

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Health & Human Services
 2 Committee

3 Representative Stevenson offered the following:

4

5 **Amendment**

6 Remove lines 868-1380 and insert:

7 an in-home safety plan ~~reunification or family preservation~~
 8 ~~services~~ and that removal of the child is necessary to protect
 9 the child. If the child is removed before the disposition
 10 hearing, the order must also include a written determination as
 11 to whether, after removal, the department made a reasonable
 12 effort to reunify the parent and child. Reasonable efforts to
 13 reunify are not required if the court finds that any of the acts
 14 listed in s. 39.806(1)(f)-(l) have occurred. The department has
 15 the burden of demonstrating that it made reasonable efforts.

16 1. For the purposes of this paragraph, the term

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17 "reasonable effort" means the exercise of reasonable diligence
18 and care by the department to provide the services ordered by
19 the court or delineated in the case plan.

20 2. In support of its determination as to whether
21 reasonable efforts have been made, the court shall:

22 a. Enter written findings as to whether an in-home safety
23 plan could have prevented removal ~~prevention or reunification~~
24 ~~efforts were indicated.~~

25 b. If an in-home safety plan was ~~prevention or~~
26 ~~reunification efforts were~~ indicated, include a brief written
27 description of what appropriate and available safety management
28 services ~~prevention and reunification efforts~~ were initiated
29 ~~made.~~

30 c. Indicate in writing why further efforts could or could
31 not have prevented or shortened the separation of the parent and
32 child.

33 3. A court may find that the department made a reasonable
34 effort to prevent or eliminate the need for removal if:

35 a. The first contact of the department with the family
36 occurs during an emergency;

37 b. The department's assessment ~~appraisal by the department~~
38 of the home situation indicates a substantial and immediate
39 danger to the child's safety or physical, mental, or emotional
40 health which cannot be mitigated by the provision of safety
41 management ~~preventive~~ services;

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42 c. The child cannot safely remain at home, because there
43 are no safety management ~~preventive~~ services that can ensure the
44 health and safety of the child or, even with appropriate and
45 available services being provided, the health and safety of the
46 child cannot be ensured; or

47 d. The parent is alleged to have committed any of the acts
48 listed as grounds for expedited termination of parental rights
49 under s. 39.806(1)(f)-(l).

50 4. A reasonable effort by the department for reunification
51 has been made if the appraisal of the home situation by the
52 department indicates that the severity of the conditions of
53 dependency is such that reunification efforts are inappropriate.
54 The department has the burden of demonstrating to the court that
55 reunification efforts were inappropriate.

56 5. If the court finds that the provision of safety
57 management services by ~~prevention or reunification effort~~ of the
58 department would not have permitted the child to remain safely
59 at home, the court may commit the child to the temporary legal
60 custody of the department or take any other action authorized by
61 this chapter.

62 (2) The family functioning assessment ~~predisposition study~~
63 must provide the court with the following documented
64 information:

65 (a) Evidence of maltreatment and the circumstances
66 accompanying the maltreatment.

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67 (b) Identification of all danger threats active in the
68 home.

69 (c) An assessment of the adult functioning of the parents.

70 (d) An assessment of general parenting practices and the
71 parent's disciplinary approach and behavior management methods.

72 (e) An assessment of the parent's behavioral, emotional,
73 and cognitive protective capacities.

74 (f) An assessment of child functioning.

75 (g) A safety analysis describing the capacity for an in-
76 home safety plan to control the conditions that result in the
77 child being unsafe and the specific actions necessary to keep
78 the child safe.

79 (h) Identification of the conditions for return which
80 would allow the child to be placed safely back into the home
81 with an in-home safety plan and any safety management services
82 necessary to ensure the child's safety.

83 ~~(a) The capacity and disposition of the parents to provide~~
84 ~~the child with food, clothing, medical care, or other remedial~~
85 ~~care recognized and permitted under the laws of this state in~~
86 ~~lieu of medical care, and other material needs.~~

87 ~~(b) The length of time the child has lived in a stable,~~
88 ~~satisfactory environment and the desirability of maintaining~~
89 ~~continuity.~~

90 ~~(c) The mental and physical health of the parents.~~

91 ~~(d) The home, school, and community record of the child.~~

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92 ~~(i)-(e)~~ The reasonable preference of the child, if the
93 court deems the child to be of sufficient intelligence,
94 understanding, and experience to express a preference.

