participate in family support planning; however, children served  
1250 by the voluntary family services program, where the planned  
1251 length of intervention is 30 days or less, are excluded from  
1252 this population.

1253 (3) When individuals included in the target population are  
1254 served by Head Start, local education agencies, or other  
1255 prevention and early intervention programs, providers must be  
1256 notified and efforts made to facilitate the concerned agency's  
1257 participation in family support planning.

1258 (4) Local education agencies are encouraged to use a family  
1259 support planning process for children from birth through 5 years  
1260 of age who are served by the prekindergarten program for  
1261 children with disabilities, in lieu of the Individual Education  
1262 Plan.

1263 (5) There must be only a single-family support plan to  
1264 address the problems of the various family members unless the  
1265 family requests that an individual family support plan be  
1266 developed for different members of that family. The family  
1267 support plan must replace individual habilitation plans for  
1268 children from 3 through 5 years old who are served by the Agency  
1269 for Persons with Disabilities.

1270 (6) The family support plan at a minimum must include the  
1271 following information:

1272 (a) The family's statement of family concerns, priorities,  
1273 and resources.

1274 (b) Information related to the health, educational,  
1275 economic and social needs, and overall development of the  
1276 individual and the family.

2010724e1

1277 (c) The outcomes that the plan is intended to achieve.

1278 (d) Identification of the resources and services to achieve  
1279 each outcome projected in the plan. These resources and services  
1280 are to be provided based on availability and funding.

1281 (7) A family support plan meeting must be held with the  
1282 family to initially develop the family support plan and annually  
1283 thereafter to update the plan as necessary. The family includes  
1284 anyone who has an integral role in the life of the individual or  
1285 child as identified by the individual or family. The family  
1286 support plan must be reviewed periodically during the year, at  
1287 least at 6-month intervals, to modify and update the plan as  
1288 needed. Such periodic reviews do not require a family support  
1289 plan team meeting but may be accomplished through other means  
1290 such as a case file review and telephone conference with the  
1291 family.

1292 (8) The initial family support plan must be developed  
1293 within a 90-day period. If exceptional circumstances make it  
1294 impossible to complete the evaluation activities and to hold the  
1295 initial family support plan team meeting within a reasonable  
1296 time period, these circumstances must be documented, and the  
1297 individual or family must be notified of the reason for the  
1298 delay. With the agreement of the family and the provider,  
1299 services for which either the individual or the family is  
1300 eligible may be initiated before the completion of the  
1301 evaluation activities and the family support plan.

1302 (9) The Department of Children and Families ~~Family~~  
1303 ~~Services~~, the Department of Health, and the Department of  
1304 Education, to the extent that funds are available, must offer  
1305 technical assistance to communities to facilitate the

2010724e1

1306 implementation of the family support plan.

1307 (10) The Department of Children and Families ~~Family~~  
1308 ~~Services~~, the Department of Health, and the Department of  
1309 Education shall adopt rules necessary to implement this act.

1310 Section 38. Section 414.24, Florida Statutes, is amended to  
1311 read:

1312 414.24 Integrated welfare reform and child welfare  
1313 services.—The department shall develop integrated service  
1314 delivery strategies to better meet the needs of families subject  
1315 to work activity requirements who are involved in the child  
1316 welfare system or are at high risk of involvement in the child  
1317 welfare system. To the extent that resources are available, the  
1318 department and the Department of Labor and Employment Security  
1319 shall provide funds to one or more circuits ~~service districts~~ to  
1320 promote development of integrated, nonduplicative case  
1321 management within the department, the Department of Labor and  
1322 Employment Security, other participating government agencies,  
1323 and community partners. Alternative delivery systems shall be  
1324 encouraged which include well-defined, pertinent outcome  
1325 measures. Other factors to be considered shall include  
1326 innovation regarding training, enhancement of existing  
1327 resources, and increased private sector and business sector  
1328 participation.

1329 Section 39. Subsection (8) of section 415.1113, Florida  
1330 Statutes, is amended to read:

1331 415.1113 Administrative fines for false report of abuse,  
1332 neglect, or exploitation of a vulnerable adult.—

1333 (8) All amounts collected under this section must be  
1334 deposited into the Operations and Maintenance Trust Fund within

2010724e1

1335 the Adult Protection Services Program of the department.

1336 Section 40. Subsections (1) through (3) of section 420.621,  
1337 Florida Statutes, are renumbered as subsections (2) through (4),  
1338 respectively, and present subsection (4) of that section is  
1339 renumbered as subsection (1) and amended to read:

1340 420.621 Definitions.—As used in ss. 420.621-420.628, the  
1341 term:

1342 (1)(4) "Circuit District" means a specified geographic  
1343 service area that conforms to the judicial circuits established  
1344 in s. 26.021 ~~service district of the department, as set forth in~~  
1345 ~~s. 20.19.~~

1346 Section 41. Subsection (1) of section 420.622, Florida  
1347 Statutes, is amended to read:

1348 420.622 State Office on Homelessness; Council on  
1349 Homelessness.—

1350 (1) The State Office on Homelessness is created within the  
1351 Department of Children and Families ~~Family Services~~ to provide  
1352 interagency, council, and other related coordination on issues  
1353 relating to homelessness. ~~An executive director of the office~~  
1354 ~~shall be appointed by the Governor.~~

1355 Section 42. Subsection (4) of section 420.623, Florida  
1356 Statutes, is amended to read:

1357 420.623 Local coalitions for the homeless.—

1358 (4) ANNUAL REPORTS.—The department shall submit to the  
1359 Governor, the Speaker of the House of Representatives, and the  
1360 President of the Senate, by June 30, an annual report consisting  
1361 of a compilation of data collected by local coalitions, progress  
1362 made in the development and implementation of local homeless  
1363 assistance continuums of care plans in each circuit district,

2010724e1

1364 local spending plans, programs and resources available at the  
1365 local level, and recommendations for programs and funding.

1366 Section 43. Subsections (4) through (8) of section 420.625,  
1367 Florida Statutes, are amended to read:

1368 420.625 Grant-in-aid program.—

1369 (4) APPLICATION PROCEDURE.—Local agencies shall submit an  
1370 application for grant-in-aid funds to the circuit ~~district~~  
1371 administrator for review. During the first year of  
1372 implementation, circuit ~~district~~ administrators shall begin to  
1373 accept applications for circuit ~~district~~ funds no later than  
1374 October 1, 1988, and by August 1 of each year thereafter for  
1375 which funding for this section is provided. Circuit ~~District~~  
1376 funds shall be made available to local agencies no more than 30  
1377 days after the deadline date for applications for each funding  
1378 cycle.

1379 (5) SPENDING PLANS.—The department shall develop guidelines  
1380 for the development of spending plans and for the evaluation and  
1381 approval by circuit ~~district~~ administrators of spending plans,  
1382 based upon such factors as:

1383 (a) The demonstrated level of need for the program.

1384 (b) The demonstrated ability of the local agency or  
1385 agencies seeking assistance to deliver the services and to  
1386 assure that identified needs will be met.

1387 (c) The ability of the local agency or agencies seeking  
1388 assistance to deliver a wide range of services as enumerated in  
1389 subsection (3).

1390 (d) The adequacy and reasonableness of proposed budgets and  
1391 planned expenditures, and the demonstrated capacity of the local  
1392 agency or agencies to administer the funds sought.

