The Journal OF THE House of Representatives

Number 31 **Thursday, April 30, 1998**

The House was called to order by the Speaker at 8:30 a.m.

Prayer

The following prayer was offered by the Reverend Y. Benjamin Bruce, Sr., of Greater Grant Memorial A.M.E. Church of Jacksonville, upon invitation of Rep. Dennis:

Almighty God, our Heavenly Father, without whose help labor is useless, without whose light search is in vain, we ask now that you would invigorate our studies and our minds and direct our thoughts that by due diligence and right discernment we may establish ourselves and others in your holy faith.

Take not, our Father, your heavenly spirit from us. Let not evil thoughts have dominion in our minds. Let us not linger in ignorance, but enlighten and support us. As we tabernacle here, water us with the dew of thy divine spirit. Replenish us with your grace and with your love and undergird us with your omnipotent hand. Bless, eternal God, our Father, those whose responsibility it shall be to govern. Bless, even now, our President of these United States. Be with him during these trying days, and weeks, and months, and years.

For all persons who are responsible for leadership, we ask now that you would bless them. Give to each one of them that something that nature within itself is unable to give. Forgive us, now, of our sins: the sins of omission as well as the sins of commission.

For this day we give thee thanks. We ask that you would guide us through this day and protect us and deliver us not into the hands of our enemies, but help us to understand that weeping men do for a season, but joy comes in the morning. Bless this day; in your name we pray. Amen.

The following Members were recorded present:

The Chair	Bronson	Culp	Greene
Albright	Brooks	Dennis	Hafner
Alexander	Brown	Dockery	Harrington
Andrews	Bullard	Edwards	Healey
Argenziano	Burroughs	Effman	Heyman
Arnall	Bush	Eggelletion	Hill
Arnold	Byrd	Fasano	Horan
Bainter	Carlton	Fischer	Jacobs
Ball	Casey	Flanagan	Jones
Barreiro	Chestnut	Frankel	Kelly
Betancourt	Clemons	Fuller	King
Bitner	Constantine	Futch	Kosmas
Bloom	Cosgrove	Garcia	Lacasa
Boyd	Crady	Gay	Lawson
Bradley	Crist	Goode	Littlefield
Brennan	Crow	Gottlieb	Livingston
Logan	Ogles	Sanderson	Tobin
Lynn	Peaden	Saunders	Trovillion
Mackenzie	Posey	Sembler	Turnbull
Mackey	Prewitt, D.	Silver	Valdes
Maygarden	Pruitt, K.	Sindler	Villalobos
Meek	Putnam	Smith	Wallace
Melvin	Rayson	Spratt	Warner
Merchant	Reddick	Stabins	Wasserman Schultz
Miller	Ritchie	Stafford	Westbrook
Minton	Ritter	Starks	Wiles
Morroni	Roberts-Burke	Sublette	Wise
Morse	Rodriguez-Chomat	Tamargo	Ziebarth
Murman	Safley	Thrasher	

(A list of excused Members appears at the end of the *Journal*.)

A quorum was present.

Pledge

The Members, led by Raymond Tamargo III and Jordan D. Webster, pledged allegiance to the Flag. Raymond Tamargo III of Tampa served at the invitation of Rep. Tamargo. Jordan D. Webster of Winter Garden served at the invitation of his father, Speaker Webster.

House Physician

The Speaker introduced Dr. Steven Rosenburg of West Palm Beach, who served in the Clinic today upon invitation of Rep. Jacobs.

Correction of the *Journal*

The *Journal* of April 29 was corrected and approved as corrected.

Messages from the Senate

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS/CS/HB 315, with amendment, and requests the concurrence of the House.

Faye W. Blanton, Secretary

CS/CS/HB 315—A bill to be entitled An act relating to tax on sales, use, and other transactions; amending s. 212.08, F.S.; revising the exemption for food and drinks; providing definitions; providing an exemption for certain foods, drinks, and other items provided to customers on a complimentary basis by a dealer who sells food products at retail; providing an exemption for foods and beverages donated by such dealers to certain organizations; revising provisions relating to the technical assistance advisory committee established to provide advice in determining taxability of foods and medicines; providing membership

requirements; directing the Department of Revenue to develop guidelines for such determination and providing requirements with respect thereto; providing for use of the guidelines by the committee; providing for determination of the taxability of specific products by the department; authorizing the department to develop a central database with respect thereto; providing an effective date.

Senate Amendment 1 (with title amendment)—On page 8, line 10, through page 9, line 24, delete those lines and insert:

(14) *TECHNICAL ASSISTANCE ADVISORY COMMITTEE.*—The department shall establish a technical assistance advisory committee with public and private sector members, *including representatives of both manufacturers and retailers,* to advise the Department of Revenue and the Department of Health ~~and Rehabilitative Services~~ in determining the taxability of specific products and product lines pursuant to subsection (1) and paragraph (2)(a). In determining taxability and in preparing a list of specific products and product lines *that* ~~which~~ are or are not taxable, the committee shall not be subject to the provisions of chapter 120. Private sector members shall not be compensated for serving on the committee.

Section 2. Subsection (1) of section 213.22, Florida Statutes, is amended to read:

213.22 Technical assistance advisements.—

(1) The department may issue informal technical assistance advisements to persons, upon written request, as to the position of the department on the tax consequences of a stated transaction or event, under existing statutes, rules, or policies. After the issuance of an assessment, a technical assistance advisement may not be issued to a taxpayer who requests an advisement relating to the tax or liability for tax in respect to which the assessment has been made, *except that a technical assistance advisement may be issued to a taxpayer who requests an advisement relating to the exemptions in s. 212.08(1) or (2) at any time.* Technical assistance advisements shall have no precedential value except to the taxpayer who requests the advisement and then only for the specific transaction addressed in the technical assistance advisement, unless specifically stated otherwise in the advisement. Any modification of an advisement shall be prospective only. A technical assistance advisement is not an order issued pursuant to s. 120.565 or s. 120.569 or a rule or policy of general applicability under s. 120.54. The provisions of s. 120.53(1) are not applicable to technical assistance advisements.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, lines 15-23, delete those lines and insert: membership requirements; amending s. 213.22, F.S.; providing for the issuance of technical assistance advisements; providing an effective date.

On motion by Rep. Fuller, the House concurred in Senate Amendment 1. The question recurred on the passage of CS/CS/HB 315. The vote was:

Yeas—114

The Chair	Brennan	Culp	Goode
Albright	Bronson	Dawson-White	Gottlieb
Alexander	Brooks	Dennis	Greene
Andrews	Brown	Dockery	Hafner
Argenziano	Bullard	Effman	Harrington
Arnall	Burroughs	Eggelletion	Healey
Arnold	Bush	Fasano	Heyman
Bainter	Byrd	Feeney	Hill
Ball	Carlton	Fischer	Horan
Barreiro	Casey	Flanagan	Jacobs
Betancourt	Chestnut	Frankel	Jones
Bitner	Constantine	Fuller	Kelly
Bloom	Cosgrove	Futch	King
Boyd	Crady	Garcia	Kosmas
Bradley	Crist	Gay	Lacasa
Lawson	Morse	Safley	Tobin
Littlefield	Murman	Sanderson	Trovillion
Livingston	Ogles	Saunders	Turnbull
Logan	Peaden	Sembler	Valdes
Lynn	Posey	Silver	Villalobos
Mackenzie	Prewitt, D.	Sindler	Wallace
Mackey	Pruitt, K.	Smith	Warner
Maygarden	Putnam	Spratt	Wasserman Schultz
Meek	Rayson	Stabins	Westbrook
Melvin	Reddick	Stafford	Wiles
Merchant	Ritchie	Starks	Wise
Miller	Ritter	Sublette	Ziebarth
Minton	Roberts-Burke	Tamargo	
Morroni	Rodriguez-Chomat	Thrasher	

Nays—None

Excused from time to time for Conference Committee—Bitner, Bradley, Byrd, Clemons, Lippman, Safley, Thrasher, Warner

Votes after roll call:
Yeas—Clemons, Crow, Edwards
Yeas to Nays—Healey, Silver

So the bill passed, as amended. The action was immediately certified to the Senate and the bill was ordered enrolled after engrossment.

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for SB 1710 and requests the concurrence of the House.

Faye W. Blanton, Secretary

By the Committee on Transportation and Senator Dyer—

CS for SB 1710—A bill to be entitled An act relating to the Central Florida Regional Transportation Authority (RAB); amending s. 343.64, F.S.; authorizing the authority to employ personnel and consultants; authorizing a personnel system; providing for delegation of authority; providing an effective date.

—was read the first time by title. On motion by Rep. Fuller, the rules were suspended and the bill was read the second time by title and the third time by title. On passage, the vote was:

Yeas—109

The Chair	Cosgrove	Jacobs	Rayson
Albright	Crady	Jones	Reddick
Alexander	Crist	Kelly	Ritchie
Andrews	Culp	Kosmas	Ritter
Argenziano	Dawson-White	Lacasa	Roberts-Burke
Arnall	Dennis	Lawson	Rodriguez-Chomat
Arnold	Dockery	Littlefield	Safley
Bainter	Effman	Livingston	Sanderson
Ball	Eggelletion	Logan	Saunders
Barreiro	Fasano	Mackenzie	Sembler
Betancourt	Feeney	Mackey	Silver
Bitner	Fischer	Maygarden	Sindler
Bloom	Flanagan	Meek	Smith
Boyd	Frankel	Melvin	Spratt
Bradley	Fuller	Merchant	Stafford
Brennan	Futch	Miller	Starks
Bronson	Gay	Minton	Sublette
Brooks	Goode	Morroni	Tamargo
Bullard	Gottlieb	Morse	Thrasher
Burroughs	Greene	Murman	Tobin
Bush	Hafner	Ogles	Trovillion
Byrd	Harrington	Peaden	Turnbull
Carlton	Healey	Posey	Valdes
Casey	Heyman	Prewitt, D.	Villalobos
Chestnut	Hill	Pruitt, K.	Wallace
Constantine	Horan	Putnam	Warner

Wasserman Schultz Wiles Wise Ziebarth Westbrook

Nays—None

Excused from time to time for Conference Committee—Bitner, Bradley, Byrd, Clemons, Lippman, Safley, Thrasher, Warner

Votes after roll call:
Yeas—Clemons, Crow, Edwards, Lynn, Stabins

So the bill passed and was immediately certified to the Senate.

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed SB 2454, as amended, by the required Constitutional three-fifths vote of the members of the Senate and requests the concurrence of the House.

Faye W. Blanton, Secretary

By the Committee on Ways and Means—

SB 2454—A bill to be entitled An act relating to homestead tax exemptions; providing for a distribution of money to specified persons who are entitled to an homestead tax exemption; providing appropriations; providing a time limit within which challenges to the rebate must be brought; providing an effective date.

—was read the first time by title.

Further consideration of SB 2454 was temporarily postponed under Rule 147.

CS for SB 1564 was temporarily postponed under Rule 147.

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 3509, with amendments, by the required Constitutional three-fifths vote of the members of the Senate and requests the concurrence of the House.

Faye W. Blanton, Secretary

HB 3509—A bill to be entitled An act relating to motor vehicle specialty license plates; amending s. 320.08053, F.S.; revising language with respect to requirements for requests to establish specialty license plates; amending s. 320.08056, F.S.; revising language with respect to specialty license plates to provide criteria for the discontinuance of the issuance of an approved plate; amending s. 320.08062, F.S.; revising language with respect to an annual required audit or report; revising language with respect to annual use fees of special license plates; providing an effective date.

Senate Amendment 1—In title, on page 1, lines 2 and 3, delete those lines and insert: An act relating to motor vehicles; amending s. 320.08053, F.S.;

Senate Amendment 3 (with title amendment)—On page 6, between lines 7 and 8, insert:

Section 4. Section 320.023, Florida Statutes, is created to read:

320.023 Requests to establish voluntary check-off on motor vehicle registration application.—

(1) *An organization that seeks authorization to establish a voluntary contribution on a motor vehicle registration application must submit to the department:*

(a) A request for the particular voluntary contribution being sought, describing the proposed voluntary contribution in general terms.

(b) An application fee, not to exceed $10,000 to defray the department's cost for reviewing the application and developing the voluntary contribution check-off, if authorized. State funds may not be used to pay the application fee.

(c) A marketing strategy outlining short-term and long-term marketing plans for the requested voluntary contribution and a financial analysis outlining the anticipated revenues and the planned expenditures of the revenues to be derived from the voluntary contribution.

The information required under this subsection must be submitted to the department at least 90 days before the convening of the next regular session of the Legislature.

(2) If the voluntary contribution is not approved by the Legislature, the application fee must be refunded to the requesting organization.

(3) The department must include any voluntary contributions approved by the Legislature on the motor vehicle application form when the form is reprinted by the agency.

(4)(a) The department must discontinue the voluntary contribution if:

1. Less than $25,000 has been contributed by the end of the 5th year.

2. Less than $25,000 is contributed during any subsequent 5-year period.

(b) The department is authorized to discontinue the voluntary contribution and distribution of associated proceeds if the organization no longer exists, if the organization has stopped providing services that are authorized to be funded from the voluntary contributions, or pursuant to an organizational recipient's request.

(5) A voluntary contribution collected and distributed under this chapter, or any interest earned from those contributions, may not be used for commercial or for-profit activities nor for general or administrative expenses, except as authorized by law, or to pay the cost of the audit or report required by law.

(a) All organizations that receive annual use fee proceeds from the department are responsible for ensuring that proceeds are used in accordance with law.

(b) All organizational recipients of any voluntary contributions in excess of $15,000, not otherwise subject to annual audit by the Office of the Auditor General, shall submit an annual audit of the expenditures of these contributions and interest earned from these contributions, to determine if expenditures are being made in accordance with the specifications outlined by law. The audit shall be prepared by a certified public accountant licensed under chapter 473 at that organizational recipient's expense. The notes to the financial statements should state whether expenditures were made in accordance with law. Such audits must be delivered to the department no later than December 31 of the calendar year in which the audit was performed.

(c) In lieu of an annual audit, any organization receiving less than $15,000 in voluntary contributions directly from the department may annually report, under penalties of perjury, that such proceeds were used in compliance with law. The attestation shall be made annually in a form and format determined by the department.

(d) Any voluntary contributions authorized by law shall only be distributed to an organization under an appropriation by the Legislature.

(6) By February 1 each year, the department shall determine which recipients have not complied with subsection (5). If the department determines that an organization has not complied or has failed to use the revenues in accordance with law the department must discontinue the distribution of the revenues to the organization until the department determines that the organization has complied. If an organization fails to comply within 12 months after the voluntary contributions are withheld by the department, the proceeds shall be deposited into the Highway Safety Operating Trust Fund to offset department costs.

(7) The Auditor General and the department have the authority to examine all records pertaining to the use of funds from the voluntary contributions authorized.

Section 5. Section 322.081, Florida Statutes, is created to read:

322.081 Requests to establish voluntary check-off on driver's license application.—

(1) *An organization that seeks authorization to establish a voluntary contribution on a driver's license application must submit to the department:*

(a) A request for the particular voluntary contribution being sought, describing the proposed voluntary contribution in general terms.

(b) An application fee, not to exceed $10,000 to defray the department's cost for reviewing the application and developing the voluntary contribution check-off, if authorized. State funds may not be used to pay the application fee.

(c) A marketing strategy outlining short-term and long-term marketing plans for the requested voluntary contribution and a financial analysis outlining the anticipated revenues and the planned expenditures of the revenues to be derived from the voluntary contribution.

The information required under this subsection must be submitted to the department at least 90 days before the convening of the next regular session of the Legislature.

(2) If the voluntary contribution is not approved by the Legislature, the application fee must be refunded to the requesting organization.

(3) The department must include any voluntary contributions approved by the Legislature on the driver's license application form when the form is reprinted by the agency.

(4)(a) The department must discontinue the voluntary contribution if:

1. Less than $25,000 has been contributed by the end of the 5th year.

2. Less than $25,000 is contributed during any subsequent 5-year period.

(b) The department is authorized to discontinue the voluntary contribution and distribution of associated proceeds if the organization no longer exists, if the organization has stopped providing services that are authorized to be funded from the voluntary contributions, or pursuant to an organizational recipient's request.

(5) A voluntary contribution collected and distributed under this chapter, or any interest earned from those contributions, may not be used for commercial or for-profit activities nor for general or administrative expenses, except as authorized by law, or to pay the cost of the audit or report required by law.

(a) All organizations that receive annual use fee proceeds from the department are responsible for ensuring that proceeds are used in accordance with law.

(b) All organizational recipients of any voluntary contributions in excess of $15,000, not otherwise subject to annual audit by the Office of the Auditor General, shall submit an annual audit of the expenditures of these contributions and interest earned from these contributions, to determine if expenditures are being made in accordance with the specifications outlined by law. The audit shall be prepared by a certified public accountant licensed under chapter 473 at that organizational recipient's expense. The notes to the financial statements should state whether expenditures were made in accordance with law. Such audits must be delivered to the department no later than December 31 of the calendar year in which the audit was performed.

(c) In lieu of an annual audit, any organization receiving less than $15,000 in voluntary contributions directly from the department may annually report, under penalties of perjury, that such proceeds were used in compliance with law. The attestation shall be made annually in a form and format determined by the department.

(d) Any voluntary contributions authorized by law shall only be distributed to an organization under an appropriation by the Legislature.

(6) By February 1 each year, the department shall determine which recipients have not complied with subsection (5). If the department determines that an organization has not complied or has failed to use the revenues in accordance with law the department must discontinue the distribution of the revenues to the organization until the department determines that the organization has complied. If an organization fails to comply within 12 months after the voluntary contributions are withheld by the department, the proceeds shall be deposited into the Highway Safety Operating Trust Fund to offset department costs.

(7) The Auditor General and the department have the authority to examine all records pertaining to the use of funds from the voluntary contributions authorized.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 13, after the semicolon (;) insert: creating s. 320.023, F.S.; revising language with respect to requirements for requests to establish voluntary contributions on motor vehicle registration applications; providing criteria for the discontinuance of the issuance of an approved voluntary contribution; requiring an annual audit or report; providing criteria for discontinuing a voluntary contribution; creating s. 322.081, F.S.; revising language with respect to requirements for requests to establish voluntary contributions on driver's license applications; providing criteria for the discontinuance of the issuance of an approved voluntary contribution; requiring an annual audit or report; providing criteria for discontinuing a voluntary contribution;

Senate Amendment 4—On page 5, line 6, after "*department*" insert: *, or from another state agency,*

Senate Amendment 5—On page 2, line 19, after the period (.) insert: *Any private college or university for whom legislation was filed to create a speciality license plate in the 1997 legislative session may reapply for such speciality license plate for consideration in the 1999 legislative session subject to the application fee which was in effect for the 1997 application. All other requirements in current law must be met.*

Senate Amendment 6 (with title amendment)—On page 6, between lines 7 and 8, insert:

Section 4. Effective July 1, 1999, paragraph (a) of subsection (4) of section 320.08056, Florida Statutes, is amended to read:

320.08056 Specialty license plates.—

(4) The following license plate annual use fees shall be collected for the appropriate specialty license plates:

(a) Manatee license plate, *$20* ~~$15~~.

Section 5. Effective July 1, 1999, paragraph (b) of subsection (1) of section 320.08058, Florida Statutes, is amended to read:

320.08058 Specialty license plates.—

(1) MANATEE LICENSE PLATES.—

(b)~~1.~~ The manatee license plate annual use fee must be deposited into the Save the Manatee Trust Fund, created within the Department of Environmental Protection. The funds deposited in the Save the Manatee Trust Fund may be used only for *manatee-related* environmental education; manatee research; facilities, as provided in s. 370.12(5)(b); and manatee protection and recovery.

~~2. For fiscal year 1996-1997, 25 percent of the manatee license plate annual use fee must be deposited into the Save the Manatee Trust Fund within the Department of Environmental Protection and shall be used for manatee facilities as provided in s. 370.12(5)(b).~~

Section 6. Effective July 1, 1999, paragraph (t) is added to subsection (1) of section 215.22, Florida Statutes, to read:

215.22 Certain income and certain trust funds exempt.—

(1) The following income of a revenue nature or the following trust funds shall be exempt from the deduction required by s. 215.20(1):

(t) The Save the Manatee Trust Fund.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 13, after the semicolon (;) insert: amending s. 320.08056, F.S.; increasing the annual use fee for manatee license plates; amending s. 320.08058, F.S.; revising the permitted use of such fees; amending s. 215.22, F.S.; exempting the Save the Manatee Trust Fund from certain required contributions to the General Revenue Fund;

REPRESENTATIVE CRADY IN THE CHAIR

Representative(s) Hill offered the following:

House Amendment 1 to Senate Amendment 5—On page 1, lines 17-23,
remove from the amendment: all of said lines

and insert in lieu thereof:
The provisions of this act shall not apply to any organization which has requested and received the required forms for obtaining a specialty license plate authorization from the Department of Highway Safety and Motor Vehicles, has opened a bank account for the funds collected for the specialty license tag and has made deposits to such an account, and has obtained signatures toward completing the requirements for the specialty license tag. All applications requested on or after the effective date of this act must meet the requirements of this act.

Rep. Hill moved the adoption of the amendment to the amendment, which was adopted.

On motion by Rep. Constantine, the House concurred in Senate Amendment 5, as amended.

On further motion by Rep. Constantine, the House concurred in Senate Amendments 1, 3, 4, and 6. The question recurred on the passage of HB 3509. The vote was:

Yeas—113

The Chair	Crow	Kosmas	Rodriguez-Chomat
Albright	Culp	Lacasa	Safley
Alexander	Dawson-White	Lawson	Sanderson
Andrews	Dennis	Littlefield	Saunders
Argenziano	Dockery	Livingston	Sembler
Arnall	Edwards	Logan	Silver
Arnold	Effman	Lynn	Sindler
Bainter	Eggelletion	Mackenzie	Smith
Ball	Fasano	Mackey	Spratt
Barreiro	Feeney	Maygarden	Stabins
Betancourt	Fischer	Meek	Stafford
Bitner	Flanagan	Melvin	Starks
Bloom	Frankel	Merchant	Sublette
Boyd	Fuller	Miller	Tamargo
Bradley	Futch	Minton	Thrasher
Brennan	Garcia	Morroni	Tobin
Bronson	Gay	Morse	Trovillion
Brooks	Goode	Murman	Turnbull
Brown	Gottlieb	Ogles	Valdes
Bullard	Hafner	Peaden	Villalobos
Burroughs	Harrington	Posey	Wallace
Bush	Healey	Prewitt, D.	Warner
Byrd	Heyman	Pruitt, K.	Wasserman Schultz
Carlton	Hill	Putnam	Westbrook
Casey	Horan	Rayson	Wiles
Chestnut	Jacobs	Reddick	Wise
Clemons	Jones	Ritchie	
Constantine	Kelly	Ritter	
Cosgrove	King	Roberts-Burke	

Nays—1

Ziebarth

Excused from time to time for Conference Committee—Bitner, Bradley, Byrd, Clemons, Lippman, Safley, Thrasher, Warner

Votes after roll call:
Yeas—Crist

So the bill passed, as amended. The action, together with the bill and amendments thereto, was immediately certified to the Senate.

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 755, with amendment, and requests the concurrence of the House.

Faye W. Blanton, Secretary

HB 755—A bill to be entitled An act relating to education; amending s. 110.131, F.S.; deleting the requirement that the Board of Regents comply with recordkeeping and reporting requirements for other-personal-services employment; amending s. 235.055, F.S.; deleting authority of the Board of Regents to construct facilities on leased property and enter into certain leases; amending s. 235.195, F.S.; modifying provisions relating to joint-use facilities; amending s. 240.1201, F.S.; classifying specified Canadian military personnel as residents for tuition purposes; amending s. 240.147, F.S.; correcting a cross reference; amending s. 240.205, F.S.; revising the acquisition and contracting authority of the Board of Regents; amending s. 240.209, F.S.; authorizing procedures to administer an acquisition program; authorizing the Board of Regents to sell, convey, transfer, exchange, trade, or purchase real property and related improvements; providing requirements; amending s. 240.214, F.S.; revising provisions relating to the State University System accountability process; amending s. 240.227, F.S.; revising the acquisition and contracting authority of university presidents; authorizing adjustment of property records and disposal of certain tangible personal property; amending s. 240.289, F.S.; revising rulemaking for credit card, charge card, or debit card use; amending s. 243.151, F.S.; providing a procedure under which a university may construct facilities on leased property; amending s. 287.012, F.S.; excluding the Board of Regents and the State University System from the term "agency" for purposes of state procurement of commodities and services; repealing ss. 240.225, 240.247, 240.4988(4), and 287.017(3), F.S., relating to delegation of authority by the Department of Management Services to the State University System, eradication of salary discrimination, Board of Regents' rules for the Theodore R. and Vivian M. Johnson Scholarship Program, and applicability of purchasing category rules to the State University System; amending s. 240.2475, F.S., relating to the State University System equity accountability program; requiring each state university to maintain an equity plan to increase the representation of women and minorities in faculty and administrative positions; providing for the submission of reports; requiring the development of a plan for achievement of equity; providing for administrative evaluations; requiring the development of a budgetary incentive plan; providing for an appropriation; amending s. 240.3355, F.S., relating to the State Community College System equity accountability program; requiring each community college to maintain a plan to increase the representation of women and minorities in faculty and administrative positions; providing contents of an employment accountability plan; requiring the development of a plan for corrective action; providing for administrative evaluations; providing for submission of reports; requiring the development of a budgetary incentive plan; providing an effective date.

Senate Amendment 1 (with title amendment)—

Delete everything after the enacting clause

and insert:

Section 1. Paragraph (a) of subsection (6) of section 110.131, Florida Statutes, is amended to read:

110.131 Other-personal-services temporary employment.—

(6)(a) The provisions of subsections (2), (3), and (4) do not apply to any employee for whom the Board of Regents or the Board of Trustees of the Florida School for the Deaf and the Blind is the employer as defined in s. 447.203(2); except that, for purposes of subsection (5), ~~the Board of Regents and~~ the Board of Trustees of the Florida School for the Deaf and the Blind shall comply with the recordkeeping and reporting requirements adopted by the department pursuant to subsection (3) with respect to those other-personal-services employees exempted by this subsection.

Section 2. Subsection (1) of section 228.055, Florida Statutes, is amended to read:

228.055 Regional autism centers.—

(1) *Six* ~~Five~~ regional autism centers are established to provide nonresidential resource and training services for persons of all ages and of all levels of intellectual functioning who have autism, as defined in s. 393.063; who have a pervasive developmental disorder that is not otherwise specified; who have an autistic-like disability; who have a dual sensory impairment; or who have a sensory impairment with other handicapping conditions. Each center shall be operationally and fiscally independent and shall provide services within its geographical region of the state. Each center shall coordinate services within and between state and local agencies and school districts but may not duplicate services provided by those agencies or school districts. The respective locations and service areas of the centers are:

(a) The Department of Communication Disorders at Florida State University, which serves Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson, Leon, Liberty, Madison, Okaloosa, Santa Rosa, Taylor, Wakulla, Walton, and Washington Counties.

(b) The College of Medicine at the University of Florida, which serves Alachua, Bradford, Citrus, Columbia, Dixie, Gilchrist, Hamilton, Hernando, Lafayette, ~~Lake,~~ Levy, Marion, ~~Orange, Osceola,~~ Putnam, ~~Seminole, Sumter,~~ Suwannee, and Union Counties.

(c) The University of Florida Health Science Center at Jacksonville, which serves Baker, ~~Brevard,~~ Clay, Duval, Flagler, Nassau, *and* St. Johns~~, and Volusia~~ Counties. (d) The Florida Mental Health Institute at the University of South Florida, which serves Charlotte, Collier, DeSoto, Glades, Hardee, Hendry, Highlands, Hillsborough, Indian River, Lee, Manatee, Martin, Okeechobee, Pasco, Pinellas, Polk, St. Lucie, and Sarasota Counties.

(d) The Florida Mental Health Institute at the University of South Florida, which serves Charlotte, Collier, DeSoto, Glades, Hardee, Hendry, Highlands, Hillsborough, Indian River, Lee, Manatee, Martin, Okeechobee, Pasco, Pinellas, Polk, St. Lucie, and Sarasota Counties.

(e) The Mailman Center for Child Development at the University of Miami, which serves Broward, Dade, Monroe, and Palm Beach Counties.

(f) The College of Health and Public Affairs at the University of Central Florida, which serves Brevard, Lake, Orange, Osceola, Seminole, Sumter, and Volusia Counties.

Section 3. Section 235.055, Florida Statutes, is amended to read:

235.055 Construction of facilities on leased property; conditions.—

(1) *A board may* ~~Boards, including the Board of Regents, are authorized to~~ construct or place educational facilities and ancillary facilities on land which is owned by any person after the board has acquired from the owner of the land a long-term lease for the use of this land for a period of not less than 40 years or the life expectancy of the permanent facilities constructed thereon, whichever is longer.

(2) A board *may*~~, including the Board of Regents, is authorized to~~ enter into a short-term lease for the use of land owned by any person on which temporary or relocatable facilities are to be utilized.

Section 4. Subsections (2), (3), and (4) of section 235.195, Florida Statutes, are amended to read:

235.195 Cooperative development and use of facilities by two or more boards.—

(2) An educational plant survey must be conducted within 90 days after submission of the joint resolution and substantiating data describing the benefits to be obtained, the programs to be offered, and the estimated cost of the proposed project. Upon completion of the educational plant survey, the participating boards may include the recommended projects in their plan as provided in *s. 235.15* ~~s. 235.16~~. Upon approval of the project by the commissioner, ~~up to~~ 25 percent of the total cost of the project, *or the pro rata share based on space utilization of 25 percent of the cost,* must be included in the department's legislative capital outlay budget request as provided in s. 235.41 for educational plants. The participating boards must include in their joint resolution a commitment to finance the remaining funds necessary to complete the planning, construction, and equipping of the facility. Funds from the Public Education Capital Outlay and Debt Service Trust Fund may not be expended on any project unless specifically authorized by the Legislature.

(3) Included in all proposals for joint-use facilities ~~which result in the creation of one or more new campuses for public postsecondary educational institutions~~ must be documentation that the proposed *new* campus *or new joint-use facility* has been reviewed by the Postsecondary Education Planning Commission, recommended to the State Board of Education, and has been formally requested for authorization by the Legislature in accordance with s. 240.147(8).

(4) No school board, community college, or state university shall receive funding for more than one approved joint-use facility *per campus* in any *3-year* ~~5-year~~ period ~~effective August 1, 1990. All projects previously approved under the provisions of this section shall not be affected. The first year of the 5-year period shall be the first year a board receives an appropriation~~.

Section 5. Paragraph (j) is added to subsection (10) of section 240.1201, Florida Statutes, to read:

240.1201 Determination of resident status for tuition purposes.—Students shall be classified as residents or nonresidents for the purpose of assessing tuition fees in public community colleges and universities.

(10) The following persons shall be classified as residents for tuition purposes:

(j) Active duty members of the Canadian military residing or stationed in this state under the North American Air Defense (NORAD) agreement, and their spouses and dependent children, attending a public community college or university within 50 miles of the military establishment where they are stationed.

Section 6. Subsection (4) of section 240.147, Florida Statutes, is amended to read:

240.147 Powers and duties of the commission.—The commission shall:

(4) Recommend to the State Board of Education contracts with independent institutions to conduct programs consistent with the state master plan for postsecondary education. In making recommendations, the commission shall consider the annual report submitted by the Board of Regents pursuant to *s. 240.209(3)(s)* ~~s. 240.209(3)(r)~~. Each program shall be reviewed, with the cooperation of the institution, every 5 years.

Section 7. Subsection (6) of section 240.205, Florida Statutes, is amended to read:

240.205 Board of Regents incorporated.—The Board of Regents is hereby created as a body corporate with all the powers of a body corporate for all the purposes created by, or that may exist under, the provisions of this chapter or laws amendatory hereof and shall:

(6) Acquire real and personal property and contract for the sale and disposal of same and approve and execute contracts for *the acquisition of commodities,* goods, equipment, *contractual* ~~or~~ services, ~~including educational services for~~ leases of real and personal property, and ~~for~~

construction~~, in accordance with chapter 287, as applicable~~. The acquisition may include purchase by installment or lease-purchase. Such contracts may provide for payment of interest on the unpaid portion of the purchase price. The board may also acquire the same *commodities,* goods, equipment, *contractual* services, leases, and construction~~, as designated for the board,~~ for use by a university when the contractual obligation exceeds *$1 million* ~~$500,000~~. Title to all real property, however acquired, shall be vested in the Board of Trustees of the Internal Improvement Trust Fund and shall be transferred and conveyed by it. *Notwithstanding any other provisions of this subsection, the Board of Regents shall comply with the provisions of s. 287.055 for the procurement of professional services as defined therein.*

Section 8. Paragraphs (e) and (r) of subsection (3) of section 240.209, Florida Statutes, are amended, and subsection (9) is added to that section, to read:

240.209 Board of Regents; powers and duties.—

(3) The board shall:

(e) Establish student fees.

1. By no later than December 1 of each year, the board shall raise the systemwide standard for resident undergraduate matriculation and financial aid fees for the subsequent fall term, up to but no more than 25 percent of the prior year's cost of undergraduate programs. In implementing this paragraph, fees charged for graduate, medical, veterinary, and dental programs may be increased by the Board of Regents in the same percentage as the increase in fees for resident undergraduates. However, in the absence of legislative action to the contrary in an appropriations act, the board may not approve annual fee increases for resident students in excess of 10 percent. The sum of nonresident student matriculation and tuition fees must be sufficient to defray the full cost of undergraduate education. Graduate, medical, veterinary, and dental fees charged to nonresidents may be increased by the board in the same percentage as the increase in fees for nonresident undergraduates. However, in implementing this policy and in the absence of legislative action to the contrary in an appropriations act, annual fee increases for nonresident students may not exceed 25 percent. In the absence of legislative action to the contrary in the General Appropriations Act, the fees shall go into effect for the following fall term.

2. When the appropriations act requires a new fee schedule, the board shall establish a systemwide standard fee schedule required to produce the total fee revenue established in the appropriations act based on the product of the assigned enrollment and the fee schedule. The board may approve the expenditure of any fee revenues resulting from the product of the fee schedule adopted pursuant to this section and the assigned enrollment.

3. Upon provision of authority in a General Appropriations Act to spend revenue raised pursuant to this section, the board shall approve a university request to implement a matriculation and out-of-state tuition fee schedule which is calculated to generate revenue which varies no more than 10 percent from the standard fee revenues authorized through an appropriations act. In implementing an alternative fee schedule, the increase in cost to a student taking 15 hours in one term shall be limited to 5 percent. Matriculation and out-of-state tuition fee revenues generated as a result of this provision are to be expended for implementing a plan for achieving accountability goals adopted pursuant to s. 240.214~~(2)~~ and for implementing a Board of Regents-approved plan to contain student costs by reducing the time necessary for graduation without reducing the quality of instruction. The plans shall be recommended by a universitywide committee, at least one-half of whom are students appointed by the student body president. A chairperson, appointed jointly by the university president and the student body president, shall vote only in the case of a tie.

4. The board is authorized to collect for financial aid purposes an amount not to exceed 5 percent of the student tuition and matriculation fee per credit hour. The revenues from fees are to remain at each campus and replace existing financial aid fees. Such funds shall be disbursed to students as quickly as possible. The board shall specify specific limits on the percent of the fees collected in a fiscal year which may be carried forward unexpended to the following fiscal year. A minimum of 50 percent of funds from the student financial aid fee shall be used to provide financial aid based on absolute need. A student who has received an award prior to July 1, 1984, shall have his or her eligibility assessed on the same criteria that was used at the time of his or her original award.

5. The board may recommend to the Legislature an appropriate systemwide standard matriculation and tuition fee schedule.

6. The Education and General Student and Other Fees Trust Fund is hereby created, to be administered by the Department of Education. Funds shall be credited to the trust fund from student fee collections and other miscellaneous fees and receipts. The purpose of the trust fund is to support the instruction and research missions of the State University System. Notwithstanding the provisions of s. 216.301, and pursuant to s. 216.351, any balance in the trust fund at the end of any fiscal year shall remain in the trust fund and shall be available for carrying out the purposes of the trust fund.

(r) Adopt such rules as are necessary to carry out its duties and responsibilities, *including, but not limited to, procedures to administer an acquisition program for the purchase or lease of real and personal property and contractual services pursuant to s. 240.205(6).*

(9) Notwithstanding the provisions of s. 253.025, the Board of Regents may, with the consent of the Board of Trustees of the Internal Improvement Trust Fund, sell, convey, transfer, exchange, trade, or purchase real property and related improvements necessary and desirable to serve the needs and purposes of a university in the State University System.

(a) The board may secure appraisals and surveys. The board shall comply with the rules of the Board of Trustees of the Internal Improvement Trust Fund in securing appraisals. Whenever the board finds it necessary for timely property acquisition, it may contract, without the need for competitive selection, with one or more appraisers whose names are contained on the list of approved appraisers maintained by the Division of State Lands in the Department of Environmental Protection.

(b) The board may negotiate and enter into an option contract before an appraisal is obtained. The option contract must state that the final purchase price may not exceed the maximum value allowed by law. The consideration for such an option contract may not exceed 10 percent of the estimate obtained by the board or 10 percent of the value of the parcel, whichever is greater, unless otherwise authorized by the board.

(c) This subsection is not intended to abrogate in any manner the authority delegated to the Board of Trustees of the Internal Improvement Trust Fund or the Division of State Lands to approve a contract for purchase of state lands or to require policies and procedures to obtain clear legal title to parcels purchased for state purposes. Title to property acquired by the board shall vest in the Board of Trustees of the Internal Improvement Trust Fund.

Section 9. Subsections (1) and (3) of section 240.2097, Florida Statutes, are amended to read:

240.2097 Education programs, limited access status; transfer students; student handbook; rules.—The Board of Regents shall adopt rules to include the following provisions:

(1) The criteria for assigning limited access status to an educational program shall be delineated. A process for the periodic review of programs shall be identified so that the board can determine the need for retention or removal of limited access status. ~~The board shall provide in a report to the Legislature, by institution, a list of all limited access programs, the minimum admission standards for each program, and a copy of the most recent review demonstrating the need for retention of limited access status. Such report shall be submitted by December 1, 1990, and annually thereafter.~~

(3) Each university shall *review* ~~compile~~ and update *as necessary* ~~annually~~ a student handbook that includes, but is not limited to, ~~a comprehensive calendar that emphasizes important dates and deadlines,~~ student rights and responsibilities, appeals processes available to students, a roster of contact persons within the administrative staff available to respond to student inquiries, and a statement as to the State University System policy on acquired immune deficiency syndrome including the name and telephone number of the university acquired immune deficiency syndrome counselor. Each student handbook must include a statement displayed prominently which provides that the university will not tolerate the sale, possession, or use of controlled substances, with the exception of medication prescribed by a physician and taken in accordance with the prescribed usage, nor will the university tolerate the consumption of alcoholic beverages by students younger than 21 years of age or the sale of alcoholic beverages to students younger than 21 years of age. Each student handbook must also list the legal and university-specific sanctions that will be imposed upon students who violate the law or university policies regarding controlled substances and alcoholic beverages.

Section 10. Section 240.214, Florida Statutes, is amended to read:

240.214 State University System accountability process.—It is the intent of the Legislature that an accountability process be implemented which provides for the systematic, ongoing evaluation of quality and effectiveness in the State University System. It is further the intent of the Legislature that this accountability process monitor performance at the system level in each of the major areas of instruction, research, and public service, while recognizing the differing missions of each of the state universities. The accountability process shall provide for the adoption of systemwide performance standards and performance goals for each standard identified through a collaborative effort involving the State University System, the Legislature, and the Governor's Office. *These standards and goals shall be consistent with s. 216.011(1) to maintain congruity with the performance-based budgeting process. This process requires that university accountability reports reflect measures defined through performance-based budgeting. The performance-based budgeting measures must also reflect the elements of teaching, research, and service inherent in the missions of the institutions in the State University System.* ~~The accountability process shall result in an annual accountability report to the Legislature.~~

~~(1) The annual accountability report shall include goals and measurable objectives related to the systemwide strategic plan pursuant to s. 240.209. The plan must include, at a minimum, objectives related to the following measures:~~

~~(a) Total student credit hours;~~

~~(b) Total number of contact hours of instruction produced by faculty, by institution, rank, and course level;~~

~~(c) Pass rates on professional licensure examinations, by institution;~~

~~(d) Institutional quality as assessed by followup, such as analyses of employment information on former students, national rankings, and surveys of alumni, parents, clients, and employers;~~

~~(e) Length of time and number of academic credits required to complete an academic degree, by institution and by degree;~~

~~(f) Enrollment, progression, retention, and graduation rates by race and gender;~~

~~(g) Student course demand;~~

~~(h) An analysis of administrative and support functions;~~

~~(i) Every 3 years, beginning 1995-1996, an analysis of the cumulative debt of students; and~~

~~(j) An evaluation of the production of classroom contact hours at each university in comparison to a standard of 12 contact hours per term or 32 contact hours per year for each full-time instructional position and the level of funding provided for instruction.~~

(1)~~(2)~~ By December 31 of each year, the Board of Regents shall submit *an* ~~the~~ annual accountability report providing information on the implementation of performance standards, actions taken to improve university achievement of performance goals, the achievement of performance goals during the prior year, and initiatives to be undertaken during the next year. The accountability reports shall be designed in consultation with the Governor's Office, the Office of the Auditor General, and the Legislature.

(2)~~(3)~~ The Board of Regents shall recommend in the annual accountability report any appropriate modifications to this section.

Section 11. Subsections (12) and (13) of section 240.227, Florida Statutes, are amended to read:

240.227 University presidents; powers and duties.—The president is the chief administrative officer of the university and is responsible for the operation and administration of the university. Each university president shall:

(12) Approve and execute contracts for *the acquisition of commodities,* goods, ~~for~~ equipment, ~~for~~ services, ~~including educational services, for~~ leases *of* ~~for~~ real *and personal* property, and ~~for~~ construction to be rendered to or by the university, provided such contracts are made pursuant to *rules of the Board of Regents* ~~the provisions of chapter 287, as applicable~~, are for the implementation of approved programs of the university, and do not require expenditures in excess of *$1 million* ~~$500,000~~. *The acquisition* ~~Goods and equipment~~ may be *made* ~~acquired~~ by installment or lease-purchase contract. Such contracts may provide for the payment of interest on the unpaid portion of the purchase price. *Notwithstanding any other provisions of this subsection, university presidents shall comply with the provisions of s. 287.055 for the procurement of professional services and may approve and execute all contracts for planning, construction, and equipment for projects with building programs and construction budgets approved by the Board of Regents.*

(13) Manage the property and financial resources of the university, *including, but not limited to, having the authority to adjust property records and dispose of state-owned tangible personal property in the university's custody in accordance with procedures established by the Board of Regents. Notwithstanding the provisions of s. 273.055(5), all moneys received from the disposition of state-owned tangible personal property shall be retained by the university and disbursed for the acquisition of tangible personal property and for all necessary operating expenditures. The university shall maintain records of the accounts into which such moneys are deposited* ~~pursuant to s. 240.225~~.

Section 12. Subsection (16) is added to section 240.241, Florida Statutes, to read:

240.241 Divisions of sponsored research at state universities.—

(16) Notwithstanding the provisions of s. 216.351, section 216.346 does not apply to contracts or subcontracts between state universities, between community colleges, or between state universities and community colleges.

Section 13. Section 240.2605, Florida Statutes, is amended to read:

240.2605 Trust Fund for Major Gifts.—

(1) There is established a Trust Fund for Major Gifts. *The purpose of the* ~~Such~~ trust fund *is to enable* ~~shall provide~~ *the Board of Regents Foundation,* each university, and New College ~~with the opportunity~~ to provide donors with an incentive in the form of matching grants for donations for the establishment of permanent endowments, which *must* ~~shall~~ be invested, with the proceeds of the investment used to support libraries and instruction and research programs, as defined by *procedure* ~~rule~~ of the Board of Regents. All funds appropriated for the challenge grants, new donors, major gifts, or eminent scholars program *must* ~~shall~~ be deposited into the trust fund and invested pursuant to ~~the provisions of~~ s. 18.125 until the Board of Regents allocates *the* ~~such~~ funds to universities to match private donations. Notwithstanding ~~the provisions of~~ s. 216.301 and pursuant to s. 216.351, any undisbursed

balance remaining in the trust fund and interest income accruing to the portion of the trust fund *which is* not matched and distributed to universities *must remain in the trust fund and used to* ~~shall~~ increase the total funds available for challenge grants. The Board of Regents may authorize any university to encumber the state matching portion of a challenge grant from funds available under s. 240.272.

(2) The Board of Regents shall specify the process for submission, documentation, and approval of requests for matching funds, accountability for endowments and proceeds of endowments, allocations to universities, restrictions on the use of the proceeds from endowments, and criteria used in determining the value of donations.

(3)(a) *The Board of Regents shall allocate* the amount appropriated to the trust fund ~~shall be allocated by the Board of Regents~~ to *the Board of Regents Foundation,* each university, and New College based on the amount of the donation and the restrictions applied to the donation.

(b) Donations for a specific purpose *must be* ~~are~~ matched in the following manner:

1. *The Board of Regents Foundation and* each university that raises at least $100,000 but no more than $599,999 from a private source *must* ~~shall~~ receive a matching grant equal to 50 percent of the private contribution.

2. *The Board of Regents Foundation and* each university that raises a contribution of at least $600,000 but no more than $1 million from a private source *must* ~~shall~~ receive a matching grant equal to 70 percent of the private contribution.

3. *The Board of Regents Foundation and* each university that raises a contribution in excess of $1 million but no more than $1.5 million from a private source *must* ~~shall~~ receive a matching grant equal to 75 percent of the private contribution.

4. *The Board of Regents Foundation and* each university that raises a contribution in excess of $1.5 million but no more than $2 million from a private source *must* ~~shall~~ receive a matching grant equal to 80 percent of the private contribution.

5. *The Board of Regents Foundation and* each university that raises a contribution in excess of $2 million from a private source *must* ~~shall~~ receive a matching grant equal to 100 percent of the private contribution.

(c) The Board of Regents shall encumber state matching funds for any pledged contributions, pro rata, based on the requirements for state matching funds as specified for the particular challenge grant and the amount of the private donations actually received by the university *or Board of Regents Foundation* for the respective challenge grant.

(4) Matching funds may be provided for contributions encumbered or pledged under the Florida Endowment Trust Fund for Eminent Scholars Act prior to July 1, 1994, and for donations or pledges of any amount equal to or in excess of the prescribed minimums which are pledged for the purpose of this section.

(5)(a) *The Board of Regents Foundation,* each university foundation, and New College Foundation shall establish a challenge grant account for each challenge grant as a depository for private contributions and state matching funds to be administered on behalf of the *Board of Regents, the* university, or New College. State matching funds *must* ~~shall~~ be transferred to a university foundation or New College Foundation upon notification that the university or New College has received and deposited the amount specified in this section in a foundation challenge grant account.

(b) The foundation serving a university and New College Foundation *each has* ~~shall have~~ the responsibility for the maintenance and investment of its challenge grant account and for the administration of the program on behalf of the university or New College, pursuant to procedures specified by the Board of Regents. Each foundation shall include in its annual report to the Board of Regents information concerning collection and investment of matching gifts and donations and investment of the account.

(c) A donation of at least $600,000 and associated state matching funds may be *used to designate* ~~designated as~~ an Eminent Scholar Endowed Chair pursuant to procedures specified by the Board of Regents.

(6) The donations, state matching funds, or proceeds from endowments established *under* ~~pursuant to~~ this section *may* ~~shall~~ not be expended for the construction, renovation, or maintenance of facilities or for the support of intercollegiate athletics.

(7) The Board of Regents Foundation may participate in the same manner as a university foundation with regard to the provisions of this section.

Section 14. Subsection (9) of section 240.281, Florida Statutes, is amended to read:

240.281 Deposit of funds received by institutions and agencies in the State University System.—All funds received by any institution or agency in the State University System, from whatever source received and for whatever purpose, shall be deposited in the State Treasury subject to disbursement in such manner and for such purposes as the Legislature may by law provide. The following funds shall be exempt from the provisions of this section and, with the approval of the Board of Regents, may be deposited outside the State Treasury:

(9) Such other funds as may be approved by the Board of Regents and the Executive Office of the Governor *subject to the review provisions of s. 216.177.*

Section 15. Present subsection (4) of section 243.151, Florida Statutes, is renumbered as subsection (5), present subsection (3) is renumbered as subsection (4) and amended, and a new subsection (3) is added to that section, to read:

243.151 Lease agreements; land, facilities.—

(3) Upon approval by the Board of Regents, a university may:

(a) Construct educational facilities on land that is owned by a direct-support organization, as defined in s. 240.299, or a governmental agency at the federal, state, county, or municipal level, if the university has acquired a long-term lease for the use of the land. The lease must be for at least 40 years or the expected time the facilities to be constructed on the land are expected to remain in a condition acceptable for use, whichever is longer.

(b) Acquire a short-term lease from one of the entities listed in paragraph (a) for the use of land, if adequate temporary or relocatable facilities are available on the land.

(c) Enter into a short-term lease for the use of land and buildings upon which capital improvements may be made.

If sufficient land is not available from any of the entities listed in paragraph (a), a university may acquire a short-term lease from a private landowner or developer.

(4)~~(3)~~ Agreements as provided in this section shall be entered into with an offeror resulting from publicly announced competitive bids or proposals, except that the university may enter into an agreement *with an entity enumerated in paragraph (3)(a) for leasing land or* with a direct-support organization as provided in s. 240.299, which shall enter into subsequent agreements for financing and constructing the project after receiving competitive bids or proposals. Any facility constructed, lease-purchased, or purchased under such agreements, whether erected on land under the jurisdiction of the university or not, shall conform to the construction standards and codes applicable to university facilities. The Board of Regents shall adopt such rules as are necessary to carry out its duties and responsibilities imposed by this section.

Section 16. Subsection (1) of section 287.012, Florida Statutes, is amended to read:

287.012 Definitions.—The following definitions shall apply in this part:

(1) "Agency" means any of the various state officers, departments, boards, commissions, divisions, bureaus, and councils and any other unit of organization, however designated, of the executive branch of state government. *"Agency" does not include the Board of Regents or the State University System.*

Section 17. *Section 240.247, subsection (4) of section 240.4988, subsection (3) of section 287.017, and section 240.225, Florida Statutes, are repealed.*

Section 18. Section 240.2475, Florida Statutes, is amended to read:

240.2475 State University System *employment* equity accountability program.—

(1) ~~No later than August 1, 1992,~~ Each state university shall *maintain an annual equity* ~~develop a~~ plan for *appropriate representation* ~~increasing the number~~ of women and minorities in senior-level administrative positions, *within tenure-track faculty, and within faculty granted tenure. Such plan shall be maintained until appropriate representation has been achieved. As used in this subsection, the term:*

(a) "Appropriate representation" means category employment representation that at least meets comparable national standards for at least two consecutive reporting periods.

(b) "Category" means major executive, administrative, and professional grouping, including senior-level administrative and professional positions, senior academic administrative-level positions, and tenure-track faculty ~~for increasing the number of women and minorities in ranked faculty positions, and for increasing the number of women and minorities granted tenure. The plan must include specific measurable goals and objectives, specific strategies for accomplishing these goals and objectives, a time period for accomplishing these goals and objectives, and comparative national standards. The plan shall be submitted to the Legislature on or before September 1, 1992~~.

(2)(a) By *April 1* ~~October 31~~ of each year, each state university president shall submit an *annual* equity ~~accountability~~ report to the Chancellor and the Board of Regents. *The equity report shall consist of a status update, an analysis, and a status report of selected personnel transactions. As used in this paragraph, the term, "selected personnel transactions" means new hires in, promotions into, tenure actions in, and terminations from a category. Each university shall provide the job classification title, gender, race, and appointment status of selected personnel transactions. The status update shall assess underrepresentation in each category. The status report shall consist of current category employment representation, comparable national standards, an evaluation of representation, and annual goals to address underrepresentation.* ~~which shows the number of administrative positions in the faculty and in the administrative and professional pay plans which were filled in the previous fiscal year. Administrative positions include faculty positions that, in whole or in part, are defined as academic administration under standard practice CM-87-17.1 and positions in the administrative and professional pay plans that are defined as administrative positions under the Board of Regents' classification of occupational groupings. The report must include the following information pertaining to the employees hired in those positions:~~

~~1. Job classification title;~~

~~2. Gender;~~

~~3. Ethnicity;~~

~~4. Appointment status pursuant to chapter 6C-5.105, Florida Administrative Code;~~

~~5. The salary at which the individual was hired;~~

~~6. Comparative information including, but not limited to, composite information regarding the total number of positions within the particular job title classification for the university by race, gender, and the average salary or salary range, where applicable, compared to the number of new hires;~~

~~7. Guidelines for ensuring a gender-balanced and ethnically balanced selection committee for each vacancy;~~

~~8. Steps taken to develop a diverse pool of candidates for each vacancy; and~~

~~9. An assessment of the university's accomplishment of annual goals and of long-range goals for hiring and promoting women and minorities in senior-level administrative positions.~~

(b) *After 1 year of implementation of a plan, and annually thereafter, for those categories in which prior year goals were not achieved, each university shall provide, in its annual equity report, a narrative explanation and a plan for achievement of equity. The plan shall include guidelines for ensuring balanced membership on selection committees and specific steps for developing a diverse pool of candidates for each vacancy in the category. The plan shall also include a systematic process by which those responsible for hiring are provided information and are evaluated regarding their responsibilities pursuant to this section.* ~~Each university's equity accountability report must also include the following information pertaining to candidates formally applying for tenure:~~

~~1. Rank;~~

~~2. Gender;~~

~~3. Ethnicity;~~

~~4. The salary at which the individual was hired; and~~

~~5. Comparative information including, but not limited to, composite information regarding the total number of positions within the particular classification for the university by race, gender, and the average salary or salary range, where applicable, compared to the number of new hires.~~

(c) *The equity report shall include an analysis and assessment of the university's accomplishment of annual goals, as specified in the university's affirmative action plan, for increasing the representation of women and minorities in tenure-earning and senior-level administrative positions.* ~~The report must also include:~~

~~1. The requirements for achieving tenure;~~

~~2. The gender and ethnic composition of the committees that review tenure recommendations at the department, college, and university levels;~~

~~3. Guidelines for ensuring the equitable distribution of assignments that would enhance tenure opportunities for women and minority faculty; and~~

~~4. Guidelines for obtaining feedback on the annual progress towards achievement of tenure by women and minorities.~~

(d) The equity report shall also include the current rank, race, and gender of faculty eligible for tenure in a category. In addition, each university shall report representation of the pool of tenure-eligible faculty at each stage of the transaction process, and provide certification that each eligible faculty member was apprised annually of progress toward tenure. Each university shall also report on the dissemination of standards for achieving tenure; racial and gender composition of committees reviewing recommendations at each transaction level; and dissemination of guidelines for equitable distribution of assignments.

(3)(a) A factor in the evaluation of university presidents, vice presidents, deans, and chairpersons shall be their annual progress in achieving the annual and long-range hiring and promotional goals and objectives, *as specified in the university's equity plan and affirmative action plan.* Annual budget allocations for positions and funding shall be based on this evaluation. *A summary of such evaluations* ~~Such evaluation~~ shall be submitted to the Chancellor and the Board of Regents *as part of the university's annual equity report.*

(b) ~~Beginning January 1994,~~ The Chancellor and the Board of Regents shall annually evaluate the performance of the university presidents in achieving the annual *equity* ~~and long-term~~ goals and

objectives. *A summary of the results of such evaluations shall be included as part of the annual equity progress report submitted by the Board of Regents to the Legislature and the State Board of Education.*

(4) The Board of Regents shall submit an *annual* equity progress report to the *President of the Senate, the Speaker of the House of Representatives,* ~~Legislature~~ and the State Board of Education on or before *August* ~~December~~ 1 of each year.

(5) *Each university shall develop a budgetary incentive plan to support and ensure attainment of the goals developed pursuant to this section. The plan shall specify, at a minimum, how resources shall be allocated to support the achievement of goals and the implementation of strategies in a timely manner. After prior review and approval by the university president and the Board of Regents, the plan shall be submitted as part of the annual equity report submitted by each university to the Board of Regents.* ~~Effective July 1, 1993, positions that become vacant in the faculty or the administrative and professional pay plans at a university shall be transferred into a pool at that university to be allocated by the administration to departments to reward department managers for attaining equity goals. Each university president shall develop rules regarding the filling of vacant positions and the transferring of positions into the pool. Such rules must provide for a total cap on the vacant position pool at 10 percent of the number of vacant positions for the university as of the date of the preparation of the initial operating budget for each year. The rule must also provide that the number of positions to be transferred into the vacant position pool, at the departmental level, may not exceed 10 percent of the total number of authorized positions for the department as of the date of the preparation of the initial operating budget for each year. Subject to available funding, the Legislature shall provide an annual appropriation to be allocated to the department managers in recognition of the attainment of equity goals and objectives.~~

(6) Relevant components of each university's affirmative action plan may be used to satisfy the requirements of this section.

(7) Subject to available funding, the Legislature shall provide an annual appropriation to the Board of Regents to be allocated to the universities to further enhance equity initiatives and related priorities that support the mission of departments, divisions, or colleges in recognition of the attainment of equity goals and objectives.

Section 19. Section 240.3355, Florida Statutes, is amended to read:

240.3355 Community College System *employment* equity accountability program.—

(1) ~~No later than May 1, 1993,~~ Each community college *shall include in its* annual equity update ~~plan must include~~ a plan for increasing the *representation* ~~number~~ of women and minorities in senior-level administrative positions *and*~~, for increasing the number of women and minorities~~ in *full-time* ~~ranked~~ faculty positions, and for increasing the *representation* ~~number~~ of women and minorities who have attained continuing-contract status. *Positions shall be defined in the personnel data element directory of the Division of Community Colleges.* The plan must include specific measurable goals and objectives, specific strategies *and timelines* for accomplishing these goals and objectives, and *comparable national standards as provided by the Division of Community Colleges* ~~a time period for accomplishing these goals and objectives~~. The goals *and objectives* shall *be based on meeting or exceeding comparable national standards and shall* be reviewed and recommended by the State Board of Community Colleges as appropriate. *Such plans shall be maintained until appropriate representation has been achieved and maintained for at least 3 consecutive reporting years.*

(2)(a) On *or before* May 1 of each year, each community college president shall submit *an* ~~the~~ annual *employment accountability plan* ~~equity update~~ to the Executive Director of the State Board of Community Colleges. The *accountability plan* ~~equity update~~ must show *faculty and administrator employment data according to requirements specified on the federal Equal Employment Opportunity (EE0-6) report* ~~the number of deans, associates, assistant deans, vice presidents, associate and assistant presidents, provosts, legal counsel, and similar administrative positions which were filled in the previous 12-month period. Administrative positions include faculty positions that, in whole or in part, are defined as academic administration by rule and positions that are defined as administrative positions under the Community College System's classification of occupational groupings~~.

(b) The *plan* ~~report~~ must show the following information for those positions including, but not limited to:

1. Job classification title.~~;~~

2. Gender.~~;~~

3. Ethnicity.~~;~~

4. Appointment status.~~;~~

5. Salary information. *At each community college, salary information shall also include* ~~including~~ the salary *ranges in which new hires were employed compared to the salary ranges for employees with comparable experience and qualifications.* ~~at which the individual was hired compared to the salary range for the respective position and to other employees in the same job title classification;~~

6. Other comparative information including, but not limited to, composite information regarding the total number of positions within the particular job title classification for the community college by race, gender, and salary range compared to the number of new hires.~~;~~

7. *A statement certifying diversity and balance in* the gender and ethnic composition of the selection committee for each vacancy, *including a brief description of guidelines used for ensuring balanced and diverse membership on selection and review committees.*~~;~~

~~8. Steps taken to develop a diverse pool of candidates for each vacancy; and~~

(c)~~9.~~ *The annual employment accountability plan shall also include an analysis and* an assessment of the community college's *attainment* ~~accomplishment~~ of annual goals and of long-range goals for increasing the number of women and minorities in *faculty and* senior-level administrative positions, *and a corrective action plan for addressing underrepresentation.*

(d)~~(c)~~ Each community college's *employment* ~~equity~~ accountability *plan* ~~report~~ must also include:

1. The requirements for receiving a continuing contract.~~;~~

2. *A brief description of the process used to grant* ~~The gender and ethnic composition of the committees that review~~ continuing-contract *status.* ~~recommendations;~~

3. *A brief description of the process used to annually apprise each eligible faculty member of progress toward attainment of continuing-contract status.* ~~The enhancement of continuing-contract opportunities for women and minority faculty; and~~

~~4. Written documentation of feedback on the annual progress towards achievement of continuing-contract status by women and minorities.~~

(3) Community college presidents and the heads of each major administrative division shall be evaluated annually on the progress made toward meeting the goals and objectives of the *community college's employment accountability* ~~equity update~~ plan.

(a) The community college presidents, *or the president's designee,* shall annually evaluate each department chairperson, dean, *provost,* and vice president in achieving the annual and long-term goals and objectives. *A summary of the results of such evaluations shall be reported annually by the president of the community college to the board of trustees.* Annual budget allocations *by the board of trustees* for positions and funding must take into consideration *these evaluations* ~~this evaluation~~.

(b) ~~Beginning January 1994,~~ Community college district boards of trustees shall annually evaluate the performance of the community college presidents in achieving the annual and long-term goals and objectives. *A summary of the results of such evaluations shall be reported to the Executive Director of the State Board of Community Colleges as part of the community college's annual employment accountability plan, and to the Legislature and State Board of Education as part of the annual equity progress report submitted by the State Board of Community Colleges.*

(4)~~(c)~~ The State Board of Community Colleges shall submit an *annual* equity progress report to the *President of the Senate, the Speaker of the House of Representatives,* ~~Legislature~~ and the State Board of Education on or before *January* ~~December~~ 1 of each year.

(5) Each community college shall develop a budgetary incentive plan to support and ensure attainment of the goals developed pursuant to this section. The plan shall specify, at a minimum, how resources shall be allocated to support the achievement of goals and the implementation of strategies in a timely manner. After prior review and approval by the community college president and the State Board of Community Colleges, the plan shall be submitted as part of the annual employment accountability plan submitted by each community college to the State Board of Community Colleges.

(6)~~(4)~~ Subject to available funding, the Legislature shall provide an annual appropriation *to the State Board of Community Colleges* to be allocated to *community college presidents, faculty, and administrative personnel to further enhance equity initiatives and related priorities that support the mission of colleges and departments* ~~the department managers~~ in recognition of the attainment of the equity goals and objectives.

Section 20. Subsection (1) of s. 240.2803, Florida Statutes, is amended to read:

240.2803 Auxiliary enterprises; contracts, grants, and donations; definitions.—As used in s. 19(f)(3), Art. III of the State Constitution, the term:

(1) "Auxiliary enterprises" includes activities that directly or indirectly provide *a product or* a service*, or both,* to a university or its students, faculty, or staff and for which *a charge is made* ~~is charged a fee related to, but not necessarily in an amount that will cover, the cost of the service~~. *These* auxiliary enterprises are *business activities of a university which require no support from the General Revenue Fund* ~~generally self-sufficient operations~~, and include *activities such as* housing, bookstores, student health services, continuing education programs, food services, college stores, *operation of* vending machines, specialty shops, day care centers, golf courses, student activities programs, *data center operations, and* ~~financial aid programs,~~ intercollegiate athletics programs~~, and other programs for which the funds are deposited outside the State Treasury~~.

Section 21. Section 3 of chapter 97-381, Laws of Florida, is amended to read:

Section 3. When the Department of Insurance receives a $6 million settlement as specified in the Consent Order of the Treasurer and Insurance Commissioner, case number 18900-96-c, that portion of the $6 million not used to satisfy the requirements of section 18 of the Consent Order must be transferred from the Insurance Commissioner's Regulatory Trust Fund to the State Student Financial Assistance Trust Fund is appropriated from the State Student Financial Assistance Trust Fund to provide Ethics in Business scholarships to students enrolled in public community colleges and independent postsecondary education institutions eligible to participate in the Florida Resident Access Grant Program under section 240.605, Florida Statutes. The funds shall be allocated to institutions for scholarships in the following ratio: Two-thirds for community colleges and one-third for eligible independent institutions. The Department of Education shall administer the scholarship program for students attending community colleges and independent institutions. These funds must be allocated to institutions that provide an equal amount of matching funds generated by private donors for the purpose of providing Ethics in Business scholarships. Public funds may not be used to provide the match, nor may funds collected for other purposes. *Notwithstanding any other provision of law, the State Board of Administration shall have the authority to invest the funds appropriated under this section.* The Department of Education may adopt rules for administration of the program.

Section 22. *(1) There is created the Leadership Board for Applied Research and Public Service to be staffed by the Institute of Science and Public Affairs at Florida State University. The purpose of the board is to focus, coordinate, and maximize university resources on current issues and events affecting Florida's residents and elected officials. Emphasis shall be placed on being responsive to and providing accurate, timely, useful, and relevant information to decisionmakers in state and local governments. The board shall set forth a process to provide comprehensive guidance and advice for improving the types and quality of services to be delivered by the State University System. Specifically, the board shall better identify and define the missions and roles of existing institutes and centers within the State University System, work to eliminate duplication and confusion over conflicting roles and missions, involve more students in learning with applied research and public service activities, and be organizationally separate from academic departments. The board shall meet at least quarterly. The board may create internal management councils that may include working institute and center directors. The board is responsible for, but is not limited to:*

(a) Providing strategic direction, planning, and accompanying decisions that support a coordinated applied public service and research approach in the state.

(b) Addressing State University System policy matters and making recommendations to the Board of Regents as they relate to applied public service and research.

(c) Serving as a clearinghouse for services requested by public officials.

(d) Providing support for funding and fiscal initiatives involving applied public service and research.

(2) Membership of the board shall be:

(a) The Chancellor of the Board of Regents, who shall serve as chair.

(b) The director of the Office of Planning and Budgeting of the Executive Office of the Governor.

(c) The Secretary of the Department of Management Services.

(d) The Director of Economic and Demographic Research.

(e) The Director of the Office of Program Policy Analysis and Government Accountability.

(f) The President of the Florida League of Cities.

(g) The President for the Florida Association of Counties.

(h) The President of the Florida School Board Association.

(i) Five additional university president members, designated by the Chancellor, to rotate annually.

(3) The board shall prepare a report for the Board of Regents to be submitted to the Governor and the Legislature by January 1 of each year which summarizes the work and recommendations of the board in meeting its purpose and mission.

Section 23. *For the 1998-1999 fiscal year, a recurring sum of $450,000 is appropriated from the General Revenue Fund to the Leadership Board for Applied Research and Public Service.*

Section 24. *For the 1998-1999 fiscal year, $200,000 is appropriated from the General Revenue Fund to the State Agency Dispute Resolution Demonstration Project at Florida State University.*

Section 25. This act shall take effect July 1, 1998.

And the title is amended as follows:

Delete everything before the enacting clause

and insert: A bill to be entitled An act relating to postsecondary education; amending s. 110.131, F.S.; deleting the requirement that the Board of Regents comply with recordkeeping and reporting requirements for other-personal-services employment; amending s. 228.055, F.S.; providing for a regional autism center; amending s. 235.055, F.S.; deleting authority of the Board of Regents to construct facilities on leased property and enter into certain leases; amending s. 235.195, F.S.; modifying provisions relating to joint-use facilities; amending s. 240.1201, F.S.; classifying specified Canadian military personnel as residents for tuition purposes; amending s. 240.147, F.S.; correcting a cross-reference; amending s. 240.205, F.S.; revising the acquisition and contracting authority of the Board of Regents; amending s. 240.209, F.S.; authorizing procedures to administer an acquisition program; authorizing the Board of Regents to sell, convey, transfer, exchange, trade, or purchase real property and related improvements; providing requirements; amending s. 240.2097, F.S.; deleting a requirement that the Board of Regents report to the Legislature on limited-access programs; revising requirements for student handbooks; amending s. 240.214, F.S.; revising provisions relating to the State University System accountability process; amending s. 240.227, F.S.; revising the acquisition and contracting authority of university presidents; authorizing adjustment of property records and disposal of certain tangible personal property; amending s. 240.241, F.S., relating to divisions of sponsored research at state universities; providing an exemption from certain contract requirements for state universities and community colleges; amending s. 240.2605, F.S., relating to the Trust Fund for Major Gifts; deleting Board of Regents' rulemaking power; authorizing the Board of Regents Foundation to participate in the major gifts program; amending s. 240.281, F.S.; revising the authority for an institution to deposit certain funds outside the State Treasury; amending s. 243.151, F.S.; providing a procedure under which a university may construct facilities on leased property; amending s. 287.012, F.S.; excluding the Board of Regents and the State University System from the term "agency" for purposes of state procurement of commodities and services; repealing ss. 240.225, 240.247, 240.4988(4), 287.017(3), F.S., relating to delegation of authority by the Department of Management Services to the State University System, eradication of salary discrimination, Board of Regents' rules for the Theodore R. and Vivian M. Johnson Scholarship Program, and applicability of purchasing category rules to the State University System; amending s. 240.2475, F.S., relating to the State University System equity accountability program; requiring each state university to maintain an equity plan to increase the representation of women and minorities in faculty and administrative positions; providing for the submission of reports; requiring the development of a plan for achievement of equity; providing for administrative evaluations; requiring the development of a budgetary incentive plan; providing for an appropriation; amending s. 240.3355, F.S., relating to the State Community College System equity accountability program; requiring each community college to maintain a plan to increase the representation of women and minorities in faculty and administrative positions; providing contents of an employment accountability plan; requiring the development of a plan for corrective action; providing for administrative evaluations; providing for submission of reports; requiring the development of a budgetary incentive plan; amending s. 240.2803, F.S., clarifying the definition of auxiliary enterprises; amending s. 3, ch. 75-381, Laws of Florida; providing authority to the State Board of Administration to invest certain funds; creating the Leadership Board for Applied Research and Public Service; providing for its membership and duties; providing an appropriation for the board; providing an appropriation for the State Agency Dispute Resolution Demonstration Project; providing an effective date.

On motion by Rep. Constantine, the House concurred in Senate Amendment 1. The question recurred on the passage of HB 755. The vote was:

Yeas—114

The Chair	Crow	Kosmas	Rodriguez-Chomat
Albright	Culp	Lacasa	Rojas
Alexander	Dawson-White	Lawson	Safley
Andrews	Dennis	Littlefield	Sanderson
Argenziano	Dockery	Livingston	Sembler
Arnall	Edwards	Logan	Silver
Arnold	Effman	Lynn	Sindler
Bainter	Eggelletion	Mackenzie	Smith
Ball	Fasano	Mackey	Spratt
Barreiro	Feeney	Maygarden	Stabins
Betancourt	Fischer	Meek	Stafford
Bitner	Flanagan	Melvin	Starks
Bloom	Frankel	Merchant	Sublette
Boyd	Fuller	Miller	Tamargo
Bradley	Futch	Minton	Thrasher
Brennan	Garcia	Morroni	Tobin
Bronson	Gay	Morse	Trovillion
Brooks	Goode	Murman	Turnbull
Brown	Gottlieb	Ogles	Valdes
Bullard	Hafner	Peaden	Villalobos
Burroughs	Harrington	Posey	Wallace
Bush	Healey	Prewitt, D.	Warner
Byrd	Heyman	Pruitt, K.	Wasserman Schultz
Carlton	Hill	Putnam	Westbrook
Casey	Horan	Rayson	Wiles
Chestnut	Jacobs	Reddick	Wise
Clemons	Jones	Ritchie	Ziebarth
Constantine	Kelly	Ritter	
Cosgrove	King	Roberts-Burke	

Nays—None

Excused from time to time for Conference Committee—Bitner, Bradley, Byrd, Clemons, Lippman, Safley, Thrasher, Warner

Votes after roll call:
Yeas—Crist

So the bill passed, as amended. The action was immediately certified to the Senate and the bill was ordered enrolled after engrossment.

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 4837, with amendment, and requests the concurrence of the House.

Faye W. Blanton, Secretary

HB 4837—A bill to be entitled An act relating to the procedure to be used to calculate funding for students enrolled in group 2 of the Florida Education Finance Program; amending s. 236.081, F.S.; providing for a supplemental capping calculation for those districts whose weighted FTE enrollment is over the weighted FTE ceiling established in the annual appropriations act; providing procedure for such calculation; repealing s. 236.081(8), F.S., which provides for a caps adjustment supplement for group 2 programs when there are funds remaining in the Florida Education Finance Program appropriation; amending s. 236.25, F.S.; correcting a reference; providing an effective date.

Senate Amendment 1 (with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Subsection (2) of section 231.02, Florida Statutes, is amended to read:

231.02 Qualifications of personnel.—

(2)(a) Instructional and noninstructional personnel who are hired to fill positions requiring direct contact with students in any district school system or laboratory school shall, upon employment, file a complete set of fingerprints taken by an authorized law enforcement officer or an employee of the school or district who is trained to take fingerprints.

These fingerprints shall be submitted to the Department of Law Enforcement for state processing and to the Federal Bureau of Investigation for federal processing. ~~School districts which have authorized terminal access to the Florida Crimes Information Telecommunications Network or the National Crime Information Center may use this equipment for the background check required by this subsection.~~ Such new employees shall be on probationary status pending fingerprint processing and determination of compliance with standards of good moral character. Employees found through fingerprint processing to have been convicted of a crime involving moral turpitude shall not be employed in any position requiring direct contact with students. Probationary employees terminated because of their criminal record shall have the right to appeal such decisions. The cost of the fingerprint processing may be borne by the school board or the employee.

~~(b) Any provision of law notwithstanding, by January 1, 1997, for personnel currently required to be certified under s. 231.17, and January 1, 1998, for all other personnel currently employed by any district school system or any other public school who have not been fingerprinted and screened in the same manner outlined in paragraph (a) shall submit a complete set of fingerprints taken by an authorized law enforcement officer or an employee of the school or district who is trained to take fingerprints. The fingerprints shall be submitted to the Department of Law Enforcement for state processing and the Federal Bureau of Investigation for federal processing. School districts which have authorized terminal access to the Florida Crimes Telecommunications Network or the National Crime Information Center may use that equipment for the background check required by this paragraph. Employees found through fingerprint processing to have been convicted of a crime involving moral turpitude shall not be employed in any position requiring direct contact with students. The cost of the fingerprint processing may be borne by the school district or the individual employee at a cost not to exceed $24.00. Any additional cost shall be borne by the Department of Education. Each local school board and laboratory school shall develop policies necessary for the implementation of this subsection. The Commissioner of Education shall provide guidelines regarding standards of good moral character for use in the development of these policies. Within these standards, the lack of good moral character shall be defined as having been convicted of a crime involving moral turpitude.~~

(b)~~(c)~~ Personnel who have been fingerprinted or screened pursuant to this subsection and who have not been unemployed for more than 90 days shall not be required to be refingerprinted or rescreened in order to comply with the requirements of this subsection.

Section 2. Section 231.096, Florida Statutes, is amended to read:

231.096 Teacher teaching out-of-field; assistance.—Each school district shall have a plan to assist any teacher teaching out-of-field, and priority consideration *in professional development activities* shall be given to teachers who are teaching out-of-field ~~in summer inservice institutes~~. ~~A district may include in its annual summer inservice institute plan a section that provides for institutes in instructional areas identified as district critical teacher shortage areas and approved by the Department of Education.~~

Section 3. Section 231.15, Florida Statutes, is amended to read:

231.15 Positions for which certificates required.—

(1) The State Board of Education shall have authority to classify school services, *designate the certification subject areas, establish competencies and certification requirements for all school-based personnel,* and ~~to~~ prescribe rules in accordance with which the professional, temporary, and part-time certificates shall be issued by the Department of Education to *applicants* ~~school employees~~ who meet the standards prescribed by such rules for their class of service. Each person employed or occupying a position as school supervisor, principal, teacher, library media specialist, school counselor, athletic coach, or other position in which the employee serves in an instructional capacity, in any public school of any district of this state shall hold the certificate required by law and by rules of the state board in fulfilling the requirements of the law for the type of service rendered. However, the state board shall adopt rules authorizing school boards to employ selected noncertificated personnel to provide instructional services in the individuals' fields of specialty or to assist instructional staff members as teacher aides. Each person who is employed and renders service as an athletic coach in any public school in any district of this state shall hold a valid part-time, temporary, or professional certificate. Each person employed as a school nurse shall hold a license to practice nursing in the state, and each person employed as a school physician shall hold a license to practice medicine in the state. The provisions of this subsection shall not apply to any athletic coach who renders service in a voluntary capacity and who is not employed by any public school of any district in this state.

(2) A commissioned or noncommissioned military officer who is an instructor of junior reserve officer training shall be exempt from requirements for teacher certification, except for the filing of fingerprints pursuant to s. *231.02* ~~231.1712~~, if he or she meets the following qualifications:

(a) Is retired from active military duty with at least 20 years of service and draws retirement pay or is retired, or transferred to retired reserve status, with at least 20 years of active service and draws retirement pay or retainer pay.

(b) Satisfies criteria established by the appropriate military service for certification by the service as a junior reserve officer training instructor.

(c) Has an exemplary military record.

If such instructor is assigned instructional duties other than junior reserve officer training, he or she shall hold the certificate required by law and rules of the state board for the type of service rendered.

Section 4. Paragraph (c) of subsection (3) of section 231.17, Florida Statutes, is amended to read:

231.17 Official statements of eligibility and certificates granted on application to those meeting prescribed requirements.—

(3) TEMPORARY CERTIFICATE.—

(c) To qualify for a temporary certificate, the applicant must:

1. File a written statement under oath that the applicant subscribes to and will uphold the principles incorporated in the Constitutions of the United States and of the State of Florida.

2. Be at least 18 years of age.

3. Document receipt of a bachelor's or higher degree from an accredited institution of higher learning, *as defined by state board rule. Credits and degrees awarded by a newly created Florida state institution that is part of the State University System shall be considered as granted by an accredited institution of higher learning during the first 2 years of course offerings while accreditation is gained. Degrees from foreign institutions, or degrees from other institutions of higher learning that are in the accreditation process, may be validated by a process established in state board rule. Once accreditation is gained, the institution shall be considered as accredited beginning with the 2-year period prior to the date of accreditation.* The bachelor's or higher degree may not be required in areas approved in rule by the State Board of Education as nondegreed areas. Each applicant seeking initial certification must have attained at least a 2.5 overall grade point average on a 4.0 scale in the applicant's major field of study. The applicant may document the required education by submitting official transcripts from institutions of higher education or by authorizing the direct submission of such official transcripts through established electronic network systems.

~~4. Meet such academic and professional requirements based on credentials certified by standard institutions of higher learning, including any institutions of higher learning in this state accredited by an accrediting association that is a member of the Commission on Recognition of Postsecondary Accreditation, as prescribed by the state board.~~

4.~~5.~~ Be competent and capable of performing the duties, functions, and responsibilities of a teacher.

5.~~6.~~ Be of good moral character.

Rules adopted pursuant to this section shall provide for the review and acceptance of credentials from foreign institutions of higher learning.

Section 5. Section 231.1725, Florida Statutes, is amended to read:

231.1725 Employment of substitute teachers, teachers of adult education, *and* nondegreed teachers of career education*; students performing clinical field experience*~~, and noncertificated teachers in critical teacher shortage areas.~~—

(1) Notwithstanding the provisions of ss. 231.02, 231.15, *and* 231.17, ~~and 231.172~~ or any other provision of law or rule to the contrary, each school board shall establish the minimal qualifications for:

(a) Substitute teachers to be employed pursuant to s. 231.47. The qualifications shall require the filing of a complete set of fingerprints in the same manner as required by s. 231.02.

(b) Part-time and full-time teachers in adult education programs. The qualifications shall require the filing of a complete set of fingerprints in the same manner as required by s. 231.02. Faculty employed solely to conduct postsecondary instruction may be exempted from this requirement.

(c) Part-time and full-time nondegreed teachers of vocational programs. Qualifications shall be established for agriculture, business, health occupations, family and consumer sciences, industrial, marketing, and public service education teachers, based primarily on successful occupational experience rather than academic training. The qualifications for such teachers shall require:

1. The filing of a complete set of fingerprints in the same manner as required by s. 231.02. Faculty employed solely to conduct postsecondary instruction may be exempted from this requirement.

2. Documentation of education and successful occupational experience including documentation of:

a. A high school diploma or the equivalent.

b. Completion of 6 years of full-time successful occupational experience or the equivalent of part-time experience in the teaching specialization area. Alternate means of determining successful occupational experience may be established by the school board.

c. Completion of career education training conducted through the local school district inservice master plan.

d. For full-time teachers, completion of professional education training in teaching methods, course construction, lesson planning and evaluation, and teaching special needs students. This training may be completed through coursework from a standard institution or an approved district teacher education program.

e. Demonstration of successful teaching performance.

~~(d) Part-time and full-time noncertificated teachers in critical teacher shortage areas. The qualifications shall require the filing of fingerprints in the same manner as required by s. 231.02 and shall be based on academic training in the essential generic and specialization competencies of the instructional assignment. The school board shall be responsible for determining critical teacher shortage areas within the school district. Each school board shall annually report the number, qualifications, and areas of assignment of all noncertificated teachers employed pursuant to this paragraph during each school year.~~

(2) Substitute, adult education, and nondegreed career education teachers ~~and noncertificated teachers in critical teacher shortage areas~~ who are employed pursuant to this section shall have the same rights and protection of laws as certified teachers.

Section 6. Paragraph (d) of subsection (7) of section 231.261, Florida Statutes, is amended to read:

231.261 Education Practices Commission; organization.—

(7) The duties and responsibilities of the commission are to:

(d) Have rulemaking authority pursuant to chapter 120 *to establish procedures for operations and administration, disciplinary proceedings, indexing, implementation of orders, and retention of records, and to establish disciplinary guidelines.*

Section 7. Subsections (9) and (12) of section 231.263, Florida Statutes, are amended to read:

231.263 Recovery network program for educators.—

(9) An approved treatment provider must disclose to the recovery network program all information in its possession which relates to a person's impairment and participation in the treatment program. Information obtained under this subsection is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption is necessary to promote the rehabilitation of impaired *educators* ~~teachers~~ and to protect the privacy of treatment program participants. The failure to provide such information to the program is grounds for withdrawal of approval of a treatment provider. Medical records provided to the program may not be disclosed to any other person, except as authorized by law.

(12) The State Board of Education shall include in the fees established pursuant to *s. 231.30* ~~s. 231.15(3)~~ an amount sufficient to implement the provisions of this section. The state board shall by rule establish procedures and additional standards for:

(a) Approving treatment providers, including appropriate qualifications and experience, amount of reasonable fees and charges, and quality and effectiveness of treatment programs provided.

(b) Admitting eligible persons to the program.

(c) Evaluating impaired persons by the recovery network program.

Section 8. Section 231.47, Florida Statutes, is amended to read:

231.47 Substitute teachers.—Each school board shall adopt rules prescribing the compensation of, and the procedure for employment of, substitute teachers. Such procedure for employment shall include, but not be limited to, the filing of a complete set of fingerprints as required in s. *231.02* ~~231.1712~~.

Section 9. Subsection (1) of section 231.546, Florida Statutes, is amended to read:

231.546 Education Standards Commission; powers and duties.—

(1) The Education Standards Commission shall have the duty to:

(a) Recommend to the state board desirable standards relating to programs and policies for the development, certification and certification extension, improvement, and maintenance of competencies of educational personnel, including teacher interns.

(b) Recommend to the state board standards for approval of preservice teacher education programs.

(c) Plan and conduct an annual review of human resources studies regarding teaching personnel and report the findings to the state board.

(d) Recommend to the state board objective, independently verifiable standards of measurement and evaluation of teaching competence.

(e) Recommend to the state board alternative ways to demonstrate qualifications for certification which assure fairness and flexibility while protecting against incompetence.

~~(f) Recommend to the state board the most feasible locations for teacher education centers from proposals submitted by school districts and universities.~~

~~(g) Recommend to the state board guidelines for the expenditure of funds for teacher education centers and approval of teacher education center programs.~~

(f)~~(h)~~ Recommend critical state priorities for preservice and inservice teacher training such as understanding diverse student populations, working in a changing workplace, and understanding subject matter and instruction. The commission shall recommend standards for measuring evidence of training in these priorities for continuing program approval for preservice teacher education, initial teacher certification and certificate renewal, and staff development activities.

(g)~~(i)~~ Evaluate the progress of school community professional development systems as provided in s. 231.600.

(h)~~(j)~~ Perform such other duties as may be required to achieve the purposes of this section and s. 231.545.

Section 10. Paragraph (b) of subsection (4) and subsection (6) of section 231.600, Florida Statutes, are amended to read:

231.600 School Community Professional Development Act.—

(4) The Department of Education, school districts, schools, and public colleges and universities share the responsibilities described in this section. These responsibilities include the following:

(b) Each district school board shall consult with teachers and representatives of college and university faculty, community agencies, and other interested citizen groups to establish policy and procedures to guide the operation of the district professional development program. The professional development system must:

1. Require that schools identify student needs that can be met by improved professional performance, and assist schools in making these identifications;

2. Provide training *activities coupled with followup support that is* ~~and other professional development~~ appropriate to accomplish district-level and school-level improvement goals and standards; and

3. Provide for systematic consultation with regional and state personnel designated to provide technical assistance and evaluation of local professional development programs.

(6) The Department of Education shall design methods by which the state and district school boards may evaluate and improve the professional development system. The evaluation must include an annual assessment of data that indicate progress or lack of progress of *all* students ~~whose needs were identified as most critical to improved professional development, including needs of students with disabilities, students having limited proficiency in English, and low-achieving student populations~~. If the review of data indicates an achievement level that is unusual, the department may investigate the causes of the success or lack of success, may provide technical assistance, and may require the school district to employ a different approach to professional development. The department shall report annually to the State Board of Education and the Legislature any school district that, in the determination of the department, has failed to provide an adequate professional development system. This report must include the results of the department's investigation and of any intervention provided.

Section 11. Section 231.625, Florida Statutes, is amended to read:

231.625 Teacher ~~shortage~~ recruitment and *retention* ~~referral~~.—

(1) The Department of Education, ~~through the Center for Career Development Services,~~ in cooperation with teacher organizations, ~~and~~ district personnel *offices, and colleges of education* ~~directors~~, shall ~~expand its career information system to~~ concentrate on the recruitment of qualified teachers ~~in teacher shortage areas~~.

(2) The Department of Education~~, through the Center for Career Development Services,~~ shall establish a teacher ~~referral and~~ recruitment *and retention services office* ~~center~~ which shall:

(a) Advertise teacher positions in targeted states ~~with declining student enrollments~~.

(b) Advertise in major newspapers, national professional publications, and other professional publications and in ~~graduate~~ schools of education.

(c) Utilize *state and* ~~a~~ nationwide toll-free *numbers* ~~number and a central post office box~~.

(d) Develop standardized resumes for teacher applicant data.

(e) Conduct periodic communications with district ~~superintendents and~~ personnel directors regarding ~~new~~ applicants.

(f) Provide district access to the applicant database by computer or telephone.

(g) Develop and distribute promotional materials related to teaching as a career.

(h) Publish and distribute information pertaining to *employment opportunities, application procedures, teacher certification, and* teacher salaries ~~and benefits for beginning and continuing teachers~~.

(i) *Provide* ~~Publish~~ information related to alternative certification procedures.

(j) Develop and sponsor the *Florida* Future Educator of America *Program* ~~clubs~~ throughout the state.

(k) Review and recommend to the Legislature and school districts incentives for attracting teachers to this state.

(3) The *Office of Teacher Recruitment and Retention Services* ~~teacher referral and recruitment center~~, in cooperation with ~~teacher organizations and~~ district personnel *offices* ~~directors~~, shall sponsor *a* ~~an annual~~ job fair in a central part of the state to match in-state educators and out-of-state educators with teaching opportunities in this state.

Section 12. Section 231.6255, Florida Statutes, is amended to read:

231.6255 Christa McAuliffe Ambassador for Education Program.—

(1) The Legislature recognizes that Florida *continues to face teacher shortages* ~~faces a severe shortage of teachers~~ and that fewer young people consider teaching as a career. It is the intent of the Legislature to promote the positive and rewarding aspects of being a teacher, to encourage more individuals to become teachers, and to provide annual sabbatical support for outstanding Florida teachers to serve as goodwill ambassadors for education. The Legislature further wishes to honor the memory of Christa McAuliffe, who epitomized the challenge and inspiration that teaching can be.

(2) There is established the Christa McAuliffe Ambassador for Education Program to provide salary, travel, and other related expenses annually for an outstanding Florida teacher to promote the positive aspects of teaching as a career. The goals of the program are to:

(a) Enhance the stature of teachers and the teaching profession.

(b) Promote the importance of quality education and teaching for our future.

(c) Inspire and attract talented ~~young~~ people to become teachers.

(d) Provide information regarding Florida's scholarship and loan programs related to teaching.

(e) Promote the teaching profession within community and business groups.

(f) Provide information ~~regarding Florida's alternative certification program~~ to retired military personnel and other individuals who might consider teaching as a second career.

(g) Work with and represent the *Office of Teacher Recruitment and Retention Services* ~~teacher referral and recruitment center~~, as needed.

(h) Work with and encourage the efforts of school *and* district teachers of the year.

(i) Support the activities of the *Florida* Future *Educator* ~~Teacher~~ of America *Program* ~~clubs~~.

(j) Represent Florida teachers at business, trade, education, and other conferences and meetings.

(k) Promote the teaching profession in other ways related to the teaching responsibilities, background experiences, and aspirations of the Ambassador for Education.

(3) The Teacher of the Year shall serve as the Ambassador for Education~~, except that for the first 2 years, Florida's NASA Teachers in Space shall also serve as Ambassadors for Education~~. If the Teacher of the Year is unable to serve as the Ambassador for Education, the first runner-up shall serve in his or her place. *The Department of Education* ~~Each district school board~~ shall establish application and selection procedures for determining an annual teacher of the year. *Applications and selection criteria shall be developed and distributed annually by the Department of Education to all school districts.* The Commissioner of Education shall establish a selection committee which assures representation from teacher organizations, administrators, and parents to select the Teacher of the Year and Ambassador for Education from among the district teachers of the year. ~~Selection criteria shall be developed and distributed annually to all school districts.~~

(4)(a) The Department of Education *and the Office of Teacher Recruitment and Retention Services*~~, through the Center for Career Development Services and in conjunction with the teacher referral and recruitment center,~~ shall administer the program.

(b) The Commissioner of Education shall pay an annual salary, fringe benefits, travel costs, and other costs associated with administering the program.

(c) The Ambassador for Education shall serve for 1 year, from July 1 to June 30, and shall be assured of returning to his or her teaching position upon completion of the program. The ambassador will not have a break in creditable or continuous service or employment for the period of time in which he or she participates in the program.

Section 13. Section 231.63, Florida Statutes, is created to read:

231.63 Florida Educator Hall of Fame.—

(1) It is the intent of the Legislature to recognize and honor those persons, living or dead, who have made significant contributions to education in this state.

(2)(a) There is hereby established the Florida Educator Hall of Fame. The Florida Educator Hall of Fame shall be located in an area on the Plaza Level of the Capitol Building.

(b) The Florida Education Foundation shall make a recommendation for the design and theme for the Florida Educator Hall of Fame. The Commissioner of Education, in consultation with the Secretary of Management Services, shall approve the foundation's recommendation.

(c) Each person who is selected as a member shall have a plaque placed in the Florida Educator Hall of Fame. The plaque shall designate the member's particular discipline or contribution and shall set forth vital information relating to the member. Each member shall also receive a standardized memento of the member's selection.

(3) The Florida Education Foundation shall accept nominations annually for persons to be recommended as members of the Florida Educator Hall of Fame. Floridians who have made a significant contribution to education in this state, as determined and documented by the Florida Education Foundation, shall be eligible for membership. The foundation shall recommend to the Commissioner of Education persons to be named as members of the Florida Educator Hall of Fame.

(4) In the first year, the Commissioner of Education shall name no more than 10 members to the Florida Educator Hall of Fame. Thereafter, the commissioner shall name no more than four members to the Florida Educator Hall of Fame in any 1 year.

(5) The Commissioner of Education and the Florida Education Foundation shall develop and adopt written policies to carry out the purposes of this section, including procedures to accept nominations, make recommendations for selection of members, provide recipient's travel expenses, and provide funding for the Florida Educator Hall of Fame.

(6) The Commissioner of Education may annually request an appropriation from the Legislature sufficient to carry out the purposes of this section. The Florida Education Foundation may also provide funds to cover any or all expenses related to the Florida Educator Hall of Fame.

Section 14. Subsection (3) of section 20.15, Florida Statutes, is amended to read:

20.15 Department of Education.—There is created a Department of Education.

(3) DIVISIONS.—

~~(a)~~ The following divisions of the Department of Education are established:

(a)~~1.~~ Division of Community Colleges.

(b)~~2.~~ Division of Public Schools and Community Education.

(c)~~3.~~ Division of Universities.

(d)~~4.~~ Division of Workforce Development.

(e)~~5.~~ Division of Human Resource Development.

(f) Division of Administration.

(g) Division of Financial Services.

(h) Division of Support Services.

~~(b) The Commissioner of Education is authorized to establish within the Department of Education a Division of Administration.~~

Section 15. Present subsection (7) of section 231.262, Florida Statutes, is redesignated as subsection (8) and a new subsection (7) is added to that section to read:

231.262 Complaints against teachers and administrators; procedure; penalties.—

(7) Violations of the provisions of probation shall result in an order to show cause issued by the Clerk of the Education Practices Commission. Upon failure of the probationer, at the time and place stated in the order, to show cause satisfactorily to the Education Practices Commission why a penalty for violating probation should not be imposed, the Education Practices Commission shall impose whatever penalty is appropriate as established in s. 231.28(6). Any probation period will be tolled when an order to show cause has been issued until the issue is resolved by the Education Practices Commission.

Section 16. Subsection (1) of section 231.28, Florida Statutes, is amended and subsection (6) is added to that section to read:

231.28 Education Practices Commission; authority to discipline.—

(1) The Education Practices Commission shall have authority to suspend the teaching certificate of any person as defined in s. 228.041(9) or (10) for a period of time not to exceed 3 years, thereby denying that person the right to teach for that period of time, after which the holder may return to teaching as provided in subsection (4); to revoke the teaching certificate of any person, thereby denying that person the right to teach for a period of time not to exceed 10 years, with reinstatement subject to the provisions of subsection (4); to revoke permanently the teaching certificate of any person; to suspend the teaching certificate, upon order of the court, of any person found to have a delinquent child support obligation; or to impose any other penalty provided by law, provided it can be shown that such person:

(a) Obtained the teaching certificate by fraudulent means;

(b) Has proved to be incompetent to teach or to perform duties as an employee of the public school system or to teach in or to operate a private school;

(c) Has been guilty of gross immorality or an act involving moral turpitude;

(d) Has had a teaching certificate revoked in another state;

(e) Has been convicted of a misdemeanor, felony, or any other criminal charge, other than a minor traffic violation;

(f) Upon investigation, has been found guilty of personal conduct which seriously reduces that person's effectiveness as an employee of the school board;

(g) Has breached a contract, as provided in s. 231.36(2);

(h) Has been the subject of a court order directing the Education Practices Commission to suspend the certificate as a result of a delinquent child support obligation;

(i) Has violated the Principles of Professional Conduct for the Education Profession prescribed by State Board of Education rules; ~~or~~

(j) Has otherwise violated the provisions of law, the penalty for which is the revocation of the teaching certificate*; or*~~.~~

(k) Has violated any order of the Education Practices Commission.

(6) When an individual violates the provisions of a settlement agreement enforced by a final order of the Education Practices Commission an order to show cause may be issued by the Clerk of the Commission. The order shall require the individual to appear before the commission to show cause why further penalties should not be levied against the individual's certificate pursuant to the authority provided to the Education Practices Commission in subsection (1). The Education Practices Commission shall have the authority to fashion further penalties under the authority of subsection (1) as deemed appropriate when the show cause order is responded to by the individual.

Section 17. Subsection (8) of section 236.081, Florida Statutes, is repealed, and paragraph (d) of subsection (1), paragraphs (a) and (b) of subsection (4), subsection (9), and paragraph (a) of subsection (10) of that section, as amended by chapter 97-380, Laws of Florida, are amended to read:

236.081 Funds for operation of schools.—If the annual allocation from the Florida Education Finance Program to each district for operation of schools is not determined in the annual appropriations act or the substantive bill implementing the annual appropriations act, it shall be determined as follows:

(1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR OPERATION.—The following procedure shall be followed in determining the annual allocation to each district for operation:

(d) Annual allocation calculation.—

1. The Department of Education is authorized and directed to review all district programs and enrollment projections and calculate a maximum total weighted full-time equivalent student enrollment for each district for the K-12 FEFP.

2. Maximum enrollments calculated by the department shall be derived from enrollment estimates used by the Legislature to calculate the FEFP. If two or more districts enter into an agreement under the provisions of s. 230.23(4)(d), after the final enrollment estimate is agreed upon, the amount of FTE specified in the agreement, not to exceed the estimate for the specific program as identified in paragraph (c), may be transferred from the participating districts to the district providing the program.

3. As part of its calculation of each district's maximum total weighted full-time equivalent student enrollment, the department shall establish separate enrollment ceilings for each of two program groups. Group 1 shall be composed of grades K-3, grades 4-8, and grades 9-12. Group 2 shall be composed of students in exceptional student education programs, students-at-risk programs, all basic programs other than the programs in group 1, and all vocational programs in grades 7-12.

a. The weighted enrollment ceiling for group 2 programs shall be calculated by multiplying the final enrollment conference estimate for each program by the appropriate program weight. The weighted enrollment ceiling for program group 2 shall be the sum of the weighted enrollment ceilings for each program in the program group, plus the increase in weighted full-time equivalent student membership from the prior year for clients of the Department of Children and Family Services and the Department of Juvenile Justice.

b. If, for any calculation of the FEFP, the weighted enrollment for program group 2, derived by multiplying actual enrollments by appropriate program weights, exceeds the enrollment ceiling for that group, the following procedure shall be followed to reduce the weighted enrollment for that group to equal the enrollment ceiling:

(I) The weighted enrollment ceiling for each program in the program group shall be subtracted from the weighted enrollment for that program derived from actual enrollments.

(II) If the difference calculated under sub-sub-subparagraph (I) is greater than zero for any program, a reduction proportion shall be computed for the program by dividing the absolute value of the difference by the total amount by which the weighted enrollment for the program group exceeds the weighted enrollment ceiling for the program group.

(III) The reduction proportion calculated under sub-sub-subparagraph (II) shall be multiplied by the total amount of the program group's enrollment over the ceiling as calculated under sub-sub-subparagraph (I).

(IV) The prorated reduction amount calculated under sub-sub-subparagraph (III) shall be subtracted from the program's weighted enrollment. For any calculation of the FEFP, the enrollment ceiling for group 1 shall be calculated by multiplying the actual enrollment for each program in the program group by its appropriate program weight.

c. For program group 2, the weighted enrollment ceiling shall be a number not less than the sum obtained by:

(I) Multiplying the sum of reported FTE for all programs in the program group that have a cost factor of 1.0 or more by 1.0, and

(II) By adding this number to the sum obtained by multiplying the projected FTE for all programs with a cost factor less than 1.0 by the actual cost factor.

4. Following completion of the weighted enrollment ceiling calculation as provided in subparagraph 3., a supplemental capping calculation shall be employed for those districts that are over their weighted enrollment ceiling. For each such district, the total reported unweighted FTE enrollment for group 2 programs shall be compared with the total appropriated unweighted FTE enrollment for group 2 programs. If the total reported unweighted FTE for group 2 is greater than the appropriated unweighted FTE, then the excess unweighted FTE up to the unweighted FTE transferred from group 2 to group 1 for each district by the Public School FTE Estimating Conference shall be funded at a weight of 1.0 and added to the funded weighted FTE computed in subparagraph 3. This adjustment shall be calculated beginning with the third calculation of the 1998-1999 FEFP.

(4) COMPUTATION OF DISTRICT REQUIRED LOCAL EFFORT.—The Legislature shall prescribe the aggregate required local effort for all school districts collectively as an item in the General Appropriations Act for each fiscal year. The amount that each district shall provide annually toward the cost of the Florida Education Finance Program for kindergarten through grade 12 programs shall be calculated as follows:

(a) Estimated taxable value calculations.—

1.a. Not later than 2 working days prior to July 19, the Department of Revenue shall certify to the Commissioner of Education its most

recent estimate of the taxable value for school purposes in each school district and the total for all school districts in the state for the current calendar year based on the latest available data obtained from the local property appraisers. Not later than July 19, the commissioner shall compute a millage rate, rounded to the next highest one one-thousandth of a mill, which, when applied to 95 percent of the estimated state total taxable value for school purposes, would generate the prescribed aggregate required local effort for that year for all districts. The commissioner shall certify to each district school board the millage rate, computed as prescribed in this subparagraph, as the minimum millage rate necessary to provide the district required local effort for that year.

b. For the 1997-1998 fiscal year only, the General Appropriations Act may direct the computation of the statewide adjusted aggregate amount for required local effort for all school districts collectively from ad valorem taxes to ensure that no school district's revenue from required local effort millage will produce more than 90 percent of the district's total Florida Education Finance Program calculation, and the adjustment of the required local effort millage rate of each district that produces more than 90 percent of its total Florida Education Finance Program entitlement to a level that will produce only 90 percent of its total Florida Education Finance Program entitlement. This sub-subparagraph is repealed on July 1, 1998, unless enacted in other legislation.

2. As revised data are received from property appraisers, the Department of Revenue shall amend the certification of the estimate of the taxable value for school purposes. The Commissioner of Education, in administering the provisions of subparagraph *(9)*~~(10)~~(a)2., shall use the most recent taxable value for the appropriate year.

(b) Final calculation.—

1. The Department of Revenue shall, upon receipt of the official final assessed value of property from each of the property appraisers, certify to the commissioner the taxable value total for school purposes in each school district, subject to the provisions of paragraph (d). The commissioner shall use the official final taxable value for school purposes for each school district in the final calculation of the annual K-12 Florida Education Finance Program allocations.

2. For the purposes of this paragraph, the official final taxable value for school purposes shall be the taxable value for school purposes on which the tax bills are computed and mailed to the taxpayers, adjusted to reflect final administrative actions of value adjustment boards and judicial decisions pursuant to part I of chapter 194. By September 1 of each year, the Department of Revenue shall certify to the commissioner the official prior year final taxable value for school purposes. For each county that has not submitted a revised tax roll reflecting final value adjustment board actions and final judicial decisions, the Department of Revenue shall certify the most recent revision of the official taxable value for school purposes. The certified value shall be the final taxable value for school purposes and no further adjustments shall be made, except those made pursuant to subparagraph *(9)*~~(10)~~(a)2.

(8)~~(9)~~ QUALITY ASSURANCE GUARANTEE.—The Legislature may annually in the General Appropriations Act determine a percentage increase in funds per K-12 weighted FTE as a minimum guarantee to each school district. The guarantee shall be calculated from prior year base funding per weighted FTE student which shall include the adjusted FTE dollars as provided in subsection *(9)*~~(10)~~, quality guarantee funds, and actual nonvoted discretionary local effort from taxes. From the base funding per weighted FTE, the increase shall be calculated for the current year. The current year funds from which the guarantee shall be determined shall include the adjusted FTE dollars as provided in subsection *(9)*~~(10)~~ and potential nonvoted discretionary local effort from taxes. A comparison of current year funds per weighted FTE to prior year funds per weighted FTE shall be computed. For those school districts which have less than the legislatively assigned percentage increase, funds shall be provided to guarantee the assigned percentage increase in funds per weighted FTE student. Should appropriated funds be less than the sum of this calculated amount for all districts, the commissioner shall prorate each district's allocation. This provision shall be implemented to the extent specifically funded.

(9)~~(10)~~ TOTAL ALLOCATION OF STATE FUNDS TO EACH DISTRICT FOR CURRENT OPERATION.—The total annual state allocation to each district for current operation for the K-12 FEFP shall be distributed periodically in the manner prescribed in the General Appropriations Act.

(a) The basic amount for current operation for the K-12 FEFP as determined in subsection (1), multiplied by the district cost differential factor as determined in subsection (2), plus the amount for the sparsity supplement as determined in subsection (6), the decline in full-time equivalent students as determined in subsection (7), and the quality assurance guarantee as determined in subsection *(8)*~~(9)~~, less the required local effort as determined in subsection (4). If the funds appropriated for the purpose of funding the total amount for current operation as provided in this paragraph are not sufficient to pay the state requirement in full, the department shall prorate the available state funds to each district in the following manner:

1. Determine the percentage of proration by dividing the sum of the total amount for current operation, as provided in this paragraph for all districts collectively, and the total district required local effort into the sum of the state funds available for current operation and the total district required local effort.

2. Multiply the percentage so determined by the sum of the total amount for current operation as provided in this paragraph and the required local effort for each individual district.

3. From the product of such multiplication, subtract the required local effort of each district; and the remainder shall be the amount of state funds allocated to the district for current operation.

Section 18. Subsection (1) of section 236.25, Florida Statutes, is amended to read:

236.25 District school tax.—

(1) If the district school tax is not provided in the General Appropriations Act or the substantive bill implementing the General Appropriations Act, each school board desiring to participate in the state allocation of funds for current operation as prescribed by s. 236.081*(9)*~~(10)~~ shall levy on the taxable value for school purposes of the district, exclusive of millage voted under the provisions of s. 9(b) or s. 12, Art. VII of the State Constitution, a millage rate not to exceed the amount certified by the commissioner as the minimum millage rate necessary to provide the district required local effort for the current year, pursuant to s. 236.081(4)(a)1. In addition to the required local effort millage levy, each school board may levy a nonvoted current operating discretionary millage. The Legislature shall prescribe annually in the appropriations act the maximum amount of millage a district may levy. The millage rate prescribed shall exceed zero mills but shall not exceed the lesser of 1.6 mills or 25 percent of the millage which is required pursuant to s. 236.081(4), exclusive of millage levied pursuant to subsection (2).

Section 19. Paragraph (c) of subsection (3) of section 229.57, Florida Statutes, is amended to read:

229.57 Student assessment program.—

(3) STATEWIDE ASSESSMENT PROGRAM.—The commissioner is directed to design and implement a statewide program of educational assessment that provides information for the improvement of the operation and management of the public schools. The program must be designed, as far as possible, so as not to conflict with ongoing district assessment programs and so as to use information obtained from district programs. Pursuant to the statewide assessment program, the commissioner shall:

(c) Develop and implement a student achievement testing program as part of the statewide assessment program, to be administered at designated times at the elementary, middle, and high school levels to measure reading, writing, and mathematics. The testing program must be designed so that:

1. The tests measure student skills and competencies adopted by the state board as specified in paragraph (a). The tests must measure and report student proficiency levels in reading, writing, and mathematics. Other content areas may be included as directed by the commissioner. The commissioner shall provide for the tests to be developed or obtained, as appropriate, through contracts and project agreements with private vendors, public vendors, public agencies, postsecondary institutions, or school districts. The commissioner shall obtain input with respect to the design and implementation of the testing program from state educators and the public.

2. The tests are criterion-referenced and include, to the extent determined by the commissioner, items that require the student to produce information or perform tasks in such a way that the skills and competencies he or she uses can be measured.

3. Each testing program, whether at the elementary, middle, or high school level, includes a test of writing in which students are required to produce writings which are then scored by appropriate methods.

4. A score is designated for each subject area tested, below which score a student's performance is deemed inadequate. The school districts shall provide appropriate remedial instruction to students who score below these levels.

5. All 11th grade students take a high school competency test developed by the state board to test minimum student performance skills and competencies in reading, writing, and mathematics. The test must be based on the skills and competencies adopted by the state board pursuant to paragraph (a). Upon recommendation of the commissioner, the state board shall designate a passing score for each part of the high school competency test. In establishing passing scores, the state board shall consider any possible negative impact of the test on minority students. *The commissioner may establish criteria whereby a student who successfully demonstrates proficiency in either reading or mathematics or both may be exempted from taking the corresponding section of the high school competency test or the college placement test.* A student must earn a passing score *or have been exempted from* ~~on~~ each part *of the high school competency test in order* ~~taken~~ to qualify for a regular high school diploma. The school districts shall provide appropriate remedial instruction to students who do not pass part of the competency test.

6. Participation in the testing program is mandatory for all students, except as otherwise prescribed by the commissioner. The commissioner shall recommend rules to the state board for the provision of test adaptations and modifications of procedures as necessary for students in exceptional education programs and for students who have limited English proficiency.

7. A student seeking an adult high school diploma must meet the same testing requirements that a regular high school student must meet.

The commissioner may design and implement student testing programs for any grade level and subject area, based on procedures designated by the commissioner to monitor educational achievement in the state.

Section 20. Paragraph (d) of subsection (5) of section 24.121, Florida Statutes, is amended to read:

24.121 Allocation of revenues and expenditure of funds for public education.—

(5)

(d) ~~Beginning July 1, 1993,~~ No funds shall be released for any purpose from the Educational Enhancement Trust Fund to any school district in which one or more schools do not have an approved school improvement plan pursuant to s. 230.23(16).

Section 21. Paragraph (a) of subsection (1) of section 229.58, Florida Statutes, is amended to read:

229.58 District and school advisory councils.—

(1) ESTABLISHMENT.—

(a) The school board shall establish an advisory council for each school in the district, and shall develop procedures for the election and appointment of advisory council members. A majority of the members of each school advisory council must be persons who are not employed by the school board. Each advisory council shall be composed of the principal and an appropriately balanced number of teachers, education support employees, students, parents, and other business and community citizens who are representative of the ethnic, racial, and economic community served by the school.~~, provided that~~ Vocational-technical center and high school advisory councils shall include students, and middle and junior high school advisory councils may include students. *School advisory councils of vocational-technical and adult education centers are not required to include parents as members.* Council members representing teachers, education support employees, students, and parents shall be elected by their respective peer groups at the school in a fair and equitable manner as follows:

1. Teachers shall be elected by teachers.

2. Education support employees shall be elected by education support employees.

3. Students shall be elected by students.

4. Parents shall be elected by parents.

The school board shall establish procedures for use by schools in selecting business and community members. Such procedures shall include means of ensuring wide notice of vacancies and for taking input on possible members from local business, chambers of commerce, community and civic organizations and groups, and the public at large. The school board shall review the membership composition of each advisory council. Should the school board determine that the membership elected by the school is not representative of the ethnic, racial, and economic community served by the school, the board shall appoint additional members to achieve proper representation. Although schools should be strongly encouraged to establish school advisory councils, any school district that has a student population of 10,000 or fewer may establish a district advisory council which shall include at least one duly elected teacher from each school in the district. For the purposes of school advisory councils and district advisory councils, the term "teacher" shall include classroom teachers, certified student services personnel, and media specialists. For purposes of this paragraph, "education support employee" means any person employed by a school who is not defined as instructional or administrative personnel pursuant to s. 228.041 and whose duties require 20 or more hours in each normal working week.

Section 22. Paragraph (f) of subsection (3) of section 229.591, Florida Statutes, is amended to read:

229.591 Comprehensive revision of Florida's system of school improvement and education accountability.—

(3) EDUCATION GOALS.—The state as a whole shall work toward the following goals:

(f) Teachers and staff.—The schools, district, *all postsecondary institutions,* and state ensure professional teachers and staff.

Section 23. *Deregulated Public Schools.—*

(1) PILOT PROGRAM.—To provide public schools the same flexibility and accountability afforded charter schools, pilot programs for deregulated public schools shall be conducted in two large, two medium-sized, and two small school districts. For the 1998-1999 school year, no more than six schools per district, to include no more than two high schools, two middle schools, and two elementary schools, may participate in the flexibility program. The following districts are authorized to conduct pilot program in 1998-1999: Palm Beach, Pinellas, Seminole, Leon, Walton, and Citrus Counties.

(2) PURPOSE.—The purpose of the pilot program for deregulated public schools shall be to:

(a) Improve student learning.

(b) Increase learning opportunities for all students, with special emphasis on expanded learning experiences for students who are identified as academically low achieving.

(c) Encourage the use of different and innovative learning methods.

(d) Increase choice of learning opportunities for students.

(e) Establish a new form of accountability for schools.

(f) Require the measurement of learning outcomes and create innovative measurement tools.

(g) Make the school the unit for improvement.

(h) Relieve schools of paperwork and procedures that are required by the state and the district for purposes other than health, safety, equal opportunity, fiscal accountability and documentation of student achievement.

(3) PROPOSAL.—

(a) A proposal to be a deregulated school must be developed by the school principal and the school advisory council. A majority of the members of the school advisory council must approve the proposal, and the principal and the school advisory council chairman must sign the proposal. At least 50 percent of the teachers employed at the school must approve the proposal. The school must conduct a survey to show parental support for the proposal.

(b) A district school board shall receive and review all proposals for a deregulated public school during July and August. A district school board must by a majority vote approve or deny a proposal no later than 30 days after the proposal is received. If a proposal is denied, the district school board must, within 10 calendar days, articulate in writing the specific reasons based upon good cause supporting its denial of the proposal.

(c) The Department of Education may provide technical assistance to an applicant upon written request.

(d) The terms and conditions for the operation of a deregulated public school shall be set forth in the proposal. The school district shall not impose unreasonable rules or regulations that violate the intent of giving schools greater flexibility to meet educational goals.

(4) ELIGIBLE STUDENTS.—

(a) A deregulated school shall be open to all students residing in the school's attendance boundaries as determined by the school district.

(b) The deregulated public school shall have maximum flexibility to enroll students under the school district open enrolled plan.

(5) REQUIREMENTS.—Like other public schools, a deregulated public school shall:

(a) Be nonsectarian in its programs, admission policies, employment practices, and operations.

(b) Not charge tuition or fees, except those fees normally charged by other public schools.

(c) Meet all applicable state and local health, safety, and civil rights requirements.

(d) Not violate the antidiscrimination provisions of s. 228.2001.

(e) Be subject to an annual financial audit in a manner similar to that of other public schools in the district.

(6) ELEMENTS OF THE PROPOSAL.—The major issues involving the operation of a deregulated public school shall be considered in advance and written into the proposal.

(a) The proposal shall address, and criteria for approval of the proposal shall be based, on:

1. The school's mission and the students to be served.

2. The focus of the curriculum, the instructional methods to be used, and any distinctive instructional techniques to be employed.

3. The current baseline standard of achievement and the outcomes to be achieved and the method of measurement that will be used.

4. The methods used to identify the educational strengths and needs of students and how well educational goals and performance standards are met by students attending the school. Students in deregulated and flexible public schools shall, at a minimum, participate in the statewide assessment program.

5. In secondary schools, a method for determining that a student has satisfied the requirements for graduation in s. 232.246.

6. A method for resolving conflicts between the school and the district.

7. The admissions procedures and dismissal procedures, including the school's code of student conduct.

8. The ways by which the school's racial/ethnic balance reflects the community it serves or reflects the racial/ethnic range of other public schools in the same school district.

9. The financial and administrative management of the school including a statement of the areas in which the school will have administrative and fiscal autonomy and the areas in which the school will follow school district fiscal and administrative policies.

10. The manner in which the school will be insured, including whether or not the school will be required to have liability insurance, and, if so, the terms and conditions thereof and the amounts of coverage.

11. The qualifications to be required of the teachers.

(b) The school shall make annual progress reports to the district, which upon verification shall be forwarded to the Commissioner of Education at the same time as other annual school accountability reports. The report shall contain at least the following information:

1. The school's progress towards achieving the goals outlined in its proposal.

2. The information required in the annual school report pursuant to section 229.592, Florida Statutes.

3. Financial records of the school, including revenues and expenditures.

4. Salary and benefit levels of school employees.

(c) A school district shall ensure that the proposal is innovative and consistent with the state education goals established by section 229.591, Florida Statutes.

(d) Upon receipt of the annual report required by paragraph (b), the Department of Education shall provide to the State Board of Education, the Commissioner of Education, the President of the Senate, and the Speaker of the House of Representatives with a copy of each report and an analysis and comparison of the overall performance of students, to include all students in deregulated public schools whose scores are counted as part of the norm-referenced assessment tests, versus comparable public school students in the district as determined by norm-referenced assessment tests currently administered in the school district, and, as appropriate, the Florida Writes Assessment Test, the High School Competency Test, and other assessments administered pursuant to section 229.57(3), Florida Statutes.

(7) EXEMPTION FROM STATUTES.—

(a) A deregulated public school shall operate in accordance with its proposal and shall be exempt from all statutes of the Florida School Code, except those pertaining to civil rights and student health, safety, and welfare, or as otherwise required by this section. A deregulated public school shall not be exempt from the following statutes: chapter 119, relating to public records, and section 286.011, Florida Statutes,

relating to public meetings and records, public inspection, and penalties. The school district, upon request of a deregulated public school, may apply to the Commissioner of Education for a waiver of provisions of chapters 230 through 239 which are applicable to deregulated public schools under this section, except that the provisions of chapters 236 or 237 shall not be eligible for waiver if the waiver would affect funding allocations or create inequity in public school funding. The commissioner may grant the waiver if necessary to implement the school program.

(b) Teachers employed by or under contract to a deregulated public school shall be certified as required by chapter 231. A deregulated public school may employ or contract with skilled selected noncertified personnel to provide instructional services or to assist instructional staff members as teacher aides in the same manner as defined in chapter 231. A deregulated public school may not employ an individual to provide instructional services or to serve as a teacher aide if the individual's certification or licensure as an educator is suspended or revoked by this or any other state. The qualifications of teachers shall be disclosed to parents.

(c) A deregulated public school shall employ or contract with employees who have been fingerprinted as provided in section 231.02, Florida Statutes.

(8) REVENUE.—Students enrolled in a deregulated public school, shall be funded in a basic program or a special program, in the same manner as students enrolled in other public schools in the school district.

(9) LENGTH OF SCHOOL YEAR.—A deregulated public school shall provide instruction for at least the number of days required by law for other public schools, and may provide instruction for additional days.

(10) FACILITIES.—A deregulated public school shall utilize facilities which comply with the State Uniform Building Code for Public Educational Facilities Construction adopted pursuant to section 235.26, Florida Statutes, or with applicable state minimum building codes pursuant to chapter 553 and state minimum fire protection codes pursuant to section 633.025, Florida Statutes, as adopted by the authority in whose jurisdiction the facility is located.

Section 24. *Section 231.613, Florida Statutes, is repealed.*

Section 25. This act shall take effect upon becoming a law

And the title is amended as follows:

Delete everything before the enacting clause and insert: An act relating to education; amending s. 231.02, F.S., relating to qualifications of district school system personnel; deleting certain provisions relating to background check; amending s. 231.096, F.S.; revising provisions relating to teaching out-of-field; amending s. 231.15, F.S.; providing State Board of Education duties relating to teacher certification; amending s. 231.17, F.S.; revising provisions relating to qualification for a temporary certificate; amending s. 231.1725, F.S.; deleting provisions relating to employment of noncertificated teachers in critical teacher shortage areas; amending s. 231.261, F.S.; providing rulemaking authority of the Education Practices Commission; amending s. 231.263, F.S.; clarifying provisions relating to the recovery network program for educators; amending s. 231.47, F.S.; conforming a cross-reference; amending s. 231.546, F.S., relating to the Education Standards Commission; deleting duties relating to teacher education centers; amending s. 231.600, F.S.; revising requirements of the school district professional development system; amending s. 231.625, F.S.; deleting provisions relating to a teacher referral and recruitment center; requiring establishment of a teacher recruitment and retention services office; amending s. 231.6255, F.S.; revising provisions relating to the Christa McAuliffe Ambassador for Education Program; creating s. 231.63, F.S.; creating the Florida Educator Hall of Fame; providing for nominations, recommendations, and selection of members; amending s. 20.15, F.S.; creating additional divisions of the Department of Education; amending s. 231.262, F.S.; providing a show-cause process for violations of probation imposed by the Education Practices Commission; amending s. 231.28, F.S.; providing a show-cause process for violation of an order of the Education Practices Commission; providing authority for additional penalties; amending s. 236.081, F.S.; providing for a supplemental capping calculation for those districts whose weighted FTE enrollment is over the weighted FTE ceiling established in the annual appropriations act; providing a procedure for such calculation; repealing s. 236.081(8), F.S., which provides for a caps adjustment supplement for group 2 programs when there are funds remaining in the Florida Education Finance Program appropriation; amending s. 236.25, F.S.; conforming a cross-reference; amending s. 229.57, F.S.; authorizing the Commissioner of Education to establish criteria for exempting a student from taking certain parts of the high school competency test; repealing s. 231.613, F.S., relating to inservice training institutes; amending s. 24.121, F.S.; deleting obsolete provisions; amending s. 229.58, F.S.; revising provisions governing the membership of school advisory councils; amending s. 229.591, F.S.; revising education goals with respect to postsecondary institutions; creating pilot programs for deregulated public schools in a maximum of six counties; providing an effective date.

THE SPEAKER IN THE CHAIR

On motion by Rep. Sublette, the House concurred in Senate Amendment 1. The question recurred on the passage of HB 4837. The vote was:

Yeas—112

The Chair	Crady	Jones	Ritchie
Albright	Crist	Kelly	Ritter
Alexander	Crow	King	Roberts-Burke
Andrews	Culp	Kosmas	Rodriguez-Chomat
Argenziano	Dawson-White	Lacasa	Rojas
Arnall	Dennis	Lawson	Safley
Arnold	Dockery	Littlefield	Sanderson
Bainter	Edwards	Livingston	Saunders
Ball	Effman	Logan	Sembler
Barreiro	Eggelletion	Lynn	Silver
Betancourt	Fasano	Mackenzie	Sindler
Bitner	Feeney	Mackey	Smith
Bloom	Fischer	Maygarden	Stafford
Boyd	Flanagan	Meek	Starks
Bradley	Frankel	Melvin	Sublette
Brennan	Fuller	Merchant	Tamargo
Bronson	Futch	Miller	Thrasher
Brooks	Garcia	Minton	Tobin
Brown	Gay	Morroni	Trovillion
Burroughs	Goode	Morse	Turnbull
Bush	Greene	Murman	Valdes
Byrd	Hafner	Ogles	Villalobos
Carlton	Harrington	Peaden	Wallace
Casey	Healey	Posey	Warner
Chestnut	Heyman	Pruitt, K.	Westbrook
Clemons	Hill	Putnam	Wiles
Constantine	Horan	Rayson	Wise
Cosgrove	Jacobs	Reddick	Ziebarth

Nays—3

Prewitt, D.	Stabins	Wasserman Schultz

Excused from time to time for Conference Committee—Bitner, Bradley, Byrd, Clemons, Lippman, Safley, Thrasher, Warner

Votes after roll call:
Yeas—Bullard, Gottlieb, Spratt
Nays to Yeas—Stabins

So the bill passed, as amended. The action was immediately certified to the Senate and the bill was ordered enrolled after engrossment.

Reconsideration of HB 4233

On motion by Rep. Stafford, the House reconsidered the vote by which **HB 4233**, as amended, passed on April 29.

HB 4233—A bill to be entitled An act relating to homicide; amending s. 782.04, F.S.; redefining the offense of capital murder in the first

degree to include the act of unlawfully killing a human being while perpetrating, or attempting to perpetrate, the murder of another human being; providing penalties; providing that a person who perpetrates or attempts to perpetrate a murder commits felony murder in the second degree when a person is killed by someone other than the perpetrator; providing penalties; adding murder to the list of felony offenses which do not constitute third–degree felony murder; reenacting ss. 39.464(1)(d), 435.03(2)(b), 435.04(2)(b), 775.0823(1) and (2), 921.0022(3)(i), 943.325(1), and 947.146(3), F.S., relating to the termination of parental rights, screening standards, violent offenses against law enforcement officers and others, the Criminal Punishment Code, blood testing, and the Control Release Authority, to incorporate the amendment to 782.04, F.S., in references thereto; amending ss. 782.071, 782.072, F.S.; increasing the penalties imposed for committing the offense of vehicular homicide or vessel homicide; increasing the penalties imposed for committing vehicular homicide or vessel homicide and failing to give information and render aid when the offender knew, or should have known, that the accident occurred; amending s. 921.0022, F.S., relating to the Criminal Punishment Code; conforming references to changes made by the act; providing that certain proviso language contained in the Conference Report On House Bill 4201 may not be modified through substantive legislation passed during the 1998 regular session of the Legislature unless certain conditions are met; providing that certain proviso language contained in the Conference Report On House Bill 4201 is reenacted if repealed or amended by substantive legislation passed during the 1998 regular session of the Legislature; providing for repeal of section on June 30, 1999; providing an effective date.

The question recurred on the passage of HB 4233.

Representative(s) Stafford offered the following:

Amendment 8 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Section 782.04, Florida Statutes, is amended to read:

782.04 Murder.—

(1)(a) The unlawful killing of a human being:

1. When perpetrated from a premeditated design to effect the death of the person killed or any human being; ~~or~~

2. When committed by a person engaged in the perpetration of, or in the attempt to perpetrate, any:

a. Trafficking offense prohibited by s. 893.135(1),

b. Arson,

c. Sexual battery,

d. Robbery,

e. Burglary,

f. Kidnapping,

g. Escape,

h. Aggravated child abuse,

i. Aggravated abuse of an elderly person or disabled adult,

j. Aircraft piracy,

k. Unlawful throwing, placing, or discharging of a destructive device or bomb,

l. Carjacking,

m. Home-invasion robbery,

n. Aggravated stalking, ~~or~~

o. Murder of another human being; or

3. Which resulted from the unlawful distribution of any substance controlled under s. 893.03(1), cocaine as described in s. 893.03(2)(a)4., or opium or any synthetic or natural salt, compound, derivative, or preparation of opium by a person 18 years of age or older, when such drug is proven to be the proximate cause of the death of the user,

is murder in the first degree and constitutes a capital felony, punishable as provided in s. 775.082.

(b) In all cases under this section, the procedure set forth in s. 921.141 shall be followed in order to determine sentence of death or life imprisonment.

(2) The unlawful killing of a human being, when perpetrated by any act imminently dangerous to another and evincing a depraved mind regardless of human life, although without any premeditated design to effect the death of any particular individual, is murder in the second degree and constitutes a felony of the first degree, punishable by imprisonment for a term of years not exceeding life or as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) When a person is killed in the perpetration of, or in the attempt to perpetrate, any:

(a) Trafficking offense prohibited by s. 893.135(1),

(b) Arson,

(c) Sexual battery,

(d) Robbery,

(e) Burglary,

(f) Kidnapping,

(g) Escape,

(h) Aggravated child abuse,

(i) Aggravated abuse of an elderly person or disabled adult,

(j) Aircraft piracy,

(k) Unlawful throwing, placing, or discharging of a destructive device or bomb,

(l) Carjacking,

(m) Home-invasion robbery, ~~or~~

(n) Aggravated stalking, *or*

(o) Murder of another human being,

by a person other than the person engaged in the perpetration of or in the attempt to perpetrate such felony, the person perpetrating or attempting to perpetrate such felony is guilty of murder in the second degree, which constitutes a felony of the first degree, punishable by imprisonment for a term of years not exceeding life or as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) The unlawful killing of a human being, when perpetrated without any design to effect death, by a person engaged in the perpetration of, or in the attempt to perpetrate, any felony other than any:

(a) Trafficking offense prohibited by s. 893.135(1),

(b) Arson,

(c) Sexual battery,

(d) Robbery,

(e) Burglary,

(f) Kidnapping,

(g) Escape,

(h) Aggravated child abuse,

(i) Aggravated abuse of an elderly person or disabled adult,

(j) Aircraft piracy,

(k) Unlawful throwing, placing, or discharging of a destructive device or bomb,

(l) Unlawful distribution of any substance controlled under s. 893.03(1), cocaine as described in s. 893.03(2)(a)4., or opium or any synthetic or natural salt, compound, derivative, or preparation of opium by a person 18 years of age or older, when such drug is proven to be the proximate cause of the death of the user,

(m) Carjacking,

(n) Home-invasion robbery, ~~or~~

(o) Aggravated stalking, *or*

(p) Murder of another human being,

is murder in the third degree and constitutes a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 2. For the purpose of incorporating the amendment made by this act to section 782.04, Florida Statutes, in references thereto, paragraph (d) of subsection (1) of section 39.464, Florida Statutes, is reenacted to read:

39.464 Grounds for termination of parental rights.—

(1) The department, the guardian ad litem, a licensed child-placing agency, or any person who has knowledge of the facts alleged or who is informed of said facts and believes that they are true, may petition for the termination of parental rights under any of the following circumstances:

(d) When the parent of a child is incarcerated in a state or federal correctional institution and:

1. The period of time for which the parent is expected to be incarcerated will constitute a substantial portion of the period of time before the child will attain the age of 18 years;

2. The incarcerated parent has been determined by the court to be a violent career criminal as defined in s. 775.084, a habitual violent felony offender as defined in s. 775.084, or a sexual predator as defined in s. 775.21; has been convicted of first degree or second degree murder in violation of s. 782.04 or a sexual battery that constitutes a capital, life, or first degree felony violation of s. 794.011; or has been convicted of an offense in another jurisdiction which is substantially similar to one of the offenses listed in this paragraph. As used in this section, the term “substantially similar offense” means any offense that is substantially similar in elements and penalties to one of those listed in this paragraph, and that is in violation of a law of any other jurisdiction, whether that of another state, the District of Columbia, the United States or any possession or territory thereof, or any foreign jurisdiction; and

3. The court determines by clear and convincing evidence that continuing the parental relationship with the incarcerated parent would be harmful to the child and, for this reason, that termination of the parental rights of the incarcerated parent is in the best interest of the child.

Section 3. For the purpose of incorporating the amendment made by this act to section 782.04, Florida Statutes, in references thereto, paragraph (b) of subsection (2) of section 435.03, Florida Statutes, is reenacted to read:

435.03 Level 1 screening standards.—

(2) Any person for whom employment screening is required by statute must not have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under any of the following provisions of the Florida Statutes or under any similar statute of another jurisdiction:

(b) Section 782.04, relating to murder.

Section 4. For the purpose of incorporating the amendment made by this act to section 782.04, Florida Statutes, in references thereto, paragraph (b) of subsection (2) of section 435.04, Florida Statutes, is reenacted to read:

435.04 Level 2 screening standards.—

(2) The security background investigations under this section must ensure that no persons subject to the provisions of this section have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under any of the following provisions of the Florida Statutes or under any similar statute of another jurisdiction:

(b) Section 782.04, relating to murder.

Section 5. For the purpose of incorporating the amendment made by this act to section 782.04, Florida Statutes, in references thereto, subsections (1) and (2) of section 775.0823, Florida Statutes, as amended by section 11 of chapter 97-194, Laws of Florida, are reenacted to read:

775.0823 Violent offenses committed against law enforcement officers, correctional officers, state attorneys, assistant state attorneys, justices, or judges.—Any provision of law to the contrary notwithstanding, the Legislature does hereby provide for an increase and certainty of penalty for any person convicted of a violent offense against any law enforcement or correctional officer, as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9); against any state attorney elected pursuant to s. 27.01 or assistant state attorney appointed under s. 27.181; or against any justice or judge of a court described in Art. V of the State Constitution, which offense arises out of or in the scope of the officer's duty as a law enforcement or correctional officer, the state attorney's or assistant state attorney's duty as a prosecutor or investigator, or the justice's or judge's duty as a judicial officer, as follows:

(1) For murder in the first degree as described in s. 782.04(1), if the death sentence is not imposed, a sentence of imprisonment for life without eligibility for release.

(2) For attempted murder in the first degree as described in s. 782.04(1), a sentence pursuant to the Criminal Punishment Code.

Notwithstanding the provisions of s. 948.01, with respect to any person who is found to have violated this section, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld.

Section 6. For the purpose of incorporating the amendment made by this act to section 782.04, Florida Statutes, in references thereto, paragraph (i) of subsection (3) of section 921.0022, Florida Statutes, as created by section 5 of chapter 97-194, Laws of Florida, is reenacted to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
		(i) LEVEL 9
316.193 (3)(c)3.b.	1st	DUI manslaughter; failing to render aid or give information.
782.04(1)	1st	Attempt, conspire, or solicit to commit premeditated murder.
782.04(3)	1st,PBL	Accomplice to murder in connection with arson, sexual battery, robbery, burglary, and other specified felonies.
782.07(2)	1st	Aggravated manslaughter of an elderly person or disabled adult.

Florida Statute	Felony Degree	Description
782.07(3)	1st	Aggravated manslaughter of a child.
787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or reward or as a shield or hostage.
787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit or facilitate commission of any felony.
787.01(1)(a)4.	1st,PBL	Kidnapping with intent to interfere with performance of any governmental or political function.
787.02(3)(a)	1st	False imprisonment; child under age 13; perpetrator also commits child abuse, sexual battery, lewd, or lascivious act, etc.
790.161	1st	Attempted capital destructive device offense.
794.011(2)	1st	Attempted sexual battery; victim less than 12 years of age.
794.011(2)	Life	Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.
794.011(4)	1st	Sexual battery; victim 12 years or older, certain circumstances.
794.011(8)(b)	1st	Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.
812.13(2)(a)	1st,PBL	Robbery with firearm or other deadly weapon.
812.133(2)(a)	1st,PBL	Carjacking; firearm or other deadly weapon.
847.0145(1)	1st	Selling, or otherwise transferring custody or control, of a minor.
847.0145(2)	1st	Purchasing, or otherwise obtaining custody or control, of a minor.
859.01	1st	Poisoning food, drink, medicine, or water with intent to kill or injure another person.
893.135	1st	Attempted capital trafficking offense.
893.135(1)(a)3.	1st	Trafficking in cannabis, more than 10,000 lbs.
893.135 (1)(b)1.c.	1st	Trafficking in cocaine, more than 400 grams, less than 150 kilograms.
893.135 (1)(c)1.c.	1st	Trafficking in illegal drugs, more than 28 grams, less than 30 kilograms.
893.135 (1)(d)1.c.	1st	Trafficking in phencyclidine, more than 400 grams.
893.135 (1)(e)1.c.	1st	Trafficking in methaqualone, more than 25 kilograms.
893.135 (1)(f)1.c.	1st	Trafficking in amphetamine, more than 200 grams.

Section 7. For the purpose of incorporating the amendment made by this act to section 782.04, Florida Statutes, in references thereto, subsection (1) of section 943.325, Florida Statutes, is reenacted to read:

943.325 Blood specimen testing for DNA analysis.—

(1)(a) Any person convicted, or who was previously convicted and is still incarcerated, in this state for any offense or attempted offense defined in chapter 794, chapter 800, s. 782.04, s. 784.045, s. 812.133, or s. 812.135, and who is within the confines of the legal state boundaries, shall be required to submit two specimens of blood to a Department of Law Enforcement designated testing facility as directed by the department.

(b) For the purpose of this section, the term “any person” shall include both juveniles and adults committed to or under the supervision of the Department of Corrections or the Department of Juvenile Justice.

Section 8. For the purpose of incorporating the amendment made by this act to section 782.04, Florida Statutes, in references thereto, subsection (3) of section 947.146, Florida Statutes, as amended by section 31 of chapter 97-194, Laws of Florida, is reenacted to read:

947.146 Control Release Authority.—

(3) Within 120 days prior to the date the state correctional system is projected pursuant to s. 216.136 to exceed 99 percent of total capacity, the authority shall determine eligibility for and establish a control release date for an appropriate number of parole ineligible inmates committed to the department and incarcerated within the state who have been determined by the authority to be eligible for discretionary early release pursuant to this section. In establishing control release dates, it is the intent of the Legislature that the authority prioritize consideration of eligible inmates closest to their tentative release date. The authority shall rely upon commitment data on the offender information system maintained by the department to initially identify inmates who are to be reviewed for control release consideration. The authority may use a method of objective risk assessment in determining if an eligible inmate should be released. Such assessment shall be a part of the department's management information system. However, the authority shall have sole responsibility for determining control release eligibility, establishing a control release date, and effectuating the release of a sufficient number of inmates to maintain the inmate population between 99 percent and 100 percent of total capacity. Inmates who are ineligible for control release are inmates who are parole eligible or inmates who:

(a) Are serving a sentence that includes a mandatory minimum provision for a capital offense or drug trafficking offense and have not served the number of days equal to the mandatory minimum term less any jail-time credit awarded by the court;

(b) Are serving the mandatory minimum portion of a sentence enhanced under s. 775.087(2) or (3), or s. 784.07(3);

(c) Are convicted, or have been previously convicted, of committing or attempting to commit sexual battery, incest, or any of the following lewd or indecent assaults or acts: masturbating in public; exposing the sexual organs in a perverted manner; or nonconsensual handling or fondling of the sexual organs of another person;

(d) Are convicted, or have been previously convicted, of committing or attempting to commit assault, aggravated assault, battery, or aggravated battery, and a sex act was attempted or completed during commission of such offense;

(e) Are convicted, or have been previously convicted, of committing or attempting to commit kidnapping, burglary, or murder, and the offense was committed with the intent to commit sexual battery or a sex act was attempted or completed during commission of the offense;

(f) Are convicted, or have been previously convicted, of committing or attempting to commit false imprisonment upon a child under the age of 13 and, in the course of committing the offense, the inmate committed aggravated child abuse, sexual battery against the child, or a lewd, lascivious, or indecent assault or act upon or in the presence of the child;

(g) Are sentenced, have previously been sentenced, or have been sentenced at any time under s. 775.084, or have been sentenced at any time in another jurisdiction as a habitual offender;

(h) Are convicted, or have been previously convicted, of committing or attempting to commit assault, aggravated assault, battery, aggravated battery, kidnapping, manslaughter, or murder against an officer as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9); against a state attorney or assistant state attorney; or against a justice or judge of a court described in Art. V of the State Constitution; or against an officer, judge, or state attorney employed in a comparable position by any other jurisdiction; or

(i) Are convicted, or have been previously convicted, of committing or attempting to commit murder in the first, second, or third degree under s. 782.04(1), (2), (3), or (4), or have ever been convicted of any degree of murder or attempted murder in another jurisdiction;

(j) Are convicted, or have been previously convicted, of DUI manslaughter under s. 316.193(3)(c)3., and are sentenced, or have been sentenced at any time, as a habitual offender for such offense, or have been sentenced at any time in another jurisdiction as a habitual offender for such offense;

(k)1. Are serving a sentence for an offense committed on or after January 1, 1994, for a violation of the Law Enforcement Protection Act under s. 775.0823(2), (3), (4), or (5), and the subtotal of the offender's sentence points is multiplied pursuant to former s. 921.0014 or s. 921.0024;

2. Are serving a sentence for an offense committed on or after October 1, 1995, for a violation of the Law Enforcement Protection Act under s. 775.0823(2), (3), (4), (5), (6), (7), or (8), and the subtotal of the offender's sentence points is multiplied pursuant to former s. 921.0014 or s. 921.0024;

(l) Are serving a sentence for an offense committed on or after January 1, 1994, for possession of a firearm, semiautomatic firearm, or machine gun in which additional points are added to the subtotal of the offender's sentence points pursuant to former s. 921.0014 or s. 921.0024; or

(m) Are convicted, or have been previously convicted, of committing or attempting to commit manslaughter, kidnapping, robbery, carjacking, home-invasion robbery, or a burglary under s. 810.02(2).

In making control release eligibility determinations under this subsection, the authority may rely on any document leading to or generated during the course of the criminal proceedings, including, but not limited to, any presentence or postsentence investigation or any information contained in arrest reports relating to circumstances of the offense.

Section 9. *Sections 9 and 10 of this act may be cited as the "Jeff Mitchell Act."*

Section 10. Subsections (4) and (5) of section 921.141, Florida Statutes, are amended to read:

921.141 Sentence of death or life imprisonment for capital felonies; further proceedings to determine sentence.—

(1) SEPARATE PROCEEDINGS ON ISSUE OF PENALTY.—Upon conviction or adjudication of guilt of a defendant of a capital felony, the court shall conduct a separate sentencing proceeding to determine whether the defendant should be sentenced to death or life imprisonment as authorized by s. 775.082. The proceeding shall be conducted by the trial judge before the trial jury as soon as practicable. If, through impossibility or inability, the trial jury is unable to reconvene for a hearing on the issue of penalty, having determined the guilt of the accused, the trial judge may summon a special juror or jurors as provided in chapter 913 to determine the issue of the imposition of the penalty. If the trial jury has been waived, or if the defendant pleaded guilty, the sentencing proceeding shall be conducted before a jury impaneled for that purpose, unless waived by the defendant. In the proceeding, evidence may be presented as to any matter that the court deems relevant to the nature of the crime and the character of the defendant and shall include matters relating to any of the aggravating or mitigating circumstances enumerated in subsections (5) and (6). Any such evidence which the court deems to have probative value may be received, regardless of its admissibility under the exclusionary rules of evidence, provided the defendant is accorded a fair opportunity to rebut any hearsay statements. However, this subsection shall not be construed to authorize the introduction of any evidence secured in violation of the Constitution of the United States or the Constitution of the State of Florida. The state and the defendant or the defendant's counsel shall be permitted to present argument for or against sentence of death.

(2) ADVISORY SENTENCE BY THE JURY.—After hearing all the evidence, the jury shall deliberate and render an advisory sentence to the court, based upon the following matters:

(a) Whether sufficient aggravating circumstances exist as enumerated in subsection (5);

(b) Whether sufficient mitigating circumstances exist which outweigh the aggravating circumstances found to exist; and

(c) Based on these considerations, whether the defendant should be sentenced to life imprisonment or death.

(3) FINDINGS IN SUPPORT OF SENTENCE OF DEATH.—Notwithstanding the recommendation of a majority of the jury, the court, after weighing the aggravating and mitigating circumstances, shall enter a sentence of life imprisonment or death, but if the court imposes a sentence of death, it shall set forth in writing its findings upon which the sentence of death is based as to the facts:

(a) That sufficient aggravating circumstances exist as enumerated in subsection (5), and

(b) That there are insufficient mitigating circumstances to outweigh the aggravating circumstances.

In each case in which the court imposes the death sentence, the determination of the court shall be supported by specific written findings of fact based upon the circumstances in subsections (5) and (6) and upon the records of the trial and the sentencing proceedings. If the court does not make the findings requiring the death sentence within 30 days after the rendition of the judgment and sentence, the court shall impose sentence of life imprisonment in accordance with s. 775.082.

(4) REVIEW OF JUDGMENT AND SENTENCE.—The judgment of conviction and sentence of death shall be subject to automatic review by the Supreme Court of Florida and disposition rendered within 2 years after the filing of a notice of appeal. Such review by the Supreme Court shall have priority over all other cases and shall be heard in accordance with rules promulgated by the Supreme Court.

(a) In any case in which the court has imposed the death sentence, the judgment of conviction and sentence of death shall not be held invalid, overturned, reduced, or otherwise affected because a codefendant in the same case accepted a plea offer from the state in exchange for trial testimony, or an agreement to testify, and was not sentenced to death.

(b) No criteria for review by the court regarding aggravating or mitigating circumstances shall be utilized except as authorized in this section. The court shall not engage in any form of proportionality review of a death sentence, including, but not limited to, review of a capital case based on comparable aggravating or mitigating circumstances in other capital cases, based on comparable factors in the defendant's background in other capital cases, or based on the rate of imposition or execution of the death sentence in other capital cases.

(5) AGGRAVATING CIRCUMSTANCES.—Aggravating circumstances shall be limited to the following:

(a) The capital felony was committed by a person previously convicted of a felony and under sentence of imprisonment or placed on community control or on felony probation.

(b) The defendant was previously convicted of another capital felony or of a felony involving the use or threat of violence to the person.

(c) The defendant knowingly created a great risk of death to many persons.

(d) The capital felony was committed while the defendant was engaged, or was an accomplice, in the commission of, or an attempt to commit, or flight after committing or attempting to commit, any: robbery; sexual battery; aggravated child abuse; abuse of an elderly person or disabled adult resulting in great bodily harm, permanent disability, or permanent disfigurement; arson; burglary; kidnapping; aircraft piracy; or unlawful throwing, placing, or discharging of a destructive device or bomb.

(e) The capital felony was committed for the purpose of avoiding or preventing a lawful arrest or effecting an escape from custody.

(f) The capital felony was committed for pecuniary gain.

(g) The capital felony was committed to disrupt or hinder the lawful exercise of any governmental function or the enforcement of laws.

(h) The capital felony was especially heinous, atrocious, or cruel.

(i) The capital felony was a homicide and was committed in a cold, calculated, and premeditated manner without any pretense of moral or legal justification.

(j) During the course of committing the capital felony, the defendant inflicted multiple physical injuries upon the victim.

(k) The defendant mutilated, dismembered, or sexually abused the victim's body, during or after commission of the capital felony.

(l)~~(j)~~ The victim of the capital felony was a law enforcement officer engaged in the performance of his or her official duties.

(m)~~(k)~~ The victim of the capital felony was an elected or appointed public official engaged in the performance of his or her official duties if the motive for the capital felony was related, in whole or in part, to the victim's official capacity.

(n)~~(l)~~ The victim of the capital felony was a person less than 12 years of age.

(o)~~(m)~~ The victim of the capital felony was particularly vulnerable due to advanced age or disability, or because the defendant stood in a position of familial or custodial authority over the victim.

(p) The victim had an injunction for protection in effect against the defendant when the capital felony was committed.

(q) The victim was aware of the impending homicide and asked that his or her life be spared or otherwise requested that the homicide not occur.

(r)~~(n)~~ The capital felony was committed by a criminal street gang member, as defined in s. 874.03.

(6) MITIGATING CIRCUMSTANCES.—Mitigating circumstances shall be the following:

(a) The defendant has no significant history of prior criminal activity.

(b) The capital felony was committed while the defendant was under the influence of extreme mental or emotional disturbance.

(c) The victim was a participant in the defendant's conduct or consented to the act.

(d) The defendant was an accomplice in the capital felony committed by another person and his or her participation was relatively minor.

(e) The defendant acted under extreme duress or under the substantial domination of another person.

(f) The capacity of the defendant to appreciate the criminality of his or her conduct or to conform his or her conduct to the requirements of law was substantially impaired.

(g) The age of the defendant at the time of the crime.

(h) The existence of any other factors in the defendant's background that would mitigate against imposition of the death penalty.

However, the court shall not engage in any form of proportionality review of a death sentence, as prohibited in subsection (4).

(7) VICTIM IMPACT EVIDENCE.—Once the prosecution has provided evidence of the existence of one or more aggravating circumstances as described in subsection (5), the prosecution may introduce, and subsequently argue, victim impact evidence. Such evidence shall be designed to demonstrate the victim's uniqueness as an individual human being and the resultant loss to the community's members by the victim's death. Characterizations and opinions about the crime, the defendant, and the appropriate sentence shall not be permitted as a part of victim impact evidence.

(8) APPLICABILITY.—This section does not apply to a person convicted or adjudicated guilty of a capital drug trafficking felony under s. 893.135.

Section 11. Section 782.071, Florida Statutes, is amended to read:

782.071 Vehicular homicide.—"Vehicular homicide" is the killing of a human being by the operation of a motor vehicle by another in a reckless manner likely to cause the death of, or great bodily harm to, another. Vehicular homicide is:

(1) A felony of the *second* ~~third~~ degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) A felony of the *first* ~~second~~ degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if:

(a) At the time of the accident, the person knew, or should have known, that the accident occurred; and

(b) The person failed to give information and render aid as required by s. 316.062.

This subsection does not require that the person knew that the accident resulted in injury or death.

Section 12. Section 782.072, Florida Statutes, is amended to read:

782.072 Vessel homicide.—"Vessel homicide" is the killing of a human being by the operation of a vessel as defined in s. 327.02 by another in a reckless manner likely to cause the death of, or great bodily harm to, another. Vessel homicide is:

(1) A felony of the *second* ~~third~~ degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) A felony of the *first* ~~second~~ degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if:

(a) At the time of the accident, the person knew, or should have known, that the accident occurred; and

(b) The person failed to give information and render aid as required by s. 327.30(1).

This subsection does not require that the person knew that the accident resulted in injury or death.

Section 13. Paragraphs (g) and (h) of subsection (3) of section 921.0022, Florida Statutes, are amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
		(g) LEVEL 7
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
409.920(2)	3rd	Medicaid provider fraud.
494.0018(2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded $50,000 and there were five or more victims.
782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
782.071	*2nd* ~~3rd~~	Killing of human being by the operation of a motor vehicle in a reckless manner (vehicular homicide).

Florida Statute	Felony Degree	Description
782.072	*2nd* ~~3rd~~	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.
784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.
784.07(2)(d)	1st	Aggravated battery on law enforcement officer.
784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.
784.081(1)	1st	Aggravated battery on specified official or employee.
784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.
790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
790.16(1)	1st	Discharge of a machine gun under specified circumstances.
796.03	2nd	Procuring any person under 16 years for prostitution.
800.04	2nd	Handle, fondle, or assault child under 16 years in lewd, lascivious, or indecent manner.
806.01(2)	2nd	Maliciously damage structure by fire or explosive.
810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
812.014(2)(a)	1st	Property stolen, valued at $100,000 or more; property stolen while causing other property damage; 1st degree grand theft.
812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
825.102(3)(b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
825.1025(2)	2nd	Lewd or lascivious battery upon an elderly person or disabled adult.
825.103(2)(b)	2nd	Exploiting an elderly person or disabled adult and property is valued at $20,000 or more, but less than $100,000.
827.03(3)(b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
827.04(4)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
872.06	2nd	Abuse of a dead human body.
893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) drugs) within 1,000 feet of a school.
893.13(4)(a)	1st	Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) drugs).
893.135(1)(a)1.	1st	Trafficking in cannabis, more than 50 lbs., less than 2,000 lbs.
893.135 (1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
893.135 (1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
893.135 (1)(d)1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
893.135(1)(e)1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
893.135(1)(f)1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
		(h) LEVEL 8
316.193 (3)(c)3.a.	2nd	DUI manslaughter.
327.35(3)(c)3.	2nd	Vessel BUI manslaughter.
777.03(2)(a)	1st	Accessory after the fact, capital felony.
782.04(4)	2nd	Killing of human without design when engaged in act or attempt of any felony other than arson, sexual battery, robbery, burglary, kidnapping, aircraft piracy, or unlawfully discharging bomb.
782.071(2)	*1st* ~~2nd~~	Committing vehicular homicide and failing to render aid or give information.
782.072(2)	*1st* ~~2nd~~	Committing vessel homicide and failing to render aid or give information.
790.161(3)	1st	Discharging a destructive device which results in bodily harm or property damage.
794.011(5)	2nd	Sexual battery, victim 12 years or over, offender does not use physical force likely to cause serious injury.
806.01(1)	1st	Maliciously damage dwelling or structure by fire or explosive, believing person in structure.
810.02(2)(a)	1st,PBL	Burglary with assault or battery.
810.02(2)(b)	1st,PBL	Burglary; armed with explosives or dangerous weapon.
810.02(2)(c)	1st	Burglary of a dwelling or structure causing structural damage or $1,000 or more property damage.
812.13(2)(b)	1st	Robbery with a weapon.
812.135(2)	1st	Home-invasion robbery.
825.102(2)	2nd	Aggravated abuse of an elderly person or disabled adult.
825.103(2)(a)	1st	Exploiting an elderly person or disabled adult and property is valued at $100,000 or more.
827.03(2)	2nd	Aggravated child abuse.
860.121(2)(c)	1st	Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.
860.16	1st	Aircraft piracy.
893.13(1)(b)	1st	Sell or deliver in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.13(2)(b)	1st	Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.13(6)(c)	1st	Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.135(1)(a)2.	1st	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.
893.135 (1)(b)1.b.	1st	Trafficking in cocaine, more than 200 grams, less than 400 grams.
893.135 (1)(c)1.b.	1st	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.
893.135 (1)(d)1.b.	1st	Trafficking in phencyclidine, more than 200 grams, less than 400 grams.
893.135 (1)(e)1.b.	1st	Trafficking in methaqualone, more than 5 kilograms, less than 25 kilograms.
893.135 (1)(f)1.b.	1st	Trafficking in amphetamine, more than 28 grams, less than 200 grams.

Florida Statute	Felony Degree	Description
895.03(1)	1st	Use or invest proceeds derived from pattern of racketeering activity.
895.03(2)	1st	Acquire or maintain through racketeering activity any interest in or control of any enterprise or real property.
895.03(3)	1st	Conduct or participate in any enterprise through pattern of racketeering activity.

Section 14. Paragraph (a) of subsection (9) of section 960.13, Florida Statutes, is amended to read:

960.13 Awards.—

(9)(a) An award may not exceed *$10,000 for treatment or* a total of $15,000 for all compensable cost or losses*, unless the department makes a written finding that a crime directly caused major medical expenses or catastrophic economic losses to a victim*. ~~However, awards for treatment may not exceed $10,000.~~ The department may *adopt rules that*~~, by rule adopted pursuant to chapter 120,~~ establish *criteria governing awards for major medical expenses and catastrophic economic losses and may adopt rules that establish* limits below $15,000 for awards for particular types of costs or losses. Any application filed on or after October 1, 1996, shall be governed under this section.

Section 15. Section 782.071, Florida Statutes, is amended to read:

782.071 Vehicular homicide.—"Vehicular homicide" is the killing of a human being*, or the killing of a viable fetus by any injury to the mother caused* by the operation of a motor vehicle by another in a reckless manner likely to cause the death of, or great bodily harm to, another. Vehicular homicide is:

(1) A felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) A felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if:

(a) At the time of the accident, the person knew, or should have known, that the accident occurred; and

(b) The person failed to give information and render aid as required by s. 316.062.

This subsection does not require that the person knew that the accident resulted in injury or death.

(3) For purposes of this section, a fetus is viable when it becomes capable of meaningful life outside the womb through standard medical measures.

(4) A right of action for civil damages shall exist under s. 768.19, under all circumstances, for all deaths described in this section.

Section 16. Paragraph (g) of subsection (3) of section 921.0022, Florida Statutes, is amended, and paragraph (h) of subsection (3) of that section is reenacted, to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
		(g) LEVEL 7
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
409.920(2)	3rd	Medicaid provider fraud.
494.0018(2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded $50,000 and there were five or more victims.
782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
782.071	3rd	Killing of human being *or viable fetus* by the operation of a motor vehicle in a reckless manner (vehicular homicide).
782.072	3rd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.
784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.
784.07(2)(d)	1st	Aggravated battery on law enforcement officer.
784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.
784.081(1)	1st	Aggravated battery on specified official or employee.
784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.
790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
790.16(1)	1st	Discharge of a machine gun under specified circumstances.
796.03	2nd	Procuring any person under 16 years for prostitution.
800.04	2nd	Handle, fondle, or assault child under 16 years in lewd, lascivious, or indecent manner.
806.01(2)	2nd	Maliciously damage structure by fire or explosive.
810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
812.014(2)(a)	1st	Property stolen, valued at $100,000 or more; property stolen while causing other property damage; 1st degree grand theft.
812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
825.102(3)(b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
825.1025(2)	2nd	Lewd or lascivious battery upon an elderly person or disabled adult.
825.103(2)(b)	2nd	Exploiting an elderly person or disabled adult and property is valued at $20,000 or more, but less than $100,000.
827.03(3)(b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
827.04(4)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
872.06	2nd	Abuse of a dead human body.
893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) drugs) within 1,000 feet of a school.
893.13(4)(a)	1st	Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) drugs).
893.135(1)(a)1.	1st	Trafficking in cannabis, more than 50 lbs., less than 2,000 lbs.

Florida Statute	Felony Degree	Description
893.135 (1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
893.135 (1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
893.135 (1)(d)1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
893.135(1)(e)1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
893.135(1)(f)1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
		(h) LEVEL 8
316.193 (3)(c)3.a.	2nd	DUI manslaughter.
327.35(3)(c)3.	2nd	Vessel BUI manslaughter.
777.03(2)(a)	1st	Accessory after the fact, capital felony.
782.04(4)	2nd	Killing of human without design when engaged in act or attempt of any felony other than arson, sexual battery, robbery, burglary, kidnapping, aircraft piracy, or unlawfully discharging bomb.
782.071(2)	2nd	Committing vehicular homicide and failing to render aid or give information.
782.072(2)	2nd	Committing vessel homicide and failing to render aid or give information.
790.161(3)	1st	Discharging a destructive device which results in bodily harm or property damage.
794.011(5)	2nd	Sexual battery, victim 12 years or over, offender does not use physical force likely to cause serious injury.
806.01(1)	1st	Maliciously damage dwelling or structure by fire or explosive, believing person in structure.
810.02(2)(a)	1st,PBL	Burglary with assault or battery.
810.02(2)(b)	1st,PBL	Burglary; armed with explosives or dangerous weapon.
810.02(2)(c)	1st	Burglary of a dwelling or structure causing structural damage or $1,000 or more property damage.
812.13(2)(b)	1st	Robbery with a weapon.
812.135(2)	1st	Home-invasion robbery.
825.102(2)	2nd	Aggravated abuse of an elderly person or disabled adult.
825.103(2)(a)	1st	Exploiting an elderly person or disabled adult and property is valued at $100,000 or more.
827.03(2)	2nd	Aggravated child abuse.
860.121(2)(c)	1st	Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.
860.16	1st	Aircraft piracy.
893.13(1)(b)	1st	Sell or deliver in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.13(2)(b)	1st	Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.13(6)(c)	1st	Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.135(1)(a)2.	1st	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.
893.135 (1)(b)1.b.	1st	Trafficking in cocaine, more than 200 grams, less than 400 grams.
893.135 (1)(c)1.b.	1st	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.
893.135 (1)(d)1.b.	1st	Trafficking in phencyclidine, more than 200 grams, less than 400 grams.
893.135 (1)(e)1.b.	1st	Trafficking in methaqualone, more than 5 kilograms, less than 25 kilograms.
893.135 (1)(f)1.b.	1st	Trafficking in amphetamine, more than 28 grams, less than 200 grams.
895.03(1)	1st	Use or invest proceeds derived from pattern of racketeering activity.
895.03(2)	1st	Acquire or maintain through racketeering activity any interest in or control of any enterprise or real property.
895.03(3)	1st	Conduct or participate in any enterprise through pattern of racketeering activity.

Section 17. For the purpose of incorporating the amendment made by this act to section 782.071, Florida Statutes, in a reference thereto, paragraph (b) of subsection (3) of section 960.03, Florida Statutes, is reenacted to read:

960.03 Definitions.—As used in ss. 960.01-960.28, unless the context otherwise requires, the term:

(3) "Crime" means:

(b) A violation of s. 316.193, s. 316.027(1), or s. 782.071(2), which results in physical injury or death; however, no other act involving the operation of a motor vehicle, boat, or aircraft which results in injury or death shall constitute a crime for the purpose of this chapter unless the injury or death was intentionally inflicted through the use of such vehicle, boat, or aircraft or unless such vehicle, boat, or aircraft is an implement of a crime to which this act applies.

Section 18. Subsection (3) is added to section 27.709, Florida Statutes, to read: 27.709 Commission on the Administration of Justice in Capital Cases.—

(3) The Commission on the Administration of Justice in Capital Cases shall conduct a study to evaluate whether the elimination of state postconviction proceedings in death penalty cases will reduce delays in carrying out a sentence of death in capital cases. In conducting the study the Commission shall take public testimony from any interested party. The Commission shall review the average number of postconviction motions and writs filed in capital cases, prior legislative and judicial attempts to reduce delays in capital cases, and the length of time required for capital postconviction claims in state and federal court. The Commission shall consider average delays in capital cases, whether those delays have increased in the last 10 years, and the reasons for any increase in delays. The study shall include a report which addresses the legal, fiscal, and practical considerations concerning the elimination of state postconviction proceedings, and the recommendation of the Commission. Public notice shall be provided, in a manner agreed to by the Commission, for all hearings where the Commission intends to hear public testimony concerning the elimination of state postconviction proceedings in death penalty cases for purposes of this study. The report shall be submitted to the Speaker of the House of Representatives, the President of the Senate, and minority leaders in the House and the Senate by December 1, 1998.

Section 19. *The proviso language immediately preceding Specific Appropriation 962 and the proviso language following Specific Appropriation 620 in the Conference Report On House Bill 4201 which is the General Appropriations Act for fiscal year 1998-1999, shall not be deemed, in whole or in part, to be repealed, nullified or modified in any way by legislation passed during the 1998 regular session of the Legislature unless the legislation makes specific reference to this section. If either the proviso language immediately preceding Specific Appropriation 962 and the proviso language following Specific Appropriation 620 in the Conference Report On House Bill 4201 are repealed or amended by substantive legislation passed during the 1998 regular session of the Legislature, then both sections of proviso are hereby reenacted in full and shall have their full effect as written in the*

Conference Report On House Bill 4201. This section is hereby repealed on June 30, 1999.

Section 20. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 21. This act shall take effect October 1 of the year in which enacted.

And the title is amended as follows:
remove from the title of the bill: the entire title

and insert in lieu thereof: A bill to be entitled An act relating to criminal offenses; amending s. 782.04, F.S.; redefining the offense of capital murder in the first degree to include the act of unlawfully killing a human being while perpetrating, or attempting to perpetrate, the murder of another human being; providing penalties; providing that a person who perpetrates or attempts to perpetrate a murder commits felony murder in the second degree when a person is killed by someone other than the perpetrator; providing penalties; adding murder to the list of felony offenses which do not constitute third–degree felony murder; reenacting ss. 39.464(1)(d), 435.03(2)(b), 435.04(2)(b), 775.0823(1) and (2), 921.0022(3)(i), 943.325(1), and 947.146(3), F.S., relating to the termination of parental rights, screening standards, violent offenses against law enforcement officers and others, the Criminal Punishment Code, blood testing, and the Control Release Authority, to incorporate the amendment to 782.04, F.S., in references thereto; creating the "Jeff Mitchell Act"; amending s. 921.141, F.S., relating to further proceedings to determine sentence of death or life imprisonment for capital felonies; providing that the judgment of conviction and sentence of death imposed in a capital case are not subject to being held invalid, overturned, reduced, or otherwise affected because a codefendant in the same case accepted a plea offer in exchange for trial testimony, or an agreement to testify, and was not sentenced to death; prohibiting the Florida Supreme Court from engaging in any form of proportionality review of a death sentence; providing that criteria for review regarding aggravating or mitigating circumstances shall not be utilized except as authorized under specified provisions; providing additional aggravating circumstances to be weighed by the court; providing for an aggravating circumstance that the capital felony was committed when the victim had an injunction for protection in effect against the defendant; providing for an aggravating circumstance that the defendant inflicted multiple physical injuries upon the victim; providing for an aggravating circumstance that the defendant mutilated, dismembered, or sexually abused the victim's body, during or after commission of the capital felony; providing for an aggravating circumstance that the victim of a homicide had asked that his or her life be spared; amending ss. 782.071, 782.072, F.S.; increasing the penalties imposed for committing the offense of vehicular homicide or vessel homicide; increasing the penalties imposed for committing vehicular homicide or vessel homicide and failing to give information and render aid when the offender knew, or should have known, that the accident occurred; amending s. 921.0022, F.S., relating to the Criminal Punishment Code; conforming references to changes made by the act; amending s. 960.13, F.S.; limiting crimes compensation awards under certain circumstances; authorizing the Department of Legal Affairs to adopt certain rules; amending s. 782.071, F.S.; redefining the offense of "vehicular homicide" to include the killing of a viable fetus by any injury to the mother caused by the operation of a motor vehicle by another; providing penalties; specifying when a fetus is viable; providing a right of action for civil damages; reenacting ss. 921.0022(3)(h) and 960.03(3), F.S., relating to the offense severity ranking chart and the definition of "crime" with respect to the Florida Crimes Compensation Act, respectively, to incorporate said amendment in references; amending s. 921.0022, F.S., relating to the offense severity ranking chart, to conform terminology; amending s. 27.709, F.S.; providing that the Commission on the Administration of Justice in Capital Cases shall conduct a study concerning the elimination of state postconviction proceedings in death penalty cases; providing that certain proviso language contained in the Conference Report On House Bill 4201 may not be modified through substantive legislation passed during the 1998 regular session of the Legislature unless certain conditions are met; providing that certain proviso language contained in the Conference Report On House Bill 4201 is reenacted if repealed or amended by substantive legislation passed during the 1998 regular session of the Legislature; providing for repeal of section on June 30, 1999; providing for severability; providing an effective date.

Rep. Stafford moved the adoption of the amendment, which was adopted by the required two-thirds vote.

The question recurred on the passage of HB 4233. The vote was:

Yeas—117

The Chair	Crist	Kelly	Roberts-Burke
Albright	Crow	King	Rodriguez-Chomat
Alexander	Culp	Kosmas	Rojas
Andrews	Dawson-White	Lacasa	Safley
Argenziano	Dennis	Lawson	Saunders
Arnall	Diaz de la Portilla	Littlefield	Sembler
Arnold	Dockery	Livingston	Silver
Bainter	Edwards	Logan	Sindler
Ball	Effman	Lynn	Smith
Barreiro	Eggelletion	Mackenzie	Spratt
Betancourt	Fasano	Mackey	Stabins
Bitner	Feeney	Maygarden	Stafford
Bloom	Fischer	Meek	Starks
Boyd	Flanagan	Melvin	Sublette
Bradley	Frankel	Merchant	Tamargo
Brennan	Fuller	Miller	Thrasher
Bronson	Futch	Minton	Tobin
Brooks	Garcia	Morroni	Trovillion
Brown	Gay	Morse	Turnbull
Bullard	Goode	Murman	Valdes
Burroughs	Gottlieb	Ogles	Villalobos
Bush	Greene	Peaden	Wallace
Byrd	Hafner	Posey	Wasserman Schultz
Carlton	Harrington	Prewitt, D.	Westbrook
Casey	Healey	Pruitt, K.	Wiles
Chestnut	Heyman	Putnam	Wise
Clemons	Hill	Rayson	Ziebarth
Constantine	Horan	Reddick	
Cosgrove	Jacobs	Ritchie	
Crady	Jones	Ritter	

Nays—None

Excused from time to time for Conference Committee—Bitner, Bradley, Byrd, Clemons, Lippman, Safley, Thrasher, Warner

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

Messages from the Senate

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for SB 1564, as amended, and requests the concurrence of the House.

Faye W. Blanton, Secretary

By the Committee on Ways and Means and Senator McKay—

CS for SB 1564—A bill to be entitled An act relating to the tax on sales, use, and other transactions; creating a tax incentive for certain television broadcasting stations; amending s. 212.08, F.S.; amending the exemption for machinery and equipment used in silicon technology production and research and development; deleting the requirement that the exemption be accomplished through the refund of taxes that were previously paid; deleting the provision that the refund is subject to a specific annual legislative appropriation; amending s. 212.055, F.S.;

authorizing counties to use a specified percent of surtax proceeds for economic development projects; providing an effective date.

—was read the first time by title. On motion by Rep. Feeney, the rules were suspended and the bill was read the second time by title.

Representative(s) Feeney offered the following:

Amendment 1 (with title amendment)—
remove everything after the enacting clause:

and insert in lieu thereof:

Section 1. Paragraph (j) of subsection (5) of section 212.08, Florida Statutes, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(5) EXEMPTIONS; ACCOUNT OF USE.—

(j) Machinery and equipment used in silicon technology production and research and development.—

1. Industrial machinery and equipment purchased for use in silicon technology facilities certified under subparagraph 5. to manufacture, process, compound, or produce silicon technology products for sale or for use by these facilities are exempt from the tax imposed by this chapter.

2. Machinery and equipment are exempt from the tax imposed by this chapter if purchased for use predominately in silicon wafer research and development activities in a silicon technology research and development facility certified under subparagraph 5.

3. *In addition to meeting* ~~The exemptions authorized in subparagraphs 1. and 2. accrue to the taxpayer through a refund of previously paid taxes. A refund may not be made unless~~ the criteria mandated by subparagraph 1. or subparagraph 2., *a* ~~have been met and the~~ business *must be* ~~has been~~ certified by the Office of Tourism, Trade, and Economic Development as authorized in this paragraph *in order to qualify for exemption under this paragraph.*

4. For items purchased tax exempt pursuant to this paragraph, possession of a written certification from the purchaser, certifying the purchaser's entitlement to exemption pursuant to this paragraph, relieves the seller of the responsibility of collecting the tax on the sale of such items, and the department shall look solely to the purchaser for recovery of tax if it determines that the purchaser was not entitled to the exemption.

5.~~4.~~a. To be eligible to receive the exemption provided by subparagraph 1. or subparagraph 2., a qualifying business entity shall apply to Enterprise Florida, Inc. The application shall be developed by the Office of Tourism, Trade, and Economic Development in consultation with Enterprise Florida, Inc.

b. Enterprise Florida, Inc., shall review each submitted application and information and determine whether or not the application is complete within 5 working days. Once an application is complete, Enterprise Florida, Inc., shall, within 10 working days, evaluate the application and recommend approval or disapproval of the application to the Office of Tourism, Trade, and Economic Development.

c. Upon receipt of the application and recommendation from Enterprise Florida, Inc., the Office of Tourism, Trade, and Economic Development shall certify within 5 working days those applicants who are found to meet the requirements of this section and notify the applicant, Enterprise Florida, Inc., and the department of the certification. If the Office of Tourism, Trade, and Economic Development finds that the applicant does not meet the requirements of this section, it shall notify the applicant and Enterprise Florida, Inc., within 10 working days that the application for certification has been denied and the reasons for denial. The Office of Tourism, Trade, and Economic Development has final approval authority for certification under this section.

6.~~5.~~a. A business certified to receive this exemption may apply once each year for the *exemption* ~~refund of all eligible taxes paid during the previous calendar year. The refund shall be subject to a specific annual appropriation from the Legislature to the Office of Tourism, Trade, and Economic Development for the payment of such refunds.~~

b. The first claim submitted by a business may include all eligible expenditures made after the date the business was certified.

c. To apply for the annual *exemption* ~~refund~~, the business shall submit a ~~refund~~ claim to the Office of Tourism, Trade, and Economic Development, which claim indicates and documents the sales and use taxes *otherwise payable* ~~paid~~ on eligible machinery and equipment. The claim *must* ~~shall~~ also indicate, for program evaluation purposes only, the average number of full-time equivalent employees at the facility over the preceding calendar year, the average wage and benefits paid to those employees over the preceding calendar year, and the total investment made in real and tangible personal property over the preceding calendar year or, for the first claim submitted, since the date of certification. The department shall assist the Office of Tourism, Trade, and Economic Development in evaluating and verifying information provided in the application for *exemption* ~~an annual refund~~.

~~d. An application for refund must be submitted to the Office of Tourism, Trade, and Economic Development by February 15 of each year. In the event that the Legislature does not appropriate an amount sufficient to satisfy all refund applications received by the Office of Tourism, Trade, and Economic Development, the office shall, not later than April 15 of each year, determine the proportion of each refund claim which shall be paid by dividing the amount appropriated for tax refunds for the fiscal year by the total of refund claims received. The amount of each claim for a tax refund shall be multiplied by the resulting quotient. If, after the payment of all such refund claims, there are appropriated funds remaining, the office shall recalculate the proportion for each refund claim and adjust the amount of each claim accordingly.~~

d.~~e.~~ The Office of Tourism, Trade, and Economic Development may use the information reported on the claims for evaluation purposes only and shall prepare an annual report on the exemption program and its cost and impact. The annual report for the preceding fiscal year shall be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by September 30 of each fiscal year. This report may be submitted in conjunction with the annual report required in s. 288.095(3)(c).

7.~~6.~~ A business certified to receive this exemption may elect to designate one or more state universities or community colleges as recipients of up to 100 percent of the *amount of the exemption* ~~refund~~ for which they may qualify. To receive *these funds* ~~the tax refund or portion of the tax refund~~, the institution must agree to match *the* ~~these~~ funds so earned with equivalent cash, programs, services, or other in-kind support on a one-to-one basis in the pursuit of research and development projects as requested by the certified business. The rights to any patents, royalties, or real or intellectual property must be vested in the business unless otherwise agreed to by the business and the university or community college.

8.~~7.~~ As used in this paragraph, the term:

a. "Predominately" means at least 50 percent of the time in qualifying research and development.

b. "Research and development" means basic and applied research in the science or engineering, as well as the design, development, and testing of prototypes or processes of new or improved products. Research and development does not include market research, routine consumer product testing, sales research, research in the social sciences or psychology, nontechnological activities, or technical services.

c. "Silicon technology products" means raw silicon wafers that are transformed into semiconductor memory or logic wafers, including

wafers containing mixed memory and logic circuits; related assembly and test operations; active-matrix flat panel displays; semiconductor chips; and related silicon technology products as determined by the Office of Tourism, Trade, and Economic Development.

Section 2. This act shall take effect July 1 of the year in which enacted.

And the title is amended as follows:

On page 1, lines 2 through 16,
remove from the title of the bill: all of said lines

and insert in lieu thereof: An act relating to the tax on sales, use, and other transactions; amending s. 212.08, F.S.; amending the exemption for machinery and equipment used in silicon technology production and research and development; deleting the requirement that the exemption be accomplished through the refund of taxes that were previously paid; requiring certification by a purchaser of entitlement to the exemption and relieving the seller of responsibility to collect tax; deleting the provision that the refund is subject to a specific annual legislative appropriation; providing an effective date.

Rep. Feeney moved the adoption of the amendment, which was adopted.

On motion by Rep. Feeney, the rules were suspended and CS for SB 1564, as amended, was read the third time by title. On passage, the vote was:

Yeas—114

The Chair	Crady	Kosmas	Rodriguez-Chomat
Albright	Crist	Lacasa	Rojas
Alexander	Crow	Lawson	Safley
Andrews	Culp	Littlefield	Sanderson
Argenziano	Dawson-White	Livingston	Saunders
Arnall	Dennis	Logan	Sembler
Arnold	Dockery	Lynn	Sindler
Bainter	Edwards	Mackenzie	Smith
Ball	Effman	Mackey	Spratt
Barreiro	Eggelletion	Maygarden	Stabins
Betancourt	Fasano	Meek	Stafford
Bitner	Feeney	Melvin	Starks
Bloom	Fischer	Merchant	Sublette
Boyd	Flanagan	Miller	Tamargo
Bradley	Fuller	Minton	Thrasher
Brennan	Futch	Morroni	Tobin
Bronson	Garcia	Morse	Trovillion
Brooks	Gay	Murman	Turnbull
Brown	Goode	Ogles	Valdes
Bullard	Gottlieb	Peaden	Villalobos
Burroughs	Greene	Posey	Wallace
Bush	Hafner	Prewitt, D.	Warner
Byrd	Harrington	Pruitt, K.	Wasserman Schultz
Carlton	Heyman	Putnam	Westbrook
Casey	Hill	Rayson	Wiles
Chestnut	Horan	Reddick	Wise
Clemons	Jones	Ritchie	Ziebarth
Constantine	Kelly	Ritter	
Cosgrove	King	Roberts-Burke	

Nays—4

Frankel	Healey	Jacobs	Silver

Excused from time to time for Conference Committee—Bitner, Bradley, Byrd, Clemons, Lippman, Safley, Thrasher, Warner

So the bill passed, as amended, and was immediately certified to the Senate.

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for SB 1230, as amended, and requests the concurrence of the House.

Faye W. Blanton, Secretary

By the Committee on Health Care and Senator Brown-Waite and others—

CS for SB 1230—A bill to be entitled An act relating to public records; providing an exemption from public records requirements for information provided by applicants to the Florida Kids Health program; providing an exemption for certain information obtained through quality assurance activities and patient satisfaction surveys; providing for future review and repeal; providing findings of public necessity; providing a contingent effective date.

—was read the first time by title. On motion by Rep. Albright, the rules were suspended and the bill was read the second time by title and the third time by title. On passage, the vote was:

Yeas—116

The Chair	Crist	Kelly	Roberts-Burke
Albright	Crow	King	Rodriguez-Chomat
Alexander	Culp	Kosmas	Rojas
Andrews	Dawson-White	Lacasa	Safley
Argenziano	Dennis	Lawson	Sanderson
Arnall	Dockery	Littlefield	Saunders
Arnold	Edwards	Livingston	Sembler
Bainter	Effman	Logan	Silver
Ball	Eggelletion	Lynn	Sindler
Barreiro	Fasano	Mackenzie	Smith
Betancourt	Feeney	Mackey	Spratt
Bitner	Fischer	Maygarden	Stabins
Bloom	Flanagan	Meek	Stafford
Boyd	Frankel	Melvin	Starks
Bradley	Fuller	Merchant	Sublette
Brennan	Futch	Miller	Tamargo
Bronson	Garcia	Minton	Thrasher
Brooks	Gay	Morroni	Tobin
Brown	Goode	Murman	Trovillion
Bullard	Gottlieb	Ogles	Turnbull
Burroughs	Greene	Peaden	Valdes
Bush	Hafner	Posey	Villalobos
Byrd	Harrington	Prewitt, D.	Wallace
Carlton	Healey	Pruitt, K.	Warner
Casey	Heyman	Putnam	Wasserman Schultz
Chestnut	Hill	Rayson	Westbrook
Clemons	Horan	Reddick	Wiles
Constantine	Jacobs	Ritchie	Wise
Cosgrove	Jones	Ritter	Ziebarth

Nays—None

Excused from time to time for Conference Committee—Bitner, Bradley, Byrd, Clemons, Lippman, Safley, Thrasher, Warner

So the bill passed and was immediately certified to the Senate.

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS/HB 209, with amendment, and requests the concurrence of the House.

Faye W. Blanton, Secretary

CS/HB 209—A bill to be entitled An act relating to tax on sales, use, and other transactions; amending s. 212.02, F.S.; providing a definition of "self-propelled farm equipment," "power-drawn farm equipment," "power-driven farm equipment," and "forest"; amending s. 212.08, F.S.; revising application of the partial exemption for self-propelled or power-

drawn farm equipment; including power-driven farm equipment within such exemption; providing an effective date.

Senate Amendment 1 (with title amendment)—Delete everything after the enacting clause

and insert:

Section 1. Subsections (27), (28), (29), and (30) are added to section 212.02, Florida Statutes, to read:

212.02 Definitions.—The following terms and phrases when used in this chapter have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(27) "Self-propelled farm equipment" means equipment that contains within itself the means for its own propulsion, including, but not limited to, tractors.

(28) "Power-drawn farm equipment" means equipment that is pulled, dragged, or otherwise attached to self-propelled equipment, including, but not limited to, disks, harrows, hay balers, and mowers.

(29) "Power-driven farm equipment" means moving or stationary equipment that is dependent upon an external power source to perform its function, including, but not limited to, conveyors, augers, feeding systems, and pumps.

(30) "Forest" means the land stocked by trees of any size used in the production of forest products, or formerly having such tree cover, and not currently developed for nonforest use.

Section 2. Subsection (3) of section 212.08, Florida Statutes, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(3) EXEMPTIONS, PARTIAL; CERTAIN FARM EQUIPMENT.—There shall be taxable at the rate of 3 percent the sale, use, consumption, or storage for use in this state of self-propelled, ~~or~~ power-drawn, *or power-driven* farm equipment used exclusively *on a farm or in a forest* ~~by a farmer on a farm owned, leased, or sharecropped by the farmer~~ in plowing, planting, cultivating, or harvesting crops *or products as produced by those agricultural industries included in s. 570.02(1), or for fire prevention and supression work with respect to such crops or products. Harvesting may not be construed to include processing activities. This exemption is not forfeited by moving farm equipment between farms or forests.* The rental of self-propelled, ~~or~~ power-drawn, *or power-driven* farm equipment shall be taxed at the rate of *3* ~~6~~ percent.

Section 3. This act shall take effect October 1, 1998.

And the title is amended as follows:

Delete everything before the enacting clause

and insert: A bill to be entitled An act relating to tax on sales, use, and other transactions; amending s. 212.02, F.S.; providing a definition of "self-propelled farm equipment," "power-drawn farm equipment," "power-driven farm equipment," and "forest"; amending s. 212.08, F.S.; revising application of the partial exemption for self-propelled or power-drawn farm equipment; including power-driven farm equipment within such exemption; reducing the rate of tax on such equipment; providing an effective date.

Representative(s) Boyd offered the following:

House Amendment 1 to Senate Amendment 1 (with title amendment)—On page 2, between lines 29 & 30,

insert:

(5) EXEMPTIONS; ACCOUNT OF USE.—

(k) Growth enhancers or performance enhancers for livestock.—There is exempt from the tax imposed by this chapter the sale of performance-enhancing or growth-enhancing products for livestock.

and in the directory on page 2, line 8,
remove: all of said line

insert in lieu thereof: Statutes, is amended, and paragraph (k) is added to subsection (5) of said section, to read:

And the title is amended as follows:

On page 3, line 17, after the semicolon of the amendment

insert: providing an additional use exemption for certain enhancers;

Rep. Boyd moved the adoption of the amendment to the amendment.

Point of Order

Rep. Starks raised a point of order, under Rule 151(e), that the amendment to the amendment was the substance of another bill.