95 ~~(f)~~ Evidence of domestic violence or child abuse.

96 ~~(g)~~ An assessment defining the dangers and risks of
97 returning the child home, including a description of the changes
98 in and resolutions to the initial risks.

99 ~~(h)~~ A description of what risks are still present and what
100 resources are available and will be provided for the protection
101 and safety of the child.

102 ~~(i)~~ A description of the benefits of returning the child
103 home.

104 ~~(j)~~ A description of all unresolved issues.

105 ~~(j)-(k)~~ Child welfare ~~A Florida Abuse Hotline Information~~
106 ~~System (FAHIS)~~ history from the Statewide Automated Child
107 Welfare Information System (SACWIS) and criminal records check
108 for all caregivers, family members, and individuals residing
109 within the household from which the child was removed.

110 ~~(k)-(l)~~ The complete report and recommendation of the child
111 protection team of the Department of Health or, if no report
112 exists, a statement reflecting that no report has been made.

113 ~~(l)-(m)~~ All opinions or recommendations from other
114 professionals or agencies that provide evaluative, social,
115 reunification, or other services to the parent and child.

116 ~~(m)-(n)~~ A listing of appropriate and available safety

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117 management ~~prevention and reunification~~ services for the parent
118 and child to prevent the removal of the child from the home or
119 to reunify the child with the parent after removal, ~~including~~
120 ~~the availability of family preservation services~~ and an
121 explanation of the following:

122 1. If the services were or were not provided.

123 2. If the services were provided, the outcome of the
124 services.

125 3. If the services were not provided, why they were not
126 provided.

127 4. If the services are currently being provided and if
128 they need to be continued.

129 ~~(o) A listing of other prevention and reunification~~
130 ~~services that were available but determined to be inappropriate~~
131 ~~and why.~~

132 ~~(p) Whether dependency mediation was provided.~~

133 (n) ~~(q)~~ If the child has been removed from the home and
134 there is a parent who may be considered for custody pursuant to
135 this section, a recommendation as to whether placement of the
136 child with that parent would be detrimental to the child.

137 (o) ~~(r)~~ If the child has been removed from the home and
138 will be remaining with a relative, parent, or other adult
139 approved by the court, a home study report concerning the
140 proposed placement shall be provided to the court ~~included in~~
141 ~~the predisposition report~~. Before recommending to the court any

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142 out-of-home placement for a child other than placement in a
143 licensed shelter or foster home, the department shall conduct a
144 study of the home of the proposed legal custodians, which must
145 include, at a minimum:

146 1. An interview with the proposed legal custodians to
147 assess their ongoing commitment and ability to care for the
148 child.

149 2. Records checks through the State Automated Child
150 Welfare Information System (SACWIS), and local and statewide
151 criminal and juvenile records checks through the Department of
152 Law Enforcement, on all household members 12 years of age or
153 older. In addition, the fingerprints of any household members
154 who are 18 years of age or older may be submitted to the
155 Department of Law Enforcement for processing and forwarding to
156 the Federal Bureau of Investigation for state and national
157 criminal history information. The department has the discretion
158 to request State Automated Child Welfare Information System
159 (SACWIS) and local, statewide, and national criminal history
160 checks and fingerprinting of any other visitor to the home who
161 is made known to the department. Out-of-state criminal records
162 checks must be initiated for any individual who has resided in a
163 state other than Florida if that state's laws allow the release
164 of these records. The out-of-state criminal records must be
165 filed with the court within 5 days after receipt by the
166 department or its agent.

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167 3. An assessment of the physical environment of the home.

168 4. A determination of the financial security of the
169 proposed legal custodians.

170 5. A determination of suitable child care arrangements if
171 the proposed legal custodians are employed outside of the home.

172 6. Documentation of counseling and information provided to
173 the proposed legal custodians regarding the dependency process
174 and possible outcomes.

175 7. Documentation that information regarding support
176 services available in the community has been provided to the
177 proposed legal custodians.