2010724e1

1393 (e) A statement from the local coalition for the homeless  
1394 as to the steps to be taken to assure coordination and  
1395 integration of services in the circuit ~~district~~ to avoid  
1396 unnecessary duplication and costs.

1397 (f) Assurances by the local coalition for the homeless that  
1398 alternative funding strategies for meeting needs through the  
1399 reallocation of existing resources, utilization of volunteers,  
1400 and local government or private agency funding have been  
1401 explored.

1402 (g) The existence of an evaluation component designed to  
1403 measure program outcomes and determine the overall effectiveness  
1404 of the local programs for the homeless for which funding is  
1405 sought.

1406 (6) ALLOCATION OF GRANT FUNDS TO CIRCUITS ~~DISTRICTS~~.—State  
1407 grant-in-aid funds for local initiatives for the homeless shall  
1408 be allocated by the department to, and administered by,  
1409 department circuits ~~districts~~. Allocations shall be based upon  
1410 sufficient documentation of:

1411 (a) The magnitude of the problem of homelessness in the  
1412 circuit ~~district~~, and the demonstrated level of unmet need for  
1413 services in the circuit ~~district~~ for those who are homeless or  
1414 are about to become homeless.

1415 (b) A strong local commitment to seriously address the  
1416 problem of homelessness as evidenced by coordinated programs  
1417 involving preventive, emergency, and transitional services and  
1418 by the existence of active local organizations committed to  
1419 serving those who have become, or are about to become, homeless.

1420 (c) Agreement by local government and private agencies  
1421 currently serving the homeless not to reduce current

2010724e1

1422 expenditures for services presently provided to those who are  
1423 homeless or are about to become homeless if grant assistance is  
1424 provided pursuant to this section.

1425 (d) Geographic distribution of circuit ~~district~~ programs to  
1426 ensure that such programs serve both rural and urban areas, as  
1427 needed.

1428 (7) DISTRIBUTION TO LOCAL AGENCIES.—Circuit ~~District~~ funds  
1429 so allocated shall be available for distribution by the circuit  
1430 ~~district~~ administrator to local agencies to fund programs such  
1431 as those set forth in subsection (3), based upon the  
1432 recommendations of the local coalitions in accordance with  
1433 spending plans developed by the coalitions and approved by the  
1434 circuit ~~district~~ administrator. Not more than 10 percent of the  
1435 total state funds awarded under a spending plan may be used by  
1436 the local coalition for staffing and administration.

1437 (8) LOCAL MATCHING FUNDS.—Entities contracting to provide  
1438 services through financial assistance obtained under this  
1439 section shall provide a minimum of 25 percent of the funding  
1440 necessary for the support of project operations. In-kind  
1441 contributions, whether materials, commodities, transportation,  
1442 office space, other types of facilities, or personal services,  
1443 and contributions of money or services from homeless persons may  
1444 be evaluated and counted as part or all of this required local  
1445 funding, in the discretion of the circuit ~~district~~  
1446 administrator.

1447 Section 44. Subsection (2) of section 429.35, Florida  
1448 Statutes, is amended to read:

1449 429.35 Maintenance of records; reports.—

1450 (2) Within 60 days after the date of the biennial

2010724e1

1451 inspection visit required under s. 408.811 or within 30 days  
1452 after the date of any interim visit, the agency shall forward  
1453 the results of the inspection to the local ombudsman council in  
1454 whose planning and service area, as defined in part II of  
1455 chapter 400, the facility is located; to at least one public  
1456 library or, in the absence of a public library, the county seat  
1457 in the county in which the inspected assisted living facility is  
1458 located; and, when appropriate, to the circuit ~~district~~ Adult  
1459 Protection Services and Mental Health Program Offices.

1460 Section 45. Paragraph (d) of subsection (3) of section  
1461 1002.67, Florida Statutes, is amended to read:

1462 1002.67 Performance standards; curricula and  
1463 accountability.—

1464 (3)

1465 (d) Each early learning coalition, the Agency for Workforce  
1466 Innovation, and the department shall coordinate with the Child  
1467 Care Licensure Services Program Office of the Department of  
1468 Children and Families ~~Family Services~~ to minimize interagency  
1469 duplication of activities for monitoring private prekindergarten  
1470 providers for compliance with requirements of the Voluntary  
1471 Prekindergarten Education Program under this part, the school  
1472 readiness programs under s. 411.01, and the licensing of  
1473 providers under ss. 402.301-402.319.

1474 Section 46. Sections 39.311, 39.312, 39.313, 39.314,  
1475 39.315, 39.316, 39.317, 39.318, 394.9083, and 402.35, Florida  
1476 Statutes, are repealed.

1477 Section 47. Subsection (3) of section 39.407, Florida  
1478 Statutes, is amended to read:

1479 39.407 Medical, psychiatric, and psychological examination

2010724e1

1480 and treatment of child; physical, mental, or substance abuse  
1481 examination of person with or requesting child custody.—

1482 (3) (a) All children placed in out-of-home care shall be  
1483 provided with a comprehensive behavioral health assessment. The  
1484 child protective investigator or dependency case manager shall  
1485 submit a referral for such assessment within 7 days after the  
1486 child is placed in out-of-home care.

1487 (b) Any child who has been in out-of-home care for more  
1488 than 1 year, or who did not receive a comprehensive behavioral  
1489 health assessment when placed into out-of-home care, is eligible  
1490 to receive a comprehensive behavioral health assessment. Such  
1491 assessments evaluate behaviors that give rise to the concern  
1492 that the child has unmet mental health needs. Any party to the  
1493 dependency proceeding, or the court on its own motion, may  
1494 request that an assessment be performed.

1495 (c) The child protective investigator or dependency case  
1496 manager is responsible for ensuring that all recommendations in  
1497 the comprehensive behavioral health assessment are incorporated  
1498 into the child's case plan and that the recommended services are  
1499 provided in a timely manner. If, at a case planning conference,  
1500 a determination is made that a specific recommendation should  
1501 not be included in a child's case plan, a written explanation  
1502 must be provided to the court as to why the recommendation is  
1503 not being followed.

1504 (d) This subsection does not to prevent a child from  
1505 receiving any other form of psychological assessment if needed.

1506 (e) If it is determined that a child is in need of mental  
1507 health services, the comprehensive behavioral health assessment  
1508 must be provided to the physician involved in developing the

2010724e1

1509 child's mental health treatment plan, pursuant to s. 39.4071(9).