The Chair [Speaker Webster] referred the point to the Co-Chairs of the Committee on Rules, Resolutions, & Ethics. Pending a ruling, further consideration of the bill, with pending amendments, was temporarily postponed.

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS/CS/HB 4407, with amendment, and requests the concurrence of the House.

Faye W. Blanton, Secretary

CS/CS/HB 4407—A bill to be entitled An act relating to tax on sales, use, and other transactions; providing a short title; providing that no tax levied under ch. 212, F.S., shall be collected on sales of clothing with a value of $50 or less during specified periods in August 1998 and January 1999; providing a definition; excluding sales within a theme park or entertainment complex or public lodging establishment; providing for rules; providing an effective date.

Senate Amendment 1 (with title amendment)—Delete everything after the enacting clause

and insert:

Section 1. *(1) The sale of clothing, sold as part of a transaction with a taxable value totaling $100 or less, shall be exempt from the tax imposed by chapter 212, Florida Statutes, beginning at 12:01 a.m. on Saturday, August 15, 1998, through midnight of Wednesday, August 19, 1998.*

(2) For purposes of this section, the term "clothing" means any article of wearing apparel, including footwear and the materials and cloth used for fabricating clothing, intended to be worn on or about the human body. For purposes of this section, the term "clothing" does not include watches, watchbands, jewelry, or similar items of adornment.

(3) Notwithstanding the provisions of chapter 120, Florida Statutes, the Department of Revenue is authorized to notify dealers and administer the provisions of this section.

Section 2. *The sum of $200,000 is appropriated from the General Revenue Fund to the Department of Revenue for the purpose of administering this act.*

Section 3. *This act does not apply to sales within a theme park complex, as defined in section 509.013(9), Florida Statutes, or within a public lodging establishment, as defined in section 509.013(4), Florida Statutes.*

Section 4. This act shall take effect upon becoming a law.

And the title is amended as follows:

Delete everything before the enacting clause

and insert: A bill to be entitled An act relating to sales taxes; specifying a date on which the sale of clothing shall be exempt from sales taxes; defining the term "clothing"; authorizing the Department of Revenue to notify dealers and administer the provisions of the act; providing an appropriation; providing exceptions; providing an effective date.

Representative(s) Garcia offered the following:

House Amendment 1 to Senate Amendment 1 (with title amendment)—On page 1, line 17, through page 2 line 8,
remove from the amendment: all of said lines

and insert in lieu thereof:

Section 1. *This act may be cited as the "Florida Residents' Tax Relief Act of 1998."*

Section 2. *(1) No tax levied under the provisions of chapter 212, Florida Statutes, shall be collected on sales of clothing having a taxable value of $50 or less during the period from 12:01 a.m., August 15, 1998, through midnight, August 21, 1998.*

(2) As used in this section, "clothing" means any article of wearing apparel, including footwear, intended to be worn on or about the human body. For purposes of this section, "clothing" does not include watches, watchbands, jewelry, handbags, handkerchiefs, umbrellas, scarves, ties, headbands, or belt buckles.

(3) This section does not apply to sales within a theme park or entertainment complex, as defined in s. 509.013(9), Florida Statutes, or within a public lodging establishment, as defined in s. 509.013(4), Florida Statutes.

(4) The provisions of chapter 120, Florida Statutes, to the contrary notwithstanding the Department of Revenue is authorized to adopt rules to carry out the provisions of this section.

Section 3. *The sum of $200,000 is appropriated from the General Revenue Fund to the Department of Revenue for the purpose of administering this act.*

Section 4. This act shall take effect upon becoming a law.

And the title is amended as follows:

On page 2, line 21,
remove: notify dealers and

and insert in lieu thereof: adopt rules to

Rep. Garcia moved the adoption of the amendment to the amendment, which was adopted.

On motion by Rep. Byrd, the House concurred in Senate Amendment 1, as amended. The question recurred on the passage of CS/CS/HB 4407. The vote was:

Yeas—114

The Chair	Bronson	Culp	Greene
Albright	Brooks	Dawson-White	Hafner
Alexander	Brown	Dennis	Harrington
Andrews	Bullard	Dockery	Healey
Argenziano	Burroughs	Edwards	Heyman
Arnall	Bush	Effman	Hill
Arnold	Byrd	Eggelletion	Horan
Bainter	Carlton	Fasano	Jones
Ball	Casey	Feeney	Kelly
Barreiro	Chestnut	Fischer	King
Betancourt	Clemons	Fuller	Kosmas
Bitner	Constantine	Futch	Lacasa
Bloom	Cosgrove	Garcia	Lawson
Boyd	Crady	Gay	Littlefield
Bradley	Crist	Goode	Livingston
Brennan	Crow	Gottlieb	Logan
Lynn	Peaden	Sanderson	Trovillion
Mackenzie	Posey	Saunders	Turnbull
Mackey	Prewitt, D.	Sembler	Valdes
Maygarden	Pruitt, K.	Sindler	Villalobos
Meek	Putnam	Smith	Wallace
Melvin	Rayson	Spratt	Warner
Merchant	Reddick	Stabins	Wasserman Schultz
Miller	Ritchie	Stafford	Westbrook
Minton	Ritter	Starks	Wiles
Morroni	Roberts-Burke	Sublette	Wise
Morse	Rodriguez-Chomat	Tamargo	Ziebarth
Murman	Rojas	Thrasher	
Ogles	Safley	Tobin	

Nays—1

Silver

Excused from time to time for Conference Committee—Bitner, Bradley, Byrd, Clemons, Lippman, Safley, Thrasher, Warner

Votes after roll call:
Nays to Yeas—Silver

So the bill passed, as amended. The action, together with the bill and amendments thereto, was immediately certified to the Senate.

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for SB 1684 and requests the concurrence of the House.

Faye W. Blanton, Secretary

By the Committee on Governmental Reform and Oversight—

CS for SB 1684—A bill to be entitled An act relating to the Florida Retirement System (RAB); clarifying provisions throughout ch. 121, F.S., relating to vesting and the normal retirement date for a member; amending s. 121.021, F.S., relating to definitions; revising and adding definitions; amending s. 121.051, F.S., relating to participation in the Florida Retirement System; providing that consultants and independent contractors are ineligible to participate; establishing procedures and requirements for municipalities or special districts that choose to participate in the Florida Retirement System; providing requirements for employers that transfer, merge, or consolidate governmental services or functions; limiting a member's rights following a conviction for causing a shortage in a public account; providing requirements and limitations for a member who is dually employed; amending s. 121.0515, F.S., relating to Special Risk Class membership; providing for retroactive membership in certain cases; requiring certain members who are moved or reassigned to participate in the Special Risk Administrative Support Class; amending s. 121.052, F.S., relating to the Elected State and County Officers' Class; providing for calculating average final compensation; amending s. 121.053, F.S., relating to retired member participation in the Elected State and County Officers' Class; clarifying requirements for creditable service; amending s. 121.055, F.S., relating to the Senior Management Service Optional Annuity Program; clarifying participation requirements; providing for the Optional Annuity Program Trust Fund; providing eligibility requirements for receiving benefits; providing for administering the program; providing requirements and limitations for a member who is dually employed; amending s. 121.071, F.S., relating to system contributions; providing requirements for contributions for other creditable service; amending s. 121.081, F.S., relating to contributions for past service or prior service; clarifying provisions with respect to required contributions; providing requirements for receiving service credit and prior service credit; amending s. 121.091, F.S., relating to benefits payable under the Florida Retirement System; providing for cancellation of application for retirement benefits; clarifying and consolidating benefit provisions; providing procedures for determining average final compensation; providing for determining disability retirement benefits; providing for optional forms of retirement benefits and disability retirement benefits; providing requirements for determining death benefits; providing for designating beneficiaries;

providing for the payment of benefits; authorizing certain deductions from the monthly benefit payment; amending s. 121.111, F.S., relating to credit for military service; providing requirements for determining creditable service; amending s. 121.121, F.S.; providing requirements for purchasing creditable service for authorized leaves of absence; amending s. 121.122, F.S., relating to renewed membership; clarifying requirements for a member who does not claim credit for all postretirement service; creating s. 121.193, F.S., relating to external compliance audits; providing responsibilities of the Division of Retirement of the Department of Management Services with respect to such audits; specifying requirements of participating agencies; amending s. 121.35, F.S., relating to the Optional Retirement Program for the State University System; providing for the application of certain federal requirements; providing for the administration of the Optional Retirement Program Trust Fund; clarifying benefit requirements; providing for responsibilities of the Board of Regents and institutions in the State University System; amending s. 121.40, F.S., relating to the supplemental retirement benefits provided for certain personnel at the Institute of Food and Agricultural Sciences at the University of Florida; providing for the deduction of certain payments from the monthly benefit payment; providing legislative intent with respect to the amendments made by the act; providing an effective date.

—was read the first time by title. On motion by Rep. Posey, the rules were suspended and the bill was read the second time by title and the third time by title. On passage, the vote was:

Yeas—115

The Chair	Crady	Kelly	Ritter
Albright	Crist	King	Roberts-Burke
Alexander	Crow	Kosmas	Rodriguez-Chomat
Andrews	Culp	Lacasa	Rojas
Argenziano	Dawson-White	Lawson	Safley
Arnall	Dennis	Littlefield	Sanderson
Arnold	Dockery	Livingston	Saunders
Bainter	Edwards	Logan	Sembler
Ball	Effman	Lynn	Silver
Barreiro	Eggelletion	Mackenzie	Sindler
Betancourt	Fasano	Mackey	Smith
Bitner	Feeney	Maygarden	Spratt
Bloom	Fischer	Meek	Stabins
Boyd	Frankel	Melvin	Stafford
Bradley	Fuller	Merchant	Sublette
Brennan	Futch	Miller	Tamargo
Bronson	Garcia	Minton	Thrasher
Brooks	Gay	Morroni	Tobin
Brown	Goode	Morse	Trovillion
Bullard	Gottlieb	Murman	Valdes
Burroughs	Greene	Ogles	Villalobos
Bush	Hafner	Peaden	Wallace
Byrd	Harrington	Posey	Warner
Carlton	Healey	Prewitt, D.	Wasserman Schultz
Casey	Heyman	Pruitt, K.	Westbrook
Chestnut	Hill	Putnam	Wiles
Clemons	Horan	Rayson	Wise
Constantine	Jacobs	Reddick	Ziebarth
Cosgrove	Jones	Ritchie	

Nays—None

Excused from time to time for Conference Committee—Bitner, Bradley, Byrd, Clemons, Lippman, Safley, Thrasher, Warner

So the bill passed and was immediately certified to the Senate.

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for SB's 312 & 2298, as amended, and requests the concurrence of the House.

Faye W. Blanton, Secretary

By the Committee on Natural Resources and Senator Brown-Waite and others—

CS for SB's 312 & 2298—A bill to be entitled An act relating to water resource management; amending s. 373.016, F.S.; providing legislative policy relating to state and regional water resource management; encouraging use of water from sources nearest the area of need; providing an exception; amending s. 373.196, F.S.; clarifying legislative intent that water resource development is a function of the water management districts; amending s. 373.1962, F.S.; providing an exemption for water supply authorities under certain circumstances from certain factors for consumptive use permits; amending s. 373.223, F.S.; directing the Department of Environmental Protection or water management district governing board to consider certain factors when determining the public interest for the transport and use of water across county boundaries or outside the watershed; amending s. 373.229, F.S.; requiring additional information in permit applications for proposed transport and use of water pursuant to s. 373.223(2), F.S.; reenacting s. 373.536(5)(c), F.S.; clarifying intent with respect to language inadvertently omitted by legislative action; amending ss. 373.036, 373.209, 373.226, 373.421, F.S.; correcting cross-references; providing an effective date.

—was read the first time by title. On motion by Rep. Carlton, the rules were suspended and the bill was read the second time by title and the third time by title. On passage, the vote was:

Yeas—113

The Chair	Crady	King	Rodriguez-Chomat
Albright	Crist	Kosmas	Safley
Alexander	Crow	Lacasa	Sanderson
Andrews	Culp	Lawson	Saunders
Argenziano	Dawson-White	Littlefield	Sembler
Arnall	Dennis	Livingston	Silver
Arnold	Dockery	Logan	Sindler
Bainter	Edwards	Lynn	Smith
Ball	Effman	Mackenzie	Spratt
Barreiro	Eggelletion	Mackey	Stabins
Betancourt	Fasano	Maygarden	Stafford
Bitner	Feeney	Meek	Starks
Bloom	Fischer	Melvin	Sublette
Boyd	Flanagan	Merchant	Tamargo
Bradley	Frankel	Miller	Thrasher
Brennan	Fuller	Minton	Tobin
Bronson	Garcia	Morroni	Trovillion
Brooks	Gay	Morse	Valdes
Brown	Gottlieb	Murman	Villalobos
Bullard	Greene	Ogles	Wallace
Burroughs	Hafner	Peaden	Warner
Bush	Harrington	Prewitt, D.	Wasserman Schultz
Byrd	Healey	Pruitt, K.	Westbrook
Carlton	Heyman	Putnam	Wiles
Casey	Hill	Rayson	Wise
Chestnut	Horan	Reddick	Ziebarth
Clemons	Jacobs	Ritchie	
Constantine	Jones	Ritter	
Cosgrove	Kelly	Roberts-Burke	

Nays—3

Futch	Goode	Posey

Excused from time to time for Conference Committee—Bitner, Bradley, Byrd, Clemons, Lippman, Safley, Thrasher, Warner

So the bill passed and was immediately certified to the Senate.

CS/HB 209—A bill to be entitled An act relating to tax on sales, use, and other transactions; amending s. 212.02, F.S.; providing a definition of "self-propelled farm equipment," "power-drawn farm equipment," "power-driven farm equipment," and "forest"; amending s. 212.08, F.S.; revising application of the partial exemption for self-propelled or power-

drawn farm equipment; including power-driven farm equipment within such exemption; providing an effective date.

—was taken up; now pending on point of order by Rep. Starks, under Rule 151(e), on House Amendment 1 to Senate Amendment 1 by Rep. Boyd.

Subsequently, Rep. Starks withdrew the point of order.

The question recurred on the adoption of House Amendment 1 to Senate Amendment 1, which was withdrawn.

On motion by Rep. Ziebarth, the House concurred in Senate Amendment 1.

The question recurred on the passage of CS/HB 209. The vote was:

Yeas—115

The Chair	Crady	Kelly	Roberts-Burke
Albright	Crist	King	Rodriguez-Chomat
Alexander	Crow	Kosmas	Safley
Andrews	Culp	Lacasa	Sanderson
Argenziano	Dawson-White	Littlefield	Saunders
Arnall	Dennis	Livingston	Sembler
Arnold	Dockery	Logan	Silver
Bainter	Edwards	Lynn	Sindler
Ball	Effman	Mackenzie	Smith
Barreiro	Eggelletion	Mackey	Spratt
Betancourt	Fasano	Maygarden	Stabins
Bitner	Feeney	Meek	Stafford
Bloom	Fischer	Melvin	Starks
Boyd	Flanagan	Merchant	Sublette
Bradley	Frankel	Miller	Tamargo
Brennan	Fuller	Minton	Thrasher
Bronson	Futch	Morroni	Tobin
Brooks	Garcia	Morse	Trovillion
Brown	Gay	Murman	Turnbull
Bullard	Goode	Ogles	Valdes
Burroughs	Gottlieb	Peaden	Villalobos
Bush	Greene	Posey	Wallace
Byrd	Hafner	Prewitt, D.	Warner
Carlton	Harrington	Pruitt, K.	Wasserman Schultz
Casey	Heyman	Putnam	Westbrook
Chestnut	Hill	Rayson	Wiles
Clemons	Horan	Reddick	Wise
Constantine	Jacobs	Ritchie	Ziebarth
Cosgrove	Jones	Ritter	

Nays—1

Healey

Excused from time to time for Conference Committee—Bitner, Bradley, Byrd, Clemons, Lippman, Safley, Thrasher, Warner

So the bill passed, as amended. The action was immediately certified to the Senate and the bill was ordered enrolled after engrossment.

On motion by Rep. Boyd, the rules were suspended and—

Bills and Joint Resolutions on Second Reading

HB 4155—A bill to be entitled An act relating to the tax on sales, use, and other transactions; amending s. 212.08, F.S.; providing an exemption for the sale of performance-enhancing or growth-enhancing products for livestock; providing an effective date.

—was taken up and read the second time by title.

The Committee on General Government Appropriations offered the following:

Amendment 1 (with title amendment)—On page 1, between lines 23 and 24 of the bill,

insert:

Section 2. Paragraph (a) of subsection (5) of section 212.08, Florida Statutes, is amended to read:

(5) EXEMPTIONS; ACCOUNT OF USE.—

(a) Items in agricultural use and certain nets.—There are exempt from the tax imposed by this chapter nets designed and used exclusively by commercial fisheries; fertilizers, insecticides, herbicides, and fungicides used for application on crops or groves; portable containers used for processing farm products; field and garden seeds; nursery stock, seedlings, cuttings, or other propagative material purchased for growing stock; cloth, plastic, and other similar materials used for shade, mulch, or protection from frost or insects on a farm; *generators used on poultry farms;* and liquefied petroleum gas or other fuel used to heat a structure in which started pullets or broilers are raised; however, such exemption shall not be allowed unless the purchaser or lessee signs a certificate stating that the item to be exempted is for the exclusive use designated herein.

And the title is amended as follows:

On page 1, line 6 after the semicolon

insert: providing an exemption for generators used on poultry farms;

The Committee on Agriculture offered the following:

Amendment 2 (with title amendment)—On page 1, lines 21 and 23,
remove from the bill: *livestock*

and insert in lieu thereof: *cattle*

And the title is amended as follows:

On page 1, line 6,
remove from the title of the bill: livestock

and insert in lieu thereof: cattle

Rep. Boyd moved the adoption of the committee amendments, which were adopted *en bloc*.

On motion by Rep. Boyd, the rules were suspended and HB 4155, as amended, was read the third time by title. On passage, the vote was:

Yeas—112

The Chair	Clemons	Healey	Ogles
Albright	Constantine	Heyman	Peaden
Alexander	Cosgrove	Hill	Posey
Andrews	Crady	Horan	Prewitt, D.
Argenziano	Crist	Jacobs	Pruitt, K.
Arnall	Crow	Jones	Putnam
Arnold	Culp	Kelly	Rayson
Bainter	Dawson-White	King	Reddick
Ball	Dennis	Kosmas	Ritchie
Barreiro	Dockery	Lacasa	Ritter
Betancourt	Edwards	Lawson	Roberts-Burke
Bitner	Effman	Littlefield	Rodriguez-Chomat
Bloom	Eggelletion	Livingston	Safley
Boyd	Fasano	Logan	Sanderson
Bradley	Feeney	Lynn	Saunders
Brennan	Fischer	Mackenzie	Sembler
Bronson	Flanagan	Mackey	Sindler
Brooks	Frankel	Maygarden	Smith
Brown	Fuller	Meek	Spratt
Bullard	Futch	Melvin	Stabins
Burroughs	Gay	Merchant	Stafford
Bush	Goode	Miller	Starks
Byrd	Gottlieb	Minton	Tamargo
Carlton	Greene	Morroni	Thrasher
Casey	Hafner	Morse	Tobin
Chestnut	Harrington	Murman	Trovillion

Valdes	Warner	Westbrook	Wise
Wallace	Wasserman Schultz	Wiles	Ziebarth

Nays—1

Silver

Excused from time to time for Conference Committee—Bitner, Bradley, Byrd, Clemons, Lippman, Safley, Thrasher, Warner

Votes after roll call:
Yeas to Nays—Jacobs

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

Messages from the Senate

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed SB 704, as amended, and requests the concurrence of the House.

Faye W. Blanton, Secretary

By Senator Klein—

SB 704—A bill to be entitled An act relating to business entities; amending s. 607.0730, F.S.; removing 10-year limit on voting trusts; creating holding company formation by merger by certain corporations; amending s. 608.407, F.S.; reducing minimum number of members necessary to form a limited liability company; creating ss. 607.1108, 607.1109, 607.11101, F.S.; providing for mergers of domestic corporations and other business entities under certain circumstances; requiring a plan of merger; providing criteria; providing for articles of merger; providing for effect of merger; creating ss. 608.438, 608.4381, 608.4382, 608.4383, 608.4384, F.S.; providing for mergers of limited liability companies under certain circumstances; requiring a plan of merger; providing criteria; providing for action on a plan of merger; providing procedures; providing for articles of merger; providing for effect of merger; providing for rights of dissenting members; providing procedures; creating ss. 620.201, 620.202, 620.203, 620.204, 620.205, F.S.; providing for mergers of domestic limited partnerships under certain circumstances; requiring a plan of merger; providing criteria; providing for action on a plan of merger; providing procedures; providing for articles of merger; providing for effect of merger; providing for rights of dissenting partners; providing procedures; amending s. 220.02, F.S.; revising legislative intent; providing application; amending s. 220.02, F.S.; providing legislative intent regarding taxation of a "qualified subchapter S subsidiary"; amending s. 220.22, F.S.; requiring certain returns by such subsidiaries; providing retroactive application; amending s. 220.03, F.S.; revising a definition; amending s. 220.13, F.S.; redefining the term "taxable income" as applied to limited liability companies to exclude income of certain limited liability companies; amending s. 608.406, F.S.; revising criteria for limited liability company names; amending ss. 608.405 and 608.407, F.S.; reducing minimum number of members necessary to form a limited liability company; amending s. 608.471, F.S.; exempting certain limited liability companies from the corporate income tax; providing for classifying certain limited liability companies or members or assignees of a member of a limited liability company for certain taxation purposes; repealing ss. 607.0122(2) and (3), 607.0402, 607.1506(2)(b), 608.4061, 617.0122(2) and (3), 617.0402, 617.1506(2)(a), 620.104, 620.182(7), and 620.784(2), F.S., relating to corporation and partnership name reservation; conforming statutory provisions to the elimination of the name reservation program provided in the 1997-1998 General Appropriations Act; providing an effective date.

—was read the first time by title. On motion by Rep. Lacasa, the rules were suspended and the bill was read the second time by title and the third time by title.

Motion

Rep. Cosgrove moved that his remarks and those of Rep. Lacasa relating to **SB 704** be spread upon the *Journal*. Under Rule 41(e)(2), the motion was referred to the Committee on Rules, Resolutions, & Ethics.

The question recurred on the passage of SB 704. The vote was:

Yeas—108

The Chair	Crady	Kelly	Reddick
Albright	Crist	King	Ritchie
Alexander	Crow	Kosmas	Ritter
Andrews	Culp	Lacasa	Roberts-Burke
Argenziano	Dawson-White	Lawson	Rodriguez-Chomat
Arnall	Dennis	Littlefield	Rojas
Arnold	Dockery	Livingston	Safley
Bainter	Edwards	Logan	Sanderson
Ball	Effman	Lynn	Saunders
Barreiro	Eggelletion	Mackenzie	Sembler
Betancourt	Fasano	Mackey	Smith
Bitner	Feeney	Maygarden	Spratt
Bloom	Fischer	Meek	Stabins
Boyd	Flanagan	Melvin	Stafford
Bradley	Frankel	Merchant	Starks
Brennan	Futch	Miller	Tamargo
Bronson	Goode	Minton	Thrasher
Brooks	Gottlieb	Morroni	Tobin
Brown	Greene	Morse	Trovillion
Burroughs	Hafner	Murman	Valdes
Byrd	Harrington	Ogles	Wallace
Carlton	Healey	Peaden	Warner
Casey	Heyman	Posey	Wasserman Schultz
Chestnut	Hill	Prewitt, D.	Westbrook
Clemons	Horan	Pruitt, K.	Wiles
Constantine	Jacobs	Putnam	Wise
Cosgrove	Jones	Rayson	Ziebarth

Nays—None

Excused from time to time for Conference Committee—Bitner, Bradley, Byrd, Clemons, Lippman, Safley, Thrasher, Warner

Votes after roll call:
Yeas—Bullard, Bush, Fuller, Gay

So the bill passed and was immediately certified to the Senate.

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for CS for SB 1796, as amended, and requests the concurrence of the House.

Faye W. Blanton, Secretary

By the Committees on Children, Families and Seniors, Criminal Justice and Senator McKay—

CS for CS for SB 1796—A bill to be entitled An act relating to juvenile sexual offenders; amending s. 39.411, F.S.; requiring that the Department of Children and Family Services notify the school superintendent of any juvenile who has a known history of sexual behavior with other juveniles or who has been convicted of certain specified sexual offenses; providing that it is a second-degree misdemeanor for a school district employee to disclose such information to an unauthorized person; amending s. 490.012, F.S.; prohibiting the unlicensed practice of juvenile sexual offender therapy for compensation; providing an exception; creating s. 490.0145, F.S.; providing that only certain persons licensed under ch. 490, F.S., relating to psychological services, or ch. 491, F.S., relating to clinical, counseling, and psychotherapy services, may hold themselves out as juvenile sexual offender therapists; requiring the Board of Psychology to require training and coursework for juvenile sexual offender therapists; amending s. 491.012, F.S.; defining the offense of the unlawful use of the term "juvenile sexual offender therapist," and providing penalties therefor; prohibiting the unlicensed practice of juvenile sexual offender therapy for compensation; providing an exception; creating s. 491.0144, F.S.; providing for qualifications for licensure as a juvenile sexual offender therapist under ch. 491, F.S., relating to clinical, counseling, and psychotherapy services; creating ss. 943.17291, 943.17295, F.S.;

requiring that the Criminal Justice Standards and Training Commission incorporate instruction in investigating juvenile sexual offenders into the course curriculum for law enforcement officers; amending s. 985.04, F.S.; requiring that the Department of Juvenile Justice notify the school superintendent of any juvenile who has a known history of sexual behavior with other juveniles or who has been convicted of certain sexual offenses; providing that it is a second-degree misdemeanor for a school district employee to disclose such information to an unauthorized person; amending s. 985.308, F.S.; requiring that the Department of Juvenile Justice inspect offender commitment programs operated by or under contract with the department based on specified standards; authorizing any child protection team or state attorney to establish a sexual abuse intervention network; providing for membership and prescribing duties of such network; requiring the Office of the Attorney General, the Department of Children and Family Services, the Department of Juvenile Justice, or local juvenile justice councils to award grants to sexual abuse intervention networks; specifying criteria for grant awards; requiring the Office of the Attorney General, in collaboration with the Department of Juvenile Justice and the Department of Children and Family Services, to establish minimum standards for juvenile sex offender day treatment and residential treatment programs funded pursuant to specified provisions; providing rulemaking authority for the Department of Legal Affairs; deleting rulemaking authority for the Department of Juvenile Justice; providing an effective date.

—was read the first time by title. On motion by Rep. Brown, the rules were suspended and the bill was read the second time by title and the third time by title. On passage, the vote was:

Yeas—117

The Chair	Crist	King	Rodriguez-Chomat
Albright	Crow	Kosmas	Rojas
Alexander	Culp	Lacasa	Safley
Andrews	Dawson-White	Lawson	Sanderson
Argenziano	Dennis	Littlefield	Saunders
Arnall	Dockery	Livingston	Sembler
Arnold	Edwards	Logan	Silver
Bainter	Effman	Lynn	Sindler
Ball	Eggelletion	Mackenzie	Smith
Barreiro	Fasano	Mackey	Spratt
Betancourt	Feeney	Maygarden	Stabins
Bitner	Fischer	Meek	Stafford
Bloom	Flanagan	Melvin	Starks
Boyd	Frankel	Merchant	Sublette
Bradley	Fuller	Miller	Tamargo
Brennan	Futch	Minton	Thrasher
Bronson	Garcia	Morroni	Tobin
Brooks	Gay	Morse	Trovillion
Brown	Goode	Murman	Valdes
Bullard	Gottlieb	Ogles	Villalobos
Burroughs	Greene	Peaden	Wallace
Bush	Hafner	Posey	Warner
Byrd	Harrington	Prewitt, D.	Wasserman Schultz
Carlton	Healey	Pruitt, K.	Westbrook
Casey	Heyman	Putnam	Wiles
Chestnut	Hill	Rayson	Wise
Clemons	Horan	Reddick	Ziebarth
Constantine	Jacobs	Ritchie	
Cosgrove	Jones	Ritter	
Crady	Kelly	Roberts-Burke	

Nays—None

Excused from time to time for Conference Committee—Bitner, Bradley, Byrd, Clemons, Lippman, Safley, Thrasher, Warner

So the bill passed and was immediately certified to the Senate.

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for SB 552 and requests the concurrence of the House.

Faye W. Blanton, Secretary

By the Committee on Judiciary and Senator Klein—

CS for SB 552—A bill to be entitled An act relating to juries; amending s. 40.015, F.S.; providing a method for establishing jury districts, boundaries; providing an effective date.

—was read the first time by title. On motion by Rep. Minton, the rules were suspended and the bill was read the second time by title and the third time by title. On passage, the vote was:

Yeas—115

Albright	Crist	King	Roberts-Burke
Alexander	Crow	Kosmas	Rodriguez-Chomat
Andrews	Culp	Lacasa	Rojas
Argenziano	Dennis	Lawson	Safley
Arnall	Dockery	Littlefield	Sanderson
Arnold	Edwards	Livingston	Saunders
Bainter	Effman	Logan	Sembler
Ball	Eggelletion	Lynn	Silver
Barreiro	Fasano	Mackenzie	Sindler
Betancourt	Feeney	Mackey	Smith
Bitner	Fischer	Maygarden	Spratt
Bloom	Flanagan	Meek	Stabins
Boyd	Frankel	Melvin	Stafford
Bradley	Fuller	Merchant	Starks
Brennan	Futch	Miller	Sublette
Bronson	Garcia	Minton	Tamargo
Brooks	Gay	Morroni	Thrasher
Brown	Goode	Morse	Tobin
Bullard	Gottlieb	Murman	Trovillion
Burroughs	Greene	Ogles	Valdes
Bush	Hafner	Peaden	Villalobos
Byrd	Harrington	Posey	Wallace
Carlton	Healey	Prewitt, D.	Warner
Casey	Heyman	Pruitt, K.	Wasserman Schultz
Chestnut	Hill	Putnam	Westbrook
Clemons	Horan	Rayson	Wiles
Constantine	Jacobs	Reddick	Wise
Cosgrove	Jones	Ritchie	Ziebarth
Crady	Kelly	Ritter	

Nays—None

Excused from time to time for Conference Committee—Bitner, Bradley, Byrd, Clemons, Lippman, Safley, Thrasher, Warner

So the bill passed and was immediately certified to the Senate.

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for SB 1992 and requests the concurrence of the House.

Faye W. Blanton, Secretary

By the Committee on Criminal Justice and Senator Burt—

CS for SB 1992—A bill to be entitled An act relating to criminal justice; amending s. 415.5018, F.S.; requiring that the Department of Law Enforcement provide the Department of Children and Family Services with access to certain criminal justice information for purposes of child protective investigations and emergency child placement; amending s. 775.13, F.S., relating to the registration of convicted felons; providing a definition; providing an exemption from registration requirements for certain registered sexual offenders; amending s. 775.21, F.S.; revising the Florida Sexual Predators Act; defining terms; prescribing criteria and procedures for designation as a sexual predator; requiring that fingerprints be made if a sexual predator is not

imprisoned; prescribing registration and notification requirements; providing registration requirements with respect to a sexual predator who is supervised by the Department of Corrections or by a federal agency or who is in the custody of a local jail; providing notification requirements for a sexual predator who intends to reside in another state or jurisdiction; providing for removal of designation as a sexual predator; providing penalties for failing to comply with duties imposed on persons so designated; requiring the Department of Law Enforcement and the Department of Corrections to verify the addresses of sexual predators; prohibiting misuse and misrepresentation of public records information and providing penalties; creating s. 775.24, F.S.; specifying that it is the duty of the court to uphold laws governing sexual predators and sexual offenders; providing certain requirements for the court if a person meets the criteria for designation as a sexual predator or for classification as a sexual offender; creating s. 775.25, F.S.; specifying jurisdictions in which a sexual predator or sexual offender may be prosecuted for an act or for failure to act; amending s. 943.043, F.S.; authorizing the Department of Law Enforcement to provide information on sexual offenders and sexual predators through the Internet; providing civil immunity for certain persons and entities who provide information regarding sexual offenders and sexual predators; amending s. 943.0435, F.S.; revising definitions; specifying sexual offenders who must report and identify themselves; revising reporting requirements; providing civil immunity for specified persons and entities that administer such reporting requirements; providing for certain persons to be relieved from such reporting requirements; requiring that the Department of Law Enforcement verify the addresses of certain sexual offenders; providing requirements for a sexual offender who intends to reside in another state or jurisdiction; requiring that a sexual offender maintain registration for life, except under specified circumstances; amending s. 943.325, F.S.; providing for drawing blood specimens from certain convicted persons committed to a county jail for purposes of DNA analysis; providing for obtaining blood specimens from a person who is not incarcerated following conviction; providing for a statewide protocol for securing such specimens; providing that certain medical facilities and personnel and persons who assist a law enforcement officer in withdrawing blood specimens are not civilly or criminally liable for such actions; providing for an application to the court for an order authorizing that a person be taken into custody for the purpose of providing blood specimens; providing that failure to comply with certain requirements is not grounds for challenging the validity of a blood specimen or excluding evidence based on a blood specimen; amending ss. 944.605, 947.177, F.S.; prescribing penalties for inmates who refuse to submit to the taking of a digitized photograph; amending ss. 944.606, 944.607, F.S.; revising provisions governing notification concerning the release of sexual offenders; specifying persons with respect to whom such provisions apply; requiring that fingerprints be made if the sexual offender is not imprisoned; providing registration requirements with respect to a sexual offender who is in the custody of a local jail or who is supervised by the Department of Corrections or by a federal agency; providing civil immunity for specified persons and entities who release information concerning such offenders; amending s. 948.01, F.S.; providing that after a specified date, an offender who commits certain specified sexual offenses is ineligible for administrative probation; amending s. 948.03, F.S.; providing that conditions of probation and community control for specified offenders do not require oral pronouncement and shall be standard conditions of supervision; providing an effective date.

—was read the first time by title. On motion by Rep. Futch, the rules were suspended and the bill was read the second time by title and the third time by title. On passage, the vote was:

Yeas—111

The Chair	Bainter	Bradley	Bush
Albright	Ball	Brennan	Byrd
Alexander	Barreiro	Bronson	Carlton
Andrews	Betancourt	Brooks	Casey
Argenziano	Bitner	Brown	Chestnut
Arnall	Bloom	Bullard	Clemons
Arnold	Boyd	Burroughs	Constantine
Cosgrove	Hafner	Merchant	Sembler
Crady	Harrington	Miller	Silver
Crist	Healey	Minton	Sindler
Crow	Heyman	Morroni	Smith
Culp	Hill	Morse	Spratt
Dennis	Horan	Murman	Stabins
Dockery	Jacobs	Ogles	Stafford
Edwards	Jones	Peaden	Starks
Effman	Kelly	Posey	Sublette
Eggelletion	Kosmas	Prewitt, D.	Tamargo
Fasano	Lacasa	Pruitt, K.	Thrasher
Feeney	Lawson	Putnam	Tobin
Fischer	Littlefield	Rayson	Trovillion
Flanagan	Livingston	Reddick	Wallace
Frankel	Logan	Ritchie	Warner
Fuller	Lynn	Ritter	Wasserman Schultz
Futch	Mackenzie	Roberts-Burke	Westbrook
Gay	Mackey	Rodriguez-Chomat	Wiles
Goode	Maygarden	Rojas	Wise
Gottlieb	Meek	Sanderson	Ziebarth
Greene	Melvin	Saunders	

Nays—None

Excused from time to time for Conference Committee—Bitner, Bradley, Byrd, Clemons, Lippman, Safley, Thrasher, Warner

So the bill passed and was immediately certified to the Senate.

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for SB 28 and requests the concurrence of the House.

Faye W. Blanton, Secretary

By the Committee on Transportation and Senator Forman—

CS for SB 28—A bill to be entitled An act providing for the relief of Frank Roster; providing an appropriation to reimburse him for injuries suffered due, in part, to the negligence of the Department of Transportation; providing an effective date.

—was read the first time by title. On motion by Rep. Miller, the rules were suspended and the bill was read the second time by title and the third time by title. On passage, the vote was:

Yeas—104

Albright	Constantine	Hill	Pruitt, K.
Alexander	Cosgrove	Horan	Putnam
Arnall	Crady	Jacobs	Rayson
Arnold	Crist	Jones	Reddick
Bainter	Crow	Kelly	Ritchie
Ball	Culp	Kosmas	Ritter
Barreiro	Dawson-White	Lacasa	Roberts-Burke
Betancourt	Dennis	Lawson	Rodriguez-Chomat
Bitner	Edwards	Littlefield	Rojas
Bloom	Effman	Livingston	Safley
Boyd	Eggelletion	Logan	Saunders
Bradley	Fischer	Mackenzie	Sembler
Brennan	Flanagan	Maygarden	Silver
Bronson	Frankel	Meek	Sindler
Brooks	Fuller	Melvin	Spratt
Brown	Futch	Merchant	Stabins
Bullard	Garcia	Miller	Stafford
Burroughs	Gay	Minton	Starks
Bush	Gottlieb	Morroni	Sublette
Byrd	Greene	Morse	Tamargo
Carlton	Hafner	Murman	Thrasher
Casey	Harrington	Ogles	Tobin
Chestnut	Healey	Peaden	Trovillion
Clemons	Heyman	Prewitt, D.	Turnbull

Valdes	Warner	Westbrook	Wise
Villalobos	Wasserman Schultz	Wiles	Ziebarth

Nays—10

The Chair	Feeney	Posey	Smith
Andrews	Goode	Sanderson	Wallace
Fasano	Mackey		

Excused from time to time for Conference Committee—Bitner, Bradley, Byrd, Clemons, Lippman, Safley, Thrasher, Warner

Votes after roll call:
Nays—Argenziano, Dockery
Yeas to Nays—Maygarden

So the bill passed and was immediately certified to the Senate.

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS/HB 3085, with amendment, and requests the concurrence of the House.

Faye W. Blanton, Secretary

CS/HB 3085—A bill to be entitled An act relating to Palm Beach County; providing for the relief of Kimberly L. Gonzalez; providing for an appropriation to compensate her for injuries and damages sustained as a result of the negligence of the Palm Beach County Sheriff's Department; providing an effective date.

Senate Amendment 1 (with title amendment)—On page 4, between lines 9 and 10, insert:

Section 3. *The claimant and the claimant's attorney shall make payment to the Florida Agency for Health Care Administration the amount due under s. 409.910, Florida Statutes, except that the amount due to the agency shall be reduced by the agency's proportionate share of legal costs and attorney's fees. However, the amount due to the Agency for Health Care Administration shall be reduced by no more than 25 percent. The amount due to the agency shall be calculated based on medical payments paid up to the date that this bill becomes law.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 7, after the semicolon (;) insert: providing for payment of Medicaid liens;

On motion by Rep. Healey, the House concurred in Senate Amendment 1. The question recurred on the passage of CS/HB 3085. The vote was:

Yeas—106

Albright	Byrd	Futch	Logan
Alexander	Carlton	Garcia	Lynn
Arnall	Casey	Gay	Mackenzie
Arnold	Chestnut	Gottlieb	Mackey
Bainter	Constantine	Greene	Maygarden
Ball	Cosgrove	Hafner	Meek
Barreiro	Crady	Harrington	Melvin
Betancourt	Crist	Healey	Merchant
Bitner	Crow	Heyman	Miller
Bloom	Culp	Hill	Minton
Boyd	Dawson-White	Horan	Morroni
Bradley	Dennis	Jacobs	Morse
Brennan	Edwards	Jones	Murman
Bronson	Effman	Kelly	Ogles
Brooks	Eggelletion	Kosmas	Peaden
Brown	Fischer	Lacasa	Posey
Bullard	Flanagan	Lawson	Prewitt, D.
Burroughs	Frankel	Littlefield	Pruitt, K.
Bush	Fuller	Livingston	Putnam
Rayson	Saunders	Sublette	Warner
Reddick	Sembler	Tamargo	Wasserman Schultz
Ritchie	Silver	Thrasher	Westbrook
Ritter	Sindler	Tobin	Wiles
Roberts-Burke	Smith	Trovillion	Wise
Rodriguez-Chomat	Spratt	Turnbull	Ziebarth
Rojas	Stabins	Valdes	
Safley	Stafford	Villalobos	

Nays—10

The Chair	Dockery	Goode	Sanderson
Andrews	Fasano	King	Wallace
Argenziano	Feeney		

Excused from time to time for Conference Committee—Bitner, Bradley, Byrd, Clemons, Lippman, Safley, Thrasher, Warner

Votes after roll call:
Yeas to Nays—Maygarden

So the bill passed, as amended. The action was immediately certified to the Senate and the bill was ordered enrolled after engrossment.

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 3737, with amendment, and requests the concurrence of the House.

Faye W. Blanton, Secretary

HB 3737—A bill to be entitled An act relating to The Florida Sexual Predators Act; amending s. 775.21, F.S.; providing an additional requirement with respect to the duty of law enforcement agencies to inform the community and the public of the presence of a sexual predator; providing an effective date.

Senate Amendment 1—Delete everything after the enacting clause and insert:

Section 1. Paragraph (a) of subsection (7) of section 775.21, Florida Statutes, is amended to read:

775.21 The Florida Sexual Predators Act; definitions; legislative findings, purpose, and intent; criteria; designation; registration; community and public notification; immunity; penalties.—

(7) COMMUNITY AND PUBLIC NOTIFICATION.—

(a) Law enforcement agencies must inform the community and the public of a sexual predator's presence. Upon notification of the presence of a sexual predator, the sheriff of the county or the chief of police of the municipality where the sexual predator temporarily or permanently resides shall notify the community and the public of the presence of the sexual predator in a manner deemed appropriate by the sheriff or the chief of police. *Within 48 hours after receiving notification of the presence of a sexual predator, the sheriff of the county or the chief of police of the municipality where the sexual predator temporarily or permanently resides shall notify each licensed day care center, elementary school, middle school, and high school within a 1-mile radius of the temporary or permanent residence of the sexual predator of the presence of the sexual predator.* Information provided to the community and the public regarding a sexual predator must include:

1. The name of the sexual predator;

2. A description of the sexual predator, including a photograph;

3. The sexual predator's current address, including the name of the county or municipality if known;

4. The circumstances of the sexual predator's offense or offenses; and

5. Whether the victim of the sexual predator's offense or offenses was, at the time of the offense, a minor or an adult.

This paragraph does not authorize the release of the name of any victim of the sexual predator.

(c) The department shall notify the public of all designated sexual predators through the Internet. The Internet notice shall include the information required by paragraph (a).

Section 2. This act shall take effect July 1, 1998.

On motion by Rep. Hill, the House concurred in Senate Amendment 1. The question recurred on the passage of HB 3737. The vote was:

Yeas—114

The Chair	Crist	King	Roberts-Burke
Albright	Crow	Kosmas	Rodriguez-Chomat
Alexander	Culp	Lacasa	Rojas
Andrews	Dawson-White	Lawson	Safley
Argenziano	Dennis	Littlefield	Saunders
Arnall	Dockery	Livingston	Sembler
Arnold	Edwards	Logan	Silver
Bainter	Effman	Lynn	Sindler
Ball	Eggelletion	Mackenzie	Smith
Barreiro	Fasano	Mackey	Spratt
Betancourt	Feeney	Maygarden	Stabins
Bitner	Fischer	Meek	Stafford
Bloom	Flanagan	Melvin	Starks
Boyd	Frankel	Merchant	Sublette
Bradley	Fuller	Miller	Tamargo
Brennan	Futch	Minton	Thrasher
Bronson	Gay	Morroni	Tobin
Brooks	Goode	Morse	Trovillion
Brown	Gottlieb	Murman	Valdes
Burroughs	Greene	Ogles	Villalobos
Bush	Hafner	Peaden	Wallace
Byrd	Harrington	Posey	Warner
Carlton	Healey	Prewitt, D.	Wasserman Schultz
Casey	Heyman	Pruitt, K.	Westbrook
Chestnut	Hill	Putnam	Wiles
Clemons	Horan	Rayson	Wise
Constantine	Jacobs	Reddick	Ziebarth
Cosgrove	Jones	Ritchie	
Crady	Kelly	Ritter	

Nays—None

Excused from time to time for Conference Committee—Bitner, Bradley, Byrd, Clemons, Lippman, Safley, Thrasher, Warner

Votes after roll call:
Yeas—Bullard

So the bill passed, as amended. The action was immediately certified to the Senate and the bill was ordered enrolled after engrossment.

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS/HB 935, with amendments, and requests the concurrence of the House.

Faye W. Blanton, Secretary

CS/HB 935—A bill to be entitled An act relating to legal process; amending s. 48.031, F.S., relating to service upon a sole proprietorship; providing that substitute service may be made upon person in charge of the business at the time of service, under specified circumstances; amending s. 48.183, F.S.; providing for service of process in an action for possession of residential premises; amending s. 48.27, F.S.; providing for application and fee for inclusion on list of certified process servers; authorizing certain service when a civil action has been filed in a circuit or county court in the state; amending s. 55.03, F.S., relating to docketing and indexing of civil process generally; revising provisions relating to rate of interest; providing an exception from certain docketing and indexing or collection requirements when rate of interest is not on the face of the process, writ, judgment, or decree; amending s. 56.27, F.S., relating to payment to execution creditor of money collected; providing for payment to a junior writ of certain surplus moneys collected; amending s. 56.28, F.S.; requiring written demand by plaintiff as a condition for officer's liability to pay over within 10 days certain moneys collected; providing an effective date.

Senate Amendment 1—On page 2, line 10, delete "one" and insert: *two* ~~one~~

Senate Amendment 2—On page 4, lines 16-20, delete those lines and insert: Nothing contained herein shall affect a rate of interest established by written contract or obligation.

On motion by Rep. Warner, the House concurred in Senate Amendments 1 and 2. The question recurred on the passage of CS/HB 935. The vote was:

Yeas—116

The Chair	Crady	Kelly	Ritter
Albright	Crist	King	Roberts-Burke
Alexander	Crow	Kosmas	Rodriguez-Chomat
Andrews	Culp	Lacasa	Rojas
Argenziano	Dawson-White	Lawson	Safley
Arnall	Dennis	Littlefield	Sanderson
Arnold	Dockery	Livingston	Sembler
Bainter	Edwards	Logan	Silver
Ball	Effman	Lynn	Sindler
Barreiro	Eggelletion	Mackenzie	Smith
Betancourt	Fasano	Mackey	Spratt
Bitner	Feeney	Maygarden	Stabins
Bloom	Fischer	Meek	Stafford
Boyd	Flanagan	Melvin	Starks
Bradley	Frankel	Merchant	Sublette
Brennan	Fuller	Miller	Tamargo
Bronson	Futch	Minton	Thrasher
Brooks	Gay	Morroni	Tobin
Brown	Goode	Morse	Trovillion
Bullard	Gottlieb	Murman	Turnbull
Burroughs	Greene	Ogles	Valdes
Bush	Hafner	Peaden	Villalobos
Byrd	Harrington	Posey	Wallace
Carlton	Healey	Prewitt, D.	Warner
Casey	Heyman	Pruitt, K.	Wasserman Schultz
Chestnut	Hill	Putnam	Westbrook
Clemons	Horan	Rayson	Wiles
Constantine	Jacobs	Reddick	Wise
Cosgrove	Jones	Ritchie	Ziebarth

Nays—None

Excused from time to time for Conference Committee—Bitner, Bradley, Byrd, Clemons, Lippman, Safley, Thrasher, Warner

Votes after roll call:
Yeas—Diaz de la Portilla, Saunders

So the bill passed, as amended. The action was immediately certified to the Senate and the bill was ordered enrolled after engrossment.

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS/CS/HB 3321, with amendment, and requests the concurrence of the House.

Faye W. Blanton, Secretary

CS/CS/HB 3321—A bill to be entitled An act relating to condominiums and cooperatives; amending s. 718.103, F.S.; defining the terms "buyer" and "division"; amending s. 718.104, F.S.; requiring filing of recording information with creation of condominiums; amending s. 718.111, F.S.; providing for the operation of certain condominiums created prior to 1977 as single associations; permitting consolidated financial operation; requiring a developer-controlled association to exercise due diligence to obtain and maintain insurance; providing that failure to obtain and maintain adequate insurance shall constitute a

breach of fiduciary responsibility by the developer-appointed members of the board of directors; providing for the recording of certain meetings; providing that records may be obtained in person or by mail; providing that an association with more than 50 units must, upon written request, copy and deliver requested records and charge its actual costs; providing a fine for subsequent violations; amending s. 718.112, F.S.; providing requirements relating to association meetings; providing requirements for eligibility to be a candidate for the board; amending s. 718.116, F.S.; providing for unit owners and the developer to be assessed in accordance with their ownership interest in losses resulting from a natural disaster or an act of God; amending s. 718.117, F.S.; requiring notification of certain mergers or termination; amending s. 718.301, F.S.; providing rulemaking authority for requirements relating to the transition of a condominium; amending s. 718.403, F.S.; requiring filing of recording information; amending s. 718.502, F.S.; providing certain requirements prior to the closure on any contract for sale or lease of over 5 years; providing rulemaking authority for requirements relating to filing and review programs and timetables; amending s. 718.503, F.S.; providing requirements relating to the closure of a transaction for the purchase of a condominium unit; creating s. 718.621, F.S.; providing rulemaking authority; amending s. 719.103, F.S.; providing definitions; amending s. 719.1035, F.S.; requiring filing of certain information with respect to the creation of a cooperative; amending s. 719.104, F.S.; requiring notification; amending s. 719.106, F.S.; providing requirements relating to association meetings; amending s. 719.301, F.S.; providing rulemaking authority; amending s. 719.403, F.S.; requiring filing of information; amending s. 719.502, F.S.; providing conditions precedent to closing on a contract for sale or specified contracts for lease; providing rulemaking authority; amending s. 719.503, F.S.; providing conditions for closing within the 15-day voidability period; creating s. 719.621, F.S.; providing rulemaking authority; amending s. 721.05, F.S.; conforming a cross-reference; providing an effective date.

Senate Amendment 1 (with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Section 718.103, Florida Statutes, is amended to read:

718.103 Definitions.—As used in this chapter, the term:

(1) "Assessment" means a share of the funds which are required for the payment of common expenses, which from time to time is assessed against the unit owner.

(2) "Association" means, in addition to those entities responsible for the operation of common elements owned in undivided shares by unit owners, any entity which operates or maintains other real property in which condominium unit owners have use rights, where unit owner membership in the entity is composed exclusively of condominium unit owners or their elected or appointed representatives, and where membership in the entity is a required condition of unit ownership.

(3) "Association property" means that property, real and personal, which is owned or leased by, or is dedicated by a recorded plat to, the association for the use and benefit of its members.

(4) "Board of administration" means the board of directors or other representative body which is responsible for administration of the association.

(5) "Buyer" means a person who purchases a condominium. The term "purchaser" may be used interchangeably with the term "buyer."

(6)~~(5)~~ "Bylaws" means the bylaws of the association as they exist from time to time.

(7)~~(6)~~ "Committee" means a group of board members, unit owners, or board members and unit owners appointed by the board or a member of the board to make recommendations to the board regarding the association budget or take action on behalf of the board.

(8)~~(7)~~ "Common elements" means the portions of the condominium property which are not included in the units.

(9)~~(8)~~ "Common expenses" means all expenses and assessments which are properly incurred by the association for the condominium.

(10)~~(9)~~ "Common surplus" means the excess of all receipts of the association collected on behalf of a condominium (including, but not limited to, assessments, rents, profits, and revenues on account of the common elements) over the common expenses.

(11)~~(10)~~ "Condominium" means that form of ownership of real property which is created pursuant to the provisions of this chapter, which is comprised of units that may be owned by one or more persons, and in which there is, appurtenant to each unit, an undivided share in common elements.

(12)~~(11)~~ "Condominium parcel" means a unit, together with the undivided share in the common elements which is appurtenant to the unit.

(13)~~(12)~~ "Condominium property" means the lands, leaseholds, and personal property that are subjected to condominium ownership, whether or not contiguous, and all improvements thereon and all easements and rights appurtenant thereto intended for use in connection with the condominium.

(14)~~(13)~~ "Conspicuous type" means type in capital letters no smaller than the largest type, exclusive of headings, on the page on which it appears and, in all cases, at least 10-point type. Where conspicuous type is required, it must be separated on all sides from other type and print. Conspicuous type may be used in contracts for purchase or public offering statements only where required by law.

(15)~~(14)~~ "Declaration" or "declaration of condominium" means the instrument or instruments by which a condominium is created, as they are from time to time amended.

(16)~~(15)~~ "Developer" means a person who creates a condominium or offers condominium parcels for sale or lease in the ordinary course of business, but does not include an owner or lessee of a condominium or cooperative unit who has acquired the unit for his or her own occupancy, nor does it include a cooperative association which creates a condominium by conversion of an existing residential cooperative after control of the association has been transferred to the unit owners if, following the conversion, the unit owners will be the same persons who were unit owners of the cooperative and no units are offered for sale or lease to the public as part of the plan of conversion.

(17) "Division" means the Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business and Professional Regulation.

(18)~~(16)~~ "Land" means, unless otherwise defined in the declaration as hereinafter provided, the surface of a legally described parcel of real property and includes, unless otherwise specified in the declaration and whether separate from or including such surface, airspace lying above and subterranean space lying below such surface. However, if so defined in the declaration, the term "land" may mean all or any portion of the airspace or subterranean space between two legally identifiable elevations and may exclude the surface of a parcel of real property and may mean any combination of the foregoing, whether or not contiguous.

(19)~~(17)~~ "Limited common elements" means those common elements which are reserved for the use of a certain condominium unit or units to the exclusion of other units, as specified in the declaration of condominium.

(20)~~(18)~~ "Operation" or "operation of the condominium" includes the administration and management of the condominium property.

(21)~~(19)~~ "Rental agreement" means any written agreement, or oral agreement if for less duration than 1 year, providing for use and occupancy of premises.

(22)~~(20)~~ "Residential condominium" means a condominium consisting of condominium units, any of which are intended for use as a private temporary or permanent residence, except that a condominium is not a residential condominium if the use for which the units are intended is primarily commercial or industrial and not more than three units are intended to be used for private residence, and are intended to be used as housing for maintenance, managerial, janitorial, or other

operational staff of the condominium. With respect to a condominium that is not a timeshare condominium, a residential unit includes a unit intended as a private temporary or permanent residence as well as a unit not intended for commercial or industrial use. With respect to a timeshare condominium, the timeshare instrument as defined in s. 721.05(28) shall govern the intended use of each unit in the condominium. If a condominium is a residential condominium but contains units intended to be used for commercial or industrial purposes, then, with respect to those units which are not intended for or used as private residences, the condominium is not a residential condominium. A condominium which contains both commercial and residential units is a mixed-use condominium subject to the requirements of s. 718.404.

(23)~~(21)~~ "Special assessment" means any assessment levied against unit owners other than the assessment required by a budget adopted annually.

(24)~~(22)~~ "Timeshare estate" means any interest in a unit under which the exclusive right of use, possession, or occupancy of the unit circulates among the various purchasers of a timeshare plan pursuant to chapter 721 on a recurring basis for a period of time.

(25)~~(23)~~ "Timeshare unit" means a unit in which timeshare estates have been created.

(26)~~(24)~~ "Unit" means a part of the condominium property which is subject to exclusive ownership. A unit may be in improvements, land, or land and improvements together, as specified in the declaration.

(27)~~(25)~~ "Unit owner" or "owner of a unit" means a record owner of legal title to a condominium parcel.

(28)~~(26)~~ "Voting certificate" means a document which designates one of the record title owners, or the corporate, partnership, or entity representative, who is authorized to vote on behalf of a condominium unit that is owned by more than one owner or by any entity.

(29)~~(27)~~ "Voting interest" means the voting rights distributed to the association members pursuant to s. 718.104(4)(i).

Section 2. Subsections (6) and (11), paragraph (c) of subsection (12), and subsection (15) of section 718.111, Florida Statutes, are amended to read:

718.111 The association.—

(6) OPERATION OF ~~PHASE~~ CONDOMINIUMS *CREATED PRIOR TO 1977.*—Notwithstanding any provision of this chapter, an association may operate *two or more* residential condominiums in *which the initial condominium declaration was recorded prior to January 1, 1977,* ~~a phase project initially created pursuant to former s. 711.64~~ and may continue to so operate such *condominiums* ~~project~~ as ~~though it were~~ a single condominium for purposes of financial matters, including budgets, assessments, accounting, recordkeeping, and similar matters, if provision is made for such consolidated operation in the applicable declarations of each such condominium ~~as initially recorded~~ or in the bylaws ~~as initially adopted~~. *An association for such condominiums may also provide for consolidated financial operation as described in this section either by amending its declaration pursuant to s. 718.110(1)(a) or by amending its bylaws and having the amendment approved by not less than two-thirds of the total voting interests.* Notwithstanding any provision in this chapter, common expenses for residential condominiums in such a project being operated by a single association may be assessed against all unit owners in such project pursuant to the proportions or percentages established therefor in the declarations as initially recorded or in the bylaws as initially adopted, subject, however, to the limitations of ss. 718.116 and 718.302.

(11) INSURANCE.—

(a) *A unit-owner controlled* ~~The~~ association shall use its best efforts to obtain and maintain adequate insurance to protect the association, the association property, the common elements, and the condominium property required to be insured by the association pursuant to paragraph (b). *If the association is developer-controlled, the association shall exercise due diligence to obtain and maintain such insurance. Failure to obtain and maintain adequate insurance during any period of developer control shall constitute a breach of fiduciary responsibility by the developer appointed members of the board of directors of the association, unless said members can show that despite such failure, they have exercised due diligence. An* ~~The~~ association may also obtain and maintain liability insurance for directors and officers, insurance for the benefit of association employees, and flood insurance for common elements, association property, and units. An association or group of associations may self-insure against claims against the association, the association property, and the condominium property required to be insured by an association, upon compliance with ss. 624.460-624.488. A copy of each policy of insurance in effect shall be made available for inspection by unit owners at reasonable times.

(b) Every hazard policy which is issued to protect a condominium building shall provide that the word "building" wherever used in the policy include, but not necessarily be limited to, fixtures, installations, or additions comprising that part of the building within the unfinished interior surfaces of the perimeter walls, floors, and ceilings of the individual units initially installed, or replacements thereof of like kind or quality, in accordance with the original plans and specifications, or as they existed at the time the unit was initially conveyed if the original plans and specifications are not available. However, unless prior to October 1, 1986, the association is required by the declaration to provide coverage therefor, the word "building" does not include unit floor coverings, wall coverings, or ceiling coverings, and, as to contracts entered into after July 1, 1992, does not include the following equipment if it is located within a unit and the unit owner is required to repair or replace such equipment: electrical fixtures, appliances, air conditioner or heating equipment, water heaters, or built-in cabinets. With respect to the coverage provided for by this paragraph, the unit owners shall be considered additional insureds under the policy.

(c) Every insurance policy issued to an individual unit owner shall provide that the coverage afforded by such policy is excess over the amount recoverable under any other policy covering the same property without rights of subrogation against the association.

(d) The association shall obtain and maintain adequate insurance or fidelity bonding of all persons who control or disburse funds of the association. The insurance policy or fidelity bond must cover the maximum funds that will be in the custody of the association or its management agent at any one time. As used in this paragraph, the term "persons who control or disburse funds of the association" includes, but is not limited to, those individuals authorized to sign checks and the president, secretary, and treasurer of the association. The association shall bear the cost of bonding.

(12) OFFICIAL RECORDS.—

(c) The official records of the association are open to inspection by any association member or the authorized representative of such member at all reasonable times. The right to inspect the records includes the right to make or obtain copies, at the reasonable expense, if any, of the association member. The association may adopt reasonable rules regarding the frequency, time, location, notice, and manner of record inspections and copying. The failure of an association to provide the records within 10 working days after receipt of a written request shall create a rebuttable presumption that the association willfully failed to comply with this paragraph. A unit owner who is denied access to official records is entitled to the actual damages or minimum damages for the association's willful failure to comply with this paragraph. The minimum damages shall be $50 per calendar day up to 10 days, the calculation to begin on the 11th working day after receipt of the written request. The failure to permit inspection of the association records as provided herein entitles any person prevailing in an enforcement action to recover reasonable attorney's fees from the person in control of the records who, directly or indirectly, knowingly denied access to the records for inspection. The association shall maintain an adequate number of copies of the declaration, articles of incorporation, bylaws, and rules, and all amendments to each of the foregoing, as well as the question and answer sheet provided for in s. 718.504 *and year-end*

financial information required in this section on the condominium property to ensure their availability to unit owners and prospective purchasers, and may charge its actual costs for preparing and furnishing these documents to those requesting the same. Notwithstanding the provisions of this paragraph, the following records shall not be accessible to unit owners:

1. A record which was prepared by an association attorney or prepared at the attorney's express direction, which reflects a mental impression, conclusion, litigation strategy, or legal theory of the attorney or the association, and which was prepared exclusively for civil or criminal litigation or for adversarial administrative proceedings, or which was prepared in anticipation of imminent civil or criminal litigation or imminent adversarial administrative proceedings until the conclusion of the litigation or adversarial administrative proceedings.

2. Information obtained by an association in connection with the approval of the lease, sale, or other transfer of a unit.

3. Medical records of unit owners.

(15) COMMINGLING.—All funds shall be maintained separately in the association's name. Reserve and operating funds of the association shall not be commingled *unless combined for investment purposes. This subsection is not meant to prohibit prudent investment of association funds even if combined with operating or other reserve funds of the same association, but such funds must be accounted for separately, and the combined account balance may not, at any time, be less than the amount identified as reserve funds in the combined account.* No manager or business entity required to be licensed or registered under s. 468.432, and no agent, employee, officer, or director of a condominium association shall commingle any association funds with his or her funds or with the funds of any other condominium association or community association as defined in s. 468.431.

Section 3. Subsection (2) of section 718.112, Florida Statutes, is amended to read:

718.112 Bylaws.—

(2) REQUIRED PROVISIONS.—The bylaws shall provide for the following and, if they do not do so, shall be deemed to include the following:

(a) Administration.—

1. The form of administration of the association shall be described indicating the title of the officers and board of administration and specifying the powers, duties, manner of selection and removal, and compensation, if any, of officers and boards. In the absence of such a provision, the board of administration shall be composed of five members, except in the case of a condominium which has five or fewer units, in which case in a not-for-profit corporation the board shall consist of not fewer than three members. In the absence of provisions to the contrary in the bylaws, the board of administration shall have a president, a secretary, and a treasurer, who shall perform the duties of such officers customarily performed by officers of corporations. Unless prohibited in the bylaws, the board of administration may appoint other officers and grant them the duties it deems appropriate. Unless otherwise provided in the bylaws, the officers shall serve without compensation and at the pleasure of the board of administration. Unless otherwise provided in the bylaws, the members of the board shall serve without compensation.

2. When a unit owner files a written inquiry by certified mail with the board of administration, the board shall respond in writing to the unit owner within 30 days of receipt of the inquiry. The board's response shall either give a substantive response to the inquirer, notify the inquirer that a legal opinion has been requested, or notify the inquirer that advice has been requested from the division. If the board requests advice from the division, the board shall, within 10 days of its receipt of the advice, provide in writing a substantive response to the inquirer. If a legal opinion is requested, the board shall, within 60 days after the receipt of the inquiry, provide in writing a substantive response to the inquiry. The failure to provide a substantive response to the inquiry as provided herein precludes the board from recovering attorney's fees and costs in any subsequent litigation, administrative proceeding, or arbitration arising out of the inquiry. The association may through its board of administration adopt reasonable rules and regulations regarding the frequency and manner of responding to unit owner inquiries, one of which may be that the association is only obligated to respond to one written inquiry per unit in any given 30-day period. In such a case, any additional inquiry or inquiries must be responded to in the subsequent 30-day period, or periods, as applicable.

(b) Quorum; voting requirements; proxies.—

1. Unless a lower number is provided in the bylaws, the percentage of voting interests required to constitute a quorum at a meeting of the members shall be a majority of the voting interests. Unless otherwise provided in this chapter or in the declaration, articles of incorporation, or bylaws, and except as provided in subparagraph (d)3., decisions shall be made by owners of a majority of the voting interests represented at a meeting at which a quorum is present.

2. Except as specifically otherwise provided herein, after January 1, 1992, unit owners may not vote by general proxy, but may vote by limited proxies substantially conforming to a limited proxy form adopted by the division. Limited proxies and general proxies may be used to establish a quorum. Limited proxies shall be used for votes taken to waive or reduce reserves in accordance with subparagraph (f)2.; for votes taken to waive financial statement requirements as provided by s. 718.111(14); for votes taken to amend the declaration pursuant to s. 718.110; for votes taken to amend the articles of incorporation or bylaws pursuant to this section; and for any other matter for which this chapter requires or permits a vote of the unit owners. Except as provided in paragraph (d), after January 1, 1992, no proxy, limited or general, shall be used in the election of board members. General proxies may be used for other matters for which limited proxies are not required, and may also be used in voting for nonsubstantive changes to items for which a limited proxy is required and given. Notwithstanding the provisions of this subparagraph, unit owners may vote in person at unit owner meetings. Nothing contained herein shall limit the use of general proxies or require the use of limited proxies for any agenda item or election at any meeting of a timeshare condominium association.

3. Any proxy given shall be effective only for the specific meeting for which originally given and any lawfully adjourned meetings thereof. In no event shall any proxy be valid for a period longer than 90 days after the date of the first meeting for which it was given. Every proxy is revocable at any time at the pleasure of the unit owner executing it.

(c) Board of administration meetings.—Meetings of the board of administration at which a quorum of the members is present shall be open to all unit owners. Any unit owner may tape record or videotape meetings of the board of administration. The right to attend such meetings includes the right to speak at such meetings with reference to all designated agenda items. The division shall adopt reasonable rules governing the tape recording and videotaping of the meeting. The association may adopt reasonable rules governing the frequency, duration, and manner of unit owner statements. Adequate notice of all meetings, which notice shall specifically incorporate an identification of agenda items, shall be posted conspicuously on the condominium property at least 48 continuous hours preceding the meeting except in an emergency. Any item not included on the notice may be taken up on an emergency basis by at least a majority plus one of the members of the board. Such emergency action shall be noticed and ratified at the next regular meeting of the board. However, written notice of any meeting at which nonemergency special assessments, or at which amendment to rules regarding unit use, will be considered shall be mailed or delivered to the unit owners and posted conspicuously on the condominium property not less than 14 days prior to the meeting. Evidence of compliance with this 14-day notice shall be made by an affidavit executed by the person providing the notice and filed among the official records of the association. Upon notice to the unit owners, the board shall by duly adopted rule designate a specific location on the condominium property or association property upon which all notices of board meetings shall be posted. If there is no condominium property or

association property upon which notices can be posted, notices of board meetings shall be mailed or delivered at least 14 days before the meeting to the owner of each unit. Notice of any meeting in which regular assessments against unit owners are to be considered for any reason shall specifically contain a statement that assessments will be considered and the nature of any such assessments. Meetings of a committee to take final action on behalf of the board or make recommendations to the board regarding the association budget are subject to the provisions of this paragraph. Meetings of a committee that does not take final action on behalf of the board or make recommendations to the board regarding the association budget are subject to the provisions of this section, unless those meetings are exempted from this section by the bylaws of the association. Notwithstanding any other law, the requirement that board meetings and committee meetings be open to the unit owners is inapplicable to meetings between the board or a committee and the association's attorney, with respect to proposed or pending litigation, when the meeting is held for the purpose of seeking or rendering legal advice.

(d) Unit owner meetings.—

1. There shall be an annual meeting of the unit owners. Unless the bylaws provide otherwise, a vacancy on the board of administration caused by the expiration of a director's term shall be filled by electing a new board member, and the election shall be by *secret* ~~closed~~ ballot; however, if *the number of vacancies equals or exceeds the number of candidates* ~~there is only one candidate for election to fill the vacancy~~, no election is required. If there is no provision in the bylaws for terms of the members of the board of administration, the terms of all members of the board of administration shall expire upon the election of their successors at the annual meeting. Any unit owner desiring to be a candidate for board membership shall comply with subparagraph 3. *In order to be eligible for board membership a person must meet the requirements set forth in the declaration. A person who has been convicted of any felony by any court of record in the United States and who has not had his or her right to vote restored pursuant to law in the jurisdiction of his or her residence is not eligible for board membership. The validity of an action by the board is not affected if it is later determined that a member of the board is ineligible for board membership due to having been convicted of a felony.*

2. The bylaws shall provide the method of calling meetings of unit owners, including annual meetings. Written notice, which notice must include an agenda, shall be mailed or delivered to each unit owner at least 14 days prior to the annual meeting and shall be posted in a conspicuous place on the condominium property at least 14 continuous days preceding the annual meeting. Upon notice to the unit owners, the board shall by duly adopted rule designate a specific location on the condominium property or association property upon which all notices of unit owner meetings shall be posted; however, if there is no condominium property or association property upon which notices can be posted, this requirement does not apply. Unless a unit owner waives in writing the right to receive notice of the annual meeting by mail, the notice of the annual meeting shall be sent by mail to each unit owner. Where a unit is owned by more than one person, the association shall provide notice, for meetings and all other purposes, to that one address which the developer initially identifies for that purpose and thereafter as one or more of the owners of the unit shall so advise the association in writing, or if no address is given or the owners of the unit do not agree, to the address provided on the deed of record. An officer of the association, or the manager or other person providing notice of the association meeting, shall provide an affidavit or United States Postal Service certificate of mailing, to be included in the official records of the association affirming that the notice was mailed or hand delivered, in accordance with this provision, to each unit owner at the address last furnished to the association.

3. ~~After January 1, 1992,~~ The members of the board of administration shall be elected by written ballot or voting machine. Proxies shall in no event be used in electing the board of administration, either in general elections or elections to fill vacancies caused by recall, resignation, or otherwise, unless otherwise provided in this chapter. Not less than 60 days before a scheduled election, the association shall mail or deliver, whether by separate association mailing or included in another association mailing or delivery including regularly published newsletters, to each unit owner entitled to a vote, a first notice of the date of the election. Any unit owner or other eligible person desiring to be a candidate for the board of administration must give written notice to the association not less than 40 days before a scheduled election. Together with the written notice and agenda as set forth in subparagraph 2., the association shall mail or deliver a second notice of the election to all unit owners entitled to vote therein, together with a ballot which shall list all candidates. Upon request of a candidate, the association shall include an information sheet, no larger than 8½ inches by 11 inches, which must be furnished by the candidate not less than 35 days before the election, to be included with the mailing of the ballot, with the costs of mailing or delivery and copying to be borne by the association. However, the association has no liability for the contents of the information sheets prepared by the candidates. In order to reduce costs, the association may print or duplicate the information sheets on both sides of the paper. The division shall by rule establish voting procedures consistent with the provisions contained herein, including rules providing for the secrecy of ballots. Elections shall be decided by a plurality of those ballots cast. There shall be no quorum requirement; however, at least 20 percent of the eligible voters must cast a ballot in order to have a valid election of members of the board of administration. No unit owner shall permit any other person to vote his or her ballot, and any such ballots improperly cast shall be deemed invalid. A unit owner who needs assistance in casting the ballot for the reasons stated in s. 101.051 may obtain assistance in casting the ballot. Any unit owner violating this provision may be fined by the association in accordance with s. 718.303. The regular election shall occur on the date of the annual meeting. The provisions of this subparagraph shall not apply to timeshare condominium associations. Notwithstanding the provisions of this subparagraph, an election and balloting are not required unless more candidates file notices of intent to run or are nominated than vacancies exist on the board.

4. Any approval by unit owners called for by this chapter or the applicable declaration or bylaws, including, but not limited to, the approval requirement in s. 718.111(8), shall be made at a duly noticed meeting of unit owners and shall be subject to all requirements of this chapter or the applicable condominium documents relating to unit owner decisionmaking, except that unit owners may take action by written agreement, without meetings, on matters for which action by written agreement without meetings is expressly allowed by the applicable bylaws or declaration or any statute *that* ~~which~~ provides for such action.

5. Unit owners may waive notice of specific meetings if allowed by the applicable bylaws or declaration or any statute.

6. Unit owners shall have the right to participate in meetings of unit owners with reference to all designated agenda items. However, the association may adopt reasonable rules governing the frequency, duration, and manner of unit owner participation.

7. Any unit owner may tape record or videotape a meeting of the unit owners subject to reasonable rules adopted by the division.

8. Unless otherwise provided in the bylaws, any vacancy occurring on the board before the expiration of a term may be filled by the affirmative vote of the majority of the remaining directors, even if the remaining directors constitute less than a quorum, or by the sole remaining director. In the alternative, a board may hold an election to fill the vacancy, in which case the election procedures must conform to the requirements of subparagraph 3. unless the association has opted out of the statutory election process, in which case the bylaws of the association control. Unless otherwise provided in the bylaws, a board member appointed or elected under this section shall fill the vacancy for the unexpired term of the seat being filled. Filling vacancies created by recall is governed by paragraph (j) and rules adopted by the division.

Notwithstanding subparagraphs (b)2. and (d)3., an association may, by the affirmative vote of a majority of the total voting interests, provide for different voting and election procedures in its bylaws, which vote may be by a proxy specifically delineating the different voting and

election procedures. The different voting and election procedures may provide for elections to be conducted by limited or general proxy.

(e) Budget meeting.—The board of administration shall ~~mail or~~ hand deliver to each unit owner, *or mail to each unit owner* at the address last furnished to the association, a meeting notice and copies of the proposed annual budget of common expenses not less than 14 days prior to the meeting of the unit owners or the board of administration at which the budget will be considered. Evidence of compliance with this 14-day notice must be made by an affidavit executed by an officer of the association or the manager or other person providing notice of the meeting and filed among the official records of the association. The meeting must be open to the unit owners. If an adopted budget requires assessments against the unit owners in any fiscal or calendar year which exceed 115 percent of the assessments for the preceding year, the board, upon written application of 10 percent of the voting interests to the board, shall call a special meeting of the unit owners within 30 days upon not less than 10 days' written notice to each unit owner. At the special meeting, unit owners shall consider and enact a budget. Unless the bylaws require a larger vote, the adoption of the budget requires a vote of not less than a majority vote of all the voting interests. The board of administration may propose a budget to the unit owners at a meeting of members or in writing, and if the budget or proposed budget is approved by the unit owners at the meeting or by a majority of all the voting interests in writing, the budget is adopted. If a meeting of the unit owners has been called and a quorum is not attained or a substitute budget is not adopted by the unit owners, the budget adopted by the board of directors goes into effect as scheduled. In determining whether assessments exceed 115 percent of similar assessments in prior years, any authorized provisions for reasonable reserves for repair or replacement of the condominium property, anticipated expenses by the condominium association which are not anticipated to be incurred on a regular or annual basis, or assessments for betterments to the condominium property must be excluded from the computation. However, as long as the developer is in control of the board of administration, the board may not impose an assessment for any year greater than 115 percent of the prior fiscal or calendar year's assessment without approval of a majority of all the voting interests.

(f) Annual budget.—

1. The proposed annual budget of common expenses shall be detailed and shall show the amounts budgeted by accounts and expense classifications, including, if applicable, but not limited to, those expenses listed in s. 718.504(20). In addition, if the association maintains limited common elements with the cost to be shared only by those entitled to use the limited common elements as provided for in s. 718.113(1), the budget or a schedule attached thereto shall show amounts budgeted therefor. *If, after turnover of control of the association to the unit owners, any of the expenses listed in s. 718.504(20) are not applicable, they need not be listed.*

2. In addition to annual operating expenses, the budget shall include reserve accounts for capital expenditures and deferred maintenance. These accounts shall include, but are not limited to, roof replacement, building painting, and pavement resurfacing, regardless of the amount of deferred maintenance expense or replacement cost, and for any other item for which the deferred maintenance expense or replacement cost exceeds $10,000. The amount to be reserved shall be computed by means of a formula which is based upon estimated remaining useful life and estimated replacement cost or deferred maintenance expense of each reserve item. The association may adjust replacement reserve assessments annually to take into account any changes in estimates or extension of the useful life of a reserve item caused by deferred maintenance. This subsection does not apply to budgets in which the members of an association have, by a majority vote at a duly called meeting of the association, and voting determined for a fiscal year to provide no reserves or reserves less adequate than required by this subsection. However, prior to turnover of control of an association by a developer to unit owners other than a developer pursuant to s. 718.301, the developer may vote to waive the reserves or reduce the funding of reserves for the first 2 years of the operation of the association, after which time reserves may ~~only~~ be waived or reduced *only* upon the vote of a majority of all nondeveloper voting interests voting in person or by limited proxy at a duly called meeting of the association. If a meeting of the unit owners has been called to determine to provide no reserves or reserves less adequate than required, and such result is not attained or a quorum is not attained, the reserves as included in the budget shall go into effect.

3. Reserve funds and any interest accruing thereon shall remain in the reserve account or accounts, and shall be used only for authorized reserve expenditures unless their use for other purposes is approved in advance by a ~~vote of the~~ majority *vote* ~~of the voting interests voting in person or by limited proxy~~ at a duly called meeting of the association. Prior to turnover of control of an association by a developer to unit owners other than the developer pursuant to s. 718.301, the developer-controlled association shall not vote to use reserves for purposes other than that for which they were intended without the approval of a majority of all nondeveloper voting interests, voting in person or by limited proxy at a duly called meeting of the association.

(g) Assessments.—The manner of collecting from the unit owners their shares of the common expenses shall be stated in the bylaws. Assessments shall be made against units not less frequently than quarterly in an amount which is not less than that required to provide funds in advance for payment of all of the anticipated current operating expenses and for all of the unpaid operating expenses previously incurred. Nothing in this paragraph shall preclude the right of an association to accelerate assessments of an owner delinquent in payment of common expenses. Accelerated assessments shall be due and payable on the date the claim of lien is filed. Such accelerated assessments shall include the amounts due for the remainder of the budget year in which the claim of lien was filed.

(h) Amendment of bylaws.—

1. The method by which the bylaws may be amended consistent with the provisions of this chapter shall be stated. If the bylaws fail to provide a method of amendment, the bylaws may be amended if the amendment is approved by the owners of not less than two-thirds of the voting interests.

2. No bylaw shall be revised or amended by reference to its title or number only. Proposals to amend existing bylaws shall contain the full text of the bylaws to be amended; new words shall be inserted in the text underlined, and words to be deleted shall be lined through with hyphens. However, if the proposed change is so extensive that this procedure would hinder, rather than assist, the understanding of the proposed amendment, it is not necessary to use underlining and hyphens as indicators of words added or deleted, but, instead, a notation must be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial rewording of bylaw. See bylaw . . . . for present text."

3. Nonmaterial errors or omissions in the bylaw process will not invalidate an otherwise properly promulgated amendment.

(i) Transfer fees.—No charge shall be made by the association or any body thereof in connection with the sale, mortgage, lease, sublease, or other transfer of a unit unless the association is required to approve such transfer and a fee for such approval is provided for in the declaration, articles, or bylaws. Any such fee may be preset, but in no event may such fee exceed $100 per applicant other than husband/wife or parent/dependent child, which are considered one applicant. However, if the lease or sublease is a renewal of a lease or sublease with the same lessee or sublessee, no charge shall be made. The foregoing notwithstanding, an association may, if the authority to do so appears in the declaration or bylaws, require that a prospective lessee place a security deposit, in an amount not to exceed the equivalent of 1 month's rent, into an escrow account maintained by the association. The security deposit shall protect against damages to the common elements or association property. Payment of interest, claims against the deposit, refunds, and disputes under this paragraph shall be handled in the same fashion as provided in part II of chapter 83.

~~(j) Fidelity bonds.—The association shall obtain and maintain adequate fidelity bonding of all persons who control or disburse funds of~~

~~the association. As used in this section, the term "persons who control or disburse funds of the association" means those individuals authorized to sign checks, and the president, secretary, and treasurer of the association. If an association's annual gross receipts do not exceed $100,000, the bond shall be in the principal sum of not less than $10,000 for each such person. If an association's annual gross receipts exceed $100,000, but do not exceed $300,000, the bond shall be in the principal sum of $30,000 for each such person. If an association's annual gross receipts exceed $300,000, the bond shall be in the principal sum of not less than $50,000 for each such person. The association shall bear the cost of bonding.~~

(j)~~(k)~~ Recall of board members.—Subject to the provisions of s. 718.301, any member of the board of administration may be recalled and removed from office with or without cause by the vote or agreement in writing by a majority of all the voting interests. A special meeting of the unit owners to recall a member or members of the board of administration may be called by 10 percent of the voting interests giving notice of the meeting as required for a meeting of unit owners, and the notice shall state the purpose of the meeting.

1. If the recall is approved by a majority of all voting interests by a vote at a meeting, the recall will be effective as provided herein. The board shall duly notice and hold a board meeting within 5 full business days of the adjournment of the unit owner meeting to recall one or more board members. At the meeting, the board shall either certify the recall, in which case such member or members shall be recalled effective immediately and shall turn over to the board within 5 full business days any and all records and property of the association in their possession, or shall proceed as set forth in subparagraph 3.

2. If the proposed recall is by an agreement in writing by a majority of all voting interests, the agreement in writing or a copy thereof shall be served on the association by certified mail or by personal service in the manner authorized by chapter 48 and the Florida Rules of Civil Procedure. The board of administration shall duly notice and hold a meeting of the board within 5 full business days after receipt of the agreement in writing. At the meeting, the board shall either certify the written agreement to recall a member or members of the board, in which case such member or members shall be recalled effective immediately and shall turn over to the board within 5 full business days any and all records and property of the association in their possession, or proceed as described in subparagraph 3.

3. If the board determines not to certify the written agreement to recall a member or members of the board, or does not certify the recall by a vote at a meeting, the board shall, within 5 full business days after the meeting, file with the division a petition for arbitration pursuant to the procedures in s. 718.1255. For the purposes of this section, the unit owners who voted at the meeting or who executed the agreement in writing shall constitute one party under the petition for arbitration. If the arbitrator certifies the recall as to any member or members of the board, the recall will be effective upon mailing of the final order of arbitration to the association. If the association fails to comply with the order of the arbitrator, the division may take action pursuant to s. 718.501. Any member or members so recalled shall deliver to the board any and all records of the association in their possession within 5 full business days of the effective date of the recall.

4. If the board fails to duly notice and hold a board meeting within 5 full business days of service of an agreement in writing or within 5 full business days of the adjournment of the unit owner recall meeting, the recall shall be deemed effective and the board members so recalled shall immediately turn over to the board any and all records and property of the association.

5. If a vacancy occurs on the board as a result of a recall and less than a majority of the board members are removed, the vacancy may be filled by the affirmative vote of a majority of the remaining directors, notwithstanding any provision to the contrary contained in this subsection. If vacancies occur on the board as a result of a recall and a majority or more of the board members are removed, the vacancies shall be filled in accordance with procedural rules to be adopted by the division, which rules need not be consistent with this subsection. The rules must provide procedures governing the conduct of the recall election as well as the operation of the association during the period after a recall but prior to the recall election.

(k)~~(l)~~ Arbitration.—There shall be a provision for mandatory nonbinding arbitration as provided for in s. 718.1255.

(l)~~(m)~~ Certificate of compliance.—There shall be a provision that a certificate of compliance from a licensed electrical contractor or electrician may be accepted by the association's board as evidence of compliance of the condominium units to the applicable fire and life safety code.

(m)~~(n)~~ Common elements; limited power to convey.—

1. With respect to condominiums created on or after October 1, 1994, the bylaws shall include a provision granting the association a limited power to convey a portion of the common elements to a condemning authority for the purpose of providing utility easements, right-of-way expansion, or other public purposes, whether negotiated or as a result of eminent domain proceedings.

2. In any case where the bylaws are silent as to the association's power to convey common elements as described in subparagraph 1., the bylaws shall be deemed to include the provision described in subparagraph 1.

Section 4. Paragraph (b) of subsection (1) of section 718.115, Florida Statutes, is amended to read:

718.115 Common expenses and common surplus.—

(1)

(b) If so provided in the declaration, the cost of a master antenna television system or duly franchised cable television service obtained pursuant to a bulk contract shall be deemed a common expense. *If the declaration does not provide for the cost of a master antenna television system or duly franchised cable television service obtained under a bulk contract as a common expense, the board of administration may enter into such a contract and the cost of the service will be a common expense but allocated on a per-unit basis rather than a percentage basis if the declaration provides for other than an equal sharing of common expenses and any contract entered into before July 1, 1998, in which the cost of the service is not equally divided among all unit owners, may be changed by vote of a majority of the voting interests present at a regular or special meeting of the association, to allocate the cost equally among all units.*~~, and if not, such cost shall be considered common expense if it is designated as such in a written contract between the board of administration and the company providing the master television antenna system or the cable television service.~~ The contract shall be for a term of not less than 2 years.

1. Any contract made by the board after the effective date hereof for a community antenna system or duly franchised cable television service may be canceled by a majority of the voting interests present at the next regular or special meeting of the association. Any member may make a motion to cancel said contract, but if no motion is made or if such motion fails to obtain the required majority at the next regular or special meeting, whichever is sooner, following the making of the contract, then such contract shall be deemed ratified for the term therein expressed.

2. Any such contract shall provide, and shall be deemed to provide if not expressly set forth, that any hearing impaired or legally blind unit owner who does not occupy the unit with a *non-hearing-impaired* ~~nonhearing impaired~~ or sighted person may discontinue the service without incurring disconnect fees, penalties, or subsequent service charges, and as to such units, the owners shall not be required to pay any common expenses charge related to such service. If less than all members of an association share the expenses of cable television, the expense shall be shared equally by all participating unit owners. The association may use the provisions of s. 718.116 to enforce payment of the shares of such costs by the unit owners receiving cable television.

Section 5. Subsection (2) of section 718.503, Florida Statutes, is amended to read:

718.503 Developer disclosure prior to sale; nondeveloper unit owner disclosure prior to sale; voidability.—

(2) NONDEVELOPER DISCLOSURE.—

(a) Each unit owner who is not a developer as defined by this chapter shall comply with the provisions of this subsection prior to the sale of his or her unit. Each prospective purchaser who has entered into a contract for the purchase of a condominium unit is entitled, at the seller's expense, to a current copy of the declaration of condominium, articles of incorporation of the association, bylaws, and rules of the association, as well as a copy of the question and answer sheet provided for by s. 718.504 *and a copy of the financial information required by s. 718.111*.

(b) If a person licensed under part I of chapter 475 provides to or otherwise obtains for a prospective purchaser the documents described in this subsection, the person is not liable for any error or inaccuracy contained in the documents.

(c) Each contract entered into after July 1, 1992, for the resale of a residential unit shall contain in conspicuous type either:

1. A clause which states: THE BUYER HEREBY ACKNOWLEDGES THAT BUYER HAS BEEN PROVIDED A CURRENT COPY OF THE DECLARATION OF CONDOMINIUM, ARTICLES OF INCORPORATION OF THE ASSOCIATION, BYLAWS, RULES OF THE ASSOCIATION, *A COPY OF THE MOST RECENT YEAR-END FINANCIAL INFORMATION* AND THE QUESTION AND ANSWER SHEET MORE THAN 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, PRIOR TO EXECUTION OF THIS CONTRACT; or

2. A clause which states: THIS AGREEMENT IS VOIDABLE BY BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION TO CANCEL WITHIN 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, AFTER THE DATE OF EXECUTION OF THIS AGREEMENT BY THE BUYER AND RECEIPT BY BUYER OF A CURRENT COPY OF THE DECLARATION OF CONDOMINIUM, ARTICLES OF INCORPORATION, BYLAWS, AND RULES OF THE ASSOCIATION, *A COPY OF THE MOST RECENT YEAR-END FINANCIAL INFORMATION* AND QUESTION AND ANSWER SHEET IF SO REQUESTED IN WRITING. ANY PURPORTED WAIVER OF THESE VOIDABILITY RIGHTS SHALL BE OF NO EFFECT. BUYER MAY EXTEND THE TIME FOR CLOSING FOR A PERIOD OF NOT MORE THAN 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, AFTER THE BUYER RECEIVES THE DECLARATION, ARTICLES OF INCORPORATION, BYLAWS, RULES, AND QUESTION AND ANSWER SHEET IF REQUESTED IN WRITING. BUYER'S RIGHT TO VOID THIS AGREEMENT SHALL TERMINATE AT CLOSING.

A contract that does not conform to the requirements of this paragraph is voidable at the option of the purchaser prior to closing.

Section 6. Section 718.504, Florida Statutes, is amended to read:

718.504 Prospectus or offering circular.—Every developer of a residential condominium which contains more than 20 residential units, or which is part of a group of residential condominiums which will be served by property to be used in common by unit owners of more than 20 residential units, shall prepare a prospectus or offering circular and file it with the Division of Florida Land Sales, Condominiums, and Mobile Homes prior to entering into an enforceable contract of purchase and sale of any unit or lease of a unit for more than 5 years and shall furnish a copy of the prospectus or offering circular to each buyer. In addition to the prospectus or offering circular, each buyer shall be furnished a separate page entitled "Frequently Asked Questions and Answers," which shall be in accordance with a format approved by the division *and a copy of the financial information required by s. 718.111*. This page shall, in readable language, inform prospective purchasers regarding their voting rights and unit use restrictions, including restrictions on the leasing of a unit; shall indicate whether and in what amount the unit owners or the association is obligated to pay rent or land use fees for recreational or other commonly used facilities; shall contain a statement identifying that amount of assessment which, pursuant to the budget, would be levied upon each unit type, exclusive of any special assessments, and which shall further identify the basis upon which assessments are levied, whether monthly, quarterly, or otherwise; shall state and identify any court cases in which the association is currently a party of record in which the association may face liability in excess of $100,000; and which shall further state whether membership in a recreational facilities association is mandatory, and if so, shall identify the fees currently charged per unit type. The division shall by rule require such other disclosure as in its judgment will assist prospective purchasers. The prospectus or offering circular may include more than one condominium, although not all such units are being offered for sale as of the date of the prospectus or offering circular. The prospectus or offering circular must contain the following information:

(1) The front cover or the first page must contain only:

(a) The name of the condominium.

(b) The following statements in conspicuous type:

1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS IMPORTANT MATTERS TO BE CONSIDERED IN ACQUIRING A CONDOMINIUM UNIT.

2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES, ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES MATERIALS.

3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR CORRECT REPRESENTATIONS.

(2) Summary: The next page must contain all statements required to be in conspicuous type in the prospectus or offering circular.

(3) A separate index of the contents and exhibits of the prospectus.

(4) Beginning on the first page of the text (not including the summary and index), a description of the condominium, including, but not limited to, the following information:

(a) Its name and location.

(b) A description of the condominium property, including, without limitation:

1. The number of buildings, the number of units in each building, the number of bathrooms and bedrooms in each unit, and the total number of units, if the condominium is not a phase condominium, or the maximum number of buildings that may be contained within the condominium, the minimum and maximum numbers of units in each building, the minimum and maximum numbers of bathrooms and bedrooms that may be contained in each unit, and the maximum number of units that may be contained within the condominium, if the condominium is a phase condominium.

2. The page in the condominium documents where a copy of the plot plan and survey of the condominium is located.

3. The estimated latest date of completion of constructing, finishing, and equipping. In lieu of a date, the description shall include a statement that the estimated date of completion of the condominium is in the purchase agreement and a reference to the article or paragraph containing that information.

(c) The maximum number of units that will use facilities in common with the condominium. If the maximum number of units will vary, a description of the basis for variation and the minimum amount of dollars per unit to be spent for additional recreational facilities or enlargement of such facilities. If the addition or enlargement of facilities will result in a material increase of a unit owner's maintenance expense

or rental expense, if any, the maximum increase and limitations thereon shall be stated.

(5)(a) A statement in conspicuous type describing whether the condominium is created and being sold as fee simple interests or as leasehold interests. If the condominium is created or being sold on a leasehold, the location of the lease in the disclosure materials shall be stated.

(b) If timeshare estates are or may be created with respect to any unit in the condominium, a statement in conspicuous type stating that timeshare estates are created and being sold in units in the condominium.

(6) A description of the recreational and other commonly used facilities that will be used only by unit owners of the condominium, including, but not limited to, the following:

(a) Each room and its intended purposes, location, approximate floor area, and capacity in numbers of people.

(b) Each swimming pool, as to its general location, approximate size and depths, approximate deck size and capacity, and whether heated.

(c) Additional facilities, as to the number of each facility, its approximate location, approximate size, and approximate capacity.

(d) A general description of the items of personal property and the approximate number of each item of personal property that the developer is committing to furnish for each room or other facility or, in the alternative, a representation as to the minimum amount of expenditure that will be made to purchase the personal property for the facility.

(e) The estimated date when each room or other facility will be available for use by the unit owners.

(f)1. An identification of each room or other facility to be used by unit owners that will not be owned by the unit owners or the association;

2. A reference to the location in the disclosure materials of the lease or other agreements providing for the use of those facilities; and

3. A description of the terms of the lease or other agreements, including the length of the term; the rent payable, directly or indirectly, by each unit owner, and the total rent payable to the lessor, stated in monthly and annual amounts for the entire term of the lease; and a description of any option to purchase the property leased under any such lease, including the time the option may be exercised, the purchase price or how it is to be determined, the manner of payment, and whether the option may be exercised for a unit owner's share or only as to the entire leased property.

(g) A statement as to whether the developer may provide additional facilities not described above; their general locations and types; improvements or changes that may be made; the approximate dollar amount to be expended; and the maximum additional common expense or cost to the individual unit owners that may be charged during the first annual period of operation of the modified or added facilities.

Descriptions as to locations, areas, capacities, numbers, volumes, or sizes may be stated as approximations or minimums.

(7) A description of the recreational and other facilities that will be used in common with other condominiums, community associations, or planned developments which require the payment of the maintenance and expenses of such facilities, either directly or indirectly, by the unit owners. The description shall include, but not be limited to, the following:

(a) Each building and facility committed to be built.

(b) Facilities not committed to be built except under certain conditions, and a statement of those conditions or contingencies.

(c) As to each facility committed to be built, or which will be committed to be built upon the happening of one of the conditions in paragraph (b), a statement of whether it will be owned by the unit owners having the use thereof or by an association or other entity which will be controlled by them, or others, and the location in the exhibits of the lease or other document providing for use of those facilities.

(d) The year in which each facility will be available for use by the unit owners or, in the alternative, the maximum number of unit owners in the project at the time each of all of the facilities is committed to be completed.

(e) A general description of the items of personal property, and the approximate number of each item of personal property, that the developer is committing to furnish for each room or other facility or, in the alternative, a representation as to the minimum amount of expenditure that will be made to purchase the personal property for the facility.

(f) If there are leases, a description thereof, including the length of the term, the rent payable, and a description of any option to purchase.

Descriptions shall include location, areas, capacities, numbers, volumes, or sizes and may be stated as approximations or minimums.

(8) Recreation lease or associated club membership:

(a) If any recreational facilities or other facilities offered by the developer and available to, or to be used by, unit owners are to be leased or have club membership associated, the following statement in conspicuous type shall be included: THERE IS A RECREATIONAL FACILITIES LEASE ASSOCIATED WITH THIS CONDOMINIUM; or, THERE IS A CLUB MEMBERSHIP ASSOCIATED WITH THIS CONDOMINIUM. There shall be a reference to the location in the disclosure materials where the recreation lease or club membership is described in detail.

(b) If it is mandatory that unit owners pay a fee, rent, dues, or other charges under a recreational facilities lease or club membership for the use of facilities, there shall be in conspicuous type the applicable statement:

1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS MANDATORY FOR UNIT OWNERS; or

2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF OWNERSHIP, TO BE LESSEES UNDER THE RECREATIONAL FACILITIES LEASE; or

3. UNIT OWNERS ARE REQUIRED TO PAY THEIR SHARE OF THE COSTS AND EXPENSES OF MAINTENANCE, MANAGEMENT, UPKEEP, REPLACEMENT, RENT, AND FEES UNDER THE RECREATIONAL FACILITIES LEASE (OR THE OTHER INSTRUMENTS PROVIDING THE FACILITIES); or

4. A similar statement of the nature of the organization or the manner in which the use rights are created, and that unit owners are required to pay.

Immediately following the applicable statement, the location in the disclosure materials where the development is described in detail shall be stated.

(c) If the developer, or any other person other than the unit owners and other persons having use rights in the facilities, reserves, or is entitled to receive, any rent, fee, or other payment for the use of the facilities, then there shall be the following statement in conspicuous type: THE UNIT OWNERS OR THE ASSOCIATION(S) MUST PAY RENT OR LAND USE FEES FOR RECREATIONAL OR OTHER COMMONLY USED FACILITIES. Immediately following this statement, the location in the disclosure materials where the rent or land use fees are described in detail shall be stated.

(d) If, in any recreation format, whether leasehold, club, or other, any person other than the association has the right to a lien on the units to secure the payment of assessments, rent, or other exactions, there shall appear a statement in conspicuous type in substantially the following form:

1. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO SECURE THE PAYMENT OF RENT AND OTHER EXACTIONS UNDER THE RECREATION LEASE. THE UNIT OWNER'S FAILURE TO MAKE THESE PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN; or

2. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING DUE FOR THE USE, MAINTENANCE, UPKEEP, OR REPAIR OF THE RECREATIONAL OR COMMONLY USED FACILITIES. THE UNIT OWNER'S FAILURE TO MAKE THESE PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN.

Immediately following the applicable statement, the location in the disclosure materials where the lien or lien right is described in detail shall be stated.

(9) If the developer or any other person has the right to increase or add to the recreational facilities at any time after the establishment of the condominium whose unit owners have use rights therein, without the consent of the unit owners or associations being required, there shall appear a statement in conspicuous type in substantially the following form: RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT OF UNIT OWNERS OR THE ASSOCIATION(S). Immediately following this statement, the location in the disclosure materials where such reserved rights are described shall be stated.

(10) A statement of whether the developer's plan includes a program of leasing units rather than selling them, or leasing units and selling them subject to such leases. If so, there shall be a description of the plan, including the number and identification of the units and the provisions and term of the proposed leases, and a statement in boldfaced type that: THE UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.

(11) The arrangements for management of the association and maintenance and operation of the condominium property and of other property that will serve the unit owners of the condominium property, and a description of the management contract and all other contracts for these purposes having a term in excess of 1 year, including the following:

(a) The names of contracting parties.

(b) The term of the contract.

(c) The nature of the services included.

(d) The compensation, stated on a monthly and annual basis, and provisions for increases in the compensation.

(e) A reference to the volumes and pages of the condominium documents and of the exhibits containing copies of such contracts.

Copies of all described contracts shall be attached as exhibits. If there is a contract for the management of the condominium property, then a statement in conspicuous type in substantially the following form shall appear, identifying the proposed or existing contract manager: THERE IS (IS TO BE) A CONTRACT FOR THE MANAGEMENT OF THE CONDOMINIUM PROPERTY WITH (NAME OF THE CONTRACT MANAGER). Immediately following this statement, the location in the disclosure materials of the contract for management of the condominium property shall be stated.

(12) If the developer or any other person or persons other than the unit owners has the right to retain control of the board of administration of the association for a period of time which can exceed 1 year after the closing of the sale of a majority of the units in that condominium to persons other than successors or alternate developers, then a statement in conspicuous type in substantially the following form shall be included: THE DEVELOPER (OR OTHER PERSON) HAS THE RIGHT TO RETAIN CONTROL OF THE ASSOCIATION AFTER A MAJORITY OF THE UNITS HAVE BEEN SOLD. Immediately following this statement, the location in the disclosure materials where this right to control is described in detail shall be stated.

(13) If there are any restrictions upon the sale, transfer, conveyance, or leasing of a unit, then a statement in conspicuous type in substantially the following form shall be included: THE SALE, LEASE, OR TRANSFER OF UNITS IS RESTRICTED OR CONTROLLED. Immediately following this statement, the location in the disclosure materials where the restriction, limitation, or control on the sale, lease, or transfer of units is described in detail shall be stated.

(14) If the condominium is part of a phase project, the following information shall be stated:

(a) A statement in conspicuous type in substantially the following form: THIS IS A PHASE CONDOMINIUM. ADDITIONAL LAND AND UNITS MAY BE ADDED TO THIS CONDOMINIUM. Immediately following this statement, the location in the disclosure materials where the phasing is described shall be stated.

(b) A summary of the provisions of the declaration which provide for the phasing.

(c) A statement as to whether or not residential buildings and units which are added to the condominium may be substantially different from the residential buildings and units originally in the condominium. If the added residential buildings and units may be substantially different, there shall be a general description of the extent to which such added residential buildings and units may differ, and a statement in conspicuous type in substantially the following form shall be included: BUILDINGS AND UNITS WHICH ARE ADDED TO THE CONDOMINIUM MAY BE SUBSTANTIALLY DIFFERENT FROM THE OTHER BUILDINGS AND UNITS IN THE CONDOMINIUM. Immediately following this statement, the location in the disclosure materials where the extent to which added residential buildings and units may substantially differ is described shall be stated.

(d) A statement of the maximum number of buildings containing units, the maximum and minimum numbers of units in each building, the maximum number of units, and the minimum and maximum square footage of the units that may be contained within each parcel of land which may be added to the condominium.

(15) If the condominium is created by conversion of existing improvements, the following information shall be stated:

(a) The information required by s. 718.616.

(b) A caveat that there are no express warranties unless they are stated in writing by the developer.

(16) A summary of the restrictions, if any, to be imposed on units concerning the use of any of the condominium property, including statements as to whether there are restrictions upon children and pets, and reference to the volumes and pages of the condominium documents where such restrictions are found, or if such restrictions are contained elsewhere, then a copy of the documents containing the restrictions shall be attached as an exhibit.

(17) If there is any land that is offered by the developer for use by the unit owners and that is neither owned by them nor leased to them, the association, or any entity controlled by unit owners and other persons having the use rights to such land, a statement shall be made as to how such land will serve the condominium. If any part of such land will serve the condominium, the statement shall describe the land and the nature and term of service, and the declaration or other instrument creating such servitude shall be included as an exhibit.

(18) The manner in which utility and other services, including, but not limited to, sewage and waste disposal, water supply, and storm drainage, will be provided and the person or entity furnishing them.

(19) An explanation of the manner in which the apportionment of common expenses and ownership of the common elements has been determined.

(20) An estimated operating budget for the condominium and the association, and a schedule of the unit owner's expenses shall be attached as an exhibit and shall contain the following information:

(a) The estimated monthly and annual expenses of the condominium and the association that are collected from unit owners by assessments.

(b) The estimated monthly and annual expenses of each unit owner for a unit, other than common expenses paid by all unit owners, payable by the unit owner to persons or entities other than the association, as well as to the association, including fees assessed pursuant to s. 718.113(1) for maintenance of limited common elements where such costs are shared only by those entitled to use the limited common element, and the total estimated monthly and annual expense. There may be excluded from this estimate expenses which are not provided for or contemplated by the condominium documents, including, but not limited to, the costs of private telephone; maintenance of the interior of condominium units, which is not the obligation of the association; maid or janitorial services privately contracted for by the unit owners; utility bills billed directly to each unit owner for utility services to his or her unit; insurance premiums other than those incurred for policies obtained by the condominium; and similar personal expenses of the unit owner. A unit owner's estimated payments for assessments shall also be stated in the estimated amounts for the times when they will be due.

(c) The estimated items of expenses of the condominium and the association, except as excluded under paragraph (b), including, but not limited to, the following items, which shall be stated either as an association expense collectible by assessments or as unit owners' expenses payable to persons other than the association:

1. Expenses for the association and condominium:

a. Administration of the association.

b. Management fees.

c. Maintenance.

d. Rent for recreational and other commonly used facilities.

e. Taxes upon association property.

f. Taxes upon leased areas.

g. Insurance.

h. Security provisions.

i. Other expenses.

j. Operating capital.

k. Reserves.

l. Fees payable to the division.

2. Expenses for a unit owner:

a. Rent for the unit, if subject to a lease.

b. Rent payable by the unit owner directly to the lessor or agent under any recreational lease or lease for the use of commonly used facilities, which use and payment is a mandatory condition of ownership and is not included in the common expense or assessments for common maintenance paid by the unit owners to the association.

(d) The estimated amounts shall be stated for a period of at least 12 months and may distinguish between the period prior to the time unit owners other than the developer elect a majority of the board of administration and the period after that date.

(21) A schedule of estimated closing expenses to be paid by a buyer or lessee of a unit and a statement of whether title opinion or title insurance policy is available to the buyer and, if so, at whose expense.

(22) The identity of the developer and the chief operating officer or principal directing the creation and sale of the condominium and a statement of its and his or her experience in this field.

(23) Copies of the following, to the extent they are applicable, shall be included as exhibits:

(a) The declaration of condominium, or the proposed declaration if the declaration has not been recorded.

(b) The articles of incorporation creating the association.

(c) The bylaws of the association.

(d) The ground lease or other underlying lease of the condominium.

(e) The management agreement and all maintenance and other contracts for management of the association and operation of the condominium and facilities used by the unit owners having a service term in excess of 1 year.

(f) The estimated operating budget for the condominium and the required schedule of unit owners' expenses.

(g) A copy of the floor plan of the unit and the plot plan showing the location of the residential buildings and the recreation and other common areas.

(h) The lease of recreational and other facilities that will be used only by unit owners of the subject condominium.

(i) The lease of facilities used by owners and others.

(j) The form of unit lease, if the offer is of a leasehold.

(k) A declaration of servitude of properties serving the condominium but not owned by unit owners or leased to them or the association.

(l) The statement of condition of the existing building or buildings, if the offering is of units in an operation being converted to condominium ownership.

(m) The statement of inspection for termite damage and treatment of the existing improvements, if the condominium is a conversion.

(n) The form of agreement for sale or lease of units.

(o) A copy of the agreement for escrow of payments made to the developer prior to closing.

(p) A copy of the documents containing any restrictions on use of the property required by subsection (16).

(24) Any prospectus or offering circular complying, prior to the effective date of this act, with the provisions of former ss. 711.69 and 711.802 may continue to be used without amendment or may be amended to comply with the provisions of this chapter.

(25) A brief narrative description of the location and effect of all existing and intended easements located or to be located on the condominium property other than those described in the declaration.

(26) If the developer is required by state or local authorities to obtain acceptance or approval of any dock or marina facilities intended to serve the condominium, a copy of any such acceptance or approval acquired by the time of filing with the division under s. 718.502(1) or a statement that such acceptance or approval has not been acquired or received.

(27) Evidence demonstrating that the developer has an ownership, leasehold, or contractual interest in the land upon which the condominium is to be developed.

Section 7. Paragraph (a) of subsection (9) of section 718.116, Florida Statutes, is amended to read:

718.116 Assessments; liability; lien and priority; interest; collection.—

(9)(a) No unit owner may be excused from the payment of his or her share of the common expense of a condominium unless all unit owners are likewise proportionately excused from payment, except as provided in subsection (1) and in the following cases:

1. If the declaration so provides, a developer or other person who owns condominium units offered for sale may be excused from the payment of the share of the common expenses and assessments related

to those units for a stated period of time subsequent to the recording of the declaration of condominium. The period must terminate no later than the first day of the fourth calendar month following the month in which the closing of the purchase and sale of the first condominium unit occurs. However, the developer must pay *those* ~~the portion of~~ common expenses incurred during that period which exceed the amount assessed against other unit owners. *Notwithstanding this limitation, if a developer-controlled association has maintained all insurance coverages required by s. 718.111(11)(a), the common expenses incurred during the foregoing period resulting from a natural disaster or an act of God, which are not covered by insurance proceeds from the insurance maintained by the association, may be assigned against all unit owners owning units on the date of such natural disaster or act of God, and their successors and assigns, including the developer with respect to units owned by the developer. In the event of such an assessment, all units shall be assessed in accordance with their ownership interest in the common elements as required by s. 718.115(2).*

2. A developer or other person who owns condominium units or who has an obligation to pay condominium expenses may be excused from the payment of his or her share of the common expense which would have been assessed against those units during the period of time that he or she has guaranteed to each purchaser in the purchase contract, declaration, or prospectus, or by agreement between the developer and a majority of the unit owners other than the developer, that the assessment for common expenses of the condominium imposed upon the unit owners would not increase over a stated dollar amount and has obligated himself or herself to pay any amount of common expenses incurred during that period and not produced by the assessments at the guaranteed level receivable from other unit owners. *Notwithstanding this limitation, if a developer-controlled association has maintained all insurance coverages required by s. 718.111(11)(a), the common expenses incurred during the guarantee period resulting from a natural disaster or an act of God, which are not covered by insurance proceeds from the insurance maintained by the association, may be assessed against all unit owners owning units on the date of such natural disaster or act of God, and their successors and assigns, including the developer with respect to units owned by the developer. In the event of such an assessment, all units shall be assessed in accordance with their ownership interest in the common elements as required by s. 718.115(2).* The guarantee may provide that after an initial stated period, the developer has an option or options to extend the guarantee for one or more additional stated periods.

Section 8. Section 719.103, Florida Statutes, is amended to read:

719.103 Definitions.—As used in this chapter:

(1) "Assessment" means a share of the funds required for the payment of common expenses, which from time to time is assessed against the unit owner.

(2) "Association" means the corporation for profit or not for profit that owns the record interest in the cooperative property or a leasehold of the property of a cooperative and that is responsible for the operation of the cooperative.

(3) "Board of administration" means the board of directors or other representative body responsible for administration of the association.

(4) "Buyer" means a person who purchases a cooperative. The term "purchaser" may be used interchangeably with the term "buyer."

(5)~~(4)~~ "Bylaws" means the bylaws of the association existing from time to time.

(6)~~(5)~~ "Committee" means a group of board members, unit owners, or board members and unit owners appointed by the board or a member of the board to make recommendations to the board regarding the association budget or take action on behalf of the board.

(7)~~(6)~~ "Common areas" means the portions of the cooperative property not included in the units.

(8) "Common areas" includes within its meaning the following:

(a) The cooperative property which is not included within the units.

(b) Easements through units for conduits, ducts, plumbing, wiring, and other facilities for the furnishing of utility services to units and the common areas.

(c) An easement of support in every portion of a unit which contributes to the support of a building.

(d) The property and installations required for the furnishing of utilities and other services to more than one unit or to the common areas.

(e) Any other part of the cooperative property designated in the cooperative documents as common areas.

(9)~~(7)~~ "Common expenses" means all expenses and assessments properly incurred by the association for the cooperative.

(10)~~(8)~~ "Common surplus" means the excess of all receipts of the association—including, but not limited to, assessments, rents, profits, and revenues on account of the common areas—over the amount of common expenses.

(11) "Conspicuous type" means type in capital letters no smaller than the largest type on the page on which it appears.

(12)~~(9)~~ "Cooperative" means that form of ownership of real property wherein legal title is vested in a corporation or other entity and the beneficial use is evidenced by an ownership interest in the association and a lease or other muniment of title or possession granted by the association as the owner of all the cooperative property.

(13)~~(10)~~ "Cooperative documents" means:

(a) The documents that create a cooperative, including, but not limited to, articles of incorporation of the association, bylaws, and the ground lease or other underlying lease, if any.

(b) The document evidencing a unit owner's membership or share in the association.

(c) The document recognizing a unit owner's title or right of possession to his or her unit.

(14)~~(11)~~ "Cooperative parcel" means the shares or other evidence of ownership in a cooperative representing an undivided share in the assets of the association, together with the lease or other muniment of title or possession.

(15)~~(12)~~ "Cooperative property" means the lands, leaseholds, and personal property owned by a cooperative association.

(16)~~(13)~~ "Developer" means a person who creates a cooperative or who offers cooperative parcels for sale or lease in the ordinary course of business, but does not include the owner or lessee of a unit who has acquired or leased the unit for his or her own occupancy, nor does it include a condominium association which creates a cooperative by conversion of an existing residential condominium after control of the association has been transferred to the unit owners if, following the conversion, the unit owners will be the same persons.

(17) "Division" means the Division of Florida Land Sales, Condominiums and Mobile Homes of the Department of Business and Professional Regulation.

(18) "Limited common areas" means those common areas which are reserved for the use of a certain cooperative unit or units to the exclusion of other units, as specified in the cooperative documents.

(19)~~(14)~~ "Operation" or "operation of the cooperative" includes the administration and management of the cooperative property.

(20) "Rental agreement" means any written agreement, or oral agreement if for less duration than 1 year, providing for use and occupancy of premises.

(21) "Residential cooperative" means a cooperative consisting of cooperative units, any of which are intended for use as a private

residence. A cooperative is not a residential cooperative if the use of the units is intended as primarily commercial or industrial and not more than three units are intended to be used for private residence, domicile, or homestead, or if the units are intended to be used as housing for maintenance, managerial, janitorial, or other operational staff of the cooperative. If a cooperative is a residential cooperative under this definition, but has units intended to be commercial or industrial, then the cooperative is a residential cooperative with respect to those units intended for use as a private residence, domicile, or homestead, but not a residential cooperative with respect to those units intended for use commercially or industrially.

(22)~~(15)~~ "Unit" means a part of the cooperative property which is subject to exclusive use and possession. A unit may be improvements, land, or land and improvements together, as specified in the cooperative documents.

(23)~~(16)~~ "Unit owner" or "owner of a unit" means the person holding a share in the cooperative association and a lease or other muniment of title or possession of a unit that is granted by the association as the owner of the cooperative property.

~~(17) "Residential cooperative" means a cooperative consisting of cooperative units, any of which are intended for use as a private residence. A cooperative is not a residential cooperative if the use of the units is intended as primarily commercial or industrial and not more than three units are intended to be used for private residence, domicile, or homestead, or if the units are intended to be used as housing for maintenance, managerial, janitorial, or other operational staff of the cooperative. If a cooperative is a residential cooperative under this definition, but has units intended to be commercial or industrial, then the cooperative is a residential cooperative with respect to those units intended for use as a private residence, domicile, or homestead, but not a residential cooperative with respect to those units intended for use commercially or industrially.~~

~~(18) "Rental agreement" means any written agreement, or oral agreement if for less duration than 1 year, providing for use and occupancy of premises.~~

~~(19) "Conspicuous type" means type in capital letters no smaller than the largest type on the page on which it appears.~~

~~(20) "Limited common areas" means those common areas which are reserved for the use of a certain cooperative unit or units to the exclusion of other units, as specified in the cooperative documents.~~

~~(21) "Common areas" includes within its meaning the following:~~

~~(a) The cooperative property which is not included within the units.~~

~~(b) Easements through units for conduits, ducts, plumbing, wiring, and other facilities for the furnishing of utility services to units and the common areas.~~

~~(c) An easement of support in every portion of a unit which contributes to the support of a building.~~

~~(d) The property and installations required for the furnishing of utilities and other services to more than one unit or to the common areas.~~

~~(e) Any other part of the cooperative property designated in the cooperative documents as common areas.~~

Section 9. Section 719.1035, Florida Statutes, is amended to read:

719.1035 Creation of cooperatives.—The date when cooperative existence shall commence is upon commencement of corporate existence of the cooperative association as provided in s. 607.0203. The cooperative documents must be recorded in the county in which the cooperative is located before property may be conveyed or transferred to the cooperative. All persons who have any record interest in any mortgage encumbering the interest in the land being submitted to cooperative ownership must either join in the execution of the cooperative documents or execute, with the requirements for deed, and record, a consent to the cooperative documents or an agreement subordinating their mortgage interest to the cooperative documents. *Upon creation of a cooperative, the developer or association shall file the recording information with the division within 30 working days on a form prescribed by the division.*

Section 10. Subsection (10) is added to section 719.104, Florida Statutes, to read:

719.104 Cooperatives; access to units; records; financial reports; assessments; purchase of leases.—

(10) NOTIFICATION OF DIVISION.—When the board of directors intends to dissolve or merge the cooperative association, the board shall so notify the division before taking any action to dissolve or merge the cooperative association.

Section 11. Paragraphs (b) and (c) of subsection (1) of section 719.106, Florida Statutes, are amended to read:

719.106 Bylaws; cooperative ownership.—

(1) MANDATORY PROVISIONS.—The bylaws or other cooperative documents shall provide for the following, and if they do not, they shall be deemed to include the following:

(b) Quorum; voting requirements; proxies.—

1. Unless otherwise provided in the bylaws, the percentage of voting interests required to constitute a quorum at a meeting of the members shall be a majority of voting interests, and decisions shall be made by owners of a majority of the voting interests. Unless otherwise provided in this chapter, or in the articles of incorporation, bylaws, or other cooperative documents, and except as provided in subparagraph (d)1., decisions shall be made by owners of a majority of the voting interests represented at a meeting at which a quorum is present.

2. Except as specifically otherwise provided herein, after January 1, 1992, unit owners may not vote by general proxy, but may vote by limited proxies substantially conforming to a limited proxy form adopted by the division. Limited proxies and general proxies may be used to establish a quorum. Limited proxies shall be used for votes taken to waive or reduce reserves in accordance with subparagraph (j)2., for votes taken to amend the articles of incorporation or bylaws pursuant to this section, and for any other matter for which this chapter requires or permits a vote of the unit owners. Except as provided in paragraph (d), after January 1, 1992, no proxy, limited or general, shall be used in the election of board members. General proxies may be used for other matters for which limited proxies are not required, and may also be used in voting for nonsubstantive changes to items for which a limited proxy is required and given. Notwithstanding the provisions of this section, unit owners may vote in person at unit owner meetings. Nothing contained herein shall limit the use of general proxies or require the use of limited proxies or require the use of limited proxies for any agenda item or election at any meeting of a timeshare cooperative.

3. Any proxy given shall be effective only for the specific meeting for which originally given and any lawfully adjourned meetings thereof. In no event shall any proxy be valid for a period longer than 90 days after the date of the first meeting for which it was given. Every proxy shall be revocable at any time at the pleasure of the unit owner executing it.

4. A member of the board of administration or a committee may submit in writing his or her agreement or disagreement with any action taken at a meeting that the member did not attend. This agreement or disagreement may not be used as a vote for or against the action taken and may not be used for the purposes of creating a quorum.

5. When some or all of the board or committee members meet by telephone conference, those board or committee members attending by telephone conference may be counted toward obtaining a quorum and may vote by telephone. A telephone speaker shall be utilized so that the conversation of those board or committee members attending by telephone may be heard by the board or committee members attending in person, as well as by unit owners present at a meeting.

(c) Board of administration meetings.—Meetings of the board of administration at which a quorum of the members is present shall be open to all unit owners. Any unit owner may tape record or videotape meetings of the board of administration. The right to attend such meetings includes the right to speak at such meetings with reference to all designated agenda items. The division shall adopt reasonable rules governing the tape recording and videotaping of the meeting. The association may adopt reasonable *written* rules governing the frequency, duration, and manner of unit owner statements. Adequate notice of all meetings shall be posted in a conspicuous place upon the cooperative property at least 48 continuous hours preceding the meeting, except in an emergency. Any item not included on the notice may be taken up on an emergency basis by at least a majority plus one of the members of the board. Such emergency action shall be noticed and ratified at the next regular meeting of the board. However, written notice of any meeting at which nonemergency special assessments, or at which amendment to rules regarding unit use, will be considered shall be mailed or delivered to the unit owners and posted conspicuously on the cooperative property not less than 14 days prior to the meeting. Evidence of compliance with this 14-day notice shall be made by an affidavit executed by the person providing the notice and filed among the official records of the association. Upon notice to the unit owners, the board shall by duly adopted rule designate a specific location on the cooperative property upon which all notices of board meetings shall be posted. Notice of any meeting in which regular assessments against unit owners are to be considered for any reason shall specifically contain a statement that assessments will be considered and the nature of any such assessments. Meetings of a committee to take final action on behalf of the board or to make recommendations to the board regarding the association budget are subject to the provisions of this paragraph. Meetings of a committee that does not take final action on behalf of the board or make recommendations to the board regarding the association budget are subject to the provisions of this section, unless those meetings are exempted from this section by the bylaws of the association. Notwithstanding any other law to the contrary, the requirement that board meetings and committee meetings be open to the unit owners is inapplicable to meetings between the board or a committee and the association's attorney, with respect to proposed or pending litigation, when the meeting is held for the purpose of seeking or rendering legal advice.

Section 12. Subsection (6) is added to section 719.301, Florida Statutes, to read:

719.301 Transfer of association control.—

(6) The division may adopt rules administering the provisions of this section.

Section 13. Subsection (7) is added to section 719.403, Florida Statutes, to read:

719.403 Phase cooperatives.—

(7) Upon recording the cooperative documents or amendments adding phases pursuant to this section, the developer or association shall file the recording information with the division within 30 working days on a form prescribed by the division.

Section 14. Subsection (1) of section 719.502, Florida Statutes, is amended to read:

719.502 Filing prior to sale or lease.—

(1)*(a)* A developer of a residential cooperative shall file with the division one copy of each of the documents and items required to be furnished to a buyer or lessee by ss. 719.503 and 719.504, if applicable. Until the developer has so filed, a contract for sale or lease of a unit for more than 5 years shall be voidable by the purchaser or lessee prior to the closing of his or her purchase or lease of a unit. *A developer shall not close on any contract for sale or contract for a lease period of more than 5 years until the developer prepares and files with the division documents complying with the requirements of this chapter and the rules promulgated by the division and until the division notifies the developer that the filing is proper. A developer shall not close on any contract for sale or contract for a lease period of more than 5 years, as further provided in s. 719.503(1)(b), until the developer prepares and delivers all documents required by s. 719.503(1)(b) to the prospective buyer.*

(b) The division may by rule develop filing, review, and examination requirements and the relevant timetables necessary to ensure compliance with the notice and disclosure requirements of this section.

Section 15. Paragraph (b) of subsection (1) of section 719.503, Florida Statutes, is amended to read:

719.503 Disclosure prior to sale.—

(1) DEVELOPER DISCLOSURE.—

(b) Copies of documents to be furnished to prospective buyer or lessee.—Until such time as the developer has furnished the documents listed below to a person who has entered into a contract to purchase a unit or lease it for more than 5 years, the contract may be voided by that person, entitling the person to a refund of any deposit together with interest thereon as provided in s. 719.202. The contract may be terminated by written notice from the proposed buyer or lessee delivered to the developer within 15 days after the buyer or lessee receives all of the documents required by this section. *The developer shall not close for 15 days following the execution of the agreement and delivery of the documents to the buyer as evidenced by a receipt for documents signed by the buyer unless the buyer is informed in the 15-day voidability period and agrees to close prior to the expiration of the 15 days. The developer shall retain in his or her records a separate signed agreement as proof of the buyer's agreement to close prior to the expiration of said voidability period. Said proof shall be retained for a period of 5 years after the date of the closing transaction.* The documents to be delivered to the prospective buyer are the prospectus or disclosure statement with all exhibits, if the development is subject to the provisions of s. 719.504, or, if not, then copies of the following which are applicable:

1. The question and answer sheet described in s. 719.504, and cooperative documents, or the proposed cooperative documents if the documents have not been recorded, which shall include the certificate of a surveyor approximately representing the locations required by s. 719.104.

2. The documents creating the association.

3. The bylaws.

4. The ground lease or other underlying lease of the cooperative.

5. The management contract, maintenance contract, and other contracts for management of the association and operation of the cooperative and facilities used by the unit owners having a service term in excess of 1 year, and any management contracts that are renewable.

6. The estimated operating budget for the cooperative and a schedule of expenses for each type of unit, including fees assessed to a shareholder who has exclusive use of limited common areas, where such costs are shared only by those entitled to use such limited common areas.

7. The lease of recreational and other facilities that will be used only by unit owners of the subject cooperative.

8. The lease of recreational and other common areas that will be used by unit owners in common with unit owners of other cooperatives.

9. The form of unit lease if the offer is of a leasehold.

10. Any declaration of servitude of properties serving the cooperative but not owned by unit owners or leased to them or the association.

11. If the development is to be built in phases or if the association is to manage more than one cooperative, a description of the plan of phase development or the arrangements for the association to manage two or more cooperatives.

12. If the cooperative is a conversion of existing improvements, the statements and disclosure required by s. 719.616.

13. The form of agreement for sale or lease of units.

14. A copy of the floor plan of the unit and the plot plan showing the location of the residential buildings and the recreation and other common areas.

15. A copy of all covenants and restrictions which will affect the use of the property and which are not contained in the foregoing.

16. If the developer is required by state or local authorities to obtain acceptance or approval of any dock or marina facilities intended to serve the cooperative, a copy of any such acceptance or approval acquired by the time of filing with the division pursuant to s. 719.502(1) or a statement that such acceptance or approval has not been acquired or received.

17. Evidence demonstrating that the developer has an ownership, leasehold, or contractual interest in the land upon which the cooperative is to be developed.

Section 16. Section 719.621, Florida Statutes, is created to read:

719.621 Rulemaking authority.—The division may adopt rules to administer and ensure compliance with a developer's obligations with respect to cooperative conversions concerning the filing and noticing of intended conversions, rental agreement extensions, rights of first refusal, and disclosures and post-purchase protections.

Section 17. Subsection (28) of section 721.05, Florida Statutes, is amended to read:

721.05 Definitions.—As used in this chapter, the term:

(28) "Timeshare estate" means a right to occupy a timeshare unit, coupled with a freehold estate or an estate for years with a future interest in a timeshare property or a specified portion thereof. The term shall also mean an interest in a condominium unit pursuant to *s. 718.103* ~~s. 718.103(22)~~.

Section 18. Subsection (1) of section 721.97, Florida Statutes, as created by CS for CS for SB 626 (1998) is amended to read:

(1) The Governor may appoint commissioners of deeds to take acknowledgments, proofs of execution, or oaths in any foreign country. The term of office is 4 years. Commissioners of deeds shall have authority to take acknowledgments, proofs of execution, and oaths in connection with the execution of any deed, mortgage, deed of trust, contract, power of attorney, or any other writing to be used or recorded in connection with a timeshare estate, timeshare license, any property subject to a timeshare plan, or the operation of a timeshare plan located within this state; provided such instrument or writing is executed outside the United States. Such acknowledgments, proofs of execution, and oaths must be taken or made in the manner directed by the laws of this state, including but not limited to s. 117.05(4), (5)(a) and (6), *Florida Statutes (1997)* and certified by a commissioner of deeds. The certification must be endorsed on or annexed to the instrument or writing aforesaid and has the same effect as if made or taken by a notary public licensed in this state.

Section 19. *The amendment to section 721.97(1), Florida Statutes, made by section 18 of this act shall take effect only if CS for HB 1125 (1998) becomes law, and shall operate retroactively to the effective date of CS for CS for SB 626 (1998).*

Section 20. This act shall take effect upon becoming a law.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to condominiums and cooperatives; amending s. 718.103, F.S.; defining the terms "buyer" and "division"; amending s. 718.111, F.S.; providing for the operation of certain condominiums created prior to 1977 as single associations; permitting consolidated financial operation; requiring a developer-controlled association to exercise due diligence to obtain and maintain insurance; providing that failure to obtain and maintain adequate insurance shall constitute a breach of fiduciary responsibility by the developer-appointed members of the board of directors; requiring adequate insurance or fidelity bonding to cover funds in the custody of an association; providing for financial reporting requirements; providing for the commingling of reserve and operating funds; amending s. 718.112, F.S.; providing requirements for eligibility to be a candidate for the board; providing for the validity of certain actions by the board; amending procedures for elections; amending procedures for recall of board members; amending procedures for mailing of notices; amending procedures for annual budgets; deleting fidelity bonding requirements; amending s. 718.115, F.S.; providing procedures that allocate cable television services as a common expense; amending ss. 718.503, 718.504, F.S.; requiring disclosure of financial information; amending s. 718.116, F.S.; providing for unit owners and the developer to be assessed in accordance with their ownership interest in losses resulting from a natural disaster or an act of God; amending s. 719.103, F.S.; defining the terms "buyer" and "division"; amending s. 719.1035, F.S.; requiring filing of information; amending s. 719.104, F.S.; requiring notification; amending s. 719.106, F.S.; providing requirements relating to association meetings; amending s. 719.301, F.S.; providing rulemaking authority; amending s. 719.403, F.S.; requiring filing of information; amending s. 719.502, F.S.; providing conditions precedent to closing on a contract for sale or specified contracts for lease; providing rulemaking authority; amending s. 719.503, F.S.; providing conditions for closing within the 15-day voidability period; creating s. 719.621, F.S.; providing rulemaking authority; amending s. 721.05, F.S.; conforming a cross-reference; amending s. 721.97, F.S. as created by CS for CS for SB 626 (1998); providing a 1997 statutory reference; providing for contingent retroactive application; providing an effective date.

REPRESENTATIVE CRADY IN THE CHAIR

Representative(s) Valdes, Garcia, and Mackenzie offered the following:

House Amendment 1 to Senate Amendment 1—On page 9, line 11,

after copies, insert:
either in person or by mail

Rep. Valdes moved the adoption of the amendment to the amendment, which failed of adoption. The vote was:

Yeas—33

The Chair	Feeney	Mackenzie	Tamargo
Alexander	Fuller	Maygarden	Thrasher
Andrews	Garcia	Morse	Valdes
Ball	Goode	Posey	Villalobos
Barreiro	Hafner	Pruitt, K.	Wallace
Bloom	Harrington	Putnam	Ziebarth
Bronson	King	Roberts-Burke	
Constantine	Lacasa	Sanderson	
Eggelletion	Littlefield	Starks	

Nays—80

Albright	Casey	Frankel	Mackey
Argenziano	Chestnut	Futch	Meek
Arnall	Clemons	Gay	Melvin
Arnold	Cosgrove	Gottlieb	Merchant
Bainter	Crist	Greene	Miller
Betancourt	Crow	Healey	Minton
Bitner	Culp	Heyman	Morroni
Boyd	Dawson-White	Hill	Murman
Bradley	Dennis	Horan	Ogles
Brennan	Diaz de la Portilla	Jones	Peaden
Brown	Dockery	Kelly	Prewitt, D.
Bullard	Edwards	Kosmas	Rayson
Burroughs	Effman	Lawson	Reddick
Bush	Fasano	Livingston	Ritchie
Byrd	Fischer	Logan	Ritter
Carlton	Flanagan	Lynn	Rojas

Safley	Smith	Sublette	Warner
Saunders	Spratt	Tobin	Westbrook
Silver	Stabins	Trovillion	Wiles
Sindler	Stafford	Turnbull	Wise

Excused from time to time for Conference Committee—Bitner, Bradley, Byrd, Clemons, Lippman, Safley, Thrasher, Warner

On motion by Rep. Crow, the House concurred in Senate Amendment 1. The question recurred on the passage of CS/CS/HB 3321. The vote was:

Yeas—115

The Chair	Crow	Kelly	Roberts-Burke
Albright	Culp	King	Rojas
Alexander	Dawson-White	Kosmas	Safley
Andrews	Dennis	Lawson	Sanderson
Argenziano	Diaz de la Portilla	Littlefield	Saunders
Arnall	Dockery	Livingston	Sembler
Arnold	Edwards	Logan	Silver
Bainter	Effman	Lynn	Sindler
Ball	Eggelletion	Mackenzie	Smith
Barreiro	Fasano	Mackey	Spratt
Betancourt	Feeney	Maygarden	Stabins
Bitner	Fischer	Meek	Stafford
Bloom	Flanagan	Melvin	Starks
Boyd	Frankel	Merchant	Sublette
Bradley	Fuller	Miller	Tamargo
Brennan	Futch	Minton	Thrasher
Bronson	Garcia	Morroni	Tobin
Brown	Gay	Morse	Trovillion
Bullard	Goode	Murman	Turnbull
Burroughs	Gottlieb	Ogles	Valdes
Bush	Greene	Peaden	Villalobos
Byrd	Hafner	Posey	Wallace
Carlton	Harrington	Prewitt, D.	Warner
Casey	Healey	Pruitt, K.	Wasserman Schultz
Chestnut	Heyman	Putnam	Westbrook
Clemons	Hill	Rayson	Wiles
Constantine	Horan	Reddick	Wise
Cosgrove	Jacobs	Ritchie	Ziebarth
Crist	Jones	Ritter	

Nays—None

Excused from time to time for Conference Committee—Bitner, Bradley, Byrd, Clemons, Lippman, Safley, Thrasher, Warner

So the bill passed, as amended. The action was immediately certified to the Senate and the bill was ordered enrolled after engrossment.

THE SPEAKER IN THE CHAIR

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 1019, with amendments, and requests the concurrence of the House.

Faye W. Blanton, Secretary

HB 1019—A bill to be entitled An act relating to marriage; creating ss. 741.0305, 741.0306, and 741.0307, F.S., the "Marriage Preparation and Preservation Act of 1998"; providing legislative findings and purpose; requiring the creation of a handbook pertaining to the rights and responsibilities under Florida law of marital partners; amending s. 741.0306, F.S., to provide criteria to be contained in the handbook; amending s. 741.04, F.S.; providing that verification that both parties contemplating marriage have obtained and read the information contained in the handbook created pursuant to s. 741.0307, F.S., is a condition precedent to issuance of a marriage license; amending s. 741.05, F.S., to conform; amending s. 61.21, F.S.; revising provisions relating to the authorized parenting course offered to educate, train, and assist divorcing parents in regard to the consequences of divorce on parents and children; designating such course as the parent education and family stabilization course; providing legislative findings and purpose; authorizing the court in any action between parents in which the custody or support of a minor child is an issue to order parties to attend the family education and stabilization course if the court finds attendance to be in the best interests of the child or children; providing procedures and guidelines for required attendance; requiring parties to file proof of compliance with the court; authorizing a course fee; authorizing each judicial circuit to establish a registry of course providers and sites; authorizing the court to grant exemption from required course attendance; providing parent education and family stabilization course curriculum; providing qualifications and duties of course providers; amending s. 232.246, F.S.; including marriage and relationship education within the life management skills credit required for graduation from high school; amending s. 28.101, F.S.; providing an additional charge for petition for a dissolution of marriage; providing for deposit of such funds in the Family Courts Trust Fund; amending s. 25.388, F.S.; providing an additional source of funding for the Family Courts Trust Fund; providing an effective date.

Unengrossed Senate Amendment 1 (with title amendment)—Delete everything after the enacting clause and insert:

Section 1. *This act may be cited as the "Marriage Preparation and Preservation Act of 1998."*

Section 2. *It is the finding of the Legislature based on reliable research that:*

(1) The divorce rate has been accelerating.

(2) Just as the family is the foundation of society, the marital relationship is the foundation of the family. Consequently, strengthening marriages can only lead to stronger families, children, and communities, as well as a stronger economy.

(3) An inability to cope with stress from both internal and external sources leads to significantly higher incidents of domestic violence, child abuse, absenteeism, medical costs, learning and social deficiencies, and divorce.

(4) Relationship skills can be learned.

(5) Once learned, relationship skills can facilitate communication between parties to a marriage and assist couples in avoiding conflict.

(6) Once relationship skills are learned, they are generalized to parenting, the workplace, schools, neighborhoods, and civic relationships.

(7) By reducing conflict and increasing communication, stressors can be diminished and coping can be furthered.

(8) When effective coping exists, domestic violence, child abuse, divorce and its effect on children such as absenteeism, medical costs, and learning and social deficiencies, are diminished.

(9) The state has a compelling interest in educating its citizens with regard to marriage and, if contemplated, the effects of divorce.

Section 3. Paragraph (i) of subsection (1) of section 232.246, Florida Statutes, is amended to read:

232.246 General requirements for high school graduation.—

(1) Graduation requires successful completion of either a minimum of 24 academic credits in grades 9 through 12 or an International Baccalaureate curriculum. The 24 credits shall be distributed as follows:

(i) One-half credit in life management skills to include consumer education, positive emotional development, *marriage and relationship skill-based education,* nutrition, prevention of human immunodeficiency virus infection and acquired immune deficiency syndrome and other sexually transmissible diseases, benefits of sexual abstinence and consequences of teenage pregnancy, information and instruction on breast cancer detection and breast self-examination, cardiopulmonary

resuscitation, drug education, and the hazards of smoking. Such credit shall be given for a course to be taken by all students in either the 9th or 10th grade.

School boards may award a maximum of one-half credit in social studies and one-half elective credit for student completion of nonpaid voluntary community or school service work. Students choosing this option must complete a minimum of 75 hours of service in order to earn the one-half credit in either category of instruction. Credit may not be earned for service provided as a result of court action. School boards that approve the award of credit for student volunteer service shall develop guidelines regarding the award of the credit, and school principals are responsible for approving specific volunteer activities. A course designated in the Course Code Directory as grade 9 through grade 12 which is taken below the 9th grade may be used to satisfy high school graduation requirements or Florida Academic Scholar's Certificate Program requirements as specified in a district's pupil progression plan.

Section 4. Subsection (5) is added to section 741.01, Florida Statutes, to read:

741.01 County court judge or clerk of the circuit court to issue marriage license; fee.—

(5) The fee charged for each marriage license issued in the state shall be reduced by a sum of $32.50 for all couples who present valid certificates of completion of a premarital preparation course from a qualified course provider registered under s. 741.0305(5) for a course taken no more than 1 year prior to the date of application for a marriage license. For each license issued that is subject to the fee reduction of this subsection, the clerk is not required to transfer the sum of $7.50 to the State Treasury for deposit in the Displaced Homemaker Trust Fund pursuant to subsection (3) or to transfer the sum of $25 to the Supreme Court for deposit in the Family Courts Trust Fund.

Section 5. Section 741.0305, Florida Statutes, is created to read:

741.0305 Marriage fee reduction for completion of premarital preparation course.—

(1) A man and a woman who intend to apply for a marriage license under s. 741.04 may, together or separately, complete a premarital preparation course of not less than 4 hours. All individuals shall verify completion of the course by filing with the application a valid certificate of completion from the course provider for each applicant which certificate shall specify whether the course was completed by personal instruction, videotape instruction, instruction via other electronic medium, or a combination of those methods. All individuals who complete a premarital preparation course pursuant to this section must be issued a certificate of completion at the conclusion of the course by their course provider. Upon furnishing such certificate when applying for a marriage license, the individuals shall have their marriage license fee reduced by $32.50.

(2) The premarital preparation course must include instruction regarding:

(a) Conflict management.

(b) Communication skills.

(c) Financial responsibilities.

(d) Children and parenting responsibilities.

(e) Data compiled from available information relating to problems reported by married couples who seek marital or individual counseling.

(3)(a) All individuals electing to participate in a premarital preparation course shall choose from the following list of qualified instructors:

1. A psychologist licensed under chapter 490.

2. A clinical social worker licensed under chapter 491.

3. A marriage and family therapist licensed under chapter 491.

4. A mental health counselor licensed under chapter 491.

5. An official representative of a religious institution which is recognized under s. 496.404(20) if the representative has relevant training.

6. Any other provider designated by a judicial circuit, including, but not limited to, school counselors who are certified to offer such courses. Each judicial circuit may establish a roster of area course providers, including those who offer the course on a sliding fee scale or for free.

(b) The costs of such premarital preparation course shall be paid by the applicant.

(4) Each premarital preparation course provider shall furnish each participant who completes the course with a certificate of completion specifying the name of the participant and the date of completion and whether the course was conducted by personal instruction, videotape instruction, or instruction via other electronic medium, or by a combination of these methods.

(5) All area course providers shall register with the clerk of the circuit court by filing an affidavit in writing attesting to the provider's compliance with the premarital preparation course requirements as set forth in this section and including the course instructor's name and qualifications, including the license number, if any, or, if an official representative of a religious institution, a statement as to relevant training. The affidavit shall also include the addresses where the provider may be contacted.

Section 6. *(1) Premarital preparation courses offered and completed by individuals across the state shall be reviewed by researchers from the Florida State University Center for Marriage and Family in order to determine the efficacy of such premarital preparation courses.*

(2) Premarital preparation pilot programs may be created by the Florida State University Center for Marriage and Family which will be administered by course providers or by qualified instructors as provided in section 741.0305(3), Florida Statutes. These pilot programs shall offer a premarital preparation course based on statistical information and data obtained by researchers from the Florida State University Center for Marriage and Family.

(3) The Florida State University Center for Marriage and Family shall develop a questionnaire and create a curriculum based on data collected by its researchers. Any curriculum developed by The Florida State University Center for Marriage and Family researchers, shall be the sole property of the Center.

Section 7. Section 741.0306, Florida Statutes, is created to read:

741.0306 Creation of a family law handbook.—

(1) Based upon their willingness to undertake this project, there shall be created by the Family Law Section of The Florida Bar a handbook explaining those sections of Florida law pertaining to the rights and responsibilities under Florida law of marital partners to each other and to their children both during a marriage and upon dissolution. The material in the handbook or other suitable electronic media shall be reviewed for accuracy by the Family Court Steering Committee of the Florida Supreme Court prior to publication and distribution.

(2) Such handbooks shall be available from the clerk of the circuit court upon application for a marriage license. The clerks may also make the information in the handbook available on videotape or other electronic media and are encouraged to provide a list of course providers and sites at which marriage and relationship skill building classes are available.

(3) The information contained in the handbook or other electronic media presentation may be reviewed and updated annually, and may include, but not be limited to:

(a) Pre-nuptial agreements; as a contract and as an opportunity to structure financial arrangements and other aspects of the marital relationship;

(b) Shared parental responsibility for children; the determination of primary residence or custody and secondary residence or routine visitation, holiday, summer and vacation visitation arrangements, telephone access, and the process for notice for changes;

(c) Permanent relocation restrictions on parents with primary residential responsibility;

(d) Child support for minor children; both parents are obligated for support in accordance with applicable child support guidelines;

(e) Property rights, including equitable distribution, special equity, pre-marital property, and non-marital property;

(f) Alimony, including temporary, permanent rehabilitative, and lump sum;

(g) Domestic violence and child abuse and neglect, including penalties and other ramifications of false reporting;

(h) Court process for dissolution with or without legal assistance, including who may attend, the recording of proceedings, how to access those records, and the cost of such access;

(i) Parent education course requirements for divorcing parents with children;

(j) Community resources that are available for separating or divorcing persons and their children; and

(k) Women's rights specified in the Battered Women's Bill of Rights.

(4) The material contained in such a handbook may also be provided through video tape or other suitable electronic media. The information contained in the handbook or other electronic media presentation shall be reviewed and updated annually.

Section 8. Section 741.04, Florida Statutes, is amended to read:

741.04 Marriage license issued.—

(1) No county court judge or clerk of the circuit court in this state shall issue a license for the marriage of any person unless there shall be first presented and filed with him or her an affidavit in writing, signed by both parties to the marriage, providing the social security numbers of each party, made and subscribed before some person authorized by law to administer an oath, reciting the true and correct ages of such parties; unless both such parties shall be over the age of 18 years, except as provided in s. 741.0405; and unless one party is a male and the other party is a female. Pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, each party is required to provide his or her social security number in accordance with this section. Disclosure of social security numbers obtained through this requirement shall be limited to the purpose of administration of the Title IV-D program for child support enforcement.

(2) No county court judge or clerk of the circuit court in this state shall issue a license for the marriage of any person unless there shall be first presented and filed with him or her:

(a) A statement in writing, signed by both parties which specifies whether the parties, separately or together, have completed a premarital preparation course.

(b) A statement that verifies that both parties have obtained and read or otherwise accessed the information contained in the handbook or other electronic media presentation of the rights and responsibilities of parties to a marriage specified in s. 741.0306.

(3) If a couple has not submitted to the clerk valid certificates of completion of a premarital preparation course, the couple will be required to wait 3 days before they may obtain a marriage license. If a couple has submitted valid certificates of completion of a premarital preparation course, they will not be required to wait 3 days before issuance of a marriage license. A county court judge issuing a marriage license may waive the 3-day waiting period for good cause.

Section 9. *When applying for a marriage license, an applicant may complete and file with the clerk of the circuit court an unsigned anonymous informational questionnaire which shall be provided by the clerk. The clerk shall, for purposes of anonymity, keep all such questionnaires in a separate file for later distribution by the clerk to researchers from The Florida State University Center for Marriage and Family. These questionnaires must be made available to researchers from the center at their request. Researchers from the center shall develop the questionnaire and distribute them to the clerk of the circuit court in each county.*

Section 10. Section 741.05, Florida Statutes, is amended to read:

741.05 Penalty for violation of ss. 741.03, 741.04*(1)*.—Any county court judge, clerk of the circuit court, or other person who shall violate any provision of ss. 741.03 and 741.04*(1)* shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 11. Section 61.043, Florida Statutes, is amended to read:

61.043 Commencement of a proceeding for dissolution of marriage or for alimony and child support.—

(1) A proceeding for dissolution of marriage or a proceeding under s. 61.09 shall be commenced by filing in the circuit court a petition entitled "In re the marriage of . . . . , husband, and . . . . , wife." A copy of the petition together with a copy of a summons shall be served upon the other party to the marriage in the same manner as service of papers in civil actions generally.

(2) Upon filing for dissolution of marriage, the petitioner must complete and file with the clerk of the circuit court an unsigned anonymous informational questionnaire. For purposes of anonymity, completed questionnaires must be kept in a separate file for later distribution by the clerk to researchers from The Florida State University Center for Marriage and Family. These questionnaires must be made available to researchers from The Florida State University Center for Marriage and Family at their request. The actual questionnaire shall be formulated by researchers from Florida State University who shall distribute them to the clerk of the circuit court in each county.

Section 12. Subsection (2) of section 61.052, Florida Statutes, is amended to read:

61.052 Dissolution of marriage.—

(2) Based on the evidence at the hearing, which evidence need not be corroborated except to establish that the residence requirements of s. 61.021 are met which may be corroborated by a valid Florida driver's license, a Florida voter's registration card, *a valid Florida identification card issued under ss. 322.051,* or the testimony or affidavit of a third party, the court shall dispose of the petition for dissolution of marriage when the petition is based on the allegation that the marriage is irretrievably broken as follows:

(a) If there is no minor child of the marriage and if the responding party does not, by answer to the petition for dissolution, deny that the marriage is irretrievably broken, the court shall enter a judgment of dissolution of the marriage if the court finds that the marriage is irretrievably broken.

(b) When there is a minor child of the marriage, or when the responding party denies by answer to the petition for dissolution that the marriage is irretrievably broken, the court may:

1. Order either or both parties to consult with a marriage counselor, psychologist, psychiatrist, minister, priest, rabbi, or any other person deemed qualified by the court and acceptable to the party or parties ordered to seek consultation; or

2. Continue the proceedings for a reasonable length of time not to exceed 3 months, to enable the parties themselves to effect a reconciliation; or

3. Take such other action as may be in the best interest of the parties and the minor child of the marriage.

If, at any time, the court finds that the marriage is irretrievably broken, the court shall enter a judgment of dissolution of the marriage. If the court finds that the marriage is not irretrievably broken, it shall deny the petition for dissolution of marriage.

Section 13. Section 61.21, Florida Statutes, is amended to read:

61.21 Parenting course authorized; fees; required attendance authorized; contempt.—

(1) LEGISLATIVE FINDINGS; PURPOSE.—It is the finding of the Legislature that:

(a) A large number of children experience the separation or divorce of their parents each year. Parental conflict related to divorce is a societal concern because children suffer potential short-term and long-term detrimental economic, emotional, and educational effects during this difficult period of family transition. This is particularly true when parents engage in lengthy legal conflict.

(b) Parents are more likely to consider the best interests of their children when determining parental arrangements if courts provide families with information regarding the process by which courts make decisions on issues affecting their children and suggestions as to how parents may ease the coming adjustments in family structure for their children.

(c) It has been found to be beneficial to parents who are separating or divorcing to have available an educational program that will provide general information regarding:

1. The issues and legal procedures for resolving custody and child support disputes.

2. The emotional experiences and problems of divorcing adults.

3. The family problems and the emotional concerns and needs of the children.

4. The availability of community services and resources.

(d) Parents who are separating or divorcing are more likely to receive maximum benefit from a program if they attend such program at the earliest stages of their dispute, before extensive litigation occurs and adversarial positions are assumed or intensified.

(2)~~(1)~~ All judicial circuits in the state *shall* ~~may~~ approve a parenting course which shall be a course of a minimum of 4 hours designed to educate, train, and assist divorcing parents in regard to the consequences of divorce on parents and children.

(a) The parenting course referred to in this section shall be named The Parent Education and Family Stabilization Course and may include, but not be limited to, the following topics as they relate to court actions between parents involving custody, care, visitation, and support of a child or children:

1. Legal aspects of deciding child-related issues between parents.

2. Emotional aspects of separation and divorce on adults.

3. Emotional aspects of separation and divorce on children.

4. Family relationships and family dynamics.

5. Financial responsibilities to a child or children.

6. Issues regarding spousal or child abuse and neglect.

7. Skill-based relationship education that may be generalized to parenting, workplace, school, neighborhood, and civic relationships.

(b) Information regarding spousal and child abuse and neglect shall be included in every parent education and family stabilization course. A list of local agencies that provide assistance with such issues shall also be provided.

(c) The parent education and family stabilization course shall be educational in nature and shall not be designed to provide individual mental health therapy for parents or children, or individual legal advice to parents or children.

(d) Course providers shall not solicit participants from the sessions they conduct to become private clients or patients.

(e) Course providers shall not give individual legal advice or mental health therapy.

(3)~~(2)~~ All parties to a dissolution of marriage proceeding with minor children *or a paternity action which involves issues of parental responsibility shall* ~~or a modification of a final judgment action involving shared parental responsibilities, custody, or visitation may~~ be required to complete *The Parent Education and Family Stabilization* ~~a court-approved parenting~~ Course prior to the entry by the court of a final judgment ~~or order modifying the final judgment~~. *The court may excuse a party from attending the parenting course for good cause.*

(4)~~(3)~~ All parties required to complete a parenting course *under this section shall begin the course as expeditiously as possible after filing for dissolution of marriage and* shall file proof of compliance with the court prior to the entry of the final judgment ~~or order modifying the final judgment~~.

(5) All parties to a modification of a final judgment involving shared parental responsibilities, custody, or visitation may be required to complete a court-approved parenting course prior to the entry of an order modifying the final judgment.

(6) Each judicial circuit may establish a registry of course providers and sites at which the parent education and family stabilization course required by this section may be completed. The court shall also include within the registry of course providers and sites at least one site in each circuit at which the parent education and family stabilization course may be completed on a sliding fee scale, if available.

(7)~~(4)~~ A reasonable fee may be charged to each parent attending the course.

(8)~~(5)~~ Information obtained or statements made by the parties at any educational session required under this statute shall not be considered in the adjudication of a pending or subsequent action, nor shall any report resulting from such educational session become part of the record of the case unless the parties have stipulated in writing to the contrary.

(9)~~(6)~~ The court may hold any parent who fails to attend a required parenting course in contempt or that parent may be denied shared parental responsibility or visitation or otherwise sanctioned as the court deems appropriate.

(10)~~(7)~~ Nothing in this section shall be construed to require the parties to a dissolution of marriage to attend a court-approved parenting course together.

(11) The court may, without motion of either party, prohibit the parenting course from being taken together, if there is a history of domestic violence between the parties.

Section 14. Paragraph (d) is added to subsection (1) of section 28.101, Florida Statutes, to read:

28.101 Petitions and records of dissolution of marriage; additional charges.—

(1) When a party petitions for a dissolution of marriage, in addition to the filing charges in s. 28.241, the clerk shall collect and receive:

(d) A charge of $32.50. On a monthly basis the clerk shall transfer the moneys collected pursuant to this paragraph as follows:

1. An amount of $7.50 to the State Treasury for deposit in the Displaced Homemaker Trust Fund.

2. An amount of $25 to the Supreme Court for deposit in the Family Courts Trust Fund.

Section 15. Section 25.388, Florida Statutes, is amended to read:

25.388 Family Courts Trust Fund.—

(1)(a) The trust fund moneys in the Family Courts Trust Fund, administered by the Supreme Court, shall be used to implement family court plans in all judicial circuits of this state.

(b) The Supreme Court, through the Office of the State Courts Administrator, shall adopt a comprehensive plan for the operation of the trust fund and the expenditure of any moneys deposited into the trust fund. The plan shall provide for a comprehensive integrated response to families in litigation, including domestic violence matters, guardian ad litem programs, mediation programs, legal support, training, automation, and other related costs incurred to benefit the citizens of the state and the courts in relation to family law cases. *The trust fund shall be used to fund the publication of the handbook created pursuant to s. 741.0306.*

(2) As part of its comprehensive plan, the Supreme Court shall evaluate the necessity for an installment plan or a waiver for any or all of the fees based on financial necessity and report such findings to the Legislature.

(3) The trust fund shall be funded with moneys generated from fees assessed pursuant to *ss. 28.101 and* ~~s.~~ 741.01(4).

Section 16. *There is hereby appropriated in fiscal year 1998-1999 the sum of $75,000 from the General Revenue Fund to the Florida State University Center for Marriage and Family for review of premarital preparation courses, development of premarital preparation pilot programs, and development of a questionnaire and creation of a curriculum based on data collected by its researchers.*

Section 17. Part I of chapter 39, Florida Statutes, consisting of sections 39.001, 39.01, 39.011, 39.012, 39.0121, 39.013, 39.0131, 39.0132, 39.0133, 39.0134, and 39.0135, Florida Statutes, shall be entitled to read:

PART I
GENERAL PROVISIONS

Section 18. Section 39.001, Florida Statutes, is amended to read:

39.001 Purposes and intent; personnel standards and screening.—

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

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

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

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

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

3. The intervention should intrude as little as possible into the life of the family, be focused on clearly defined objectives, and take the most parsimonious path to remedy a family's problems.

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

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

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

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

~~(c) To ensure the protection of society, by providing for a comprehensive standardized assessment of the child's needs so that the most appropriate control, discipline, punishment, and treatment can be administered consistent with the seriousness of the act committed, the community's long-term need for public safety, the prior record of the child and the specific rehabilitation needs of the child, while also providing whenever possible restitution to the victim of the offense.~~

(f)~~(d)~~ To preserve and strengthen the child's family ties whenever possible, removing the child from parental custody only when his or her welfare ~~or the safety and protection of the public~~ cannot be adequately safeguarded without such removal.~~; and, when the child is removed from his or her own family, to secure for the child custody, care, and discipline as nearly as possible equivalent to that which should have been given by the parents; and to assure, in all cases in which a child must be permanently removed from parental custody, that the child be placed in an approved family home, adoptive home, independent living program, or other placement that provides the most stable and permanent living arrangement for the child, as determined by the court.~~

(g) To ensure that the parent or guardian from whose custody the child has been taken assists the department to the fullest extent possible in locating relatives suitable to serve as caregivers for the child.

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

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

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

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

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

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

~~(e)1. To assure that the adjudication and disposition of a child alleged or found to have committed a violation of Florida law be exercised with appropriate discretion and in keeping with the seriousness of the offense and the need for treatment services, and that~~

~~all findings made under this chapter be based upon facts presented at a hearing that meets the constitutional standards of fundamental fairness and due process.~~

~~2. To assure that the sentencing and placement of a child tried as an adult be appropriate and in keeping with the seriousness of the offense and the child's need for rehabilitative services, and that the proceedings and procedures applicable to such sentencing and placement be applied within the full framework of constitutional standards of fundamental fairness and due process.~~

~~(f) To provide children committed to the Department of Juvenile Justice with training in life skills, including career education.~~

(2) *DEPARTMENT CONTRACTS.*—The department ~~of Juvenile Justice or the Department of Children and Family Services, as appropriate,~~ may contract with the Federal Government, other state departments and agencies, county and municipal governments and agencies, public and private agencies, and private individuals and corporations in carrying out the purposes of, and the responsibilities established in, this chapter.

(a) When the department ~~of Juvenile Justice or the Department of Children and Family Services~~ contracts with a provider for any program for children, all personnel, including owners, operators, employees, and volunteers, in the facility must be of good moral character. A volunteer who assists on an intermittent basis for less than 40 hours per month need not be screened if the volunteer is under direct and constant supervision by persons who meet the screening requirements.

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

(c) The department ~~of Juvenile Justice or the Department of Children and Family Services~~ may grant exemptions from disqualification from working with children as provided in s. 435.07.

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

(e) The department shall develop and implement a written and performance-based testing and evaluation program, pursuant to s. 20.19(4), to ensure measurable competencies of all employees assigned to manage or supervise cases of child abuse, abandonment, and neglect.

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

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

(b) A permanent and stable home.

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

(d) Adequate nutrition, shelter, and clothing.

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

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

(g) Access to preventive services.

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

(4) SUBSTANCE ABUSE SERVICES.—The Legislature finds that children in the care of the state's dependency system need appropriate health care services, that the impact of substance abuse on health indicates the need for health care services to include substance abuse services to children and parents where appropriate, and that it is in the state's best interest that such children be provided the services they need to enable them to become and remain independent of state care. In order to provide these services, the state's dependency system must have the ability to identify and provide appropriate intervention and treatment for children with personal or family-related substance abuse problems. It is therefore the purpose of the Legislature to provide authority for the state to contract with community substance abuse treatment providers for the development and operation of specialized support and overlay services for the dependency system, which will be fully implemented and utilized as resources permit.

(5) PARENTAL, CUSTODIAL, AND GUARDIAN RESPONSIBILITIES.—Parents, custodians, and guardians are deemed by the state to be responsible for providing their children with sufficient support, guidance, and supervision. The state further recognizes that the ability of parents, custodians, and guardians to fulfill those responsibilities can be greatly impaired by economic, social, behavioral, emotional, and related problems. It is therefore the policy of the Legislature that it is the state's responsibility to ensure that factors impeding the ability of caregivers to fulfill their responsibilities are identified through the dependency process and that appropriate recommendations and services to address those problems are considered in any judicial or nonjudicial proceeding.

(6) LEGISLATIVE INTENT FOR THE PREVENTION OF ABUSE, ABANDONMENT, AND NEGLECT OF CHILDREN.—The incidence of known child abuse, abandonment, and neglect has increased rapidly over the past 5 years. The impact that abuse, abandonment, or neglect has on the victimized child, siblings, family structure, and inevitably on all citizens of the state has caused the Legislature to determine that the prevention of child abuse, abandonment, and neglect shall be a priority of this state. To further this end, it is the intent of the Legislature that a comprehensive approach for the prevention of abuse, abandonment, and neglect of children be developed for the state and that this planned, comprehensive approach be used as a basis for funding.

(7) PLAN FOR COMPREHENSIVE APPROACH.—

(a) The department shall develop a state plan for the prevention of abuse, abandonment, and neglect of children and shall submit the plan to the Speaker of the House of Representatives, the President of the Senate, and the Governor no later than January 1, 1983. The Department of Education and the Division of Children's Medical Services of the Department of Health shall participate and fully cooperate in the development of the state plan at both the state and local levels. Furthermore, appropriate local agencies and organizations shall be provided an opportunity to participate in the development of the state plan at the local level. Appropriate local groups and organizations shall include, but not be limited to, community mental health centers; guardian ad litem programs for children under the circuit court; the school boards of the local school districts; the district human rights advocacy committees; private or public organizations or programs with recognized expertise in working with children who are sexually abused, physically abused, emotionally abused, abandoned, or neglected and with expertise in working with the families of such children; private or public programs or organizations with expertise in maternal and infant health care; multidisciplinary child protection teams; child day care centers; law enforcement agencies, and the circuit courts, when guardian ad litem programs are not available in the local area. The state plan to be provided to the Legislature and the Governor shall include, as a minimum, the information required of the various groups in paragraph (b).

(b) The development of the comprehensive state plan shall be accomplished in the following manner:

1. The department shall establish an interprogram task force comprised of the Assistant Secretary for Children and Family Services, or a designee, a representative from the Children and Families Program

Office, a representative from the Alcohol, Drug Abuse, and Mental Health Program Office, a representative from the Developmental Services Program Office, a representative from the Office of Standards and Evaluation, and a representative from the Division of Children's Medical Services of the Department of Health. Representatives of the Department of Law Enforcement and of the Department of Education shall serve as ex officio members of the interprogram task force. The interprogram task force shall be responsible for:

a. Developing a plan of action for better coordination and integration of the goals, activities, and funding pertaining to the prevention of child abuse, abandonment, and neglect conducted by the department in order to maximize staff and resources at the state level. The plan of action shall be included in the state plan.

b. Providing a basic format to be utilized by the districts in the preparation of local plans of action in order to provide for uniformity in the district plans and to provide for greater ease in compiling information for the state plan.

c. Providing the districts with technical assistance in the development of local plans of action, if requested.

d. Examining the local plans to determine if all the requirements of the local plans have been met and, if they have not, informing the districts of the deficiencies and requesting the additional information needed.

e. Preparing the state plan for submission to the Legislature and the Governor. Such preparation shall include the collapsing of information obtained from the local plans, the cooperative plans with the Department of Education, and the plan of action for coordination and integration of departmental activities into one comprehensive plan. The comprehensive plan shall include a section reflecting general conditions and needs, an analysis of variations based on population or geographic areas, identified problems, and recommendations for change. In essence, the plan shall provide an analysis and summary of each element of the local plans to provide a statewide perspective. The plan shall also include each separate local plan of action.

f. Working with the specified state agency in fulfilling the requirements of subparagraphs 2., 3., 4., and 5.

2. The department, the Department of Education, and the Department of Health shall work together in developing ways to inform and instruct parents of school children and appropriate district school personnel in all school districts in the detection of child abuse, abandonment, and neglect and in the proper action that should be taken in a suspected case of child abuse, abandonment, or neglect, and in caring for a child's needs after a report is made. The plan for accomplishing this end shall be included in the state plan.

3. The department, the Department of Law Enforcement, and the Department of Health shall work together in developing ways to inform and instruct appropriate local law enforcement personnel in the detection of child abuse, abandonment, and neglect and in the proper action that should be taken in a suspected case of child abuse, abandonment, or neglect.

4. Within existing appropriations, the department shall work with other appropriate public and private agencies to emphasize efforts to educate the general public about the problem of and ways to detect child abuse, abandonment, and neglect and in the proper action that should be taken in a suspected case of child abuse, abandonment, or neglect. The plan for accomplishing this end shall be included in the state plan.

5. The department, the Department of Education, and the Department of Health shall work together on the enhancement or adaptation of curriculum materials to assist instructional personnel in providing instruction through a multidisciplinary approach on the identification, intervention, and prevention of child abuse, abandonment, and neglect. The curriculum materials shall be geared toward a sequential program of instruction at the four progressional levels, K-3, 4-6, 7-9, and 10-12. Strategies for encouraging all school districts to utilize the curriculum are to be included in the comprehensive state plan for the prevention of child abuse, abandonment, and neglect.

6. Each district of the department shall develop a plan for its specific geographical area. The plan developed at the district level shall be submitted to the interprogram task force for utilization in preparing the state plan. The district local plan of action shall be prepared with the involvement and assistance of the local agencies and organizations listed in paragraph (a), as well as representatives from those departmental district offices participating in the treatment and prevention of child abuse, abandonment, and neglect. In order to accomplish this, the district administrator in each district shall establish a task force on the prevention of child abuse, abandonment, and neglect. The district administrator shall appoint the members of the task force in accordance with the membership requirements of this section. In addition, the district administrator shall ensure that each subdistrict is represented on the task force; and, if the district does not have subdistricts, the district administrator shall ensure that both urban and rural areas are represented on the task force. The task force shall develop a written statement clearly identifying its operating procedures, purpose, overall responsibilities, and method of meeting responsibilities. The district plan of action to be prepared by the task force shall include, but shall not be limited to:

a. Documentation of the magnitude of the problems of child abuse, including sexual abuse, physical abuse, and emotional abuse, and child abandonment and neglect in its geographical area.

b. A description of programs currently serving abused, abandoned, and neglected children and their families and a description of programs for the prevention of child abuse, abandonment, and neglect, including information on the impact, cost-effectiveness, and sources of funding of such programs.

c. A continuum of programs and services necessary for a comprehensive approach to the prevention of all types of child abuse, abandonment, and neglect as well as a brief description of such programs and services.

d. A description, documentation, and priority ranking of local needs related to child abuse, abandonment, and neglect prevention based upon the continuum of programs and services.

e. A plan for steps to be taken in meeting identified needs, including the coordination and integration of services to avoid unnecessary duplication and cost, and for alternative funding strategies for meeting needs through the reallocation of existing resources, utilization of volunteers, contracting with local universities for services, and local government or private agency funding.

f. A description of barriers to the accomplishment of a comprehensive approach to the prevention of child abuse, abandonment, and neglect.

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

(8) FUNDING AND SUBSEQUENT PLANS.—

(a) All budget requests submitted by the department, the Department of Education, or any other agency to the Legislature for funding of efforts for the prevention of child abuse, abandonment, and neglect shall be based on the state plan developed pursuant to this section.

(b) The department at the state and district levels and the other agencies listed in paragraph (7)(a) shall readdress the plan and make necessary revisions every 5 years, at a minimum. Such revisions shall be submitted to the Speaker of the House of Representatives and the President of the Senate no later than June 30 of each year divisible by 5. An annual progress report shall be submitted to update the plan in the years between the 5-year intervals. In order to avoid duplication of effort, these required plans may be made a part of or merged with other plans required by either the state or Federal Government, so long as the portions of the other state or Federal Government plan that constitute the state plan for the prevention of child abuse, abandonment, and neglect are clearly identified as such and are provided to the Speaker of the House of Representatives and the President of the Senate as required above.

(9)~~(3)~~ *LIBERAL CONSTRUCTION.*—It is the intent of the Legislature that this chapter be liberally interpreted and construed in conformity with its declared purposes.

Section 19. Section 415.5015, Florida Statutes, is renumbered as section 39.0015, Florida Statutes, and amended to read:

39.0015 ~~415.5015~~ Child abuse prevention training in the district school system.—

(1) SHORT TITLE.—This section may be cited as the "Child Abuse Prevention Training Act of 1985."

(2) LEGISLATIVE INTENT.—It is the intent of the Legislature that primary prevention training for all children in kindergarten through grade 12 be encouraged in the district school system through the training of school teachers, guidance counselors, parents, and children.

(3) DEFINITIONS.—As used in this section:

(a) "Department" means the Department of Education.

(b) "Child abuse" means those acts as defined in ss. 39.01~~, 415.503,~~ and 827.04.

(c) "Primary prevention and training program" means a training and educational program for children, parents, and teachers which is directed toward preventing the occurrence of child abuse, including sexual abuse, physical abuse, *child abandonment,* child neglect, and drug and alcohol abuse, and toward reducing the vulnerability of children through training of children and through including coordination with, and training for, parents and school personnel.

(d) "Prevention training center" means a center as described in subsection (5).

(4) PRIMARY PREVENTION AND TRAINING PROGRAM.—A primary prevention and training program shall include all of the following, as appropriate for the persons being trained:

(a) Information provided in a clear and nonthreatening manner, describing the problem of sexual abuse, physical abuse, *abandonment,* neglect, and alcohol and drug abuse, and the possible solutions.

(b) Information and training designed to counteract common stereotypes about victims and offenders.

(c) Crisis counseling techniques.

(d) Available community resources and ways to access those resources.

(e) Physical and behavioral indicators of abuse.

(f) Rights and responsibilities regarding reporting.

(g) School district procedures to facilitate reporting.

(h) Caring for a child's needs after a report is made.

(i) How to disclose incidents of abuse.

(j) Child safety training and age-appropriate self-defense techniques.

(k) The right of every child to live free of abuse.

(l) The relationship of child abuse to handicaps in young children.

(m) Parenting, including communication skills.

(n) Normal and abnormal child development.

(o) Information on recognizing and alleviating family stress caused by the demands required in caring for a high-risk or handicapped child.

(p) Supports needed by school-age parents in caring for a young child.

(5) PREVENTION TRAINING CENTERS; FUNCTIONS; SELECTION PROCESS; MONITORING AND EVALUATION.—

(a) Each training center shall perform the following functions:

1. Act as a clearinghouse to provide information on prevention curricula which meet the requirements of this section and the requirements of ss. *39.001,* 231.17, *and* 236.0811~~, and 415.501~~.

2. Assist the local school district in selecting a prevention program model which meets the needs of the local community.

3. At the request of the local school district, design and administer training sessions to develop or expand local primary prevention and training programs.

4. Provide assistance to local school districts, including, but not limited to, all of the following: administration, management, program development, multicultural staffing, and community education, in order to better meet the requirements of this section and of ss. *39.001,* 231.17, *and* 236.0811~~, and 415.501~~.

5. At the request of the department ~~of Education~~ or the local school district, provide ongoing program development and training to achieve all of the following:

a. Meet the special needs of children, including, but not limited to, the needs of disabled and high-risk children.

b. Conduct an outreach program to inform the surrounding communities of the existence of primary prevention and training programs and of funds to conduct such programs.

6. Serve as a resource to the Department of Children and Family Services and its districts.

(b) The department, in consultation with the Department of *Children and Family* ~~Health and Rehabilitative~~ Services, shall select and award grants by January 1, 1986, for the establishment of three private, nonprofit prevention training centers: one located in and serving South Florida, one located in and serving Central Florida, and one located in and serving North Florida. The department, in consultation with the Department of *Children and Family* ~~Health and Rehabilitative~~ Services, shall select an agency or agencies to establish three training centers which can fulfill the requirements of this section and meet the following requirements:

1. Have demonstrated experience in child abuse prevention training.

2. Have shown capacity for training primary prevention and training programs as *provided for in subsections (3) and* ~~defined in subsection~~ (4).

3. Have provided training and organizing technical assistance to the greatest number of private prevention and training programs.

4. Have employed the greatest number of trainers with experience in private child abuse prevention and training programs.

5. Have employed trainers which represent the cultural diversity of the area.

6. Have established broad community support.

(c) The department shall monitor and evaluate primary prevention and training programs utilized in the local school districts and shall monitor and evaluate the impact of the prevention training centers on the implementation of primary prevention programs and their ability to meet the required responsibilities of a center as described in this section.

(6) The department ~~of Education~~ shall administer this *section* ~~act~~ and in so doing is authorized to adopt rules and standards necessary to implement the specific provisions of this *section* ~~act~~.

Section 20. Section 39.01, Florida Statutes, as amended by chapter 97-276, Laws of Florida, is amended to read:

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

(1) "Abandoned" means a situation in which the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the *caregiver* ~~person~~ responsible for the child's welfare, while being able, makes no provision for the child's support and makes no effort to communicate with the child, which situation is sufficient to evince a willful rejection of parental obligations. If the efforts of such parent or legal custodian, or *caregiver* ~~person~~ primarily responsible for the child's welfare, to support and communicate with the child are, in the opinion of the court, only marginal efforts that do not evince a settled purpose to assume all parental duties, the court may declare the child to be abandoned. The term "abandoned" does not include a "child in need of services" as defined in chapter 984 or a "family in need of services" as defined in chapter 984. The incarceration of a parent, legal custodian, or *caregiver* ~~person~~ responsible for a child's welfare *may support* ~~does not constitute a bar to~~ a finding of abandonment.

(2) "Abuse" means any willful act *or threatened act* that results in any physical, mental, or sexual injury *or harm* that causes or is likely to cause the child's physical, mental, or emotional health to be significantly impaired. *For the purpose of protective investigations, abuse of a child includes the acts or omissions of the parent, legal custodian, caregiver, or other person responsible for the child's welfare.* Corporal discipline of a child by a parent, *legal custodian,* or *caregiver* ~~guardian~~ for disciplinary purposes does not in itself constitute abuse when it does not result in harm to the child ~~as defined in s. 415.503~~.

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

(4) "Adjudicatory hearing" means a hearing for the court to determine whether or not the facts support the allegations stated in the petition ~~as is provided for under s. 39.408(2),~~ in dependency cases~~,~~ or ~~s. 39.467,~~ in termination of parental rights cases.

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

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

(7) "Alleged juvenile sexual offender" means:

(a) A child 12 years of age or younger who is alleged to have committed a violation of chapter 794, chapter 796, chapter 800, s. 827.071, or s. 847.0133; or

(b) A child who is alleged to have committed any violation of law or delinquent act involving juvenile sexual abuse. "Juvenile sexual abuse" means any sexual behavior that occurs without consent, without equality, or as a result of coercion. For purposes of this paragraph, the following definitions apply:

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

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

3. "Consent" means an agreement, including all of the following:

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

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

c. Awareness of potential consequences and alternatives.

d. Assumption that agreement or disagreement will be accepted equally.

e. Voluntary decision.

f. Mental competence.

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

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

(9)~~(7)~~ "Authorized agent" or "designee" of the department means *an employee, volunteer, or other person or agency determined by the state to be eligible for state-funded risk management coverage, which is* ~~a person or agency~~ assigned or designated by the department ~~of Juvenile Justice or the Department of Children and Family Services, as appropriate,~~ to perform duties or exercise powers pursuant to this chapter ~~and includes contract providers and their employees for purposes of providing services to and managing cases of children in need of services and families in need of services~~.

(10) "Caregiver" means the parent, legal custodian, adult household member, or other person responsible for a child's welfare as defined in subsection (47).

~~(8) "Caretaker/homemaker" means an authorized agent of the Department of Children and Family Services who shall remain in the child's home with the child until a parent, legal guardian, or relative of the child enters the home and is capable of assuming and agrees to assume charge of the child.~~

(11)~~(9)~~ "Case plan" or "plan" means a document, as described in s. *39.601* ~~39.4031~~, prepared by the department *with input from all parties, including parents, guardians ad litem, legal custodians, caregivers, and the child. The case plan*~~, that~~ follows the child from the provision of voluntary services through any dependency, foster care, or termination of parental rights proceeding or related activity or process.

(12)~~(10)~~ "Child" or ~~"juvenile" or~~ "youth" means any unmarried person under the age of 18 *years* who has not been emancipated by order of the court and who has been *alleged or* found ~~or alleged~~ to be dependent~~, in need of services, or from a family in need of services; or any married or unmarried person who is charged with a violation of law occurring prior to the time that person reached the age of 18 years~~.

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

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

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

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

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

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

(e) To have no parent, legal custodian, or *caregiver* ~~responsible adult relative~~ to provide supervision and care*; or*~~.~~

(f) To be at substantial risk of imminent abuse, *abandonment,* or neglect by the parent or parents, *legal custodians, or caregivers* ~~or the custodian~~.

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

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

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

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

(19)~~(16)~~ "Department~~,~~" ~~as used in this chapter,~~ means the Department of Children and Family Services.

(20)~~(17)~~ "Diligent efforts by a parent*, legal custodian, or caregiver*" means a course of conduct which results in a reduction in risk to the child in the child's home that would allow the child to be safely placed permanently back in the home as set forth in the case plan.

(21)~~(18)~~ "Diligent efforts of social service agency" means reasonable efforts to provide social services or reunification services made by any social service agency ~~as defined in this section~~ that is a party to a case plan.

(22)~~(19)~~ "Diligent search" means the efforts of a social service agency to locate a parent or prospective parent whose identity or location is unknown, ~~or a relative made known to the social services agency by the parent or custodian of a child. When the search is for a parent, prospective parent, or relative of a child in the custody of the department, this search must be~~ initiated as soon as the *social service* agency is made aware of the existence of such parent*, with the search progress reported at each court hearing until the parent is either identified and located or the court excuses further search.* ~~prospective parent, or relative. A diligent search shall include interviews with persons who are likely to have information about the identity or location of the person being sought, comprehensive database searches, and records searches, including searches of employment, residence, utilities, Armed Forces, vehicle registration, child support enforcement, law enforcement, and corrections records, and any other records likely to result in identifying and locating the person being sought. The initial diligent search must be completed within 90 days after a child is taken into custody. After the completion of the initial diligent search, the department, unless excused by the court, shall have a continuing duty to search for relatives with whom it may be appropriate to place the child, until such relatives are found or until the child is placed for adoption.~~

(23)~~(20)~~ "Disposition hearing" means a hearing in which the court determines the most appropriate *family support* ~~dispositional~~ services in the least restrictive available setting ~~provided for under s. 39.408(3),~~ in dependency cases~~,~~ or ~~s. 39.469,~~ in termination of parental rights cases.

(24) "District" means any one of the 15 service districts of the department established pursuant to s. 20.19.

(25)~~(21)~~ "District administrator" means the chief operating officer of each service district of the department ~~of Children and Family Services~~ as defined in s. 20.19*(7)*~~(6)~~ and, where appropriate, includes *any* ~~each~~ district administrator whose service district falls within the boundaries of a judicial circuit.

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

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

(a) Harassing, embarrassing, or harming another person;

(b) Personal financial gain for the reporting person;

(c) Acquiring custody of a child; or

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

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

(28)~~(22)~~ "Family" means a collective body of persons, consisting of a child and a parent, *legal* ~~guardian, adult~~ custodian, *caregiver,* or adult relative, in which:

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

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

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

(30) "Harm" to a child's health or welfare can occur when the parent, legal custodian, or caregiver responsible for the child's welfare:

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

1. Willful acts that produce the following specific injuries:

a. Sprains, dislocations, or cartilage damage.

b. Bone or skull fractures.

c. Brain or spinal cord damage.

d. Intracranial hemorrhage or injury to other internal organs.

e. Asphyxiation, suffocation, or drowning.

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

g. Burns or scalding.

h. Cuts, lacerations, punctures, or bites.

i. Permanent or temporary disfigurement.

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

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

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

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

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

a. Sprains, dislocations, or cartilage damage.

b. Bone or skull fractures.

c. Brain or spinal cord damage.

d. Intracranial hemorrhage or injury to other internal organs.

e. Asphyxiation, suffocation, or drowning.

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

g. Burns or scalding.

h. Cuts, lacerations, punctures, or bites.

i. Permanent or temporary disfigurement.

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

k. Significant bruises or welts.

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

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

1. Solicit for or engage in prostitution; or

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

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

(e) Abandons the child. Within the context of the definition of "harm," the term "abandons the child" means that the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the person responsible for the child's welfare, while being able, makes no provision for the child's support and makes no effort to communicate with the child, which situation is sufficient to evince a willful rejection of parental obligation. If the efforts of such a parent or legal custodian or person primarily responsible for the child's welfare to support and communicate with the child are only marginal efforts that do not evince a settled purpose to assume all parental duties, the child may be determined to have been abandoned.

(f) Neglects the child. Within the context of the definition of "harm," the term "neglects the child" means that the parent or other person responsible for the child's welfare fails to supply the child with adequate food, clothing, shelter, or health care, although financially able to do so or although offered financial or other means to do so. However, a parent, legal custodian, or caregiver who, by reason of the legitimate practice of religious beliefs, does not provide specified medical treatment for a child may not be considered abusive or neglectful for that reason alone, but such an exception does not:

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

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

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

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

1. Use by the mother of a controlled substance or alcohol during pregnancy when the child, at birth, is demonstrably adversely affected by such usage; or

2. Continued chronic and severe use of a controlled substance or alcohol by a parent when the child is demonstrably adversely affected by such usage.

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

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

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

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

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

(31)~~(24)~~ "Health and human services board" means the body created in each service district of the department ~~of Children and Family Services~~ pursuant to the provisions of s. 20.19*(8)*~~(7)~~.

(32) "Institutional child abuse or neglect" means situations of known or suspected child abuse or neglect in which the person allegedly perpetrating the child abuse or neglect is an employee of a private school, public or private day care center, residential home, institution, facility, or agency or any other person at such institution responsible for the child's care.

(33)~~(25)~~ "Judge" means the circuit judge exercising jurisdiction pursuant to this chapter.

(34)~~(26)~~ "Legal custody" means a legal status created by court order or letter of guardianship which vests in a custodian of the person or guardian, whether an agency or an individual, the right to have physical custody of the child and the right and duty to protect, train, and discipline the child and to provide him or her with food, shelter, education, and ordinary medical, dental, psychiatric, and psychological care. *The legal custodian is the person or entity in whom the legal right to custody is vested.*

(35) "Legal guardianship" means a judicially created relationship between the child and caregiver which is intended to be permanent and self-sustaining and is provided pursuant to the procedures in chapter 744.

(36)~~(27)~~ "Licensed child-caring agency" means a person, society, association, or agency licensed by the department ~~of Children and Family Services~~ to care for, receive, and board children.

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

(38)~~(29)~~ "Licensed health care professional" means a physician licensed under chapter 458, an osteopathic physician licensed under chapter 459, a nurse licensed under chapter 464, a physician assistant certified under chapter 458 *or chapter 459*, or a dentist licensed under chapter 466.

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

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

(41)~~(32)~~ "Long-term relative custodian" means an adult *relative* who is a party to a long-term custodial relationship created by a court order pursuant to *this chapter* ~~s. 39.41(2)(a)5~~.

(42)~~(33)~~ "Long-term relative custody" or "long-term custodial relationship" means the relationship that a juvenile court order creates between a child and an adult relative of the child or *other caregiver* ~~an adult nonrelative~~ approved by the court when the child cannot be placed in the custody of a natural parent and termination of parental rights is not deemed to be in the best interest of the child. Long-term relative custody confers upon the long-term relative or *other caregiver* ~~nonrelative custodian~~ the right to physical custody of the child, a right which will not be disturbed by the court except upon request of the *caregiver* ~~custodian~~ or upon a showing that a material change in circumstances necessitates a change of custody for the best interest of the child. A long-term relative or *other caregiver* ~~nonrelative custodian~~ shall have all of the rights *and duties* of a natural parent, including, but not limited to, the right and duty to protect, train, and discipline the child and to provide the child with food, shelter, and education, and ordinary medical, dental, psychiatric, and psychological care, unless these rights and duties are otherwise enlarged or limited by the court order establishing the long-term custodial relationship.