178 8. The reasonable preference of the child, if the court
179 deems the child to be of sufficient intelligence, understanding,
180 and experience to express a preference.

181
182 The department may not place the child or continue the placement
183 of the child in a home under shelter or postdisposition
184 placement if the results of the home study are unfavorable,
185 unless the court finds that this placement is in the child's
186 best interest.

187 (p)~~(s)~~ If the child has been removed from the home, a
188 determination of the amount of child support each parent will be
189 required to pay pursuant to s. 61.30.

190 ~~(t) If placement of the child with anyone other than the~~
191 ~~child's parent is being considered, the predisposition study~~

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192 ~~shall include the designation of a specific length of time as to~~
193 ~~when custody by the parent will be reconsidered.~~

194
195 Any other relevant and material evidence, including other
196 written or oral reports, may be received by the court in its
197 effort to determine the action to be taken with regard to the
198 child and may be relied upon to the extent of its probative
199 value, even though not competent in an adjudicatory hearing.
200 Except as otherwise specifically provided, nothing in this
201 section prohibits the publication of proceedings in a hearing.

202 (6) With respect to a child who is the subject in
203 proceedings under this chapter, the court may issue to the
204 department an order to show cause why it should not return the
205 child to the custody of the parents upon the presentation of
206 evidence that the conditions for return of the child have been
207 met ~~expiration of the case plan, or sooner if the parents have~~
208 ~~substantially complied with the case plan.~~

209 (7) The court may enter an order ending its jurisdiction
210 over a child when a child has been returned to the parents,
211 provided the court shall not terminate its jurisdiction or the
212 department's supervision over the child until 6 months after the
213 child's return. The department shall supervise the placement of
214 the child after reunification for at least 6 months with each
215 parent or legal custodian from whom the child was removed. The
216 court shall determine whether its jurisdiction should be

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217 continued or terminated in such a case based on a report of the
218 department or agency or the child's guardian ad litem, and any
219 other relevant factors; if its jurisdiction is to be terminated,
220 the court shall enter an order to that effect.

221 Section 11. Subsections (2) and (3) of section 39.522,
222 Florida Statutes, are amended to read:

223 39.522 Postdisposition change of custody.—The court may
224 change the temporary legal custody or the conditions of
225 protective supervision at a postdisposition hearing, without the
226 necessity of another adjudicatory hearing.

227 (2) In cases where the issue before the court is whether a
228 child should be reunited with a parent, the court shall review
229 the conditions for return and determine whether the
230 circumstances that caused the out-of-home placement and issues
231 subsequently identified have been remedied ~~parent has~~
232 ~~substantially complied with the terms of the case plan to the~~
233 ~~extent that the~~ return of the child to the home with an in-home
234 safety plan prepared or approved by the department will not be
235 detrimental to the child's safety, well-being, and physical,
236 mental, and emotional health ~~of the child is not endangered by~~
237 ~~the return of the child to the home.~~

238 (3) In cases where the issue before the court is whether a
239 child who is placed in the custody of a parent should be
240 reunited with the other parent upon a finding that the
241 circumstances that caused the out-of-home placement and issues

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242 subsequently identified have been remedied to the extent that
243 the return of the child to the home of the other parent with an
244 in-home safety plan prepared or approved by the department will
245 not be detrimental to the child ~~of substantial compliance with~~
246 ~~the terms of the case plan,~~ the standard shall be that the
247 safety, well-being, and physical, mental, and emotional health
248 of the child would not be endangered by reunification and that
249 reunification would be in the best interest of the child.

250 Section 12. Subsection (1) of section 39.6011, Florida
251 Statutes, is amended to read:

252 39.6011 Case plan development.—

253 (1) The department shall prepare a draft of the case plan
254 for each child receiving services under this chapter. A parent
255 of a child may not be threatened or coerced with the loss of
256 custody or parental rights for failing to admit in the case plan
257 of abusing, neglecting, or abandoning a child. Participating in
258 the development of a case plan is not an admission to any
259 allegation of abuse, abandonment, or neglect, and it is not a
260 consent to a finding of dependency or termination of parental
261 rights. The case plan shall be developed subject to the
262 following requirements:

263 (a) The case plan must be developed in a face-to-face
264 conference with the parent of the child, any court-appointed
265 guardian ad litem, and, if appropriate, the child and the
266 temporary custodian of the child.