1510 ~~(3)(a)1. Except as otherwise provided in subparagraph (b)1.~~  
1511 ~~or paragraph (c), before the department provides psychotropic~~  
1512 ~~medications to a child in its custody, the prescribing physician~~  
1513 ~~shall attempt to obtain express and informed consent, as defined~~  
1514 ~~in s. 394.455(9) and as described in s. 394.459(3)(a), from the~~  
1515 ~~child's parent or legal guardian. The department must take steps~~  
1516 ~~necessary to facilitate the inclusion of the parent in the~~  
1517 ~~child's consultation with the physician. However, if the~~  
1518 ~~parental rights of the parent have been terminated, the parent's~~  
1519 ~~location or identity is unknown or cannot reasonably be~~  
1520 ~~ascertained, or the parent declines to give express and informed~~  
1521 ~~consent, the department may, after consultation with the~~  
1522 ~~prescribing physician, seek court authorization to provide the~~  
1523 ~~psychotropic medications to the child. Unless parental rights~~  
1524 ~~have been terminated and if it is possible to do so, the~~  
1525 ~~department shall continue to involve the parent in the~~  
1526 ~~decisionmaking process regarding the provision of psychotropic~~  
1527 ~~medications. If, at any time, a parent whose parental rights~~  
1528 ~~have not been terminated provides express and informed consent~~  
1529 ~~to the provision of a psychotropic medication, the requirements~~  
1530 ~~of this section that the department seek court authorization do~~  
1531 ~~not apply to that medication until such time as the parent no~~  
1532 ~~longer consents.~~

1533 ~~2. Any time the department seeks a medical evaluation to~~  
1534 ~~determine the need to initiate or continue a psychotropic~~  
1535 ~~medication for a child, the department must provide to the~~  
1536 ~~evaluating physician all pertinent medical information known to~~  
1537 ~~the department concerning that child.~~

2010724e1

1538 ~~(b)1. If a child who is removed from the home under s.~~  
1539 ~~39.401 is receiving prescribed psychotropic medication at the~~  
1540 ~~time of removal and parental authorization to continue providing~~  
1541 ~~the medication cannot be obtained, the department may take~~  
1542 ~~possession of the remaining medication and may continue to~~  
1543 ~~provide the medication as prescribed until the shelter hearing,~~  
1544 ~~if it is determined that the medication is a current~~  
1545 ~~prescription for that child and the medication is in its~~  
1546 ~~original container.~~

1547 ~~2. If the department continues to provide the psychotropic~~  
1548 ~~medication to a child when parental authorization cannot be~~  
1549 ~~obtained, the department shall notify the parent or legal~~  
1550 ~~guardian as soon as possible that the medication is being~~  
1551 ~~provided to the child as provided in subparagraph 1. The child's~~  
1552 ~~official departmental record must include the reason parental~~  
1553 ~~authorization was not initially obtained and an explanation of~~  
1554 ~~why the medication is necessary for the child's well-being.~~

1555 ~~3. If the department is advised by a physician licensed~~  
1556 ~~under chapter 458 or chapter 459 that the child should continue~~  
1557 ~~the psychotropic medication and parental authorization has not~~  
1558 ~~been obtained, the department shall request court authorization~~  
1559 ~~at the shelter hearing to continue to provide the psychotropic~~  
1560 ~~medication and shall provide to the court any information in its~~  
1561 ~~possession in support of the request. Any authorization granted~~  
1562 ~~at the shelter hearing may extend only until the arraignment~~  
1563 ~~hearing on the petition for adjudication of dependency or 28~~  
1564 ~~days following the date of removal, whichever occurs sooner.~~

1565 ~~4. Before filing the dependency petition, the department~~  
1566 ~~shall ensure that the child is evaluated by a physician licensed~~

2010724e1

1567 ~~under chapter 458 or chapter 459 to determine whether it is~~  
1568 ~~appropriate to continue the psychotropic medication. If, as a~~  
1569 ~~result of the evaluation, the department seeks court~~  
1570 ~~authorization to continue the psychotropic medication, a motion~~  
1571 ~~for such continued authorization shall be filed at the same time~~  
1572 ~~as the dependency petition, within 21 days after the shelter~~  
1573 ~~hearing.~~

1574 ~~(c) Except as provided in paragraphs (b) and (e), the~~  
1575 ~~department must file a motion seeking the court's authorization~~  
1576 ~~to initially provide or continue to provide psychotropic~~  
1577 ~~medication to a child in its legal custody. The motion must be~~  
1578 ~~supported by a written report prepared by the department which~~  
1579 ~~describes the efforts made to enable the prescribing physician~~  
1580 ~~to obtain express and informed consent for providing the~~  
1581 ~~medication to the child and other treatments considered or~~  
1582 ~~recommended for the child. In addition, the motion must be~~  
1583 ~~supported by the prescribing physician's signed medical report~~  
1584 ~~providing:~~

1585 ~~1. The name of the child, the name and range of the dosage~~  
1586 ~~of the psychotropic medication, and that there is a need to~~  
1587 ~~prescribe psychotropic medication to the child based upon a~~  
1588 ~~diagnosed condition for which such medication is being~~  
1589 ~~prescribed.~~

1590 ~~2. A statement indicating that the physician has reviewed~~  
1591 ~~all medical information concerning the child which has been~~  
1592 ~~provided.~~

1593 ~~3. A statement indicating that the psychotropic medication,~~  
1594 ~~at its prescribed dosage, is appropriate for treating the~~  
1595 ~~child's diagnosed medical condition, as well as the behaviors~~

2010724e1

1596 ~~and symptoms the medication, at its prescribed dosage, is~~  
1597 ~~expected to address.~~

1598 ~~4. An explanation of the nature and purpose of the~~  
1599 ~~treatment; the recognized side effects, risks, and~~  
1600 ~~contraindications of the medication; drug interaction~~  
1601 ~~precautions; the possible effects of stopping the medication;~~  
1602 ~~and how the treatment will be monitored, followed by a statement~~  
1603 ~~indicating that this explanation was provided to the child if~~  
1604 ~~age appropriate and to the child's caregiver.~~

1605 ~~5. Documentation addressing whether the psychotropic~~  
1606 ~~medication will replace or supplement any other currently~~  
1607 ~~prescribed medications or treatments; the length of time the~~  
1608 ~~child is expected to be taking the medication; and any~~  
1609 ~~additional medical, mental health, behavioral, counseling, or~~  
1610 ~~other services that the prescribing physician recommends.~~

1611 ~~(d)1. The department must notify all parties of the~~  
1612 ~~proposed action taken under paragraph (c) in writing or by~~  
1613 ~~whatever other method best ensures that all parties receive~~  
1614 ~~notification of the proposed action within 48 hours after the~~  
1615 ~~motion is filed. If any party objects to the department's~~  
1616 ~~motion, that party shall file the objection within 2 working~~  
1617 ~~days after being notified of the department's motion. If any~~  
1618 ~~party files an objection to the authorization of the proposed~~  
1619 ~~psychotropic medication, the court shall hold a hearing as soon~~  
1620 ~~as possible before authorizing the department to initially~~  
1621 ~~provide or to continue providing psychotropic medication to a~~  
1622 ~~child in the legal custody of the department. At such hearing~~  
1623 ~~and notwithstanding s. 90.803, the medical report described in~~  
1624 ~~paragraph (c) is admissible in evidence. The prescribing~~

2010724e1

1625 ~~physician need not attend the hearing or testify unless the~~  
1626 ~~court specifically orders such attendance or testimony, or a~~  
1627 ~~party subpoenas the physician to attend the hearing or provide~~  
1628 ~~testimony. If, after considering any testimony received, the~~  
1629 ~~court finds that the department's motion and the physician's~~  
1630 ~~medical report meet the requirements of this subsection and that~~  
1631 ~~it is in the child's best interests, the court may order that~~  
1632 ~~the department provide or continue to provide the psychotropic~~  
1633 ~~medication to the child without additional testimony or~~  
1634 ~~evidence. At any hearing held under this paragraph, the court~~  
1635 ~~shall further inquire of the department as to whether additional~~  
1636 ~~medical, mental health, behavioral, counseling, or other~~  
1637 ~~services are being provided to the child by the department which~~  
1638 ~~the prescribing physician considers to be necessary or~~  
1639 ~~beneficial in treating the child's medical condition and which~~  
1640 ~~the physician recommends or expects to provide to the child in~~  
1641 ~~concert with the medication. The court may order additional~~  
1642 ~~medical consultation, including consultation with the MedConsult~~  
1643 ~~line at the University of Florida, if available, or require the~~  
1644 ~~department to obtain a second opinion within a reasonable~~  
1645 ~~timeframe as established by the court, not to exceed 21 calendar~~  
1646 ~~days, after such order based upon consideration of the best~~  
1647 ~~interests of the child. The department must make a referral for~~  
1648 ~~an appointment for a second opinion with a physician within 1~~  
1649 ~~working day. The court may not order the discontinuation of~~  
1650 ~~prescribed psychotropic medication if such order is contrary to~~  
1651 ~~the decision of the prescribing physician unless the court first~~  
1652 ~~obtains an opinion from a licensed psychiatrist, if available,~~  
1653 ~~or, if not available, a physician licensed under chapter 458 or~~