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

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

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

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

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

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

For the purpose of protective investigations, neglect of a child includes the acts or omissions of the parent, legal custodian, or caregiver.

(47) "Other person responsible for a child's welfare" includes the child's legal guardian, legal custodian, or foster parent; an employee of a private school, public or private child day care center, residential home, institution, facility, or agency; or any other person legally responsible for the child's welfare in a residential setting; and also includes an adult sitter or relative entrusted with a child's care. For the purpose of departmental investigative jurisdiction, this definition does not include law enforcement officers, or employees of municipal or county detention facilities or the Department of Corrections, while acting in an official capacity.

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

(49)~~(38)~~ "Parent" means a woman who gives birth to a child and a man whose consent to the adoption of the child would be required under s. 63.062(1)(b). If a child has been legally adopted, the term "parent" means the adoptive mother or father of the child. The term does not include an individual whose parental relationship to the child has been legally terminated, or an alleged or prospective parent, unless the parental status falls within the terms of ~~either s. 39.4051(7) or~~ s. 63.062(1)(b).

(50)~~(39)~~ "Participant," for purposes of a shelter proceeding, dependency proceeding, or termination of parental rights proceeding, means any person who is not a party but who should receive notice of hearings involving the child, including foster parents *or caregivers,* identified prospective parents, grandparents entitled to priority for adoption consideration under s. 63.0425, actual custodians of the child, and any other person whose participation may be in the best interest of the child. Participants may be granted leave by the court to be heard without the necessity of filing a motion to intervene.

(51)~~(40)~~ "Party~~,~~" ~~for purposes of a shelter proceeding, dependency proceeding, or termination of parental rights proceeding,~~ means the parent *or legal custodian* of the child, the petitioner, the department, the guardian ad litem *or the representative of the guardian ad litem program* when *the program* ~~one~~ has been appointed, and the child. The presence of the child may be excused by order of the court when presence would not be in the child's best interest. Notice to the child may be excused by order of the court when the age, capacity, or other condition of the child is such that the notice would be meaningless or detrimental to the child.

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

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

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

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

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

(57)~~(44)~~ "Protective investigation" means the acceptance of a report alleging child abuse, *abandonment,* or neglect, as defined in *this chapter* ~~s. 415.503~~, by the central abuse hotline or the acceptance of a report of other dependency by the *department* ~~local children, youth, and families office of the Department of Children and Family Services~~; the investigation ~~and classification~~ of each report; the determination of whether action by the court is warranted; the determination of the disposition of each report without court or public agency action when appropriate; *and* the referral of a child to another public or private agency when appropriate~~; and the recommendation by the protective investigator of court action when appropriate~~.

(58)~~(45)~~ "Protective investigator" means an authorized agent of the department ~~of Children and Family Services~~ who receives *and*~~,~~ investigates~~, and classifies~~ reports of child abuse, *abandonment,* or neglect ~~as defined in s. 415.503~~; who, as a result of the investigation, may recommend that a dependency petition be filed for the child ~~under the criteria of paragraph (11)(a)~~; and who performs other duties necessary to carry out the required actions of the protective investigation function.

(59)~~(46)~~ "Protective supervision" means a legal status in dependency cases~~, child-in-need-of-services cases, or family-in-need-of-services cases~~ which permits the child to remain *safely* in his or her own home or other placement under the supervision of an agent of the *department and which must be reviewed by* ~~Department of Juvenile Justice or the Department of Children and Family Services, subject to being returned to~~ the court during the period of supervision.

~~(47) "Protective supervision case plan" means a document that is prepared by the protective supervision counselor of the Department of Children and Family Services, is based upon the voluntary protective supervision of a case pursuant to s. 39.403(2)(b), or a disposition order entered pursuant to s. 39.41(2)(a)3., and that:~~

~~(a) Is developed in conference with the parent, guardian, or custodian of the child and, if appropriate, the child and any court-appointed guardian ad litem.~~

~~(b) Is written simply and clearly in the principal language, to the extent possible, of the parent, guardian, or custodian of the child and in English.~~

~~(c) Is subject to modification based on changing circumstances and negotiations among the parties to the plan and includes, at a minimum:~~

~~1. All services and activities ordered by the court.~~

~~2. Goals and specific activities to be achieved by all parties to the plan.~~

~~3. Anticipated dates for achieving each goal and activity.~~

~~4. Signatures of all parties to the plan.~~

~~(d) Is submitted to the court in cases where a dispositional order has been entered pursuant to s. 39.41(2)(a)3.~~

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

(61)~~(49)~~ "Reunification services" means social services and other supportive and rehabilitative services provided to the parent of the child, the legal *custodian* ~~guardian~~ of the child, or the *caregiver* ~~custodian~~ of the child, whichever is applicable, *to* the child, and where appropriate *to* the foster parents of the child, for the purpose of enabling a child who has been placed in *out-of-home* ~~foster~~ care to *safely* return to his or her family at the earliest possible time. *The health and safety of the child shall be the paramount goal of* social services and other supportive and rehabilitative services. *Such services* shall promote the child's need for *physical, mental, and emotional health and* a safe, ~~continuous,~~ stable, living environment, ~~and~~ shall promote family autonomy, and *shall* strengthen family life, ~~as a first priority~~ whenever possible.

(62) "Secretary" means the Secretary of Children and Family Services.

(63) "Sexual abuse of a child" means one or more of the following acts:

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

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

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

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

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

2. Any act intended for a valid medical purpose.

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

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

(g) The sexual exploitation of a child, which includes allowing, encouraging, or forcing a child to:

1. Solicit for or engage in prostitution; or

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

(64)~~(50)~~ "Shelter" means a place for the temporary care of a child who is alleged to be or who has been found to be dependent, ~~a child from a family in need of services, or a child in need of services,~~ pending court disposition before or after adjudication. ~~or after execution of a court order. "Shelter" may include a facility which provides 24-hour continual supervision for the temporary care of a child who is placed pursuant to s. 984.14.~~

(65)~~(51)~~ "Shelter hearing" means a hearing *in which the court determines whether probable cause exists to keep a child in shelter status pending further investigation of the case* ~~provided for under s. 984.14 in family-in-need-of-services cases or child-in-need-of-services cases~~.

(66)~~(52)~~ "Social service agency" means the department ~~of Children and Family Services~~, a licensed child-caring agency, or a licensed child-placing agency.

~~(53) "Staff-secure shelter" means a facility in which a child is supervised 24 hours a day by staff members who are awake while on duty. The facility is for the temporary care and assessment of a child who has been found to be dependent, who has violated a court order and been found in contempt of court, or whom the Department of Children and Family Services is unable to properly assess or place for assistance within the continuum of services provided for dependent children.~~

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

(68)~~(55)~~ "Substantial compliance" means that the circumstances which caused the *creation of the case plan* ~~placement in foster care~~ have been significantly remedied to the extent that the well-being and safety of the child will not be endangered upon the child's *remaining with or* being returned to the child's parent*, legal custodian, or caregiver* ~~or guardian~~.

(69)~~(56)~~ "Taken into custody" means the status of a child immediately when temporary physical control over the child is attained by a person authorized by law, pending the child's release *or placement*~~, detention, placement, or other disposition as authorized by law~~.

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

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

Section 21. Section 39.455, Florida Statutes, is renumbered as section 39.011, Florida Statutes, and amended to read:

39.011 ~~39.455~~ Immunity from liability.—

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

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

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

Section 22. Section 39.012, Florida Statutes, is amended to read:

39.012 Rules for implementation.—The department ~~of Children and Family Services~~ shall adopt rules for the efficient and effective management of all programs, services, facilities, and functions necessary for implementing this chapter. *Such rules may not conflict with the Florida Rules of Juvenile Procedure. All rules and policies must conform to accepted standards of care and treatment.*

Section 23. Section 39.0121, Florida Statutes, is created to read:

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

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

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

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

(4) Department and client trust funds.

(5) Child protection teams and services, and eligible cases.

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

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

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

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

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

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

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

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

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

Section 24. Section 39.40, Florida Statutes, is renumbered as section 39.013, Florida Statutes, and amended to read:

39.013 ~~39.40~~ Procedures and jurisdiction*; right to counsel*.—

(1) All procedures, including petitions, pleadings, subpoenas, summonses, and hearings, in *this chapter* ~~dependency cases~~ shall be according to the Florida Rules of Juvenile Procedure unless otherwise provided by law. Parents must be informed by the court of their right to counsel in dependency proceedings at each stage of the dependency proceedings. Parents who are unable to afford counsel and who are threatened with criminal charges based on the facts underlying the dependency petition or a permanent loss of custody of their children must be appointed counsel.

(2) The circuit court shall have exclusive original jurisdiction of all proceedings under ~~parts III, IV, V, and VI of~~ this chapter, of a child voluntarily placed with a licensed child-caring agency, a licensed child-placing agency, or the department, *and of the adoption of children whose parental rights have been terminated pursuant to this chapter*. Jurisdiction attaches when the initial shelter petition, dependency petition, or termination *of parental rights* petition is filed or when a child is taken into the custody of the department. The circuit court may assume jurisdiction over any such proceeding regardless of whether the child was in the physical custody of both parents, was in the sole legal or physical custody of only one parent, *caregiver,* or ~~of~~ some other person, or was in the physical or legal custody of no person when the event or condition occurred that brought the child to the attention of the court. When the *court obtains* jurisdiction of any child who has been found to be dependent ~~is obtained~~, the court shall retain jurisdiction, unless relinquished by its order, until the child reaches 18 years of age.

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

(4)~~(3)~~ The court shall expedite the resolution of the placement issue in cases involving a child *who* ~~under 4 years of age when the child~~ has been removed from the family and placed in a shelter.

(5)~~(4)~~ The court shall expedite the judicial handling of all cases when the child has been removed from the family and placed in a shelter~~, and of all cases involving a child under 4 years of age~~.

(6)~~(5) It is the intent of the Legislature that~~ Children removed from their homes *shall* be provided equal treatment with respect to goals, objectives, services, and case plans, without regard to the location of their placement.~~, and that placement shall be in a safe environment where drugs and alcohol are not abused. It is the further intent of the Legislature that, when children are removed from their homes, disruption to their education be minimized to the extent possible.~~

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

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

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

(c)1. No waiver of counsel may be accepted if it appears that the parent, legal custodian, or caregiver is unable to make an intelligent and understanding choice because of mental condition, age, education, experience, the nature or complexity of the case, or other factors.

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

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

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

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

(a) Periods of delay resulting from a continuance granted at the request or with the consent of the child's counsel or the child's guardian ad litem, if one has been appointed by the court, or, if the child is of sufficient capacity to express reasonable consent, at the request or with the consent of the child.

(b) Periods of delay resulting from a continuance granted at the request of the attorney for the department, if the continuance is granted:

1. Because of an unavailability of evidence material to the case when the attorney for the department has exercised due diligence to obtain such evidence and there are substantial grounds for believing that such evidence will be available within 30 days. However, if the department is not prepared to present its case within 30 days, the parent or guardian may move for issuance of an order to show cause or the court on its own motion may impose appropriate sanctions, which may include dismissal of the petition.

2. To allow the attorney for the department additional time to prepare the case and additional time is justified because of an exceptional circumstance.

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

(d) Reasonable periods of delay resulting from a continuance granted at the request of the parent or legal custodian of a subject child.

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

Section 25. *Section 39.4057, Florida Statutes, is renumbered as section 39.0131, Florida Statutes.*

Section 26. Section 39.411, Florida Statutes, is renumbered as section 39.0132, Florida Statutes, and amended to read:

39.0132 ~~39.411~~ Oaths, records, and confidential information.—

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

(2) The court shall make and keep records of all cases brought before it pursuant to this chapter and shall preserve the records pertaining to a dependent child until 10 years after the last entry was made, or until the child is 18 years of age, whichever date is first reached, and may then destroy them, except that records of cases where orders were entered permanently depriving a parent of the custody of a juvenile shall be preserved permanently. The court shall make official records, consisting of all petitions and orders filed in a case arising pursuant to this part and any other pleadings, certificates, proofs of publication, summonses, warrants, and other writs which may be filed therein.

(3) The clerk shall keep all court records required by this part separate from other records of the circuit court. All court records required by this part shall not be open to inspection by the public. All records shall be inspected only upon order of the court by persons deemed by the court to have a proper interest therein, except that, subject to the provisions of s. 63.162, a child and the parents, ~~or~~ legal custodians, *or caregivers* of the child and their attorneys, *guardian ad litem*, law enforcement agencies, and the department and its designees shall always have the right to inspect and copy any official record pertaining to the child. The court may permit authorized representatives of recognized organizations compiling statistics for proper purposes to inspect and make abstracts from official records, under whatever conditions upon their use and disposition the court may deem proper, and may punish by contempt proceedings any violation of those conditions.

(4) All information obtained pursuant to this part in the discharge of official duty by any judge, employee of the court, authorized agent of the department, correctional probation officer, or law enforcement agent shall be confidential and exempt from the provisions of s. 119.07(1) and shall not be disclosed to anyone other than the authorized personnel of the court, the department and its designees, correctional probation officers, law enforcement agents, *guardian ad litem,* and others entitled under this chapter to receive that information, except upon order of the court.

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

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

(a) Orders permanently terminating the rights of a parent and committing the child to a licensed child-placing agency or the department for adoption shall be admissible in evidence in subsequent adoption proceedings relating to the child.

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

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

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

Section 27. *Section 39.414, Florida Statutes, is renumbered as section 39.0133, Florida Statutes.*

Section 28. Section 39.415, Florida Statutes, is renumbered as section 39.0134, Florida Statutes, and amended to read:

39.0134 ~~39.415~~ Appointed counsel; compensation.—

(1) If counsel is entitled to receive compensation for representation pursuant to *a* court appointment in a dependency proceeding *pursuant to this chapter*, such compensation shall *be established by each county* ~~not exceed $1,000 at the trial level and $2,500 at the appellate level~~.

(2) If counsel is entitled to receive compensation for representation pursuant to court appointment in a termination of parental rights proceeding, such compensation shall not exceed $1,000 at the trial level and $2,500 at the appellate level.

Section 29. Section 39.418, Florida Statutes, is renumbered as section 39.0135, Florida Statutes, and amended to read:

39.0135 ~~39.418~~ Operations and Maintenance Trust Fund.— ~~Effective July 1, 1996,~~ The department ~~of Children and Family Services~~ shall deposit all child support payments made to the department pursuant to *this chapter* ~~s. 39.41(2)~~ into the Operations and Maintenance Trust Fund. The purpose of this funding is to care for children who are committed to the temporary legal custody of the department ~~pursuant to s. 39.41(2)(a)8~~.

Section 30. Part II of chapter 39, Florida Statutes, consisting of sections 39.201, 39.202, 39.203, 39.204, 39.205, and 39.206, Florida Statutes, shall be entitled to read:

PART II
REPORTING CHILD ABUSE

Section 31. Section 415.504, Florida Statutes, is renumbered as section 39.201, Florida Statutes, and amended to read:

39.201 ~~415.504~~ Mandatory reports of child abuse, *abandonment,* or neglect; mandatory reports of death; central abuse hotline.—

(1) Any person, including, but not limited to, any:

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

(b) Health or mental health professional other than one listed in paragraph (a);

(c) Practitioner who relies solely on spiritual means for healing;

(d) School teacher or other school official or personnel;

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

(f) Law enforcement officer,

who knows, or has reasonable cause to suspect, that a child is an abused, abandoned, or neglected child shall report such knowledge or suspicion to the department in the manner prescribed in subsection (2).

(2)(a) Each report of known or suspected child abuse, *abandonment,* or neglect pursuant to this section, except those solely under s. 827.04*(3)*~~(4)~~, shall be made immediately to the department's central abuse hotline on the single statewide toll-free telephone number, and, if the report is of an instance of known or suspected child abuse by a noncaretaker, the call shall be immediately electronically transferred to the appropriate county sheriff's office by the central abuse hotline. If the report is of an instance of known or suspected child abuse involving impregnation of a child under 16 years of age by a person 21 years of age or older solely under s. 827.04*(3)*~~(4)~~, the report shall be made immediately to the appropriate county sheriff's office or other appropriate law enforcement agency. If the report is of an instance of known or suspected child abuse solely under s. 827.04*(3)*~~(4)~~, the reporting provisions of this subsection do not apply to health care professionals or other persons who provide medical or counseling services to pregnant children when such reporting would interfere with the provision of medical services.

(b) Reporters in occupation categories designated in subsection (1) are required to provide their names to the hotline staff. The names of reporters shall be entered into the record of the report, but shall be held confidential as provided in s. *39.202* ~~415.51~~.

(c) Reports involving known or suspected institutional child abuse or neglect shall be made and received in the same manner as all other reports made pursuant to this section.

(d) Reports involving a known or suspected juvenile sexual offender shall be made and received by the department.

1. The department shall determine the age of the alleged juvenile sexual offender if known.

2. When the alleged juvenile sexual offender is 12 years of age or younger, the department shall proceed with an investigation of the report pursuant to *this* part ~~III~~, immediately electronically transfer the call to the appropriate law enforcement agency office by the central abuse hotline, and send a written report of the allegation to the appropriate county sheriff's office within 48 hours after the initial report is made to the central abuse hotline.

3. When the alleged juvenile sexual offender is 13 years of age or older, the department shall immediately electronically transfer the call to the appropriate county sheriff's office by the central abuse hotline, and send a written report to the appropriate county sheriff's office within 48 hours after the initial report to the central abuse hotline.

(e) Hotline counselors shall receive periodic training in encouraging reporters to provide their names when reporting abuse, *abandonment, or neglect*. Callers shall be advised of the confidentiality provisions of s. *39.202* ~~415.51~~. The department shall secure and install electronic equipment that automatically provides to the hotline the number from which the call is placed. This number shall be entered into the report of abuse, *abandonment, or neglect* and become a part of the record of the report, but shall enjoy the same confidentiality as provided to the identity of the caller pursuant to s. *39.202* ~~415.51~~.

(3) Any person required to report or investigate cases of suspected child abuse, *abandonment*, or neglect who has reasonable cause to suspect that a child died as a result of child abuse, *abandonment*, or neglect shall report his or her suspicion to the appropriate medical examiner. The medical examiner shall accept the report for investigation ~~pursuant to s. 406.11~~ and shall report his or her findings, in writing, to the local law enforcement agency, the appropriate state attorney, and the department. Autopsy reports maintained by the medical examiner are not subject to the confidentiality requirements provided for in s. *39.202* ~~415.51~~.

(4)~~(a)~~ The department shall establish and maintain a central abuse hotline to receive all reports made pursuant to this section in writing or through a single statewide toll-free telephone number, which any person may use to report known or suspected child abuse, abandonment, or neglect at any hour of the day or night, any day of the week. The central abuse hotline shall be operated in such a manner as to enable the department to:

(a)~~1.~~ Immediately identify and locate prior reports or cases of child abuse, *abandonment*, or neglect through utilization of the department's automated tracking system.

(b)~~2.~~ Monitor and evaluate the effectiveness of the department's program for reporting and investigating suspected abuse, *abandonment*,

or neglect of children through the development and analysis of statistical and other information.

(c)~~3.~~ Track critical steps in the investigative process to ensure compliance with all requirements for any report of abuse, *abandonment,* or neglect.

(d)~~4.~~ Maintain and produce aggregate statistical reports monitoring patterns of ~~both~~ child abuse, *child abandonment,* and child neglect. The department shall collect and analyze child-on-child sexual abuse reports and include the information in aggregate statistical reports.

(e)~~5.~~ Serve as a resource for the evaluation, management, and planning of preventive and remedial services for children who have been subject to abuse, *abandonment,* or neglect.

(f)~~6.~~ Initiate and enter into agreements with other states for the purpose of gathering and sharing information contained in reports on child maltreatment to further enhance programs for the protection of children.

~~(b) Upon receiving an oral or written report of known or suspected child abuse or neglect, the central abuse hotline shall determine if the report requires an immediate onsite protective investigation. For reports requiring an immediate onsite protective investigation, the central abuse hotline shall immediately notify the department's designated children and families district staff responsible for protective investigations to ensure that an onsite investigation is promptly initiated. For reports not requiring an immediate onsite protective investigation, the central abuse hotline shall notify the department's designated children and families district staff responsible for protective investigations in sufficient time to allow for an investigation, or if the district determines appropriate, a family services response system approach to be commenced within 24 hours. When a district decides to respond to a report of child abuse or neglect with a family services response system approach, the provisions of part III apply. If, in the course of assessing risk and services or at any other appropriate time, responsible district staff determines that the risk to the child requires a child protective investigation, then the department shall suspend its family services response system activities and shall proceed with an investigation as delineated in this part. At the time of notification of district staff with respect to the report, the central abuse hotline shall also provide information on any previous report concerning a subject of the present report or any pertinent information relative to the present report or any noted earlier reports.~~

~~(c) Upon commencing an investigation under this part, the child protective investigator shall inform any subject of the investigation of the following:~~

~~1. The names of the investigators and identifying credentials from the department.~~

~~2. The purpose of the investigation.~~

~~3. The right to obtain his or her own attorney and ways that the information provided by the subject may be used.~~

~~(d) The department shall make and keep records of all cases brought before it pursuant to this part and shall preserve the records pertaining to a child and family until 7 years after the last entry was made or until the child is 18 years of age. The department shall then destroy the records, except where the child has been placed under the protective supervision of the department, the court has made a finding of dependency, or a criminal conviction has resulted from the facts associated with the report and there is a likelihood that future services of the department may be required.~~

(5) The department shall be capable of receiving and investigating reports of known or suspected child abuse, abandonment, or neglect 24 hours a day, 7 days a week. If it appears that the immediate safety or well-being of a child is endangered, that the family may flee or the child will be unavailable for purposes of conducting a child protective investigation, or that the facts otherwise so warrant, the department shall commence an investigation immediately, regardless of the time of day or night. In all other child abuse, abandonment, or neglect cases, a child protective investigation shall be commenced within 24 hours after receipt of the report. In an institutional investigation, the alleged perpetrator may be represented by an attorney, at his or her own expense, or accompanied by another person, if the person or the attorney executes an affidavit of understanding with the department and agrees to comply with the confidentiality provisions of s. 39.202. The absence of an attorney or other person does not prevent the department from proceeding with other aspects of the investigation, including interviews with other persons. In institutional child abuse cases when the institution is not operating and the child cannot otherwise be located, the investigation shall commence immediately upon the resumption of operation. If requested by a state attorney or local law enforcement agency, the department shall furnish all investigative reports to that agency.

(6)~~(e)~~ Information in the central abuse hotline may not be used for employment screening *except as provided in s. 39.202(2)(a) and (h). Information in the central abuse hotline and the department's automated abuse information system may be used by the department, its authorized agents or contract providers, the Department of Health, or county agencies as part of the licensure or registration process pursuant to ss. 402.301-402.319 and ss. 409.175-409.176.* ~~Access to the information shall only be granted as set forth in s. 415.51.~~

(7)~~(5)~~ This section does not require a professional who is hired by or enters into a contract with the department for the purpose of treating or counseling any person, as a result of a report of child abuse, *abandonment,* or neglect, to again report to the central abuse hotline the abuse, *abandonment,* or neglect that was the subject of the referral for treatment.

Section 32. Section 415.511, Florida Statutes, is renumbered as section 39.203, Florida Statutes, and amended to read:

39.203 ~~415.511~~ Immunity from liability in cases of child abuse, *abandonment,* or neglect.—

(1)(a) Any person, official, or institution participating in good faith in any act authorized or required by *this chapter* ~~ss. 415.502-415.514~~, or reporting in good faith any instance of child abuse, *abandonment, or neglect* to any law enforcement agency, shall be immune from any civil or criminal liability which might otherwise result by reason of such action.

(b) Except as provided in *this chapter* ~~s. 415.503(10)(f)~~, nothing contained in this section shall be deemed to grant immunity, civil or criminal, to any person suspected of having abused, *abandoned,* or neglected a child, or committed any illegal act upon or against a child.

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

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

Section 33. Section 415.512, Florida Statutes, is renumbered as section 39.204, Florida Statutes, and amended to read:

39.204 ~~415.512~~ Abrogation of privileged communications in cases involving child abuse, *abandonment,* or neglect.—The privileged quality of communication between husband and wife and between any professional person and his or her patient or client, and any other privileged communication except that between attorney and client or the privilege provided in s. 90.505, as such communication relates both to the competency of the witness and to the exclusion of confidential

communications, shall not apply to any communication involving the perpetrator or alleged perpetrator in any situation involving known or suspected child abuse, *abandonment,* or neglect and shall not constitute grounds for failure to report as required by s. *39.201* ~~415.504~~ regardless of the source of the information requiring the report, failure to cooperate with the department in its activities pursuant to *this chapter* ~~ss. 415.502-415.514~~, or failure to give evidence in any judicial proceeding relating to child abuse, *abandonment,* or neglect.

Section 34. Section 415.513, Florida Statutes, is renumbered as section 39.205, Florida Statutes, and amended to read:

39.205 ~~415.513~~ Penalties relating to ~~abuse~~ reporting *of child abuse, abandonment, or neglect*.—

(1) A person who is required ~~by s. 415.504~~ to report known or suspected child abuse, *abandonment,* or neglect and who knowingly and willfully fails to do so, or who knowingly and willfully prevents another person from doing so, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(2) A person who knowingly and willfully makes public or discloses any confidential information contained in the central abuse *hotline* ~~registry and tracking system~~ or in the records of any child abuse, *abandonment,* or neglect case, except as provided in *this chapter* ~~ss. 415.502-415.514~~, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

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

(4) If the department or its authorized agent has determined after its investigation that a report is false, the department shall, with the consent of the alleged perpetrator, refer the report to the local law enforcement agency having jurisdiction of an investigation to determine whether sufficient evidence exists to refer the case for prosecution for filing a false report as defined in s. 39.01(27). During the pendency of the investigation by the local law enforcement agency, the department must notify the local law enforcement agency of, and the local law enforcement agency must respond to, all subsequent reports concerning children in that same family in accordance with s. 39.301. If the law enforcement agency believes that there are indicators of abuse or neglect, it must immediately notify the department, which must assure the safety of the children. If the law enforcement agency finds sufficient evidence for prosecution for filing a false report, it must refer the case to the appropriate state attorney for prosecution.

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

(6)~~(5)~~ Each state attorney shall establish *written* procedures to facilitate the prosecution of persons under this section, *and shall report to the Legislature annually the number of complaints that have resulted in the filing of an information or indictment and the disposition of those complaints under this section.*

Section 35. Section 415.5131, Florida Statutes, is renumbered as section 39.206, Florida Statutes, and amended to read:

39.206 ~~415.5131~~ Administrative fines for false report of abuse, *abandonment,* or neglect of a child.—

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

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

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

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

(5) At the hearing, the department must prove by clear and convincing evidence that the person filed a false report with the central abuse *hotline* ~~registry and tracking system~~. The court shall advise any person against whom a fine may be imposed of that person's right to be represented by counsel at the hearing.

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

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

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

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

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

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

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

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

Section 36. Part III of chapter 39, Florida Statutes, consisting of sections 39.301, 39.302, 39.303, 39.3035, 39.304, 39.305, 39.306, and 39.307, Florida Statutes, shall be entitled to read:

PART III
PROTECTIVE INVESTIGATIONS

Section 37. Section 39.301, Florida Statutes, is created to read:

39.301 Initiation of protective investigations.—

(1) Upon receiving an oral or written report of known or suspected child abuse, abandonment, or neglect, the central abuse hotline shall determine if the report requires an immediate onsite protective

investigation. For reports requiring an immediate onsite protective investigation, the central abuse hotline shall immediately notify the department's designated children and families district staff responsible for protective investigations to ensure that an onsite investigation is promptly initiated. For reports not requiring an immediate onsite protective investigation, the central abuse hotline shall notify the department's designated children and families district staff responsible for protective investigations in sufficient time to allow for an investigation. At the time of notification of district staff with respect to the report, the central abuse hotline shall also provide information on any previous report concerning a subject of the present report or any pertinent information relative to the present report or any noted earlier reports.

(2)(a) Upon commencing an investigation under this part, the child protective investigator shall inform any subject of the investigation of the following:

1. The names of the investigators and identifying credentials from the department.

2. The purpose of the investigation.

3. The right to obtain his or her own attorney and ways that the information provided by the subject may be used.

4. The possible outcomes and services of the department's response shall be explained to the caregiver.

5. The right of the parent, legal custodian, or caregiver to be involved to the fullest extent possible in determining the nature of the allegation and the nature of any identified problem.

(b) The department's training program shall ensure that protective investigators know how to fully inform parents, guardians, and caregivers of their rights and options, including opportunities for audio or video recording of investigators' interviews with parents, guardians, caretakers, or children.

(3) An assessment of risk and the perceived needs of the child and family shall be conducted in a manner that is sensitive to the social, economic, and cultural environment of the family.

(4) Protective investigations shall be performed by the department or its agent.

(5) The person responsible for the investigation shall make a preliminary determination as to whether the report or complaint is complete, consulting with the attorney for the department when necessary. In any case in which the person responsible for the investigation finds that the report or complaint is incomplete, he or she shall return it without delay to the person or agency originating the report or complaint or having knowledge of the facts, or to the appropriate law enforcement agency having investigative jurisdiction, and request additional information in order to complete the report or complaint; however, the confidentiality of any report filed in accordance with this chapter shall not be violated.

(a) If it is determined that the report or complaint is complete, after determining that such action would be in the best interests of the child, the attorney for the department shall file a petition for dependency.

(b) If it is determined that the report or complaint is complete, but the interests of the child and the public will be best served by providing the child care or other treatment voluntarily accepted by the child and the parents, caregivers, or legal custodians, the protective investigator may refer the child for such care or other treatment.

(c) If the person conducting the investigation refuses to request that the attorney for the department file a petition for dependency, the complainant shall be advised of the right to file a petition pursuant to this part.

(6) For each report it receives, the department shall perform an onsite child protective investigation to:

(a) Determine the composition of the family or household, including the name, address, date of birth, social security number, sex, and race of each child named in the report; any siblings or other children in the same household or in the care of the same adults; the parents, legal custodians, or caregivers; and any other adults in the same household.

(b) Determine whether there is indication that any child in the family or household has been abused, abandoned, or neglected; the nature and extent of present or prior injuries, abuse, or neglect, and any evidence thereof; and a determination as to the person or persons apparently responsible for the abuse, abandonment, or neglect, including the name, address, date of birth, social security number, sex, and race of each such person.

(c) Determine the immediate and long-term risk to each child by conducting state and federal records checks on the parents, legal custodians, or caregivers, and any other persons in the same household. This information shall be used solely for purposes supporting the detection, apprehension, prosecution, pretrial release, post-trial release, or rehabilitation of criminal offenders or persons accused of the crimes of child abuse, abandonment, or neglect and shall not be further disseminated or used for any other purpose. The department's child protection investigators are hereby designated a criminal justice agency for the purpose of accessing criminal justice information to be used for enforcing this state's laws concerning the crimes of child abuse, abandonment, and neglect.

(d) Determine the immediate and long-term risk to each child through utilization of standardized risk-assessment instruments.

(e) Based on the information obtained from the caregiver, complete the risk-assessment instrument within 48 hours after the initial contact and, if needed, develop a case plan.

(f) Determine the protective, treatment, and ameliorative services necessary to safeguard and ensure the child's safety and well-being and development, and cause the delivery of those services through the early intervention of the department or its agent.

(7) If the department or its agent is denied reasonable access to a child by the parents, legal custodians, or caregivers and the department deems that the best interests of the child so require, it shall seek an appropriate court order or other legal authority prior to examining and interviewing the child. The department must show cause to the court that it is necessary to examine and interview the child. If the department interviews a child, the interview must be audio recorded or videotaped, unless the court orders otherwise for good cause. The court shall consider the best interests and safety of the child in making such a determination. If the department interviews a child, the interview must be audio recorded or videotaped.

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

(a) Medical or other health care;

(b) Homemaker care, day care, protective supervision, or other services to stabilize the home environment, including intensive family preservation services through the Family Builders Program, the Intensive Crisis Counseling Program, or both; or

(c) Foster care, shelter care, or other substitute care to remove the child from the custody of the parents, legal guardians, or caregivers,

such services shall first be offered for voluntary acceptance unless there are high-risk factors that may impact the ability of the parents, legal guardians, or caregivers to exercise judgment. Such factors may include the parents', legal guardians', or caregivers' young age or history of substance abuse or domestic violence. The parents, legal custodians, or caregivers shall be informed of the right to refuse services, as well as the responsibility of the department to protect the child regardless of the acceptance or refusal of services. If the services are refused and the department deems that the child's need for protection so requires, the department shall take the child into protective custody or petition the court as provided in this chapter.

(9) When a child is taken into custody pursuant to this section, the authorized agent of the department shall request that the child's parent, caregiver, or legal custodian disclose the names, relationships, and addresses of all parents and prospective parents and all next of kin, so far as are known.

(10) No later than 30 days after receiving the initial report, the local office of the department shall complete its investigation.

(11) Immediately upon receipt of a report alleging, or immediately upon learning during the course of an investigation, that:

(a) The immediate safety or well-being of a child is endangered;

(b) The family is likely to flee;

(c) A child has died as a result of abuse, abandonment, or neglect;

(d) A child is a victim of aggravated child abuse as defined in s. 827.03; or

(e) A child is a victim of sexual battery or of sexual abuse,

the department shall orally notify the jurisdictionally responsible state attorney and county sheriff's office or local police department and, as soon as practicable, transmit the report to those agencies. The law enforcement agency shall review the report and determine whether a criminal investigation needs to be conducted and shall assume lead responsibility for all criminal fact-finding activities. A criminal investigation shall be coordinated, whenever possible, with the child protective investigation of the department. Any interested person who has information regarding an offense described in this subsection may forward a statement to the state attorney as to whether prosecution is warranted and appropriate.

(12) In a child protective investigation or a criminal investigation, when the initial interview with the child is conducted at school, the department or the law enforcement agency may allow, notwithstanding the provisions of s. 39.0132(4), a school instructional staff member who is known by the child to be present during the initial interview if:

(a) The department or law enforcement agency believes that the school instructional staff member could enhance the success of the interview by his or her presence; and

(b) The child requests or consents to the presence of the school instructional staff member at the interview.

School instructional staff may be present only when authorized by this subsection. Information received during the interview or from any other source regarding the alleged abuse or neglect of the child shall be confidential and exempt from the provisions of s. 119.07(1), except as otherwise provided by court order. A separate record of the investigation of the abuse, abandonment, or neglect shall not be maintained by the school or school instructional staff member. Violation of this subsection constitutes a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(13) Within 15 days after the completion of the investigation of cases reported to him or her pursuant to this section, the state attorney shall report his or her findings to the department and shall include in such report a determination of whether or not prosecution is justified and appropriate in view of the circumstances of the specific case.

Section 38. Section 39.302, Florida Statutes, is created to read:

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

(1) The department shall conduct a child protective investigation of each report of institutional child abuse, abandonment, or neglect. Upon receipt of a report that alleges that an employee or agent of the department, or any other entity or person covered by s. 39.01(32) or (47), acting in an official capacity, has committed an act of child abuse, abandonment, or neglect, the department shall immediately initiate a child protective investigation and orally notify the appropriate state attorney, law enforcement agency, and licensing agency. These agencies shall immediately conduct a joint investigation, unless independent investigations are more feasible. When a facility is exempt from licensing, the department shall inform the owner or operator of the facility of the report. Each agency conducting a joint investigation shall be entitled to full access to the information gathered by the department in the course of the investigation. In all cases, the department shall make a full written report to the state attorney within 3 days after making the oral report. A criminal investigation shall be coordinated, whenever possible, with the child protective investigation of the department. Any interested person who has information regarding the offenses described in this subsection may forward a statement to the state attorney as to whether prosecution is warranted and appropriate. Within 15 days after the completion of the investigation, the state attorney shall report the findings to the department and shall include in such report a determination of whether or not prosecution is justified and appropriate in view of the circumstances of the specific case.

(2)(a) If in the course of the child protective investigation, the department finds that a subject of a report, by continued contact with children in care, constitutes a threatened harm to the physical health, mental health, or welfare of the children, the department may restrict the subject's access to the children pending the outcome of the investigation. The department or its agent shall employ the least restrictive means necessary to safeguard the physical health, mental health, and welfare of the children in care. This authority shall apply only to child protective investigations in which there is some evidence that child abuse, abandonment, or neglect has occurred. A subject of a report whose access to children in care has been restricted is entitled to petition the circuit court for judicial review. The court shall enter written findings of fact based upon the preponderance of evidence that child abuse, abandonment, or neglect did occur and that the department's restrictive action against a subject of the report was justified in order to safeguard the physical health, mental health, and welfare of the children in care. The restrictive action of the department shall be effective for no more than 90 days without a judicial finding supporting the actions of the department.

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

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

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

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

(6) In cases of institutional child abuse, abandonment, or neglect in which the multiplicity of reports of abuse, abandonment, or neglect or the severity of the allegations indicates the need for specialized investigation by the department in order to afford greater safeguards for the physical health, mental health, and welfare of the children in care, the department shall provide a team of persons specially trained in the areas

of child abuse, abandonment, and neglect investigations, diagnosis, and treatment to assist the local office of the department in expediting its investigation and in making recommendations for restrictive actions and to assist in other ways deemed necessary by the department in order to carry out the provisions of this section. The specially trained team shall also provide assistance to any investigation of the allegations by local law enforcement and the Department of Law Enforcement.

Section 39. Section 415.5055, Florida Statutes, is renumbered as section 39.303, Florida Statutes, and amended to read:

39.303 ~~415.5055~~ Child protection teams; services; eligible cases.—The department shall develop, maintain, and coordinate the services of one or more multidisciplinary child protection teams in each of the service districts of the department. Such teams may be composed of representatives of appropriate health, mental health, social service, legal service, and law enforcement agencies. The Legislature finds that optimal coordination of child protection teams and sexual abuse treatment programs requires collaboration between the Department of Health and the Department of Children and Family Services. The two departments shall maintain an interagency agreement that establishes protocols for oversight and operations of child protection teams and sexual abuse treatment programs. The Secretary of Health and the Director of the Division of Children's Medical Services, in consultation with the Secretary of Children and Family Services, shall maintain the responsibility for the screening, employment, and, if necessary, the termination of child protection team medical directors, at headquarters and in the 15 districts. Child protection team medical directors shall be responsible for oversight of the teams in the districts.

(1) The department shall utilize and convene the teams to supplement the assessment and protective supervision activities of ~~the children, youth, and families program of~~ the department. Nothing in this section shall be construed to remove or reduce the duty and responsibility of any person to report pursuant to *this chapter* ~~s. 415.504~~ all suspected or actual cases of child abuse, *abandonment,* or neglect or sexual abuse of a child. The role of the teams shall be to support activities of the program and to provide services deemed by the teams to be necessary and appropriate to abused, *abandoned,* and neglected children upon referral. The specialized diagnostic assessment, evaluation, coordination, consultation, and other supportive services that a child protection team shall be capable of providing include, but are not limited to, the following:

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

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

(c) Medical evaluation related to abuse, *abandonment,* or neglect, as defined by department policy or rule.

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

(e) Short-term psychological treatment. It is the intent of the Legislature that short-term psychological treatment be limited to no more than 6 months' duration after treatment is initiated, except that the appropriate district administrator may authorize such treatment for individual children beyond this limitation if the administrator deems it appropriate.

(f) Expert medical, psychological, and related professional testimony in court cases.

(g) Case staffings to develop, implement, and monitor treatment plans for children whose cases have been referred to the team. A child protection team may provide consultation with respect to a child who has not been referred to the team, but who is alleged or is shown to be abused, *abandoned, or neglected,* which consultation shall be provided at the request of a representative of the children, youth, and families program or at the request of any other professional involved with a child or the child's parent or parents, *legal custodian or custodians* ~~guardian or guardians~~, or other caregivers. In every such child protection team case staffing, consultation, or staff activity involving a child, a children, youth, and families program representative shall attend and participate.

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

(i) Such training services for program and other department employees as is deemed appropriate to enable them to develop and maintain their professional skills and abilities in handling child abuse, *abandonment,* and neglect cases.

(j) Educational and community awareness campaigns on child abuse, *abandonment,* and neglect in an effort to enable citizens more successfully to prevent, identify, and treat child abuse, *abandonment,* and neglect in the community.

(2) The child abuse, *abandonment,* and neglect cases that are appropriate for referral by the children, youth, and families program to child protection teams for support services as set forth in subsection (1) include, but are not limited to, cases involving:

(a) Bruises, burns, or fractures in a child under the age of 3 years or in a nonambulatory child of any age.

(b) Unexplained or implausibly explained bruises, burns, fractures, or other injuries in a child of any age.

(c) Sexual abuse of a child in which vaginal or anal penetration is alleged or in which other unlawful sexual conduct has been determined to have occurred.

(d) Venereal disease, or any other sexually transmitted disease, in a prepubescent child.

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

(f) Reported medical, physical, or emotional neglect of a child.

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

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

~~(3) All records and reports of the child protection team are confidential and exempt from the provisions of ss. 119.07(1) and 455.241, and shall not be disclosed, except, upon request, to the state attorney, law enforcement, the department, and necessary professionals, in furtherance of the treatment or additional evaluative needs of the child or by order of the court.~~

(3) In all instances in which a child protection team is providing certain services to abused, *abandoned,* or neglected children, other offices and units of the department shall avoid duplicating the provision of those services.

Section 40. Section 39.3035, Florida Statutes, is created to read:

39.3035 Child advocacy centers; standards; state funding.—

(1) In order to become eligible for a full membership in the Florida Network of Children's Advocacy Centers, Inc., a child advocacy center in this state shall:

(a) Be a private, nonprofit incorporated agency or a governmental entity.

(b) Be a child protection team with established community protocols that meet all of the requirements of the National Network of Children's Advocacy Centers, Inc.

(c) Have a neutral, child-focused facility where joint department and law enforcement interviews take place with children in appropriate cases of suspected child sexual abuse or physical abuse. All multidisciplinary agencies shall have a place to interact with the child as investigative or treatment needs require.

(d) Have a minimum designated staff that is supervised and approved by the local board of directors or governmental entity.

(e) Have a multidisciplinary case review team that meets on a regularly scheduled basis or as the caseload of the community requires. The team shall consist of representatives from the Office of the State Attorney, the department, the child protection team, mental health services, law enforcement, and the child advocacy center staff. Medical personnel and a victim's advocate may be part of the team.

(f) Provide case tracking of child abuse cases seen through the center. A center shall also collect data on the number of child abuse cases seen at the center, by sex, race, age, and other relevant data; the number of cases referred for prosecution; and the number of cases referred for mental health therapy. Case records shall be subject to the confidentiality provisions of s. 39.202.

(g) Provide referrals for medical exams and mental health therapy. The center shall provide followup on cases referred for mental health therapy.

(h) Provide training for various disciplines in the community that deal with child abuse.

(i) Have an interagency commitment, in writing, covering those aspects of agency participation in a multidisciplinary approach to the handling of child sexual abuse and serious physical abuse cases.

(2) Provide assurance that child advocacy center employees and volunteers at the center are trained and screened in accordance with s. 39.001(2).

(3) Any child advocacy center within this state that meets the standards of subsection (1) and is certified by the Florida Network of Children's Advocacy Centers, Inc., as being a full member in the organization shall be eligible to receive state funds that are appropriated by the Legislature.

Section 41. Section 415.507, Florida Statutes, is renumbered as section 39.304, Florida Statutes, and amended to read:

39.304 ~~415.507~~ Photographs, medical examinations, X rays, and medical treatment of abused, *abandoned,* or neglected child.—

(1) Any person required to investigate cases of suspected child abuse, *abandonment,* or neglect may take or cause to be taken photographs of the areas of trauma visible on a child who is the subject of a report. If the areas of trauma visible on a child indicate a need for a medical examination, or if the child verbally complains or otherwise exhibits distress as a result of injury through suspected child abuse, *abandonment,* or neglect, or is alleged to have been sexually abused, the person required to investigate may cause the child to be referred for diagnosis to a licensed physician or an emergency department in a hospital without the consent of the child's parents, *caregiver* ~~legal guardian~~, or legal custodian. Such examination may be performed by an advanced registered nurse practitioner licensed pursuant to chapter 464. Any licensed physician, or advanced registered nurse practitioner licensed pursuant to chapter 464, who has reasonable cause to suspect that an injury was the result of child abuse, *abandonment, or neglect* may authorize a radiological examination to be performed on the child without the consent of the child's parent, *caregiver* ~~legal guardian~~, or legal custodian.

(2) Consent for any medical treatment shall be obtained in the following manner.

(a)1. Consent to medical treatment shall be obtained from a parent or *legal custodian* ~~guardian~~ of the child; or

2. A court order for such treatment shall be obtained.

(b) If a parent or *legal custodian* ~~guardian~~ of the child is unavailable and his or her whereabouts cannot be reasonably ascertained, and it is after normal working hours so that a court order cannot reasonably be obtained, an authorized agent of the department shall have the authority to consent to necessary medical treatment for the child. The authority of the department to consent to medical treatment in this circumstance shall be limited to the time reasonably necessary to obtain court authorization.

(c) If a parent or *legal custodian* ~~guardian~~ of the child is available but refuses to consent to the necessary treatment, a court order shall be required unless the situation meets the definition of an emergency in s. 743.064 or the treatment needed is related to suspected abuse, *abandonment,* or neglect of the child by a parent or *legal custodian* ~~guardian~~. In such case, the department shall have the authority to consent to necessary medical treatment. This authority is limited to the time reasonably necessary to obtain court authorization.

In no case shall the department consent to sterilization, abortion, or termination of life support.

(3) Any facility licensed under chapter 395 shall provide to the department, its agent, or a child protection team that contracts with the department any photograph or report on examinations made or X rays taken pursuant to this section, or copies thereof, for the purpose of investigation or assessment of cases of abuse, abandonment, neglect, or exploitation of children.

(4)~~(3)~~ Any photograph or report on examinations made or X rays taken pursuant to this section, or copies thereof, shall be sent to the department as soon as possible.

(5)~~(4)~~ The county in which the child is a resident shall bear the initial costs of the examination of the allegedly abused, *abandoned, or neglected* child; however, the parents, *caregiver* ~~legal guardian~~, or legal custodian of the child shall be required to reimburse the county for the costs of such examination, other than an initial forensic physical examination as provided in s. 960.28, and to reimburse the department ~~of Children and Family Services~~ for the cost of the photographs taken pursuant to this section. A medical provider may not bill a child victim, directly or indirectly, for the cost of an initial forensic physical examination.

~~(5) The court shall order a defendant or juvenile offender who pleads guilty or nolo contendere to, or who is convicted of or adjudicated delinquent for, a violation of chapter 794 or chapter 800 to make restitution to the Crimes Compensation Trust Fund or to the county, whichever paid for the initial forensic physical examination, in an amount equal to the compensation paid to the medical provider for the cost of the initial forensic physical examination. The order may be enforced by the department in the same manner as a judgment in a civil action.~~

Section 42. Section 415.5095, Florida Statutes, is renumbered as section 39.305, Florida Statutes, and amended to read:

39.305 ~~415.5095~~ Intervention and treatment in sexual abuse cases; model plan.—

~~(1) The impact of sexual abuse on the child and family has caused the Legislature to determine that special intervention and treatment must be offered in certain cases so that the child can be protected from further abuse, the family can be kept together, and the abuser can benefit from treatment. To further this end, it is the intent of the Legislature that special funding shall be available in those communities where agencies and professionals are able to work cooperatively to effectuate intervention and treatment in intrafamily sexual abuse cases.~~

~~(2)~~ The department ~~of Children and Family Services~~ shall develop a model plan for community intervention and treatment of intrafamily sexual abuse in conjunction with the Department of Law Enforcement, *the Department of Health,* the Department of Education, the Attorney General, the state Guardian Ad Litem Program, the Department of Corrections, representatives of the judiciary, and professionals and advocates from the mental health and child welfare community.

Section 43. Section 39.306, Florida Statutes, is created to read:

39.306 Child protective investigations; working agreements with local law enforcement.—The department shall enter into agreements with the jurisdictionally responsible county sheriffs' offices and local police departments that will assume the lead in conducting any potential criminal investigations arising from allegations of child abuse, abandonment, or neglect. The written agreement must specify how the requirements of this chapter will be met. For the purposes of such agreement, the jurisdictionally responsible law enforcement entity is authorized to share Florida criminal history information that is not otherwise exempt from s. 119.07(1) with the district personnel, authorized agent, or contract provider directly responsible for the child protective investigation and emergency child placement. The agencies entering into such agreement must comply with s. 943.0525. Criminal justice information provided by such law enforcement entity shall be used only for the purposes specified in the agreement and shall be provided at no charge. Notwithstanding any other provision of law, the Department of Law Enforcement shall provide to the department electronic access to Florida criminal justice information that is lawfully available and not exempt from s. 119.07(1), only for the purpose of child protective investigations and emergency child placement. As a condition of access to such information, the department shall be required to execute an appropriate user agreement addressing the access, use, dissemination, and destruction of such information and to comply with all applicable laws and regulations and with rules of the Department of Law Enforcement.

Section 44. Section 415.50171, Florida Statutes, is renumbered as section 39.307, Florida Statutes, and amended to read:

39.307 ~~415.50171 Family services response system;~~ Reports of child-on-child sexual abuse.—

(1) ~~Subject to specific appropriation,~~ Upon receiving a report alleging juvenile sexual abuse as defined in s. *39.01(7)(b), the department shall assist the family in receiving appropriate services* ~~415.50165(7), district staff shall, unless caregiver abuse or neglect is involved, use a family services response system approach~~ to address the allegations of the report.

(2) District staff, at a minimum, shall adhere to the following procedures:

(a) The purpose of the response to a report alleging juvenile sexual abuse behavior shall be explained to the caregiver.

1. The purpose of the response shall be explained in a manner consistent with legislative purpose and intent provided in this *chapter* ~~part~~.

2. The name and office telephone number of the person responding shall be provided to the caregiver of the alleged juvenile sexual offender and victim's caregiver.

3. The possible consequences of the department's response, including outcomes and services, shall be explained to the caregiver of the alleged juvenile sexual offender and the victim's family or caregiver.

(b) The caregiver of the alleged juvenile sexual offender and the caregiver of the victim shall be involved to the fullest extent possible in determining the nature of the allegation and the nature of any problem or risk to other children.

(c) The assessment of risk and the perceived treatment needs of the alleged juvenile sexual offender, the victim, and respective caregivers shall be conducted by the district staff, the child protection team, and other providers under contract with the department to provide services to the caregiver of the alleged offender, the victim, and the victim's caregiver.

(d) The assessment shall be conducted in a manner that is sensitive to the social, economic, and cultural environment of the family.

(e) When necessary, the child protection team shall conduct an evidence-gathering physical examination of the victim.

(f) Based on the information obtained from the alleged juvenile sexual offender, the alleged juvenile sexual offender's caregiver, the victim, and the victim's caregiver, an assessment service and treatment needs report must be completed within 7 days and, if needed, a case plan developed within 30 days.

(g) The department shall classify the outcome of its initial assessment of the report as follows:

1. Report closed. Services were not offered to the alleged juvenile sexual offender because the department determined that there was no basis for intervention.

2. Services accepted by alleged offender. Services were offered to the alleged juvenile sexual offender and accepted by the caregiver.

3. Report closed. Services were offered to the alleged juvenile sexual offender, but were rejected by the caregiver.

4. Notification to law enforcement. Either the risk to the victim's safety and well-being cannot be reduced by the provision of services or the family rejected services, and notification of the alleged delinquent act or violation of law to the appropriate law enforcement agency was initiated.

5. Services accepted by victim. Services were offered to the victim of the alleged juvenile sexual offender and accepted by the caregiver.

6. Report closed. Services were offered to the victim of the alleged juvenile sexual offender, but were rejected by the caregiver.

(3) When services have been accepted by the alleged juvenile sexual offender, victim, and respective caregivers or family, the department shall designate a case manager and develop a specific case plan.

(a) Upon receipt of the plan, the caregiver or family shall indicate its acceptance of the plan in writing.

(b) The case manager shall periodically review the progress toward achieving the objectives of the plan in order to:

1. Make adjustments to the plan or take additional action as provided in this part; or

2. Terminate the case when indicated by successful or substantial achievement of the objectives of the plan.

(4) In the event the family or caregiver of the alleged juvenile sexual offender fails to adequately participate or allow for the adequate participation of the juvenile sexual offender in the services or treatment delineated in the case plan, the case manager may recommend that the department:

(a) Close the case;

(b) Refer the case to mediation or arbitration, if available; or

(c) Notify the appropriate law enforcement agency of failure to comply.

(5) Services to the alleged juvenile sexual offender, the victim, and respective caregivers or family under this section shall be voluntary and of necessary duration.

(6) At any time, as a result of additional information, findings of facts, or changing conditions, the department may pursue a child protective investigation as provided in *this chapter* ~~part IV~~.

(7) The department is authorized to develop rules and other policy directives necessary to implement the provisions of this section.

Section 45. Part IV of chapter 39, Florida Statutes, consisting of sections 39.311, 39.312, 39.313, 39.314, 39.315, 39.316, 39.317, and 39.318, Florida Statutes, shall be entitled to read:

PART IV
FAMILY BUILDERS PROGRAM

Section 46. Section 415.515, Florida Statutes, is renumbered as section 39.311, Florida Statutes, and amended to read:

39.311 ~~415.515~~ Establishment of Family Builders Program.—

(1) Any Family Builders Program that is established by the department ~~of Children and Family Services or the Department of Juvenile Justice~~ shall provide family preservation services to families whose children are at risk of imminent out-of-home placement because they are dependent ~~or delinquent or are children in need of services~~, to reunite families whose children have been removed and placed in foster care, and to maintain adoptive families intact who are at risk of fragmentation. The Family Builders Program shall provide programs to achieve long-term changes within families that will allow children to remain with their families as an alternative to the more expensive and potentially psychologically damaging program of out-of-home placement.

(2) The department ~~of Children and Family Services and the Department of Juvenile Justice~~ may adopt rules to implement the Family Builders Program.

Section 47. Section 415.516, Florida Statutes, is renumbered as section 39.312, Florida Statutes, and amended to read:

39.312 ~~415.516~~ Goals.—The goals of any Family Builders Program shall be to:

(1) Ensure child health and safety while working with the family.

(2)~~(1)~~ Help parents to improve their relationships with their children and to provide better care, nutrition, hygiene, discipline, protection, instruction, and supervision.

(3)~~(2)~~ Help parents to provide a better household environment for their children by improving household maintenance, budgeting, and purchasing.

(4)~~(3)~~ Provide part-time child care when parents are unable to do so or need temporary relief.

(5)~~(4)~~ Perform household maintenance, budgeting, and purchasing when parents are unable to do so on their own or need temporary relief.

(6)~~(5)~~ Assist parents and children to manage and resolve conflicts.

(7)~~(6)~~ Assist parents to meet the special physical, mental, or emotional needs of their children and help parents to deal with their own special physical, mental, or emotional needs that interfere with their ability to care for their children and to manage their households.

(8)~~(7)~~ Help families to discover and gain access to community resources to which the family or children might be entitled and which would assist the family in meeting its needs and the needs of the children, including the needs for food, clothing, housing, utilities, transportation, appropriate educational opportunities, employment, respite care, and recreational and social activities.

(9)~~(8)~~ Help families by providing cash or in-kind assistance to meet their needs for food, clothing, housing, or transportation when such needs prevent or threaten to prevent parents from caring for their children, and when such needs are not met by other sources in the community in a timely fashion.

~~(9) Emphasize parental responsibility and facilitate counseling for children at high risk of delinquent behavior and their parents.~~

(10) Provide such additional reasonable services for the prevention of maltreatment and unnecessary foster care as may be needed in order to strengthen a family at risk.

Section 48. Section 415.517, Florida Statutes, is renumbered as section 39.313, Florida Statutes, and amended to read:

39.313 ~~415.517~~ Contracting of services.—The department may contract for the delivery of Family Builders Program services by professionally qualified persons or local governments when it determines that it is in the family's best interest. The service provider or program operator must submit to the department monthly activity reports covering any services rendered. These activity reports must include project evaluation in relation to individual families being served, as well as statistical data concerning families referred for services who are not served due to the unavailability of resources. The costs of program evaluation are an allowable cost consideration in any service contract negotiated in accordance with this *section* ~~subsection~~.

Section 49. Section 415.518, Florida Statutes, is renumbered as section 39.314, Florida Statutes, and amended to read:

39.314 ~~415.518~~ Eligibility for Family Builders Program services.—Family Builders Program services must be made available to a family at risk on a voluntary basis, provided the family meets the eligibility requirements as established by rule and there is space available in the program. All members of the families who accept such services are responsible for cooperating fully with the family preservation plan developed for each family under *s. 39.315* ~~this section~~. Families in which children are at imminent risk of sexual abuse or physical endangerment perpetrated by a member of their immediate household are not eligible to receive family preservation services unless the perpetrator is in, or has agreed to enter, a program for treatment and the safety of the children may be enhanced through participation in the Family Builders Program.

Section 50. *Section 415.519, Florida Statutes, is renumbered as section 39.315, Florida Statutes.*

Section 51. Section 415.520, Florida Statutes, is renumbered as section 39.316, Florida Statutes, and amended to read:

39.316 ~~415.520~~ Qualifications of Family Builders Program workers.—

(1) A public or private agency staff member who provides direct service to an eligible family must possess a bachelor's degree in a human-service-related field and 2 years' experience providing direct services to children, youth, or their families or possess a master's degree in a human-service-related field with 1 year of experience. A person who supervises caseworkers who provide direct services to eligible families must possess a master's degree in a human-service-related field and have at least 2 years of experience in social work or counseling or must possess a bachelor's degree in a human-service-related field and have at least 3 years' experience in social work or counseling.

(2) A person who provides paraprofessional aide services to families must possess a valid high school diploma or a Graduate Equivalency Diploma and must have a minimum of 2 years' experience in working with families with children. Experience in a volunteer capacity while working with families may be included in the 2 years of required experience.

(3) Caseworkers must successfully complete at least 40 hours of intensive training prior to providing direct *services* ~~service~~ under this program. Paraprofessional aides and supervisors must, within 90 days after hiring, complete a training program prescribed by the department on child abuse, *abandonment,* and neglect and an overview of the children, youth, and families program components and service delivery system. Program supervisors and caseworkers must thereafter complete at least 40 hours of additional training each year in accordance with standards established by the department.

Section 52. *Section 415.521, Florida Statutes, is renumbered as section 39.317, Florida Statutes.*

Section 53. Section 415.522, Florida Statutes, is renumbered as section 39.318, Florida Statutes, and amended to read:

39.318 ~~415.522~~ Funding.—The department is authorized to use appropriate state, federal, and private funds within its budget for operating the Family Builders Program. For each child served, the cost of providing home-based services described in this *part* ~~act~~ must not exceed the costs of out-of-home care which otherwise would be incurred.

Section 54. Part V of chapter 39, Florida Statutes, consisting of sections 39.395, 39.401, 39.402, 39.407, and 39.4075, Florida Statutes, shall be entitled to read:

PART V
TAKING CHILDREN INTO CUSTODY
AND SHELTER HEARINGS

Section 55. Section 39.395, Florida Statutes, is created to read:

39.395 Taking a child into protective custody; medical or hospital personnel.—Any person in charge of a hospital or similar institution or any physician or licensed health care professional treating a child may keep that child in his or her custody without the consent of the parents, caregiver, or legal custodian, whether or not additional medical treatment is required, if the circumstances are such, or if the condition of the child is such, that continuing the child in the child's place of residence or in the care or custody of the parents, caregiver, or legal custodian presents an imminent danger to the child's life or physical or mental health. Any such person taking a child into protective custody shall immediately notify the department, whereupon the department shall immediately begin a child protective investigation in accordance with the provisions of this chapter and shall make every reasonable effort to immediately notify the parents, caregiver, or legal custodian that such child has been taken into protective custody. If the department determines, according to the criteria set forth in this chapter, that the child should remain in protective custody longer than 24 hours, it shall petition the court for an order authorizing such custody in the same manner as if the child were placed in a shelter. The department shall attempt to avoid the placement of a child in an institution whenever possible.

Section 56. Section 39.401, Florida Statutes, as amended by chapter 97-276, Laws of Florida, is amended to read:

39.401 Taking a child alleged to be dependent into custody*; law enforcement officers and authorized agents of the department*.—

(1) A child may only be taken into custody:

(a) Pursuant to an order of the circuit court issued pursuant to the provisions of this part, based upon sworn testimony, either before or after a petition is filed*; or*.

(b) By a law enforcement officer, or an authorized agent of the department, if the officer or *authorized* agent has probable cause to support a finding of reasonable grounds for removal and that removal is necessary to protect the child. Reasonable grounds for removal are as follows:

1. That the child has been abused, neglected, or abandoned, or is suffering from or is in imminent danger of illness or injury as a result of abuse, neglect, or abandonment;

2. That the *parent, legal custodian, caregiver, or responsible adult relative* ~~custodian~~ of the child has materially violated a condition of placement imposed by the court; or

3. That the child has no parent, legal custodian, *caregiver,* or responsible adult relative immediately known and available to provide supervision and care.

(2) If the *law enforcement officer takes* ~~person taking~~ the child into custody ~~is not an authorized agent of the department~~, that *officer* ~~person~~ shall:

(a) Release the child to*:*

1. The parent, *caregiver, or* ~~guardian,~~ legal custodian *of the child;*~~,~~

2. A responsible adult approved by the court when limited to temporary emergency situations;~~,~~

3. A responsible adult relative who shall be given priority consideration over a nonrelative placement *when this is in the best interests of the child;*~~,~~ or

4. A responsible adult approved by the department; ~~within 3 days following such release, the person taking the child into custody shall make a full written report to the department for cases involving allegations of abandonment, abuse, or neglect or other dependency cases;~~ or

(b) Deliver the child to an authorized agent of the department, stating the facts by reason of which the child was taken into custody and sufficient information to establish probable cause that the child is abandoned, abused, or neglected, or otherwise dependent ~~and make a full written report to the department within 3 days~~.

For cases involving allegations of abandonment, abuse, or neglect, or other dependency cases, within 3 days after such release or within 3 days after delivering the child to an authorized agent of the department, the law enforcement officer who took the child into custody shall make a full written report to the department.

(3) If the child is taken into custody by, or is delivered to, an authorized agent of the department, the authorized agent shall review the facts supporting the removal with *an attorney representing the* department ~~legal staff prior to the emergency shelter hearing~~. The purpose of this review shall be to determine whether probable cause exists for the filing of *a* ~~an emergency~~ shelter petition ~~pursuant to s. 39.402(1)~~. If the facts are not sufficient to support the filing of a *shelter* petition, the child shall immediately be returned to the custody of the parent*, caregiver,* or legal custodian. If the facts are sufficient to support the filing of the *shelter* petition, and the child has not been returned to the custody of the parent*, caregiver,* or legal custodian, the department shall file the *shelter* petition and schedule a *shelter* hearing ~~pursuant to s. 39.402(1)~~, such hearing to be held within 24 hours after the removal of the child. While awaiting the ~~emergency~~ shelter hearing, the authorized agent of the department may place the child in licensed shelter care or may release the child to a parent, ~~guardian,~~ legal custodian*, caregiver, or* responsible adult relative who shall be given priority consideration over a *licensed* ~~nonrelative~~ placement, or responsible adult approved by the department *when this is in the best interests of the child. Any placement of a child which is not in a licensed shelter must be preceded by a local and state criminal records check, as well as a search of the department's automated abuse information system, on all members of the household, to assess the child's safety within the home.* In addition, the department may authorize placement of a housekeeper/homemaker in the home of a child alleged to be dependent until the parent or legal custodian assumes care of the child.

(4) When a child is taken into custody pursuant to this section, the department ~~of Children and Family Services~~ shall request that the child's parent*, caregiver,* or *legal* custodian disclose the names, relationships, and addresses of all parents and prospective parents and all next of kin of the child, so far as are known.

Section 57. Section 39.402, Florida Statutes, as amended by chapter 97-276, Laws of Florida, is amended to read:

39.402 Placement in a shelter.—

(1) Unless ordered by the court under this chapter, a child taken into custody shall not be placed in a shelter prior to a court hearing unless there are reasonable grounds for removal and removal is necessary to protect the child. Reasonable grounds for removal are as follows:

(a) The child has been abused, neglected, or abandoned, or is suffering from or is in imminent danger of illness or injury as a result of abuse, neglect, or abandonment;

(b) The custodian of the child has materially violated a condition of placement imposed by the court; or

(c) The child has no parent, legal custodian*, caregiver,* or responsible adult relative immediately known and available to provide supervision and care.

(2) A child taken into custody may be placed or continued in a shelter only if one or more of the criteria in subsection (1) applies and the court has made a specific finding of fact regarding the necessity for removal of the child from the home and has made a determination that the provision of appropriate and available services will not eliminate the need for placement.

(3) Whenever a child is taken into custody, the department shall immediately notify the parents or legal custodians, shall provide the

parents or legal custodians with a statement setting forth a summary of procedures involved in dependency cases, and shall notify them of their right to obtain their own attorney.

(4) If the department determines that placement in a shelter is necessary under subsections (1) and (2), the authorized agent of the department shall authorize placement of the child in a shelter.

(5)(a) The parents or legal custodians of the child shall be given actual notice of the date, time, and location of the ~~emergency~~ shelter hearing. If the parents *or legal custodians* are outside the jurisdiction of the court, are not known, or cannot be located or refuse or evade service, they shall be given such notice as best ensures their actual knowledge of the date, time, and location of the ~~emergency~~ shelter hearing. The person providing or attempting to provide notice to the parents or legal custodians shall, if the parents or legal custodians are not present at the hearing, advise the court either in person or by sworn affidavit, of the attempts made to provide notice and the results of those attempts.

(b) The parents or legal custodians shall be given written notice that:

~~(b) At the emergency shelter hearing, the department must establish probable cause that reasonable grounds for removal exist and that the provision of appropriate and available services will not eliminate the need for placement.~~

1.~~(c)~~ *They will* ~~The parents or legal custodians shall~~ be given an opportunity to be heard and to present evidence at the ~~emergency~~ shelter hearing*; and*~~.~~

2. They have the right to be represented by counsel, and, if indigent, the right to be represented by appointed counsel, at the shelter hearing and at each subsequent hearing or proceeding, pursuant to the procedures set forth in s. 39.013.

(6)~~(5)~~(a) The circuit court, or the county court~~,~~ if previously designated by the chief judge of the circuit court for such purpose, shall hold the shelter hearing.

(b) The shelter petition filed with the court must address each condition required to be determined by the court in *paragraphs (8)(a) and (b)* ~~subsection (7)~~.

(7)~~(6)~~ A child may not be removed from the home or continued out of the home pending disposition if, with the provision of appropriate and available *early-intervention or preventive* services, including services provided in the home, the child could safely remain at home. If the child's safety and well-being are in danger, the child shall be removed from danger and continue to be removed until the danger has passed. If the child has been removed from the home and the reasons for his or her removal have been remedied, the child may be returned to the home. If the court finds that the prevention or reunification efforts of the department will allow the child to remain safely at home, the court shall allow the child to remain in the home.

(8)~~(7)~~(a) A child may not be held in a shelter longer than 24 hours unless an order so directing is entered by the court after *a* ~~an emergency~~ shelter hearing. *In the interval until the shelter hearing is held, the decision to place the child in a shelter or release the child from a shelter lies with the protective investigator.* ~~At the emergency shelter hearing, the court shall appoint a guardian ad litem to represent the child unless the court finds that such representation is unnecessary.~~

(b) The parents or legal custodians of the child shall be given such notice as best ensures their actual knowledge of the time and place of the *shelter* hearing ~~and shall be given an opportunity to be heard and to present evidence at the emergency shelter hearing~~. *The failure to provide notice to a party or participant does not invalidate an order placing a child in a shelter if the court finds that the petitioner has made a good-faith effort to provide such notice.* The court shall require the parents or *legal* custodians present at the hearing to provide to the court on the record the names, addresses, and relationships of all parents, prospective parents, and next of kin of the child, so far as are known.

(c) At the shelter hearing, the court shall:

1. Appoint a guardian ad litem to represent the child, unless the court finds that such representation is unnecessary;

2. Inform the parents or legal custodians of their right to counsel to represent them at the shelter hearing and at each subsequent hearing or proceeding, and the right of the parents to appointed counsel, pursuant to the procedures set forth in s. 39.013; and

3. Give the parents or legal custodians an opportunity to be heard and to present evidence.

(d) At the shelter hearing, the department must establish probable cause that reasonable grounds for removal exist and that the provision of appropriate and available services will not eliminate the need for placement.

(e) At the shelter hearing, each party shall provide to the court a permanent mailing address. The court shall advise each party that this address will be used by the court and the petitioner for notice purposes unless and until the party notifies the court and the petitioner in writing of a new mailing address.

(f)~~(b)~~ The order for placement of a child in shelter care must identify the parties present at the hearing and must contain written findings:

1. That placement in shelter care is necessary based on the criteria in subsections (1) and (2).

2. That placement in shelter care is in the best interest of the child.

3. That continuation of the child in the home is contrary to the welfare of the child because the home situation presents a substantial and immediate danger to the *child's physical, mental, or emotional health or safety* ~~child~~ which cannot be mitigated by the provision of preventive services.

4. That based upon the allegations of the petition for placement in shelter care, there is probable cause to believe that the child is dependent.

5. That the department has made reasonable efforts to prevent or eliminate the need for removal of the child from the home. A finding of reasonable effort by the department to prevent or eliminate the need for removal may be made and the department is deemed to have made reasonable efforts to prevent or eliminate the need for removal if:

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

b. The appraisal of the home situation by the department indicates that the home situation presents a substantial and immediate danger to the *child's physical, mental, or emotional health or safety* ~~child~~ which cannot be mitigated by the provision of preventive services.

c. The child cannot safely remain at home, either because there are no preventive services that can ensure the *health and* safety of the child or because, even with appropriate and available services being provided, the *health and* safety of the child cannot be ensured.

6. That the court notified the parents or legal custodians of the subsequent dependency proceedings, including scheduled hearings, and of the importance of the active participation of the parents or legal custodians in those subsequent proceedings and hearings.

7. That the court notified the parents or legal custodians of their right to counsel to represent them at the shelter hearing and at each subsequent hearing or proceeding, and the right of the parents to appointed counsel, pursuant to the procedures set forth in s. 39.013.

~~(c) The failure to provide notice to a party or participant does not invalidate an order placing a child in a shelter if the court finds that the petitioner has made a good faith effort to provide such notice.~~

~~(d) In the interval until the shelter hearing is held under paragraph (a), the decision to place the child in a shelter or release the child from a shelter lies with the protective investigator in accordance with subsection (3).~~

(9) At any shelter hearing, the court shall determine visitation rights absent a clear and convincing showing that visitation is not in the best interest of the child.

(10) The shelter hearing order shall contain a written determination as to whether the department has made a reasonable effort to prevent or eliminate the need for removal or continued removal of the child from the home. If the department has not made such an effort, the court shall order the department to provide appropriate and available services to ensure the protection of the child in the home when such services are necessary for the child's health and safety.

~~(8) A child may not be held in a shelter under an order so directing for more than 21 days unless an order of adjudication for the case has been entered by the court. The parent, guardian, or custodian of the child must be notified of any order directing placement of the child in an emergency shelter and, upon request, must be afforded a hearing within 48 hours, excluding Sundays and legal holidays, to review the necessity for continued placement in the shelter for any time periods as provided in this section. At any arraignment hearing or determination of emergency shelter care, the court shall determine visitation rights absent a clear and convincing showing that visitation is not in the best interest of the child, and the court shall make a written determination as to whether the department has made a reasonable effort to prevent or eliminate the need for removal or continued removal of the child from the home. If the department has not made such an effort, the court shall order the department to provide appropriate and available services to assure the protection of the child in the home when such services are necessary for the child's safety. Within 7 days after the child is taken into custody, a petition alleging dependency must be filed and, within 14 days after the child is taken into custody, an arraignment hearing must be held for the child's parent, guardian, or custodian to admit, deny, or consent to the findings of dependency alleged in the petition.~~

(11)~~(12)~~ *If a* ~~When any~~ child is placed in a shelter *pursuant to* ~~under~~ a court order following a shelter hearing, the court shall *prepare a shelter hearing* order *requiring* the parents of the child, or the guardian of the child's estate, if possessed of assets which under law may be disbursed for the care, support, and maintenance of the child, to pay, to the department or institution having custody of the child, fees as established by the department. When the order affects the guardianship estate, a certified copy of the order shall be delivered to the judge having jurisdiction of the guardianship estate.

(12) In the event the shelter hearing is conducted by a judge other than the juvenile court judge, the juvenile court judge shall hold a shelter review on the status of the child within 2 working days after the shelter hearing.

(13)~~(9)~~ *A child may not be held in a shelter under an order so directing for more than 60 days without an adjudication of dependency.* A child may not be held in a shelter for more than 30 days after the entry of an order of adjudication unless an order of disposition ~~under s. 39.41~~ has been entered by the court.

(14)~~(10)~~ The time limitations in *this section* ~~subsection (8)~~ do not include:

(a) Periods of delay resulting from a continuance granted at the request or with the consent of the child's counsel or the child's guardian ad litem, if one has been appointed by the court, or, if the child is of sufficient capacity to express reasonable consent, at the request or with the consent of the child's attorney or the child's guardian ad litem, if one has been appointed by the court, and the child.

(b) Periods of delay resulting from a continuance granted at the request of the attorney for the department, if the continuance is granted:

1. Because of an unavailability of evidence material to the case when the attorney for the department has exercised due diligence to obtain such evidence and there are substantial grounds to believe that such evidence will be available within 30 days. However, if the department is not prepared to present its case within 30 days, the parent or *legal custodian* ~~guardian~~ may move for issuance of an order to show cause or the court on its own motion may impose appropriate sanctions, which may include dismissal of the petition.

2. To allow the attorney for the department additional time to prepare the case and additional time is justified because of an exceptional circumstance.

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

(d) Reasonable periods of delay resulting from a continuance granted at the request of the parent or legal custodian of a subject child.

(15) At the conclusion of a shelter hearing, the court shall notify all parties in writing of the next scheduled hearing to review the shelter placement. Such hearing shall be held no later than 30 days after placement of the child in shelter status, in conjunction with the arraignment hearing.

~~(11) The court shall review the necessity for a child's continued placement in a shelter in the same manner as the initial placement decision was made and shall make a determination regarding the continued placement:~~

~~(a) Within 24 hours after any violation of the time requirements for the filing of a petition or the holding of an arraignment hearing as prescribed in subsection (8); or~~

~~(b) Prior to the court's granting any delay as specified in subsection (10).~~

Section 58. Section 39.407, Florida Statutes, is amended to read:

39.407 Medical, psychiatric, and psychological examination and treatment of child; physical or mental examination of parent~~, guardian,~~ or person requesting custody of child.—

(1) When any child is taken into custody and is to be detained in shelter care, the department is authorized to have a medical screening performed on the child without authorization from the court and without consent from a parent or *legal custodian* ~~guardian~~. Such medical screening shall be performed by a licensed health care professional and shall be to examine the child for injury, illness, and communicable diseases and to determine the need for immunization. The department shall by rule establish the invasiveness of the medical procedures authorized to be performed under this subsection. In no case does this subsection authorize the department to consent to medical treatment for such children.

(2) When the department has performed the medical screening authorized by subsection (1), or when it is otherwise determined by a licensed health care professional that a child who is in the custody of the department, but who has not been committed to the department ~~pursuant to s. 39.41~~, is in need of medical treatment, including the need for immunization, consent for medical treatment shall be obtained in the following manner:

(a)1. Consent to medical treatment shall be obtained from a parent or *legal custodian* ~~guardian~~ of the child; or

2. A court order for such treatment shall be obtained.

(b) If a parent or *legal custodian* ~~guardian~~ of the child is unavailable and his or her whereabouts cannot be reasonably ascertained, and it is after normal working hours so that a court order cannot reasonably be obtained, an authorized agent of the department shall have the authority to consent to necessary medical treatment, including immunization, for the child. The authority of the department to consent to medical treatment in this circumstance shall be limited to the time reasonably necessary to obtain court authorization.

(c) If a parent or *legal custodian* ~~guardian~~ of the child is available but refuses to consent to the necessary treatment, including immunization, a court order shall be required unless the situation meets the definition of an emergency in s. 743.064 or the treatment needed is

related to suspected abuse, *abandonment*, or neglect of the child by a parent, *caregiver, or legal custodian* ~~or guardian~~. In such case, the department shall have the authority to consent to necessary medical treatment. This authority is limited to the time reasonably necessary to obtain court authorization.

In no case shall the department consent to sterilization, abortion, or termination of life support.

(3) A judge may order a child in the physical custody of the department to be examined by a licensed health care professional. The judge may also order such child to be evaluated by a psychiatrist or a psychologist, by a district school board educational needs assessment team, or, if a developmental disability is suspected or alleged, by the developmental disability diagnostic and evaluation team of the department. If it is necessary to place a child in a residential facility for such evaluation, then the criteria and procedure established in s. 394.463(2) or chapter 393 shall be used, whichever is applicable. The educational needs assessment provided by the district school board educational needs assessment team shall include, but not be limited to, reports of intelligence and achievement tests, screening for learning disabilities and other handicaps, and screening for the need for alternative education as defined in s. *230.23* ~~230.2315(2)~~.

(4) A judge may order a child in the physical custody of the department to be treated by a licensed health care professional based on evidence that the child should receive treatment. The judge may also order such child to receive mental health or retardation services from a psychiatrist, psychologist, or other appropriate service provider. If it is necessary to place the child in a residential facility for such services, then the procedures and criteria established in s. 394.467 or chapter 393 shall be used, whichever is applicable. A child may be provided mental health or retardation services in emergency situations, pursuant to the procedures and criteria contained in s. 394.463(1) or chapter 393, whichever is applicable.

(5) When a child is in the physical custody of the department, a licensed health care professional shall be immediately called if there are indications of physical injury or illness, or the child shall be taken to the nearest available hospital for emergency care.

(6) Except as otherwise provided herein, nothing in this section shall be deemed to eliminate the right of a parent, *legal custodian* ~~guardian~~, or the child to consent to examination or treatment for the child.

(7) Except as otherwise provided herein, nothing in this section shall be deemed to alter the provisions of s. 743.064.

(8) A court shall not be precluded from ordering services or treatment to be provided to the child by a duly accredited practitioner who relies solely on spiritual means for healing in accordance with the tenets and practices of a church or religious organization, when required by the child's health and when requested by the child.

(9) Nothing in this section shall be construed to authorize the permanent sterilization of the child unless such sterilization is the result of or incidental to medically necessary treatment to protect or preserve the life of the child.

(10) For the purpose of obtaining an evaluation or examination, or receiving treatment as authorized pursuant to this *section* ~~subsection~~, no child alleged to be or found to be dependent shall be placed in a detention home or other program used primarily for the care and custody of children alleged or found to have committed delinquent acts.

(11) The parents or *legal custodian* ~~guardian~~ of a child in the physical custody of the department remain financially responsible for the cost of medical treatment provided to the child even if either one or both of the parents or if the *legal custodian* ~~guardian~~ did not consent to the medical treatment. After a hearing, the court may order the parents or *legal custodian* ~~guardian~~, if found able to do so, to reimburse the department or other provider of medical services for treatment provided.

(12) Nothing in this section alters the authority of the department to consent to medical treatment for a dependent child when the child has been committed to the department ~~pursuant to s. 39.41,~~ and the department has become the legal custodian of the child.

(13) At any time after the filing of a *shelter petition or* petition for dependency, when the mental or physical condition, including the blood group, of a parent, *caregiver, legal custodian* ~~guardian~~, or other person requesting custody of a child is in controversy, the court may order the person to submit to a physical or mental examination by a qualified professional. The order may be made only upon good cause shown and pursuant to notice and procedures as set forth by the Florida Rules of Juvenile Procedure.

Section 59. Section 39.4033, Florida Statutes, is renumbered as section 39.4075, Florida Statutes, and amended to read:

39.4075 ~~39.4033~~ Referral of a dependency case to mediation.—

(1) At any stage in a dependency proceeding, ~~the case staffing committee or~~ any party may request the court to refer the parties to mediation in accordance with chapter 44 and rules and procedures developed by the Supreme Court.

(2) A court may refer the parties to mediation. *When such services are available, the court must determine whether it is in the best interests of the child to refer the parties to mediation.*

(3) The department shall advise the *parties* ~~parents or legal guardians~~ that they are responsible for contributing to the cost of the *dependency* ~~family~~ mediation to the extent of their ability to pay.

(4) This section applies only to courts in counties in which dependency mediation programs have been established and does not require the establishment of such programs in any county.

Section 60. Part VI of chapter 39, Florida Statutes, consisting of sections 39.501, 39.502, 39.503, 39.504, 39.505, 39.506, 39.507, 39.508, 39.5085, 39.509, and 39.5101, Florida Statutes, shall be entitled to read:

PART VI
PETITION, ARRAIGNMENT, ADJUDICATION, AND DISPOSITION

Section 61. Section 39.404, Florida Statutes, is renumbered as section 39.501, Florida Statutes, and amended to read:

39.501 ~~39.404~~ Petition for dependency.—

(1) All proceedings seeking an adjudication that a child is dependent shall be initiated by the filing of a petition by an attorney for the department, or any other person who has knowledge of the facts alleged or is informed of them and believes that they are true.

(2) The purpose of a petition seeking the adjudication of a child as a dependent child is the protection of the child and not the punishment of the person creating the condition of dependency.

(3)(a) The petition shall be in writing, shall identify and list all parents, if known, and all current *caregivers or legal* custodians of the child, and shall be signed by the petitioner under oath stating the petitioner's good faith in filing the petition. When the petition is filed by the department, it shall be signed by an attorney for the department.

(b) The form of the petition and its contents shall be determined by rules of *juvenile* procedure adopted by the Supreme Court.

(c) The petition must specifically set forth the acts or omissions upon which the petition is based and the identity of the person or persons alleged to have committed the acts or omissions, if known. The petition need not contain allegations of acts or omissions by both parents.

(d) The petitioner must state in the petition, if known, whether:

1. A parent, legal custodian, or *caregiver* ~~person responsible for the child's welfare~~ named in the petition has *previously* unsuccessfully participated in voluntary services offered by the department;

2. A parent *or*~~,~~ legal custodian~~, or person responsible for the child's welfare~~ named in the petition has participated in mediation and whether a mediation agreement exists;

3. A parent *or*~~,~~ legal custodian~~, or person responsible for the child's welfare~~ has rejected the voluntary services offered by the department; or

4. The department has determined that voluntary services are not appropriate for this family and the reasons for such determination.

(4) When *a child has been placed in shelter status by order of the court* ~~the child has been taken into custody~~, a petition alleging dependency must be filed within 7 days *upon demand of a party, but no later than 21 days after the shelter hearing* ~~after the date the child is taken into custody~~. In all other cases, the petition must be filed within a reasonable time after the date the child was referred to protective investigation ~~under s. 39.403~~. *The child's parent, guardian, or custodian must be served with a copy of the petition at least 72 hours before the arraignment hearing.*

(5) A petition for termination of parental rights ~~under s. 39.464~~ may be filed at any time.

Section 62. Section 39.405, Florida Statutes, as amended by chapter 97-276, Laws of Florida, is renumbered as section 39.502, Florida Statutes, and amended to read:

39.502 ~~39.405~~ Notice, process, and service.—

(1) Unless parental rights have been terminated, all parents *and legal custodians* must be notified of all proceedings *or hearings* involving the child. Notice in cases involving shelter hearings and hearings resulting from medical emergencies must be that most likely to result in actual notice to the parents *and legal custodians*. In all other dependency proceedings, notice must be provided in accordance with subsections (4) through (9).

(2) Personal appearance of any person in a hearing before the court obviates the necessity of serving process on that person.

(3) Upon the filing of a petition containing allegations of facts which, if true, would establish that the child is a dependent child, and upon the request of the petitioner, the clerk or deputy clerk shall issue a summons.

(4) The summons shall require the person on whom it is served to appear for a hearing at a time and place specified, not less than 24 hours after service of the summons. A copy of the petition shall be attached to the summons.

(5) The summons shall be directed to, and shall be served upon, all parties other than the petitioner.

(6) It is the duty of the petitioner or moving party to notify all participants and parties known to the petitioner or moving party of all hearings subsequent to the initial hearing unless notice is contained in prior court orders and these orders were provided to the participant or party. Proof of notice or provision of orders may be provided by certified mail with a signed return receipt.

(7) Service of the summons and service of pleadings, papers, and notices subsequent to the summons on persons outside this state must be made pursuant to s. 61.1312.

(8) It is not necessary to the validity of a proceeding covered by this part that the parents, *caregivers,* or legal custodians be present if their identity or residence is unknown after a diligent search has been made, *but in this event the petitioner shall file an affidavit of diligent search prepared by the person who made the search and inquiry, and the court may appoint a guardian ad litem for the child.*

(9) When an affidavit of diligent search has been filed under subsection (8), the petitioner shall continue to search for and attempt to serve the person sought until excused from further search by the court. The petitioner shall report on the results of the search at each court hearing until the person is identified or located or further search is excused by the court.

(10)~~(9)~~ Service by publication shall not be required for dependency hearings and the failure to serve a party or give notice to a participant shall not affect the validity of an order of adjudication or disposition if the court finds that the petitioner has completed a diligent search for that party or participant.

(11)~~(10)~~ Upon the application of a party or the petitioner, the clerk or deputy clerk shall issue, and the court on its own motion may issue, subpoenas requiring attendance and testimony of witnesses and production of records, documents, and other tangible objects at any hearing.

(12)~~(11)~~ All process and orders issued by the court shall be served or executed as other process and orders of the circuit court and, in addition, may be served or executed by authorized agents of the department or the guardian ad litem.

(13)~~(12)~~ Subpoenas may be served within the state by any person over 18 years of age who is not a party to the proceeding and, in addition, may be served by authorized agents of the department.

(14)~~(13)~~ No fee shall be paid for service of any process or other papers by an agent of the department or the guardian ad litem. If any process, orders, or any other papers are served or executed by any sheriff, the sheriff's fees shall be paid by the county.

~~(14) Failure of a person served with notice to respond or appear at the arraignment hearing constitutes the person's consent to a dependency adjudication. The document containing the notice to respond or appear must contain, in type at least as large as the balance of the document, the following or substantially similar language: "FAILURE TO RESPOND TO THIS NOTICE OR TO APPEAR AT THIS HEARING CONSTITUTES CONSENT TO THE ADJUDICATION OF THIS CHILD (OR THESE CHILDREN) AS DEPENDENT CHILDREN AND MAY ULTIMATELY RESULT IN LOSS OF CUSTODY OF THIS CHILD."~~

(15) A party who is identified as a *person with mental illness or with a developmental disability* ~~developmentally disabled person~~ must be informed by the court of the availability of advocacy services through the department, the Association for Retarded Citizens, or other appropriate *mental health or developmental disability* advocacy groups and encouraged to seek such services.

(16) If the party to whom an order is directed is present or represented at the final hearing, service of the order is not required.

(17) The parent or legal custodian of the child, the attorney for the department, the guardian ad litem, and all other parties and participants shall be given reasonable notice of all hearings provided for under this part.

(18) In all proceedings under this chapter, the court shall provide to the parent or legal custodian of the child, at the conclusion of any hearing, a written notice containing the date of the next scheduled hearing. The court shall also include the date of the next hearing in any order issued by the court.

Section 63. Section 39.4051, Florida Statutes, as amended by chapter 97-276, Laws of Florida, is renumbered as section 39.503, Florida Statutes, and amended to read:

39.503 ~~39.4051~~ Identity or location of parent *or legal custodian* unknown; special procedures.—

(1) If the identity or location of a parent *or legal custodian* is unknown and a petition for dependency or shelter is filed, the court shall conduct the following inquiry of the parent *or legal custodian* who is available, or, if no parent *or legal custodian* is available, of any relative or custodian of the child who is present at the hearing and likely to have the information:

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

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

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

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

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

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

(3) If the inquiry under subsection (1) identifies any person as a parent or prospective parent, the court shall require notice of the hearing to be provided to that person.

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

(5) If the inquiry under subsection (1) identifies a parent or prospective parent, and that person's location is unknown, the *court shall direct the* department *to* ~~shall~~ conduct a diligent search for that person before ~~the~~ scheduling ~~of~~ a disposition hearing regarding the dependency of the child unless the court finds that the best interest of the child requires proceeding without notice to the person whose location is unknown.

(6) The diligent search required by subsection (5) must include, at a minimum, inquiries of all relatives of the parent or prospective parent made known to the petitioner, inquiries of all offices of program areas of the department likely to have information about the parent or prospective parent, inquiries of other state and federal agencies likely to have information about the parent or prospective parent, inquiries of appropriate utility and postal providers, and inquiries of appropriate law enforcement agencies. *Pursuant to s. 453 of the Social Security Act, 42 U.S.C. 653(c)(B)(4), the department, as the state agency administering Titles IV-B and IV-E of the act, shall be provided access to the federal and state parent locator service for diligent search activities.*

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

(8) If the inquiry and diligent search identifies a prospective parent, that person must be given the opportunity to become a party to the proceedings by completing a sworn affidavit of parenthood and filing it with the court or the department. A prospective parent who files a sworn affidavit of parenthood while the child is a dependent child but no later than at the time of or prior to the adjudicatory hearing in any termination of parental rights proceeding for the child shall be considered a parent for all purposes under this section unless the other parent contests the determination of parenthood. If the known parent contests the recognition of the prospective parent as a parent, the prospective parent shall not be recognized as a parent until proceedings under chapter 742 have been concluded. However, the prospective parent shall continue to receive notice of hearings as a participant pending results of the chapter 742 proceedings.

Section 64. Section 39.4055, Florida Statutes, is renumbered as section 39.504, Florida Statutes, and amended to read:

39.504 ~~39.4055~~ Injunction pending disposition of petition for ~~detention or~~ dependency; penalty.—

(1)(a) When a petition for detention or a petition for dependency has been filed or when a child has been taken into custody and reasonable cause, as defined in paragraph (b), exists, the court, upon the request of the department, a law enforcement officer, the state attorney, or other responsible person, or upon its own motion, shall have the authority to issue an injunction to prevent any act of child abuse or any unlawful sexual offense involving a child.

(b) Reasonable cause for the issuance of an injunction exists if there is evidence of child abuse or an unlawful sexual offense involving a child or if there is a reasonable likelihood of such abuse or offense occurring based upon a recent overt act or failure to act.

(2)~~(a)~~ Notice shall be provided to the parties as set forth in the Florida Rules of Juvenile Procedure, unless the child is reported to be in imminent danger, in which case the court may issue an injunction immediately. *A judge may issue an emergency injunction pursuant to this section without notice at times when the court is closed for the transaction of judicial business.* When such an immediate injunction is issued, the court shall hold a hearing on the next day of judicial business either to dissolve the injunction or to continue or modify it in accordance with the other provisions of this section.

~~(b) A judge may issue an emergency injunction pursuant to this section at times when the court is closed for the transaction of judicial business. The court shall hold a hearing on the next day of judicial business either to dissolve the emergency injunction or to continue or modify it in accordance with the other provisions of this section.~~

(3)(a) In every instance in which an injunction is issued under this section, the purpose of the injunction shall be primarily to protect and promote the best interests of the child, taking the preservation of the child's immediate family into consideration. The effective period of the injunction shall be determined by the court, except that the injunction will expire at the time of the disposition of the petition for detention or dependency.

(b) The injunction shall apply to the alleged or actual offender in a case of child abuse or an unlawful sexual offense involving a child. The conditions of the injunction shall be determined by the court, which conditions may include ordering the alleged or actual offender to:

1. Refrain from further abuse or unlawful sexual activity involving a child.

2. Participate in a specialized treatment program.

3. Limit contact or communication with the child victim, other children in the home, or any other child.

4. Refrain from contacting the child at home, school, work, or wherever the child may be found.

5. Have limited or supervised visitation with the child.

6. Pay temporary support for the child or other family members; the costs of medical, psychiatric, and psychological treatment for the child victim incurred as a result of the offenses; and similar costs for other family members.

7. Vacate the home in which the child resides.

(c) At any time prior to the disposition of the petition, the alleged or actual offender may offer the court evidence of changed circumstances as a ground to dissolve or modify the injunction.

(4) A copy of any injunction issued pursuant to this section shall be delivered to the protected party, or a parent *or caregiver* or ~~an~~ individual acting in the place of a parent who is not the respondent, and to any law enforcement agency having jurisdiction to enforce such injunction. Upon delivery of the injunction to the appropriate law enforcement agency, the agency shall have the duty and responsibility to enforce the injunction.

(5) Any person who fails to comply with an injunction issued pursuant to this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 65. Section 39.406, Florida Statutes, is renumbered as section 39.505, Florida Statutes, and amended to read:

39.505 ~~39.406~~ No answer required.—No answer to the petition or any other pleading need be filed by any child, parent, or legal custodian,

but any matters which might be set forth in an answer or other pleading may be pleaded orally before the court or filed in writing as any such person may choose. Notwithstanding the filing of an answer or any pleading, the *respondent* ~~child or parent~~ shall, prior to an adjudicatory hearing, be advised by the court of the right to counsel and shall be given an opportunity to deny the allegations in the petition for dependency or to enter a plea to allegations in the petition before the court.

Section 66. Section 39.408, Florida Statutes, is renumbered as section 39.506, Florida Statutes, and amended to read:

39.506 ~~39.408~~ *Arraignment* hearings ~~for dependency cases~~.—

(1) ~~ARRAIGNMENT HEARING.—~~

~~(a)~~ When a child has been detained by order of the court, an arraignment hearing must be held, within *7 days after the date of filing of the dependency petition* ~~14 days from the date the child is taken into custody~~, for the parent~~, guardian,~~ or *legal* custodian to admit, deny, or consent to findings of dependency alleged in the petition. If the parent~~, guardian,~~ or *legal* custodian admits or consents to the findings in the petition, the court shall proceed as set forth in the Florida Rules of Juvenile Procedure. However, if the parent~~, guardian,~~ or *legal* custodian denies any of the allegations of the petition, the court shall hold an adjudicatory hearing within *30 days after* ~~7 days from~~ the date of the arraignment hearing unless a continuance is granted pursuant to *this chapter* ~~s. 39.402(11)~~.

(2)~~(b)~~ When a child is in the custody of the parent~~, guardian,~~ or *legal* custodian, upon the filing of a petition the clerk shall set a date for an arraignment hearing within a reasonable time after the date of the filing. If the parent~~, guardian,~~ or *legal* custodian admits or consents to an adjudication, the court shall proceed as set forth in the Florida Rules of Juvenile Procedure. However, if the parent~~, guardian,~~ or *legal* custodian denies any of the allegations of dependency, the court shall hold an adjudicatory hearing within a reasonable time after the date of the arraignment hearing.

(3) Failure of a person served with notice to respond or appear at the arraignment hearing constitutes the person's consent to a dependency adjudication. The document containing the notice to respond or appear must contain, in type at least as large as the balance of the document, the following or substantially similar language: "FAILURE TO RESPOND TO THIS NOTICE OR TO PERSONALLY APPEAR AT THE ARRAIGNMENT HEARING CONSTITUTES CONSENT TO THE ADJUDICATION OF THIS CHILD (OR CHILDREN) AS A DEPENDENT CHILD (OR CHILDREN) AND MAY ULTIMATELY RESULT IN LOSS OF CUSTODY OF THIS CHILD (OR CHILDREN)."

(4) At the arraignment hearing, each party shall provide to the court a permanent mailing address. The court shall advise each party that this address will be used by the court and the petitioner for notice purposes unless and until the party notifies the court and the petitioner in writing of a new mailing address.

(5)~~(c)~~ If at the arraignment hearing the parent~~, guardian,~~ or *legal* custodian consents or admits to the allegations in the petition, the court shall proceed to hold a dispositional hearing *no more than 15 days after the date of the arraignment hearing unless a continuance is necessary* ~~at the earliest practicable time that will allow for the completion of a predisposition study~~.

(6) At any arraignment hearing, the court shall order visitation rights absent a clear and convincing showing that visitation is not in the best interest of the child.

(7) The court shall review whether the department has made a reasonable effort to prevent or eliminate the need for removal or continued removal of the child from the home. If the court determines that the department has not made such an effort, the court shall order the department to provide appropriate and available services to assure the protection of the child in the home when such services are necessary for the child's physical, mental, or emotional health and safety.

(8) At the arraignment hearing, and no more than 15 days thereafter, the court shall review the necessity for the child's continued placement in the shelter. The court shall also make a written determination regarding the child's continued placement in the shelter within 24 hours after any violation of the time requirements for the filing of a petition or prior to the court's granting any continuance as specified in subsection (5).

(9) At the conclusion of the arraignment hearing, all parties shall be notified in writing by the court of the date, time, and location for the next scheduled hearing.

~~(2) ADJUDICATORY HEARING.—~~

~~(a) The adjudicatory hearing shall be held as soon as practicable after the petition for dependency is filed and in accordance with the Florida Rules of Juvenile Procedure, but reasonable delay for the purpose of investigation, discovery, or procuring counsel or witnesses shall, whenever practicable, be granted. If the child is in custody, the time limitations provided in s. 39.402 and subsection (1) of this section apply.~~

~~(b) Adjudicatory hearings shall be conducted by the judge without a jury, applying the rules of evidence in use in civil cases and adjourning the hearings from time to time as necessary. In a hearing on a petition in which it is alleged that the child is dependent, a preponderance of evidence will be required to establish the state of dependency. Any evidence presented in the dependency hearing which was obtained as the result of an anonymous call must be independently corroborated. In no instance shall allegations made in an anonymous report of abuse be sufficient to support an adjudication of dependency in the absence of corroborating evidence.~~

~~(c) All hearings, except as provided in this section, shall be open to the public, and a person may not be excluded except on special order of the judge, who may close any hearing to the public upon determining that the public interest or the welfare of the child is best served by so doing. However, the parents shall be allowed to obtain discovery pursuant to the Florida Rules of Juvenile Procedure. However, nothing in this paragraph shall be construed to affect the provisions of s. 415.51(9). Hearings involving more than one child may be held simultaneously when the children involved are related to each other or were involved in the same case. The child and the parents or legal custodians of the child may be examined separately and apart from each other.~~

~~(3) DISPOSITION HEARING. At the disposition hearing, if the court finds that the facts alleged in the petition for dependency were proven in the adjudicatory hearing, or if the parents have consented to the finding of dependency or admitted the allegations in the petition, have failed to appear for the arraignment hearing after proper notice, or have not been located despite a diligent search having been conducted, the court shall receive and consider a predisposition study, which must be in writing and presented by an authorized agent of the department.~~

~~(a) The predisposition study shall cover for any dependent child all factors specified in s. 61.13(3), and must also provide the court with the following documented information:~~

~~1. An assessment defining the dangers and risks of returning the child home, including a description of the changes in and resolutions to the initial risks.~~

~~2. A description of what risks are still present and what resources are available and will be provided for the protection and safety of the child.~~

~~3. A description of the benefits of returning the child home.~~

~~4. A description of all unresolved issues.~~

~~5. An abuse registry history for all caretakers, family members, and individuals residing within the household.~~

~~6. The complete child protection team report and recommendation or, if no report exists, a statement reflecting that no report has been made.~~

~~7. All opinions or recommendations from other professionals or agencies that provide evaluative, social, reunification, or other services to the family.~~

~~8. The availability of appropriate prevention and reunification services for the family to prevent the removal of the child from the home or to reunify the child with the family after removal, including the availability of family preservation services through the Family Builders Program, the Intensive Crisis Counseling Program, or both.~~

~~9. The inappropriateness of other prevention and reunification services that were available.~~

~~10. The efforts by the department to prevent out-of-home placement of the child or, when applicable, to reunify the family if appropriate services were available, including the application of intensive family preservation services through the Family Builders Program, the Intensive Crisis Counseling Program, or both.~~

~~11. Whether the services were provided to the family and child.~~

~~12. If the services were provided, whether they were sufficient to meet the needs of the child and the family and to enable the child to remain at home or to be returned home.~~

~~13. If the services were not provided, the reasons for such lack of action.~~

~~14. The need for, or appropriateness of, continuing the services if the child remains in the custody of the family or if the child is placed outside the home.~~

~~15. Whether family mediation was provided.~~

~~16. Whether a multidisciplinary case staffing was conducted and, if so, the results.~~

~~17. If the child has been removed from the home and there is a parent who may be considered for custody pursuant to s. 39.41(1), a recommendation as to whether placement of the child with that parent would be detrimental to the child.~~

~~(b) If placement of the child with anyone other than the child's parent or custodian is being considered, the study shall include the designation of a specific length of time as to when custody by the parent or custodian will be reconsidered.~~

~~(c) A copy of the predisposition study must be furnished to all parties no later than 48 hours before the disposition hearing.~~

~~(d) The predisposition study may not be made before the adjudication of dependency unless the parents or custodians of the child consent.~~

~~Any other relevant and material evidence, including other written or oral reports, may be received by the court in its effort to determine the action to be taken with regard to the child and may be relied upon to the extent of its probative value, even though not competent in an adjudicatory hearing. Except as provided in paragraph (2)(c), nothing in this section prohibits the publication of proceedings in a hearing.~~

~~(4) NOTICE OF HEARINGS.—The parent or legal custodian of the child, the attorney for the department, the guardian ad litem, and all other parties and participants shall be given reasonable notice of all hearings provided for under this section.~~

Section 67. Section 39.409, Florida Statutes, is renumbered as section 39.507, Florida Statutes, and amended to read:

39.507 ~~39.409~~ *Adjudicatory hearings;* orders of adjudication.—

(1)(a) The adjudicatory hearing shall be held as soon as practicable after the petition for dependency is filed and in accordance with the Florida Rules of Juvenile Procedure, but no later than 30 days after the arraignment.

(b) Adjudicatory hearings shall be conducted by the judge without a jury, applying the rules of evidence in use in civil cases and adjourning the hearings from time to time as necessary. In a hearing on a petition in which it is alleged that the child is dependent, a preponderance of evidence will be required to establish the state of dependency. Any evidence presented in the dependency hearing which was obtained as the result of an anonymous call must be independently corroborated. In no instance shall allegations made in an anonymous report of abuse, abandonment, or neglect be sufficient to support an adjudication of dependency in the absence of corroborating evidence.

(2) All hearings, except as provided in this section, shall be open to the public, and a person may not be excluded except on special order of the judge, who may close any hearing to the public upon determining that the public interest or the welfare of the child is best served by so doing. However, the parents shall be allowed to obtain discovery pursuant to the Florida Rules of Juvenile Procedure. However, nothing in this subsection shall be construed to affect the provisions of s. 39.202. Hearings involving more than one child may be held simultaneously when the children involved are related to each other or were involved in the same case. The child and the parents, caregivers, or legal custodians of the child may be examined separately and apart from each other.

(3) Except as otherwise specifically provided, nothing in this section prohibits the publication of the proceedings in a hearing.

(4)~~(1)~~ If the court finds *at the adjudicatory hearing* that the child named in a petition is not dependent, it shall enter an order so finding and dismissing the case.

(5)~~(2)~~ If the court finds that the child named in the petition is dependent, but finds that no action other than supervision in the child's home is required, it may enter an order briefly stating the facts upon which its finding is based, but withholding an order of adjudication and placing the child's home under the supervision of the department. If the court later finds that the *parents, caregivers, or legal* custodians of the child have not complied with the conditions of supervision imposed, the court may, after a hearing to establish the noncompliance, but without further evidence of the state of dependency, enter an order of adjudication and shall thereafter have full authority under this chapter to provide for the child as adjudicated.

(6)~~(3)~~ If the court finds that the child named in a petition is dependent, but shall elect not to proceed under subsection *(5)* ~~(2)~~, it shall incorporate that finding in an order of adjudication entered in the case, briefly stating the facts upon which the finding is made, and the court shall thereafter have full authority under this chapter to provide for the child as adjudicated.

(7) At the conclusion of the adjudicatory hearing, if the child named in the petition is found dependent, the court shall schedule the disposition hearing within 30 days after the filing of the adjudicatory order. All parties shall be notified in writing by the court of the date, time, and location of the disposition hearing.

(8)~~(4)~~ An order of adjudication by a court that a child is dependent shall not be deemed a conviction, nor shall the child be deemed to have been found guilty or to be a criminal by reason of that adjudication, nor shall that adjudication operate to impose upon the child any of the civil disabilities ordinarily imposed by or resulting from conviction or disqualify or prejudice the child in any civil service application or appointment.

Section 68. Section 39.41, Florida Statutes, as amended by chapter 97-276, Laws of Florida, is renumbered as section 39.508, Florida Statutes, and amended to read:

39.508 ~~39.41~~ Powers of disposition.—

(1) At the disposition hearing, if the court finds that the facts alleged in the petition for dependency were proven in the adjudicatory hearing, or if the parents, caregivers, or legal custodians have consented to the finding of dependency or admitted the allegations in the petition, have failed to appear for the arraignment hearing after proper notice, or have not been located despite a diligent search having been conducted, the court shall receive and consider a case plan and a predisposition study, which must be in writing and presented by an authorized agent of the department.

(2) The predisposition study shall cover for any dependent child all factors specified in s. 61.13(3), and must also provide the court with the following documented information:

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

(b) A description of what risks are still present and what resources are available and will be provided for the protection and safety of the child.

(c) A description of the benefits of returning the child home.

(d) A description of all unresolved issues.

(e) An abuse registry history and criminal records check for all caregivers, family members, and individuals residing within the household.

(f) The complete child protection team report and recommendation or, if no report exists, a statement reflecting that no report has been made.

(g) All opinions or recommendations from other professionals or agencies that provide evaluative, social, reunification, or other services to the family.

(h) The availability of appropriate prevention and reunification services for the family to prevent the removal of the child from the home or to reunify the child with the family after removal, including the availability of family preservation services through the Family Builders Program, the Intensive Crisis Counseling Program, or both.

(i) The inappropriateness of other prevention and reunification services that were available.

(j) The efforts by the department to prevent out-of-home placement of the child or, when applicable, to reunify the family if appropriate services were available, including the application of intensive family preservation services through the Family Builders Program, the Intensive Crisis Counseling Program, or both.

(k) Whether the services were provided to the family and child.

(l) If the services were provided, whether they were sufficient to meet the needs of the child and the family and to enable the child to remain safely at home or to be returned home.

(m) If the services were not provided, the reasons for such lack of action.

(n) The need for, or appropriateness of, continuing the services if the child remains in the custody of the family or if the child is placed outside the home.

(o) Whether family mediation was provided.

(p) If the child has been removed from the home and there is a parent, caregiver, or legal custodian who may be considered for custody pursuant to this section, a recommendation as to whether placement of the child with that parent, caregiver, or legal custodian would be detrimental to the child.

(q) If the child has been removed from the home and will be remaining with a relative or caregiver, a home study report shall be included in the predisposition report.

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

(3)(a) Prior to recommending to the court any out-of-home placement for a child other than placement in a licensed shelter or foster home, the department shall conduct a study of the home of the proposed caregivers, which must include, at a minimum:

1. An interview with the proposed adult caregivers to assess their ongoing commitment and ability to care for the child.

2. Records checks through the department's automated abuse information system, and local and statewide criminal and juvenile records checks through the Department of Law Enforcement, on all household members 12 years of age or older and any other persons made known to the department who are frequent visitors in the home.

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

4. A determination of the financial security of the proposed caregivers.

5. A determination of suitable child care arrangements if the proposed caregivers are employed outside of the home.

6. Documentation of counseling and information provided to the proposed caregivers regarding the dependency process and possible outcomes.

7. Documentation that information regarding support services available in the community has been provided to the caregivers.

(b) The department shall not place the child or continue the placement of the child in the home of the proposed caregivers if the results of the home study are unfavorable.

(4) If placement of the child with anyone other than the child's parent, caregiver, or legal custodian is being considered, the predisposition study shall include the designation of a specific length of time as to when custody by the parent, caregiver, or legal custodian will be reconsidered.

(5) The predisposition study may not be made before the adjudication of dependency unless the parents*, caregivers,* or *legal* custodians of the child consent.

(6) A case plan and predisposition study must be filed with the court and served upon the parents, caregivers, or legal custodians of the child, provided to the representative of the guardian ad litem program, if the program has been appointed, and provided to all other parties not less than 72 hours before the disposition hearing. All such case plans must be approved by the court. If the court does not approve the case plan at the disposition hearing, the court must set a hearing within 30 days after the disposition hearing to review and approve the case plan.

(7) The initial judicial review must be held no later than 90 days after the date of the disposition hearing or after the date of the hearing at which the court approves the case plan, but in no event shall the review be held later than 6 months after the date of the child's removal from the home.

(8)~~(1)~~ When any child is adjudicated by a court to be dependent, and the court finds that removal of the child from the custody of a parent, *legal custodian, or caregiver* is necessary, the court shall first determine whether there is a parent with whom the child was not residing at the time the events or conditions arose that brought the child within the jurisdiction of the court who desires to assume custody of the child and, if such parent requests custody, the court shall place the child with the parent unless it finds that such placement would endanger the safety, ~~and~~ well-being*, or physical, mental, or emotional health* of the child. Any party with knowledge of the facts may present to the court evidence regarding whether the placement will endanger the safety, ~~and~~ well-being*, or physical, mental, or emotional health* of the child. If the court places the child with such parent, it may do either of the following:

(a) Order that the parent become the legal and physical custodian of the child. The court may also provide for reasonable visitation by the noncustodial parent. The court shall then terminate its jurisdiction over the child. The custody order shall continue unless modified by a subsequent order of the court. The order of the juvenile court shall be filed in any dissolution or other custody action or proceeding between the parents.

(b) Order that the parent assume custody subject to the jurisdiction of the juvenile court. The court may order that reunification services be provided to the parent*, caregiver, or legal custodian* ~~or guardian~~ from whom the child has been removed, that services be provided solely to the

parent who is assuming physical custody in order to allow that parent to retain later custody without court jurisdiction, or that services be provided to both parents, in which case the court shall determine at *every* review *hearing* ~~hearings held every 6 months~~ which parent, if either, shall have custody of the child. The standard for changing custody of the child from one parent to another *or to a relative or caregiver must meet the home study criteria and court approval pursuant to this chapter* ~~at the review hearings shall be the same standard as applies to changing custody of the child in a custody hearing following a decree of dissolution of marriage~~.

(9)~~(2)~~(a) When any child is adjudicated by a court to be dependent, the court having jurisdiction of the child has the power, by order, to:

1. Require the parent, *caregiver, or legal* ~~guardian, or~~ custodian, and the child when appropriate, to participate in treatment and services identified as necessary.

2. Require the parent, *caregiver, or legal* ~~guardian, or~~ custodian, and the child when appropriate, to participate in mediation if the parent, *caregiver, or legal* ~~guardian, or~~ custodian refused to participate in mediation ~~under s. 39.4033~~.

3. Place the child under the protective supervision of an authorized agent of the department, either in the child's own home or, the prospective custodian being willing, in the home of a relative of the child or of *a caregiver* ~~an adult nonrelative~~ approved by the court, or in some other suitable place under such reasonable conditions as the court may direct. ~~Whenever the child is placed under protective supervision pursuant to this section, the department shall prepare a case plan and shall file it with the court.~~ Protective supervision continues until the court terminates it or until the child reaches the age of 18, whichever date is first. Protective supervision *shall* ~~may~~ be terminated by the court whenever the court determines that *permanency has been achieved for the child* ~~the child's placement~~, whether with a parent, another relative, *a legal custodian, or a caregiver,* ~~or a nonrelative, is stable~~ and that protective supervision is no longer needed. The termination of supervision may be with or without retaining jurisdiction, at the court's discretion, and shall in either case be considered a permanency option for the child. The order terminating supervision by the department ~~of Children and Family Services~~ shall set forth the powers of the custodian of the child and shall include the powers ordinarily granted to a guardian of the person of a minor unless otherwise specified.

4. Place the child in the temporary legal custody of an adult relative or *caregiver* ~~an adult nonrelative~~ approved by the court who is willing to care for the child.

5.a. When the parents have failed to comply with a case plan and the court determines at a judicial review hearing, *or at an adjudication hearing* held pursuant to ~~s. 39.453, or at a hearing held pursuant to subparagraph (1)(a)7. of~~ this section, that neither reunification, termination of parental rights, nor adoption is in the best interest of the child, the court may place the child in the long-term custody of an adult relative or *caregiver* ~~adult nonrelative~~ approved by the court willing to care for the child, if the following conditions are met:

(I) A case plan describing the responsibilities of the relative or *caregiver* ~~nonrelative~~, the department, and any other party must have been submitted to the court.

(II) The case plan for the child does not include reunification with the parents or adoption by the relative *or caregiver*.

(III) The child and the relative or *caregiver* ~~nonrelative custodian~~ are determined not to need protective supervision or preventive services to ensure the stability of the long-term custodial relationship, or the department assures the court that protective supervision or preventive services will be provided in order to ensure the stability of the long-term custodial relationship.

(IV) Each party to the proceeding agrees that a long-term custodial relationship does not preclude the possibility of the child returning to the custody of the parent at a later date.

(V) The court has considered the reasonable preference of the child if the court has found the child to be of sufficient intelligence, understanding, and experience to express a preference.

(VI) The court has considered the recommendation of the guardian ad litem if one has been appointed.

b. The court shall retain jurisdiction over the case, and the child shall remain in the long-term custody of the relative or *caregiver* ~~nonrelative~~ approved by the court until the order creating the long-term custodial relationship is modified by the court. The court may relieve the department of the responsibility for supervising the placement of the child whenever the court determines that the placement is stable and that such supervision is no longer needed. Notwithstanding the retention of jurisdiction, the placement shall be considered a permanency option for the child when the court relieves the department of the responsibility for supervising the placement. The order terminating supervision by the department ~~of Children and Family Services~~ shall set forth the powers of the custodian of the child and shall include the powers ordinarily granted to a guardian of the person of a minor unless otherwise specified. The court may modify the order terminating supervision of the long-term relative or *caregiver* ~~nonrelative~~ placement if it finds that a party to the proceeding has shown a material change in circumstances which causes the long-term relative or *caregiver* ~~nonrelative~~ placement to be no longer in the best interest of the child.

6.a. Approve placement of the child in long-term *out-of-home* ~~foster~~ care, when the following conditions are met:

(I) The foster child is 16 years of age or older, unless the court determines that the history or condition of a younger child makes long-term *out-of-home* ~~foster~~ care the most appropriate placement.

(II) The child demonstrates no desire to be placed in an independent living arrangement pursuant to this subsection.

(III) The department's social services study pursuant to *part VIII* ~~s. 39.453(6)(a)~~ recommends long-term *out-of-home* ~~foster~~ care.

b. Long-term *out-of-home* ~~foster~~ care under the above conditions shall not be considered a permanency option.

c. The court may approve placement of the child in long-term *out-of-home* ~~foster~~ care, as a permanency option, when all of the following conditions are met:

(I) The child is 14 years of age or older,

(II) The child is living in a licensed home and the foster parents desire to provide care for the child on a permanent basis and the foster parents and the child do not desire adoption,

(III) The foster family has made a commitment to provide for the child until he or she reaches the age of majority and to prepare the child for adulthood and independence, and

(IV) The child has remained in the home for a continuous period of no less than 12 months.

(V) The foster parents and the child view one another as family and consider living together as the best place for the child to be on a permanent basis.

(VI) The department's social services study recommends such placement and finds the child's well-being has been promoted through living with the foster parents.

d. Notwithstanding the retention of jurisdiction and supervision by the department, long-term *out-of-home* ~~foster~~ care placements made pursuant to ~~sub-subparagraph (2)(a)6.c. of~~ this section shall be considered a permanency option for the child. For purposes of this subsection, supervision by the department shall be defined as a minimum of semiannual visits. The order placing the child in long-term *out-of-home* ~~foster~~ care as a permanency option shall set forth the powers of the custodian of the child and shall include the powers ordinarily granted to a guardian of the person of a minor unless

otherwise specified. The court may modify the permanency option of long-term *out-of-home* ~~foster~~ care if it finds that a party to the proceeding has shown a material change in circumstances which causes the placement to be no longer in the best interests of the child.

e. Approve placement of the child in an independent living arrangement for any foster child 16 years of age or older, if it can be clearly established that this type of alternate care arrangement is the most appropriate plan and that the health, safety, and well-being of the child will not be jeopardized by such an arrangement. While in independent living situations, children whose legal custody has been awarded to the department or a licensed child-caring or child-placing agency, or who have been voluntarily placed with such an agency by a parent, guardian, relative, or adult nonrelative approved by the court, continue to be subject to court review provisions.

~~7. Commit the child to a licensed child-caring agency willing to receive the child. Continued commitment to the licensed child-caring agency, as well as all other proceedings under this section pertaining to the child, are also governed by part V of this chapter.~~

7.~~8.~~ Commit the child to the temporary legal custody of the department. Such commitment invests in the department all rights and responsibilities of a legal custodian. The department shall not return any child to the physical care and custody of the person from whom the child was removed, except for short visitation periods, without the approval of the court. The term of such commitment continues until terminated by the court or until the child reaches the age of 18. After the child is committed to the temporary custody of the department, all further proceedings under this section are also governed by ~~part V of~~ this chapter.

8.~~9.~~a. Change the temporary legal custody or the conditions of protective supervision at a postdisposition hearing subsequent to the initial detention hearing, without the necessity of another adjudicatory hearing. A child who has been placed in the child's own home under the protective supervision of an authorized agent of the department, in the home of a relative, in the home of a *legal custodian or caregiver* ~~nonrelative~~, or in some other place may be brought before the court by the agent of the department who is supervising the placement or by any other interested person, upon the filing of a petition alleging a need for a change in the conditions of protective supervision or the placement. If the parents or other custodians deny the need for a change, the court shall hear all parties in person or by counsel, or both. Upon the admission of a need for a change or after such hearing, the court shall enter an order changing the placement, modifying the conditions of protective supervision, or continuing the conditions of protective supervision as ordered. *The standard for changing custody of the child from one parent to another or to a relative or caregiver must meet the home study criteria and court approval pursuant to this chapter.*

b. In cases where the issue before the court is whether a child should be reunited with a parent, the court shall determine whether the parent has substantially complied with the terms of the case plan to the extent that the ~~well-being and~~ safety, *well-being, and physical, mental, and emotional health* of the child is not endangered by the return of the child to the home.

~~10. Approve placement of the child in an independent living arrangement for any foster child 16 years of age or older, if it can be clearly established that this type of alternate care arrangement is the most appropriate plan and that the safety and welfare of the child will not be jeopardized by such an arrangement. While in independent living situations, children whose legal custody has been awarded to the department or a licensed child-caring or child-placing agency, or who have been voluntarily placed with such an agency by a parent, guardian, relative, or adult nonrelative approved by the court, continue to be subject to the court review provisions of s. 39.453.~~

(b) The court shall, in its written order of disposition, include all of the following:

1. The placement or custody of the child as provided in paragraph (a).

2. Special conditions of placement and visitation.

3. Evaluation, counseling, treatment activities, and other actions to be taken by the parties, if ordered.

4. The persons or entities responsible for supervising or monitoring services to the child and family.

5. Continuation or discharge of the guardian ad litem, as appropriate.

6. *The date, time, and location of the next scheduled review hearing, which must occur within 90 days after the disposition hearing or within the earlier of:*

a. Six months after the date of the last review hearing; or

b. Six months after the date of the child's removal from his or her home, if no review hearing has been held since the child's removal from the home. ~~The period of time or date for any subsequent case review required by law.~~

7. Other requirements necessary to protect the health, safety, and well-being of the child, *to preserve the stability of the child's educational placement,* and to promote family preservation or reunification whenever possible.

(c) If the court finds that the prevention or reunification efforts of the department will allow the child to remain safely at home or be safely returned to the home, the court shall allow the child to remain in or return to the home after making a specific finding of fact that the reasons for removal have been remedied to the extent that the child's safety, ~~and~~ well-being, *and physical, mental, and emotional health* will not be endangered.

(d)~~(5)(a)~~ If the court commits the child to the temporary legal custody of the department, the disposition order must include a written determination that the child cannot *safely* remain at home with reunification or family preservation services and that removal of the child is necessary to protect the child. If the child has been removed before the disposition hearing, the order must also include a written determination as to whether, after removal, the department has made a reasonable effort to reunify the family. The department has the burden of demonstrating that it has made reasonable efforts under this *paragraph* ~~subsection~~.

1.~~(b)~~ For the purposes of this *paragraph* ~~subsection~~, the term "reasonable effort" means the exercise of reasonable diligence and care by the department to provide the services delineated in the case plan.

2.~~(c)~~ In support of its determination as to whether reasonable efforts have been made, the court shall:

a.~~1.~~ Enter written findings as to whether or not prevention or reunification efforts were indicated.

b.~~2.~~ If prevention or reunification efforts were indicated, include a brief written description of what appropriate and available prevention and reunification efforts were made.

c.~~3.~~ Indicate in writing why further efforts could or could not have prevented or shortened the separation of the family.

3.~~(d)~~ A court may find that the department has made a reasonable effort to prevent or eliminate the need for removal if:

a.~~1.~~ The first contact of the department with the family occurs during an emergency.

b.~~2.~~ The appraisal by the department of the home situation indicates that it presents a substantial and immediate danger to the *child's safety or physical, mental, or emotional health* ~~child~~ which cannot be mitigated by the provision of preventive services.

c.~~3.~~ The child cannot safely remain at home, either because there are no preventive services that can ensure the *health and* safety of the child or, even with appropriate and available services being provided, the *health and* safety of the child cannot be ensured.

4.~~(e)~~ A reasonable effort by the department for reunification of the family has been made if the appraisal of the home situation by the department indicates that the severity of the conditions of dependency is such that reunification efforts are inappropriate. The department has the burden of demonstrating to the court that reunification efforts were inappropriate.

5.~~(f)~~ If the court finds that the prevention or reunification effort of the department would not have permitted the child to remain safely at home, the court may commit the child to the temporary legal custody of the department or take any other action authorized by this *chapter* ~~part~~.

(10)~~(3)~~(a) When any child is adjudicated by the court to be dependent and temporary legal custody of the child has been placed with an adult relative, *legal custodian, or caregiver* ~~or adult nonrelative~~ approved by the court ~~willing to care for the child~~, a licensed child-caring agency, or the department, the court shall, unless a parent has voluntarily executed a written surrender for purposes of adoption, order the parents, or the guardian of the child's estate if possessed of assets which under law may be disbursed for the care, support, and maintenance of the child, to pay child support to the adult relative, *legal custodian, or caregiver* ~~or nonrelative~~ caring for the child, the licensed child-caring agency, or the department. The court may exercise jurisdiction over all child support matters, shall adjudicate the financial obligation, including health insurance, of the child's parents or guardian, and shall enforce the financial obligation as provided in chapter 61. The state's child support enforcement agency shall enforce child support orders under this section in the same manner as child support orders under chapter 61.

(b) Placement of the child pursuant to subsection *(8)* ~~(1)~~ shall not be contingent upon issuance of a support order.

(11)~~(4)~~(a) If the court does not commit the child to the temporary legal custody of an adult relative, *legal custodian, or caregiver* ~~or adult nonrelative~~ approved by the court, the disposition order shall include the reasons for such a decision and shall include a determination as to whether diligent efforts were made by the department to locate an adult relative, *legal custodian, or caregiver* willing to care for the child in order to present that placement option to the court instead of placement with the department.

(b) If *diligent efforts are* ~~a diligent search is~~ made to locate an adult relative willing and able to care for the child but, because no suitable relative is found, the child is placed with the department or a *legal custodian or caregiver* ~~nonrelative custodian~~, both the department and the court shall consider transferring temporary legal custody to *an* ~~a willing~~ adult relative ~~or adult nonrelative~~ approved by the court at a later date, but neither the department nor the court is obligated to so place the child if it is in the child's best interest to remain in the current placement. *For the purposes of this paragraph, "diligent efforts to locate an adult relative" means a search similar to the diligent search for a parent, but without the continuing obligation to search after an initial adequate search is completed.*

(12)~~(6)~~ An agency granted legal custody shall have the right to determine where and with whom the child shall live, but an individual granted legal custody shall exercise all rights and duties personally unless otherwise ordered by the court.

(13)~~(7)~~ In carrying out the provisions of this chapter, the court may order the natural parents, *caregivers,* or legal *custodians* ~~guardian~~ of a child who is found to be dependent to participate in family counseling and other professional counseling activities deemed necessary for the rehabilitation of the child.

(14)~~(8)~~ With respect to a child who is the subject in proceedings under ~~part V of~~ this chapter, the court shall *issue to the department an order to show cause why it should not* return the child to the custody of the natural parents, *legal custodians, or caregivers* upon expiration of the case plan, or sooner if the parents, *legal custodians, or caregivers* have substantially complied with the case plan.

(15)~~(9)~~ The court may at any time enter an order ending its jurisdiction over any child, except that, when a child has been returned to the parents under subsection *(14)* ~~(8)~~, the court shall not terminate its jurisdiction over the child until 6 months after the *child's* return. Based on a report of the department or agency *or the child's guardian ad litem,* and any other relevant factors, the court shall then determine whether its jurisdiction should be continued or terminated in such a case; if its jurisdiction is to be terminated, the court shall enter an order to that effect.

Section 69. Section 39.5085, Florida Statutes, is created to read:

39.5085 Relative-Caregiver Program.—

(1) It is the intent of the Legislature in enacting this section to:

(a) Recognize family relationships in which a grandparent or other relative is the head of a household that includes a child otherwise at risk of foster care placement.

(b) Enhance family preservation and stability by recognizing that most children in such placements with grandparents and other relatives do not need intensive supervision of the placement by the courts or by the department.

(c) Provide additional placement options and incentives that will achieve permanency and stability for many children who are otherwise at risk of foster care placement because of abuse, abandonment, or neglect, but who may successfully be able to be placed by the dependency court in the care of such relatives.

(d) Reserve the limited casework and supervisory resources of the courts and the department for those cases in which children do not have the option for safe, stable care within the family.

(2)(a) The Department of Children and Family Services shall establish and operate the Relative-Caregiver Program pursuant to eligibility guidelines established in this section as further implemented by rule of the department. The Relative-Caregiver Program shall, within the limits of available funding, provide financial assistance to relatives who are within the fifth degree by blood or marriage to the parent or stepparent of a child and who are caring full-time for that child in the role of substitute parent as a result of a departmental determination of child abuse, neglect, or abandonment and subsequent placement with the relative pursuant to chapter 39. Such placement may be either court-ordered temporary legal custody to the relative pursuant to s. 39.508(9) or court-ordered placement in the home of a relative under protective supervision of the department pursuant to s. 39.508(9). The Relative-Caregiver Program shall offer financial assistance to caregivers who are relatives and who would be unable to serve in that capacity without the relative-caregiver payment because of financial burden, thus exposing the child to the trauma of placement in a shelter or in foster care.

(b) Caregivers who are relatives and who receive assistance under this section must be capable, as determined by a home study, of providing a physically safe environment and a stable, supportive home for the children under their care, and must assure that the children's well-being is met, including, but not limited to, the provision of immunizations, education, and mental health services as needed.

(c) Relatives who qualify for and participate in the Relative-Caregiver Program are not required to meet foster care licensing requirements under s. 409.175.

(d) Relatives who are caring for children placed with them by the child protection system shall receive a special monthly relative-caregiver benefit established by rule of the department. The amount of the special benefit payment shall be based on the child's age within a payment schedule established by rule of the department and subject to availability of funding. The statewide average monthly rate for children judicially placed with relatives who are not licensed as foster homes may not exceed 82 percent of the statewide average foster care rate, nor may the cost of providing the assistance described in this section to any relative-caregiver exceed the cost of providing out-of-home care in emergency shelter or foster care.

(e) Children receiving cash benefits under this section are not eligible to simultaneously receive WAGES cash benefits under chapter 414.

(f) Within available funding, the Relative-Caregiver Program shall provide relative-caregivers with family support and preservation services, flexible funds in accordance with s. 409.165, subsidized child care, and other available services in order to support the child's safety, growth, and healthy development. Children living with relative-caregivers who are receiving assistance under this section shall be eligible for medicaid coverage.

(g) The department may use appropriate available state, federal, and private funds to operate the Relative-Caregiver Program.

Section 70. Section 39.4105, Florida Statutes, is renumbered as section 39.509, Florida Statutes, and amended to read:

39.509 ~~39.4105~~ Grandparents rights.—Notwithstanding any other provision of law, a maternal or paternal grandparent as well as a stepgrandparent is entitled to reasonable visitation with his or her grandchild who has been adjudicated a dependent child and taken from the physical custody of *the* ~~his or her~~ parent, custodian, legal guardian, or caregiver unless the court finds that such visitation is not in the best interest of the child or that such visitation would interfere with the goals of the case plan ~~pursuant to s. 39.451~~. Reasonable visitation may be unsupervised and, where appropriate and feasible, may be frequent and continuing.

(1) Grandparent visitation may take place in the home of the grandparent unless there is a compelling reason for denying such a visitation. The department's caseworker shall arrange the visitation to which a grandparent is entitled pursuant to this section. The state shall not charge a fee for any costs associated with arranging the visitation. However, the grandparent shall pay for the child's cost of transportation when the visitation is to take place in the grandparent's home. The caseworker shall document the reasons for any decision to restrict a grandparent's visitation.

(2) A grandparent entitled to visitation pursuant to this section shall not be restricted from appropriate displays of affection to the child, such as appropriately hugging or kissing his or her grandchild. Gifts, cards, and letters from the grandparent and other family members shall not be denied to a child who has been adjudicated a dependent child.

(3) Any attempt by a grandparent to facilitate a meeting between the child who has been adjudicated a dependent child and the child's parent, *custodian, legal guardian, or caregiver* in violation of a court order shall automatically terminate future visitation rights of the grandparent.

(4) When the child has been returned to the physical custody of his or her parent or permanent custodian, legal guardian, or caregiver, the visitation rights granted pursuant to this section shall terminate.

(5) The termination of parental rights does not affect the rights of grandparents unless the court finds that such visitation is not in the best interest of the child or that such visitation would interfere with the goals of permanency planning for the child.

(6)~~(5)~~ In determining whether grandparental visitation is not in the child's best interest, consideration may be given to the finding of guilt, regardless of adjudication, or entry or plea of guilty or nolo contendere to charges under the following statutes, or similar statutes of other jurisdictions: s. 787.04, relating to removing minors from the state or concealing minors contrary to court order; s. 794.011, relating to sexual battery; s. 798.02, relating to lewd and lascivious behavior; chapter 800, relating to lewdness and indecent exposure; or chapter 827, relating to the abuse of children. Consideration may also be given to a finding of confirmed abuse, *abandonment, or neglect* under ss. 415.101-415.113 *or this chapter* ~~and ss. 415.502-415.514~~.

Section 71. Section 39.413, Florida Statutes, is renumbered as section 39.5101, Florida Statutes, and subsection (1) of said section is amended to read:

39.5101 ~~39.413~~ Appeal.—

(1) Any child, ~~any~~ parent, guardian ad litem, *caregiver,* or legal custodian of any child, any other party to the proceeding who is affected by an order of the court, or the department may appeal to the appropriate district court of appeal within the time and in the manner prescribed by the Florida Rules of Appellate Procedure. Appointed counsel shall be compensated as provided in *this chapter* ~~s. 39.415~~.

Section 72. Part VII of chapter 39, Florida Statutes, consisting of sections 39.601, 39.602, and 39.603, Florida Statutes, shall be entitled to read:

PART VII
CASE PLANS

Section 73. Section 39.4031, Florida Statutes, are renumbered as section 39.601, Florida Statutes, and amended to read:

39.601 ~~39.4031~~ Case plan requirements.—

(1) The department or agent of the department shall develop a case plan for each child or child's family receiving services *pursuant to this chapter* ~~who is a party to any dependency proceeding, activity, or process under this part~~. A parent, *caregiver, or legal* ~~guardian, or~~ custodian of a child may not be required *or* ~~nor~~ coerced through threat of loss of custody or parental rights to admit in the case plan to abusing, neglecting, or abandoning a child. *Where dependency mediation services are available and appropriate to the best interests of the child, the court may refer the case to mediation for development of a case plan.* This section does not change the provisions of s. *39.807* ~~39.464~~.

~~(2) The case plan must be:~~

(a) *The case plan must be* developed in conference with the parent, *caregiver, or legal* ~~guardian, or~~ custodian of the child ~~and, if appropriate, the child~~ and any court-appointed guardian ad litem *and, if appropriate, the child*. ~~Any parent who believes that his or her perspective has not been considered in the development of a case plan may request referral to mediation pursuant to s. 39.4033 when such services are available.~~

(b) *The case plan must be* written simply and clearly in English and, if English is not the principal language of the child's parent, *caregiver, or legal* ~~guardian, or~~ custodian, to the extent possible in such principal language.

(c) The case plan must describe the minimum number of face-to-face meetings to be held each month between the parents, caregivers, or legal custodians and the department's caseworkers to review progress of the plan, to eliminate barriers to progress, and to resolve conflicts or disagreements.

(d)~~(c)~~ *The case plan must be* subject to modification based on changing circumstances.

(e)~~(d)~~ *The case plan must be* signed by all parties.

(f)~~(e)~~ *The case plan must be* reasonable, accurate, and in compliance with the requirements of other court orders.

(2)~~(3)~~ When the child *or family* is receiving services ~~in the child's home~~, the case plan must ~~be developed within 30 days from the date of the department's initial contact with the child, or within 30 days of the date of a disposition order placing the child under the protective supervision of the department in the child's own home, and must~~ include, in addition to the requirements in subsection *(1)* ~~(2)~~, at a minimum:

(a) A description of the problem being addressed that includes the behavior or act of a parent, *legal custodian, or caregiver* resulting in risk to the child and the reason for the department's intervention.

(b) A description of the services to be provided to the family and child specifically addressing the identified problem, including:

1. Type of services or treatment.

2. Frequency of services or treatment.

3. Location of the delivery of the services.

4. The accountable department staff or service provider.

~~5. The need for a multidisciplinary case staffing under s. 39.4032.~~

(c) A description of the measurable objectives, including timeframes for achieving objectives, addressing the identified problem.

(3)~~(4)~~ When the child is receiving services in a placement outside the child's home or in foster care, the case plan must be *submitted to the court for approval at the disposition hearing* ~~prepared within 30 days after placement and also be approved by the court~~ and must include, in addition to the requirements in subsections *(1) and* (2) ~~and (3)~~, at a minimum:

(a) A description of the permanency goal for the child, including the type of placement. *Reasonable efforts to place a child for adoption or with a legal guardian may be made concurrently with reasonable efforts to prevent removal of the child from the home or make it possible for the child to return safely home.*

(b) A description of the type of home or institution in which the child is to be placed.

(c) A description of the financial support obligation to the child, including health insurance, of the child's parent, parents, *caregiver, or legal custodian* ~~or guardian~~.

(d) A description of the visitation rights and obligations of the parent or parents, *caregiver, or legal custodian* during the period the child is in care.

(e) A discussion of the *safety and* appropriateness of the child's placement, which placement is intended to be *safe,* ~~in~~ the least restrictive and most family-like setting available consistent with the best interest and special needs of the child, and in as close proximity as possible to the child's home. *The plan must also establish the role for the foster parents or custodians in the development of the services that are to be provided to the child, foster parents, or legal custodians. It must also address the child's need for services while under the jurisdiction of the court and implementation of these services in the case plan.*

(f) A description of the efforts to be undertaken to maintain the stability of the child's educational placement.

(g)~~(f)~~ A discussion of the department's plans to carry out the judicial determination made by the court, with respect to the child, in accordance with this chapter and applicable federal regulations.

(h)~~(g)~~ A description of the plan for assuring that services outlined in the case plan are provided to the child and the child's parent or parents, *legal custodians, or caregivers,* to improve the conditions in the family home and facilitate either the *safe* return of the child to the home or the permanent placement of the child.

(i)~~(h)~~ A description of the plan for assuring that services as outlined in the case plan are provided to the child and the child's parent or parents, *legal custodians, or caregivers,* to address the needs of the child and a discussion of the appropriateness of the services.

(j)~~(i)~~ A description of the plan for assuring that services are provided to the child and foster parents to address the needs of the child while in foster care, *which shall include an itemized list of costs to be borne by the parent or caregiver associated with any services or treatment that the parent and child are expected to receive.*

(k)~~(j)~~ A written notice to the parent that failure of the parent to substantially comply with the case plan may result in the termination of parental rights, and that a material failure to substantially comply may result in the filing of a petition for termination of parental rights sooner than the compliance periods set forth in the case plan itself. The child protection team shall coordinate its effort with the case staffing committee.

(l) In the case of a child for whom the permanency plan is adoption or placement in another permanent home, documentation of the steps the agency is taking to find an adoptive family or other permanent living arrangement for the child; to place the child with an adoptive family, with a fit and willing relative, with a legal guardian, or in another planned permanent living arrangement; and to finalize the adoption or legal guardianship. At a minimum, such documentation shall include child-specific recruitment efforts such as the use of state, regional, and national adoption exchanges, including electronic exchange systems.

(4)~~(5)~~ In the event that the parents, *legal custodians, or caregivers* are unwilling or unable to participate in the development of a case plan, the department shall document that unwillingness or inability *to participate. Such documentation must be provided* ~~and provide~~ in writing to the parent, *legal custodians, or caregivers* when available for the court record, and then the department shall prepare a case plan conforming as nearly as possible with the requirements set forth in this section. The unwillingness or inability of the parents, *legal custodians, or caregivers* to participate in the development of a case plan shall not in itself bar the filing of a petition for dependency or for termination of parental rights. The parents, *legal custodians, or caregivers,* if available, must be provided a copy of the case plan and be advised that they may, at any time prior to the filing of *a* petition for termination of parental rights, enter into a case plan and that they may request judicial review of any provision of the case plan with which they disagree at any court review hearing set for the child.

(5)~~(6)~~ The services delineated in the case plan must be designed to improve the conditions in the family home and aid in maintaining the child in the home, to facilitate the *safe* return of the child to the family home, or to facilitate the permanent placement of the child. The service intervention must be the least intrusive possible into the life of the family, must focus on clearly defined objectives, and must provide the most efficient path to quick reunification or permanent placement, *with the child's health and safety being paramount.* To the extent possible, the service intervention must be grounded in outcome evaluation results that demonstrate success in the reunification or permanent placement process. In designing service interventions, generally recognized standards of the professions involved in the process must be taken into consideration.

(6) After jurisdiction attaches, all case plans must be filed with the court and a copy provided to the parents, caregivers, or legal custodians of the child, to the representative of the guardian ad litem program if the program has been appointed, and to all other parties, not less than 72 hours before the disposition hearing. All such case plans must be approved by the court. The department shall also file with the court all case plans prepared before jurisdiction of the court attached. If the court does not accept the case plan, the court shall require the parties to make necessary modifications to the plan. An amended plan must be submitted to the court for review and approval within 30 days after the hearing on the case plan.

(7) The case plan must be limited to as short a period as possible for the accomplishment of its provisions. Unless extended, the plan expires no later than 12 months after the date the child was initially removed from the home or the date the case plan was accepted by the court, whichever comes first.

(8) The case plan must meet applicable federal and state requirements.

(9)(a) In each case in which the custody of a child has been vested, either voluntarily or involuntarily, in the department and the child has been placed in out-of-home care, a case plan must be prepared within 60 days after the department removes the child from the home, and shall be submitted to the court before the disposition hearing, for the court to review and accept. If the preparation of a case plan, in conference with the parents and other pertinent parties, cannot be completed before the disposition hearing, for good cause shown, the court may grant an extension not to exceed 30 days and set a hearing to review and accept the case plan.

(b) The parent or parents, *legal custodians, or caregivers* may receive assistance from any person~~,~~ or social service agency in the preparation of the case plan.

(c) The social service agency, *the department,* and the court, when applicable, shall inform the parent or parents, *legal custodians, or*

caregivers of the right to receive such assistance, including the right to assistance of counsel.

(d) Before the signing of the case plan, the authorized agent of the department shall explain it to all persons involved in its implementation, including, when appropriate, the child.

(e) After the case plan has been agreed upon and signed by the parties involved, a copy of the plan must be given immediately to the parents, the department or agency, the foster parents or caregivers, the legal custodian, the caregiver, the representative of the guardian ad litem program if the program is appointed, and any other parties identified by the court, including the child, if appropriate.

(f) The case plan may be amended at any time if all parties are in agreement regarding the revisions to the plan and the plan is submitted to the court with a memorandum of explanation. The case plan may also be amended by the court or upon motion of any party at a hearing, based on competent evidence demonstrating the need for the amendment. A copy of the amended plan must be immediately given to the parties specified in paragraph (e).

(10) A case plan must be prepared, but need not be submitted to the court, for a child who will be in care no longer than 30 days unless that child is placed in out-of-home care a second time within a 12-month period.

Section 74. Section 39.452, Florida Statutes, is renumbered as section 39.602, Florida Statutes, and amended to read:

39.602 ~~39.452~~ Case planning when parents*, legal custodians, or caregivers* do not participate and the child is in *out-of-home* ~~foster~~ care.—

(1)~~(a)~~ In the event the parents*, legal custodians, or caregivers* will not or cannot participate in preparation of a case plan, the department shall submit a full explanation of the circumstances and ~~a plan for the permanent placement of the child to the court within 30 days after the child has been removed from the home and placed in temporary foster care and schedule a court hearing within 30 days after submission of the plan to the court to review and accept or modify the plan. If preparation cannot be accomplished within 30 days, for good cause shown, the court may grant extensions not to exceed 15 days each for the filing, the granting of which shall be for similar reason to that contained in s. 39.451(4)(a).~~

~~(b) In the full explanation of the circumstances submitted to the court, the department shall~~ state the nature of its efforts to secure *such persons'* ~~parental~~ participation in the preparation of a case plan.

(2) In a case in which the physical, emotional, or mental condition or physical location of the parent is the basis for the parent's nonparticipation, it is the burden of the department to provide substantial evidence to the court that such condition or location has rendered the parent unable or unwilling to participate in the preparation of a case plan, either pro se or through counsel. The supporting documentation must be submitted to the court at the time the plan is filed.

(3) The plan must include, but need not be limited to, the specific services to be provided by the department, the goals and plans for the child, and the time for accomplishing the provisions of the plan and for accomplishing permanence for the child.

(4)(a) *At least 72* ~~Seventy-two~~ hours prior to the filing of a plan*, all parties* ~~each parent~~ must be provided with a copy of the plan developed by the department. If the location of one or both parents is unknown, this must be documented in writing and included in the plan submitted to the court. After the filing of the plan, if the location of an absent parent becomes known, that parent must be served with a copy of the plan.

(b) Before the filing of the plan, the department shall advise each parent, both orally and in writing, that the failure of the parents to substantially comply with a plan ~~which has reunification as its primary goal~~ may result in the termination of parental rights, but only after notice and hearing as provided in *this chapter* ~~part VI~~. If, after the plan has been submitted to the court, an absent parent is located, the department shall advise the parent, both orally and in writing, that the failure of the parents to substantially comply with a plan ~~which has reunification as its goal~~ may result in termination of parental rights, but only after notice and hearing as provided in *this chapter* ~~part VI~~. Proof of written notification must be filed with the court.

~~(5)(a) The court shall set a hearing, with notice to all parties, on the plan or any provisions of the plan, within 30 days after the plan has been received by the court. If the location of a parent is unknown, the notice must be directed to the last permanent address of record.~~

~~(b) At the hearing on the plan, the court shall determine:~~

~~1. All parties who were notified and are in attendance at the hearing, either in person or through a legal representative. The court shall appoint a guardian ad litem under Rule 1.210, Florida Rules of Civil Procedure, to represent the interests of any parent, if the location of the parent is known but the parent is not present at the hearing and the development of the plan is based upon the physical, emotional, or mental condition or physical location of the parent.~~

~~2. If the plan is consistent with previous orders of the court placing the child in care.~~

~~3. If the plan is consistent with the requirements for the content of a plan as specified in subsection (3).~~

~~4. In involuntary placements, whether each parent was notified of the right to counsel at each stage of the dependency proceedings, in accordance with the Florida Rules of Juvenile Procedure.~~

~~5. Whether each parent whose location was known was notified of the right to participate in the preparation of a case plan and of the right to receive assistance from any other person in the preparation of the case plan.~~

~~6. Whether the plan is meaningful and designed to address facts and circumstances upon which the court based the finding of dependency in involuntary placements or the plan is meaningful and designed to address facts and circumstances upon which the child was placed in foster care voluntarily.~~

~~(c) When the court determines any of the elements considered at the hearing related to the plan have not been met, the court shall require the parties to make necessary amendments to the plan. The amended plan must be submitted to the court for review and approval within a time certain specified by the court. A copy of the amended plan must also be provided to each parent, if the location of the parent is known.~~

~~(d) A parent who has not participated in the development of a case plan must be served with a copy of the plan developed by the department if the parent can be located at least 72 hours prior to the court hearing. Any parent is entitled to, and may seek, a court review of the plan prior to the initial 6 months' review and must be informed of this right by the department at the time the department serves the parent with a copy of the plan. If the location of an absent parent becomes known to the department, the department shall inform the parent of the right to a court review at the time the department serves the parent with a copy of the case plan.~~

Section 75. Section 39.603, Florida Statutes, is created to read:

39.603 Court approvals of case planning.

(1) At the hearing on the plan, which shall occur in conjunction with the disposition hearing unless otherwise directed by the court, the court shall determine:

(a) All parties who were notified and are in attendance at the hearing, either in person or through a legal representative. The court shall appoint a guardian ad litem under Rule 1.210, Florida Rules of Civil Procedure, to represent the interests of any parent, if the location of the parent is known but the parent is not present at the hearing and the development of the plan is based upon the physical, emotional, or mental condition or physical location of the parent.

(b) If the plan is consistent with previous orders of the court placing the child in care.

(c) If the plan is consistent with the requirements for the content of a plan as specified in this chapter.

(d) In involuntary placements, whether each parent was notified of the right to counsel at each stage of the dependency proceedings, in accordance with the Florida Rules of Juvenile Procedure.

(e) Whether each parent whose location was known was notified of the right to participate in the preparation of a case plan and of the right to receive assistance from any other person in the preparation of the case plan.

(f) Whether the plan is meaningful and designed to address facts and circumstances upon which the court based the finding of dependency in involuntary placements or the plan is meaningful and designed to address facts and circumstances upon which the child was placed in out-of-home care voluntarily.

(2) When the court determines any of the elements considered at the hearing related to the plan have not been met, the court shall require the parties to make necessary amendments to the plan. The amended plan must be submitted to the court for review and approval within a time certain specified by the court. A copy of the amended plan must also be provided to each parent, if the location of the parent is known.

(3) A parent who has not participated in the development of a case plan must be served with a copy of the plan developed by the department, if the parent can be located, at least 48 hours prior to the court hearing. Any parent is entitled to, and may seek, a court review of the plan prior to the initial review and must be informed of this right by the department at the time the department serves the parent with a copy of the plan. If the location of an absent parent becomes known to the department, the department shall inform the parent of the right to a court review at the time the department serves the parent with a copy of the case plan.

Section 76. Part VIII of chapter 39, Florida Statutes, consisting of sections 39.701, 39.702, 39.703, and 39.704, Florida Statutes, shall be entitled to read:

PART VIII
JUDICIAL REVIEWS

Section 77. Section 39.453, Florida Statutes, is renumbered as section 39.701, Florida Statutes, and amended to read:

39.701 ~~39.453~~ Judicial review.—

(1)(a) The court shall have continuing jurisdiction in accordance with this section and shall review the status of the child as required by this subsection or more frequently if the court deems it necessary or desirable.

(b) The court shall retain jurisdiction over a child returned to its parents, *caregivers,* or legal guardians for a period of 6 months, but, at that time, based on a report of the social service agency *and the guardian ad litem, if one has been appointed,* and any other relevant factors, the court shall make a determination as to whether its jurisdiction shall continue or be terminated.

~~(c) After termination of parental rights, the court shall retain jurisdiction over any child for whom custody is given to a social service agency until the child is adopted. The jurisdiction of the court after termination of parental rights and custody is given to the agency is for the purpose of reviewing the status of the child and the progress being made toward permanent adoptive placement. As part of this continuing jurisdiction, for good cause shown by the guardian ad litem for the child, the court may review the appropriateness of the adoptive placement of the child.~~

(2)*(a)* The court shall review the status of the child and shall hold a hearing as provided in *this part* ~~subsection (7)~~. The court may dispense with the attendance of the child at the hearing, but may not dispense with the hearing or the presence of other parties to the review unless before the review a hearing is held before a citizen review panel.

(b) Citizen review panels may ~~be established under s. 39.4531 to~~ conduct *hearings to* ~~a~~ review ~~of~~ the status of a child. *The court shall select the cases appropriate for referral to the citizen review panels and may order the attendance of the parties at the review panel hearings. However, any party may object to the referral of a case to a citizen review panel. Whenever such an objection has been filed with the court, the court shall review the substance of the objection and may conduct the review itself or refer the review to a citizen review panel. All parties retain the right to take exception to the findings or recommended orders of a citizen review panel in accordance with Rule 1.490(h), Florida Rules of Civil Procedure.*

(c) Notice of a hearing by a citizen review panel must be provided as set forth in subsection (5). At the conclusion of a citizen review panel hearing, each party may propose a recommended order to the chairperson of the panel. Thereafter, the citizen review panel shall submit its report, *copies of the proposed recommended orders,* and *a copy of the panel's* recommended order to the court. The citizen review panel's recommended order must be limited to the dispositional options available to the court in subsection (8). Each party may file exceptions to the report and recommended order of the citizen review panel in accordance with Rule 1.490, Florida Rules of Civil Procedure.

(3)(a) The initial judicial review must be held no later than *90 days after the date of the disposition hearing or after the date of the hearing at which the court approves the case plan, but in no event shall the review be held later than* 6 months after the date the child was removed from the home. *Citizen review panels shall not conduct more than two consecutive reviews without the child and the parties coming before the court for a judicial review.* ~~If the child remains in shelter or foster care, subsequent judicial reviews must be held at least every 6 months after the date of the most recent judicial review until the child is 13 years old and has been in foster care at least 18 months.~~

(b) If the court extends *any* ~~the~~ case plan beyond *12* ~~18~~ months, judicial reviews must be held at least every 6 months ~~for children under the age of 13 and at least annually for children age 13 and older~~.

(c) If the child is placed in the custody of the department or a licensed child-placing agency for the purpose of adoptive placement, judicial reviews must be held at least every 6 months until adoptive placement, to determine *the appropriateness of the current placement and* the progress made toward adoptive placement.

(d) If the department and the court have established a formal agreement that includes specific authorization for particular cases, the department may conduct administrative reviews instead of the judicial reviews for children in *out-of-home* ~~foster~~ care. Notices of such administrative reviews must be provided to all parties. However, an administrative review may not be substituted for the first judicial review, and in every case the court must conduct a judicial review at least every *6* ~~12~~ months. Any party dissatisfied with the results of an administrative review may petition for a judicial review.

(e) The clerk of the circuit court shall schedule judicial review hearings in order to comply with the mandated times cited in *this section* ~~paragraphs (a)-(d)~~.

(f) In each case in which a child has been voluntarily placed with the licensed child-placing agency, the agency shall notify the clerk of the court in the circuit where the child resides of such placement within 5 working days. Notification of the court is not required for any child who will be in *out-of-home* ~~foster~~ care no longer than 30 days unless that child is placed in *out-of-home* ~~foster~~ care a second time within a 12-month period. If the child is returned to the custody of the parents, *caregiver, or legal custodian* ~~or guardian~~ before the scheduled review hearing or if the child is placed for adoption, the child-placing agency shall notify the court of the child's return or placement within 5 working days, and the clerk of the court shall cancel the review hearing.

(4) *The court shall schedule the date, time, and location of the next judicial review in the judicial review order.* ~~The social service agency shall file a petition for review with the court within 10 calendar days after the judicial review hearing. The petition must include a statement~~

~~of the dispositional alternatives available to the court. The petition must accompany the notice of the hearing served upon persons specified in subsection (5).~~

(5) Notice of *a judicial review hearing or a citizen review panel* ~~the~~ hearing, and a copy of the *motion for judicial review* ~~petition~~, including a statement of the dispositional alternatives available to the court, must be served by the court upon:

(a) The social service agency charged with the supervision of care, custody, or guardianship of the child, if that agency is not the *movant* ~~petitioner~~.

(b) The foster parent or parents or *caregivers* ~~caretakers~~ in whose home the child resides.

(c) The parent, *caregiver, or legal custodian* ~~guardian, or relative~~ from whom the care and custody of the child have been transferred.

(d) The guardian ad litem for the child, *or the representative of the guardian ad litem program* if *the program* ~~one~~ has been appointed.

(e) Any preadoptive parent.

(f)~~(e)~~ Such other persons as the court may in its discretion direct.

(6)(a) *Prior to every judicial review hearing or citizen review panel hearing,* the social service agency shall make an investigation and social study concerning all pertinent details relating to the child and shall furnish to the court or citizen review panel a written report that includes, but is not limited to:

1. A description of the type of placement the child is in at the time of the hearing, *including the safety of the child and the continuing necessity for and appropriateness of the placement.*

2. Documentation of the diligent efforts made by all parties to the case plan to comply with each applicable provision of the plan.

3. The amount of fees assessed and collected during the period of time being reported.

4. The services provided to the foster family or *caregivers* ~~caretakers~~ in an effort to address the needs of the child as indicated in the case plan.

5. A statement *that* ~~concerning whether~~ the parent or *legal custodian* ~~guardian~~, though able to do so, did not comply substantially with the provisions of the case plan and the agency recommendations or a statement that the parent or *legal custodian* ~~guardian~~ did substantially comply with such provisions.

6. A statement from the foster parent or parents or *caregivers* ~~caretakers~~ providing any material evidence concerning the return of the child to the parent or parents *or legal custodians.*

7. A statement concerning the frequency, duration, and results of the parent-child visitation, if any, and the agency recommendations for an expansion or restriction of future visitation.

8. The number of times a child has been removed from his or her home and placed elsewhere, the number and types of placements that have occurred, and the reason for the changes in placement.

9. The number of times a child's educational placement has been changed, the number and types of educational placements that have occurred, and the reason for any change in placement.

(b) A copy of the *social service agency's* written report must be provided to the attorney of record of the parent, parents, or *legal custodians* ~~guardian~~; to the parent, parents, or *legal custodians* ~~guardian~~; to the foster parents or *caregivers* ~~caretakers~~; to each citizen review panel ~~established under s. 39.4531~~; and to the guardian ad litem for the child, *or the representative of the guardian ad litem program* if *the program* ~~one~~ has been appointed by the court, at least 48 hours before the judicial review hearing~~,~~ or citizen review panel hearing ~~if such a panel has been established under s. 39.4531~~. The requirement for providing parents or *legal custodians* ~~guardians~~ with a copy of the written report does not apply to those parents or *legal custodians* ~~guardians~~ who have voluntarily surrendered their child for adoption.

(c) In a case in which the child has been permanently placed with the social service agency, the agency shall furnish to the court a written report concerning the progress being made to place the child for adoption. If~~, as stated in s. 39.451(1),~~ the child cannot be placed for adoption, a report on the progress made by the child in alternative permanency goals or placements, including, but not limited to, long-term foster care, independent living, custody to a relative or *caregiver* ~~adult nonrelative~~ approved by the court on a permanent basis with or without legal guardianship, or custody to a foster parent *or caregiver* on a permanent basis with or without legal guardianship, must be submitted to the court. The report must be submitted to the court at least 48 hours before each scheduled judicial review.

(d) In addition to or in lieu of any written statement provided to the court, the foster parent or *caregivers, or any preadoptive parent,* ~~caretakers~~ shall be given the opportunity to address the court with any information relevant to the best interests of the child at any judicial review hearing.

(7) The court~~,~~ and any citizen review panel ~~established under s. 39.4531,~~ shall take into consideration the information contained in the social services study and investigation and all medical, psychological, and educational records that support the terms of the case plan; testimony by the social services agency, the parent or *legal custodian* ~~guardian~~, the foster parent or *caregivers* ~~caretakers~~, the guardian ad litem if one has been appointed for the child, and any other person deemed appropriate; and any relevant and material evidence submitted to the court, including written and oral reports to the extent of their probative value. In its deliberations, the court~~,~~ and any citizen review panel ~~established under s. 39.4531,~~ shall seek to determine:

(a) If the parent or *legal custodian* ~~guardian~~ was advised of the right to receive assistance from any person or social service agency in the preparation of the case plan.

(b) If the parent or *legal custodian* ~~guardian~~ has been advised of the right to have counsel present at the judicial review or citizen review hearings. If not so advised, the court or citizen review panel shall advise the parent or *legal custodian* ~~guardian~~ of such right.

(c) If a guardian ad litem needs to be appointed for the child in a case in which a guardian ad litem has not previously been appointed or if there is a need to continue a guardian ad litem in a case in which a guardian ad litem has been appointed.

(d) The compliance or lack of compliance of all parties with applicable items of the case plan, including the parents' compliance with child support orders.

(e) The compliance or lack of compliance with a visitation contract between the parent, *caregiver, or legal custodian* ~~or guardian~~ and the social service agency for contact with the child, including the *frequency, duration, and results of the parent-child visitation and the* reason for any noncompliance.

(f) The compliance or lack of compliance of the parent, *caregiver, or legal custodian* ~~or guardian~~ in meeting specified financial obligations pertaining to the care of the child, including the reason for failure to comply if such is the case.

(g) The appropriateness of the child's current placement, including whether the child is in a setting which is as family-like and as close to the parent's home as possible, consistent with the child's best interests and special needs, *and including maintaining stability in the child's educational placement.*

(h) A projected date likely for the child's return home or other permanent placement.

(i) When appropriate, the basis for the unwillingness or inability of the parent, *caregiver, or legal custodian* ~~or guardian~~ to become a party to a case plan. The court and the citizen review panel shall determine if ~~the nature of the location or the condition of the parent and~~ the efforts

of the social service agency to secure *party* ~~parental~~ participation in a case plan were sufficient.

(8)(a) Based upon the criteria set forth in subsection (7) and the recommended order of the citizen review panel, if *any* ~~established under s. 39.4531~~, the court shall determine whether or not the social service agency shall initiate proceedings to have a child declared a dependent child, return the child to the parent, *legal custodian, or caregiver,* continue the child in *out-of-home* ~~foster~~ care for a specified period of time, or initiate termination of parental rights proceedings for subsequent placement in an adoptive home. Modifications to the plan must be handled as prescribed in s. *39.601* ~~39.451~~. If the court finds that the prevention or reunification efforts of the department will allow the child to remain safely at home or be safely returned to the home, the court shall allow the child to remain in or return to the home after making a specific finding of fact that the reasons for removal have been remedied to the extent that the child's safety, ~~and~~ well-being, *and physical, mental, and emotional health* will not be endangered.

(b) The court shall return the child to the custody of the parents, *legal custodians, or caregivers* at any time it determines that they have substantially complied with the plan, if the court is satisfied that reunification will not be detrimental to the child's safety, ~~and~~ well-being, *and physical, mental, and emotional health*.

(c) If, in the opinion of the court, the social service agency has not complied with its obligations as specified in the written case plan, the court may find the social service agency in contempt, shall order the social service agency to submit its plans for compliance with the agreement, and shall require the social service agency to show why the child *could* ~~should~~ not *safely* be returned ~~immediately~~ to the home of the parents, *legal custodians, or caregivers* ~~or legal guardian~~.

(d) The court may extend the time limitation of the case plan, or may modify the terms of the plan, based upon information provided by the social service agency, *and the guardian ad litem, if one has been appointed,* the ~~natural~~ parent or parents, and the foster parents, and any other competent information on record demonstrating the need for the amendment. *If the court extends the time limitation of the case plan, the court must make specific findings concerning the frequency of past parent-child visitation, if any, and the court may authorize the expansion or restriction of future visitation.* Modifications to the plan must be handled as prescribed in s. *39.601* ~~39.451~~. Any extension of a case plan must comply with the time requirements and other requirements specified by this *chapter* ~~part~~.

(e) If, at any judicial review, the court finds that the parents have failed to substantially comply with the case plan to the degree that further reunification efforts are without merit and not in the best interest of the child, it may authorize the filing of a petition for termination of parental rights, whether or not the time period as contained in the case plan for substantial compliance has elapsed.

(f) *No later than 12 months after the date that the child was placed in shelter care, the court shall conduct a judicial review. At this hearing, if the child is not returned to the physical custody of the parents, caregivers, or legal custodians, the case plan may be extended with the same goals only if the court finds that the situation of the child is so extraordinary that the plan should be extended. The case plan must document steps the department is taking to find an adoptive parent or other permanent living arrangement for the child.* ~~If, at the time of the 18-month judicial review or citizen review, the child is not returned to the physical custody of the natural parents, the case plan may be extended only if, at the time of the judicial review or citizen review, the court finds that the situation of the child is so extraordinary that the plan should be extended. The extension must be in accordance with subsection (3).~~

(g) The court may issue a protective order in assistance, or as a condition, of any other order made under this part. In addition to the requirements included in the case plan, the protective order may set forth requirements relating to reasonable conditions of behavior to be observed for a specified period of time by a person or agency who is before the court; and such order may require any such person or agency to make periodic reports to the court containing such information as the court in its discretion may prescribe.

Section 78. Section 39.4531, Florida Statutes, is renumbered as section 39.702, Florida Statutes, and amended to read:

39.702 ~~39.4531~~ Citizen review panels.—

(1) Citizen review panels may be established in each judicial circuit and shall be authorized by an administrative order executed by the chief judge of each circuit. The court shall administer an oath of office to each citizen review panel member which shall authorize the panel member to participate in citizen review panels and make recommendations to the court pursuant to the provisions of this section.

(2) Citizen review panels shall be administered by an independent not-for-profit agency. For the purpose of this section, an organization that has filed for nonprofit status under the provisions of s. 501(c)(3) of the United States Internal Revenue Code is an independent not-for-profit agency for a period of 1 year after the date of filing. At the end of that 1-year period, in order to continue conducting citizen reviews, the organization must have qualified for nonprofit status under s. 501(c)(3) of the United States Internal Revenue Code and must submit to the chief judge of the circuit court a consumer's certificate of exemption that was issued to the organization by the Florida Department of Revenue and a report of the organization's progress. If the agency has not qualified for nonprofit status, the court must rescind its administrative order that authorizes the agency to conduct citizen reviews. All independent not-for-profit agencies conducting citizen reviews must submit citizen review annual reports to the court.

(3) For the purpose of this section, a citizen review panel shall be composed of five volunteer members and shall conform with the requirements of this *chapter* ~~section~~. The presence of three members at a panel hearing shall constitute a quorum. Panel members shall serve without compensation.

(4)~~(3)~~ Based on the information provided to each citizen review panel pursuant to s. *39.701* ~~39.453~~, each citizen review panel shall provide the court with a report and recommendations regarding the placement and dispositional alternatives the court shall consider before issuing a judicial review order.

(5)~~(4)~~ *The* ~~An~~ independent not-for-profit agency authorized to administer each citizen review panel shall:

(a) In collaboration with the department, develop policies to assure that citizen review panels comply with all applicable state and federal laws.

(b) Establish policies for the recruitment, selection, retention, and terms of volunteer panel members. Final selection of citizen review panel members shall, to the extent possible, reflect the multicultural composition of the community which they serve. A criminal background check and personal reference check shall be conducted on each citizen review panel member prior to the member serving on a citizen review panel.

(c) In collaboration with the department, develop, implement, and maintain a training program for citizen review volunteers and provide training for each panel member prior to that member serving on a review panel. Such training may include, but shall not be limited to, instruction on dependency laws, departmental policies, and judicial procedures.

(d) Ensure that all citizen review panel members have read, understood, and signed an oath of confidentiality relating to ~~the citizen review hearings and~~ written or verbal information provided to the panel members *for review hearings*.

(e) Establish policies to avoid actual or perceived conflicts of interest by panel members during the review process and to ensure accurate, fair reviews of each child dependency case.

(f) Establish policies to ensure ongoing communication with the department and the court.

(g) Establish policies to ensure adequate communication with the parent, *caregiver, or legal custodian* ~~or guardian~~, the foster parent *or caregiver*, the guardian ad litem, and any other person deemed appropriate.

(h) Establish procedures that encourage attendance *and participation* of interested persons *and parties, including the biological parents, foster parents or caregivers, or a relative or nonrelative with whom the child is placed,* at *citizen* review hearings.

(i) Coordinate with existing citizen review panels to ensure consistency of operating procedures, data collection, ~~and~~ analysis, and report generation.

(j) Make recommendations as necessary to the court concerning attendance of essential persons at the review and other issues pertinent to an effective review process.

(k) Ensure consistent methods of identifying barriers to the permanent placement of the child and delineation of findings and recommendations to the court.

(6)~~(5)~~ The department and agents of the department shall submit information to the citizen review panel when requested and shall address questions asked by the citizen review panel to identify barriers to the permanent placement of each child.

Section 79. Section 39.454, Florida Statutes, is renumbered as section 39.703, Florida Statutes, and amended to read:

39.703 ~~39.454~~ Initiation of termination of parental rights proceedings.—

(1) If, in preparation for any judicial review hearing under this *chapter* ~~part~~, it is the opinion of the social service agency that the parents ~~or legal guardian~~ of the child have not complied with their responsibilities as specified in the written case plan although able to do so, the social service agency shall state its intent to initiate proceedings to terminate parental rights, unless the social service agency can demonstrate to the court that such a recommendation would not be in the child's best interests. If it is the intent of the department or licensed child-placing agency to initiate proceedings to terminate parental rights, the department or licensed child-placing agency shall file a petition for termination of parental rights no later than 3 months after the date of the previous judicial review hearing. If the petition cannot be filed within 3 months, the department or licensed child-placing agency shall provide a written report to the court outlining the reasons for delay, the progress made in the termination of parental rights process, and the anticipated date of completion of the process.

(2) If, at the time of the *12-month* ~~18-month~~ judicial review hearing, a child is not returned to the physical custody of the ~~natural~~ parents, *caregivers, or legal custodians*, the social service agency shall initiate termination of parental rights proceedings under ~~part VI of~~ this chapter within 30 days. Only if the court finds that the situation of the child is so extraordinary and that the best interests of the child will be met by such action at the time of the judicial review may the case plan be extended. If the court decides to extend the plan, the court shall enter detailed findings justifying the decision to extend, as well as the length of the extension. *A termination of parental rights petition need not be filed if: the child is being cared for by a relative who chooses not to adopt the child; the court determines that filing such a petition would not be in the best interests of the child; or the state has not provided the child's family, when reasonable efforts to return a child are required, consistent with the time period in the state's case plan, such services as the state deems necessary for the safe return of the child to his or her home.* Failure to initiate termination of parental rights proceedings at the time of the *12-month* ~~18-month~~ judicial review or within 30 days after such review does not prohibit initiating termination of parental rights proceedings at any other time.

Section 80. Section 39.456, Florida Statutes, is renumbered as section 39.704, Florida Statutes, and amended to read:

39.704 ~~39.456~~ Exemptions *from judicial review.—Judicial review* ~~This part~~ does not apply to:

(1) Minors who have been placed in adoptive homes by the department or by a licensed child-placing agency; *or*

(2) Minors who are refugees or entrants to whom federal regulations apply and who are in the care of a social service agency.~~; or~~

~~(3) Minors who are the subjects of termination of parental rights cases pursuant to s. 39.464.~~

Section 81. Part IX of chapter 39, Florida Statutes, consisting of sections 39.801, 39.802, 39.803, 39.804, 39.805, 39.806, 39.807, 39.808, 39.809, 39.810, 39.811, 39.812, 39.813, 39.814, 39.815, 39.816, and 39.817, Florida Statutes, shall be entitled to read:

PART IX
TERMINATION OF PARENTAL RIGHTS

Section 82. Section 39.46, Florida Statutes, is renumbered as section 39.801, Florida Statutes, and amended to read:

39.801 ~~39.46~~ Procedures and jurisdiction*; notice; service of process*.—

(1) All procedures, including petitions, pleadings, subpoenas, summonses, and hearings, in termination of parental rights proceedings shall be according to the Florida Rules of Juvenile Procedure unless otherwise provided by law.

(2) The circuit court shall have exclusive original jurisdiction of a proceeding involving termination of parental rights.

(3) Before the court may terminate parental rights, in addition to the other requirements set forth in this part, the following requirements must be met:

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

1. The parents of the child.

2. The caregivers or legal custodians of the child.

3. If the parents who would be entitled to notice are dead or unknown, a living relative of the child, unless upon diligent search and inquiry no such relative can be found.

4. Any person who has physical custody of the child.

5. Any grandparent entitled to priority for adoption under s. 63.0425.

6. Any prospective parent who has been identified under s. 39.503 or s. 39.803.

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

The document containing the notice to respond or appear must contain, in type at least as large as the type in the balance of the document, the following or substantially similar language: "FAILURE TO PERSONALLY APPEAR AT THIS ADVISORY HEARING CONSTITUTES CONSENT TO THE TERMINATION OF PARENTAL RIGHTS OF THIS CHILD (OR CHILDREN)."

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

(c) Notice as prescribed by this section may be waived, in the discretion of the judge, with regard to any person to whom notice must be given under this subsection if the person executes, before two witnesses and a notary public or other officer authorized to take acknowledgments, a written surrender of the child to a licensed child-placing agency or the department.

(d) If the person served with notice under this section fails to appear at the advisory hearing, the failure to appear shall constitute consent for termination of parental rights by the person given notice.

(4) Upon the application of any party, the clerk or deputy clerk shall issue, and the court on its own motion may issue, subpoenas requiring the attendance and testimony of witnesses and the production of records, documents, or other tangible objects at any hearing.

(5) All process and orders issued by the court must be served or executed as other process and orders of the circuit court and, in addition, may be served or executed by authorized agents of the department or the guardian ad litem.

(6) Subpoenas may be served within the state by any person over 18 years of age who is not a party to the proceeding.

(7) A fee may not be paid for service of any process or other papers by an agent of the department or the guardian ad litem. If any process, orders, or other papers are served or executed by any sheriff, the sheriff's fees must be paid by the county.

Section 83. Section 39.461, Florida Statutes, is renumbered as section 39.802, Florida Statutes, and amended to read:

39.802 ~~39.461~~ Petition for termination of parental rights*; filing; elements.—*

(1) All proceedings seeking an adjudication to terminate parental rights pursuant to this chapter must be initiated by the filing of an original petition by the department, the guardian ad litem, or a licensed child-placing agency or by any other person who has knowledge of the facts alleged or is informed of them and believes that they are true.

(2) The form of the petition is governed by the Florida Rules of Juvenile Procedure. The petition must be in writing and signed by the petitioner under oath stating the petitioner's good faith in filing the petition.

(3) When a petition for termination of parental rights has been filed, the clerk of the court shall set the case before the court for an advisory hearing.

(4) A petition for termination of parental rights filed under this chapter must contain facts supporting the following allegations:

(a) That at least one of the grounds listed in s. 39.806 has been met.

(b) That the parents of the child were informed of their right to counsel at all hearings that they attend and that a dispositional order adjudicating the child dependent was entered in any prior dependency proceeding relied upon in offering a parent a case plan as described in s. 39.806.

(c) That the manifest best interests of the child, in accordance with s. 39.810, would be served by the granting of the petition.

(5) When a petition for termination of parental rights is filed under s. 39.806(1), a separate petition for dependency need not be filed and the department need not offer the parents a case plan with a goal of reunification, but may instead file with the court a case plan with a goal of termination of parental rights to allow continuation of services until the termination is granted or until further orders of the court are issued.

(6) The fact that a child has been previously adjudicated dependent as alleged in a petition for termination of parental rights may be proved by the introduction of a certified copy of the order of adjudication or the order of disposition of dependency.

(7) The fact that the parent of a child was informed of the right to counsel in any prior dependency proceeding as alleged in a petition for termination of parental rights may be proved by the introduction of a certified copy of the order of adjudication or the order of disposition of dependency containing a finding of fact that the parent was so advised.

(8) Whenever the department has entered into a case plan with a parent with the goal of reunification, and a petition for termination of parental rights based on the same facts as are covered in the case plan is filed prior to the time agreed upon in the case plan for the performance of the case plan, the petitioner must allege and prove by clear and convincing evidence that the parent has materially breached the provisions of the case plan.

Section 84. Section 39.803, Florida Statutes, is created to read:

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

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

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

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

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

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

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

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

(3) If the inquiry under subsection (1) identifies any person as a parent or prospective parent, the court shall require notice of the hearing to be provided to that person.

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

(5) If the inquiry under subsection (1) identifies a parent or prospective parent, and that person's location is unknown, the court shall direct the department to conduct a diligent search for that person before scheduling an adjudicatory hearing regarding the dependency of the child unless the court finds that the best interest of the child requires proceeding without actual notice to the person whose location is unknown.

(6) The diligent search required by subsection (5) must include, at a minimum, inquiries of all known relatives of the parent or prospective parent, inquiries of all offices of program areas of the department likely to have information about the parent or prospective parent, inquiries of other state and federal agencies likely to have information about the parent or prospective parent, inquiries of appropriate utility and postal providers, and inquiries of appropriate law enforcement agencies.

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

(8) If the inquiry and diligent search identifies a prospective parent, that person must be given the opportunity to become a party to the proceedings by completing a sworn affidavit of parenthood and filing it with the court or the department. A prospective parent who files a sworn affidavit of parenthood while the child is a dependent child but no later than at the time of or prior to the adjudicatory hearing in the termination of parental rights proceeding for the child shall be considered a parent for all purposes under this section.

Section 85. *Section 39.4627, Florida Statutes, is renumbered as section 39.804, Florida Statutes.*

Section 86. Section 39.463, Florida Statutes, is renumbered as section 39.805, Florida Statutes, and amended to read:

39.805 ~~39.463~~ No answer required.—No answer to the petition or any other pleading need be filed by any child, parent, *caregiver,* or legal custodian, but any matters which might be set forth in an answer or other pleading may be pleaded orally before the court or filed in writing as any such person may choose. Notwithstanding the filing of any answer or any pleading, the child or parent shall, prior to the adjudicatory hearing, be advised by the court of the right to counsel and shall be given an opportunity to deny the allegations in the petition for termination of parental rights or to enter a plea to allegations in the petition before the court.

Section 87. Section 39.464, Florida Statutes, as amended by chapter 97-276, Laws of Florida, is renumbered as section 39.806, Florida Statutes, and amended to read:

39.806 ~~39.464~~ Grounds for termination of parental rights.—

(1) The department, the guardian ad litem, a licensed child-placing agency, or any person who has knowledge of the facts alleged or who is informed of said facts and believes that they are true, may petition for the termination of parental rights under any of the following circumstances:

(a) When the parent or parents voluntarily executed a written surrender of the child and consented to the entry of an order giving custody of the child to the department or to a licensed child-placing agency for subsequent adoption and the department or licensed child-placing agency is willing to accept custody of the child.

1. The surrender document must be executed before two witnesses and a notary public or other person authorized to take acknowledgments.

2. The surrender and consent may be withdrawn after acceptance by the department or licensed child-placing agency only after a finding by the court that the surrender and consent were obtained by fraud or duress.

(b) When the identity or location of the parent or parents is unknown and~~, if the court requires a diligent search pursuant to s. 39.4625,~~ cannot be ascertained by diligent search ~~as provided in s. 39.4625~~ within 90 days.

(c) When the parent or parents engaged in conduct toward the child or toward other children that demonstrates that the continuing involvement of the parent or parents in the parent-child relationship threatens the life, *safety* ~~or~~ well-being, *or physical, mental, or emotional health* of the child irrespective of the provision of services. Provision of services *may be* ~~is~~ evidenced by proof that services were provided through a previous plan or offered as a case plan from a child welfare agency.

(d) When the parent of a child is incarcerated in a state or federal correctional institution and:

1. The period of time for which the parent is expected to be incarcerated will constitute a substantial portion of the period of time before the child will attain the age of 18 years;

2. The incarcerated parent has been determined by the court to be a violent career criminal as defined in s. 775.084, a habitual violent felony offender as defined in s. 775.084, or a sexual predator as defined in s. 775.21; has been convicted of first degree or second degree murder in violation of s. 782.04 or a sexual battery that constitutes a capital, life, or first degree felony violation of s. 794.011; or has been convicted of an offense in another jurisdiction which is substantially similar to one of the offenses listed in this paragraph. As used in this section, the term "substantially similar offense" means any offense that is substantially similar in elements and penalties to one of those listed in this paragraph, and that is in violation of a law of any other jurisdiction, whether that of another state, the District of Columbia, the United States or any possession or territory thereof, or any foreign jurisdiction; and

3. The court determines by clear and convincing evidence that continuing the parental relationship with the incarcerated parent would be harmful to the child and, for this reason, that termination of the parental rights of the incarcerated parent is in the best interest of the child.

(e)~~(f)~~ A petition for termination of parental rights may also be filed when a child has been adjudicated dependent, a case plan has been filed with the court, and the child continues to be abused, neglected, or abandoned by the parents. In this case, the failure of the parents to substantially comply for a period of 12 months after an adjudication of the child as a dependent child constitutes evidence of continuing abuse, neglect, or abandonment unless the failure to substantially comply with the case plan was due either to the lack of financial resources of the parents or to the failure of the department to make reasonable efforts to reunify the family. Such 12-month period may begin to run only after the entry of a disposition order placing the custody of the child with the department or a person other than the parent and the *approval by* ~~subsequent filing with~~ the court of a case plan with a goal of reunification with the parent.

(f)~~(e)~~ When the parent or parents engaged in egregious conduct *or had the opportunity and capability to prevent and knowingly failed to prevent egregious conduct threatening the life, safety, or physical, mental, or emotional health* ~~that endangers the life, health, or safety~~ of the child or the child's sibling ~~or had the opportunity and capability to prevent egregious conduct that threatened the life, health, or safety of the child or the child's sibling and knowingly failed to do so~~.

1. As used in this subsection, the term "sibling" means another child who resides with or is cared for by the parent or parents regardless of whether the child is related legally or by consanguinity.

2. As used in this subsection, the term "egregious *conduct* ~~abuse~~" means *abuse, abandonment, neglect, or any other* conduct of the parent or parents that is deplorable, flagrant, or outrageous by a normal standard of conduct. Egregious *conduct* ~~abuse~~ may include an act or omission that occurred only once but was of such intensity, magnitude, or severity as to endanger the life of the child.

(g) When the parent or parents have subjected the child to aggravated child abuse as defined in s. 827.03, sexual battery or sexual abuse as defined in s. 39.01, or chronic abuse.

(h) When the parent or parents have committed murder or voluntary manslaughter of another child of the parent, or a felony assault that results in serious bodily injury to the child or another child of the parent, or aided or abetted, attempted, conspired, or solicited to commit such a murder or voluntary manslaughter or felony assault.

(i) When the parental rights of the parent to a sibling have been terminated involuntarily.

(2) Reasonable efforts to preserve and reunify families shall not be required if a court of competent jurisdiction has determined that any of the events described in paragraphs (1)(e)-(i) have occurred.

(3)~~(2)~~ When a petition for termination of parental rights is filed under subsection (1), a separate petition for dependency need not be filed and the department need not offer the parents a case plan with a goal of reunification, but may instead file with the court a case plan with a goal of termination of parental rights *to allow continuation of services until the termination is granted or until further orders of the court are issued.*

(4) When an expedited termination of parental rights petition is filed, reasonable efforts shall be made to place the child in a timely manner in accordance with the permanency plan, and to complete whatever steps are necessary to finalize the permanent placement of the child.

Section 88. Section 39.465, Florida Statutes, is renumbered as section 39.807, Florida Statutes, and amended to read:

39.807 ~~39.465~~ Right to counsel; guardian ad litem.—

(1)(a) At each stage of the proceeding under this part, the court shall advise the parent~~, guardian, or custodian~~ of the right to have counsel present. The court shall appoint counsel for *indigent* ~~insolvent~~ persons.

The court shall ascertain whether the right to counsel is understood and, where appropriate, is knowingly and intelligently waived. The court shall enter its findings in writing with respect to the appointment or waiver of counsel for *indigent* ~~insolvent~~ parties.

(b) Once counsel has been retained or, in appropriate circumstances, appointed to represent the parent of the child, the attorney shall continue to represent the parent throughout the proceedings or until the court has approved discontinuing the attorney-client relationship. If the attorney-client relationship is discontinued, the court shall advise the parent of the right to have new counsel retained or appointed for the remainder of the proceedings.

(c)~~(b)~~1. No waiver of counsel may be accepted if it appears that the parent~~, guardian, or custodian~~ is unable to make an intelligent and understanding choice because of mental condition, age, education, experience, the nature or complexity of the case, or other factors.