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267 (b) Notwithstanding s. 39.202, the department may discuss
268 confidential information during the case planning conference in
269 the presence of individuals who participate in the conference.
270 All individuals who participate in the conference shall maintain
271 the confidentiality of all information shared during the case
272 planning conference.

273 (c) ~~(b)~~ The parent may receive assistance from any person
274 or social service agency in preparing the case plan. The social
275 service agency, the department, and the court, when applicable,
276 shall inform the parent of the right to receive such assistance,
277 including the right to assistance of counsel.

278 (d) ~~(e)~~ If a parent is unwilling or unable to participate
279 in developing a case plan, the department shall document that
280 unwillingness or inability to participate. The documentation
281 must be provided in writing to the parent when available for the
282 court record, and the department shall prepare a case plan
283 conforming as nearly as possible with the requirements set forth
284 in this section. The unwillingness or inability of the parent to
285 participate in developing a case plan does not preclude the
286 filing of a petition for dependency or for termination of
287 parental rights. The parent, if available, must be provided a
288 copy of the case plan and be advised that he or she may, at any
289 time before the filing of a petition for termination of parental
290 rights, enter into a case plan and that he or she may request
291 judicial review of any provision of the case plan with which he

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292 or she disagrees at any court hearing set for the child.

293 Section 13. Subsection (1) of section 39.6012, Florida
294 Statutes, is amended to read:

295 39.6012 Case plan tasks; services.—

296 (1) The services to be provided to the parent and the
297 tasks that must be completed are subject to the following:

298 (a) The services described in the case plan must be
299 designed to improve the conditions in the home and aid in
300 maintaining the child in the home, facilitate the child's safe
301 return to the home, ensure proper care of the child, or
302 facilitate the child's permanent placement. The services offered
303 must be the least intrusive possible into the life of the parent
304 and child, must focus on clearly defined objectives, and must
305 provide the most efficient path to quick reunification or
306 permanent placement given the circumstances of the case and the
307 child's need for safe and proper care.

308 (b) The case plan must describe each of the tasks with
309 which the parent must comply and the services to be provided to
310 the parent, specifically addressing the identified problem,
311 including:

312 1. The type of services or treatment.

313 2. The date the department will provide each service or
314 referral for the service if the service is being provided by the
315 department or its agent.

316 3. The date by which the parent must complete each task.

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317 4. The frequency of services or treatment provided. The
318 frequency of the delivery of services or treatment provided
319 shall be determined by the professionals providing the services
320 or treatment on a case-by-case basis and adjusted according to
321 their best professional judgment.

322 5. The location of the delivery of the services.

323 6. The staff of the department or service provider
324 accountable for the services or treatment.

325 7. A description of the measurable objectives, including
326 the timeframes specified for achieving the objectives of the
327 case plan and addressing the identified problem.

328 (c) If there is evidence of harm as defined in s.
329 39.01(30)(g), the case plan must include as a required task for
330 the parent whose actions caused the harm that the parent submit
331 to a substance abuse disorder assessment or evaluation and
332 participate and comply with treatment and services identified in
333 the assessment or evaluation as being necessary.

334 Section 14. Subsection (7) is added to section 39.6221,
335 Florida Statutes, to read:

336 39.6221 Permanent guardianship of a dependent child.—

337 (7) The requirements of s. 61.13001 do not apply to
338 permanent guardianships established under this section.

339 Section 15. Paragraph (h) is added to subsection (1) of
340 section 39.701, Florida Statutes, to read:

341 39.701 Judicial review.—

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342 (1) GENERAL PROVISIONS.—

343 (h) If a child is born into a family that is under the
344 court's jurisdiction or a child moves into a home that is under
345 the court's jurisdiction, the department shall assess the
346 child's safety and provide notice to the court.

347 1. The department shall complete an assessment to
348 determine how the addition of a child will impact family
349 functioning. The assessment must be completed at least 30 days
350 before a child is expected to be born or to move into a home, or
351 within 72 hours after the department learns of the pregnancy or
352 addition if the child is expected to be born or to move into the
353 home in less than 30 days. The assessment shall be filed with
354 the court.