2010724e1

1654 ~~chapter 459, stating that more likely than not, discontinuing~~  
1655 ~~the medication would not cause significant harm to the child.~~  
1656 ~~If, however, the prescribing psychiatrist specializes in mental~~  
1657 ~~health care for children and adolescents, the court may not~~  
1658 ~~order the discontinuation of prescribed psychotropic medication~~  
1659 ~~unless the required opinion is also from a psychiatrist who~~  
1660 ~~specializes in mental health care for children and adolescents.~~  
1661 ~~The court may also order the discontinuation of prescribed~~  
1662 ~~psychotropic medication if a child's treating physician,~~  
1663 ~~licensed under chapter 458 or chapter 459, states that~~  
1664 ~~continuing the prescribed psychotropic medication would cause~~  
1665 ~~significant harm to the child due to a diagnosed nonpsychiatric~~  
1666 ~~medical condition.~~

1667 ~~2. The burden of proof at any hearing held under this~~  
1668 ~~paragraph shall be by a preponderance of the evidence.~~

1669 ~~(c)1. If the child's prescribing physician certifies in the~~  
1670 ~~signed medical report required in paragraph (c) that delay in~~  
1671 ~~providing a prescribed psychotropic medication would more likely~~  
1672 ~~than not cause significant harm to the child, the medication may~~  
1673 ~~be provided in advance of the issuance of a court order. In such~~  
1674 ~~event, the medical report must provide the specific reasons why~~  
1675 ~~the child may experience significant harm and the nature and the~~  
1676 ~~extent of the potential harm. The department must submit a~~  
1677 ~~motion seeking continuation of the medication and the~~  
1678 ~~physician's medical report to the court, the child's guardian ad~~  
1679 ~~litem, and all other parties within 3 working days after the~~  
1680 ~~department commences providing the medication to the child. The~~  
1681 ~~department shall seek the order at the next regularly scheduled~~  
1682 ~~court hearing required under this chapter, or within 30 days~~

2010724e1

1683 ~~after the date of the prescription, whichever occurs sooner. If~~  
1684 ~~any party objects to the department's motion, the court shall~~  
1685 ~~hold a hearing within 7 days.~~

1686 ~~2. Psychotropic medications may be administered in advance~~  
1687 ~~of a court order in hospitals, crisis stabilization units, and~~  
1688 ~~in statewide inpatient psychiatric programs. Within 3 working~~  
1689 ~~days after the medication is begun, the department must seek~~  
1690 ~~court authorization as described in paragraph (c).~~

1691 ~~(f)1. The department shall fully inform the court of the~~  
1692 ~~child's medical and behavioral status as part of the social~~  
1693 ~~services report prepared for each judicial review hearing held~~  
1694 ~~for a child for whom psychotropic medication has been prescribed~~  
1695 ~~or provided under this subsection. As a part of the information~~  
1696 ~~provided to the court, the department shall furnish copies of~~  
1697 ~~all pertinent medical records concerning the child which have~~  
1698 ~~been generated since the previous hearing. On its own motion or~~  
1699 ~~on good cause shown by any party, including any guardian ad~~  
1700 ~~litem, attorney, or attorney ad litem who has been appointed to~~  
1701 ~~represent the child or the child's interests, the court may~~  
1702 ~~review the status more frequently than required in this~~  
1703 ~~subsection.~~

1704 ~~2. The court may, in the best interests of the child, order~~  
1705 ~~the department to obtain a medical opinion addressing whether~~  
1706 ~~the continued use of the medication under the circumstances is~~  
1707 ~~safe and medically appropriate.~~

1708 ~~(g) The department shall adopt rules to ensure that~~  
1709 ~~children receive timely access to clinically appropriate~~  
1710 ~~psychotropic medications. These rules must include, but need not~~  
1711 ~~be limited to, the process for determining which adjunctive~~

2010724e1

1712 ~~services are needed, the uniform process for facilitating the~~  
1713 ~~prescribing physician's ability to obtain the express and~~  
1714 ~~informed consent of a child's parent or guardian, the procedures~~  
1715 ~~for obtaining court authorization for the provision of a~~  
1716 ~~psychotropic medication, the frequency of medical monitoring and~~  
1717 ~~reporting on the status of the child to the court, how the~~  
1718 ~~child's parents will be involved in the treatment-planning~~  
1719 ~~process if their parental rights have not been terminated, and~~  
1720 ~~how caretakers are to be provided information contained in the~~  
1721 ~~physician's signed medical report. The rules must also include~~  
1722 ~~uniform forms to be used in requesting court authorization for~~  
1723 ~~the use of a psychotropic medication and provide for the~~  
1724 ~~integration of each child's treatment plan and case plan. The~~  
1725 ~~department must begin the formal rulemaking process within 90~~  
1726 ~~days after the effective date of this act.~~

1727 Section 48. Section 39.4071, Florida Statutes, is created  
1728 to read:

1729 39.4071 Use of psychotropic medication for children in out  
1730 of-home placement.-

1731 (1) LEGISLATIVE FINDINGS AND INTENT.-

1732 (a) The Legislature finds that children in out-of-home  
1733 placements often have multiple risk factors that predispose them  
1734 to emotional and behavioral disorders and that they receive  
1735 mental health services at higher rates and are more likely to be  
1736 given psychotropic medications than children from comparable  
1737 backgrounds.

1738 (b) The Legislature also finds that the use of psychotropic  
1739 medications for the treatment of children in out-of-home  
1740 placements who have emotional and behavioral disturbances has

2010724e1

1741 increased over recent years. While the increased use of  
1742 psychotropic medications is paralleled by an increase in the  
1743 rate of the coadministration of two or more psychotropic  
1744 medications, data on the safety and efficacy of many of the  
1745 psychotropic medications used in children and research  
1746 supporting the coadministration of two or more psychotropic  
1747 medications in this population is limited.

1748 (c) The Legislature further finds that significant  
1749 challenges are encountered in providing quality mental health  
1750 care to children in out-of-home placements. Not uncommonly,  
1751 children in out-of-home placements are subjected to multiple  
1752 placements and many service providers, with communication  
1753 between providers often poor, resulting in fragmented medical  
1754 and mental health care. The dependable, ongoing therapeutic and  
1755 caregiving relationships these children need are hampered by the  
1756 high turnover among child welfare caseworkers and care  
1757 providers. Furthermore, children in out-of-home placements,  
1758 unlike children from intact families, often have no consistent  
1759 interested party who is available to coordinate treatment and  
1760 monitoring plans or to provide longitudinal oversight of care.