2. A waiver of counsel made in court must be of record. A waiver made out of court must be in writing with not less than two attesting witnesses and must be filed with the court. The witnesses shall attest to the voluntary execution of the waiver.

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

(d)~~(c)~~ This subsection does not apply to any parent who has voluntarily executed a written surrender of the child and consent to the entry of a court order therefor and who does not deny the allegations of the petition.

(2)(a) The court shall appoint a guardian ad litem to represent the child in any termination of parental rights proceedings and shall ascertain at each stage of the proceedings whether a guardian ad litem has been appointed.

(b) The guardian ad litem has the following responsibilities:

1. To investigate the allegations of the petition and any subsequent matters arising in the case and, unless excused by the court, to file a written report. This report must include a statement of the wishes of the child and the recommendations of the guardian ad litem and must be provided to all parties and the court at least 48 hours before the disposition hearing.

2. To be present at all court hearings unless excused by the court.

3. To represent the interests of the child until the jurisdiction of the court over the child terminates or until excused by the court.

~~4. To perform such other duties and undertake such other responsibilities as the court may direct.~~

(c) A guardian ad litem is not required to post bond but shall file an acceptance of the office.

(d) A guardian ad litem is entitled to receive service of pleadings and papers as provided by the Florida Rules of Juvenile Procedure.

(e) This subsection does not apply to any voluntary relinquishment of parental rights proceeding.

Section 89. Section 39.466, Florida Statutes, is renumbered as section 39.808, Florida Statutes, and amended to read:

39.808 ~~39.466~~ Advisory hearing*; pretrial status conference*.—

(1) An advisory hearing on the petition to terminate parental rights must be held as soon as possible after all parties have been served with a copy of the petition and a notice of the date, time, and place of the advisory hearing for the petition.

(2) At the hearing the court shall inform the parties of their rights under s. *39.807* ~~39.465~~, shall appoint counsel for the parties in accordance with legal requirements, and shall appoint a guardian ad litem to represent the interests of the child if one has not already been appointed.

(3) The court shall set a date for an adjudicatory hearing to be held within 45 days after the advisory hearing, unless all of the necessary parties agree to some other hearing date.

(4) An advisory hearing may not be held if a petition is filed seeking an adjudication voluntarily to terminate parental rights. Adjudicatory hearings for petitions for voluntary termination must be held within 21 days after the filing of the petition. Notice of the use of this subsection must be filed with the court at the same time as the filing of the petition to terminate parental rights.

(5) Not less than 10 days before the adjudicatory hearing, the court shall conduct a prehearing status conference to determine the order in which each party may present witnesses or evidence, the order in which cross-examination and argument shall occur, and any other matters that may aid in the conduct of the adjudicatory hearing, to prevent any undue delay in the conduct of the adjudicatory hearing.

Section 90. Section 39.467, Florida Statutes, is renumbered as section 39.809, Florida Statutes, and amended to read:

39.809 ~~39.467~~ Adjudicatory hearing.—

(1) In a hearing on a petition for termination of parental rights, the court shall consider the elements required for termination ~~as set forth in s. 39.4611~~. Each of these elements must be established by clear and convincing evidence before the petition is granted.

(2) The adjudicatory hearing must be held within 45 days after the advisory hearing, but reasonable continuances for the purpose of investigation, discovery, or procuring counsel or witnesses may, when necessary, be granted.

(3) The adjudicatory hearing must be conducted by the judge without a jury, applying the rules of evidence in use in civil cases and adjourning the case from time to time as necessary. For purposes of the adjudicatory hearing, to avoid unnecessary duplication of expense, the judge may consider in-court testimony previously given at any properly noticed hearing, without regard to the availability or unavailability of the witness at the time of the actual adjudicatory hearing, if the recorded testimony itself is made available to the judge. Consideration of such testimony does not preclude the witness being subpoenaed to answer supplemental questions.

(4) All hearings involving termination of parental rights are confidential and closed to the public. Hearings involving more than one child may be held simultaneously when the children involved are related to each other or were involved in the same case. The child and the parents ~~or legal custodians~~ may be examined separately and apart from each other.

(5) The judge shall enter a written order with the findings of fact and conclusions of law.

Section 91. Section 39.4612, Florida Statutes, is renumbered as section 39.810, Florida Statutes, is amended to read:

39.810 ~~39.4612~~ Manifest best interests of the child. In a hearing on a petition for termination of parental rights, the court shall consider the manifest best interests of the child. This consideration shall not include a comparison between the attributes of the parents and those of any persons providing a present or potential placement for the child. For the purpose of determining the manifest best interests of the child, the court shall consider and evaluate all relevant factors, including, but not limited to:

(1) Any suitable permanent custody arrangement with a relative of the child.

(2) The ability and disposition of the parent or parents to provide the child with food, clothing, medical care or other remedial care recognized and permitted under state law instead of medical care, and other material needs of the child.

(3) The capacity of the parent or parents to care for the child to the extent that the child's *safety, well-being, and physical, mental, and emotional* health ~~and well-being~~ will not be endangered upon the child's return home.

(4) The present mental and physical health needs of the child and such future needs of the child to the extent that such future needs can be ascertained based on the present condition of the child.

(5) The love, affection, and other emotional ties existing between the child and the child's parent or parents, siblings, and other relatives, and the degree of harm to the child that would arise from the termination of parental rights and duties.

(6) The likelihood of an older child remaining in long-term foster care upon termination of parental rights, due to emotional or behavioral problems or any special needs of the child.

(7) The child's ability to form a significant relationship with a parental substitute and the likelihood that the child will enter into a more stable and permanent family relationship as a result of permanent termination of parental rights and duties.

(8) The length of time that the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity.

(9) The depth of the relationship existing between the child and the present custodian.

(10) The reasonable preferences and wishes of the child, if the court deems the child to be of sufficient intelligence, understanding, and experience to express a preference.

(11) The recommendations for the child provided by the child's guardian ad litem or legal representative.

Section 92. Section 39.469, Florida Statutes, is renumbered as section 39.811, Florida Statutes, and amended to read:

39.811 ~~39.469~~ Powers of disposition; order of disposition.—

(1) If the court finds that the grounds for termination of parental rights have not been established by clear and convincing evidence, the court shall:

(a) If grounds for dependency have been established, adjudicate or readjudicate the child dependent and:

1. Enter an order placing or continuing the child in *out-of-home* ~~foster~~ care under a case plan; or

2. Enter an order returning the child to the parent or parents. The court shall retain jurisdiction over a child returned to the *parent or* parents ~~or legal guardians~~ for a period of 6 months, but, at that time, based on a report of the social service agency and any other relevant factors, the court shall make a determination as to whether its jurisdiction shall continue or be terminated.

(b) If grounds for dependency have not been established, dismiss the petition.

(2) If the child is in *out-of-home* ~~foster~~ care custody of the department and the court finds that the grounds for termination of parental rights have been established by clear and convincing evidence, the court shall, by order, place the child in the custody of the department for the purpose of adoption or place the child in the custody of a licensed child-placing agency for the purpose of adoption.

(3) If the child is in the custody of one parent and the court finds that the grounds for termination of parental rights have been established for the remaining parent by clear and convincing evidence, the court shall enter an order terminating the rights of the parent for whom the grounds have been established and placing the child in the custody of the remaining parent, granting that parent sole parental responsibility for the child.

(4) If the child is neither in the custody of the department ~~of Children and Family Services~~ nor in the custody of a parent and the court finds that the grounds for termination of parental rights have been established for either or both parents, the court shall enter an order terminating parental rights for the parent or parents for whom the grounds for termination have been established and placing the child with an appropriate custodian. If the parental rights of both parents have been terminated, or if the parental rights of only one parent have been terminated and the court makes specific findings based on evidence presented that placement with the remaining parent is likely to be harmful to the child, the court may order that the child be placed with a custodian other than the department after hearing evidence of the suitability of such intended placement. Suitability of the intended placement includes the fitness *and capabilities* of the *proposed* ~~intended placement, with primary consideration being given to the welfare of the child; the fitness and capabilities of the proposed~~ custodian to function as the primary *caregiver* ~~caretaker~~ for a particular child; and the compatibility of the child with the home in which the child is intended to be placed. If the court orders that a child be placed with a custodian under this subsection, the court shall appoint such custodian as the guardian for the child as provided in s. 744.3021. The court may modify the order placing the child in the custody of the custodian and revoke the guardianship established under s. 744.3021 if the court subsequently finds that a party to the proceeding other than a parent whose rights have been terminated has shown a material change in circumstances which causes the placement to be no longer in the best interest of the child.

(5) If the court terminates parental rights, the court shall enter a written order of disposition briefly stating the facts upon which its decision to terminate the parental rights is made. An order of termination of parental rights, whether based on parental consent or after notice served as prescribed in this part, permanently deprives the parents ~~or legal guardian~~ of any right to the child.

(6) The parental rights of one parent may be severed without severing the parental rights of the other parent only under the following circumstances:

(a) If the child has only one surviving parent;

(b) If the identity of a prospective parent has been established as unknown after sworn testimony;

(c) If the parent whose rights are being terminated became a parent through a single-parent adoption;

(d) If the protection of the child demands termination of the rights of a single parent; or

(e) If the parent whose rights are being terminated meets the criteria specified in s. *39.806(1)(d)* ~~39.464(1)(d)~~.

(7)*(a) The termination of parental rights does not affect the rights of grandparents unless the court finds that continued visitation is not in the best interests of the child or that such visitation would interfere with the goals of permanency planning for the child.*

(b) If the court terminates parental rights, it may order that the parents or relatives of the parent whose rights are terminated be allowed to maintain some contact with the child pending adoption if the best interests of the child support this continued contact, *except as provided in paragraph (a).* If the court orders such continued contact, the nature and frequency of the contact must be set forth in written order and may be reviewed upon motion of any party, including a prospective adoptive parent if a child has been placed for adoption. If a child is placed for adoption, the nature and frequency of the contact must be reviewed by the court at the time the child is adopted.

(8) If the court terminates parental rights, it shall, in its order of disposition, provide for a hearing, to be scheduled no later than 30 days after the date of disposition, in which the department or the licensed child-placing agency shall provide to the court a plan for permanency for the child. *Reasonable efforts must be made to place the child in a timely manner in accordance with the permanency plan, and to complete whatever steps are necessary to finalize the permanent placement of the child.* Thereafter, until the adoption of the child is finalized or the child

reaches the age of 18 years, whichever occurs first, the court shall hold hearings at 6-month intervals to review the progress being made toward permanency for the child.

(9) After termination of parental rights, the court shall retain jurisdiction over any child for whom custody is given to a social service agency until the child is adopted. The court shall review the status of the child's placement and the progress being made toward permanent adoptive placement. As part of this continuing jurisdiction, for good cause shown by the guardian ad litem for the child, the court may review the appropriateness of the adoptive placement of the child.

Section 93. Section 39.47, Florida Statutes, is renumbered as section 39.812, Florida Statutes, and amended to read:

39.812 ~~39.47~~ Post disposition relief.—

(1) A licensed child-placing agency or the department which is given custody of a child for subsequent adoption in accordance with this chapter may place the child in a family home for prospective subsequent adoption and *the licensed child-placing agency or the department* may thereafter become a party to any proceeding for the legal adoption of the child and appear in any court where the adoption proceeding is pending and consent to the adoption; and that consent alone shall in all cases be sufficient.

(2) In any subsequent adoption proceeding, the parents ~~and legal guardian~~ shall not be entitled to any notice thereof, nor shall they be entitled to knowledge at any time after the order terminating parental rights is entered of the whereabouts of the child or of the identity or location of any person having the custody of or having adopted the child, except as provided by order of the court pursuant to this chapter or chapter 63; and in any habeas corpus or other proceeding involving the child brought by any parent ~~or legal guardian~~ of the child, no agent *or contract provider* of the licensed child-placing agency or department shall be compelled to divulge that information, but may be compelled to produce the child before a court of competent jurisdiction if the child is still subject to the guardianship of the licensed child-placing agency or department.

(3) The entry of the custody order to the department or licensed child-placing agency shall not entitle the licensed child-placing agency or department to guardianship of the estate or property of the child, but the licensed child-placing agency or department shall be the guardian of the person of the child.

(4) The court shall retain jurisdiction over any child for whom custody is given to a licensed child-placing agency or to the department until the child is adopted. After custody of a child for subsequent adoption has been given to an agency or the department, the court has jurisdiction for the purpose of reviewing the status of the child and the progress being made toward permanent adoptive placement. As part of this continuing jurisdiction, for good cause shown by the guardian ad litem for the child, the court may review the appropriateness of the adoptive placement of the child.

~~(5) The Legislature finds that children are most likely to realize their potential when they have the ability provided by good permanent families rather than spending long periods of time in temporary placements or unnecessary institutions. It is the intent of the Legislature that decisions be consistent with the child's best interests and that the department make proper adoptive placements as expeditiously as possible following a final judgment terminating parental rights.~~

Section 94. Section 39.813, Florida Statutes, is created to read:

39.813 Continuing jurisdiction.—The court that terminates the parental rights of a child who is the subject of termination proceedings pursuant to this chapter shall retain exclusive jurisdiction in all matters pertaining to the child's adoption pursuant to chapter 63.

Section 95. *Section 39.471, Florida Statutes, is renumbered as section 39.814, Florida Statutes.*

Section 96. Section 39.473, Florida Statutes, is renumbered as section 39.815, Florida Statutes, and subsection (1) of said section is amended to read:

39.815 ~~39.473~~ Appeal.—

(1) Any child, any parent *or*~~,~~ guardian ad litem~~, or legal custodian~~ of any child, any other party to the proceeding who is affected by an order of the court, or the department may appeal to the appropriate district court of appeal within the time and in the manner prescribed by the Florida Rules of Appellate Procedure. The district court of appeal shall give an appeal from an order terminating parental rights priority in docketing and shall render a decision on the appeal as expeditiously as possible. Appointed counsel shall be compensated as provided in s. *39.0134* ~~39.474~~.

Section 97. Section 39.816, Florida Statutes, is created to read:

39.816 Authorization for pilot and demonstration projects.—

(1) Contingent upon receipt of a federal grant or contract pursuant to s. 473A(i) of the Social Security Act, 42 U.S.C. 673A(i), enacted November 19, 1997, the department is authorized to establish one or more pilot projects for the following purposes:

(a) The development of best practice guidelines for expediting termination of parental rights.

(b) The development of models to encourage the use of concurrent planning.

(c) The development of specialized units and expertise in moving children toward adoption as a permanency goal.

(d) The development of risk-assessment tools to facilitate early identification of the children who will be at risk of harm if returned home.

(e) The development of models to encourage the fast-tracking into preadoptive placements of children who have not attained 1 year of age.

(f) The development of programs that place children into preadoptive families without waiting for termination of parental rights.

(2) Contingent upon receipt of federal authorization and funding pursuant to s. 1130(a) of the Social Security Act, 42 U.S.C. 1320a-9, enacted November 19, 1997, the department is authorized to establish one or more demonstration projects for the following purposes:

(a) Identifying and addressing barriers that result in delays to adoptive placements for children in out-of-home care.

(b) Identifying and addressing parental substance abuse problems that endanger children and result in the placement of children in out-of-home care. This purpose may be accomplished through the placement of children with their parents in residential treatment facilities, including residential treatment facilities for post-partum depression, which are specifically designed to serve parents and children together, in order to promote family reunification, and which can ensure the health and safety of the children.

(c) Addressing kinship care.

Section 98. Section 39.817, Florida Statutes, is created to read:

39.817 Foster care privatization demonstration pilot project.—A pilot project shall be established through The Ounce of Prevention Fund of Florida to contract with a private entity for a foster care privatization demonstration project. No more then 30 children with a goal of family reunification shall be accepted into the program on a no-eject-or-reject basis as identified by the department. Sibling groups shall be kept together in one placement in their own communities. Foster care parents shall be paid employees of the program. The program shall provide for public/private partnerships, community collaboration, counseling, and medical and legal assistance, as needed. For purposes of identifying measurable outcomes, the pilot project shall be located in a department district with an integrated district management which was selected as a

family transition program site, has a population of less than 500,000, has a total caseload of no more than 400, with and without board payment, and has a total foster care case load of no more than 250.

Section 99. Part X of chapter 39, Florida Statutes, consisting of sections 39.820, 39.821, 39.822, 39.823, 39.824, 39.825, 39.826, 39.827, 39.828, 39.829, and 39.8295, Florida Statutes, shall be entitled to read:

PART X

GUARDIANS AD LITEM AND GUARDIAN ADVOCATES

Section 100. Section 39.820, Florida Statutes, is created to read:

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

(1) "Guardian ad litem" as referred to in any civil or criminal proceeding includes the following: a certified guardian ad litem program; a duly certified volunteer; a staff attorney, contract attorney, or certified pro bono attorney working on behalf of a guardian ad litem or the program; staff members of a program office; a court-appointed attorney; or a responsible adult who is appointed by the court to represent the best interests of a child in a proceeding as provided for by law, including, but not limited to, this chapter, who is a party to any judicial proceeding as a representative of the child, and who serves until discharged by the court.

(2) "Guardian advocate" means a person appointed by the court to act on behalf of a drug-dependent newborn pursuant to the provisions of this part.

Section 101. *Section 415.5077, Florida Statutes, is renumbered as section 39.821, Florida Statutes.*

Section 102. Section 415.508, Florida Statutes, is renumbered as section 39.822, Florida Statutes, and amended to read:

39.822 ~~415.508~~ Appointment of guardian ad litem for abused, *abandoned,* or neglected child.—

(1) A guardian ad litem shall be appointed by the court at the earliest possible time to represent the child in any child abuse, *abandonment,* or neglect judicial proceeding, whether civil or criminal. Any person participating in a civil or criminal judicial proceeding resulting from such appointment shall be presumed prima facie to be acting in good faith and in so doing shall be immune from any liability, civil or criminal, that otherwise might be incurred or imposed.

(2) In those cases in which the parents are financially able, the parent or parents of the child shall reimburse the court, in part or in whole, for the cost of provision of guardian ad litem services. Reimbursement to the individual providing guardian ad litem services shall not be contingent upon successful collection by the court from the parent or parents.

(3) The guardian ad litem or the program representative shall review all disposition recommendations and changes in placements, and must be present at all critical stages of the dependency proceeding or submit a written report of recommendations to the court.

Section 103. Section 415.5082, Florida Statutes, is renumbered as section 39.823, Florida Statutes, and amended to read:

39.823 ~~415.5082~~ Guardian advocates for drug dependent newborns.—The Legislature finds that increasing numbers of drug dependent children are born in this state. Because of the parents' continued dependence upon drugs, the parents may temporarily leave their child with a relative or other adult or may have agreed to voluntary family services under s. *39.301(8)* ~~415.505(1)(e)~~. The relative or other adult may be left with a child who is likely to require medical treatment but for whom they are unable to obtain medical treatment. The purpose of this section is to provide an expeditious method for such relatives or other responsible adults to obtain a court order which allows them to provide consent for medical treatment and otherwise advocate for the needs of the child and to provide court review of such authorization.

Section 104. Section 415.5083, Florida Statutes, is renumbered as section 39.824, Florida Statutes, and amended to read:

39.824 ~~415.5083~~ Procedures and jurisdiction.—

(1) The Supreme Court is requested to adopt rules of juvenile procedure by October 1, 1989, to implement *this part* ~~ss. 415.5082-415.5089~~. All procedures, including petitions, pleadings, subpoenas, summonses, and hearings in cases for the appointment of a guardian advocate shall be according to the Florida Rules of Juvenile Procedure unless otherwise provided by law.

(2) The circuit court shall have exclusive original jurisdiction of a proceeding in which appointment of a guardian advocate is sought. The court shall retain jurisdiction over a child for whom a guardian advocate is appointed until specifically relinquished by court order.

Section 105. *Section 415.5084, Florida Statutes, is renumbered as section 39.825, Florida Statutes.*

Section 106. *Section 415.5085, Florida Statutes, is renumbered as section 39.826, Florida Statutes.*

Section 107. Section 415.5086, Florida Statutes, is renumbered as section 39.827, Florida Statutes, and amended to read:

39.827 ~~415.5086~~ Hearing for appointment of a guardian advocate.—

(1) When a petition for appointment of a guardian advocate has been filed with the circuit court, the hearing shall be held within 14 days unless all parties agree to a continuance. If a child is in need of necessary medical treatment as defined in s. 39.01, the court shall hold a hearing within 24 hours.

(2) At the hearing, the parents have the right to be present, to present testimony, to call and cross-examine witnesses, to be represented by counsel at their own expense, and to object to the appointment of the guardian advocate.

(3) The hearing shall be conducted by the judge without a jury, applying the rules of evidence in use in civil cases. In a hearing on a petition for appointment of a guardian advocate, the moving party shall prove all the elements in s. *39.828* ~~415.5087~~ by a preponderance of the evidence.

(4) The hearing under this section shall remain confidential and closed to the public. The clerk shall keep all court records required by *this part* ~~ss. 415.5082-415.5089~~ separate from other records of the circuit court. All court records required by *this part* ~~ss. 415.5082-415.5089~~ shall be confidential and exempt from the provisions of s. 119.07(1). All records shall be inspected only upon order of the court by persons deemed by the court to have a proper interest therein, except that a child and the parents or custodians of the child and their attorneys and the department and its designees shall always have the right to inspect and copy any official record pertaining to the child. The court may permit authorized representatives of recognized organizations compiling statistics for proper purposes to inspect and make abstracts from official records, under whatever conditions upon their use and disposition the court may deem proper, and may punish by contempt proceedings any violation of those conditions. All information obtained pursuant to *this part* ~~ss. 415.5082-415.5089~~ in the discharge of official duty by any judge, employee of the court, or authorized agent of the department, shall be confidential and exempt from the provisions of s. 119.07(1) and shall not be disclosed to anyone other than the authorized personnel of the court or the department and its designees, except upon order of the court.

Section 108. Section 415.5087, Florida Statutes, is renumbered as section 39.828, Florida Statutes, and amended to read:

39.828 ~~415.5087~~ Grounds for appointment of a guardian advocate.—

(1) The court shall appoint the person named in the petition as a guardian advocate with all the powers and duties specified in s. *39.829* ~~415.5088~~ for an initial term of 1 year upon a finding that:

(a) The child named in the petition is or was a *drug-dependent* ~~drug dependent~~ newborn as described in s. *39.01(30)(g)* ~~415.503(10)(a)2.~~;

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

(c) The person named in the petition to be appointed the guardian advocate is capable of carrying out the duties as provided in s. *39.829* ~~415.5088~~; and

(d) A petition to adjudicate the child dependent pursuant to *this* chapter ~~39~~ has not been filed.

(2) The appointment of a guardian advocate does not remove from the parents the right to consent to medical treatment for their child. The appointment of a guardian advocate does not prevent the filing of a subsequent petition under *this* chapter ~~39~~ to have the child adjudicated dependent.

Section 109. *Section 415.5088, Florida Statutes, is renumbered as section 39.829, Florida Statutes.*

Section 110. Section 415.5089, Florida Statutes, is renumbered as section 39.8295, Florida Statutes, and amended to read:

39.8295 ~~415.5089~~ Review and removal of guardian advocate.—

(1) At the end of the initial 1-year appointment, the court shall review the status of the child's care, health, and medical condition for the purpose of determining whether to reauthorize the appointment of the guardian advocate. If the court finds that all of the elements of s. *39.828* ~~415.5087~~ are still met the court shall reauthorize the guardian advocate for another year.

(2) At any time, the court may, upon its own motion, or upon the motion of the department, a family member, or other interested person remove a guardian advocate. A guardian advocate shall be removed if the court finds that the guardian advocate is not properly discharging his or her responsibilities or is acting in a manner inconsistent with his or her appointment, that the parents have assumed parental responsibility to provide for the child, or that the child has been adjudicated dependent pursuant to *this* chapter ~~39~~.

Section 111. Part XI of chapter 39, Florida Statutes, consisting of sections 39.901, 39.902, 39.903, 39.904, 39.905, 39.906, and 39.908, Florida Statutes, shall be entitled to read:

PART XI
DOMESTIC VIOLENCE

Section 112. *Section 415.601, Florida Statutes, is renumbered as section 39.901, Florida Statutes.*

Section 113. Section 415.602, Florida Statutes, is renumbered as section 39.902, Florida Statutes, and amended to read:

39.902 ~~415.602~~ Definitions ~~of terms used in ss. 415.601-415.608~~.— As used in *this part* ~~ss. 415.601-415.608~~, the term:

~~(1) "Department" means the Department of Children and Family Services.~~

~~(2) "District" means a service district of the department as created in s. 20.19.~~

(1)~~(3)~~ "Domestic violence" means any assault, battery, sexual assault, sexual battery, or any criminal offense resulting in physical injury or death of one family or household member by another who is or was residing in the same single dwelling unit.

(2)~~(4)~~ "Domestic violence center" means an agency that provides services to victims of domestic violence, as its primary mission.

(3)~~(5)~~ "Family or household member" means spouses, former spouses, adults related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who have a child in common regardless of whether they have been married or have resided together at any time.

Section 114. Section 415.603, Florida Statutes, is renumbered as section 39.903, Florida Statutes, and amended to read:

39.903 ~~415.603~~ Duties and functions of the department with respect to domestic violence.—

(1) The department shall:

(a) Develop by rule criteria for the approval or rejection of certification or funding of domestic violence centers.

(b) Develop by rule minimum standards for domestic violence centers to ensure the health and safety of the clients in the centers.

(c) Receive and approve or reject applications for certification of domestic violence centers, and receive and approve or reject applications for funding of domestic violence centers. When approving funding for a newly certified domestic violence center, the department shall make every effort to minimize any adverse economic impact on existing certified centers or services provided within the same district. In order to minimize duplication of services, the department shall make every effort to encourage subcontracting relationships with existing centers within the district. If any of the required services are exempted by the department under s. *39.905(1)(c)* ~~415.605(1)(c)~~, the center shall not receive funding for those services.

(d) Evaluate each certified domestic violence center annually to ensure compliance with the minimum standards. The department has the right to enter and inspect the premises of certified domestic violence centers at any reasonable hour in order to effectively evaluate the state of compliance of these centers with *this part* ~~ss. 415.601-415.608~~ and rules relating to *this part* ~~those sections~~.

(e) Adopt rules to implement *this part* ~~ss. 415.601-415.608~~.

(f) Promote the involvement of certified domestic violence centers in the coordination, development, and planning of domestic violence programming in the districts and the state.

(2) The department shall serve as a clearinghouse for information relating to domestic violence.

(3) The department shall enlist the assistance of public and voluntary health, education, welfare, and rehabilitation agencies in a concerted effort to prevent domestic violence and to treat persons engaged in or subject to domestic violence. With the assistance of these agencies, the department, within existing resources, shall formulate and conduct a research and evaluation program on domestic violence. Efforts on the part of these agencies to obtain relevant grants to fund this research and evaluation program must be supported by the department.

(4) The department shall develop and provide educational programs on domestic violence for the benefit of the general public, persons engaged in or subject to domestic violence, professional persons, or others who care for or may be engaged in the care and treatment of persons engaged in or subject to domestic violence.

(5) The department shall cooperate with, assist in, and participate in, programs of other properly qualified agencies, including any agency of the Federal Government, schools of medicine, hospitals, and clinics, in planning and conducting research on the prevention, care, treatment, and rehabilitation of persons engaged in or subject to domestic violence.

(6) The department shall contract with a statewide association whose primary purpose is to represent and provide technical assistance to domestic violence centers. This association shall receive 2 percent of the Domestic Violence Trust Fund for this purpose.

Section 115. Section 415.604, Florida Statutes, is renumbered as section 39.904, Florida Statutes, and amended to read:

39.904 ~~415.604~~ Report to the Legislature on the status of domestic violence cases.—On or before January 1 of each year, the department ~~of Children and Family Services~~ shall furnish to the President of the Senate and the Speaker of the House of Representatives a report on the status of domestic violence in this state, which report shall include, but is not limited to, the following:

(1) The incidence of domestic violence in this state.

(2) An identification of the areas of the state where domestic violence is of significant proportions, indicating the number of cases of domestic

violence officially reported, as well as an assessment of the degree of unreported cases of domestic violence.

(3) An identification and description of the types of programs in the state that assist victims of domestic violence or persons who commit domestic violence, including information on funding for the programs.

(4) The number of persons who are treated by or assisted by local domestic violence programs that receive funding through the department.

(5) A statement on the effectiveness of such programs in preventing future domestic violence.

(6) An inventory and evaluation of existing prevention programs.

(7) A listing of potential prevention efforts identified by the department; the estimated annual cost of providing such prevention services, both for a single client and for the anticipated target population as a whole; an identification of potential sources of funding; and the projected benefits of providing such services.

Section 116. Section 415.605, Florida Statutes, is renumbered as section 39.905, Florida Statutes, and amended to read:

39.905 ~~415.605~~ Domestic violence centers.—

(1) Domestic violence centers certified under *this part* ~~ss. 415.601-415.608~~ must:

(a) Provide a facility which will serve as a center to receive and house persons who are victims of domestic violence. For the purpose of *this part* ~~ss. 415.601-415.608~~, minor children and other dependents of a victim, when such dependents are partly or wholly dependent on the victim for support or services, may be sheltered with the victim in a domestic violence center.

(b) Receive the annual written endorsement of local law enforcement agencies.

(c) Provide minimum services which include, but are not limited to, information and referral services, counseling and case management services, temporary emergency shelter for more than 24 hours, a 24-hour hotline, training for law enforcement personnel, assessment and appropriate referral of resident children, and educational services for community awareness relative to the incidence of domestic violence, the prevention of such violence, and the care, treatment, and rehabilitation for persons engaged in or subject to domestic violence. If a 24-hour hotline, professional training, or community education is already provided by a certified domestic violence center within a district, the department may exempt such certification requirements for a new center serving the same district in order to avoid duplication of services.

(d) Participate in the provision of orientation and training programs developed for law enforcement officers, social workers, and other professionals and paraprofessionals who work with domestic violence victims to better enable such persons to deal effectively with incidents of domestic violence.

(e) Establish and maintain a board of directors composed of at least three citizens, one of whom must be a member of a local, municipal, or county law enforcement agency.

(f) Comply with rules adopted pursuant to *this part* ~~ss. 415.601-415.608~~.

(g) File with the department a list of the names of the domestic violence advocates who are employed or who volunteer at the domestic violence center who may claim a privilege under s. 90.5036 to refuse to disclose a confidential communication between a victim of domestic violence and the advocate regarding the domestic violence inflicted upon the victim. The list must include the title of the position held by the advocate whose name is listed and a description of the duties of that position. A domestic violence center must file amendments to this list as necessary.

(h) Demonstrate local need and ability to sustain operations through a history of 18 consecutive months' operation as a domestic violence center, including 12 months' operation of an emergency shelter as *provided in paragraph (c)* ~~defined in paragraph (1)(a)~~, and a business plan which addresses future operations and funding of future operations.

(i) If its center is a new center applying for certification, demonstrate that the services provided address a need identified in the most current statewide needs assessment approved by the department.

(2) If the department finds that there is failure by a center to comply with the requirements established under *this part* ~~ss. 415.601-415.608~~ or with the rules adopted pursuant thereto, the department may deny, suspend, or revoke the certification of the center.

(3) The annual certificate shall automatically expire on the termination date shown on the certificate.

(4) The domestic violence centers shall establish procedures pursuant to which persons subject to domestic violence may seek services from these centers voluntarily.

(5) Domestic violence centers may be established throughout the state when private, local, state, or federal funds are available.

(6) In order to receive state funds, a center must:

(a) Obtain certification pursuant to *this part* ~~ss. 415.601-415.608~~. However, the issuance of a certificate will not obligate the department to provide funding.

(b) Receive at least 25 percent of its funding from one or more local, municipal, or county sources, public or private. Contributions in kind, whether materials, commodities, transportation, office space, other types of facilities, or personal services, may be evaluated and counted as part of the required local funding.

(7)(a) All funds collected and appropriated to the domestic violence program shall be distributed annually by the department to each district according to an allocation formula determined by the department. In developing the formula, the department shall consider population, a rural and geographical area factor, and the incidence of domestic violence.

(b) A contract between a district and a certified domestic violence center shall contain provisions assuring the availability and geographic accessibility of services throughout the district. For this purpose, a center may distribute funds through subcontracts or to center satellites, provided such arrangements and any subcontracts are approved by the district.

Section 117. *Section 415.606, Florida Statutes, is renumbered as section 39.906, Florida Statutes.*

Section 118. *Section 415.608, Florida Statutes, is renumbered as section 39.908, Florida Statutes.*

Section 119. Subsections (4) through (20) of section 20.19, Florida Statutes, are renumbered as subsections (5) through (21), respectively, paragraph (b) of present subsection (4), paragraph (o) of present subsection (7), and paragraph (c) of present subsection (20) are amended, and a new subsection (4) is added to that section, to read:

20.19 Department of Children and Family Services.—There is created a Department of Children and Family Services.

(4) CERTIFICATION PROGRAMS FOR DEPARTMENT EMPLOYEES.-- The department is authorized to create certification programs for family safety and preservation employees and agents to ensure that only qualified employees and agents provide child protection services. The department is authorized to develop rules that include qualifications for certification, including training and testing requirements, continuing education requirements for ongoing certification, and decertification procedures to be used to determine when an individual no longer meets the qualifications for certification and to implement the decertification of an employee or agent.

(5)~~(4)~~ PROGRAM OFFICES.—

(a) There are created program offices, each of which shall be headed by an assistant secretary who shall be appointed by and serve at the pleasure of the secretary. Each program office shall have the following responsibilities:

1. Ensuring that family services programs are implemented according to legislative intent and as provided in state and federal laws, rules, and regulations.

2. Establishing program standards and performance objectives.

3. Reviewing, monitoring, and ensuring compliance with statewide standards and performance objectives.

4. Conducting outcome evaluations and ensuring program effectiveness.

5. Developing workload and productivity standards.

6. Developing resource allocation methodologies.

7. Compiling reports, analyses, and assessment of client needs on a statewide basis.

8. Ensuring the continued interagency collaboration with the Department of Education for the development and integration of effective programs to serve children and their families.

9. Other duties as are assigned by the secretary.

(b) The following program offices are established and may be consolidated, restructured, or rearranged by the secretary; provided any such consolidation, restructuring, or rearranging is for the purpose of encouraging service integration through more effective and efficient performance of the program offices or parts thereof:

1. Economic Self-Sufficiency Program Office.—The responsibilities of this office encompass income support programs within the department, such as temporary assistance to families with dependent children, food stamps, welfare reform, and state supplementation of the supplemental security income (SSI) program.

2. Developmental Services Program Office.—The responsibilities of this office encompass programs operated by the department for developmentally disabled persons. Developmental disabilities include any disability defined in s. 393.063.

3. Children and Families Program Office.—The responsibilities of this program office encompass early intervention services for children and families at risk; intake services for protective investigation of abandoned, abused, and neglected children; interstate compact on the placement of children programs; adoption; child care; out-of-home care programs and other specialized services to families; and child protection and sexual abuse treatment teams created under chapter *39* ~~415~~, excluding medical direction functions.

4. Alcohol, Drug Abuse, and Mental Health Program Office.—The responsibilities of this office encompass all alcohol, drug abuse, and mental health programs operated by the department.

(8)~~(7)~~ HEALTH AND HUMAN SERVICES BOARDS.—

(a) There is created at least one health and human services board in each service district for the purpose of encouraging the initiation and support of interagency cooperation and collaboration in addressing family services needs and promoting service integration. The initial membership and the authority to appoint the members shall be allocated among the counties of each district as follows:

1. District 1 has a board composed of 15 members, with 3 at-large members to be appointed by the Governor, and 12 members to be appointed by the boards of county commissioners of the respective counties, as follows: Escambia County, 6 members; Okaloosa County, 3 members; Santa Rosa County, 2 members; and Walton County, 1 member.

2. District 2 has a board composed of 23 members, with 5 at-large members to be appointed by the Governor, and 18 members to be appointed by the boards of county commissioners in the respective counties, as follows: Holmes County, 1 member; Washington County, 1 member; Bay County, 2 members; Jackson County, 1 member; Calhoun County, 1 member; Gulf County, 1 member; Gadsden County, 1 member; Franklin County, 1 member; Liberty County, 1 member; Leon County, 4 members; Wakulla County, 1 member; Jefferson County, 1 member; Madison County, 1 member; and Taylor County, 1 member.

3. District 3 has a board composed of 19 members, with 4 at-large members to be appointed by the Governor, and 15 members to be appointed by the boards of county commissioners of the respective counties, as follows: Hamilton County, 1 member; Suwannee County, 1 member; Lafayette County, 1 member; Dixie County, 1 member; Columbia County, 1 member; Gilchrist County, 1 member; Levy County, 1 member; Union County, 1 member; Bradford County, 1 member; Putnam County, 1 member; and Alachua County, 5 members.

4. District 4 has a board composed of 15 members, with 3 at-large members to be appointed by the Governor, and 12 members to be appointed by the boards of county commissioners of the respective counties, as follows: Baker County, 1 member; Nassau County, 1 member; Duval County, 7 members; Clay County, 2 members; and St. Johns County, 1 member.

5. District 5 has a board composed of 15 members, with 3 at-large members to be appointed by the Governor, and 12 members to be appointed by the boards of county commissioners of the respective counties, as follows: Pasco County, 3 members; and Pinellas County, 9 members.

6. District 6 has a board composed of 15 members, with 3 at-large members to be appointed by the Governor, and 12 members to be appointed by the boards of county commissioners of the respective counties, as follows: Hillsborough County, 9 members; and Manatee County, 3 members.

7. District 7 has a board composed of 15 members, with 3 at-large members to be appointed by the Governor, and 12 members to be appointed by the boards of county commissioners in the respective counties, as follows: Seminole County, 3 members; Orange County, 5 members; Osceola County, 1 member; and Brevard County, 3 members.

8. District 8 has a board composed of 15 members, with 3 at-large members to be appointed by the Governor, and 12 members to be appointed by the boards of county commissioners in the respective counties, as follows: Sarasota County, 3 members; DeSoto County, 1 member; Charlotte County, 1 member; Lee County, 3 members; Glades County, 1 member; Hendry County, 1 member; and Collier County, 2 members.

9. District 9 has a board composed of 15 members, with 3 at-large members to be appointed by the Governor, and 12 members to be appointed by the Board of County Commissioners of Palm Beach County.

10. District 10 has a board composed of 15 members, with 3 at-large members to be appointed by the Governor, and 12 members to be appointed by the Board of County Commissioners of Broward County.

11. District 11 has two boards, one from Dade County and one from Monroe County. Each board is composed of 15 members, with 3 at-large members to be appointed to each board by the Governor, and 12 members to be appointed by each of the respective boards of county commissioners.

12. District 12 has a board composed of 15 members, with 3 at-large members to be appointed by the Governor, and 12 members to be appointed by the boards of county commissioners of the respective counties, as follows: Flagler County, 3 members; and Volusia County, 9 members.

13. District 13 has a board composed of 15 members, with 3 at-large members to be appointed by the Governor, and 12 members to be appointed by the boards of county commissioners of the respective counties, as follows: Marion County, 4 members; Citrus County, 2

members; Hernando County, 2 members; Sumter County, 1 member; and Lake County, 3 members.

14. District 14 has a board composed of 15 members, with 3 at-large members to be appointed by the Governor, and 12 members to be appointed by the boards of county commissioners of the respective counties, as follows: Polk County, 9 members; Highlands County, 2 members; and Hardee County, 1 member.

15. District 15 has a board composed of 15 members, with 3 at-large members to be appointed by the Governor, and 12 members to be appointed by the boards of county commissioners of the respective counties, as follows: Indian River County, 3 members; Okeechobee County, 1 member; St. Lucie County, 5 members; and Martin County, 3 members.

Notwithstanding any other provisions of this subsection, in districts consisting of two counties, the number of members to be appointed by any one board of county commissioners may not be fewer than three nor more than nine.

(b) At any time after the adoption of initial bylaws pursuant to paragraph (o), a district health and human services board may adopt a bylaw that enlarges the size of the board up to a maximum of 23 members, or otherwise adjusts the size or composition of the board, including a decision to change from a district board to subdistrict boards, or from a subdistrict board to a district board, if in the judgment of the board, such change is necessary to adequately represent the diversity of the population within the district or subdistrict. In the creation of subdistrict boards, the bylaws shall set the size of the board, not to exceed 15 members, and shall set the number of appointments to be made by the Governor and the respective boards of county commissioners in the subdistrict. The Governor shall be given the authority to appoint no fewer than one-fifth of the members. Current members of the district board shall become members of the subdistrict board in the subdistrict where they reside. Vacancies on a newly created subdistrict board shall be filled from among the list of nominees submitted to the subdistrict nominee qualifications review committee pursuant to subsection (8).

(c) The appointments by the Governor and the boards of county commissioners are from nominees selected by the appropriate district nominee qualifications review committee pursuant to subsection (8). Membership of each board must be representative of its district with respect to age, gender, and ethnicity. For boards having 15 members or fewer, at least two members must be consumers of the department's services. For boards having more than 15 members, there must be at least three consumers on the board. Members must have demonstrated their interest and commitment to, and have appropriate expertise for, meeting the health and family services needs of the community. The Governor shall appoint nominees whose presence on the health and human services board will help assure that the board reflects the demographic characteristics and consumer perspective of each of the service districts.

(d)1. Board members shall submit annually a disclosure statement of health and family services interests to the department's inspector general and the board. Any member who has an interest in a matter under consideration by the board must abstain from voting. Board members are subject to the provisions of s. 112.3145, relating to disclosure of financial interests.

2. Individual providers or employees of provider agencies, other than employees of units of local or state government, may not serve as health and human services board members but may serve in an advisory capacity to the board. Salaried employees of units of local or state government occupying positions providing services under contract with the department may not serve as members of the board. Elected officials who have authority to appoint members to a health and human services board may not serve as members of a board. The district administrator shall serve as a nonvoting ex officio member of the board. A department employee may not be a member of the board.

(e) Appointments to fill vacancies created by the death, resignation, or removal of a member are for the unexpired term. A member may not serve more than two full consecutive terms.

(f) A member who is absent from three meetings within any 12-month period, without having been excused by the chairperson, is deemed to have resigned, and the board shall immediately declare the seat vacant. Members may be suspended or removed for cause by a majority vote of the board members or by the Governor.

(g) Members of the health and human services boards shall serve without compensation, but are entitled to receive reimbursement for per diem and travel expenses as provided in s. 112.061. Payment may also be authorized for preapproved child care expenses or lost wages for members who are consumers of the department's services and for preapproved child care expenses for other members who demonstrate hardship.

(h) Appointees to the health and human services board are subject to the provisions of chapter 112, part III, Code of Ethics for Public Officers and Employees.

(i) Actions taken by the board must be consistent with departmental policy and state and federal laws, rules, and regulations.

(j) The department shall provide comprehensive orientation and training to the members of the boards to enable them to fulfill their responsibilities.

(k) Each health and human services board, and each of its subcommittees, shall hold periodic public meetings and hearings throughout the district to receive input on the development of the district service delivery plan, the legislative budget request, and the performance of the department.

(l) Except as otherwise provided in this section, responsibility and accountability for local family services planning rests with the health and human services boards. All local family-services-related planning or advisory councils shall submit their plans to the health and human services boards. The boards shall provide input on the plan's attention to integrating service delivery at the local level. The health and human services boards may establish additional subcouncils or technical advisory committees.

(m) The health and human services boards shall operate through an annual agreement negotiated between the secretary and the board. Such agreements must include expected outcomes and provide for periodic reports and evaluations of district and board performance and must also include a core set of service elements to be developed by the secretary and used by the boards in district needs assessments to ensure consistency in the development of district legislative budget requests.

(n) The annual agreement between the secretary and the board must include provisions that specify the procedures to be used by the parties to resolve differences in the interpretation of the agreement or disputes as to the adequacy of the parties' compliance with their respective obligations under the agreement.

(o) Health and human services boards have the following responsibilities, with respect to those programs and services assigned to the districts, as developed jointly with the district administrator:

1. Establish district outcome measures consistent with statewide outcomes.

2. Conduct district needs assessments using methodologies consistent with those established by the secretary.

3. Negotiate with the secretary a district performance agreement that:

a. Identifies current resources and services available;

b. Identifies unmet needs and gaps in services;

c. Establishes service and funding priorities;

d. Establishes outcome measures for the district; and

e. Identifies expenditures and the number of clients to be served, by service.

4. Provide budget oversight, including development and approval of the district's legislative budget request.

5. Provide policy oversight, including development and approval of district policies and procedures.

6. Act as a focal point for community participation in department activities such as:

a. Assisting in the integration of all health and social services within the community;

b. Assisting in the development of community resources;

c. Advocating for community programs and services;

d. Receiving and addressing concerns of consumers and others; and

e. Advising the district administrator on the administration of service programs throughout the district.

7. Advise the district administrator on ways to integrate the delivery of family and health care services at the local level.

8. Make recommendations which would enhance district productivity and efficiency, ensure achievement of performance standards, and assist the district in improving the effectiveness of the services provided.

9. Review contract provider performance reports.

10. Immediately upon appointment of the membership, develop bylaws that clearly identify and describe operating procedures for the board. At a minimum, the bylaws must specify notice requirements for all regular and special meetings of the board, the number of members required to constitute a quorum, and the number of affirmative votes of members present and voting that are required to take official and final action on a matter before the board.

11.a. Determine the board's internal organizational structure, including the designation of standing committees. In order to foster the coordinated and integrated delivery of family services in its community, a local board shall use a committee structure that is based on issues, such as children, housing, transportation, or health care. Each such committee must include consumers, advocates, providers, and department staff from every appropriate program area. In addition, each board and district administrator shall jointly identify community entities, including, but not limited to, the Area Agency on Aging, and resources outside the department to be represented on the committees of the board.

b. The district juvenile justice boards established in s. *985.413* ~~39.025~~ constitute the standing committee on issues relating to planning, funding, or evaluation of programs and services relating to the juvenile justice continuum.

12. Participate with the secretary in the selection of a district administrator according to the provisions of paragraph *(10)*~~(9)~~(b).

13. Complete an annual evaluation of the district and review the evaluation at a meeting of the board at which the public has an opportunity to comment.

14. Provide input to the secretary on the annual evaluation of the district administrator. The board may request that the secretary submit a written report on the actions to be taken to address negative aspects of the evaluation. At any time, the board may recommend to the secretary that the district administrator be discharged. Upon receipt of such a recommendation, the secretary shall make a formal reply to the board stating the action to be taken with respect to the board's recommendation.

15. Elect a chair and other officers, as specified in the bylaws, from among the members of the board.

(21)~~(20)~~ INNOVATION ZONES.—The health and human services board may propose designation of an innovation zone for any experimental, pilot, or demonstration project that furthers the legislatively established goals of the department. An innovation zone is a defined geographic area such as a district, county, municipality, service delivery area, school campus, or neighborhood providing a laboratory for the research, development, and testing of the applicability and efficacy of model programs, policy options, and new technologies for the department.

(a)1. The district administrator shall submit a proposal for an innovation zone to the secretary. If the purpose of the proposed innovation zone is to demonstrate that specific statutory goals can be achieved more effectively by using procedures that require modification of existing rules, policies, or procedures, the proposal may request the secretary to waive such existing rules, policies, or procedures or to otherwise authorize use of alternative procedures or practices. Waivers of such existing rules, policies, or procedures must comply with applicable state or federal law.

2. For innovation zone proposals that the secretary determines require changes to state law, the secretary may submit a request for a waiver from such laws, together with any proposed changes to state law, to the chairs of the appropriate legislative committees for consideration.

3. For innovation zone proposals that the secretary determines require waiver of federal law, the secretary may submit a request for such waivers to the applicable federal agency.

(b) An innovation zone project may not have a duration of more than 2 years, but the secretary may grant an extension.

(c) The Statewide Health and Human Services Board, in conjunction with the secretary, shall develop a family services innovation transfer network for the purpose of providing information on innovation zone research and projects or other effective initiatives in family services to the health and human services boards established under subsection *(8)* ~~(7)~~.

(d) Prior to implementing an innovation zone pursuant to the requirements of this subsection and chapter 216, the secretary shall, in conjunction with the Auditor General, develop measurable and valid objectives for such zone within a negotiated reasonable period of time. No more than 15 innovative zones shall be in operation at any one time within the districts.

Section 120. Paragraph (h) of subsection (1) of section 20.43, Florida Statutes, is amended to read:

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

(1) The purpose of the Department of Health is to promote and protect the health of all residents and visitors in the state through organized state and community efforts, including cooperative agreements with counties. The department shall:

(h) Provide medical direction for child protection team and sexual abuse treatment functions created under chapter *39* ~~415~~.

Section 121. Paragraph (b) of subsection (2) of section 61.13, Florida Statutes, is amended to read:

61.13 Custody and support of children; visitation rights; power of court in making orders.—

(2)

(b)1. The court shall determine all matters relating to custody of each minor child of the parties in accordance with the best interests of the child and in accordance with the Uniform Child Custody Jurisdiction Act. It is the public policy of this state to assure that each minor child has frequent and continuing contact with both parents after the parents separate or the marriage of the parties is dissolved and to encourage parents to share the rights and responsibilities, and joys, of childrearing. After considering all relevant facts, the father of the child shall be given the same consideration as the mother in determining the primary residence of a child irrespective of the age or sex of the child.

2. The court shall order that the parental responsibility for a minor child be shared by both parents unless the court finds that shared parental responsibility would be detrimental to the child. Evidence that a parent has been convicted of a felony of the third degree or higher involving domestic violence, as defined in s. 741.28 and chapter 775, or meets the criteria of s. *39.806(1)(d)* ~~39.464(1)(d)~~, creates a rebuttable presumption of detriment to the child. If the presumption is not rebutted, shared parental responsibility, including visitation, residence of the child, and decisions made regarding the child, may not be granted to the convicted parent. However, the convicted parent is not relieved of any obligation to provide financial support. If the court determines that shared parental responsibility would be detrimental to the child, it may order sole parental responsibility and make such arrangements for visitation as will best protect the child or abused spouse from further harm. Whether or not there is a conviction of any offense of domestic violence or child abuse or the existence of an injunction for protection against domestic violence, the court shall consider evidence of domestic violence or child abuse as evidence of detriment to the child.

a. In ordering shared parental responsibility, the court may consider the expressed desires of the parents and may grant to one party the ultimate responsibility over specific aspects of the child's welfare or may divide those responsibilities between the parties based on the best interests of the child. Areas of responsibility may include primary residence, education, medical and dental care, and any other responsibilities that the court finds unique to a particular family.

b. The court shall order "sole parental responsibility, with or without visitation rights, to the other parent when it is in the best interests of" the minor child.

c. The court may award the grandparents visitation rights with a minor child if it is in the child's best interest. Grandparents have legal standing to seek judicial enforcement of such an award. This section does not require that grandparents be made parties or given notice of dissolution pleadings or proceedings, nor do grandparents have legal standing as "contestants" as defined in s. 61.1306. A court may not order that a child be kept within the state or jurisdiction of the court solely for the purpose of permitting visitation by the grandparents.

3. Access to records and information pertaining to a minor child, including, but not limited to, medical, dental, and school records, may not be denied to a parent because the parent is not the child's primary residential parent.

Section 122. Section 61.401, Florida Statutes, is amended to read:

61.401 Appointment of guardian ad litem.—In an action for dissolution of marriage, modification, parental responsibility, custody, or visitation, if the court finds it is in the best interest of the child, the court may appoint a guardian ad litem to act as next friend of the child, investigator or evaluator, not as attorney or advocate. The court in its discretion may also appoint legal counsel for a child to act as attorney or advocate; however, the guardian and the legal counsel shall not be the same person. In such actions which involve an allegation of child abuse, *abandonment,* or neglect as defined in s. *39.01* ~~415.503(3)~~, which allegation is verified and determined by the court to be well-founded, the court shall appoint a guardian ad litem for the child. The guardian ad litem shall be a party to any judicial proceeding from the date of the appointment until the date of discharge.

Section 123. Section 61.402, Florida Statutes, is amended to read:

61.402 Qualifications of guardians ad litem.—A guardian ad litem must be either a citizen certified by the Guardian Ad Litem Program to act in family law cases or an attorney who is a member in good standing of The Florida Bar. Prior to certifying a guardian ad litem to be appointed under this chapter, the Guardian Ad Litem Program must conduct a security background investigation as provided in s. *39.821* ~~415.5077~~.

Section 124. Subsection (4) of section 63.052, Florida Statutes, is amended to read:

63.052 Guardians designated; proof of commitment.—

(4) If a child is voluntarily surrendered to an intermediary for subsequent adoption and the adoption does not become final within 180 days, the intermediary must report to the court on the status of the child and the court may at that time proceed under s. *39.701* ~~39.453~~ or take action reasonably necessary to protect the best interest of the child.

Section 125. Paragraph (b) of subsection (2) of section 63.092, Florida Statutes, is amended to read:

63.092 Report to the court of intended placement by an intermediary; preliminary study.—

(2) PRELIMINARY HOME STUDY.—Before placing the minor in the intended adoptive home, a preliminary home study must be performed by a licensed child-placing agency, a licensed professional, or agency described in s. 61.20(2), unless the petitioner is a stepparent, a spouse of the birth parent, or a relative. The preliminary study shall be completed within 30 days after the receipt by the court of the intermediary's report, but in no event may the child be placed in the prospective adoptive home prior to the completion of the preliminary study unless ordered by the court. If the petitioner is a stepparent, a spouse of the birth parent, or a relative, the preliminary home study may be required by the court for good cause shown. The department is required to perform the preliminary home study only if there is no licensed child-placing agency, licensed professional, or agency described in s. 61.20(2), in the county where the prospective adoptive parents reside. The preliminary home study must be made to determine the suitability of the intended adoptive parents and may be completed prior to identification of a prospective adoptive child. A favorable preliminary home study is valid for 1 year after the date of its completion. A child must not be placed in an intended adoptive home before a favorable preliminary home study is completed unless the adoptive home is also a licensed foster home under s. 409.175. The preliminary home study must include, at a minimum:

(b) Records checks of the department's central abuse registry ~~under chapter 415~~ and ~~statewide~~ criminal records correspondence checks *pursuant to s. 435.045* through the Department of Law Enforcement on the intended adoptive parents;

If the preliminary home study is favorable, a minor may be placed in the home pending entry of the judgment of adoption. A minor may not be placed in the home if the preliminary home study is unfavorable. If the preliminary home study is unfavorable, the intermediary or petitioner may, within 20 days after receipt of a copy of the written recommendation, petition the court to determine the suitability of the intended adoptive home. A determination as to suitability under this subsection does not act as a presumption of suitability at the final hearing. In determining the suitability of the intended adoptive home, the court must consider the totality of the circumstances in the home.

Section 126. Subsection (2) of section 90.5036, Florida Statutes, is amended to read:

90.5036 Domestic violence advocate-victim privilege.—

(2) A victim has a privilege to refuse to disclose, and to prevent any other person from disclosing, a confidential communication made by the victim to a domestic violence advocate or any record made in the course of advising, counseling, or assisting the victim. The privilege applies to confidential communications made between the victim and the domestic violence advocate and to records of those communications only if the advocate is registered under s. *39.905* ~~415.605~~ at the time the communication is made. This privilege includes any advice given by the domestic violence advocate in the course of that relationship.

Section 127. Section 154.067, Florida Statutes, is amended to read:

154.067 Child abuse and neglect cases; duties.—The Department of Health shall adopt a rule requiring every county health department, as described in s. 154.01, to adopt a protocol that, at a minimum, requires the county health department to:

(1) Incorporate in its health department policy a policy that every staff member has an affirmative duty to report, pursuant to chapter *39*

~~415~~, any actual or suspected case of child abuse, *abandonment,* or neglect; and

(2) In any case involving suspected child abuse, *abandonment,* or neglect, designate, at the request of the department, a staff physician to act as a liaison between the county health department and the Department of Children and Family Services office that is investigating the suspected abuse, *abandonment,* or neglect, and the child protection team, as defined in s. *39.01* ~~415.503~~, when the case is referred to such a team.

Section 128. Subsection (15) of section 213.053, Florida Statutes, is amended to read:

213.053 Confidentiality and information sharing.—

(15) The department may disclose confidential taxpayer information contained in returns, reports, accounts, or declarations filed with the department by persons subject to any state or local tax to the child support enforcement program, to assist in the location of parents who owe or potentially owe a duty of support pursuant to Title IV-D of the Social Security Act, their assets, their income, and their employer, *and to the Department of Children and Family Services for the purpose of diligent search activities pursuant to chapter 39*. Nothing in this subsection authorizes the disclosure of information if such disclosure is prohibited by federal law. Employees of the child support enforcement program *and of the Department of Children and Family Services* are bound by the same requirements of confidentiality and the same penalties for violation of the requirements as the department.

Section 129. Paragraph (a) of subsection (8) of section 216.136, Florida Statutes, is amended to read:

216.136 Consensus estimating conferences; duties and principals.—

(8) CHILD WELFARE SYSTEM ESTIMATING CONFERENCE.—

(a) Duties.—The Child Welfare System Estimating Conference shall develop the following information relating to the child welfare system:

1. Estimates and projections of the number of initial and additional reports of child abuse, *abandonment,* or neglect made to the central abuse *hotline* ~~registry and tracking system~~ maintained by the Department of *Children and Family* ~~Health and Rehabilitative~~ Services as established in s. *39.201(4)* ~~415.504(4)(a)~~.

2. Estimates and projections of the number of children who are alleged to be victims of child abuse, *abandonment,* or neglect and are in need of placement in *a* ~~an emergency~~ shelter.

In addition, the conference shall develop other official information relating to the child welfare system of the state which the conference determines is needed for the state planning and budgeting system. The Department of *Children and Family* ~~Health and Rehabilitative~~ Services shall provide information on the child welfare system requested by the Child Welfare System Estimating Conference, or individual conference principals, in a timely manner.

Section 130. Section 232.50, Florida Statutes, is amended to read:

232.50 Child abuse, *abandonment,* and neglect policy.—Every school board shall by March 1, 1985:

(1) Post in a prominent place in each school a notice that, pursuant to chapter *39* ~~415~~, all employees or agents of the district school board have an affirmative duty to report all actual or suspected cases of child abuse, *abandonment,* or neglect, have immunity from liability if they report such cases in good faith, and have a duty to comply with child protective investigations and all other provisions of law relating to child abuse, *abandonment,* and neglect. The notice shall also include the statewide toll-free telephone number of the state abuse registry.

(2) Provide that the superintendent, or the superintendent's designee, at the request of the Department of *Children and Family* ~~Health and Rehabilitative~~ Services, will act as a liaison to the Department of *Children and Family* ~~Health and Rehabilitative~~ Services and the child protection team, as defined in s. *39.01* ~~415.503~~, when in a case of suspected child abuse, *abandonment,* or neglect or an unlawful sexual offense involving a child the case is referred to such a team; except that this subsection may in no instance be construed as relieving or restricting the Department of *Children and Family* ~~Health and Rehabilitative~~ Services from discharging its duty and responsibility under the law to investigate and report every suspected or actual case of child abuse, *abandonment,* or neglect or unlawful sexual offense involving a child.

Each district school board shall comply with the provisions of this section, and such board shall notify the Department of Education and the Department of *Children and Family* ~~Health and Rehabilitative~~ Services of its compliance by March 1, 1985.

Section 131. Paragraph (a) of subsection (2) of section 318.21, Florida Statutes, as amended by section 2(1) of chapter 97-235, Laws of Florida, is amended to read:

318.21 Disposition of civil penalties by county courts.—All civil penalties received by a county court pursuant to the provisions of this chapter shall be distributed and paid monthly as follows:

(2) Of the remainder:

(a) Fifteen and six-tenths percent shall be paid to the General Revenue Fund of the state, except that the first $300,000 shall be deposited into the Grants and Donations Trust Fund in the Department of Children and Family Services for administrative costs, training costs, and costs associated with the implementation and maintenance of Florida foster care citizen review panels as provided for in s. *39.702* ~~39.4531~~.

Section 132. Effective July 1, 1999, paragraph (a) of subsection (2) of section 318.21, as amended by section 3(1) of chapter 97-235, Laws of Florida, is amended to read:

318.21 Disposition of civil penalties by county courts.—All civil penalties received by a county court pursuant to the provisions of this chapter shall be distributed and paid monthly as follows:

(2) Of the remainder:

(a) Ten and six-tenths percent shall be paid to the General Revenue Fund of the state, except that the first $300,000 shall be deposited into the Grants and Donations Trust Fund in the Department of Children and Family Services for administrative costs, training costs, and costs associated with the implementation and maintenance of Florida foster care citizen review panels as provided for in s. *39.702* ~~39.4531~~.

Section 133. Effective July 1, 2000, paragraph (a) of subsection (2) of section 318.21, Florida Statutes, as amended by section 4(1) of chapter 97-235, Laws of Florida, is amended to read:

318.21 Disposition of civil penalties by county courts.—All civil penalties received by a county court pursuant to the provisions of this chapter shall be distributed and paid monthly as follows:

(2) Of the remainder:

(a) Five and six-tenths percent shall be paid to the General Revenue Fund of the state, except that the first $300,000 shall be deposited into the Grants and Donations Trust Fund in the Department of Children and Family Services for administrative costs, training costs, and costs associated with the implementation and maintenance of Florida foster care citizen review panels as provided for in s. *39.702* ~~39.4531~~.

Section 134. Effective July 1, 2001, paragraph (a) of subsection (2) of section 318.21, Florida Statutes, as amended by section 5(1) of chapter 97-235, Laws of Florida, is amended to read:

318.21 Disposition of civil penalties by county courts.—All civil penalties received by a county court pursuant to the provisions of this chapter shall be distributed and paid monthly as follows:

(2) Of the remainder:

(a) Twenty and six-tenths percent shall be paid to the County Article V Trust Fund, except that the first $300,000 shall be deposited into the

Grants and Donations Trust Fund in the Department of Children and Family Services for administrative costs, training costs, and costs associated with the implementation and maintenance of Florida foster care citizen review panels as provided for in s. *39.702* ~~39.4531~~.

Section 135. Effective July 1, 2002, paragraph (a) of subsection (2) of section 318.21, Florida Statutes, as amended by section 6 of chapter 97-235, Laws of Florida, is amended to read:

318.21 Disposition of civil penalties by county courts.—All civil penalties received by a county court pursuant to the provisions of this chapter shall be distributed and paid monthly as follows:

(2) Of the remainder:

(a) Twenty and six-tenths percent shall be paid to the General Revenue Fund of the state, except that the first $300,000 shall be deposited into the Grants and Donations Trust Fund in the Department of Children and Family Services for administrative costs, training costs, and costs associated with the implementation and maintenance of Florida foster care citizen review panels as provided for in s. *39.702* ~~39.4531~~.

Section 136. Paragraph (e) of subsection (1) of section 384.29, Florida Statutes, is amended to read:

384.29 Confidentiality.—

(1) All information and records held by the department or its authorized representatives relating to known or suspected cases of sexually transmissible diseases are strictly confidential and exempt from the provisions of s. 119.07(1). Such information shall not be released or made public by the department or its authorized representatives, or by a court or parties to a lawsuit upon revelation by subpoena, except under the following circumstances:

(e) When made to the proper authorities as required by *chapter 39 or* chapter 415.

Section 137. Paragraph (e) of subsection (1) of section 392.65, Florida Statutes, is amended to read:

392.65 Confidentiality.—

(1) All information and records held by the department or its authorized representatives relating to known or suspected cases of tuberculosis or exposure to tuberculosis shall be strictly confidential and exempt from s. 119.07(1). Such information shall not be released or made public by the department or its authorized representatives or by a court or parties to a lawsuit, except that release may be made under the following circumstances:

(e) When made to the proper authorities as required by *chapter 39 or* chapter 415.

Section 138. The introductory paragraph of subsection (14) of section 393.063, Florida Statutes, is amended to read:

393.063 Definitions.—For the purposes of this chapter:

(14) "Direct service provider," also known as "caregiver" in *chapters 39 and* ~~chapter~~ 415 or "caretaker" in provisions relating to employment security checks, means a person 18 years of age or older who has direct contact with individuals with developmental disabilities and is unrelated to the individuals with developmental disabilities.

Section 139. Section 395.1023, Florida Statutes, is amended to read:

395.1023 Child abuse and neglect cases; duties.—Each licensed facility shall adopt a protocol that, at a minimum, requires the facility to:

(1) Incorporate a facility policy that every staff member has an affirmative duty to report, pursuant to chapter *39* ~~415~~, any actual or suspected case of child abuse, *abandonment,* or neglect; and

(2) In any case involving suspected child abuse, *abandonment,* or neglect, designate, at the request of the department, a staff physician to act as a liaison between the hospital and the Department of Children and Family Services office which is investigating the suspected abuse, *abandonment,* or neglect, and the child protection team, as defined in s. *39.01* ~~415.503~~, when the case is referred to such a team.

Each general hospital and appropriate specialty hospital shall comply with the provisions of this section and shall notify the agency and the department of its compliance by sending a copy of its policy to the agency and the department as required by rule. The failure by a general hospital or appropriate specialty hospital to comply shall be punished by a fine not exceeding $1,000, to be fixed, imposed, and collected by the agency. Each day in violation is considered a separate offense.

Section 140. Section 400.4174, Florida Statutes, is amended to read:

400.4174 Reports of abuse in facilities.—When an employee, volunteer, administrator, or owner of a facility has a confirmed report of adult abuse, neglect, or exploitation, as defined in s. 415.102, or *a judicially determined report of* child abuse, *abandonment,* or neglect, as defined in s. *39.01* ~~415.503~~, and the protective investigator knows that the individual is an employee, volunteer, administrator, or owner of a facility, the agency shall be notified of the ~~confirmed~~ report.

Section 141. Paragraph (c) of subsection (2) of section 400.556, Florida Statutes, is amended to read:

400.556 Denial, suspension, revocation of license; administrative fines; investigations and inspections.—

(2) Each of the following actions by the owner of an adult day care center or by its operator or employee is a ground for action by the agency against the owner of the center or its operator or employee:

(c) A confirmed report of adult abuse, neglect, or exploitation, as defined in s. 415.102, or *a report* of child abuse, *abandonment,* or neglect, as defined in s. *39.01* ~~415.503~~, which report has been upheld following a hearing held pursuant to chapter 120 or a waiver of such hearing.

Section 142. Paragraph (a) of subsection (8) of section 402.165, Florida Statutes, is amended to read:

402.165 Statewide Human Rights Advocacy Committee; confidential records and meetings.—

(8)(a) In the performance of its duties, the Statewide Human Rights Advocacy Committee shall have:

1. Authority to receive, investigate, seek to conciliate, hold hearings on, and act on complaints which allege any abuse or deprivation of constitutional or human rights of clients.

2. Access to all client records, files, and reports from any program, service, or facility that is operated, funded, licensed, or regulated by the Department of *Children and Family* ~~Health and Rehabilitative~~ Services and any records which are material to its investigation and which are in the custody of any other agency or department of government. The committee's investigation or monitoring shall not impede or obstruct matters under investigation by law enforcement or judicial authorities. Access shall not be granted if a specific procedure or prohibition for reviewing records is required by federal law and regulation which supersedes state law. Access shall not be granted to the records of a private licensed practitioner who is providing services outside agencies and facilities and whose client is competent and refuses disclosure.

3. Standing to petition the circuit court for access to client records which are confidential as specified by law. The petition shall state the specific reasons for which the committee is seeking access and the intended use of such information. The court may authorize committee access to such records upon a finding that such access is directly related to an investigation regarding the possible deprivation of constitutional or human rights or the abuse of a client. Original client files, records, and reports shall not be removed from the Department of *Children and Family* ~~Health and Rehabilitative~~ Services or agency facilities. Under no circumstance shall the committee have access to confidential adoption records in accordance with the provisions of ss. *39.0132* ~~39.411~~, 63.022,

and 63.162. Upon completion of a general investigation of practices and procedures of the Department of *Children and Family* ~~Health and Rehabilitative~~ Services, the committee shall report its findings to that department.

Section 143. Paragraph (a) of subsection (8) of section 402.166, Florida Statutes, is amended to read:

402.166 District human rights advocacy committees; confidential records and meetings.—

(8)(a) In the performance of its duties, a district human rights advocacy committee shall have:

1. Access to all client records, files, and reports from any program, service, or facility that is operated, funded, licensed, or regulated by the Department of *Children and Family* ~~Health and Rehabilitative~~ Services and any records which are material to its investigation and which are in the custody of any other agency or department of government. The committee's investigation or monitoring shall not impede or obstruct matters under investigation by law enforcement or judicial authorities. Access shall not be granted if a specific procedure or prohibition for reviewing records is required by federal law and regulation which supersedes state law. Access shall not be granted to the records of a private licensed practitioner who is providing services outside agencies and facilities and whose client is competent and refuses disclosure.

2. Standing to petition the circuit court for access to client records which are confidential as specified by law. The petition shall state the specific reasons for which the committee is seeking access and the intended use of such information. The court may authorize committee access to such records upon a finding that such access is directly related to an investigation regarding the possible deprivation of constitutional or human rights or the abuse of a client. Original client files, records, and reports shall not be removed from Department of *Children and Family* ~~Health and Rehabilitative~~ Services or agency facilities. Upon no circumstances shall the committee have access to confidential adoption records in accordance with the provisions of ss. *39.0132* ~~39.411~~, 63.022, and 63.162. Upon completion of a general investigation of practices and procedures of the Department of *Children and Family* ~~Health and Rehabilitative~~ Services, the committee shall report its findings to that department.

Section 144. Section 409.1672, Florida Statutes, is amended to read:

409.1672 Incentives for department employees.—In order to promote accomplishing the goal of family preservation, family reunification, or permanent placement of a child in an adoptive home, the department may, pursuant to s. 110, chapter 92-142, Laws of Florida, or subsequent legislative authority and within existing resources, develop monetary performance incentives such as bonuses, salary increases, and educational enhancements for department employees engaged in positions and activities related to the child welfare system under chapter 39~~, chapter 415,~~ or this chapter who demonstrate outstanding work in these areas.

Section 145. Subsection (8) and paragraph (c) of subsection (9) of section 409.176, Florida Statutes, are amended to read:

409.176 Registration of residential child-caring agencies and family foster homes.—

(8) The provisions of chapters *39* ~~415~~ and 827 regarding child abuse, *abandonment,* and neglect and the provisions of s. 409.175 and chapter 435 regarding screening apply to any facility registered under this section.

(9) The qualified association may deny, suspend, or revoke the registration of a Type II facility which:

(c) Violates the provisions of chapter *39* ~~415~~ or chapter 827 regarding child abuse, *abandonment,* and neglect or the provisions of s. 409.175 or chapter 435 regarding screening.

The qualified association shall notify the department within 10 days of the suspension or revocation of the registration of any Type II facility registered under this section.

Section 146. Paragraph (b) of subsection (10) of section 409.2554, Florida Statutes, is amended to read:

409.2554 Definitions.—As used in ss. 409.2551-409.2598, the term:

(10) "Support" means:

(b) Support for a child who is placed under the custody of someone other than the custodial parent pursuant to s. *39.508* ~~39.41~~.

Section 147. Section 409.2577, Florida Statutes, is amended to read:

409.2577 Parent locator service.—The department shall establish a parent locator service to assist in locating parents who have deserted their children and other persons liable for support of dependent children. The department shall use all sources of information available, including the Federal Parent Locator Service, and may request and shall receive information from the records of any person or the state or any of its political subdivisions or any officer thereof. Any agency as defined in s. 120.52, any political subdivision, and any other person shall, upon request, provide the department any information relating to location, salary, insurance, social security, income tax, and employment history necessary to locate parents who owe or potentially owe a duty of support pursuant to Title IV-D of the Social Security Act. This provision shall expressly take precedence over any other statutory nondisclosure provision which limits the ability of an agency to disclose such information, except that law enforcement information as provided in s. 119.07(3)(i) is not required to be disclosed, and except that confidential taxpayer information possessed by the Department of Revenue shall be disclosed only to the extent authorized in s. 213.053(15). Nothing in this section requires the disclosure of information if such disclosure is prohibited by federal law. Information gathered or used by the parent locator service is confidential and exempt from the provisions of s. 119.07(1). Additionally, the department is authorized to collect any additional information directly bearing on the identity and whereabouts of a person owing or asserted to be owing an obligation of support for a dependent child. Information gathered or used by the parent locator service is confidential and exempt from the provisions of s. 119.07(1). The department may make such information available only to public officials and agencies of this state; political subdivisions of this state; the custodial parent, legal guardian, attorney, or agent of the child; and other states seeking to locate parents who have deserted their children and other persons liable for support of dependents, for the sole purpose of establishing, modifying, or enforcing their liability for support, *and shall make such information available to the Department of Children and Family Services for the purpose of diligent search activities pursuant to chapter 39.* If the department has reasonable evidence of domestic violence or child abuse and the disclosure of information could be harmful to the custodial parent or the child of such parent, the child support program director or designee shall notify the *Department of Children and Family Services and the* Secretary of the United States Department of Health and Human Services of this evidence. Such evidence is sufficient grounds for the department to disapprove an application for location services.

Section 148. Subsection (29) of section 409.912, Florida Statutes, is amended to read:

409.912 Cost-effective purchasing of health care.—The agency shall purchase goods and services for Medicaid recipients in the most cost-effective manner consistent with the delivery of quality medical care. The agency shall maximize the use of prepaid per capita and prepaid aggregate fixed-sum basis services when appropriate and other alternative service delivery and reimbursement methodologies, including competitive bidding pursuant to s. 287.057, designed to facilitate the cost-effective purchase of a case-managed continuum of care. The agency shall also require providers to minimize the exposure of recipients to the need for acute inpatient, custodial, and other institutional care and the inappropriate or unnecessary use of high-cost services.

(29) Each managed care plan that is under contract with the agency to provide health care services to Medicaid recipients shall annually conduct a background check with the Florida Department of Law

Enforcement of all persons with ownership interest of 5 percent or more or executive management responsibility for the managed care plan and shall submit to the agency information concerning any such person who has been found guilty of, regardless of adjudication, or has entered a plea of nolo contendere or guilty to, any of the offenses listed in s. 435.03 or has a confirmed report of abuse, neglect, or exploitation pursuant to ~~part I of~~ chapter 415.

Section 149. Paragraph (a) of subsection (1) of section 409.9126, Florida Statutes, is amended to read:

409.9126 Children with special health care needs.—

(1) As used in this section:

(a) "Children's Medical Services network" means an alternative service network that includes health care providers and health care facilities specified in chapter 391 and ss. *39.303,* 383.15-383.21, *and* 383.216~~, and 415.5055~~.

Section 150. Paragraph (f) of subsection (5) of section 414.065, Florida Statutes, is amended to read:

414.065 Work requirements.—

(5) CONTINUATION OF TEMPORARY CASH ASSISTANCE FOR CHILDREN; PROTECTIVE PAYEES.—

(f) If the department is unable to designate a qualified protective payee or authorized representative, a referral shall be made under the provisions of chapter *39* ~~415~~ for protective intervention.

Section 151. Section 435.045, Florida Statutes, is created to read:

435.045 Requirements for prospective foster or adoptive parents.—

(1) Unless an election provided for in subsection (2) is made with respect to the state, the department shall conduct criminal records checks equivalent to the level 2 screening required in s. 435.04(1) for any prospective foster or adoptive parent before the foster or adoptive parent may be finally approved for placement of a child on whose behalf foster care maintenance payments or adoption assistance payments under s. 471 of the Social Security Act, 42 U.S.C. 671, are to be made. Approval shall not be granted:

(a) In any case in which a record check reveals a felony conviction for child abuse, abandonment, or neglect; for spousal abuse; for a crime against children, including child pornography, or for a crime involving violence, including rape, sexual assault, or homicide but not including other physical assault or battery, if the department finds that a court of competent jurisdiction has determined that the felony was committed at any time; and

(b) In any case in which a record check reveals a felony conviction for physical assault, battery, or a drug-related offense, if the department finds that a court of competent jurisdiction has determined that the felony was committed within the past 5 years.

(2) For purposes of this section, and ss. 39.401(3) and 39.508(9)(b) and (10)(a), the department and its authorized agents or contract providers are hereby designated a criminal justice agency for the purposes of accessing criminal justice information, including National Crime Information Center information, to be used for enforcing Florida's laws concerning the crimes of child abuse, abandonment, and neglect. This information shall be used solely for purposes supporting the detection, apprehension, prosecution, pretrial release, posttrial release, or rehabilitation of criminal offenders or persons accused of the crimes of child abuse, abandonment, or neglect and shall not be further disseminated or used for any other purposes.

(3) Subsection (2) shall not apply if the Governor has notified the Secretary of the United States Department of Health and Human Services in writing that the state has elected to make subsection (2) inapplicable to the state, or if the Legislature, by law, has elected to make subsection (2) inapplicable to the state.

Section 152. Section 447.401, Florida Statutes, is amended to read:

447.401 Grievance procedures.—Each public employer and bargaining agent shall negotiate a grievance procedure to be used for the settlement of disputes between employer and employee, or group of employees, involving the interpretation or application of a collective bargaining agreement. Such grievance procedure shall have as its terminal step a final and binding disposition by an impartial neutral, mutually selected by the parties; however, when the issue under appeal is an allegation of abuse, *abandonment,* or neglect by an employee under *s. 39.201 or* s. 415.1075 ~~or s. 415.504~~, the grievance may not be decided until the *abuse, abandonment, or neglect of a child has been judicially determined or until a* confirmed report of abuse or neglect *of a disabled adult or elderly person* has been upheld pursuant to the procedures for appeal in *s.* ~~ss.~~ 415.1075 ~~and 415.504~~. However, an arbiter or other neutral shall not have the power to add to, subtract from, modify, or alter the terms of a collective bargaining agreement. If an employee organization is certified as the bargaining agent of a unit, the grievance procedure then in existence may be the subject of collective bargaining, and any agreement which is reached shall supersede the previously existing procedure. All public employees shall have the right to a fair and equitable grievance procedure administered without regard to membership or nonmembership in any organization, except that certified employee organizations shall not be required to process grievances for employees who are not members of the organization. A career service employee shall have the option of utilizing the civil service appeal procedure, an unfair labor practice procedure, or a grievance procedure established under this section, but such employee is precluded from availing himself or herself to more than one of these procedures.

Section 153. Paragraph (d) of subsection (1) of section 464.018, Florida Statutes, is amended to read:

464.018 Disciplinary actions.—

(1) The following acts shall be grounds for disciplinary action set forth in this section:

(d) Being found guilty, regardless of adjudication, of any of the following offenses:

1. A forcible felony as defined in chapter 776.

2. A violation of chapter 812, relating to theft, robbery, and related crimes.

3. A violation of chapter 817, relating to fraudulent practices.

4. A violation of chapter 800, relating to lewdness and indecent exposure.

5. A violation of chapter 784, relating to assault, battery, and culpable negligence.

6. A violation of chapter 827, relating to child abuse.

7. A violation of chapter 415, relating to protection from abuse, neglect, and exploitation.

8. A violation of chapter 39, relating to child abuse, abandonment, and neglect.

Section 154. Paragraph (a) of subsection (2) of section 490.014, Florida Statutes, is amended to read:

490.014 Exemptions.—

(2) No person shall be required to be licensed or provisionally licensed under this chapter who:

(a) Is a salaried employee of a government agency; developmental services program, mental health, alcohol, or drug abuse facility operating pursuant to chapter 393, chapter 394, or chapter 397; subsidized child care program, subsidized child care case management program, or child care resource and referral program operating pursuant to chapter 402; child-placing or child-caring agency licensed pursuant to chapter 409; domestic violence center certified pursuant to chapter *39* ~~415~~; accredited academic institution; or research institution,

if such employee is performing duties for which he or she was trained and hired solely within the confines of such agency, facility, or institution.

Section 155. Paragraph (a) of subsection (4) of section 491.014, Florida Statutes, is amended to read:

491.014 Exemptions.—

(4) No person shall be required to be licensed, provisionally licensed, registered, or certified under this chapter who:

(a) Is a salaried employee of a government agency; developmental services program, mental health, alcohol, or drug abuse facility operating pursuant to chapter 393, chapter 394, or chapter 397; subsidized child care program, subsidized child care case management program, or child care resource and referral program operating pursuant to chapter 402; child-placing or child-caring agency licensed pursuant to chapter 409; domestic violence center certified pursuant to chapter *39* ~~415~~; accredited academic institution; or research institution, if such employee is performing duties for which he or she was trained and hired solely within the confines of such agency, facility, or institution.

Section 156. Paragraph (b) of subsection (3) of section 741.30, Florida Statutes, is amended to read:

741.30 Domestic violence; injunction; powers and duties of court and clerk; petition; notice and hearing; temporary injunction; issuance of injunction; statewide verification system; enforcement.—

(3)

(b) The sworn petition shall be in substantially the following form:

PETITION FOR
INJUNCTION FOR PROTECTION
AGAINST DOMESTIC VIOLENCE

Before me, the undersigned authority, personally appeared Petitioner . . .(Name). . ., who has been sworn and says that the following statements are true:

(a) Petitioner resides at: . . .(address). . .

(Petitioner may furnish address to the court in a separate confidential filing if, for safety reasons, the petitioner requires the location of the current residence to be confidential.)

(b) Respondent resides at: . . .(last known address). . .

(c) Respondent's last known place of employment: . . .(name of business and address). . .

(d) Physical description of respondent: . . . .

Race. . . .

Sex. . . .

Date of birth. . . .

Height. . . .

Weight. . . .

Eye color. . . .

Hair color. . . .

Distinguishing marks or scars. . . .

(e) Aliases of respondent: . . . .

(f) Respondent is the spouse or former spouse of the petitioner or is any other person related by blood or marriage to the petitioner or is any other person who is or was residing within a single dwelling unit with the petitioner, as if a family, or is a person with whom the petitioner has a child in common, regardless of whether the petitioner and respondent are or were married or residing together, as if a family.

(g) The following describes any other cause of action currently pending between the petitioner and respondent: . . . . . .

. . . . . .

The petitioner should also describe any previous or pending attempts by the petitioner to obtain an injunction for protection against domestic violence in this or any other circuit, and the results of that attempt . . . . . .

. . . . . .

Case numbers should be included if available.

(h) Petitioner has suffered or has reasonable cause to fear imminent domestic violence because respondent has: . . . . . .

(i) Petitioner alleges the following additional specific facts: (mark appropriate sections)

. . . . Petitioner is the custodian of a minor child or children whose names and ages are as follows: . . . . . .

. . . . Petitioner needs the exclusive use and possession of the dwelling that the parties share.

. . . . Petitioner is unable to obtain safe alternative housing because: . . . . . .

. . . . Petitioner genuinely fears that respondent imminently will abuse, remove, or hide the minor child or children from petitioner because: . . . . . .

. . . . . .

(j) Petitioner genuinely fears imminent domestic violence by respondent.

(k) Petitioner seeks an injunction: (mark appropriate section or sections)

. . . . Immediately restraining the respondent from committing any acts of domestic violence.

. . . . Restraining the respondent from committing any acts of domestic violence.

. . . . Awarding to the petitioner the temporary exclusive use and possession of the dwelling that the parties share or excluding the respondent from the residence of the petitioner.

. . . . Awarding temporary custody of, or temporary visitation rights with regard to, the minor child or children of the parties, or prohibiting or limiting visitation to that which is supervised by a third party.

. . . . Establishing temporary support for the minor child or children or the petitioner.

. . . . Directing the respondent to participate in a batterers' intervention program or other treatment pursuant to s. *39.901* ~~415.601~~.

. . . . Providing any terms the court deems necessary for the protection of a victim of domestic violence, or any minor children of the victim, including any injunctions or directives to law enforcement agencies.

Section 157. Subsection (3) of section 744.309, Florida Statutes, is amended to read:

744.309 Who may be appointed guardian of a resident ward.—

(3) DISQUALIFIED PERSONS.—No person who has been convicted of a felony or who, from any incapacity or illness, is incapable of discharging the duties of a guardian, or who is otherwise unsuitable to perform the duties of a guardian, shall be appointed to act as guardian. Further, no person who has been judicially determined to have committed abuse, *abandonment,* or neglect against a child as defined in s. 39.01~~(2) and (47)~~, or who has a confirmed report of abuse, neglect, or exploitation which has been uncontested or upheld pursuant to the provisions of ss. 415.104 and 415.1075 shall be appointed to act as a guardian. Except as provided in subsection (5) or subsection (6), a person who provides substantial services to the proposed ward in a professional or business capacity, or a creditor of the proposed ward, may not be

appointed guardian and retain that previous professional or business relationship. A person may not be appointed a guardian if he or she is in the employ of any person, agency, government, or corporation that provides service to the proposed ward in a professional or business capacity, except that a person so employed may be appointed if he or she is the spouse, adult child, parent, or sibling of the proposed ward or the court determines that the potential conflict of interest is insubstantial and that the appointment would clearly be in the proposed ward's best interest. The court may not appoint a guardian in any other circumstance in which a conflict of interest may occur.

Section 158. Section 784.075, Florida Statutes, is amended to read:

784.075 Battery on detention or commitment facility staff.—A person who commits a battery on an intake counselor or case manager, as defined in s. *984.03(31)* ~~39.01(34)~~, on other staff of a detention center or facility as defined in s. *984.03(19)* ~~39.01(23)~~, or on a staff member of a commitment facility as defined in s. *985.03(45)* ~~39.01(59)(c), (d), or (e),~~ commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. For purposes of this section, a staff member of the facilities listed includes persons employed by the Department of Juvenile Justice, persons employed at facilities licensed by the Department of Juvenile Justice, and persons employed at facilities operated under a contract with the Department of Juvenile Justice.

Section 159. Section 933.18, Florida Statutes, is amended to read:

933.18 When warrant may be issued for search of private dwelling.—No search warrant shall issue under this chapter or under any other law of this state to search any private dwelling occupied as such unless:

(1) It is being used for the unlawful sale, possession, or manufacture of intoxicating liquor;

(2) Stolen or embezzled property is contained therein;

(3) It is being used to carry on gambling;

(4) It is being used to perpetrate frauds and swindles;

(5) The law relating to narcotics or drug abuse is being violated therein;

(6) A weapon, instrumentality, or means by which a felony has been committed, or evidence relevant to proving said felony has been committed, is contained therein;

(7) One or more of the following misdemeanor child abuse offenses is being committed there:

(a) Interference with custody, in violation of s. 787.03.

(b) Commission of an unnatural and lascivious act with a child, in violation of s. 800.02.

(c) Exposure of sexual organs to a child, in violation of s. 800.03.

(8) It is in part used for some business purpose such as a store, shop, saloon, restaurant, hotel, or boardinghouse, or lodginghouse;

(9) It is being used for the unlawful sale, possession, or purchase of wildlife, saltwater products, or freshwater fish being unlawfully kept therein; or

(10) The laws in relation to cruelty to animals have been or are being violated therein, except that no search pursuant to such a warrant shall be made in any private dwelling after sunset and before sunrise unless specially authorized by the judge issuing the warrant, upon a showing of probable cause. Property relating to the violation of such laws may be taken on a warrant so issued from any private dwelling in which it is concealed or from the possession of any person therein by whom it shall have been used in the commission of such offense or from any person therein in whose possession it may be.

If, during a search pursuant to a warrant issued under this section, a child is discovered and appears to be in imminent danger, the law enforcement officer conducting such search may remove the child from the private dwelling and take the child into protective custody pursuant to *chapter 39* ~~s. 415.506~~. The term "private dwelling" shall be construed to include the room or rooms used and occupied, not transiently but solely as a residence, in an apartment house, hotel, boardinghouse, or lodginghouse. No warrant shall be issued for the search of any private dwelling under any of the conditions hereinabove mentioned except on sworn proof by affidavit of some creditable witness that he or she has reason to believe that one of said conditions exists, which affidavit shall set forth the facts on which such reason for belief is based.

Section 160. Subsection (10) of section 943.045, Florida Statutes, is amended to read:

943.045 Definitions; ss. 943.045-943.08.—The following words and phrases as used in ss. 943.045-943.08 shall have the following meanings:

(10) "Criminal justice agency" means:

(a) A court.

(b) The department.

(c) The Department of Juvenile Justice.

(d) The Department of Children and and Family Services' Protective Investigations, which investigates the crimes of abuse and neglect.

(e)~~(d)~~ Any other governmental agency or subunit thereof which performs the administration of criminal justice pursuant to a statute or rule of court and which allocates a substantial part of its annual budget to the administration of criminal justice.

Section 161. Section 944.401, Florida Statutes, is amended to read:

944.401 Escapes from secure detention or residential commitment facility.—An escape from any secure detention facility maintained for the temporary detention of children, pending adjudication, disposition, or placement; an escape from any residential commitment facility defined in s. *985.03(45)* ~~39.01(59)~~, maintained for the custody, treatment, punishment, or rehabilitation of children found to have committed delinquent acts or violations of law; or an escape from lawful transportation thereto or therefrom constitutes escape within the intent and meaning of s. 944.40 and is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 162. Subsection (3) of section 944.705, Florida Statutes, is amended to read:

944.705 Release orientation program.—

(3) Any inmate who claims to be a victim of domestic violence as defined in s. 741.28 shall receive, as part of the release orientation program, referral to the nearest domestic violence center certified under *chapter 39* ~~ss. 415.601-415.608~~.

Section 163. Subsections (2) and (41) of section 984.03, Florida Statutes, as amended by chapter 97-276, Laws of Florida, are amended to read:

984.03 Definitions.—When used in this chapter, the term:

(2) "Abuse" means any willful act that results in any physical, mental, or sexual injury that causes or is likely to cause the child's physical, mental, or emotional health to be significantly impaired. Corporal discipline of a child by a parent or guardian for disciplinary purposes does not in itself constitute abuse when it does not result in harm to the child as defined in s. *39.01* ~~415.503~~.

(41) "Parent" means a woman who gives birth to a child and a man whose consent to the adoption of the child would be required under s. 63.062(1)(b). If a child has been legally adopted, the term "parent" means the adoptive mother or father of the child. The term does not include an individual whose parental relationship to the child has been legally terminated, or an alleged or prospective parent, unless the parental status falls within the terms of either s. *39.503* ~~39.4051(7)~~ or s. 63.062(1)(b).

Section 164. Subsection (4) of section 984.10, Florida Statutes, is amended to read:

984.10 Intake.—

(4) If the department has reasonable grounds to believe that the child has been abandoned, abused, or neglected, it shall proceed pursuant to the provisions of ~~s. 415.505 and~~ chapter 39.

Section 165. Paragraphs (a) and (c) of subsection (3) of section 984.15, Florida Statutes, are amended to read:

984.15 Petition for a child in need of services.—

(3)(a) The parent, guardian, or legal custodian may file a petition alleging that a child is a child in need of services if:

1. The department waives the requirement for a case staffing committee.

2. The department fails to convene a meeting of the case staffing committee within 7 days, excluding weekends and legal holidays, after receiving a written request for such a meeting from the child's parent, guardian, or legal custodian.

3. The parent, guardian, or legal custodian does not agree with the plan for services offered by the case staffing committee.

4. The department fails to provide a written report within 7 days after the case staffing committee meets, as required under s. *984.12(8)* ~~39.426(8)~~.

(c) The petition must be in writing and must set forth specific facts alleging that the child is a child in need of services as defined in s. *984.03(9)* ~~39.01~~. The petition must also demonstrate that the parent, guardian, or legal custodian has in good faith, but unsuccessfully, participated in the services and processes described in ss. *984.11 and 984.12* ~~39.424 and 39.426~~.

Section 166. Section 984.24, Florida Statutes, is amended to read:

984.24 Appeal.—The state, any child, or the family, guardian ad litem, or legal custodian of any child who is affected by an order of the court pursuant to this *chapter* ~~part~~ may appeal to the appropriate district court of appeal within the time and in the manner prescribed by the Florida Rules of Appellate Procedure ~~and pursuant to s. 39.413~~.

Section 167. Subsection (42) of section 985.03, Florida Statutes, as amended by chapter 97-276, Laws of Florida, is amended to read:

985.03 Definitions.—When used in this chapter, the term:

(42) "Parent" means a woman who gives birth to a child and a man whose consent to the adoption of the child would be required under s. 63.062(1)(b). If a child has been legally adopted, the term "parent" means the adoptive mother or father of the child. The term does not include an individual whose parental relationship to the child has been legally terminated, or an alleged or prospective parent, unless the parental status falls within the terms of either s. *39.503* ~~39.4051(7)~~ or s. 63.062(1)(b).

Section 168. Paragraph (c) of subsection (4) of section 985.303, Florida Statutes, is amended to read:

985.303 Neighborhood restorative justice.—

(4) DEFERRED PROSECUTION PROGRAM; PROCEDURES.—

(c) The board shall require the parent or legal guardian of the juvenile who is referred to a Neighborhood Restorative Justice Center to appear with the juvenile before the board at the time set by the board. In scheduling board meetings, the board shall be cognizant of a parent's or legal guardian's other obligations. The failure of a parent or legal guardian to appear at the scheduled board meeting with his or her child or ward may be considered by the juvenile court as an act of child neglect as defined by s. *39.01* ~~415.503(3)~~, and the board may refer the matter to the Department of Children and Family Services for investigation under the provisions of chapter *39* ~~415~~.

Section 169. *Sections 39.002, 39.0195, 39.0196, 39.39, 39.403, 39.4032, 39.4052, 39.4053, 39.408(3), (4), 39.449, 39.45, 39.451, 39.457, 39.459, 39.4611, 39.462, 39.4625, 39.472, 39.474, 39.475, 415.501, 415.5016, 415.50165, 415.5017, 415.50175, 415.5018, 415.50185, 415.5019, 415.502, 415.503, 415.505, 415.506, 415.5075, 415.509, and 415.514, Florida Statutes, are repealed.*

Section 170. *There is hereby appropriated to the Department of Children and Families in a lump sum, $11,000,000 from the Federal Grants Trust Fund to implement the Relative-Caregiver Program. The source of funding shall be the Temporary Assistance to Needy Families Block Grant. Any expenditures from the Temporary Assistance for Needy Families block grant shall be expended in accordance with the requirements and limitations of part A of Title IV of the Social Security Act, as amended or any other applicable federal requirement or limitation.*

Section 171. *There is hereby appropriated to the Justice Administration Commission $3,500,000 from the General Revenue Fund for the purpose of implementing sections 24, 57, and 88 of this act.*

Section 172. Except as otherwise provided in this act and except for sections 1 through 15 of this act, which shall take effect January 1, 1999, this act shall take effect October 1, 1998.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to families and children; creating the "Marriage Preparation and Preservation Act"; providing legislative findings; amending s. 232.246, F.S.; prescribing a high school graduation requirement; amending s. 741.01, F.S.; providing for a reduction of the marriage license fee under certain circumstances; creating a waiting period before a marriage license is issued; creating s. 741.0305, F.S.; providing for a premarital preparation course; providing for modification of marriage license fees; specifying course providers; providing course contents; providing for a review of such courses; providing for compilation of information and report of findings; providing for pilot programs; creating s. 741.0306, F.S.; providing for creation of a marriage law handbook created by the Family Law Section of The Florida Bar; providing for information that may be included in the handbook; amending s. 741.04, F.S.; prohibiting issuance of a marriage license until petitioners verify certain facts and complete a questionnaire; providing for a waiting period; providing for a waiver of the waiting period; amending s. 741.05, F.S.; conforming provisions; amending s. 61.043, F.S.; providing for completion of an informational questionnaire upon filing for dissolution of marriage; amending s. 61.052, F.S.; specifying documents that may be used to corroborate residency requirements; amending s. 61.21, F.S.; revising provisions relating to the authorized parenting course offered to educate, train, and assist divorcing parents in regard to the consequences of divorce on parents and children; providing legislative findings and purpose; requiring judicial circuits to approve a parenting course; requiring parties to a dissolution proceeding with a minor child to attend a court-approved parenting family course; providing procedures and guidelines and course objectives; requiring parties to file proof of compliance with the court; authorizing the court to require parties to a modification of a final judgment of dissolution to take the course under certain circumstances; amending s. 28.101, F.S.; providing a fee for filing for dissolution of marriage; amending s. 25.388, F.S.; providing funding for the marriage law handbook; providing an appropriation; reorganizing and revising ch. 39, F.S.; providing for part I of that chapter, entitled "General Provisions"; amending s. 39.001, F.S.; revising purposes and intent; providing for personnel standards and screening and for drug testing; renumbering and amending s. 415.5015, F.S., relating to child abuse prevention training in the district school system; amending s. 39.01, F.S.; revising definitions; renumbering and amending s. 39.455, F.S., relating to immunity from liability for agents of the Department of Children and Family Services or a social service agency; amending s. 39.012, F.S., and creating s. 39.0121, F.S.; providing authority and requirements for department rules; renumbering and amending s. 39.40, F.S., relating to procedures and jurisdiction; providing for right to counsel; renumbering s. 39.4057, F.S., relating to permanent mailing

address designation; renumbering and amending s. 39.411, F.S., relating to oaths, records, and confidential information; renumbering s. 39.414, F.S., relating to court and witness fees; renumbering and amending s. 39.415, F.S., relating to providing for compensation of appointed counsel; renumbering and amending s. 39.418, F.S., relating to the Operations and Maintenance Trust Fund; providing for part II of ch. 39, F.S., entitled "Reporting Child Abuse"; renumbering and amending s. 415.504, F.S., relating to mandatory reports of child abuse, abandonment, or neglect; renumbering and amending s. 415.511, F.S., relating to immunity from liability in cases of child abuse, abandonment, or neglect; renumbering and amending s. 415.512, F.S., relating to abrogation of privileged communications in cases of child abuse, abandonment, or neglect; renumbering and amending s. 415.513, F.S.; deleting the requirement for the Department of Children and Family Services to provide information to the state attorney; providing for the Department of Children and Family Services to report annually to the Legislature the number of reports referred to law enforcement agencies; providing for investigation by local law enforcement agencies of possible false reports; providing for law enforcement agencies to refer certain reports to the state attorney for prosecution; providing for law enforcement entities to handle certain reports of abuse or neglect during the pendency of such an investigation; providing procedures; specifying the penalty for knowingly and willfully making, or advising another to make, a false report; providing for state attorneys to report annually to the Legislature the number of complaints that have resulted in informations or indictments; renumbering and amending s. 415.5131, F.S.; increasing an administrative fine for false reporting; providing for part III of ch. 39, F.S., entitled "Protective Investigations"; creating s. 39.301, F.S.; providing for child protective investigations; creating s. 39.302, F.S.; providing for protective investigations of institutional child abuse, abandonment, or neglect; renumbering and amending s. 415.5055, F.S., relating to child protection teams and services and eligible cases; creating s. 39.3035, F.S.; providing standards for child advocacy centers eligible for state funding; renumbering and amending s. 415.507, F.S., relating to photographs, medical examinations, X rays, and medical treatment of an abused, abandoned, or neglected child; renumbering and amending s. 415.5095, F.S., relating to a model plan for intervention and treatment in sexual abuse cases; creating s. 39.306, F.S.; providing for working agreements with local law enforcement to perform criminal investigations; renumbering and amending s. 415.50171, F.S., relating to reports of child-on-child sexual abuse; providing for part IV of ch. 39, F.S., entitled "Family Builders Program"; renumbering and amending s. 415.515, F.S., relating to establishment of the program; renumbering and amending s. 415.516, F.S., relating to goals of the program; renumbering and amending s. 415.517, F.S., relating to contracts for services; renumbering and amending s. 415.518, F.S., relating to family eligibility; renumbering s. 415.519, F.S., relating to delivery of services; renumbering and amending s. 415.520, F.S., relating to qualifications of program workers; renumbering s. 415.521, F.S., relating to outcome evaluation; renumbering and amending s. 415.522, F.S., relating to funding; providing for part V of ch. 39, F.S., entitled "Taking Children into Custody and Shelter Hearings"; creating s. 39.395, F.S.; providing for medical or hospital personnel taking a child into protective custody; amending s. 39.401, F.S.; providing for law enforcement officers or authorized agents of the department taking a child alleged to be dependent into custody; amending s. 39.402, F.S., relating to placement in a shelter; amending s. 39.407, F.S., relating to physical and mental examination and treatment of a child and physical or mental examination of a person requesting custody; renumbering and amending s. 39.4033, F.S., relating to referral of a dependency case to mediation; providing for part VI of ch. 39, F.S., entitled "Petition, Arraignment, Adjudication, and Disposition"; renumbering and amending s. 39.404, F.S., relating to petition for dependency; renumbering and amending s. 39.405, F.S., relating to notice, process, and service; renumbering and amending s. 39.4051, F.S., relating to procedures when the identity or location of the parent, legal custodian, or caregiver is unknown; renumbering and amending s. 39.4055, F.S., relating to injunction pending disposition of a petition for detention or dependency; renumbering and amending s. 39.406, F.S., relating to answers to petitions or other pleadings; renumbering and amending s. 39.408, F.S., relating to arraignment hearings; renumbering and amending s. 39.409, F.S., relating to adjudicatory hearings and orders; renumbering and amending s. 39.41, F.S., relating to disposition hearings and powers of disposition; creating s. 39.5085, F.S.; establishing the Relative-Caregiver Program; directing the Department of Children and Family Services to establish and operate the Relative-Caregiver Program; providing financial assistance within available resources to relatives caring for children; providing for financial assistance and support services to relatives caring for children placed with them by the child protection system; providing for rules establishing eligibility guidelines, caregiver benefits, and payment schedule; renumbering and amending s. 39.4105, F.S., relating to grandparents' rights; renumbering and amending s. 39.413, F.S., relating to appeals; providing for part VII of ch. 39, F.S., entitled "Case Plans"; renumbering and amending s. 39.4031, F.S., relating to case plan requirements and case planning for children in out-of-home care; renumbering and amending s. 39.452, F.S., relating to case planning for children in out-of-home care when the parents, legal custodians, or caregivers do not participate; creating s. 39.603, F.S.; providing for court approvals of case planning; providing for part VIII of ch. 39, F.S., entitled "Judicial Reviews"; renumbering and amending s. 39.453, F.S., relating to judicial review of the status of a child; renumbering and amending s. 39.4531, F.S., relating to citizen review panels; renumbering and amending s. 39.454, F.S., relating to initiation of proceedings for termination of parental rights; renumbering and amending s. 39.456, F.S.; revising exemptions from judicial review; providing for part IX of ch. 39, F.S., entitled "Termination of Parental Rights"; renumbering and amending s. 39.46, F.S., relating to procedures, jurisdiction, and service of process; renumbering and amending s. 39.461, F.S., relating to petition for termination of parental rights, and filing and elements thereof; creating s. 39.803, F.S.; providing procedures when the identity or location of the parent is unknown after filing a petition for termination of parental rights; renumbering s. 39.4627, F.S., relating to penalties for false statements of paternity; renumbering and amending s. 39.463, F.S., relating to petitions and pleadings for which no answer is required; renumbering and amending s. 39.464, F.S., relating to grounds for termination of paternal rights; renumbering and amending s. 39.465, F.S., relating to right to counsel and appointment of a guardian ad litem; renumbering and amending s. 39.466, F.S., relating to advisory hearings; renumbering and amending s. 39.467, F.S., relating to adjudicatory hearings; renumbering and amending s. 39.4612, F.S., relating to the manifest best interests of the child; renumbering and amending s. 39.469, F.S., relating to powers of disposition and order of disposition; renumbering and amending s. 39.47, F.S., relating to post-disposition relief; creating s. 39.813, F.S.; providing for continuing jurisdiction of the court that terminates parental rights over all matters pertaining to the child's adoption; renumbering s. 39.471, F.S., relating to oaths, records, and confidential information; renumbering and amending s. 39.473, F.S., relating to appeal; creating s. 39.816, F.S.; authorizing certain pilot and demonstration projects contingent on receipt of federal grants or contracts; creating s. 39.817, F.S.; providing for a foster care demonstration pilot project; providing for part X of ch. 39, F.S., entitled "Guardians Ad Litem and Guardian Advocates"; creating s. 39.820, F.S.; providing definitions; renumbering s. 415.5077, F.S., relating to qualifications of guardians ad litem; renumbering and amending s. 415.508, F.S., relating to appointment of a guardian ad litem for an abused, abandoned, or neglected child; renumbering and amending s. 415.5082, F.S., relating to guardian advocates for drug dependent newborns; renumbering and amending s. 415.5083, F.S., relating to procedures and jurisdiction; renumbering s. 415.5084, F.S., relating to petition for appointment of a guardian advocate; renumbering s. 415.5085, F.S., relating to process and service; renumbering and amending s. 415.5086, F.S., relating to hearing for appointment of a guardian advocate; renumbering and amending s. 415.5087, F.S., relating to grounds for appointment of a guardian advocate; renumbering s. 415.5088, F.S., relating to powers and duties of the guardian advocate; renumbering and amending s. 415.5089, F.S., relating to review and removal of a guardian advocate; providing for part XI of ch. 39, F.S., entitled "Domestic Violence"; renumbering s. 415.601, F.S., relating to legislative intent regarding treatment and rehabilitation of victims and perpetrators; renumbering and amending s. 415.602, F.S., relating to definitions; renumbering and amending s. 415.603, F.S., relating to duties and functions of the department;

renumbering and amending s. 415.604, F.S., relating to an annual report to the Legislature; renumbering and amending s. 415.605, F.S., relating to domestic violence centers; renumbering s. 415.606, F.S., relating to referral to such centers and notice of rights; renumbering s. 415.608, F.S., relating to confidentiality of information received by the department or a center; amending s. 20.19, F.S.; providing for certification programs for family safety and preservation employees of the department; providing for rules; amending ss. 20.43, 61.13, 61.401, 61.402, 63.052, 63.092, 90.5036, 154.067, 216.136, 232.50, 318.21, 384.29, 392.65, 393.063, 395.1023, 400.4174, 400.556, 402.165, 402.166, 409.1672, 409.176, 409.2554, 409.912, 409.9126, 414.065, 447.401, 464.018, 490.014, 491.014, 741.30, 744.309, 784.075, 933.18, 944.401, 944.705, 984.03, 984.10, 984.15, 984.24, 985.03, 985.303, F.S.; correcting cross-references; conforming related provisions and references; amending ss. 213.053 and 409.2577, F.S.; authorizing disclosure of certain confidential taxpayer and parent locator information for diligent search activities under ch. 39, F.S.; creating s. 435.045, F.S.; providing background screening requirements for prospective foster or adoptive parents; amending s. 943.045, F.S.; providing that the Department of Children and Family Services is a "criminal justice agency" for purposes of the criminal justice information system; repealing s. 39.002, F.S., relating to intent; repealing s. 39.0195, F.S., relating to sheltering unmarried minors and aiding unmarried runaways; repealing s. 39.0196, F.S., relating to children locked out of the home; repealing ss. 39.39, 39.449, and 39.459, F.S., relating to definition of "department"; repealing s. 39.403, F.S., relating to protective investigation; repealing s. 39.4032, F.S., relating to multidisciplinary case staffing; repealing s. 39.4052, F.S., relating to affirmative duty of written notice to adult relatives; repealing s. 39.4053, F.S., relating to diligent search after taking a child into custody; repealing s. 39.408(3), (4), F.S., relating to disposition hearings and notice of hearings; repealing s. 39.45, F.S., relating to legislative intent regarding foster care; repealing s. 39.451, F.S., relating to case planning; repealing s. 39.457, F.S., relating to a pilot program in Leon County to provide additional benefits to children in foster care; repealing s. 39.4611, F.S., relating to elements of petitions; repealing s. 39.462, F.S., relating to process and services; repealing s. 39.4625, F.S., relating to identity or location of parent unknown after filing of petition for termination of parental rights; repealing s. 39.472, F.S., relating to court and witness fees; repealing s. 39.474, F.S., relating to compensation of counsel; repealing s. 39.475, F.S., relating to rights of grandparents; repealing s. 415.501, F.S., relating to the state plan for prevention of abuse and neglect; repealing ss. 415.5016, 415.50165, 415.5017, 415.50175, 415.5018, 415.50185, and 415.5019, F.S., relating to purpose and legislative intent, definitions, procedures, confidentiality of records, district authority and responsibilities, outcome evaluation, and rules for the family services response system; repealing s. 415.502, F.S., relating to legislative intent for comprehensive protective services for abused or neglected children; repealing s. 415.503, F.S., relating to definitions; repealing s. 415.505, F.S., relating to child protective investigations and investigations of institutional child abuse or neglect; repealing s. 415.506, F.S., relating to taking a child into protective custody; repealing s. 415.5075, F.S., relating to rules for medical screening and treatment of children; repealing s. 415.509, F.S., relating to public agencies' responsibilities for prevention, identification, and treatment of child abuse and neglect; repealing s. 415.514, F.S., relating to rules for protective services; providing appropriations; providing effective dates.

WHEREAS, the Florida Legislature endorses and encourages marriage as a means of promoting stability and continuity in society, and

WHEREAS, children of divorced parents can suffer long-lasting adverse consequences from the break-up of their parents' relationship and the existing family law system, and

WHEREAS, recent annual statistics show that for every two marriages in Florida, one ends in divorce, and

WHEREAS, the state has a compelling interest in promoting those relationships which inure to the benefit of Florida's children, and

WHEREAS, the state has a compelling interest in educating its citizens with regard to the responsibilities of marriage and, if contemplated, the effects of divorce, NOW, THEREFORE,

Senate Amendment 1A—On page 4, line 25, delete "*must*" and insert: *may*

Senate Amendment 1E (with title amendment)—On page 203, line 14, through page 223, line 27, delete those lines and insert:

Section 83. Section 39.461, Florida Statutes, is renumbered as section 39.802, Florida Statutes, and amended to read:

39.802 ~~39.461~~ Petition for termination of parental rights*; filing; elements.*—

(1) All proceedings seeking an adjudication to terminate parental rights pursuant to this chapter must be initiated by the filing of an original petition by the department, the guardian ad litem, ~~or a licensed child-placing agency~~ or ~~by~~ any other person who has knowledge of the facts alleged or is informed of them and believes that they are true.

(2) The form of the petition is governed by the Florida Rules of Juvenile Procedure. The petition must be in writing and signed by the petitioner *or, if the department is the petitioner, by an employee of the department,* under oath stating the petitioner's good faith in filing the petition.

(3) When a petition for termination of parental rights has been filed, the clerk of the court shall set the case before the court for an advisory hearing.

(4) A petition for termination of parental rights filed under this chapter must contain facts supporting the following allegations:

(a) That at least one of the grounds listed in s. 39.806 has been met.

(b) That the parents of the child were informed of their right to counsel at all hearings that they attend and that a dispositional order adjudicating the child dependent was entered in any prior dependency proceeding relied upon in offering a parent a case plan as described in s. 39.806.

(c) That the manifest best interests of the child, in accordance with s. 39.810, would be served by the granting of the petition.

(5) When a petition for termination of parental rights is filed under s. 39.806(1), a separate petition for dependency need not be filed and the department need not offer the parents a case plan with a goal of reunification, but may instead file with the court a case plan with a goal of termination of parental rights to allow continuation of services until the termination is granted or until further orders of the court are issued.

(6) The fact that a child has been previously adjudicated dependent as alleged in a petition for termination of parental rights may be proved by the introduction of a certified copy of the order of adjudication or the order of disposition of dependency.

(7) The fact that the parent of a child was informed of the right to counsel in any prior dependency proceeding as alleged in a petition for termination of parental rights may be proved by the introduction of a certified copy of the order of adjudication or the order of disposition of dependency containing a finding of fact that the parent was so advised.

(8) Whenever the department has entered into a case plan with a parent with the goal of reunification, and a petition for termination of parental rights based on the same facts as are covered in the case plan is filed prior to the time agreed upon in the case plan for the performance of the case plan, the petitioner must allege and prove by clear and convincing evidence that the parent has materially breached the provisions of the case plan.

Section 84. Section 39.803, Florida Statutes, is created to read:

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

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

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

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

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

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

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

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

(3) If the inquiry under subsection (1) identifies any person as a parent or prospective parent, the court shall require notice of the hearing to be provided to that person.

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

(5) If the inquiry under subsection (1) identifies a parent or prospective parent, and that person's location is unknown, the court shall direct the department to conduct a diligent search for that person before scheduling an adjudicatory hearing regarding the dependency of the child unless the court finds that the best interest of the child requires proceeding without actual notice to the person whose location is unknown.

(6) The diligent search required by subsection (5) must include, at a minimum, inquiries of all known relatives of the parent or prospective parent, inquiries of all offices of program areas of the department likely to have information about the parent or prospective parent, inquiries of other state and federal agencies likely to have information about the parent or prospective parent, inquiries of appropriate utility and postal providers, and inquiries of appropriate law enforcement agencies.

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

(8) If the inquiry and diligent search identifies a prospective parent, that person must be given the opportunity to become a party to the proceedings by completing a sworn affidavit of parenthood and filing it with the court or the department. A prospective parent who files a sworn affidavit of parenthood while the child is a dependent child but no later than at the time of or prior to the adjudicatory hearing in the termination of parental rights proceeding for the child shall be considered a parent for all purposes under this section.

Section 85. *Section 39.4627, Florida Statutes, is renumbered as section 39.804, Florida Statutes.*

Section 86. Section 39.463, Florida Statutes, is renumbered as section 39.805, Florida Statutes, and amended to read:

39.805 ~~39.463~~ No answer required.—No answer to the petition or any other pleading need be filed by any child, parent, *caregiver,* or legal custodian, but any matters which might be set forth in an answer or other pleading may be pleaded orally before the court or filed in writing as any such person may choose. Notwithstanding the filing of any answer or any pleading, the child or parent shall, prior to the adjudicatory hearing, be advised by the court of the right to counsel and shall be given an opportunity to deny the allegations in the petition for termination of parental rights or to enter a plea to allegations in the petition before the court.

Section 87. Section 39.464, Florida Statutes, as amended by chapter 97-276, Laws of Florida, is renumbered as section 39.806, Florida Statutes, and amended to read:

39.806 ~~39.464~~ Grounds for termination of parental rights.—

(1) The department, the guardian ad litem, ~~a licensed child-placing agency,~~ or any person *related to the child* who has knowledge of the facts alleged or who is informed of said facts and believes that they are true, may petition for the termination of parental rights under any of the following circumstances:

(a) When the parent or parents voluntarily executed a written surrender of the child and consented to the entry of an order giving custody of the child to the department ~~or to a licensed child-placing agency~~ for subsequent adoption and the department ~~or licensed child-placing agency~~ is willing to accept custody of the child.

1. The surrender document must be executed before two witnesses and a notary public or other person authorized to take acknowledgments.

2. The surrender and consent may be withdrawn after acceptance by the department ~~or licensed child-placing agency~~ only after a finding by the court that the surrender and consent were obtained by fraud or duress.

(b) When the identity or location of the parent or parents is unknown and~~, if the court requires a diligent search pursuant to s. 39.4625,~~ cannot be ascertained by diligent search ~~as provided in s. 39.4625~~ within 90 days.

(c) When the parent or parents engaged in conduct toward the child or toward other children that demonstrates that the continuing involvement of the parent or parents in the parent-child relationship threatens the life, *safety* ~~or~~ well-being, *or physical, mental, or emotional health* of the child irrespective of the provision of services. Provision of services *may be* ~~is~~ evidenced by proof that services were provided through a previous plan or offered as a case plan from a child welfare agency.

(d) When the parent of a child is incarcerated in a state or federal correctional institution and:

1. The period of time for which the parent is expected to be incarcerated will constitute a substantial portion of the period of time before the child will attain the age of 18 years;

2. The incarcerated parent has been determined by the court to be a violent career criminal as defined in s. 775.084, a habitual violent felony offender as defined in s. 775.084, or a sexual predator as defined in s. 775.21; has been convicted of first degree or second degree murder in violation of s. 782.04 or a sexual battery that constitutes a capital, life, or first degree felony violation of s. 794.011; or has been convicted of an offense in another jurisdiction which is substantially similar to one of the offenses listed in this paragraph. As used in this section, the term "substantially similar offense" means any offense that is substantially similar in elements and penalties to one of those listed in this paragraph, and that is in violation of a law of any other jurisdiction, whether that of another state, the District of Columbia, the United States or any possession or territory thereof, or any foreign jurisdiction; and

3. The court determines by clear and convincing evidence that continuing the parental relationship with the incarcerated parent would be harmful to the child and, for this reason, that termination of the parental rights of the incarcerated parent is in the best interest of the child.

(e)~~(f)~~ A petition for termination of parental rights may also be filed when a child has been adjudicated dependent, a case plan has been filed with the court, and the child continues to be abused, neglected, or abandoned by the parents. In this case, the failure of the parents to substantially comply for a period of 12 months after an adjudication of the child as a dependent child constitutes evidence of continuing abuse, neglect, or abandonment unless the failure to substantially comply with

the case plan was due either to the lack of financial resources of the parents or to the failure of the department to make reasonable efforts to reunify the family. Such 12-month period may begin to run only after the entry of a disposition order placing the custody of the child with the department or a person other than the parent and the *approval by* ~~subsequent filing with~~ the court of a case plan with a goal of reunification with the parent.

(f)~~(e)~~ When the parent or parents engaged in egregious conduct *or had the opportunity and capability to prevent and knowingly failed to prevent egregious conduct threatening the life, safety, or physical, mental, or emotional health* ~~that endangers the life, health, or safety~~ of the child or the child's sibling ~~or had the opportunity and capability to prevent egregious conduct that threatened the life, health, or safety of the child or the child's sibling and knowingly failed to do so~~.

1. As used in this subsection, the term "sibling" means another child who resides with or is cared for by the parent or parents regardless of whether the child is related legally or by consanguinity.

2. As used in this subsection, the term "egregious *conduct* ~~abuse~~" means *abuse, abandonment, neglect, or any other* conduct of the parent or parents that is deplorable, flagrant, or outrageous by a normal standard of conduct. Egregious *conduct* ~~abuse~~ may include an act or omission that occurred only once but was of such intensity, magnitude, or severity as to endanger the life of the child.

(g) When the parent or parents have subjected the child to aggravated child abuse as defined in s. 827.03, sexual battery or sexual abuse as defined in s. 39.01, or chronic abuse.

(h) When the parent or parents have committed murder or voluntary manslaughter of another child of the parent, or a felony assault that results in serious bodily injury to the child or another child of the parent, or aided or abetted, attempted, conspired, or solicited to commit such a murder or voluntary manslaughter or felony assault.

(i) When the parental rights of the parent to a sibling have been terminated involuntarily.

(2) Reasonable efforts to preserve and reunify families shall not be required if a court of competent jurisdiction has determined that any of the events described in paragraphs (1)(e)-(i) have occurred.

(3)~~(2)~~ When a petition for termination of parental rights is filed under subsection (1), a separate petition for dependency need not be filed and the department need not offer the parents a case plan with a goal of reunification, but may instead file with the court a case plan with a goal of termination of parental rights *to allow continuation of services until the termination is granted or until further orders of the court are issued*.

(4) When an expedited termination of parental rights petition is filed, reasonable efforts shall be made to place the child in a timely manner in accordance with the permanency plan, and to complete whatever steps are necessary to finalize the permanent placement of the child.

Section 88. Section 39.465, Florida Statutes, is renumbered as section 39.807, Florida Statutes, and amended to read:

39.807 ~~39.465~~ Right to counsel; guardian ad litem.—

(1)(a) At each stage of the proceeding under this part, the court shall advise the parent~~, guardian, or custodian~~ of the right to have counsel present. The court shall appoint counsel for *indigent* ~~insolvent~~ persons. The court shall ascertain whether the right to counsel is understood and, where appropriate, is knowingly and intelligently waived. The court shall enter its findings in writing with respect to the appointment or waiver of counsel for *indigent* ~~insolvent~~ parties.

(b) Once counsel has been retained or, in appropriate circumstances, appointed to represent the parent of the child, the attorney shall continue to represent the parent throughout the proceedings or until the court has approved discontinuing the attorney-client relationship. If the attorney-client relationship is discontinued, the court shall advise the parent of the right to have new counsel retained or appointed for the remainder of the proceedings.

(c)~~(b)~~1. No waiver of counsel may be accepted if it appears that the parent~~, guardian, or custodian~~ is unable to make an intelligent and understanding choice because of mental condition, age, education, experience, the nature or complexity of the case, or other factors.

2. A waiver of counsel made in court must be of record. A waiver made out of court must be in writing with not less than two attesting witnesses and must be filed with the court. The witnesses shall attest to the voluntary execution of the waiver.

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

(d)~~(c)~~ This subsection does not apply to any parent who has voluntarily executed a written surrender of the child and consent to the entry of a court order therefor and who does not deny the allegations of the petition.

(2)(a) The court shall appoint a guardian ad litem to represent the child in any termination of parental rights proceedings and shall ascertain at each stage of the proceedings whether a guardian ad litem has been appointed.

(b) The guardian ad litem has the following responsibilities:

1. To investigate the allegations of the petition and any subsequent matters arising in the case and, unless excused by the court, to file a written report. This report must include a statement of the wishes of the child and the recommendations of the guardian ad litem and must be provided to all parties and the court at least 48 hours before the disposition hearing.

2. To be present at all court hearings unless excused by the court.

3. To represent the interests of the child until the jurisdiction of the court over the child terminates or until excused by the court.

~~4. To perform such other duties and undertake such other responsibilities as the court may direct.~~

(c) A guardian ad litem is not required to post bond but shall file an acceptance of the office.

(d) A guardian ad litem is entitled to receive service of pleadings and papers as provided by the Florida Rules of Juvenile Procedure.

(e) This subsection does not apply to any voluntary relinquishment of parental rights proceeding.

Section 89. Section 39.466, Florida Statutes, is renumbered as section 39.808, Florida Statutes, and amended to read:

39.808 ~~39.466~~ Advisory hearing*; pretrial status conference*.—

(1) An advisory hearing on the petition to terminate parental rights must be held as soon as possible after all parties have been served with a copy of the petition and a notice of the date, time, and place of the advisory hearing for the petition.

(2) At the hearing the court shall inform the parties of their rights under s. *39.807* ~~39.465~~, shall appoint counsel for the parties in accordance with legal requirements, and shall appoint a guardian ad litem to represent the interests of the child if one has not already been appointed.

(3) The court shall set a date for an adjudicatory hearing to be held within 45 days after the advisory hearing, unless all of the necessary parties agree to some other hearing date.

(4) An advisory hearing may not be held if a petition is filed seeking an adjudication voluntarily to terminate parental rights. Adjudicatory hearings for petitions for voluntary termination must be held within 21 days after the filing of the petition. Notice of the use of this subsection must be filed with the court at the same time as the filing of the petition to terminate parental rights.

(5) Not less than 10 days before the adjudicatory hearing, the court shall conduct a prehearing status conference to determine the order in which each party may present witnesses or evidence, the order in which cross-examination and argument shall occur, and any other matters that may aid in the conduct of the adjudicatory hearing, to prevent any undue delay in the conduct of the adjudicatory hearing.

Section 90. Section 39.467, Florida Statutes, is renumbered as section 39.809, Florida Statutes, and amended to read:

39.809 ~~39.467~~ Adjudicatory hearing.—

(1) In a hearing on a petition for termination of parental rights, the court shall consider the elements required for termination ~~as set forth in s. 39.4611~~. Each of these elements must be established by clear and convincing evidence before the petition is granted.

(2) The adjudicatory hearing must be held within 45 days after the advisory hearing, but reasonable continuances for the purpose of investigation, discovery, or procuring counsel or witnesses may, when necessary, be granted.

(3) The adjudicatory hearing must be conducted by the judge without a jury, applying the rules of evidence in use in civil cases and adjourning the case from time to time as necessary. For purposes of the adjudicatory hearing, to avoid unnecessary duplication of expense, the judge may consider in-court testimony previously given at any properly noticed hearing, without regard to the availability or unavailability of the witness at the time of the actual adjudicatory hearing, if the recorded testimony itself is made available to the judge. Consideration of such testimony does not preclude the witness being subpoenaed to answer supplemental questions.

(4) All hearings involving termination of parental rights are confidential and closed to the public. Hearings involving more than one child may be held simultaneously when the children involved are related to each other or were involved in the same case. The child and the parents ~~or legal custodians~~ may be examined separately and apart from each other.

(5) The judge shall enter a written order with the findings of fact and conclusions of law.

Section 91. Section 39.4612, Florida Statutes, is renumbered as section 39.810, Florida Statutes, is amended to read:

39.810 ~~39.4612~~ Manifest best interests of the child. In a hearing on a petition for termination of parental rights, the court shall consider the manifest best interests of the child. This consideration shall not include a comparison between the attributes of the parents and those of any persons providing a present or potential placement for the child. For the purpose of determining the manifest best interests of the child, the court shall consider and evaluate all relevant factors, including, but not limited to:

(1) Any suitable permanent custody arrangement with a relative of the child.

(2) The ability and disposition of the parent or parents to provide the child with food, clothing, medical care or other remedial care recognized and permitted under state law instead of medical care, and other material needs of the child.

(3) The capacity of the parent or parents to care for the child to the extent that the child's *safety, well-being, and physical, mental, and emotional* health ~~and well-being~~ will not be endangered upon the child's return home.

(4) The present mental and physical health needs of the child and such future needs of the child to the extent that such future needs can be ascertained based on the present condition of the child.

(5) The love, affection, and other emotional ties existing between the child and the child's parent or parents, siblings, and other relatives, and the degree of harm to the child that would arise from the termination of parental rights and duties.

(6) The likelihood of an older child remaining in long-term foster care upon termination of parental rights, due to emotional or behavioral problems or any special needs of the child.

(7) The child's ability to form a significant relationship with a parental substitute and the likelihood that the child will enter into a more stable and permanent family relationship as a result of permanent termination of parental rights and duties.

(8) The length of time that the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity.

(9) The depth of the relationship existing between the child and the present custodian.

(10) The reasonable preferences and wishes of the child, if the court deems the child to be of sufficient intelligence, understanding, and experience to express a preference.

(11) The recommendations for the child provided by the child's guardian ad litem or legal representative.

Section 92. Section 39.469, Florida Statutes, is renumbered as section 39.811, Florida Statutes, and amended to read:

39.811 ~~39.469~~ Powers of disposition; order of disposition.—

(1) If the court finds that the grounds for termination of parental rights have not been established by clear and convincing evidence, the court shall:

(a) If grounds for dependency have been established, adjudicate or readjudicate the child dependent and:

1. Enter an order placing or continuing the child in *out-of-home* ~~foster~~ care under a case plan; or

2. Enter an order returning the child to the parent or parents. The court shall retain jurisdiction over a child returned to the *parent or* parents ~~or legal guardians~~ for a period of 6 months, but, at that time, based on a report of the social service agency and any other relevant factors, the court shall make a determination as to whether its jurisdiction shall continue or be terminated.

(b) If grounds for dependency have not been established, dismiss the petition.

(2) If the child is in *out-of-home* ~~foster~~ care custody of the department and the court finds that the grounds for termination of parental rights have been established by clear and convincing evidence, the court shall, by order, place the child in the custody of the department for the purpose of adoption ~~or place the child in the custody of a licensed child-placing agency for the purpose of adoption~~.

(3) If the child is in the custody of one parent and the court finds that the grounds for termination of parental rights have been established for the remaining parent by clear and convincing evidence, the court shall enter an order terminating the rights of the parent for whom the grounds have been established and placing the child in the custody of the remaining parent, granting that parent sole parental responsibility for the child.

(4) If the child is neither in the custody of the department ~~of Children and Family Services~~ nor in the custody of a parent and the court finds that the grounds for termination of parental rights have been established for either or both parents, the court shall enter an order terminating parental rights for the parent or parents for whom the grounds for termination have been established and placing the child with an appropriate custodian. If the parental rights of both parents have been terminated, or if the parental rights of only one parent have been terminated and the court makes specific findings based on evidence presented that placement with the remaining parent is likely to be harmful to the child, the court may order that the child be placed with a custodian other than the department after hearing evidence of the suitability of such intended placement. Suitability of the intended placement includes the fitness *and capabilities* of the *proposed* ~~intended placement, with primary consideration being given to the welfare of the~~

~~child; the fitness and capabilities of the proposed~~ custodian to function as the primary *caregiver* ~~caretaker~~ for a particular child; and the compatibility of the child with the home in which the child is intended to be placed. If the court orders that a child be placed with a custodian under this subsection, the court shall appoint such custodian as the guardian for the child as provided in s. 744.3021. The court may modify the order placing the child in the custody of the custodian and revoke the guardianship established under s. 744.3021 if the court subsequently finds that a party to the proceeding other than a parent whose rights have been terminated has shown a material change in circumstances which causes the placement to be no longer in the best interest of the child.

(5) If the court terminates parental rights, the court shall enter a written order of disposition briefly stating the facts upon which its decision to terminate the parental rights is made. An order of termination of parental rights, whether based on parental consent or after notice served as prescribed in this part, permanently deprives the parents ~~or legal guardian~~ of any right to the child.

(6) The parental rights of one parent may be severed without severing the parental rights of the other parent only under the following circumstances:

(a) If the child has only one surviving parent;

(b) If the identity of a prospective parent has been established as unknown after sworn testimony;

(c) If the parent whose rights are being terminated became a parent through a single-parent adoption;

(d) If the protection of the child demands termination of the rights of a single parent; or

(e) If the parent whose rights are being terminated meets the criteria specified in s. *39.806(1)(d)* ~~39.464(1)(d)~~.

(7)*(a) The termination of parental rights does not affect the rights of grandparents unless the court finds that continued visitation is not in the best interests of the child or that such visitation would interfere with the goals of permanency planning for the child.*

(b) If the court terminates parental rights, it may order that the parents or relatives of the parent whose rights are terminated be allowed to maintain some contact with the child pending adoption if the best interests of the child support this continued contact, *except as provided in paragraph (a).* If the court orders such continued contact, the nature and frequency of the contact must be set forth in written order and may be reviewed upon motion of any party, including a prospective adoptive parent if a child has been placed for adoption. If a child is placed for adoption, the nature and frequency of the contact must be reviewed by the court at the time the child is adopted.

(8) If the court terminates parental rights, it shall, in its order of disposition, provide for a hearing, to be scheduled no later than 30 days after the date of disposition, in which the department ~~or the licensed child-placing agency~~ shall provide to the court a plan for permanency for the child. *Reasonable efforts must be made to place the child in a timely manner in accordance with the permanency plan, and to complete whatever steps are necessary to finalize the permanent placement of the child.* Thereafter, until the adoption of the child is finalized or the child reaches the age of 18 years, whichever occurs first, the court shall hold hearings at 6-month intervals to review the progress being made toward permanency for the child.

(9) After termination of parental rights, the court shall retain jurisdiction over any child for whom custody is given to a social service agency until the child is adopted. The court shall review the status of the child's placement and the progress being made toward permanent adoptive placement. As part of this continuing jurisdiction, for good cause shown by the guardian ad litem for the child, the court may review the appropriateness of the adoptive placement of the child.

Section 93. Section 39.47, Florida Statutes, is renumbered as section 39.812, Florida Statutes, and amended to read:

39.812 ~~39.47~~ *Postdisposition* ~~Post-disposition~~ relief.—

(1) ~~A licensed child-placing agency or~~ The department *that* ~~which~~ is given custody of a child for subsequent adoption in accordance with this chapter may place the child in a family home for prospective subsequent adoption and *the licensed child-placing agency or the department* may thereafter become a party to any proceeding for the legal adoption of the child and appear in any court where the adoption proceeding is pending and consent to the adoption; and that consent alone shall in all cases be sufficient.

(2) In any subsequent adoption proceeding, the parents *are* ~~and legal guardian shall~~ not ~~be~~ entitled to ~~any~~ notice *of the proceeding and are not* ~~thereof, nor shall they be~~ entitled to knowledge at any time after the order terminating parental rights is entered of the whereabouts of the child or of the identity or location of any person having the custody of or having adopted the child, except as provided by order of the court pursuant to this chapter or chapter 63; and in any habeas corpus or other proceeding involving the child brought by any parent ~~or legal guardian~~ of the child, *an* ~~no~~ agent *or contract provider* of the ~~licensed child-placing agency or~~ department *may not* ~~shall~~ be compelled to divulge that information, but may be compelled to produce the child before a court of competent jurisdiction if the child is still subject to the guardianship of the ~~licensed child-placing agency or~~ department.

(3) The entry of the custody order to the department *does* ~~or licensed child-placing agency shall~~ not entitle the ~~licensed child-placing agency or~~ department to guardianship of the estate or property of the child, but the ~~licensed child-placing agency or~~ department shall be the guardian of the person of the child.

(4) The court shall retain jurisdiction over any child for whom custody is given to ~~a licensed child-placing agency or to~~ the department until the child is adopted. After custody of a child for subsequent adoption has been given to ~~an agency or~~ the department, the court has jurisdiction for the purpose of reviewing the status of the child and the progress being made toward permanent adoptive placement. As part of this continuing jurisdiction, for good cause shown by the guardian ad litem for the child, the court may review the appropriateness of the adoptive placement of the child. *The petition for adoption must be filed in the division of the circuit court which issued the judgment terminating parental rights. A copy of the consent required under s. 63.062(4) and executed by the department must be attached to the petition for adoption. The petition for adoption must be accompanied by a form created by the department which details the social and medical history of each birth parent and includes the social security number and date of birth for each birth parent, if such information is available or readily obtainable. The person seeking to adopt the minor may not file a petition for adoption until the order terminating parental rights becomes final. An adoption proceeding under this subsection is governed by chapter 63, as limited under s. 63.037.*

~~(5) The Legislature finds that children are most likely to realize their potential when they have the ability provided by good permanent families rather than spending long periods of time in temporary placements or unnecessary institutions. It is the intent of the Legislature that decisions be consistent with the child's best interests and that the department make proper adoptive placements as expeditiously as possible following a final judgment terminating parental rights.~~

Section 94. Section 63.022, Florida Statutes, is amended to read:

63.022 Legislative intent.—

(1) It is the intent of the Legislature to protect and promote the well-being of persons being adopted and their birth and adoptive parents and to provide to all children who can benefit by it a permanent family life, and, whenever possible, to maintain sibling groups.

(2) The basic safeguards intended to be provided by this *chapter* ~~act~~ are that:

(a) The *minor* ~~child~~ is legally free for adoption.

(b) The required persons consent to the adoption or the parent-child relationship is terminated by judgment of the court.

(c) The required social studies are completed and the court considers the reports of these studies prior to judgment on adoption petitions.

(d) All placements of minors for adoption are reported to the Department of Children and Family Services.

(e) A sufficient period of time elapses during which the *minor* ~~child~~ has lived within the proposed adoptive home under the guidance of the department or a licensed child-placing agency.

(f) All expenditures by *adoption entities* ~~intermediaries~~ placing, and persons independently adopting, a minor are reported to the court and become a permanent record in the file of the adoption proceedings.

(g) Social and medical information concerning the *minor* child and the birth parents is furnished by the birth parent when available and filed with the *court before a final hearing on a petition to terminate parental rights pending adoption* ~~consent to the adoption when a minor is placed by an intermediary~~.

(h) A new birth certificate is issued after entry of the adoption judgment.

(i) At the time of the hearing, the court *may* ~~is authorized to~~ order temporary substitute care when it determines that the minor is in an unsuitable home.

(j) The records of all proceedings concerning custody and adoption of *minor* children are confidential and exempt from ~~the provisions of~~ s. 119.07(1), except as provided in s. 63.162.

(k) The birth parent, the adoptive parent, and the *minor* child receive the same or similar safeguards, guidance, counseling, and supervision in an intermediary adoption as they receive in an agency or department adoption.

(l) In all matters coming before the court pursuant to this *chapter* ~~act~~, the court shall enter such orders as it deems necessary and suitable to promote and protect the best interests of the person to be adopted.

Section 95. Section 63.032, Florida Statutes, is amended to read:

63.032 Definitions.—As used in this *chapter* ~~act~~, ~~unless the context otherwise requires,~~ the term:

(1) "Department" means the Department of Children and Family Services.

(2) "Child" means a son or daughter, whether by birth or adoption.

(3) "Court" means any circuit court of this state and, when the context requires, the court of any state that is empowered to grant petitions for adoption.

(4) "Minor" means a person under the age of 18 years.

(5) "Adult" means a person who is not a minor.

(6) "Person" includes a natural person, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, or association, and any other legal entity.

(7) "Agency" means any child-placing agency licensed by the department pursuant to s. 63.202 to place minors for adoption.

(8) "Intermediary" means an attorney ~~or physician~~ who is licensed or authorized to practice in this state *and who has reported the intended placement of a minor for adoption under s. 63.092* or, for the purpose of adoptive placements of children from out of state with citizens of this state, a child-placing agency licensed in another state that is qualified by the department.

(9) "To place" or "placement" means the process of a person giving a child up for adoption and the prospective parents receiving and adopting the child, and includes all actions by any person or agency participating in the process.

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

(11) "Suitability of the intended placement" includes the fitness of the intended placement, with primary consideration being given to the welfare of the child; the fitness and capabilities of the adoptive parent or parents to function as parent or parents for a particular child; *any familial relationship between the child and the prospective placement;* and the compatibility of the child with the home in which the child is intended to be placed.

(12) "Primary residence and place of employment in Florida" means a person lives and works in this state at least 6 months of the year and intends to do so for the foreseeable future or military personnel who designate Florida as their place of residence in accordance with the Soldiers' and Sailors' Civil Relief Act of 1940 or employees of the United States Department of State living in a foreign country who designate Florida as their place of residence.

(13) "Primarily lives and works outside Florida" means anyone who does not meet the definition of "primary residence and place of employment in Florida."

(14) "Abandoned" means a situation in which the parent or legal custodian of a child, while being able, makes no provision for the child's support and makes no effort to communicate with the child, which situation is sufficient to evince a willful rejection of parental obligations. If, in the opinion of the court, the efforts of such parent or legal custodian to support and communicate with the child are only marginal efforts that do not evince a settled purpose to assume all parental duties, the court may declare the child to be abandoned. In making this decision, the court may consider the conduct of a father towards the child's mother during her pregnancy.

(15) "Adoption entity" means the department under chapter 39; an agency under chapter 63 or, at the request of the department, under chapter 39; or an intermediary under chapter 63, placing a person for adoption.

Section 96. Section 63.037, Florida Statutes, is created to read:

63.037 Proceedings applicable to cases resulting from a termination of parental rights under chapter 39.—A case in which a minor becomes available for adoption after the parental rights of each parent have been terminated by a court order issued pursuant to chapter 39 will be governed by s. 39.47 and this chapter. Adoption proceedings filed under chapter 39 are exempt from the following provisions of this chapter: disclosure requirements for the adoption entity provided in s. 63.085; general provisions governing termination of parental rights pending adoption provided in s. 63.087; notice and service provisions governing termination of parental rights pending adoption provided in s. 63.088; and procedures for terminating parental rights pending adoption provided in s. 63.089.

Section 97. Section 63.038, Florida Statutes, is created to read:

63.038 Prohibited acts.—A person who knowingly and willfully provides false information under this chapter or who, with the intent to defraud, accepts benefits related to the same pregnancy from more than one agency or intermediary without disclosing that fact to each entity commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. In addition to any other penalty or liability allowed by law, a person who knowingly and willfully provides false information under this chapter or who, with intent to defraud, accepts benefits related to the same pregnancy from more than one agency or intermediary without disclosing that fact to each entity and to any prospective adoptive parent providing sums for the payment of the benefits is liable for sums paid by anyone who paid sums permitted under this chapter in anticipation of or in connection with an adoption. A person seeking to collect moneys under this section may do so by filing a civil action or may be awarded restitution in a criminal prosecution.

Section 98. Section 63.039, Florida Statutes, is created to read:

63.039 Duty of adoption entity to prospective adoptive parents; sanctions.—

(1) An adoption entity placing a minor for adoption has an affirmative duty to follow the requirements of this chapter, specifically the following provisions, which protect and promote the well-being of persons being adopted and their birth and adoptive parents by promoting certainty, finality, and permanency for such persons:

(a) Provide written initial disclosure to the adoptive parent at the time and in the manner required under s. 63.085(1);

(b) Obtain a written statement by the adoptive parent acknowledging receipt of the written initial disclosure and distribute copies of that acknowledgment at the time and in the manner required under s. 63.085(3);

(c) Provide written initial and postbirth disclosure to the birth parent at the time and in the manner required under s. 63.085;

(d) Obtain a written statement by the birth parent acknowledging receipt of the written initial and postbirth disclosure and distribute copies of that acknowledgment at the time and in the manner required under s. 63.085(3);

(e) When a written consent for adoption is obtained, obtain the consent at the time and in the manner required under s. 63.082;

(f) When a written consent or affidavit of nonpaternity for adoption is obtained, obtain a consent or affidavit of nonpaternity that contains the language required under s. 63.062 or s. 63.082;

(g) Include in the petition to terminate parental rights pending adoption all information required under s. 63.087(6)(e);

(h) Obtain and file the affidavit of inquiry required under s. 63.088(3);

(i) When the identity of a person whose consent to adoption is necessary under this chapter is known but the location of such a person is unknown, conduct the due-diligence search and file the affidavit required under s. 63.088(4);

(j) Serve the petition and notice of hearing to terminate parental rights pending adoption at the time and in the manner required by s. 63.088; and

(k) Hold the hearings required under this chapter no sooner than permitted by this chapter.

(2) An adoption entity that materially fails to meet a duty specified in subsection (1), may be liable to the prospective adoptive parents for all sums paid by the prospective adoptive parents or on their behalf in anticipation of or in connection with an adoption.

(3) If a court finds that a consent taken under this chapter was obtained by fraud or duress attributable to the adoption entity, the court must award all sums paid by the prospective adoptive parents or on their behalf in anticipation of or in connection with the adoption. The court may also award reasonable attorney's fees and costs incurred by the prospective adoptive parents in connection with the adoption and any litigation related to placement or adoption of a minor. An award under this subsection must be paid directly to the prospective adoptive parents by the adoption entity.

(4) If a person whose consent to an adoption is necessary under s. 63.062 prevails in an action to set aside a consent to adoption, a judgment terminating parental rights pending adoption, or a judgment of adoption, the court must award a reasonable attorney's fee to the prevailing party. An award under this subsection is to be paid by the adoption entity if the court finds that the acts or omissions of the entity were the basis for the court's order granting relief to the prevailing party.

(5) The court must provide to The Florida Bar any order that imposes sanctions under this section against an attorney, whether acting as an adoption agency or as an intermediary. The court must provide to the Department of Children and Family Services any order that imposes sanctions under this section against an agency. The order must be provided within 30 days after the date that the order was issued.

Section 99. Section 63.052, Florida Statutes, is amended to read:

63.052 Guardians designated; proof of commitment.—

(1) For minors who have been placed for adoption with and permanently committed to an agency, the agency shall be the guardian of the person of the *minor* ~~child~~; for those who have been placed for adoption with and permanently committed to the department, the department shall be the guardian of the person of the *minor* ~~child~~.

(2) For minors who have been voluntarily surrendered to an intermediary through an execution of consent to adoption, the intermediary shall be responsible for the child until the time a court orders preliminary approval of placement of the child in the prospective adoptive home, at which time the prospective adoptive parents become guardians pending finalization of adoption. *Until a court has terminated parental rights pending adoption and has ordered preliminary approval of placement of the minor in the adoptive home, the minor must be placed in the care of a birth relative, placed in foster care, or placed in the care of a prospective adoptive home that has received a favorable home study by a licensed child placing agency, a licensed professional, or an agency described in s. 61.20(2) within 1 year before such placement of the minor with the prospective adoptive parents. The fact that a minor is temporarily placed with the prospective adoptive parents does not give rise to a presumption that the parental rights of the birth parents will subsequently be terminated.*

~~(2)~~ For minors who have been placed for adoption with or voluntarily surrendered to an agency, but have not been permanently committed to the agency, the agency shall have the responsibility and authority to provide for the needs and welfare for such minors. For those minors placed for adoption with or voluntarily surrendered to the department, but not permanently committed to the department, the department shall have the responsibility and authority to provide for the needs and welfare for such minors. The *adoption entity may* ~~department, an intermediary, or a licensed child-placing agency has the authority to~~ authorize all appropriate medical care for *a minor* ~~the children~~ who *has* ~~have~~ been placed for adoption with or voluntarily surrendered to them. The provisions of s. 627.6578 shall remain in effect notwithstanding the guardianship provisions in this section.

(3) If a minor is surrendered to an intermediary for subsequent adoption and a suitable prospective adoptive home is not available *under s. 63.092 at the time the minor is surrendered to the intermediary or, if the minor is a newborn admitted to a licensed hospital or birth center, at the time the minor is discharged from the hospital or birth center the minor must be placed in licensed foster care*~~, the intermediary shall be responsible for the child~~ until a suitable prospective adoptive home is available *under s. 63.092*.

(4) If a *minor* ~~child~~ is voluntarily surrendered to an intermediary for subsequent adoption and the adoption does not become final within 180 days, the intermediary must report to the court on the status of the *minor* ~~child~~ and the court may at that time proceed under s. 39.453 or take action reasonably necessary to protect the best interest of the *minor* ~~child~~.

(5) The recital in the written consent given by the department that the *minor* ~~child~~ sought to be adopted has been permanently committed to the department shall be prima facie proof of such commitment. The recital in the written consent given by a licensed child-placing agency or the declaration in an answer or recommendation filed by a licensed child-placing agency that the *minor* ~~child~~ has been permanently committed and the child-placing agency is duly licensed by the department shall be prima facie proof of such commitment and of such license.

(6) Unless otherwise authorized by law, the department is not responsible for expenses incurred by licensed child-placing agencies or

intermediaries participating in placement of a *minor* ~~child~~ for the purposes of adoption.

(7) The court retains jurisdiction over a minor who has been placed for adoption until the adoption is final. After a minor is placed with an adoption entity or prospective adoptive parent, the court has jurisdiction for the purpose of reviewing the status of the minor and the progress being made toward permanent adoptive placement. As part of this continuing jurisdiction, for good cause shown by a person whose consent to an adoption is required under s. 63.062, by a party to any proceeding involving the minor, or upon the court's own motion, the court may review the appropriateness of the adoptive placement of the minor.

Section 100. Section 63.062, Florida Statutes, is amended to read:

63.062 Persons required to consent to adoption.—

(1) Unless *supported by one or more of the grounds enumerated under s. 63.089(3)* ~~consent is excused by the court~~, a petition to *terminate parental rights pending adoption* ~~adopt a minor~~ may be granted only if written consent has been executed *as provided in s. 63.082* after the birth of the minor *or notice has been served under s. 63.088 to* ~~by~~:

(a) The mother of the minor.

(b) The father of the minor, if:

1. The minor was conceived or born while the father was married to the mother;~~.~~

2. The minor is his child by adoption;~~.~~

3. The minor has been established by court proceeding to be his child.

(c) If there is no father as set forth in subsection (b), any man for whom the minor has been established to be his child by scientific tests that are generally acceptable within the scientific community to show a probability of paternity.

(d) If there is no father as set forth in subsection (b) or subsection (c), any man who:

1.~~4.~~ ~~He~~ Has acknowledged in writing, signed in the presence of a competent witness, that he is the father of the minor and has filed such acknowledgment with the Office of Vital Statistics of the Department of Health;~~.~~

2.~~5.~~ ~~He~~ Has provided the child *or the mother during her pregnancy* with support in a repetitive, customary manner;~~.~~

3. Has been identified by the birth mother as a person she has reason to believe may be the father of the minor in an action to terminate parental rights pending adoption pursuant to this chapter; or

4. Is a party in any pending proceeding in which paternity, custody, or termination of parental rights regarding the minor is at issue.

(e)~~(c)~~ The minor, if more than 12 years of age, unless the court in the best interest of the minor dispenses with the minor's consent.

(2) Any person whose consent is required under paragraph (1)(b), paragraph (1)(c), or paragraph (1)(d) may execute an affidavit of nonpaternity in lieu of a consent under this section and by doing so waives notice to all court proceedings after the date of execution. An affidavit of nonpaternity must be executed under s. 63.082 and the person executing the affidavit must receive disclosure under s. 63.085 prior to signing the affidavit. An affidavit of nonpaternity must be in substantially the following form:

AFFIDAVIT OF NONPATERNITY

1. I have personal knowledge of the facts stated herein.

2. I have been told that . . . . . has a child. I shall not establish or claim paternity for this child.

3. The child noted herein was not conceived or born while the birth mother was married to me. I AM NOT MARRIED TO THE BIRTH MOTHER, nor do I intend to marry the birth mother.

4. I have not provided the birth mother with child support or prebirth support; I have not provided her with prenatal care nor assisted her with medical expenses; I have not provided the birth mother or her child or unborn child with support of any kind, nor do I intend to do so.

5. I have no interest in assuming the responsibilities of parenthood for this child. I will not acknowledge in writing to be the father of this child nor institute court proceedings to establish the child to be mine.

6. I do not object to any decision or arrangements ... makes regarding this child, including adoption.

I WAIVE NOTICE OF ANY AND ALL PROCEEDINGS TO TERMINATE PARENTAL RIGHTS OR FINALIZE AN ADOPTION UNDER THIS CHAPTER.

(3)~~(2)~~ The court may require that consent be executed by:

(a) Any person lawfully entitled to custody of the minor; or

(b) The court having jurisdiction to determine custody of the minor, if the person having physical custody of the minor has no authority to consent to the adoption.

(4)~~(3)~~ The petitioner must make good faith and diligent efforts *as provided under s. 63.088* to notify, and obtain written consent from, the persons required to consent to adoption *under s. 63.062* ~~within 60 days after filing the petition~~. ~~These efforts may include conducting interviews and record searches to locate those persons, including verifying information related to location of residence, employment, service in the Armed Forces, vehicle registration in this state, and corrections records.~~

(5)~~(4)~~ If parental rights to the minor have previously been terminated, a licensed child-placing agency or the department with which the *minor* ~~child~~ has been placed for subsequent adoption may provide consent to the adoption. In such case, no other consent is required.

(6)~~(5)~~ A petition to adopt an adult may be granted if:

(a) Written consent to adoption has been executed by the adult and the adult's spouse, if any.

(b) Written consent to adoption has been executed by the birth parents, if any, or proof of service of process has been filed, showing notice has been served on the parents as provided in this *chapter* ~~section~~.

Section 101. Section 63.082, Florida Statutes, is amended to read:

63.082 Execution of consent *or affidavit of nonpaternity*; family medical history; withdrawal of consent.—

(1) Consent *or an affidavit of nonpaternity* shall be executed as follows:

(a) If by the person to be adopted, by oral or written statement in the presence of the court or by being acknowledged before a notary public.

(b) If by an agency, by affidavit from its authorized representative.

(c) If by any other person, in the presence of the court or by affidavit.

(d) If by a court, by an appropriate order or certificate of the court.

(2) A consent that does not name or otherwise identify the adopting parent is valid if the consent contains a statement by the person consenting that the consent was voluntarily executed and that identification of the adopting parent is not required for granting the consent.

(3)(a) The department must provide a consent form and a family *social and* medical history form to an *adoption entity that* ~~intermediary who~~ intends to place a child for adoption. The forms completed by the birth parents must be attached to the petition *to terminate parental rights pending adoption* and must contain such biological and sociological information, or such information as to the family medical

history, regarding the *minor* ~~child~~ and the birth parents as is required by the department. The information must be incorporated into the final home investigation report specified in s. 63.125. The ~~court may also require that the~~ birth mother *and birth father must* be interviewed by a representative of the department, a licensed child-placing agency, or a professional pursuant to s. 63.092 *before the consent is executed, unless the birth parent is found to be an unlocated parent or an unidentified parent. A summary of each interview, or a statement that the parent is unlocated or unidentified, must be filed with the petition to terminate parental rights pending adoption and included in the final home study filed under s. 63.125.*

(b) Consent executed by ~~the department, by a licensed child-placing agency, or by~~ an appropriate order or certificate of the court *under s. 63.062(3)(b)* must be attached to the petition *to terminate parental rights pending adoption* ~~and must be accompanied by a family medical history that includes such information concerning the medical history of the child and the birth parents as is available or readily obtainable~~.

(c) If any executed consent or social and medical history is unavailable because the person whose consent is required is unlocated or unidentified, the petition must be accompanied by the affidavit of due diligence required under s. 63.088.

(4)*(a)* The consent *to an adoption or affidavit of nonpaternity shall not* ~~for voluntary surrender must~~ be executed *before* ~~after~~ the birth of the *minor.*

(b) A consent to adoption of a minor who is to be placed for adoption under s. 63.052 upon the minor's release following birth from a licensed hospital or birth center, shall not be executed sooner than:

1. 48 hours from the time of the minor's birth; or

2. The day the birth mother is determined in writing, either on a patient chart or in release paperwork to be fit for release from a licensed hospital or birth center; whichever is sooner.

A consent executed under this paragraph is valid upon execution and thereafter may only be withdrawn when the court finds that it was obtained by fraud or under duress.

(c) When the minor to be adopted is not placed under s. 63.052 upon the minor's release following birth from a licensed hospital or birth center, the consent may be executed at any time after the birth of the minor. While such consent is valid upon execution, it is subject to a 3-day revocation period under subsection (7).

(d) The consent or affidavit of nonpaternity must be signed ~~child,~~ in the presence of two witnesses, and be acknowledged before a notary public *who is not signing as one of the witnesses. The notary public must legibly note on the consent or affidavit of nonpaternity the date and time the consent or affidavit of nonpaternity was executed.* The witnesses' names must be typed or printed underneath their signatures. *The witnesses'* ~~, and their~~ home or business addresses and social security numbers*, driver's license numbers, or state identification card numbers* must be included. The absence of a social security number*, driver's license number, or state identification card number* shall not be deemed to invalidate the consent. *The person who signs the consent or affidavit has the right to have at least one of the witnesses be an individual who does not have a partnership, employment, agency, or other professional or personal relationship with the adoption entity or the prospective adoptive parents. The person who signs the consent or affidavit of nonpaternity must be given reasonable notice of the right to select a witness of his or her own choosing. The person who signs the consent or affidavit of nonpaternity must acknowledge in writing on the consent or affidavit that such notice was given and indicate the witness, if any, who was selected by the person signing the consent or affidavit. A consent to adoption must contain, in at least 16-point boldfaced type, an acknowledgement of the birth parent's rights in substantially the following form:*

YOU DO NOT HAVE TO SIGN THIS CONSENT FORM. YOU HAVE THE RIGHT TO DO ANY OF THE FOLLOWING INSTEAD OF SIGNING THIS CONSENT OR BEFORE SIGNING THIS CONSENT:

(A) CONSULT WITH AN ATTORNEY;

(B) HOLD, CARE FOR, AND FEED THE CHILD;

(C) PLACE THE CHILD IN FOSTER CARE OR WITH ANY FRIEND OR FAMILY MEMBER YOU CHOOSE WHO IS WILLING TO CARE FOR YOUR CHILD;

(D) TAKE THE CHILD HOME; AND

(E) FIND OUT ABOUT THE COMMUNITY RESOURCES THAT ARE AVAILABLE TO YOU IF YOU DO NOT GO THROUGH WITH THE ADOPTION.

IF YOU DO SIGN THIS CONSENT, YOU ARE RELINQUISHING ALL RIGHTS TO YOUR CHILD. YOUR CONSENT IS VALID AND BINDING UNLESS WITHDRAWN AS PERMITTED BY LAW. WHEN RELINQUISHING YOUR RIGHTS TO A CHILD WHO IS TO BE PLACED FOR ADOPTION UNDER S. 63.052, F.S., UPON THE MINOR'S RELEASE FOLLOWING BIRTH FROM A LICENSED HOSPITAL OR BIRTH CENTER, A WAITING PERIOD WILL BE IMPOSED BEFORE YOU MAY SIGN THE CONSENT FOR ADOPTION. YOU WILL BE REQUIRED TO WAIT 48 HOURS FROM THE TIME OF BIRTH, OR UNTIL THE BIRTH MOTHER HAS BEEN NOTIFIED IN WRITING, EITHER ON HER CHART OR IN RELEASE PAPERS THAT SHE IS FIT TO BE RELEASED FROM A LICENSED HOSPITAL OR BIRTHING CENTER, WHICHEVER IS SOONER, BEFORE YOU MAY SIGN THE CONSENT FOR ADOPTION. ONCE YOU HAVE SIGNED THE CONSENT, IT IS VALID AND BINDING AND CANNOT BE WITHDRAWN UNLESS A COURT FINDS THAT IT WAS OBTAINED THROUGH FRAUD OR UNDER DURESS. IF YOU ARE RELINQUISHING YOUR RIGHTS TO A CHILD WHO IS NOT PLACED UNDER S. 63.052, F.S., UPON THE MINOR'S RELEASE FOLLOWING BIRTH FROM A LICENSED HOSPITAL OR BIRTH CENTER, THE CONSENT MAY BE EXECUTED AT ANY TIME AFTER THE BIRTH OF THE MINOR. WHILE SUCH CONSENT IS VALID UPON EXECUTION, IT IS SUBJECT TO A 3-DAY REVOCATION PERIOD.

WHEN THE REVOCATION PERIOD APPLIES, YOU MAY WITHDRAW YOUR CONSENT FOR ANY REASON IF YOU DO SO WITHIN 3 BUSINESS DAYS AFTER THE DATE YOU SIGNED THE CONSENT OR 1 BUSINESS DAY AFTER THE DATE OF THE BIRTH MOTHER'S DISCHARGE FROM A LICENSED HOSPITAL OR BIRTH CENTER, WHICHEVER IS LATER.

YOU MAY DO THIS BY NOTIFYING THE ADOPTION ENTITY IN WRITING THAT YOU ARE WITHDRAWING YOUR CONSENT. YOU MAY DO THIS BY PRESENTING A LETTER AT A UNITED STATES POST OFFICE AND ASKING THAT THE LETTER BE SENT BY CERTIFIED UNITED STATES MAIL WITH RETURN RECEIPT REQUESTED WITHIN 3 BUSINESS DAYS AFTER THE DATE YOU SIGNED THE CONSENT OR 1 BUSINESS DAY AFTER THE DATE OF THE BIRTH MOTHER'S DISCHARGE FROM A LICENSED HOSPITAL OR BIRTH CENTER, WHICHEVER IS LATER. AS USED IN THIS SECTION, THE TERM "BUSINESS DAY" MEANS A DAY ON WHICH THE UNITED STATES POST OFFICE ACCEPTS CERTIFIED MAIL FOR DELIVERY. THE COST OF THIS MUST BE PAID AT THE TIME OF MAILING AND THE RECEIPT SHOULD BE RETAINED AS PROOF THAT CONSENT WAS WITHDRAWN IN A TIMELY MANNER.

THE ADOPTION ENTITY YOU SHOULD NOTIFY IS: . . .(Name of Adoption Entity). . ., . . .(Address of Adoption Entity). . ., . . .(Phone Number of Adoption Entity). . .. FOLLOWING 3 BUSINESS DAYS AFTER THE DATE YOU SIGNED THE CONSENT OR 1 BUSINESS DAY AFTER THE DATE OF THE BIRTH MOTHER'S DISCHARGE FROM A LICENSED HOSPITAL OR BIRTH CENTER, WHICHEVER IS LATER, YOU MAY WITHDRAW YOUR CONSENT ONLY IF YOU CAN PROVE

IN COURT THAT CONSENT WAS OBTAINED BY FRAUD OR DURESS.

(5) Before any consent to adoption or affidavit of nonpaternity is executed by a birth parent, but after the birth of the child, all requirements of disclosure under s. 63.085 must be met.

(6) A copy of each consent signed in an action for termination of parental rights pending adoption must be provided to each person whose consent is required under s. 63.062. A copy of each consent must be hand delivered, with a written acknowledgement of receipt signed by the person whose consent is required, or mailed by first class United States mail to the address of record in the court file. If a copy of a consent cannot be provided as required in this section, the adoption entity must execute an acknowledgement that states the reason the copy of the consent is undeliverable. The original consent and acknowledgment of receipt, or the acknowledgment of mailing by the adoption entity, must be filed with the petition for termination of parental rights pending adoption.

(7)~~(5)~~ *Consent executed under subsection (4) paragraph (c) may be withdrawn for any reason by notifying the adoption entity in writing by certified United States mail, return receipt requested, not later than 3 business days after execution of the consent or 1 business day after the date of the birth mother's discharge from a licensed hospital or birth center, whichever occurs later. As used in this subsection, the term "business day" means a day on which the United States Post Office accepts certified mail for delivery. Upon receiving written notice from a person of that person's desire to withdraw consent, the adoption entity must contact the prospective adoptive parent to arrange a time certain for the adoption entity to regain physical custody of the child, unless upon motion for emergency hearing by the adoption entity, the court determines in written findings that placement of the minor with the person withdrawing consent may endanger the minor. If the court finds that such placement may endanger the minor, the court must enter an order regarding continued placement of the child. The order shall include, but not be limited to, whether temporary placement in foster care is appropriate, whether an investigation by the Department of Children and Families is recommended, and whether a relative within the third degree is available for the temporary placement. In addition, if the person withdrawing consent claims to be the father of the minor but has not been established to be the father by marriage, court order, or scientific testing, the court may order scientific paternity testing and reserve ruling on removal of the child until the results of such testing have been filed with the court. The adoption entity must return the minor within 3 days to the physical custody of the person withdrawing consent. Thereafter,* consent may be withdrawn only when the court finds that the consent was obtained by fraud or duress. *An affidavit of nonpaternity may be withdrawn only if the court finds that the affidavit of nonpaternity was obtained by fraud. The adoption entity must include its name, address, and telephone number on the consent form.*

Section 102. Section 63.085, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 63.085, F.S., for present text.)

63.085 Disclosure by adoption entity.—

(1) DISCLOSURE REQUIRED TO BIRTH PARENTS AND PROSPECTIVE ADOPTIVE PARENTS.—Not later than 7 days after a person seeking to adopt a minor or a person seeking to place a minor for adoption contacts an adoption entity in person or provides the adoption entity with a mailing address, the entity must provide a written disclosure statement to that person. If a birth parent did not initially contact the adoption entity, the written disclosure must be provided within 7 days after that birth parent is identified and located. The written disclosure statement must be in substantially the following form:

ADOPTION DISCLOSURE

THE STATE OF FLORIDA REQUIRES THAT THIS FORM BE PROVIDED TO ALL PERSONS CONSIDERING ADOPTION TO ADVISE THEM OF THE FOLLOWING FACTS REGARDING ADOPTION UNDER FLORIDA LAW:

1. Under section 63.212, Florida Statutes, the existence of a placement or adoption contract signed by the birth parent or adoptive parent, prior approval of that contract by the court, or payment of any expenses permitted under Florida law does not obligate anyone to sign a consent or ultimately place a minor for adoption.

2. Under section 63.092, Florida Statutes, a favorable preliminary home study and a home investigation of the prospective adoptive home must be completed as required by chapter 63, Florida Statutes, before the minor may be placed in that home.

3. Under section 63.082, Florida Statutes, a consent for adoption or affidavit of nonpaternity may not be signed until after the birth of the minor. The consent or affidavit of nonpaternity is valid and binding upon execution unless withdrawn as permitted under section 63.082, Florida Statutes. If the minor is to be placed for adoption upon leaving the hospital, the consent may not be signed until 48 hours after birth or the day the birth mother is released from the hospital. If the minor is not placed for adoption upon leaving the hospital, a 3-day revocation period applies. Consent may be withdrawn for any reason by notifying the adoption entity in writing. In order to withdraw consent, the written withdrawal of consent must be mailed no later than 3 business days after execution of the consent or 1 business day after the date of the birth mother's discharge from a licensed hospital or birth center, whichever occurs later. The letter must be mailed certified mail, return receipt requested. This is done by presenting it at any United States Post Office, and asking that the letter be sent by certified United States mail with return receipt requested. The cost of this must be paid at the time of mailing and the receipt should be retained as proof that consent was withdrawn in a timely manner. For purposes of this chapter, the term "business day" means a day on which the United States Post Office accepts certified mail for delivery. Upon receiving written notice from a person of that person's desire to withdraw consent, the adoption entity must contact the prospective adoptive parent to arrange a time certain to regain physical custody of the child. The adoption entity must return the minor within 3 days to the physical custody of the person withdrawing consent. Thereafter, consent may be withdrawn only if the court finds that consent was obtained by fraud. An affidavit of nonpaternity, once executed, may be withdrawn only if the court finds that it was obtained by fraud.

4. Under section 63.082, Florida Statutes, a person who signs a consent or affidavit of nonpaternity for adoption must be given reasonable notice of his or her right to select a person who does not have a partnership, employment, agency, or other professional or personal relationship with the adoption entity or the prospective adoptive parents to be present when the consent or affidavit of nonpaternity is executed and to sign the consent or affidavit as a witness.

5. Under section 63.088, Florida Statutes, specific and extensive efforts are required by law to attempt to obtain the consents required under section 63.062, Florida Statutes. If these efforts are unsuccessful, an order terminating parental rights pending adoption may not be issued by the court until those requirements have been met and an affidavit of service has been filed with the court.

6. Under Florida law, an intermediary may represent the legal interests of only the adoptive parents, not of any birth parent. Each person whose consent to an adoption is required under section 63.062, Florida Statutes, including each birth parent, is entitled to seek independent legal advice and representation before signing any document or surrendering parental rights.

7. Under section 63.089, Florida Statutes, the termination of parental rights will occur simultaneously with the entry of a judgment terminating parental rights pending adoption.

8. Under section 63.182, Florida Statutes, an action or proceeding of any kind to vacate, set aside, or otherwise nullify an order of adoption or an underlying order terminating parental rights pending adoption on any ground, including fraud or duress, must be filed within 1 year after entry of the order terminating parental rights pending adoption.

9. Under section 63.182, Florida Statutes, for 1 year after the entry of a judgment of adoption, any irregularity or procedural defect in the adoption proceeding may be the subject of an appeal contesting the validity of the judgment.

10. Under section 63.089, Florida Statutes, a judgment terminating parental rights pending adoption is voidable and any later judgment of adoption of that minor is voidable if, upon the motion of a birth parent, the court finds that any person knowingly gave false information that prevented the birth parent from timely making known his or her desire to assume parental responsibilities toward the minor or meeting the requirements under chapter 63, Florida Statutes, to exercise his or her parental rights. A motion under section 63.089, Florida Statutes, must be filed with the court originally entering the judgment. The motion must be filed within a reasonable time, but not later than 1 year after the date the judgment to which the motion is directed was entered.

11. Under section 63.165, Florida Statutes, the State of Florida maintains a registry of adoption information. Information about the registry is available from the Department of Children and Family Services.

12. Under section 63.032, Florida Statutes, a court may find that a birth parent has abandoned his or her child based on conduct during the pregnancy or based on conduct after the child is born. In addition, under section 63.089, Florida Statutes, the failure of a birth parent to respond to notices of proceedings involving his or her child shall result in termination of parental rights of a birth parent. A lawyer can explain what a birth parent must do to protect his or her parental rights. Any birth parent wishing to protect his or her parental rights should act IMMEDIATELY.

13. Each birth parent and adoptive parent is entitled to independent legal advice and representation. Attorney information may be obtained from the yellow pages, The Florida Bar's lawyer referral service, and local legal aid offices and bar associations.

14. There are counseling services available in the community to assist in making a parenting decision. Consult the yellow pages of the telephone directory.

15. Medical and social services support is available if the birth parent wishes to retain parental rights and responsibilities. Consult the Department of Children and Family Services.

(2) ACKNOWLEDGMENT OF DISCLOSURE.—The adoption entity must obtain a written statement acknowledging receipt of the disclosure required under subsection (1) and signed by the persons receiving the disclosure or, if it is not possible to obtain such an acknowledgement, the adoption entity must execute an affidavit stating why an acknowledgement could not be obtained. A copy of the acknowledgement of receipt of the disclosure must be provided to the person signing it. A copy of the acknowledgement or affidavit executed by the adoption entity in lieu of the acknowledgement must be maintained in the file of the adoption entity. The original acknowledgement or affidavit must be filed with the court. In the case of a disclosure provided under subsection (1), the original acknowledgement or affidavit must be included in the preliminary home study required in s. 63.092(3).

(3) POST-BIRTH DISCLOSURE TO BIRTH PARENTS.—Before execution of any consent to adoption by a birth parent, but after the birth of the minor, all requirements of subsections (1) and (2) for making certain disclosures to a birth parent and obtaining a written acknowledgment of receipt must be repeated.

Section 103. Section 63.087, Florida Statutes, is created to read:

63.087 Proceeding to terminate parental rights pending adoption; general provisions.—

(1) INTENT.—It is the intent of the Legislature to provide a proceeding in which the court determines whether a minor is legally available for adoption through a separate proceeding to address termination of parental rights prior to the filing of a petition for adoption.

(2) GOVERNING RULES.—The Florida Family Law Rules of Procedure govern a proceeding to terminate parental rights pending adoption unless otherwise provided by law.

(3) JURISDICTION.—A court of this state which is competent to decide child welfare or custody matters has jurisdiction to hear all matters arising from a proceeding to terminate parental rights pending adoption. All subsequent proceedings for the adoption of the minor, if the petition for termination is granted, must be conducted by the same judge as these proceedings whenever possible.

(4) VENUE.—A petition to terminate parental rights pending adoption must be filed in the county where the child resided for the prior 6 months or, if the child is younger than 6 months of age, in the county where the birth mother or birth father resided at the time of the execution of the consent to adoption or the affidavit of nonpaternity, or, if there is no consent or affidavit of nonpaternity executed by a birth parent, in the county where the birth mother resides.

(5) PREREQUISITE FOR ADOPTION.—A petition for adoption may not be filed until 30 days after the date the judge signed the judgment terminating parental rights pending adoption under this chapter, unless the adoptee is an adult or the minor has been the subject of a judgment terminating parental rights under chapter 39.

(6) PETITION.—

(a) A proceeding seeking to terminate parental rights pending adoption pursuant to this chapter must be commenced by the filing of an original petition after the birth of the minor.

(b) The petition may be filed by a birth parent or legal guardian of the minor.

(c) The petition must be entitled: "In the Matter of the Proposed Adoption of a Minor Child."

(d) If a petition for a declaratory statement under s. 63.102 has previously been filed, a subsequent petition to terminate parental rights pending adoption may, at the request of any party or on the court's own motion, be consolidated with that previous action. If the petition to terminate parental rights pending adoption is consolidated with a prior petition filed under this chapter for which a filing fee has been paid, the petitioner may not be charged a subsequent or additional filing fee.

(e) The petition to terminate parental rights pending adoption must be in writing and signed by the petitioner under oath stating the petitioner's good faith in filing the petition. A written consent, affidavit of nonpaternity, or affidavit of due diligence under s. 63.088, for each person whose consent is required under s. 63.062, must be attached.

(f) The petition must include:

1. The minor's name, gender, date of birth, and place of birth. The petition must contain all names by which the minor is or has been known, including the minor's legal name at the time of the filing of the petition, to allow interested parties to the action, including birth parents, legal guardians, persons with custodial or visitation rights to the minor, and persons entitled to notice pursuant to the Uniform Child Custody Jurisdiction Act or the Indian Child Welfare Act, to identify their own interest in the action.

2. If the petition is filed before the day the minor is 6 months old and if the identity or location of the birth father is unknown, each city in which the birth mother resided or traveled during the 12 months prior to the minor's birth, including the county and state in which that city is located.

3. Unless the consent of each person whose consent is required under s. 63.062 or an affidavit of nonpaternity is attached to the petition, the name and address or, if a specific address is unknown, the city, including the county and state in which that city is located, of:

a. The minor's mother;

b. Any man whom the mother reasonably believes may be the minor's father; and

c. Any legal custodian of the minor.

If a required name or address is not known, the petition must so state.

4. All information required by the Uniform Child Custody Jurisdiction Act and the Indian Child Welfare Act.

5. A statement of the grounds under s. 63.089 upon which the petition is based.

6. The name, address, and telephone number of any adoption entity seeking to place the minor for adoption.

7. The name, address, and phone number of the division of the circuit in which the petition is to be filed.

(7) ANSWER NOT REQUIRED.—An answer to the petition or any pleading need not be filed by any minor, parent, or legal custodian, but any matter that might be set forth in an answer or other pleading may be pleaded orally before the court or filed in writing as any such person may choose. Notwithstanding the filing of any answer or any pleading, any person present at the hearing to terminate parental rights pending adoption whose consent to adoption is required under s. 63.062 must:

(a) Be advised by the court that he or she has a right to ask that the hearing be reset for a later date so that the person may consult with an attorney;

(b) Be given an opportunity to deny the allegations in the petition; and

(c) Be given the opportunity to challenge the validity of any consents or affidavits of nonpaternity signed by any person.

Section 104. Section 63.088, Florida Statutes, is created to read:

63.088 Proceeding to terminate parental rights pending adoption; notice and service.—

(1) INITIATE LOCATION AND IDENTIFICATION PROCEDURES.—When the location or identity of a person whose consent to an adoption is required but is not known, the adoption entity must begin the inquiry and diligent search process required by this section not later than 7 days after the date on which the person seeking to place a minor for adoption has evidenced in writing to the entity a desire to place the minor for adoption with that entity or not later than 7 days after the date any money is provided as permitted under this chapter by the adoption entity for the benefit of the person seeking to place a minor for adoption.

(2) LOCATION AND IDENTITY KNOWN.—Before the court may determine that a minor is available for adoption, and in addition to the other requirements set forth in this chapter, each person whose consent is required under s. 63.062, who has not executed an affidavit of nonpaternity, and whose location and identity has been determined by compliance with the procedures in this section must be personally served, pursuant to chapter 48, at least 30 days before the hearing with a copy of the petition to terminate parental rights pending adoption and with notice in substantially the following form:

NOTICE OF PETITION AND HEARING
TO TERMINATE PARENTAL RIGHTS PENDING ADOPTION

A petition to terminate parental rights pending adoption has been filed. A copy of the petition is being served with this notice. There will be a hearing on the petition to terminate parental rights pending adoption on ... (date) ... at ... (time) ... before ... (judge) ... at ... (location, including complete name and street address of the courthouse) .... The court has set aside ... (amount of time) ... for this hearing.

UNDER SECTION 63.089, FLORIDA STATUTES, FAILURE TO FILE A WRITTEN RESPONSE TO THIS NOTICE WITH THE COURT OR TO APPEAR AT THIS HEARING CONSTITUTES GROUNDS UPON WHICH THE COURT SHALL END ANY PARENTAL RIGHTS YOU MAY HAVE REGARDING THE MINOR CHILD.

(3) REQUIRED INQUIRY.—In all cases filed under this section, the court must conduct the following inquiry of the person who is placing the minor for adoption and of any relative or custodian of the minor who is present at the hearing and likely to have the following information:

(a) Whether the mother of the minor was married at any time when conception of the minor may have occurred or at the time of the birth of the minor;

(b) Whether the mother was cohabiting with a male at any time when conception of the minor may have occurred;

(c) Whether the mother has received payments or promises of support with respect to the minor or, because of her pregnancy, from any person she has reason to believe may be the father;

(d) Whether the mother has named any person as the father on the birth certificate of the minor or in connection with applying for or receiving public assistance;

(e) Whether any person has acknowledged or claimed paternity of the minor; and

(f) Whether the mother knows the identity of any person whom she has reason to believe may be the father.

The information required under this subsection may be provided to the court in the form of a sworn affidavit by a person having personal knowledge of the facts, addressing each inquiry enumerated in this subsection. The inquiry required under this subsection may be conducted before the birth of the minor.

(4) LOCATION UNKNOWN; IDENTITY DETERMINED.—If the inquiry by the court under subsection (3) identifies any person whose consent is required under s. 63.062 and who has not executed an affidavit of nonpaternity, and the location of the person from whom consent is required is unknown, the adoption entity must conduct a diligent search for that person which must include the following inquiries:

(a) The person's current address, or any previous address, through an inquiry of the United States Post Office through the Freedom of Information Act;

(b) The last known employment of the person, including the name and address of the person's employer. Inquiry should be made of the last known employer as to any address to which wage and earnings statements (W-2 forms) of the person have been mailed. Inquiry should be made of the last known employer as to whether the person is eligible for a pension or profit-sharing plan and any address to which pension or other funds have been mailed;

(c) Union memberships the person may have held or unions that governed the person's particular trade or craft in the area where the person last resided;

(d) Regulatory agencies, including those regulating licensing in the area where the person last resided;

(e) Names and addresses of relatives to the extent such can be reasonably obtained from the petitioner or other sources, contacts with those relatives, and inquiry as to the person's last known address. The petitioner shall pursue any leads of any addresses where the person may have moved. Relatives include, but are not limited to, parents, brothers, sisters, aunts, uncles, cousins, nieces, nephews, grandparents, great grandparents, former in-laws, stepparents, and stepchildren;

(f) Information as to whether or not the person may have died, and if so, the date and location;

(g) Telephone listings in the area where the person last resided;

(h) Inquiries of law enforcement agencies in the area where the person last resided;

(i) Highway patrol records in the state where the person last resided;

(j) Department of Corrections records in the state where the person last resided;

(k) Hospitals in the area where the person last resided;

(l) Records of utility companies, including water, sewer, cable TV, and electric companies in the area where the person last resided;

(m) Records of the Armed Forces of the United States as to whether there is any information as to the person;

(n) Records of the tax assessor and tax collector in the area where the person last resided; and

(o) Search of one Internet data bank locator service.

Any person contacted by a petitioner who is requesting information pursuant to this subsection must release the requested information to the petitioner, except when prohibited by law, without the necessity of a subpoena or court order. An affidavit of diligent search executed by the petitioner and the adoption entity must be filed with the court confirming completion of each aspect of the diligent search enumerated in this subsection and specifying the results. The diligent search required under this subsection may be conducted before the birth of the minor.

(5) LOCATION NOT DETERMINED OR IDENTITY UNKNOWN.—This subsection only applies if, as to any person whose consent is required under s. 63.062 and who has not executed an affidavit of nonpaternity, the location or identity of the person is unknown and the inquiry under subsection (3) fails to identify the person or the due diligence search under subsection (4) fails to locate the person. The unlocated or unidentified person must be served notice under s. 63.088(2), of the petition and hearing to terminate parental rights pending adoption by constructive service in the manner provided in chapter 49 in each county identified in the petition, as provided in s. 63.087(6). The notice, in addition to all information required in the petition under s. 63.087(6) and chapter 49, must contain a physical description, including, but not limited to, age, race, hair and eye color, and approximate height and weight of the minor's mother and of any person the mother reasonably believes may be the father; the minor's date of birth; and any date and city, including the county and state in which the city is located, in which conception may have occurred. If any of the facts that must be included in the petition under this subsection are unknown and cannot be reasonably ascertained, the petition must so state.

Section 105. Section 63.089, Florida Statutes, is created to read:

63.089 Proceeding to terminate parental rights pending adoption.—

(1) HEARING.—The court may terminate parental rights pending adoption only after a full evidentiary hearing.

(2) HEARING PREREQUISITES.—The court may hold the hearing only when:

(a) For each person whose consent is required under s. 63.062:

1. A consent under s. 63.082 has been executed and filed within the court;

2. An affidavit of nonpaternity under s. 63.082 has been executed and filed with the court; or

3. Notice has been provided under ss. 63.087 and 63.088;

(b) For each notice and petition that must be served under ss. 63.087 and 63.088:

1. At least 30 days have elapsed since the date of personal service and an affidavit of service has been filed with the court;

2. At least 60 days have elapsed since the first date of publication of constructive service and an affidavit of service has been filed with the court; or

3. An affidavit of nonpaternity which affirmatively waives service has been executed and filed with the court;

(c) The minor named in the petition has been born; and

(d) The petition contains all information required under s. 63.087 and all affidavits of inquiry, due diligence, and service required under s. 63.088 have been obtained and filed with the court.

(3) GROUNDS FOR TERMINATING PARENTAL RIGHTS PENDING ADOPTION.—The court may issue a judgment terminating parental rights pending adoption if the court determines by clear and convincing evidence that each person whose consent to an adoption is required under s. 63.062:

(a) Has executed a valid consent that has not been withdrawn under s. 63.082 and the consent was obtained according to the requirements of this chapter;

(b) Has executed an affidavit of nonpaternity and the affidavit was obtained according to the requirements of this chapter;

(c) Has been properly served notice of the proceeding in accordance with the requirements of this chapter and has failed to file a written answer or appear at the evidentiary hearing resulting in the order terminating parental rights pending adoption;

(d) Has abandoned the minor as abandonment is defined in s. 63.032(14);

(e) Is a parent of the person to be adopted, which parent has been judicially declared incapacitated with restoration of competency found to be medically improbable;

(f) Is a legal guardian or lawful custodian of the person to be adopted, other than a parent, who has failed to respond in writing to a request for consent for a period of 60 days or, after examination of his or her written reasons for withholding consent, is found by the court to be withholding his or her consent unreasonably; or

(g) Is the spouse of the person to be adopted who has failed to consent, and the failure of the spouse to consent to the adoption is excused by reason of prolonged and unexplained absence, unavailability, incapacity, or circumstances that are found by the court to constitute unreasonable withholding of consent.