355 2. Once a child is born into a family or a child moves
356 into the home, the department shall complete a progress update
357 and file it with the court.

358 3. The court has the discretion to hold a hearing on the
359 progress update filed by the department.

360 4. The department shall adopt rules to implement this
361 subsection.

362 Section 16. Subsection (3) of section 39.801, Florida
363 Statutes, is amended to read:

364 39.801 Procedures and jurisdiction; notice; service of
365 process.—

366 (3) Before the court may terminate parental rights, in

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367 addition to the other requirements set forth in this part, the
368 following requirements must be met:

369 (a) Notice of the date, time, and place of the advisory
370 hearing for the petition to terminate parental rights and a copy
371 of the petition must be personally served upon the following
372 persons, specifically notifying them that a petition has been
373 filed:

- 374 1. The parents of the child.
- 375 2. The legal custodians of the child.
- 376 3. If the parents who would be entitled to notice are dead
377 or unknown, a living relative of the child, unless upon diligent
378 search and inquiry no such relative can be found.
- 379 4. Any person who has physical custody of the child.
- 380 5. Any grandparent entitled to priority for adoption under
381 s. 63.0425.
- 382 6. Any prospective parent who has been identified under s.
383 39.503 or s. 39.803, unless a court order has been entered
384 pursuant to s. 39.503(4) or (9) or s. 39.803(4) or (9) which
385 indicates no further notice is required. Except as otherwise
386 provided in this section, if there is not a legal father, notice
387 of the petition for termination of parental rights must be
388 provided to any known prospective father who is identified under
389 oath before the court or who is identified by a diligent search
390 of the Florida Putative Father Registry. Service of the notice
391 of the petition for termination of parental rights may not be

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392 required if the prospective father executes an affidavit of
393 nonpaternity or a consent to termination of his parental rights
394 which is accepted by the court after notice and opportunity to
395 be heard by all parties to address the best interests of the
396 child in accepting such affidavit.

397 7. The guardian ad litem for the child or the
398 representative of the guardian ad litem program, if the program
399 has been appointed.

400

401 The document containing the notice to respond or appear must
402 contain, in type at least as large as the type in the balance of
403 the document, the following or substantially similar language:

404 "FAILURE TO PERSONALLY APPEAR AT THIS ADVISORY HEARING
405 CONSTITUTES CONSENT TO THE TERMINATION OF PARENTAL RIGHTS OF
406 THIS CHILD (OR CHILDREN). IF YOU FAIL TO APPEAR ON THE DATE AND
407 TIME SPECIFIED, YOU MAY LOSE ALL LEGAL RIGHTS AS A PARENT TO THE
408 CHILD OR CHILDREN NAMED IN THE PETITION ATTACHED TO THIS
409 NOTICE."

410 (b) If a party required to be served with notice as
411 prescribed in paragraph (a) cannot be served, notice of hearings
412 must be given as prescribed by the rules of civil procedure, and
413 service of process must be made as specified by law or civil
414 actions.

415 (c) Notice as prescribed by this section may be waived, in
416 the discretion of the judge, with regard to any person to whom

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417 notice must be given under this subsection if the person
418 executes, before two witnesses and a notary public or other
419 officer authorized to take acknowledgments, a written surrender
420 of the child to a licensed child-placing agency or the
421 department.

422 (d) If the person served with notice under this section
423 fails to personally appear at the advisory hearing, the failure
424 to personally appear shall constitute consent for termination of
425 parental rights by the person given notice. If a parent appears
426 for the advisory hearing and the court orders that parent to
427 personally appear at the adjudicatory hearing for the petition
428 for termination of parental rights, stating the date, time, and
429 location of said hearing, then failure of that parent to
430 personally appear at the adjudicatory hearing shall constitute
431 consent for termination of parental rights.

432 Section 17. Section 39.803, Florida Statutes, is amended,
433 to read:

434 39.803 Identity or location of parent unknown after filing
435 of termination of parental rights petition; special procedures.—

436 (1) If the identity or location of a parent is unknown and
437 a petition for termination of parental rights is filed, the
438 court shall conduct under oath the following inquiry of the
439 parent who is available, or, if no parent is available, of any
440 relative, caregiver, or legal custodian of the child who is
441 present at the hearing and likely to have the information:

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442 (a) Whether the mother of the child was married at the
443 probable time of conception of the child or at the time of birth
444 of the child.