1761 (d) The Legislature recognizes the important role the  
1762 Guardian ad Litem Program has played in Florida's dependency  
1763 system for the past 30 years serving the state's most vulnerable  
1764 children through the use of trained volunteers, case  
1765 coordinators, child advocates and attorneys. The program's  
1766 singular focus is on the child and its mission is to advocate  
1767 for the best interest of the child. It is often the guardian ad  
1768 litem who is the constant in a child's life, maintaining  
1769 consistent contact with the child, the child's caseworkers, and

2010724e1

1770 others involved with the child, including family, doctors,  
1771 teachers, and service providers. Studies have shown that a child  
1772 assigned a guardian ad litem will, on average, experience fewer  
1773 placement changes than a child without a guardian ad litem. It  
1774 is therefore the intent of the Legislature that children in out-  
1775 of-home placements who may benefit from psychotropic medications  
1776 receive those medications safely as part of a comprehensive  
1777 mental health treatment plan requiring the appointment of a  
1778 guardian ad litem whose responsibility is to monitor the plan  
1779 for compliance and suitability as to the child's best interest.

1780 (2) DEFINITIONS.—As used in this section, the term:

1781 (a) "Behavior analysis" means services rendered by a  
1782 provider who is certified by the Behavior Analysis Certification  
1783 Board in accordance with chapter 393.

1784 (b) "Obtaining assent" means a process by which a provider  
1785 of medical services helps a child achieve a developmentally  
1786 appropriate awareness of the nature of his or her condition,  
1787 informs the child of what can be expected through tests and  
1788 treatment, makes a clinical assessment of the child's  
1789 understanding of the situation and the factors influencing how  
1790 he or she is responding, and solicits an expression of the  
1791 child's willingness to adhere to the proposed care. The mere  
1792 absence of an objection by the child may not be construed as  
1793 assent.

1794 (c) "Comprehensive behavioral health assessment" means an  
1795 in-depth and detailed assessment of the child's emotional,  
1796 social, behavioral, and developmental functioning within the  
1797 family home, school, and community. A comprehensive behavioral  
1798 health assessment includes direct observation of the child in

2010724e1

1799 the home, school, and community, as well as in the clinical  
1800 setting, and adheres to the requirements in the Florida Medicaid  
1801 Community Behavioral Health Services Coverage and Limitations  
1802 Handbook.

1803 (d) "Express and informed consent" means a process by which  
1804 a provider of medical services obtains voluntary consent from a  
1805 parent whose rights have not been terminated or a legal guardian  
1806 of the child who has received full, accurate, and sufficient  
1807 information and an explanation about the child's medical  
1808 condition, medication, and treatment in order to enable the  
1809 parent or guardian to make a knowledgeable decision without any  
1810 element of fraud, deceit, duress, or other form of coercion.

1811 (e) "Mental health treatment plan" means a plan that lists  
1812 the particular mental health needs of the child and the services  
1813 that will be provided to address those needs. If the plan  
1814 includes prescribing psychotropic medication to a child in out-  
1815 of-home placement, the plan must also include the information  
1816 required under subsection (9).

1817 (f) "Psychotropic medication" means a prescription  
1818 medication that is used for the treatment of mental disorders  
1819 and includes, without limitation, hypnotics, antipsychotics,  
1820 antidepressants, antianxiety agents, sedatives, stimulants, and  
1821 mood stabilizers.

1822 (3) APPOINTMENT OF GUARDIAN AD LITEM.—

1823 (a) If not already appointed, a guardian ad litem shall be  
1824 appointed by the court at the earliest possible time to  
1825 represent the best interests of a child in out-of-home placement  
1826 who is prescribed a psychotropic medication or is being  
1827 evaluated for the initiation of psychotropic medication.

2010724e1

1828 Pursuant to s. 39.820, the appointed guardian ad litem is a  
1829 party to any judicial proceeding as a representative of the  
1830 child and serves until discharged by the court.

1831 (b) Pursuant to this section, the guardian ad litem shall  
1832 participate in the development of the mental health treatment  
1833 plan, monitor whether all requirements of the mental health  
1834 treatment plan are being provided to the child, including  
1835 counseling, behavior analysis, or other services, medications,  
1836 and treatment modalities; and notice the court of the child's  
1837 objections, if any, to the mental health treatment plan. The  
1838 guardian ad litem shall prepare and submit to the court a  
1839 written report every 45 days or as directed by the court,  
1840 advising the court and the parties as to the status of the care,  
1841 health, and medical treatment of the child pursuant to the  
1842 mental health treatment plan and any change in the status of the  
1843 child. The guardian ad litem must immediately notify parties as  
1844 soon as a medical emergency of the child becomes known. The  
1845 guardian ad litem shall ensure that the prescribing physician  
1846 has been provided with all pertinent medical information  
1847 concerning the child.

1848 (c) The department and the community-based care lead agency  
1849 shall notify the court and the guardian ad litem, and, if  
1850 applicable, the child's attorney, in writing within 24 hours  
1851 after any change in the status of the child, including, but not  
1852 limited to, a change in placement, a change in school, a change  
1853 in medical condition or medication, or a change in prescribing  
1854 physician, other service providers, counseling, or treatment  
1855 scheduling.

1856 (4) PSYCHIATRIC EVALUATION OF CHILD.—Whenever the

2010724e1

1857 department believes that a child in its legal custody may need  
1858 psychiatric treatment, an evaluation must be conducted by a  
1859 physician licensed under chapter 458 or chapter 459.

1860 (5) EXPRESS AND INFORMED CONSENT AND ASSENT.—If, at the  
1861 time of removal from his or her home, a child is being provided,  
1862 or at any time is being evaluated for the initiation of,  
1863 prescribed psychotropic medication under this section, express  
1864 and informed consent and assent shall be sought by the  
1865 prescribing physician.

1866 (a) The prescribing physician shall obtain assent from the  
1867 child, unless the prescribing physician determines that it is  
1868 not appropriate. In making this assessment, the prescribing  
1869 physician shall consider the capacity of the child to make an  
1870 independent decision based on his or her age, maturity, and  
1871 psychological and emotional state. If the physician determines  
1872 that it is not appropriate, the physician must document the  
1873 decision in the mental health treatment plan. If the physician  
1874 determines it is appropriate and the child refuses to give  
1875 assent, the physician must document the child's refusal in the  
1876 mental health treatment plan.

1877 1. Assent from a child shall be sought in a manner that is  
1878 understandable to the child using a developmentally appropriate  
1879 assent form. The child shall be provided with sufficient  
1880 information, such as the nature and purpose of the medication,  
1881 how it will be administered, the probable risks and benefits,  
1882 alternative treatments and the risks and benefits thereof, and  
1883 the risks and benefits of refusing or discontinuing the  
1884 medication, and when it may be appropriately discontinued.  
1885 Assent may be oral or written and must be documented by the

2010724e1

1886 prescribing physician.

1887 2. Oral assent is appropriate for a child who is younger  
1888 than 7 years of age. Assent from a child who is 7 to 13 years of  
1889 age may be sought orally or in a simple form that is written at  
1890 the second-grade or third-grade reading level. A child who is 14  
1891 years of age or older may understand the language presented in  
1892 the consent form for parents or legal guardians. If so, the  
1893 child may sign the consent form along with the parent or legal  
1894 guardian. Forms for parents and older children shall be written  
1895 at the sixth grade to eighth-grade reading level.