(4) FINDING OF ABANDONMENT.—A finding of abandonment resulting in a termination of parental rights must be based upon clear and convincing evidence. A finding of abandonment may not be based upon a lack of emotional support to a birth mother during her pregnancy.

(a) In making a determination of abandonment the court must consider:

1. Whether the actions alleged to constitute abandonment demonstrate a willful disregard for the safety of the child or unborn child;

2. Whether other persons prevented the person alleged to have abandoned the child from making the efforts referenced in this subsection;

3. Whether the person alleged to have abandoned the child, while being able, refused to provide financial support when such support was requested by the child's legal guardian or custodian;

4. Whether the person alleged to have abandoned the child, while being able, refused to pay for medical treatment when such payment was requested by the child's legal guardian or custodian and those expenses were not covered by insurance or other available sources;

5. Whether the amount of support provided or medical expenses paid was appropriate, taking into consideration the needs of the child and relative means and resources available to the person alleged to have abandoned the child and available to the child's legal guardian or custodian during the period the child allegedly was abandoned; and

6. Whether the child's legal guardian or custodian made the child's whereabouts known to the person alleged to have abandoned the child; advised that person of the needs of the child or the needs of the mother of an unborn child with regard to the pregnancy; or informed that person of events such as medical appointments and tests relating to the child or, if unborn, the pregnancy.

(b) The child has been abandoned when the parent of a child is incarcerated on or after October 1, 1998, in a state or federal correctional institution and sentenced to a term of incarceration of 8 years or longer, regardless of how long the person is actually incarcerated under that sentence or how long the person will be incarcerated after October 1, 1998, and:

1. The period of time for which the parent is expected to be incarcerated will constitute a substantial portion of the period of time before the child will attain the age of 18 years;

2. The incarcerated parent has been determined by the court to be a violent career criminal as defined in s. 775.084, a habitual violent felony offender as defined in s. 775.084, or a sexual predator as defined in s. 775.21; has been convicted of first degree or second degree murder in violation of s. 782.04 or a sexual battery that constitutes a capital, life, or first degree felony violation of s. 794.011; or has been convicted of an offense in another jurisdiction which is substantially similar to one of the offenses listed in this paragraph. As used in this section, the term "substantially similar offense" means any offense that is substantially similar in elements and penalties to one of those listed in this paragraph, and that is in violation of a law of any other jurisdiction, whether that of another state, the District of Columbia, the United States or any possession or territory thereof, or any foreign jurisdiction; and

3. The court determines by clear and convincing evidence that continuing the parental relationship with the incarcerated parent would be harmful to the child and, for this reason, that termination of the parental rights of the incarcerated parent is in the best interest of the child.

(c) The only conduct of a father toward a mother during pregnancy that the court may consider in determining whether the child has been abandoned is conduct that occurred after reasonable and diligent efforts have been made to inform the father that he is, or may be, the father of the child.

(5) DISMISSAL OF CASE WITH PREJUDICE.—If the court does not find by clear and convincing evidence that parental rights of a birth parent should be terminated pending adoption, the court must dismiss the case with prejudice and that birth parent's parental rights remain in full force under the law. Parental rights may not be terminated based upon a consent that the court finds has been timely withdrawn under s. 63.082 or a consent or affidavit of nonpaternity that the court finds was obtained by fraud. The court must enter an order based upon written findings providing for the placement of the minor. The court may order scientific testing to determine the paternity of the minor at any time during which the court has jurisdiction over the minor. Further proceedings, if any, regarding the minor must be brought in a separate custody action under chapter 61, a dependency action under chapter 39, or a paternity action under chapter 742.

(6) A JUDGMENT TERMINATING PARENTAL RIGHTS PENDING ADOPTION.—

(a) The judgment terminating parental rights pending adoption must be in writing and contain findings of fact as to the grounds for terminating parental rights pending adoption.

(b) The clerk of the court shall mail a copy of the judgment within 24 hours after filing to the department, the petitioner, and the respondent. The clerk shall execute a certificate of each mailing.

(c) A judgment terminating parental rights pending adoption is voidable and any later judgment of adoption of that minor is voidable if, upon the motion of a birth parent, the court finds that a person knowingly gave false information that prevented the birth parent from timely making known his or her desire to assume parental responsibilities toward the minor or meeting the requirements under this chapter to exercise his or her parental rights. A motion under this paragraph must be filed with the court originally entering the judgment. The motion must be filed within a reasonable time, but not later than 1 year after the date the termination of parental rights final order was entered.

(d) Not later than 30 days after the filing of a motion under this subsection, the court must conduct a preliminary hearing to determine what contact, if any, shall be permitted between a birth parent and the child pending resolution of the motion. Such contact shall only be considered if it is requested by a birth parent who has appeared at the hearing. If the court orders contact between a birth parent and child, the order must be issued in writing as expeditiously as possible and must state with specificity any provisions regarding contact with persons other than those with whom the child resides.

(e) At the preliminary hearing, the court, upon the motion of any party or its own motion, may order scientific testing to determine the paternity of the minor if the person seeking to set aside the judgment is alleging to be the child's birth father and that fact has not previously been determined by legitimacy or scientific testing. The court may order supervised visitation with a person from whom scientific testing for paternity has been ordered conditional upon the filing of those test results with the court and such results establish that person's paternity of the minor.

(f) No later than 45 days after the preliminary hearing, the court must conduct a final hearing on the motion to set aside the judgment and issue its written order as expeditiously as possible thereafter.

(7) RECORDS; CONFIDENTIAL INFORMATION.—All records pertaining to a petition to terminate parental rights pending adoption are records related to the subsequent adoption of the minor and are subject to the provisions of s. 63.162, as such provisions apply to records of an adoption proceeding. The confidentiality provisions of this chapter do not apply to the extent information regarding persons or proceedings must be made available as specified under s. 63.088.

Section 106. Section 63.092, Florida Statutes, is amended to read:

63.092 Report to the court of intended placement by an intermediary; preliminary study.—

(1) REPORT TO THE COURT.—The *adoption entity* ~~intermediary~~ must report any intended placement of a minor for adoption with any person not related within the third degree or a stepparent if the *adoption entity* ~~intermediary~~ has knowledge of, or participates in, such intended placement. The report must be made to the court before the minor is placed in the home.

(2) AT-RISK PLACEMENT.—If the minor is placed in the prospective adoptive home before the parental rights of the minor's birth parents are terminated under s. 63.089, the placement is an at-risk placement. If the placement is an at-risk placement, the prospective adoptive parents must acknowledge in writing before the minor may be placed in the prospective adoptive home that the placement is at risk and that the minor is subject to removal from the prospective adoptive home by the adoption entity or by court order.

(3)~~(2)~~ PRELIMINARY HOME STUDY.—Before placing the minor in the intended adoptive home, a preliminary home study must be performed by a licensed child-placing agency, a licensed professional, or agency described in s. 61.20(2), unless the petitioner is a stepparent, a spouse of the birth parent, or a relative. The preliminary study shall be completed within 30 days after the receipt by the court of the *adoption entity's* ~~intermediary's~~ report, but in no event may the *minor* ~~child~~ be placed in the prospective adoptive home prior to the completion of the preliminary study unless ordered by the court. If the petitioner is a stepparent, a spouse of the birth parent, or a relative, the preliminary home study may be required by the court for good cause shown. The department is required to perform the preliminary home study only if there is no licensed child-placing agency, licensed professional, or agency described in s. 61.20(2), in the county where the prospective adoptive parents reside. The preliminary home study must be made to determine the suitability of the intended adoptive parents and may be completed prior to identification of a prospective adoptive *minor* ~~child~~. A favorable preliminary home study is valid for 1 year after the date of its completion. A *minor may* ~~child must~~ not be placed in an intended adoptive home before a favorable preliminary home study is completed unless the adoptive home is also a licensed foster home under s. 409.175. The preliminary home study must include, at a minimum:

(a) An interview with the intended adoptive parents;

(b) Records checks of the department's central abuse registry under chapter 415 and statewide criminal records correspondence checks through the Department of Law Enforcement on the intended adoptive parents;

(c) An assessment of the physical environment of the home;

(d) A determination of the financial security of the intended adoptive parents;

(e) Documentation of counseling and education of the intended adoptive parents on adoptive parenting;

(f) Documentation that information on adoption and the adoption process has been provided to the intended adoptive parents;

(g) Documentation that information on support services available in the community has been provided to the intended adoptive parents; *and*

(h) A copy of *each* ~~the~~ signed *acknowledgement* ~~statement~~ required by s. 63.085~~; and~~

~~(i) A copy of the written acknowledgment required by s. 63.085(1)~~.

If the preliminary home study is favorable, a minor may be placed in the home pending entry of the judgment of adoption. A minor may not be placed in the home if the preliminary home study is unfavorable. If the preliminary home study is unfavorable, the intermediary or petitioner may, within 20 days after receipt of a copy of the written recommendation, petition the court to determine the suitability of the intended adoptive home. A determination as to suitability under this subsection does not act as a presumption of suitability at the final hearing. In determining the suitability of the intended adoptive home, the court must consider the totality of the circumstances in the home.

Section 107. Section 63.097, Florida Statutes, is amended to read:

63.097 Fees.—

(1) The following fees, costs, and expenses may be assessed by the adoption entity or paid by the adoption entity on behalf of the prospective adoptive parents:

(a) Reasonable living expenses of the birth mother which the birth mother is unable to pay due to involuntary unemployment, medical disability due to the pregnancy which is certified by a medical professional who has examined the birth mother, or any other disability defined in s. 110.215. Reasonable living expenses are rent, utilities, basic telephone service, food, necessary clothing, transportation, and items included in the affidavit filed under s. 63.132 and found by the court to be necessary for the health of the unborn child.

(b) Reasonable and necessary medical expenses.

(c) Expenses necessary to comply with the requirements of this chapter including, but not limited to, service of process under s. 63.088, a due diligence search under s. 63.088, a preliminary home study under s. 63.092, and a final home study under s. 63.125.

(d) Court filing expenses, court costs, and other litigation expenses.

(e) Costs associated with advertising under s. 63.212(1)(h).

(f) The following professional fees:

1. A reasonable hourly fee necessary to provide legal representation to the adoptive parents in a proceeding filed under this chapter.

2. A reasonable hourly fee for contact with the birth parent related to the adoption. In determining a reasonable hourly fee under this subparagraph, the court must consider if the tasks done were clerical or of such a nature that the matter could have been handled by support staff at a lesser rate than the rate for legal representation charged under subparagraph 1. This includes, but need not be limited to, tasks such as transportation, transmitting funds, arranging appointments, and securing accommodations. This does not include obtaining a birth parent's signature on any document.

3. A reasonable hourly fee for counseling services provided to a birth parent or adoptive parent by a psychologist licensed under chapter 490 or a clinical social worker, marriage and family therapist, or mental health counselor licensed under chapter 491.

(2) Prior approval of the court is not required until the cumulative total of amounts permitted under subsection (1) exceeds:

(a) $2,500 in legal or other fees;

(b) $500 in court costs; or

(c) $3,000 in expenditures.

(3) Any fees, costs, or expenditures not included in subsection (1) or prohibited under subsection (4) require court approval prior to payment and must be based on a finding of extraordinary circumstances.

(4) The following fees, costs, and expenses are prohibited:

1. Any fee or expense that constitutes payment for locating a minor for adoption.

2. Cumulative expenses in excess of a total of $500 related to the minor, the pregnancy, a birth parent, or adoption proceeding which are incurred prior to the date the prospective adoptive parent retains the adoption entity.

3. Any lump-sum payment to the entity which is nonrefundable directly to the payor or which is not itemized on the affidavit filed under s. 63.132.

4. Any fee on the affidavit which does not specify the service that was provided and for which the fee is being charged, such as a fee for facilitation, acquisition, or other similar service, or which does not identify the date the service was provided, the time required to provide the service, the person or entity providing the service, and the hourly fee charged.

~~(1) APPROVAL OF FEES TO INTERMEDIARIES.—Any fee over $1,000 and those costs as set out in s. 63.212(1)(d) over $2,500, paid to an intermediary other than actual, documented medical costs, court costs, and hospital costs must be approved by the court prior to assessment of the fee by the intermediary and upon a showing of justification for the larger fee.~~

(5)~~(2) FEES FOR AGENCIES OR THE DEPARTMENT.—~~When an intermediary uses the services of a licensed child-placing agency, a professional, any other person or agency pursuant to s. 63.092, or, if necessary, the department, the person seeking to adopt the child must pay the licensed child-placing agency, professional, other person or agency, or the department an amount equal to the cost of all services performed, including, but not limited to, the cost of conducting the preliminary home study, counseling, and the final home investigation. The court, upon a finding that the person seeking to adopt the child is financially unable to pay that amount, may order that such person pay a lesser amount.

Section 108. Section 63.102, Florida Statutes, is amended to read:

63.102 Filing of petition; venue; proceeding for approval of fees and costs.—

(1) *After a court order terminating parental rights has been issued,* a proceeding for adoption *may* ~~shall~~ be commenced by filing a petition entitled, "In the Matter of the Adoption of . . . ." in the circuit court. The person to be adopted shall be designated in the caption in the name by which he or she is to be known if the petition is granted. ~~If the child is placed for adoption by an agency,~~ Any name by which the *minor* ~~child~~ was previously known *may* ~~shall~~ not be disclosed in the petition, the notice of hearing, or the judgment of adoption.

(2) A petition for adoption or for a declaratory statement as to the adoption contract shall be filed in the county where the petitioner or petitioners or the *minor* ~~child~~ resides or where the agency *or intermediary with* ~~in~~ which the *minor* ~~child~~ has been placed is located.

(3) Except for adoptions involving placement of a *minor* ~~child~~ with a relative within the third degree of consanguinity, a petition for adoption in an adoption handled by an intermediary shall be filed within 30 working days after placement of a *minor* ~~child~~ with a parent seeking to adopt the *minor* ~~child~~. If no petition is filed within 30 days, any interested party, including the state, may file an action challenging the prospective adoptive parent's physical custody of the *minor* ~~child~~.

(4) If the filing of the petition for adoption or for a declaratory statement as to the adoption contract in the county where the petitioner or *minor* ~~child~~ resides would tend to endanger the privacy of the petitioner or *minor* ~~child~~, the petition for adoption may be filed in a different county, provided the substantive rights of any person will not thereby be affected.

(5) A proceeding for prior approval of fees and costs may be commenced any time after an agreement is reached between the birth mother and the adoptive parents by filing a petition for declaratory statement on the agreement entitled "In the Matter of the Proposed Adoption of a Minor Child" in the circuit court.

(a) The petition must be filed jointly by the adoption entity and each person who enters into the agreement.

(b) A contract for the payment of fees, costs, and expenditures permitted under this chapter must be in writing, and any person who enters into the contract has 3 business days in which to cancel the contract. To cancel the contract, the person must notify the adoption entity in writing by certified United States mail, return receipt requested, no later than 3 business days after signing the contract. For the purposes of this subsection, the term "business day" means a day on which the United States Post Office accepts certified mail for delivery. If the contract is canceled within the first 3 business days, the person who cancels the contract does not owe any legal, intermediary, or other fees, but may be responsible for the adoption entity's actual costs during that time.

(c) The court may grant prior approval only of fees and expenditures permitted under s. 63.097. A prior approval of prospective fees and costs does not create a presumption that these items will subsequently be approved by the court under s. 63.132 unless such a finding is supported by the evidence submitted at that time. The court retains jurisdiction to order an adoption entity to refund to the person who enters into the contract any sum or portion of a sum preapproved under this subsection if, upon submission of a complete accounting of fees, costs, and expenses in an affidavit required under s. 63.132, the court finds the fees, costs, and expenses actually incurred to be less than the sums approved prospectively under this subsection.

(d) The contract may not require, and the court may not approve, any lump-sum payment to the entity which is nonrefundable to the payor or any amount that constitutes payment for locating a minor for adoption.

(e) If a petition for adoption is filed under this section subsequent to the filing of a petition for a declaratory statement or a petition to terminate parental rights pending adoption, the previous petition may, at the request of any party or on the court's own motion, be consolidated with the petition for adoption. If the petition for adoption is consolidated with a prior petition filed under this chapter for which a filing fee has been paid, the petitioner may not be charged any subsequent or additional filing fee.

(f) Prior approval of fees and costs by the court does not obligate the birth parent to ultimately relinquish the minor for adoption. ~~If a petition for adoption is subsequently filed, the petition for declaratory statement and the petition for adoption must be consolidated into one case.~~

Section 109. Section 63.112, Florida Statutes, is amended to read:

63.112 Petition for adoption; description; report or recommendation, exceptions; mailing.—

(1) A sufficient number of copies of the petition for adoption shall be signed and verified by the petitioner and filed with the clerk of the court so that service may be made under subsection (4) and shall state:

(a) The date and place of birth of the person to be adopted, if known;

(b) The name to be given to the person to be adopted;

(c) The date petitioner acquired custody of the minor and the name of the person placing the minor;

(d) The full name, age, and place and duration of residence of the petitioner;

(e) The marital status of the petitioner, including the date and place of marriage, if married, and divorces, if any;

(f) The facilities and resources of the petitioner, including those under a subsidy agreement, available to provide for the care of the minor to be adopted;

(g) A description and estimate of the value of any property of the person to be adopted;

(h) The *case style and date of entry of the order terminating parental rights or the judgment declaring a minor available for adoption* ~~name and address, if known, of any person whose consent to the adoption is required, but who has not consented, and facts or circumstances that excuse the lack of consent~~; and

(i) The reasons why the petitioner desires to adopt the person.

(2) The following documents are required to be filed with the clerk of the court at the time the petition is filed:

(a) *A certified copy of the court order terminating parental rights under chapter 39 or the judgment declaring a minor available for adoption under this chapter* ~~The required consents, unless consent is excused by the court~~.

(b) The favorable preliminary home study of the department, licensed child-placing agency, or professional pursuant to s. 63.092, as to the suitability of the home in which the minor has been placed.

(c) The surrender document must include documentation that *an interview was* ~~interviews were~~ held with~~:~~

~~1. The birth mother, if parental rights have not been terminated;~~

~~2. The birth father, if his consent to the adoption is required and parental rights have not been terminated; and~~

~~3.~~ the *minor* ~~child~~, if older than 12 years of age, unless the court, in the best interest of the *minor* ~~child~~, dispenses with the *minor's* ~~child's~~ consent under s. *63.062(1)(e)* ~~63.062(1)(c)~~.

~~The court may waive the requirement for an interview with the birth mother or birth father in the investigation for good cause shown.~~

(3) Unless ordered by the court, no report or recommendation is required when the placement is a stepparent adoption or when the *minor* ~~child~~ is related to one of the adoptive parents within the third degree.

(4) The clerk of the court shall mail a copy of the petition within 24 hours after filing, and execute a certificate of mailing, to the department and the agency placing the minor, if any.

Section 110. Section 63.122, Florida Statutes, is amended to read:

63.122 Notice of hearing on petition.—

(1) After the petition to adopt a minor is filed, the court must establish a time and place for hearing the petition. The hearing *may* ~~must~~ not be held sooner than *30 days after the date the judgment terminating parental rights was entered or sooner than* 90 days after *the date the minor was placed* ~~the placing of the minor~~ in the physical custody of the petitioner. The minor must remain under the supervision of the department, an intermediary, or a licensed child-placing agency until the adoption becomes final. When the petitioner is a spouse of the birth parent, the hearing may be held immediately after the filing of the petition.

(2) Notice of hearing must be given as prescribed by the rules of civil procedure, and service of process must be made as specified by law for civil actions.

(3) Upon a showing by the petitioner that the privacy of the petitioner or *minor* ~~child~~ may be endangered, the court may order the names of the petitioner or *minor* ~~child~~, or both, to be deleted from the notice of hearing and from the copy of the petition attached thereto, provided the substantive rights of any person will not thereby be affected.

(4) Notice of the hearing must be given by the petitioner to *the adoption entity that places the minor.* ~~:~~

~~(a) The department or any licensed child-placing agency placing the minor.~~

~~(b) The intermediary.~~

~~(c) Any person whose consent to the adoption is required by this act who has not consented, unless such person's consent is excused by the court.~~

~~(d) Any person who is seeking to withdraw consent.~~

(5) After filing the petition to adopt an adult, a notice of the time and place of the hearing must be given to any person whose consent to the adoption is required but who has not consented. The court may order an appropriate investigation to assist in determining whether the adoption is in the best interest of the persons involved.

Section 111. Section 63.125, Florida Statutes, is amended to read:

63.125 Final home investigation.—

(1) The final home investigation must be conducted before the adoption becomes final. The investigation may be conducted by a licensed child-placing agency or a professional in the same manner as provided in s. 63.092 to ascertain whether the adoptive home is a suitable home for the minor and whether the proposed adoption is in the best interest of the minor. Unless directed by the court, an investigation and recommendation are not required if the petitioner is a stepparent or if the *minor* ~~child~~ is related to one of the adoptive parents within the third degree of consanguinity. The department is required to perform the home investigation only if there is no licensed child-placing agency or professional pursuant to s. 63.092 in the county in which the prospective adoptive parent resides.

(2) The department, the licensed child-placing agency, or the professional that performs the investigation must file a written report of the investigation with the court and the petitioner within 90 days after the date the petition is filed.

(3) The report of the investigation must contain an evaluation of the placement with a recommendation on the granting of the petition for adoption and any other information the court requires regarding the petitioner or the minor.

(4) The department, the licensed child-placing agency, or the professional making the required investigation may request other state agencies or child-placing agencies within or outside this state to make investigations of designated parts of the inquiry and to make a written report to the department, the professional, or other person or agency.

(5) The final home investigation must include:

(a) The information from the preliminary home study.

(b) After the *minor* ~~child~~ is placed in the intended adoptive home, two scheduled visits with the *minor* ~~child~~ and the *minor's* ~~child's~~ adoptive parent or parents, one of which visits must be in the home, to determine the suitability of the placement.

(c) The family *social and* medical history as provided in s. 63.082.

(d) Any other information relevant to the suitability of the intended adoptive home.

(e) Any other relevant information, as provided in rules that the department may adopt.

Section 112. Section 63.132, Florida Statutes, is amended to read:

63.132 *Affidavit* ~~Report~~ of expenditures and receipts.—

(1) At least 10 days before the hearing *on the petition for adoption,* the petitioner and any *adoption entity* ~~intermediary~~ must file two copies of an affidavit *under this section.*

(a) The affidavit must be signed by the adoption entity and the prospective adoptive parents. A copy of the affidavit must be provided to the adoptive parents at the time the affidavit is executed.

(b) The affidavit must itemize ~~containing a full accounting of~~ all disbursements and receipts of anything of value, including professional *and legal* fees, made or agreed to be made by or on behalf of the petitioner and any *adoption entity* ~~intermediary~~ in connection with the adoption *or in connection with any prior proceeding to terminate parental rights which involved the minor who is the subject of the petition for adoption. The affidavit must also include, for each fee itemized, the service provided for which the fee is being charged, the date the service was provided, the time required to provide the service, the person or entity that provided the service, and the hourly fee charged.*

(c) The clerk of the court shall forward a copy of the affidavit to the department. *The department must retain these records for 5 years. Copies of affidavits received by the department under this subsection must be provided upon the request of any person. The department must redact all identifying references to the minor, the birth parent, or the adoptive parent from any affidavit released by the department. The name of the adoption entity may not be redacted. The intent of this paragraph is to create a resource for adoptive parents and others wishing to obtain information about the cost of adoption in this state.*

(d) The *affidavit* ~~report~~ must show any expenses or receipts incurred in connection with:

1.~~(a)~~ The birth of the minor.

2.~~(b)~~ The placement of the minor with the petitioner.

3.~~(c)~~ The medical or hospital care received by the mother or by the minor during the mother's prenatal care and confinement.

4.~~(d)~~ The living expenses of the birth mother. The living expenses must be documented in detail to apprise the court of the exact expenses incurred.

5.~~(e)~~ The services relating to the adoption or to the placement of the minor for adoption that were received by or on behalf of the petitioner, the *adoption entity* ~~intermediary~~, either *birth* ~~natural~~ parent, the minor, or any other person.

The affidavit must state whether any of these expenses were or are eligible to be paid for by collateral sources, including, but not limited to, health insurance, Medicaid, Medicare, or public assistance.

(2) The court may require such additional information as is deemed necessary.

(3) The court must issue a separate order approving or disapproving the fees, costs, and expenditures itemized in the affidavit. The court may approve only fees, costs, and expenditures allowed under s. 63.097. The court may reject in whole or in part any fee, cost, or expenditure listed if the court finds that the expense is:

(a) Contrary to this chapter;

(b) Not supported by a receipt in the record, if the expense is not a fee of the adoption entity; or

(c) Not deemed by the court to be a reasonable fee or expense, taking into consideration the requirements of this chapter and the totality of the circumstances.

(4)~~(3)~~ This section does not apply to an adoption by a stepparent whose spouse is a *birth* ~~natural~~ or adoptive parent of the *minor* ~~child~~.

Section 113. Section 63.142, Florida Statutes, is amended to read:

63.142 Hearing; judgment of adoption.—

(1) *APPEARANCE.*—The petitioner and the person to be adopted shall appear at the hearing on the petition *for adoption*, unless:

(a) The person is a minor under 12 years of age;~~,~~ or

(b) The presence of either is excused by the court for good cause.

(2) *CONTINUANCE.*—The court may continue the hearing from time to time to permit further observation, investigation, or consideration of any facts or circumstances affecting the granting of the petition.

(3) *DISMISSAL.*—

(a) If the petition is dismissed, the court shall determine the person that is to have custody of the minor.

(b) If the petition is dismissed, the court shall state with specificity the reasons for the dismissal.

(4) *JUDGMENT.*—At the conclusion of the hearing, *after* ~~when~~ the court determines that *the date for a birth parent to file an appeal of a valid judgment terminating that birth parent's parental rights has passed and no appeal is pending* ~~all necessary consents have been obtained~~ and that the adoption is in the best interest of the person to be adopted, a judgment of adoption shall be entered.

(a) A judgment terminating parental rights pending adoption is voidable and any later judgment of adoption of that minor is voidable if, upon the motion of the birth parent, the court finds that any person knowingly gave false information that prevented the birth parent from timely making known his or her desire to assume parental responsibilities toward the minor or meeting the requirements under this chapter to exercise his or her parental rights. A motion under this paragraph must be filed with the court that entered the original judgment. The motion must be filed within a reasonable time, but not later than 1 year after the date the termination of parental rights final order was entered.

(b) Not later than 30 days after the filing of a motion under this subsection, the court must conduct a preliminary hearing to determine what contact, if any, shall be permitted between a birth parent and the child pending resolution of the motion. Such contact shall only be considered if it is requested by a birth parent who has appeared at the hearing. If the court orders contact between a birth parent and child, the order must be issued in writing as expeditiously as possible and must state with specificity any provisions regarding contact with persons other than those with whom the child resides.

(c) At the preliminary hearing, the court, upon the motion of any party or its own motion, may order scientific testing to determine the paternity of the minor if the person seeking to set aside the judgment is alleging to be the child's birth father and that fact has not previously been determined by legitimacy or scientific testing. The court may order supervised visitation with a person from whom scientific testing for paternity has been ordered conditional upon the filing of those test results with the court and such results establish that person's paternity of the minor.

(d) No later than 45 days after the preliminary hearing, the court must conduct a final hearing on the motion to set aside the judgment and issue its written order as expeditiously as possible thereafter.

Section 114. Section 63.152, Florida Statutes, is amended to read:

63.152 Application for new birth record.—Within 30 days after entry of a judgment of adoption, the clerk of the court, and in agency adoptions, any child-placing agency licensed by the department, shall prepare a certified statement of the entry for the state registrar of vital statistics on a form provided by the registrar. *The clerk of the court must mail a copy of the form completed under this section to the state registry of adoption information under s. 63.165.* A new birth record containing the necessary information supplied by the certificate shall be issued by the registrar on application of the adopting parents or the adopted person.

Section 115. Section 63.165, Florida Statutes, is amended to read:

63.165 State registry of adoption information; duty to inform and explain.—Notwithstanding any other law to the contrary, the department shall maintain a registry with the last known names and addresses of an adoptee and his or her *birth* ~~natural~~ parents and adoptive parents*; the certified statement of the final decree of adoption provided by the clerk of the court under s. 63.152;* and any other identifying information *that* ~~which~~ the adoptee, *birth* ~~natural~~ parents, or adoptive parents desire to include in the registry. *The department shall maintain the registry records for the time required by rules adopted by the department in accordance with this chapter or for 99 years, whichever period is greater.* The registry shall be open with respect to all adoptions in the state, regardless of when they took place. The registry shall be available for those persons choosing to enter information therein, but no one shall be required to do so.

(1) Anyone seeking to enter, change, or use information in the registry, or any agent of such person, shall present verification of his or her identity and, if applicable, his or her authority. A person who enters information in the registry shall be required to indicate clearly the persons to whom he or she is consenting to release this information, which persons shall be limited to the adoptee and the *birth* ~~natural~~ mother, *birth* ~~natural~~ father, adoptive mother, adoptive father, *birth* ~~natural~~ siblings, and maternal and paternal *birth* ~~natural~~ grandparents of the adoptee. Except as provided in this section, information in the registry is confidential and exempt from ~~the provisions of~~ s. 119.07(1). Consent to the release of this information may be made in the case of a minor adoptee by his or her adoptive parents or by the court after a showing of good cause. At any time, any person may withdraw, limit, or otherwise restrict consent to release information by notifying the department in writing.

(2) The department may charge a reasonable fee to any person seeking to enter, change, or use information in the registry. The department shall deposit such fees in a trust fund to be used by the department only for the efficient administration of this section. The department and agencies shall make counseling available for a fee to all persons seeking to use the registry, and the department shall inform all affected persons of the availability of such counseling.

(3) The department, intermediary, or licensed child-placing agency must inform the birth parents before parental rights are terminated, and the adoptive parents before placement, in writing, of the existence and purpose of the registry established under this section, but failure to do so does not affect the validity of any proceeding under this chapter.

Section 116. Section 63.182, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 63.182, F.S., for present text.)

63.182 Statute of repose.—An action or proceeding of any kind to vacate, set aside, or otherwise nullify an order of adoption or an underlying order terminating parental rights on any ground, including fraud or duress, must be filed within 1 year after entry of the order terminating parental rights.

Section 117. Section 63.207, Florida Statutes, is amended to read:

63.207 Out-of-state placement.—

(1) Unless the *minor* ~~child~~ is to be placed with a relative within the third degree or with a stepparent, *or is a special needs child as defined in s. 409.166, an adoption entity may not* ~~no person except an intermediary, an agency, or the department shall~~:

(a) Take or send a *minor* ~~child~~ out of the state for the purpose of placement for adoption; or

(b) Place or attempt to place a *minor* ~~child~~ for the purpose of adoption with a family who primarily lives and works outside Florida in another state. ~~An intermediary may place or attempt to place a child for adoption in another state only if the child is a special needs child as that~~

~~term is defined in s. 409.166.~~ If an *adoption entity* ~~intermediary~~ is acting under this subsection, the *adoption entity must* ~~intermediary shall~~ file a petition for declaratory statement pursuant to s. 63.102 for prior approval of fees and costs. The court shall review the costs pursuant to s. 63.097. The petition for declaratory statement must be converted to a petition for an adoption upon placement of the *minor* ~~child~~ in the home. The circuit court in this state must retain jurisdiction over the matter until the adoption becomes final. The adoptive parents must come to this state to have the adoption finalized. Violation of the order subjects the *adoption entity* ~~intermediary~~ to contempt of court and to the penalties provided in s. 63.212.

(2) An *adoption entity* ~~intermediary~~ may not counsel a birth mother to leave the state for the purpose of giving birth to a child outside the state in order to secure a fee in excess of that permitted under s. 63.097 when it is the intention that the child is to be placed for adoption outside the state.

(3) When applicable, the Interstate Compact on the Placement of Children authorized in s. 409.401 shall be used in placing children outside the state for adoption.

Section 118. Section 63.212, Florida Statutes, is amended to read:

63.212 Prohibited acts; penalties for violation.—

(1) It is unlawful for any person:

(a) Except *an adoption entity* ~~the department, an intermediary, or an agency~~, to place or attempt to place a *minor* ~~child~~ for adoption with a person who primarily lives and works outside this state unless the *minor* ~~child~~ is placed with a relative within the third degree or with a stepparent *or is a special needs child as defined in s. 409.166*. An *adoption entity* ~~intermediary~~ may place or attempt to place a special needs child for adoption with a person who primarily lives and works outside this state only if the *adoption entity* ~~intermediary~~ has a declaratory statement from the court establishing the fees to be paid *under s. 63.207*. This requirement does not apply if the *minor* ~~child~~ is placed with a relative within the third degree or with a stepparent.

(b) Except *an adoption entity* ~~the department, an intermediary, or an agency~~, to place or attempt to place a *minor* ~~child~~ for adoption with a family whose primary residence and place of employment is in another state unless the *minor* ~~child~~ is placed with a relative within the third degree or with a stepparent. An *adoption entity* ~~intermediary~~ may place or attempt to place a special needs child for adoption with a family whose primary residence and place of employment is in another state only if the *adoption entity* ~~intermediary~~ has a declaratory statement from the court establishing the fees to be paid. This requirement does not apply if the *special needs* child is placed with a relative within the third degree or with a stepparent.

(c) Except *an adoption entity* ~~the Department of Children and Family Services, an agency, or an intermediary~~, to place or attempt to place within the state a *minor* ~~child~~ for adoption unless the *minor* ~~child~~ is placed with a relative within the third degree or with a stepparent. This prohibition, however, does not apply to a person who is placing or attempting to place a *minor* ~~child~~ for the purpose of adoption with the *adoption entity* ~~Department of Children and Family Services or an agency or through an intermediary~~.

(d) To sell or surrender, or to arrange for the sale or surrender of, a *minor* ~~child~~ to another person for money or anything of value or to receive such minor child for such payment or thing of value. If a *minor* ~~child~~ is being adopted by a relative within the third degree or by a stepparent, or is being adopted through *an adoption entity, this paragraph does not prohibit* ~~the Department of Children and Family Services, an agency, or an intermediary, nothing herein shall be construed as prohibiting~~ the person who is contemplating adopting the child from paying, *under s. 63.097 and s. 63.132,* the actual prenatal care and living expenses of the mother of the child to be adopted, nor from paying, *under s. 63.097 and s. 63.132,* the actual living and medical expenses of such mother for a reasonable time, not to exceed 6 weeks, if medical needs require such support, after the birth of the *minor* ~~child~~.

(e) Having the rights and duties of a parent with respect to the care and custody of a minor to assign or transfer such parental rights for the purpose of, incidental to, or otherwise connected with, selling or offering to sell such rights and duties.

(f) To assist in the commission of any act prohibited in paragraph (a), paragraph (b), paragraph (c), paragraph (d), or paragraph (e).

(g) Except *an adoption entity* ~~the Department of Children and Family Services or an agency~~, to charge or accept any fee or compensation of any nature from anyone for making a referral in connection with an adoption.

(h) Except *an adoption entity* ~~the Department of Children and Family Services, an agency, or an intermediary~~, to advertise or offer to the public, in any way, by any medium whatever that a *minor* ~~child~~ is available for adoption or that a *minor* ~~child~~ is sought for adoption; and further, it is unlawful for any person to publish or broadcast any such advertisement without including a Florida license number of the agency *or*, attorney~~, or physician~~ placing the advertisement.

(i) To contract for the purchase, sale, or transfer of custody or parental rights in connection with any child, ~~or~~ in connection with any fetus yet unborn, or in connection with any fetus identified in any way but not yet conceived, in return for any valuable consideration. Any such contract is void and unenforceable as against the public policy of this state. However, fees, costs, and other incidental payments made in accordance with statutory provisions for adoption, foster care, and child welfare are permitted, and a person may agree to pay expenses in connection with a preplanned adoption agreement as specified below, but the payment of such expenses may not be conditioned upon the transfer of parental rights. Each petition for adoption which is filed in connection with a preplanned adoption agreement must clearly identify the adoption as a preplanned adoption arrangement and must include a copy of the preplanned adoption agreement for review by the court.

1. Individuals may enter into a preplanned adoption arrangement as specified herein, but such arrangement shall not in any way:

a. Effect final transfer of custody of a child or final adoption of a child, without review and approval of the department and the court, and without compliance with other applicable provisions of law.

b. Constitute consent of a mother to place her child for adoption until 7 days following birth, and unless the court making the custody determination or approving the adoption determines that the mother was aware of her right to rescind within the 7-day period following birth but chose not to rescind such consent.

2. A preplanned adoption arrangement shall be based upon a preplanned adoption agreement *that must* ~~which shall~~ include, but need not be limited to, the following terms:

a. That the volunteer mother agrees to become pregnant by the fertility technique specified in the agreement, to bear the child, and to terminate any parental rights and responsibilities to the child she might have through a written consent executed at the same time as the preplanned adoption agreement, subject to a right of rescission by the volunteer mother any time within 7 days after the birth of the child.

b. That the volunteer mother agrees to submit to reasonable medical evaluation and treatment and to adhere to reasonable medical instructions about her prenatal health.

c. That the volunteer mother acknowledges that she is aware that she will assume parental rights and responsibilities for the child born to her as otherwise provided by law for a mother, if the intended father and intended mother terminate the agreement before final transfer of custody is completed, or if a court determines that a parent clearly specified by the preplanned adoption agreement to be the biological parent is not the biological parent, or if the preplanned adoption is not approved by the court pursuant to the Florida Adoption Act.

d. That an intended father who is also the biological father acknowledges that he is aware that he will assume parental rights and responsibilities for the child as otherwise provided by law for a father,

if the agreement is terminated for any reason by any party before final transfer of custody is completed or if the planned adoption is not approved by the court pursuant to the Florida Adoption Act.

e. That the intended father and intended mother acknowledge that they may not receive custody or the parental rights under the agreement if the volunteer mother terminates the agreement or if the volunteer mother rescinds her consent to place her child for adoption within 7 days after birth.

f. That the intended father and intended mother may agree to pay all reasonable legal, medical, psychological, or psychiatric expenses of the volunteer mother related to the preplanned adoption arrangement, and may agree to pay the reasonable living expenses of the volunteer mother. No other compensation, whether in cash or in kind, shall be made pursuant to a preplanned adoption arrangement.

g. That the intended father and intended mother agree to accept custody of and to assert full parental rights and responsibilities for the child immediately upon the child's birth, regardless of any impairment to the child.

h. That the intended father and intended mother shall have the right to specify the blood and tissue typing tests to be performed if the agreement specifies that at least one of them is intended to be the biological parent of the child.

i. That the agreement may be terminated at any time by any of the parties.

3. A preplanned adoption agreement shall not contain any provision:

a. To reduce any amount paid to the volunteer mother if the child is stillborn or is born alive but impaired, or to provide for the payment of a supplement or bonus for any reason.

b. Requiring the termination of the volunteer mother's pregnancy.

4. An attorney who represents an intended father and intended mother or any other attorney with whom that attorney is associated shall not represent simultaneously a female who is or proposes to be a volunteer mother in any matter relating to a preplanned adoption agreement or preplanned adoption arrangement.

5. Payment to agents, finders, and intermediaries, including attorneys and physicians, as a finder's fee for finding volunteer mothers or matching a volunteer mother and intended father and intended mother is prohibited. Doctors, psychologists, attorneys, and other professionals may receive reasonable compensation for their professional services, such as providing medical services and procedures, legal advice in structuring and negotiating a preplanned adoption agreement, or counseling.

6. As used in this paragraph, the term:

a. "Blood and tissue typing tests" include, but are not limited to, tests of red cell antigens, red cell isoenzymes, human leukocyte antigens, and serum proteins.

b. "Child" means the child or children conceived by means of an insemination that is part of a preplanned adoption arrangement.

c. "Fertility technique" means artificial embryonation, artificial insemination, whether in vivo or in vitro, egg donation, or embryo adoption.

d. "Intended father" means a male who, as evidenced by a preplanned adoption agreement, intends to have the parental rights and responsibilities for a child conceived through a fertility technique, regardless of whether the child is biologically related to the male.

e. "Intended mother" means a female who, as evidenced by a preplanned adoption agreement, intends to have the parental rights and responsibilities for a child conceived through a fertility technique, regardless of whether the child is biologically related to the female.

f. "Parties" means the intended father and intended mother, the volunteer mother and her husband, if she has a husband, who are all parties to the preplanned adoption agreement.

g. "Preplanned adoption agreement" means a written agreement among the parties that specifies the intent of the parties as to their rights and responsibilities in the preplanned adoption arrangement, consistent with the provisions of this act.

h. "Preplanned adoption arrangement" means the arrangement through which the parties enter into an agreement for the volunteer mother to bear the child, for payment by the intended father and intended mother of the expenses allowed by this act, for the intended father and intended mother to assert full parental rights and responsibilities to the child if consent to adoption is not rescinded after birth by the volunteer mother, and for the volunteer mother to terminate, subject to a right of rescission, in favor of the intended father and intended mother all her parental rights and responsibilities to the child.

i. "Volunteer mother" means a female person at least 18 years of age who voluntarily agrees, subject to a right of rescission, that if she should become pregnant pursuant to a preplanned adoption arrangement, she will terminate in favor of the intended father and intended mother her parental rights and responsibilities to the child.

(2) *This section does not* ~~Nothing herein shall be construed to~~ prohibit a licensed child-placing agency from charging fees reasonably commensurate to the services provided.

(3) It is unlawful for any *adoption entity* ~~intermediary~~ to fail to report to the court, prior to placement, the intended placement of a *minor* ~~child~~ for purposes of adoption with any person not a stepparent or a relative within the third degree, if the *adoption entity* ~~intermediary~~ participates in such intended placement.

(4) It is unlawful for any *adoption entity* ~~intermediary~~ to charge any fee over $1,000 and those costs as set out in paragraph (1)(d) over $2,500, other than for actual documented medical costs, court costs, and hospital costs unless such fee is approved by the court prior to the assessment of the fee by the *adoption entity* ~~intermediary~~ and upon a showing of justification for the larger fee.

(5) It is unlawful for any *adoption entity* ~~intermediary~~ to counsel a birth mother to leave the state for the purpose of giving birth to a child outside the state in order to secure a fee in excess of that permitted under s. 63.097 when it is the intention that the child be placed for adoption outside the state.

(6) It is unlawful for any *adoption entity* ~~intermediary~~ to obtain a preliminary home study or final home investigation and fail to disclose the existence of the study to the court.

(7) A person who violates any provision of this section, excluding paragraph (1)(h), is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A person who violates paragraph (1)(h) is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.083; and each day of continuing violation shall be considered a separate offense.

Section 119. *Section 63.072, Florida Statutes, is repealed.*

Section 120. *Any petition for adoption filed before October 1, 1998, shall be governed by the law in effect at the time the petition was filed.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 297, line 30, through page 298, line 24, delete those lines and insert: process; renumbering and amending s. 39.461, F.S., relating to petition for termination of parental rights, and filing and elements thereof; removing provisions authorizing licensed child-placing agencies to file actions to terminate parental rights; creating s. 39.803, F.S.; providing procedures when the identity or location of the parent is unknown after filing a petition for termination of parental rights; renumbering s. 39.4627, F.S., relating to penalties for false statements of paternity; renumbering and amending s. 39.463, F.S., relating to petitions and pleadings for which no answer is required; deleting references to licensed child-placing agencies; renumbering and

amending s. 39.464, F.S., relating to grounds for termination of paternal rights; renumbering and amending s. 39.465, F.S., relating to right to counsel and appointment of a guardian ad litem; renumbering and amending s. 39.466, F.S., relating to advisory hearings; renumbering and amending s. 39.467, F.S., relating to adjudicatory hearings; renumbering and amending s. 39.4612, F.S., relating to the manifest best interests of the child; renumbering and amending s. 39.469, F.S., relating to powers of disposition and order of disposition; renumbering and amending s. 39.47, F.S., relating to postdisposition relief; providing additional requirements for a petition for adoption; prohibiting filing such petition until the order terminating parental rights is final; amending s. 63.022, F.S.; revising legislative intent with respect to adoptions in this state; amending s. 63.032, F.S.; revising definitions; defining the term "adoption entity"; creating s. 63.037, F.S.; exempting adoption proceedings that result from a termination of parental rights under ch. 39, F.S., from certain provisions of ch. 63, F.S.; creating s. 63.038, F.S.; providing criminal penalties for committing certain fraudulent acts; creating s. 63.039, F.S.; providing sanctions and an award of attorney's fees under certain circumstances; amending s. 63.052, F.S.; providing for placement of a minor pending adoption; specifying the jurisdiction of the court over a minor who has been placed for adoption; amending s. 63.062, F.S.; specifying additional persons who must consent to an adoption, execute an affidavit of nonpaternity, or receive notice of proceedings to terminate parental rights; permitting an affidavit of nonpaternity under certain circumstances; amending s. 63.082, F.S.; revising requirements for executing a consent to an adoption; providing a time period for withdrawing consent; providing additional disclosure requirements; amending s. 63.085, F.S.; specifying information that must be disclosed to persons seeking to adopt a minor and to the birth parents; creating s. 63.087, F.S.; requiring that a separate proceeding be conducted by the court to determine whether a birth parent's parental rights should be terminated; providing for rules, jurisdiction, and venue for such proceedings; providing requirements for the petition and hearing; creating s. 63.088, F.S.; providing requirements for identifying and locating a person who is required to consent to an adoption or receive notice of proceedings to terminate parental rights; providing requirements for the notice; providing requirements for conducting a diligent search for such person whose location is unknown; requiring that an unlocated or unidentified person be served notice by constructive service; providing that failure to respond or appear constitutes grounds to terminate parental rights pending adoption; creating s. 63.089, F.S.; providing procedures for the proceeding to terminate parental rights pending adoption; specifying the matters to be determined; specifying grounds upon which parental rights may be terminated; providing for procedures following a judgment; providing for records to be made part of the subsequent adoption; amending s. 63.092, F.S.; providing requirements to be met if a prospective placement in an adoptive home is an at-risk placement; defining at-risk placement; amending s. 63.097, F.S.; revising requirements for the court in approving specified fees and costs; amending s. 63.102, F.S.; revising requirements for filing a petition for adoption; providing requirements for prior approval of fees and costs; amending s. 63.112, F.S.; revising requirements for the information that must be included in a petition for adoption; amending s. 63.122, F.S.; revising the time requirements for hearing a petition for adoption; amending s. 63.125, F.S., relating to the final home investigation; conforming provisions to changes made by the act; amending s. 63.132, F.S.; revising requirements for the report of expenditures and receipts which is filed with the court; amending s. 63.142, F.S.; specifying circumstances under which a judgment terminating parental rights pending adoption is voidable; providing for an evidentiary hearing to determine the minor's placement following a motion to void such a judgment; amending s. 63.152, F.S.; requiring that the clerk of the court mail a copy of a new birth record to the state registry of adoption information; amending s. 63.165, F.S.; requiring that a copy of the certified statement of final decree of adoption be included in the state registry of adoption information; requiring that the Department of Children and Family Services maintain such information for a specified period; amending s. 63.182, F.S.; requiring that an action to vacate an order of adoption or an order terminating parental rights pending adoption be filed within a specified period after entry of the order; amending s. 63.207, F.S.; revising provisions that limit the placement of a minor in another state for adoption; amending s. 63.212, F.S., relating to prohibitions and penalties with respect to adoptions; conforming provisions to changes made by the act; repealing s. 63.072, F.S., relating to persons who may waive required consent to an adoption; requiring that a petition for adoption be governed by the law in effect at the time the petition is filed; creating s. 39.813,

Senate Amendment 1F—On page 82, delete line 25 and insert:

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

(11) ~~(10)~~ Any person making a report who is acting in good

Senate Amendment 1G—On page 9, delete line 31 and insert: *marriage license. Exceptions must be granted to non-Florida residents seeking a marriage license from the state and for individuals asserting hardship. Marriage license fee waivers shall continue to be available to all eligible individuals. For state residents, a county court judge issuing a marriage*

Rep. Bloom moved to concur in unengrossed Senate Amendment 1.

On motion by Rep. Bloom, further consideration of **HB 1019** was temporarily postponed under Rule 147.

Motion to Reconsider

Rep. King moved that the House reconsider the vote by which **CS for SB 152** failed to pass on April 29, which was agreed to.

Further consideration of **CS for SB 152** was temporarily postponed under Rule 147.

Recessed

On motion by Rep. Thrasher, the House stood in informal recess at 11:41 a.m., to reconvene at 1:30 p.m.

Reconvened

The House was called to order by the Speaker at 1:30 p.m. A quorum was present.

Messages from the Senate

HB 1019—A bill to be entitled An act relating to marriage; creating ss. 741.0305, 741.0306, and 741.0307, F.S., the "Marriage Preparation and Preservation Act of 1998"; providing legislative findings and purpose; requiring the creation of a handbook pertaining to the rights and responsibilities under Florida law of marital partners; amending s. 741.0306, F.S., to provide criteria to be contained in the handbook; amending s. 741.04, F.S.; providing that verification that both parties contemplating marriage have obtained and read the information contained in the handbook created pursuant to s. 741.0307, F.S., is a condition precedent to issuance of a marriage license; amending s. 741.05, F.S., to conform; amending s. 61.21, F.S.; revising provisions relating to the authorized parenting course offered to educate, train, and assist divorcing parents in regard to the consequences of divorce on parents and children; designating such course as the parent education and family stabilization course; providing legislative findings and purpose; authorizing the court in any action between parents in which the custody or support of a minor child is an issue to order parties to attend the family education and stabilization course if the court finds attendance to be in the best interests of the child or children; providing

procedures and guidelines for required attendance; requiring parties to file proof of compliance with the court; authorizing a course fee; authorizing each judicial circuit to establish a registry of course providers and sites; authorizing the court to grant exemption from required course attendance; providing parent education and family stabilization course curriculum; providing qualifications and duties of course providers; amending s. 232.246, F.S.; including marriage and relationship education within the life management skills credit required for graduation from high school; amending s. 28.101, F.S.; providing an additional charge for petition for a dissolution of marriage; providing for deposit of such funds in the Family Courts Trust Fund; amending s. 25.388, F.S.; providing an additional source of funding for the Family Courts Trust Fund; providing an effective date.

—was taken up.

The question recurred on the motion by Rep. Bloom to concur in unengrossed Senate Amendment 1.

Representative(s) Bloom and Lynn offered the following:

House Amendment 1 to unengrossed Senate Amendment 1 (with title amendment)—On page 1, line 17, through page 290, line 14,
remove from the amendment: all of said lines

and insert in lieu thereof:

Section 1. *Sections 1-16 of this act may be cited as the "Marriage Preparation and Preservation Act of 1998."*

Section 2. (1) *It is the finding of the Legislature based on reliable research that:*

(1) The divorce rate has been accelerating.

(2) Just as the family is the foundation of society, the marital relationship is the foundation of the family. Consequently, strengthening marriages can only lead to stronger families, children, and communities, as well as a stronger economy.

(3) An inability to cope with stress from both internal and external sources leads to significantly higher incidents of domestic violence, child abuse, absenteeism, medical costs, learning and social deficiencies, and divorce.

(4) Relationship skills can be learned.

(5) Once learned, relationship skills can facilitate communication between parties to a marriage and assist couples in avoiding conflict.

(6) Once relationship skills are learned, they are generalized to parenting, the workplace, schools, neighborhoods, and civic relationships.

(7) By reducing conflict and increasing communication, stressors can be diminished and coping can be furthered.

(8) When effective coping exists, domestic violence, child abuse, and divorce and its effect on children, such as absenteeism, medical costs, and learning and social deficiencies, are diminished.

(9) The state has a compelling interest in educating its citizens with regard to marriage and, if contemplated, the effects of divorce.

(2) This section shall take effect January 1, 1999.

Section 3. Effective January 1, 1999, paragraph (i) of subsection (1) of section 232.246, Florida Statutes, is amended to read:

232.246 General requirements for high school graduation.—

(1) Graduation requires successful completion of either a minimum of 24 academic credits in grades 9 through 12 or an International Baccalaureate curriculum. The 24 credits shall be distributed as follows:

(i) One-half credit in life management skills to include consumer education, positive emotional development, *marriage and relationship skill-based education,* nutrition, prevention of human immunodeficiency virus infection and acquired immune deficiency syndrome and other sexually transmissible diseases, benefits of sexual abstinence and consequences of teenage pregnancy, information and instruction on breast cancer detection and breast self-examination, cardiopulmonary resuscitation, drug education, and the hazards of smoking. Such credit shall be given for a course to be taken by all students in either the 9th or 10th grade.

School boards may award a maximum of one-half credit in social studies and one-half elective credit for student completion of nonpaid voluntary community or school service work. Students choosing this option must complete a minimum of 75 hours of service in order to earn the one-half credit in either category of instruction. Credit may not be earned for service provided as a result of court action. School boards that approve the award of credit for student volunteer service shall develop guidelines regarding the award of the credit, and school principals are responsible for approving specific volunteer activities. A course designated in the Course Code Directory as grade 9 through grade 12 which is taken below the 9th grade may be used to satisfy high school graduation requirements or Florida Academic Scholar's Certificate Program requirements as specified in a district's pupil progression plan.

Section 4. Effective January 1, 1999, subsection (5) is added to section 741.01, Florida Statutes, to read:

741.01 County court judge or clerk of the circuit court to issue marriage license; fee.—

(5) The fee charged for each marriage license issued in the state shall be reduced by a sum of $32.50 for all couples who present valid certificates of completion of a premarital preparation course from a qualified course provider registered under s. 741.0305(5) for a course taken no more than 1 year prior to the date of application for a marriage license. For each license issued that is subject to the fee reduction of this subsection, the clerk is not required to transfer the sum of $7.50 to the State Treasury for deposit in the Displaced Homemaker Trust Fund pursuant to subsection (3) or to transfer the sum of $25 to the Supreme Court for deposit in the Family Courts Trust Fund.

Section 5. Effective January 1, 1999, section 741.0305, Florida Statutes, is created to read:

741.0305 Marriage fee reduction for completion of premarital preparation course.—

(1) A man and a woman who intend to apply for a marriage license under s. 741.04 may, together or separately, complete a premarital preparation course of not less than 4 hours. Each individual shall verify completion of the course by filing with the application a valid certificate of completion from the course provider, which certificate shall specify whether the course was completed by personal instruction, videotape instruction, instruction via other electronic medium, or a combination of those methods. All individuals who complete a premarital preparation course pursuant to this section must be issued a certificate of completion at the conclusion of the course by their course provider. Upon furnishing such certificate when applying for a marriage license, the individuals shall have their marriage license fee reduced by $32.50.

(2) The premarital preparation course may include instruction regarding:

(a) Conflict management.

(b) Communication skills.

(c) Financial responsibilities.

(d) Children and parenting responsibilities.

(e) Data compiled from available information relating to problems reported by married couples who seek marital or individual counseling.

(3)(a) All individuals electing to participate in a premarital preparation course shall choose from the following list of qualified instructors:

1. A psychologist licensed under chapter 490.

2. A clinical social worker licensed under chapter 491.

3. A marriage and family therapist licensed under chapter 491.

4. A mental health counselor licensed under chapter 491.

5. An official representative of a religious institution which is recognized under s. 496.404(20), if the representative has relevant training.

6. Any other provider designated by a judicial circuit, including, but not limited to, school counselors who are certified to offer such courses. Each judicial circuit may establish a roster of area course providers, including those who offer the course on a sliding fee scale or for free.

(b) The costs of such premarital preparation course shall be paid by the applicant.

(4) Each premarital preparation course provider shall furnish each participant who completes the course with a certificate of completion specifying the name of the participant and the date of completion and whether the course was conducted by personal instruction, videotape instruction, or instruction via other electronic medium, or by a combination of these methods.

(5) All area course providers shall register with the clerk of the circuit court by filing an affidavit in writing attesting to the provider's compliance with the premarital preparation course requirements as set forth in this section and including the course instructor's name and qualifications, including the license number, if any, or, if an official representative of a religious institution, a statement as to relevant training. The affidavit shall also include the addresses where the provider may be contacted.

Section 6. (1) *(1) Premarital preparation courses offered and completed by individuals across the state shall be reviewed by researchers from the Florida State University Center for Marriage and Family in order to determine the efficacy of such premarital preparation courses.*

(2) Premarital preparation pilot programs may be created by the Florida State University Center for Marriage and Family, which will be administered by course providers or by qualified instructors as provided in s. 741.0305(3), Florida Statutes. These pilot programs shall offer a premarital preparation course based on statistical information and data obtained by researchers from the Florida State University Center for Marriage and Family.

(3) The Florida State University Center for Marriage and Family shall develop a questionnaire and create a curriculum based on data collected by its researchers. Any curriculum developed by The Florida State University Center for Marriage and Family researchers shall be the sole property of the center.

(2) This section shall take effect January 1, 1999.

Section 7. Effective January 1, 1999, section 741.0306, Florida Statutes, is created to read:

741.0306 Creation of a family law handbook.—

(1) Based upon their willingness to undertake this project, there shall be created by the Family Law Section of The Florida Bar a handbook explaining those sections of Florida law pertaining to the rights and responsibilities under Florida law of marital partners to each other and to their children, both during a marriage and upon dissolution. The material in the handbook or other suitable electronic media shall be reviewed for accuracy by the Family Court Steering Committee of the Florida Supreme Court prior to publication and distribution.

(2) Such handbooks shall be available from the clerk of the circuit court upon application for a marriage license. The clerks may also make the information in the handbook available on videotape or other electronic media and are encouraged to provide a list of course providers and sites at which marriage and relationship skill-building classes are available.

(3) The information contained in the handbook or other electronic media presentation may be reviewed and updated annually, and may include, but need not be limited to:

(a) Prenuptial agreements; as a contract and as an opportunity to structure financial arrangements and other aspects of the marital relationship.

(b) Shared parental responsibility for children; the determination of primary residence or custody and secondary residence or routine visitation, holiday, summer, and vacation visitation arrangements, telephone access, and the process for notice for changes.

(c) Permanent relocation restrictions on parents with primary residential responsibility.

(d) Child support for minor children; both parents are obligated for support in accordance with applicable child support guidelines.

(e) Property rights, including equitable distribution, special equity, premarital property, and nonmarital property.

(f) Alimony, including temporary, permanent rehabilitative, and lump sum.

(g) Domestic violence and child abuse and neglect, including penalties and other ramifications of false reporting.

(h) Court process for dissolution with or without legal assistance, including who may attend, the recording of proceedings, how to access those records, and the cost of such access.

(i) Parent education course requirements for divorcing parents with children.

(j) Community resources that are available for separating or divorcing persons and their children.

(k) Women's rights specified in the Battered Women's Bill of Rights.

(4) The material contained in such a handbook may also be provided through videotape or other suitable electronic media. The information contained in the handbook or other electronic media presentation shall be reviewed and updated annually.

Section 8. Effective January 1, 1999, section 741.04, Florida Statutes, is amended to read:

741.04 Marriage license issued.—

(1) No county court judge or clerk of the circuit court in this state shall issue a license for the marriage of any person unless there shall be first presented and filed with him or her an affidavit in writing, signed by both parties to the marriage, providing the social security numbers of each party, made and subscribed before some person authorized by law to administer an oath, reciting the true and correct ages of such parties; unless both such parties shall be over the age of 18 years, except as provided in s. 741.0405; and unless one party is a male and the other party is a female. Pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, each party is required to provide his or her social security number in accordance with this section. Disclosure of social security numbers obtained through this requirement shall be limited to the purpose of administration of the Title IV-D program for child support enforcement.

(2) No county court judge or clerk of the circuit court in this state shall issue a license for the marriage of any person unless there shall be first presented and filed with him or her:

(a) A statement in writing, signed by both parties, which specifies whether the parties, separately or together, have completed a premarital preparation course.

(b) A statement that verifies that both parties have obtained and read or otherwise accessed the information contained in the handbook or other electronic media presentation of the rights and responsibilities of parties to a marriage specified in s. 741.0306.

(3) If a couple has not submitted to the clerk valid certificates of completion of a premarital preparation course, the effective date of the marriage license shall be delayed 3 days from the date of application. The effective date shall be printed on the marriage license in bold print. If a couple has submitted valid certificates of completion of a premarital preparation course, the effective date of the marriage license shall not be delayed. Exceptions to the delayed effective date must be granted to non-Florida residents seeking a marriage license from the state and for individuals asserting hardship. Marriage license fee waivers shall continue to be available to all eligible individuals. For state residents, a county court judge issuing a marriage license may waive the delayed effective date for good cause.

Section 9. (1) *When applying for a marriage license, an applicant may complete and file with the clerk of the circuit court an unsigned anonymous informational questionnaire which shall be provided by the clerk. The clerk shall, for purposes of anonymity, keep all such questionnaires in a separate file for later distribution by the clerk to researchers from The Florida State University Center for Marriage and Family. These questionnaires must be made available to researchers from the center at their request. Researchers from the center shall develop the questionnaire and distribute them to the clerk of the circuit court in each county.*

(2) This section shall take effect January 1, 1999.

Section 10. Effective January 1, 1999, section 741.05, Florida Statutes, is amended to read:

741.05 Penalty for violation of ss. 741.03, 741.04*(1)*.—Any county court judge, clerk of the circuit court, or other person who shall violate any provision of ss. 741.03 and 741.04*(1)* shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 11. Effective January 1, 1999, section 61.043, Florida Statutes, is amended to read:

61.043 Commencement of a proceeding for dissolution of marriage or for alimony and child support.—

(1) A proceeding for dissolution of marriage or a proceeding under s. 61.09 shall be commenced by filing in the circuit court a petition entitled "In re the marriage of . . . . , husband, and . . . . , wife." A copy of the petition together with a copy of a summons shall be served upon the other party to the marriage in the same manner as service of papers in civil actions generally.

(2) Upon filing for dissolution of marriage, the petitioner must complete and file with the clerk of the circuit court an unsigned anonymous informational questionnaire. For purposes of anonymity, completed questionnaires must be kept in a separate file for later distribution by the clerk to researchers from The Florida State University Center for Marriage and Family. These questionnaires must be made available to researchers from The Florida State University Center for Marriage and Family at their request. The actual questionnaire shall be formulated by researchers from Florida State University who shall distribute them to the clerk of the circuit court in each county.

Section 12. Effective January 1, 1999, subsection (2) of section 61.052, Florida Statutes, is amended to read:

61.052 Dissolution of marriage.—

(2) Based on the evidence at the hearing, which evidence need not be corroborated except to establish that the residence requirements of s. 61.021 are met which may be corroborated by a valid Florida driver's license, a Florida voter's registration card, *a valid Florida identification card issued under ss. 322.051,* or the testimony or affidavit of a third party, the court shall dispose of the petition for dissolution of marriage when the petition is based on the allegation that the marriage is irretrievably broken as follows:

(a) If there is no minor child of the marriage and if the responding party does not, by answer to the petition for dissolution, deny that the marriage is irretrievably broken, the court shall enter a judgment of dissolution of the marriage if the court finds that the marriage is irretrievably broken.

(b) When there is a minor child of the marriage, or when the responding party denies by answer to the petition for dissolution that the marriage is irretrievably broken, the court may:

1. Order either or both parties to consult with a marriage counselor, psychologist, psychiatrist, minister, priest, rabbi, or any other person deemed qualified by the court and acceptable to the party or parties ordered to seek consultation; or

2. Continue the proceedings for a reasonable length of time not to exceed 3 months, to enable the parties themselves to effect a reconciliation; or

3. Take such other action as may be in the best interest of the parties and the minor child of the marriage.

If, at any time, the court finds that the marriage is irretrievably broken, the court shall enter a judgment of dissolution of the marriage. If the court finds that the marriage is not irretrievably broken, it shall deny the petition for dissolution of marriage.

Section 13. Effective January 1, 1999, section 61.21, Florida Statutes, is amended to read:

61.21 Parenting course authorized; fees; required attendance authorized; contempt.—

(1) LEGISLATIVE FINDINGS; PURPOSE.—It is the finding of the Legislature that:

(a) A large number of children experience the separation or divorce of their parents each year. Parental conflict related to divorce is a societal concern because children suffer potential short-term and long-term detrimental economic, emotional, and educational effects during this difficult period of family transition. This is particularly true when parents engage in lengthy legal conflict.

(b) Parents are more likely to consider the best interests of their children when determining parental arrangements if courts provide families with information regarding the process by which courts make decisions on issues affecting their children and suggestions as to how parents may ease the coming adjustments in family structure for their children.

(c) It has been found to be beneficial to parents who are separating or divorcing to have available an educational program that will provide general information regarding:

1. The issues and legal procedures for resolving custody and child support disputes.

2. The emotional experiences and problems of divorcing adults.

3. The family problems and the emotional concerns and needs of the children.

4. The availability of community services and resources.

(d) Parents who are separating or divorcing are more likely to receive maximum benefit from a program if they attend such program at the earliest stages of their dispute, before extensive litigation occurs and adversarial positions are assumed or intensified.

(2)~~(1)~~ All judicial circuits in the state *shall* ~~may~~ approve a parenting course which shall be a course of a minimum of 4 hours designed to educate, train, and assist divorcing parents in regard to the consequences of divorce on parents and children.

(a) The parenting course referred to in this section shall be named the Parent Education and Family Stabilization Course and may include, but need not be limited to, the following topics as they relate to court actions between parents involving custody, care, visitation, and support of a child or children:

1. Legal aspects of deciding child-related issues between parents.

2. Emotional aspects of separation and divorce on adults.

3. Emotional aspects of separation and divorce on children.

4. Family relationships and family dynamics.

5. Financial responsibilities to a child or children.

6. Issues regarding spousal or child abuse and neglect.

7. Skill-based relationship education that may be generalized to parenting, workplace, school, neighborhood, and civic relationships.

(b) Information regarding spousal and child abuse and neglect shall be included in every parent education and family stabilization course. A list of local agencies that provide assistance with such issues shall also be provided.

(c) The parent education and family stabilization course shall be educational in nature and shall not be designed to provide individual mental health therapy for parents or children, or individual legal advice to parents or children.

(d) Course providers shall not solicit participants from the sessions they conduct to become private clients or patients.

(e) Course providers shall not give individual legal advice or mental health therapy.

(3)~~(2)~~ All parties to a dissolution of marriage proceeding with minor children *or a paternity action which involves issues of parental responsibility shall* ~~or a modification of a final judgment action involving shared parental responsibilities, custody, or visitation may~~ be required to complete *the Parent Education and Family Stabilization* ~~a court-approved parenting~~ Course prior to the entry by the court of a final judgment ~~or order modifying the final judgment~~. *The court may excuse a party from attending the parenting course for good cause.*

(4)~~(3)~~ All parties required to complete a parenting course *under this section shall begin the course as expeditiously as possible after filing for dissolution of marriage and* shall file proof of compliance with the court prior to the entry of the final judgment ~~or order modifying the final judgment~~.

(5) All parties to a modification of a final judgment involving shared parental responsibilities, custody, or visitation may be required to complete a court-approved parenting course prior to the entry of an order modifying the final judgment.

(6) Each judicial circuit may establish a registry of course providers and sites at which the parent education and family stabilization course required by this section may be completed. The court shall also include within the registry of course providers and sites at least one site in each circuit at which the parent education and family stabilization course may be completed on a sliding fee scale, if available.

(7)~~(4)~~ A reasonable fee may be charged to each parent attending the course.

(8)~~(5)~~ Information obtained or statements made by the parties at any educational session required under this statute shall not be considered in the adjudication of a pending or subsequent action, nor shall any report resulting from such educational session become part of the record of the case unless the parties have stipulated in writing to the contrary.

(9)~~(6)~~ The court may hold any parent who fails to attend a required parenting course in contempt or that parent may be denied shared parental responsibility or visitation or otherwise sanctioned as the court deems appropriate.

(10)~~(7)~~ Nothing in this section shall be construed to require the parties to a dissolution of marriage to attend a court-approved parenting course together.

(11) The court may, without motion of either party, prohibit the parenting course from being taken together, if there is a history of domestic violence between the parties.

Section 14. Effective January 1, 1999, paragraph (d) is added to subsection (1) of section 28.101, Florida Statutes, to read:

28.101 Petitions and records of dissolution of marriage; additional charges.—

(1) When a party petitions for a dissolution of marriage, in addition to the filing charges in s. 28.241, the clerk shall collect and receive:

(d) A charge of $32.50. On a monthly basis the clerk shall transfer the moneys collected pursuant to this paragraph as follows:

1. An amount of $7.50 to the State Treasury for deposit in the Displaced Homemaker Trust Fund.

2. An amount of $25 to the Supreme Court for deposit in the Family Courts Trust Fund.

Section 15. Effective January 1, 1999, section 25.388, Florida Statutes, is amended to read:

25.388 Family Courts Trust Fund.—

(1)(a) The trust fund moneys in the Family Courts Trust Fund, administered by the Supreme Court, shall be used to implement family court plans in all judicial circuits of this state.

(b) The Supreme Court, through the Office of the State Courts Administrator, shall adopt a comprehensive plan for the operation of the trust fund and the expenditure of any moneys deposited into the trust fund. The plan shall provide for a comprehensive integrated response to families in litigation, including domestic violence matters, guardian ad litem programs, mediation programs, legal support, training, automation, and other related costs incurred to benefit the citizens of the state and the courts in relation to family law cases. *The trust fund shall be used to fund the publication of the handbook created pursuant to s. 741.0306.*

(2) As part of its comprehensive plan, the Supreme Court shall evaluate the necessity for an installment plan or a waiver for any or all of the fees based on financial necessity and report such findings to the Legislature.

(3) The trust fund shall be funded with moneys generated from fees assessed pursuant to *ss. 28.101 and* ~~s.~~ 741.01(4).

Section 16. *Effective January 1, 1999, there is hereby appropriated in fiscal year 1998-1999 the sum of $75,000 from the General Revenue Fund to the Florida State University Center for Marriage and Family for review of premarital preparation courses, development of premarital preparation pilot programs, and development of a questionnaire and creation of a curriculum based on data collected by its researchers.*

Section 17. Part I of chapter 39, Florida Statutes, consisting of sections 39.001, 39.01, 39.011, 39.012, 39.0121, 39.013, 39.0131, 39.0132, 39.0133, 39.0134, and 39.0135, Florida Statutes, shall be entitled to read:

PART I
GENERAL PROVISIONS

Section 18. Section 39.001, Florida Statutes, is amended, subsection (3) of said section is renumbered as subsection (9), section 39.002, Florida Statutes, is renumbered as subsections (3), (4), and (5) of said section and amended, and section 415.501, Florida Statutes, is renumbered as subsections (6), (7), and (8) of said section and amended, to read:

39.001 Purposes and intent; personnel standards and screening.—

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

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

(b) To recognize that most families desire to be competent caregivers and providers for their children and that children achieve their greatest

potential when families are able to support and nurture the growth and development of their children. Therefore, the Legislature finds that policies and procedures that provide for intervention through the department's child protection system should be based on the following principles:

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

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

3. The intervention should intrude as little as possible into the life of the family, be focused on clearly defined objectives, and take the most parsimonious path to remedy a family's problems.

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

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

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

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

~~(c) To ensure the protection of society, by providing for a comprehensive standardized assessment of the child's needs so that the most appropriate control, discipline, punishment, and treatment can be administered consistent with the seriousness of the act committed, the community's long-term need for public safety, the prior record of the child and the specific rehabilitation needs of the child, while also providing whenever possible restitution to the victim of the offense.~~

(f)~~(d)~~ To preserve and strengthen the child's family ties whenever possible, removing the child from parental custody only when his or her welfare ~~or the safety and protection of the public~~ cannot be adequately safeguarded without such removal.~~; and, when the child is removed from his or her own family, to secure for the child custody, care, and discipline as nearly as possible equivalent to that which should have been given by the parents; and to assure, in all cases in which a child must be permanently removed from parental custody, that the child be placed in an approved family home, adoptive home, independent living program, or other placement that provides the most stable and permanent living arrangement for the child, as determined by the court.~~

(g) To ensure that the parent or guardian from whose custody the child has been taken assists the department to the fullest extent possible in locating relatives suitable to serve as caregivers for the child.

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

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

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

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

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

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

~~(e)1. To assure that the adjudication and disposition of a child alleged or found to have committed a violation of Florida law be exercised with appropriate discretion and in keeping with the seriousness of the offense and the need for treatment services, and that all findings made under this chapter be based upon facts presented at a hearing that meets the constitutional standards of fundamental fairness and due process.~~

~~2. To assure that the sentencing and placement of a child tried as an adult be appropriate and in keeping with the seriousness of the offense and the child's need for rehabilitative services, and that the proceedings and procedures applicable to such sentencing and placement be applied within the full framework of constitutional standards of fundamental fairness and due process.~~

~~(f) To provide children committed to the Department of Juvenile Justice with training in life skills, including career education.~~

(2) *DEPARTMENT CONTRACTS.*—The department ~~of Juvenile Justice or the Department of Children and Family Services, as appropriate,~~ may contract with the Federal Government, other state departments and agencies, county and municipal governments and agencies, public and private agencies, and private individuals and corporations in carrying out the purposes of, and the responsibilities established in, this chapter.

(a) When the department ~~of Juvenile Justice or the Department of Children and Family Services~~ contracts with a provider for any program for children, all personnel, including owners, operators, employees, and volunteers, in the facility must be of good moral character. A volunteer who assists on an intermittent basis for less than 40 hours per month need not be screened if the volunteer is under direct and constant supervision by persons who meet the screening requirements.

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

(c) The department ~~of Juvenile Justice or the Department of Children and Family Services~~ may grant exemptions from disqualification from working with children as provided in s. 435.07.

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

(e) The department shall develop and implement a written and performance-based testing and evaluation program pursuant to s. 20.19(4), to ensure measurable competencies of all employees assigned to manage or supervise cases of child abuse, abandonment, and neglect.

~~39.002 Legislative intent.—~~

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

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

(b) A permanent and stable home.

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

(d) Adequate nutrition, shelter, and clothing.

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

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

(g) Access to preventive services.

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

(4)~~(2)~~ SUBSTANCE ABUSE SERVICES.—The Legislature finds that children in the care of the state's dependency *system* ~~and delinquency systems~~ need appropriate health care services, that the impact of substance abuse on health indicates the need for health care services to include substance abuse services *to children and parents* where appropriate, and that it is in the state's best interest that such children be provided the services they need to enable them to become and remain independent of state care. In order to provide these services, the state's dependency *system* ~~and delinquency systems~~ must have the ability to identify and provide appropriate intervention and treatment for children with personal or family-related substance abuse problems. It is therefore the purpose of the Legislature to provide authority for the state to contract with community substance abuse treatment providers for the development and operation of specialized support and overlay services for the dependency *system* ~~and delinquency systems~~, which will be fully implemented and utilized as resources permit.

(5)~~(3)~~ PARENTAL, CUSTODIAL, AND GUARDIAN RESPONSIBILITIES.—Parents, custodians, and guardians are deemed by the state to be responsible for providing their children with sufficient support, guidance, and supervision ~~to deter their participation in delinquent acts~~. The state further recognizes that the ability of parents, custodians, and guardians to fulfill those responsibilities can be greatly impaired by economic, social, behavioral, emotional, and related problems. It is therefore the policy of the Legislature that it is the state's responsibility to ensure that factors impeding the ability of *caregivers* ~~caretakers~~ to fulfill their responsibilities are identified through the *dependency* ~~delinquency intake~~ process and that appropriate recommendations *and services* to address those problems are considered in any judicial or nonjudicial proceeding.

~~415.501 Prevention of abuse and neglect of children; state plan.—~~

(6)~~(1)~~ LEGISLATIVE INTENT *FOR THE PREVENTION OF ABUSE, ABANDONMENT, AND NEGLECT OF CHILDREN*.—The incidence of known child abuse, *abandonment,* and ~~child~~ neglect has increased rapidly over the past 5 years. The impact that abuse, *abandonment,* or neglect has on the victimized child, siblings, family structure, and inevitably on all citizens of the state has caused the Legislature to determine that the prevention of child abuse, *abandonment,* and neglect shall be a priority of this state. To further this end, it is the intent of the Legislature that a comprehensive approach for the prevention of abuse, *abandonment,* and neglect of children be developed for the state and that this planned, comprehensive approach be used as a basis for funding.

(7)~~(2)~~ PLAN FOR COMPREHENSIVE APPROACH.—

(a) The department ~~of Children and Family Services~~ shall develop a state plan for the prevention of abuse, *abandonment,* and neglect of children and shall submit the plan to the Speaker of the House of Representatives, the President of the Senate, and the Governor no later than January 1, 1983. The Department of Education and the Division of Children's Medical Services of the Department of Health shall participate and fully cooperate in the development of the state plan at both the state and local levels. Furthermore, appropriate local agencies and organizations shall be provided an opportunity to participate in the development of the state plan at the local level. Appropriate local groups and organizations shall include, but not be limited to, community mental health centers; guardian ad litem programs for children under the circuit court; the school boards of the local school districts; the district human rights advocacy committees; private or public organizations or programs with recognized expertise in working with children who are sexually abused, physically abused, emotionally abused, *abandoned,* or neglected and with expertise in working with the families of such children; private or public programs or organizations with expertise in maternal and infant health care; multidisciplinary child protection teams; child day care centers; law enforcement agencies, and the circuit courts, when guardian ad litem programs are not available in the local area. The state plan to be provided to the Legislature and the Governor shall include, as a minimum, the information required of the various groups in paragraph (b).

(b) The development of the comprehensive state plan shall be accomplished in the following manner:

1. The department ~~of Children and Family Services~~ shall establish an interprogram task force comprised of the Assistant Secretary for Children and Family Services, or a designee, a representative from the Children and Families Program Office, a representative from the Alcohol, Drug Abuse, and Mental Health Program Office, a representative from the Developmental Services Program Office, a representative from the Office of Standards and Evaluation, and a representative from the Division of Children's Medical Services of the Department of Health. Representatives of the Department of Law Enforcement and of the Department of Education shall serve as ex officio members of the interprogram task force. The interprogram task force shall be responsible for:

a. Developing a plan of action for better coordination and integration of the goals, activities, and funding pertaining to the prevention of child abuse, *abandonment,* and neglect conducted by the department in order to maximize staff and resources at the state level. The plan of action shall be included in the state plan.

b. Providing a basic format to be utilized by the districts in the preparation of local plans of action in order to provide for uniformity in the district plans and to provide for greater ease in compiling information for the state plan.

c. Providing the districts with technical assistance in the development of local plans of action, if requested.

d. Examining the local plans to determine if all the requirements of the local plans have been met and, if they have not, informing the districts of the deficiencies and requesting the additional information needed.

e. Preparing the state plan for submission to the Legislature and the Governor. Such preparation shall include the collapsing of information obtained from the local plans, the cooperative plans with the Department of Education, and the plan of action for coordination and integration of departmental activities into one comprehensive plan. The comprehensive plan shall include a section reflecting general conditions and needs, an analysis of variations based on population or geographic areas, identified problems, and recommendations for change. In essence, the plan shall provide an analysis and summary of each element of the local plans to provide a statewide perspective. The plan shall also include each separate local plan of action.

f. Working with the specified state agency in fulfilling the requirements of subparagraphs 2., 3., 4., and 5.

2. The *department, the* Department of Education, ~~the Department of Children and Family Services,~~ and the Department of Health shall work together in developing ways to inform and instruct parents of school children and appropriate district school personnel in all school districts in the detection of child abuse, *abandonment,* and neglect and in the proper action that should be taken in a suspected case of child abuse, *abandonment,* or neglect, and in caring for a child's needs after a report is made. The plan for accomplishing this end shall be included in the state plan.

3. The *department, the* Department of Law Enforcement, ~~the Department of Children and Family Services,~~ and the Department of Health shall work together in developing ways to inform and instruct appropriate local law enforcement personnel in the detection of child abuse, *abandonment,* and neglect and in the proper action that should be taken in a suspected case of child abuse, *abandonment,* or neglect.

4. Within existing appropriations, the department ~~of Children and Family Services~~ shall work with other appropriate public and private agencies to emphasize efforts to educate the general public about the problem of and ways to detect child abuse, *abandonment,* and neglect and in the proper action that should be taken in a suspected case of child abuse, *abandonment,* or neglect. The plan for accomplishing this end shall be included in the state plan.

5. The *department, the* Department of Education, ~~the Department of Children and Family Services,~~ and the Department of Health shall work together on the enhancement or adaptation of curriculum materials to assist instructional personnel in providing instruction through a multidisciplinary approach on the identification, intervention, and prevention of child abuse, *abandonment,* and neglect. The curriculum materials shall be geared toward a sequential program of instruction at the four progressional levels, K-3, 4-6, 7-9, and 10-12. Strategies for encouraging all school districts to utilize the curriculum are to be included in the comprehensive state plan for the prevention of child abuse, *abandonment,* and ~~child~~ neglect.

6. Each district of the department ~~of Children and Family Services~~ shall develop a plan for its specific geographical area. The plan developed at the district level shall be submitted to the interprogram task force for utilization in preparing the state plan. The district local plan of action shall be prepared with the involvement and assistance of the local agencies and organizations listed in paragraph (a), as well as representatives from those departmental district offices participating in the treatment and prevention of child abuse, *abandonment,* and neglect. In order to accomplish this, the district administrator in each district shall establish a task force on the prevention of child abuse, *abandonment,* and neglect. The district administrator shall appoint the members of the task force in accordance with the membership requirements of this section. In addition, the district administrator shall ensure that each subdistrict is represented on the task force; and, if the district does not have subdistricts, the district administrator shall ensure that both urban and rural areas are represented on the task force. The task force shall develop a written statement clearly identifying its operating procedures, purpose, overall responsibilities, and method of meeting responsibilities. The district plan of action to be prepared by the task force shall include, but shall not be limited to:

a. Documentation of the magnitude of the problems of child abuse, including sexual abuse, physical abuse, and emotional abuse, and child *abandonment and* neglect in its geographical area.

b. A description of programs currently serving abused, *abandoned,* and neglected children and their families and a description of programs for the prevention of child abuse, *abandonment,* and neglect, including information on the impact, cost-effectiveness, and sources of funding of such programs.

c. A continuum of programs and services necessary for a comprehensive approach to the prevention of all types of child abuse, *abandonment,* and neglect as well as a brief description of such programs and services.

d. A description, documentation, and priority ranking of local needs related to child abuse, *abandonment,* and neglect prevention based upon the continuum of programs and services.

e. A plan for steps to be taken in meeting identified needs, including the coordination and integration of services to avoid unnecessary duplication and cost, and for alternative funding strategies for meeting needs through the reallocation of existing resources, utilization of volunteers, contracting with local universities for services, and local government or private agency funding.

f. A description of barriers to the accomplishment of a comprehensive approach to the prevention of child abuse, *abandonment,* and neglect.

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

(8)~~(3)~~ FUNDING AND SUBSEQUENT PLANS.—

(a) All budget requests submitted by the department ~~of Children and Family Services~~, the Department of Education, or any other agency to the Legislature for funding of efforts for the prevention of child abuse, *abandonment,* and neglect shall be based on the state plan developed pursuant to this section.

(b) The department ~~of Children and Family Services~~ at the state and district levels and the other agencies listed in paragraph *(7)*~~(2)~~(a) shall readdress the plan and make necessary revisions every 5 years, at a minimum. Such revisions shall be submitted to the Speaker of the House of Representatives and the President of the Senate no later than June 30 of each year divisible by 5. An annual progress report shall be submitted to update the plan in the years between the 5-year intervals. In order to avoid duplication of effort, these required plans may be made a part of or merged with other plans required by either the state or Federal Government, so long as the portions of the other state or Federal Government plan that constitute the state plan for the prevention of child abuse, *abandonment,* and neglect are clearly identified as such and are provided to the Speaker of the House of Representatives and the President of the Senate as required above.

(9)~~(3)~~ *LIBERAL CONSTRUCTION.*—It is the intent of the Legislature that this chapter be liberally interpreted and construed in conformity with its declared purposes.

Section 19. Section 415.5015, Florida Statutes, is renumbered as section 39.0015, Florida Statutes, and amended to read:

39.0015 ~~415.5015~~ Child abuse prevention training in the district school system.—

(1) SHORT TITLE.—This section may be cited as the "Child Abuse Prevention Training Act of 1985."

(2) LEGISLATIVE INTENT.—It is the intent of the Legislature that primary prevention training for all children in kindergarten through grade 12 be encouraged in the district school system through the training of school teachers, guidance counselors, parents, and children.

(3) DEFINITIONS.—As used in this section:

(a) "Department" means the Department of Education.

(b) "Child abuse" means those acts as defined in ss. 39.01~~, 415.503,~~ and 827.04.

(c) "Primary prevention and training program" means a training and educational program for children, parents, and teachers which is directed toward preventing the occurrence of child abuse, including sexual abuse, physical abuse, *child abandonment,* child neglect, and drug and alcohol abuse, and toward reducing the vulnerability of children through training of children and through including coordination with, and training for, parents and school personnel.

(d) "Prevention training center" means a center as described in subsection (5).

(4) PRIMARY PREVENTION AND TRAINING PROGRAM.—A primary prevention and training program shall include all of the following, as appropriate for the persons being trained:

(a) Information provided in a clear and nonthreatening manner, describing the problem of sexual abuse, physical abuse, *abandonment,* neglect, and alcohol and drug abuse, and the possible solutions.

(b) Information and training designed to counteract common stereotypes about victims and offenders.

(c) Crisis counseling techniques.

(d) Available community resources and ways to access those resources.

(e) Physical and behavioral indicators of abuse.

(f) Rights and responsibilities regarding reporting.

(g) School district procedures to facilitate reporting.

(h) Caring for a child's needs after a report is made.

(i) How to disclose incidents of abuse.

(j) Child safety training and age-appropriate self-defense techniques.

(k) The right of every child to live free of abuse.

(l) The relationship of child abuse to handicaps in young children.

(m) Parenting, including communication skills.

(n) Normal and abnormal child development.

(o) Information on recognizing and alleviating family stress caused by the demands required in caring for a high-risk or handicapped child.

(p) Supports needed by school-age parents in caring for a young child.

(5) PREVENTION TRAINING CENTERS; FUNCTIONS; SELECTION PROCESS; MONITORING AND EVALUATION.—

(a) Each training center shall perform the following functions:

1. Act as a clearinghouse to provide information on prevention curricula which meet the requirements of this section and the requirements of ss. *39.001,* 231.17, *and* 236.0811~~, and 415.501~~.

2. Assist the local school district in selecting a prevention program model which meets the needs of the local community.

3. At the request of the local school district, design and administer training sessions to develop or expand local primary prevention and training programs.

4. Provide assistance to local school districts, including, but not limited to, all of the following: administration, management, program development, multicultural staffing, and community education, in order to better meet the requirements of this section and of ss. *39.001,* 231.17, *and* 236.0811~~, and 415.501~~.

5. At the request of the department ~~of Education~~ or the local school district, provide ongoing program development and training to achieve all of the following:

a. Meet the special needs of children, including, but not limited to, the needs of disabled and high-risk children.

b. Conduct an outreach program to inform the surrounding communities of the existence of primary prevention and training programs and of funds to conduct such programs.

6. Serve as a resource to the Department of Children and Family Services and its districts.

(b) The department, in consultation with the Department of *Children and Family* ~~Health and Rehabilitative~~ Services, shall select and award grants by January 1, 1986, for the establishment of three private, nonprofit prevention training centers: one located in and serving South Florida, one located in and serving Central Florida, and one located in and serving North Florida. The department, in consultation with the Department of *Children and Family* ~~Health and Rehabilitative~~ Services, shall select an agency or agencies to establish three training centers which can fulfill the requirements of this section and meet the following requirements:

1. Have demonstrated experience in child abuse prevention training.

2. Have shown capacity for training primary prevention and training programs as *provided for in subsections (3) and* ~~defined in subsection~~ (4).

3. Have provided training and organizing technical assistance to the greatest number of private prevention and training programs.

4. Have employed the greatest number of trainers with experience in private child abuse prevention and training programs.

5. Have employed trainers which represent the cultural diversity of the area.

6. Have established broad community support.

(c) The department shall monitor and evaluate primary prevention and training programs utilized in the local school districts and shall monitor and evaluate the impact of the prevention training centers on the implementation of primary prevention programs and their ability to meet the required responsibilities of a center as described in this section.

(6) The department ~~of Education~~ shall administer this *section* ~~act~~ and in so doing is authorized to adopt rules and standards necessary to implement the specific provisions of this *section* ~~act~~.

Section 20. Section 39.01, Florida Statutes, as amended by chapter 97-276, Laws of Florida, is amended to read:

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

(1) "Abandoned" means a situation in which the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the *caregiver* ~~person~~ responsible for the child's welfare, while being able, makes no provision for the child's support and makes no effort to communicate with the child, which situation is sufficient to evince a willful rejection of parental obligations. If the efforts of such parent or legal custodian, or *caregiver* ~~person~~ primarily responsible for the child's welfare, to support and communicate with the child are, in the opinion of the court, only marginal efforts that do not evince a settled purpose to assume all parental duties, the court may declare the child to be abandoned. The term "abandoned" does not include a "child in need of services" as defined in chapter 984 or a "family in need of services" as defined in chapter 984. The incarceration of a parent, legal custodian, or *caregiver* ~~person~~ responsible for a child's welfare *may support* ~~does not constitute a bar to~~ a finding of abandonment.

(2) "Abuse" means any willful act *or threatened act* that results in any physical, mental, or sexual injury *or harm* that causes or is likely to cause the child's physical, mental, or emotional health to be significantly impaired. *For the purpose of protective investigations, abuse of a child includes the acts or omissions of the parent, legal custodian, caregiver, or other person responsible for the child's welfare.* Corporal discipline of a child by a parent, *legal custodian,* or *caregiver* ~~guardian~~ for disciplinary purposes does not in itself constitute abuse when it does not result in harm to the child ~~as defined in s. 415.503~~.

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

(4) "Adjudicatory hearing" means a hearing for the court to determine whether or not the facts support the allegations stated in the petition ~~as is provided for under s. 39.408(2),~~ in dependency cases~~,~~ or ~~s. 39.467,~~ in termination of parental rights cases.

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

(6) "Adoption" means the act of creating the legal relationship between parent and child where it did not exist, thereby declaring the

child to be legally the child of the adoptive parents and their heir at law, and entitled to all the rights and privileges and subject to all the obligations of a child born to such adoptive parents in lawful wedlock.

(7) "Alleged juvenile sexual offender" means:

(a) A child 12 years of age or younger who is alleged to have committed a violation of chapter 794, chapter 796, chapter 800, s. 827.071, or s. 847.0133; or

(b) A child who is alleged to have committed any violation of law or delinquent act involving juvenile sexual abuse. "Juvenile sexual abuse" means any sexual behavior which occurs without consent, without equality, or as a result of coercion. For purposes of this paragraph, the following definitions apply:

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

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

3. "Consent" means an agreement, including all of the following:

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

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

c. Awareness of potential consequences and alternatives.

d. Assumption that agreement or disagreement will be accepted equally.

e. Voluntary decision.

f. Mental competence.

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

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

(9)~~(7)~~ "Authorized agent" or "designee" of the department means *an employee, volunteer, or other person or agency determined by the state to be eligible for state-funded risk management coverage, that is* ~~a person or agency~~ assigned or designated by the department ~~of Juvenile Justice or the Department of Children and Family Services, as appropriate,~~ to perform duties or exercise powers pursuant to this chapter ~~and includes contract providers and their employees for purposes of providing services to and managing cases of children in need of services and families in need of services~~.

(10) "Caregiver" means the parent, legal custodian, adult household member, or other person responsible for a child's welfare as defined in subsection (47).

~~(8) "Caretaker/homemaker" means an authorized agent of the Department of Children and Family Services who shall remain in the child's home with the child until a parent, legal guardian, or relative of the child enters the home and is capable of assuming and agrees to assume charge of the child.~~

(11)~~(9)~~ "Case plan" or "plan" means a document, as described in s. *39.601* ~~39.4031~~, prepared by the department *with input from all parties, including parents, guardians ad litem, legal custodians, caregivers, and the child. The case plan*~~, that~~ follows the child from the provision of voluntary services through any dependency, foster care, or termination of parental rights proceeding or related activity or process.

(12)~~(10)~~ "Child" or ~~"juvenile" or~~ "youth" means any unmarried person under the age of 18 *years* who has not been emancipated by order of the court and who has been *alleged or* found ~~or alleged~~ to be dependent~~, in need of services, or from a family in need of services; or any married or unmarried person who is charged with a violation of law occurring prior to the time that person reached the age of 18 years~~.

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

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

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

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

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

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

(e) To have no parent, legal custodian, or *caregiver* ~~responsible adult relative~~ to provide supervision and care*; or*~~.~~

(f) To be at substantial risk of imminent abuse, *abandonment,* or neglect by the parent or parents, *legal custodians, or caregivers* ~~or the custodian~~.

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

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

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

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

(19)~~(16)~~ "Department~~;~~" ~~as used in this chapter,~~ means the Department of Children and Family Services.

(20)~~(17)~~ "Diligent efforts by a parent, *legal custodian, or caregiver*" means a course of conduct which results in a reduction in risk to the child in the child's home that would allow the child to be safely placed permanently back in the home as set forth in the case plan.

(21)~~(18)~~ "Diligent efforts of social service agency" means reasonable efforts to provide social services or reunification services made by any social service agency ~~as defined in this section~~ that is a party to a case plan.

(22)~~(19)~~ "Diligent search" means the efforts of a social service agency to locate a parent or prospective parent whose identity or location is

unknown, ~~or a relative made known to the social services agency by the parent or custodian of a child. When the search is for a parent, prospective parent, or relative of a child in the custody of the department, this search must be~~ initiated as soon as the *social service* agency is made aware of the existence of such parent, *with the search progress reported at each court hearing until the parent is either identified and located or the court excuses further search.* ~~prospective parent, or relative. A diligent search shall include interviews with persons who are likely to have information about the identity or location of the person being sought, comprehensive database searches, and records searches, including searches of employment, residence, utilities, Armed Forces, vehicle registration, child support enforcement, law enforcement, and corrections records, and any other records likely to result in identifying and locating the person being sought. The initial diligent search must be completed within 90 days after a child is taken into custody. After the completion of the initial diligent search, the department, unless excused by the court, shall have a continuing duty to search for relatives with whom it may be appropriate to place the child, until such relatives are found or until the child is placed for adoption.~~

(23)~~(20)~~ "Disposition hearing" means a hearing in which the court determines the most appropriate *family support* ~~dispositional~~ services in the least restrictive available setting ~~provided for under s. 39.408(3),~~ in dependency cases~~,~~ or ~~s. 39.469,~~ in termination of parental rights cases.

(24) "District" means any one of the 15 service districts of the department established pursuant to s. 20.19.

(25)~~(21)~~ "District administrator" means the chief operating officer of each service district of the department ~~of Children and Family Services~~ as defined in s. 20.19*(7)*~~(6)~~ and, where appropriate, includes *any* ~~each~~ district administrator whose service district falls within the boundaries of a judicial circuit.

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

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

(a) Harassing, embarrassing, or harming another person;

(b) Personal financial gain for the reporting person;

(c) Acquiring custody of a child; or

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

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

(28)~~(22)~~ "Family" means a collective body of persons, consisting of a child and a parent, *legal* ~~guardian, adult~~ custodian, *caregiver,* or adult relative, in which:

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

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

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

(30) "Harm" to a child's health or welfare can occur when the parent, legal custodian, or caregiver responsible for the child's welfare:

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

1. Willful acts that produce the following specific injuries:

a. Sprains, dislocations, or cartilage damage.

b. Bone or skull fractures.

c. Brain or spinal cord damage.

d. Intracranial hemorrhage or injury to other internal organs.

e. Asphyxiation, suffocation, or drowning.

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

g. Burns or scalding.

h. Cuts, lacerations, punctures, or bites.

i. Permanent or temporary disfigurement.

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

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

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

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

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

a. Sprains, dislocations, or cartilage damage.

b. Bone or skull fractures.

c. Brain or spinal cord damage.

d. Intracranial hemorrhage or injury to other internal organs.

e. Asphyxiation, suffocation, or drowning.

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

g. Burns or scalding.

h. Cuts, lacerations, punctures, or bites.

i. Permanent or temporary disfigurement.

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

k. Significant bruises or welts.

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

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

1. Solicit for or engage in prostitution; or

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

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

(e) Abandons the child. Within the context of the definition of "harm," the term "abandons the child" means that the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the person responsible for the child's welfare, while being able, makes no provision for the child's support and makes no effort to communicate with the child, which situation is sufficient to evince a willful rejection of parental obligation. If the efforts of such a parent or legal custodian or person primarily responsible for the child's welfare to support and communicate with the child are only marginal efforts that do not evince a settled purpose to assume all parental duties, the child may be determined to have been abandoned.

(f) Neglects the child. Within the context of the definition of "harm," the term "neglects the child" means that the parent or other person responsible for the child's welfare fails to supply the child with adequate food, clothing, shelter, or health care, although financially able to do so or although offered financial or other means to do so. However, a parent, legal custodian, or caregiver who, by reason of the legitimate practice of religious beliefs, does not provide specified medical treatment for a child may not be considered abusive or neglectful for that reason alone, but such an exception does not:

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

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

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

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

1. Use by the mother of a controlled substance or alcohol during pregnancy when the child, at birth, is demonstrably adversely affected by such usage; or

2. Continued chronic and severe use of a controlled substance or alcohol by a parent when the child is demonstrably adversely affected by such usage.

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

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

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

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

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

(31)~~(24)~~ "Health and human services board" means the body created in each service district of the department ~~of Children and Family Services~~ pursuant to the provisions of s. 20.19*(8)*~~(7)~~.

(32) "Institutional child abuse or neglect" means situations of known or suspected child abuse or neglect in which the person allegedly perpetrating the child abuse or neglect is an employee of a private school, public or private day care center, residential home, institution, facility, or agency or any other person at such institution responsible for the child's care.

(33)~~(25)~~ "Judge" means the circuit judge exercising jurisdiction pursuant to this chapter.

(34)~~(26)~~ "Legal custody" means a legal status created by court order or letter of guardianship which vests in a custodian of the person or guardian, whether an agency or an individual, the right to have physical custody of the child and the right and duty to protect, train, and discipline the child and to provide him or her with food, shelter, education, and ordinary medical, dental, psychiatric, and psychological care. *The legal custodian is the person or entity in whom the legal right to custody is vested.*

(35) "Legal guardianship" means a judicially created relationship between the child and caregiver which is intended to be permanent and self-sustaining and is provided pursuant to the procedures in chapter 744.

(36)~~(27)~~ "Licensed child-caring agency" means a person, society, association, or agency licensed by the department ~~of Children and Family Services~~ to care for, receive, and board children.

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

(38)~~(29)~~ "Licensed health care professional" means a physician licensed under chapter 458, an osteopathic physician licensed under chapter 459, a nurse licensed under chapter 464, a physician assistant certified under chapter 458 *or chapter 459*, or a dentist licensed under chapter 466.

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

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

(41)~~(32)~~ "Long-term relative custodian" means an adult *relative* who is a party to a long-term custodial relationship created by a court order pursuant to *this chapter* ~~s. 39.41(2)(a)5~~.

(42)~~(33)~~ "Long-term relative custody" or "long-term custodial relationship" means the relationship that a juvenile court order creates between a child and an adult relative of the child or *other caregiver* ~~an adult nonrelative~~ approved by the court when the child cannot be placed in the custody of a natural parent and termination of parental rights is not deemed to be in the best interest of the child. Long-term relative custody confers upon the long-term relative or *other caregiver* ~~nonrelative custodian~~ the right to physical custody of the child, a right which will not be disturbed by the court except upon request of the *caregiver* ~~custodian~~ or upon a showing that a material change in circumstances necessitates a change of custody for the best interest of the child. A long-term relative or *other caregiver* ~~nonrelative custodian~~ shall have all of the rights *and duties* of a natural parent, including, but not limited to, the right and duty to protect, train, and discipline the child and to provide the child with food, shelter, and education, and ordinary medical, dental, psychiatric, and psychological care, unless these rights and duties are otherwise enlarged or limited by the court order establishing the long-term custodial relationship.

(43)~~(34)~~ "Mediation" means a process whereby a neutral third person called a mediator acts to encourage and facilitate the resolution of a dispute between two or more parties. It is an informal and nonadversarial process with the objective of helping the disputing parties reach a mutually acceptable and voluntary agreement. ~~In mediation, decisionmaking authority rests with the parties.~~ The role of the mediator includes, but is not limited to, assisting the parties in

identifying issues, fostering joint problem solving, and exploring settlement alternatives.

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

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

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

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

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

For the purpose of protective investigations, neglect of a child includes the acts or omissions of the parent, legal custodian, or caregiver.

(47) "Other person responsible for a child's welfare" includes the child's legal guardian, legal custodian, or foster parent; an employee of a private school, public or private child day care center, residential home, institution, facility, or agency; or any other person legally responsible for the child's welfare in a residential setting; and also includes an adult sitter or relative entrusted with a child's care. For the purpose of departmental investigative jurisdiction, this definition does not include law enforcement officers, or employees of municipal or county detention facilities or the Department of Corrections, while acting in an official capacity.

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

(49)~~(38)~~ "Parent" means a woman who gives birth to a child and a man whose consent to the adoption of the child would be required under s. 63.062(1)(b). If a child has been legally adopted, the term "parent" means the adoptive mother or father of the child. The term does not include an individual whose parental relationship to the child has been legally terminated, or an alleged or prospective parent, unless the parental status falls within the terms of ~~either s. 39.4051(7) or~~ s. 63.062(1)(b).

(50)~~(39)~~ "Participant," for purposes of a shelter proceeding, dependency proceeding, or termination of parental rights proceeding, means any person who is not a party but who should receive notice of hearings involving the child, including foster parents *or caregivers,* identified prospective parents, grandparents entitled to priority for adoption consideration under s. 63.0425, actual custodians of the child, and any other person whose participation may be in the best interest of the child. Participants may be granted leave by the court to be heard without the necessity of filing a motion to intervene.

(51)~~(40)~~ "Party," ~~for purposes of a shelter proceeding, dependency proceeding, or termination of parental rights proceeding,~~ means the parent *or legal custodian* of the child, the petitioner, the department, the guardian ad litem *or the representative of the guardian ad litem program* when *the program* ~~one~~ has been appointed, and the child. The presence of the child may be excused by order of the court when presence would not be in the child's best interest. Notice to the child may be excused by order of the court when the age, capacity, or other condition of the child is such that the notice would be meaningless or detrimental to the child.

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

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

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

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

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

(57)~~(44)~~ "Protective investigation" means the acceptance of a report alleging child abuse, *abandonment,* or neglect, as defined in *this chapter* ~~s. 415.503~~, by the central abuse hotline or the acceptance of a report of other dependency by the *department* ~~local children, youth, and families office of the Department of Children and Family Services~~; the investigation ~~and classification~~ of each report; the determination of whether action by the court is warranted; the determination of the disposition of each report without court or public agency action when appropriate; *and* the referral of a child to another public or private agency when appropriate~~; and the recommendation by the protective investigator of court action when appropriate~~.

(58)~~(45)~~ "Protective investigator" means an authorized agent of the department ~~of Children and Family Services~~ who receives *and*~~,~~ investigates~~, and classifies~~ reports of child abuse, *abandonment,* or neglect ~~as defined in s. 415.503~~; who, as a result of the investigation, may recommend that a dependency petition be filed for the child ~~under the criteria of paragraph (11)(a)~~; and who performs other duties necessary to carry out the required actions of the protective investigation function.

(59)~~(46)~~ "Protective supervision" means a legal status in dependency cases~~, child-in-need-of-services cases, or family-in-need-of-services cases~~ which permits the child to remain *safely* in his or her own home or other placement under the supervision of an agent of the *department and which must be reviewed by* ~~Department of Juvenile Justice or the Department of Children and Family Services, subject to being returned to~~ the court during the period of supervision.

~~(47) "Protective supervision case plan" means a document that is prepared by the protective supervision counselor of the Department of Children and Family Services, is based upon the voluntary protective supervision of a case pursuant to s. 39.403(2)(b), or a disposition order entered pursuant to s. 39.41(2)(a)3., and that:~~

~~(a) Is developed in conference with the parent, guardian, or custodian of the child and, if appropriate, the child and any court-appointed guardian ad litem.~~

~~(b) Is written simply and clearly in the principal language, to the extent possible, of the parent, guardian, or custodian of the child and in English.~~

~~(c) Is subject to modification based on changing circumstances and negotiations among the parties to the plan and includes, at a minimum:~~

~~1. All services and activities ordered by the court.~~

~~2. Goals and specific activities to be achieved by all parties to the plan.~~

~~3. Anticipated dates for achieving each goal and activity.~~

~~4. Signatures of all parties to the plan.~~

~~(d) Is submitted to the court in cases where a dispositional order has been entered pursuant to s. 39.41(2)(a)3.~~

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

(61)~~(49)~~ "Reunification services" means social services and other supportive and rehabilitative services provided to the parent of the child, the legal *custodian* ~~guardian~~ of the child, or the *caregiver* ~~custodian~~ of the child, whichever is applicable, *to* the child, and where appropriate *to* the foster parents of the child, for the purpose of enabling a child who has been placed in *out-of-home* ~~foster~~ care to *safely* return to his or her family at the earliest possible time. *The health and safety of the child shall be the paramount goal of* social services and other supportive and rehabilitative services. *Such services* shall promote the child's need for *physical, mental, and emotional health and* a safe, ~~continuous,~~ stable, living environment, ~~and~~ shall promote family autonomy, and *shall* strengthen family life, ~~as a first priority~~ whenever possible.

(62) "Secretary" means the Secretary of Children and Family Services.

(63) "Sexual abuse of a child" means one or more of the following acts:

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

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

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

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

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

2. Any act intended for a valid medical purpose.

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

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

(g) The sexual exploitation of a child, which includes allowing, encouraging, or forcing a child to:

1. Solicit for or engage in prostitution; or

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

(64)~~(50)~~ "Shelter" means a place for the temporary care of a child who is alleged to be or who has been found to be dependent, ~~a child from a family in need of services, or a child in need of services,~~ pending court disposition before or after adjudication. ~~or after execution of a court order. "Shelter" may include a facility which provides 24-hour continual supervision for the temporary care of a child who is placed pursuant to s. 984.14.~~

(65)~~(51)~~ "Shelter hearing" means a hearing *in which the court determines whether probable cause exists to keep a child in shelter status pending further investigation of the case* ~~provided for under s. 984.14 in family-in-need-of-services cases or child-in-need-of-services cases~~.

(66)~~(52)~~ "Social service agency" means the department ~~of Children and Family Services~~, a licensed child-caring agency, or a licensed child-placing agency.

~~(53) "Staff-secure shelter" means a facility in which a child is supervised 24 hours a day by staff members who are awake while on duty. The facility is for the temporary care and assessment of a child who has been found to be dependent, who has violated a court order and been found in contempt of court, or whom the Department of Children and Family Services is unable to properly assess or place for assistance within the continuum of services provided for dependent children.~~

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

(68)~~(55)~~ "Substantial compliance" means that the circumstances which caused the *creation of the case plan* ~~placement in foster care~~ have been significantly remedied to the extent that the well-being and safety of the child will not be endangered upon the child's *remaining with or* being returned to the child's parent, *legal custodian, or caregiver* ~~or guardian~~.

(69)~~(56)~~ "Taken into custody" means the status of a child immediately when temporary physical control over the child is attained by a person authorized by law, pending the child's release *or placement*~~, detention, placement, or other disposition as authorized by law~~.

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

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

Section 21. Section 39.455, Florida Statutes, is renumbered as section 39.011, Florida Statutes, and amended to read:

39.011 ~~39.455~~ Immunity from liability.—

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

(2) The inability or failure of the *department or of a* social service agency or the employees or agents of the social service agency to provide the services agreed to under the case plan ~~or permanent placement plan~~

shall not render the state or the social service agency liable for damages unless such failure to provide services occurs in a manner exhibiting wanton or willful disregard of human rights, safety, or property.

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

Section 22. Section 39.012, Florida Statutes, is amended to read:

39.012 Rules for implementation.—The department ~~of Children and Family Services~~ shall adopt rules for the efficient and effective management of all programs, services, facilities, and functions necessary for implementing this chapter. *Such rules may not conflict with the Florida Rules of Juvenile Procedure. All rules and policies must conform to accepted standards of care and treatment.*

Section 23. Section 39.0121, Florida Statutes, is created to read:

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

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

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

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

(4) Department and client trust funds.

(5) Child protection teams and services, and eligible cases.

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

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

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

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

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

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

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

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

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

Section 24. Section 39.40, Florida Statutes, is renumbered as section 39.013, Florida Statutes, and amended to read:

39.013 ~~39.40~~ Procedures and jurisdiction*; right to counsel*.—

(1) All procedures, including petitions, pleadings, subpoenas, summonses, and hearings, in *this chapter* ~~dependency cases~~ shall be according to the Florida Rules of Juvenile Procedure unless otherwise provided by law. Parents must be informed by the court of their right to counsel in dependency proceedings at each stage of the dependency proceedings. Parents who are unable to afford counsel ~~and who are threatened with criminal charges based on the facts underlying the dependency petition or a permanent loss of custody of their children~~ must be appointed counsel.

(2) The circuit court shall have exclusive original jurisdiction of all proceedings under ~~parts III, IV, V, and VI of~~ this chapter, of a child voluntarily placed with a licensed child-caring agency, a licensed child-placing agency, or the department, *and of the adoption of children whose parental rights have been terminated pursuant to this chapter*. Jurisdiction attaches when the initial shelter petition, dependency petition, or termination *of parental rights* petition is filed or when a child is taken into the custody of the department. The circuit court may assume jurisdiction over any such proceeding regardless of whether the child was in the physical custody of both parents, was in the sole legal or physical custody of only one parent, *caregiver*, or ~~of~~ some other person, or was in the physical or legal custody of no person when the event or condition occurred that brought the child to the attention of the court. When the *court obtains* jurisdiction of any child who has been found to be dependent ~~is obtained~~, the court shall retain jurisdiction, unless relinquished by its order, until the child reaches 18 years of age.

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

(4)~~(3)~~ The court shall expedite the resolution of the placement issue in cases involving a child *who* ~~under 4 years of age when the child~~ has been removed from the family and placed in a shelter.

(5)~~(4)~~ The court shall expedite the judicial handling of all cases when the child has been removed from the family and placed in a shelter~~, and of all cases involving a child under 4 years of age~~.

(6)~~(5) It is the intent of the Legislature that~~ Children removed from their homes *shall* be provided equal treatment with respect to goals, objectives, services, and case plans, without regard to the location of their placement.~~, and that placement shall be in a safe environment where drugs and alcohol are not abused. It is the further intent of the Legislature that, when children are removed from their homes, disruption to their education be minimized to the extent possible.~~

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

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

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

(c)1. No waiver of counsel may be accepted if it appears that the parent, legal custodian, or caregiver is unable to make an intelligent and understanding choice because of mental condition, age, education, experience, the nature or complexity of the case, or other factors.

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

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

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

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

(a) Periods of delay resulting from a continuance granted at the request or with the consent of the child's counsel or the child's guardian ad litem, if one has been appointed by the court, or, if the child is of sufficient capacity to express reasonable consent, at the request or with the consent of the child.

(b) Periods of delay resulting from a continuance granted at the request of the attorney for the department, if the continuance is granted:

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

2. To allow the attorney for the department additional time to prepare the case and additional time is justified because of an exceptional circumstance.

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

(d) Reasonable periods of delay resulting from a continuance granted at the request of the parent or legal custodian of a subject child.

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

Section 25. *Section 39.4057, Florida Statutes, is renumbered as section 39.0131, Florida Statutes.*

Section 26. Section 39.411, Florida Statutes, is renumbered as section 39.0132, Florida Statutes, and subsections (3) and (4) of said section are amended to read:

39.0132 ~~39.411~~ Oaths, records, and confidential information.—

(3) The clerk shall keep all court records required by this part separate from other records of the circuit court. All court records required by this part shall not be open to inspection by the public. All records shall be inspected only upon order of the court by persons deemed by the court to have a proper interest therein, except that, subject to the provisions of s. 63.162, a child and the parents, ~~or~~ legal custodians, *or caregivers* of the child and their attorneys, *guardian ad litem,* law enforcement agencies, and the department and its designees shall always have the right to inspect and copy any official record pertaining to the child. The court may permit authorized representatives of recognized organizations compiling statistics for proper purposes to inspect and make abstracts from official records, under whatever conditions upon their use and disposition the court may deem proper, and may punish by contempt proceedings any violation of those conditions.

(4) All information obtained pursuant to this part in the discharge of official duty by any judge, employee of the court, authorized agent of the department, correctional probation officer, or law enforcement agent shall be confidential and exempt from the provisions of s. 119.07(1) and shall not be disclosed to anyone other than the authorized personnel of the court, the department and its designees, correctional probation officers, law enforcement agents, *guardian ad litem,* and others entitled under this chapter to receive that information, except upon order of the court.

Section 27. *Section 39.414, Florida Statutes, is renumbered as section 39.0133, Florida Statutes.*

Section 28. Sections 39.415 and 39.474, Florida Statutes, are renumbered as section 39.0134, Florida Statutes, and amended to read:

39.0134 ~~39.415~~ Appointed counsel; compensation.—

(1) If counsel is entitled to receive compensation for representation pursuant to *a* court appointment in a dependency proceeding *pursuant to this chapter,* such compensation shall *be established by each county* ~~not exceed $1,000 at the trial level and $2,500 at the appellate level~~.

~~39.474 Appointed counsel; compensation.—~~

(2) If counsel is entitled to receive compensation for representation pursuant to court appointment in a termination of parental rights proceeding, such compensation shall not exceed $1,000 at the trial level and $2,500 at the appellate level.

Section 29. Section 39.418, Florida Statutes, is renumbered as section 39.0135, Florida Statutes, and amended to read:

39.0135 ~~39.418~~ Operations and Maintenance Trust Fund.— ~~Effective July 1, 1996,~~ The department ~~of Children and Family Services~~ shall deposit all child support payments made to the department pursuant to *this chapter* ~~s. 39.41(2)~~ into the Operations and Maintenance Trust Fund. The purpose of this funding is to care for children who are committed to the temporary legal custody of the department ~~pursuant to s. 39.41(2)(a)8~~.

Section 30. Part II of chapter 39, Florida Statutes, consisting of sections 39.201, 39.202, 39.203, 39.204, 39.205, and 39.206, Florida Statutes, shall be entitled to read:

PART II
REPORTING CHILD ABUSE

Section 31. Section 415.504, Florida Statutes, is renumbered as section 39.201, Florida Statutes, and amended to read:

39.201 ~~415.504~~ Mandatory reports of child abuse, *abandonment,* or neglect; mandatory reports of death; central abuse hotline.—

(1) Any person, including, but not limited to, any:

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

(b) Health or mental health professional other than one listed in paragraph (a);

(c) Practitioner who relies solely on spiritual means for healing;

(d) School teacher or other school official or personnel;

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

(f) Law enforcement officer,

who knows, or has reasonable cause to suspect, that a child is an abused, abandoned, or neglected child shall report such knowledge or suspicion to the department in the manner prescribed in subsection (2).

(2)(a) Each report of known or suspected child abuse, *abandonment,* or neglect pursuant to this section, except those solely under s. 827.04*(3)*~~(4)~~, shall be made immediately to the department's central

abuse hotline on the single statewide toll-free telephone number, and, if the report is of an instance of known or suspected child abuse by a noncaretaker, the call shall be immediately electronically transferred to the appropriate county sheriff's office by the central abuse hotline. If the report is of an instance of known or suspected child abuse involving impregnation of a child under 16 years of age by a person 21 years of age or older solely under s. 827.04*(3)*~~(4)~~, the report shall be made immediately to the appropriate county sheriff's office or other appropriate law enforcement agency. If the report is of an instance of known or suspected child abuse solely under s. 827.04*(3)*~~(4)~~, the reporting provisions of this subsection do not apply to health care professionals or other persons who provide medical or counseling services to pregnant children when such reporting would interfere with the provision of medical services.

(b) Reporters in occupation categories designated in subsection (1) are required to provide their names to the hotline staff. The names of reporters shall be entered into the record of the report, but shall be held confidential as provided in s. *39.202* ~~415.51~~.

(c) Reports involving known or suspected institutional child abuse or neglect shall be made and received in the same manner as all other reports made pursuant to this section.

(d) Reports involving a known or suspected juvenile sexual offender shall be made and received by the department.

1. The department shall determine the age of the alleged juvenile sexual offender if known.

2. When the alleged juvenile sexual offender is 12 years of age or younger, the department shall proceed with an investigation of the report pursuant to *this* part ~~III~~, immediately electronically transfer the call to the appropriate law enforcement agency office by the central abuse hotline, and send a written report of the allegation to the appropriate county sheriff's office within 48 hours after the initial report is made to the central abuse hotline.

3. When the alleged juvenile sexual offender is 13 years of age or older, the department shall immediately electronically transfer the call to the appropriate county sheriff's office by the central abuse hotline, and send a written report to the appropriate county sheriff's office within 48 hours after the initial report to the central abuse hotline.

(e) Hotline counselors shall receive periodic training in encouraging reporters to provide their names when reporting abuse*, abandonment, or neglect*. Callers shall be advised of the confidentiality provisions of s. *39.202* ~~415.51~~. The department shall secure and install electronic equipment that automatically provides to the hotline the number from which the call is placed. This number shall be entered into the report of abuse*, abandonment, or neglect* and become a part of the record of the report, but shall enjoy the same confidentiality as provided to the identity of the caller pursuant to s. *39.202* ~~415.51~~.

(3) Any person required to report or investigate cases of suspected child abuse*, abandonment,* or neglect who has reasonable cause to suspect that a child died as a result of child abuse*, abandonment,* or neglect shall report his or her suspicion to the appropriate medical examiner. The medical examiner shall accept the report for investigation ~~pursuant to s. 406.11~~ and shall report his or her findings, in writing, to the local law enforcement agency, the appropriate state attorney, and the department. Autopsy reports maintained by the medical examiner are not subject to the confidentiality requirements provided for in s. *39.202* ~~415.51~~.

(4)~~(a)~~ The department shall establish and maintain a central abuse hotline to receive all reports made pursuant to this section in writing or through a single statewide toll-free telephone number, which any person may use to report known or suspected child abuse, abandonment, or neglect at any hour of the day or night, any day of the week. The central abuse hotline shall be operated in such a manner as to enable the department to:

(a)~~1.~~ Immediately identify and locate prior reports or cases of child abuse*, abandonment,* or neglect through utilization of the department's automated tracking system.

(b)~~2.~~ Monitor and evaluate the effectiveness of the department's program for reporting and investigating suspected abuse*, abandonment,* or neglect of children through the development and analysis of statistical and other information.

(c)~~3.~~ Track critical steps in the investigative process to ensure compliance with all requirements for any report of abuse*, abandonment,* or neglect.

(d)~~4.~~ Maintain and produce aggregate statistical reports monitoring patterns of ~~both~~ child abuse*, child abandonment,* and child neglect. The department shall collect and analyze child-on-child sexual abuse reports and include the information in aggregate statistical reports.

(e)~~5.~~ Serve as a resource for the evaluation, management, and planning of preventive and remedial services for children who have been subject to abuse*, abandonment,* or neglect.

(f)~~6.~~ Initiate and enter into agreements with other states for the purpose of gathering and sharing information contained in reports on child maltreatment to further enhance programs for the protection of children.

~~(b) Upon receiving an oral or written report of known or suspected child abuse or neglect, the central abuse hotline shall determine if the report requires an immediate onsite protective investigation. For reports requiring an immediate onsite protective investigation, the central abuse hotline shall immediately notify the department's designated children and families district staff responsible for protective investigations to ensure that an onsite investigation is promptly initiated. For reports not requiring an immediate onsite protective investigation, the central abuse hotline shall notify the department's designated children and families district staff responsible for protective investigations in sufficient time to allow for an investigation, or if the district determines appropriate, a family services response system approach to be commenced within 24 hours. When a district decides to respond to a report of child abuse or neglect with a family services response system approach, the provisions of part III apply. If, in the course of assessing risk and services or at any other appropriate time, responsible district staff determines that the risk to the child requires a child protective investigation, then the department shall suspend its family services response system activities and shall proceed with an investigation as delineated in this part. At the time of notification of district staff with respect to the report, the central abuse hotline shall also provide information on any previous report concerning a subject of the present report or any pertinent information relative to the present report or any noted earlier reports.~~

~~(c) Upon commencing an investigation under this part, the child protective investigator shall inform any subject of the investigation of the following:~~

~~1. The names of the investigators and identifying credentials from the department.~~

~~2. The purpose of the investigation.~~

~~3. The right to obtain his or her own attorney and ways that the information provided by the subject may be used.~~

~~(d) The department shall make and keep records of all cases brought before it pursuant to this part and shall preserve the records pertaining to a child and family until 7 years after the last entry was made or until the child is 18 years of age. The department shall then destroy the records, except where the child has been placed under the protective supervision of the department, the court has made a finding of dependency, or a criminal conviction has resulted from the facts associated with the report and there is a likelihood that future services of the department may be required.~~

(5) The department shall be capable of receiving and investigating reports of known or suspected child abuse, abandonment, or neglect 24 hours a day, 7 days a week. If it appears that the immediate safety or well-being of a child is endangered, that the family may flee or the child will be unavailable for purposes of conducting a child protective

investigation, or that the facts otherwise so warrant, the department shall commence an investigation immediately, regardless of the time of day or night. In all other child abuse, abandonment, or neglect cases, a child protective investigation shall be commenced within 24 hours after receipt of the report. In an institutional investigation, the alleged perpetrator may be represented by an attorney, at his or her own expense, or accompanied by another person, if the person or the attorney executes an affidavit of understanding with the department and agrees to comply with the confidentiality provisions of s. 39.202. The absence of an attorney or other person does not prevent the department from proceeding with other aspects of the investigation, including interviews with other persons. In institutional child abuse cases when the institution is not operating and the child cannot otherwise be located, the investigation shall commence immediately upon the resumption of operation. If requested by a state attorney or local law enforcement agency, the department shall furnish all investigative reports to that agency.

(6)~~(c)~~ Information in the central abuse hotline may not be used for employment screening, *except as provided in s. 39.202(2)(a) and (h). Information in the central abuse hotline and the department's automated abuse information system may be used by the department, its authorized agents or contract providers, the Department of Health, or county agencies as part of the licensure or registration process pursuant to ss. 402.301-402.319 and ss. 409.175-409.176.* ~~Access to the information shall only be granted as set forth in s. 415.51.~~

(7)~~(5)~~ This section does not require a professional who is hired by or enters into a contract with the department for the purpose of treating or counseling any person, as a result of a report of child abuse, *abandonment,* or neglect, to again report to the central abuse hotline the abuse, *abandonment,* or neglect that was the subject of the referral for treatment.

Section 32. Section 415.51, Florida Statutes, is renumbered as section 39.202, Florida Statutes, and amended to read:

39.202 ~~415.51~~ Confidentiality of reports and records in cases of child abuse or neglect.—

(1)(a) In order to protect the rights of the child and the child's parents or other persons responsible for the child's welfare, all records *held by the department* concerning reports of child abuse or neglect, including reports made to the central abuse hotline and all records generated as a result of such reports, shall be confidential and exempt from the provisions of s. 119.07(1) and shall not be disclosed except as specifically authorized by *this chapter* ~~ss. 415.502-415.514~~. Such exemption from s. 119.07(1) applies to information in the possession of those entities granted access as set forth in this section.

(b) Except for information identifying individuals, all records involving the death of a child determined to be a result of abuse, abandonment, or neglect shall be released to the public within 10 days after completion of the investigation.

(2) Access to such records, excluding the name of the reporter which shall be released only as provided in subsection *(4)* ~~(9)~~, shall be granted only to the following persons, officials, and agencies:

(a) Employees, *authorized* ~~or~~ agents, *or contract providers* of the department, *the Department of Health, or county agencies* responsible for carrying out child or adult protective investigations, ongoing child or adult protective services, *Healthy Start services,* or licensure or approval of adoptive homes, foster homes, or *child care facilities, or family day care homes or informal child care providers who receive subsidized child care funding, or* other homes used to provide for the care and welfare of children. Also, employees or agents of the Department of Juvenile Justice responsible for the provision of services to children, pursuant to ~~parts II and IV of~~ chapter *985* ~~39~~.

(b) Criminal justice agencies of appropriate jurisdiction.

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

(d) The parent, *caregiver,* or *legal* custodian of any child who is alleged to have been abused, *abandoned, or* neglected, *and the child, and their attorneys* ~~or abandoned~~. This access shall be made available no later than 30 days after the department receives the initial report of abuse, neglect, or abandonment. However, any information otherwise made confidential or exempt by law shall not be released pursuant to this paragraph.

(e) Any person alleged in the report as having caused the abuse, *abandonment, or* neglect~~, or abandonment~~ of a child. This access shall be made available no later than 30 days after the department receives the initial report of abuse, *abandonment, or* neglect~~, or abandonment~~. However, any information otherwise made confidential or exempt by law shall not be released pursuant to this paragraph.

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

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

(h) Any appropriate official of the department responsible for:

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

2. Taking appropriate administrative action concerning an employee of the department alleged to have perpetrated ~~institutional~~ child abuse, *abandonment,* or neglect, *or abuse, neglect, or exploitation of a disabled adult or elderly person; or*~~.~~

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

(i) Any person engaged in *the use of such records or information for* bona fide research, *statistical,* or audit purposes. However, no information identifying the subjects of the report shall be made available to the researcher.

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

(k) Any appropriate official of the human rights advocacy committee investigating a report of known or suspected child abuse, abandonment, or neglect, the Auditor General for the purpose of conducting preliminary or compliance reviews pursuant to s. 11.45, or the guardian ad litem for the child ~~as defined in s. 415.503~~.

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

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

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

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

(4) The name of any person reporting child abuse, abandonment, or neglect may not be released to any person other than employees of the department responsible for child protective services, ~~or~~ the central abuse hotline, *law enforcement,* or the appropriate state attorney ~~or law enforcement agency~~, without the written consent of the person reporting. This does not prohibit the subpoenaing of a person reporting child abuse, abandonment, or neglect when deemed necessary by the court, the state attorney, or the department, provided the fact that such person made the report is not disclosed. Any person who reports a case of child abuse or neglect may, at the time he or she makes the report, request that the department notify him or her that a child protective

investigation occurred as a result of the report. The department shall mail such a notice to the reporter within 10 days after completing the child protective investigation.

(5) All records and reports of the child protection team are confidential and exempt from the provisions of ss. 119.07(1) and *455.667* ~~455.241~~, and shall not be disclosed, except, upon request, to the state attorney, law enforcement, the department, and necessary professionals, in furtherance of the treatment or additional evaluative needs of the child or by order of the court.

(6) The department shall make and keep reports and records of all cases under this chapter relating to child abuse, abandonment, and neglect and shall preserve the records pertaining to a child and family until 7 years after the last entry was made or until the child is 18 years of age, whichever date is first reached, and may then destroy the records. Department records required by this chapter relating to child abuse, abandonment, and neglect may be inspected only upon order of the court or as provided for in this section.

(7)~~(6)~~ A person who knowingly or willfully makes public or discloses to any unauthorized person any confidential information contained in the central abuse hotline is subject to the penalty provisions of s. *39.205* ~~415.513~~. This notice shall be prominently displayed on the first sheet of any documents released pursuant to this section.

Section 33. Section 415.511, Florida Statutes, is renumbered as section 39.203, Florida Statutes, and amended to read:

39.203 ~~415.511~~ Immunity from liability in cases of child abuse, *abandonment,* or neglect.—

(1)(a) Any person, official, or institution participating in good faith in any act authorized or required by *this chapter* ~~ss. 415.502-415.514~~, or reporting in good faith any instance of child abuse, *abandonment, or neglect* to any law enforcement agency, shall be immune from any civil or criminal liability which might otherwise result by reason of such action.

(b) Except as provided in *this chapter* ~~s. 415.503(10)(f)~~, nothing contained in this section shall be deemed to grant immunity, civil or criminal, to any person suspected of having abused, *abandoned,* or neglected a child, or committed any illegal act upon or against a child.

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

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

Section 34. Section 415.512, Florida Statutes, is renumbered as section 39.204, Florida Statutes, and amended to read:

39.204 ~~415.512~~ Abrogation of privileged communications in cases involving child abuse, *abandonment,* or neglect.—The privileged quality of communication between husband and wife and between any professional person and his or her patient or client, and any other privileged communication except that between attorney and client or the privilege provided in s. 90.505, as such communication relates both to the competency of the witness and to the exclusion of confidential communications, shall not apply to any communication involving the perpetrator or alleged perpetrator in any situation involving known or suspected child abuse, *abandonment,* or neglect and shall not constitute grounds for failure to report as required by s. *39.201* ~~415.504~~ regardless of the source of the information requiring the report, failure to cooperate with the department in its activities pursuant to *this chapter* ~~ss. 415.502-415.514~~, or failure to give evidence in any judicial proceeding relating to child abuse, *abandonment,* or neglect.

Section 35. Section 415.513, Florida Statutes, is renumbered as section 39.205, Florida Statutes, and amended to read:

39.205 ~~415.513~~ Penalties relating to ~~abuse~~ reporting *of child abuse, abandonment, or neglect*.—

(1) A person who is required ~~by s. 415.504~~ to report known or suspected child abuse, *abandonment,* or neglect and who knowingly and willfully fails to do so, or who knowingly and willfully prevents another person from doing so, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(2) A person who knowingly and willfully makes public or discloses any confidential information contained in the central abuse *hotline* ~~registry and tracking system~~ or in the records of any child abuse, *abandonment,* or neglect case, except as provided in *this chapter* ~~ss. 415.502-415.514~~, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

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

(4) If the department or its authorized agent has determined after its investigation that a report is false, the department shall, with the consent of the alleged perpetrator, refer the report to the local law enforcement agency having jurisdiction for an investigation to determine whether sufficient evidence exists to refer the case for prosecution for filing a false report as defined in s. 39.01(27). During the pendency of the investigation by the local law enforcement agency, the department must notify the local law enforcement agency of, and the local law enforcement agency must respond to all subsequent reports concerning children in that same family in accordance with s. 39.301. If the law enforcement agency believes that there are indicators of abuse, abandonment, or neglect, it must immediately notify the department, which must assure the safety of the children. If the law enforcement agency finds sufficient evidence for prosecution for filing a false report, it must refer the case to the appropriate state attorney for prosecution.

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

(6)~~(5)~~ Each state attorney shall establish *written* procedures to facilitate the prosecution of persons under this section, *and shall report to the Legislature annually the number of complaints that have resulted in the filing of an information or indictment and the disposition of those complaints under this section.*

Section 36. Section 415.5131, Florida Statutes, is renumbered as section 39.206, Florida Statutes, and amended to read:

39.206 ~~415.5131~~ Administrative fines for false report of abuse, *abandonment,* or neglect of a child*; civil damages*.—

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

(2) If the department alleges that a person has filed a false report with the central abuse *hotline* ~~registry and tracking system~~, the department must file a Notice of Intent which alleges the name, age, and address of the individual, the facts constituting the allegation that the individual made a false report, and the administrative fine the

department proposes to impose on the person. Each time that a false report is made constitutes a separate violation.

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

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

(5) At the hearing, the department must prove by *a preponderance of the* ~~clear and convincing~~ evidence that the person filed a false report with the central abuse *hotline* ~~registry and tracking system~~. The court shall advise any person against whom a fine may be imposed of that person's right to be represented by counsel at the hearing.

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

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

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

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

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

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

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

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

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

Section 37. Part III of chapter 39, Florida Statutes, consisting of sections 39.301, 39.302, 39.303, 39.3035, 39.304, 39.305, 39.306, and 39.307, Florida Statutes, shall be entitled to read:

PART III
PROTECTIVE INVESTIGATIONS

Section 38. Section 39.301, Florida Statutes, is created to read:

39.301 Initiation of protective investigations.—

(1) Upon receiving an oral or written report of known or suspected child abuse, abandonment, or neglect, the central abuse hotline shall determine if the report requires an immediate onsite protective investigation. For reports requiring an immediate onsite protective investigation, the central abuse hotline shall immediately notify the department's designated children and families district staff responsible for protective investigations to ensure that an onsite investigation is promptly initiated. For reports not requiring an immediate onsite protective investigation, the central abuse hotline shall notify the department's designated children and families district staff responsible for protective investigations in sufficient time to allow for an investigation. At the time of notification of district staff with respect to the report, the central abuse hotline shall also provide information on any previous report concerning a subject of the present report or any pertinent information relative to the present report or any noted earlier reports.

(2)(a) Upon commencing an investigation under this part, the child protective investigator shall inform any subject of the investigation of the following:

1. The names of the investigators and identifying credentials from the department.

2. The purpose of the investigation.

3. The right to obtain his or her own attorney and ways that the information provided by the subject may be used.

4. The possible outcomes and services of the department's response shall be explained to the caregiver.

5. The right of the parent, legal custodian, or caregiver to be involved to the fullest extent possible in determining the nature of the allegation and the nature of any identified problem.

(b) The department's training program shall ensure that protective investigators know how to fully inform parents, guardians, and caregivers of their rights and options, including opportunities for audio or video recording of investigators' interviews with parents, guardians, caretakers, or children.

(3) An assessment of risk and the perceived needs for the child and family shall be conducted in a manner that is sensitive to the social, economic, and cultural environment of the family.

(4) Protective investigations shall be performed by the department or its agent.

(5) The person responsible for the investigation shall make a preliminary determination as to whether the report or complaint is complete, consulting with the attorney for the department when necessary. In any case in which the person responsible for the investigation finds that the report or complaint is incomplete, he or she shall return it without delay to the person or agency originating the report or complaint or having knowledge of the facts, or to the appropriate law enforcement agency having investigative jurisdiction, and request additional information in order to complete the report or complaint; however, the confidentiality of any report filed in accordance with this chapter shall not be violated.

(a) If it is determined that the report or complaint is complete, after determining that such action would be in the best interests of the child, the attorney for the department shall file a petition for dependency.

(b) If it is determined that the report or complaint is complete, but the interests of the child and the public will be best served by providing the child care or other treatment voluntarily accepted by the child and the

parents, caregivers, or legal custodians, the protective investigator may refer the child for such care or other treatment.

(c) If the person conducting the investigation refuses to request the attorney for the department to file a petition for dependency, the complainant shall be advised of the right to file a petition pursuant to this part.

(6) For each report it receives, the department shall perform an onsite child protective investigation to:

(a) Determine the composition of the family or household, including the name, address, date of birth, social security number, sex, and race of each child named in the report; any siblings or other children in the same household or in the care of the same adults; the parents, legal custodians, or caregivers; and any other adults in the same household.

(b) Determine whether there is indication that any child in the family or household has been abused, abandoned, or neglected; the nature and extent of present or prior injuries, abuse, or neglect, and any evidence thereof; and a determination as to the person or persons apparently responsible for the abuse, abandonment, or neglect, including the name, address, date of birth, social security number, sex, and race of each such person.

(c) Determine the immediate and long-term risk to each child by conducting state and federal records checks on the parents, legal custodians, or caregivers, and any other persons in the same household. This information shall be used solely for purposes supporting the detection, apprehension, prosecution, pretrial release, post-trial release, or rehabilitation of criminal offenders or persons accused of the crimes of child abuse, abandonment, or neglect and shall not be further disseminated or used for any other purpose. The department's child protection investigators are hereby designated a criminal justice agency for the purpose of accessing criminal justice information to be used for enforcing this state's laws concerning the crimes of child abuse, abandonment, and neglect.

(d) Determine the immediate and long-term risk to each child through utilization of standardized risk assessment instruments.

(e) Based on the information obtained from the caregiver, complete the risk-assessment instrument within 48 hours after the initial contact and, if needed, develop a case plan.

(f) Determine the protective, treatment, and ameliorative services necessary to safeguard and ensure the child's safety and well-being and development, and cause the delivery of those services through the early intervention of the department or its agent.

(7) If the department or its agent is denied reasonable access to a child by the parents, legal custodians, or caregivers and the department deems that the best interests of the child so require, it shall seek an appropriate court order or other legal authority prior to examining and interviewing the child.

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

(a) Medical or other health care;

(b) Homemaker care, day care, protective supervision, or other services to stabilize the home environment, including intensive family preservation services through the Family Builders Program, the Intensive Crisis Counseling Program, or both; or

(c) Foster care, shelter care, or other substitute care to remove the child from the custody of the parents, legal guardians, or caregivers,

such services shall first be offered for voluntary acceptance unless there are high-risk factors that may impact the ability of the parents, legal guardians, or caregivers to exercise judgment. Such factors may include the parents', legal guardians', or caregivers' young age or history of substance abuse or domestic violence. The parents, legal custodians, or caregivers shall be informed of the right to refuse services, as well as the responsibility of the department to protect the child regardless of the acceptance or refusal of services. If the services are refused and the department deems that the child's need for protection so requires, the department shall take the child into protective custody or petition the court as provided in this chapter.

(9) When a child is taken into custody pursuant to this section, the authorized agent of the department shall request that the child's parent, caregiver, or legal custodian disclose the names, relationships, and addresses of all parents and prospective parents and all next of kin, so far as are known.

(10) No later than 30 days after receiving the initial report, the local office of the department shall complete its investigation.

(11) Immediately upon receipt of a report alleging, or immediately upon learning during the course of an investigation, that:

(a) The immediate safety or well-being of a child is endangered;

(b) The family is likely to flee;

(c) A child died as a result of abuse, abandonment, or neglect;

(d) A child is a victim of aggravated child abuse as defined in s. 827.03; or

(e) A child is a victim of sexual battery or of sexual abuse,

the department shall orally notify the jurisdictionally responsible state attorney, and county sheriff's office or local police department, and, as soon as practicable, transmit the report to those agencies. The law enforcement agency shall review the report and determine whether a criminal investigation needs to be conducted and shall assume lead responsibility for all criminal fact-finding activities. A criminal investigation shall be coordinated, whenever possible, with the child protective investigation of the department. Any interested person who has information regarding an offense described in this subsection may forward a statement to the state attorney as to whether prosecution is warranted and appropriate.

(12) In a child protective investigation or a criminal investigation, when the initial interview with the child is conducted at school, the department or the law enforcement agency may allow, notwithstanding the provisions of s. 39.0132(4), a school instructional staff member who is known by the child to be present during the initial interview if:

(a) The department or law enforcement agency believes that the school instructional staff member could enhance the success of the interview by his or her presence; and

(b) The child requests or consents to the presence of the school instructional staff member at the interview.

School instructional staff may only be present when authorized by this subsection. Information received during the interview or from any other source regarding the alleged abuse or neglect of the child shall be confidential and exempt from the provisions of s. 119.07(1), except as otherwise provided by court order. A separate record of the investigation of the abuse, abandonment, or neglect shall not be maintained by the school or school instructional staff member. Violation of this subsection constitutes a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(13) Within 15 days after the completion of the investigation of cases reported to him or her pursuant to this section, the state attorney shall report his or her findings to the department and shall include in such report a determination of whether or not prosecution is justified and appropriate in view of the circumstances of the specific case.

Section 39. Section 39.302, Florida Statutes, is created to read:

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

(1) The department shall conduct a child protective investigation of each report of institutional child abuse, abandonment, or neglect. Upon receipt of a report which alleges that an employee or agent of the

department, or any other entity or person covered by s. 39.01(32) or (47), acting in an official capacity, has committed an act of child abuse, abandonment, or neglect, the department shall immediately initiate a child protective investigation and orally notify the appropriate state attorney, law enforcement agency, and licensing agency. These agencies shall immediately conduct a joint investigation, unless independent investigations are more feasible. When a facility is exempt from licensing, the department shall inform the owner or operator of the facility of the report. Each agency conducting a joint investigation shall be entitled to full access to the information gathered by the department in the course of the investigation. In all cases, the department shall make a full written report to the state attorney within 3 days after making the oral report. A criminal investigation shall be coordinated, whenever possible, with the child protective investigation of the department. Any interested person who has information regarding the offenses described in this subsection may forward a statement to the state attorney as to whether prosecution is warranted and appropriate. Within 15 days after the completion of the investigation, the state attorney shall report the findings to the department and shall include in such report a determination of whether or not prosecution is justified and appropriate in view of the circumstances of the specific case.

(2)(a) If in the course of the child protective investigation, the department finds that a subject of a report, by continued contact with children in care, constitutes a threatened harm to the physical health, mental health, or welfare of the children, the department may restrict a subject's access to the children pending the outcome of the investigation. The department or its agent shall employ the least restrictive means necessary to safeguard the physical health, mental health, and welfare of the children in care. This authority shall apply only to child protective investigations in which there is some evidence that child abuse, abandonment, or neglect has occurred. A subject of a report whose access to children in care has been restricted is entitled to petition the circuit court for judicial review. The court shall enter written findings of fact based upon the preponderance of evidence that child abuse, abandonment, or neglect did occur and that the department's restrictive action against a subject of the report was justified in order to safeguard the physical health, mental health, and welfare of the children in care. The restrictive action of the department shall be effective for no more than 90 days without a judicial finding supporting the actions of the department.

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

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

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

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

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

Section 40. Section 415.5055, Florida Statutes, is renumbered as section 39.303, Florida Statutes, and amended to read:

39.303 ~~415.5055~~ Child protection teams; services; eligible cases.—The department shall develop, maintain, and coordinate the services of one or more multidisciplinary child protection teams in each of the service districts of the department. Such teams may be composed of representatives of appropriate health, mental health, social service, legal service, and law enforcement agencies. The Legislature finds that optimal coordination of child protection teams and sexual abuse treatment programs requires collaboration between the Department of Health and the Department of Children and Family Services. The two departments shall maintain an interagency agreement that establishes protocols for oversight and operations of child protection teams and sexual abuse treatment programs. The Secretary of Health and the Director of the Division of Children's Medical Services, in consultation with the Secretary of Children and Family Services, shall maintain the responsibility for the screening, employment, and, if necessary, the termination of child protection team medical directors, at headquarters and in the 15 districts. Child protection team medical directors shall be responsible for oversight of the teams in the districts.

(1) The department shall utilize and convene the teams to supplement the assessment and protective supervision activities of ~~the children, youth, and families program of~~ the department. Nothing in this section shall be construed to remove or reduce the duty and responsibility of any person to report pursuant to *this chapter* ~~s. 415.504~~ all suspected or actual cases of child abuse, *abandonment,* or neglect or sexual abuse of a child. The role of the teams shall be to support activities of the program and to provide services deemed by the teams to be necessary and appropriate to abused, *abandoned,* and neglected children upon referral. The specialized diagnostic assessment, evaluation, coordination, consultation, and other supportive services that a child protection team shall be capable of providing include, but are not limited to, the following:

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

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

(c) Medical evaluation related to abuse, *abandonment,* or neglect, as defined by department policy or rule.

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

(e) Short-term psychological treatment. It is the intent of the Legislature that short-term psychological treatment be limited to no more than 6 months' duration after treatment is initiated, except that the appropriate district administrator may authorize such treatment for individual children beyond this limitation if the administrator deems it appropriate.

(f) Expert medical, psychological, and related professional testimony in court cases.

(g) Case staffings to develop, implement, and monitor treatment plans for children whose cases have been referred to the team. A child protection team may provide consultation with respect to a child who has not been referred to the team, but who is alleged or is shown to be abused, *abandoned, or neglected*, which consultation shall be provided at the request of a representative of the children, youth, and families program or at the request of any other professional involved with a child or the child's parent or parents, *legal custodian or custodians* ~~guardian or guardians~~, or other caregivers. In every such child protection team case staffing, consultation, or staff activity involving a child, a children, youth, and families program representative shall attend and participate.

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

(i) Such training services for program and other department employees as is deemed appropriate to enable them to develop and maintain their professional skills and abilities in handling child abuse, *abandonment*, and neglect cases.

(j) Educational and community awareness campaigns on child abuse, *abandonment*, and neglect in an effort to enable citizens more successfully to prevent, identify, and treat child abuse, *abandonment*, and neglect in the community.

(2) The child abuse, *abandonment*, and neglect cases that are appropriate for referral by the children, youth, and families program to child protection teams for support services as set forth in subsection (1) include, but are not limited to, cases involving:

(a) Bruises, burns, or fractures in a child under the age of 3 years or in a nonambulatory child of any age.

(b) Unexplained or implausibly explained bruises, burns, fractures, or other injuries in a child of any age.

(c) Sexual abuse of a child in which vaginal or anal penetration is alleged or in which other unlawful sexual conduct has been determined to have occurred.

(d) Venereal disease, or any other sexually transmitted disease, in a prepubescent child.

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

(f) Reported medical, physical, or emotional neglect of a child.

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

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

~~(3) All records and reports of the child protection team are confidential and exempt from the provisions of ss. 119.07(1) and 455.241, and shall not be disclosed, except, upon request, to the state attorney, law enforcement, the department, and necessary professionals, in furtherance of the treatment or additional evaluative needs of the child or by order of the court.~~

(3) In all instances in which a child protection team is providing certain services to abused, *abandoned*, or neglected children, other offices and units of the department shall avoid duplicating the provision of those services.

Section 41. Section 39.3035, Florida Statutes, is created to read:

39.3035 Child advocacy centers; standards; state funding.—

(1) In order to become eligible for a full membership in the Florida Network of Children's Advocacy Centers, Inc., a child advocacy center in this state shall:

(a) Be a private, nonprofit incorporated agency or a governmental entity.

(b) Be a child protection team with established community protocols which meet all of the requirements of the National Network of Children's Advocacy Centers, Inc.

(c) Have a neutral, child-focused facility where joint department and law enforcement interviews take place with children in appropriate cases of suspected child sexual abuse or physical abuse. All multidisciplinary agencies shall have a place to interact with the child as investigative or treatment needs require.

(d) Have a minimum designated staff that is supervised and approved by the local board of directors or governmental entity.

(e) Have a multidisciplinary case review team that meets on a regularly scheduled basis or as the caseload of the community requires. The team shall consist of representatives from the Office of the State Attorney, the department, the child protection team, mental health services, law enforcement, and the child advocacy center staff. Medical personnel and a victim's advocate may be part of the team.

(f) Provide case tracking of child abuse cases seen through the center. A center shall also collect data on the number of child abuse cases seen at the center, by sex, race, age, and other relevant data; the number of cases referred for prosecution; and the number of cases referred for mental health therapy. Case records shall be subject to the confidentiality provisions of s. 39.202.

(g) Provide referrals for medical exams and mental health therapy. The center shall provide followup on cases referred for mental health therapy.

(h) Provide training for various disciplines in the community that deal with child abuse.

(i) Have an interagency commitment, in writing, covering those aspects of agency participation in a multidisciplinary approach to the handling of child sexual abuse and serious physical abuse cases.

(2) Provide assurance that child advocacy center employees and volunteers at the center are trained and screened in accordance with s. 39.001(2).

(3) Any child advocacy center within this state that meets the standards of subsection (1) and is certified by the Florida Network of Children's Advocacy Centers, Inc., as being a full member in the organization shall be eligible to receive state funds that are appropriated by the Legislature.

Section 42. Section 415.507, Florida Statutes, is renumbered as section 39.304, Florida Statutes, and amended to read:

39.304 ~~415.507~~ Photographs, medical examinations, X rays, and medical treatment of abused, *abandoned*, or neglected child.—

(1) Any person required to investigate cases of suspected child abuse, *abandonment*, or neglect may take or cause to be taken photographs of the areas of trauma visible on a child who is the subject of a report. If the areas of trauma visible on a child indicate a need for a medical examination, or if the child verbally complains or otherwise exhibits distress as a result of injury through suspected child abuse, *abandonment*, or neglect, or is alleged to have been sexually abused, the person required to investigate may cause the child to be referred for diagnosis to a licensed physician or an emergency department in a hospital without the consent of the child's parents, *caregiver* ~~legal guardian~~, or legal custodian. Such examination may be performed by an advanced registered nurse practitioner licensed pursuant to chapter 464. Any licensed physician, or advanced registered nurse practitioner licensed pursuant to chapter 464, who has reasonable cause to suspect that an injury was the result of child abuse, *abandonment, or neglect* may authorize a radiological examination to be performed on the child without the consent of the child's parent, *caregiver* ~~legal guardian~~, or legal custodian.

(2) Consent for any medical treatment shall be obtained in the following manner.

(a)1. Consent to medical treatment shall be obtained from a parent or *legal custodian* ~~guardian~~ of the child; or

2. A court order for such treatment shall be obtained.

(b) If a parent or *legal custodian* ~~guardian~~ of the child is unavailable and his or her whereabouts cannot be reasonably ascertained, and it is after normal working hours so that a court order cannot reasonably be obtained, an authorized agent of the department shall have the authority to consent to necessary medical treatment for the child. The authority of the department to consent to medical treatment in this circumstance shall be limited to the time reasonably necessary to obtain court authorization.

(c) If a parent or *legal custodian* ~~guardian~~ of the child is available but refuses to consent to the necessary treatment, a court order shall be required unless the situation meets the definition of an emergency in s. 743.064 or the treatment needed is related to suspected abuse, *abandonment,* or neglect of the child by a parent or *legal custodian* ~~guardian~~. In such case, the department shall have the authority to consent to necessary medical treatment. This authority is limited to the time reasonably necessary to obtain court authorization.

In no case shall the department consent to sterilization, abortion, or termination of life support.

(3) Any facility licensed under chapter 395 shall provide to the department, its agent, or a child protection team that contracts with the department any photograph or report on examinations made or X rays taken pursuant to this section, or copies thereof, for the purpose of investigation or assessment of cases of abuse, abandonment, neglect, or exploitation of children.

(4)~~(3)~~ Any photograph or report on examinations made or X rays taken pursuant to this section, or copies thereof, shall be sent to the department as soon as possible.

(5)~~(4)~~ The county in which the child is a resident shall bear the initial costs of the examination of the allegedly abused, *abandoned, or neglected* child; however, the parents, *caregiver* ~~legal guardian~~, or legal custodian of the child shall be required to reimburse the county for the costs of such examination, other than an initial forensic physical examination as provided in s. 960.28, and to reimburse the department ~~of Children and Family Services~~ for the cost of the photographs taken pursuant to this section. A medical provider may not bill a child victim, directly or indirectly, for the cost of an initial forensic physical examination.

~~(5) The court shall order a defendant or juvenile offender who pleads guilty or nolo contendere to, or who is convicted of or adjudicated delinquent for, a violation of chapter 794 or chapter 800 to make restitution to the Crimes Compensation Trust Fund or to the county, whichever paid for the initial forensic physical examination, in an amount equal to the compensation paid to the medical provider for the cost of the initial forensic physical examination. The order may be enforced by the department in the same manner as a judgment in a civil action.~~

Section 43. Section 415.5095, Florida Statutes, is renumbered as section 39.305, Florida Statutes, and amended to read:

39.305 ~~415.5095~~ Intervention and treatment in sexual abuse cases; model plan.—

~~(1) The impact of sexual abuse on the child and family has caused the Legislature to determine that special intervention and treatment must be offered in certain cases so that the child can be protected from further abuse, the family can be kept together, and the abuser can benefit from treatment. To further this end, it is the intent of the Legislature that special funding shall be available in those communities where agencies and professionals are able to work cooperatively to effectuate intervention and treatment in intrafamily sexual abuse cases.~~

~~(2)~~ The department ~~of Children and Family Services~~ shall develop a model plan for community intervention and treatment of intrafamily sexual abuse in conjunction with the Department of Law Enforcement, *the Department of Health,* the Department of Education, the Attorney General, the state Guardian Ad Litem Program, the Department of Corrections, representatives of the judiciary, and professionals and advocates from the mental health and child welfare community.

Section 44. Section 39.306, Florida Statutes, is created to read:

39.306 Child protective investigations; working agreements with local law enforcement.—The department shall enter into agreements with the jurisdictionally responsible county sheriffs' offices and local police departments that will assume the lead in conducting any potential criminal investigations arising from allegations of child abuse, abandonment, or neglect. The written agreement must specify how the requirements of this chapter will be met. For the purposes of such agreement, the jurisdictionally responsible law enforcement entity is authorized to share Florida criminal history information that is not otherwise exempt from s. 119.07(1) with the district personnel, authorized agent, or contract provider directly responsible for the child protective investigation and emergency child placement. The agencies entering into such agreement must comply with s. 943.0525. Criminal justice information provided by such law enforcement entity shall be used only for the purposes specified in the agreement and shall be provided at no charge. Notwithstanding any other provision of law, the Department of Law Enforcement shall provide to the department electronic access to Florida criminal justice information which is lawfully available and not exempt from s. 119.07(1), only for the purpose of child protective investigations and emergency child placement. As a condition of access to such information, the department shall be required to execute an appropriate user agreement addressing the access, use, dissemination, and destruction of such information and to comply with all applicable laws and regulations, and rules of the Department of Law Enforcement.

Section 45. Section 415.50171, Florida Statutes, is renumbered as section 39.307, Florida Statutes, and subsection (1), paragraph (a) of subsection (2), and subsection (6) of said section are amended to read:

39.307 ~~415.50171 Family services response system;~~ Reports of child-on-child sexual abuse.—

(1) ~~Subject to specific appropriation,~~ Upon receiving a report alleging juvenile sexual abuse as defined in s. *39.01(7)(b), the department shall assist the family in receiving appropriate services* ~~415.50165(7), district staff shall, unless caregiver abuse or neglect is involved, use a family services response system approach~~ to address the allegations of the report.

(2) District staff, at a minimum, shall adhere to the following procedures:

(a) The purpose of the response to a report alleging juvenile sexual abuse behavior shall be explained to the caregiver.

1. The purpose of the response shall be explained in a manner consistent with legislative purpose and intent provided in this *chapter* ~~part~~.

2. The name and office telephone number of the person responding shall be provided to the caregiver of the alleged juvenile sexual offender and victim's caregiver.

3. The possible consequences of the department's response, including outcomes and services, shall be explained to the caregiver of the alleged juvenile sexual offender and the victim's family or caregiver.

(6) At any time, as a result of additional information, findings of facts, or changing conditions, the department may pursue a child protective investigation as provided in *this chapter* ~~part IV~~.

Section 46. Part IV of chapter 39, Florida Statutes, consisting of sections 39.311, 39.312, 39.313, 39.314, 39.315, 39.316, 39.317, and 39.318, Florida Statutes, shall be entitled to read:

PART IV

FAMILY BUILDERS PROGRAM

Section 47. Section 415.515, Florida Statutes, is renumbered as section 39.311, Florida Statutes, and amended to read:

39.311 ~~415.515~~ Establishment of Family Builders Program.—

(1) Any Family Builders Program that is established by the department ~~of Children and Family Services or the Department of Juvenile Justice~~ shall provide family preservation services to families whose children are at risk of imminent out-of-home placement because they are dependent ~~or delinquent or are children in need of services~~, to reunite families whose children have been removed and placed in foster care, and to maintain adoptive families intact who are at risk of fragmentation. The Family Builders Program shall provide programs to achieve long-term changes within families that will allow children to remain with their families as an alternative to the more expensive and potentially psychologically damaging program of out-of-home placement.

(2) The department ~~of Children and Family Services and the Department of Juvenile Justice~~ may adopt rules to implement the Family Builders Program.

Section 48. Section 415.516, Florida Statutes, is renumbered as section 39.312, Florida Statutes, and amended to read:

39.312 ~~415.516~~ Goals.—The goals of any Family Builders Program shall be to:

(1) Ensure child health and safety while working with the family.

(2)~~(1)~~ Help parents to improve their relationships with their children and to provide better care, nutrition, hygiene, discipline, protection, instruction, and supervision.

(3)~~(2)~~ Help parents to provide a better household environment for their children by improving household maintenance, budgeting, and purchasing.

(4)~~(3)~~ Provide part-time child care when parents are unable to do so or need temporary relief.

(5)~~(4)~~ Perform household maintenance, budgeting, and purchasing when parents are unable to do so on their own or need temporary relief.

(6)~~(5)~~ Assist parents and children to manage and resolve conflicts.

(7)~~(6)~~ Assist parents to meet the special physical, mental, or emotional needs of their children and help parents to deal with their own special physical, mental, or emotional needs that interfere with their ability to care for their children and to manage their households.

(8)~~(7)~~ Help families to discover and gain access to community resources to which the family or children might be entitled and which would assist the family in meeting its needs and the needs of the children, including the needs for food, clothing, housing, utilities, transportation, appropriate educational opportunities, employment, respite care, and recreational and social activities.

(9)~~(8)~~ Help families by providing cash or in-kind assistance to meet their needs for food, clothing, housing, or transportation when such needs prevent or threaten to prevent parents from caring for their children, and when such needs are not met by other sources in the community in a timely fashion.

~~(9) Emphasize parental responsibility and facilitate counseling for children at high risk of delinquent behavior and their parents.~~

(10) Provide such additional reasonable services for the prevention of maltreatment and unnecessary foster care as may be needed in order to strengthen a family at risk.

Section 49. Section 415.517, Florida Statutes, is renumbered as section 39.313, Florida Statutes, and amended to read:

39.313 ~~415.517~~ Contracting of services.—The department may contract for the delivery of Family Builders Program services by professionally qualified persons or local governments when it determines that it is in the family's best interest. The service provider or program operator must submit to the department monthly activity reports covering any services rendered. These activity reports must include project evaluation in relation to individual families being served, as well as statistical data concerning families referred for services who are not served due to the unavailability of resources. The costs of program evaluation are an allowable cost consideration in any service contract negotiated in accordance with this *section* ~~subsection~~.

Section 50. Section 415.518, Florida Statutes, is renumbered as section 39.314, Florida Statutes, and amended to read:

39.314 ~~415.518~~ Eligibility for Family Builders Program services.—Family Builders Program services must be made available to a family at risk on a voluntary basis, provided the family meets the eligibility requirements as established by rule and there is space available in the program. All members of the families who accept such services are responsible for cooperating fully with the family preservation plan developed for each family under *s. 39.315* ~~this section~~. Families in which children are at imminent risk of sexual abuse or physical endangerment perpetrated by a member of their immediate household are not eligible to receive family preservation services unless the perpetrator is in, or has agreed to enter, a program for treatment and the safety of the children may be enhanced through participation in the Family Builders Program.

Section 51. *Section 415.519, Florida Statutes, is renumbered as section 39.315, Florida Statutes.*

Section 52. Section 415.520, Florida Statutes, is renumbered as section 39.316, Florida Statutes, and subsection (3) of said section is amended to read:

39.316 ~~415.520~~ Qualifications of Family Builders Program workers.—

(3) Caseworkers must successfully complete at least 40 hours of intensive training prior to providing direct *services* ~~service~~ under this program. Paraprofessional aides and supervisors must, within 90 days after hiring, complete a training program prescribed by the department on child abuse, *abandonment,* and neglect and an overview of the children, youth, and families program components and service delivery system. Program supervisors and caseworkers must thereafter complete at least 40 hours of additional training each year in accordance with standards established by the department.

Section 53. *Section 415.521, Florida Statutes, is renumbered as section 39.317, Florida Statutes.*

Section 54. Section 415.522, Florida Statutes, is renumbered as section 39.318, Florida Statutes, and amended to read:

39.318 ~~415.522~~ Funding.—The department is authorized to use appropriate state, federal, and private funds within its budget for operating the Family Builders Program. For each child served, the cost of providing home-based services described in this *part* ~~act~~ must not exceed the costs of out-of-home care which otherwise would be incurred.

Section 55. Part V of chapter 39, Florida Statutes, consisting of sections 39.395, 39.401, 39.402, 39.407, and 39.4075, Florida Statutes, shall be entitled to read:

PART V
TAKING CHILDREN INTO CUSTODY
AND SHELTER HEARINGS

Section 56. Section 39.395, Florida Statutes, is created to read:

39.395 Detaining a child; medical or hospital personnel.—Any person in charge of a hospital or similar institution, or any physician or licensed health care professional treating a child may detain that child without the consent of the parents, caregiver, or legal custodian, whether or not additional medical treatment is required, if the circumstances are such, or if the condition of the child is such that returning the child to the care or custody of the parents, caregiver, or legal custodian presents an imminent danger to the child's life or physical or mental health. Any such person detaining a child shall immediately notify the department, whereupon the department shall immediately begin a child protective

investigation in accordance with the provisions of this chapter and shall make every reasonable effort to immediately notify the parents, caregiver, or legal custodian that such child has been detained. If the department determines, according to the criteria set forth in this chapter, that the child should be detained longer than 24 hours, it shall petition the court through the attorney representing the Department of Children and Family Services as quickly as possible and not to exceed 24 hours, for an order authorizing such custody in the same manner as if the child were placed in a shelter. The department shall attempt to avoid the placement of a child in an institution whenever possible.

Section 57. Section 39.401, Florida Statutes, as amended by chapter 97-276, Laws of Florida, is amended to read:

39.401 Taking a child alleged to be dependent into custody*; law enforcement officers and authorized agents of the department*.—

(1) A child may only be taken into custody:

(a) Pursuant to the provisions of this part, based upon sworn testimony, either before or after a petition is filed*; or*~~.~~

(b) By a law enforcement officer, or an authorized agent of the department, if the officer or *authorized* agent has probable cause to support a finding or reasonable grounds for removal and that removal is necessary to protect the child. Reasonable grounds for removal are as follows:

1. That the child has been abused, neglected, or abandoned, or is suffering from or is in imminent danger of illness or injury as a result of abuse, neglect, or abandonment;

2. That the *parent, legal custodian, caregiver, or responsible adult relative* ~~custodian~~ of the child has materially violated a condition of placement imposed by the court; or

3. That the child has no parent, legal custodian, *caregiver,* or responsible adult relative immediately known and available to provide supervision and care.

(2) If the *law enforcement officer takes* ~~person taking~~ the child into custody ~~is not an authorized agent of the department~~, that *officer* ~~person~~ shall:

(a) Release the child to*:*

1. The parent*, caregiver, or* ~~guardian,~~ legal custodian *of the child;*~~;~~

2. A responsible adult approved by the court when limited to temporary emergency situations;~~;~~

3. A responsible adult relative who shall be given priority consideration over a nonrelative placement *when this is in the best interests of the child;*~~;~~ or

4. A responsible adult approved by the department; ~~within 3 days following such release, the person taking the child into custody shall make a full written report to the department for cases involving allegations of abandonment, abuse, or neglect or other dependency cases,~~ or

(b) Deliver the child to an authorized agent of the department, stating the facts by reason of which the child was taken into custody and sufficient information to establish probable cause that the child is abandoned, abused, or neglected, or otherwise dependent ~~and make a full written report to the department within 3 days~~.

For cases involving allegations of abandonment, abuse, or neglect, or other dependency cases, within 3 days after such release or within 3 days after delivering the child to an authorized agent of the department, the law enforcement officer who took the child into custody shall make a full written report to the department.

(3) If the child is taken into custody by, or is delivered to, an authorized agent of the department, the authorized agent shall review the facts supporting the removal with *an attorney representing the* department ~~legal staff prior to the emergency shelter hearing~~. The purpose of this review shall be to determine whether probable cause exists for the filing of *a* ~~an emergency~~ shelter petition ~~pursuant to s. 39.402(1)~~. If the facts are not sufficient to support the filing of a *shelter* petition, the child shall immediately be returned to the custody of the parent*, caregiver,* or legal custodian. If the facts are sufficient to support the filing of the *shelter* hearing *the attorney representing the Department of Children and Family Services shall request* ~~pursuant to s. 39.402(1)~~, such hearing to be held *as quickly as possible and not to exceed* ~~within~~ 24 hours after the removal of the child. While awaiting the ~~emergency~~ shelter hearing, the authorized agent of the department may place the child in licensed shelter care or may release the child to a parent, ~~guardian,~~ legal custodian, *caregiver, or* responsible adult relative who shall be given priority consideration over a *licensed* ~~nonrelative~~ placement, or responsible adult approved by the department *when this is in the best interests of the child. Any placement of a child which is not in a licensed shelter must be preceded by a local and state criminal records check, as well as a search of the department's automated abuse information system, on all members of the household, to assess the child's safety within the home.* In addition, the department may authorize placement of a housekeeper/homemaker in the home of a child alleged to be dependent until the parent or legal custodian assumes care of the child.

(4) When a child is taken into custody pursuant to this section, the department ~~of Children and Family Services~~ shall request that the child's parent, *caregiver,* or *legal* custodian disclose the names, relationships, and addresses of all parents and prospective parents and all next of kin of the child, so far as are known.

Section 58. Section 39.402, Florida Statutes, as amended by chapter 97-276, Laws of Florida, is amended to read:

39.402 Placement in a shelter.—

(1) Unless ordered by the court under this chapter, a child taken into custody shall not be placed in a shelter prior to a court hearing unless there are reasonable grounds for removal and removal is necessary to protect the child. Reasonable grounds for removal are as follows:

(a) The child has been abused, neglected, or abandoned, or is suffering from or is in imminent danger of illness or injury as a result of abuse, neglect, or abandonment;

(b) The custodian of the child has materially violated a condition of placement imposed by the court; or

(c) The child has no parent, legal custodian, *caregiver,* or responsible adult relative immediately known and available to provide supervision and care.

(2) A child taken into custody may be placed or continued in a shelter only if one or more of the criteria in subsection (1) applies and the court has made a specific finding of fact regarding the necessity for removal of the child from the home and has made a determination that the provision of appropriate and available services will not eliminate the need for placement.

(3) Whenever a child is taken into custody, the department shall immediately notify the parents or legal custodians, shall provide the parents or legal custodians with a statement setting forth a summary of procedures involved in dependency cases, and shall notify them of their right to obtain their own attorney.

(4) If the department determines that placement in a shelter is necessary under subsections (1) and (2), the authorized agent of the department shall authorize placement of the child in a shelter.

(5)(a) The parents or legal custodians of the child shall be given actual notice of the date, time, and location of the ~~emergency~~ shelter hearing. If the parents *or legal custodians* are outside the jurisdiction of the court, are not known, or cannot be located or refuse or evade service, they shall be given such notice as best ensures their actual knowledge of the date, time, and location of the ~~emergency~~ shelter hearing. The person providing or attempting to provide notice to the parents or legal custodians shall, if the parents or legal custodians are not present at the

hearing, advise the court either in person or by sworn affidavit, of the attempts made to provide notice and the results of those attempts.

(b) The parents or legal custodians shall be given written notice that:

~~(b) At the emergency shelter hearing, the department must establish probable cause that reasonable grounds for removal exist and that the provision of appropriate and available services will not eliminate the need for placement.~~

1.~~(c)~~ *They will* ~~The parents or legal custodians shall~~ be given an opportunity to be heard and to present evidence at the ~~emergency~~ shelter hearing*; and*~~.~~

2. They have the right to be represented by counsel, and, if indigent, the right to be represented by appointed counsel, at the shelter hearing and at each subsequent hearing or proceeding, pursuant to the procedures set forth in s. 39.013.

(6)~~(5)~~(a) The circuit court, or the county court~~,~~ if previously designated by the chief judge of the circuit court for such purpose, shall hold the shelter hearing.

(b) The shelter petition filed with the court must address each condition required to be determined by the court in *paragraphs (8)(a) and (b)* ~~subsection (7)~~.

(7)~~(6)~~ A child may not be removed from the home or continued out of the home pending disposition if, with the provision of appropriate and available *early intervention or preventive* services, including services provided in the home, the child could safely remain at home. If the child's safety and well-being are in danger, the child shall be removed from danger and continue to be removed until the danger has passed. If the child has been removed from the home and the reasons for his or her removal have been remedied, the child may be returned to the home. If the court finds that the prevention or reunification efforts of the department will allow the child to remain safely at home, the court shall allow the child to remain in the home.

(8)~~(7)~~(a) A child may not be held in a shelter longer than 24 hours unless an order so directing is entered by the court after *a* ~~an emergency~~ shelter hearing. *In the interval until the shelter hearing is held, the decision to place the child in a shelter or release the child from a shelter lies with the protective investigator.* ~~At the emergency shelter hearing, the court shall appoint a guardian ad litem to represent the child unless the court finds that such representation is unnecessary.~~

(b) The parents or legal custodians of the child shall be given such notice as best ensures their actual knowledge of the time and place of the *shelter* hearing ~~and shall be given an opportunity to be heard and to present evidence at the emergency shelter hearing~~. *The failure to provide notice to a party or participant does not invalidate an order placing a child in a shelter if the court finds that the petitioner has made a good faith effort to provide such notice.* The court shall require the parents or *legal* custodians present at the hearing to provide to the court on the record the names, addresses, and relationships of all parents, prospective parents, and next of kin of the child, so far as are known.

(c) At the shelter hearing, the court shall:

1. Appoint a guardian ad litem to represent the child, unless the court finds that such representation is unnecessary;

2. Inform the parents or legal custodians of their right to counsel to represent them at the shelter hearing and at each subsequent hearing or proceeding, and the right of the parents to appointed counsel, pursuant to the procedures set forth in s. 39.013; and

3. Give the parents or legal custodians an opportunity to be heard and to present evidence.

(d) At the shelter hearing, the department must establish probable cause that reasonable grounds for removal exist and that the provision of appropriate and available services will not eliminate the need for placement.

(e) At the shelter hearing, each party shall provide to the court a permanent mailing address. The court shall advise each party that this address will be used by the court and the petitioner for notice purposes unless and until the party notifies the court and the petitioner in writing of a new mailing address.

(f)~~(b)~~ The order for placement of a child in shelter care must identify the parties present at the hearing and must contain written findings:

1. That placement in shelter care is necessary based on the criteria in subsections (1) and (2).

2. That placement in shelter care is in the best interest of the child.

3. That continuation of the child in the home is contrary to the welfare of the child because the home situation presents a substantial and immediate danger to the *child's physical, mental, or emotional health or safety* ~~child~~ which cannot be mitigated by the provision of preventive services.

4. That based upon the allegations of the petition for placement in shelter care, there is probable cause to believe that the child is dependent.

5. That the department has made reasonable efforts to prevent or eliminate the need for removal of the child from the home. A finding of reasonable effort by the department to prevent or eliminate the need for removal may be made and the department is deemed to have made reasonable efforts to prevent or eliminate the need for removal if:

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

b. The appraisal of the home situation by the department indicates that the home situation presents a substantial and immediate danger to the *child's physical, mental, or emotional health or safety* ~~child~~ which cannot be mitigated by the provision of preventive services.

c. The child cannot safely remain at home, either because there are no preventive services that can ensure the *health and* safety of the child or because, even with appropriate and available services being provided, the *health and* safety of the child cannot be ensured.

6. That the court notified the parents or legal custodians of the subsequent dependency proceedings, including scheduled hearings, and of the importance of the active participation of the parents or legal custodians in those subsequent proceedings and hearings.

7. That the court notified the parents or legal custodians of their right to counsel to represent them at the shelter hearing and at each subsequent hearing or proceeding, and the right of the parents to appointed counsel, pursuant to the procedures set forth in s. 39.013.

~~(c) The failure to provide notice to a party or participant does not invalidate an order placing a child in a shelter if the court finds that the petitioner has made a good faith effort to provide such notice.~~

~~(d) In the interval until the shelter hearing is held under paragraph (a), the decision to place the child in a shelter or release the child from a shelter lies with the protective investigator in accordance with subsection (3).~~

(9) At any shelter hearing, the court shall determine visitation rights absent a clear and convincing showing that visitation is not in the best interest of the child.

(10) The shelter hearing order shall contain a written determination as to whether the department has made a reasonable effort to prevent or eliminate the need for removal or continued removal of the child from the home. If the department has not made such an effort, the court shall order the department to provide appropriate and available services to ensure the protection of the child in the home when such services are necessary for the child's health and safety.

~~(8) A child may not be held in a shelter under an order so directing for more than 21 days unless an order of adjudication for the case has been entered by the court. The parent, guardian, or custodian of the~~

~~child must be notified of any order directing placement of the child in an emergency shelter and, upon request, must be afforded a hearing within 48 hours, excluding Sundays and legal holidays, to review the necessity for continued placement in the shelter for any time periods as provided in this section. At any arraignment hearing or determination of emergency shelter care, the court shall determine visitation rights absent a clear and convincing showing that visitation is not in the best interest of the child, and the court shall make a written determination as to whether the department has made a reasonable effort to prevent or eliminate the need for removal or continued removal of the child from the home. If the department has not made such an effort, the court shall order the department to provide appropriate and available services to assure the protection of the child in the home when such services are necessary for the child's safety. Within 7 days after the child is taken into custody, a petition alleging dependency must be filed and, within 14 days after the child is taken into custody, an arraignment hearing must be held for the child's parent, guardian, or custodian to admit, deny, or consent to the findings of dependency alleged in the petition.~~

(11)~~(12)~~ *If a* ~~When any~~ child is placed in a shelter *pursuant to* ~~under~~ a court order following a shelter hearing, the court shall *prepare a shelter hearing* order *requiring* the parents of the child, or the guardian of the child's estate, if possessed of assets which under law may be disbursed for the care, support, and maintenance of the child, to pay, to the department or institution having custody of the child, fees as established by the department. When the order affects the guardianship estate, a certified copy of the order shall be delivered to the judge having jurisdiction of the guardianship estate.

(12) In the event the shelter hearing is conducted by a judge other than the juvenile court judge, the juvenile court judge shall hold a shelter review on the status of the child within 2 working days after the shelter hearing.

(13)~~(9)~~ *A child may not be held in a shelter under an order so directing for more than 60 days without an adjudication of dependency.* A child may not be held in a shelter for more than 30 days after the entry of an order of adjudication unless an order of disposition ~~under s. 39.41~~ has been entered by the court.

(14)~~(10)~~ The time limitations in *this section* ~~subsection (8)~~ do not include:

(a) Periods of delay resulting from a continuance granted at the request or with the consent of the child's counsel or the child's guardian ad litem, if one has been appointed by the court, or, if the child is of sufficient capacity to express reasonable consent, at the request or with the consent of the child's attorney or the child's guardian ad litem, if one has been appointed by the court, and the child.

(b) Periods of delay resulting from a continuance granted at the request of the attorney for the department, if the continuance is granted:

1. Because of an unavailability of evidence material to the case when the attorney for the department has exercised due diligence to obtain such evidence and there are substantial grounds to believe that such evidence will be available within 30 days. However, if the department is not prepared to present its case within 30 days, the parent or *legal custodian* ~~guardian~~ may move for issuance of an order to show cause or the court on its own motion may impose appropriate sanctions, which may include dismissal of the petition.

2. To allow the attorney for the department additional time to prepare the case and additional time is justified because of an exceptional circumstance.

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

(d) Reasonable periods of delay resulting from a continuance granted at the request of the parent or legal custodian of a subject child.

(15) At the conclusion of a shelter hearing, the court shall notify all parties in writing of the next scheduled hearing to review the shelter placement. Such hearing shall be held no later than 30 days after placement of the child in shelter status, in conjunction with the arraignment hearing.

~~(11) The court shall review the necessity for a child's continued placement in a shelter in the same manner as the initial placement decision was made and shall make a determination regarding the continued placement:~~

~~(a) Within 24 hours after any violation of the time requirements for the filing of a petition or the holding of an arraignment hearing as prescribed in subsection (8); or~~

~~(b) Prior to the court's granting any delay as specified in subsection (10).~~

Section 59. Section 39.407, Florida Statutes, is amended to read:

39.407 Medical, psychiatric, and psychological examination and treatment of child; physical or mental examination of parent~~, guardian,~~ or person requesting custody of child.—

(1) When any child is taken into custody and is to be detained in shelter care, the department is authorized to have a medical screening performed on the child without authorization from the court and without consent from a parent or *legal custodian* ~~guardian~~. Such medical screening shall be performed by a licensed health care professional and shall be to examine the child for injury, illness, and communicable diseases and to determine the need for immunization. The department shall by rule establish the invasiveness of the medical procedures authorized to be performed under this subsection. In no case does this subsection authorize the department to consent to medical treatment for such children.

(2) When the department has performed the medical screening authorized by subsection (1), or when it is otherwise determined by a licensed health care professional that a child who is in the custody of the department, but who has not been committed to the department ~~pursuant to s. 39.41~~, is in need of medical treatment, including the need for immunization, consent for medical treatment shall be obtained in the following manner:

(a)1. Consent to medical treatment shall be obtained from a parent or *legal custodian* ~~guardian~~ of the child; or

2. A court order for such treatment shall be obtained.

(b) If a parent or *legal custodian* ~~guardian~~ of the child is unavailable and his or her whereabouts cannot be reasonably ascertained, and it is after normal working hours so that a court order cannot reasonably be obtained, an authorized agent of the department shall have the authority to consent to necessary medical treatment, including immunization, for the child. The authority of the department to consent to medical treatment in this circumstance shall be limited to the time reasonably necessary to obtain court authorization.

(c) If a parent or *legal custodian* ~~guardian~~ of the child is available but refuses to consent to the necessary treatment, including immunization, a court order shall be required unless the situation meets the definition of an emergency in s. 743.064 or the treatment needed is related to suspected abuse, *abandonment,* or neglect of the child by a parent, *caregiver, or legal custodian* ~~or guardian~~. In such case, the department shall have the authority to consent to necessary medical treatment. This authority is limited to the time reasonably necessary to obtain court authorization.

In no case shall the department consent to sterilization, abortion, or termination of life support.

(3) A judge may order a child in the physical custody of the department to be examined by a licensed health care professional. The judge may also order such child to be evaluated by a psychiatrist or a psychologist, by a district school board educational needs assessment team, or, if a developmental disability is suspected or alleged, by the developmental disability diagnostic and evaluation team of the department. If it is necessary to place a child in a residential facility for

such evaluation, then the criteria and procedure established in s. 394.463(2) or chapter 393 shall be used, whichever is applicable. The educational needs assessment provided by the district school board educational needs assessment team shall include, but not be limited to, reports of intelligence and achievement tests, screening for learning disabilities and other handicaps, and screening for the need for alternative education as defined in s. *230.23* ~~230.2315(2)~~.

(4) A judge may order a child in the physical custody of the department to be treated by a licensed health care professional based on evidence that the child should receive treatment. The judge may also order such child to receive mental health or retardation services from a psychiatrist, psychologist, or other appropriate service provider. If it is necessary to place the child in a residential facility for such services, then the procedures and criteria established in s. 394.467 or chapter 393 shall be used, whichever is applicable. A child may be provided mental health or retardation services in emergency situations, pursuant to the procedures and criteria contained in s. 394.463(1) or chapter 393, whichever is applicable.

(5) When a child is in the physical custody of the department, a licensed health care professional shall be immediately called if there are indications of physical injury or illness, or the child shall be taken to the nearest available hospital for emergency care.

(6) Except as otherwise provided herein, nothing in this section shall be deemed to eliminate the right of a parent, *legal custodian* ~~guardian~~, or the child to consent to examination or treatment for the child.

(7) Except as otherwise provided herein, nothing in this section shall be deemed to alter the provisions of s. 743.064.

(8) A court shall not be precluded from ordering services or treatment to be provided to the child by a duly accredited practitioner who relies solely on spiritual means for healing in accordance with the tenets and practices of a church or religious organization, when required by the child's health and when requested by the child.

(9) Nothing in this section shall be construed to authorize the permanent sterilization of the child unless such sterilization is the result of or incidental to medically necessary treatment to protect or preserve the life of the child.

(10) For the purpose of obtaining an evaluation or examination, or receiving treatment as authorized pursuant to this *section* ~~subsection~~, no child alleged to be or found to be dependent shall be placed in a detention home or other program used primarily for the care and custody of children alleged or found to have committed delinquent acts.

(11) The parents or *legal custodian* ~~guardian~~ of a child in the physical custody of the department remain financially responsible for the cost of medical treatment provided to the child even if either one or both of the parents or if the *legal custodian* ~~guardian~~ did not consent to the medical treatment. After a hearing, the court may order the parents or *legal custodian* ~~guardian~~, if found able to do so, to reimburse the department or other provider of medical services for treatment provided.

(12) Nothing in this section alters the authority of the department to consent to medical treatment for a dependent child when the child has been committed to the department ~~pursuant to s. 39.41,~~ and the department has become the legal custodian of the child.

(13) At any time after the filing of a *shelter petition or* petition for dependency, when the mental or physical condition, including the blood group, of a parent, *caregiver, legal custodian* ~~guardian~~, or other person requesting custody of a child is in controversy, the court may order the person to submit to a physical or mental examination by a qualified professional. The order may be made only upon good cause shown and pursuant to notice and procedures as set forth by the Florida Rules of Juvenile Procedure.

Section 60. Section 39.4033, Florida Statutes, is renumbered as section 39.4075, Florida Statutes, and amended to read:

39.4075 ~~39.4033~~ Referral of a dependency case to mediation.—

(1) At any stage in a dependency proceeding, ~~the case staffing committee or~~ any party may request the court to refer the parties to mediation in accordance with chapter 44 and rules and procedures developed by the Supreme Court.

(2) A court may refer the parties to mediation. *When such services are available, the court must determine whether it is in the best interests of the child to refer the parties to mediation.*

(3) The department shall advise the *parties* ~~parents or legal guardians~~ that they are responsible for contributing to the cost of the *dependency* ~~family~~ mediation to the extent of their ability to pay.