445 (b) Whether the mother was cohabiting with a male at the
446 probable time of conception of the child.

447 (c) Whether the mother has received payments or promises
448 of support with respect to the child or because of her pregnancy
449 from a man who claims to be the father.

450 (d) Whether the mother has named any man as the father on
451 the birth certificate of the child or in connection with
452 applying for or receiving public assistance.

453 (e) Whether any man has acknowledged or claimed paternity
454 of the child in a jurisdiction in which the mother resided at
455 the time of or since conception of the child, or in which the
456 child has resided or resides.

457 (f) Whether a man is named on the birth certificate of the
458 child pursuant to s. 382.013(2).

459 (g) Whether a man has been determined by a court order to
460 be the father of the child.

461 (h) Whether a man has been determined by an administrative
462 proceeding to be the father of the child.

463 (2) The information required in subsection (1) may be
464 supplied to the court or the department in the form of a sworn
465 affidavit by a person having personal knowledge of the facts.

466 (3) If the inquiry under subsection (1) identifies any

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467 person as a parent or prospective parent, the court shall
468 require notice of the hearing to be provided to that person.

469 (4) If the inquiry under subsection (1) fails to identify
470 any person as a parent or prospective parent, the court shall so
471 find and may proceed without further notice.

472 (5) If the inquiry under subsection (1) identifies a
473 parent or prospective parent, and that person's location is
474 unknown, the court shall direct the petitioner to conduct a
475 diligent search for that person before scheduling an
476 adjudicatory hearing regarding the petition for termination of
477 parental rights to the child unless the court finds that the
478 best interest of the child requires proceeding without actual
479 notice to the person whose location is unknown.

480 (6) The diligent search required by subsection (5) must
481 include, at a minimum, inquiries of all known relatives of the
482 parent or prospective parent, inquiries of all offices of
483 program areas of the department likely to have information about
484 the parent or prospective parent, inquiries of other state and
485 federal agencies likely to have information about the parent or
486 prospective parent, inquiries of appropriate utility and postal
487 providers, a thorough search of at least one electronic database
488 specifically designed for locating persons, a search of the
489 Florida Putative Father Registry, and inquiries of appropriate
490 law enforcement agencies. Pursuant to s. 453 of the Social
491 Security Act, 42 U.S.C. s. 653(c)(4), the department, as the

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492 state agency administering Titles IV-B and IV-E of the act,
493 shall be provided access to the federal and state parent locator
494 service for diligent search activities.

495 (7) Any agency contacted by petitioner with a request for
496 information pursuant to subsection (6) shall release the
497 requested information to the petitioner without the necessity of
498 a subpoena or court order.

499 (8) If the inquiry and diligent search identifies a
500 prospective parent, that person must be given the opportunity to
501 become a party to the proceedings by completing a sworn
502 affidavit of parenthood and filing it with the court or the
503 department. A prospective parent who files a sworn affidavit of
504 parenthood while the child is a dependent child but no later
505 than at the time of or before ~~prior to~~ the adjudicatory hearing
506 in the termination of parental rights proceeding for the child
507 shall be considered a parent for all purposes under this
508 section. If the prospective parent does not file a sworn
509 affidavit of parenthood or if the other parent contests the
510 determination of parenthood, the court may, after considering
511 the best interests of the child, order scientific testing to
512 determine the maternity or paternity of the child. The court
513 shall assess the cost of the paternity determination as a cost
514 of litigation. If the court finds the prospective parent to be a
515 parent as a result of the scientific testing, the court shall
516 enter a judgment of maternity or paternity, shall assess the

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517 cost of the scientific testing to the parent, and shall enter an
518 amount of child support to be paid by the parent as determined
519 under s. 61.30. If the known parent contests the recognition of
520 the prospective parent as a parent, the prospective parent shall
521 not be recognized as a parent until proceedings to establish
522 maternity or paternity have been concluded. However, the
523 prospective parent shall continue to receive notice of hearings
524 as a participant until proceedings to establish maternity or
525 paternity have been concluded.