1896 3. In each case where assent is obtained, a copy of the  
1897 assent documents must be provided to the parent or legal  
1898 guardian and the guardian ad litem, with the original assent  
1899 documents becoming a part of the child's mental health treatment  
1900 plan and filed with the court.

1901 (b) Express and informed consent for the administration of  
1902 psychotropic medication may be given only by a parent whose  
1903 rights have not been terminated or a legal guardian of the child  
1904 who has received full, accurate, and sufficient information and  
1905 an explanation about the child's medical condition, medication,  
1906 and treatment in order to enable the parent or guardian to make  
1907 a knowledgeable decision. A sufficient explanation includes, but  
1908 need not be limited to, the following information, which must be  
1909 provided and explained in plain language by the prescribing  
1910 physician to the parent or legal guardian: the child's  
1911 diagnosis, the symptoms to be addressed by the medication, the  
1912 name of the medication and its dosage ranges, the reason for  
1913 prescribing it, and its purpose or intended results; benefits,  
1914 side effects, risks, and contraindications, including effects of

2010724e1

1915 not starting or stopping the medication; method for  
1916 administering the medication and how it will monitored;  
1917 potential drug interactions; alternative treatments to  
1918 psychotropic medication; a plan to reduce or eliminate ongoing  
1919 medication when medically appropriate; the counseling,  
1920 behavioral analysis, or other services used to complement the  
1921 use of medication, if applicable; and that the parent or legal  
1922 guardian may revoke the consent at any time.

1923 1. Express and informed consent may be oral or written and  
1924 must be documented by the prescribing physician. If the  
1925 department or the physician is unable to obtain consent from the  
1926 parent or legal guardian, the reasons must be documented.

1927 2. If express and informed consent is obtained, a copy of  
1928 the consent documents must be provided to the parent or legal  
1929 guardian and the guardian ad litem, with the original consent  
1930 documents becoming a part of the child's mental health treatment  
1931 plan and filed with the court.

1932 (c) The informed consent of any parent whose whereabouts  
1933 are unknown for 60 days, who is adjudicated incapacitated, who  
1934 does not have regular and frequent contact with the child, who  
1935 later revokes assent, or whose parental rights are terminated  
1936 after giving consent, is invalid. If the informed consent of a  
1937 parent becomes invalid, the department may seek informed consent  
1938 from any other parent or legal guardian. If the informed consent  
1939 provided by a parent whose parental rights have been terminated  
1940 is invalid and no other parent or legal guardian gives informed  
1941 consent, the department shall file a motion for the  
1942 administration of psychotropic medication along with the motion  
1943 for final judgment of termination of parental rights.

2010724e1

1944 (d) If consent is revoked or becomes invalid the department  
1945 shall immediately notify all parties and, if applicable, the  
1946 child's attorney. Medication shall be continued until such time  
1947 as the court rules on the motion.

1948 (e) A medication may not be discontinued without explicit  
1949 instruction from a physician as to how to safely discontinue the  
1950 medication.

1951 (6) ADMINISTRATION OF PSYCHOTROPIC MEDICATION TO A CHILD IN  
1952 SHELTER CARE OR IN FOSTER CARE WHEN INFORMED CONSENT HAS NOT  
1953 BEEN OBTAINED.—

1954 (a) Motion for court authorization for administration of  
1955 psychotropic medications.

1956 1. If a physician who has evaluated the child prescribes  
1957 psychotropic medication as part of the mental health treatment  
1958 plan and the child's parents or legal guardians have not  
1959 provided express and informed consent as provided by law or such  
1960 consent is invalid as set forth in paragraph (5) (c), the  
1961 department or its agent shall file a motion with the court  
1962 within 3 working days to authorize the administration of the  
1963 psychotropic medication before the administration of the  
1964 medication, except as provided in subsection (7). In each case  
1965 in which a motion is required, the motion must include:

1966 a. A written report by the department describing the  
1967 efforts made to enable the prescribing physician to obtain  
1968 express and informed consent and describing other treatments  
1969 attempted, considered, and recommended for the child; and

1970 b. The prescribing physician's completed and signed mental  
1971 health treatment plan.

1972 2. The department must file a copy of the motion with the

2010724e1

1973 court and, within 48 hours after filing the motion, notify all  
1974 parties in writing, or by whatever other method best ensures  
1975 that all parties receive notification, of its proposed  
1976 administration of psychotropic medication to the child.

1977 3. If any party objects to the proposed administration of  
1978 the psychotropic medication to the child, that party must file  
1979 its objection within 2 working days after being notified of the  
1980 department's motion. A party may request an extension of time to  
1981 object for good cause shown if such extension would be in the  
1982 best interests of the child. Any extension must be for a  
1983 specific number of days not to exceed the time absolutely  
1984 necessary.

1985 4. Lack of assent from the child is deemed a timely  
1986 objection from the child.

1987 (b) Court action on motion for administration of  
1988 psychotropic medication.

1989 1. If no party timely files an objection to the  
1990 department's motion and the motion is legally sufficient, the  
1991 court may enter its order authorizing the proposed  
1992 administration of the psychotropic medication without a hearing.  
1993 Based on its determination of the best interests of the child,  
1994 the court may order additional medical consultation, including  
1995 consultation with the MedConsult line at the University of  
1996 Florida, if available, or require the department to obtain a  
1997 second opinion within a reasonable time established by the  
1998 court, not to exceed 21 calendar days. If the court orders an  
1999 additional medical consultation or second medical opinion, the  
2000 department shall file a written report including the results of  
2001 this additional consultation or a copy of the second medical

2010724e1

2002 opinion with the court within the time required by the court,  
2003 and serve a copy of the report on all parties.

2004 2. If any party timely files its objection to the proposed  
2005 administration of the psychotropic medication, the court shall  
2006 hold a hearing as soon as possible on the department's motion.

2007 a. The signed mental health treatment plan of the  
2008 prescribing physician is admissible in evidence at the hearing.

2009 b. The court shall ask the department whether additional  
2010 medical, mental health, behavior analysis, counseling, or other  
2011 services are being provided to the child which the prescribing  
2012 physician considers to be necessary or beneficial in treating  
2013 the child's medical condition and which the physician recommends  
2014 or expects to be provided to the child along with the  
2015 medication.

2016 3. The court may order additional medical consultation or a  
2017 second medical opinion, as provided in this paragraph.

2018 4. After considering the department's motion and any  
2019 testimony received, the court may enter its order authorizing  
2020 the department to provide or continue to provide the proposed  
2021 psychotropic medication. The court must find a compelling  
2022 governmental interest that the proposed psychotropic medication  
2023 is in the child's best interest. In so determining the court  
2024 shall, at a minimum, consider the following factors:

2025 a. The severity and likelihood of risks associated with the  
2026 treatment.

2027 b. The magnitude and likelihood of benefits expected from  
2028 the treatment.

2029 c. The child's prognosis without the proposed psychotropic  
2030 medication.

2010724e1

2031 d. The availability and effectiveness of alternative  
2032 treatments.

2033 e. The wishes of the child concerning treatment  
2034 alternatives.

2035 f. The recommendation of the parents or legal guardian.

2036 g. The recommendation of the guardian ad litem.