(4) This section applies only to courts in counties in which dependency mediation programs have been established and does not require the establishment of such programs in any county.

Section 61. Part VI of chapter 39, Florida Statutes, consisting of sections 39.501, 39.502, 39.503, 39.504, 39.505, 39.506, 39.507, 39.508, 39.5085, 39.509, and 39.510, Florida Statutes, shall be entitled to read:

PART VI
PETITION, ARRAIGNMENT, ADJUDICATION, AND DISPOSITION

Section 62. Section 39.404, Florida Statutes, is renumbered as section 39.501, Florida Statutes, and amended to read:

39.501 ~~39.404~~ Petition for dependency.—

(1) All proceedings seeking an adjudication that a child is dependent shall be initiated by the filing of a petition by an attorney for the department, or any other person who has knowledge of the facts alleged or is informed of them and believes that they are true.

(2) The purpose of a petition seeking the adjudication of a child as a dependent child is the protection of the child and not the punishment of the person creating the condition of dependency.

(3)(a) The petition shall be in writing, shall identify and list all parents, if known, and all current *caregivers or legal* custodians of the child, and shall be signed by the petitioner under oath stating the petitioner's good faith in filing the petition. When the petition is filed by the department, it shall be signed by an attorney for the department.

(b) The form of the petition and its contents shall be determined by rules of *juvenile* procedure adopted by the Supreme Court.

(c) The petition must specifically set forth the acts or omissions upon which the petition is based and the identity of the person or persons alleged to have committed the acts or omissions, if known. The petition need not contain allegations of acts or omissions by both parents.

(d) The petitioner must state in the petition, if known, whether:

1. A parent, legal custodian, or *caregiver* ~~person responsible for the child's welfare~~ named in the petition has *previously* unsuccessfully participated in voluntary services offered by the department;

2. A parent *or*~~,~~ legal custodian~~, or person responsible for the child's welfare~~ named in the petition has participated in mediation and whether a mediation agreement exists;

3. A parent *or*~~,~~ legal custodian~~, or person responsible for the child's welfare~~ has rejected the voluntary services offered by the department; or

4. The department has determined that voluntary services are not appropriate for this family and the reasons for such determination.

(4) When *a child has been placed in shelter status by order of the court* ~~the child has been taken into custody~~, a petition alleging dependency must be filed within 7 days *upon demand of a party, but no later than 21 days after the shelter hearing* ~~after the date the child is taken into custody~~. In all other cases, the petition must be filed within a reasonable time after the date the child was referred to protective investigation ~~under s. 39.403~~. *The child's parent, guardian, or custodian must be served with a copy of the petition at least 72 hours before the arraignment hearing.*

(5) A petition for termination of parental rights ~~under s. 39.464~~ may be filed at any time.

Section 63. Section 39.405, Florida Statutes, as amended by chapter 97-276, Laws of Florida, is renumbered as section 39.502, Florida Statutes, and amended to read:

39.502 ~~39.405~~ Notice, process, and service.—

(1) Unless parental rights have been terminated, all parents *and legal custodians* must be notified of all proceedings *or hearings* involving the child. Notice in cases involving shelter hearings and hearings resulting from medical emergencies must be that most likely to result in actual notice to the parents *and legal custodians*. In all other dependency proceedings, notice must be provided in accordance with subsections (4) through (9).

(2) Personal appearance of any person in a hearing before the court obviates the necessity of serving process on that person.

(3) Upon the filing of a petition containing allegations of facts which, if true, would establish that the child is a dependent child, and upon the request of the petitioner, the clerk or deputy clerk shall issue a summons.

(4) The summons shall require the person on whom it is served to appear for a hearing at a time and place specified, not less than 24 hours after service of the summons. A copy of the petition shall be attached to the summons.

(5) The summons shall be directed to, and shall be served upon, all parties other than the petitioner.

(6) It is the duty of the petitioner or moving party to notify all participants and parties known to the petitioner or moving party of all hearings subsequent to the initial hearing unless notice is contained in prior court orders and these orders were provided to the participant or party. Proof of notice or provision of orders may be provided by certified mail with a signed return receipt.

(7) Service of the summons and service of pleadings, papers, and notices subsequent to the summons on persons outside this state must be made pursuant to s. 61.1312.

(8) It is not necessary to the validity of a proceeding covered by this part that the parents, *caregivers,* or legal custodians be present if their identity or residence is unknown after a diligent search has been made, *but in this event the petitioner shall file an affidavit of diligent search prepared by the person who made the search and inquiry, and the court may appoint a guardian ad litem for the child.*

(9) When an affidavit of diligent search has been filed under subsection (8), the petitioner shall continue to search for and attempt to serve the person sought until excused from further search by the court. The petitioner shall report on the results of the search at each court hearing until the person is identified or located or further search is excused by the court.

(10)~~(9)~~ Service by publication shall not be required for dependency hearings and the failure to serve a party or give notice to a participant shall not affect the validity of an order of adjudication or disposition if the court finds that the petitioner has completed a diligent search for that party or participant.

(11)~~(10)~~ Upon the application of a party or the petitioner, the clerk or deputy clerk shall issue, and the court on its own motion may issue, subpoenas requiring attendance and testimony of witnesses and production of records, documents, and other tangible objects at any hearing.

(12)~~(11)~~ All process and orders issued by the court shall be served or executed as other process and orders of the circuit court and, in addition, may be served or executed by authorized agents of the department or the guardian ad litem.

(13)~~(12)~~ Subpoenas may be served within the state by any person over 18 years of age who is not a party to the proceeding and, in addition, may be served by authorized agents of the department.

(14)~~(13)~~ No fee shall be paid for service of any process or other papers by an agent of the department or the guardian ad litem. If any process, orders, or any other papers are served or executed by any sheriff, the sheriff's fees shall be paid by the county.

~~(14) Failure of a person served with notice to respond or appear at the arraignment hearing constitutes the person's consent to a dependency adjudication. The document containing the notice to respond or appear must contain, in type at least as large as the balance of the document, the following or substantially similar language: "FAILURE TO RESPOND TO THIS NOTICE OR TO APPEAR AT THIS HEARING CONSTITUTES CONSENT TO THE ADJUDICATION OF THIS CHILD (OR THESE CHILDREN) AS DEPENDENT CHILDREN AND MAY ULTIMATELY RESULT IN LOSS OF CUSTODY OF THIS CHILD."~~

(15) A party who is identified as a *person with mental illness or with a developmental disability* ~~developmentally disabled person~~ must be informed by the court of the availability of advocacy services through the department, the Association for Retarded Citizens, or other appropriate *mental health or developmental disability* advocacy groups and encouraged to seek such services.

(16) If the party to whom an order is directed is present or represented at the final hearing, service of the order is not required.

(17) The parent or legal custodian of the child, the attorney for the department, the guardian ad litem, and all other parties and participants shall be given reasonable notice of all hearings provided for under this part.

(18) In all proceedings under this chapter, the court shall provide to the parent or legal custodian of the child, at the conclusion of any hearing, a written notice containing the date of the next scheduled hearing. The court shall also include the date of the next hearing in any order issued by the court.

Section 64. Section 39.4051, Florida Statutes, as amended by chapter 97-276, Laws of Florida, is renumbered as section 39.503, Florida Statutes, and amended to read:

39.503 ~~39.4051~~ Identity or location of parent *or legal custodian* unknown; special procedures.—

(1) If the identity or location of a parent *or legal custodian* is unknown and a petition for dependency or shelter is filed, the court shall conduct the following inquiry of the parent *or legal custodian* who is available, or, if no parent *or legal custodian* is available, of any relative or custodian of the child who is present at the hearing and likely to have the information:

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

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

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

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

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

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

(3) If the inquiry under subsection (1) identifies any person as a parent or prospective parent, the court shall require notice of the hearing to be provided to that person.

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

(5) If the inquiry under subsection (1) identifies a parent or prospective parent, and that person's location is unknown, the *court shall direct the* department *to* ~~shall~~ conduct a diligent search for that person before ~~the~~ scheduling ~~of~~ a disposition hearing regarding the dependency of the child unless the court finds that the best interest of the child requires proceeding without notice to the person whose location is unknown.

(6) The diligent search required by subsection (5) must include, at a minimum, inquiries of all relatives of the parent or prospective parent made known to the petitioner, inquiries of all offices of program areas of the department likely to have information about the parent or prospective parent, inquiries of other state and federal agencies likely to have information about the parent or prospective parent, inquiries of appropriate utility and postal providers, and inquiries of appropriate law enforcement agencies. *Pursuant to s. 453 of the Social Security Act, 42 U.S.C. 653(c)(B)(4), the department, as the state agency administering Titles IV-B and IV-E of the act, shall be provided access to the federal and state parent locator service for diligent search activities.*

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

(8) If the inquiry and diligent search identifies a prospective parent, that person must be given the opportunity to become a party to the proceedings by completing a sworn affidavit of parenthood and filing it with the court or the department. A prospective parent who files a sworn affidavit of parenthood while the child is a dependent child but no later than at the time of or prior to the adjudicatory hearing in any termination of parental rights proceeding for the child shall be considered a parent for all purposes under this section unless the other parent contests the determination of parenthood. If the known parent contests the recognition of the prospective parent as a parent, the prospective parent shall not be recognized as a parent until proceedings under chapter 742 have been concluded. However, the prospective parent shall continue to receive notice of hearings as a participant pending results of the chapter 742 proceedings.

Section 65. Section 39.4055, Florida Statutes, is renumbered as section 39.504, Florida Statutes, and subsections (2) and (4) of said section are amended to read:

39.504 ~~39.4055~~ Injunction pending disposition of petition for ~~detention or~~ dependency; penalty.—

(2)~~(a)~~ Notice shall be provided to the parties as set forth in the Florida Rules of Juvenile Procedure, unless the child is reported to be in imminent danger, in which case the court may issue an injunction immediately. *A judge may issue an emergency injunction pursuant to this section without notice at times when the court is closed for the transaction of judicial business.* When such an immediate injunction is issued, the court shall hold a hearing on the next day of judicial business either to dissolve the injunction or to continue or modify it in accordance with the other provisions of this section.

~~(b) A judge may issue an emergency injunction pursuant to this section at times when the court is closed for the transaction of judicial business. The court shall hold a hearing on the next day of judicial business either to dissolve the emergency injunction or to continue or modify it in accordance with the other provisions of this section.~~

(4) A copy of any injunction issued pursuant to this section shall be delivered to the protected party, or a parent *or caregiver* or ~~an~~ individual acting in the place of a parent who is not the respondent, and to any law enforcement agency having jurisdiction to enforce such injunction. Upon delivery of the injunction to the appropriate law enforcement agency, the agency shall have the duty and responsibility to enforce the injunction.

Section 66. Section 39.406, Florida Statutes, is renumbered as section 39.505, Florida Statutes, and amended to read:

39.505 ~~39.406~~ No answer required.—No answer to the petition or any other pleading need be filed by any child, parent, or legal custodian, but any matters which might be set forth in an answer or other pleading may be pleaded orally before the court or filed in writing as any such person may choose. Notwithstanding the filing of an answer or any pleading, the *respondent* ~~child or parent~~ shall, prior to an adjudicatory hearing, be advised by the court of the right to counsel and shall be given an opportunity to deny the allegations in the petition for dependency or to enter a plea to allegations in the petition before the court.

Section 67. Subsection (1) of section 39.408, Florida Statutes, is renumbered as section 39.506, Florida Statutes, and amended to read:

39.506 ~~39.408~~ *Arraignment* hearings ~~for dependency cases~~.—

(1) ~~ARRAIGNMENT HEARING.—~~

~~(a)~~ When a child has been detained by order of the court, an arraignment hearing must be held, within *7 days after the date of filing of the dependency petition* ~~14 days from the date the child is taken into custody~~, for the parent~~, guardian,~~ or *legal* custodian to admit, deny, or consent to findings of dependency alleged in the petition. If the parent~~, guardian,~~ or *legal* custodian admits or consents to the findings in the petition, the court shall proceed as set forth in the Florida Rules of Juvenile Procedure. However, if the parent~~, guardian,~~ or *legal* custodian denies any of the allegations of the petition, the court shall hold an adjudicatory hearing within *30 days after* ~~7 days from~~ the date of the arraignment hearing unless a continuance is granted pursuant to *this chapter* ~~s. 39.402(11)~~.

(2)~~(b)~~ When a child is in the custody of the parent~~, guardian,~~ or *legal* custodian, upon the filing of a petition the clerk shall set a date for an arraignment hearing within a reasonable time after the date of the filing. If the parent~~, guardian,~~ or *legal* custodian admits or consents to an adjudication, the court shall proceed as set forth in the Florida Rules of Juvenile Procedure. However, if the parent~~, guardian,~~ or *legal* custodian denies any of the allegations of dependency, the court shall hold an adjudicatory hearing within a reasonable time after the date of the arraignment hearing.

(3) Failure of a person served with notice to respond or appear at the arraignment hearing constitutes the person's consent to a dependency adjudication. The document containing the notice to respond or appear must contain, in type at least as large as the balance of the document, the following or substantially similar language: "FAILURE TO RESPOND TO THIS NOTICE OR TO PERSONALLY APPEAR AT THE ARRAIGNMENT HEARING CONSTITUTES CONSENT TO THE ADJUDICATION OF THIS CHILD (OR CHILDREN) AS A DEPENDENT CHILD (OR CHILDREN) AND MAY ULTIMATELY RESULT IN LOSS OF CUSTODY OF THIS CHILD (OR CHILDREN)."

(4) At the arraignment hearing, each party shall provide to the court a permanent mailing address. The court shall advise each party that this address will be used by the court and the petitioner for notice purposes unless and until the party notifies the court and the petitioner in writing of a new mailing address.

(5)~~(c)~~ If at the arraignment hearing the parent~~, guardian,~~ or *legal* custodian consents or admits to the allegations in the petition, the court shall proceed to hold a dispositional hearing *no more than 15 days after the date of the arraignment hearing unless a continuance is necessary* ~~at the earliest practicable time that will allow for the completion of a predisposition study~~.

(6) At any arraignment hearing, the court shall order visitation rights absent a clear and convincing showing that visitation is not in the best interest of the child.

(7) The court shall review whether the department has made a reasonable effort to prevent or eliminate the need for removal or continued removal of the child from the home. If the court determines that the department has not made such an effort, the court shall order the

department to provide appropriate and available services to assure the protection of the child in the home when such services are necessary for the child's physical, mental, or emotional health and safety.

(8) At the arraignment hearing, and no more than 15 days thereafter, the court shall review the necessity for the child's continued placement in the shelter. The court shall also make a written determination regarding the child's continued placement in shelter within 24 hours after any violation of the time requirements for the filing of a petition or prior to the court's granting any continuance as specified in subsection (5).

(9) At the conclusion of the arraignment hearing, all parties shall be notified in writing by the court of the date, time, and location for the next scheduled hearing.

Section 68. Subsection (2) of section 39.408, Florida Statutes, and section 39.409, Florida Statutes, are renumbered as section 39.507, Florida Statutes, and amended to read:

39.507 ~~39.408~~ *Adjudicatory hearings; orders of adjudication* ~~Hearings for dependency cases.—~~

~~(2) ADJUDICATORY HEARING.—~~

(1)(a) The adjudicatory hearing shall be held as soon as practicable after the petition for dependency is filed and in accordance with the Florida Rules of Juvenile Procedure, but *no later than 30 days after the arraignment.* ~~reasonable delay for the purpose of investigation, discovery, or procuring counsel or witnesses shall, whenever practicable, be granted. If the child is in custody, the time limitations provided in s. 39.402 and subsection (1) of this section apply.~~

(b) Adjudicatory hearings shall be conducted by the judge without a jury, applying the rules of evidence in use in civil cases and adjourning the hearings from time to time as necessary. In a hearing on a petition in which it is alleged that the child is dependent, a preponderance of evidence will be required to establish the state of dependency. Any evidence presented in the dependency hearing which was obtained as the result of an anonymous call must be independently corroborated. In no instance shall allegations made in an anonymous report of abuse, *abandonment, or neglect* be sufficient to support an adjudication of dependency in the absence of corroborating evidence.

(2)~~(c)~~ All hearings, except as provided in this section, shall be open to the public, and a person may not be excluded except on special order of the judge, who may close any hearing to the public upon determining that the public interest or the welfare of the child is best served by so doing. However, the parents shall be allowed to obtain discovery pursuant to the Florida Rules of Juvenile Procedure. However, nothing in this *subsection* ~~paragraph~~ shall be construed to affect the provisions of s. *39.202* ~~415.51(9)~~. Hearings involving more than one child may be held simultaneously when the children involved are related to each other or were involved in the same case. The child and the parents, *caregivers,* or legal custodians of the child may be examined separately and apart from each other.

(3) Except as otherwise specifically provided, nothing in this section prohibits the publication of the proceedings in a hearing.

~~39.409 Orders of adjudication.—~~

(4)~~(1)~~ If the court finds *at the adjudicatory hearing* that the child named in a petition is not dependent, it shall enter an order so finding and dismissing the case.

(5)~~(2)~~ If the court finds that the child named in the petition is dependent, but finds that no action other than supervision in the child's home is required, it may enter an order briefly stating the facts upon which its finding is based, but withholding an order of adjudication and placing the child's home under the supervision of the department. If the court later finds that the *parents, caregivers, or legal* custodians of the child have not complied with the conditions of supervision imposed, the court may, after a hearing to establish the noncompliance, but without further evidence of the state of dependency, enter an order of adjudication and shall thereafter have full authority under this chapter to provide for the child as adjudicated.

(6)~~(3)~~ If the court finds that the child named in a petition is dependent, but shall elect not to proceed under subsection *(5)* ~~(2)~~, it shall incorporate that finding in an order of adjudication entered in the case, briefly stating the facts upon which the finding is made, and the court shall thereafter have full authority under this chapter to provide for the child as adjudicated.

(7) At the conclusion of the adjudicatory hearing, if the child named in the petition is found dependent, the court shall schedule the disposition hearing within 30 days after the filing of the adjudicatory order. All parties shall be notified in writing by the court of the date, time, and location of the disposition hearing.

(8)~~(4)~~ An order of adjudication by a court that a child is dependent shall not be deemed a conviction, nor shall the child be deemed to have been found guilty or to be a criminal by reason of that adjudication, nor shall that adjudication operate to impose upon the child any of the civil disabilities ordinarily imposed by or resulting from conviction or disqualify or prejudice the child in any civil service application or appointment.

Section 69. Subsections (3) and (4) of section 39.408, Florida Statutes, and section 39.41, Florida Statutes, as amended by chapter 97-276, Laws of Florida, are renumbered as section 39.508, Florida Statutes, and amended to read:

39.508 ~~39.408~~ *Disposition hearings; powers of disposition* ~~Hearings for dependency cases.—~~

(1)~~(3) DISPOSITION HEARING.—~~At the disposition hearing, if the court finds that the facts alleged in the petition for dependency were proven in the adjudicatory hearing, or if the parents, *caregivers, or legal custodians* have consented to the finding of dependency or admitted the allegations in the petition, have failed to appear for the arraignment hearing after proper notice, or have not been located despite a diligent search having been conducted, the court shall receive and consider a *case plan and a* predisposition study, which must be in writing and presented by an authorized agent of the department.

(2)~~(a)~~ The predisposition study shall cover for any dependent child all factors specified in s. 61.13(3), and must also provide the court with the following documented information:

(a)~~1.~~ An assessment defining the dangers and risks of returning the child home, including a description of the changes in and resolutions to the initial risks.

(b)~~2.~~ A description of what risks are still present and what resources are available and will be provided for the protection and safety of the child.

(c)~~3.~~ A description of the benefits of returning the child home.

(d)~~4.~~ A description of all unresolved issues.

(e)~~5.~~ An abuse registry history *and criminal records check* for all *caregivers* ~~caretakers~~, family members, and individuals residing within the household.

(f)~~6.~~ The complete child protection team report and recommendation or, if no report exists, a statement reflecting that no report has been made.

(g)~~7.~~ All opinions or recommendations from other professionals or agencies that provide evaluative, social, reunification, or other services to the family.

(h)~~8.~~ The availability of appropriate prevention and reunification services for the family to prevent the removal of the child from the home or to reunify the child with the family after removal, including the availability of family preservation services through the Family Builders Program, the Intensive Crisis Counseling Program, or both.

(i)~~9.~~ The inappropriateness of other prevention and reunification services that were available.

(j)~~10.~~ The efforts by the department to prevent out-of-home placement of the child or, when applicable, to reunify the family if

appropriate services were available, including the application of intensive family preservation services through the Family Builders Program, the Intensive Crisis Counseling Program, or both.

(k)~~11.~~ Whether the services were provided to the family and child.

(l)~~12.~~ If the services were provided, whether they were sufficient to meet the needs of the child and the family and to enable the child to remain *safely* at home or to be returned home.

(m)~~13.~~ If the services were not provided, the reasons for such lack of action.

(n)~~14.~~ The need for, or appropriateness of, continuing the services if the child remains in the custody of the family or if the child is placed outside the home.

(o)~~15.~~ Whether family mediation was provided.

~~16. Whether a multidisciplinary case staffing was conducted and, if so, the results.~~

(p)~~17.~~ If the child has been removed from the home and there is a parent*, caregiver, or legal custodian* who may be considered for custody pursuant to *this section* ~~s. 39.41(1)~~, a recommendation as to whether placement of the child with that parent*, caregiver, or legal custodian* would be detrimental to the child.

(q) If the child has been removed from the home and will be remaining with a relative or caregiver, a home study report shall be included in the predisposition report.

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

(3)(a) Prior to recommending to the court any out-of-home placement for a child other than placement in a licensed shelter or foster home, the department shall conduct a study of the home of the proposed caregivers, which must include, at a minimum:

1. An interview with the proposed adult caregivers to assess their ongoing commitment and ability to care for the child.

2. Records checks through the department's automated abuse information system, and local and statewide criminal and juvenile records checks through the Department of Law Enforcement, on all household members 12 years of age or older and any other persons made known to the department who are frequent visitors in the home.

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

4. A determination of the financial security of the proposed caregivers.

5. A determination of suitable child care arrangements if the proposed caregivers are employed outside of the home.

6. Documentation of counseling and information provided to the proposed caregivers regarding the dependency process and possible outcomes.

7. Documentation that information regarding support services available in the community has been provided to the caregivers.

(b) The department shall not place the child or continue the placement of the child in the home of the proposed caregivers if the results of the home study are unfavorable.

(4)~~(b)~~ If placement of the child with anyone other than the child's parent*, caregiver*, or *legal* custodian is being considered, the *predisposition* study shall include the designation of a specific length of time as to when custody by the parent*, caregiver*, or *legal* custodian will be reconsidered.

~~(c) A copy of the predisposition study must be furnished to all parties no later than 48 hours before the disposition hearing.~~

(5)~~(d)~~ The predisposition study may not be made before the adjudication of dependency unless the parents*, caregivers,* or *legal* custodians of the child consent.

(6) A case plan and predisposition study must be filed with the court and served upon the parents, caregivers, or legal custodians of the child, provided to the representative of the guardian ad litem program, if the program has been appointed, and provided to all other parties not less than 72 hours before the disposition hearing. All such case plans must be approved by the court. If the court does not approve the case plan at the disposition hearing, the court must set a hearing within 30 days after the disposition hearing to review and approve the case plan.

(7) The initial judicial review must be held no later than 90 days after the date of the disposition hearing or after the date of the hearing at which the court approves the case plan, but in no event shall the review be held later than 6 months after the date of the child's removal from the home.

~~Any other relevant and material evidence, including other written or oral reports, may be received by the court in its effort to determine the action to be taken with regard to the child and may be relied upon to the extent of its probative value, even though not competent in an adjudicatory hearing. Except as provided in paragraph (2)(c), nothing in this section prohibits the publication of proceedings in a hearing.~~

~~(4) NOTICE OF HEARINGS. The parent or legal custodian of the child, the attorney for the department, the guardian ad litem, and all other parties and participants shall be given reasonable notice of all hearings provided for under this section.~~

~~39.41 Powers of disposition.~~

(8)~~(1)~~ When any child is adjudicated by a court to be dependent, and the court finds that removal of the child from the custody of a parent*, legal custodian, or caregiver* is necessary, the court shall first determine whether there is a parent with whom the child was not residing at the time the events or conditions arose that brought the child within the jurisdiction of the court who desires to assume custody of the child and, if such parent requests custody, the court shall place the child with the parent unless it finds that such placement would endanger the safety, ~~and~~ well-being*, or physical, mental, or emotional health* of the child. Any party with knowledge of the facts may present to the court evidence regarding whether the placement will endanger the safety, ~~and~~ well-being*, or physical, mental, or emotional health* of the child. If the court places the child with such parent, it may do either of the following:

(a) Order that the parent become the legal and physical custodian of the child. The court may also provide for reasonable visitation by the noncustodial parent. The court shall then terminate its jurisdiction over the child. The custody order shall continue unless modified by a subsequent order of the court. The order of the juvenile court shall be filed in any dissolution or other custody action or proceeding between the parents.

(b) Order that the parent assume custody subject to the jurisdiction of the juvenile court. The court may order that reunification services be provided to the parent*, caregiver, or legal custodian* ~~or guardian~~ from whom the child has been removed, that services be provided solely to the parent who is assuming physical custody in order to allow that parent to retain later custody without court jurisdiction, or that services be provided to both parents, in which case the court shall determine at *every* review *hearing* ~~hearings held every 6 months~~ which parent, if either, shall have custody of the child. The standard for changing custody of the child from one parent to another *or to a relative or caregiver must meet the home study criteria and court approval pursuant to this chapter* ~~at the review hearings shall be the same standard as applies to changing custody of the child in a custody hearing following a decree of dissolution of marriage~~.

(9)~~(2)~~(a) When any child is adjudicated by a court to be dependent, the court having jurisdiction of the child has the power, by order, to:

1. Require the parent, *caregiver, or legal* ~~guardian, or~~ custodian, and the child when appropriate, to participate in treatment and services identified as necessary.

2. Require the parent, *caregiver, or legal* ~~guardian, or~~ custodian, and the child when appropriate, to participate in mediation if the parent, *caregiver, or legal* ~~guardian, or~~ custodian refused to participate in mediation ~~under s. 39.4033~~.

3. Place the child under the protective supervision of an authorized agent of the department, either in the child's own home or, the prospective custodian being willing, in the home of a relative of the child or of *a caregiver* ~~an adult nonrelative~~ approved by the court, or in some other suitable place under such reasonable conditions as the court may direct. ~~Whenever the child is placed under protective supervision pursuant to this section, the department shall prepare a case plan and shall file it with the court.~~ Protective supervision continues until the court terminates it or until the child reaches the age of 18, whichever date is first. Protective supervision *shall* ~~may~~ be terminated by the court whenever the court determines that *permanency has been achieved for the child* ~~the child's placement~~, whether with a parent, another relative, *a legal custodian, or a caregiver,* ~~or a nonrelative, is stable~~ and that protective supervision is no longer needed. The termination of supervision may be with or without retaining jurisdiction, at the court's discretion, and shall in either case be considered a permanency option for the child. The order terminating supervision by the department ~~of Children and Family Services~~ shall set forth the powers of the custodian of the child and shall include the powers ordinarily granted to a guardian of the person of a minor unless otherwise specified.

4. Place the child in the temporary legal custody of an adult relative or *caregiver* ~~an adult nonrelative~~ approved by the court who is willing to care for the child.

5.a. When the parents have failed to comply with a case plan and the court determines at a judicial review hearing, *or at an adjudication hearing* held pursuant to ~~s. 39.453, or at a hearing held pursuant to subparagraph (1)(a)7. of~~ this section, that neither reunification, termination of parental rights, nor adoption is in the best interest of the child, the court may place the child in the long-term custody of an adult relative or *caregiver* ~~adult nonrelative~~ approved by the court willing to care for the child, if the following conditions are met:

(I) A case plan describing the responsibilities of the relative or *caregiver* ~~nonrelative~~, the department, and any other party must have been submitted to the court.

(II) The case plan for the child does not include reunification with the parents or adoption by the relative *or caregiver*.

(III) The child and the relative or *caregiver* ~~nonrelative custodian~~ are determined not to need protective supervision or preventive services to ensure the stability of the long-term custodial relationship, or the department assures the court that protective supervision or preventive services will be provided in order to ensure the stability of the long-term custodial relationship.

(IV) Each party to the proceeding agrees that a long-term custodial relationship does not preclude the possibility of the child returning to the custody of the parent at a later date.

(V) The court has considered the reasonable preference of the child if the court has found the child to be of sufficient intelligence, understanding, and experience to express a preference.

(VI) The court has considered the recommendation of the guardian ad litem if one has been appointed.

b. The court shall retain jurisdiction over the case, and the child shall remain in the long-term custody of the relative or *caregiver* ~~nonrelative~~ approved by the court until the order creating the long-term custodial relationship is modified by the court. The court may relieve the department of the responsibility for supervising the placement of the child whenever the court determines that the placement is stable and that such supervision is no longer needed. Notwithstanding the retention of jurisdiction, the placement shall be considered a permanency option for the child when the court relieves the department of the responsibility for supervising the placement. The order terminating supervision by the department ~~of Children and Family Services~~ shall set forth the powers of the custodian of the child and shall include the powers ordinarily granted to a guardian of the person of a minor unless otherwise specified. The court may modify the order terminating supervision of the long-term relative or *caregiver* ~~nonrelative~~ placement if it finds that a party to the proceeding has shown a material change in circumstances which causes the long-term relative or *caregiver* ~~nonrelative~~ placement to be no longer in the best interest of the child.

6.a. Approve placement of the child in long-term *out-of-home* ~~foster~~ care, when the following conditions are met:

(I) The foster child is 16 years of age or older, unless the court determines that the history or condition of a younger child makes long-term *out-of-home* ~~foster~~ care the most appropriate placement.

(II) The child demonstrates no desire to be placed in an independent living arrangement pursuant to this subsection.

(III) The department's social services study pursuant to *part VIII* ~~s. 39.453(6)(a)~~ recommends long-term *out-of-home* ~~foster~~ care.

b. Long-term *out-of-home* ~~foster~~ care under the above conditions shall not be considered a permanency option.

c. The court may approve placement of the child in long-term *out-of-home* ~~foster~~ care, as a permanency option, when all of the following conditions are met:

(I) The child is 14 years of age or older,

(II) The child is living in a licensed home and the foster parents desire to provide care for the child on a permanent basis and the foster parents and the child do not desire adoption,

(III) The foster family has made a commitment to provide for the child until he or she reaches the age of majority and to prepare the child for adulthood and independence, and

(IV) The child has remained in the home for a continuous period of no less than 12 months.

(V) The foster parents and the child view one another as family and consider living together as the best place for the child to be on a permanent basis.

(VI) The department's social services study recommends such placement and finds the child's well-being has been promoted through living with the foster parents.

d. Notwithstanding the retention of jurisdiction and supervision by the department, long-term *out-of-home* ~~foster~~ care placements made pursuant to ~~sub-subparagraph (2)(a)6.c. of~~ this section shall be considered a permanency option for the child. For purposes of this subsection, supervision by the department shall be defined as a minimum of semiannual visits. The order placing the child in long-term *out-of-home* ~~foster~~ care as a permanency option shall set forth the powers of the custodian of the child and shall include the powers ordinarily granted to a guardian of the person of a minor unless otherwise specified. The court may modify the permanency option of long-term *out-of-home* ~~foster~~ care if it finds that a party to the proceeding has shown a material change in circumstances which causes the placement to be no longer in the best interests of the child.

e. Approve placement of the child in an independent living arrangement for any foster child 16 years of age or older, if it can be clearly established that this type of alternate care arrangement is the most appropriate plan and that the health, safety, and well-being of the child will not be jeopardized by such an arrangement. While in independent living situations, children whose legal custody has been awarded to the department or a licensed child-caring or child-placing agency, or who have been voluntarily placed with such an agency by a

parent, guardian, relative, or adult nonrelative approved by the court, continue to be subject to court review provisions.

~~7. Commit the child to a licensed child-caring agency willing to receive the child. Continued commitment to the licensed child-caring agency, as well as all other proceedings under this section pertaining to the child, are also governed by part V of this chapter.~~

7.~~8.~~ Commit the child to the temporary legal custody of the department. Such commitment invests in the department all rights and responsibilities of a legal custodian. The department shall not return any child to the physical care and custody of the person from whom the child was removed, except for short visitation periods, without the approval of the court. The term of such commitment continues until terminated by the court or until the child reaches the age of 18. After the child is committed to the temporary custody of the department, all further proceedings under this section are also governed by ~~part V of~~ this chapter.

8.~~9.~~a. Change the temporary legal custody or the conditions of protective supervision at a postdisposition hearing subsequent to the initial detention hearing, without the necessity of another adjudicatory hearing. A child who has been placed in the child's own home under the protective supervision of an authorized agent of the department, in the home of a relative, in the home of a *legal custodian or caregiver* ~~nonrelative~~, or in some other place may be brought before the court by the agent of the department who is supervising the placement or by any other interested person, upon the filing of a petition alleging a need for a change in the conditions of protective supervision or the placement. If the parents or other custodians deny the need for a change, the court shall hear all parties in person or by counsel, or both. Upon the admission of a need for a change or after such hearing, the court shall enter an order changing the placement, modifying the conditions of protective supervision, or continuing the conditions of protective supervision as ordered. *The standard for changing custody of the child from one parent to another or to a relative or caregiver must meet the home study criteria and court approval pursuant to this chapter.*

b. In cases where the issue before the court is whether a child should be reunited with a parent, the court shall determine whether the parent has substantially complied with the terms of the case plan to the extent that the ~~well-being and~~ safety, *well-being, and physical, mental, and emotional health* of the child is not endangered by the return of the child to the home.

~~10. Approve placement of the child in an independent living arrangement for any foster child 16 years of age or older, if it can be clearly established that this type of alternate care arrangement is the most appropriate plan and that the safety and welfare of the child will not be jeopardized by such an arrangement. While in independent living situations, children whose legal custody has been awarded to the department or a licensed child-caring or child-placing agency, or who have been voluntarily placed with such an agency by a parent, guardian, relative, or adult nonrelative approved by the court, continue to be subject to the court review provisions of s. 39.453.~~

(b) The court shall, in its written order of disposition, include all of the following:

1. The placement or custody of the child as provided in paragraph (a).

2. Special conditions of placement and visitation.

3. Evaluation, counseling, treatment activities, and other actions to be taken by the parties, if ordered.

4. The persons or entities responsible for supervising or monitoring services to the child and family.

5. Continuation or discharge of the guardian ad litem, as appropriate.

6. *The date, time, and location of the next scheduled review hearing, which must occur within 90 days after the disposition hearing or within the earlier of:*

a. Six months after the date of the last review hearing; or

b. Six months after the date of the child's removal from his or her home, if no review hearing has been held since the child's removal from the home. ~~The period of time or date for any subsequent case review required by law.~~

7. Other requirements necessary to protect the health, safety, and well-being of the child, *to preserve the stability of the child's educational placement,* and to promote family preservation or reunification whenever possible.

(c) If the court finds that the prevention or reunification efforts of the department will allow the child to remain safely at home or be safely returned to the home, the court shall allow the child to remain in or return to the home after making a specific finding of fact that the reasons for removal have been remedied to the extent that the child's safety, ~~and~~ well-being, *and physical, mental, and emotional health* will not be endangered.

(d)~~(5)~~(a) If the court commits the child to the temporary legal custody of the department, the disposition order must include a written determination that the child cannot *safely* remain at home with reunification or family preservation services and that removal of the child is necessary to protect the child. If the child has been removed before the disposition hearing, the order must also include a written determination as to whether, after removal, the department has made a reasonable effort to reunify the family. The department has the burden of demonstrating that it has made reasonable efforts under this *paragraph* ~~subsection~~.

1.~~(b)~~ For the purposes of this *paragraph* ~~subsection~~, the term "reasonable effort" means the exercise of reasonable diligence and care by the department to provide the services delineated in the case plan.

2.~~(c)~~ In support of its determination as to whether reasonable efforts have been made, the court shall:

a.~~1.~~ Enter written findings as to whether or not prevention or reunification efforts were indicated.

b.~~2.~~ If prevention or reunification efforts were indicated, include a brief written description of what appropriate and available prevention and reunification efforts were made.

c.~~3.~~ Indicate in writing why further efforts could or could not have prevented or shortened the separation of the family.

3.~~(d)~~ A court may find that the department has made a reasonable effort to prevent or eliminate the need for removal if:

a.~~1.~~ The first contact of the department with the family occurs during an emergency.

b.~~2.~~ The appraisal by the department of the home situation indicates that it presents a substantial and immediate danger to the *child's safety or physical, mental, or emotional health* ~~child~~ which cannot be mitigated by the provision of preventive services.

c.~~3.~~ The child cannot safely remain at home, either because there are no preventive services that can ensure the *health and* safety of the child or, even with appropriate and available services being provided, the *health and* safety of the child cannot be ensured.

4.~~(e)~~ A reasonable effort by the department for reunification of the family has been made if the appraisal of the home situation by the department indicates that the severity of the conditions of dependency is such that reunification efforts are inappropriate. The department has the burden of demonstrating to the court that reunification efforts were inappropriate.

5.~~(f)~~ If the court finds that the prevention or reunification effort of the department would not have permitted the child to remain safely at home, the court may commit the child to the temporary legal custody of the department or take any other action authorized by this *chapter* ~~part~~.

(10)~~(3)~~(a) When any child is adjudicated by the court to be dependent and temporary legal custody of the child has been placed with an adult

relative, *legal custodian, or caregiver* ~~or adult nonrelative~~ approved by the court ~~willing to care for the child~~, a licensed child-caring agency, or the department, the court shall, unless a parent has voluntarily executed a written surrender for purposes of adoption, order the parents, or the guardian of the child's estate if possessed of assets which under law may be disbursed for the care, support, and maintenance of the child, to pay child support to the adult relative, *legal custodian, or caregiver* ~~or nonrelative~~ caring for the child, the licensed child-caring agency, or the department. The court may exercise jurisdiction over all child support matters, shall adjudicate the financial obligation, including health insurance, of the child's parents or guardian, and shall enforce the financial obligation as provided in chapter 61. The state's child support enforcement agency shall enforce child support orders under this section in the same manner as child support orders under chapter 61.

(b) Placement of the child pursuant to subsection *(8)* ~~(1)~~ shall not be contingent upon issuance of a support order.

(11)~~(4)~~(a) If the court does not commit the child to the temporary legal custody of an adult relative, *legal custodian, or caregiver* ~~or adult nonrelative~~ approved by the court, the disposition order shall include the reasons for such a decision and shall include a determination as to whether diligent efforts were made by the department to locate an adult relative, *legal custodian, or caregiver* willing to care for the child in order to present that placement option to the court instead of placement with the department.

(b) If *diligent efforts are* ~~a diligent search is~~ made to locate an adult relative willing and able to care for the child but, because no suitable relative is found, the child is placed with the department or a *legal custodian or caregiver* ~~nonrelative custodian~~, both the department and the court shall consider transferring temporary legal custody to *an* ~~a willing~~ adult relative ~~or adult nonrelative~~ approved by the court at a later date, but neither the department nor the court is obligated to so place the child if it is in the child's best interest to remain in the current placement. *For the purposes of this paragraph, "diligent efforts to locate an adult relative" means a search similar to the diligent search for a parent, but without the continuing obligation to search after an initial adequate search is completed.*

(12)~~(6)~~ An agency granted legal custody shall have the right to determine where and with whom the child shall live, but an individual granted legal custody shall exercise all rights and duties personally unless otherwise ordered by the court.

(13)~~(7)~~ In carrying out the provisions of this chapter, the court may order the natural parents, *caregivers,* or legal *custodians* ~~guardian~~ of a child who is found to be dependent to participate in family counseling and other professional counseling activities deemed necessary for the rehabilitation of the child.

(14)~~(8)~~ With respect to a child who is the subject in proceedings under ~~part V of~~ this chapter, the court shall *issue to the department an order to show cause why it should not* return the child to the custody of the natural parents, *legal custodians, or caregivers* upon expiration of the case plan, or sooner if the parents, *legal custodians, or caregivers* have substantially complied with the case plan.

(15)~~(9)~~ The court may at any time enter an order ending its jurisdiction over any child, except that, when a child has been returned to the parents under subsection *(14)* ~~(8)~~, the court shall not terminate its jurisdiction over the child until 6 months after the *child's* return. Based on a report of the department or agency *or the child's guardian ad litem*, and any other relevant factors, the court shall then determine whether its jurisdiction should be continued or terminated in such a case; if its jurisdiction is to be terminated, the court shall enter an order to that effect.

Section 70. Section 39.5085, Florida Statutes, is created to read:

39.5085 Relative Caregiver Program.—

(1) It is the intent of the Legislature in enacting this section to:

(a) Recognize family relationships in which a grandparent or other relative is the head of a household that includes a child otherwise at risk of foster care placement.

(b) Enhance family preservation and stability by recognizing that most children in such placements with grandparents and other relatives do not need intensive supervision of the placement by the courts or by the department.

(c) Provide additional placement options and incentives that will achieve permanency and stability for many children who are otherwise at risk of foster care placement because of abuse, abandonment, or neglect, but who may successfully be able to be placed by the dependency court in the care of such relatives.

(d) Reserve the limited casework and supervisory resources of the courts and the department for those cases in which children do not have the option for safe, stable care within the family.

(2)(a) The Department of Children and Family Services shall establish and operate the Relative Caregiver Program pursuant to eligibility guidelines established in this section as further implemented by rule of the department. The Relative Caregiver Program shall, within the limits of available funding, provide financial assistance to relatives who are within the fifth degree by blood or marriage to the parent or stepparent of a child and who are caring full-time for that child in the role of substitute parent as a result of a departmental determination of child abuse, neglect, or abandonment and subsequent placement with the relative pursuant to chapter 39. Such placement may be either court-ordered temporary legal custody to the relative pursuant to s. 39.508(9), or court-ordered placement in the home of a relative under protective supervision of the department pursuant to s. 39.508(9). The Relative Caregiver Program shall offer financial assistance to caregivers who are relatives and who would be unable to serve in that capacity without the relative caregiver payment because of financial burden, thus exposing the child to the trauma of placement in a shelter or in foster care.

(b) Caregivers who are relatives and who receive assistance under this section must be capable, as determined by a home study, of providing a physically safe environment and a stable, supportive home for the children under their care, and must assure that the children's well-being is met, including, but not limited to, the provision of immunizations, education, and mental health services as needed.

(c) Relatives who qualify for and participate in the Relative Caregiver Program are not required to meet foster care licensing requirements under s. 409.175.

(d) Relatives who are caring for children placed with them by the child protection system shall receive a special monthly relative caregiver benefit established by rule of the department. The amount of the special benefit payment shall be based on the child's age within a payment schedule established by rule of the department and subject to availability of funding. The statewide average monthly rate for children judicially placed with relatives who are not licensed as foster homes may not exceed 82 percent of the statewide average foster care rate, nor may the cost of providing the assistance described in this section to any relative caregiver exceed the cost of providing out-of-home care in emergency shelter or foster care.

(e) Children receiving cash benefits under this section are not eligible to simultaneously receive WAGES cash benefits under chapter 414.

(f) Within available funding, the Relative Caregiver Program shall provide relative caregivers with family support and preservation services, flexible funds in accordance with s. 409.165, subsidized child care, and other available services in order to support the child's safety, growth, and healthy development. Children living with relative caregivers who are receiving assistance under this section shall be eligible for medicaid coverage.

(g) The department may use appropriate available state, federal, and private funds to operate the Relative Caregiver Program.

Section 71. Section 39.4105, Florida Statutes, is renumbered as section 39.509, Florida Statutes, and amended to read:

39.509 ~~39.4105~~ Grandparents rights.—Notwithstanding any other provision of law, a maternal or paternal grandparent as well as a stepgrandparent is entitled to reasonable visitation with his or her grandchild who has been adjudicated a dependent child and taken from the physical custody of *the* ~~his or her~~ parent, custodian, legal guardian, or caregiver unless the court finds that such visitation is not in the best interest of the child or that such visitation would interfere with the goals of the case plan ~~pursuant to s. 39.451~~. Reasonable visitation may be unsupervised and, where appropriate and feasible, may be frequent and continuing.

(1) Grandparent visitation may take place in the home of the grandparent unless there is a compelling reason for denying such a visitation. The department's caseworker shall arrange the visitation to which a grandparent is entitled pursuant to this section. The state shall not charge a fee for any costs associated with arranging the visitation. However, the grandparent shall pay for the child's cost of transportation when the visitation is to take place in the grandparent's home. The caseworker shall document the reasons for any decision to restrict a grandparent's visitation.

(2) A grandparent entitled to visitation pursuant to this section shall not be restricted from appropriate displays of affection to the child, such as appropriately hugging or kissing his or her grandchild. Gifts, cards, and letters from the grandparent and other family members shall not be denied to a child who has been adjudicated a dependent child.

(3) Any attempt by a grandparent to facilitate a meeting between the child who has been adjudicated a dependent child and the child's parent, *custodian, legal guardian, or caregiver* in violation of a court order shall automatically terminate future visitation rights of the grandparent.

(4) When the child has been returned to the physical custody of his or her parent or permanent custodian, legal guardian, or caregiver, the visitation rights granted pursuant to this section shall terminate.

(5) The termination of parental rights does not affect the rights of grandparents unless the court finds that such visitation is not in the best interest of the child or that such visitation would interfere with the goals of permanency planning for the child.

(6)~~(5)~~ In determining whether grandparental visitation is not in the child's best interest, consideration may be given to the finding of guilt, regardless of adjudication, or entry or plea of guilty or nolo contendere to charges under the following statutes, or similar statutes of other jurisdictions: s. 787.04, relating to removing minors from the state or concealing minors contrary to court order; s. 794.011, relating to sexual battery; s. 798.02, relating to lewd and lascivious behavior; chapter 800, relating to lewdness and indecent exposure; or chapter 827, relating to the abuse of children. Consideration may also be given to a finding of confirmed abuse, *abandonment, or neglect* under ss. 415.101-415.113 *or this chapter* ~~and ss. 415.502-415.514~~.

Section 72. Section 39.413, Florida Statutes, is renumbered as section 39.510, Florida Statutes, and subsection (1) of said section is amended to read:

39.510 ~~39.413~~ Appeal.—

(1) Any child, ~~any~~ parent, guardian ad litem, *caregiver,* or legal custodian of any child, any other party to the proceeding who is affected by an order of the court, or the department may appeal to the appropriate district court of appeal within the time and in the manner prescribed by the Florida Rules of Appellate Procedure. Appointed counsel shall be compensated as provided in *this chapter* ~~s. 39.415~~.

Section 73. Part VII of chapter 39, Florida Statutes, consisting of sections 39.601, 39.602, and 39.603, Florida Statutes, shall be entitled to read:

PART VII
CASE PLANS

Section 74. Sections 39.4031 and 39.451, Florida Statutes, are renumbered as section 39.601, Florida Statutes, and amended to read:

39.601 ~~39.4031~~ Case plan requirements.—

(1) The department or agent of the department shall develop a case plan for each child or child's family receiving services *pursuant to this chapter* ~~who is a party to any dependency proceeding, activity, or process under this part~~. A parent, *caregiver, or legal* ~~guardian, or~~ custodian of a child may not be required nor coerced through threat of loss of custody or parental rights to admit in the case plan to abusing, neglecting, or abandoning a child. *Where dependency mediation services are available and appropriate to the best interests of the child, the court may refer the case to mediation for development of a case plan.* This section does not change the provisions of s. *39.807* ~~39.464~~.

~~(2) The case plan must be:~~

(a) *The case plan must be* developed in conference with the parent, *caregiver, or legal* ~~guardian, or~~ custodian of the child ~~and, if appropriate, the child~~ and any court-appointed guardian ad litem *and, if appropriate, the child*. ~~Any parent who believes that his or her perspective has not been considered in the development of a case plan may request referral to mediation pursuant to s. 39.4033 when such services are available.~~

(b) *The case plan must be* written simply and clearly in English and, if English is not the principal language of the child's parent, *caregiver, or legal* ~~guardian, or~~ custodian, to the extent possible in such principal language.

(c) The case plan must describe the minimum number of face-to-face meetings to be held each month between the parents, caregivers, or legal custodians and the department's caseworkers to review progress of the plan, to eliminate barriers to progress, and to resolve conflicts or disagreements.

(d)~~(c)~~ *The case plan must be* subject to modification based on changing circumstances.

(e)~~(d)~~ *The case plan must be* signed by all parties.

(f)~~(e)~~ *The case plan must be* reasonable, accurate, and in compliance with the requirements of other court orders.

(2)~~(3)~~ When the child *or family* is receiving services ~~in the child's home~~, the case plan must ~~be developed within 30 days from the date of the department's initial contact with the child, or within 30 days of the date of a disposition order placing the child under the protective supervision of the department in the child's own home, and must~~ include, in addition to the requirements in subsection *(1)* ~~(2)~~, at a minimum:

(a) A description of the problem being addressed that includes the behavior or act of a parent, *legal custodian, or caregiver* resulting in risk to the child and the reason for the department's intervention.

(b) A description of the services to be provided to the family and child specifically addressing the identified problem, including:

1. Type of services or treatment.

2. Frequency of services or treatment.

3. Location of the delivery of the services.

4. The accountable department staff or service provider.

~~5. The need for a multidisciplinary case staffing under s. 39.4032.~~

(c) A description of the measurable objectives, including timeframes for achieving objectives, addressing the identified problem.

(3)~~(4)~~ When the child is receiving services in a placement outside the child's home or in foster care, the case plan must be *submitted to the court for approval at the disposition hearing* ~~prepared within 30 days after placement and also be approved by the court~~ and must include, in addition to the requirements in subsections *(1) and* (2) ~~and (3)~~, at a minimum:

(a) A description of the permanency goal for the child, including the type of placement. *Reasonable efforts to place a child for adoption or*

with a legal guardian may be made concurrently with reasonable efforts to prevent removal of the child from the home or make it possible for the child to return safely home.

(b) A description of the type of home or institution in which the child is to be placed.

(c) A description of the financial support obligation to the child, including health insurance, of the child's parent, parents, *caregiver, or legal custodian* ~~or guardian~~.

(d) A description of the visitation rights and obligations of the parent or parents, *caregiver, or legal custodian* during the period the child is in care.

(e) A discussion of the *safety and* appropriateness of the child's placement, which placement is intended to be *safe,* ~~in~~ the least restrictive and most family-like setting available consistent with the best interest and special needs of the child, and in as close proximity as possible to the child's home. *The plan must also establish the role for the foster parents or custodians in the development of the services which are to be provided to the child, foster parents, or legal custodians. It must also address the child's need for services while under the jurisdiction of the court and implementation of these services in the case plan.*

(f) A description of the efforts to be undertaken to maintain the stability of the child's educational placement.

(g)~~(f)~~ A discussion of the department's plans to carry out the judicial determination made by the court, with respect to the child, in accordance with this chapter and applicable federal regulations.

(h)~~(g)~~ A description of the plan for assuring that services outlined in the case plan are provided to the child and the child's parent or parents, *legal custodians, or caregivers,* to improve the conditions in the family home and facilitate either the *safe* return of the child to the home or the permanent placement of the child.

(i)~~(h)~~ A description of the plan for assuring that services as outlined in the case plan are provided to the child and the child's parent or parents, *legal custodians, or caregivers,* to address the needs of the child and a discussion of the appropriateness of the services.

(j)~~(i)~~ A description of the plan for assuring that services are provided to the child and foster parents to address the needs of the child while in foster care, *which shall include an itemized list of costs to be borne by the parent or caregiver associated with any services or treatment that the parent and child are expected to receive.*

(k)~~(j)~~ A written notice to the parent that failure of the parent to substantially comply with the case plan may result in the termination of parental rights, and that a material failure to substantially comply may result in the filing of a petition for termination of parental rights sooner than the compliance periods set forth in the case plan itself. The child protection team shall coordinate its effort with the case staffing committee.

(l) In the case of a child for whom the permanency plan is adoption or placement in another permanent home, documentation of the steps the agency is taking to find an adoptive family or other permanent living arrangement for the child, to place the child with an adoptive family, with a fit and willing relative, with a legal guardian, or in another planned permanent living arrangement, and to finalize the adoption or legal guardianship. At a minimum, such documentation shall include child-specific recruitment efforts such as the use of state, regional, and national adoption exchanges, including electronic exchange systems.

(4)~~(5)~~ In the event that the parents, *legal custodians, or caregivers* are unwilling or unable to participate in the development of a case plan, the department shall document that unwillingness or inability *to participate. Such documentation must be provided* ~~and provide~~ in writing to the parent, *legal custodians, or caregivers* when available for the court record, and then the department shall prepare a case plan conforming as nearly as possible with the requirements set forth in this section. The unwillingness or inability of the parents, *legal custodians, or caregivers* to participate in the development of a case plan shall not in itself bar the filing of a petition for dependency or for termination of parental rights. The parents, *legal custodians, or caregivers,* if available, must be provided a copy of the case plan and be advised that they may, at any time prior to the filing of *a* petition for termination of parental rights, enter into a case plan and that they may request judicial review of any provision of the case plan with which they disagree at any court review hearing set for the child.

(5)~~(6)~~ The services delineated in the case plan must be designed to improve the conditions in the family home and aid in maintaining the child in the home, to facilitate the *safe* return of the child to the family home, or to facilitate the permanent placement of the child. The service intervention must be the least intrusive possible into the life of the family, must focus on clearly defined objectives, and must provide the most efficient path to quick reunification or permanent placement, *with the child's health and safety being paramount.* To the extent possible, the service intervention must be grounded in outcome evaluation results that demonstrate success in the reunification or permanent placement process. In designing service interventions, generally recognized standards of the professions involved in the process must be taken into consideration.

(6) After jurisdiction attaches, all case plans must be filed with the court and a copy provided to the parents, caregivers, or legal custodians of the child, to the representative of the guardian ad litem program if the program has been appointed, and to all other parties, not less than 72 hours before the disposition hearing. All such case plans must be approved by the court. The department shall also file with the court all case plans prepared before jurisdiction of the court attached. If the court does not accept the case plan, the court shall require the parties to make necessary modifications to the plan. An amended plan must be submitted to the court for review and approval within 30 days after the hearing on the case plan.

~~39.451 Case planning for children in foster care.—~~

~~(1) In presenting the case plan to the court, the purpose of a case plan is to ensure permanency for children through recording the actions to be taken by the parties involved in order to quickly assure the safe return of the child to the parents or, if this is not possible, the termination of parental rights and the placement of the child with the department or a licensed child-placing agency for the purpose of finding a permanent adoptive home. Permanent adoptive placement is the primary permanency goal when a child is permanently placed with the department or a licensed child-placing agency. If it is not possible to find a permanent adoptive home, the case plan must record the actions taken for preparing the child for alternative permanency goals or placements such as long-term foster care or independent living.~~

(7)~~(2)~~ The case plan must be limited to as short a period as possible for the accomplishment of its provisions. Unless extended ~~under s. 39.453(8)~~, the plan expires no later than *12* ~~18~~ months after the date the child was initially removed from the home *or the date the case plan was accepted by the court, whichever comes first.*

(8)~~(3)~~ The case plan must meet applicable federal and state requirements ~~as provided in s. 39.4031~~.

(9)~~(4)~~(a) In each case in which the custody of a child has been vested, either voluntarily or involuntarily, in the department and the child has been placed in *out-of-home* ~~foster~~ care, a case plan must be prepared within *60* ~~30~~ days after the department removes the child from the home, and shall be submitted to the court *before the disposition hearing,* ~~with a hearing scheduled~~ for the court to review and accept ~~or modify the plan within an additional 30 days~~. If the preparation of a case plan, in conference with the parents and other pertinent parties, cannot be *completed before the disposition hearing* ~~accomplished within 30 days~~, for good cause shown, the court may grant an extension not to exceed 30 days *and set a hearing to review and accept the case plan.*

(b) The parent or parents, *legal custodians, or caregivers* may receive assistance from any person~~,~~ or social service agency in the preparation of the case plan.

(c) The social service agency, *the department,* and the court, when applicable, shall inform the parent or parents, *legal custodians, or caregivers* of the right to receive such assistance, including the right to assistance of counsel.

(d)~~(c)~~ Before the signing of the case plan, the authorized agent of the department shall explain it to all persons involved in its implementation, including, when appropriate, the child.

(e)~~(d)~~ After the case plan has been agreed upon and signed by the parties involved, a copy of the plan must be given immediately to the ~~natural~~ parents, the department or agency, the foster parents *or caregivers, the legal custodian, the caregiver, the representative of the guardian ad litem program if the program is appointed,* and any other parties identified by the court, including the child, if appropriate.

(f)~~(e)~~ The case plan may be amended at any time if all parties are in agreement regarding the revisions to the plan *and the plan is* submitted to the court with a memorandum of explanation. The case plan may also be amended by the court or upon motion of any party at a hearing, based on competent evidence demonstrating the need for the amendment. A copy of the amended plan must be immediately given to the parties specified in paragraph *(e)*~~(d)~~.

~~(5) The case plan must be submitted to the court and all parties for review and acceptance or modification at least 72 hours prior to a court hearing. If the court does not accept any of the requirements of the case plan, the court shall require the parties to make necessary modifications to the plan. An amended plan must be submitted to the court for review and approval within a time certain specified by the court.~~

(10)~~(6)~~ A case plan must be prepared, but need not be submitted to the court, for a child who will be in care no longer than 30 days unless that child is placed in *out-of-home* ~~foster~~ care a second time within a 12-month period.

Section 75. Subsections (1), (2), (3), and (4) of section 39.452, Florida Statutes, are renumbered as section 39.602, Florida Statutes, and amended to read:

39.602 ~~39.452~~ Case planning when parents, *legal custodians, or caregivers* do not participate and the child is in *out-of-home* ~~foster~~ care.—

(1)~~(a)~~ In the event the parents, *legal custodians, or caregivers* will not or cannot participate in preparation of a case plan, the department shall submit a full explanation of the circumstances and ~~a plan for the permanent placement of the child to the court within 30 days after the child has been removed from the home and placed in temporary foster care and schedule a court hearing within 30 days after submission of the plan to the court to review and accept or modify the plan. If preparation cannot be accomplished within 30 days, for good cause shown, the court may grant extensions not to exceed 15 days each for the filing, the granting of which shall be for similar reason to that contained in s. 39.451(4)(a).~~

~~(b) In the full explanation of the circumstances submitted to the court, the department shall~~ state the nature of its efforts to secure *such persons'* ~~parental~~ participation in the preparation of a case plan.

(2) In a case in which the physical, emotional, or mental condition or physical location of the parent is the basis for the parent's nonparticipation, it is the burden of the department to provide substantial evidence to the court that such condition or location has rendered the parent unable or unwilling to participate in the preparation of a case plan, either pro se or through counsel. The supporting documentation must be submitted to the court at the time the plan is filed.

(3) The plan must include, but need not be limited to, the specific services to be provided by the department, the goals and plans for the child, and the time for accomplishing the provisions of the plan and for accomplishing permanence for the child.

(4)(a) *At least 72* ~~Seventy-two~~ hours prior to the filing of a plan, *all parties* ~~each parent~~ must be provided with a copy of the plan developed by the department. If the location of one or both parents is unknown, this must be documented in writing and included in the plan submitted to the court. After the filing of the plan, if the location of an absent parent becomes known, that parent must be served with a copy of the plan.

(b) Before the filing of the plan, the department shall advise each parent, both orally and in writing, that the failure of the parents to substantially comply with a plan ~~which has reunification as its primary goal~~ may result in the termination of parental rights, but only after notice and hearing as provided in *this chapter* ~~part VI~~. If, after the plan has been submitted to the court, an absent parent is located, the department shall advise the parent, both orally and in writing, that the failure of the parents to substantially comply with a plan ~~which has reunification as its goal~~ may result in termination of parental rights, but only after notice and hearing as provided in *this chapter* ~~part VI~~. Proof of written notification must be filed with the court.

Section 76. Subsection (5) of section 39.452, Florida Statutes, is renumbered as section 39.603, Florida Statutes, and amended to read:

39.603 ~~39.452~~ *Court approvals of* case planning ~~when parents do not participate and the child is in foster care.—~~

~~(5)(a) The court shall set a hearing, with notice to all parties, on the plan or any provisions of the plan, within 30 days after the plan has been received by the court. If the location of a parent is unknown, the notice must be directed to the last permanent address of record.~~

(1)~~(b)~~ At the hearing on the plan, *which shall occur in conjunction with the disposition hearing unless otherwise directed by the court,* the court shall determine:

(a)~~1.~~ All parties who were notified and are in attendance at the hearing, either in person or through a legal representative. The court shall appoint a guardian ad litem under Rule 1.210, Florida Rules of Civil Procedure, to represent the interests of any parent, if the location of the parent is known but the parent is not present at the hearing and the development of the plan is based upon the physical, emotional, or mental condition or physical location of the parent.

(b)~~2.~~ If the plan is consistent with previous orders of the court placing the child in care.

(c)~~3.~~ If the plan is consistent with the requirements for the content of a plan as specified in *this chapter* ~~subsection (3)~~.

(d)~~4.~~ In involuntary placements, whether each parent was notified of the right to counsel at each stage of the dependency proceedings, in accordance with the Florida Rules of Juvenile Procedure.

(e)~~5.~~ Whether each parent whose location was known was notified of the right to participate in the preparation of a case plan and of the right to receive assistance from any other person in the preparation of the case plan.

(f)~~6.~~ Whether the plan is meaningful and designed to address facts and circumstances upon which the court based the finding of dependency in involuntary placements or the plan is meaningful and designed to address facts and circumstances upon which the child was placed in *out-of-home* ~~foster~~ care voluntarily.

(2)~~(c)~~ When the court determines any of the elements considered at the hearing related to the plan have not been met, the court shall require the parties to make necessary amendments to the plan. The amended plan must be submitted to the court for review and approval within a time certain specified by the court. A copy of the amended plan must also be provided to each parent, if the location of the parent is known.

(3)~~(d)~~ A parent who has not participated in the development of a case plan must be served with a copy of the plan developed by the department, if the parent can be located, at least *48* ~~72~~ hours prior to the court hearing. Any parent is entitled to, and may seek, a court review of the plan prior to the initial ~~6 months'~~ review and must be informed of this right by the department at the time the department serves the

parent with a copy of the plan. If the location of an absent parent becomes known to the department, the department shall inform the parent of the right to a court review at the time the department serves the parent with a copy of the case plan.

Section 77. Part VIII of chapter 39, Florida Statutes, consisting of sections 39.701, 39.702, 39.703, and 39.704, Florida Statutes, shall be entitled to read:

PART VIII
JUDICIAL REVIEWS

Section 78. Section 39.453, Florida Statutes, is renumbered as section 39.701, Florida Statutes, and amended to read:

39.701 ~~39.453~~ Judicial review.—

(1)(a) The court shall have continuing jurisdiction in accordance with this section and shall review the status of the child as required by this subsection or more frequently if the court deems it necessary or desirable.

(b) The court shall retain jurisdiction over a child returned to its parents, *caregivers,* or legal guardians for a period of 6 months, but, at that time, based on a report of the social service agency *and the guardian ad litem, if one has been appointed,* and any other relevant factors, the court shall make a determination as to whether its jurisdiction shall continue or be terminated.

~~(c) After termination of parental rights, the court shall retain jurisdiction over any child for whom custody is given to a social service agency until the child is adopted. The jurisdiction of the court after termination of parental rights and custody is given to the agency is for the purpose of reviewing the status of the child and the progress being made toward permanent adoptive placement. As part of this continuing jurisdiction, for good cause shown by the guardian ad litem for the child, the court may review the appropriateness of the adoptive placement of the child.~~

(2)*(a)* The court shall review the status of the child and shall hold a hearing as provided in *this part* ~~subsection (7)~~. The court may dispense with the attendance of the child at the hearing, but may not dispense with the hearing or the presence of other parties to the review unless before the review a hearing is held before a citizen review panel.

(b) Citizen review panels may ~~be established under s. 39.4531 to~~ conduct *hearings to* ~~a~~ review ~~of~~ the status of a child. *The court shall select the cases appropriate for referral to the citizen review panels and may order the attendance of the parties at the review panel hearings. However, any party may object to the referral of a case to a citizen review panel. Whenever such an objection has been filed with the court, the court shall review the substance of the objection and may conduct the review itself or refer the review to a citizen review panel. All parties retain the right to take exception to the findings or recommended orders of a citizen review panel in accordance with Rule 1.490(h), Florida Rules of Civil Procedure.*

(c) Notice of a hearing by a citizen review panel must be provided as set forth in subsection (5). At the conclusion of a citizen review panel hearing, each party may propose a recommended order to the chairperson of the panel. Thereafter, the citizen review panel shall submit its report, *copies of the proposed recommended orders,* and *a copy of the panel's* recommended order to the court. The citizen review panel's recommended order must be limited to the dispositional options available to the court in subsection (8). Each party may file exceptions to the report and recommended order of the citizen review panel in accordance with Rule 1.490, Florida Rules of Civil Procedure.

(3)(a) The initial judicial review must be held no later than *90 days after the date of the disposition hearing or after the date of the hearing at which the court approves the case plan, but in no event shall the review be held later than* 6 months after the date the child was removed from the home. *Citizen review panels shall not conduct more than two consecutive reviews without the child and the parties coming before the court for a judicial review.* ~~If the child remains in shelter or foster care, subsequent judicial reviews must be held at least every 6 months after the date of the most recent judicial review until the child is 13 years old and has been in foster care at least 18 months.~~

(b) If the court extends *any* ~~the~~ case plan beyond *12* ~~18~~ months, judicial reviews must be held at least every 6 months ~~for children under the age of 13 and at least annually for children age 13 and older~~.

(c) If the child is placed in the custody of the department or a licensed child-placing agency for the purpose of adoptive placement, judicial reviews must be held at least every 6 months until adoptive placement, to determine *the appropriateness of the current placement and* the progress made toward adoptive placement.

(d) If the department and the court have established a formal agreement that includes specific authorization for particular cases, the department may conduct administrative reviews instead of the judicial reviews for children in *out-of-home* ~~foster~~ care. Notices of such administrative reviews must be provided to all parties. However, an administrative review may not be substituted for the first judicial review, and in every case the court must conduct a judicial review at least every *6* ~~12~~ months. Any party dissatisfied with the results of an administrative review may petition for a judicial review.

(e) The clerk of the circuit court shall schedule judicial review hearings in order to comply with the mandated times cited in *this section* ~~paragraphs (a)-(d)~~.

(f) In each case in which a child has been voluntarily placed with the licensed child-placing agency, the agency shall notify the clerk of the court in the circuit where the child resides of such placement within 5 working days. Notification of the court is not required for any child who will be in *out-of-home* ~~foster~~ care no longer than 30 days unless that child is placed in *out-of-home* ~~foster~~ care a second time within a 12-month period. If the child is returned to the custody of the parents, *caregiver, or legal custodian* ~~or guardian~~ before the scheduled review hearing or if the child is placed for adoption, the child-placing agency shall notify the court of the child's return or placement within 5 working days, and the clerk of the court shall cancel the review hearing.

(4) *The court shall schedule the date, time, and location of the next judicial review in the judicial review order.* ~~The social service agency shall file a petition for review with the court within 10 calendar days after the judicial review hearing. The petition must include a statement of the dispositional alternatives available to the court. The petition must accompany the notice of the hearing served upon persons specified in subsection (5).~~

(5) Notice of *a judicial review hearing or a citizen review panel* ~~the~~ hearing, and a copy of the *motion for judicial review* ~~petition~~, including a statement of the dispositional alternatives available to the court, must be served by the court upon:

(a) The social service agency charged with the supervision of care, custody, or guardianship of the child, if that agency is not the *movant* ~~petitioner~~.

(b) The foster parent or parents or *caregivers* ~~caretakers~~ in whose home the child resides.

(c) The parent, *caregiver, or legal custodian* ~~guardian, or relative~~ from whom the care and custody of the child have been transferred.

(d) The guardian ad litem for the child, *or the representative of the guardian ad litem program* if *the program* ~~one~~ has been appointed.

(e) Any preadoptive parent.

(f)~~(e)~~ Such other persons as the court may in its discretion direct.

(6)(a) *Prior to every judicial review hearing or citizen review panel hearing,* the social service agency shall make an investigation and social study concerning all pertinent details relating to the child and shall furnish to the court or citizen review panel a written report that includes, but is not limited to:

1. A description of the type of placement the child is in at the time of the hearing, *including the safety of the child and the continuing necessity for and appropriateness of the placement.*

2. Documentation of the diligent efforts made by all parties to the case plan to comply with each applicable provision of the plan.

3. The amount of fees assessed and collected during the period of time being reported.

4. The services provided to the foster family or *caregivers* ~~caretakers~~ in an effort to address the needs of the child as indicated in the case plan.

5. A statement *that* ~~concerning whether~~ the parent or *legal custodian* ~~guardian~~, though able to do so, did not comply substantially with the provisions of the case plan and the agency recommendations or a statement that the parent or *legal custodian* ~~guardian~~ did substantially comply with such provisions.

6. A statement from the foster parent or parents or *caregivers* ~~caretakers~~ providing any material evidence concerning the return of the child to the parent or parents *or legal custodians*.

7. A statement concerning the frequency, duration, and results of the parent-child visitation, if any, and the agency recommendations for an expansion or restriction of future visitation.

8. The number of times a child has been removed from his or her home and placed elsewhere, the number and types of placements that have occurred, and the reason for the changes in placement.

9. The number of times a child's educational placement has been changed, the number and types of educational placements which have occurred, and the reason for any change in placement.

(b) A copy of the *social service agency's* written report must be provided to the attorney of record of the parent, parents, or *legal custodians* ~~guardian~~; to the parent, parents, or *legal custodians* ~~guardian~~; to the foster parents or *caregivers* ~~caretakers~~; to each citizen review panel ~~established under s. 39.4531~~; and to the guardian ad litem for the child, *or the representative of the guardian ad litem program* if *the program* ~~one~~ has been appointed by the court, at least 48 hours before the judicial review hearing, or citizen review panel hearing ~~if such a panel has been established under s. 39.4531~~. The requirement for providing parents or *legal custodians* ~~guardians~~ with a copy of the written report does not apply to those parents or *legal custodians* ~~guardians~~ who have voluntarily surrendered their child for adoption.

(c) In a case in which the child has been permanently placed with the social service agency, the agency shall furnish to the court a written report concerning the progress being made to place the child for adoption. If~~, as stated in s. 39.451(1),~~ the child cannot be placed for adoption, a report on the progress made by the child in alternative permanency goals or placements, including, but not limited to, long-term foster care, independent living, custody to a relative or *caregiver* ~~adult nonrelative~~ approved by the court on a permanent basis with or without legal guardianship, or custody to a foster parent *or caregiver* on a permanent basis with or without legal guardianship, must be submitted to the court. The report must be submitted to the court at least 48 hours before each scheduled judicial review.

(d) In addition to or in lieu of any written statement provided to the court, the foster parent or *caregivers, or any preadoptive parent,* ~~caretakers~~ shall be given the opportunity to address the court with any information relevant to the best interests of the child at any judicial review hearing.

(7) The court~~,~~ and any citizen review panel ~~established under s. 39.4531,~~ shall take into consideration the information contained in the social services study and investigation and all medical, psychological, and educational records that support the terms of the case plan; testimony by the social services agency, the parent or *legal custodian* ~~guardian~~, the foster parent or *caregivers* ~~caretakers~~, the guardian ad litem if one has been appointed for the child, and any other person deemed appropriate; and any relevant and material evidence submitted to the court, including written and oral reports to the extent of their probative value. In its deliberations, the court~~,~~ and any citizen review panel ~~established under s. 39.4531,~~ shall seek to determine:

(a) If the parent or *legal custodian* ~~guardian~~ was advised of the right to receive assistance from any person or social service agency in the preparation of the case plan.

(b) If the parent or *legal custodian* ~~guardian~~ has been advised of the right to have counsel present at the judicial review or citizen review hearings. If not so advised, the court or citizen review panel shall advise the parent or *legal custodian* ~~guardian~~ of such right.

(c) If a guardian ad litem needs to be appointed for the child in a case in which a guardian ad litem has not previously been appointed or if there is a need to continue a guardian ad litem in a case in which a guardian ad litem has been appointed.

(d) The compliance or lack of compliance of all parties with applicable items of the case plan, including the parents' compliance with child support orders.

(e) The compliance or lack of compliance with a visitation contract between the parent, *caregiver, or legal custodian* ~~or guardian~~ and the social service agency for contact with the child, including the *frequency, duration, and results of the parent-child visitation and the* reason for any noncompliance.

(f) The compliance or lack of compliance of the parent, *caregiver, or legal custodian* ~~or guardian~~ in meeting specified financial obligations pertaining to the care of the child, including the reason for failure to comply if such is the case.

(g) The appropriateness of the child's current placement, including whether the child is in a setting which is as family-like and as close to the parent's home as possible, consistent with the child's best interests and special needs, *and including maintaining stability in the child's educational placement.*

(h) A projected date likely for the child's return home or other permanent placement.

(i) When appropriate, the basis for the unwillingness or inability of the parent, *caregiver, or legal custodian* ~~or guardian~~ to become a party to a case plan. The court and the citizen review panel shall determine if ~~the nature of the location or the condition of the parent and~~ the efforts of the social service agency to secure *party* ~~parental~~ participation in a case plan were sufficient.

(8)(a) Based upon the criteria set forth in subsection (7) and the recommended order of the citizen review panel, if *any* ~~established under s. 39.4531~~, the court shall determine whether or not the social service agency shall initiate proceedings to have a child declared a dependent child, return the child to the parent, *legal custodian, or caregiver*, continue the child in *out-of-home* ~~foster~~ care for a specified period of time, or initiate termination of parental rights proceedings for subsequent placement in an adoptive home. Modifications to the plan must be handled as prescribed in s. *39.601* ~~39.451~~. If the court finds that the prevention or reunification efforts of the department will allow the child to remain safely at home or be safely returned to the home, the court shall allow the child to remain in or return to the home after making a specific finding of fact that the reasons for removal have been remedied to the extent that the child's safety, ~~and~~ well-being, *and physical, mental, and emotional health* will not be endangered.

(b) The court shall return the child to the custody of the parents, *legal custodians, or caregivers* at any time it determines that they have substantially complied with the plan, if the court is satisfied that reunification will not be detrimental to the child's safety, ~~and~~ well-being, *and physical, mental, and emotional health.*

(c) If, in the opinion of the court, the social service agency has not complied with its obligations as specified in the written case plan, the court may find the social service agency in contempt, shall order the social service agency to submit its plans for compliance with the agreement, and shall require the social service agency to show why the child *could* ~~should~~ not *safely* be returned ~~immediately~~ to the home of the parents, *legal custodians, or caregivers* ~~or legal guardian~~.

(d) The court may extend the time limitation of the case plan, or may modify the terms of the plan, based upon information provided by the social service agency, *and the guardian ad litem, if one has been appointed,* the ~~natural~~ parent or parents, and the foster parents, and any other competent information on record demonstrating the need for the amendment. *If the court extends the time limitation of the case plan, the court must make specific findings concerning the frequency of past parent-child visitation, if any, and the court may authorize the expansion or restriction of future visitation.* Modifications to the plan must be handled as prescribed in s. *39.601* ~~39.451~~. Any extension of a case plan must comply with the time requirements and other requirements specified by this *chapter* ~~part~~.

(e) If, at any judicial review, the court finds that the parents have failed to substantially comply with the case plan to the degree that further reunification efforts are without merit and not in the best interest of the child, it may authorize the filing of a petition for termination of parental rights, whether or not the time period as contained in the case plan for substantial compliance has elapsed.

(f) *No later than 12 months after the date that the child was placed in shelter care, the court shall conduct a judicial review. At this hearing, if the child is not returned to the physical custody of the parents, caregivers, or legal custodians, the case plan may be extended with the same goals only if the court finds that the situation of the child is so extraordinary that the plan should be extended. The case plan must document steps the department is taking to find an adoptive parent or other permanent living arrangement for the child.* ~~If, at the time of the 18-month judicial review or citizen review, the child is not returned to the physical custody of the natural parents, the case plan may be extended only if, at the time of the judicial review or citizen review, the court finds that the situation of the child is so extraordinary that the plan should be extended. The extension must be in accordance with subsection (3).~~

(g) The court may issue a protective order in assistance, or as a condition, of any other order made under this part. In addition to the requirements included in the case plan, the protective order may set forth requirements relating to reasonable conditions of behavior to be observed for a specified period of time by a person or agency who is before the court; and such order may require any such person or agency to make periodic reports to the court containing such information as the court in its discretion may prescribe.

Section 79. Section 39.4531, Florida Statutes, is renumbered as section 39.702, Florida Statutes, and amended to read:

39.702 ~~39.4531~~ Citizen review panels.—

(1) Citizen review panels may be established in each judicial circuit and shall be authorized by an administrative order executed by the chief judge of each circuit. The court shall administer an oath of office to each citizen review panel member which shall authorize the panel member to participate in citizen review panels and make recommendations to the court pursuant to the provisions of this section.

(2) Citizen review panels shall be administered by an independent not-for-profit agency. For the purpose of this section, an organization that has filed for nonprofit status under the provisions of s. 501(c)(3) of the United States Internal Revenue Code is an independent not-for-profit agency for a period of 1 year after the date of filing. At the end of that 1-year period, in order to continue conducting citizen reviews, the organization must have qualified for nonprofit status under s. 501(c)(3) of the United States Internal Revenue Code and must submit to the chief judge of the circuit court a consumer's certificate of exemption that was issued to the organization by the Florida Department of Revenue and a report of the organization's progress. If the agency has not qualified for nonprofit status, the court must rescind its administrative order that authorizes the agency to conduct citizen reviews. All independent not-for-profit agencies conducting citizen reviews must submit citizen review annual reports to the court.

(3) For the purpose of this section, a citizen review panel shall be composed of five volunteer members and shall conform with the requirements of this *chapter* ~~section~~. The presence of three members at a panel hearing shall constitute a quorum. Panel members shall serve without compensation.

(4)~~(3)~~ Based on the information provided to each citizen review panel pursuant to s. *39.701* ~~39.453~~, each citizen review panel shall provide the court with a report and recommendations regarding the placement and dispositional alternatives the court shall consider before issuing a judicial review order.

(5)~~(4)~~ *The* ~~An~~ independent not-for-profit agency authorized to administer each citizen review panel shall:

(a) In collaboration with the department, develop policies to assure that citizen review panels comply with all applicable state and federal laws.

(b) Establish policies for the recruitment, selection, retention, and terms of volunteer panel members. Final selection of citizen review panel members shall, to the extent possible, reflect the multicultural composition of the community which they serve. A criminal background check and personal reference check shall be conducted on each citizen review panel member prior to the member serving on a citizen review panel.

(c) In collaboration with the department, develop, implement, and maintain a training program for citizen review volunteers and provide training for each panel member prior to that member serving on a review panel. Such training may include, but shall not be limited to, instruction on dependency laws, departmental policies, and judicial procedures.

(d) Ensure that all citizen review panel members have read, understood, and signed an oath of confidentiality relating to ~~the citizen review hearings and~~ written or verbal information provided to the panel members *for review hearings*.

(e) Establish policies to avoid actual or perceived conflicts of interest by panel members during the review process and to ensure accurate, fair reviews of each child dependency case.

(f) Establish policies to ensure ongoing communication with the department and the court.

(g) Establish policies to ensure adequate communication with the parent*, caregiver, or legal custodian* ~~or guardian~~, the foster parent *or caregiver*, the guardian ad litem, and any other person deemed appropriate.

(h) Establish procedures that encourage attendance *and participation* of interested persons *and parties, including the biological parents, foster parents or caregivers, or a relative or nonrelative with whom the child is placed,* at *citizen* review hearings.

(i) Coordinate with existing citizen review panels to ensure consistency of operating procedures, data collection, ~~and~~ analysis, and report generation.

(j) Make recommendations as necessary to the court concerning attendance of essential persons at the review and other issues pertinent to an effective review process.

(k) Ensure consistent methods of identifying barriers to the permanent placement of the child and delineation of findings and recommendations to the court.

(6)~~(5)~~ The department and agents of the department shall submit information to the citizen review panel when requested and shall address questions asked by the citizen review panel to identify barriers to the permanent placement of each child.

Section 80. Section 39.454, Florida Statutes, is renumbered as section 39.703, Florida Statutes, and amended to read:

39.703 ~~39.454~~ Initiation of termination of parental rights proceedings.—

(1) If, in preparation for any judicial review hearing under this *chapter* ~~part~~, it is the opinion of the social service agency that the parents ~~or legal guardian~~ of the child have not complied with their responsibilities as specified in the written case plan although able to do so, the social service agency shall state its intent to initiate proceedings to terminate parental rights, unless the social service agency can demonstrate to the court that such a recommendation would not be in the child's best interests. If it is the intent of the department or licensed child-placing agency to initiate proceedings to terminate parental rights, the department or licensed child-placing agency shall file a petition for termination of parental rights no later than 3 months after the date of the previous judicial review hearing. If the petition cannot be filed within 3 months, the department or licensed child-placing agency shall provide a written report to the court outlining the reasons for delay, the progress made in the termination of parental rights process, and the anticipated date of completion of the process.

(2) If, at the time of the *12-month* ~~18-month~~ judicial review hearing, a child is not returned to the physical custody of the ~~natural~~ parents, *caregivers, or legal custodians*, the social service agency shall initiate termination of parental rights proceedings under ~~part VI of~~ this chapter within 30 days. Only if the court finds that the situation of the child is so extraordinary and that the best interests of the child will be met by such action at the time of the judicial review may the case plan be extended. If the court decides to extend the plan, the court shall enter detailed findings justifying the decision to extend, as well as the length of the extension. *A termination of parental rights petition need not be filed if: the child is being cared for by a relative who chooses not to adopt the child; the court determines that filing such a petition would not be in the best interests of the child; or the state has not provided the child's family, when reasonable efforts to return a child are required, consistent with the time period in the state's case plan, such services as the state deems necessary for the safe return of the child to his or her home.* Failure to initiate termination of parental rights proceedings at the time of the *12-month* ~~18-month~~ judicial review or within 30 days after such review does not prohibit initiating termination of parental rights proceedings at any other time.

Section 81. Section 39.456, Florida Statutes, is renumbered as section 39.704, Florida Statutes, and amended to read:

39.704 ~~39.456~~ Exemptions *from judicial review.—Judicial review* ~~This part~~ does not apply to:

(1) Minors who have been placed in adoptive homes by the department or by a licensed child-placing agency; *or*

(2) Minors who are refugees or entrants to whom federal regulations apply and who are in the care of a social service agency.~~; or~~

~~(3) Minors who are the subjects of termination of parental rights cases pursuant to s. 39.464.~~

Section 82. Part IX of chapter 39, Florida Statutes, consisting of sections 39.801, 39.802, 39.803, 39.804, 39.805, 39.806, 39.807, 39.808, 39.809, 39.810, 39.811, 39.812, 39.813, 39.814, 39.815, 39.816, and 39.817, Florida Statutes, shall be entitled to read:

PART IX
TERMINATION OF PARENTAL RIGHTS

Section 83. Sections 39.46 and 39.462, Florida Statutes, are renumbered as section 39.801, Florida Statutes, and amended to read:

39.801 ~~39.46~~ Procedures and jurisdiction*; notice; service of process.*—

(1) All procedures, including petitions, pleadings, subpoenas, summonses, and hearings, in termination of parental rights proceedings shall be according to the Florida Rules of Juvenile Procedure unless otherwise provided by law.

(2) The circuit court shall have exclusive original jurisdiction of a proceeding involving termination of parental rights.

~~39.462 Process and services.—~~

(3)~~(1)~~ Before the court may terminate parental rights, in addition to the other requirements set forth in this part, the following requirements must be met:

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

1. The parents of the child.

2. The *caregivers or* legal custodians ~~or guardian~~ of the child.

3. If the parents who would be entitled to notice are dead or unknown, a living relative of the child, unless upon diligent search and inquiry no such relative can be found.

4. Any person who has physical custody of the child.

5. Any grandparent entitled to priority for adoption under s. 63.0425.

6. Any prospective parent who has been identified under *s. 39.503 or s. 39.803* ~~s. 39.4051 or s. 39.4625~~.

7. The guardian ad litem for the child *or the representative of the guardian ad litem program*, if *the program* ~~one~~ has been appointed.

The document containing the notice to respond or appear must contain, in type at least as large as the *type in the* balance of the document, the following or substantially similar language: "FAILURE TO *PERSONALLY* ~~RESPOND TO THIS NOTICE OR TO~~ APPEAR AT THIS *ADVISORY* HEARING CONSTITUTES CONSENT TO THE TERMINATION OF PARENTAL RIGHTS OF THIS CHILD (OR ~~THESE~~ CHILDREN)."

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

(c) Notice as prescribed by this section may be waived, in the discretion of the judge, with regard to any person to whom notice must be given under this subsection if the person executes, before two witnesses and a notary public or other officer authorized to take acknowledgments, a written surrender of the child to a licensed child-placing agency or the department.

(d) If the person served with notice under this section fails to ~~respond or~~ appear at the advisory hearing, the failure to ~~respond or~~ appear shall constitute consent for termination of parental rights by the person given notice.

(4)~~(2)~~ Upon the application of any party, the clerk or deputy clerk shall issue, and the court on its own motion may issue, subpoenas requiring the attendance and testimony of witnesses and the production of records, documents, or other tangible objects at any hearing.

(5)~~(3)~~ All process and orders issued by the court must be served or executed as other process and orders of the circuit court and, in addition, may be served or executed by authorized agents of the department or the guardian ad litem.

(6)~~(4)~~ Subpoenas may be served within the state by any person over 18 years of age who is not a party to the proceeding.

(7)~~(5)~~ A fee may not be paid for service of any process or other papers by an agent of the department or the guardian ad litem. If any process, orders, or other papers are served or executed by any sheriff, the sheriff's fees must be paid by the county.

Section 84. Sections 39.461 and 39.4611, Florida Statutes, are renumbered as section 39.802, Florida Statutes, and amended to read:

39.802 ~~39.461~~ Petition for termination of parental rights*; filing; elements.*—

(1) All proceedings seeking an adjudication to terminate parental rights pursuant to this chapter must be initiated by the filing of an

original petition by the department, the guardian ad litem, or a licensed child-placing agency or by any other person who has knowledge of the facts alleged or is informed of them and believes that they are true.

(2) The form of the petition is governed by the Florida Rules of Juvenile Procedure. The petition must be in writing and signed by the petitioner under oath stating the petitioner's good faith in filing the petition.

(3) When a petition for termination of parental rights has been filed, the clerk of the court shall set the case before the court for an advisory hearing.

~~39.4611 Elements of petition for termination of parental rights.—~~

(4)~~(1)~~ A petition for termination of parental rights filed under this chapter must contain facts supporting the following allegations:

(a) That at least one of the grounds listed in s. *39.806* ~~39.464~~ has been met.

(b) That the parents of the child were informed of their right to counsel at all hearings that they attend and that a dispositional order adjudicating the child dependent was entered in any prior dependency proceeding relied upon in offering a parent a case plan as described in s. *39.806* ~~39.464~~.

(c) That the manifest best interests of the child, in accordance with s. *39.810* ~~39.4612~~, would be served by the granting of the petition.

(5)~~(2)~~ When a petition for termination of parental rights is filed under s. *39.806(1)* ~~39.464(1)~~, a separate petition for dependency need not be filed and the department need not offer the parents a case plan with a goal of reunification, but may instead file with the court a case plan with a goal of termination of parental rights *to allow continuation of services until the termination is granted or until further orders of the court are issued*.

(6)~~(3)~~ The fact that a child has been previously adjudicated dependent as alleged in a petition for termination of parental rights may be proved by the introduction of a certified copy of the order of adjudication or the order of disposition of dependency.

(7)~~(4)~~ The fact that the parent of a child was informed of the right to counsel in any prior dependency proceeding as alleged in a petition for termination of parental rights may be proved by the introduction of a certified copy of the order of adjudication or the order of disposition of dependency containing a finding of fact that the parent was so advised.

(8)~~(5)~~ Whenever the department has entered into a case plan with a parent with the goal of reunification, and a petition for termination of parental rights based on the same facts as are covered in the case plan is filed prior to the time agreed upon in the case plan for the performance of the case plan, the petitioner must allege and prove by clear and convincing evidence that the parent has materially breached the provisions of the case plan.

Section 85. Section 39.803, Florida Statutes, is created to read:

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

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

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

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

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

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

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

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

(3) If the inquiry under subsection (1) identifies any person as a parent or prospective parent, the court shall require notice of the hearing to be provided to that person.

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

(5) If the inquiry under subsection (1) identifies a parent or prospective parent, and that person's location is unknown, the court shall direct the department to conduct a diligent search for that person before scheduling an adjudicatory hearing regarding the dependency of the child unless the court finds that the best interest of the child requires proceeding without actual notice to the person whose location is unknown.

(6) The diligent search required by subsection (5) must include, at a minimum, inquiries of all known relatives of the parent or prospective parent, inquiries of all offices of program areas of the department likely to have information about the parent or prospective parent, inquiries of other state and federal agencies likely to have information about the parent or prospective parent, inquiries of appropriate utility and postal providers, and inquiries of appropriate law enforcement agencies.

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

(8) If the inquiry and diligent search identifies a prospective parent, that person must be given the opportunity to become a party to the proceedings by completing a sworn affidavit of parenthood and filing it with the court or the department. A prospective parent who files a sworn affidavit of parenthood while the child is a dependent child but no later than at the time of or prior to the adjudicatory hearing in the termination of parental rights proceeding for the child shall be considered a parent for all purposes under this section.

Section 86. *Section 39.4627, Florida Statutes, is renumbered as section 39.804, Florida Statutes.*

Section 87. Section 39.463, Florida Statutes, is renumbered as section 39.805, Florida Statutes, and amended to read:

39.805 ~~39.463~~ No answer required.—No answer to the petition or any other pleading need be filed by any child, parent, *caregiver,* or legal custodian, but any matters which might be set forth in an answer or other pleading may be pleaded orally before the court or filed in writing as any such person may choose. Notwithstanding the filing of any answer or any pleading, the child or parent shall, prior to the adjudicatory hearing, be advised by the court of the right to counsel and shall be given an opportunity to deny the allegations in the petition for termination of parental rights or to enter a plea to allegations in the petition before the court.

Section 88. Section 39.464, Florida Statutes, as amended by chapter 97-276, Laws of Florida, is renumbered as section 39.806, Florida Statutes, and amended to read:

39.806 ~~39.464~~ Grounds for termination of parental rights.—

(1) The department, the guardian ad litem, a licensed child-placing agency, or any person who has knowledge of the facts alleged or who is informed of said facts and believes that they are true, may petition for the termination of parental rights under any of the following circumstances:

(a) When the parent or parents voluntarily executed a written surrender of the child and consented to the entry of an order giving custody of the child to the department or to a licensed child-placing agency for subsequent adoption and the department or licensed child-placing agency is willing to accept custody of the child.

1. The surrender document must be executed before two witnesses and a notary public or other person authorized to take acknowledgments.

2. The surrender and consent may be withdrawn after acceptance by the department or licensed child-placing agency only after a finding by the court that the surrender and consent were obtained by fraud or duress.

(b) When the identity or location of the parent or parents is unknown and~~, if the court requires a diligent search pursuant to s. 39.4625,~~ cannot be ascertained by diligent search ~~as provided in s. 39.4625~~ within 90 days.

(c) When the parent or parents engaged in conduct toward the child or toward other children that demonstrates that the continuing involvement of the parent or parents in the parent-child relationship threatens the life, *safety* ~~or~~ well-being*, or physical, mental, or emotional health* of the child irrespective of the provision of services. Provision of services *may be* ~~is~~ evidenced by proof that services were provided through a previous plan or offered as a case plan from a child welfare agency.

(d) When the parent of a child is incarcerated in a state or federal correctional institution and:

1. The period of time for which the parent is expected to be incarcerated will constitute a substantial portion of the period of time before the child will attain the age of 18 years;

2. The incarcerated parent has been determined by the court to be a violent career criminal as defined in s. 775.084, a habitual violent felony offender as defined in s. 775.084, or a sexual predator as defined in s. 775.21; has been convicted of first degree or second degree murder in violation of s. 782.04 or a sexual battery that constitutes a capital, life, or first degree felony violation of s. 794.011; or has been convicted of an offense in another jurisdiction which is substantially similar to one of the offenses listed in this paragraph. As used in this section, the term "substantially similar offense" means any offense that is substantially similar in elements and penalties to one of those listed in this paragraph, and that is in violation of a law of any other jurisdiction, whether that of another state, the District of Columbia, the United States or any possession or territory thereof, or any foreign jurisdiction; and

3. The court determines by clear and convincing evidence that continuing the parental relationship with the incarcerated parent would be harmful to the child and, for this reason, that termination of the parental rights of the incarcerated parent is in the best interest of the child.

(e)~~(f)~~ A petition for termination of parental rights may also be filed when a child has been adjudicated dependent, a case plan has been filed with the court, and the child continues to be abused, neglected, or abandoned by the parents. In this case, the failure of the parents to substantially comply for a period of 12 months after an adjudication of the child as a dependent child constitutes evidence of continuing abuse, neglect, or abandonment unless the failure to substantially comply with the case plan was due either to the lack of financial resources of the parents or to the failure of the department to make reasonable efforts to reunify the family. Such 12-month period may begin to run only after the entry of a disposition order placing the custody of the child with the department or a person other than the parent and the *approval by* ~~subsequent filing with~~ the court of a case plan with a goal of reunification with the parent.

(f)~~(e)~~ When the parent or parents engaged in egregious conduct *or had the opportunity and capability to prevent and knowingly failed to prevent egregious conduct that threatens the life, safety, or physical, mental, or emotional health* ~~that endangers the life, health, or safety~~ of the child or the child's sibling ~~or had the opportunity and capability to prevent egregious conduct that threatened the life, health, or safety of the child or the child's sibling and knowingly failed to do so~~.

1. As used in this subsection, the term "sibling" means another child who resides with or is cared for by the parent or parents regardless of whether the child is related legally or by consanguinity.

2. As used in this subsection, the term "egregious *conduct* ~~abuse~~" means *abuse, abandonment, neglect, or any other* conduct of the parent or parents that is deplorable, flagrant, or outrageous by a normal standard of conduct. Egregious *conduct* ~~abuse~~ may include an act or omission that occurred only once but was of such intensity, magnitude, or severity as to endanger the life of the child.

(g) When the parent or parents have subjected the child to aggravated child abuse as defined in s. 827.03, sexual battery or sexual abuse as defined in s. 39.01, or chronic abuse.

(h) When the parent or parents have committed murder or voluntary manslaughter of another child of the parent, or a felony assault that results in serious bodily injury to the child or another child of the parent, or aided or abetted, attempted, conspired, or solicited to commit such a murder or voluntary manslaughter or felony assault.

(i) When the parental rights of the parent to a sibling have been terminated involuntarily.

(2) Reasonable efforts to preserve and reunify families shall not be required if a court of competent jurisdiction has determined that any of the events described in paragraphs (1)(e)-(i) have occurred.

(3)~~(2)~~ When a petition for termination of parental rights is filed under subsection (1), a separate petition for dependency need not be filed and the department need not offer the parents a case plan with a goal of reunification, but may instead file with the court a case plan with a goal of termination of parental rights *to allow continuation of services until the termination is granted or until further orders of the court are issued.*

(4) When an expedited termination of parental rights petition is filed, reasonable efforts shall be made to place the child in a timely manner in accordance with the permanency plan, and to complete whatever steps are necessary to finalize the permanent placement of the child.

Section 89. Section 39.465, Florida Statutes, is renumbered as section 39.807, Florida Statutes, and amended to read:

39.807 ~~39.465~~ Right to counsel; guardian ad litem.—

(1)(a) At each stage of the proceeding under this part, the court shall advise the parent~~, guardian, or custodian~~ of the right to have counsel present. The court shall appoint counsel for *indigent* ~~insolvent~~ persons. The court shall ascertain whether the right to counsel is understood and, where appropriate, is knowingly and intelligently waived. The court shall enter its findings in writing with respect to the appointment or waiver of counsel for *indigent* ~~insolvent~~ parties.

(b) Once counsel has been retained or, in appropriate circumstances, appointed to represent the parent of the child, the attorney shall continue to represent the parent throughout the proceedings or until the court has approved discontinuing the attorney-client relationship. If the attorney-client relationship is discontinued, the court shall advise the parent of the right to have new counsel retained or appointed for the remainder of the proceedings.

(c)~~(b)~~1. No waiver of counsel may be accepted if it appears that the parent~~, guardian, or custodian~~ is unable to make an intelligent and understanding choice because of mental condition, age, education, experience, the nature or complexity of the case, or other factors.

2. A waiver of counsel made in court must be of record. A waiver made out of court must be in writing with not less than two attesting witnesses and must be filed with the court. The witnesses shall attest to the voluntary execution of the waiver.

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

(d)~~(c)~~ This subsection does not apply to any parent who has voluntarily executed a written surrender of the child and consent to the entry of a court order therefor and who does not deny the allegations of the petition.

(2)(a) The court shall appoint a guardian ad litem to represent the child in any termination of parental rights proceedings and shall ascertain at each stage of the proceedings whether a guardian ad litem has been appointed.

(b) The guardian ad litem has the following responsibilities:

1. To investigate the allegations of the petition and any subsequent matters arising in the case and, unless excused by the court, to file a written report. This report must include a statement of the wishes of the child and the recommendations of the guardian ad litem and must be provided to all parties and the court at least 48 hours before the disposition hearing.

2. To be present at all court hearings unless excused by the court.

3. To represent the interests of the child until the jurisdiction of the court over the child terminates or until excused by the court.

~~4. To perform such other duties and undertake such other responsibilities as the court may direct.~~

(c) A guardian ad litem is not required to post bond but shall file an acceptance of the office.

(d) A guardian ad litem is entitled to receive service of pleadings and papers as provided by the Florida Rules of Juvenile Procedure.

(e) This subsection does not apply to any voluntary relinquishment of parental rights proceeding.

Section 90. Section 39.466, Florida Statutes, is renumbered as section 39.808, Florida Statutes, and amended to read:

39.808 ~~39.466~~ Advisory hearing*; pretrial status conference*.—

(1) An advisory hearing on the petition to terminate parental rights must be held as soon as possible after all parties have been served with a copy of the petition and a notice of the date, time, and place of the advisory hearing for the petition.

(2) At the hearing the court shall inform the parties of their rights under s. *39.807* ~~39.465~~, shall appoint counsel for the parties in accordance with legal requirements, and shall appoint a guardian ad litem to represent the interests of the child if one has not already been appointed.

(3) The court shall set a date for an adjudicatory hearing to be held within 45 days after the advisory hearing, unless all of the necessary parties agree to some other hearing date.

(4) An advisory hearing may not be held if a petition is filed seeking an adjudication voluntarily to terminate parental rights. Adjudicatory hearings for petitions for voluntary termination must be held within 21 days after the filing of the petition. Notice of the use of this subsection must be filed with the court at the same time as the filing of the petition to terminate parental rights.

(5) Not less than 10 days before the adjudicatory hearing, the court shall conduct a prehearing status conference to determine the order in which each party may present witnesses or evidence, the order in which cross-examination and argument shall occur, and any other matters that may aid in the conduct of the adjudicatory hearing to prevent any undue delay in the conduct of the adjudicatory hearing.

Section 91. Section 39.467, Florida Statutes, is renumbered as section 39.809, Florida Statutes, and subsections (1) and (4) of said section are amended to read:

39.809 ~~39.467~~ Adjudicatory hearing.—

(1) In a hearing on a petition for termination of parental rights, the court shall consider the elements required for termination ~~as set forth in s. 39.4611~~. Each of these elements must be established by clear and convincing evidence before the petition is granted.

(4) All hearings involving termination of parental rights are confidential and closed to the public. Hearings involving more than one child may be held simultaneously when the children involved are related to each other or were involved in the same case. The child and the parents ~~or legal custodians~~ may be examined separately and apart from each other.

Section 92. Section 39.4612, Florida Statutes, is renumbered as section 39.810, Florida Statutes, and subsection (3) of said section is amended to read:

39.810 ~~39.4612~~ Manifest best interests of the child.—In a hearing on a petition for termination of parental rights, the court shall consider the manifest best interests of the child. This consideration shall not include a comparison between the attributes of the parents and those of any persons providing a present or potential placement for the child. For the purpose of determining the manifest best interests of the child, the court shall consider and evaluate all relevant factors, including, but not limited to:

(3) The capacity of the parent or parents to care for the child to the extent that the child's *safety, well-being, and physical, mental, and emotional* health ~~and well-being~~ will not be endangered upon the child's return home.

Section 93. Section 39.469, Florida Statutes, is renumbered as section 39.811, Florida Statutes, and amended to read:

39.811 ~~39.469~~ Powers of disposition; order of disposition.—

(1) If the court finds that the grounds for termination of parental rights have not been established by clear and convincing evidence, the court shall:

(a) If grounds for dependency have been established, adjudicate or readjudicate the child dependent and:

1. Enter an order placing or continuing the child in *out-of-home* ~~foster~~ care under a case plan; or

2. Enter an order returning the child to the parent or parents. The court shall retain jurisdiction over a child returned to the *parent or* parents ~~or legal guardians~~ for a period of 6 months, but, at that time, based on a report of the social service agency and any other relevant factors, the court shall make a determination as to whether its jurisdiction shall continue or be terminated.

(b) If grounds for dependency have not been established, dismiss the petition.

(2) If the child is in *out-of-home* ~~foster~~ care custody of the department and the court finds that the grounds for termination of parental rights have been established by clear and convincing evidence, the court shall, by order, place the child in the custody of the department for the purpose of adoption or place the child in the custody of a licensed child-placing agency for the purpose of adoption.

(3) If the child is in the custody of one parent and the court finds that the grounds for termination of parental rights have been established for the remaining parent by clear and convincing evidence, the court shall enter an order terminating the rights of the parent for whom the grounds have been established and placing the child in the custody of the remaining parent, granting that parent sole parental responsibility for the child.

(4) If the child is neither in the custody of the department ~~of Children and Family Services~~ nor in the custody of a parent and the court finds that the grounds for termination of parental rights have been established for either or both parents, the court shall enter an order terminating parental rights for the parent or parents for whom the

grounds for termination have been established and placing the child with an appropriate custodian. If the parental rights of both parents have been terminated, or if the parental rights of only one parent have been terminated and the court makes specific findings based on evidence presented that placement with the remaining parent is likely to be harmful to the child, the court may order that the child be placed with a custodian other than the department after hearing evidence of the suitability of such intended placement. Suitability of the intended placement includes the fitness *and capabilities* of the *proposed* ~~intended placement, with primary consideration being given to the welfare of the child; the fitness and capabilities of the proposed~~ custodian to function as the primary *caregiver* ~~caretaker~~ for a particular child; and the compatibility of the child with the home in which the child is intended to be placed. If the court orders that a child be placed with a custodian under this subsection, the court shall appoint such custodian as the guardian for the child as provided in s. 744.3021. The court may modify the order placing the child in the custody of the custodian and revoke the guardianship established under s. 744.3021 if the court subsequently finds that a party to the proceeding other than a parent whose rights have been terminated has shown a material change in circumstances which causes the placement to be no longer in the best interest of the child.

(5) If the court terminates parental rights, the court shall enter a written order of disposition briefly stating the facts upon which its decision to terminate the parental rights is made. An order of termination of parental rights, whether based on parental consent or after notice served as prescribed in this part, permanently deprives the parents ~~or legal guardian~~ of any right to the child.

(6) The parental rights of one parent may be severed without severing the parental rights of the other parent only under the following circumstances:

(a) If the child has only one surviving parent;

(b) If the identity of a prospective parent has been established as unknown after sworn testimony;

(c) If the parent whose rights are being terminated became a parent through a single-parent adoption;

(d) If the protection of the child demands termination of the rights of a single parent; or

(e) If the parent whose rights are being terminated meets the criteria specified in s. *39.806(1)(d)* ~~39.464(1)(d)~~.

(7)*(a) The termination of parental rights does not affect the rights of grandparents unless the court finds that continued visitation is not in the best interests of the child or that such visitation would interfere with the goals of permanency planning for the child.*

(b) If the court terminates parental rights, it may order that the parents or relatives of the parent whose rights are terminated be allowed to maintain some contact with the child pending adoption if the best interests of the child support this continued contact, *except as provided in paragraph (a).* If the court orders such continued contact, the nature and frequency of the contact must be set forth in written order and may be reviewed upon motion of any party, including a prospective adoptive parent if a child has been placed for adoption. If a child is placed for adoption, the nature and frequency of the contact must be reviewed by the court at the time the child is adopted.

(8) If the court terminates parental rights, it shall, in its order of disposition, provide for a hearing, to be scheduled no later than 30 days after the date of disposition, in which the department or the licensed child-placing agency shall provide to the court a plan for permanency for the child. *Reasonable efforts must be made to place the child in a timely manner in accordance with the permanency plan, and to complete whatever steps are necessary to finalize the permanent placement of the child.* Thereafter, until the adoption of the child is finalized or the child reaches the age of 18 years, whichever occurs first, the court shall hold hearings at 6-month intervals to review the progress being made toward permanency for the child.

(9) After termination of parental rights, the court shall retain jurisdiction over any child for whom custody is given to a social service agency until the child is adopted. The court shall review the status of the child's placement and the progress being made toward permanent adoptive placement. As part of this continuing jurisdiction, for good cause shown by the guardian ad litem for the child, the court may review the appropriateness of the adoptive placement of the child.

Section 94. Section 39.47, Florida Statutes, is renumbered as section 39.812, Florida Statutes, and amended to read:

39.812 ~~39.47~~ Post disposition relief.—

(1) A licensed child-placing agency or the department which is given custody of a child for subsequent adoption in accordance with this chapter may place the child in a family home for prospective subsequent adoption and *the licensed child-placing agency or the department* may thereafter become a party to any proceeding for the legal adoption of the child and appear in any court where the adoption proceeding is pending and consent to the adoption; and that consent alone shall in all cases be sufficient.

(2) In any subsequent adoption proceeding, the parents ~~and legal guardian~~ shall not be entitled to any notice thereof, nor shall they be entitled to knowledge at any time after the order terminating parental rights is entered of the whereabouts of the child or of the identity or location of any person having the custody of or having adopted the child, except as provided by order of the court pursuant to this chapter or chapter 63; and in any habeas corpus or other proceeding involving the child brought by any parent ~~or legal guardian~~ of the child, no agent *or contract provider* of the licensed child-placing agency or department shall be compelled to divulge that information, but may be compelled to produce the child before a court of competent jurisdiction if the child is still subject to the guardianship of the licensed child-placing agency or department.

(3) The entry of the custody order to the department or licensed child-placing agency shall not entitle the licensed child-placing agency or department to guardianship of the estate or property of the child, but the licensed child-placing agency or department shall be the guardian of the person of the child.

(4) The court shall retain jurisdiction over any child for whom custody is given to a licensed child-placing agency or to the department until the child is adopted. After custody of a child for subsequent adoption has been given to an agency or the department, the court has jurisdiction for the purpose of reviewing the status of the child and the progress being made toward permanent adoptive placement. As part of this continuing jurisdiction, for good cause shown by the guardian ad litem for the child, the court may review the appropriateness of the adoptive placement of the child.

~~(5) The Legislature finds that children are most likely to realize their potential when they have the ability provided by good permanent families rather than spending long periods of time in temporary placements or unnecessary institutions. It is the intent of the Legislature that decisions be consistent with the child's best interests and that the department make proper adoptive placements as expeditiously as possible following a final judgment terminating parental rights.~~

Section 95. Section 39.813, Florida Statutes, is created to read:

39.813 Continuing jurisdiction.—The court which terminates the parental rights of a child who is the subject of termination proceedings pursuant to this chapter shall retain exclusive jurisdiction in all matters pertaining to the child's adoption pursuant to chapter 63.

Section 96. *Section 39.471, Florida Statutes, is renumbered as section 39.814, Florida Statutes.*

Section 97. Section 39.473, Florida Statutes, is renumbered as section 39.815, Florida Statutes, and subsection (1) of said section is amended to read:

39.815 ~~39.473~~ Appeal.—

(1) Any child, any parent *or*~~,~~ guardian ad litem~~, or legal custodian~~ of any child, any other party to the proceeding who is affected by an order of the court, or the department may appeal to the appropriate district court of appeal within the time and in the manner prescribed by the Florida Rules of Appellate Procedure. The district court of appeal shall give an appeal from an order terminating parental rights priority in docketing and shall render a decision on the appeal as expeditiously as possible. Appointed counsel shall be compensated as provided in s. *39.0134* ~~39.474~~.

Section 98. Section 39.816, Florida Statutes, is created to read:

39.816 Authorization for pilot and demonstration projects.—

(1) Contingent upon receipt of a federal grant or contract pursuant to s. 473A(i) of the Social Security Act, 42 U.S.C. 673A(i), enacted November 19, 1997, the department is authorized to establish one or more pilot projects for the following purposes:

(a) The development of best practice guidelines for expediting termination of parental rights.

(b) The development of models to encourage the use of concurrent planning.

(c) The development of specialized units and expertise in moving children toward adoption as a permanency goal.

(d) The development of risk-assessment tools to facilitate early identification of the children who will be at risk of harm if returned home.

(e) The development of models to encourage the fast-tracking of children who have not attained 1 year of age, into preadoptive placements.

(f) The development of programs that place children into preadoptive families without waiting for termination of parental rights.

(2) Contingent upon receipt of federal authorization and funding pursuant to s. 1130(a) of the Social Security Act, 42 U.S.C. 1320a-9, enacted November 19, 1997, the department is authorized to establish one or more demonstration projects for the following purposes:

(a) Identifying and addressing barriers that result in delays to adoptive placements for children in out-of-home care.

(b) Identifying and addressing parental substance abuse problems that endanger children and result in the placement of children in out-of-home care. This purpose may be accomplished through the placement of children with their parents in residential treatment facilities, including residential treatment facilities for post-partum depression, that are specifically designed to serve parents and children together, in order to promote family reunification, and that can ensure the health and safety of the children.

(c) Addressing kinship care.

Section 99. Section 39.817, Florida Statutes, is created to read:

39.817 Foster care privatization demonstration pilot project.—A pilot project shall be established through The Ounce of Prevention Fund of Florida to contract with a private entity for a foster care privatization demonstration project. No more then 30 children with a goal of family reunification shall be accepted into the program on a no-eject-or-reject basis as identified by the department. Sibling groups shall be kept together in one placement in their own communities. Foster care parents shall be paid employees of the program. The program shall provide for public/private partnerships, community collaboration, counseling, and medical and legal assistance, as needed. For purposes of identifying measurable outcomes, the pilot project shall be located in a department district with an integrated district management which was selected as a family transition program site, has a population of less than 500,000, has a total caseload of no more than 400, with and without board payment, and has a total foster care case load of no more than 250.

Section 100. Part X of chapter 39, Florida Statutes, consisting of sections 39.820, 39.821, 39.822, 39.823, 39.824, 39.825, 39.826, 39.827, 39.828, 39.829, and 39.8295, Florida Statutes, shall be entitled to read:

PART X

GUARDIANS AD LITEM AND GUARDIAN ADVOCATES

Section 101. Section 39.820, Florida Statutes, is created to read:

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

(1) "Guardian ad litem" as referred to in any civil or criminal proceeding includes the following: a certified guardian ad litem program, a duly certified volunteer, a staff attorney, contract attorney, or certified pro bono attorney working on behalf of a guardian ad litem or the program; staff members of a program office; a court-appointed attorney; or a responsible adult who is appointed by the court to represent the best interests of a child in a proceeding as provided for by law, including, but not limited to, this chapter, who is a party to any judicial proceeding as a representative of the child, and who serves until discharged by the court.

(2) "Guardian advocate" means a person appointed by the court to act on behalf of a drug dependent newborn pursuant to the provisions of this part.

Section 102. *Section 415.5077, Florida Statutes, is renumbered as section 39.821, Florida Statutes.*

Section 103. Section 415.508, Florida Statutes, is renumbered as section 39.822, Florida Statutes, and amended to read:

39.822 ~~415.508~~ Appointment of guardian ad litem for abused, *abandoned,* or neglected child.—

(1) A guardian ad litem shall be appointed by the court at the earliest possible time to represent the child in any child abuse, *abandonment,* or neglect judicial proceeding, whether civil or criminal. Any person participating in a civil or criminal judicial proceeding resulting from such appointment shall be presumed prima facie to be acting in good faith and in so doing shall be immune from any liability, civil or criminal, that otherwise might be incurred or imposed.

(2) In those cases in which the parents are financially able, the parent or parents of the child shall reimburse the court, in part or in whole, for the cost of provision of guardian ad litem services. Reimbursement to the individual providing guardian ad litem services shall not be contingent upon successful collection by the court from the parent or parents.

(3) The guardian ad litem or the program representative shall review all disposition recommendations and changes in placements, and must be present at all critical stages of the dependency proceeding or submit a written report of recommendations to the court.

Section 104. Section 415.5082, Florida Statutes, is renumbered as section 39.823, Florida Statutes, and amended to read:

39.823 ~~415.5082~~ Guardian advocates for drug dependent newborns.—The Legislature finds that increasing numbers of drug dependent children are born in this state. Because of the parents' continued dependence upon drugs, the parents may temporarily leave their child with a relative or other adult or may have agreed to voluntary family services under s. *39.301(8)* ~~415.505(1)(e)~~. The relative or other adult may be left with a child who is likely to require medical treatment but for whom they are unable to obtain medical treatment. The purpose of this section is to provide an expeditious method for such relatives or other responsible adults to obtain a court order which allows them to provide consent for medical treatment and otherwise advocate for the needs of the child and to provide court review of such authorization.

Section 105. Section 415.5083, Florida Statutes, is renumbered as section 39.824, Florida Statutes, and amended to read:

39.824 ~~415.5083~~ Procedures and jurisdiction.—

(1) The Supreme Court is requested to adopt rules of juvenile procedure by October 1, 1989, to implement *this part* ~~ss. 415.5082-~~

~~415.5089~~. All procedures, including petitions, pleadings, subpoenas, summonses, and hearings in cases for the appointment of a guardian advocate shall be according to the Florida Rules of Juvenile Procedure unless otherwise provided by law.

(2) The circuit court shall have exclusive original jurisdiction of a proceeding in which appointment of a guardian advocate is sought. The court shall retain jurisdiction over a child for whom a guardian advocate is appointed until specifically relinquished by court order.

Section 106. *Section 415.5084, Florida Statutes, is renumbered as section 39.825, Florida Statutes.*

Section 107. *Section 415.5085, Florida Statutes, is renumbered as section 39.826, Florida Statutes.*

Section 108. Section 415.5086, Florida Statutes, is renumbered as section 39.827, Florida Statutes, and amended to read:

39.827 ~~415.5086~~ Hearing for appointment of a guardian advocate.—

(1) When a petition for appointment of a guardian advocate has been filed with the circuit court, the hearing shall be held within 14 days unless all parties agree to a continuance. If a child is in need of necessary medical treatment as defined in s. 39.01, the court shall hold a hearing within 24 hours.

(2) At the hearing, the parents have the right to be present, to present testimony, to call and cross-examine witnesses, to be represented by counsel at their own expense, and to object to the appointment of the guardian advocate.

(3) The hearing shall be conducted by the judge without a jury, applying the rules of evidence in use in civil cases. In a hearing on a petition for appointment of a guardian advocate, the moving party shall prove all the elements in s. *39.828* ~~415.5087~~ by a preponderance of the evidence.

(4) The hearing under this section shall remain confidential and closed to the public. The clerk shall keep all court records required by *this part* ~~ss. 415.5082-415.5089~~ separate from other records of the circuit court. All court records required by *this part* ~~ss. 415.5082-415.5089~~ shall be confidential and exempt from the provisions of s. 119.07(1). All records shall be inspected only upon order of the court by persons deemed by the court to have a proper interest therein, except that a child and the parents or custodians of the child and their attorneys and the department and its designees shall always have the right to inspect and copy any official record pertaining to the child. The court may permit authorized representatives of recognized organizations compiling statistics for proper purposes to inspect and make abstracts from official records, under whatever conditions upon their use and disposition the court may deem proper, and may punish by contempt proceedings any violation of those conditions. All information obtained pursuant to *this part* ~~ss. 415.5082-415.5089~~ in the discharge of official duty by any judge, employee of the court, or authorized agent of the department, shall be confidential and exempt from the provisions of s. 119.07(1) and shall not be disclosed to anyone other than the authorized personnel of the court or the department and its designees, except upon order of the court.

Section 109. Section 415.5087, Florida Statutes, is renumbered as section 39.828, Florida Statutes, and amended to read:

39.828 ~~415.5087~~ Grounds for appointment of a guardian advocate.—

(1) The court shall appoint the person named in the petition as a guardian advocate with all the powers and duties specified in s. *39.829* ~~415.5088~~ for an initial term of 1 year upon a finding that:

(a) The child named in the petition is or was a drug dependent newborn as described in s. *39.01(30)(g).* ~~415.503(10)(a)2.~~;

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

(c) The person named in the petition to be appointed the guardian advocate is capable of carrying out the duties as provided in s. *39.829* ~~415.5088~~; and

(d) A petition to adjudicate the child dependent pursuant to *this* chapter ~~39~~ has not been filed.

(2) The appointment of a guardian advocate does not remove from the parents the right to consent to medical treatment for their child. The appointment of a guardian advocate does not prevent the filing of a subsequent petition under *this* chapter ~~39~~ to have the child adjudicated dependent.

Section 110. *Section 415.5088, Florida Statutes, is renumbered as section 39.829, Florida Statutes.*

Section 111. Section 415.5089, Florida Statutes, is renumbered as section 39.8295, Florida Statutes, and amended to read:

39.8295 ~~415.5089~~ Review and removal of guardian advocate.—

(1) At the end of the initial 1-year appointment, the court shall review the status of the child's care, health, and medical condition for the purpose of determining whether to reauthorize the appointment of the guardian advocate. If the court finds that all of the elements of s. *39.828* ~~415.5087~~ are still met the court shall reauthorize the guardian advocate for another year.

(2) At any time, the court may, upon its own motion, or upon the motion of the department, a family member, or other interested person remove a guardian advocate. A guardian advocate shall be removed if the court finds that the guardian advocate is not properly discharging his or her responsibilities or is acting in a manner inconsistent with his or her appointment, that the parents have assumed parental responsibility to provide for the child, or that the child has been adjudicated dependent pursuant to *this* chapter ~~39~~.

Section 112. Part XI of chapter 39, Florida Statutes, consisting of sections 39.901, 39.902, 39.903, 39.904, 39.905, 39.906, and 39.908, Florida Statutes, shall be entitled to read:

PART XI
DOMESTIC VIOLENCE

Section 113. *Section 415.601, Florida Statutes, is renumbered as section 39.901, Florida Statutes.*

Section 114. Section 415.602, Florida Statutes, is renumbered as section 39.902, Florida Statutes, and amended to read:

39.902 ~~415.602~~ Definitions ~~of terms used in ss. 415.601-415.608~~.— As used in *this part* ~~ss. 415.601-415.608~~, the term:

~~(1) "Department" means the Department of Children and Family Services.~~

~~(2) "District" means a service district of the department as created in s. 20.19.~~

(1)~~(3)~~ "Domestic violence" means any assault, battery, sexual assault, sexual battery, or any criminal offense resulting in physical injury or death of one family or household member by another who is or was residing in the same single dwelling unit.

(2)~~(4)~~ "Domestic violence center" means an agency that provides services to victims of domestic violence, as its primary mission.

(3)~~(5)~~ "Family or household member" means spouses, former spouses, adults related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who have a child in common regardless of whether they have been married or have resided together at any time.

Section 115. Section 415.603, Florida Statutes, is renumbered as section 39.903, Florida Statutes, and subsection (1) of said section is amended to read:

39.903 ~~415.603~~ Duties and functions of the department with respect to domestic violence.—

(1) The department shall:

(a) Develop by rule criteria for the approval or rejection of certification or funding of domestic violence centers.

(b) Develop by rule minimum standards for domestic violence centers to ensure the health and safety of the clients in the centers.

(c) Receive and approve or reject applications for certification of domestic violence centers, and receive and approve or reject applications for funding of domestic violence centers. When approving funding for a newly certified domestic violence center, the department shall make every effort to minimize any adverse economic impact on existing certified centers or services provided within the same district. In order to minimize duplication of services, the department shall make every effort to encourage subcontracting relationships with existing centers within the district. If any of the required services are exempted by the department under s. *39.905(1)(c)* ~~415.605(1)(c)~~, the center shall not receive funding for those services.

(d) Evaluate each certified domestic violence center annually to ensure compliance with the minimum standards. The department has the right to enter and inspect the premises of certified domestic violence centers at any reasonable hour in order to effectively evaluate the state of compliance of these centers with *this part* ~~ss. 415.601-415.608~~ and rules relating to *this part* ~~those sections~~.

(e) Adopt rules to implement *this part* ~~ss. 415.601-415.608~~.

(f) Promote the involvement of certified domestic violence centers in the coordination, development, and planning of domestic violence programming in the districts and the state.

Section 116. Section 415.604, Florida Statutes, is renumbered as section 39.904, Florida Statutes, and amended to read:

39.904 ~~415.604~~ Report to the Legislature on the status of domestic violence cases.—On or before January 1 of each year, the department ~~of Children and Family Services~~ shall furnish to the President of the Senate and the Speaker of the House of Representatives a report on the status of domestic violence in this state, which report shall include, but is not limited to, the following:

(1) The incidence of domestic violence in this state.

(2) An identification of the areas of the state where domestic violence is of significant proportions, indicating the number of cases of domestic violence officially reported, as well as an assessment of the degree of unreported cases of domestic violence.

(3) An identification and description of the types of programs in the state that assist victims of domestic violence or persons who commit domestic violence, including information on funding for the programs.

(4) The number of persons who are treated by or assisted by local domestic violence programs that receive funding through the department.

(5) A statement on the effectiveness of such programs in preventing future domestic violence.

(6) An inventory and evaluation of existing prevention programs.

(7) A listing of potential prevention efforts identified by the department; the estimated annual cost of providing such prevention services, both for a single client and for the anticipated target population as a whole; an identification of potential sources of funding; and the projected benefits of providing such services.

Section 117. Section 415.605, Florida Statutes, is renumbered as section 39.905, Florida Statutes, and subsections (1) and (2) and paragraph (a) of subsection (6) of said section are amended, to read:

39.905 ~~415.605~~ Domestic violence centers.—

(1) Domestic violence centers certified under *this part* ~~ss. 415.601-415.608~~ must:

(a) Provide a facility which will serve as a center to receive and house persons who are victims of domestic violence. For the purpose of *this part* ~~ss. 415.601-415.608~~, minor children and other dependents of a victim, when such dependents are partly or wholly dependent on the victim for support or services, may be sheltered with the victim in a domestic violence center.

(b) Receive the annual written endorsement of local law enforcement agencies.

(c) Provide minimum services which include, but are not limited to, information and referral services, counseling and case management services, temporary emergency shelter for more than 24 hours, a 24-hour hotline, training for law enforcement personnel, assessment and appropriate referral of resident children, and educational services for community awareness relative to the incidence of domestic violence, the prevention of such violence, and the care, treatment, and rehabilitation for persons engaged in or subject to domestic violence. If a 24-hour hotline, professional training, or community education is already provided by a certified domestic violence center within a district, the department may exempt such certification requirements for a new center serving the same district in order to avoid duplication of services.

(d) Participate in the provision of orientation and training programs developed for law enforcement officers, social workers, and other professionals and paraprofessionals who work with domestic violence victims to better enable such persons to deal effectively with incidents of domestic violence.

(e) Establish and maintain a board of directors composed of at least three citizens, one of whom must be a member of a local, municipal, or county law enforcement agency.

(f) Comply with rules adopted pursuant to *this part* ~~ss. 415.601-415.608~~.

(g) File with the department a list of the names of the domestic violence advocates who are employed or who volunteer at the domestic violence center who may claim a privilege under s. 90.5036 to refuse to disclose a confidential communication between a victim of domestic violence and the advocate regarding the domestic violence inflicted upon the victim. The list must include the title of the position held by the advocate whose name is listed and a description of the duties of that position. A domestic violence center must file amendments to this list as necessary.

(h) Demonstrate local need and ability to sustain operations through a history of 18 consecutive months' operation as a domestic violence center, including 12 months' operation of an emergency shelter as *provided in paragraph (c)* ~~defined in paragraph (1)(a)~~, and a business plan which addresses future operations and funding of future operations.

(i) If its center is a new center applying for certification, demonstrate that the services provided address a need identified in the most current statewide needs assessment approved by the department.

(2) If the department finds that there is failure by a center to comply with the requirements established under *this part* ~~ss. 415.601-415.608~~ or with the rules adopted pursuant thereto, the department may deny, suspend, or revoke the certification of the center.

(6) In order to receive state funds, a center must:

(a) Obtain certification pursuant to *this part* ~~ss. 415.601-415.608~~. However, the issuance of a certificate will not obligate the department to provide funding.

Section 118. *Section 415.606, Florida Statutes, is renumbered as section 39.906, Florida Statutes.*

Section 119. *Section 415.608, Florida Statutes, is renumbered as section 39.908, Florida Statutes.*

Section 120. Subsections (4) through (20) of section 20.19, Florida Statutes, are renumbered as subsections (5) through (21), respectively, paragraph (b) of present subsection (4), paragraph (o) of present subsection (7), and paragraph (c) of present subsection (20) are amended, and a new subsection (4) is added to said section, to read:

20.19 Department of Children and Family Services.—There is created a Department of Children and Family Services.

(4) CERTIFICATION PROGRAMS FOR DEPARTMENT EMPLOYEES.-- The department is authorized to create certification programs for family safety and preservation employees and agents to ensure that only qualified employees and agents provide child protection services. The department is authorized to develop rules that include qualifications for certification, including training and testing requirements, continuing education requirements for ongoing certification, and decertification procedures to be used to determine when an individual no longer meets the qualifications for certification and to implement the decertification of an employee or agent.

(5)~~(4)~~ PROGRAM OFFICES.—

(b) The following program offices are established and may be consolidated, restructured, or rearranged by the secretary; provided any such consolidation, restructuring, or rearranging is for the purpose of encouraging service integration through more effective and efficient performance of the program offices or parts thereof:

1. Economic Self-Sufficiency Program Office.—The responsibilities of this office encompass income support programs within the department, such as temporary assistance to families with dependent children, food stamps, welfare reform, and state supplementation of the supplemental security income (SSI) program.

2. Developmental Services Program Office.—The responsibilities of this office encompass programs operated by the department for developmentally disabled persons. Developmental disabilities include any disability defined in s. 393.063.

3. Children and Families Program Office.—The responsibilities of this program office encompass early intervention services for children and families at risk; intake services for protective investigation of abandoned, abused, and neglected children; interstate compact on the placement of children programs; adoption; child care; out-of-home care programs and other specialized services to families; and child protection and sexual abuse treatment teams created under chapter *39* ~~415~~, excluding medical direction functions.

4. Alcohol, Drug Abuse, and Mental Health Program Office.—The responsibilities of this office encompass all alcohol, drug abuse, and mental health programs operated by the department.

(7) HEALTH AND HUMAN SERVICES BOARDS.—

(o) Health and human services boards have the following responsibilities, with respect to those programs and services assigned to the districts, as developed jointly with the district administrator:

1. Establish district outcome measures consistent with statewide outcomes.

2. Conduct district needs assessments using methodologies consistent with those established by the secretary.

3. Negotiate with the secretary a district performance agreement that:

a. Identifies current resources and services available;

b. Identifies unmet needs and gaps in services;

c. Establishes service and funding priorities;

d. Establishes outcome measures for the district; and

e. Identifies expenditures and the number of clients to be served, by service.

4. Provide budget oversight, including development and approval of the district's legislative budget request.

5. Provide policy oversight, including development and approval of district policies and procedures.

6. Act as a focal point for community participation in department activities such as:

a. Assisting in the integration of all health and social services within the community;

b. Assisting in the development of community resources;

c. Advocating for community programs and services;

d. Receiving and addressing concerns of consumers and others; and

e. Advising the district administrator on the administration of service programs throughout the district.

7. Advise the district administrator on ways to integrate the delivery of family and health care services at the local level.

8. Make recommendations which would enhance district productivity and efficiency, ensure achievement of performance standards, and assist the district in improving the effectiveness of the services provided.

9. Review contract provider performance reports.

10. Immediately upon appointment of the membership, develop bylaws that clearly identify and describe operating procedures for the board. At a minimum, the bylaws must specify notice requirements for all regular and special meetings of the board, the number of members required to constitute a quorum, and the number of affirmative votes of members present and voting that are required to take official and final action on a matter before the board.

11.a. Determine the board's internal organizational structure, including the designation of standing committees. In order to foster the coordinated and integrated delivery of family services in its community, a local board shall use a committee structure that is based on issues, such as children, housing, transportation, or health care. Each such committee must include consumers, advocates, providers, and department staff from every appropriate program area. In addition, each board and district administrator shall jointly identify community entities, including, but not limited to, the Area Agency on Aging, and resources outside the department to be represented on the committees of the board.

b. The district juvenile justice boards established in s. *985.413* ~~39.025~~ constitute the standing committee on issues relating to planning, funding, or evaluation of programs and services relating to the juvenile justice continuum.

12. Participate with the secretary in the selection of a district administrator according to the provisions of paragraph *(10)*~~(9)~~(b).

13. Complete an annual evaluation of the district and review the evaluation at a meeting of the board at which the public has an opportunity to comment.

14. Provide input to the secretary on the annual evaluation of the district administrator. The board may request that the secretary submit a written report on the actions to be taken to address negative aspects of the evaluation. At any time, the board may recommend to the secretary that the district administrator be discharged. Upon receipt of such a recommendation, the secretary shall make a formal reply to the board stating the action to be taken with respect to the board's recommendation.

15. Elect a chair and other officers, as specified in the bylaws, from among the members of the board.

(20) INNOVATION ZONES.—The health and human services board may propose designation of an innovation zone for any experimental, pilot, or demonstration project that furthers the legislatively established goals of the department. An innovation zone is a defined geographic area such as a district, county, municipality, service delivery area, school campus, or neighborhood providing a laboratory for the research, development, and testing of the applicability and efficacy of model programs, policy options, and new technologies for the department.

(c) The Statewide Health and Human Services Board, in conjunction with the secretary, shall develop a family services innovation transfer network for the purpose of providing information on innovation zone research and projects or other effective initiatives in family services to the health and human services boards established under subsection *(8)* ~~(7)~~.

Section 121. Paragraph (h) of subsection (1) of section 20.43, Florida Statutes, is amended to read:

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

(1) The purpose of the Department of Health is to promote and protect the health of all residents and visitors in the state through organized state and community efforts, including cooperative agreements with counties. The department shall:

(h) Provide medical direction for child protection team and sexual abuse treatment functions created under chapter *39* ~~415~~.

Section 122. Paragraph (b)2. of subsection (2) of section 61.13, Florida Statutes, is amended to read:

61.13 Custody and support of children; visitation rights; power of court in making orders.—

(2)

(b)

2. The court shall order that the parental responsibility for a minor child be shared by both parents unless the court finds that shared parental responsibility would be detrimental to the child. Evidence that a parent has been convicted of a felony of the third degree or higher involving domestic violence, as defined in s. 741.28 and chapter 775, or meets the criteria of s. *39.806(1)(d)* ~~39.464(1)(d)~~, creates a rebuttable presumption of detriment to the child. If the presumption is not rebutted, shared parental responsibility, including visitation, residence of the child, and decisions made regarding the child, may not be granted to the convicted parent. However, the convicted parent is not relieved of any obligation to provide financial support. If the court determines that shared parental responsibility would be detrimental to the child, it may order sole parental responsibility and make such arrangements for visitation as will best protect the child or abused spouse from further harm. Whether or not there is a conviction of any offense of domestic violence or child abuse or the existence of an injunction for protection against domestic violence, the court shall consider evidence of domestic violence or child abuse as evidence of detriment to the child.

a. In ordering shared parental responsibility, the court may consider the expressed desires of the parents and may grant to one party the ultimate responsibility over specific aspects of the child's welfare or may divide those responsibilities between the parties based on the best interests of the child. Areas of responsibility may include primary residence, education, medical and dental care, and any other responsibilities that the court finds unique to a particular family.

b. The court shall order "sole parental responsibility, with or without visitation rights, to the other parent when it is in the best interests of" the minor child.

c. The court may award the grandparents visitation rights with a minor child if it is in the child's best interest. Grandparents have legal standing to seek judicial enforcement of such an award. This section does not require that grandparents be made parties or given notice of dissolution pleadings or proceedings, nor do grandparents have legal standing as "contestants" as defined in s. 61.1306. A court may not order that a child be kept within the state or jurisdiction of the court solely for the purpose of permitting visitation by the grandparents.

Section 123. Section 61.401, Florida Statutes, is amended to read:

61.401 Appointment of guardian ad litem.—In an action for dissolution of marriage, modification, parental responsibility, custody, or visitation, if the court finds it is in the best interest of the child, the court may appoint a guardian ad litem to act as next friend of the child, investigator or evaluator, not as attorney or advocate. The court in its discretion may also appoint legal counsel for a child to act as attorney or advocate; however, the guardian and the legal counsel shall not be the same person. In such actions which involve an allegation of child abuse, *abandonment,* or neglect as defined in s. *39.01* ~~415.503(3)~~, which allegation is verified and determined by the court to be well-founded, the court shall appoint a guardian ad litem for the child. The guardian ad litem shall be a party to any judicial proceeding from the date of the appointment until the date of discharge.

Section 124. Section 61.402, Florida Statutes, is amended to read:

61.402 Qualifications of guardians ad litem.—A guardian ad litem must be either a citizen certified by the Guardian Ad Litem Program to act in family law cases or an attorney who is a member in good standing of The Florida Bar. Prior to certifying a guardian ad litem to be appointed under this chapter, the Guardian Ad Litem Program must conduct a security background investigation as provided in s. *39.821* ~~415.5077~~.

Section 125. Subsection (4) of section 63.052, Florida Statutes, is amended to read:

63.052 Guardians designated; proof of commitment.—

(4) If a child is voluntarily surrendered to an intermediary for subsequent adoption and the adoption does not become final within 180 days, the intermediary must report to the court on the status of the child and the court may at that time proceed under s. *39.701* ~~39.453~~ or take action reasonably necessary to protect the best interest of the child.

Section 126. Paragraph (b) of subsection (2) of section 63.092, Florida Statutes, is amended to read:

63.092 Report to the court of intended placement by an intermediary; preliminary study.—

(2) PRELIMINARY HOME STUDY.—Before placing the minor in the intended adoptive home, a preliminary home study must be performed by a licensed child-placing agency, a licensed professional, or agency described in s. 61.20(2), unless the petitioner is a stepparent, a spouse of the birth parent, or a relative. The preliminary study shall be completed within 30 days after the receipt by the court of the intermediary's report, but in no event may the child be placed in the prospective adoptive home prior to the completion of the preliminary study unless ordered by the court. If the petitioner is a stepparent, a spouse of the birth parent, or a relative, the preliminary home study may be required by the court for good cause shown. The department is required to perform the preliminary home study only if there is no licensed child-placing agency, licensed professional, or agency described in s. 61.20(2), in the county where the prospective adoptive parents reside. The preliminary home study must be made to determine the suitability of the intended adoptive parents and may be completed prior to identification of a prospective adoptive child. A favorable preliminary home study is valid for 1 year after the date of its completion. A child must not be placed in an intended adoptive home before a favorable preliminary home study is completed unless the adoptive home is also a licensed foster home under s. 409.175. The preliminary home study must include, at a minimum:

(b) Records checks of the department's central abuse registry ~~under chapter 415~~ and ~~statewide~~ criminal records correspondence checks *pursuant to s. 435.045* through the Department of Law Enforcement on the intended adoptive parents;

If the preliminary home study is favorable, a minor may be placed in the home pending entry of the judgment of adoption. A minor may not be placed in the home if the preliminary home study is unfavorable. If the preliminary home study is unfavorable, the intermediary or petitioner may, within 20 days after receipt of a copy of the written recommendation, petition the court to determine the suitability of the intended adoptive home. A determination as to suitability under this subsection does not act as a presumption of suitability at the final hearing. In determining the suitability of the intended adoptive home, the court must consider the totality of the circumstances in the home.

Section 127. Subsection (2) of section 90.5036, Florida Statutes, is amended to read:

90.5036 Domestic violence advocate-victim privilege.—

(2) A victim has a privilege to refuse to disclose, and to prevent any other person from disclosing, a confidential communication made by the victim to a domestic violence advocate or any record made in the course of advising, counseling, or assisting the victim. The privilege applies to confidential communications made between the victim and the domestic violence advocate and to records of those communications only if the advocate is registered under s. *39.905* ~~415.605~~ at the time the communication is made. This privilege includes any advice given by the domestic violence advocate in the course of that relationship.

Section 128. Paragraphs (a), (b), (c), and (d) of subsection (7) of section 119.07, Florida Statutes, are amended to read:

119.07 Inspection, examination, and duplication of records; exemptions.—

(7)(a) Any person or organization, including the Department of *Children and Family* ~~Health and Rehabilitative~~ Services, may petition the court for an order making public the records of the Department of *Children and Family* ~~Health and Rehabilitative~~ Services that pertain to investigations of alleged abuse, neglect, abandonment, or exploitation of a child, a disabled adult, or an elderly person. The court shall determine if good cause exists for public access to the records sought or a portion thereof. In making this determination, the court shall balance the best interest of the disabled adult, elderly person, or child who is the focus of the investigation, and in the case of the child, the interest of that child's siblings, together with the privacy right of other persons identified in the reports against the public interest. The public interest in access to such records is reflected in s. 119.01(1), and includes the need for citizens to know of and adequately evaluate the actions of the Department of *Children and Family* ~~Health and Rehabilitative~~ Services and the court system in providing disabled adults, elderly persons, and children of this state with the protections enumerated in ss. *39.001 and* 415.101 ~~and 415.502~~. However, nothing in this subsection shall contravene the provisions of ss. *39.202* ~~415.51~~ and 415.107, which protect the name of any person reporting the abuse, neglect, or exploitation of a child, a disabled adult, or an elderly person.

(b)1. In cases involving the death of a disabled adult or an elderly person as the result of abuse, neglect, or exploitation, there shall be a presumption that the best interest of the disabled adult or elderly person and the public interest will be served by full public disclosure of the circumstances of the investigation of the death and any other investigation concerning the disabled adult or elderly person.

2. In cases involving the death of a child as the result of abuse, neglect, or abandonment, there shall be a presumption that the best interest of the child and the child's siblings and the public interest will be served by full public disclosure of the circumstances of the investigation of the death of the child and any other investigation concerning the child and the child's siblings.

(c) In cases involving serious bodily injury to a child, a disabled adult or an elderly person, the Department of *Children and Family* ~~Health and Rehabilitative~~ Services may petition the court for an order for the immediate public release of records of the department which pertain to the investigation of abuse, neglect, abandonment, or exploitation of the child, disabled adult, or elderly person who suffered serious bodily injury. The petition must be personally served upon the child, disabled adult, or elderly person, the child's parents or guardian, the legal guardian of that person, if any, and any person named as an alleged perpetrator in the report of abuse, neglect, abandonment, or exploitation. The court must determine if good cause exists for the public release of the records sought no later than 24 hours, excluding Saturdays, Sundays, and legal holidays, from the date the department filed the petition with the court. If the court has neither granted nor denied the petition within the 24-hour time period, the department may release to the public summary information including:

1. A confirmation that an investigation has been conducted concerning the alleged victim.

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

3. The date of each judicial proceeding, a summary of each participant's recommendations made at the judicial proceedings, and the rulings of the court.

The summary information may not include the name of, or other identifying information with respect to, any person identified in any investigation. In making a determination to release confidential information, the court shall balance the best interests of the disabled adult or elderly person or child who is the focus of the investigation and, in the case of the child, the interests of that child's siblings, together with the privacy rights of other persons identified in the reports against the public interest for access to public records. However, nothing in this paragraph shall contravene the provisions of ss. *39.202* ~~415.51~~ and 415.107, which protect the name of any person reporting abuse, neglect, or exploitation of a child, a disabled adult, or an elderly person.

(d) In cases involving the death of a child or a disabled adult or an elderly person, the Department of *Children and Family* ~~Health and Rehabilitative~~ Services may petition the court for an order for the immediate public release of records of the department which pertain to the investigation of abuse, neglect, abandonment, or exploitation of the child, disabled adult, or elderly person who died. The department must personally serve the petition upon the child's parents or guardian, the legal guardian of the disabled adult or elderly person, if any, and any person named as an alleged perpetrator in the report of abuse, neglect, abandonment, or exploitation. The court must determine if good cause exists for the public release of the records sought no later than 24 hours, excluding Saturdays, Sundays, and legal holidays, from the date the department filed the petition with the court. If the court has neither granted nor denied the petition within the 24-hour time period, the department may release to the public summary information including:

1. A confirmation that an investigation has been conducted concerning the alleged victim.

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

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

In making a determination to release confidential information, the court shall balance the best interests of the disabled adult or elderly person or child who is the focus of the investigation and, in the case of the child, the interest of that child's siblings, together with the privacy right of other persons identified in the reports against the public interest. However, nothing in this paragraph shall contravene the provisions of ss. *39.202* ~~415.51~~ and 415.107, which protect the name of any person reporting abuse, neglect, or exploitation of a child, a disabled adult, or an elderly person.

Section 129. Section 154.067, Florida Statutes, is amended to read:

154.067 Child abuse and neglect cases; duties.—The Department of Health shall adopt a rule requiring every county health department, as described in s. 154.01, to adopt a protocol that, at a minimum, requires the county health department to:

(1) Incorporate in its health department policy a policy that every staff member has an affirmative duty to report, pursuant to chapter *39* ~~415~~, any actual or suspected case of child abuse, *abandonment,* or neglect; and

(2) In any case involving suspected child abuse, *abandonment,* or neglect, designate, at the request of the department, a staff physician to act as a liaison between the county health department and the Department of Children and Family Services office that is investigating the suspected abuse, *abandonment,* or neglect, and the child protection

team, as defined in s. *39.01* ~~415.503~~, when the case is referred to such a team.

Section 130. Subsection (15) of section 213.053, Florida Statutes, is amended to read:

213.053 Confidentiality and information sharing.—

(15) The department may disclose confidential taxpayer information contained in returns, reports, accounts, or declarations filed with the department by persons subject to any state or local tax to the child support enforcement program, to assist in the location of parents who owe or potentially owe a duty of support pursuant to Title IV-D of the Social Security Act, their assets, their income, and their employer, *and to the Department of Children and Family Services for the purpose of diligent search activities pursuant to chapter 39*. Nothing in this subsection authorizes the disclosure of information if such disclosure is prohibited by federal law. Employees of the child support enforcement program *and of the Department of Children and Family Services* are bound by the same requirements of confidentiality and the same penalties for violation of the requirements as the department.

Section 131. Paragraph (a) of subsection (8) of section 216.136, Florida Statutes, is amended to read:

216.136 Consensus estimating conferences; duties and principals.—

(8) CHILD WELFARE SYSTEM ESTIMATING CONFERENCE.—

(a) Duties.—The Child Welfare System Estimating Conference shall develop the following information relating to the child welfare system:

1. Estimates and projections of the number of initial and additional reports of child abuse, *abandonment,* or neglect made to the central abuse *hotline* ~~registry and tracking system~~ maintained by the Department of *Children and Family* ~~Health and Rehabilitative~~ Services as established in s. *39.201(4)* ~~415.504(4)(a)~~.

2. Estimates and projections of the number of children who are alleged to be victims of child abuse, *abandonment,* or neglect and are in need of placement in *a* ~~an emergency~~ shelter.

In addition, the conference shall develop other official information relating to the child welfare system of the state which the conference determines is needed for the state planning and budgeting system. The Department of *Children and Family* ~~Health and Rehabilitative~~ Services shall provide information on the child welfare system requested by the Child Welfare System Estimating Conference, or individual conference principals, in a timely manner.

Section 132. Section 232.50, Florida Statutes, is amended to read:

232.50 Child abuse, *abandonment,* and neglect policy.—Every school board shall by March 1, 1985:

(1) Post in a prominent place in each school a notice that, pursuant to chapter *39* ~~415~~, all employees or agents of the district school board have an affirmative duty to report all actual or suspected cases of child abuse, *abandonment,* or neglect, have immunity from liability if they report such cases in good faith, and have a duty to comply with child protective investigations and all other provisions of law relating to child abuse, *abandonment,* and neglect. The notice shall also include the statewide toll-free telephone number of the state abuse registry.

(2) Provide that the superintendent, or the superintendent's designee, at the request of the Department of *Children and Family* ~~Health and Rehabilitative~~ Services, will act as a liaison to the Department of *Children and Family* ~~Health and Rehabilitative~~ Services and the child protection team, as defined in s. *39.01* ~~415.503~~, when in a case of suspected child abuse, *abandonment,* or neglect or an unlawful sexual offense involving a child the case is referred to such a team; except that this subsection may in no instance be construed as relieving or restricting the Department of *Children and Family* ~~Health and Rehabilitative~~ Services from discharging its duty and responsibility under the law to investigate and report every suspected or actual case of child abuse, *abandonment,* or neglect or unlawful sexual offense involving a child.

Each district school board shall comply with the provisions of this section, and such board shall notify the Department of Education and the Department of *Children and Family* ~~Health and Rehabilitative~~ Services of its compliance by March 1, 1985.

Section 133. Paragraph (a) of subsection (2) of section 318.21, Florida Statutes, as amended by section 2(1) of chapter 97-235, Laws of Florida, is amended to read:

318.21 Disposition of civil penalties by county courts.—All civil penalties received by a county court pursuant to the provisions of this chapter shall be distributed and paid monthly as follows:

(2) Of the remainder:

(a) Fifteen and six-tenths percent shall be paid to the General Revenue Fund of the state, except that the first $300,000 shall be deposited into the Grants and Donations Trust Fund in the Department of Children and Family Services for administrative costs, training costs, and costs associated with the implementation and maintenance of Florida foster care citizen review panels as provided for in s. *39.702* ~~39.4531~~.

Section 134. Effective July 1, 1999, paragraph (a) of subsection (2) of section 318.21, as amended by section 3(1) of chapter 97-235, Laws of Florida, is amended to read:

318.21 Disposition of civil penalties by county courts.—All civil penalties received by a county court pursuant to the provisions of this chapter shall be distributed and paid monthly as follows:

(2) Of the remainder:

(a) Ten and six-tenths percent shall be paid to the General Revenue Fund of the state, except that the first $300,000 shall be deposited into the Grants and Donations Trust Fund in the Department of Children and Family Services for administrative costs, training costs, and costs associated with the implementation and maintenance of Florida foster care citizen review panels as provided for in s. *39.702* ~~39.4531~~.

Section 135. Effective July 1, 2000, paragraph (a) of subsection (2) of section 318.21, Florida Statutes, as amended by section 4(1) of chapter 97-235, Laws of Florida, is amended to read:

318.21 Disposition of civil penalties by county courts.—All civil penalties received by a county court pursuant to the provisions of this chapter shall be distributed and paid monthly as follows:

(2) Of the remainder:

(a) Five and six-tenths percent shall be paid to the General Revenue Fund of the state, except that the first $300,000 shall be deposited into the Grants and Donations Trust Fund in the Department of Children and Family Services for administrative costs, training costs, and costs associated with the implementation and maintenance of Florida foster care citizen review panels as provided for in s. *39.702* ~~39.4531~~.

Section 136. Effective July 1, 2001, paragraph (a) of subsection (2) of section 318.21, Florida Statutes, as amended by section 5(1) of chapter 97-235, Laws of Florida, is amended to read:

318.21 Disposition of civil penalties by county courts.—All civil penalties received by a county court pursuant to the provisions of this chapter shall be distributed and paid monthly as follows:

(2) Of the remainder:

(a) Twenty and six-tenths percent shall be paid to the County Article V Trust Fund, except that the first $300,000 shall be deposited into the Grants and Donations Trust Fund in the Department of Children and Family Services for administrative costs, training costs, and costs associated with the implementation and maintenance of Florida foster care citizen review panels as provided for in s. *39.702* ~~39.4531~~.

Section 137. Effective July 1, 2002, paragraph (a) of subsection (2) of section 318.21, Florida Statutes, as amended by section 6 of chapter 97-235, Laws of Florida, is amended to read:

318.21 Disposition of civil penalties by county courts.—All civil penalties received by a county court pursuant to the provisions of this chapter shall be distributed and paid monthly as follows:

(2) Of the remainder:

(a) Twenty and six-tenths percent shall be paid to the General Revenue Fund of the state, except that the first $300,000 shall be deposited into the Grants and Donations Trust Fund in the Department of Children and Family Services for administrative costs, training costs, and costs associated with the implementation and maintenance of Florida foster care citizen review panels as provided for in s. *39.702* ~~39.4531~~.

Section 138. Paragraph (e) of subsection (1) of section 384.29, Florida Statutes, is amended to read:

384.29 Confidentiality.—

(1) All information and records held by the department or its authorized representatives relating to known or suspected cases of sexually transmissible diseases are strictly confidential and exempt from the provisions of s. 119.07(1). Such information shall not be released or made public by the department or its authorized representatives, or by a court or parties to a lawsuit upon revelation by subpoena, except under the following circumstances:

(e) When made to the proper authorities as required by *chapter 39 or* chapter 415.

Section 139. Paragraph (e) of subsection (1) of section 392.65, Florida Statutes, is amended to read:

392.65 Confidentiality.—

(1) All information and records held by the department or its authorized representatives relating to known or suspected cases of tuberculosis or exposure to tuberculosis shall be strictly confidential and exempt from s. 119.07(1). Such information shall not be released or made public by the department or its authorized representatives or by a court or parties to a lawsuit, except that release may be made under the following circumstances:

(e) When made to the proper authorities as required by *chapter 39 or* chapter 415.

Section 140. The introductory paragraph of subsection (14) of section 393.063, Florida Statutes, is amended to read:

393.063 Definitions.—For the purposes of this chapter:

(14) "Direct service provider," also known as "caregiver" in *chapters 39 and* ~~chapter~~ 415 or "caretaker" in provisions relating to employment security checks, means a person 18 years of age or older who has direct contact with individuals with developmental disabilities and is unrelated to the individuals with developmental disabilities.

Section 141. Section 395.1023, Florida Statutes, is amended to read:

395.1023 Child abuse and neglect cases; duties.—Each licensed facility shall adopt a protocol that, at a minimum, requires the facility to:

(1) Incorporate a facility policy that every staff member has an affirmative duty to report, pursuant to chapter *39* ~~415~~, any actual or suspected case of child abuse, *abandonment,* or neglect; and

(2) In any case involving suspected child abuse, *abandonment,* or neglect, designate, at the request of the department, a staff physician to act as a liaison between the hospital and the Department of Children and Family Services office which is investigating the suspected abuse, *abandonment,* or neglect, and the child protection team, as defined in s. *39.01* ~~415.503~~, when the case is referred to such a team.

Each general hospital and appropriate specialty hospital shall comply with the provisions of this section and shall notify the agency and the department of its compliance by sending a copy of its policy to the agency and the department as required by rule. The failure by a general hospital or appropriate specialty hospital to comply shall be punished by a fine not exceeding $1,000, to be fixed, imposed, and collected by the agency. Each day in violation is considered a separate offense.

Section 142. Section 400.4174, Florida Statutes, is amended to read:

400.4174 Reports of abuse in facilities.—When an employee, volunteer, administrator, or owner of a facility has a confirmed report of adult abuse, neglect, or exploitation, as defined in s. 415.102, or *a judicially determined report of* child abuse, *abandonment,* or neglect, as defined in s. *39.01* ~~415.503~~, and the protective investigator knows that the individual is an employee, volunteer, administrator, or owner of a facility, the agency shall be notified of the ~~confirmed~~ report.

Section 143. Paragraph (c) of subsection (2) of section 400.556, Florida Statutes, is amended to read:

400.556 Denial, suspension, revocation of license; administrative fines; investigations and inspections.—

(2) Each of the following actions by the owner of an adult day care center or by its operator or employee is a ground for action by the agency against the owner of the center or its operator or employee:

(c) A confirmed report of adult abuse, neglect, or exploitation, as defined in s. 415.102, or *a report* of child abuse, *abandonment,* or neglect, as defined in s. *39.01* ~~415.503~~, which report has been upheld following a hearing held pursuant to chapter 120 or a waiver of such hearing.

Section 144. Paragraph (a) of subsection (8) of section 402.165, Florida Statutes, is amended to read:

402.165 Statewide Human Rights Advocacy Committee; confidential records and meetings.—

(8)(a) In the performance of its duties, the Statewide Human Rights Advocacy Committee shall have:

1. Authority to receive, investigate, seek to conciliate, hold hearings on, and act on complaints which allege any abuse or deprivation of constitutional or human rights of clients.

2. Access to all client records, files, and reports from any program, service, or facility that is operated, funded, licensed, or regulated by the Department of *Children and Family* ~~Health and Rehabilitative~~ Services and any records which are material to its investigation and which are in the custody of any other agency or department of government. The committee's investigation or monitoring shall not impede or obstruct matters under investigation by law enforcement or judicial authorities. Access shall not be granted if a specific procedure or prohibition for reviewing records is required by federal law and regulation which supersedes state law. Access shall not be granted to the records of a private licensed practitioner who is providing services outside agencies and facilities and whose client is competent and refuses disclosure.

3. Standing to petition the circuit court for access to client records which are confidential as specified by law. The petition shall state the specific reasons for which the committee is seeking access and the intended use of such information. The court may authorize committee access to such records upon a finding that such access is directly related to an investigation regarding the possible deprivation of constitutional or human rights or the abuse of a client. Original client files, records, and reports shall not be removed from the Department of *Children and Family* ~~Health and Rehabilitative~~ Services or agency facilities. Under no circumstance shall the committee have access to confidential adoption records in accordance with the provisions of ss. *39.0132* ~~39.411~~, 63.022, and 63.162. Upon completion of a general investigation of practices and procedures of the Department of *Children and Family* ~~Health and Rehabilitative~~ Services, the committee shall report its findings to that department.

Section 145. Paragraph (a) of subsection (8) of section 402.166, Florida Statutes, is amended to read:

402.166 District human rights advocacy committees; confidential records and meetings.—

(8)(a) In the performance of its duties, a district human rights advocacy committee shall have:

1. Access to all client records, files, and reports from any program, service, or facility that is operated, funded, licensed, or regulated by the Department of *Children and Family* ~~Health and Rehabilitative~~ Services and any records which are material to its investigation and which are in the custody of any other agency or department of government. The committee's investigation or monitoring shall not impede or obstruct matters under investigation by law enforcement or judicial authorities. Access shall not be granted if a specific procedure or prohibition for reviewing records is required by federal law and regulation which supersedes state law. Access shall not be granted to the records of a private licensed practitioner who is providing services outside agencies and facilities and whose client is competent and refuses disclosure.

2. Standing to petition the circuit court for access to client records which are confidential as specified by law. The petition shall state the specific reasons for which the committee is seeking access and the intended use of such information. The court may authorize committee access to such records upon a finding that such access is directly related to an investigation regarding the possible deprivation of constitutional or human rights or the abuse of a client. Original client files, records, and reports shall not be removed from Department of *Children and Family* ~~Health and Rehabilitative~~ Services or agency facilities. Upon no circumstances shall the committee have access to confidential adoption records in accordance with the provisions of ss. *39.0132* ~~39.411~~, 63.022, and 63.162. Upon completion of a general investigation of practices and procedures of the Department of *Children and Family* ~~Health and Rehabilitative~~ Services, the committee shall report its findings to that department.

Section 146. Section 409.1672, Florida Statutes, is amended to read:

409.1672 Incentives for department employees.—In order to promote accomplishing the goal of family preservation, family reunification, or permanent placement of a child in an adoptive home, the department may, pursuant to s. 110, chapter 92-142, Laws of Florida, or subsequent legislative authority and within existing resources, develop monetary performance incentives such as bonuses, salary increases, and educational enhancements for department employees engaged in positions and activities related to the child welfare system under chapter 39~~, chapter 415,~~ or this chapter who demonstrate outstanding work in these areas.

Section 147. Subsection (8) and paragraph (c) of subsection (9) of section 409.176, Florida Statutes, are amended to read:

409.176 Registration of residential child-caring agencies and family foster homes.—

(8) The provisions of chapters *39* ~~415~~ and 827 regarding child abuse, *abandonment,* and neglect and the provisions of s. 409.175 and chapter 435 regarding screening apply to any facility registered under this section.

(9) The qualified association may deny, suspend, or revoke the registration of a Type II facility which:

(c) Violates the provisions of chapter *39* ~~415~~ or chapter 827 regarding child abuse, *abandonment,* and neglect or the provisions of s. 409.175 or chapter 435 regarding screening.

The qualified association shall notify the department within 10 days of the suspension or revocation of the registration of any Type II facility registered under this section.

Section 148. Paragraph (b) of subsection (10) of section 409.2554, Florida Statutes, is amended to read:

409.2554 Definitions.—As used in ss. 409.2551-409.2598, the term:

(10) "Support" means:

(b) Support for a child who is placed under the custody of someone other than the custodial parent pursuant to s. *39.508* ~~39.41~~.

Section 149. Section 409.2577, Florida Statutes, is amended to read:

409.2577 Parent locator service.—The department shall establish a parent locator service to assist in locating parents who have deserted their children and other persons liable for support of dependent children. The department shall use all sources of information available, including the Federal Parent Locator Service, and may request and shall receive information from the records of any person or the state or any of its political subdivisions or any officer thereof. Any agency as defined in s. 120.52, any political subdivision, and any other person shall, upon request, provide the department any information relating to location, salary, insurance, social security, income tax, and employment history necessary to locate parents who owe or potentially owe a duty of support pursuant to Title IV-D of the Social Security Act. This provision shall expressly take precedence over any other statutory nondisclosure provision which limits the ability of an agency to disclose such information, except that law enforcement information as provided in s. 119.07(3)(i) is not required to be disclosed, and except that confidential taxpayer information possessed by the Department of Revenue shall be disclosed only to the extent authorized in s. 213.053(15). Nothing in this section requires the disclosure of information if such disclosure is prohibited by federal law. Information gathered or used by the parent locator service is confidential and exempt from the provisions of s. 119.07(1). Additionally, the department is authorized to collect any additional information directly bearing on the identity and whereabouts of a person owing or asserted to be owing an obligation of support for a dependent child. Information gathered or used by the parent locator service is confidential and exempt from the provisions of s. 119.07(1). The department may make such information available only to public officials and agencies of this state; political subdivisions of this state; the custodial parent, legal guardian, attorney, or agent of the child; and other states seeking to locate parents who have deserted their children and other persons liable for support of dependents, for the sole purpose of establishing, modifying, or enforcing their liability for support, *and shall make such information available to the Department of Children and Family Services for the purpose of diligent search activities pursuant to chapter 39.* If the department has reasonable evidence of domestic violence or child abuse and the disclosure of information could be harmful to the custodial parent or the child of such parent, the child support program director or designee shall notify the *Department of Children and Family Services and the* Secretary of the United States Department of Health and Human Services of this evidence. Such evidence is sufficient grounds for the department to disapprove an application for location services.

Section 150. Subsection (29) of section 409.912, Florida Statutes, is amended to read:

409.912 Cost-effective purchasing of health care.—The agency shall purchase goods and services for Medicaid recipients in the most cost-effective manner consistent with the delivery of quality medical care. The agency shall maximize the use of prepaid per capita and prepaid aggregate fixed-sum basis services when appropriate and other alternative service delivery and reimbursement methodologies, including competitive bidding pursuant to s. 287.057, designed to facilitate the cost-effective purchase of a case-managed continuum of care. The agency shall also require providers to minimize the exposure of recipients to the need for acute inpatient, custodial, and other institutional care and the inappropriate or unnecessary use of high-cost services.

(29) Each managed care plan that is under contract with the agency to provide health care services to Medicaid recipients shall annually conduct a background check with the Florida Department of Law Enforcement of all persons with ownership interest of 5 percent or more or executive management responsibility for the managed care plan and shall submit to the agency information concerning any such person who has been found guilty of, regardless of adjudication, or has entered a plea of nolo contendere or guilty to, any of the offenses listed in s. 435.03 or has a confirmed report of abuse, neglect, or exploitation pursuant to ~~part I of~~ chapter 415.

Section 151. Paragraph (a) of subsection (1) of section 409.9126, Florida Statutes, is amended to read:

409.9126 Children with special health care needs.—

(1) As used in this section:

(a) "Children's Medical Services network" means an alternative service network that includes health care providers and health care facilities specified in chapter 391 and ss. *39.303,* 383.15-383.21, *and* 383.216~~, and 415.5055~~.

Section 152. Paragraph (f) of subsection (5) of section 414.065, Florida Statutes, is amended to read:

414.065 Work requirements.—

(5) CONTINUATION OF TEMPORARY CASH ASSISTANCE FOR CHILDREN; PROTECTIVE PAYEES.—

(f) If the department is unable to designate a qualified protective payee or authorized representative, a referral shall be made under the provisions of chapter *39* ~~415~~ for protective intervention.

Section 153. Section 435.045, Florida Statutes, is created to read:

435.045 Requirements for prospective foster or adoptive parents.—

(1) Unless an election provided for in subsection (2) is made with respect to the state, the department shall conduct criminal records checks equivalent to the level 2 screening required in s. 435.04(1) for any prospective foster or adoptive parent before the foster or adoptive parent may be finally approved for placement of a child on whose behalf foster care maintenance payments or adoption assistance payments under s. 471 of the Social Security Act, 42 U.S.C. 671, are to be made. Approval shall not be granted:

(a) In any case in which a record check reveals a felony conviction for child abuse, abandonment, or neglect; for spousal abuse; for a crime against children, including child pornography, or for a crime involving violence, including rape, sexual assault, or homicide but not including other physical assault or battery, if the department finds that a court of competent jurisdiction has determined that the felony was committed at any time; and

(b) In any case in which a record check reveals a felony conviction for physical assault, battery, or a drug-related offense, if the department finds that a court of competent jurisdiction has determined that the felony was committed within the past 5 years.

(2) For purposes of this section, and ss. 39.401(3) and 39.508(9)(b) and (10)(a), the department and its authorized agents or contract providers are hereby designated a criminal justice agency for the purposes of accessing criminal justice information, including National Crime Information Center information, to be used for enforcing Florida's laws concerning the crimes of child abuse, abandonment, and neglect. This information shall be used solely for purposes supporting the detection, apprehension, prosecution, pretrial release, posttrial release, or rehabilitation of criminal offenders or persons accused of the crimes of child abuse, abandonment, or neglect and shall not be further disseminated or used for any other purposes.

(3) Subsection (2) shall not apply if the Governor has notified the Secretary of the United States Department of Health and Human Services in writing that the state has elected to make subsection (2) inapplicable to the state, or if the Legislature, by law, has elected to make subsection (2) inapplicable to the state.

Section 154. Section 447.401, Florida Statutes, is amended to read:

447.401 Grievance procedures.—Each public employer and bargaining agent shall negotiate a grievance procedure to be used for the settlement of disputes between employer and employee, or group of employees, involving the interpretation or application of a collective bargaining agreement. Such grievance procedure shall have as its terminal step a final and binding disposition by an impartial neutral, mutually selected by the parties; however, when the issue under appeal is an allegation of abuse, *abandonment,* or neglect by an employee under *s. 39.201 or* s. 415.1075 ~~or s. 415.504~~, the grievance may not be decided until the *abuse, abandonment, or neglect of a child has been judicially determined or until a* confirmed report of abuse or neglect *of a disabled adult or elderly person* has been upheld pursuant to the procedures for appeal in *s.* ~~ss.~~ 415.1075 ~~and 415.504~~. However, an arbiter or other neutral shall not have the power to add to, subtract from, modify, or alter the terms of a collective bargaining agreement. If an employee organization is certified as the bargaining agent of a unit, the grievance procedure then in existence may be the subject of collective bargaining, and any agreement which is reached shall supersede the previously existing procedure. All public employees shall have the right to a fair and equitable grievance procedure administered without regard to membership or nonmembership in any organization, except that certified employee organizations shall not be required to process grievances for employees who are not members of the organization. A career service employee shall have the option of utilizing the civil service appeal procedure, an unfair labor practice procedure, or a grievance procedure established under this section, but such employee is precluded from availing himself or herself to more than one of these procedures.

Section 155. Paragraph (d) of subsection (1) of section 464.018, Florida Statutes, is amended to read:

464.018 Disciplinary actions.—

(1) The following acts shall be grounds for disciplinary action set forth in this section:

(d) Being found guilty, regardless of adjudication, of any of the following offenses:

1. A forcible felony as defined in chapter 776.

2. A violation of chapter 812, relating to theft, robbery, and related crimes.

3. A violation of chapter 817, relating to fraudulent practices.

4. A violation of chapter 800, relating to lewdness and indecent exposure.

5. A violation of chapter 784, relating to assault, battery, and culpable negligence.

6. A violation of chapter 827, relating to child abuse.

7. A violation of chapter 415, relating to protection from abuse, neglect, and exploitation.

8. A violation of chapter 39, relating to child abuse, abandonment, and neglect.

Section 156. Paragraph (a) of subsection (2) of section 490.014, Florida Statutes, is amended to read:

490.014 Exemptions.—

(2) No person shall be required to be licensed or provisionally licensed under this chapter who:

(a) Is a salaried employee of a government agency; developmental services program, mental health, alcohol, or drug abuse facility operating pursuant to chapter 393, chapter 394, or chapter 397; subsidized child care program, subsidized child care case management program, or child care resource and referral program operating pursuant to chapter 402; child-placing or child-caring agency licensed pursuant to chapter 409; domestic violence center certified pursuant to chapter *39* ~~415~~; accredited academic institution; or research institution, if such employee is performing duties for which he or she was trained and hired solely within the confines of such agency, facility, or institution.

Section 157. Paragraph (a) of subsection (4) of section 491.014, Florida Statutes, is amended to read:

491.014 Exemptions.—

(4) No person shall be required to be licensed, provisionally licensed, registered, or certified under this chapter who:

(a) Is a salaried employee of a government agency; developmental services program, mental health, alcohol, or drug abuse facility operating pursuant to chapter 393, chapter 394, or chapter 397; subsidized child care program, subsidized child care case management program, or child care resource and referral program operating pursuant to chapter 402; child-placing or child-caring agency licensed pursuant to chapter 409; domestic violence center certified pursuant to chapter *39* ~~415~~; accredited academic institution; or research institution, if such employee is performing duties for which he or she was trained and hired solely within the confines of such agency, facility, or institution.

Section 158. Paragraph (b) of subsection (3) of section 741.30, Florida Statutes, is amended to read:

741.30 Domestic violence; injunction; powers and duties of court and clerk; petition; notice and hearing; temporary injunction; issuance of injunction; statewide verification system; enforcement.—

(3)

(b) The sworn petition shall be in substantially the following form:

PETITION FOR
INJUNCTION FOR PROTECTION
AGAINST DOMESTIC VIOLENCE

Before me, the undersigned authority, personally appeared Petitioner . . .(Name). . ., who has been sworn and says that the following statements are true:

(a) Petitioner resides at: . . .(address). . .

(Petitioner may furnish address to the court in a separate confidential filing if, for safety reasons, the petitioner requires the location of the current residence to be confidential.)

(b) Respondent resides at: . . .(last known address). . .

(c) Respondent's last known place of employment: . . .(name of business and address). . .

(d) Physical description of respondent: . . . .

Race. . . .

Sex. . . .

Date of birth. . . .

Height. . . .

Weight. . . .

Eye color. . . .

Hair color. . . .

Distinguishing marks or scars. . . .

(e) Aliases of respondent: . . . .

(f) Respondent is the spouse or former spouse of the petitioner or is any other person related by blood or marriage to the petitioner or is any other person who is or was residing within a single dwelling unit with the petitioner, as if a family, or is a person with whom the petitioner has a child in common, regardless of whether the petitioner and respondent are or were married or residing together, as if a family.

(g) The following describes any other cause of action currently pending between the petitioner and respondent: . . . . . .

. . . . . .

The petitioner should also describe any previous or pending attempts by the petitioner to obtain an injunction for protection against domestic violence in this or any other circuit, and the results of that attempt . . . . . .

. . . . . .

Case numbers should be included if available.

(h) Petitioner has suffered or has reasonable cause to fear imminent domestic violence because respondent has: . . . . . .

(i) Petitioner alleges the following additional specific facts: (mark appropriate sections)

. . . . Petitioner is the custodian of a minor child or children whose names and ages are as follows: . . . . . .

. . . . Petitioner needs the exclusive use and possession of the dwelling that the parties share.

. . . . Petitioner is unable to obtain safe alternative housing because: . . . . . .

. . . . Petitioner genuinely fears that respondent imminently will abuse, remove, or hide the minor child or children from petitioner because: . . . . . .

. . . . . .

(j) Petitioner genuinely fears imminent domestic violence by respondent.

(k) Petitioner seeks an injunction: (mark appropriate section or sections)

. . . . Immediately restraining the respondent from committing any acts of domestic violence.

. . . . Restraining the respondent from committing any acts of domestic violence.

. . . . Awarding to the petitioner the temporary exclusive use and possession of the dwelling that the parties share or excluding the respondent from the residence of the petitioner.

. . . . Awarding temporary custody of, or temporary visitation rights with regard to, the minor child or children of the parties, or prohibiting or limiting visitation to that which is supervised by a third party.

. . . . Establishing temporary support for the minor child or children or the petitioner.

. . . . Directing the respondent to participate in a batterers' intervention program or other treatment pursuant to s. *39.901* ~~415.601~~.

. . . . Providing any terms the court deems necessary for the protection of a victim of domestic violence, or any minor children of the victim, including any injunctions or directives to law enforcement agencies.

Section 159. Subsection (3) of section 744.309, Florida Statutes, is amended to read:

744.309 Who may be appointed guardian of a resident ward.—

(3) DISQUALIFIED PERSONS.—No person who has been convicted of a felony or who, from any incapacity or illness, is incapable of discharging the duties of a guardian, or who is otherwise unsuitable to perform the duties of a guardian, shall be appointed to act as guardian. Further, no person who has been judicially determined to have committed abuse, *abandonment*, or neglect against a child as defined in s. 39.01~~(2) and (47)~~, or who has a confirmed report of abuse, neglect, or exploitation which has been uncontested or upheld pursuant to the provisions of ss. 415.104 and 415.1075 shall be appointed to act as a guardian. Except as provided in subsection (5) or subsection (6), a person who provides substantial services to the proposed ward in a professional or business capacity, or a creditor of the proposed ward, may not be appointed guardian and retain that previous professional or business relationship. A person may not be appointed a guardian if he or she is in the employ of any person, agency, government, or corporation that provides service to the proposed ward in a professional or business capacity, except that a person so employed may be appointed if he or she is the spouse, adult child, parent, or sibling of the proposed ward or the court determines that the potential conflict of interest is insubstantial and that the appointment would clearly be in the proposed ward's best interest. The court may not appoint a guardian in any other circumstance in which a conflict of interest may occur.

Section 160. Section 784.075, Florida Statutes, is amended to read:

784.075 Battery on detention or commitment facility staff.—A person who commits a battery on an intake counselor or case manager, as defined in s. *984.03(31)* ~~39.01(34)~~, on other staff of a detention center or facility as defined in s. *984.03(19)* ~~39.01(23)~~, or on a staff member of a commitment facility as defined in s. *985.03(45)* ~~39.01(59)(c), (d), or (e)~~, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. For purposes of this section, a staff member of the facilities listed includes persons employed by the Department of Juvenile Justice, persons employed at facilities licensed by the Department of Juvenile Justice, and persons employed at facilities operated under a contract with the Department of Juvenile Justice.

Section 161. Section 933.18, Florida Statutes, is amended to read:

933.18 When warrant may be issued for search of private dwelling.—No search warrant shall issue under this chapter or under any other law of this state to search any private dwelling occupied as such unless:

(1) It is being used for the unlawful sale, possession, or manufacture of intoxicating liquor;

(2) Stolen or embezzled property is contained therein;

(3) It is being used to carry on gambling;

(4) It is being used to perpetrate frauds and swindles;

(5) The law relating to narcotics or drug abuse is being violated therein;

(6) A weapon, instrumentality, or means by which a felony has been committed, or evidence relevant to proving said felony has been committed, is contained therein;

(7) One or more of the following misdemeanor child abuse offenses is being committed there:

(a) Interference with custody, in violation of s. 787.03.

(b) Commission of an unnatural and lascivious act with a child, in violation of s. 800.02.

(c) Exposure of sexual organs to a child, in violation of s. 800.03.

(8) It is in part used for some business purpose such as a store, shop, saloon, restaurant, hotel, or boardinghouse, or lodginghouse;

(9) It is being used for the unlawful sale, possession, or purchase of wildlife, saltwater products, or freshwater fish being unlawfully kept therein; or

(10) The laws in relation to cruelty to animals have been or are being violated therein, except that no search pursuant to such a warrant shall be made in any private dwelling after sunset and before sunrise unless specially authorized by the judge issuing the warrant, upon a showing of probable cause. Property relating to the violation of such laws may be taken on a warrant so issued from any private dwelling in which it is concealed or from the possession of any person therein by whom it shall have been used in the commission of such offense or from any person therein in whose possession it may be.

If, during a search pursuant to a warrant issued under this section, a child is discovered and appears to be in imminent danger, the law enforcement officer conducting such search may remove the child from the private dwelling and take the child into protective custody pursuant to *chapter 39* ~~s. 415.506~~. The term "private dwelling" shall be construed to include the room or rooms used and occupied, not transiently but solely as a residence, in an apartment house, hotel, boardinghouse, or lodginghouse. No warrant shall be issued for the search of any private dwelling under any of the conditions hereinabove mentioned except on sworn proof by affidavit of some creditable witness that he or she has reason to believe that one of said conditions exists, which affidavit shall set forth the facts on which such reason for belief is based.

Section 162. Subsection (10) of section 943.045, Florida Statutes, is amended to read:

943.045 Definitions; ss. 943.045-943.08.—The following words and phrases as used in ss. 943.045-943.08 shall have the following meanings:

(10) "Criminal justice agency" means:

(a) A court.

(b) The department.

(c) The Department of Juvenile Justice.

(d) The protective investigations component of the Department of Children and Family Services, which investigates the crimes of abuse and neglect.

(e)~~(d)~~ Any other governmental agency or subunit thereof which performs the administration of criminal justice pursuant to a statute or rule of court and which allocates a substantial part of its annual budget to the administration of criminal justice.

Section 163. Section 944.401, Florida Statutes, is amended to read:

944.401 Escapes from secure detention or residential commitment facility.—An escape from any secure detention facility maintained for the temporary detention of children, pending adjudication, disposition, or placement; an escape from any residential commitment facility defined in s. *985.03(45)* ~~39.01(59)~~, maintained for the custody, treatment, punishment, or rehabilitation of children found to have committed delinquent acts or violations of law; or an escape from lawful transportation thereto or therefrom constitutes escape within the intent and meaning of s. 944.40 and is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 164. Subsection (3) of section 944.705, Florida Statutes, is amended to read:

944.705 Release orientation program.—

(3) Any inmate who claims to be a victim of domestic violence as defined in s. 741.28 shall receive, as part of the release orientation program, referral to the nearest domestic violence center certified under *chapter 39* ~~ss. 415.601-415.608~~.

Section 165. Subsections (2) and (41) of section 984.03, Florida Statutes, as amended by chapter 97-276, Laws of Florida, are amended to read:

984.03 Definitions.—When used in this chapter, the term:

(2) "Abuse" means any willful act that results in any physical, mental, or sexual injury that causes or is likely to cause the child's physical, mental, or emotional health to be significantly impaired. Corporal discipline of a child by a parent or guardian for disciplinary purposes does not in itself constitute abuse when it does not result in harm to the child as defined in s. *39.01* ~~415.503~~.

(41) "Parent" means a woman who gives birth to a child and a man whose consent to the adoption of the child would be required under s. 63.062(1)(b). If a child has been legally adopted, the term "parent" means the adoptive mother or father of the child. The term does not include an individual whose parental relationship to the child has been legally terminated, or an alleged or prospective parent, unless the parental status falls within the terms of either s. *39.503* ~~39.4051(7)~~ or s. 63.062(1)(b).

Section 166. Subsection (4) of section 984.10, Florida Statutes, is amended to read:

984.10 Intake.—

(4) If the department has reasonable grounds to believe that the child has been abandoned, abused, or neglected, it shall proceed pursuant to the provisions of ~~s. 415.505 and~~ chapter 39.

Section 167. Paragraphs (a) and (c) of subsection (3) of section 984.15, Florida Statutes, are amended to read:

984.15 Petition for a child in need of services.—

(3)(a) The parent, guardian, or legal custodian may file a petition alleging that a child is a child in need of services if:

1. The department waives the requirement for a case staffing committee.

2. The department fails to convene a meeting of the case staffing committee within 7 days, excluding weekends and legal holidays, after receiving a written request for such a meeting from the child's parent, guardian, or legal custodian.

3. The parent, guardian, or legal custodian does not agree with the plan for services offered by the case staffing committee.

4. The department fails to provide a written report within 7 days after the case staffing committee meets, as required under s. *984.12(8)* ~~39.426(8)~~.

(c) The petition must be in writing and must set forth specific facts alleging that the child is a child in need of services as defined in s. *984.03(9)* ~~39.01~~. The petition must also demonstrate that the parent, guardian, or legal custodian has in good faith, but unsuccessfully, participated in the services and processes described in ss. *984.11 and 984.12* ~~39.424 and 39.426~~.

Section 168. Section 984.24, Florida Statutes, is amended to read:

984.24 Appeal.—The state, any child, or the family, guardian ad litem, or legal custodian of any child who is affected by an order of the court pursuant to this *chapter* ~~part~~ may appeal to the appropriate district court of appeal within the time and in the manner prescribed by the Florida Rules of Appellate Procedure ~~and pursuant to s. 39.413~~.

Section 169. Subsection (42) of section 985.03, Florida Statutes, as amended by chapter 97-276, Laws of Florida, is amended to read:

985.03 Definitions.—When used in this chapter, the term:

(42) "Parent" means a woman who gives birth to a child and a man whose consent to the adoption of the child would be required under s. 63.062(1)(b). If a child has been legally adopted, the term "parent" means the adoptive mother or father of the child. The term does not include an individual whose parental relationship to the child has been legally terminated, or an alleged or prospective parent, unless the parental status falls within the terms of either s. *39.503* ~~39.4051(7)~~ or s. 63.062(1)(b).

Section 170. Paragraph (c) of subsection (4) of section 985.303, Florida Statutes, is amended to read:

985.303 Neighborhood restorative justice.—

(4) DEFERRED PROSECUTION PROGRAM; PROCEDURES.—

(c) The board shall require the parent or legal guardian of the juvenile who is referred to a Neighborhood Restorative Justice Center to appear with the juvenile before the board at the time set by the board. In scheduling board meetings, the board shall be cognizant of a parent's or legal guardian's other obligations. The failure of a parent or legal guardian to appear at the scheduled board meeting with his or her child or ward may be considered by the juvenile court as an act of child neglect as defined by s. *39.01* ~~415.503(3)~~, and the board may refer the matter to the Department of Children and Family Services for investigation under the provisions of chapter *39* ~~415~~.

Section 171. *There is hereby appropriated to the Department of Children and Family Services, in a lump sum, $11,000,000 from the Federal Grants Trust Fund to implement the Relative Caregiver Program. The source of funding shall be the Temporary Assistance to Needy Families Block Grant. Any expenditures from the Temporary Assistance for Needy Families block grant shall be expended in accordance with the requirements and limitations of part A of Title IV of the Social Security Act, as amended, or any other applicable federal requirement or limitation.*

Section 172. *There is hereby appropriated to the Justice Administration Commission $3,500,000 from the General Revenue Fund for the purpose of implementing sections 24, 57, and 88 of this act, relating to right to and appointment of counsel for certain persons.*

Section 173. *Sections 39.0195, 39.0196, 39.39, 39.403, 39.4032, 39.4052, 39.4053, 39.449, 39.45, 39.457, 39.459, 39.4625, 39.472, 39.475, 415.5016, 415.50165, 415.5017, 415.50175, 415.5018, 415.50185, 415.5019, 415.502, 415.503, 415.505, 415.506, 415.5075, 415.509, and 415.514, Florida Statutes, are repealed.*

Section 174. Except as otherwise provided herein, this act shall take effect October 1 of the year in which enacted.

And the title is amended as follows:
remove: the entire title

and insert in lieu thereof: A bill to be entitled An act relating to children and family health and safety; creating the "Marriage Preparation and Preservation Act"; providing legislative findings; amending s. 232.246, F.S.; prescribing a high school graduation requirement; amending s. 741.01, F.S.; providing for a reduction of the marriage license fee under certain circumstances; creating a waiting period before a marriage license is issued; creating s. 741.0305, F.S.; providing for a premarital preparation course; providing for modification of marriage license fees; specifying course providers; providing course contents; providing for a review of such courses; providing for compilation of information and report of findings; providing for pilot programs; creating s. 741.0306, F.S.; providing for creation of a marriage law handbook created by the Family Law Section of The Florida Bar; amending s. 741.04, F.S.; prohibiting issuance of a marriage license until petitioners verify certain facts and complete a questionnaire; providing for a waiting period; amending s. 741.05, F.S.; conforming provisions; amending s. 61.043, F.S.; providing for completion of an informational questionnaire upon filing for dissolution of marriage; amending s. 61.21, F.S.; revising provisions relating to the authorized parenting course offered to educate, train, and assist divorcing parents in regard to the consequences of divorce on parents and children; providing legislative findings and purpose; requiring judicial circuits to approve a parenting course; requiring parties to a dissolution proceeding with a minor child to attend a court-approved parenting family course; providing procedures and guidelines and course objectives; requiring parties to file proof of compliance with the court; authorizing the court to require parties to a modification of a final judgment of dissolution to take the course under certain circumstances; amending s. 28.101, F.S.; providing a fee for filing for dissolution of marriage; providing an appropriation; reorganizing and revising ch. 39, F.S.; providing for pt. I of said chapter, entitled "General Provisions"; amending ss. 39.001, 39.002, and 415.501, F.S.; revising purposes and intent; providing for personnel standards and screening and for drug testing; amending s. 39.01, F.S.; revising definitions; renumbering and amending s. 39.455, F.S., relating to immunity from liability for agents of the Department of Children and Family Services or a social service agency; amending s. 39.012, F.S., and creating s. 39.0121, F.S.; providing authority and requirements for department rules; renumbering and amending s. 39.40, F.S., relating to procedures and jurisdiction; providing for right to counsel; renumbering s. 39.4057, F.S., relating to permanent mailing address designation; renumbering and amending s. 39.411, F.S., relating to oaths, records, and confidential information; renumbering s. 39.414, F.S., relating to court and witness fees; renumbering and amending ss. 39.415 and 39.474, F.S., relating to compensation of appointed counsel; renumbering and amending s. 39.418, F.S., relating to the Operations and Maintenance Trust Fund; renumbering and amending s. 415.5015, F.S., relating to child abuse prevention training in the district school system; providing for pt. II of ch. 39, F.S., entitled "Reporting Child Abuse"; renumbering and amending s. 415.504, F.S., relating to mandatory reports of child abuse, abandonment, or neglect; amending and renumbering s. 415.51, F.S.; revising provisions relating to confidentiality of Department of Children and Family Services reports and records of cases of child abuse and neglect; requiring certain recordkeeping and preservation by the department; renumbering and amending s. 415.511, F.S., relating to immunity from liability in cases of child abuse, abandonment, or

neglect; renumbering and amending s. 415.512, F.S., relating to abrogation of privileged communications in cases of child abuse, abandonment, or neglect; renumbering and amending s. 415.513, F.S.; providing penalties relating to reporting of child abuse, abandonment, or neglect; deleting the requirement for the Department of Children and Family Services to provide information to the state attorney; providing for the Department of Children and Family Services to report annually to the Legislature the number of reports referred to law enforcement agencies; providing for investigation by local law enforcement agencies of possible false reports; providing for law enforcement agencies to refer certain reports to the state attorney for prosecution; providing for law enforcement entities to handle certain reports of abuse, abandonment, or neglect during the pendency of such an investigation; providing procedures; specifying the penalty for knowingly and willfully making, or advising another to make, a false report; providing for state attorneys to report annually to the Legislature the number of complaints that have resulted in informations or indictments and the disposition of those complaints; renumbering and amending s. 415.5131, F.S., increasing an administrative fine for false reporting; providing for civil damages; providing for pt. III of ch. 39, F.S., entitled "Protective Investigations"; creating s. 39.301, F.S.; providing for child protective investigations; creating s. 39.302, F.S.; providing for protective investigations of institutional child abuse, abandonment, or neglect; renumbering and amending s. 415.5055, F.S., relating to child protection teams and services and eligible cases; creating s. 39.3035, F.S.; providing standards for child advocacy centers eligible for state funding; renumbering and amending s. 415.507, F.S., relating to photographs, medical examinations, X rays, and medical treatment of an abused, abandoned, or neglected child; renumbering and amending s. 415.5095, F.S., relating to a model plan for intervention and treatment in sexual abuse cases; creating s. 39.306, F.S.; providing for working agreements with local law enforcement to perform criminal investigations; renumbering and amending s. 415.50171, F.S., relating to reports of child-on-child sexual abuse; providing for pt. IV of ch. 39, F.S., entitled "Family Builders Program"; renumbering and amending s. 415.515, F.S., relating to establishment of the program; renumbering and amending s. 415.516, F.S., relating to goals of the program; renumbering and amending s. 415.517, F.S., relating to contracts for services; renumbering and amending s. 415.518, F.S., relating to family eligibility; renumbering s. 415.519, F.S., relating to delivery of services; renumbering and amending s. 415.520, F.S., relating to qualifications of program workers; renumbering s. 415.521, F.S., relating to outcome evaluation; renumbering and amending s. 415.522, F.S., relating to funding; providing for pt. V of ch. 39, F.S., entitled "Taking Children into Custody and Shelter Hearings"; creating s. 39.395, F.S.; providing for medical or hospital personnel taking a child into protective custody; amending s. 39.401, F.S.; providing for law enforcement officers or authorized agents of the department taking a child alleged to be dependent into custody; amending s. 39.402, F.S., relating to placement in a shelter; amending s. 39.407, F.S., relating to physical and mental examination and treatment of a child and physical or mental examination of a person requesting custody; renumbering and amending s. 39.4033, F.S., relating to referral of a dependency case to mediation; providing for pt. VI of ch. 39, F.S., entitled "Petition, Arraignment, Adjudication, and Disposition"; renumbering and amending s. 39.404, F.S., relating to petition for dependency; renumbering and amending s. 39.405, F.S., relating to notice, process, and service; renumbering and amending s. 39.4051, F.S., relating to procedures when the identity or location of the parent, legal custodian, or caregiver is unknown; renumbering and amending s. 39.4055, F.S., relating to injunction pending disposition of a petition for detention or dependency; renumbering and amending s. 39.406, F.S., relating to answers to petitions or other pleadings; renumbering and amending s. 39.408(1), F.S., relating to arraignment hearings; renumbering and amending ss. 39.408(2) and 39.409, F.S., relating to adjudicatory hearings and orders; renumbering and amending ss. 39.408(3) and (4) and 39.41, F.S., relating to disposition hearings and powers of disposition; creating s. 39.5085, F.S.; directing the Department of Children and Family Services to establish and operate the Relative Caregiver Program; providing financial assistance within available resources to relatives caring for children; providing for financial assistance and support services to relatives caring for children placed with them by the child protection system; providing for rules establishing eligibility guidelines, caregiver benefits, and payment schedule; renumbering and amending s. 39.4105, F.S., relating to grandparents rights; renumbering and amending s. 39.413, F.S., relating to appeals; providing for pt. VII of ch. 39, F.S., entitled "Case Plans"; renumbering and amending ss. 39.4031 and 39.451, F.S., relating to case plan requirements and case planning for children in out-of-home care; renumbering and amending s. 39.452(1)-(4), F.S., relating to case planning for children in out-of-home care when the parents, legal custodians, or caregivers do not participate; renumbering and amending s. 39.452(5), F.S., relating to court approvals of case planning; providing for pt. VIII of ch. 39, F.S., entitled "Judicial Reviews"; renumbering and amending s. 39.453, F.S., relating to judicial review of the status of a child; renumbering and amending s. 39.4531, F.S., relating to citizen review panels; renumbering and amending s. 39.454, F.S., relating to initiation of proceedings for termination of parental rights; renumbering and amending s. 39.456, F.S.; revising exemptions from judicial review; providing for pt. IX of ch. 39, F.S., entitled "Termination of Parental Rights"; renumbering and amending ss. 39.46 and 39.462, F.S., relating to procedures, jurisdiction, and service of process; renumbering and amending ss. 39.461 and 39.4611, F.S., relating to petition for termination of parental rights, and filing and elements thereof; creating s. 39.803, F.S.; providing procedures when the identity or location of the parent is unknown after filing a petition for termination of parental rights; renumbering s. 39.4627, F.S., relating to penalties for false statements of paternity; renumbering and amending s. 39.463, F.S., relating to petitions and pleadings for which no answer is required; renumbering and amending s. 39.464, F.S., relating to grounds for termination of paternal rights; renumbering and amending s. 39.465, F.S., relating to right to counsel and appointment of a guardian ad litem; renumbering and amending s. 39.466, F.S., relating to advisory hearings; renumbering and amending s. 39.467, F.S., relating to adjudicatory hearings; renumbering and amending s. 39.4612, F.S., relating to the manifest best interests of the child; renumbering and amending s. 39.469, F.S., relating to powers of disposition and order of disposition; renumbering and amending s. 39.47, F.S., relating to post disposition relief; creating s. 39.813, F.S.; providing for continuing jurisdiction of the court which terminates parental rights over all matters pertaining to the child's adoption; renumbering s. 39.471, F.S., relating to oaths, records, and confidential information; renumbering and amending s. 39.473, F.S., relating to appeal; creating s. 39.816, F.S.; authorizing certain pilot and demonstration projects contingent on receipt of federal grants or contracts; creating s. 39.817, F.S.; providing for a foster care demonstration pilot project; providing for pt. X of ch. 39, F.S., entitled "Guardians Ad Litem and Guardian Advocates"; creating s. 39.820, F.S.; providing definitions; renumbering s. 415.5077, F.S., relating to qualifications of guardians ad litem; renumbering and amending s. 415.508, F.S., relating to appointment of a guardian ad litem for an abused, abandoned, or neglected child; renumbering and amending s. 415.5082, F.S., relating to guardian advocates for drug dependent newborns; renumbering and amending s. 415.5083, F.S., relating to procedures and jurisdiction; renumbering s. 415.5084, F.S., relating to petition for appointment of a guardian advocate; renumbering s. 415.5085, F.S., relating to process and service; renumbering and amending s. 415.5086, F.S., relating to hearing for appointment of a guardian advocate; renumbering and amending s. 415.5087, F.S., relating to grounds for appointment of a guardian advocate; renumbering s. 415.5088, F.S., relating to powers and duties of the guardian advocate; renumbering and amending s. 415.5089, F.S., relating to review and removal of a guardian advocate; providing for pt. XI of ch. 39, F.S., entitled "Domestic Violence"; renumbering s. 415.601, F.S., relating to legislative intent regarding treatment and rehabilitation of victims and perpetrators; renumbering and amending s. 415.602, F.S., relating to definitions; renumbering and amending s. 415.603, F.S., relating to duties and functions of the department; renumbering and amending s. 415.604, F.S., relating to an annual report to the Legislature; renumbering and amending s. 415.605, F.S., relating to domestic violence centers; renumbering s. 415.606, F.S., relating to referral to such centers and notice of rights; renumbering s. 415.608, F.S., relating to confidentiality of information received by the department or a center; amending ss. 20.43, 61.13, 61.401, 61.402, 63.052, 63.092, 90.5036, 154.067, 216.136, 232.50, 318.21, 384.29,

392.65, 393.063, 395.1023, 400.4174, 400.556, 402.165, 402.166, 409.1672, 409.176, 409.2554, 409.912, 409.9126, 414.065, 447.401, 464.018, 490.014, 491.014, 741.30, 744.309, 784.075, 933.18, 944.401, 944.705, 984.03, 984.10, 984.15, 984.24, 985.03, and 985.303, F.S.; correcting cross references; conforming related provisions and references; amending s. 20.19, F.S.; providing for certification programs for family safety and preservation employees of the department; providing for rules; amending s. 119.07, F.S., to conform to the act; amending ss. 213.053 and 409.2577, F.S.; authorizing disclosure of certain confidential taxpayer and parent locator information for diligent search activities under ch. 39, F.S.; creating s. 435.045, F.S.; providing background screening requirements for prospective foster or adoptive parents; amending s. 943.045, F.S.; providing that the protective investigation component of the Department of Children and Family Services is a "criminal justice agency" for purposes of the criminal justice information system; providing appropriations; repealing s. 39.0195, F.S., relating to sheltering unmarried minors and aiding unmarried runaways; repealing s. 39.0196, F.S., relating to children locked out of the home; repealing ss. 39.39, 39.449, and 39.459, F.S., relating to definition of "department"; repealing s. 39.403, F.S., relating to protective investigation; repealing s. 39.4032, F.S., relating to multidisciplinary case staffing; repealing s. 39.4052, F.S., relating to affirmative duty of written notice to adult relatives; repealing s. 39.4053, F.S., relating to diligent search after taking a child into custody; repealing s. 39.45, F.S., relating to legislative intent regarding foster care; repealing s. 39.457, F.S., relating to a pilot program in Leon County to provide additional benefits to children in foster care; repealing s. 39.4625, F.S., relating to identity or location of parent unknown after filing of petition for termination of parental rights; repealing s. 39.472, F.S., relating to court and witness fees; repealing s. 39.475, F.S., relating to rights of grandparents; repealing ss. 415.5016, 415.50165, 415.5017, 415.50175, 415.5018, 415.50185, and 415.5019, F.S., relating to purpose and legislative intent, definitions, procedures, confidentiality of records, district authority and responsibilities, outcome evaluation, and rules for the family services response system; repealing s. 415.502, F.S., relating to legislative intent for comprehensive protective services for abused or neglected children; repealing s. 415.503, F.S., relating to definitions; repealing s. 415.505, F.S., relating to child protective investigations and investigations of institutional child abuse or neglect; repealing s. 415.506, F.S., relating to taking a child into protective custody; repealing s. 415.5075, F.S., relating to rules for medical screening and treatment of children; repealing s. 415.509, F.S., relating to public agencies' responsibilities for prevention, identification, and treatment of child abuse and neglect; repealing s. 415.514, F.S., relating to rules for protective services; providing effective dates.

Rep. Bloom moved the adoption of the amendment to the amendment.

Further consideration of **HB 1019**, with pending amendments, was temporarily postponed.

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate requests the return of HB 3971.

Faye W. Blanton, Secretary

HB 3971—A bill to be entitled An act relating to health facilities authorities; amending s. 154.209, F.S.; providing that an accounts receivable program in which an authority participates on behalf of a health facility may include the financing of accounts receivable acquired by the facility from other not-for-profit health care corporations, regardless of affilliation or location; providing an effective date.

On motion by Rep. Thrasher, the House acceded to the request of the Senate and returned **HB 3971**.

HB 1019—A bill to be entitled An act relating to marriage; creating ss. 741.0305, 741.0306, and 741.0307, F.S., the "Marriage Preparation and Preservation Act of 1998"; providing legislative findings and purpose; requiring the creation of a handbook pertaining to the rights and responsibilities under Florida law of marital partners; amending s. 741.0306, F.S., to provide criteria to be contained in the handbook; amending s. 741.04, F.S.; providing that verification that both parties contemplating marriage have obtained and read the information contained in the handbook created pursuant to s. 741.0307, F.S., is a condition precedent to issuance of a marriage license; amending s. 741.05, F.S., to conform; amending s. 61.21, F.S.; revising provisions relating to the authorized parenting course offered to educate, train, and assist divorcing parents in regard to the consequences of divorce on parents and children; designating such course as the parent education and family stabilization course; providing legislative findings and purpose; authorizing the court in any action between parents in which the custody or support of a minor child is an issue to order parties to attend the family education and stabilization course if the court finds attendance to be in the best interests of the child or children; providing procedures and guidelines for required attendance; requiring parties to file proof of compliance with the court; authorizing a course fee; authorizing each judicial circuit to establish a registry of course providers and sites; authorizing the court to grant exemption from required course attendance; providing parent education and family stabilization course curriculum; providing qualifications and duties of course providers; amending s. 232.246, F.S.; including marriage and relationship education within the life management skills credit required for graduation from high school; amending s. 28.101, F.S.; providing an additional charge for petition for a dissolution of marriage; providing for deposit of such funds in the Family Courts Trust Fund; amending s. 25.388, F.S.; providing an additional source of funding for the Family Courts Trust Fund; providing an effective date.

—was taken up, now pending on motion by Rep. Bloom to adopt House Amendment 1 to unengrossed Senate Amendment 1.

The question recurred on the adoption of **House Amendment 1 to unengrossed Senate Amendment 1**, which was adopted. The vote was:

Yeas—63

The Chair	Clemons	Horan	Safley
Alexander	Constantine	Kosmas	Sanderson
Andrews	Cosgrove	Lacasa	Sembler
Arnall	Crady	Littlefield	Silver
Arnold	Crow	Lynn	Sindler
Ball	Culp	Mackey	Smith
Barreiro	Edwards	Melvin	Starks
Betancourt	Fasano	Miller	Thrasher
Bitner	Fischer	Morse	Trovillion
Bloom	Flanagan	Murman	Turnbull
Boyd	Fuller	Ogles	Valdes
Brooks	Futch	Peaden	Wallace
Burroughs	Gay	Posey	Wiles
Byrd	Harrington	Prewitt, D.	Wise
Carlton	Healey	Pruitt, K.	Ziebarth
Casey	Heyman	Putnam	

Nays—50

Argenziano	Dockery	Lawson	Rojas
Bainter	Effman	Livingston	Saunders
Bradley	Eggelletion	Logan	Spratt
Brennan	Frankel	Mackenzie	Stabins
Bronson	Goode	Maygarden	Stafford
Brown	Gottlieb	Meek	Sublette
Bullard	Greene	Merchant	Tamargo
Bush	Hafner	Minton	Tobin
Chestnut	Hill	Morroni	Warner
Crist	Jacobs	Rayson	Wasserman Schultz
Dawson-White	Jones	Reddick	Westbrook
Dennis	Kelly	Ritter	
Diaz de la Portilla	King	Roberts-Burke	

Excused from time to time for Conference Committee—Bitner, Bradley, Byrd, Clemons, Lippman, Safley, Thrasher, Warner

Votes after roll call:
Yeas to Nays—Lacasa
Nays to Yeas—Chestnut

On motion by Rep. Bloom, the House concurred in unengrossed **Senate Amendment 1**, as amended.

The question recurred on the passage of HB 1019. The vote was:

Yeas—91

The Chair	Clemons	King	Safley
Albright	Constantine	Kosmas	Sanderson
Alexander	Cosgrove	Littlefield	Saunders
Andrews	Crady	Logan	Silver
Arnall	Crist	Lynn	Sindler
Arnold	Crow	Mackenzie	Smith
Bainter	Culp	Mackey	Spratt
Ball	Dennis	Meek	Stabins
Barreiro	Edwards	Melvin	Stafford
Betancourt	Fasano	Merchant	Starks
Bitner	Fischer	Minton	Tamargo
Bloom	Flanagan	Morroni	Thrasher
Boyd	Fuller	Morse	Tobin
Bronson	Futch	Murman	Trovillion
Brooks	Gay	Ogles	Turnbull
Brown	Goode	Peaden	Valdes
Bullard	Harrington	Posey	Wallace
Burroughs	Healey	Prewitt, D.	Warner
Bush	Heyman	Pruitt, K.	Westbrook
Byrd	Horan	Putnam	Wiles
Carlton	Jacobs	Ritchie	Wise
Casey	Jones	Roberts-Burke	Ziebarth
Chestnut	Kelly	Rodriguez-Chomat	

Nays—21

Argenziano	Effman	Lacasa	Sembler
Bradley	Frankel	Livingston	Sublette
Brennan	Gottlieb	Maygarden	Wasserman Schultz
Dawson-White	Greene	Rayson	
Diaz de la Portilla	Hafner	Reddick	
Dockery	Hill	Ritter	

Excused from time to time for Conference Committee—Bitner, Bradley, Byrd, Clemons, Lippman, Safley, Thrasher, Warner

Votes after roll call:
Yeas—Miller
Nays to Yeas—Lacasa

So the bill passed, as amended. The action, together with the bill and amendments thereto, was immediately certified to the Senate.

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 367, with amendment, and requests the concurrence of the House.

Faye W. Blanton, Secretary

HB 367—A bill to be entitled An act relating to education; creating the "Florida Maximum Class Size Study Act"; requiring school districts to reduce the teacher-to-student ratio in certain schools; requiring the Department of Education to conduct a study of the efficacy of class size reductions; providing legislative goals; providing an effective date.

Senate Amendment 1 (with title amendment)—On page 2, between lines 25 and 26, insert:

Section 2. Subsection (1) of section 233.0612, Florida Statutes, is amended to read:

233.0612 Authorized instruction.—Each school district may provide students with programs and instruction at the appropriate grade levels in areas including, but not limited to, the following:

(1) Character development and law education. *Each school board shall be encouraged to install in the elementary schools of the district a program in character development which is the same as or similar to the Character Counts or Character First! Education Series. The programs must be secular in nature and stress such character qualities as attentiveness, patience, and initiative.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 8, after the second semicolon (;) insert: amending s. 233.0612, F.S.; encouraging school boards to install character-development programs in elementary schools;

Representative(s) Mackey, Boyd, Westbrook, Crady, and Smith offered the following:

House Amendment 1 to Senate Amendment 1 (with title amendment)—On page 1, line 30, of the amendment

insert:

Section 3. *School districts with less than 10 elementary schools are exempt from the requirements of section 1 of this act, except that such districts are encouraged to participate as deemed feasible by the district school board.*

And the title is amended as follows:

On page 2, line 8, of the amendment

after the semicolon insert: exempting certain school districts from the "Florida Maximum Class Size Study Act";

Rep. Mackey moved the adoption of the amendment to the amendment. Subsequently, **House Amendment 1 to Senate Amendment 1** was withdrawn.

On motion by Rep. Rayson, the House concurred in Senate Amendment 1. The question recurred on the passage of HB 367. The vote was:

Yeas—119

The Chair	Cosgrove	Hill	Pruitt, K.
Albright	Crady	Horan	Putnam
Alexander	Crist	Jacobs	Rayson
Andrews	Crow	Jones	Reddick
Argenziano	Culp	Kelly	Ritchie
Arnall	Dawson-White	King	Ritter
Arnold	Dennis	Kosmas	Roberts-Burke
Bainter	Diaz de la Portilla	Lacasa	Rodriguez-Chomat
Ball	Dockery	Lawson	Rojas
Barreiro	Edwards	Littlefield	Safley
Betancourt	Effman	Livingston	Sanderson
Bitner	Eggelletion	Logan	Saunders
Bloom	Fasano	Lynn	Sembler
Boyd	Feeney	Mackenzie	Silver
Bradley	Fischer	Mackey	Sindler
Brennan	Flanagan	Maygarden	Smith
Bronson	Frankel	Meek	Spratt
Brooks	Fuller	Melvin	Stabins
Brown	Futch	Merchant	Stafford
Bullard	Garcia	Miller	Starks
Burroughs	Gay	Minton	Sublette
Bush	Goode	Morroni	Tamargo
Byrd	Gottlieb	Morse	Thrasher
Carlton	Greene	Murman	Tobin
Casey	Hafner	Ogles	Trovillion
Chestnut	Harrington	Peaden	Turnbull
Clemons	Healey	Posey	Valdes
Constantine	Heyman	Prewitt, D.	Villalobos

Wallace	Wasserman Schultz	Wiles	Ziebarth
Warner	Westbrook	Wise	

Nays—None

Excused from time to time for Conference Committee—Bitner, Bradley, Byrd, Clemons, Lippman, Safley, Thrasher, Warner

So the bill passed, as amended. The action was immediately certified to the Senate and the bill was ordered enrolled after engrossment.

Conference Committee Report on CS for SB 874

On motion by Rep. Clemons, the House took up the following Report of the Conference Committee on CS for SB 874:

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has accepted the Conference Committee Report as an entirety and passed CS for SB 874 as amended by the Conference Committee Report.

Faye W. Blanton, Secretary

The Honorable Toni Jennings April 29, 1998
President of the Senate

The Honorable Daniel Webster
Speaker, House of Representatives

Dear President Jennings and Speaker Webster:

Your conference committee on the disagreeing votes of the two houses on CS/SB 874, same being:

An act relating to civil actions

having met, and after full and free conference, do recommend to their respective houses as follows:

1. That the Senate adopt the Conference Committee Amendment attached hereto and by reference made a part of this report and pass CS for SB 874 as amended by said Conference Committee Amendment.

2. That the House of Representatives recede from House Amendment 1 to CS for SB 874 and adopt the Conference Committee Amendment, and pass CS for SB 874 as amended by said Conference Committee Amendment.

John McKay, Chairman	*Tom Warner, Vice Chairman* (dissented)
W. G. "Bill" Bankhead	*David Bitner*
Locke Burt	*Rudy Bradley*
Fred R. Dudley (not signed)	*Johnnie B. Byrd, Jr.*
Buddy Dyer (not signed)	*Scott Clemons*
Jack Latvala	*R. Z. "Sandy" Safley*
Tom Rossin (not signed)	*John Thrasher*
Managers on the part of the Senate	Managers on the part of the House of Representatives

Summary of Conference Committee Action:

As amended by Conference Committee Amendment 1, the bill is a product of the joint Committee on Litigation Reform between the Florida Senate and the House of Representatives to deal with the impact of the civil litigation system on Florida's business climate. The bill makes a wide variety of modifications and additions to both the procedural and the substantive aspects of the civil litigation system in Florida. Some of the major provisions:

- Provide a series of jury reform measures to inform and instruct jurors, and allow greater participation by the jurors in civil trials to include the provision of juror notebooks in civil trials likely to exceed 5 days, and permission to direct written questions to witnesses;

- Authorize more sanctions to deter litigation activities that are frivolous in nature or that are designed to delay the process;

- Provide for new or alternative court procedures in more civil cases;

- Eliminate automatic application of joint and several liability in cases with total damages of $25,000 or less, and specify that joint and several liability will only apply only up to $300,000 of the total of economic damages when a party's fault exceeds the claimant's fault and the party's own fault exceeds 20% (comparative fault is applied to the remainder of the economic damages, if any);

- Require a defendant to affirmatively plead the fault of a non-party and prove by a preponderance of the evidence at trial in order to include the non-party on the verdict form;

- Create a 12-year statute of repose for products liability cases with the period commencing from the date of delivery of the completed project to its original purchaser, and providing a grandfather clause for certain actions to be filed until July 1, 2003;

- Create a "government rules defense" allowing manufacturers and sellers to assert a rebuttable presumption that products are not defective or unreasonably dangerous if the product complies with certain state or federal regulatory or statutory standards;

- Prescribe a rebuttable presumption against a claim of negligent hiring provided an employer takes investigatory steps of the prospective employee;

- Limit or prohibit recovery of certain damages, under specified conditions, when the influence of drugs or alcohol is involved;

- Provide definitions and duties relating to liability to different categories of trespassers on real property;

- Limit the vicarious liability of certain motor vehicle owners or rental companies for damages due to the operation of the vehicle by a person other than the owner/lessor to $100,000 per person and $300,000 per occurrence for bodily injury and $50,000 for property damage, but allowing an additional cap of $500,000 in economic damages when the operator is uninsured or under-insured;

- Revise burden of proof standard and conditions for recovery of punitive damages including the prohibition of repetitive punitive damages award under certain conditions;

- Set forth legislative intent to promote the adoption of stricter requirements on advertisements and solicitation of legal services; and

- Provide for an actuarial study to report, by March 1, 2001, expected reduction in judgments, settlements, and other related costs in claims of certain insurers resulting from impact of litigation reform measures in this act, and provide for subsequent review by Department of Insurance of certain insurers rate filings.

This bill substantially amends the following sections of the Florida Statutes: 44.102, 57.071, 57.105, 90.803, 95.031, 324.021, 400.023, 768.075, 768.095, 768.72, 768.73, 768.77, 768.78, 768.79, and 768.81. The bill also creates the following sections: 40.50, 44.1051, 47.025, 768.0705, 768.096, 768.1256, 768.36, 768.725, 768.735, 768.736. The bill also repeals the following subsections: 768.77(2) and 768.81(5).

Conference Committee Amendment 1 (with title amendment)—Delete everything after the enacting clause

and insert:

Section 1. Section 40.50, Florida Statutes, is created to read:

40.50 Jury duty and instructions in civil cases.—

(1) In any civil action immediately after the jury is sworn, the court shall instruct the jury concerning its duties, its conduct, the order of

proceedings, the procedure for submitting written questions of witnesses, and the elementary legal principles that will govern the proceeding as provided in this section.

(2) The court shall instruct that the jurors may take notes regarding the evidence and keep the notes for the purpose of refreshing their memory for use during recesses and deliberations. The court may provide materials suitable for this purpose. The confidentiality of the notes should be emphasized to the jurors. After the jury has rendered its verdict, the notes shall be collected by the bailiff or clerk who shall promptly destroy them.

(3) In any case in which the court determines that the trial could exceed 5 days, the court shall provide a notebook for each juror. Notebooks may contain:

(a) A copy of the preliminary jury instructions, including special instructions on the issues to be tried.

(b) Jurors' notes.

(c) Witnesses' names and either photographs or biographies or both.

(d) Copies of key documents admitted into evidence and an index of all exhibits in evidence.

(e) A glossary of technical terms.

(f) A copy of the court's final instructions.

In its discretion, the court may authorize documents and exhibits in evidence to be included in notebooks for use by the jurors during trial to aid them in performing their duties. The preliminary jury instructions should be removed, discarded, and replaced by the final jury instructions before the latter are read to the jury by the court.

(4) The court shall permit jurors to have access to their notes and, in appropriate cases, notebooks during recesses and deliberations.

(5) The court shall permit jurors to submit to the court written questions directed to witnesses or to the court. Opportunity shall be given to counsel to object to such questions out of the presence of the jury. The court may, as appropriate, limit the submission of questions to witnesses.

(6) The court shall instruct the jury that any questions directed to witnesses or the court must be in writing, unsigned, and given to the bailiff. If the court determines that the juror's question calls for admissible evidence, the question may be asked by court or counsel in the court's discretion. Such question may be answered by stipulation or other appropriate means, including, but not limited to, additional testimony upon such terms and limitations as the court prescribes. If the court determines that the juror's question calls for inadmissible evidence, the question shall not be read or answered. If a juror's question is rejected, the jury should be told that trial rules do not permit some questions to be asked and that the jurors should not attach any significance to the failure of having their question asked.

(7) The court has discretion to give final instructions to the jury before closing arguments of counsel instead of after, in order to enhance jurors' ability to apply the applicable law to the facts. In that event, the court may wish to withhold giving the necessary procedural and housekeeping instructions until after closing arguments.

Section 2. Section 44.102, Florida Statutes, is amended to read:

44.102 Court-ordered mediation.—

(1) Court-ordered mediation shall be conducted according to rules of practice and procedure adopted by the Supreme Court.

(2) A court, under rules adopted by the Supreme Court:

(a) Must refer to mediation any filed civil action for monetary damages, unless:

1. The action is a landlord and tenant dispute that does not include a claim for personal injury.

2. The action is filed for the purpose of collecting a debt.

3. The action is a claim of medical malpractice.

4. The action is governed by the Florida Small Claims Rules.

5. The court determines that the action is proper for referral to nonbinding arbitration under this chapter.

6. The parties have agreed to binding arbitration.

(b)~~(a)~~ May refer to mediation all or any part of a filed civil action *for which mediation is not required under this section.*

(c)~~(b)~~ In circuits in which a family mediation program has been established and upon a court finding of a dispute, shall refer to mediation all or part of custody, visitation, or other parental responsibility issues as defined in s. 61.13. Upon motion or request of a party, a court shall not refer any case to mediation if it finds there has been a history of domestic violence that would compromise the mediation process.

(d)~~(c)~~ In circuits in which a dependency or in need of services mediation program has been established, may refer to mediation all or any portion of a matter relating to dependency or to a child in need of services or a family in need of services.

(3) Each party involved in a court-ordered mediation proceeding has a privilege to refuse to disclose, and to prevent any person present at the proceeding from disclosing, communications made during such proceeding. All oral or written communications in a mediation proceeding, other than an executed settlement agreement, shall be exempt from the requirements of chapter 119 and shall be confidential and inadmissible as evidence in any subsequent legal proceeding, unless all parties agree otherwise.

(4) There shall be no privilege and no restriction on any disclosure of communications made confidential in subsection (3) in relation to disciplinary proceedings filed against mediators pursuant to s. 44.106 and court rules, to the extent the communication is used for the purposes of such proceedings. In such cases, the disclosure of an otherwise privileged communication shall be used only for the internal use of the body conducting the investigation. Prior to the release of any disciplinary files to the public, all references to otherwise privileged communications shall be deleted from the record. When an otherwise confidential communication is used in a mediator disciplinary proceeding, such communication shall be inadmissible as evidence in any subsequent legal proceeding. "Subsequent legal proceeding" means any legal proceeding between the parties to the mediation which follows the court-ordered mediation.

(5) The chief judge of each judicial circuit shall maintain a list of mediators who have been certified by the Supreme Court and who have registered for appointment in that circuit.

(a) Whenever possible, qualified individuals who have volunteered their time to serve as mediators shall be appointed. If a mediation program is funded pursuant to s. 44.108, volunteer mediators shall be entitled to reimbursement pursuant to s. 112.061 for all actual expenses necessitated by service as a mediator.

(b) Nonvolunteer mediators shall be compensated according to rules adopted by the Supreme Court. If a mediation program is funded pursuant to s. 44.108, a mediator may be compensated by the county or by the parties. When a party has been declared indigent or insolvent, that party's pro rata share of a mediator's compensation shall be paid by the county at the rate set by administrative order of the chief judge of the circuit.

(6)(a) When an action is referred to mediation by court order, the time periods for responding to an offer of settlement pursuant to s. 45.061, or to an offer or demand for judgment pursuant to s. 768.79, respectively, shall be tolled until:

1. An impasse has been declared by the mediator; or

2. The mediator has reported to the court that no agreement was reached.

(b) Sections 45.061 and 768.79 notwithstanding, an offer of settlement or an offer or demand for judgment may be made at any time after an impasse has been declared by the mediator, or the mediator has reported that no agreement was reached. An offer is deemed rejected as of commencement of trial.

Section 3. Section 44.1051, Florida Statutes, is created to read:

44.1051 Voluntary trial resolution.—

(1) Two or more parties who are involved in a civil dispute may agree in writing to submit the controversy to voluntary trial resolution in lieu of litigation of the issues involved, prior to or after a lawsuit has been filed, provided that no constitutional issue is involved.

(2) If the parties have entered into an agreement that provides for a method for appointment of a member of The Florida Bar in good standing for more than 5 years to act as trial resolution judge, the court shall proceed with the appointment as prescribed.

(3) The trial resolution judge shall be compensated by the parties according to their agreement.

(4) Within 10 days after the submission of the request for binding voluntary trial resolution, the court shall provide for the appointment of the trial resolution judge. Once appointed, the trial resolution judge shall notify the parties of the time and place for the hearing.

(5) Application for voluntary trial resolution shall be filed and fees paid to the clerk of the court as if for complaints initiating civil actions. The clerk of the court shall handle and account for these matters in all respects as if they were civil actions except that the clerk of the court shall keep separate the records of the applications for voluntary binding trial resolution from all other civil actions.

(6) Filing of the application for binding voluntary trial resolution will toll the running of the applicable statutes of limitation.

(7) The appointed trial resolution judge shall have such power to administer oaths or affirmations and to conduct the proceedings as the rules of court provide. At the request of any party, the trial resolution judge shall issue subpoenas for the attendance of witnesses and for the production of books, records, documents, and other evidence and may apply to the court for orders compelling attendance and production. Subpoenas shall be served and shall be enforceable as provided by law.

(8) The hearing shall be conducted by the trial resolution judge, who may determine any question and render a final decision.

(9) The Florida Evidence Code shall apply to all proceedings under this section.

(10) Any party may enforce a final decision rendered in a voluntary trial by filing a petition for final judgment in the circuit court in the circuit in which the voluntary trial took place. Upon entry of final judgment by the circuit court an appeal may be taken to the appropriate appellate court. The "harmless error doctrine" shall apply in all appeals. No further review shall be permitted unless a constitutional issue is raised. Factual findings determined in the voluntary trial shall not be subject to appeal.

(11) If no appeal is taken within the time provided by rules of the Supreme Court, the decision shall be referred to the presiding court judge in the case, or, if one has not been assigned, to the chief judge of the circuit for assignment to a circuit judge, who shall enter such orders and judgments as are required to carry out the terms of decision, which orders shall be enforceable by the contempt powers of the court and for which judgment executions shall issue on request of a party.

(12) This section does not apply to any dispute involving child custody, visitation, or child support, or to any dispute that involves the rights of a person who is not a party to the voluntary trial resolution.

Section 4. Section 57.105, Florida Statutes, is amended to read:

57.105 Attorney's fee*; sanctions for raising unfounded claims or defenses; damages for delay of litigation*.—

(1) *Upon the court's initiative or motion of any party,* the court shall award a reasonable attorney's fee to be paid to the prevailing party in equal amounts by the losing party and the losing party's attorney *on any claim or defense at any time during a* ~~in any~~ civil *proceeding or* action in which the court finds that *the losing party or the losing party's attorney knew or should have known that a claim or defense when initially presented to the court or at any time before trial:*

(a) Was not supported by the material facts necessary to establish the claim or defense; or

(b) Would not be supported by the application of then-existing law to those material facts. ~~there was a complete absence of a justiciable issue of either law or fact raised by the complaint or defense of the losing party; provided,~~

However, ~~that~~ the losing party's attorney is not personally responsible if he or she has acted in good faith, based on the representations of his or her client *as to the existence of those material facts*. If the court *awards attorney's fees to a claimant pursuant to this subsection* ~~finds that there was a complete absence of a justiciable issue of either law or fact raised by the defense~~, the court shall also award prejudgment interest.

(2) Subsection (1) does not apply if the court determines that the claim or defense was initially presented to the court as a good-faith attempt with a reasonable probability of changing then-existing law as it applied to the material facts.

(3) At any time in any civil proceeding or action in which the moving party proves by a preponderance of the evidence that any action taken by the opposing party, including, but not limited to, the filing of any pleading or part thereof, the assertion of or response to any discovery demand, the assertion of any claim or defense, or the response to any request by any other party, was taken primarily for the purpose of unreasonable delay, the court shall award damages to the moving party for the time necessitated by the conduct in question.

(4) The court also may impose such additional sanctions or other remedies as are just and warranted under the circumstances of the particular case, including, but not limited to, contempt of court, award of taxable costs, striking of a claim or defense, or dismissal of the pleading.

(5)~~(2)~~ If a contract contains a provision allowing attorney's fees to a party when he or she is required to take any action to enforce the contract, the court may also allow reasonable attorney's fees to the other party when that party prevails in any action, whether as plaintiff or defendant, with respect to the contract. *This subsection applies to any contract entered into on or after October 1, 1988.* ~~This act shall take effect October 1, 1988, and shall apply to contracts entered into on said date or thereafter.~~

Section 5. Subsections (3), (5), and (7) of section 768.79, Florida Statutes, are amended to read:

768.79 Offer of judgment and demand for judgment.—

(3) The offer shall be served upon the party to whom it is made, but it shall not be filed unless it is accepted or unless filing is necessary to enforce the provisions of this section. *In any case involving multiple party plaintiffs or multiple party defendants, an offer shall specify its applicability to each party and may specify any conditions thereof. Each individual party may thereafter accept or reject the offer as the offer applies to such party.*

(5) An offer may be withdrawn in writing which is served before the date a written acceptance is filed. Once withdrawn, an offer is void. *A subsequent offer to a party shall have the effect of voiding any previous offer to that party.*

(7)(a) *Prior to awarding costs and fees pursuant to this section the court shall determine whether the offer was reasonable under the circumstances known at the time the offer was made.* If a party is entitled

to costs and fees pursuant to the provisions of this section, the court may, in its discretion, determine that an offer was not made in good faith. In such case, the court may disallow an award of costs and attorney's fees.

(b) When determining the reasonableness of an award of attorney's fees pursuant to this section, the court shall consider, along with all other relevant criteria, the following additional factors:

1. The then's apparent merit or lack's of merit in the claim.

2. The number and nature of offers made by the parties.

3. The closeness of questions of fact and law at issue.

4. Whether the person making the offer had unreasonable refused to furnish information necessary to evaluate the reasonableness of such offer.

5. Whether the suit was in the nature of a test case presenting questions of far-reaching's importance affecting nonparties.

6. The amount of the additional delay cost and expense that the person making the offer reasonable would be expected to incur if the litigation should be prolonged.

Section 6. Section 57.071, Florida Statutes, is amended to read:

57.071 Costs; what taxable.—

(1) If costs are awarded to any party the following shall also be allowed:

(a)~~(1)~~ The reasonable premiums or expenses paid on all bonds or other security furnished by such party.

(b)~~(2)~~ The expense of the court reporter for per diem, transcribing proceedings and depositions, including opening statements and arguments by counsel.

(c)~~(3)~~ Any sales or use tax due on legal services provided to such party, notwithstanding any other provision of law to the contrary.

(2) Expert witness fees shall not be awarded as taxable costs unless:

(a) The party retaining the expert witness files a written notice with the court and with each opposing party within 30 days after the entry of an order setting the trial date, which notice shall specify the expertise and experience of the expert, the rate of compensation of the expert witness, the subject matters or issues on which the expert is expected to render an opinion, and an estimate of the overall fees of the expert witness, including the fee for trial testimony. If the rate of compensation is hourly, the estimated overall fee may be stated in terms of estimated hours; and

(b) The party retaining the expert witness furnishes each opposing party with a written report signed by the expert witness which summarizes the expert witness's opinions and the factual basis of the opinions, including documentary evidence and the authorities relied upon in reaching the opinions. Such report shall be filed at least 10 days prior to discovery cut-off, 45 days prior to the trial, or as otherwise determined by the court.

Section 7. *Expedited trials.—Upon the joint stipulation of the parties to any civil case, the court may conduct an expedited trial as provided in this section. Where two or more plaintiffs or defendants have a unity of interest, such as a husband and wife, they shall be considered one party for the purpose of this section. Unless otherwise ordered by the court or agreed to by the parties with approval of the court, an expedited trial shall be conducted as follows:*

(1) All discovery in the trial shall be completed within 60 days.

(2) All interrogatories and requests for production must be served within 10 days and all responses must be served within 20 days after receipt.

(3) The court shall determine the number of depositions required.

(4) The case may be tried to a jury.

(5) The case must be tried within 30 days after the 60-day discovery cut-off.

(6) The trial must be limited to 1 day.

(7) The jury selection must be limited to 1 hour.

(8) The plaintiff will have 3 hours to present its case, including its opening, all of its testimony and evidence, and its closing.

(9) The defendant will have 3 hours to present its case, including its opening, all of its testimony and evidence, and its closing.

(10) The jury will be given "plain language" jury instructions at the beginning of the trial as well as a "plain language" jury verdict form. The jury instructions and verdict form must be agreed to by the parties.

(11) The parties will be permitted to introduce a written report of any expert and the expert's curriculum vitae instead of calling the expert to testify live at trial.

(12) At trial the parties may use excerpts from depositions, including video depositions, regardless of where the deponent lives or whether the deponent is available to testify.

(13) The Florida Evidence Code and the Florida Rules of Civil Procedure will apply.

(14) There will be no continuances of the trial absent extraordinary circumstances.

Section 8. Section 768.77, Florida Statutes, is amended to read:

768.77 Itemized verdict.—

~~(1)~~ In any action to which this part applies in which the trier of fact determines that liability exists on the part of the defendant, the trier of fact shall, as a part of the verdict, itemize the amounts to be awarded to the claimant into the following categories of damages:

(1)~~(a)~~ Amounts intended to compensate the claimant for economic losses;

(2)~~(b)~~ Amounts intended to compensate the claimant for noneconomic losses; and

(3)~~(c)~~ Amounts awarded to the claimant for punitive damages, if applicable.

~~(2) Each category of damages, other than punitive damages, shall be further itemized into amounts intended to compensate for losses which have been incurred prior to the verdict and into amounts intended to compensate for losses to be incurred in the future. Future damages itemized under paragraph (1)(a) shall be computed before and after reduction to present value. Damages itemized under paragraph (1)(b) or paragraph (1)(c) shall not be reduced to present value. In itemizing amounts intended to compensate for future losses, the trier of fact shall set forth the period of years over which such amounts are intended to provide compensation.~~

Section 9. Paragraph (a) of subsection (1) of section 768.78, Florida Statutes, is amended to read:

768.78 Alternative methods of payment of damage awards.—

(1)(a) In any action to which this part applies in which the *court determines that* ~~trier of fact makes~~ an award to compensate the claimant *includes* ~~for~~ future economic losses which exceed $250,000, payment of amounts intended to compensate the claimant for these losses shall be made by one of the following means, unless an alternative method of payment of damages is provided in this section:

1. The defendant may make a lump-sum payment for all damages so assessed, with future economic losses and expenses reduced to present value; or

2. Subject to the provisions of this subsection, the court shall, at the request of either party, unless the court determines that manifest

injustice would result to any party, enter a judgment ordering future economic damages, as itemized pursuant to s. 768.77(1)~~(a)~~, in excess of $250,000 to be paid in whole or in part by periodic payments rather than by a lump-sum payment.

Section 10. Section 47.025, Florida Statutes, is created to read:

47.025 Actions against contractors.—Any venue provision in a contract for improvement to real property which requires a legal action against a resident contractor, subcontractor, or sub-subcontractor, as defined in part I of chapter 713, to be brought outside this state is void as a matter of public policy if enforcement would be unreasonable and unjust. To the extent that the venue provision in the contract is void under this section, any legal action arising out of that contract shall be brought only in this state in the county where the defendant resides, where the cause of action accrued, or where the property in litigation is located, unless the parties agree to the contrary.

Section 11. *Through the state's uniform case reporting system, the clerk of court shall report to the Office of the State Courts Administrator information from each settlement or jury verdict and final judgment in negligence cases as defined in section 768.81(4), Florida Statutes, as the President of the Senate and the Speaker of the House of Representatives deem necessary from time to time. The information shall include, but need not be limited to: the name of each plaintiff and defendant; the verdict; the percentage of fault of each; the amount of economic damages and noneconomic damages awarded to each plaintiff, identifying those damages that are to be paid jointly and severally and by which defendants; and the amount of any punitive damages to be paid by each defendant.*

Section 12. Subsection (22) of section 90.803, Florida Statutes, is amended to read:

90.803 Hearsay exceptions; availability of declarant immaterial.—The provision of s. 90.802 to the contrary notwithstanding, the following are not inadmissible as evidence, even though the declarant is available as a witness:

(22) FORMER TESTIMONY.—Former testimony given by the declarant *which testimony was given as a witness at another hearing of the same or a different proceeding, or in a deposition taken in compliance with law in the course of the same or another proceeding, if the party against whom the testimony is now offered, or, in a civil action or proceeding, a predecessor in interest, or a person with a similar interest, had an opportunity and similar motive to develop the testimony by direct, cross, or redirect examination, provided, however, the court finds that the testimony is not inadmissible pursuant to s. 90.402 or s. 90.403* ~~at a civil trial, when used in a retrial of said trial involving identical parties and the same facts~~.

Section 13. Subsection (2) of section 95.031, Florida Statutes, is amended to read:

95.031 Computation of time.—Except as provided in subsection (2) and in s. 95.051 and elsewhere in these statutes, the time within which an action shall be begun under any statute of limitations runs from the time the cause of action accrues.

(2)*(a) An action* ~~Actions~~ for ~~products liability and~~ fraud under s. 95.11(3) must be begun within the period prescribed in this chapter, with the period running from the time the facts giving rise to the cause of action were discovered or should have been discovered with the exercise of due diligence, instead of running from any date prescribed elsewhere in s. 95.11(3), but in any event an action for fraud under s. 95.11(3) must be begun within 12 years after the date of the commission of the alleged fraud, regardless of the date the fraud was or should have been discovered.

(b) An action for products liability under s. 95.11(3) must be begun within the period prescribed in this chapter, with the period running from the date that the facts giving rise to the cause of action were discovered, or should have been discovered with the exercise of due diligence, rather than running from any other date prescribed elsewhere in s. 95.11(3), but in no event may an action for products liability under s. 95.11(3) be commenced unless the complaint is served and filed within 12 years after the date of delivery of the product to its first purchaser or lessee who was not engaged in the business of selling or leasing the product or of using the product as a component in the manufacture of another product, regardless of the date that the defect in the product was or should have been discovered. However, the 12-year limitation on filing an action for products liability does not apply if the manufacturer knew of a defect in the product and concealed or attempted to conceal this defect. In addition, the 12-year limitation does not apply if the claimant was exposed to or used the product within the 12-year period, but an injury caused by such exposure or use did not manifest itself until after the 12-year period.

Section 14. *Any action for products liability which would not have been barred under section 95.031(2), Florida Statutes, prior to the amendments to that section made by this act may be commenced before July 1, 2003, and, if it is not commenced by that date and is barred by the amendments to section 95.031(2), Florida Statutes, made by this act, it shall be barred.*

Section 15. Section 768.1256, Florida Statutes, is created to read:

768.1256 Government rules defense.—In a product liability action brought against a manufacturer or seller for harm allegedly caused by a product, there is a rebuttable presumption that the product is not defective or unreasonably dangerous and the manufacturer or seller is not liable if, at the time the specific unit of the product was sold or delivered to the initial purchaser or user, the aspect of the product that allegedly caused the harm was in compliance with product design, construction, or safety standards relevant to the event causing the death or injury promulgated by a federal or state statute or rule, such standards are designed to prevent the type of harm that allegedly occurred, and compliance with such standards is required as a condition for selling or otherwise distributing the product.

Section 16. Section 768.096, Florida Statutes, is created to read:

768.096 Employer presumption against negligent hiring.—

(1) In a civil action for the death of, or injury or damage to, a third person caused by the intentional tort of an employee, such employee's employer shall be presumed not to have been negligent in hiring such employee if, before hiring the employee, the employer conducted a background investigation of the prospective employee and the investigation did not reveal any information that reasonably demonstrated the unsuitability of the prospective employee for the particular work to be performed or for the employment in general. A background investigation under this section must include:

(a) Obtaining a criminal background investigation on the prospective employee pursuant to subsection (2);

(b) Making a reasonable effort to contact references and former employers of the prospective employee concerning the suitability of the prospective employee for employment;

(c) Requiring the prospective employee to complete a job application form that includes questions concerning whether he or she has ever been convicted of a crime, including details concerning the type of crime; the date of conviction and the penalty imposed; and whether the prospective employee has ever been a defendant in a civil action for intentional tort, including the nature of the intentional tort and the disposition of the action;

(d) Obtaining, with written authorization from the prospective employee, a check of the driver's license record of the prospective employee if such a check is relevant to the work the employee will be performing and if the record can reasonably be obtained; and

(e) Interviewing the prospective employee.

(2) To satisfy the criminal-background-investigation requirement of this section, an employer must request and obtain from the Department of Law Enforcement a check of the information as reported and reflected in the Florida Crime Information Center system as of the date of the request.

(3) The election by an employer not to conduct the investigation specified in subsection (1) does not raise any presumption that the employer failed to use reasonable care in hiring an employee.

Section 17. Section 768.095, Florida Statutes, is amended to read:

768.095 Employer immunity from liability; disclosure of information regarding former *or current* employees.—An employer who discloses information about a former *or current employee* ~~employee's job performance~~ to a prospective employer of the former *or current* employee upon request of the prospective employer or of the former *or current* employee is ~~presumed to be acting in good faith and, unless lack of good faith is shown by clear and convincing evidence, is~~ immune from civil liability for such disclosure or its consequences *unless it is shown by clear and convincing evidence*~~. For purposes of this section, the presumption of good faith is rebutted upon a showing~~ that the information disclosed by the former *or current* employer was knowingly false ~~or deliberately misleading, was rendered with malicious purpose,~~ or violated any civil right of the former *or current* employee protected under chapter 760.

Section 18. Section 768.0705, Florida Statutes, is created to read:

768.0705 Limitation on premises liability.—

(1) A person or organization owning or controlling an interest in a business premises is not liable for civil damages sustained by invitees, guests, or other members of the public which are caused by criminal acts that occur on the premises and which are committed by third parties who are not employees or agents of such person or organization, if the person or organization owning or controlling the interest in a business premises maintains a reasonably safe premises in light of the foreseeability of the occurrence of the particular criminal act.

(2) If at least six provisions contained in the following nine paragraphs of this subsection are substantially met, there shall be a presumption that a person or organization owning or controlling an interest in a business premises, other than a convenience store, has fulfilled any duty to provide adequate security for invitees, guests, and other members of the public against criminal acts that occur in common areas, in parking areas, or on portions of the premises not occupied by buildings or structures and that are committed by third parties who are not employees or agents of the person or organization owning or controlling the interest in a business premises.

(a) Signs shall be prominently posted in the parking area and other public-access points on the premises indicating the hours of normal business operations and the general security measures provided.

(b) The parking area, public walkways, and public building entrances and exits shall be illuminated at an intensity of at least 2 foot-candles per square foot at 18 inches above the surface of the ground, pavement, or walkway or, if zoning requirements do not permit such levels of illumination, to the highest intensity permitted.

(c) Crime prevention training, with a curriculum approved by the local law enforcement agency or the Department of Legal Affairs, shall be provided to all nonmanagement on-site employees. To meet the requirements of this paragraph, persons employed at the business premises before October 1, 1998, must receive training by October 1, 1999, and persons employed at the business premises on or after October 1, 1998, must receive training within 120 days after hiring. No person shall be liable for ordinary negligence due to implementing the approved curriculum so long as the training was actually provided. Under no circumstances shall the state or the local law enforcement agency be held liable for the contents of the approved curriculum.

(d) Security cameras shall be installed and maintained, and shall be monitored or recorded, covering public entrances and exits to buildings and at least half the parking lot. Cameras shall operate during business hours and for at least 30 minutes after closing.

(e) An emergency call box, or an alarm system linked to a law enforcement agency, a private security agency, or a security guard or other agent on the premises, shall be maintained and available within 150 feet of any location in the parking lot or other public place on the premises.

(f) A licensed security guard or law enforcement officer is on duty at the time of the criminal occurrence and is either monitoring surveillance cameras or patrolling the premises with such frequency that the parking area and common areas are observed by the guard at not more than 15-minute intervals.

(g) Perimeter fencing shall be installed and maintained which surrounds parking areas and structures and directs pedestrian entry onto the premises.

(h) Landscaping shall be maintained which does not substantially obstruct the view of security personnel or cameras, and landscaping adjacent to areas frequented by the public shall be maintained in a manner that provides no hiding place sufficient to conceal an adult person.

(i) A public address system shall be installed and maintained which is capable of reaching portions of the premises regularly frequented by the public.

(3) The owner or operator of a convenience business that substantially implements the applicable security measures listed in ss. 812.173 and 812.174 shall gain a presumption against liability in connection with criminal acts that occur on the premises and that are committed by third parties who are not employees or agents of the owner or operator of the convenience business.

(4) Failure to implement a sufficient number of the measures listed in subsection (2) or ss. 812.173 and 812.174 shall not create a presumption of liability and no inference may be drawn from such failure or from the substance of measures listed within this section.

Section 19. Section 768.075, Florida Statutes, is amended to read:

768.075 Immunity from liability for injury to trespassers on real property*; definitions; duty to trespassers*.—

(1) A person or organization owning or controlling an interest in real property, or an agent of such person or organization, shall not be held liable for any civil damages for death of or injury or damage to a trespasser upon the property ~~resulting from or arising by reason of the trespasser's commission of the offense of trespass as described in s. 810.08 or s. 810.09~~, when such trespasser was under the influence of alcoholic beverages with a blood-alcohol level of *0.08* ~~0.10~~ percent or higher, when such trespasser was under the influence of any chemical substance set forth in s. 877.111, when such trespasser was illegally under the influence of any substance controlled under chapter 893, or if the trespasser is affected by any of the aforesaid substances to the extent that her or his normal faculties are impaired. For the purposes of this section, voluntary intoxication or impediment of faculties by use of alcohol or any of the aforementioned substances shall not excuse a party bringing an action or on whose behalf an action is brought from proving the elements of trespass. However, the person or organization owning or controlling the interest in real property shall not be immune from liability if gross negligence or *intentional* ~~willful and wanton~~ misconduct on the part of such person or organization or agent thereof is a proximate cause of the death of or injury or damage to the trespasser.

(2) A person or organization owning or controlling an interest in real property, or an agent of such person or organization, shall not be held liable for any civil damages for death of or injury or damage to any discovered or undiscovered trespasser, except as provided in paragraphs (3)(a), (b), and (c), and regardless of whether the trespasser was intoxicated or otherwise impaired.

(3)(a) As used in this subsection, the term:

1. "Implied invitation" means that the visitor entering the premises has an objectively reasonable belief that he or she has been invited or is otherwise welcome on that portion of the real property where injury occurs.

2. "Discovered trespasser" means a person who enters real property without invitation, either express or implied, and whose actual physical presence was detected, within 24 hours preceding the accident, by the person or organization owning or controlling an interest in real property

or to whose actual physical presence the person or organization owning or controlling an interest in real property was alerted by a reliable source within 24 hours preceding the accident. The status of a person who enters real property shall not be elevated to that of an invitee, unless the person or organization owning or controlling an interest in real property has issued an express invitation to enter the property or has manifested a clear intent to hold the property open to use by persons pursuing purposes such as those pursued by the person whose status is at issue.

3. "Undiscovered trespasser" means a person who enters property without invitation, either express or implied, and whose actual physical presence was not detected, within 24 hours preceding the accident, by the person or organization owning or controlling an interest in real property.

(b) To avoid liability to undiscovered trespassers, a person or organization owning or controlling an interest in real property must refrain from intentional misconduct, but has no duty to warn of dangerous conditions. To avoid liability to discovered trespassers, a person or organization owning or controlling an interest in real property must refrain from gross negligence or intentional misconduct, and must warn the trespasser of dangerous conditions that are known to the person or organization owning or controlling an interest in real property but that are not readily observable by others.

(c) This subsection shall not be interpreted or construed to alter the common law as it pertains to the "attractive nuisance doctrine."

(4) A person or organization owning or controlling an interest in real property, or an agent of such person or organization, shall not be held liable for negligence that results in the death of, injury to, or damage to a person who is attempting to commit a felony or who is engaged in the commission of a felony on the property.

Section 20. Section 768.36, Florida Statutes, is created to read:

768.36 Alcohol or drug defense.—

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

(a) "Alcoholic beverage" means distilled spirits and any beverage that contains 0.5 percent or more alcohol by volume as determined in accordance with s. 561.01(4)(b).

(b) "Drug" means any chemical substance set forth in s. 877.111 or any substance controlled under chapter 893. The term does not include any drug or medication obtained by the plaintiff pursuant to a prescription, as defined in s. 893.02, which was taken in accordance with the prescription, or any medication that is authorized pursuant to state or federal law for general distribution and use without a prescription in treating human diseases, ailments, or injuries and that was taken in the recommended dosage.

(2) In any civil action, a plaintiff may not recover any damages for loss or injury to his or her person or property if the trier of fact finds that, at the time the plaintiff was injured, the plaintiff was under the influence of any alcoholic beverage or drug to the extent that the plaintiff's normal faculties were impaired or the plaintiff had a blood or breath alcohol level of 0.08 percent or higher, and that as a result of the influence of such alcoholic beverage or drug the plaintiff was more than 50 percent at fault for his or her own harm.

Section 21. Section 768.725, Florida Statutes, is created to read:

768.725 Punitive damages; burden of proof.—In all civil actions the plaintiff must establish at trial by clear and convincing evidence its entitlement to an award of punitive damages. The "greater weight of the evidence" burden of proof shall apply to the determination regarding the amount of damages.

Section 22. Section 768.72, Florida Statutes, is amended to read:

768.72 Pleading in civil actions; claim for punitive damages.—

(1) In any civil action, no claim for punitive damages shall be permitted unless there is a reasonable showing by evidence in the record or proffered by the claimant which would provide a reasonable basis for recovery of such damages. The claimant may move to amend her or his complaint to assert a claim for punitive damages as allowed by the rules of civil procedure. The rules of civil procedure shall be liberally construed so as to allow the claimant discovery of evidence which appears reasonably calculated to lead to admissible evidence on the issue of punitive damages. No discovery of financial worth shall proceed until after the pleading concerning punitive damages is permitted.

(2) A defendant may be held liable for punitive damages only if the trier of fact, based on clear and convincing evidence, finds that the defendant was personally guilty of intentional misconduct or gross negligence. As used in this section, the term:

(a) "Intentional misconduct" means that the defendant had actual knowledge of the wrongfulness of the conduct and the high probability that injury or damage to the claimant would result and, despite that knowledge, intentionally pursued that course of conduct, resulting in injury or damage.

(b) "Gross negligence" means that the defendant's conduct was so reckless or wanting in care that it constituted a conscious disregard or indifference to the life, safety, or rights of persons exposed to such conduct.

(3) In the case of an employer, principal, corporation, or other legal entity, punitive damages may be imposed for the conduct of an employee or agent, only if the conduct of the employee or agent meets the criteria specified in subsection (2) and:

(a) The employer, principal, corporation, or other legal entity actively and knowingly participated in such conduct;

(b) The officers, directors, or managers of the employer, principal, corporation, or other legal entity knowingly condoned, ratified, or consented to such conduct; or

(c) The employer, principal, corporation, or other legal entity engaged in conduct that constituted gross negligence and that contributed to the loss, damages, or injury suffered by the claimant.

(4) The provisions of this section are remedial in nature and shall be applied to all civil actions pending on October 1, 1998, in which the trial or retrial of the action has not commenced.

Section 23. Section 768.73, Florida Statutes, is amended to read:

768.73 Punitive damages; limitation.—

(1)(a) In any civil action *in which the judgment for compensatory damages is for $50,000 or less, judgment for punitive damages awarded to a claimant may not exceed $250,000, except as provided in paragraph (b). In any civil action in which the judgment for compensatory damages exceeds $50,000, the judgment for punitive damages awarded to a claimant may not exceed three times the amount of compensatory damages or $250,000, whichever is higher, except as provided in paragraph (b)* ~~based on negligence, strict liability, products liability, misconduct in commercial transactions, professional liability, or breach of warranty, and involving willful, wanton, or gross misconduct, the judgment for the total amount of punitive damages awarded to a claimant may not exceed three times the amount of compensatory damages awarded to each person entitled thereto by the trier of fact, except as provided in paragraph (b). However, this subsection does not apply to any class action~~.

(b) *No award for punitive damages may exceed the limitations* ~~If any award for punitive damages exceeds the limitation~~ specified in paragraph (a), ~~the award is presumed to be excessive and the defendant is entitled to remittitur of the amount in excess of the limitation~~ unless the claimant demonstrates to the court by clear and convincing evidence that the *defendant engaged in intentional misconduct and that the* award is not excessive in light of the facts and circumstances which were presented to the trier of fact.

(c) This subsection is not intended to prohibit an appropriate court from exercising its jurisdiction under s. 768.74 in determining the reasonableness of an award of punitive damages that is less than three times the amount of compensatory damages.

(2)(a) Except as provided in paragraph (b), punitive damages shall not be awarded against a defendant in a civil action if that defendant

establishes, before trial, that punitive damages have previously been awarded against that defendant in any state or federal court in any action alleging harm from the same act or single course of conduct for which the claimant seeks compensatory damages. For purposes of a civil action, the term "the same act or single course of conduct" includes acts resulting in the same manufacturing defects, acts resulting in the same defects in design, or failure to warn of the same hazards, with respect to similar units of a product.

(b) In subsequent civil actions involving the same act or single course of conduct for which punitive damages have already been awarded, if the court determines by clear and convincing evidence that the amount of prior punitive damages awarded was insufficient to punish that defendant's behavior, the court may award subsequent punitive damages. In awarding subsequent punitive damages, the court shall make specific findings of fact in the record to support its conclusion. In addition, the court may consider whether the defendant's act or course of conduct has ceased. Any subsequent punitive damage awards shall be reduced by the amount of any earlier punitive damage awards rendered in state or federal court.

(3) The claimant attorney's fees, if payable from the judgment, are, to the extent that the fees are based on the punitive damages, calculated based on the entire judgment for punitive damages. This subsection does not limit the payment of attorney's fees based upon an award of damages other than punitive damages.

(4)~~(2)~~ The jury may neither be instructed nor informed as to the provisions of this section.

(5) The provisions of this section are remedial in nature and shall be applied to all civil actions pending on October 1, 1998, in which the trial or retrial of the action has not commenced.

Section 24. Section 768.735, Florida Statutes, is created to read:

768.735 Punitive damages; exceptions; limitation.—

(1) Sections 768.72(2)-(4), 768.725, and 768.73 do not apply to any civil action based upon child abuse, abuse of the elderly, or abuse of the developmentally disabled, or arising under chapter 400. Such actions shall be governed by applicable statutes and controlling judicial precedent.

(2)(a) In any civil action based upon child abuse, abuse of the elderly, or abuse of the developmentally disabled, or arising under chapter 400, and involving the award of punitive damages, the judgment for the total amount of punitive damages awarded to a claimant may not exceed three times the amount of compensatory damages awarded to each person entitled thereto by the trier of fact, except as provided in paragraph (b). However, this subsection does not apply to any class action.

(b) If any award for punitive damages exceeds the limitation specified in paragraph (a), the award is presumed to be excessive and the defendant is entitled to remittitur of the amount in excess of the limitation unless the claimant demonstrates to the court by clear and convincing evidence that the award is not excessive in light of the facts and circumstances that were presented to the trier of fact.

(c) This subsection is not intended to prohibit an appropriate court from exercising its jurisdiction under s. 768.74 in determining the reasonableness of an award of punitive damages that is less than three times the amount of compensatory damages.

(d) The jury may not be instructed or informed as to the provisions of this section.

Section 25. Section 768.736, Florida Statutes, is created to read:

768.736 Punitive damages; exceptions for intoxication.—Sections 768.725 and 768.73 shall not apply to any defendant who, at the time of the act or omission for which punitive damages are sought, was under the influence of any alcoholic beverage or drug to the extent that the defendant's normal faculties were impaired, or who had a blood or breath alcohol level of 0.08 percent or higher.

Section 26. Subsection (3) of section 768.81, Florida Statutes, is amended, and subsection (5) of that section is repealed, to read:

768.81 Comparative fault.—

(3) APPORTIONMENT OF DAMAGES.—In cases to which this section applies, the court shall enter judgment against each party liable on the basis of such party's percentage of fault and not on the basis of the doctrine of joint and several liability; provided that with respect to any party whose percentage of fault equals or exceeds that of a particular claimant *and whose fault exceeds 20 percent*, the court shall enter judgment with respect to economic damages against that party on the basis of the doctrine of joint and several liability. *However, the doctrine of joint and several liability shall not apply to that portion of economic damages in excess of $300,000. A party against whom the court enters judgment with respect to economic damages on the basis of the doctrine of joint and several liability shall also be liable, on the basis of such party's percentage of fault, for the portion of the economic damages in excess of $300,000. Nothing in this subsection shall be construed to entitle a claimant to recover more than the total amount awarded to that claimant for economic damages.*

(a) In order to allocate any or all fault to a nonparty, a defendant must affirmatively plead the fault of a nonparty and, absent a showing of good cause, identify the nonparty, if known, or describe the nonparty as specifically as practicable, either by motion or in the initial responsive pleading when defenses are first presented, subject to amendment any time before trial in accordance with the Florida Rules of Civil Procedure.

(b) In order to allocate any or all fault to a nonparty and include the named or unnamed nonparty on the verdict form for purposes of apportioning damages, a defendant must prove at trial, by a preponderance of the evidence, any or all fault of the nonparty in causing the plaintiff's injuries.

~~(5) APPLICABILITY OF JOINT AND SEVERAL LIABILITY.—Notwithstanding the provisions of this section, the doctrine of joint and several liability applies to all actions in which the total amount of damages does not exceed $25,000.~~

Section 27. Paragraph (b) of subsection (9) of section 324.021, Florida Statutes, is amended, and paragraph (c) is added to that subsection, to read:

324.021 Definitions; minimum insurance required.—The following words and phrases when used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:

(9) OWNER; OWNER/LESSOR.—

(b) Owner/lessor.—Notwithstanding any other provision of the Florida Statutes or existing case law:~~,~~

1. The lessor, under an agreement to lease a motor vehicle for 1 year or longer which requires the lessee to obtain insurance acceptable to the lessor which contains limits not less than $100,000/$300,000 bodily injury liability and $50,000 property damage liability or not less than $500,000 combined property damage liability and bodily injury liability, shall not be deemed the owner of said motor vehicle for the purpose of determining financial responsibility for the operation of said motor vehicle or for the acts of the operator in connection therewith; further, this *subparagraph* ~~paragraph~~ shall be applicable so long as the insurance meeting these requirements is in effect. The insurance meeting such requirements may be obtained by the lessor or lessee, provided, if such insurance is obtained by the lessor, the combined coverage for bodily injury liability and property damage liability shall contain limits of not less than $1 million and may be provided by a lessor's blanket policy.

2. The lessor, under an agreement to rent or lease a motor vehicle for a period of less than 1 year, shall be deemed the owner of the motor vehicle for the purpose of determining liability for the operation of the vehicle or the acts of the operator in connection therewith only up to $100,000 per person and up to $300,000 per incident for bodily injury and up to $50,000 for property damage. If the lessee or the operator of the motor vehicle is uninsured or has any insurance with limits less than $500,000 combined property damage and bodily injury liability, the

lessor shall be liable for up to an additional $500,000 in economic damages only arising out of the use of the motor vehicle. The additional specified liability of the lessor for economic damages shall be reduced by amounts actually recovered from the lessee, from the operator, and from any insurance or self insurance covering the lessee or operator. Nothing in this subparagraph shall be construed to affect the liability of the lessor for its own negligence.

3. The owner who is a natural person and loans a motor vehicle to any permissive user other than a relative residing in the same household as defined in s. 627.732(4) shall be liable for the operation of the vehicle or the acts of the operator in connection therewith only up to $100,000 per person and up to $300,000 per incident for bodily injury and up to $50,000 for property damage. If the permissive user of the motor vehicle is uninsured or has any insurance with limits less than $500,000 combined property damage and bodily injury liability, the owner shall be liable for up to an additional $500,000 in economic damages only arising out of the use of the motor vehicle. The additional specified liability of the owner for economic damages shall be reduced by amounts actually recovered from the permissive user and from any insurance or self-insurance covering the permissive user. Nothing in this subparagraph shall be construed to affect the liability of the owner for his or her own negligence.

(c) Application.—The limits on liability in subparagraphs (b)2. and (b)3. do not apply to an owner of motor vehicles that are used for commercial activity in the owner's ordinary course of business, other than a rental company that rents or leases motor vehicles. For purposes of this paragraph, the term "rental company" includes only an entity that is engaged in the business of renting or leasing motor vehicles to the general public and that rents or leases a majority of its motor vehicles to persons with no direct or indirect affiliation with the rental company. The term also includes a motor vehicle dealer that provides temporary replacement vehicles to its customers for up to 10 days.

Section 28. Subsections (6), (7), and (8) are added to section 400.023, Florida Statutes, to read:

400.023 Civil enforcement.—

(6) To recover attorney's fees under this section, the following conditions precedent must be met:

(a) Within 120 days after the filing of a responsive pleading or defensive motion to a complaint brought under this section and before trial, the parties or their designated representatives shall meet in mediation to discuss the issues of liability and damages in accordance with this paragraph for the purpose of an early resolution of the matter.

1. Within 60 days after the filing of the responsive pleading or defensive motion, the parties shall:

a. Agree on a mediator. If the parties cannot agree on a mediator, the defendant shall immediately notify the court, which shall appoint a mediator within 10 days after such notice.

b. Set a date for mediation.

c. Prepare an order for the court that identifies the mediator, the scheduled date of the mediation, and other terms of the mediation. Absent any disagreement between the parties, the court may issue the order for the mediation submitted by the parties without a hearing.

2. The mediation must be concluded within 120 days after the filing of a responsive pleading or defensive motion. The date may be extended only by agreement of all parties subject to mediation under this subsection.

3. The mediation shall be conducted in the following manner:

a. Each party shall ensure that all persons necessary for complete settlement authority are present at the mediation.

b. Each party shall mediate in good faith.

4. All aspects of the mediation which are not specifically established by this subsection must be conducted according to the rules of practice and procedure adopted by the Supreme Court of this state.

(b) If the parties do not settle the case pursuant to mediation, the last offer of the defendant made at mediation shall be recorded by the mediator in a written report that states the amount of the offer, the date the offer was made in writing, and the date the offer was rejected. If the matter subsequently proceeds to trial under this section and the plaintiff prevails but is awarded an amount in damages, exclusive of attorney's fees, which is equal to or less than the last offer made by the defendant at mediation, the plaintiff is not entitled to recover any attorney's fees.

(c) This subsection applies only to claims for liability and damages and does not apply to actions for injunctive relief.

(d) This subsection applies to all causes of action that accrue on or after October 1, 1998.

(7) Discovery of financial information for the purpose of determining the value of punitive damages may not be had unless the plaintiff shows the court by proffer or evidence in the record that a reasonable basis exists to support a claim for punitive damages.

(8) In addition to any other standards for punitive damages, any award of punitive damages must be reasonable in light of the actual harm suffered by the resident and the egregiousness of the conduct that caused the actual harm to the resident.

Section 29. *The Legislature declares as a matter of public policy that the state has a substantial interest in protecting the privacy, well-being, and tranquility of the public against intrusive elements of advertising by attorneys. The Legislature further declares as a matter of public policy that the state's substantial interest includes ensuring that advertising by attorneys presents the public with complete and accurate information necessary to make informed decisions about employing the legal services of an attorney and also ensuring that advertising does not negatively reflect upon the legal profession, the legal system, or the administration of justice. The Legislature finds that research conducted by The Florida Bar, and recognized by the United States Supreme Court in the case of The Florida Bar v. Went For It, Inc., 515 U.S. 618 (1995), shows that people of the State of Florida view elements of attorney advertising and solicitation as being intrusive on privacy and contributing to negative images of the legal profession. The Legislature also finds that The Florida Bar's research shows that electronic advertising by attorneys does not provide the public with useful and factual information with which to make informed decisions about hiring an attorney. The Legislature further finds that television advertising diminishes the public's respect for the fairness and integrity of the legal system. In light of these findings, it is the request of the Legislature that the Florida Supreme Court, through The Florida Bar, regulate attorney advertising in a limited but necessary manner that will directly and materially advance the state's public policy interests as declared by the Legislature. The Legislature further requests The Florida Bar to form a task force to address the adoption of rules prohibiting advertising by members of its voluntary sections and to consider creating additional voluntary components the members of which would be prohibited from advertising.*

Section 30. *Because the Legislature finds that comprehensive litigation reform is of the utmost importance, the Legislature also requests that the Florida Supreme Court consider adopting rules to effectuate the legislative expression of public policy as set forth in this act.*

Section 31. *(1) The Department of Insurance shall, after issuing a request for proposals, contract with a national independent actuarial firm to conduct an actuarial analysis, consistent with generally accepted actuarial practices, of the expected reduction in liability judgments, settlements, and related costs resulting from the provisions of this act. The analysis shall be based on credible loss cost data derived from settlement or adjudication of liability claims, other than liability claims insured under private passenger automobile insurance or personal lines residential property insurance, accruing after the effective date of this act. The analysis shall include an estimate of the percentage decrease in such judgments, settlements, and costs by type of coverage affected by this act, including the time period when such savings or reductions are expected.*

(2) The report shall be completed and submitted to the department by March 1, 2001.

(3) After March 1, 2001, the department shall review the filed rates of insurers and underwriting profits and losses for Florida liability insurance businesses, and shall require any prospective rate modifications that the department deems to be necessary, consistent with the applicable rating law, to cause the rates of any specific insurer to comply with the applicable rating law. The department shall require each liability insurer's first rate filing after March 1, 2001, other than rate filings for private passenger automobile insurance or personal lines residential property insurance, to include specific data on the impact of this act on the insurer's liability judgments, settlements, and costs for the purpose of enabling the department and the Legislature to accurately monitor and evaluate the effects of this act.

(4) The report under subsection (1) shall be admissible in any proceedings relating to a liability insurance rate filing if the actuary who prepared the report is made available by the department to testify regarding the report's preparation and validity. Each party shall otherwise bear its own cost of any such proceeding.

(5) The provisions of this section do not limit the authority of the department to order an insurer to refund excessive profits, as provided in sections 627.066 and 627.215, Florida Statutes.

Section 32. *If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.*

Section 33. This act shall take effect October 1, 1998.

And the title is amended as follows:

Delete everything before the enacting clause

and insert: A bill to be entitled An act relating to civil actions; creating s. 40.50, F.S.; providing for instructions to juries after the jury is sworn in; providing for the taking of notes under certain circumstances; providing for notebooks; providing for written questions; providing for final instructions; amending s. 44.102, F.S.; requiring that the court require mediation in certain actions for monetary damages; creating s. 44.1051, F.S.; providing for voluntary trial resolution; providing for the appointment of a trial resolution judge; providing for compensation; providing for fees; providing for the tolling of applicable statutes of limitation; providing for powers of trial resolution judges; providing for hearings and evidence; providing for appeal; providing for application; amending s. 57.105, F.S.; revising conditions for award of attorney's fees for presenting unsupported claims or defenses; authorizing damage awards against a party for unreasonable delay of litigation; authorizing the court to impose additional sanctions; amending s. 768.79, F.S.; providing for the applicability of offers of judgment and demand of judgment in cases involving multiple plaintiffs; providing that subsequent offers shall void previous offers; providing that prior to awarding costs and fees the court shall determine whether the offer was reasonable under the circumstances known at the time the offer was made; amending s. 57.071, F.S.; providing criteria under which expert witness fees may be awarded as taxable costs; providing for expedited trials; amending s. 768.77, F.S.; deleting a requirement to itemize future damages on verdict forms; amending s. 768.78, F.S.; conforming provisions relating to alternative methods of payment of damage awards to changes made by the act; correcting a cross-reference; creating s. 47.025, F.S.; providing that certain venue provisions in a contract for improvement to real property are void; specifying appropriate venue for actions against resident contractors, subcontractors, and sub-subcontractors; requiring the clerk of court to report certain information on negligence cases to the Office of the State Court Administrator; amending s. 90.803, F.S.; revising the hearsay exception for former testimony; amending s. 95.031, F.S.; imposing a 12-year statute of repose on actions for product liability, with certain exceptions; specifying the date by which certain actions must be brought or be otherwise barred by the statute of repose; creating s. 768.1256, F.S.; providing a government rules defense with respect to certain product liability actions; providing for a rebuttable presumption; creating s. 768.096, F.S.; providing an employer with a presumption against negligent hiring under specified conditions in an action for civil damages resulting from an intentional tort committed by an employee; amending s. 768.095, F.S.; revising the conditions under which an employer is immune from civil liability for disclosing information regarding an employee to a prospective employer; creating s. 768.0705, F.S.; providing limitations on premises liability for a person or organization owning or controlling an interest in a business premises; providing for a presumption against liability; providing conditions for the presumption; amending s. 768.075, F.S.; delineating the duty owed to trespassers by a person or organization owning or controlling an interest in real property; providing definitions; providing for the avoidance of liability to discovered and undiscovered trespassers under described circumstances; providing immunity from certain liability arising out of the attempt to commit or the commission of a felony; creating s. 768.36, F.S.; prohibiting a plaintiff from recovering damages if the plaintiff was more than a specified percentage at fault due to the influence of an alcoholic beverage or drugs; creating s. 768.725, F.S.; providing for evidentiary standards for an award of punitive damages; amending s. 768.72, F.S.; revising provisions with respect to claims for punitive damages in civil actions; requiring clear and convincing evidence of gross negligence or intentional misconduct to support the recovery of such damages; providing definitions; providing criteria for the imposition of punitive damages with respect to employers, principals, corporations, or other legal entities for the conduct of an employee or agent; providing for the application of the section; amending s. 768.73, F.S.; revising provisions with respect to limitations on punitive damages; providing monetary limitations; providing an exception with respect to intentional misconduct; providing for the effect of certain previous punitive damages awards; specifying the basis for calculating attorney's fees on judgments for punitive damages; providing for the application of the section; creating s. 768.735, F.S.; providing that ss. 768.72(2)-(4), 768.725, and 768.73, F.S., relating to punitive damages, are inapplicable to specified causes of action; limiting the amount of punitive damages that may be awarded to a claimant in certain civil actions involving abuse or arising under ch. 400, F.S.; creating s. 768.736, F.S.; providing that ss. 768.725 and 768.73, F.S., relating to punitive damages, do not apply to intoxicated defendants; amending s. 768.81, F.S.; providing for the apportionment of damages on the basis of joint and several liability when a party's fault exceeds a certain percentage; limiting the applicability of joint and several liability based on the amount of damages; providing for the allocation of fault to a nonparty; requiring that such fault must be proved by a preponderance of the evidence; repealing s. 768.81(5), F.S., relating to the applicability of joint and several liability to actions in which the total amount of damages does not exceed a specified amount; amending s. 324.021, F.S.; providing that the lessor of a motor vehicle under certain rental agreements shall be deemed the owner of the vehicle for the purpose of determining liability for the operation of the vehicle within certain limits; providing for the liability of the owner of a motor vehicle who loans the vehicle to certain users; providing for application; amending s. 400.023, F.S., relating to actions brought on behalf of nursing home residents; requiring mediation as a condition for recovery of attorney's fees; providing for application; providing a standard for any award of punitive damages; providing that the state has a substantial interest in protecting the public against intrusive advertising by attorneys; providing legislative findings; requesting that the Supreme Court regulate attorney advertising and form a task force; requesting that the Supreme Court adopt rules to effectuate the legislative expression of public policy; requiring the Department of Insurance to contract with an actuarial firm to conduct an actuarial analysis of expected reductions in judgments and related costs resulting from litigation reforms; specifying the basis and due date for the actuarial report; providing for review of rate filings by certain types of insurers after March 1, 2001; providing that provisions do not limit the refund of excessive profits by certain insurers; providing for severability; providing an effective date.

THE SPEAKER PRO TEMPORE IN THE CHAIR

Motion

On motions by Reps. Feeney and Thrasher, under Rule 41(e)(2), a series of questions and answers relating to **CS for SB 874** was referred to the Committee on Rules, Resolutions, & Ethics.

Parliamentary Inquiry

Rep. Dawson-White inquired of the Chair if Rule 86 would apply to a conference committee report when a member of the conference committee dissented.

The Chair [Speaker pro tempore Morse] referred the inquiry to the Co-Chairs of the Committee on Rules, Resolutions, & Ethics.

THE SPEAKER IN THE CHAIR

On motion by Rep. Clemons, the Report of the Conference Committee on CS for SB 874 was accepted in its entirety.

Rep. Thrasher suggested the absence of a quorum. A quorum was present.

The question recurred on the passage of CS for SB 874. The vote was:

Yeas—70

The Chair	Crist	Lacasa	Sembler
Albright	Culp	Littlefield	Sindler
Alexander	Diaz de la Portilla	Livingston	Smith
Andrews	Dockery	Lynn	Spratt
Arnall	Edwards	Mackenzie	Stabins
Bainter	Eggelletion	Mackey	Starks
Ball	Feeney	Maygarden	Tamargo
Barreiro	Flanagan	Melvin	Thrasher
Bitner	Fuller	Merchant	Trovillion
Boyd	Futch	Minton	Turnbull
Bronson	Gay	Morse	Valdes
Brooks	Goode	Ogles	Villalobos
Byrd	Hafner	Peaden	Wallace
Carlton	Harrington	Putnam	Westbrook
Casey	Jones	Rodriguez-Chomat	Wiles
Clemons	Kelly	Rojas	Wise
Constantine	King	Safley	
Crady	Kosmas	Sanderson	

Nays—46

Argenziano	Dennis	Lawson	Ritter
Arnold	Effman	Logan	Roberts-Burke
Betancourt	Fasano	Meek	Saunders
Bloom	Fischer	Miller	Silver
Brown	Frankel	Morroni	Stafford
Bullard	Gottlieb	Murman	Sublette
Burroughs	Greene	Posey	Tobin
Bush	Healey	Prewitt, D.	Warner
Chestnut	Heyman	Pruitt, K.	Wasserman Schultz
Cosgrove	Hill	Rayson	Ziebarth
Crow	Horan	Reddick	
Dawson-White	Jacobs	Ritchie	

Votes after roll call:
Yeas—Brennan, Garcia
Nays—Bradley

So the bill passed, as amended by the Conference Committee Report. The action, together with CS for SB 874 and the Conference Committee Report thereon, was immediately certified to the Senate.

Moment of Silence

The House observed a moment of silence for Rep. Lippman, who was in the hospital.

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for SB 154, as amended, and requests the concurrence of the House.

Faye W. Blanton, Secretary

By the Committee on Criminal Justice and Senator Campbell—

CS for SB 154—A bill to be entitled An act relating to offenses that evidence prejudice; amending s. 775.085, F.S.; providing enhanced penalties for offenses that show evidence of prejudice against the victim, based on the victim's mental or physical disability or advanced age; providing definitions; providing an effective date.

—was read the first time by title. On motion by Rep. Ogles, the rules were suspended and the bill was read the second time by title and the third time by title. On passage, the vote was:

Yeas—118

The Chair	Crow	King	Rodriguez-Chomat
Albright	Culp	Kosmas	Rojas
Alexander	Dawson-White	Lacasa	Safley
Andrews	Dennis	Lawson	Sanderson
Argenziano	Diaz de la Portilla	Littlefield	Saunders
Arnall	Dockery	Livingston	Sembler
Arnold	Edwards	Logan	Silver
Bainter	Effman	Lynn	Sindler
Ball	Eggelletion	Mackenzie	Smith
Barreiro	Fasano	Mackey	Spratt
Betancourt	Feeney	Maygarden	Stabins
Bitner	Fischer	Meek	Stafford
Bloom	Flanagan	Melvin	Starks
Boyd	Frankel	Merchant	Sublette
Bradley	Fuller	Miller	Tamargo
Brennan	Futch	Minton	Thrasher
Bronson	Garcia	Morroni	Tobin
Brooks	Gay	Morse	Trovillion
Brown	Goode	Murman	Turnbull
Bullard	Gottlieb	Ogles	Valdes
Burroughs	Greene	Peaden	Villalobos
Bush	Hafner	Posey	Wallace
Byrd	Harrington	Prewitt, D.	Warner
Carlton	Healey	Pruitt, K.	Wasserman Schultz
Casey	Heyman	Putnam	Westbrook
Chestnut	Hill	Rayson	Wiles
Clemons	Horan	Reddick	Wise
Constantine	Jacobs	Ritchie	Ziebarth
Cosgrove	Jones	Ritter	
Crady	Kelly	Roberts-Burke	

Nays—None

Votes after roll call:
Yeas—Crist

So the bill passed and was immediately certified to the Senate.

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS/HB 1377, with amendment, and requests the concurrence of the House.

Faye W. Blanton, Secretary

CS/HB 1377—A bill to be entitled An act relating to motor vehicle emissions and safety inspections; amending s. 325.203, F.S.; providing for biennial emissions inspections; amending ss. 325.209 and 325.210, F.S.; conforming to the act; providing an effective date.

Senate Amendment 1 (with title amendment)—Delete everything after the enacting clause and insert:

Section 1. *(1) The Department of Highway Safety and Motor Vehicles shall hire an independent expert consultant to develop appropriate request-for-proposal specifications and a range of inspection fees for the motor vehicle emissions inspection program based on an annual and a biennial inspection program for vehicles 4 model years old and older, using the basic test for hydrocarbon emissions and carbon monoxide emissions and other mobile source testing for nitrous oxides or other pollutants, and no later than January 1, 1999, to report to the*

President of the Senate and the Speaker of the House of Representatives setting forth the relevant facts and the department's recommendations. Notwithstanding the provisions of chapter 325, Florida Statutes, the department and the Governor and Cabinet, acting as head of that agency, are prohibited from entering into any contract or extension of a contract for any form of motor-vehicles-emissions testing without legislative approval through the enactment of specific legislation directing the department to implement an inspection program and establishing a fee for the program.

(2) If no specific legislation is passed during the 1999 legislative session to direct the department to implement a motor vehicle inspection program, the department may issue a Request for Proposal and enter one or more contracts for a biennial inspection program for vehicles five model years and older using the basic test for hydrocarbon emissions and carbon monoxide emissions. The requirements for the program included in the proposals must be based on the requirements under chapter 325, Florida Statutes, unless those requirements conflict with this section. No contract entered into under this subsection may be for longer than 2 years. Notwithstanding the provisions of s. 325.214, if the fee for motor vehicle inspection proposed by the Department of Highway Safety and Motor Vehicles will exceed $10 per inspection, the department may impose the higher fee if such fee is approved through the budget amendment process set forth in chapter 216 and notice is provided to the Chairmen of the Senate and House Transportation and Natural Resources Committees at the time it is provided to the Senate Ways and Means and House Appropriations Committees.

Section 2. Subsection (2) of section 325.214, Florida Statutes, is amended to read:

325.214 Motor vehicle inspection; fees; disposition of fees.—

(2) The ~~department shall set an~~ inspection fee *shall be* ~~not to exceed~~ $10. ~~By rule, the department shall set a regulatory amount to be included in the fee which is commensurate with the cost of administering and enforcing the inspection program. It is the intent of the Legislature that the program be self-supporting.~~ Notwithstanding any other provision of law to the contrary, an additional fee of $1 shall be assessed upon the issuance of each dealer certificate, which fee shall be forwarded to the department for deposit into the Highway Safety Operating Trust Fund.

Section 3. *There is appropriated from the Department of Highway Safety Operating Trust Fund of the Department of Highway Safety and Motor Vehicles for fiscal year 1998-1999, the sum of $125,000 to fund the study established in this act.*

And the title is amended as follows:

Delete everything before the enacting clause and insert: An act relating to motor vehicle emissions inspections; directing the Department of Highway Safety and Motor Vehicles to hire an independent expert consultant to do a study; prohibiting the department from entering into a contract for a motor vehicle inspection program; providing circumstances for issuance of request for proposals and one or more contracts; amending s. 325.214, F.S.; setting the fee for inspections; establishing funds for the study; providing an effective date.

On motion by Rep. Fuller, the House concurred in Senate Amendment 1. The question recurred on the passage of CS/HB 1377. The vote was:

Yeas—118

The Chair	Bitner	Byrd	Dawson-White
Albright	Bloom	Carlton	Dennis
Alexander	Boyd	Casey	Diaz de la Portilla
Andrews	Bradley	Chestnut	Dockery
Argenziano	Brennan	Clemons	Edwards
Arnall	Bronson	Constantine	Effman
Arnold	Brooks	Cosgrove	Eggelletion
Bainter	Brown	Crady	Fasano
Ball	Bullard	Crist	Feeney
Barreiro	Burroughs	Crow	Flanagan
Betancourt	Bush	Culp	Frankel
Fuller	Lawson	Prewitt, D.	Stafford
Futch	Littlefield	Pruitt, K.	Starks
Garcia	Livingston	Putnam	Sublette
Gay	Logan	Rayson	Tamargo
Goode	Lynn	Reddick	Thrasher
Gottlieb	Mackenzie	Ritchie	Tobin
Greene	Mackey	Ritter	Trovillion
Hafner	Maygarden	Roberts-Burke	Turnbull
Harrington	Meek	Rodriguez-Chomat	Valdes
Healey	Melvin	Rojas	Villalobos
Heyman	Merchant	Safley	Wallace
Hill	Miller	Sanderson	Warner
Horan	Minton	Saunders	Wasserman Schultz
Jacobs	Morroni	Sembler	Westbrook
Jones	Morse	Silver	Wiles
Kelly	Murman	Sindler	Wise
King	Ogles	Smith	Ziebarth
Kosmas	Peaden	Spratt	
Lacasa	Posey	Stabins	

Nays—1

Fischer

So the bill passed, as amended. The action was immediately certified to the Senate and the bill was ordered enrolled after engrossment.

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 1403, with amendment, and requests the concurrence of the House.

Faye W. Blanton, Secretary

HB 1403—A bill to be entitled An act relating to liens; amending s. 713.01, F.S.; redefining the terms "improve," "improvement," "subcontractor," and "sub-subcontractor" to include reference to solid-waste removal; creating s. 713.596, F.S.; providing for molders' liens and rights; providing definitions; providing for ownership rights to molds; providing procedures; providing an effective date.

Senate Amendment 1 (with title amendment)—Delete everything after the enacting clause and insert:

Section 1. *Acquisition of title to unclaimed molds.—*

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

(a) "Customer" means any person who causes a molder to fabricate, cast, or otherwise make a mold, or who provides a molder with a mold with which to manufacture, assemble, cast, fabricate, or otherwise make a product for a customer.

(b) "Mold" means a die, mold, form, or pattern, but does not include computer software used to control or direct automatic machines in a manufacturing process, and does not include impressions, molds, models, or study casts used by a dentist, orthotist, or prosthetist within the scope of his or her practice.

(c) "Molder" means any person who fabricates, casts, or otherwise makes or uses a mold for the purpose of manufacturing, assembling, casting, fabricating, or otherwise making a product for a customer. The term includes a tool or die maker.

(d) "Records" means documents created or held by a molder in its regular course of business.

(e) "Unclaimed mold" means a mold which is in the custody of a molder, title to which remains in the customer who ordered or provided the mold, and which has not been used to make a product for at least 3 years.

(2) OBLIGATIONS OF MOLDERS TO CUSTOMERS.—

(a) For molds placed in the custody of a molder on or after July 1, 1998, the molder shall:

1. Make and retain a written record containing, at a minimum, the customer's name, address, and telephone number, a description of the mold in sufficient detail for clear identification, the beginning date of the use of the mold, the last date on which a purchase order was received for the use of the mold, and the date on which the manufacture of the products for the purchase order was completed.

2. Inform the customer of the existence of the provisions of this section and provide the customer with a copy of the provisions of this section upon the customer's request.

3. Provide the customer with the following warning in conspicuous type and in substantially the following form:

WARNING: YOUR FAILURE TO MAKE TIMELY ARRANGEMENTS FOR THE DISPOSITION OF A MOLD UPON COMPLETION OF ITS USE BY THE MOLDER WILL RESULT IN A TRANSFER OF YOUR RIGHTS IN THAT MOLD TO THE MOLDER AS PROVIDED BY LAW.

(b) Regardless of the date of placing the mold in the custody of the molder, the molder shall:

1. Update its records if a customer informs the molder of a change of address or if the molder receives a new purchase order from the customer for additional use of the mold.

2. Inform the customer of the existence of the provisions of this section when renewing or updating the records relating to use of a mold ordered or provided by that customer and provide the customer with a copy of the provisions of this section upon the customer's request.

3. Provide the customer with the following warning in conspicuous type and in substantially the following form:

WARNING: YOUR FAILURE TO MAKE TIMELY ARRANGEMENTS FOR THE DISPOSITION OF A MOLD UPON COMPLETION OF ITS USE BY THE MOLDER WILL RESULT IN A TRANSFER OF YOUR RIGHTS IN THAT MOLD TO THE MOLDER AS PROVIDED BY LAW.

(3) CUSTOMER'S NOTICE.—It is the responsibility of a customer as the owner of a mold in the custody of a molder to notify the molder promptly in writing of any change in the customer's address. Failure to notify the molder of this change may result in the customer's loss of rights to the property.

(4) ACQUISITION OF TITLE TO UNCLAIMED MOLDS.—

(a) To acquire title to an unclaimed mold, a molder must first give notice, to the customer who owns the mold and to any holder of a security interest in the mold which was perfected in this state, of the molder's intent to acquire the title to the mold. The molder must make a good-faith and reasonable search for the identity and last known address of the customer from the molder's records and other records reasonably available to the molder's staff. If the molder is able to identify the customer and the customer's last known address, the molder shall give notice to the customer pursuant to paragraph (b). If the identity or last known address of the customer remains unknown after a good-faith and reasonable search, the molder shall give notice by publication pursuant to paragraph (c). Notice to a holder of a perfected security interest in the mold must be given pursuant to paragraph (d).

(b) If the molder is able to identify the customer and the customer's last known address, the molder shall provide notice of intent to acquire title to an unclaimed mold by sending a notice by certified mail, return receipt requested, to the customer at the customer's last known address. The notice shall include the date of mailing the notice, the name of the customer, a description of the mold in sufficient detail for clear identification, the beginning date of the use of the mold, the last date on which a purchase order was received for the use of the mold, the date on which the manufacture of the products for the purchase order was completed, the location of the mold, the name and address of the appropriate molder official to be contacted regarding the mold, and a statement that within 90 days after the date of receipt of the notice of intent to acquire title, the customer is required to remove the mold from the molder's premises or contact the designated official to make contractual arrangements for storage of the mold.

(c) If the molder is unable to identify sufficient information to send notice pursuant to paragraph (b), or if a signed return receipt of a notice sent by certified mail pursuant to paragraph (b) is not received by the molder within 30 days after the notice is mailed, the molder shall publish the notice of intent to acquire title to the unclaimed mold at least twice, 60 or more days apart, in a publication of general circulation in the county in which the molder is located and the county of the customer's last known address, if known. The published notice shall contain all the information required in paragraph (b) which is available to the molder.

(d) The molder must make a search of Uniform Commercial Code lien filings with the Florida Department of State, Division of Corporations, and, if the molder is able to identify a holder of a perfected security interest in the mold, the molder shall provide notice of intent to acquire title to the mold by sending a notice by certified mail, return receipt requested, to the lienholder at the lienholder's last address of record with the division. The notice shall contain all the information required by paragraph (b) which is available to the molder.

(5) MOLDER GAINING TITLE TO PROPERTY; CONDITIONS.—Beginning July 1, 1998, a molder acquires title to an unclaimed mold under any of the following circumstances:

(a) For an unclaimed mold for which a molder provides notice to a customer in accordance with paragraph (4)(b) and for which a signed receipt is received, if the customer or anyone having a legal interest in the mold does not contact the molder and either remove the mold from the molder's premises or make contractual arrangements with the molder for storage of the mold within 90 days after the date notice was received.

(b) For an unclaimed mold for which notice by publication is made pursuant to paragraph (4)(c), if the customer or anyone having a legal interest in the mold does not contact the molder and either remove the mold from the molder's premises or make contractual arrangements with the molder for storage of the mold within 90 days after the date of the second publication.

(6) CONTRACTUAL OBLIGATIONS.—Notwithstanding the provisions of this section, a molder and a customer may bind themselves to different provisions by written contract.

(7) EFFECT ON OTHER RIGHTS.—This section does not affect the rights of a holder of a perfected security interest in a mold or any right of the customer under federal patent or copyright law or federal law relating to unfair competition.

(8) TITLE OF PROPERTY ACQUIRED FROM A MOLDER.—A molder who acquires title to a mold under this section passes good title to another when transferring the mold with the intent to pass title.

Section 2. Section 713.596, Florida Statutes, is created to read:

713.596 Molder's liens.—

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

(a) "Customer" means any person who causes a molder to fabricate, cast, or otherwise make a mold, or who provides a molder with a mold with which to manufacture, assemble, cast, fabricate, or otherwise make a product for a customer.

(b) "Mold" means a die, mold, form, or pattern, but does not include computer software used to control or direct automatic machines in a manufacturing process, and does not include impressions, molds, models, or study casts used by a dentist, orthotist, or prosthetist within the scope of his or her practice.

(c) "Molder" means any person who fabricates, casts, or otherwise makes or uses a mold for the purpose of manufacturing, assembling, casting, fabricating, or otherwise making a product for a customer. The term includes a tool or die maker.

(2) LIENS.—

(a) A molder that has not received payment from a customer in accordance with the terms of the contract between the two has a lien on a mold in the molder's possession which belongs to that customer. The lien is for the balance due the molder from the customer for any work that

the molder has performed for the customer in manufacturing or fabricating products for the customer using the mold and for the value of all material related to such work. The molder may retain possession of the mold until the debts are paid.

(b) Before enforcing the lien, the molder must notify the customer in writing of the claim of lien. The notice must be either delivered personally or sent by certified mail, return receipt requested, to the last known address of the customer. The notice must state that the molder claims a lien for the balance due for work that the molder has performed in manufacturing or fabricating products for the customer using the mold and for the value of related materials as is specified in the notice. Additionally, the notice must include a statement of the amount of the balance owed, a demand for payment, and a statement of the location of the mold. Finally, the notice must include the following warning in conspicuous type and in substantially the following form:

WARNING: YOUR FAILURE TO PAY THE UNPAID BALANCE AS STATED HEREIN WILL RESULT IN THE IMPOSITION OF A LIEN ON THE MOLD DESCRIBED HEREIN AND IN THE SALE OF THAT MOLD AS PROVIDED BY LAW.

(c) If the customer does not pay the amount due as stated in the notice within 60 days after the date of receipt of the notice, the molder may sell the mold at a public auction. However, the mold may not be sold if there is a good-faith dispute or litigation between the molder and the customer concerning either the quality of the products made or fabricated by use of the mold or the amount due.

(3) SALE.—

(a) Before a molder may sell a mold, the molder must notify the customer and any holder of a security interest perfected in this state of the intended sale. The notice must be by certified mail, return receipt requested, and must include:

1. Notice of the molder's intent to sell the mold 30 days after the customer's receipt of the notice.

2. A description of the mold to be sold.

3. The time and place of the sale.

4. An itemized statement of the amount due.

(b) If there is no return of the receipt of the mailing or if the postal service returns the notice as being nondeliverable, the molder must publish notice, at least 30 days before the date of sale in a newspaper of general circulation in the county of the customer's last known place of business, of the molder's intent to sell the mold. The notice must include a description of the mold to be sold and the time and place of the sale.

(c)1. The proceeds of the sale must be paid first to any holder of a security interest perfected in this state. Any excess must be paid to the molder holding the lien created by this section. Any remaining amount is to be paid to the customer, if the customer's address is known, or to the State Treasurer for deposit in the General Revenue Fund if the customer's address is unknown to the molder at the time of the sale.

2. A sale may not be made under this section if it would be in violation of any right of a customer under federal patent or copyright law.

Section 3. Section 1 of this act applies only to contracts entered into before January 1, 1999, and is repealed effective January 1, 2001.

Section 4. This act shall take effect July 1, 1998.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to molders; providing definitions; providing obligations of molders to customers; providing procedures and conditions for acquisition of title to unclaimed molds; creating s. 713.596, F.S.; creating a molder's lien and specifying rights of a molder; providing definitions; providing procedures; providing for application and repeal; providing an effective date.

On motion by Rep. Tobin, the House concurred in Senate Amendment 1. The question recurred on the passage of HB 1403. The vote was:

Yeas—117

The Chair	Crow	Kosmas	Rojas
Albright	Culp	Lacasa	Safley
Alexander	Dawson-White	Lawson	Sanderson
Andrews	Dennis	Littlefield	Saunders
Argenziano	Diaz de la Portilla	Livingston	Sembler
Arnall	Dockery	Logan	Silver
Arnold	Edwards	Lynn	Sindler
Bainter	Effman	Mackenzie	Smith
Ball	Eggelletion	Mackey	Spratt
Barreiro	Fasano	Maygarden	Stabins
Betancourt	Feeney	Meek	Stafford
Bitner	Fischer	Melvin	Starks
Bloom	Flanagan	Merchant	Sublette
Boyd	Frankel	Miller	Tamargo
Bradley	Fuller	Minton	Thrasher
Brennan	Futch	Morroni	Tobin
Bronson	Garcia	Morse	Trovillion
Brooks	Gay	Murman	Turnbull
Brown	Goode	Ogles	Valdes
Bullard	Gottlieb	Peaden	Villalobos
Burroughs	Greene	Posey	Wallace
Bush	Hafner	Prewitt, D.	Warner
Byrd	Harrington	Pruitt, K.	Wasserman Schultz
Carlton	Healey	Putnam	Westbrook
Casey	Heyman	Rayson	Wiles
Chestnut	Horan	Reddick	Wise
Clemons	Jacobs	Ritchie	Ziebarth
Constantine	Jones	Ritter	
Cosgrove	Kelly	Roberts-Burke	
Crady	King	Rodriguez-Chomat	

Nays—None

Votes after roll call:
Yeas—Crist

So the bill passed, as amended. The action was immediately certified to the Senate and the bill was ordered enrolled after engrossment.

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS/HB 3065, with amendments, and requests the concurrence of the House.

Faye W. Blanton, Secretary

CS/HB 3065—A bill to be entitled An act relating to building, bridge, and overpass designations; designating the Florida Department of Transportation District Five headquarters building located in Volusia County as the "Ben G. Watts Building"; designating a specified bridge in Pasco County as the "Father Felix Ullrich Bridge"; designating Fiske Boulevard overpass at Interstate Highway 95 in Rockledge as the "Jack I. Korenblit Overpass"; directing the Department of Transportation to erect suitable markers; providing an effective date.

Senate Amendment 1 (with title amendment)—On page 4, between lines 9 and 10, insert:

Section 4. *In recognition of the circumstances that the Game and Fresh Water Fish Commission can no longer utilize its property at 551 N. Military Trail in West Palm Beach, the commission is directed to transfer its ownership interest in the land and facilities at this site to the County of Palm Beach. Transfer of ownership is contingent upon the commission making a determination that the transfer will not result in an ineligibility for future federal funds from the U.S. Department of Interior since federal funds have been used to construct facilities at this location.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 12, after the semicolon (;) insert: providing for the transfer of ownership of specified property;

Senate Amendment 2 (with title amendment)—On page 4, between lines 9 and 10, insert:

Section 4. *The Jacksonville Children's Medical Services Building is designated as the "Richard G. Skinner, Jr., M.D., Children's Medical Services Building."*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 12, after the semicolon (;) insert: designating the Jacksonville Children's Medical Services Building as the "Richard G. Skinner, Jr., M.D., Children's Medical Services Building";

Senate Amendment 3—In title, on page 3, line 10, delete "NOW, THEREFORE," and insert: and,

WHEREAS, Richard G. Skinner, Jr., M.D., dedicated 48 years of his life to serving children who have chronic diseases and multihandicapping conditions, and

WHEREAS, Richard G. Skinner, Jr., M.D., served a vital role in developing Florida's Children's Medical Services programs as Medical Director of Children's Medical Services, District IV, from 1965 until 1990, and

WHEREAS, Richard G. Skinner, Jr., M.D., served children with special needs through his life of work in medicine and in the community, NOW, THEREFORE,

Senate Amendment 4 (with title amendment)—On page 4, between lines 9 and 10, insert:

Section 4. *The tennis court complex at the University of West Florida is hereby designated the "Harold 'Skeeter' Carson Tennis Complex" in honor of the university's first tennis coach and his untiring and extraordinary contribution to the community and to his profession.*

Section 5. *The Lifelong Learning Center on the Boca Raton Campus of Florida Atlantic University, the first lifelong learning center to be constructed on any of the university's seven campuses for use by the Lifelong Learning Society, is hereby designated the "Barry and Florence Friedberg Lifelong Learning Center" in recognition of the generosity, dedication, and active support of Barry and Florence Friedberg.*

Section 6. *The swim/dive office and training facility at the University of Florida is hereby designated the "Wayne and Jimmie Carse Swimming and Diving Complex" in recognition of the generosity of Wayne and Jimmie Carse to the university and its students.*

Section 7. *Flint Hall at the University of Florida is hereby renamed "Keene-Flint Hall" in recognition of Kenneth K. Keene's generosity to the university and its students.*

Section 8. *The residence currently known as 2nd Court, Pei Residence Halls, located on the Sarasota/Manatee Campus of New College of the University of South Florida, is hereby designated the "Peggy Bates Residence Hall" in recognition of the tireless and dedicated services of Dr. Margaret L. Bates to New College and the Sarasota/Manatee community.*

Section 9. *The library tower located on the campus of Florida International University is hereby designated the "Steven and Dorothea Green Library" in recognition of the generosity of Steven and Dorothea Green to the university libraries and to the Art Museum.*

Section 10. *The recording facility donated to Florida State University by Echelon International Development Corporation is hereby designated "Critchfield Hall" in recognition of Dr. Jack Critchfield's generosity to Florida State University and his philanthropic contributions to the State of Florida.*

Section 11. *The respective universities are authorized to erect suitable markers for the designations made by this act.*

Section 12. Section 240.605, Florida Statutes, is amended to read:

240.605 *The William L. Boyd, IV* Florida resident access grants.—

(1) The Legislature finds and declares that independent nonprofit colleges and universities eligible to participate in the *William L. Boyd, IV* Florida Resident Access Grant Program are an integral part of the higher education system in this state and that a significant number of state residents choose this form of higher education. The Legislature further finds that a strong and viable system of independent nonprofit colleges and universities reduces the tax burden on the citizens of the state. Because the *William L. Boyd, IV* Florida Resident Access Grant Program is not related to a student's financial need or other criteria upon which financial aid programs are based, it is the intent of the Legislature that the *William L. Boyd, IV* Florida Resident Access Grant Program not be considered a financial aid program but rather a tuition assistance program for its citizens.

(2) The *William L. Boyd, IV* Florida Resident Access Grant Program shall be administered by the Department of Education. The State Board of Education shall adopt rules for the administration of the program.

(3) The department shall issue through the program a *William L. Boyd, IV* Florida resident access grant to any full-time degree-seeking undergraduate student registered at an independent nonprofit college or university which is located in and chartered by the state; which is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools; which grants baccalaureate degrees; which is not a state university or state community college; and which has a secular purpose, so long as the receipt of state aid by students at the institution would not have the primary effect of advancing or impeding religion or result in an excessive entanglement between the state and any religious sect. Any independent college or university that was eligible to receive tuition vouchers on January 1, 1989, and which continues to meet the criteria under which its eligibility was established, shall remain eligible to receive *William L. Boyd, IV* Florida resident access grant payments.

(4) A person is eligible to receive such *William L. Boyd, IV* Florida resident access grant if:

(a) He or she meets the general requirements, including residency, for student eligibility as provided in s. 240.404, except as otherwise provided in this section; and

(b)1. He or she is enrolled as a full-time undergraduate student at an eligible college or university;

2. He or she is not enrolled in a program of study leading to a degree in theology or divinity; and

3. He or she is making satisfactory academic progress as defined by the college or university in which he or she is enrolled.

(5)(a) Funding for the *William L. Boyd, IV* Florida resident access grant shall be based on a formula composed of planned enrollment and the state cost of funding undergraduate enrollment at public institutions pursuant to s. 240.271. However, the amount of the *William L. Boyd, IV* Florida resident access grant issued to a full-time student shall be 30 percent in 1996-1997, 35 percent in 1997-1998, and 40 percent in 1998-1999 and thereafter of the full cost to the state per academic year of an undergraduate student in public postsecondary education established pursuant to s. 240.209 or an amount as specified in the General Appropriations Act. The Florida *William L. Boyd, IV* resident access grant may be paid on a prorated basis in advance of the registration period. The department shall make such payments to the college or university in which the student is enrolled for credit to the student's account for payment of tuition and fees. Institutions shall certify to the department the amount of funds disbursed to each student and shall remit to the department any undisbursed advances or refunds within 60 days of the end of regular registration. Students shall not be eligible to receive the award for more than 9 semesters or 14 quarters, except as otherwise provided in s. 240.404(3).

(b) If the combined amount of the *William L. Boyd, IV* Florida resident access grant issued pursuant to this act and all other

scholarships and grants for tuition or fees exceeds the amount charged to the student for tuition and fees, the department shall reduce the *William L. Boyd, IV* Florida resident access grant issued pursuant to this act by an amount equal to such excess.

(c) For the 1997-1998 fiscal year only, funding for the *William L. Boyd, IV* Florida resident access grant shall be the amount set forth in the General Appropriations Act. This paragraph is repealed on July 1, 1998.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, lines 2-13, delete those lines and insert: An act relating to the designation of facilities and programs; designating the Florida Department of Transportation District Five headquarters building located in Volusia County as the "Ben G. Watts Building"; designating a specified bridge in Pasco County as the "Father Felix Ullrich Bridge"; designating Fiske Boulevard overpass at Interstate Highway 95 in Rockledge as the "Jack I. Korenblit Overpass"; directing the Department of Transportation to erect suitable markers; designating the tennis court complex at the University of West Florida the "Harold 'Skeeter' Carson Tennis Complex"; designating the Lifelong Learning Center on the Boca Raton Campus of Florida Atlantic University the "Barry and Florence Friedberg Lifelong Learning Center"; designating the swim/dive office and training facility at the University of Florida the "Wayne and Jimmie Carse Swimming and Diving Complex"; renaming Flint Hall at the University of Florida as "Keene-Flint Hall"; designating the residence hall known as 2nd Court, Pei Residence Halls, located at New College of the University of South Florida the "Peggy Bates Residence Hall"; designating the library tower on the campus of Florida International University the "Steven and Dorothea Green Library"; designating the recording facility donated to Florida State University as "Critchfield Hall"; authorizing the respective universities to erect suitable markers; amending s. 240.605, F.S.; renaming the Florida Resident Access Grant Program as the William L. Boyd, IV Florida Resident Access Grant Program; providing an effective date.

Senate Amendment 5 (with title amendment)—On page 4, between lines 9 and 10, insert:

Section 4. *(1) The Rodman Dam, in Putnam County, Florida, is renamed the "Senator George Kirkpatrick Dam."*

(2) The Department of Environmental Protection is directed to erect suitable markers bearing the new designation made by this section.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, lines 11-13, delete those lines and insert: naming the Rodman Dam in Putnam County the "Senator George Kirkpatrick Dam"; providing for the erection of markers; providing an effective date.

WHEREAS, the Rodman Dam has been in existence since 1968, constructed as part of the former Cross Florida Barge Canal, and

WHEREAS, Senator George Kirkpatrick seems to have a keen interest in the final disposition of Rodman Dam, and

WHEREAS, Senator George Kirkpatrick is an avid bass fisherman, naturalist, and outdoorsman, and

WHEREAS, Senator George Kirkpatrick has led the opposition to the removal of the dam throughout his Senate career, and

On motion by Rep. Kelly, the House concurred in Senate Amendments 1, 2, 3, 4, and 5. The question recurred on the passage of CS/HB 3065. The vote was:

Yeas—119

The Chair	Argenziano	Ball	Bloom
Albright	Arnall	Barreiro	Boyd
Alexander	Arnold	Betancourt	Bradley
Andrews	Bainter	Bitner	Brennan
Bronson	Fischer	Lynn	Sanderson
Brooks	Flanagan	Mackenzie	Saunders
Brown	Frankel	Mackey	Sembler
Bullard	Fuller	Maygarden	Silver
Burroughs	Futch	Meek	Sindler
Bush	Garcia	Melvin	Smith
Byrd	Gay	Merchant	Spratt
Carlton	Goode	Miller	Stabins
Casey	Gottlieb	Minton	Stafford
Chestnut	Greene	Morroni	Starks
Clemons	Hafner	Morse	Sublette
Constantine	Harrington	Murman	Tamargo
Cosgrove	Healey	Ogles	Thrasher
Crady	Heyman	Peaden	Tobin
Crist	Hill	Posey	Trovillion
Crow	Horan	Prewitt, D.	Turnbull
Culp	Jacobs	Pruitt, K.	Valdes
Dawson-White	Jones	Putnam	Villalobos
Dennis	Kelly	Rayson	Wallace
Diaz de la Portilla	King	Reddick	Warner
Dockery	Kosmas	Ritchie	Wasserman Schultz
Edwards	Lacasa	Ritter	Westbrook
Effman	Lawson	Roberts-Burke	Wiles
Eggelletion	Littlefield	Rodriguez-Chomat	Wise
Fasano	Livingston	Rojas	Ziebarth
Feeney	Logan	Safley	

Nays—None

So the bill passed, as amended. The action was immediately certified to the Senate and the bill was ordered enrolled after engrossment.

REPRESENTATIVE CRADY IN THE CHAIR

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS/HB 3395, with amendment, and requests the concurrence of the House.

Faye W. Blanton, Secretary

CS/HB 3395—A bill to be entitled An act relating to tax on sales, use, and other transactions; amending s. 212.08, F.S.; including certain nonprofit corporations that make and distribute recordings to blind or visually impaired persons, and certain nonprofit corporations that provide religious services and administration or missionary assistance for established places of worship, within the definition of "religious institutions" for tax exemption purposes; providing an effective date.

Senate Amendment 1 (with title amendment)—On page 7, between lines 19 and 20, insert:

Section 2. *The amount of $26,224 is hereby appropriated from the General Revenue Fund to the Bureau of Blind Services of the Department of Labor and Employment Security for completion of automation of the Talking Book Library. This is a non-recurring appropriation for fiscal year 1998-1999.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 11, after the semicolon (;) insert: providing an appropriation to the Bureau of Blind Services for specified purposes;

On motion by Rep. Starks, the House concurred in Senate Amendment 1. The question recurred on the passage of CS/HB 3395. The vote was:

Yeas—117

The Chair	Andrews	Arnold	Barreiro
Albright	Argenziano	Bainter	Bitner
Alexander	Arnall	Ball	Bloom

Boyd	Feeney	Lynn	Saunders
Bradley	Fischer	Mackenzie	Sembler
Brennan	Flanagan	Mackey	Silver
Bronson	Frankel	Maygarden	Sindler
Brooks	Fuller	Meek	Smith
Brown	Futch	Melvin	Spratt
Bullard	Garcia	Merchant	Stabins
Burroughs	Gay	Miller	Stafford
Bush	Goode	Minton	Starks
Byrd	Gottlieb	Morroni	Sublette
Carlton	Greene	Morse	Tamargo
Casey	Hafner	Murman	Thrasher
Chestnut	Harrington	Ogles	Tobin
Clemons	Healey	Peaden	Trovillion
Constantine	Heyman	Posey	Turnbull
Cosgrove	Hill	Prewitt, D.	Valdes
Crist	Horan	Pruitt, K.	Villalobos
Crow	Jacobs	Putnam	Wallace
Culp	Jones	Rayson	Warner
Dawson-White	Kelly	Reddick	Wasserman Schultz
Dennis	King	Ritchie	Westbrook
Diaz de la Portilla	Kosmas	Ritter	Wiles
Dockery	Lacasa	Roberts-Burke	Wise
Edwards	Lawson	Rodriguez-Chomat	Ziebarth
Effman	Littlefield	Rojas	
Eggelletion	Livingston	Safley	
Fasano	Logan	Sanderson	

Nays—None

Votes after roll call:
Yeas—Betancourt

So the bill passed, as amended. The action was immediately certified to the Senate and the bill was ordered enrolled after engrossment.

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS/CS/HB 1637, with amendment, and requests the concurrence of the House.

Faye W. Blanton, Secretary

CS/CS/HB 1637—A bill to be entitled An act relating to confidentiality of identifying information regarding domestic violence victims; creating s. 741.401, F.S.; providing legislative findings and purpose; creating s. 741.402, F.S.; providing definitions; creating s. 741.403, F.S.; providing for creation of the Address Confidentiality Program for Victims of Domestic Violence; providing for certification by the Attorney General of applicants to participate in the program; defining the offense of falsely attesting or knowingly providing false or incorrect information in such program application, and providing second degree misdemeanor penalties therefor; defining the offense of attempting to gain access to a program participant's actual address through fraud, and providing third degree felony penalties therefor; creating s. 741.404, F.S.; providing for certification cancellation; creating s. 741.405, F.S.; providing authority of state and local agencies and other governmental entities and guidelines relating to use of designated address; providing for appeal by agency of requested waiver; creating s. 741.406, F.S.; providing for voting by program participants in the same manner as absentee voters; prohibiting the supervisor of elections from disclosing certain information, except under specified circumstances; creating s. 741.407, F.S.; prohibiting disclosure of addresses and certain information, except under specified circumstances; requiring immediate written notification by the Attorney General to a program participant with respect to certain disclosure of information; creating s. 741.408, F.S.; providing for certain assistance for program applicants; creating s. 741.409, F.S.; providing for adoption of rules; providing an effective date.

Senate Amendment 1 (with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Section 741.401, Florida Statutes, is created to read:

741.401 Legislative findings; purpose.—The Legislature finds that persons attempting to escape from actual or threatened domestic violence frequently establish new addresses in order to prevent their assailants or probable assailants from finding them. The purpose of ss. 741.401-741.409 is to enable state and local agencies to respond to requests for public records without disclosing the location of a victim of domestic violence, to enable interagency cooperation with the Attorney General in providing address confidentiality for victims of domestic violence, and to enable state and local agencies to accept a program participant's use of an address designated by the Attorney General as a substitute mailing address.

Section 2. Section 741.402, Florida Statutes, is created to read:

741.402 Definitions.—Unless the context clearly requires otherwise, as used in ss. 741.401-741.409, the term:

(1) "Address" means a residential street address, school address, or work address of an individual, as specified on the individual's application to be a program participant under ss. 741.401-741.409.

(2) "Program participant" means a person certified as a program participant under s. 741.403.

(3) "Domestic violence" means an act as defined in s. 741.28 and includes a threat of such acts committed against an individual in a domestic situation, regardless of whether these acts or threats have been reported to law enforcement officers.

Section 3. Section 741.403, Florida Statutes, is created to read:

741.403 Address confidentiality program; application; certification.—

(1) An adult person, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of a person adjudicated incapacitated under chapter 744 may apply to the Attorney General to have an address designated by the Attorney General serve as the person's address or the address of the minor or incapacitated person. To the extent possible within funds appropriated for this purpose, the Attorney General shall approve an application if it is filed in the manner and on the form prescribed by the Attorney General and if it contains all of the following:

(a) A sworn statement by the applicant that the applicant has good reason to believe that the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic violence, and that the applicant fears for his or her safety or his or her children's safety or the safety of the minor or incapacitated person on whose behalf the application is made.

(b) A designation of the Attorney General as agent for purposes of service of process and for the purpose of receipt of mail.

(c) The mailing address where the applicant can be contacted by the Attorney General, and the phone number or numbers where the applicant can be called by the Attorney General.

(d) A statement that the new address or addresses that the applicant requests must not be disclosed for the reason that disclosure will increase the risk of domestic violence.

(e) The signature of the applicant and of any individual or representative of any office designated in writing under s. 741.408 who assisted in the preparation of the application, and the date on which the applicant signed the application.

(2) Applications must be filed with the Office of the Attorney General. An application fee may not be charged.

(3) Upon filing a properly completed application, the Attorney General shall certify the applicant as a program participant. Applicants shall be certified for 4 years following the date of filing unless the certification is withdrawn or invalidated before that date. The Attorney General shall by rule establish a renewal procedure.

(4) A person who falsely attests in an application that disclosure of the applicant's address would endanger the applicant's safety or the

safety of the applicant's children or the minor or incapacitated person on whose behalf the application is made, or who knowingly provides false or incorrect information upon making an application, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(5) Any person who attempts to gain access to a program participant's actual address through fraud commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(6) Any person who knowingly enters the address confidentiality program to evade prosecution of criminal laws or civil liability commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 4. Section 741.404, Florida Statutes, is created to read:

741.404 Certification cancellation.—

(1) If the program participant obtains a name change, he or she loses certification as a program participant.

(2) The Attorney General may cancel a program participant's certification if there is a change in the residential address from the one listed on the application, unless the program participant provides the Attorney General with 14 days' prior notice of the change of address.

(3) The Attorney General may cancel certification of a program participant if mail forwarded by the Attorney General to the program participant's address is returned and is undeliverable or if service of process documents are returned to the Attorney General.

(4) The Attorney General shall cancel certification of a program participant who applies using false information.

Section 5. Section 741.405, Florida Statutes, is created to read:

741.405 Agency use of designated address.—

(1) A program participant may request that state and local agencies or other governmental entities use the address designated by the Attorney General as his or her address. When creating a new public record, state and local agencies or other governmental entities shall accept the address designated by the Attorney General as a program participant's substitute address, unless the Attorney General has determined that:

(a) The agency or entity has a bona fide statutory or administrative requirement for the use of the address that would otherwise be confidential under ss. 741.401-741.409;

(b) This address will be used only for those statutory and administrative purposes;

(c) The agency or entity has identified the specific program participant's record for which the waiver is requested;

(d) The agency or entity has identified the individuals who will have access to the record; and

(e) The agency or entity has explained how its acceptance of a substitute address will prevent the agency from meeting its obligations under the law and why it cannot meet its statutory or administrative obligation by a change in its internal procedures.

(3) During the review, evaluation, and appeal of an agency's request, the agency shall accept the use of a program participant's substitute address.

(4) The Attorney General's determination to grant or withhold a requested waiver must be based on, but not limited to, an evaluation of information provided under subsection (1).

(5) If the Attorney General determines that an agency or entity has a bona fide statutory or administrative need for the actual address and that the information will be used only for that purpose, the Attorney General may issue the actual address to the agency or entity. When granting a waiver, the Attorney General shall notify and require the agency or entity to:

(a) Maintain the confidentiality of a program participant's address information;

(b) Limit the use of and access to that address;

(c) Designate an address disposition date after which the agency or entity may no longer maintain the record of the address; and

(d) Comply with any other provisions and qualifications determined appropriate by the Attorney General.

(6) The Attorney General's denial of an agency's or entity's waiver request must be made in writing and include a statement of specific reasons for denial. Acceptance or denial of an agency's or entity's waiver request shall constitute final agency action.

(7) Pursuant to chapter 120, an agency or entity may appeal the denial of its request.

(8) A program participant may use the address designated by the Attorney General as his or her work address.

(9) The Office of the Attorney General shall forward all first class mail to the appropriate program participants at no charge.

Section 6. Section 741.406, Florida Statutes, is created to read:

741.406 Voting by program participant; use of designated address by supervisor of elections.—

(1) A program participant who is otherwise qualified to vote may request an absentee ballot pursuant to s. 101.62. The program participant shall automatically receive absentee ballots for all elections in the jurisdictions in which that individual resides in the same manner as absentee voters. The supervisor of elections shall transmit the absentee ballot to the program participant at the address designated by the participant in his or her application as an absentee voter. The name, address, and telephone number of a program participant may not be included in any list of registered voters available to the public.

(2) The supervisor of elections may not make the participant's name, address, or telephone number contained in voter registration records available for public inspection or copying except:

(a) To a law enforcement agency for purposes of assisting in the execution of an arrest warrant.

(b) If directed by a court order, to a person identified in the order.

Section 7. Section 741.407, Florida Statutes, is created to read:

741.407 Disclosure of address prohibited; exceptions.—The Attorney General may not make a program participant's name, address, other than the address designated by the Attorney General, or telephone number available for inspection or copying, except under the following circumstances:

(1) To a law enforcement agency for purposes of assisting in the execution of an arrest warrant.

(2) If directed by a court order, to a person identified in the order.

(3) If certification has been canceled.

The Attorney General shall provide immediate written notification of disclosure to a program participant when a disclosure takes place in one of the instances described in subsection (2) or subsection (3).

Section 8. Section 741.408, Florida Statutes, is created to read:

741.408 Assistance for program applicants.—The Attorney General shall designate state and local agencies and nonprofit agencies that provide counseling and shelter services to victims of domestic violence to assist persons applying to be program participants. Assistance and counseling rendered by the Office of the Attorney General or its designees to applicants does not constitute legal advice.

Section 9. Section 741.409, Florida Statutes, is created to read:

741.409 Adoption of rules.—The Attorney General may adopt rules to facilitate the administration of this chapter by state and local agencies and other governmental entities.

Section 10. *This program may be implemented only to the extent that it is funded by the Legislature. A general revenue appropriation may not exceed $150,000 for fiscal year 1998-1999. For fiscal years 1990-2000 and 2000-2001, any general revenue appropriation for this program may not be greater than the total of the initial funding and an increase of 5 percent of the allocation from the previous year. This provision in no way prohibits the Attorney General from seeking federal funds, grants, or donations to implement or to expand this program.*

Section 11. This act shall take effect October 1, 1998.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to confidentiality of identifying information regarding domestic violence victims; creating s. 741.401, F.S.; providing legislative findings and purpose; creating s. 741.402, F.S.; providing definitions; creating s. 741.403, F.S.; providing for creation of the Address Confidentiality Program for Victims of Domestic Violence; providing for certification by the Attorney General of applicants to participate in the program; defining the offense of falsely attesting or knowingly providing false or incorrect information in such program application, and providing penalties therefor; defining the offense of attempting to gain access to a program participant's actual address through fraud, and providing penalties therefor; creating s. 741.404, F.S.; providing for certification cancellation; creating s. 741.405, F.S.; providing authority of state and local agencies and other governmental entities and guidelines relating to use of designated address; creating s. 741.406, F.S.; providing for voting by program participants in the same manner as for absentee voters; prohibiting the supervisor of elections from disclosing certain information except under specified circumstances; providing for appeal by agency of requested waiver; creating s. 741.407, F.S.; prohibiting disclosure of addresses and certain information, except under specified circumstances; requiring immediate written notification by the Attorney General to a program participant with respect to certain disclosure of information; creating s. 741.408, F.S.; providing for certain assistance for program applicants; creating s. 741.409, F.S.; providing for adoption of rules; providing for limitations on an appropriation to fund the program; specifying the maximum percentage for an increase in the general appropriation for subsequent years; providing for the Attorney General to seek other funds; providing an effective date.

Representative(s) Crist, Heyman, and Posey offered the following:

House Amendment 1 to Senate Amendment 1 (with title amendment)—On page 1, line 17, through page 9, line 3, remove from the amendment: all of said lines

Section 1. Section 741.401, Florida Statutes, is created to read:

741.401 Legislative findings; purpose.—The Legislature finds that persons attempting to escape from actual or threatened domestic violence frequently establish new addresses in order to prevent their assailants or probable assailants from finding them. The purpose of ss. 741.401-741.409 is to enable state and local agencies to respond to requests for public records without disclosing the location of a victim of domestic violence, to enable interagency cooperation with the Attorney General in providing address confidentiality for victims of domestic violence, and to enable state and local agencies to accept a program participant's use of an address designated by the Attorney General as a substitute mailing address.

Section 2. Section 741.402, Florida Statutes, is created to read:

741.402 Definitions.—Unless the context clearly requires otherwise, as used in ss. 741.401-741.409, the term:

(1) "Address" means a residential street address, school address, or work address of an individual, as specified on the individual's application to be a program participant under ss. 741.401-741.409.

(2) "Program participant" means a person certified as a program participant under s. 741.403. No person designated a sexual predator pursuant to s. 775.21, a sexual offender as defined in s. 944.606, or sentenced pursuant to s. 775.084, or sentenced to a felony of the second degree or higher, or a person under supervision of the Department of Corrections may be a program participant.

(3) "Domestic violence" means an act as defined in s. 741.28.

Section 3. Section 741.403, Florida Statutes, is created to read:

741.403 Address confidentiality program; application; certification.—

(1) An adult person, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of a person adjudicated incapacitated under chapter 744 may apply to the Attorney General to have an address designated by the Attorney General serve as the person's address or the address of the minor or incapacitated person. To the extent possible within funds appropriated for this purpose, the Attorney General may approve an application if it is filed in the manner and on the form prescribed by the Attorney General and if it contains all of the following:

(a) A sworn statement submitted by the state attorney of the judicial circuit, or submitted by a law enforcement officer investigating an incident of domestic violence, or submitted by a court in the case of an applicant who successfully petitioned the court to issue an injunction for protection against domestic violence, or submitted by a victim's advocate of a law enforcement agency or victim's advocate of a certified domestic violence center or similar entity which states that there are reasonable grounds to believe that the applicant, or minor or incapacitated person on whose behalf the application is made, is a victim of domestic violence, or that the applicant, the applicant's children, or minor or incapacitated person will be at risk of bodily harm.

(b) A designation of the Attorney General as agent for purposes of service of process and for the purpose of receipt of mail.

(c) The mailing address where the applicant can be contacted by the Attorney General, and the phone number or numbers where the applicant can be called by the Attorney General.

(d) A statement that the new address or addresses that the applicant requests must not be disclosed for the reason that disclosure will increase the risk of domestic violence.

(e) The signature of the applicant and of any individual or representative of any office designated in writing under s. 741.408 who assisted in the preparation of the application, and the date on which the applicant signed the application.

(2) Applications must be filed with the Office of the Attorney General. An application fee may not be charged.

(3) Upon filing a properly completed application, the Attorney General shall certify the applicant as a program participant. Applicants shall be certified for 4 years following the date of filing unless the certification is withdrawn or invalidated before that date. The Attorney General shall by rule establish a renewal procedure.

(4) A person who falsely attests in an application that disclosure of the applicant's address would endanger the applicant's safety or the safety of the applicant's children or the minor or incapacitated person on whose behalf the application is made, or who knowingly provides false or incorrect information upon making an application, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(5) Any person who attempts to gain access to a program participant's actual address through fraud commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(6)(a) Any person who knowingly enters the address confidentiality program to evade criminal prosecution of a felony of the first degree or higher, commits a felony of the first degree punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Any person who knowingly enters the address confidentiality program to evade criminal prosecution of a felony of the second degree, commits a felony of the second degree punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Any person who knowingly enters the address confidentiality program to evade criminal prosecution of any third degree felony or any misdemeanor, or to evade civil liability commits a felony of the third degree punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) Any person designated as a sexual predator pursuant to s. 775.21, a sexual offender as defined in s. 944.606, or sentenced pursuant to s. 775.084, who unlawfully enters the address confidentiality program commits a felony of the first degree punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 4. Section 741.404, Florida Statutes, is created to read:

741.404 Certification cancellation.—

(1) If the program participant obtains a name change, he or she loses certification as a program participant.

(2) The Attorney General may cancel a program participant's certification if there is a change in the residential address from the one listed on the application, unless the program participant provides the Attorney General with 14 days' prior notice of the change of address.

(3) The Attorney General may cancel certification of a program participant if mail forwarded by the Attorney General to the program participant's address is returned and is undeliverable or if service of process documents are returned to the Attorney General.

(4) The Attorney General shall cancel certification of a program participant who applies using false information.

Section 5. Section 741.405, Florida Statutes, is created to read:

741.405 Agency use of designated address.—

(1) A program participant may request that state and local agencies or other governmental entities use the address designated by the Attorney General as his or her address. When creating a new public record, state and local agencies or other governmental entities shall accept the address designated by the Attorney General as a program participant's substitute address, unless the Attorney General has determined that:

(a) The agency or entity has a bona fide statutory or administrative requirement for the use of the address that would otherwise be confidential under ss. 741.401-741.409;

(b) This address will be used only for those statutory and administrative purposes;

(c) The agency or entity has identified the specific program participant's record for which the waiver is requested;

(d) The agency or entity has identified the individuals who will have access to the record; and

(e) The agency or entity has explained how its acceptance of a substitute address will prevent the agency from meeting its obligations under the law and why it cannot meet its statutory or administrative obligation by a change in its internal procedures.

(2) During the review, evaluation, and appeal of an agency's request, the agency shall accept the use of a program participant's substitute address.

(3) The Attorney General's determination to grant or withhold a requested waiver must be based on, but not limited to, an evaluation of information provided under subsection (1).

(4) If the Attorney General determines that an agency or entity has a bona fide statutory or administrative need for the actual address and that the information will be used only for that purpose, the Attorney General may issue the actual address to the agency or entity. When granting a waiver, the Attorney General shall notify and require the agency or entity to:

(a) Maintain the confidentiality of a program participant's address information;

(b) Limit the use of and access to that address;

(c) Designate an address disposition date after which the agency or entity may no longer maintain the record of the address; and

(d) Comply with any other provisions and qualifications determined appropriate by the Attorney General.

(5) The Attorney General's denial of an agency's or entity's waiver request must be made in writing and include a statement of specific reasons for denial. Acceptance or denial of an agency's or entity's waiver request shall constitute final agency action.

(6) Pursuant to chapter 120, an agency or entity may appeal the denial of its request.

(7) A program participant may use the address designated by the Attorney General as his or her work address.

(8) The Office of the Attorney General shall forward all first class mail to the appropriate program participants at no charge.

Section 6. Section 741.406, Florida Statutes, is created to read:

741.406 Voting by program participant; use of designated address by supervisor of elections.—

(1) A program participant who is otherwise qualified to vote may request an absentee ballot pursuant to s. 101.62. The program participant shall automatically receive absentee ballots for all elections in the jurisdictions in which that individual resides in the same manner as absentee voters. The supervisor of elections shall transmit the absentee ballot to the program participant at the address designated by the participant in his or her application as an absentee voter. The name, address, and telephone number of a program participant may not be included in any list of registered voters available to the public.

(2) The supervisor of elections may not make the participant's name, address, or telephone number contained in voter registration records available for public inspection or copying except:

(a) To a law enforcement agency for purposes of assisting in the execution of an arrest warrant.

(b) If directed by a court order, to a person identified in the order.

Section 7. Section 741.407, Florida Statutes, is created to read:

741.407 Disclosure of address prohibited; exceptions.—The Attorney General may not make a program participant's name, address, other than the address designated by the Attorney General, or telephone number available for inspection or copying, except under the following circumstances:

(1) To a law enforcement agency for purposes of assisting in the execution of an arrest warrant.

(2) If directed by a court order, to a person identified in the order.

(3) If certification has been canceled.

The Attorney General shall provide immediate written notification of disclosure to a program participant when a disclosure takes place in one of the instances described in subsection (2) or subsection (3).

Section 8. Section 741.408, Florida Statutes, is created to read:

741.408 Assistance for program applicants.—The Attorney General shall designate state and local agencies and nonprofit agencies that provide counseling and shelter services to victims of domestic violence to assist persons applying to be program participants. Assistance and counseling rendered by the Office of the Attorney General or its designees to applicants does not constitute legal advice.

Section 9. Section 741.409, Florida Statutes, is created to read:

741.409 Adoption of rules.—The Attorney General may adopt rules to facilitate the administration of this chapter by state and local agencies and other governmental entities.

Section 10. *This program may be implemented only to the extent that it is funded by the Legislature. A general revenue appropriation may not exceed $150,000 for fiscal year 1998-1999. For fiscal years 1990-2000 and 2000-2001, any general revenue appropriation for this program may not be greater than the total of the initial funding and an increase29 of 5 percent of the allocation from the previous year. This provision in no way prohibits the Attorney General from seeking federal funds, grants, or donations to implement or to expand this program.*

Section 11. This act shall take effect October 1, 1998.

And the title is amended as follows:

On page 9, line 11, through page 10, line 24, of the amendment remove: all of said lines

and insert in lieu thereof: An act relating to confidentiality of identifying information regarding domestic violence victims; creating s. 741.401, F.S.; providing legislative findings and purpose; creating s. 741.402, F.S.; providing definitions; creating s. 741.403, F.S.; providing for creation of the Address Confidentiality Program for Victims of Domestic Violence; providing for certification by the Attorney General of applicants to participate in the program; defining the offense of falsely attesting or knowingly providing false or incorrect information in such program application, and providing penalties therefor; defining the offense of attempting to gain access to a program participant's actual address through fraud, and providing penalties therefor; creating s. 741.404, F.S.; providing for certification cancellation; creating s. 741.405, F.S.; providing authority of state and local agencies and other governmental entities and guidelines relating to use of designated address; creating s. 741.406, F.S.; providing for voting by program participants in the same manner as for absentee voters; prohibiting the supervisor of elections from disclosing certain information except under specified circumstances; providing for appeal by agency of requested waiver; creating s. 741.407, F.S.; prohibiting disclosure of addresses and certain information, except under specified circumstances; creating s. 741.408, F.S.; providing for certain assistance for program applicants; creating s. 741.409, F.S.; providing for adoption of rules; providing for limitations on an appropriation to fund the program; specifying the maximum percentage for an increase in the general appropriation for subsequent years; providing for the Attorney General to seek other funds; providing an effective date

Rep. Crist moved the adoption of the amendment to the amendment. Subsequently, **House Amendment 1 to Senate Amendment 1** was withdrawn.

On motion by Rep. Hill, the House concurred in Senate Amendment 1. The question recurred on the passage of CS/CS/HB 1637. The vote was:

Yeas—118

The Chair	Brown	Edwards	Heyman
Albright	Bullard	Effman	Hill
Alexander	Burroughs	Eggelletion	Horan
Andrews	Bush	Fasano	Jacobs
Argenziano	Byrd	Feeney	Jones
Arnall	Carlton	Fischer	Kelly
Arnold	Casey	Flanagan	King
Bainter	Chestnut	Frankel	Kosmas
Ball	Clemons	Fuller	Lacasa
Barreiro	Constantine	Futch	Lawson
Betancourt	Cosgrove	Garcia	Littlefield
Bitner	Crist	Gay	Livingston
Bloom	Crow	Goode	Logan
Boyd	Culp	Gottlieb	Lynn
Bradley	Dawson-White	Greene	Mackenzie
Brennan	Dennis	Hafner	Mackey
Bronson	Diaz de la Portilla	Harrington	Maygarden
Brooks	Dockery	Healey	Meek
Melvin	Putnam	Silver	Turnbull
Merchant	Rayson	Sindler	Valdes
Miller	Reddick	Smith	Villalobos
Minton	Ritchie	Spratt	Wallace
Morroni	Ritter	Stabins	Warner
Morse	Roberts-Burke	Stafford	Wasserman Schultz
Murman	Rodriguez-Chomat	Starks	Westbrook
Ogles	Rojas	Sublette	Wiles
Peaden	Safley	Tamargo	Wise
Posey	Sanderson	Thrasher	Ziebarth
Prewitt, D.	Saunders	Tobin	
Pruitt, K.	Sembler	Trovillion	

Nays—None

So the bill passed, as amended. The action was immediately certified to the Senate and the bill was ordered enrolled after engrossment.

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS/CS/HB 1639, with amendment, and requests the concurrence of the House.

Faye W. Blanton, Secretary

CS/CS/HB 1639—A bill to be entitled An act relating to public records; creating s. 741.465, F.S.; providing an exemption from public records requirements for certain personal information about program participants in the Address Confidentiality Program for Victims of Domestic Violence; providing exceptions; providing for future review and repeal; providing a finding of public necessity; providing an effective date.

Senate Amendment 1—On page 1, lines 23 and 24, delete those lines

and insert: *disclosed under the following circumstances: to a law enforcement agency for purposes of assisting in the execution of a valid arrest warrant; if*

On motion by Rep. Hill, the House concurred in Senate Amendment 1. The question recurred on the passage of CS/CS/HB 1639. The vote was:

Yeas—112

The Chair	Clemons	Hill	Prewitt, D.
Albright	Constantine	Horan	Pruitt, K.
Alexander	Cosgrove	Jacobs	Putnam
Andrews	Crist	Jones	Rayson
Argenziano	Crow	Kelly	Reddick
Arnall	Culp	Kosmas	Ritchie
Arnold	Dennis	Lacasa	Ritter
Bainter	Diaz de la Portilla	Lawson	Roberts-Burke
Ball	Dockery	Littlefield	Rodriguez-Chomat
Barreiro	Edwards	Livingston	Rojas
Betancourt	Effman	Logan	Safley
Bitner	Fasano	Lynn	Sanderson
Bloom	Feeney	Mackenzie	Saunders
Boyd	Fischer	Mackey	Sembler
Bradley	Flanagan	Maygarden	Silver
Brennan	Frankel	Meek	Sindler
Bronson	Fuller	Melvin	Smith
Brooks	Futch	Merchant	Spratt
Brown	Garcia	Miller	Stabins
Bullard	Gay	Minton	Stafford
Burroughs	Goode	Morroni	Starks
Bush	Greene	Morse	Sublette
Byrd	Hafner	Murman	Tamargo
Carlton	Harrington	Ogles	Thrasher
Casey	Healey	Peaden	Tobin
Chestnut	Heyman	Posey	Trovillion

Turnbull	Villalobos	Warner	Wise
Valdes	Wallace	Wiles	Ziebarth

Nays—None

Votes after roll call:
Yeas—Dawson-White, Gottlieb

So the bill passed, as amended. The action was immediately certified to the Senate and the bill was ordered enrolled after engrossment.

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 4039, with amendment, and requests the concurrence of the House.

Faye W. Blanton, Secretary

HB 4039—A bill to be entitled An act relating to state lands; creating s. 253.0345, F.S.; providing for special events; providing an effective date.

Senate Amendment 1—On page 1, line 28, delete "*submerged land lease or consent of use*" and insert: *special event provided for in subsection (1)*

On motion by Rep. Sanderson, the House concurred in Senate Amendment 1. The question recurred on the passage of HB 4039. The vote was:

Yeas—114

The Chair	Crow	Kelly	Rodriguez-Chomat
Albright	Culp	King	Rojas
Alexander	Dawson-White	Kosmas	Safley
Andrews	Dennis	Lacasa	Sanderson
Argenziano	Diaz de la Portilla	Lawson	Saunders
Arnall	Dockery	Littlefield	Sembler
Arnold	Edwards	Livingston	Silver
Bainter	Effman	Logan	Sindler
Ball	Eggelletion	Lynn	Smith
Barreiro	Fasano	Mackenzie	Spratt
Betancourt	Feeney	Mackey	Stabins
Bitner	Fischer	Maygarden	Stafford
Bloom	Flanagan	Meek	Starks
Boyd	Frankel	Melvin	Tamargo
Bradley	Fuller	Merchant	Thrasher
Brennan	Futch	Miller	Tobin
Bronson	Garcia	Minton	Trovillion
Brooks	Gay	Morroni	Turnbull
Brown	Goode	Morse	Valdes
Bullard	Gottlieb	Ogles	Villalobos
Burroughs	Greene	Peaden	Wallace
Bush	Hafner	Posey	Warner
Byrd	Harrington	Pruitt, K.	Wasserman Schultz
Carlton	Healey	Putnam	Westbrook
Casey	Heyman	Rayson	Wiles
Chestnut	Hill	Reddick	Wise
Clemons	Horan	Ritchie	Ziebarth
Constantine	Jacobs	Ritter	
Crist	Jones	Roberts-Burke	

Nays—None

Votes after roll call:
Yeas—Murman, Sublette

So the bill passed, as amended. The action was immediately certified to the Senate and the bill was ordered enrolled after engrossment.

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS/HB 4027, with amendment, and requests the concurrence of the House.

Faye W. Blanton, Secretary

CS/HB 4027—A bill to be entitled An act relating to regional water supply authorities; amending s. 120.52, F.S.; providing that a member government is not considered a party in administrative proceedings under certain conditions; amending s. 373.1963, F.S.; revising criteria for governance of the West Coast Regional Water Supply Authority and its member governments under interlocal agreements; declaring legislative intent to supersede other laws; repealing s. 373.1963(5), F.S., relating to a process for review of a consumptive use permit; amending s. 682.02, F.S.; providing for the arbitration of certain controversies concerning water use; amending s. 768.28, F.S.; allowing an authority to indemnify its member governments; providing an effective date.

Senate Amendment 1 (with title amendment)—On page 10, between lines 2 and 3, insert:

Section 5. *(1)(a) The Miami River Commission is hereby established as the official coordinating clearinghouse for all public policy and projects related to the Miami River to unite all governmental agencies, businesses, and residents in the area to speak with one voice on river issues, to develop coordinated plans, priorities, programs, projects, and budgets that might substantially improve the river area, and to act as the principal advocate and watchdog to ensure that river projects are funded and implemented in a proper and timely manner.*

(b) The commission may seek and receive funding to further its coordinating functions regarding river improvement projects of the commission. Nothing in this act affects or supersedes the regulatory authority of any governmental agency or any local government and any responsibilities of any governmental entity relating to the Miami River shall remain with such respective governmental entity. However, the commission may accept any specifically defined coordinating authority or functions delegated to the commission by any governmental entity, through a memorandum of understanding or other legal instrument. The commission shall use powers of persuasion to achieve its objectives through the process of building a consensus work plan and through widespread publication of regular progress reports.

(2) The Miami River Commission shall consist of:

(a) A policy committee comprised of the Governor, the chair of the Dade delegation, the chair of the governing board of the South Florida Water Management District, the Miami-Dade County State Attorney, the Mayor of Miami, the Mayor of Miami-Dade County, a commissioner of the City of Miami Commission, a commissioner of the Miami-Dade County Commission, the chair of the Miami River Marine Group, the chair of the Marine Council, the Executive Director of the Downtown Development Authority, and the chair of the Greater Miami Chamber of Commerce; two neighborhood representatives, selected from the Spring Garden Neighborhood Association, the Grove Park Neighborhood Association, and the Miami River Neighborhood Enhancement Corporation, one neighborhood representative to be appointed by the city commission and one neighborhood representative to be appointed by the county commission, each selected from a list of 3 names submitted by each such organization; one representative from an environmental or civic association, appointed by the Governor; and three members-at-large, who shall be persons who have a demonstrated history of involvement on the Miami River through business, residence, or volunteer activity, one appointed by the Governor, one appointed by the city commission, and one appointed by the county commission. All members shall be voting members. The committee shall also include a member of the United States Congressional delegation and the Captain of the Port of Miami as a representative of the United States Coast Guard, as nonvoting, ex officio members. The policy committee may meet monthly, but shall meet at least quarterly.

(b) A managing director who has the responsibility to implement plans and programs.

(c) A working group consisting of all governmental agencies that have jurisdiction in the Miami River area, as well as representatives from business and civic associations.

(3) The policy committee shall have the following powers and duties:

(a) Consolidate existing plans, programs, and proposals into a coordinated strategic plan for improvement of the Miami River and

surrounding areas, addressing environmental, economic, social, recreational, and aesthetic issues. The committee shall monitor the progress on each element of such plan and shall revise the plan regularly.

(b) Prepare an integrated financial plan using the different jurisdictional agencies available for projected financial resources. The committee shall monitor the progress on each element of such plan and revise the plan regularly.

(c) Provide technical assistance and political support as needed to help implement each element of the strategic and financial plans.

(d) Accept any specifically defined coordinating authority or function delegated to the committee by any level of government through a memorandum of understanding or other legal instrument.

(e) Publicize a semiannual report describing accomplishments of the commission and each member agency, as well as the status of each pending task. The committee shall distribute the report to the City and County Commissions and Mayors, the Governor, chair of the Dade County delegation, stakeholders and the local media.

(f) Seek grants from public and private sources and receive grant funds to provide for the enhancement of its coordinating functions and activities and administer contracts that achieve these goals.

(g) Coordinate a joint planning area agreement between the Department of Community Affairs, the city, and the county under the provisions of s. 163.3177(11)(a),(b), and (c), Florida Statutes.

(h) Provide a forum for exchange of information and facilitate the resolution of conflicts.

(i) Act as a clearinghouse for public information and conduct public education programs.

(j) Establish the Miami River working group, appoint members to the group, and organize subcommittees, delegate tasks, and seek council from members of the working group as necessary to carry out the powers and duties listed in this subsection.

(k) Elect officers and adopt rules of procedure as necessary to carry out the powers and duties listed above and solicit appointing authorities to name replacements for policy committee members who do not participate on a regular basis.

(l) Hire the managing director, who shall be authorized to represent the commission and to implement all policies, plans, and programs of the commission. The committee shall employ any additional staff necessary to assist the managing director.

Section 6. *(1) No item, motion, directive, or policy position that would impact or in any way diminish levels of currently permitted commercial activity on the Miami River or riverfront properties shall be adopted by the Miami River Commission unless passed by a unanimous vote of the appointed members of the commission then in office.*

(2) No item, motion, directive, or policy position suggesting, proposing, or otherwise promoting additional taxes, fees, charges, or any other financial obligation on owners of riverfront property or shipping companies or operators shall be adopted by the Miami River Commission unless passed by a unanimous vote of all appointed members of the commission then in office.

Section 7. *The Miami River Commission shall terminate July 1, 2003, unless the Legislature, in a review of the creation, operation, and accomplishments of the Miami River Commission during the 2003 Regular Session, determines that the commission should be continued and reenacts provisions providing for its continuation.*

And the title is amended as follows:

On page 1, line 18, insert: prohibiting the adoption of certain actions by the commission unless by a required minimum vote; providing for future termination of the commission pending legislative review of reenactment;

On motion by Rep. Littlefield, the House concurred in Senate Amendment 1. The question recurred on the passage of CS/HB 4027. The vote was:

Yeas—115

The Chair	Crow	King	Roberts-Burke
Albright	Culp	Kosmas	Rodriguez-Chomat
Alexander	Dawson-White	Lacasa	Rojas
Andrews	Dennis	Lawson	Safley
Argenziano	Diaz de la Portilla	Littlefield	Sanderson
Arnall	Dockery	Livingston	Saunders
Arnold	Edwards	Logan	Sembler
Bainter	Effman	Lynn	Silver
Ball	Eggelletion	Mackenzie	Sindler
Barreiro	Fasano	Mackey	Smith
Betancourt	Feeney	Maygarden	Spratt
Bitner	Fischer	Meek	Stabins
Bloom	Flanagan	Melvin	Stafford
Bradley	Frankel	Merchant	Starks
Brennan	Fuller	Miller	Sublette
Bronson	Futch	Minton	Tamargo
Brooks	Gay	Morroni	Thrasher
Brown	Goode	Morse	Tobin
Bullard	Gottlieb	Murman	Trovillion
Burroughs	Greene	Ogles	Turnbull
Bush	Hafner	Peaden	Valdes
Byrd	Harrington	Posey	Villalobos
Carlton	Healey	Prewitt, D.	Wallace
Casey	Heyman	Pruitt, K.	Wasserman Schultz
Chestnut	Hill	Putnam	Westbrook
Clemons	Horan	Rayson	Wiles
Constantine	Jacobs	Reddick	Wise
Cosgrove	Jones	Ritchie	Ziebarth
Crist	Kelly	Ritter	

Nays—None

So the bill passed, as amended. The action was immediately certified to the Senate and the bill was ordered enrolled after engrossment.

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 3275, with amendment, and requests the concurrence of the House.

Faye W. Blanton, Secretary

HB 3275—A bill to be entitled An act relating to worthless checks; creating s. 832.09, F.S.; providing for the suspension of a driver's license with respect to certain persons against whom a warrant or capias is issued in a worthless check case; creating s. 832.10, F.S.; providing for the state attorney to use a private debt collector or independent contractor for 90 days to collect worthless checks; providing for the case to be referred back to the state attorney if the worthless check is not collected in the time allowed; creating s. 832.10, F.S.; providing an alternative to the bad check diversion program; providing fees for collection; amending s. 322.251, F.S.; providing for notification; providing for conditions for reinstatement; providing a fee; directing the Department of Highway Safety and Motor Vehicles and the Department of Law Enforcement to develop and implement a plan; amending s. 322.142, relating to records of the Department of Highway Safety and Motor Vehicles; providing an appropriation; providing an effective date.

Senate Amendment 1 (with title amendment)—On page 5, between lines 29 and 30, insert:

Section 6. Subsection (3) of section 318.18, Florida Statutes, is amended to read:

318.18 Amount of civil penalties.—The penalties required for a noncriminal disposition pursuant to s. 318.14 are as follows:

(3)(a) Except as otherwise provided in this section, $60 for all moving violations not requiring a mandatory appearance.

(b) For moving violations involving unlawful speed, the fines are as follows:

For speed exceeding the limit by:	Fine:
1-5 m.p.h	*Warning*
6-9 ~~1-9~~ m.p.h.	$ 25
10-14 m.p.h.	$100
15-19 m.p.h.	$125
20-29 m.p.h.	$150
30 m.p.h. and above	$250

(c) *Notwithstanding paragraph (b),* a person cited for exceeding the speed limit *by up to 5 m.p.h.* in a legally posted school zone *will be fined $50. A person exceeding the speed limit in a school zone will be assessed a fine double the amount listed in paragraph (b).*

(d) A person cited for exceeding the speed limit in ~~or~~ a posted construction zone will be assessed a fine double the amount listed in paragraph (b). *The fine shall be doubled for construction zone violations only if construction personnel are present or operating equipment on the road or immediately adjacent to the road under construction.*

(e)~~(d)~~ If a violation of s. 316.1301 or s. 316.1303 results in an injury to the pedestrian or damage to the property of the pedestrian, an additional fine of up to $250 must be assessed. This amount must be distributed pursuant to s. 318.21.

Section 7. Subsection (3) of section 320.07, Florida Statutes, is amended to read:

320.07 Expiration of registration; annual renewal required; penalties.—

(3) The operation of any motor vehicle without having attached thereto a registration license plate and validation stickers, or the use of any mobile home without having attached thereto a mobile home sticker, for the current registration period shall subject the owner thereof, if he or she is present, or, if the owner is not present, the operator thereof to the following penalty provisions:

(a) Any person whose motor vehicle or mobile home registration has been expired for a period of 6 months or less shall be subject to the penalty provided in s. 318.14.

(b) Any person whose motor vehicle or mobile home registration has been expired for more than 6 months shall upon a first offense be subject to the penalty provided in s. 318.14.

(c)~~(b)~~ Any person whose motor vehicle or mobile home registration has been expired for more than 6 months *shall upon a second or subsequent offense be* ~~is~~ guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(d)~~(c)~~ However, no operator shall be charged with a violation of this subsection if the operator can show, pursuant to a valid lease agreement, that the vehicle had been leased for a period of 30 days or less at the time of the offense.

Section 8. Subsections (1) and (2) of section 322.26, Florida Statutes, are amended to read:

322.26 Mandatory revocation of license by department.—The department shall forthwith revoke the license or driving privilege of any person upon receiving a record of such person's conviction of any of the following offenses:

(1)*(a) Murder resulting from the operation of a motor vehicle, DUI manslaughter where the conviction represents a subsequent DUI-related conviction, or a fourth violation of s. 316.193 or former s. 316.1931. For such cases, the revocation of the driver's license or driving privilege shall be permanent.*

(b) Manslaughter resulting from the operation of a motor vehicle.

(2) Driving a motor vehicle or being in actual physical control thereof, or entering a plea of nolo contendere, said plea being accepted by the court and said court entering a fine or sentence to a charge of driving, while under the influence of alcoholic beverages or a substance controlled under chapter 893, or being in actual physical control of a motor vehicle while under the influence of alcoholic beverages or a substance controlled under chapter 893. In any case where DUI manslaughter occurs *and the person has no prior convictions for DUI-related offenses,* the revocation of the license or driving privilege shall be permanent, except as provided for in s. 322.271(4).

Section 9. Paragraph (b) of subsection (1) and subsection (4) of section 322.271, Florida Statutes, are amended to read:

322.271 Authority to modify revocation, cancellation, or suspension order.—

(1)

(b) A person whose driving privilege has been revoked under s. 322.27(5) may, upon expiration of 12 months from the date of such revocation, petition the department for *reinstatement* ~~restoration~~ of his or her driving privilege. Upon such petition and after investigation of the person's qualification, fitness, and need to drive, the department shall hold a hearing pursuant to chapter 120 to determine whether the driving privilege shall be *reinstated* ~~restored~~ on a restricted basis solely for business or employment purposes.

(4) Notwithstanding the provisions of s. 322.28(2)(e), a person whose driving privilege has been permanently revoked because he or she ~~has been convicted four times of violating s. 316.193 or former s. 316.1931 or because he or she~~ has been convicted of DUI manslaughter in violation of s. 316.193 *and has no prior convictions for DUI-related offenses* may, upon the expiration of 5 years after the date of such revocation or the expiration of 5 years after the termination of any term of incarceration under s. 316.193 or former s. 316.1931, whichever date is later, petition the department for reinstatement of his or her driving privilege.

(a) Within 30 days after the receipt of such a petition, the department shall afford the petitioner an opportunity for a hearing. At the hearing, the petitioner must demonstrate to the department that he or she:

1. Has not been arrested for a drug-related offense during the 5 years preceding the filing of the petition;

2. Has not driven a motor vehicle without a license for at least 5 years prior to the hearing;

3. Has been drug-free for at least 5 years prior to the hearing; and

4. Has completed a DUI program licensed by the department.

(b) At such hearing, the department shall determine the petitioner's qualification, fitness, and need to drive. Upon such determination, the department may, in its discretion, reinstate the driver's license of the petitioner. Such reinstatement must be made subject to the following qualifications:

1. The license must be restricted for employment purposes for not less than 1 year; and

2. Such person must be supervised by a DUI program licensed by the department and report to the program for such supervision and education at least four times a year or additionally as required by the program for the remainder of the revocation period. Such supervision shall include evaluation, education, referral into treatment, and other activities required by the department.

(c) Such person must assume the reasonable costs of supervision. If such person fails to comply with the required supervision, the program shall report the failure to the department, and the department shall cancel such person's driving privilege.

(d) If, after reinstatement, such person is convicted of an offense for which mandatory revocation of his or her license is required, the department shall revoke his or her driving privilege.

(e) The department shall adopt rules regulating the providing of services by DUI programs pursuant to this section.

Section 10. Paragraph (e) of subsection (2) of section 322.28, Florida Statutes, is amended, present subsections (3), (4), (6), and (8) of that section are redesignated as subsections (4), (5), (7), and (9), respectively,

present subsection (5) of that section is redesignated as subsection (6) and amended, and a new subsection (3) is added to that section, to read:

322.28 Period of suspension or revocation.—

(2) In a prosecution for a violation of s. 316.193 or former s. 316.1931, the following provisions apply:

(e) The court shall permanently revoke the driver's license or driving privilege of a person who has been convicted four times for violation of s. 316.193 or former s. 316.1931 or a combination of such sections. The court shall permanently revoke the driver's license or driving privilege of any person who has been convicted of DUI manslaughter in violation of s. 316.193. If the court has not permanently revoked such *driver's* license or *driving* privilege within 30 days after imposing sentence, the department shall permanently revoke the *driver's* license or *driving* privilege pursuant to this paragraph. No driver's license or driving privilege may be issued or granted to any such person. This paragraph applies only if at least one of the convictions for violation of s. 316.193 or former s. 316.1931 was for a violation that occurred after July 1, 1982. For the purposes of this paragraph, a conviction for violation of former s. 316.028, former s. 316.1931, or former s. 860.01 is also considered a conviction for violation of s. 316.193. Also, a conviction of driving under the influence, driving while intoxicated, driving with an unlawful blood-alcohol level, or any other similar alcohol-related or drug-related traffic offense outside this state is considered a conviction for the purposes of this paragraph.

(3) The court shall permanently revoke the driver's license or driving privilege of a person who has been convicted of murder resulting from the operation of a motor vehicle. No driver's license or driving privilege may be issued or granted to any such person.

(4)~~(3)~~ Upon the conviction of a person for a violation of s. 322.34, the license or driving privilege, if suspended, shall be suspended for 3 months in addition to the period of suspension previously imposed and, if revoked, the time after which a new license may be issued shall be delayed 3 months.

(5)~~(4)~~ If, in any case arising under this section, a licensee, after having been given notice of suspension or revocation of his or her license in the manner provided in s. 322.251, fails to surrender to the department a license theretofore suspended or revoked, as required by s. 322.29, or fails otherwise to account for the license to the satisfaction of the department, the period of suspension of the license, or the period required to elapse after revocation before a new license may be issued, shall be extended until, and shall not expire until, a period has elapsed after the date of surrender of the license, or after the date of expiration of the license, whichever occurs first, which is identical in length with the original period of suspension or revocation.

(6)~~(5)~~(a) Upon a conviction for a violation of s. 316.193(3)*(c)2., involving serious bodily injury*, a conviction of manslaughter resulting from the operation of a motor vehicle, or a conviction of vehicular homicide, the court shall revoke the driver's license of the person convicted for a minimum period of 3 years ~~if death to any other person resulted from the operation of a motor vehicle by such driver~~. *In the event that a conviction under s. 316.193(3)(c)2., involving serious bodily injury, is also a subsequent conviction as described under paragraph (2)(a), the court shall revoke the driver's license or driving privilege of the person convicted for the period applicable as provided in paragraph (2)(a) or paragraph (2)(e).*

(b) If the period of revocation was not specified by the court at the time of imposing sentence or within 30 days thereafter, the department shall revoke the driver's license for the minimum period applicable under paragraph (a) or, for a subsequent conviction, for the minimum period applicable under paragraph (2)(a) or paragraph (2)(e).

(7)~~(6)~~ No administrative suspension of a driving privilege under s. 322.2615 shall be stayed upon a request for review of the departmental order that resulted in such suspension and, except as provided in former s. 322.261, no suspension or revocation of a driving privilege shall be stayed upon an appeal of the conviction or order that resulted therein.

(8)~~(7)~~ In a prosecution for a violation of s. 316.172(1), and upon a showing of the department's records that the licensee has received a second conviction within a period of 5 years from the date of a prior conviction of s. 316.172(1), the department shall, upon direction of the court, suspend the driver's license of the person convicted for a period of not less than 90 days nor more than 6 months.

Section 11. Section 322.283, Florida Statutes, is created to read:

322.283 Commencement of period of suspension or revocation for incarcerated offenders.—

(1) When the court in a criminal traffic case orders the defendant to serve a term of incarceration or imprisonment and also suspends or revokes the defendant's driver's license as a result of the offense, the period of suspension or revocation shall commence upon the defendant's release from incarceration. For purposes of calculating the defendant's eligibility for reinstatement of his or her driver's license or driving privilege under this section, the date of the defendant's release from incarceration shall be deemed the date the suspension or revocation period was imposed.

(2) For defendants convicted of a criminal traffic offense and sentenced to imprisonment with the Department of Corrections, the Department of Corrections shall notify the Department of Highway Safety and Motor Vehicles of the date of the defendant's release from prison or other state correctional facility. For defendants convicted of a criminal traffic offense and sentenced to incarceration within the jurisdictional county jail or other correctional facility operated by the jurisdictional county, the sheriff of the jurisdictional county wherein the defendant is incarcerated shall notify the Department of Highway Safety and Motor Vehicles of the date of the defendant's release from the county jail or other correctional facility. The notification of a defendant's release from incarceration shall be on a form approved by the Department of Highway Safety and Motor Vehicles. This subsection applies only to those defendants who have had their driver's license or driving privilege suspended or revoked as a result of the offense for which they are incarcerated or imprisoned.

Section 12. Subsection (2) of section 322.34, Florida Statutes, is amended to read:

322.34 Driving while license suspended, revoked, canceled, or disqualified.—

(2) Any person whose driver's license or driving privilege has been canceled, suspended, or revoked as provided by law, except persons defined in s. 322.264, who, knowing of such cancellation, suspension, or revocation, drives any motor vehicle upon the highways of this state while such license or privilege is canceled, suspended, or revoked, upon:

(a) A first conviction is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(b) A second conviction is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(c) A third or subsequent conviction is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

The element of knowledge is satisfied if the person has been previously cited as provided in subsection (1); or the person admits to knowledge of the cancellation, suspension, or revocation; or the person received notice as provided in subsection (4). *There shall be a rebuttable presumption that the knowledge requirement is satisfied if a judgment or order as provided in subsection (4) appears in the department's records for any case except for one involving a suspension by the department for failure to pay a traffic fine or for a financial responsibility violation.*

Section 13. Section 322.341, Florida Statutes, is created to read:

322.341 Driving while license permanently revoked.—Any person whose driver's license or driving privilege has been permanently revoked pursuant to s. 322.26 or s. 322.28 and who drives a motor vehicle upon the highways of this state is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 14. Effective July 1, 2000, subsections (6) and (7) of section 627.733, Florida Statutes, are amended to read:

627.733 Required security.—

(6) The Department of Highway Safety and Motor Vehicles shall suspend, after due notice and an opportunity to be heard, the registration ~~and driver's license~~ of any owner or registrant of a motor vehicle with respect to which security is required under this section and s. 324.022:

(a) Upon its records showing that the owner or registrant of such motor vehicle did not have in full force and effect when required security complying with the terms of this section; or

(b) Upon notification by the insurer to the Department of Highway Safety and Motor Vehicles, in a form approved by the department, of cancellation or termination of the required security.

(7)(a) Any operator or owner whose ~~driver's license or~~ registration has been suspended pursuant to this section or s. 316.646 may effect its reinstatement upon compliance with the requirements of this section and upon payment to the Department of Highway Safety and Motor Vehicles of a nonrefundable reinstatement fee of $150 for the first reinstatement. Such reinstatement fee shall be $250 for the second reinstatement and $500 for each subsequent reinstatement during the 3 years following the first reinstatement. Any person reinstating her or his insurance under this subsection must also secure noncancelable coverage as described in s. 627.7275(2) and present to the appropriate person proof that the coverage is in force on a form promulgated by the Department of Highway Safety and Motor Vehicles, such proof to be maintained for 2 years. If the person does not have a second reinstatement within 3 years after her or his initial reinstatement, the reinstatement fee shall be $150 for the first reinstatement after that 3-year period. ~~In the event that a person's license and registration are suspended pursuant to this section or s. 316.646, only one reinstatement fee shall be paid to reinstate the license and the registration.~~ All fees shall be collected by the Department of Highway Safety and Motor Vehicles at the time of reinstatement. The Department of Highway Safety and Motor Vehicles shall issue proper receipts for such fees and shall promptly deposit those fees in the Highway Safety Operating Trust Fund. One-third of the fee collected under this subsection shall be distributed from the Highway Safety Operating Trust Fund to the local government entity or state agency which employed the law enforcement officer or the recovery agent who seizes a license plate pursuant to s. 324.201 or to s. 324.202. Such funds may be used by the local government entity or state agency for any authorized purpose.

(b) One-third of the fee collected for the seizure of a license plate by a recovery agent shall be paid to the recovery agent, and the balance shall remain in the Highway Safety Operating Trust Fund and be distributed pursuant to s. 321.245.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 24, delete "providing an effective date." and insert: amending s. 318.18, F.S.; rescinding the fine for speeds exceeding the limit by 1-5 m.p.h. and replacing the fine with a warning; providing that fines for construction zone speed violations shall be doubled only under certain circumstances; amending s. 320.07, F.S.; revising penalties for expiration of registration; amending s. 322.26, F.S.; providing for permanent revocation of a driver's license for murder resulting from the operation of a motor vehicle, DUI manslaughter where the conviction represents a subsequent DUI-related conviction, or four or more DUI violations; amending s. 322.271, F.S.; providing for petition for reinstatement under certain circumstances; amending s. 322.28, F.S.; revising provisions with respect to the period of suspension or revocation; conforming current provisions to the act; creating s. 322.283, F.S.; providing for the commencement of the period of suspension or revocation for incarcerated offenders; providing for notification to the Department of Highway Safety and Motor Vehicles; amending s. 322.34, F.S.; providing that the element of knowledge with respect to the suspension, revocation, cancellation, or disqualification is satisfied when certain notice is sent; creating s. 322.341, F.S.; providing penalties for driving while a license is permanently revoked; amending s. 627.733, F.S.; deleting a provision for revoking the driver's license of an owner or registrant of a motor vehicle who does not provide required security for that vehicle; providing effective dates.

On motion by Rep. Arnall, the House concurred in Senate Amendment 1.

THE SPEAKER IN THE CHAIR

REPRESENTATIVE CRADY IN THE CHAIR

The question recurred on the passage of HB 3275. The vote was:

Yeas—111

The Chair	Crist	Jacobs	Roberts-Burke
Albright	Crow	Jones	Rodriguez-Chomat
Alexander	Culp	Kosmas	Rojas
Andrews	Dawson-White	Lacasa	Safley
Argenziano	Dennis	Lawson	Saunders
Arnall	Diaz de la Portilla	Littlefield	Sembler
Arnold	Dockery	Livingston	Silver
Bainter	Edwards	Logan	Sindler
Barreiro	Effman	Lynn	Smith
Betancourt	Eggelletion	Mackenzie	Spratt
Bitner	Fasano	Mackey	Stafford
Bloom	Feeney	Maygarden	Starks
Boyd	Fischer	Meek	Sublette
Bradley	Flanagan	Melvin	Tamargo
Brennan	Frankel	Merchant	Thrasher
Bronson	Fuller	Minton	Tobin
Brooks	Futch	Morroni	Trovillion
Brown	Garcia	Morse	Turnbull
Bullard	Gay	Murman	Valdes
Burroughs	Goode	Ogles	Villalobos
Bush	Gottlieb	Peaden	Wallace
Byrd	Greene	Prewitt, D.	Warner
Carlton	Hafner	Pruitt, K.	Wasserman Schultz
Casey	Harrington	Putnam	Westbrook
Chestnut	Healey	Rayson	Wiles
Clemons	Heyman	Reddick	Wise
Constantine	Hill	Ritchie	Ziebarth
Cosgrove	Horan	Ritter	

Nays—3

Ball	Kelly	Miller

Votes after roll call:
Yeas—Stabins

So the bill passed, as amended. The action was immediately certified to the Senate and the bill was ordered enrolled after engrossment.

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 4475, with amendment, and requests the concurrence of the House.

Faye W. Blanton, Secretary

HB 4475—A bill to be entitled An act relating to wastewater treatment systems; amending s. 381.0064, F.S., relating to continuing education courses for persons installing or servicing septic tanks; amending s. 381.0065, F.S.; revising guidelines and procedures for granting variances for such systems; revising membership of the department's variance review and advisory committee; providing criteria for use of guttering; amending s. 381.0068, F.S.; revising duties and procedures of the department's technical review and advisory panel; providing an effective date.

Senate Amendment 1—In title, on page 1, lines 3-11, delete those lines and insert: systems; amending s. 381.0064, F.S.; authorizing the Department of Health to establish certain continuing education requirements by rule; amending s. 381.0065, F.S.; revising guidelines

and procedures for granting variances for onsite sewage treatment and disposal systems; revising membership of the department's variance review and advisory committee; providing system criteria for use in conjunction with structural gutters; providing system criteria for use in certain floodways; amending s. 381.0068, F.S., revising duties and procedures of the department's technical review and advisory panel; amending s. 489.551, F.S.; authorizing certain plumbers to qualify as master septic tank contractors; amending 489.554, F.S.; authorizing the department to prescribe by rule the method of approval of certain continuing education courses, including minimum annual registration renewal requirements; amending s. 489.555, F.S.; revising the guidelines regarding the certification of septic tank contractor partnerships and corporations; providing an effective date.

On motion by Rep. Alexander, the House concurred in Senate Amendment 1. The question recurred on the passage of HB 4475. The vote was:

Yeas—117

The Chair	Crow	King	Rojas
Albright	Culp	Kosmas	Safley
Alexander	Dawson-White	Lacasa	Sanderson
Andrews	Dennis	Lawson	Saunders
Argenziano	Diaz de la Portilla	Littlefield	Sembler
Arnall	Dockery	Livingston	Silver
Arnold	Edwards	Logan	Sindler
Bainter	Effman	Lynn	Smith
Ball	Eggelletion	Mackenzie	Spratt
Barreiro	Fasano	Mackey	Stabins
Betancourt	Feeney	Maygarden	Stafford
Bitner	Fischer	Meek	Starks
Bloom	Flanagan	Melvin	Sublette
Boyd	Frankel	Merchant	Tamargo
Bradley	Fuller	Miller	Thrasher
Brennan	Futch	Minton	Tobin
Bronson	Garcia	Morroni	Trovillion
Brooks	Gay	Morse	Turnbull
Brown	Goode	Murman	Valdes
Bullard	Gottlieb	Ogles	Villalobos
Burroughs	Greene	Peaden	Wallace
Bush	Hafner	Posey	Warner
Byrd	Harrington	Pruitt, K.	Wasserman Schultz
Carlton	Healey	Putnam	Westbrook
Casey	Heyman	Rayson	Wiles
Chestnut	Hill	Reddick	Wise
Clemons	Horan	Ritchie	Ziebarth
Constantine	Jacobs	Ritter	
Cosgrove	Jones	Roberts-Burke	
Crist	Kelly	Rodriguez-Chomat	

Nays—1

Prewitt, D.

So the bill passed, as amended. The action was immediately certified to the Senate and the bill was ordered enrolled after engrossment.

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS/CS/HB 3491, with amendment, and requests the concurrence of the House.

Faye W. Blanton, Secretary

CS/CS/HB 3491—A bill to be entitled An act relating to the Florida Retirement System; amending s. 112.363, F.S.; increasing the retiree health insurance subsidy payment and the contribution rate; providing for retroactive payments under certain circumstances; amending s. 121.011, F.S.; clarifying benefits payable under existing systems; amending s. 121.021, F.S.; revising and adding definitions; amending ss. 121.052, 121.055, and 121.071, F.S.; modifying the statutory limit on the number of nonelective full-time positions that may be designated by a local agency employer for inclusion in the Senior Management Service Class; changing contribution rates for specified classes and subclasses of the system and for the retiree health insurance subsidy; amending s. 121.091, F.S.; providing for benefit computations using dual retirement ages for service in the Senior Management Service Class and the Elected Officer's Class; providing for nullification of a joint annuitant designation in the event of dissolution of marriage; providing for purchase of additional service credit using a deceased member's accumulated leave, out-of-state service, or in-state service under certain circumstances; specifying that a member's spouse at the time of death shall be the member's beneficiary under certain circumstances; providing a directive to statute editors; amending s. 121.1122, F.S.; deleting reference to nonsectarian schools and colleges; amending s. 121.121, F.S.; providing for eligibility to purchase retirement credit for certain leaves of absence; amending s. 121.122, F.S.; allowing members with renewed membership in the Senior Management Service Class to purchase additional retirement credit for certain postretirement service; amending s. 121.30, F.S.; conforming to the Internal Revenue Code; creating s. 121.133, F.S.; providing intent; requiring the Comptroller to cancel any benefit warrant issued from the Florida Retirement System Trust Fund, or from certain other pension trust funds, if such warrants are not presented within a specified timeframe; providing that such funds shall be transferred and recredited to specified trust funds; providing for issuance of replacement warrants; amending s. 121.40, F.S.; changing contribution rates for the supplemental retirement plan for the Institute of Food and Agricultural Sciences at the University of Florida; repealing ss. 121.0505 and 121.0516, F.S.; relating to duplicative contribution rates; directing the Division of Statutory Revision to make described adjustments to the statutes with respect to contribution rates; providing a finding of important state interest; providing effective dates.

Senate Amendment 1 (with title amendment)—On page 40, between lines 12 and 13, insert:

Section 18. *The Executive Director of the State Board of Administration and the Director of the Division of Retirement shall undertake a comprehensive review of the assumptions and contribution rate structure underpinning the operation of the Florida Retirement System. By March 1, 1999, the State Board of Administration and the division shall submit to the Board of Trustees of the State Board of Administration, the President of the Senate, and the Speaker of the House of Representatives a report which shall contain the following elements:*

(1) The method of development of actuarial assumptions and their application.

(2) The relevance of present assumptions in light of patterns of recruitment, retention, and retirement.

(3) The investment and economic market in which the Florida Retirement System, and similarly constituted systems, operate.

(4) Prospective conditions in economic forecasts within a reasonable degree of estimation which may affect investment performance, workforce, and salary trends.

The State Board of Administration and the Division of Retirement may, at their discretion, utilize the services of the Office of Economic and Demographic Research and may also convene a working group of affected principals for use in the development of the study proposed in this section. The President of the Senate and the Speaker of the House of Representatives may each appoint two legislative members to the working group.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 2, line 30, after the semicolon (;) insert: relating to duplicative contribution rates; providing for a report to the Board of Trustees of the State Board of Administration, the President of the Senate, and the Speaker of the House of Representatives on the Florida Retirement System;

On motion by Rep. Boyd, the House concurred in Senate Amendment 1. The question recurred on the passage of CS/CS/HB 3491. The vote was:

Yeas—116

The Chair	Crist	Jones	Ritter
Albright	Crow	Kelly	Roberts-Burke
Alexander	Culp	Kosmas	Rodriguez-Chomat
Andrews	Dawson-White	Lacasa	Rojas
Argenziano	Dennis	Lawson	Safley
Arnall	Diaz de la Portilla	Littlefield	Sanderson
Arnold	Dockery	Livingston	Saunders
Bainter	Edwards	Logan	Sembler
Ball	Effman	Lynn	Sindler
Barreiro	Eggelletion	Mackenzie	Smith
Betancourt	Fasano	Mackey	Spratt
Bitner	Feeney	Maygarden	Stabins
Bloom	Fischer	Meek	Stafford
Boyd	Flanagan	Melvin	Starks
Bradley	Frankel	Merchant	Sublette
Brennan	Fuller	Miller	Tamargo
Bronson	Futch	Minton	Thrasher
Brooks	Garcia	Morroni	Tobin
Brown	Gay	Morse	Trovillion
Bullard	Goode	Murman	Turnbull
Burroughs	Gottlieb	Ogles	Valdes
Bush	Greene	Peaden	Villalobos
Byrd	Hafner	Posey	Wallace
Carlton	Harrington	Prewitt, D.	Warner
Casey	Healey	Pruitt, K.	Wasserman Schultz
Chestnut	Heyman	Putnam	Westbrook
Clemons	Hill	Rayson	Wiles
Constantine	Horan	Reddick	Wise
Cosgrove	Jacobs	Ritchie	Ziebarth

Nays—None

So the bill passed, as amended. The action was immediately certified to the Senate and the bill was ordered enrolled after engrossment.

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 4365, with amendment, and requests the concurrence of the House.

Faye W. Blanton, Secretary

HB 4365—A bill to be entitled An act relating to acupuncture; amending s. 457.102, F.S.; defining the term "acupuncture"; amending s. 457.103, F.S.; revising the membership of the Board of Acupuncture; amending s. 457.105, F.S.; revising the licensing requirements for acupuncturists; amending s. 457.116, F.S.; prohibiting certain acts; providing penalties; providing an effective date.