2037 (7) ADMINISTRATION OF PSYCHOTROPIC MEDICATION TO A CHILD IN  
2038 OUT-OF-HOME CARE BEFORE COURT AUTHORIZATION HAS BEEN OBTAINED.-

2039 The department may provide continued administration of  
2040 psychotropic medication to a child before authorization by the  
2041 court has been obtained only as provided in this subsection.

2042 (a) If a child is removed from the home and taken into  
2043 custody under s. 39.401, the department may continue to  
2044 administer a current prescription of psychotropic medication;  
2045 however, the department shall request court authorization for  
2046 the continued administration of the medication at the shelter  
2047 hearing. This request shall be included in the shelter petition.

2048 1. The department shall provide all information in its  
2049 possession to the court in support of its request at the shelter  
2050 hearing. The court may authorize the continued administration of  
2051 the psychotropic medication only until the arraignment hearing  
2052 on the petition for adjudication, or for 28 days following the  
2053 date of the child's removal, whichever occurs first.

2054 2. If the department believes, based on the required  
2055 physician's evaluation, that it is appropriate to continue the  
2056 psychotropic medication beyond the time authorized by the court  
2057 at the shelter hearing, the department shall file a motion  
2058 seeking continued court authorization at the same time that it  
2059 files the dependency petition, but within 21 days after the

2010724e1

2060 shelter hearing.

2061 (b) If the department believes, based on the certification  
2062 of the prescribing physician, that delay in providing the  
2063 prescribed psychotropic medication would, more likely than not,  
2064 cause significant harm to the child, the department shall  
2065 administer the medication immediately. The department must  
2066 submit a motion to the court seeking continuation of the  
2067 medication within 3 working days after the department begins  
2068 providing the medication to the child.

2069 1. The motion seeking authorization for the continued  
2070 administration of the psychotropic medication must include all  
2071 information required in this section. The required medical  
2072 report must also include the specific reasons why the child may  
2073 experience significant harm, and the nature and the extent of  
2074 the potential harm, resulting from a delay in authorizing the  
2075 prescribed medication.

2076 2. The department shall serve the motion on all parties  
2077 within 3 working days after the department begins providing the  
2078 medication to the child.

2079 3. The court shall hear the department's motion at the next  
2080 regularly scheduled court hearing required by law, or within 30  
2081 days after the date of the prescription, whichever occurs first.  
2082 However, if any party files an objection to the motion, the  
2083 court must hold a hearing within 7 days.

2084 (c) The department may authorize, in advance of a court  
2085 order, the administration of psychotropic medications to a child  
2086 in its custody in a hospital, crisis stabilization unit or  
2087 receiving facility, therapeutic group home, or statewide  
2088 inpatient psychiatric program. If the department does so, it

2010724e1

2089 must file a motion to seek court authorization for the continued  
2090 administration of the medication within 3 working days as  
2091 required in this section.

2092 (d) If a child receives a one-time dose of a psychotropic  
2093 medication during a crisis, the department shall provide  
2094 immediate notice to all parties and to the court of each such  
2095 emergency use.

2096 (8) DISCONTINUATION OR ALTERATION OF MEDICATION;  
2097 DESTRUCTION OF MEDICATION.—A party may not alter the provision  
2098 of prescribed psychotropic medication in any way except upon  
2099 order of the court or advice of a physician.

2100 (a) On the motion of any party or its own motion, the court  
2101 may order the discontinuation of a medication already  
2102 prescribed. Such discontinuation must be performed in  
2103 consultation with a physician in such a manner as to minimize  
2104 risk to the child.

2105 (b) The child's repeated refusal to take or continue to  
2106 take a medication shall be treated as a motion to discontinue  
2107 the medication and shall be set for hearing as soon as possible  
2108 but within 7 days after knowledge of such repeated refusal.

2109 (c) Upon any discontinuation of a medication, the  
2110 department shall document the date and reason for the  
2111 discontinuation and notify all parties. The guardian ad litem  
2112 must be notified within 24 hours as previously provided herein.

2113 (d) The department shall ensure the destruction of any  
2114 medication no longer being taken by the prescribed child.

2115 (9) DEVELOPMENT OF MENTAL HEALTH TREATMENT PLAN.—Upon the  
2116 determination that a child needs mental health services, a  
2117 mental health treatment plan must be developed which lists the

2010724e1

2118 particular mental health needs of the child and the services  
2119 that will be provided to address those needs. If possible, the  
2120 plan shall be developed in a face-to-face conference with the  
2121 child, the child's parents, case manager, physician, therapist,  
2122 legal guardian, guardian ad litem, and any other interested  
2123 party. The mental health treatment plan shall be incorporated  
2124 into the case plan as tasks for the department and may be  
2125 amended under s. 39.6013.

2126 (a) If the mental health treatment plan involves the  
2127 provision of psychotropic medication, the plan must include:

2128 1. The name of the child, a statement indicating that there  
2129 is a need to prescribe psychotropic medication based upon a  
2130 diagnosed condition for which there is an evidence base for the  
2131 medication that is being prescribed, a statement indicating the  
2132 compelling governmental interest in prescribing the psychotropic  
2133 medication, and the name and range of the dosage of the  
2134 psychotropic medication.

2135 2. A statement indicating that the physician has reviewed  
2136 all medical information concerning the child which has been  
2137 provided by the department or community-based care lead agency  
2138 and briefly listing all information received.

2139 3. A medication profile, including all medications the  
2140 child is prescribed or will be prescribed, any previously  
2141 prescribed medications if known, and whether those medications  
2142 are being added, continued, or discontinued upon implementation  
2143 of the mental health treatment plan.

2144 4. A statement indicating that the psychotropic medication,  
2145 at its prescribed dosage, is appropriate for treating the  
2146 child's diagnosed medical condition, as well as the behaviors

2010724e1

2147 and symptoms that the medication, at its prescribed dosage, is  
2148 expected to address.

2149 5. An explanation of the nature and purpose of the  
2150 treatment; the recognized side effects, risks, and  
2151 contraindications of the medication, including procedures for  
2152 reporting adverse effects; drug-interaction precautions; the  
2153 possible effects of stopping or not initiating the medication;  
2154 and how the treatment will be monitored, followed by a statement  
2155 indicating that this explanation was provided to the child if  
2156 developmentally appropriate and to the child's caregiver.

2157 6. Documentation addressing whether the psychotropic  
2158 medication will replace or supplement any other currently  
2159 prescribed medications or treatments; the length of time the  
2160 child is expected to be taking the medication; a plan for the  
2161 discontinuation of any medication if medically appropriate; and  
2162 any additional medical, mental health, behavioral, counseling,  
2163 or other services that the prescribing physician recommends as  
2164 part of a comprehensive treatment plan.

2165 7. A document describing those observable behaviors  
2166 warranting psychotropic treatment, the means for obtaining  
2167 reliable frequency data on these same observable behaviors, and  
2168 the reporting of this data with sufficient frequency to support  
2169 medication decisions.

2170 (b) The department shall develop and administer procedures  
2171 to require the caregiver and prescribing physician to report any  
2172 adverse side effects of the medication to the department or its  
2173 designee and the guardian ad litem. Any adverse side effects  
2174 must be documented in the mental health treatment plan and  
2175 medical records for the child.

2010724e1

2176 (10) REVIEW FOR ADMINISTRATION OF PSYCHOTROPIC MEDICATION  
2177 FOR CHILDREN FROM BIRTH THROUGH 10 YEARS OF AGE IN OUT-OF-HOME  
2178 CARE.—

2179 (a) Absent a finding of a compelling state interest, a  
2180 psychotropic medication may not be authorized by the court for  
2181 any child from birth through 10 years of age who is in out-of-  
2182 home placement. Based on a finding of a compelling state  
2183 interest but before a psychotropic medication is authorized by  
2184 the court for such child, a review of the administration must be  
2185 obtained from a child psychiatrist who is licensed under chapter  
2186 458 or chapter 459. The results of this review must be provided  
2187 to the child and the parent or legal guardian before final  
2188 express and informed consent is given.

2189 (b) In advance of a court order, the department may  
2190 authorize the administration of psychotropic medications to a  
2191 child from birth through 10 years of age in its custody in the  
2192 following levels of residential care:

- 2193 1. Hospital;
- 2194 2. Crisis stabilization unit or receiving facility;
- 2195 3. Therapeutic group home; or
- 2196 4. Statewide inpatient psychiatric program.

2197  
2198 These levels of care demonstrate the requirement of a compelling  
2199 state interest through the extensive admission criteria being  
2200 met. If the department does so, it must file a motion to seek  
2201 court authorization for the continued administration of the  
2202 medication within 3 working days.

2203 (c) If a child receives a one-time dose of a psychotropic  
2204 medication during a crisis, the department shall provide

2010724e1

2205 immediate notice to all parties and to the court of each such  
2206 emergency use.

2207 (11) CLINICAL TRIALS.—A child in the custody of the  
2208 department may not participate in a clinical trial that is  
2209 designed to develop new psychotropic medications or evaluate  
2210 their application to children.

2211 (12) JUDICIAL REVIEW HEARINGS.—The department shall fully  
2212 inform the court of the child's medical and behavioral status as  
2213 part of the social services report prepared for each judicial  
2214 review hearing held for a child for whom psychotropic medication  
2215 has been prescribed or provided under this subsection. As a part  
2216 of the information provided, the department shall furnish copies  
2217 of all pertinent medical records concerning the child which have  
2218 been generated since the previous hearing. On its own motion or  
2219 on good cause shown by any party, including any guardian ad  
2220 litem, attorney, or attorney ad litem who has been appointed to  
2221 represent the child or the child's interests, the court may  
2222 review the status more frequently than required under this  
2223 subsection.

2224 (13) ADOPTION OF RULES.—The department may adopt rules to  
2225 ensure that children receive timely access to mental health  
2226 services, including, but not limited to, clinically appropriate  
2227 psychotropic medications. These rules must include, but need not  
2228 be limited to, the process for determining which adjunctive  
2229 services are needed, the uniform process for facilitating the  
2230 prescribing physician's ability to obtain the express and  
2231 informed consent of a child's parent or legal guardian, the  
2232 procedures for obtaining court authorization for the provision  
2233 of a psychotropic medication, the frequency of medical

2010724e1

2234 monitoring and reporting on the status of the child to the  
2235 court, how the child's parents will be involved in the  
2236 treatment-planning process if their parental rights have not  
2237 been terminated, and how caretakers are to be provided  
2238 information contained in the physician's signed mental health  
2239 treatment plan. The rules must also include uniform forms or  
2240 standardized information to be used on a statewide basis in  
2241 requesting court authorization for the use of a psychotropic  
2242 medication and provide for the integration of each child's  
2243 mental health treatment plan and case plan. The department must  
2244 begin the formal rulemaking process within 90 days after July 1,  
2245 2010.

2246 Section 49. Paragraph (b) of subsection (1) of section  
2247 743.0645, Florida Statutes, is amended to read:

2248 743.0645 Other persons who may consent to medical care or  
2249 treatment of a minor.—

2250 (1) As used in this section, the term:

2251 (b) "Medical care and treatment" includes ordinary and  
2252 necessary medical and dental examination and treatment,  
2253 including blood testing, preventive care including ordinary  
2254 immunizations, tuberculin testing, and well-child care, but does  
2255 not include surgery, general anesthesia, provision of  
2256 psychotropic medications, or other extraordinary procedures for  
2257 which a separate court order, power of attorney, or informed  
2258 consent as provided by law is required, except as provided in s.  
2259 39.4071 ~~s. 39.407(3)~~.

2260 Section 50. The Division of Statutory Revision of the Joint  
2261 Legislative Management Committee is directed to prepare a  
2262 reviser's bill for introduction at a subsequent session of the

2010724e1

2263 Legislature to change the term "Department of Children and  
2264 Family Services" to "Department of Children and Families," the  
2265 term "Secretary of Children and Family Services" to "Secretary  
2266 of Children and Families," and the term "district administrator"  
2267 to "circuit administrator," as that term relates to the  
2268 responsibilities of the Department of Children and Families,  
2269 wherever that term appears in the Florida Statutes.

2270 Section 51. The Agency for Persons with Disabilities is  
2271 directed to prepare a plan that will enable it to perform all of  
2272 its own administrative and operational functions separate from  
2273 the Department of Children and Family Services by July 1, 2015.  
2274 The plan must identify resource requirements and a timeframe for  
2275 completing the transfer of responsibilities from the Department  
2276 of Children and Family Services, including submittal of a  
2277 detailed justification for each position the agency estimates it  
2278 would need to become administratively self-sufficient; an  
2279 analysis of each function to determine if the Department of  
2280 Children and Family Services could provide the service more  
2281 efficiently on a reimbursed cost basis through an interagency  
2282 agreement; and an estimate of the costs and benefits to be  
2283 derived through the separation. The Department of Children and  
2284 Family Services is directed to cooperate with the agency in  
2285 preparing the plan. The plan shall be presented to the Speaker  
2286 of the House of Representatives, the President of the Senate,  
2287 and the appropriate substantive committees by January 15, 2011.

2288 Section 52. The Department of Children and Families,  
2289 through its Office of General Counsel and in consultation with  
2290 its contracted legal services providers and lead agency  
2291 administrators, shall define the types of legal services

2010724e1

2292 associated with dependency proceedings. These legal services  
2293 include, but are not limited to, service of process, court  
2294 reporter and transcription services, expert witnesses, and legal  
2295 publication. The department shall delineate the specific costs  
2296 each lead agency will pay for those defined legal services, and  
2297 by contract amendment, modify lead agency funding amounts to  
2298 shift funding and responsibility for those costs to the  
2299 department through its Office of General Counsel.

2300 Section 53. The Children and Youth Cabinet created pursuant  
2301 to s. 402.56, Florida Statutes, is directed to submit a plan to  
2302 the Legislature by January 15, 2011, for addressing the  
2303 inappropriate and excessive prescribing of psychotropic  
2304 medication for children who are in the custody of the Department  
2305 of Children and Family Services, who are clients of the Agency  
2306 for Persons with Disabilities, and who are otherwise on  
2307 Medicaid.

2308 (1) At a minimum, the plan must include:

2309 (a) The identification of all agencies and entities, public  
2310 and private, which are responsible for monitoring the care of  
2311 children who are being prescribed psychotropic medication;

2312 (b) The development of a plan for interagency cooperation  
2313 in identifying and reporting prescribers; and

2314 (c) An analysis of the prescribing practices of Medicaid  
2315 providers for these populations of children.

2316 (2) The Children and Youth Cabinet shall also include  
2317 suggestions for any legislative changes necessary to implement  
2318 the plan.

2319 Section 54. This act shall take effect July 1, 2010.