Senate Amendment 1 (with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Subsection (1) of section 457.102, Florida Statutes, is amended, and subsection (6) is added to that section, to read:

457.102 Definitions.—As used in this chapter:

(1) "Acupuncture" means a form of primary health care, based on traditional Chinese medical concepts *and modern Oriental medical techniques*, that employs acupuncture diagnosis and treatment, as well as adjunctive therapies and diagnostic techniques, for the promotion, maintenance, and restoration of health and the prevention of disease. Acupuncture shall include, but not be limited to, the insertion of acupuncture needles and the application of moxibustion to specific areas of the human body.

(6) "Oriental medicine" means the use of acupuncture, electro-acupuncture, Qi Gong, oriental massage, herbal therapy, dietary guidelines, and other adjunctive therapies.

Section 2. Subsection (1) of section 457.103, Florida Statutes, is amended to read:

457.103 Board of Acupuncture; membership; appointment and terms.—

(1) The Board of Acupuncture is created within the department and shall consist of *seven* ~~five~~ members, to be appointed by the Governor and confirmed by the Senate. *Five* ~~Three~~ members of the board must be licensed Florida acupuncturists. Two members must be laypersons who are not and who have never been acupuncturists or members of any closely related profession. Members shall be appointed for 4-year terms or for the remainder of the unexpired term of a vacancy.

Section 3. Subsection (2) of section 457.105, Florida Statutes, is amended to read:

457.105 Licensure qualifications and fees.—

(2) A person may become licensed to practice acupuncture if the person applies to the department and:

(a) Is 18 years of age or older;

(b) Has completed 60 college credits from an accredited postsecondary institution as a prerequisite to enrollment in an authorized 3-year course of study in acupuncture *and Oriental medicine*, and has completed a 3-year course of study in acupuncture *and Oriental medicine*, and effective July 31, 2001, a 4-year course of study in acupuncture *and Oriental medicine*, which meets standards established by the board by rule, which standards include, *but are not limited to,* successful completion of academic courses in western anatomy, western physiology, western pathology, ~~and~~ western biomedical terminology, *first aid, and cardiopulmonary resuscitation (CPR).* However, any person who enrolled in an authorized course of study in acupuncture before August 1, 1997, must have completed only a 2-year course of study which meets standards established by the board by rule, which standards must include, but are not limited to, successful completion of academic courses in western anatomy, western physiology, and western pathology;

(c) Has successfully completed a board-approved national certification process, is actively licensed in a state that has examination requirements that are substantially equivalent to or more stringent than those of this state, or passes an examination administered by the department, which examination tests the applicant's competency and knowledge of the practice of acupuncture. At the request of any applicant, oriental nomenclature for the points shall be used in the examination. The examination shall include a practical examination of the knowledge and skills required to practice acupuncture, covering diagnostic and treatment techniques and procedures; and

(d) Pays the required fees set by the board by rule not to exceed the following amounts:

1. Examination fee: $500 plus the actual per applicant cost to the department for purchase of the written and practical portions of the examination from a national organization approved by the board.

2. Application fee: $300.

3. Reexamination fee: $500 plus the actual per applicant cost to the department for purchase of the written and practical portions of the examination from a national organization approved by the board.

4. Initial biennial licensure fee: $400, if licensed in the first half of the biennium, and $200, if licensed in the second half of the biennium.

Section 4. Subsection (3) of section 457.107, Florida Statutes, is amended to read:

457.107 Renewal of licenses; continuing education.—

(3) The board shall by rule prescribe continuing education requirements, not to exceed 30 hours biennially, as a condition for renewal of a license. ~~The criteria for such programs or courses shall be approved by the board. In order to meet continuing education requirements, prior approval by the board of such programs or courses is required.~~ All education programs that contribute to the advancement, extension, or enhancement of professional skills and knowledge related to the practice of acupuncture, whether conducted by a nonprofit or

profitmaking entity, are eligible for approval. *The continuing professional education requirements must be in acupuncture or Oriental-medicine subjects, including, but not limited to, anatomy, biological sciences, adjunctive therapies, sanitation and sterilization, emergency protocols, and diseases.* The board shall have the authority to set a fee, not to exceed $100, for each continuing education provider ~~or program submitted for approval~~. *The licensee shall retain in his or her records the certificates of completion of continuing professional education requirements to prove compliance with this subsection. The board may request such documentation without cause from applicants who are selected at random. All national and state acupuncture and Oriental-medicine organizations and acupuncture and Oriental-medicine schools are approved to provide continuing professional education in accordance with this subsection.*

Section 5. Section 457.116, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 457.116, F.S., for present text.)

(1) A person may not:

(a) Practice acupuncture unless the person is licensed under ss. 457.101-457.118;

(b) Use, in connection with his or her name or place of business, any title or description of services which incorporates the words "acupuncture," "acupuncturist," "certified acupuncturist," "licensed acupuncturist," "Oriental medical practitioner"; the letters "L.Ac.," "R.Ac.," "A.P.," or "D.O.M."; or any other words, letters, abbreviations, or insignia indicating or implying that he or she practices acupuncture unless he or she is a holder of a valid license issued pursuant to ss. 457.101-457.118;

(c) Present as his or her own the license of another;

(d) Knowingly give false or forged evidence to the board or a member thereof;

(e) Use or attempt to use a license that has been suspended, revoked, or placed on inactive or delinquent status;

(f) Employ any person who is not licensed pursuant to ss. 457.101-457.118 to engage in the practice of acupuncture; or

(g) Conceal information relating to any violation of ss. 457.101-457.118.

(2) A person who violates this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 6. This act shall take effect October 1, 1998.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to Oriental medicine; amending s. 457.102, F.S.; revising definitions relating to the regulation of acupuncture; defining the term "Oriental medicine"; amending s. 457.103, F.S.; revising membership of the Board of Acupuncture; amending s. 457.105, F.S.; revising qualifications for licensure to practice acupuncture; conforming terminology; amending s. 457.107, F.S.; revising continuing education programs and approvals; amending s. 457.116, F.S.; revising grounds for disciplinary action and prohibited acts; providing penalties; providing an effective date.

On motion by Rep. Kelly, the House concurred in Senate Amendment 1. The question recurred on the passage of HB 4365. The vote was:

Yeas—117

The Chair	Arnold	Bloom	Brown
Albright	Bainter	Boyd	Bullard
Alexander	Ball	Bradley	Burroughs
Andrews	Barreiro	Brennan	Bush
Argenziano	Betancourt	Bronson	Byrd
Arnall	Bitner	Brooks	Carlton
Casey	Goode	Merchant	Sindler
Chestnut	Gottlieb	Miller	Smith
Clemons	Greene	Minton	Spratt
Constantine	Hafner	Morroni	Stabins
Cosgrove	Harrington	Morse	Stafford
Crist	Healey	Murman	Starks
Crow	Heyman	Ogles	Sublette
Culp	Hill	Peaden	Tamargo
Dawson-White	Horan	Posey	Thrasher
Dennis	Jacobs	Prewitt, D.	Tobin
Diaz de la Portilla	Jones	Pruitt, K.	Trovillion
Dockery	Kelly	Putnam	Turnbull
Edwards	King	Rayson	Valdes
Effman	Kosmas	Reddick	Villalobos
Eggelletion	Lacasa	Ritchie	Wallace
Fasano	Lawson	Ritter	Warner
Feeney	Livingston	Roberts-Burke	Wasserman Schultz
Fischer	Logan	Rodriguez-Chomat	Westbrook
Flanagan	Lynn	Rojas	Wiles
Frankel	Mackenzie	Safley	Wise
Fuller	Mackey	Sanderson	Ziebarth
Futch	Maygarden	Saunders	
Garcia	Meek	Sembler	
Gay	Melvin	Silver	

Nays—None

Votes after roll call:
Yeas—Littlefield

So the bill passed, as amended. The action was immediately certified to the Senate and the bill was ordered enrolled after engrossment.

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed HJR 3505, with amendment, by the required Constitutional three-fifths vote of the members of the Senate and requests the concurrence of the House.

Faye W. Blanton, Secretary

HJR 3505—A joint resolution proposing an amendment to Section 17 of Article I of the State Constitution relating to excessive punishment.

Senate Amendment 1 (with title amendment)—Delete everything after the resolving clause

and insert:

That the following amendment to Section 17 of Article I of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the general election to be held in November 1998:

ARTICLE I
DECLARATION OF RIGHTS

SECTION 17. Excessive punishments.—Excessive fines, cruel *and* ~~or~~ unusual punishment, attainder, forfeiture of estate, indefinite imprisonment, and unreasonable detention of witnesses are forbidden. *The death penalty is an authorized punishment for capital crimes designated by the legislature and is not limited or restrained by this constitution. The prohibition against cruel or unusual punishment and the prohibition against cruel and unusual punishment shall be construed in conformity with decisions of the United States Supreme Court which interpret the prohibition against cruel and unusual punishment provided in the Eighth Amendment to the United States Constitution. However, any method of execution shall be allowed, unless specifically prohibited by the United States Supreme Court. Methods of execution may be designated by the legislature, and a change in any method of execution may be applied retroactively. A sentence of death shall not be reduced on the basis that a method of execution is invalid. In any case in which a method of execution is declared invalid, the death sentence shall remain in force until the sentence can be lawfully executed by any valid method. This section shall apply retroactively.*

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:

CONSTITUTIONAL AMENDMENT
ARTICLE I, SECTION 17

CRUEL AND UNUSUAL PUNISHMENT.—Proposing an amendment to the State Constitution to authorize the death penalty; require construction of "cruel or unusual" and "cruel and unusual" punishment to conform to the United States Supreme Court's interpretation of the Eighth Amendment; authorize execution methods not specifically prohibited by the United States Supreme Court; allow the retroactive application of execution methods; prohibit the reduction of a death sentence based on invalidity of the execution method; and provide retroactive applicability.

And the title is amended as follows:

Delete everything before the resolving clause

and insert: House Joint Resolution No. ____ A joint resolution proposing an amendment to s. 17, Art. I of the State Constitution, relating to excessive punishment.

Representative(s) Crist, Thrasher, and King offered the following:

House Amendment 1 to Senate Amendment 1 (with title amendment)—On page 1, line 17, through page 2, line 26,
remove from the amendment: all of said lines

and insert in lieu thereof:

That the amendment to Section 17 of Article I of the State Constitution set forth below is agreed to and shall be submitted to the electors of Florida for approval or rejection at the general election to be held in November 1998:

SECTION 17. Excessive punishments.—Excessive fines, cruel *and* ~~or~~ unusual punishment, attainder, forfeiture of estate, indefinite imprisonment, and unreasonable detention of witnesses are forbidden. *The death penalty is an authorized punishment for capital crimes designated by the Legislature. The prohibition against cruel or unusual punishment, and the prohibition against cruel and unusual punishment, shall be construed in conformity with decisions of the United States Supreme Court which interpret the prohibition against cruel and unusual punishment provided in the Eighth Amendment to the United States Constitution. Any method of execution shall be allowed, unless prohibited by the United States Constitution. Methods of execution may be designated by the Legislature, and a change in any method of execution may be applied retroactively. A sentence of death shall not be reduced on the basis that a method of execution is invalid. In any case in which an execution method is declared invalid, the death sentence shall remain in force until the sentence can be lawfully executed by any valid method. This section shall apply retroactively.*

BE IT FURTHER RESOLVED that in accordance with the requirements of section 101.161, Florida Statutes, the title and substance of the amendment proposed herein shall appear on the ballot as follows:

PRESERVATION OF THE DEATH PENALTY;
UNITED STATES SUPREME COURT INTERPRETATION
OF CRUEL AND UNUSUAL PUNISHMENT

Proposing an amendment to Section 17 of Article I of the State Constitution preserving the death penalty, and permitting any execution method unless prohibited by the Federal Constitution. Requires construction of the prohibition against cruel and/or unusual punishment to conform to United States Supreme Court interpretation of the Eighth Amendment. Prohibits reduction of a death sentence based on invalidity of execution method, and provides for continued force of sentence. Provides for retroactive applicability.

And the title is amended as follows:

On page 3, line 2 of the amendment
remove: Senate

and insert in lieu thereof: House

Rep. Crist moved the adoption of the amendment to the amendment, which was adopted.

On motion by Rep. Crist, the House concurred in Senate Amendment 1, as amended. The question recurred on the passage of HJR 3505, which now reads as follows:

HJR 3505—A joint resolution proposing an amendment to s. 17, Art. I of the State Constitution, relating to excessive punishment.

Be It Resolved by the Legislature of the State of Florida:

That the amendment to Section 17 of Article I of the State Constitution set forth below is agreed to and shall be submitted to the electors of Florida for approval or rejection at the general election to be held in November 1998:

SECTION 17. Excessive punishments.—Excessive fines, cruel *and* ~~or~~ unusual punishment, attainder, forfeiture of estate, indefinite imprisonment, and unreasonable detention of witnesses are forbidden. *The death penalty is an authorized punishment for capital crimes designated by the Legislature. The prohibition against cruel or unusual punishment, and the prohibition against cruel and unusual punishment, shall be construed in conformity with decisions of the United States Supreme Court which interpret the prohibition against cruel and unusual punishment provided in the Eighth Amendment to the United States Constitution. Any method of execution shall be allowed, unless prohibited by the United States Constitution. Methods of execution may be designated by the Legislature, and a change in any method of execution may be applied retroactively. A sentence of death shall not be reduced on the basis that a method of execution is invalid. In any case in which an execution method is declared invalid, the death sentence shall remain in force until the sentence can be lawfully executed by any valid method. This section shall apply retroactively.*

BE IT FURTHER RESOLVED that in accordance with the requirements of section 101.161, Florida Statutes, the title and substance of the amendment proposed herein shall appear on the ballot as follows:

PRESERVATION OF THE DEATH PENALTY;
UNITED STATES SUPREME COURT INTERPRETATION
OF CRUEL AND UNUSUAL PUNISHMENT

Proposing an amendment to Section 17 of Article I of the State Constitution preserving the death penalty, and permitting any execution method unless prohibited by the Federal Constitution. Requires construction of the prohibition against cruel and/or unusual punishment to conform to United States Supreme Court interpretation of the Eighth Amendment. Prohibits reduction of a death sentence based on invalidity of execution method, and provides for continued force of sentence. Provides for retroactive applicability.

The vote was:

Yeas—115

The Chair	Bullard	Eggelletion	Jacobs
Albright	Burroughs	Fasano	Jones
Alexander	Bush	Feeney	Kelly
Andrews	Byrd	Fischer	King
Argenziano	Carlton	Flanagan	Kosmas
Arnall	Casey	Frankel	Lacasa
Arnold	Chestnut	Fuller	Lawson
Bainter	Clemons	Futch	Littlefield
Ball	Constantine	Garcia	Livingston
Barreiro	Cosgrove	Gay	Logan
Betancourt	Crist	Goode	Lynn
Bitner	Crow	Gottlieb	Mackenzie
Bloom	Culp	Greene	Mackey
Boyd	Dawson-White	Hafner	Maygarden
Bradley	Dennis	Harrington	Meek
Brennan	Diaz de la Portilla	Healey	Melvin
Bronson	Dockery	Heyman	Merchant
Brooks	Edwards	Hill	Miller
Brown	Effman	Horan	Minton

Morroni	Ritchie	Sindler	Trovillion
Murman	Ritter	Smith	Turnbull
Ogles	Roberts-Burke	Spratt	Valdes
Peaden	Rodriguez-Chomat	Stabins	Villalobos
Posey	Rojas	Stafford	Wallace
Prewitt, D.	Safley	Starks	Wasserman Schultz
Pruitt, K.	Sanderson	Sublette	Westbrook
Putnam	Saunders	Tamargo	Wiles
Rayson	Sembler	Thrasher	Wise
Reddick	Silver	Tobin	

Nays—None

So the joint resolution passed, as amended, by the required constitutional three-fifths vote of the membership. The action, together with the joint resolution and amendments thereto, was immediately certified to the Senate.

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed SB 1976, as amended, and requests the concurrence of the House.

Faye W. Blanton, Secretary

By Senator Forman—

SB 1976—A bill to be entitled An act relating to the Construction Industry Recovery Fund; amending s. 489.143, F.S.; increasing the aggregate amount that may be paid for claims against any one certificateholder or registrant; providing an effective date.

—was read the first time by title. On motion by Rep. Wasserman Schultz, the rules were suspended and the bill was read the second time by title and the third time by title. On passage, the vote was:

Yeas—117

The Chair	Crow	Kosmas	Rojas
Albright	Culp	Lacasa	Safley
Alexander	Dawson-White	Lawson	Sanderson
Andrews	Dennis	Littlefield	Saunders
Argenziano	Diaz de la Portilla	Livingston	Sembler
Arnall	Dockery	Logan	Silver
Arnold	Edwards	Lynn	Sindler
Bainter	Effman	Mackenzie	Smith
Ball	Eggelletion	Mackey	Spratt
Barreiro	Fasano	Maygarden	Stabins
Betancourt	Feeney	Meek	Stafford
Bitner	Fischer	Melvin	Starks
Bloom	Flanagan	Merchant	Sublette
Boyd	Frankel	Miller	Tamargo
Bradley	Fuller	Minton	Thrasher
Brennan	Futch	Morroni	Tobin
Bronson	Garcia	Morse	Trovillion
Brooks	Gay	Murman	Turnbull
Brown	Goode	Ogles	Valdes
Bullard	Gottlieb	Peaden	Villalobos
Burroughs	Greene	Posey	Wallace
Bush	Hafner	Prewitt, D.	Warner
Byrd	Harrington	Pruitt, K.	Wasserman Schultz
Carlton	Healey	Putnam	Westbrook
Casey	Heyman	Rayson	Wiles
Chestnut	Hill	Reddick	Wise
Clemons	Horan	Ritchie	Ziebarth
Constantine	Jacobs	Ritter	
Cosgrove	Jones	Roberts-Burke	
Crist	King	Rodriguez-Chomat	

Nays—None

So the bill passed and was immediately certified to the Senate.

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for SB 1372, as amended, and requests the concurrence of the House.

Faye W. Blanton, Secretary

By the Committee on Banking and Insurance and Senators Williams and Grant—

CS for SB 1372—A bill to be entitled An act relating to insurance; amending ss. 624.425, 624.428, 624.478, 626.112, F.S.; requiring agents to be appointed; amending s. 624.501, F.S.; clarifying application of fees for title insurance agents; amending s. 626.022, F.S.; providing for applicability of ch. 626, F.S.; amending s. 626.051, F.S.; revising the definition of the term "life agent"; prescribing requirements for soliciting or selling variable life insurance, variable annuity contracts, and other indeterminate value contracts; amending s. 626.062, F.S.; conforming a cross-reference; amending ss. 626.141, 626.171, 626.181, 626.211, 626.221, 626.266, 626.281, 626.311, 626.511, 626.521, 626.561, 626.611, 626.621, 626.641, 626.651, 626.727, 626.730, 626.732, 626.733, 626.877, F.S.; including customer representatives within and deleting claims investigators from application of certain provisions; excluding solicitors; authorizing the department to secure a credit and character report on certain persons; providing limits; providing requirements of the department; amending s. 626.451, F.S.; requiring law enforcement agencies, the state attorney's office, and court clerks to notify the department of agents found guilty of felonies; amending s. 626.201, F.S.; providing for interrogatories before reinstatement; amending s. 626.321, F.S.; authorizing certain entities that hold a limited license for credit life or disability insurance to sell credit property insurance; authorizing persons who hold a limited license for credit insurance to hold certain additional licenses; amending s. 626.331, F.S.; requiring licensure of certain agents for certain appointments; providing that an appointment fee is not refundable; amending s. 626.342, F.S.; prohibiting furnishing supplies to certain agents; amending s. 626.541, F.S.; specifying names and addresses required of certain personnel of corporations; amending s. 626.592, F.S.; revising provisions relating to designation of primary agents; amending s. 626.601, F.S.; authorizing the department to initiate investigation of agents or other licensees under certain conditions; amending s. 626.681, F.S.; providing for administrative fines in addition to certain actions; increasing such fines; amending s. 626.691, F.S.; authorizing the department to place certain persons on probation in addition to suspending, revoking, or refusing to renew a license or appointment; creating s. 626.692, F.S.; providing for restitution under certain circumstances; amending s. 626.7351, F.S.; specifying additional qualifications for a customer representative's license; amending s. 626.739, F.S.; specifying a temporary license as general lines insurance agent; amending s. 626.741, F.S.; authorizing the department to issue a customer representative license to certain persons; providing a limitation; providing procedures for agent licensure of certain persons under certain circumstances; providing for cancellation of a nonresident agent's license; amending ss. 626.792, 626.835, F.S.; providing procedures for issuing a resident agent's license to certain persons; amending s. 626.837, F.S.; clarifying conditions of placing certain excess or rejected risks; amending s. 626.8411, F.S.; conforming a cross-reference; amending s. 626.8417, F.S.; revising the qualifications for licensure as a title insurance agent; amending s. 626.8418, F.S.; increasing the amount of the deposit or bond of a title insurance agency; specifying that the bond of a title insurance agency must be posted with the department and must inure to the benefit of damaged insurers and insureds; amending ss. 626.8437, 626.844, F.S.; clarifying application of grounds for refusal, suspension, or revocation of license or appointment; amending s. 626.8443, F.S.; providing additional limitations on activities during suspension or after revocation of a license; amending s. 626.852, F.S.; providing for applicability; amending s. 626.858, F.S.; revising the definition of the term "nonresident adjuster" to define "nonresident company employee adjuster"; creating s. 626.8582, F.S.; defining the term "nonresident public adjuster"; creating s. 626.8884, F.S.; defining the term "nonresident independent adjuster"; amending s. 626.865, F.S.; increasing the bonding requirements for public adjusters; amending s. 626.873, F.S.; providing for licensure and qualifications for resident company employee adjusters; creating s. 626.8732, F.S.; providing for

licensure and qualifications for nonresident public adjusters; creating s. 626.8734, F.S.; providing for licensure and qualifications for nonresident independent adjusters; creating s. 626.8736, F.S.; providing for service of process on nonresident independent adjusters and on nonresident public adjusters; creating s. 626.8737, F.S.; establishing a retaliatory tax provision regarding certain fines, taxes, penalties, license fees, monetary deposits, securities, or other obligations, limitations, or prohibitions imposed by another state upon Florida resident insurance adjusters in connection with the issuance of, or activities under, a nonresident adjuster's license under that state's laws; creating s. 626.8738, F.S.; providing a criminal penalty for acting as a resident or nonresident public adjuster without the required license; amending s. 626.869, F.S.; requiring certain continuing education courses; clarifying requirements of such courses; amending s. 626.8695, F.S.; providing for notice to the department; requiring designation of primary adjuster on forms prescribed by the department; amending s. 626.872, F.S.; prohibiting the department from issuing a temporary adjuster's license to certain persons; amending s. 626.873, F.S.; providing procedures for licensing certain persons as resident adjusters; providing for cancellation of nonresident adjuster's license; amending s. 626.875, F.S; prescribing time for keeping adjusters' records; amending s. 626.922, F.S.; requiring surplus lines agents to perform certain duties relating to evidence of insurance; amending s. 626.928, F.S.; increasing bonds for surplus lines agents; amending ss. 626.927, 626.9271, 626.929, 626.935, 626.944, F.S.; requiring appointment in addition to licensure of certain persons; amending s. 627.745, F.S.; clarifying a provision related to final examination; amending s. 634.420, F.S.; clarifying application of accountability provisions; amending s. 634.317, F.S.; providing for responsibility and accountability of sales representatives; amending s. 642.036, F.S.; deleting requirement that the addresses of certain agents be filed with the department; repealing s. 626.112(6), F.S., relating to licensing of claims investigators; amending s. 624.412, F.S.; deleting provisions relating to minimum trust deposits by alien insurers; amending s. 627.681, F.S.; prescribing terms for credit life insurance and credit disability insurance; repealing s. 626.532, F.S., relating to insurance vending machine licenses; repealing s. 626.857, F.S., relating to the definition of "claims investigator"; creating s. 624.4072, F.S.; exempting minority-owned property and casualty insurers from prescribed taxes and assessments for specified period; specifying conditions; providing for future repeal; providing an effective date.

—was read the first time by title.

Further consideration of CS for SB 1372 was temporarily postponed under Rule 147.

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS/HB 4413, with amendment, and requests the concurrence of the House.

Faye W. Blanton, Secretary

CS/HB 4413—A bill to be entitled An act relating to administration of revenue laws; amending s. 192.001, F.S.; restricting applicability of the definition of "computer software" for purposes of imposing ad valorem taxes; amending s. 199.052, F.S.; requiring banks and financial organizations filing annual intangible personal property tax returns for their customers to file information using machine-sensible media; amending s. 212.0515, F.S.; eliminating the requirement that persons selling food or beverages to operators for resale through vending machines report to the Department of Revenue quarterly; amending s. 212.054, F.S.; removing provisions which specify when a dealer outside a county which adopts or revises a discretionary sales surtax who makes sales within that county must begin to collect the surtax; prescribing the effective date of an increase or decrease in the rate of any discretionary sales surtax and revising the termination date; providing requirements with respect to notice to the department by a county or school board imposing, terminating, revising, or proposing to impose, terminate, or revise, a surtax, and specifying effect of failure to provide notice; amending s. 212.055, F.S.; removing provisions which allow a nonuniform effective date for the local government infrastructure surtax, small county surtax, indigent care surtax, small county indigent care surtax, and school capital outlay surtax; amending s. 125.2801, F.S.; correcting a reference; amending ss. 212.097 and 212.098, F.S.; redefining "new business" for purposes of the urban high-crime area job tax credit and the rural job tax credit; amending s. 212.11, F.S.; providing requirements relating to sales tax returns filed through electronic data interchange; amending s. 212.12, F.S.; revising provisions relating to the dealer's credit for collecting sales tax; specifying that the credit is also for the filing of timely returns; authorizing the department to deny, rather than reduce, the credit if an incomplete return is filed; revising the definition of "incomplete return"; amending s. 212.17, F.S.; providing that the department shall prescribe the format for filing returns through electronic data interchange and specifying that failure to use the format does not relieve a dealer from the payment of tax; amending s. 213.755, F.S.; defining "payment" and "return" for purposes of revenue laws administered by the department; amending s. 213.053, F.S., relating to confidentiality of information obtained by the department and sharing of such information; revising provisions relating to applicability of said section; amending s. 213.0535, F.S.; revising provisions relating to frequency of exchange of information by certain participants in the Registration Information Sharing and Exchange Program; amending s. 213.21, F.S.; revising provisions that authorize the department to delegate to the executive director authority to approve a settlement or compromise of tax liability, to increase the limit on the amount of tax reduction with respect to which such delegation may be made; specifying a time period for which the department may settle and compromise tax and interest due when a taxpayer voluntarily self-discloses a tax liability and authorizing further settlement and compromise under certain circumstances; amending s. 213.28, F.S.; revising qualifications of certified public accountants contracting with the department to perform audits; amending s. 213.67, F.S.; providing that a person who receives a notice to withhold with respect to property of a delinquent taxpayer and who disposes of such property during the effective period of the notice is liable for the taxpayer's indebtedness under certain circumstances; providing that such notice remains in effect while a taxpayer's contest of an intended levy is pending; providing that a financial institution receiving such notice has a right of setoff for certain debit card transactions; requiring persons who receive such notice to notify the department of assets of the delinquent taxpayer subsequently coming into their possession and prohibiting disposal of such assets; specifying that a notice of levy to such persons be by registered mail; authorizing the department to bring an action to compel compliance with notices issued under said section; amending s. 220.03, F.S.; updating references to the Internal Revenue Code for corporate income tax purposes; amending s. 220.02, F.S.; providing legislative intent regarding taxation of a "qualified subchapter S subsidiary"; amending s. 220.22, F.S.; requiring certain returns by such subsidiaries; providing retroactive application; providing effective dates.

Senate Amendment 1 (with title amendment)—Delete everything after the enacting clause

and insert:

Section 1. Section 125.2801, Florida Statutes, is amended to read:

125.2801 County qualification retention.—Once a county qualifies for authorization to create a jury district under s. 40.015(1), and once a county qualifies for small county technical assistance pursuant to s. 163.05(3), and once a county qualifies to be required to include optional elements in their comprehensive plans pursuant to s. 163.3177(6)(i), and once a county qualifies to enter into a written agreement with the state land planning agency pursuant to s. 163.3191(12)(a), and once a county qualifies under s. 212.055(2)(d)1. to use local government infrastructure surtax proceeds or any interest accrued thereto for long-term maintenance costs associated with landfill closure, and once a county qualifies under *s. 212.055(2)(h)* ~~s. 212.055(2)(j)~~ to use local government infrastructure surtax proceeds and interest for operation and maintenance of parks and recreation programs and facilities established with proceeds of the surtax, and once a county qualifies for reduction or waiver of permit processing fees pursuant to s. 218.075, and once a county qualifies for emergency distribution pursuant to s. 218.65, and once a county qualifies for funds from the Emergency Management, Preparedness, and Assistance Trust Fund pursuant to s. 252.373(3)(a), and once a county qualifies for priority State Touring Program grants

under s. 265.2861(1)(c), and once a county qualifies under s. 403.706(4)(d) to provide its residents with the opportunity to recycle, and once a county qualifies for receipt of annual solid waste and recycling grants pursuant to s. 403.7095(7)(a), the county shall retain such qualification until it exceeds a population of 75,000.

Section 2. Subsection (19) of section 192.001, Florida Statutes, is amended to read:

192.001 Definitions.—All definitions set out in chapters 1 and 200 that are applicable to this part are included herein. In addition, the following definitions shall apply in the imposition of ad valorem taxes:

(19) "Computer software" means any information, program, or routine, or any set of one or more programs, routines, or collections of information used or intended for use to convey information or to cause one or more computers or pieces of computer-related peripheral equipment, or any combination thereof, to perform a task or set of tasks. Without limiting the generality of the definition provided in this subsection, the term includes operating and applications programs and all related documentation. Computer software does not include embedded software that resides permanently in the internal memory of a computer or computer-related peripheral equipment and that is not removable without terminating the operation of the computer or equipment. Computer software constitutes personal property only to the extent of the value of the unmounted or uninstalled medium on or in which the information, program, or routine is stored or transmitted, and, after installation or mounting by any person, computer software does not increase the value of the computer or computer-related peripheral equipment, or any combination thereof. *Notwithstanding any other provision of law, this subsection applies to the 1997 and subsequent tax rolls and to any assessment in an administrative or judicial action pending on June 1, 1997.*

Section 3. Subsection (15) is added to section 199.052, Florida Statutes, to read:

199.052 Annual tax returns; payment of annual tax.—

(15) All banks and financial organizations filing annual intangible tax returns for their customers shall file return information for taxes due January 1, 1999, and thereafter using machine-sensible media. The information required by this subsection must be reported by banks or financial organizations on machine-sensible media, using specifications and instructions of the department. A bank or financial organization that demonstrates to the satisfaction of the department that a hardship exists is not required to file intangible tax returns for its customers using machine-sensible media. The department shall adopt rules necessary to administer this subsection.

Section 4. Paragraph (c) of subsection (14) of section 212.02, Florida Statutes, is amended to read:

212.02 Definitions.—The following terms and phrases when used in this chapter have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(14)

(c) "Retail sales," "sale at retail," "use," "storage," and "consumption" do not include materials, containers, labels, sacks, or bags intended to be used one time only for packaging tangible personal property for sale or for packaging in the process of providing a service taxable under this chapter and do not include the sale, use, storage, or consumption of industrial materials, including chemicals and fuels except as provided herein, for future processing, manufacture, or conversion into articles of tangible personal property for resale when such industrial materials, including chemicals and fuels except as provided herein, become a component or ingredient of the finished product *and do not include the sale, use, storage, or consumption of materials for use in repairing a motor vehicle, airplane, or boat, when such materials are incorporated into the repaired vehicle, airplane, or boat*. However, said terms include the sale, use, storage, or consumption of tangible personal property, including machinery and equipment or parts thereof, purchased electricity, and fuels used to power machinery, when said items are used and dissipated in fabricating, converting, or processing tangible personal property for sale, even though they may become ingredients or components of the tangible personal property for sale through accident, wear, tear, erosion, corrosion, or similar means.

Section 5. Subsections (3) and (4) are added to section 212.0601, Florida Statutes, to read:

212.0601 Use taxes of vehicle dealers.—

(3) Unless otherwise exempted by law, a motor vehicle dealer who loans a vehicle to any person at no charge shall accrue use tax based on the annual lease value as determined by the United States Interval Revenue Service's Automobile Annual Lease Value Table.

(4) Notwithstanding the provisions of a motor vehicle rental agreement, no sales or use tax and no rental car surcharge pursuant to s. 212.0606 shall accrue to the use of a motor vehicle provided at no charge to a person whose motor vehicle is being repaired, adjusted, or serviced by the entity providing the replacement motor vehicle.

Section 6. Subsection (4) is added to section 212.0606, Florida Statutes, to read:

212.0606 Rental car surcharge.—

(4) The surcharge imposed by this section does not apply to a motor vehicle provided at no charge to a person whose motor vehicle is being repaired, adjusted, or serviced by the entity providing the replacement motor vehicle.

Section 7. Subsection (5) of section 212.0515, Florida Statutes, is amended to read:

212.0515 Sales from vending machines; special provisions; registration; penalties.—

(5)~~(a) Any person who sells food or beverages to an operator for resale through vending machines shall submit to the department on or before the 20th day of the month following the close of each calendar quarter a report which identifies by dealer registration number each operator described in paragraph (b) who has purchased such items from said person and states the net dollar amount of purchases made by each operator from said person. In addition, the report shall also include the purchaser's name, dealer registration number, and sales price for any tax-free sale for resale of canned soft drinks of 25 cases or more.~~

(a)~~(b)~~ Each operator who purchases food or beverages for resale in vending machines shall annually provide to the dealer from whom the items are purchased a certificate on a form prescribed and issued by the department. The certificate must affirmatively state that the purchaser is a vending machine operator. The certificate shall initially be provided upon the first transaction between the parties and by November 1 of each year thereafter.

(b)~~(c) A penalty of $250 is imposed on any person who is required to file the quarterly report required by this subsection who fails to do so or who files false information.~~ A penalty of $250 is imposed on any operator who fails to comply with the requirements of this subsection or who provides the dealer with false information. Penalties accrue interest as provided for delinquent taxes under this chapter and apply in addition to all other applicable taxes, interest, and penalties.

~~(d) The department is authorized to adopt rules regarding the form in which the quarterly report required by this subsection is to be submitted, which form may include magnetic tape or other means of electronic transmission.~~

Section 8. Section 212.054, Florida Statutes, is amended to read:

212.054 Discretionary sales surtax; limitations, administration, and collection.—

(1) No general excise tax on sales shall be levied by the governing body of any county unless specifically authorized in s. 212.055. Any general excise tax on sales authorized pursuant to said section shall be administered and collected exclusively as provided in this section.

(2)(a) The tax imposed by the governing body of any county authorized to so levy pursuant to s. 212.055 shall be a discretionary

surtax on all transactions occurring in the county which transactions are subject to the state tax imposed on sales, use, services, rentals, admissions, and other transactions by this chapter. The surtax, if levied, shall be computed as the applicable rate or rates authorized pursuant to s. 212.055 times the amount of taxable sales and taxable purchases representing such transactions. If the surtax is levied on the sale of an item of tangible personal property or on the sale of a service, the surtax shall be computed by multiplying the rate imposed by the county within which the sale occurs by the amount of the taxable sale. The sale of an item of tangible personal property or the sale of a service is not subject to the surtax if the property, the service, or the tangible personal property representing the service is delivered within a county that does not impose a discretionary sales surtax.

(b) However:

1. The tax on any sales amount above $5,000 on any item of tangible personal property and on long-distance telephone service shall not be subject to the surtax. For purposes of administering the $5,000 limitation on an item of tangible personal property, if two or more taxable items of tangible personal property are sold to the same purchaser at the same time and, under generally accepted business practice or industry standards or usage, are normally sold in bulk or are items that, when assembled, comprise a working unit or part of a working unit, such items must be considered a single item for purposes of the $5,000 limitation when supported by a charge ticket, sales slip, invoice, or other tangible evidence of a single sale or rental. The limitation provided in this subparagraph does not apply to the sale of any other service.

2. In the case of utility, telecommunication, or television system program services billed on or after the effective date of any such surtax, the entire amount of the tax for utility, telecommunication, or television system program services shall be subject to the surtax. In the case of utility, telecommunication, or television system program services billed after the last day the surtax is in effect, the entire amount of the tax on said items shall not be subject to the surtax.

3. In the case of written contracts which are signed prior to the effective date of any such surtax for the construction of improvements to real property or for remodeling of existing structures, the surtax shall be paid by the contractor responsible for the performance of the contract. However, the contractor may apply for one refund of any such surtax paid on materials necessary for the completion of the contract. Any application for refund shall be made no later than 15 months following initial imposition of the surtax in that county. The application for refund shall be in the manner prescribed by the department by rule. A complete application shall include proof of the written contract and of payment of the surtax. The application shall contain a sworn statement, signed by the applicant or its representative, attesting to the validity of the application. The department shall, within 30 days after approval of a complete application, certify to the county information necessary for issuance of a refund to the applicant. Counties are hereby authorized to issue refunds for this purpose and shall set aside from the proceeds of the surtax a sum sufficient to pay any refund lawfully due. Any person who fraudulently obtains or attempts to obtain a refund pursuant to this subparagraph, in addition to being liable for repayment of any refund fraudulently obtained plus a mandatory penalty of 100 percent of the refund, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) For the purpose of this section, a transaction shall be deemed to have occurred in a county imposing the surtax when:

(a)1. The sale includes an item of tangible personal property, a service, or tangible personal property representing a service, and the item of tangible personal property, the service, or the tangible personal property representing the service is delivered within the county. If there is no reasonable evidence of delivery of a service, the sale of a service is deemed to occur in the county in which the purchaser accepts the bill of sale.

~~2. However, a dealer selling tangible personal property, or delivering a service or tangible personal property representing a service, into a county which, before November 9 of any year, adopts or revises any surtax authorized in s. 212.055, from outside such a county, is not required to collect the surtax at the new or revised rate on such transaction until February 1 of the year following the year of the adoption or revision of the surtax. However, if the surtax is adopted or revised between November 9 and December 31 of any year, such dealer is not required to collect such surtax at the new or revised rate until February 1 of the year after the subsequent year. The department shall notify all dealers of all surtax rates in effect on November 9 no later than February 1 of the subsequent year.~~

2.~~3.~~ The sale of any motor vehicle or mobile home of a class or type which is required to be registered in this state or in any other state shall be deemed to have occurred only in the county identified as the residence address of the purchaser on the registration or title document for such property.

(b) The event for which an admission is charged is located in the county.

(c) The consumer of utility or television system program services is located in the county, or the telecommunication services are provided to a location within the county.

(d)1. The user of any aircraft or boat of a class or type which is required to be registered, licensed, titled, or documented in this state or by the United States Government imported into the county for use, consumption, distribution, or storage to be used or consumed in the county is located in the county.

2. However, it shall be presumed that such items used outside the county for 6 months or longer before being imported into the county were not purchased for use in the county, except as provided in s. 212.06(8)(b).

3. This paragraph does not apply to the use or consumption of items upon which a like tax of equal or greater amount has been lawfully imposed and paid outside the county.

(e) The purchaser of any motor vehicle or mobile home of a class or type which is required to be registered in this state is a resident of the taxing county as determined by the address appearing on or to be reflected on the registration document for such property.

(f)1. Any motor vehicle or mobile home of a class or type which is required to be registered in this state is imported from another state into the taxing county by a user residing therein for the purpose of use, consumption, distribution, or storage in the taxing county.

2. However, it shall be presumed that such items used outside the taxing county for 6 months or longer before being imported into the county were not purchased for use in the county.

(g) The real property which is leased or rented is located in the county.

(h) The transient rental transaction occurs in the county.

(i) The delivery of any aircraft or boat of a class or type which is required to be registered, licensed, titled, or documented in this state or by the United States Government is to a location in the county. However, this paragraph does not apply to the use or consumption of items upon which a like tax of equal or greater amount has been lawfully imposed and paid outside the county.

(j) The dealer owing a use tax on purchases or leases is located in the county.

(k) The delivery of tangible personal property other than that described in paragraph (d), paragraph (e), or paragraph (f) is made to a location outside the county, but the property is brought into the county within 6 months after delivery, in which event, the owner must pay the surtax as a use tax.

(l) The coin-operated amusement or vending machine is located in the county.

(m) The florist taking the original order to sell tangible personal property is located in the county, notwithstanding any other provision of this section.

(4)(a) The department shall administer, collect, and enforce the tax authorized under s. 212.055 pursuant to the same procedures used in the administration, collection, and enforcement of the general state sales tax imposed under the provisions of this chapter, except as provided in this section. The provisions of this chapter regarding interest and penalties on delinquent taxes shall apply to the surtax. Discretionary sales surtaxes shall not be included in the computation of estimated taxes pursuant to s. 212.11. Notwithstanding any other provision of law, a dealer need not separately state the amount of the surtax on the charge ticket, sales slip, invoice, or other tangible evidence of sale. For the purposes of this section and s. 212.055, the "proceeds" of any surtax means all funds collected and received by the department pursuant to a specific authorization and levy under s. 212.055, including any interest and penalties on delinquent surtaxes.

(b) The proceeds of a discretionary sales surtax collected by the selling dealer located in a county which imposes the surtax shall be returned, less the cost of administration, to the county where the selling dealer is located. The proceeds shall be transferred to the Discretionary Sales Surtax Clearing Trust Fund. A separate account shall be established in such trust fund for each county imposing a discretionary surtax. The amount deducted for the costs of administration shall not exceed 3 percent of the total revenue generated for all counties levying a surtax authorized in s. 212.055. The amount deducted for the costs of administration shall be used only for those costs which are solely and directly attributable to the surtax. The total cost of administration shall be prorated among those counties levying the surtax on the basis of the amount collected for a particular county to the total amount collected for all counties. No later than March 1 of each year, the department shall submit a written report which details the expenses and amounts deducted for the costs of administration to the President of the Senate, the Speaker of the House of Representatives, and the governing authority of each county levying a surtax. The department shall distribute the moneys in the trust fund each month to the appropriate counties, unless otherwise provided in s. 212.055.

(c)1. Any dealer located in a county that does not impose a discretionary sales surtax but who collects the surtax due to sales of tangible personal property or services delivered outside the county shall remit monthly the proceeds of the surtax to the department to be deposited into an account in the Discretionary Sales Surtax Clearing Trust Fund which is separate from the county surtax collection accounts. The department shall distribute funds in this account using a distribution factor determined for each county that levies a surtax and multiplied by the amount of funds in the account and available for distribution. The distribution factor for each county equals the product of:

a. The county's latest official population determined pursuant to s. 186.901;

b. The county's rate of surtax; and

c. The number of months the county has levied a surtax during the most recent distribution period;

divided by the sum of all such products of the counties levying the surtax during the most recent distribution period.

2. The department shall compute distribution factors for eligible counties once each quarter and make appropriate quarterly distributions.

3. A county that fails to timely provide the information required by this section to the department authorizes the department, by such action, to use the best information available to it in distributing surtax revenues to the county. If this information is unavailable to the department, the department may partially or entirely disqualify the county from receiving surtax revenues under this paragraph. A county that fails to provide timely information waives its right to challenge the department's determination of the county's share, if any, of revenues provided under this paragraph.

(5) No discretionary sales surtax *or increase or decrease in the rate of any discretionary sales surtax* shall take effect on a date other than January 1. No discretionary sales surtax shall terminate on a day other than *December 31* ~~the last day of a calendar quarter~~.

(6) The governing body of any county levying a discretionary sales surtax shall enact an ordinance levying the surtax in accordance with the procedures described in s. 125.66(2) ~~and shall notify the department within 10 days after adoption of the ordinance. The notice shall include the time period during which the surtax will be in effect, the rate, a copy of the ordinance, and such other information as the department may prescribe by rule. Notification and final adoption of the surtax shall occur no later than 45 days prior to initial imposition of the surtax~~.

(7)(a) The governing body of any county levying a discretionary sales surtax or the school board of any county levying the school capital outlay surtax authorized by s. 212.055(7) shall notify the department within 10 days after final adoption by ordinance or referendum of an imposition, termination, or rate change of the surtax, but no later than November 16 prior to the effective date. The notice must specify the time period during which the surtax will be in effect and the rate and must include a copy of the ordinance and such other information as the department requires by rule. Failure to timely provide such notification to the department shall result in the delay of the effective date for a period of 1 year.

(b) In addition to the notification required by paragraph (a), the governing body of any county proposing to levy a discretionary sales surtax or the school board of any county proposing to levy the school capital outlay surtax authorized by s. 212.055(7) shall notify the department by October 1 if the referendum or consideration of the ordinance that would result in imposition, termination, or rate change of the surtax is scheduled to occur on or after October 1 of that year. Failure to timely provide such notification to the department shall result in the delay of the effective date for a period of 1 year.

(8)~~(7)~~ With respect to any motor vehicle or mobile home of a class or type which is required to be registered in this state, the tax due on a transaction occurring in the taxing county as herein provided shall be collected from the purchaser or user incident to the titling and registration of such property, irrespective of whether such titling or registration occurs in the taxing county.

Section 9. Section 212.055, Florida Statutes, as amended by section 17 of chapter 97-384, Laws of Florida, is amended to read:

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.—It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

(1) CHARTER COUNTY TRANSIT SYSTEM SURTAX.—

(a) Each charter county which adopted a charter prior to June 1, 1976, and each county the government of which is consolidated with that of one or more municipalities, may levy a discretionary sales surtax, subject to approval by a majority vote of the electorate of the county or by a charter amendment approved by a majority vote of the electorate of the county.

(b) The rate shall be up to 1 percent.

(c) The proposal to adopt a discretionary sales surtax as provided in this subsection and to create a trust fund within the county accounts shall be placed on the ballot in accordance with law at a time to be set at the discretion of the governing body.

(d) Proceeds from the surtax shall be:

1. Deposited by the county in the trust fund and shall be used only for the purposes of development, construction, equipment, maintenance,

operation, supportive services, including a countywide bus system, and related costs of a fixed guideway rapid transit system;

2. Remitted by the governing body of the county to an expressway or transportation authority created by law to be used, at the discretion of such authority, for the development, construction, operation, or maintenance of roads or bridges in the county, for the operation and maintenance of a bus system, or for the payment of principal and interest on existing bonds issued for the construction of such roads or bridges, and, upon approval by the county commission, such proceeds may be pledged for bonds issued to refinance existing bonds or new bonds issued for the construction of such roads or bridges; or

3. For each county, as defined in s. 125.011(1), used for the development, construction, operation, or maintenance of roads and bridges in the county; for the expansion, operation, and maintenance of an existing bus system; or for the payment of principal and interest on existing bonds issued for the construction of fixed guideway rapid transit systems, roads, or bridges; and such proceeds may be pledged by the governing body of the county for bonds issued to refinance existing bonds or new bonds issued for the construction of such fixed guideway rapid transit systems, roads, or bridges.

(2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

(a)1. The governing authority in each county may levy a discretionary sales surtax of 0.5 percent or 1 percent. The levy of the surtax shall be pursuant to ordinance enacted by a majority of the members of the county governing authority and approved by a majority of the electors of the county voting in a referendum on the surtax. If the governing bodies of the municipalities representing a majority of the county's population adopt uniform resolutions establishing the rate of the surtax and calling for a referendum on the surtax, the levy of the surtax shall be placed on the ballot and shall take effect if approved by a majority of the electors of the county voting in the referendum on the surtax.

2. If the surtax was levied pursuant to a referendum held before July 1, 1993, the surtax may not be levied beyond the time established in the ordinance, or, if the ordinance did not limit the period of the levy, the surtax may not be levied for more than 15 years. The levy of such surtax may be extended only by approval of a majority of the electors of the county voting in a referendum on the surtax.

(b) A statement which includes a brief general description of the projects to be funded by the surtax and which conforms to the requirements of s. 101.161 shall be placed on the ballot by the governing authority of any county which enacts an ordinance calling for a referendum on the levy of the surtax or in which the governing bodies of the municipalities representing a majority of the county's population adopt uniform resolutions calling for a referendum on the surtax. The following question shall be placed on the ballot:

. . . . FOR the . . . . –cent sales tax
. . . . AGAINST the . . . . –cent sales tax

(c) Pursuant to s. 212.054(4), the proceeds of the surtax levied under this subsection shall be distributed to the county and the municipalities within such county in which the surtax was collected, according to:

1. An interlocal agreement between the county governing authority and the governing bodies of the municipalities representing a majority of the county's municipal population, which agreement may include a school district with the consent of the county governing authority and the governing bodies of the municipalities representing a majority of the county's municipal population; or

2. If there is no interlocal agreement, according to the formula provided in s. 218.62.

Any change in the distribution formula must take effect on the first day of any month that begins at least 60 days after written notification of that change has been made to the department.

(d)1. The proceeds of the surtax authorized by this subsection and any interest accrued thereto shall be expended by the school district or within the county and municipalities within the county, or, in the case of a negotiated joint county agreement, within another county, to finance, plan, and construct infrastructure and to acquire land for public recreation or conservation or protection of natural resources and to finance the closure of county-owned or municipally owned solid waste landfills that are already closed or are required to close by order of the Department of Environmental Protection. Any use of such proceeds or interest for purposes of landfill closure prior to July 1, 1993, is ratified. Neither the proceeds nor any interest accrued thereto shall be used for operational expenses of any infrastructure, except that any county with a population of less than 50,000 that is required to close a landfill by order of the Department of Environmental Protection may use the proceeds or any interest accrued thereto for long-term maintenance costs associated with landfill closure. Counties, as defined in s. 125.011(1), may, in addition, use the proceeds to retire or service indebtedness incurred for bonds issued prior to July 1, 1987, for infrastructure purposes.

2. For the purposes of this paragraph, "infrastructure" means:

a. Any fixed capital expenditure or fixed capital outlay associated with the construction, reconstruction, or improvement of public facilities which have a life expectancy of 5 or more years and any land acquisition, land improvement, design, and engineering costs related thereto.

b. A fire department vehicle, an emergency medical service vehicle, a sheriff's office vehicle, a police department vehicle, or any other vehicle, and such equipment necessary to outfit the vehicle for its official use or equipment that has a life expectancy of at least 5 years.

3. Notwithstanding any other provision of this subsection, a discretionary sales surtax imposed or extended after the effective date of this act may provide for an amount not to exceed 15 percent of the local option sales surtax proceeds to be allocated for deposit to a trust fund within the county's accounts created for the purpose of funding economic development projects of a general public purpose targeted to improve local economies, including the funding of operational costs and incentives related to such economic development. The ballot statement must indicate the intention to make an allocation under the authority of this subparagraph.

(e) School districts, counties, and municipalities receiving proceeds under the provisions of this subsection may pledge such proceeds for the purpose of servicing new bond indebtedness incurred pursuant to law. Local governments may use the services of the Division of Bond Finance of the State Board of Administration pursuant to the State Bond Act to issue any bonds through the provisions of this subsection. In no case may a jurisdiction issue bonds pursuant to this subsection more frequently than once per year. Counties and municipalities may join together for the issuance of bonds authorized by this subsection.

(f) Counties and municipalities shall not use the surtax proceeds to supplant or replace user fees or to reduce ad valorem taxes existing prior to the levy of the surtax authorized by this subsection.

~~(g) Notwithstanding s. 212.054(5), the surtax must take effect on the first day of a month, as fixed by the ordinance adopted pursuant to paragraph (a), and may not take effect until at least 60 days after the date that the referendum approving the levy is held.~~

(g)~~(h)~~1. Notwithstanding paragraph (d), a county that has a population of 50,000 or less on April 1, 1992, or any county designated as an area of critical state concern on the effective date of this act, and that imposed the surtax before July 1, 1992, may use the proceeds and interest of the surtax for any public purpose if:

a. The debt service obligations for any year are met;

b. The county's comprehensive plan has been determined to be in compliance with part II of chapter 163; and

c. The county has adopted an amendment to the surtax ordinance pursuant to the procedure provided in s. 125.66 authorizing additional uses of the surtax proceeds and interest.

2. A municipality located within a county that has a population of 50,000 or less on April 1, 1992, or within a county designated as an area of critical state concern on the effective date of this act, and that imposed

the surtax before July 1, 1992, may not use the proceeds and interest of the surtax for any purpose other than an infrastructure purpose authorized in paragraph (d) unless the municipality's comprehensive plan has been determined to be in compliance with part II of chapter 163 and the municipality has adopted an amendment to its surtax ordinance or resolution pursuant to the procedure provided in s. 166.041 authorizing additional uses of the surtax proceeds and interest. Such municipality may expend the surtax proceeds and interest for any public purpose authorized in the amendment.

3. Those counties designated as an area of critical state concern which qualify to use the surtax for any public purpose may use only up to 10 percent of the surtax proceeds for any public purpose other than for infrastructure purposes authorized by this section.

(h)~~(i)~~ Notwithstanding paragraph (d), a county in which 40 percent or more of the just value of real property is exempt or immune from ad valorem taxation, and the municipalities within such a county, may use the proceeds and interest of the surtax for operation and maintenance of parks and recreation programs and facilities established with the proceeds of the surtax.

(i)~~(j)~~ Notwithstanding any other provision of this section, a county shall not levy local option sales surtaxes authorized in this subsection and subsections (3), (4), (5), and (6) in excess of a combined rate of 1 percent.

(3) SMALL COUNTY SURTAX.—

(a) The governing authority in each county that has a population of 50,000 or less on April 1, 1992, may levy a discretionary sales surtax of 0.5 percent or 1 percent. The levy of the surtax shall be pursuant to ordinance enacted by an extraordinary vote of the members of the county governing authority if the surtax revenues are expended for operating purposes. If the surtax revenues are expended for the purpose of servicing bond indebtedness, the surtax shall be approved by a majority of the electors of the county voting in a referendum on the surtax.

(b) A statement that includes a brief general description of the projects to be funded by the surtax and conforms to the requirements of s. 101.161 shall be placed on the ballot by the governing authority of any county that enacts an ordinance calling for a referendum on the levy of the surtax for the purpose of servicing bond indebtedness. The following question shall be placed on the ballot:

. . . . FOR the . . . . –cent sales tax
. . . . AGAINST the . . . . –cent sales tax

(c) Pursuant to s. 212.054(4), the proceeds of the surtax levied under this subsection shall be distributed to the county and the municipalities within the county in which the surtax was collected, according to:

1. An interlocal agreement between the county governing authority and the governing bodies of the municipalities representing a majority of the county's municipal population, which agreement may include a school district with the consent of the county governing authority and the governing bodies of the municipalities representing a majority of the county's municipal population; or

2. If there is no interlocal agreement, according to the formula provided in s. 218.62.

Any change in the distribution formula shall take effect on the first day of any month that begins at least 60 days after written notification of that change has been made to the department.

(d)1. If the surtax is levied pursuant to a referendum, the proceeds of the surtax and any interest accrued thereto may be expended by the school district or within the county and municipalities within the county, or, in the case of a negotiated joint county agreement, within another county, for the purpose of servicing bond indebtedness to finance, plan, and construct infrastructure and to acquire land for public recreation or conservation or protection of natural resources. However, if the surtax is levied pursuant to an ordinance approved by an extraordinary vote of the members of the county governing authority, the proceeds and any interest accrued thereto may be used for operational expenses of any infrastructure or for any public purpose authorized in the ordinance under which the surtax is levied.

2. For the purposes of this paragraph, “infrastructure” means any fixed capital expenditure or fixed capital costs associated with the construction, reconstruction, or improvement of public facilities that have a life expectancy of 5 or more years and any land acquisition, land improvement, design, and engineering costs related thereto.

(e) A school district, county, or municipality that receives proceeds under this subsection following a referendum may pledge the proceeds for the purpose of servicing new bond indebtedness incurred pursuant to law. Local governments may use the services of the Division of Bond Finance pursuant to the State Bond Act to issue any bonds through the provisions of this subsection. A jurisdiction may not issue bonds pursuant to this subsection more frequently than once per year. A county and municipality may join together to issue bonds authorized by this subsection.

~~(f) Notwithstanding s. 212.054(5), the surtax shall take effect on the first day of a month, as fixed by the ordinance adopted pursuant to paragraph (a). A surtax levied pursuant to a referendum shall not take effect until at least 60 days after the date that the referendum approving the levy is held.~~

(f)~~(g)~~ Notwithstanding any other provision of this section, a county shall not levy local option sales surtaxes authorized in this subsection and subsections (2), (4), (5), and (6) in excess of a combined rate of 1 percent.

(4) INDIGENT CARE SURTAX.—

(a) The governing body in each county the government of which is not consolidated with that of one or more municipalities, which has a population of at least 800,000 residents and is not authorized to levy a surtax under subsection (5) or subsection (6), may levy, pursuant to an ordinance either approved by an extraordinary vote of the governing body or conditioned to take effect only upon approval by a majority vote of the electors of the county voting in a referendum, a discretionary sales surtax at a rate that may not exceed 0.5 percent.

(b) If the ordinance is conditioned on a referendum, a statement that includes a brief and general description of the purposes to be funded by the surtax and that conforms to the requirements of s. 101.161 shall be placed on the ballot by the governing body of the county. The following questions shall be placed on the ballot:

FOR THE. . . .CENTS TAX
AGAINST THE. . . .CENTS TAX

~~(c) Notwithstanding s. 212.054(5), the sales surtax may take effect on the first day of any month, as fixed by the ordinance adopted pursuant to paragraph (a), but may not take effect until at least 60 days after the date of adoption of the ordinance adopted pursuant to paragraph (a) or, if the surtax is made subject to a referendum, at least 60 days after the date of approval by the electors of the ordinance adopted pursuant to paragraph (a).~~

(c)~~(d)~~ The ordinance adopted by the governing body providing for the imposition of the surtax shall set forth a plan for providing health care services to qualified residents, as defined in paragraph *(d)*~~(e)~~. Such plan and subsequent amendments to it shall fund a broad range of health care services for both indigent persons and the medically poor, including, but not limited to, primary care and preventive care as well as hospital care. It shall emphasize a continuity of care in the most cost-effective setting, taking into consideration both a high quality of care and geographic access. Where consistent with these objectives, it shall include, without limitation, services rendered by physicians, clinics, community hospitals, mental health centers, and alternative delivery sites, as well as at least one regional referral hospital where appropriate. It shall provide that agreements negotiated between the county and providers will include reimbursement methodologies that take into account the cost of services rendered to eligible patients, recognize hospitals that render a disproportionate share of indigent care, provide other incentives to promote the delivery of charity care, and require cost containment including, but not limited to, case management. It must also provide that any hospitals that are owned

and operated by government entities on May 21, 1991, must, as a condition of receiving funds under this subsection, afford public access equal to that provided under s. 286.011 as to meetings of the governing board, the subject of which is budgeting resources for the rendition of charity care as that term is defined in the Florida Hospital Uniform Reporting System (FHURS) manual referenced in s. 408.07. The plan shall also include innovative health care programs that provide cost-effective alternatives to traditional methods of service delivery and funding.

(d)~~(c)~~ For the purpose of this subsection, the term "qualified resident" means residents of the authorizing county who are:

1. Qualified as indigent persons as certified by the authorizing county;

2. Certified by the authorizing county as meeting the definition of the medically poor, defined as persons having insufficient income, resources, and assets to provide the needed medical care without using resources required to meet basic needs for shelter, food, clothing, and personal expenses; or not being eligible for any other state or federal program, or having medical needs that are not covered by any such program; or having insufficient third-party insurance coverage. In all cases, the authorizing county is intended to serve as the payor of last resort; or

3. Participating in innovative, cost-effective programs approved by the authorizing county.

(e)~~(f)~~ Moneys collected pursuant to this subsection remain the property of the state and shall be distributed by the Department of Revenue on a regular and periodic basis to the clerk of the circuit court as ex officio custodian of the funds of the authorizing county. The clerk of the circuit court shall:

1. Maintain the moneys in an indigent health care trust fund;

2. Invest any funds held on deposit in the trust fund pursuant to general law; and

3. Disburse the funds, including any interest earned, to any provider of health care services, as provided in paragraphs *(c)*~~(d)~~ and *(d)*~~(e)~~, upon directive from the authorizing county.

(f)~~(g)~~ Notwithstanding any other provision of this section, a county shall not levy local option sales surtaxes authorized in this subsection and subsections (2) and (3) in excess of a combined rate of 1 percent.

(g)~~(h)~~ This subsection expires October 1, 2005.

(5) COUNTY PUBLIC HOSPITAL SURTAX.—Any county as defined in s. 125.011(1) may levy the surtax authorized in this subsection pursuant to an ordinance either approved by extraordinary vote of the county commission or conditioned to take effect only upon approval by a majority vote of the electors of the county voting in a referendum. In a county as defined in s. 125.011(1), for the purposes of this subsection, "county public general hospital" means a general hospital as defined in s. 395.002 which is owned, operated, maintained, or governed by the county or its agency, authority, or public health trust.

(a) The rate shall be 0.5 percent.

(b) If the ordinance is conditioned on a referendum, the proposal to adopt the county public hospital surtax shall be placed on the ballot in accordance with law at a time to be set at the discretion of the governing body. The referendum question on the ballot shall include a brief general description of the health care services to be funded by the surtax.

(c) Proceeds from the surtax shall be:

1. Deposited by the county in a special fund, set aside from other county funds, to be used only for the operation, maintenance, and administration of the county public general hospital; and

2. Remitted promptly by the county to the agency, authority, or public health trust created by law which administers or operates the county public general hospital.

(d) The county shall continue to contribute each year at least 80 percent of that percentage of the total county budget appropriated for the operation, administration, and maintenance of the county public general hospital from the county's general revenues in the fiscal year of the county ending September 30, 1991.

(e) Notwithstanding any other provision of this section, a county may not levy local option sales surtaxes authorized in this subsection and subsections (2) and (3) in excess of a combined rate of 1 percent.

(6) SMALL COUNTY INDIGENT CARE SURTAX.—

(a) The governing body in each county that has a population of 50,000 or less on April 1, 1992, may levy, pursuant to an ordinance approved by an extraordinary vote of the governing body, a discretionary sales surtax at a rate of 0.5 percent. Any county that levies the surtax authorized by this subsection shall continue to expend county funds for the medically poor and related health services in an amount equal to the amount that it expended for the medically poor and related health services in the fiscal year preceding the adoption of the authorizing ordinance.

~~(b) Notwithstanding s. 212.054(5), the sales surtax may take effect on the first day of any month, as fixed by the ordinance adopted pursuant to paragraph (a), but may not take effect until at least 60 days after the date of adoption of the ordinance.~~

(b)~~(c)~~ The ordinance adopted by the governing body providing for the imposition of the surtax shall set forth a brief plan for providing health care services to qualified residents, as defined in paragraph *(c)*~~(d)~~. Such plan and subsequent amendments to it shall fund a broad range of health care services for both indigent persons and the medically poor, including, but not limited to, primary care and preventive care as well as hospital care. It shall emphasize a continuity of care in the most cost-effective setting, taking into consideration both a high quality of care and geographic access. Where consistent with these objectives, it shall include, without limitation, services rendered by physicians, clinics, community hospitals, mental health centers, and alternative delivery sites, as well as at least one regional referral hospital where appropriate. It shall provide that agreements negotiated between the county and providers will include reimbursement methodologies that take into account the cost of services rendered to eligible patients, recognize hospitals that render a disproportionate share of indigent care, provide other incentives to promote the delivery of charity care, and require cost containment including, but not limited to, case management. It shall also provide that any hospitals that are owned and operated by government entities on May 21, 1991, must, as a condition of receiving funds under this subsection, afford public access equal to that provided under s. 286.011 as to meetings of the governing board, the subject of which is budgeting resources for the rendition of charity care as that term is defined in the rules of the Health Care Cost Containment Board. The plan shall also include innovative health care programs that provide cost-effective alternatives to traditional methods of service delivery and funding.

(c)~~(d)~~ For the purpose of this subsection, "qualified resident" means residents of the authorizing county who are:

1. Qualified as indigent persons as certified by the authorizing county;

2. Certified by the authorizing county as meeting the definition of the medically poor, defined as persons having insufficient income, resources, and assets to provide the needed medical care without using resources required to meet basic needs for shelter, food, clothing, and personal expenses; or not being eligible for any other state or federal program, or having medical needs that are not covered by any such program; or having insufficient third-party insurance coverage. In all cases, the authorizing county is intended to serve as the payor of last resort; or

3. Participating in innovative, cost-effective programs approved by the authorizing county.

(d)~~(e)~~ Moneys collected pursuant to this subsection remain the property of the state and shall be distributed by the Department of

Revenue on a regular and periodic basis to the clerk of the circuit court as ex officio custodian of the funds of the authorizing county. The clerk of the circuit court shall:

1. Maintain the moneys in an indigent health care trust fund;

2. Invest any funds held on deposit in the trust fund pursuant to general law; and

3. Disburse the funds, including any interest earned, to any provider of health care services, as provided in paragraphs *(b)*~~(c)~~ and *(c)*~~(d)~~, upon directive from the authorizing county.

(e)~~(f)~~ Notwithstanding any other provision of this section, a county shall not levy local option sales surtaxes authorized in this subsection and subsections (2) and (3) in excess of a combined rate of 1 percent.

(f)~~(g)~~ This subsection expires October 1, 1998.

(7) SCHOOL CAPITAL OUTLAY SURTAX.—

(a) The school board in each county may levy, pursuant to resolution conditioned to take effect only upon approval by a majority vote of the electors of the county voting in a referendum, a discretionary sales surtax at a rate that may not exceed 0.5 percent.

(b) The resolution shall include a statement that provides a brief and general description of the school capital outlay projects to be funded by the surtax. If applicable, the resolution must state that the district school board has been recognized by the State Board of Education as having a Florida Frugal Schools Program. The statement shall conform to the requirements of s. 101.161 and shall be placed on the ballot by the governing body of the county. The following question shall be placed on the ballot:

. . . . FOR THE	. . . . CENTS TAX
. . . . AGAINST THE	. . . . CENTS TAX

~~(c) Notwithstanding s. 212.054(5), the sales surtax may take effect on the first day of any month, as fixed by the resolution adopted pursuant to paragraph (a), but may not take effect until at least 60 days after the date of approval by the electors of the resolution adopted pursuant to paragraph (a).~~

(c)~~(d)~~ The resolution providing for the imposition of the surtax shall set forth a plan for use of the surtax proceeds for fixed capital expenditures or fixed capital costs associated with the construction, reconstruction, or improvement of school facilities and campuses which have a useful life expectancy of 5 or more years, and any land acquisition, land improvement, design, and engineering costs related thereto. Additionally, the plan shall include the costs of retrofitting and providing for technology implementation, including hardware and software, for the various sites within the school district. Surtax revenues may be used for the purpose of servicing bond indebtedness to finance projects authorized by this subsection, and any interest accrued thereto may be held in trust to finance such projects. Neither the proceeds of the surtax nor any interest accrued thereto shall be used for operational expenses. If the district school board has been recognized by the State Board of Education as having a Florida Frugal Schools Program, the district's plan for use of the surtax proceeds must be consistent with this subsection and with uses assured under the Florida Frugal Schools Program.

(d)~~(e)~~ Any school board imposing the surtax shall implement a freeze on noncapital local school property taxes, at the millage rate imposed in the year prior to the implementation of the surtax, for a period of at least 3 years from the date of imposition of the surtax. This provision shall not apply to existing debt service or required state taxes.

(e)~~(f)~~ Surtax revenues collected by the Department of Revenue pursuant to this subsection shall be distributed to the school board imposing the surtax in accordance with law.

Section 10. Paragraph (c) of subsection (2) of section 212.097, Florida Statutes, is amended to read:

212.097 Urban High-Crime Area Job Tax Credit Program.—

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

(c) "New business" means any eligible business first beginning operation on a site in a qualified high-crime area and clearly separate from any other commercial or business operation of the business entity within a qualified high-crime area. A business entity that operated an eligible business within a qualified high-crime area within the 48 months before the *period provided for* application *by subsection (3) is* ~~date shall~~ not ~~be~~ considered a new business.

Section 11. Paragraph (d) of subsection (2) of section 212.098, Florida Statutes, is amended to read:

212.098 Rural Job Tax Credit Program.—

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

(d) "New business" means any eligible business first beginning operation on a site in a qualified county and clearly separate from any other commercial or business operation of the business entity within a qualified county. A business entity that operated an eligible business within a qualified county within the 48 months before the *period provided for* application *by subsection (3) is* ~~date shall~~ not ~~be~~ considered a new business.

Section 12. Subsection (1) of section 212.11, Florida Statutes, is amended to read:

212.11 Tax returns and regulations.—

(1)(a) Each dealer shall calculate his or her estimated tax liability for any month by one of the following methods:

1. Sixty-six percent of the current month's liability pursuant to this part as shown on the tax return;

2. Sixty-six percent of the tax reported on the tax return pursuant to this part by a dealer for the taxable transactions occurring during the corresponding month of the preceding calendar year; or

3. Sixty-six percent of the average tax liability pursuant to this part for those months during the preceding calendar year in which the dealer reported taxable transactions.

(b) For the purpose of ascertaining the amount of tax payable under this chapter, it shall be the duty of all dealers to *file* ~~make~~ a return *and remit the tax*, on or before the 20th day of the month, to the department, upon forms prepared and furnished by it *or in a format prescribed by it. Such return must show*~~, showing~~ the rentals, admissions, gross sales, or purchases, as the case may be, arising from all leases, rentals, admissions, sales, or purchases taxable under this chapter during the preceding calendar month.

(c) However, the department may require:

1. A quarterly return and payment when the tax remitted by the dealer for the preceding four calendar quarters did not exceed $1,000.

2. A semiannual return and payment when the tax remitted by the dealer for the preceding four calendar quarters did not exceed $500.

3. An annual return and payment when the tax remitted by the dealer for the preceding four calendar quarters did not exceed $100.

4. A quarterly return and monthly payment when the tax remitted by the dealer for the preceding four calendar quarters exceeded $1,000 but did not exceed $12,000.

(d) The department may authorize dealers who are newly required to file returns and pay tax quarterly to file returns and remit the tax for the 3-month periods ending in February, May, August, and November, and may authorize dealers who are newly required to file returns and pay tax semiannually to file returns and remit the tax for the 6-month periods ending in May and November.

(e) The department shall accept returns*, except those required to be initiated through an electronic data interchange,* as timely if postmarked on or before the 20th day of the month; if the 20th day falls on a Saturday, Sunday, or federal or state legal holiday, returns shall be

accepted as timely if postmarked on the next succeeding workday. Any dealer who operates two or more places of business for which returns are required to be filed with the department and maintains records for such places of business in a central office or place shall have the privilege on each reporting date of filing a consolidated return for all such places of business in lieu of separate returns for each such place of business; however, such consolidated returns must clearly indicate the amounts collected within each county of the state. Any dealer who files a consolidated return shall calculate his or her estimated tax liability for each county by the same method the dealer uses to calculate his or her estimated tax liability on the consolidated return as a whole. Each dealer shall file a return for each tax period even though no tax is due for such period.

(f)1. A taxpayer who is required to remit taxes by electronic funds transfer shall make a return in a *manner* ~~form~~ that is initiated through an electronic data interchange. The acceptable method of transfer, the method, form, and content of the electronic data interchange, giving due regard to developing uniform standards for formats as adopted by the American National Standards Institute, the circumstances under which an electronic data interchange shall serve as a substitute for the filing of another form of return, and the means, if any, by which taxpayers will be provided with acknowledgments, shall be as prescribed by the department. *The department must accept such returns as timely if initiated and accepted on or before the 20th day of the month. If the 20th day falls on a Saturday, Sunday, or federal or state legal holiday, returns must be accepted as timely if initiated and accepted on the next succeeding workday.*

2. The department may waive the requirement to make a return through an electronic data interchange due to problems arising from the taxpayer's computer capabilities, data systems changes, and taxpayer operating procedures. To obtain a waiver, the taxpayer shall demonstrate in writing to the department that such circumstances exist.

Section 13. Subsection (1) of section 212.12, Florida Statutes, is amended to read:

212.12 Dealer's credit for collecting tax; penalties for noncompliance; powers of Department of Revenue in dealing with delinquents; brackets applicable to taxable transactions; records required.—

(1) Notwithstanding any other provision of law and for the purpose of compensating persons granting licenses for and the lessors of real and personal property taxed hereunder, for the purpose of compensating dealers in tangible personal property, for the purpose of compensating dealers providing communication services and taxable services, for the purpose of compensating owners of places where admissions are collected, and for the purpose of compensating remitters of any taxes or fees reported on the same documents utilized for the sales and use tax, as compensation for the keeping of prescribed records, *filing timely tax returns,* and the proper accounting and remitting of taxes by them, such seller, person, lessor, dealer, owner, and remitter (except dealers who make mail order sales) shall be allowed 2.5 percent of the amount of the tax due and accounted for and remitted to the department, in the form of a deduction in submitting his or her report and paying the amount due by him or her; the department shall allow such deduction of 2.5 percent of the amount of the tax to the person paying the same for remitting the tax *and making of tax returns* in the manner herein provided, for paying the amount due to be paid by him or her, and as further compensation to dealers in tangible personal property for the keeping of prescribed records and for collection of taxes and remitting the same. However, if the amount of the tax due and remitted to the department for the reporting period exceeds $1,200, no allowance shall be allowed for all amounts in excess of $1,200. The executive director of the department is authorized to negotiate a collection allowance, pursuant to rules promulgated by the department, with a dealer who makes mail order sales. The rules of the department shall provide guidelines for establishing the collection allowance based upon the dealer's estimated costs of collecting the tax, the volume and value of the dealer's mail order sales to purchasers in this state, and the administrative and legal costs and likelihood of achieving collection of the tax absent the cooperation of the dealer. However, in no event shall the collection allowance negotiated by the executive director exceed 10 percent of the tax remitted for a reporting period.

(a) The collection allowance may not be granted, nor may any deduction be permitted, if the *required tax return or* tax is delinquent at the time of payment.

(b) The Department of Revenue may *deny* ~~reduce~~ the collection allowance ~~by 10 percent or $50, whichever is less,~~ if a taxpayer files an incomplete return.

1. An "incomplete return" is, for purposes of this chapter, a return which is lacking such uniformity, completeness, and arrangement that the physical handling, verification, ~~or~~ review of the return*, or determination of other taxes and fees reported on the return* may not be readily accomplished.

2. The department shall adopt rules requiring such information as it may deem necessary to ensure that the tax levied hereunder is properly collected, reviewed, compiled, *reported,* and enforced, including, but not limited to: the amount of gross sales; the amount of taxable sales; the amount of tax collected or due; the amount of lawful refunds, deductions, or credits claimed; the amount claimed as the dealer's collection allowance; the amount of penalty and interest; the amount due with the return; and such other information as the Department of Revenue may specify. The department shall require that transient rentals and agricultural equipment transactions be separately shown. ~~For returns remitted on or after February 1, 1992, the department shall also require that~~ Sales made through vending machines as defined in s. 212.0515 *must* be separately shown *on the return*. ~~For returns remitted on or after February 1, 1995,~~ Sales made through coin-operated amusement machines as defined by s. 212.02 and the number of machines operated must be separately shown on the return or on a form prescribed by the department. If a separate form is required, the same penalties for late filing, incomplete filing, or failure to file as provided for the sales tax return shall apply to said form.

(c) The collection allowance and other credits or deductions provided in this chapter shall be applied proportionally to any taxes or fees reported on the same documents used for the sales and use tax.

Section 14. Subsection (4) of section 212.17, Florida Statutes, is amended to read:

212.17 Credits for returned goods, rentals, or admissions; additional powers of department.—

(4)*(a)* The department shall design, prepare, print and furnish to all dealers*, except dealers filing through electronic data interchange,* or make available *or prescribe* to *the* ~~said~~ dealers, all necessary forms for filing returns and instructions to ensure a full collection from dealers and an accounting for the taxes due, but failure of any dealer to secure such forms *does* ~~shall~~ not relieve *the* ~~such~~ dealer from the payment of *the* ~~said~~ tax at the time and in the manner ~~herein~~ provided.

(b) The department shall prescribe the format and instructions necessary for filing returns in a manner that is initiated through an electronic data interchange to ensure a full collection from dealers and an accounting for the taxes due. The failure of any dealer to use such format does not relieve the dealer from the payment of the tax at the time and in the manner provided.

Section 15. Effective January 1, 1999, subsection (1) of section 213.053, Florida Statutes, is amended to read:

213.053 Confidentiality and information sharing.—

(1) The provisions of this section apply to s. 125.0104, county government; s. 125.0108, tourist impact tax; *chapter 175, municipal firefighters' pension trust funds; chapter 185, municipal police officers' retirement trust funds;* chapter 198, estate taxes; chapter 199, intangible personal property taxes; chapter 201, excise tax on documents; chapter 203, gross receipts taxes; chapter 211, tax on severance and production of minerals; chapter 212, tax on sales, use, and other transactions; chapter 220, income tax code; chapter 221, emergency excise tax; *s. 252.372, emergency management, preparedness, and assistance surcharge;* s. 370.07(3), Apalachicola Bay oyster surcharge; chapter 376,

pollutant spill prevention and control; s. 403.718, waste tire fees; s. 403.7185, lead-acid battery fees; s. 403.7195, waste newsprint disposal fees; ~~s. 403.7197, advance disposal fees;~~ s. 538.09, registration of secondhand dealers; s. 538.25, registration of secondary metals recyclers; *ss. 624.501 and 624.509-624.515* ~~ss. 624.509-624.514~~, insurance code~~: administration and general provisions~~; s. 681.117, motor vehicle warranty enforcement; and s. 896.102, reports of financial transactions in trade or business.

Section 16. Effective October 1, 1998, paragraph (a) of subsection (4) of section 213.0535, Florida Statutes, is amended to read:

213.0535 Registration Information Sharing and Exchange Program.—

(4) There are two levels of participation:

(a) Each unit of state or local government responsible for administering one or more of the provisions specified in subparagraphs 1.-7. is a level-one participant. Level-one participants shall exchange, monthly *or quarterly, as determined jointly by each participant and the department,* the data enumerated in subsection (2) for each new registrant, new filer, or initial reporter, permittee, or licensee, with respect to the following taxes, licenses, or permits:

1. The sales and use tax imposed under chapter 212.

2. The tourist development tax imposed under s. 125.0104.

3. The tourist impact tax imposed under s. 125.0108.

4. Local occupational license taxes imposed under chapter 205.

5. Convention development taxes imposed under s. 212.0305.

6. Public lodging and food service establishment licenses issued pursuant to chapter 509.

7. Beverage law licenses issued pursuant to chapter 561.

Section 17. Paragraph (a) of subsection (2) of section 213.21, Florida Statutes, is amended and subsection (7) is added to that section to read:

213.21 Informal conferences; compromises.—

(2)(a) The executive director of the department or his or her designee is authorized to enter into a written closing agreement with any taxpayer settling or compromising the taxpayer's liability for any tax, interest, or penalty assessed under any of the chapters specified in s. 72.011(1). When such a closing agreement has been approved by the department and signed by the executive director or his or her designee and the taxpayer, it shall be final and conclusive; and, except upon a showing of fraud or misrepresentation of material fact or except as to adjustments pursuant to ss. 198.16 and 220.23, no additional assessment may be made by the department against the taxpayer for the tax, interest, or penalty specified in the closing agreement for the time period specified in the closing agreement, and the taxpayer shall not be entitled to institute any judicial or administrative proceeding to recover any tax, interest, or penalty paid pursuant to the closing agreement. The department is authorized to delegate to the executive director the authority to approve any such closing agreement resulting in a tax reduction of *$250,000* ~~$100,000~~ or less.

(7)(a) When a taxpayer voluntarily self–discloses a liability for tax to the department, the department may settle and compromise the tax and interest due under the voluntary self–disclosure to those amounts due for the 5 years immediately preceding the date that the taxpayer initially contacted the department concerning the voluntary self–disclosure. For purposes of this paragraph, the term "years" means tax years or calendar years, whichever is applicable to the tax that is voluntarily self-disclosed. A voluntary self–disclosure does not occur if the department has contacted or informed the taxpayer that the department is inquiring into the taxpayer's liability for tax or whether the taxpayer is subject to tax in this state.

(b) The department may further settle and compromise the tax and interest due under a voluntary self–disclosure when the department is able to determine that such further settlement and compromise is in the best interests of this state. When making this determination the department shall consider, but is not limited to, the following:

1. The amount of tax and interest that will be collected and compromised under the voluntary self-disclosure;

2. The financial ability of the taxpayer and the future outlook of the taxpayer's business and the industry involved;

3. Whether the taxpayer has paid or will be paying other taxes to the state;

4. The future voluntary compliance of the taxpayer; and

5. Any other factor that the department considers relevant to this determination.

(c) This subsection does not limit the department's ability to enter into further settlement and compromise of the liability that is voluntarily self-disclosed based on any other provision of this section.

(d) This subsection does not apply to a voluntary self–disclosure when the taxpayer collected, but failed to remit, the tax to the state.

Section 18. Subsection (6) of section 213.28, Florida Statutes, is amended to read:

213.28 Contracts with private auditors.—

(6) Certified public accountants entering into such contracts must be in good standing under the laws of the state in which they are licensed ~~and in which the work is performed~~. They shall be bound by the same confidentiality requirements and subject to the same penalties as the department under s. 213.053. Any return, return information, or documentation obtained from the Internal Revenue Service under an information-sharing agreement is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution and shall not be divulged or disclosed in any manner by an officer or employee of the department to any certified public accountant under a contract authorized by this section, unless the department and the Internal Revenue Service mutually agree to such disclosure.

Section 19. Section 213.67, Florida Statutes, is amended to read:

213.67 Garnishment.—

(1) If a person is delinquent in the payment of any taxes, penalties, and interest owed to the department, the executive director or his or her designee may give notice of the amount of such delinquency by registered mail to all persons having in their possession or under their control any credits or personal property, exclusive of wages, belonging to the delinquent taxpayer, or owing any debts to such delinquent taxpayer at the time of receipt by them of such notice. Thereafter, any person who has been notified may not transfer or make any other disposition of such credits, other personal property, or debts until the executive director or his or her designee consents to a transfer or disposition or until 60 days after the receipt of such notice. *If during the effective period of the notice to withhold, any person so notified makes any transfer or disposition of the property or debts required to be withheld hereunder, he or she is liable to the state for any indebtedness owed to the department by the person with respect to whose obligation the notice was given to the extent of the value of the property or the amount of the debts thus transferred or paid if, solely by reason of such transfer or disposition, the state is unable to recover the indebtedness of the person with respect to whose obligation the notice was given. If the delinquent taxpayer contests the intended levy in circuit court or under chapter 120, the notice under this section remains effective until that final resolution of the contest. Any financial institution receiving such notice will maintain a right of set-off for any transaction involving a debit card occurring on or before the date of receipt of such notice.* ~~The notice provided for in this section may be renewed when the taxpayer contests the intended levy in circuit court or under chapter 120, pending the final resolution of that action.~~

(2) All persons who have been notified must, within 5 days after receipt of the notice, advise the executive director or his or her designee of the credits, other personal property, or debts in their possession,

under their control, or owing them, *and must advise the executive director or designee within 5 days after coming into possession or control of any subsequent credits, personal property, or debts owed during the time prescribed by the notice. Any such person coming into possession or control of such subsequent credits, personal property, or debts may not transfer or dispose of them during the time prescribed by the notice or before the department consents to a transfer.*

(3) During the last 30 days of the 60-day period set forth in subsection (1), the executive director or his or her designee may levy upon such credits, other personal property, or debts. The levy must be accomplished by delivery of a notice of levy *by registered mail,* upon receipt of which the person possessing the credits, other personal property, or debts shall transfer them to the department or pay to the department the amount owed to the delinquent taxpayer.

(4) A notice that is delivered under this section is effective at the time of delivery against all credits, other personal property, or debts of the delinquent taxpayer which are not at the time of such notice subject to an attachment, garnishment, or execution issued through a judicial process.

(5) Any person acting in accordance with the terms of the notice or levy issued by the executive director or his or her designee is expressly discharged from any obligation or liability to the delinquent taxpayer with respect to such credits, other personal property, or debts of the delinquent taxpayer affected by compliance with the notice of freeze or levy.

(6)(a) Levy may be made under subsection (3) upon credits, other personal property, or debt of any person with respect to any unpaid tax, penalties, and interest only after the executive director or his or her designee has notified such person in writing of the intention to make such levy.

(b) No less than 30 days before the day of the levy, the notice of intent to levy required under paragraph (a) shall be given in person or sent by certified or registered mail to the person's last known address.

(c) The notice required in paragraph (a) must include a brief statement that sets forth in simple and nontechnical terms:

1. The provisions of this section relating to levy and sale of property;

2. The procedures applicable to the levy under this section;

3. The administrative and judicial appeals available to the taxpayer with respect to such levy and sale, and the procedures relating to such appeals; and

4. The alternatives, if any, available to taxpayers which could prevent levy on the property.

(7) A taxpayer may contest the notice of intent to levy provided for under subsection (6) by filing an action in circuit court. Alternatively, the taxpayer may file a petition under the applicable provisions of chapter 120. After an action has been initiated under chapter 120 to contest the notice of intent to levy, an action relating to the same levy may not be filed by the taxpayer in circuit court, and judicial review is exclusively limited to appellate review pursuant to s. 120.68. Also, after an action has been initiated in circuit court, an action may not be brought under chapter 120.

(8) An action may not be brought to contest a notice of intent to levy under chapter 120 or in circuit court, later than 21 days after the date of receipt of the notice of intent to levy.

(9) The department shall provide notice to the Comptroller, in electronic or other form specified by the Comptroller, listing the taxpayers for which tax warrants are outstanding. Pursuant to subsection (1), the Comptroller shall, upon notice from the department, withhold all payments to any person or business, as defined in s. 212.02, which provides commodities or services to the state, leases real property to the state, or constructs a public building or public work for the state. The department may levy upon the withheld payments in accordance with subsection (3). The provisions of s. 215.422 do not apply from the date the notice is filed with the Comptroller until the date the department notifies the Comptroller of its consent to make payment to the person or 60 days after receipt of the department's notice in accordance with subsection (1), whichever occurs earlier.

(10) The department may bring an action in circuit court for an order compelling compliance with any notice issued under this section.

Section 20. Section 213.755, Florida Statutes, is amended to read:

213.755 Payment of taxes by electronic funds transfer.—

(1) The executive director of the Department of Revenue shall have authority to require a taxpayer to remit taxes by electronic funds transfer where the taxpayer, including consolidated filers, is subject to tax and has paid that tax in the prior state fiscal year in an amount of $50,000 or more.

(2) As used in any revenue law administered by the department, the term:

(a) "Payment" means any payment or remittance required to be made or paid within a prescribed period or on or before a prescribed date under the authority of any provision of a revenue law which the department has the responsibility for regulating, controlling, and administering. The term does not include any remittance unless the amount of the remittance is actually received by the department.

(b) "Return" means any report, claim, statement, notice, application, affidavit, or other document required to be filed within a prescribed period or on or before a prescribed date under the authority of any provision of a revenue law which the department has the responsibility of regulating, controlling, and administering.

(3) Solely for the purposes of administering this section:

(a)~~(1)~~ Taxes levied under parts I and II of chapter 206 shall be considered a single tax.

(b)~~(2)~~ A person required to remit a tax acting as a collection agent or dealer for the state shall nonetheless be considered the taxpayer.

Section 21. Effective retroactively to January 1, 1998, paragraph (n) of subsection (1) and paragraph (c) of subsection (2) of section 220.03, Florida Statutes, are amended to read:

220.03 Definitions.—

(1) SPECIFIC TERMS.—When used in this code, and when not otherwise distinctly expressed or manifestly incompatible with the intent thereof, the following terms shall have the following meanings:

(n) "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended and in effect on January 1, *1998* ~~1997~~, except as provided in subsection (3).

(2) DEFINITIONAL RULES.—When used in this code and neither otherwise distinctly expressed nor manifestly incompatible with the intent thereof:

(c) Any term used in this code shall have the same meaning as when used in a comparable context in the Internal Revenue Code and other statutes of the United States relating to federal income taxes, as such code and statutes are in effect on January 1, *1998* ~~1997~~. However, if subsection (3) is implemented, the meaning of any term shall be taken at the time the term is applied under this code.

Section 22. Subsection (11) is added to section 220.02, Florida Statutes, to read:

220.02 Legislative intent.—

(11) Notwithstanding any other provision of this chapter, it is the intent of the Legislature that, except as otherwise provided under the Internal Revenue Code, for the purposes of this chapter, the term "qualified subchapter S subsidiary," as that term is defined in s. 1361(b)(3) of the Internal Revenue Code, shall not be treated as a separate corporation or entity from the S corporation parent to which the subsidiary's assets, liabilities, income, deductions, and credits are attributed under s. 1361(b)(3) of the Internal Revenue Code.

Section 23. *The Department of Revenue, in consultation with the Division of Economic and Demographic Research, shall conduct a study on the equity of the refund provisions for diesel fuel taxes pursuant to section 206.8745, Florida Statutes, with regard to their applicability to commercial carriers using fuel in a similar manner. The department shall issue a report on its findings to the President of the Senate and the Speaker of the House of Representatives before December 31, 1998.*

Section 24. Paragraph (b) of subsection (2) of section 72.011, Florida Statutes, is amended to read:

72.011 Jurisdiction of circuit courts in specific tax matters; administrative hearings and appeals; time for commencing action; parties; deposits.—

(2)

(b) The date on which an assessment or a denial of refund becomes final and *procedures* ~~a procedure~~ by which a taxpayer must be notified of the assessment or of the denial of refund must be established:

1. By rule adopted by the Department of Revenue;

2. With respect to assessments or refund denials under chapter 207, by rule adopted by the Department of Highway Safety and Motor Vehicles;

3. With respect to assessments or refund denials under chapters 210, 550, 561, 562, 563, 564, and 565, by rule adopted by the Department of Business and Professional Regulation; or

4. With respect to taxes that a county collects or enforces under s. 125.0104(10) or s. 212.0305(5), by an ordinance that may additionally provide for informal dispute resolution procedures in accordance with s. 213.21.

Section 25. Subsection (5) of section 199.052, Florida Statutes, is amended to read:

199.052 Annual tax returns; payment of annual tax.—

(5) The trustee of a Florida-situs trust is primarily responsible for returning the trust's intangible personal property and paying the annual tax on it.

(a) A trust has a Florida situs when:

1. All trustees are residents of the state;

2. There are three or more trustees sharing equally in the ownership, management, or control of the trust's intangible property, and the majority of the trustees are residents of this state; or

3. Trustees consist of both residents and nonresidents and management or control of the trust is with a resident trustee.

(b) When trustees consist of both residents and nonresidents and management or control is with a nonresident trustee, the trust does not have Florida situs and no return is necessary by any resident trustee.

(c) A portion of the trust has Florida situs when there are two trustees, one a resident of this state and one a nonresident, and they share equally in the ownership, management, or control of the trust's intangible property. The tax on such property shall be based on the value apportioned between them.

(d) If there is more than one trustee in the state, only one tax return for the trust must be filed.

(e) The trust's beneficiaries, however, may individually return their equitable shares of the trust's intangible personal property and pay the tax on such shares, in which case the trustee need not return such property or pay such tax, although the department may require the trustee to file an informational return.

Section 26. Paragraph (a) of subsection (1) and paragraph (a) of subsection (2) of section 213.21, Florida Statutes, are amended to read:

213.21 Informal conferences; compromises.—

(1)(a) The Department of Revenue may adopt rules for establishing informal conference procedures within the department for resolution of disputes relating to assessment of taxes, interest, and penalties *and the denial of refunds,* and for informal hearings under ss. 120.569 and 120.57(2).

(2)(a) The executive director of the department or his or her designee is authorized to enter into ~~a written~~ closing *agreements* ~~agreement~~ with any taxpayer settling or compromising the taxpayer's liability for any tax, interest, or penalty assessed under any of the chapters specified in s. 72.011(1). *Such agreements shall be in writing when the amount of tax, penalty, or interest compromised exceeds $30,000 or for lesser amounts when the department deems it appropriate or when requested by the taxpayer.* When ~~such~~ a *written* closing agreement has been approved by the department and signed by the executive director or his or her designee and the taxpayer, it shall be final and conclusive; and, except upon a showing of fraud or misrepresentation of material fact or except as to adjustments pursuant to ss. 198.16 and 220.23, no additional assessment may be made by the department against the taxpayer for the tax, interest, or penalty specified in the closing agreement for the time period specified in the closing agreement, and the taxpayer shall not be entitled to institute any judicial or administrative proceeding to recover any tax, interest, or penalty paid pursuant to the closing agreement. The department is authorized to delegate to the executive director the authority to approve any such closing agreement resulting in a tax reduction of $100,000 or less.

Section 27. Paragraph (c) is added to subsection (2) of section 220.222, Florida Statutes, to read:

220.222 Returns; time and place for filing.—

(2)

(c) For purposes of this subsection, a taxpayer is not in compliance with the requirements of s. 220.32 if the taxpayer underpays the required payment by more than the greater of $2000 or 30 percent of the tax shown on the return when filed.

Section 28. Subsection (1) of section 624.515, Florida Statutes, is amended to read:

624.515 State Fire Marshal regulatory assessment and surcharge; levy and amount.—

(1)*(a)* In addition to any other license or excise tax now or hereafter imposed, and such taxes as may be imposed under other statutes, there is hereby assessed and imposed upon every domestic, foreign, and alien insurer authorized to engage in this state in the business of issuing policies of fire insurance, a regulatory assessment in an amount equal to 1 percent of the gross amount of premiums collected by each such insurer on policies of fire insurance issued by it and insuring property in this state. The assessment shall be payable annually on or before March 1 to the Department of Revenue by the insurer on such premiums collected by it during the preceding calendar year.

(b) When it is impractical, due to the nature of the business practices within the insurance industry, to determine the percentage of fire insurance contained within a line of insurance written by an insurer on risks located or resident in Florida, the Department of Revenue may establish by rule such percentages for the industry. The Department of Revenue may also amend the percentages as the insurance industry changes its practices concerning the portion of fire insurance within a line of insurance.

Section 29. Subsection (3) of section 896.102, Florida Statutes, is amended to read:

896.102 Currency more than $10,000 received in trade or business; report required; noncompliance penalties.—

(3) The Department of Revenue may adopt rules and guidelines to administer and enforce these reporting requirements.

Section 30. Except as otherwise expressly provided by this act, this act shall take effect July 1, 1998.

And the title is amended as follows:

Delete everything before the enacting clause

and insert: A bill to be entitled An act relating to administration of revenue laws; amending s. 125.2801, F.S.; conforming a reference; amending s. 192.001, F.S.; restricting applicability of the definition of the term "computer software"; amending s. 199.052, F.S.; requiring banks and financial organizations filing annual intangible personal property tax returns for their customers to file information using machine-sensible media; amending s. 212.02, F.S.; excluding materials purchased by certain repair facilities which are incorporated in the repair from the definition of the term "retail sales"; amending s. 212.0606, F.S.; providing an exemption to the rental car surcharge for certain motor vehicles; amending s. 212.0515, F.S.; modifying requirements relating to quarterly records required to be submitted to the Department of Revenue by certain persons selling food or beverages to operators for resale through vending machines; eliminating a penalty for failure to file such reports; eliminating the department's authority to adopt rules relating to such reports; amending s. 212.054, F.S.; eliminating a requirement that certain dealers collect the surtax on tangible personal property or specified service under certain conditions; prescribing the effective date of an increase or decrease in the rate of any discretionary sales surtax; requiring the governing body of any county levying a discretionary sales surtax and a county school board levying the school capital outlay surtax to provide notice to the department; amending s. 212.055, F.S.; providing an effective date for any change in the distribution formula of a local government infrastructure surtax or a small county surtax; authorizing counties to use a specified percentage of surtax proceeds for economic development projects; amending ss. 212.097, 212.098, F.S.; redefining the term "new business"; amending s. 212.11, F.S.; providing requirements relating to sales tax returns filed through electronic data interchange; amending s. 212.12, F.S.; revising provisions relating to the dealer's credit for collecting sales tax; specifying that the credit is also for the filing of timely returns; authorizing the department to deny, rather than reduce, the credit if an incomplete return is filed; revising the definition of "incomplete return"; amending s. 212.17, F.S.; providing that the department shall prescribe the format for filing returns through electronic data interchange and specifying that failure to use the format does not relieve a dealer from the payment of tax; amending s. 213.053, F.S., relating to information sharing; amending s. 213.0535, F.S.; providing for participation in RISE; amending s. 213.21, F.S.; revising provisions that authorize the department to delegate to the executive director authority to approve a settlement or compromise of tax liability, in order to increase the limit on the amount of tax reduction with respect to which such delegation may be made; specifying a time period for which the department may settle and compromise tax and interest due when a taxpayer voluntarily self-discloses a tax liability and authorizing further settlement and compromise under certain circumstances; amending s. 213.28, F.S.; prescribing qualifications of certified public accountants contracting with the department to perform audits; amending s. 213.67, F.S.; subjecting the garnishee to liability in the event that property subject to the freeze is transferred or disposed of by the garnishee; prohibiting disposition of assets of a delinquent taxpayer which come into the possession of another person after that person receives garnishment notice from the department for a specified period; requiring the garnishee to notify the department of such assets; providing that the garnishment notice remains in effect while a taxpayer's contest of an intended levy is pending; providing a financial institution receiving notice with a right of setoff; amending s. 213.755, F.S.; defining terms for use in any revenue law administered by the department; amending s. 220.03, F.S.; revising definitions; amending s. 212.0601, F.S.; providing a use tax for motor vehicle dealers who loan a vehicle at no charge unless otherwise exempted; prohibiting a sales or use tax and a rental car surcharge on a motor vehicle provided at no charge to a person whose vehicle is being repaired; amending s. 220.02, F.S.; providing legislative intent regarding qualified subchapter S subsidiaries; requiring a study and a report; amending s. 72.011, F.S.; providing for adoption of procedures for notifying a taxpayer of an assessment or denial of a refund; amending s. 199.052, F.S.; prescribing conditions under which a trust will be considered a Florida-situs trust; amending s. 213.21, F.S.; providing for conferences relating to denial of refunds; providing for closing agreements; amending s. 220.222, F.S.; prescribing conditions under which a taxpayer will be considered not in compliance with s. 220.32, F.S., for purposes of granting extensions; amending s. 624.515, F.S.; providing for determination of the percentage of fire insurance within an insurance line; amending s. 896.102, F.S.; authorizing the Department of Revenue to adopt rules for reporting certain business transactions; providing effective dates, including a retroactive effective date.

On motion by Rep. Starks, the House concurred in Senate Amendment 1. The question recurred on the passage of CS/HB 4413. The vote was:

Yeas—118

The Chair	Crow	King	Rodriguez-Chomat
Albright	Culp	Kosmas	Rojas
Alexander	Dawson-White	Lacasa	Safley
Andrews	Dennis	Lawson	Sanderson
Argenziano	Diaz de la Portilla	Littlefield	Saunders
Arnall	Dockery	Livingston	Sembler
Arnold	Edwards	Logan	Silver
Bainter	Effman	Lynn	Sindler
Ball	Eggelletion	Mackenzie	Smith
Barreiro	Fasano	Mackey	Spratt
Betancourt	Feeney	Maygarden	Stabins
Bitner	Fischer	Meek	Stafford
Bloom	Flanagan	Melvin	Starks
Boyd	Frankel	Merchant	Sublette
Bradley	Fuller	Miller	Tamargo
Brennan	Futch	Minton	Thrasher
Bronson	Garcia	Morroni	Tobin
Brooks	Gay	Morse	Trovillion
Brown	Goode	Murman	Turnbull
Bullard	Gottlieb	Ogles	Valdes
Burroughs	Greene	Peaden	Villalobos
Bush	Hafner	Posey	Wallace
Byrd	Harrington	Prewitt, D.	Warner
Carlton	Healey	Pruitt, K.	Wasserman Schultz
Casey	Heyman	Putnam	Westbrook
Chestnut	Hill	Rayson	Wiles
Clemons	Horan	Reddick	Wise
Constantine	Jacobs	Ritchie	Ziebarth
Cosgrove	Jones	Ritter	
Crist	Kelly	Roberts-Burke	

Nays—None

So the bill passed, as amended. The action was immediately certified to the Senate and the bill was ordered enrolled after engrossment.

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for SB 1686 and requests the concurrence of the House.

Faye W. Blanton, Secretary

By the Committee on Ways and Means and Senator Ostalkiewicz—

CS for SB 1686—A bill to be entitled An act relating to ad valorem taxation (RAB); amending s. 193.075, F.S.; providing for certain recreation vehicle-type units to be considered mobile homes for purposes of ad valorem taxation; amending s. 197.162, F.S.; providing for discounts on early tax payments; amending s. 197.182, F.S.; providing for automatic refunds of overpayments of tax greater than $5; amending s. 197.243, F.S.; redefining the term "household" to exclude boarders and renters; amending s. 197.252, F.S.; providing a formula for estimating household income; amending s. 197.253, F.S.; providing for notification by the property appraiser concerning homestead status; amending s. 197.332, F.S.; providing for collection of penalties, interest, and costs for delinquent taxes; amending s. 197.344, F.S.; providing for tax notices for lienholders, trustees, and vendees; amending s. 197.413, F.S.; providing for advertising costs to be added to delinquent taxes at the time of advertising; amending s. 197.432, F.S.; prescribing conditions for bidding on tax certificates; amending s. 197.443, F.S.; providing for

recouping costs of advertising void tax certificates; providing for cancellation of tax certificates at the request of the owner; amending s. 197.542, F.S.; authorizing the clerk to refuse certain bids for lands sold at public auction; creating s. 197.4325, F.S.; providing a procedure for handling bad checks received for payment of taxes or tax certificates; providing an effective date.

—was read the first time by title. On motion by Rep. Starks, the rules were suspended and the bill was read the second time by title and the third time by title. On passage, the vote was:

Yeas—114

The Chair	Culp	King	Rodriguez-Chomat
Albright	Dawson-White	Kosmas	Rojas
Andrews	Dennis	Lacasa	Safley
Argenziano	Diaz de la Portilla	Lawson	Sanderson
Arnall	Dockery	Littlefield	Saunders
Arnold	Edwards	Livingston	Sembler
Bainter	Effman	Logan	Silver
Ball	Eggelletion	Lynn	Sindler
Barreiro	Fasano	Mackenzie	Smith
Betancourt	Feeney	Mackey	Spratt
Bloom	Fischer	Maygarden	Stabins
Boyd	Flanagan	Meek	Stafford
Bradley	Frankel	Melvin	Starks
Brennan	Fuller	Merchant	Sublette
Bronson	Futch	Miller	Tamargo
Brooks	Garcia	Minton	Thrasher
Brown	Gay	Morroni	Tobin
Bullard	Goode	Murman	Trovillion
Burroughs	Gottlieb	Ogles	Turnbull
Bush	Greene	Peaden	Valdes
Byrd	Hafner	Posey	Wallace
Carlton	Harrington	Prewitt, D.	Warner
Casey	Healey	Pruitt, K.	Wasserman Schultz
Chestnut	Heyman	Putnam	Westbrook
Clemons	Hill	Rayson	Wiles
Constantine	Horan	Reddick	Wise
Cosgrove	Jacobs	Ritchie	Ziebarth
Crist	Jones	Ritter	
Crow	Kelly	Roberts-Burke	

Nays—None

So the bill passed and was immediately certified to the Senate.

Motions Relating to Committee References

On motion by Rep. Thrasher, Co-Chair of the Committee on Rules, Resolutions, & Ethics, agreed to by two-thirds vote, HB 4235 was withdrawn from the Committee on General Government Appropriations and placed on the appropriate Calendar or Council list.

Messages from the Senate

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for SB 1688 and requests the concurrence of the House.

Faye W. Blanton, Secretary

By the Committee on Ways and Means and Senator Ostalkiewicz—

CS for SB 1688—A bill to be entitled An act relating to taxation (RAB); amending s. 212.02, F.S.; redefining the term "retail sales" to revise standards for the exclusion of packaging materials; redefining the term "sales price" to exclude certain federal tax; redefining the term "use" to exclude the loan of an automobile for use by a driver education program; amending s. 212.03, F.S.; revising provisions for eligibility for the exemption provided for rental in trailer parks and similar facilities; amending s. 212.031, F.S.; providing partial exemption for rentals of certain property used as residential facilities for the aged; exempting utility charges paid by a tenant in specified circumstances; providing taxability of charges for canceling or terminating a lease; amending s. 212.04, F.S.; providing standards for determining taxability of components of packages sold by travel agents; exempting fees for entering sporting events from the admissions tax when spectators at such events are charged the tax; amending s. 212.05, F.S.; prescribing the entities that are considered selling dealers for purposes of the sales, storage, and use tax on aircraft and boats; providing for return of aircraft to the state without incurring tax liability in certain circumstances; providing taxability for property originally exempt which is converted to the owner's use; providing guidelines for taxability of lease or rental of motor vehicles; providing taxability of sales of newspapers; providing guidelines for taxability of newspaper and magazine inserts; providing taxability of certain sales by florists; providing for calculating tax on prizes distributed by concessionaires; amending s. 212.06, F.S.; providing taxability of newspapers, magazines, and periodicals used by the publisher thereof; amending s. 212.18, F.S.; providing for rules relating to registration of vending machines and newspaper rack machines; providing an effective date.

—was read the first time by title. On motion by Rep. Starks, the rules were suspended and the bill was read the second time by title and the third time by title. On passage, the vote was:

Yeas—117

The Chair	Crow	King	Rodriguez-Chomat
Albright	Culp	Kosmas	Rojas
Alexander	Dawson-White	Lacasa	Safley
Andrews	Dennis	Lawson	Sanderson
Argenziano	Diaz de la Portilla	Littlefield	Saunders
Arnall	Dockery	Livingston	Sembler
Arnold	Edwards	Logan	Silver
Bainter	Effman	Lynn	Sindler
Ball	Eggelletion	Mackenzie	Smith
Barreiro	Fasano	Mackey	Spratt
Betancourt	Feeney	Maygarden	Stabins
Bitner	Fischer	Meek	Stafford
Bloom	Flanagan	Melvin	Starks
Boyd	Frankel	Merchant	Sublette
Bradley	Fuller	Miller	Tamargo
Brennan	Futch	Minton	Thrasher
Bronson	Garcia	Morroni	Tobin
Brooks	Gay	Morse	Trovillion
Brown	Goode	Murman	Turnbull
Bullard	Gottlieb	Ogles	Valdes
Burroughs	Greene	Peaden	Villalobos
Bush	Hafner	Posey	Wallace
Byrd	Harrington	Prewitt, D.	Wasserman Schultz
Carlton	Healey	Pruitt, K.	Westbrook
Casey	Heyman	Putnam	Wiles
Chestnut	Hill	Rayson	Wise
Clemons	Horan	Reddick	Ziebarth
Constantine	Jacobs	Ritchie	
Cosgrove	Jones	Ritter	
Crist	Kelly	Roberts-Burke	

Nays—None

So the bill passed and was immediately certified to the Senate.

Reconsideration of CS for SB 152

On motion by Rep. King, the rules were suspended and—

CS for SB 152—A bill to be entitled An act relating to the powers and duties of the Governor; amending s. 14.23, F.S.; regulating the nomination of appointees to federal regional fisheries management councils; providing an effective date.

—was taken up, the House having agreed earlier today to reconsider the vote by which the bill failed to pass on April 29.

The question recurred on the passage of CS for SB 152.

Representative(s) King, Littlefield, and Putnam offered the following:

Amendment 1—On page 1, lines 19-28,
remove from the bill: all of said lines

and insert in lieu thereof: *nomination, a lobbyist for any entity of any kind whatsoever whose interests are or could be affected by actions or decisions of such fisheries management councils.*

(b) For purposes of this section, the term "lobbyist" means any natural person who is required to register pursuant to s. 11.045 or the equivalent federal statute and who, for compensation, seeks, or sought during the preceding 24 months, to influence the governmental decisionmaking of a reporting individual or procurement employee, as those terms are defined under s. 112.3148, or his or her agency, to encourage the passage, defeat, or

Rep. King moved the adoption of the amendment, which was adopted by the required two-thirds vote.

The question recurred on the passage of CS for SB 152. The vote was:

Yeas—115

The Chair	Crow	Kelly	Roberts-Burke
Albright	Culp	King	Rodriguez-Chomat
Alexander	Dawson-White	Kosmas	Rojas
Andrews	Dennis	Lacasa	Safley
Argenziano	Diaz de la Portilla	Lawson	Sanderson
Arnold	Dockery	Littlefield	Saunders
Bainter	Edwards	Livingston	Sembler
Ball	Effman	Logan	Silver
Barreiro	Eggelletion	Lynn	Sindler
Betancourt	Fasano	Mackenzie	Smith
Bitner	Feeney	Mackey	Spratt
Bloom	Fischer	Maygarden	Stabins
Boyd	Flanagan	Meek	Stafford
Bradley	Frankel	Melvin	Starks
Brennan	Fuller	Merchant	Sublette
Bronson	Futch	Miller	Tamargo
Brooks	Garcia	Minton	Thrasher
Brown	Gay	Morroni	Tobin
Bullard	Goode	Murman	Trovillion
Burroughs	Gottlieb	Ogles	Turnbull
Bush	Greene	Peaden	Valdes
Byrd	Hafner	Posey	Villalobos
Carlton	Harrington	Prewitt, D.	Wallace
Casey	Healey	Pruitt, K.	Wasserman Schultz
Chestnut	Heyman	Putnam	Westbrook
Clemons	Hill	Rayson	Wiles
Constantine	Horan	Reddick	Wise
Cosgrove	Jacobs	Ritchie	Ziebarth
Crist	Jones	Ritter	

Nays—None

So the bill passed, as amended, and was immediately certified to the Senate.

Messages from the Senate

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for SB 1690 and requests the concurrence of the House.

Faye W. Blanton, Secretary

By the Committee on Ways and Means and Senator Ostalkiewicz—

CS for SB 1690—A bill to be entitled An act relating to taxes on sales, use, and other transactions (RAB); amending s. 212.0506, F.S.; revising guidelines for tax liability of service warranties; amending s. 212.0515, F.S.; providing tax liability for sales of nonfood items from vending machines; revising eligibility for rewards; amending s. 212.054, F.S.; revising guidelines for determination of exemption from partial sales surtaxes; amending s. 212.0598, F.S.; revising provisions relating to determination of air carriers' tax liability; amending s. 212.06, F.S.; revising guidelines for determining tax liability of certain personal property; providing a presumption with respect to tax liability for sales of motor vehicles; providing for a use tax on certain aircraft; defining the terms "real property," "fixtures," and "improvements to real property," for purposes of determining when a person is improving real property; providing guidelines for determining tax liability on rock, shell, fill dirt, and similar materials; providing an effective date.

—was read the first time by title. On motion by Rep. Starks, the rules were suspended and the bill was read the second time by title and the third time by title. On passage, the vote was:

Yeas—117

The Chair	Crow	King	Rodriguez-Chomat
Albright	Culp	Kosmas	Rojas
Alexander	Dawson-White	Lacasa	Safley
Andrews	Dennis	Lawson	Sanderson
Argenziano	Diaz de la Portilla	Littlefield	Saunders
Arnall	Dockery	Livingston	Sembler
Arnold	Edwards	Logan	Silver
Bainter	Effman	Lynn	Sindler
Ball	Eggelletion	Mackenzie	Smith
Barreiro	Fasano	Mackey	Spratt
Betancourt	Feeney	Maygarden	Stabins
Bitner	Fischer	Meek	Stafford
Bloom	Flanagan	Melvin	Starks
Boyd	Frankel	Merchant	Sublette
Bradley	Fuller	Miller	Tamargo
Brennan	Futch	Minton	Thrasher
Bronson	Garcia	Morroni	Tobin
Brooks	Gay	Morse	Trovillion
Brown	Goode	Murman	Turnbull
Bullard	Gottlieb	Ogles	Valdes
Burroughs	Greene	Peaden	Villalobos
Bush	Hafner	Posey	Wallace
Byrd	Harrington	Prewitt, D.	Wasserman Schultz
Carlton	Healey	Pruitt, K.	Westbrook
Casey	Heyman	Putnam	Wiles
Chestnut	Hill	Rayson	Wise
Clemons	Horan	Reddick	Ziebarth
Constantine	Jacobs	Ritchie	
Cosgrove	Jones	Ritter	
Crist	Kelly	Roberts-Burke	

Nays—None

So the bill passed and was immediately certified to the Senate.

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for SB 1692, as amended, and requests the concurrence of the House.

Faye W. Blanton, Secretary

By the Committee on Ways and Means and Senator Ostalkiewicz—

CS for SB 1692—A bill to be entitled An act relating to the tax on sales, use, and other transactions (RAB); amending s. 212.02, F.S.; defining the terms "agricultural commodity," "farmer," and "livestock"; amending s. 212.07, F.S.; prescribing dealer liability for certain tax; prescribing tax liability for sales of race horses in claiming races; amending s. 212.08, F.S.; exempting certain sales of racing dogs; disallowing a sales tax exemption for purchases made by an employee of an exempt organization when such payment is made by the employee; amending s. 212.09, F.S.; revising provisions regulating credits for trade-ins; amending s. 212.17, F.S.; providing for reimbursement of certain taxes paid by dealers; amending s. 212.18, F.S.; providing for revocation of a dealer's certificate of registration; providing an effective date.

—was read the first time by title. On motion by Rep. Starks, the rules were suspended and the bill was read the second time by title and the third time by title.

THE SPEAKER IN THE CHAIR

On passage, the vote was:

Yeas—116

The Chair	Crist	Jones	Ritter
Albright	Crow	Kelly	Roberts-Burke
Alexander	Culp	King	Rodriguez-Chomat
Andrews	Dawson-White	Kosmas	Rojas
Argenziano	Dennis	Lacasa	Safley
Arnall	Diaz de la Portilla	Lawson	Sanderson
Arnold	Dockery	Littlefield	Saunders
Bainter	Edwards	Livingston	Sembler
Ball	Effman	Logan	Silver
Barreiro	Eggelletion	Lynn	Sindler
Betancourt	Fasano	Mackenzie	Smith
Bitner	Feeney	Mackey	Spratt
Bloom	Fischer	Maygarden	Stabins
Boyd	Flanagan	Meek	Stafford
Bradley	Frankel	Melvin	Starks
Brennan	Fuller	Merchant	Sublette
Bronson	Futch	Miller	Tamargo
Brooks	Garcia	Minton	Thrasher
Brown	Gay	Morroni	Tobin
Bullard	Goode	Murman	Trovillion
Burroughs	Gottlieb	Ogles	Turnbull
Bush	Greene	Peaden	Valdes
Byrd	Hafner	Posey	Villalobos
Carlton	Harrington	Prewitt, D.	Wallace
Casey	Healey	Pruitt, K.	Wasserman Schultz
Chestnut	Heyman	Putnam	Westbrook
Clemons	Hill	Rayson	Wiles
Constantine	Horan	Reddick	Wise
Cosgrove	Jacobs	Ritchie	Ziebarth

Nays—None

So the bill passed and was immediately certified to the Senate.

Motions Relating to Committee References

On motion by Rep. Littlefield, agreed to by two-thirds vote, CS/HB 3983 was withdrawn from the Committee on Elder Affairs & Long Term Care and remains referred to the Committees on Community Affairs, Finance & Taxation, and Transportation & Economic Development Appropriations.

On motion by Rep. Littlefield, agreed to by two-thirds vote, HM 4787 was withdrawn from the Committee on Environmental Protection and placed on the appropriate Calendar or Council list.

On motion by Rep. Constantine, agreed to by two-thirds vote, CS/HB 3983 was withdrawn from the Committee on Community Affairs and remains referred to the Committees on Finance & Taxation and Transportation & Economic Development Appropriations.

On motion by Rep. Garcia, agreed to by two-thirds vote, CS/HB 3983 was withdrawn from the Committee on Finance & Taxation and remains referred to the Committee on Transportation & Economic Development Appropriations.

On motion by Rep. Garcia, agreed to by two-thirds vote, CS/HB 3983 was withdrawn from the Committee on Transportation & Economic Development Appropriations and placed on the appropriate Calendar or Council list.

On motion by Rep. Garcia, agreed to by two-thirds vote, HB 4509 was withdrawn from the Committee on Criminal Justice Appropriations and placed on the appropriate Calendar or Council list.

Messages from the Senate

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for SB 1694 and requests the concurrence of the House.

Faye W. Blanton, Secretary

By the Committee on Ways and Means and Senator Ostalkiewicz—

CS for SB 1694—A bill to be entitled An act relating to taxation (RAB); amending s. 212.08, F.S., relating to the tax on sales, use, and other transactions; revising the sales tax exemption provided for food and drinks; providing definitions; exempting additional medical supplies and equipment; defining the term "prescriptions"; revising the exemption for school books and school lunches; providing exemptions with respect to parent-teacher organizations and associations, to schools with grades K through 12, to mobile home lot improvements, and to sales of certain personal property supported through the Veterans Administration; providing a partial exemption for certain commercial fishing vessels; providing guidelines for determining applicability of sales surtaxes to certain transactions; providing an exemption for certain foods, drinks, and other items provided to customers on a complimentary basis by a dealer who sells food products at retail; providing an exemption for foods and beverages donated by such dealers to certain organizations; revising provisions relating to the technical assistance advisory committee established to provide advice in determining the taxability of specific products; providing membership requirements; amending s. 213.22, F.S.; providing for the issuance of technical assistance advisements; providing an effective date.

—was read the first time by title. On motion by Rep. Starks, the rules were suspended and the bill was read the second time by title and the third time by title. On passage, the vote was:

Yeas—118

The Chair	Crist	Kelly	Roberts-Burke
Albright	Crow	King	Rodriguez-Chomat
Alexander	Culp	Kosmas	Rojas
Andrews	Dawson-White	Lacasa	Safley
Argenziano	Dennis	Lawson	Sanderson
Arnall	Diaz de la Portilla	Littlefield	Saunders
Arnold	Dockery	Livingston	Sembler
Bainter	Edwards	Logan	Silver
Ball	Effman	Lynn	Sindler
Barreiro	Eggelletion	Mackenzie	Smith
Betancourt	Fasano	Mackey	Spratt
Bitner	Feeney	Maygarden	Stabins
Bloom	Fischer	Meek	Stafford
Boyd	Flanagan	Melvin	Starks
Bradley	Frankel	Merchant	Sublette
Brennan	Fuller	Miller	Tamargo
Bronson	Futch	Minton	Thrasher
Brooks	Garcia	Morroni	Tobin
Brown	Gay	Morse	Trovillion
Bullard	Goode	Murman	Turnbull
Burroughs	Gottlieb	Ogles	Valdes
Bush	Greene	Peaden	Villalobos
Byrd	Hafner	Posey	Wallace
Carlton	Harrington	Prewitt, D.	Wasserman Schultz
Casey	Healey	Pruitt, K.	Westbrook
Chestnut	Heyman	Putnam	Wiles
Clemons	Hill	Rayson	Wise
Constantine	Horan	Reddick	Ziebarth
Cosgrove	Jacobs	Ritchie	
Crady	Jones	Ritter	

Nays—None

So the bill passed and was immediately certified to the Senate.

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for SB 1696 and requests the concurrence of the House.

Faye W. Blanton, Secretary

By the Committee on Ways and Means and Senator Ostalkiewicz—

CS for SB 1696—A bill to be entitled An act relating to the tax on sales, use, and other transactions (RAB); amending s. 212.08, F.S.; revising eligibility standards for the partial exemption for farm equipment; providing additional uses to which equipment may be put and be eligible for the exemption; revising exemption standards for water; exempting disinfectants, pesticides, weed killers, certain seeds, cuttings, seedlings, plants, and specified packaging items in agricultural use; exempting paint color cards and other color samples available at no charge; providing guidelines for determining applicability of exemption for sales to a governmental entity to sales of tangible personal property to contractors for incorporation into public works; providing guidelines for determining applicability of sales surtaxes to certain transactions; authorizing aircraft to be returned to the state under specified circumstances without incurring tax liability; providing an effective date.

—was read the first time by title. On motion by Rep. Starks, the rules were suspended and the bill was read the second time by title and the third time by title. On passage, the vote was:

Yeas—112

The Chair	Crist	Kelly	Ritter
Albright	Crow	King	Roberts-Burke
Alexander	Culp	Kosmas	Rodriguez-Chomat
Andrews	Dawson-White	Lacasa	Rojas
Argenziano	Dennis	Lawson	Safley
Arnall	Diaz de la Portilla	Littlefield	Sanderson
Arnold	Dockery	Livingston	Saunders
Ball	Edwards	Lynn	Sembler
Barreiro	Effman	Mackenzie	Silver
Betancourt	Eggelletion	Mackey	Sindler
Bitner	Fasano	Maygarden	Smith
Bloom	Feeney	Meek	Spratt
Boyd	Fischer	Melvin	Stabins
Bradley	Frankel	Merchant	Stafford
Brennan	Fuller	Miller	Starks
Bronson	Futch	Minton	Sublette
Brooks	Gay	Morroni	Tamargo
Brown	Goode	Morse	Thrasher
Bullard	Gottlieb	Murman	Tobin
Burroughs	Greene	Ogles	Trovillion
Bush	Hafner	Peaden	Turnbull
Byrd	Harrington	Posey	Valdes
Carlton	Healey	Prewitt, D.	Villalobos
Casey	Heyman	Pruitt, K.	Wallace
Clemons	Hill	Putnam	Wasserman Schultz
Constantine	Horan	Rayson	Westbrook
Cosgrove	Jacobs	Reddick	Wiles
Crady	Jones	Ritchie	Ziebarth

Nays—None

So the bill passed and was immediately certified to the Senate.

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for SB 1450, as amended, and requests the concurrence of the House.

Faye W. Blanton, Secretary

By the Committee on Ways and Means and Senator Bankhead—

CS for SB 1450—A bill to be entitled An act relating to intangible personal property taxes; amending s. 199.023, F.S.; defining the terms "ministerial function" and "processing activity" for purposes of ch. 199, F.S.; amending s. 199.052, F.S.; increasing the minimum amount of annual intangible personal property tax which a person may be required to pay; providing that personal property of a trust will not have taxable situs in this state under specified circumstances; repealing s. 199.052(11), F.S., relating to returns filed by banking organizations, to conform; amending s. 199.175, F.S., relating to taxable situs; amending s. 199.175, F.S.; providing for situs of credit or charge card receivables owned, managed, or controlled by a bank or savings association; conforming provisions; amending s. 199.185, F.S.; revising the exemption from intangible personal property taxes for certain property held in trust; revising the exemption for real estate mortgage investment conduits; partially exempting accounts receivable arising out of a trade or business from intangible personal property taxes; providing legislative intent to fully exempt such assets in subsequent years; exempting stock options granted to employees by an employer and stock purchased by employees under certain conditions from intangible personal property taxes; providing a full, rather than partial, exemption from the annual tax for banks and savings associations and providing for application of the exemption to organizations defined by s. 220.62(1), (2), (3), and (4), F.S.; exempting insurers from the annual tax; repealing s. 199.104, F.S., which provides a credit against the annual tax for banks and savings associations; repealing s. 220.68, F.S., which provides a credit against the franchise tax imposed on banks and savings associations based on intangible tax paid; amending s. 199.282, F.S.; revising the penalty for late filing of an annual intangible tax return; providing a limitation on combined delinquency and late filing penalties; revising the penalty for omitting or undervaluing property on an annual return; amending s. 199.292, F.S.; revising the distribution of intangible tax revenues; amending s. 220.02, F.S., relating to order of credits against the corporate income tax or franchise tax, and s. 624.509, F.S., relating to the insurance premium tax; conforming provisions; providing application; providing effective dates.

—was read the first time by title. On motion by Rep. Starks, the rules were suspended and the bill was read the second time by title and the third time by title. On passage, the vote was:

Yeas—117

The Chair	Crist	Kelly	Roberts-Burke
Albright	Crow	King	Rojas
Alexander	Culp	Kosmas	Safley
Andrews	Dawson-White	Lacasa	Sanderson
Argenziano	Dennis	Lawson	Saunders
Arnall	Diaz de la Portilla	Littlefield	Sembler
Arnold	Dockery	Livingston	Silver
Bainter	Edwards	Logan	Sindler
Ball	Effman	Lynn	Smith
Barreiro	Eggelletion	Mackenzie	Spratt
Betancourt	Fasano	Mackey	Stabins
Bitner	Feeney	Maygarden	Stafford
Bloom	Fischer	Meek	Starks
Boyd	Flanagan	Melvin	Sublette
Bradley	Frankel	Merchant	Tamargo
Brennan	Fuller	Miller	Thrasher
Bronson	Futch	Minton	Tobin
Brooks	Garcia	Morroni	Trovillion
Brown	Gay	Morse	Turnbull
Bullard	Goode	Murman	Valdes
Burroughs	Gottlieb	Ogles	Villalobos
Bush	Greene	Peaden	Wallace
Byrd	Hafner	Posey	Warner
Carlton	Harrington	Prewitt, D.	Wasserman Schultz
Casey	Healey	Pruitt, K.	Wiles
Chestnut	Heyman	Putnam	Wise
Clemons	Hill	Rayson	Ziebarth
Constantine	Horan	Reddick	
Cosgrove	Jacobs	Ritchie	
Crady	Jones	Ritter	

Nays—None

So the bill passed and was immediately certified to the Senate.

Bills and Joint Resolutions on Third Reading

On motion by Rep. Posey, the rules were suspended and—

SB 1462—A bill to be entitled An act relating to retirement funds; amending and revising the provisions of ss. 175.071, 185.06, F.S.; revising investment provisions to permit municipalities greater investment latitude to make foreign investments; providing for general powers and duties of the board of trustees; providing an effective date.

—was taken up and read the third time by title. On passage, the vote was:

Yeas—115

The Chair	Crow	Kosmas	Rodriguez-Chomat
Albright	Culp	Lacasa	Rojas
Alexander	Dawson-White	Lawson	Safley
Andrews	Dennis	Littlefield	Sanderson
Argenziano	Diaz de la Portilla	Livingston	Saunders
Arnall	Dockery	Logan	Sembler
Arnold	Edwards	Lynn	Silver
Bainter	Effman	Mackenzie	Sindler
Ball	Eggelletion	Mackey	Smith
Barreiro	Fasano	Maygarden	Spratt
Betancourt	Feeney	Meek	Stabins
Bitner	Fischer	Melvin	Stafford
Bloom	Flanagan	Merchant	Starks
Boyd	Frankel	Miller	Sublette
Bradley	Fuller	Minton	Tamargo
Brennan	Futch	Morroni	Thrasher
Bronson	Gay	Morse	Tobin
Brooks	Goode	Murman	Trovillion
Burroughs	Gottlieb	Ogles	Turnbull
Bush	Hafner	Peaden	Valdes
Byrd	Harrington	Posey	Villalobos
Carlton	Healey	Prewitt, D.	Wallace
Casey	Heyman	Pruitt, K.	Warner
Chestnut	Hill	Putnam	Wasserman Schultz
Clemons	Horan	Rayson	Westbrook
Constantine	Jacobs	Reddick	Wiles
Cosgrove	Jones	Ritchie	Wise
Crady	Kelly	Ritter	Ziebarth
Crist	King	Roberts-Burke	

Nays—None

Votes after roll call:
Yeas—Bullard, Greene

So the bill passed and was immediately certified to the Senate.

Recalled from Senate

On motion by Rep. Saunders, the Senate was requested to return **CS/HB 1437**.

Messages from the Senate

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has concurred in House Amendment 2, amended House Amendment 1 and concurred in same as amended, passed as further amended CS for SB 1014, as amended, and requests the concurrence of the House.

Faye W. Blanton, Secretary

CS for SB 1014—A bill to be entitled An act relating to road designations; designating the Gratigny Parkway in Dade County as the "Marlins Expressway"; directing the Department of Transportation to erect suitable markers; designating a portion of State Road 267 in Gadsden County as the "Pat Thomas Parkway"; directing the Department of Transportation to erect suitable markers; designating a portion of State Road 528 in Brevard County as the "Kennedy Space Center Highway"; directing the Department of Transportation to erect suitable markers; designating a portion of the Polk County Highway as the "James Henry Mills Medal of Honor Parkway"; directing the Department of Transportation to erect suitable markers; designating a portion of N.W. 167th Street in Miami Lakes as "Zuly Reyes Road"; directing the Department of Transportation to erect suitable markers; designating State Road 50 within Hernando County as the "Deputy Lonnie Coburn Memorial Highway"; directing the Department of Transportation to erect suitable markers; co-designating the MacArthur Causeway Bridge in Miami-Dade County as the "Trooper Robert G. Smith Bridge"; directing the Department of Transportation to erect suitable markers; designating the Florida Turnpike as the "Ronald Reagan Turnpike"; directing the Department of Transportation to erect suitable markers; designating a portion of State Road 71 South in Jackson County as the "Pete Peterson Parkway"; directing the Department of Transportation to erect suitable markers; designating that portion of State Road 71 extending through Port St. Joe (known as 5th Street) as "Cecil G. Costin, Sr. Boulevard"; directing the Department of Transportation to erect suitable markers; designating a portion of Coral Way in Miami as the "Ofelia Perez-Roura Memorial Way" directing the Department of Transportation to erect suitable markers; providing an effective date.

(House Amendment 1 and House Amendment 2 attached to original bill and shown in the *Journal* on page 1538, April 28.)

Senate Amendment 1 to House Amendment 1—In title, on page 2, between lines 17 and 18, insert: An act relating to road and building designations; designating the Gratigny Parkway in Dade County as the "Marlins Expressway"; directing the Department of Transportation to erect suitable markers; designating a portion of State Road 267 in Gadsden County as the "Pat Thomas Parkway"; directing the Department of Transportation to erect suitable markers; designating a portion of State Road 528 in Brevard County as the "Kennedy Space Center Highway"; directing the Department of Transportation to erect suitable markers; designating a portion of the Polk County Highway as the "James Henry Mills Medal of Honor Parkway"; directing the Department of Transportation to erect suitable markers; designating a portion of N.W. 167th Street in Miami Lakes as "Zuly Reyes Road"; directing the Department of Transportation to erect suitable markers; designating State Road 50 within Hernando County as the "Deputy Lonnie Coburn Memorial Highway"; directing the Department of Transportation to erect suitable markers; co-designating the MacArthur Causeway Bridge in Miami-Dade County as the "Trooper Robert G. Smith Bridge"; directing the Department of Transportation to erect suitable markers; designating the Florida Turnpike as the "Ronald Reagan Turnpike"; directing the Department of Transportation to erect suitable markers; designating a portion of State Road 71 South in Jackson County as the "Pete Peterson Parkway"; directing the Department of Transportation to erect suitable markers; designating that portion of State Road 71 extending through Port St. Joe (known as 5th Street) as "Cecil G. Costin, Sr. Boulevard"; directing the Department of Transportation to erect suitable markers; designating a portion of Coral Way in Miami as the "Ofelia Perez-Roura Memorial Way" directing the Department of Transportation to erect suitable markers;

On motion by Rep. Morse, the House concurred in Senate Amendment 1 to House Amendment 1. The question recurred on the passage of CS for SB 1014. The vote was:

Yeas—91

The Chair	Bitner	Casey	Edwards
Albright	Bloom	Clemons	Fasano
Alexander	Boyd	Constantine	Feeney
Andrews	Bradley	Cosgrove	Flanagan
Argenziano	Brennan	Crady	Frankel
Arnall	Bronson	Crist	Fuller
Arnold	Brooks	Crow	Futch
Bainter	Brown	Culp	Garcia
Ball	Burroughs	Dennis	Gay
Barreiro	Byrd	Diaz de la Portilla	Goode
Betancourt	Carlton	Dockery	Horan

Jones	Minton	Rodriguez-Chomat	Thrasher
Kelly	Morroni	Rojas	Trovillion
King	Morse	Safley	Turnbull
Lacasa	Murman	Sanderson	Valdes
Lawson	Ogles	Saunders	Villalobos
Littlefield	Peaden	Sembler	Wallace
Livingston	Posey	Sindler	Warner
Lynn	Prewitt, D.	Smith	Westbrook
Mackey	Pruitt, K.	Spratt	Wiles
Maygarden	Putnam	Stabins	Wise
Melvin	Ritchie	Sublette	Ziebarth
Merchant	Roberts-Burke	Tamargo	

Nays—21

Dawson-White	Hafner	Mackenzie	Stafford
Effman	Healey	Miller	Tobin
Eggelletion	Heyman	Rayson	Wasserman Schultz
Fischer	Hill	Reddick	
Gottlieb	Jacobs	Ritter	
Greene	Kosmas	Silver	

Votes after roll call:
Yeas—Bullard, Harrington

So the bill passed, as amended. The action, together with the bill and amendments thereto, was immediately certified to the Senate.

CS for SB 1408 was temporarily postponed under Rule 147.

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for SB 1748 and requests the concurrence of the House.

Faye W. Blanton, Secretary

By the Committee on Ways and Means and Senator Thomas—

CS for SB 1748—A bill to be entitled An act relating to funds distributed to local governments; amending s. 236.081, F.S.; amending the prerequisites to excluding from the computation of district required local effort the assessed value of property that is the subject of litigation; creating s. 218.66, F.S.; providing for a special distribution of funds from the Local Government Half-cent Sales Tax Clearing Trust Fund to a county or municipality under certain conditions; providing an effective date.

—was read the first time by title. On motion by Rep. K. Pruitt, the rules were suspended and the bill was read the second time by title.

Representative(s) Mackey offered the following:

Amendment 1 (with title amendment)—On page 4, between lines 4 and 5 of the bill

insert:

Section 1. *The sum of $13,244,151 is appropriated for fiscal year 1998-1999 from the Public Education and Capital Outlay Debt Service Trust Fund to the Columbia County School District for the Ft. White High School. No funds shall be released for this project before the Special Facilities Review Commission has approved said project.*

And the title is amended as follows:

On page 1, line 11, after the semicolon

insert: providing an appropriation to the Columbia County School District; providing a contingency;

Rep. Mackey moved the adoption of the amendment, which was adopted.

On motion by Rep. K. Pruitt, the rules were suspended and CS for SB 1748, as amended, was read the third time by title. On passage, the vote was:

Yeas—117

The Chair	Crow	Kosmas	Rojas
Albright	Culp	Lacasa	Safley
Alexander	Dawson-White	Lawson	Sanderson
Andrews	Dennis	Littlefield	Saunders
Argenziano	Diaz de la Portilla	Livingston	Sembler
Arnall	Dockery	Logan	Silver
Arnold	Edwards	Lynn	Sindler
Bainter	Effman	Mackenzie	Smith
Ball	Eggelletion	Mackey	Spratt
Barreiro	Fasano	Maygarden	Stabins
Betancourt	Feeney	Meek	Stafford
Bitner	Fischer	Melvin	Starks
Bloom	Flanagan	Merchant	Sublette
Boyd	Frankel	Miller	Tamargo
Bradley	Fuller	Minton	Thrasher
Brennan	Futch	Morroni	Tobin
Bronson	Garcia	Morse	Trovillion
Brooks	Gay	Murman	Turnbull
Brown	Goode	Ogles	Valdes
Bullard	Gottlieb	Peaden	Villalobos
Burroughs	Greene	Posey	Wallace
Bush	Hafner	Prewitt, D.	Warner
Byrd	Harrington	Pruitt, K.	Wasserman Schultz
Carlton	Healey	Putnam	Westbrook
Casey	Heyman	Rayson	Wiles
Chestnut	Hill	Reddick	Wise
Constantine	Horan	Ritchie	Ziebarth
Cosgrove	Jones	Ritter	
Crady	Kelly	Roberts-Burke	
Crist	King	Rodriguez-Chomat	

Nays—None

So the bill passed, as amended, and was immediately certified to the Senate.

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for SB 2480, as amended, and requests the concurrence of the House.

Faye W. Blanton, Secretary

By the Committee on Criminal Justice and Senator Lee—

CS for SB 2480—A bill to be entitled An act relating to the Alternative Education Institute; amending s. 230.23162, F.S.; abolishing the institute; transferring the institute to the Department of Management Services; providing duties of the Department of Management Services; establishing a working group to develop a plan for use of the facility; requiring a report; requiring the department to provide services and make a recommendation for the disposition of the facility taking account of local and state concerns; providing an appropriation; providing an effective date.

—was read the first time by title. On motion by Rep. Alexander, the rules were suspended and the bill was read the second time by title.

Representative(s) Alexander offered the following:

Amendment 1—On page 3, lines 2 through 28
remove from the bill: all of said lines

and insert in lieu thereof: *act becomes law.*

(3) The Department of Management Services shall survey state agencies, and shall invite bids and proposals from state agencies, local government agencies, federal agencies, and the private sector for the use or disposition of the facility and related assets, no later than June 15, 1998. Notwithstanding any law to the contrary, the Department of Management Services shall set a deadline for receipt of bids and proposals of not less than 3 months after the invitation for bids and proposals is advertised. By October 1, 1998, the Department of

Management Services shall evaluate all bids and proposals and make a recommendation to the working group created under this section regarding proposed uses for the facility, taking into account local and state interests and concerns.

(4) Taking into consideration the recommendation of the Department of Management Services, and local and state concerns and interests, the working group shall, no later than November 1, 1998, make a final determination for the use or disposition of the facility and related assets planned, constructed, acquired, and equipped pursuant to Specific Appropriation 2012A of the 1994-1995 General Appropriations Act, and shall be disbanded upon that date. Such determination shall be subject to the notice, review, and objection procedures of s. 216.177. If the final determination made by the working group is objected to under s. 216.177, the final determination for the facility and related assets shall be made by the Legislature during the 1999 Regular Session.

Rep. Alexander moved the adoption of the amendment, which was adopted.

On motion by Rep. Alexander, the rules were suspended and CS for SB 2480, as amended, was read the third time by title. On passage, the vote was:

Yeas—117

The Chair	Crist	Kosmas	Rojas
Albright	Crow	Lacasa	Safley
Alexander	Culp	Lawson	Sanderson
Andrews	Dawson-White	Littlefield	Saunders
Argenziano	Dennis	Livingston	Sembler
Arnall	Diaz de la Portilla	Logan	Silver
Arnold	Dockery	Lynn	Sindler
Bainter	Edwards	Mackenzie	Smith
Ball	Effman	Mackey	Spratt
Barreiro	Eggelletion	Maygarden	Stabins
Betancourt	Fasano	Meek	Stafford
Bitner	Feeney	Melvin	Starks
Bloom	Fischer	Merchant	Sublette
Boyd	Flanagan	Miller	Tamargo
Bradley	Fuller	Minton	Thrasher
Brennan	Futch	Morroni	Tobin
Bronson	Garcia	Morse	Trovillion
Brooks	Gay	Murman	Turnbull
Brown	Goode	Ogles	Valdes
Bullard	Gottlieb	Peaden	Villalobos
Burroughs	Greene	Posey	Wallace
Bush	Hafner	Prewitt, D.	Warner
Byrd	Harrington	Pruitt, K.	Wasserman Schultz
Carlton	Healey	Putnam	Westbrook
Casey	Heyman	Rayson	Wiles
Chestnut	Hill	Reddick	Wise
Clemons	Horan	Ritchie	Ziebarth
Constantine	Jacobs	Ritter	
Cosgrove	Jones	Roberts-Burke	
Crady	King	Rodriguez-Chomat	

Nays—None

Votes after roll call:
Yeas—Frankel

So the bill passed, as amended, and was immediately certified to the Senate.

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for SB 2484, as amended, and requests the concurrence of the House.

Faye W. Blanton, Secretary

By the Committee on Banking and Insurance and Senators Geller and Clary—

CS for SB 2484—A bill to be entitled An act relating to fire prevention and control; amending s. 633.021, F.S.; defining the term "fire extinguisher"; amending s. 633.061, F.S.; requiring an individual or organization that hydrotests fire extinguishers and preengineered systems to obtain a permit or license from the State Fire Marshal; revising the services that may be performed under certain licenses and permits issued by the State Fire Marshal; providing additional application requirements; providing requirements for obtaining an upgraded license; amending ss. 633.065, 633.071, F.S.; providing requirements for installing and inspecting fire suppression equipment; amending s. 633.162, F.S.; prohibiting an owner, officer, or partner of a company from applying for licensure if the license held by the company is suspended or revoked; revising the grounds upon which the State Fire Marshal may deny, revoke, or suspend a license or permit; providing restrictions on activities of former licenseholders and permittees; amending s. 633.171, F.S.; revising the prohibition against rendering a fire extinguisher or preengineered system inoperative to conform to changes made by the act; amending s. 633.547, F.S.; providing the State Fire Marshal authority to suspend and revoke certificates; providing restrictions on the activities of former certificateholders whose certificates are suspended or revoked; amending s. 489.105, F.S., relating to contracting; conforming a cross-reference to changes made by the act; amending s. 489.505, F.S.; defining the term "fire alarm system agent" for purposes of electrical and alarm system contracting; creating s. 489.5185, F.S.; providing requirements for fire alarm system agents, including specified training and fingerprint and criminal background checks; providing for fees for approval of training providers and courses; providing applicability to applicants, current employees, and various licensees; requiring an identification card and providing requirements therefor; providing continuing education requirements; providing disciplinary penalties; providing an effective date.

—was read the first time by title. On motion by Rep. Ogles, the rules were suspended and the bill was read the second time by title and the third time by title. On passage, the vote was:

Yeas—118

The Chair	Crow	King	Rodriguez-Chomat
Albright	Culp	Kosmas	Rojas
Alexander	Dawson-White	Lacasa	Safley
Andrews	Dennis	Lawson	Sanderson
Argenziano	Diaz de la Portilla	Littlefield	Saunders
Arnall	Dockery	Livingston	Sembler
Arnold	Edwards	Logan	Silver
Bainter	Effman	Lynn	Sindler
Ball	Eggelletion	Mackenzie	Smith
Betancourt	Fasano	Mackey	Spratt
Bitner	Feeney	Maygarden	Stabins
Bloom	Fischer	Meek	Stafford
Boyd	Flanagan	Melvin	Starks
Bradley	Frankel	Merchant	Sublette
Brennan	Fuller	Miller	Tamargo
Bronson	Futch	Minton	Thrasher
Brooks	Garcia	Morroni	Tobin
Brown	Gay	Morse	Trovillion
Bullard	Goode	Murman	Turnbull
Burroughs	Gottlieb	Ogles	Valdes
Bush	Greene	Peaden	Villalobos
Byrd	Hafner	Posey	Wallace
Carlton	Harrington	Prewitt, D.	Warner
Casey	Healey	Pruitt, K.	Wasserman Schultz
Chestnut	Heyman	Putnam	Westbrook
Clemons	Hill	Rayson	Wiles
Constantine	Horan	Reddick	Wise
Cosgrove	Jacobs	Ritchie	Ziebarth
Crady	Jones	Ritter	
Crist	Kelly	Roberts-Burke	

Nays—None

So the bill passed and was immediately certified to the Senate.

CS/HB 3527 was temporarily postponed under Rule 147.

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS/HB 3673, with amendments, and requests the concurrence of the House.

Faye W. Blanton, Secretary

CS/HB 3673—A bill to be entitled An act relating to aquaculture; amending s. 253.72, F.S.; establishing wild harvest setbacks from shellfish leases; amending s. 370.027, F.S.; providing an exception to rulemaking authority of the Marine Fisheries Commission with respect to specified marine life; providing that marine aquaculture producers shall be regulated by the Department of Agriculture and Consumer Services; amending s. 370.06, F.S.; revising provisions relating to issuance and renewal of saltwater products licenses and special activity licenses; authorizing issuance of special activity licenses for the use of special gear or equipment, the importation and possession of sturgeon, and the harvest of certain shellfish; authorizing permit consolidation procedures; amending s. 370.081, F.S.; revising provisions relating to the importation of nonindigenous marine plants and animals; amending s. 370.10, F.S.; authorizing the harvesting or possession of saltwater species for experimental, scientific, education, and exhibition purposes; amending s. 370.16, F.S.; establishing wild harvest setbacks from shellfish leases; amending s. 370.26, F.S.; relating to aquaculture definitions; defining the term "marine product facility" and revising definition of the term "marine aquaculture product"; deleting requirements of an Aquaculture Section in the Department of Environmental Protection; providing duties of the Department of Agriculture and Consumer Services; authorizing delegation of regulatory authority for certain aquaculture facilities; amending s. 372.0225, F.S.; revising responsibilities of the Division of Fisheries of the Game and Fresh Water Fish Commission relating to freshwater organisms; amending s. 372.65, F.S.; authorizing exemption for freshwater fish dealer's license; amending s. 372.6672, F.S.; removing obsolete language relating to state-sanctioned sales of alligator hides; amending s. 372.6673, F.S.; providing for a portion of the fees assessed for alligator egg collection permits to be transferred to the General Inspection Trust Fund to be used for certain purposes; amending s. 372.6674, F.S.; providing for a portion of the fees assessed for alligator hide validation tags to be transferred to the General Inspection Trust Fund to be used for certain purposes; amending s. 373.046, F.S.; clarifying jurisdiction over aquaculture activities; amending s. 373.406, F.S.; providing exemption for management and storage of surface water; amending s. 403.0885, F.S.; providing exemptions from the state National Pollutant Discharge Elimination System program; amending s. 403.814, F.S.; revising and clarifying provisions relating to aquaculture general permits; amending s. 597.002, F.S.; clarifying jurisdiction over aquaculture activities; amending s. 597.003, F.S.; expanding the powers and duties of the Department of Agriculture and Consumer Services relating to regulation of aquaculture; amending s. 597.004, F.S.; revising provisions relating to aquaculture certificate of registration; providing for shellfish and nonshellfish certification; providing for rules, waiver of liability, compliance, and reports; amending s. 597.005, F.S.; providing for a list of prioritized research needs; providing an effective date.

Senate Amendment 1—On page 28, lines 10-12, delete those lines and insert: by the department pursuant to s. 369.25 shall also be *subject to the requirements of this subsection* ~~issued an aquaculture certificate of registration~~.

Senate Amendment 2 (with title amendment)—On page 3, line 16, insert:

Section 1. Paragraph (a) of subsection (2) of section 370.0605, Florida Statutes, is amended to read:

370.0605 Saltwater fishing license required; fees.—

(2) Saltwater fishing license fees are as follows:

(a)1. For a resident of the state, ~~$10 for a 10-day license and~~ $12 for a 1-year license.

2. For a resident of the state, $60 for 5 consecutive years from the date of purchase.

3. For a nonresident of the state, $5 for a 3-day license, $15 for a 7-day license, and $30 for a 1-year license.

4. For purposes of this section, "resident" has the same meaning as that found in s. 372.001.

Section 2. Paragraphs (b) and (f) of subsection (4) of section 372.57, Florida Statutes, are amended, paragraph (g) is added to said subsection, and subsection (7), paragraphs (c) and (d) of subsection (8), and subsections (9), (11), and (14) of that section are amended, to read:

372.57 Licenses and permits; exemptions; fees.—No person, except as provided herein, shall take game, freshwater fish, or fur-bearing animals within this state without having first obtained a license, permit, or authorization and paid the fees hereinafter set forth, unless such license is issued without fee as provided in s. 372.561. Such license, permit, or authorization shall authorize the person to whom it is issued to take game, freshwater fish, or fur-bearing animals in accordance with law and commission rules. Such license, permit, or authorization is not transferable. Each license or permit must bear on its face in indelible ink the name of the person to whom it is issued and other information requested by the commission. Such license, permit, or authorization issued by the commission or any agent must be in the personal possession of the person to whom issued while taking game, freshwater fish, or fur-bearing animals. The failure of such person to exhibit such license, permit, or authorization to the commission or its wildlife officers, when such person is found taking game, freshwater fish, or fur-bearing animals, is a violation of law. A positive form of identification is required when using an authorization, a lifetime license, a 5-year license, or when otherwise required by the license or permit. The lifetime licenses and 5-year licenses provided herein shall be embossed with the name, date of birth, the date of issuance, and other pertinent information as deemed necessary by the commission. A certified copy of the applicant's birth certificate shall accompany all applications for a lifetime license for residents 12 years of age and younger.

(4) In addition to any license required by this chapter, the following permits and fees for certain hunting, fishing, and recreational uses, and the activities authorized thereby, are:

(b)*1.* Management area permits to hunt, fish, or otherwise use for outdoor recreational purposes, land owned, leased, or managed by the commission or the State of Florida for the use and benefit of the commission, up to $25 annually. Permits, and fees thereof, for short-term use of land which is owned, leased, or managed by the commission may be established by rule of the commission for any activity on such lands. Such permits and fees may be in lieu of or in addition to the annual management area permit. Other than for hunting or fishing, the provisions of this paragraph shall not apply on any lands not owned by the commission, unless the commission shall have obtained the written consent of the owner or primary custodian of such lands.

2. A recreational user permit fee to hunt, fish, or otherwise use for outdoor recreational purposes, land leased by the commission from private nongovernmental owners, except for those lands located directly north of the Apalachicola National Forest, east of the Ochlockonee River until the point the river meets the dam forming Lake Talquin, and south of the closest federal highway. The fee for this permit shall be based upon economic compensation desired by the landowner, game population levels, desired hunter density, and administrative costs. The permit fee shall be set by commission rule on a per-acre basis. On property currently in the private landowner payment program, the prior year's landowner payment shall be used to augment the landowner lease fee so as to decrease the permit fee for the users of that property. The spouse and dependent children of a permittee are exempt from the permit fee when engaged in outdoor recreational activities other than hunting in the company of the permittee. Notwithstanding any other provision of this chapter, there are no other exclusions, exceptions, or exemptions from this permit fee. The landowner lease fee, less an administrative permit fee of up to $25 per permit, shall be remitted to the landowner as provided in the lease agreement for each area.

(f) A special use permit for limited entry hunting or fishing, where such hunting or fishing is authorized by commission rule, shall be up to $100 per day but shall not exceed $250 per week. *Notwithstanding any*

other provision of this chapter, there are no exclusions, exceptions, or exemptions from this fee. In addition to the fee, the commission may charge each applicant for a special use permit a nonrefundable application fee of up to $10.

(g) The fee for a permanent hunting and fishing license for a resident 64 years of age or older is $12.

(7) A resident lifetime sportsman's license authorizes the holder to engage in the following noncommercial activities:

(a) To take or attempt to take or possess freshwater fish, marine fish, and game, consistent with state and federal regulations and rules of the commission and the Department of Environmental Protection in effect at the time of taking.

(b) All activities authorized by a management area permit, a muzzle-loading gun permit, a turkey permit, an archery permit, a Florida waterfowl permit, a snook permit, and a crawfish permit.

~~(c) All activities for which an additional license, permit, or fee may be required to take or attempt to take or possess freshwater fish, marine fish, and game, imposed subsequent to the date of purchase of the resident lifetime sportsman's license.~~

(8) The fee for a resident lifetime sportsman's license is:

(c) *13* ~~13~~-63 years of age or older $1,000

~~(d) 64 years of age or older . . . . . $12~~

(9) A resident lifetime hunting license authorizes the holder to engage in the following noncommercial activities:

(a) To take or attempt to take or possess game consistent with state and federal regulations and rules of the commission in effect at the time of taking.

(b) All activities authorized by a management area permit, excluding fishing, a muzzle-loading gun permit, a turkey permit, an archery permit, and a Florida waterfowl permit.

~~(c) All activities for which an additional license, permit, or fee may be required to take or attempt to take or possess game, imposed subsequent to the date of purchase of the resident lifetime hunting license.~~

(11) A resident lifetime freshwater fishing license authorizes the holder to engage in the following noncommercial activities:

(a) To take or attempt to take or possess freshwater fish consistent with state and federal regulations and rules of the commission in effect at the time of taking.

(b) All activities authorized by a management area permit, excluding hunting.

~~(c) All activities for which an additional license, permit, or fee may be required to take or attempt to take or possess freshwater fish, imposed subsequent to the date of purchase of the resident lifetime freshwater fishing license.~~

(14) The following 5-year licenses are authorized:

(a) A 5-year freshwater fishing license for a resident to take or attempt to take or possess freshwater fish in this state for 5 consecutive years is $60 and authorizes the holder to engage in ~~the following~~ noncommercial activities~~:~~

~~1.~~ to take or attempt to take or possess freshwater fish consistent with state and federal regulations and rules of the commission in effect at the time of taking.

~~2. All activities authorized by a management area permit, excluding hunting.~~

~~3. All activities for which an additional license, permit, or fee is required to take or attempt to take or possess freshwater fish, imposed subsequent to the date of purchase of the 5-year resident freshwater fishing license until the date of expiration.~~

(b) A 5-year hunting license for a resident to take or attempt to take or possess game in this state for 5 consecutive years is *$55* ~~$270~~ and authorizes the holder to engage in ~~the following~~ noncommercial activities~~:~~

~~1.~~ to take or attempt to take or possess game consistent with state and federal regulations and rules of the commission in effect at the time of taking.

~~2. All activities authorized by a management area permit, excluding fishing, a muzzle-loading gun permit, a turkey permit, an archery permit, and a Florida waterfowl permit.~~

~~3. All activities for which an additional license, permit, or fee may be required to take or attempt to take or possess game, imposed subsequent to the date of purchase of the 5-year resident hunting license until the date of expiration.~~

Section 3. Paragraph (d) is added to subsection (2) of section 372.672, Florida Statutes, to read:

372.672 Florida Panther Research and Management Trust Fund.—

(2) Money from the fund shall be spent only for the following purposes:

(d) To fund and administer education programs authorized in s. 372.674.

Section 4. Paragraphs (b), (d), and (e) of subsection (6) and subsection (7) of section 372.674, Florida Statutes, are amended to read:

372.674 Environmental education.—

(6) The advisory council shall:

(b) Develop a recommended priority list for projects to be funded through the *Florida Panther Research and Management Trust Fund and the* Save the Manatee Trust Fund and review and evaluate projects implemented through the fund.

(d) Cooperate with the Department of Education in evaluating annual project proposals for projects to be funded through the *Florida Panther Research and Management Trust Fund and the* Save the Manatee Trust Fund to develop and distribute model instructional materials for use in environmental education to integrate environmental education into the general curriculum of public school districts, community colleges, and universities.

(e) Cooperate with the Department of Environmental Protection in evaluating annual proposals for projects to be funded through the *Florida Panther Research and Management Trust Fund and the* Save the Manatee Trust Fund that can promote an understanding about environmental protection programs and activities administered by the department.

(7) The Game and Fresh Water Fish Commission shall review the recommended list of projects to be funded from the *Florida Panther Research and Management Trust Fund and the* Save the Manatee Trust Fund by August of each year and make a final determination of projects to receive grants from available appropriations by the Legislature. The commission shall act upon the recommended list within 45 days after receipt of the list.

Section 5. Subsections (5), (6), (7), and (8) of section 372.921, Florida Statutes, are renumbered as subsections (6), (7), (8), and (9), respectively, and a new subsection (5) is added to said section to read:

372.921 Exhibition of wildlife.—

(5) In instances where wildlife is seized or taken into custody by the commission, said owner or possessor of such wildlife shall be responsible for payment of all expenses relative to the capture, transport, boarding, veterinary care, or other costs associated with or incurred due to seizure or custody of wildlife. Such expenses shall be paid by said owner or possessor upon any conviction or finding of guilt of a criminal or noncriminal violation, regardless of adjudication or plea entered, of any provision of chapter 372 or chapter 828, or rule of the commission or if

such violation is disposed of under s. 921.187. Failure to pay such expense may be grounds for revocation or denial of permits to such individual to possess wildlife.

Section 6. Subsections (4), (5), and (6) of section 372.922, Florida Statutes, are renumbered as subsections (5), (6), and (7), respectively, and a new subsection (4) is added to said section to read:

372.922 Personal possession of wildlife.—

(4) In instances where wildlife is seized or taken into custody by the commission, said owner or possessor of such wildlife shall be responsible for payment of all expenses relative to the capture, transport, boarding, veterinary care, or other costs associated with or incurred due to seizure or custody of wildlife. Such expenses shall be paid by said owner or possessor upon any conviction or finding of guilt of a criminal or noncriminal violation, regardless of adjudication or plea entered, of any provision of chapter 372 or chapter 828, or rule of the commission or if such violation is disposed of under s. 921.187. Failure to pay such expense may be grounds for revocation or denial of permits to such individual to possess wildlife.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, delete line 2 and insert: An act relating to conservation of plants and animals; amending s. 370.0605, F.S.; deleting the $10 for 10 days saltwater fishing license; amending s. 372.57, F.S.; providing for a recreational user permit fee to hunt, fish, or otherwise use for outdoor recreational purposes, land leased by Game and Fresh Water Fish Commission from private nongovernmental owners; providing for the sale of specified lands by the Board of Trustees of the Internal Improvement Trust Fund; clarifying provisions with respect to special use permits; increasing to age 64 or older the age to obtain a permanent hunting or fishing license for a certain fee; revising provisions with respect to a lifetime sportsman's license and a lifetime freshwater fishing license; revising provisions with respect to 5-year licenses; reducing a 5-year hunting license fee; amending s. 372.672, F.S.; providing an additional use for funds in the Florida Panther Research and Management Trust Fund; amending s. 372.674, F.S.; providing reference to the Florida Panther Research and Management Trust Fund with respect to environmental education; amending ss. 372.921, 372.922, F.S.; providing for payment of expenses relative to wildlife seized or taken by the Game and Freshwater Fish Commission; amending s.

On motion by Rep. Bronson, the House concurred in Senate Amendments 1 and 2. The question recurred on the passage of CS/HB 3673. The vote was:

Yeas—114

The Chair	Bush	Fischer	Lawson
Albright	Byrd	Flanagan	Littlefield
Alexander	Carlton	Frankel	Livingston
Andrews	Casey	Fuller	Logan
Argenziano	Chestnut	Futch	Lynn
Arnall	Clemons	Gay	Mackenzie
Arnold	Constantine	Goode	Mackey
Bainter	Cosgrove	Gottlieb	Maygarden
Ball	Crady	Greene	Meek
Barreiro	Crist	Hafner	Melvin
Betancourt	Crow	Harrington	Merchant
Bitner	Culp	Healey	Miller
Bloom	Dawson-White	Heyman	Minton
Boyd	Dennis	Hill	Morroni
Bradley	Diaz de la Portilla	Horan	Morse
Brennan	Dockery	Jacobs	Murman
Bronson	Edwards	Jones	Ogles
Brooks	Effman	Kelly	Peaden
Brown	Eggelletion	King	Posey
Bullard	Fasano	Kosmas	Prewitt, D.
Burroughs	Feeney	Lacasa	Pruitt, K.
Putnam	Sanderson	Starks	Warner
Rayson	Saunders	Sublette	Wasserman Schultz
Reddick	Sembler	Tamargo	Westbrook
Ritchie	Sindler	Tobin	Wiles
Ritter	Smith	Trovillion	Wise
Roberts-Burke	Spratt	Turnbull	Ziebarth
Rodriguez-Chomat	Stabins	Valdes	
Rojas	Stafford	Wallace	

Nays—1

Silver

So the bill passed, as amended. The action was immediately certified to the Senate and the bill was ordered enrolled after engrossment.

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate requests the return of CS for SB 2474.

Faye W. Blanton, Secretary

On motion by Rep. K. Pruitt, the House acceded to the request of the Senate and returned **CS for SB 2474**.

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS/HB 3709, with amendment, and requests the concurrence of the House.

Faye W. Blanton, Secretary

CS/HB 3709—A bill to be entitled An act relating to voyeurism; creating s. 810.14, F.S., relating to the offense of voyeurism; prohibiting a person, with lewd, lascivious, or indecent intent, from secretly observing, photographing, filming, videotaping, or recording another person located in a dwelling, structure, or conveyance providing a reasonable expectation of privacy; providing for conviction and sentencing of the offense separately from other offenses; providing penalties; providing third degree felony penalties upon conviction of a second or subsequent offense of voyeurism; providing an effective date.

Senate Amendment 1 (with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Subsections (1), (2), and (3) of section 806.13, Florida Statutes, are reenacted and subsection (4) of that section is amended, to read:

806.13 Criminal mischief; penalties; penalty for minor.—

(1)(a) A person commits the offense of criminal mischief if he or she willfully and maliciously injures or damages by any means any real or personal property belonging to another, including, but not limited to, the placement of graffiti thereon or other acts of vandalism thereto.

(b)1. If the damage to such property is $200 or less, it is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

2. If the damage to such property is greater than $200 but less than $1,000, it is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

3. If the damage is $1,000 or greater, or if there is interruption or impairment of a business operation or public communication, transportation, supply of water, gas or power, or other public service which costs $1,000 or more in labor and supplies to restore, it is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) Any person who willfully and maliciously defaces, injures, or damages by any means any church, synagogue, mosque, or other place of worship, or any religious article contained therein, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the damage to the property is greater than $200.

(3) Whoever, without the consent of the owner thereof, willfully destroys or substantially damages any public telephone, or telephone cables, wires, fixtures, antennas, amplifiers, or any other apparatus, equipment, or appliances, which destruction or damage renders a public telephone inoperative or which opens the body of a public telephone, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084; provided, however, that a conspicuous notice of the provisions of this subsection and the penalties provided is posted on or near the destroyed or damaged instrument and visible to the public at the time of the commission of the offense.

(4)*(a) The amounts of value of damage to property owned by separate persons, if the property was damaged during one scheme or course or conduct, may be aggregated in determining the grade of the offense under this section.*

(b) Any person who violates this section may, in addition to any other criminal penalty, be required to pay for the damages caused by such offense.

Section 2. Section 810.14, Florida Statutes, is created to read:

810.14 Voyeurism prohibited; penalties.—

(1) A person commits the offense of voyeurism when he or she, with lewd, lascivious, or indecent intent, secretly observes, photographs, films, videotapes, or records another person when such other person is located in a dwelling, structure, or conveyance and such location provides a reasonable expectation of privacy.

(2) A person who violates this section commits a misdemeanor of the first degree for the first violation, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) A person who violates this section and who has been previously convicted or adjudicated delinquent two or more times of any violation of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) For purposes of this section, a person has been previously convicted or adjudicated delinquent of a violation of this section if the violation resulted in a conviction sentenced separately, or an adjudication of delinquency entered separately, prior to the current offense.

Section 3. This act shall take effect July 1, 1998.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to criminal justice; amending s. 806.13, F.S.; authorizing the aggregation of the value of damage to separate properties in determining the grade of the offense for criminal mischief in which the damage occurred during one scheme or course of conduct; creating s. 810.14, F.S.; prohibiting a person from secretly observing or committing other acts against another person with lewd, lascivious, or indecent intent when the other person is in a location that provides a reasonable expectation of privacy; providing for criminal penalties; defining a previous conviction or adjudication of delinquency; providing an effective date.

On motion by Rep. Dockery, the House concurred in Senate Amendment 1. The question recurred on the passage of CS/HB 3709. The vote was:

Yeas—119

The Chair	Barreiro	Brown	Constantine
Albright	Betancourt	Bullard	Cosgrove
Alexander	Bitner	Burroughs	Crady
Andrews	Bloom	Bush	Crist
Argenziano	Boyd	Byrd	Crow
Arnall	Bradley	Carlton	Culp
Arnold	Brennan	Casey	Dawson-White
Bainter	Bronson	Chestnut	Dennis
Ball	Brooks	Clemons	Diaz de la Portilla
Dockery	Horan	Morse	Smith
Edwards	Jacobs	Murman	Spratt
Effman	Jones	Ogles	Stabins
Eggelletion	Kelly	Peaden	Stafford
Fasano	King	Posey	Starks
Feeney	Kosmas	Prewitt, D.	Sublette
Fischer	Lacasa	Pruitt, K.	Tamargo
Flanagan	Lawson	Putnam	Thrasher
Frankel	Littlefield	Rayson	Tobin
Fuller	Livingston	Reddick	Trovillion
Futch	Logan	Ritchie	Turnbull
Garcia	Lynn	Ritter	Valdes
Gay	Mackenzie	Roberts-Burke	Villalobos
Goode	Mackey	Rodriguez-Chomat	Wallace
Gottlieb	Maygarden	Rojas	Warner
Greene	Meek	Safley	Wasserman Schultz
Hafner	Melvin	Sanderson	Westbrook
Harrington	Merchant	Saunders	Wiles
Healey	Miller	Sembler	Wise
Heyman	Minton	Silver	Ziebarth
Hill	Morroni	Sindler	

Nays—None

So the bill passed, as amended. The action was immediately certified to the Senate and the bill was ordered enrolled after engrossment.

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has amended House Amendment 1 and concurred in same as amended, passed as further amended CS for SB 1408, and requests the concurrence of the House.

Faye W. Blanton, Secretary

CS for SB 1408—A bill to be entitled An act relating to public records; creating s. 440.108, F.S.; providing an exemption from public records requirements for certain information obtained in administering the Workers' Compensation Law; providing for the applicability of confidentiality provisions; authorizing the furnishing of information under certain conditions; providing for future review and repeal; providing a finding of public necessity; providing a contingent effective date.

(House Amendment 1 attached to original bill and shown in the *Journal* on page 1666, April 29.)

Senate Amendment 1 to House Amendment 1 (with title amendment)—On page 2, lines 13-18, delete those lines and insert:

Section 5. *Except as provided in ss. 400.215(2)(c) and 435.10, Florida Statutes, Federal Bureau of Investigation criminal records, juvenile records, or abuse registry information that is obtained by the Agency for Health Care Administration in connection with background screening requirements that apply to an employee or a prospective employee of a nursing facility is confidential and exempt from the provisions of s. 119.07(1), Florida Statutes, and s. 24(a), Art. I of the State Constitution. This section is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, Florida Statutes, and shall stand repealed on October 2, 2003, unless reviewed and saved from repeal through enactment by the Legislature.*

Section 6. *The Legislature finds that exempting Federal Bureau of Investigation criminal records, juvenile records, and abuse registry background screening information related to employees and prospective employees of nursing facilities from public disclosure is a public necessity, in that the health and safety of the public necessitates having available applicants for positions as nursing facility personnel. Allowing such information concerning employees or applicants to be disseminated would have a chilling effect upon the willingness to apply for such positions on the part of any person about whom there is information of past misbehavior contained in juvenile records or criminal records or in the central abuse registry, even if the person were fully rehabilitated and would be a suitable employee. Juvenile records and central abuse registry information are otherwise already exempt.*

Section 7. Sections 1 and 2 of this act shall take effect on the effective date of CS/CS/SB 1406, or similar legislation, relating to the powers of the Division of Workers' Compensation of the Department of Labor and Employment Security; this section and sections 3 and 4 of this act shall take effect upon becoming a law; and sections 5 and 6 of this act shall take effect on the same date that Committee Substitute for House Bills 3089 and 171 or similar legislation creating the Nursing Home Facility Personnel Screening Act takes effect, if such legislation is adopted in the same legislative session or an extension thereof.

And the title is amended as follows:

On page 3, line 1, after the semicolon (;) insert: providing an exemption from public records requirements for information obtained by the Agency for Health Care Administration or a nursing facility in connection with background screening of employees and prospective employees of the facility; providing for future review and repeal; providing a finding of public necessity;

On motion by Rep. Safley, the House refused to concur in Senate Amendment 1 to House Amendment 1 and requested the Senate to recede therefrom. The action, together with the bill and amendment thereto, was immediately certified to the Senate.

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for SB 1498, as amended, and requests the concurrence of the House.

Faye W. Blanton, Secretary

By the Committee on Transportation and Senator Forman and others—

CS for SB 1498—A bill to be entitled An act relating to the use of motor vehicles by persons who have disabilities; amending s. 316.1955, F.S.; clarifying standards for accessible parking spaces and parking access aisles; providing violations; providing penalties; amending s. 316.1958, F.S.; providing that a special motor vehicle license plate or parking permit issued by another state, district, or country is invalid with respect to a person who must have a Florida vehicle registration; amending s. 316.1964, F.S.; amending circumstances in which vehicles are exempt from paying parking fees and penalties; amending s. 318.18, F.S.; increasing the amount of the fine for illegally parking in a parking space for disabled persons; amending procedures for dismissing such fines and for distributing the proceeds of such fines; amending s. 320.0842, F.S.; amending prerequisites to qualifying for a free license plate as a veteran who uses a wheelchair due to a service-connected disability; amending s. 320.0843, F.S.; amending provisions related to license plates for wheelchair users; amending s. 320.0848, F.S.; amending provisions relating to the issuance of disabled parking permits; amending prerequisites; providing for replacement permits; providing for alternatives; amending requirements for the design of temporary permits; providing penalties for unlawfully displaying a disabled parking permit; providing additional grounds for confiscation of a disabled parking permit; providing for recordkeeping related to confiscation; providing for revoking the privilege of applying for a disabled parking permit; providing procedures related to confiscations and revocations; providing an effective date.

—was read the first time by title. On motion by Rep. Morse, the rules were suspended and the bill was read the second time by title.

Representative(s) Gay and Morse offered the following:

Amendment 1—On page 9, line 25
remove from the bill: all of said line

and insert in lieu thereof:

(6) One hundred dollars for

Rep. Morse moved the adoption of the amendment, which was adopted.

On motion by Rep. Morse, the rules were suspended and the bill was read the third time by title. On passage, the vote was:

Yeas—119

The Chair	Crist	Kelly	Roberts-Burke
Albright	Crow	King	Rodriguez-Chomat
Alexander	Culp	Kosmas	Rojas
Andrews	Dawson-White	Lacasa	Safley
Argenziano	Dennis	Lawson	Sanderson
Arnall	Diaz de la Portilla	Littlefield	Saunders
Arnold	Dockery	Livingston	Sembler
Bainter	Edwards	Logan	Silver
Ball	Effman	Lynn	Sindler
Barreiro	Eggelletion	Mackenzie	Smith
Betancourt	Fasano	Mackey	Spratt
Bitner	Feeney	Maygarden	Stabins
Bloom	Fischer	Meek	Stafford
Boyd	Flanagan	Melvin	Starks
Bradley	Frankel	Merchant	Sublette
Brennan	Fuller	Miller	Tamargo
Bronson	Futch	Minton	Thrasher
Brooks	Garcia	Morroni	Tobin
Brown	Gay	Morse	Trovillion
Bullard	Goode	Murman	Turnbull
Burroughs	Gottlieb	Ogles	Valdes
Bush	Greene	Peaden	Villalobos
Byrd	Hafner	Posey	Wallace
Carlton	Harrington	Prewitt, D.	Warner
Casey	Healey	Pruitt, K.	Wasserman Schultz
Chestnut	Heyman	Putnam	Westbrook
Clemons	Hill	Rayson	Wiles
Constantine	Horan	Reddick	Wise
Cosgrove	Jacobs	Ritchie	Ziebarth
Crady	Jones	Ritter	

Nays—None

So the bill passed, as amended, and was immediately certified to the Senate.

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has reconsidered and passed HB 3971, as further amended, and requests the concurrence of the House.

Faye W. Blanton, Secretary

HB 3971—A bill to be entitled An act relating to health facilities authorities; amending s. 154.209, F.S.; providing that an accounts receivable program in which an authority participates on behalf of a health facility may include the financing of accounts receivable acquired by the facility from other not-for-profit health care corporations, regardless of affilliation or location; providing an effective date.

Senate Amendment 2 (with title amendment)—On page 2, between lines 5 and 6, insert:

Section 2. Paragraph (o) of subsection (7) of section 212.08, Florida Statutes, is amended to read:

(o) Religious, charitable, scientific, educational, and veterans' institutions and organizations.—

1. There are exempt from the tax imposed by this chapter transactions involving:

a. Sales or leases directly to churches or sales or leases of tangible personal property by churches;

b. Sales or leases to nonprofit religious, nonprofit charitable, nonprofit scientific, or nonprofit educational institutions when used in carrying on their customary nonprofit religious, nonprofit charitable, nonprofit scientific, or nonprofit educational activities, including church cemeteries; and

c. Sales or leases to the state headquarters of qualified veterans' organizations and the state headquarters of their auxiliaries when used

in carrying on their customary veterans' organization activities. If a qualified veterans' organization or its auxiliary does not maintain a permanent state headquarters, then transactions involving sales or leases to such organization and used to maintain the office of the highest ranking state official are exempt from the tax imposed by this chapter.

2. The provisions of this section authorizing exemptions from tax shall be strictly defined, limited, and applied in each category as follows:

a. "Religious institutions" means churches, synagogues, and established physical places for worship at which nonprofit religious services and activities are regularly conducted and carried on. The term "religious institutions" includes nonprofit corporations the sole purpose of which is to provide free transportation services to church members, their families, and other church attendees. The term "religious institutions" also includes state, district, or other governing or administrative offices the function of which is to assist or regulate the customary activities of religious organizations or members. The term "religious institutions" also includes any nonprofit corporation which is qualified as nonprofit pursuant to s. 501(c)(3), Internal Revenue Code of 1986, as amended, which owns and operates a Florida television station, at least 90 percent of the programming of which station consists of programs of a religious nature, and the financial support for which, exclusive of receipts for broadcasting from other nonprofit organizations, is predominantly from contributions from the general public. The term "religious institutions" also includes any nonprofit corporation which is qualified as nonprofit pursuant to s. 501(c)(3), Internal Revenue Code of 1986, as amended, which provides regular religious services to Florida state prisoners and which from its own established physical place of worship, operates a ministry providing worship and services of a charitable nature to the community on a weekly basis.

b. "Charitable institutions" means only nonprofit corporations qualified as nonprofit pursuant to s. 501(c)(3), Internal Revenue Code of 1954, as amended, and other nonprofit entities, the sole or primary function of which is to provide, or to raise funds for organizations which provide, one or more of the following services if a reasonable percentage of such service is provided free of charge, or at a substantially reduced cost, to persons, animals, or organizations that are unable to pay for such service:

(I) Medical aid for the relief of disease, injury, or disability;

(II) Regular provision of physical necessities such as food, clothing, or shelter;

(III) Services for the prevention of or rehabilitation of persons from alcoholism or drug abuse; the prevention of suicide; or the alleviation of mental, physical, or sensory health problems;

(IV) Social welfare services including adoption placement, child care, community care for the elderly, and other social welfare services which clearly and substantially benefit a client population which is disadvantaged or suffers a hardship;

(V) Medical research for the relief of disease, injury, or disability;

(VI) Legal services; or

(VII) Food, shelter, or medical care for animals or adoption services, cruelty investigations, or education programs concerning animals;

and the term includes groups providing volunteer staff to organizations designated as charitable institutions under this sub-subparagraph; nonprofit organizations the sole or primary purpose of which is to coordinate, network, or link other institutions designated as charitable institutions under this sub-subparagraph with those persons, animals, or organizations in need of their services; and nonprofit national, state, district, or other governing, coordinating, or administrative organizations the sole or primary purpose of which is to represent or regulate the customary activities of other institutions designated as charitable institutions under this sub-subparagraph. Notwithstanding any other requirement of this section, any blood bank that relies solely upon volunteer donations of blood and tissue, that is licensed under chapter 483, and that qualifies as tax exempt under s. 501(c)(3) of the Internal Revenue Code constitutes a charitable institution and is exempt from the tax imposed by this chapter. Sales to a health system *foundation*, qualified as nonprofit pursuant to s. 501(c)(3), Internal Revenue Code of 1986, as amended, which filed an application for exemption with the department prior to *November 15, 1997* ~~April 5, 1997~~, and which application is subsequently approved, shall be exempt as to any unpaid taxes on purchases made from *November 14, 1990* ~~January 1, 1994~~, to *December 31, 1997* ~~June 1, 1997~~.

c. "Scientific organizations" means scientific organizations which hold current exemptions from federal income tax under s. 501(c)(3) of the Internal Revenue Code and also means organizations the purpose of which is to protect air and water quality or the purpose of which is to protect wildlife and which hold current exemptions from the federal income tax under s. 501(c)(3) of the Internal Revenue Code.

d. "Educational institutions" means state tax-supported or parochial, church and nonprofit private schools, colleges, or universities which conduct regular classes and courses of study required for accreditation by, or membership in, the Southern Association of Colleges and Schools, the Department of Education, the Florida Council of Independent Schools, or the Florida Association of Christian Colleges and Schools, Inc., or nonprofit private schools which conduct regular classes and courses of study accepted for continuing education credit by a Board of the Division of Medical Quality Assurance of the Department of Business and Professional Regulation or which conduct regular classes and courses of study accepted for continuing education credit by the American Medical Association. Nonprofit libraries, art galleries, performing arts centers that provide educational programs to school children, which programs involve performances or other educational activities at the performing arts center and serve a minimum of 50,000 school children a year, and museums open to the public are defined as educational institutions and are eligible for exemption. The term "educational institutions" includes private nonprofit organizations the purpose of which is to raise funds for schools teaching grades kindergarten through high school, colleges, and universities. The term "educational institutions" includes any nonprofit newspaper of free or paid circulation primarily on university or college campuses which holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code, and any educational television or radio network or system established pursuant to s. 229.805 or s. 229.8051 and any nonprofit television or radio station which is a part of such network or system and which holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code. The term "educational institutions" also includes state, district, or other governing or administrative offices the function of which is to assist or regulate the customary activities of educational organizations or members. The term "educational institutions" also includes a nonprofit educational cable consortium which holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code of 1986, as amended, whose primary purpose is the delivery of educational and instructional cable television programming and whose members are composed exclusively of educational organizations which hold a valid consumer certificate of exemption and which are either an educational institution as defined in this sub-subparagraph, or qualified as a nonprofit organization pursuant to s. 501(c)(3) of the Internal Revenue Code of 1986, as amended.

e. "Veterans' organizations" means nationally chartered or recognized veterans' organizations, including, but not limited to, Florida chapters of the Paralyzed Veterans of America, Catholic War Veterans of the U.S.A., Jewish War Veterans of the U.S.A., and the Disabled American Veterans, Department of Florida, Inc., which hold current exemptions from federal income tax under s. 501(c)(4) or (19) of the Internal Revenue Code.

And the title is amended as follows:

On page 1, line 10, after the semicolon (;) insert: amending s. 212.08, F.S.; providing an exemption from sales tax for sales to a health system foundation during specified years;

Senate Amendment 3 (with title amendment)—On page 2, delete line 2 and insert: *health facilities, whether or not*

And the title is amended as follows:

On page 1, lines 8 and 9, delete those lines and insert: from other health facilities, regardless of affiliation or

On motion by Rep. Gay, the House concurred in Senate Amendments 2 and 3. The question recurred on the passage of HB 3971. The vote was:

Yeas—119

The Chair	Crist	Kelly	Roberts-Burke
Albright	Crow	King	Rodriguez-Chomat
Alexander	Culp	Kosmas	Rojas
Andrews	Dawson-White	Lacasa	Safley
Argenziano	Dennis	Lawson	Sanderson
Arnall	Diaz de la Portilla	Littlefield	Saunders
Arnold	Dockery	Livingston	Sembler
Bainter	Edwards	Logan	Silver
Ball	Effman	Lynn	Sindler
Barreiro	Eggelletion	Mackenzie	Smith
Betancourt	Fasano	Mackey	Spratt
Bitner	Feeney	Maygarden	Stabins
Bloom	Fischer	Meek	Stafford
Boyd	Flanagan	Melvin	Starks
Bradley	Frankel	Merchant	Sublette
Brennan	Fuller	Miller	Tamargo
Bronson	Futch	Minton	Thrasher
Brooks	Garcia	Morroni	Tobin
Brown	Gay	Morse	Trovillion
Bullard	Goode	Murman	Turnbull
Burroughs	Gottlieb	Ogles	Valdes
Bush	Greene	Peaden	Villalobos
Byrd	Hafner	Posey	Wallace
Carlton	Harrington	Prewitt, D.	Warner
Casey	Healey	Pruitt, K.	Wasserman Schultz
Chestnut	Heyman	Putnam	Westbrook
Clemons	Hill	Rayson	Wiles
Constantine	Horan	Reddick	Wise
Cosgrove	Jacobs	Ritchie	Ziebarth
Crady	Jones	Ritter	

Nays—None

So the bill passed, as amended. The action was immediately certified to the Senate and the bill was ordered enrolled after engrossment.

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS/HB 3527, with amendment, and requests the concurrence of the House.

Faye W. Blanton, Secretary

CS/HB 3527—A bill to be entitled An act relating to jails; amending s. 951.23, F.S., relating to county and municipal detention facilities; providing criminal penalties for repeatedly, knowingly, and willfully refusing to obey certain rules and regulations while a prisoner in any such facility; providing an effective date.

Senate Amendment 1 (with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Subsection (11) is added to section 951.23, Florida Statutes, to read:

951.23 County and municipal detention facilities; definitions; administration; standards and requirements.—

(11)(a) Any prisoner in a county or municipal detention facility who knowingly and willfully refuses on three or more occasions to obey or comply with any rule governing the conduct of prisoners commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Such punishment must be in addition to any sentence he or she may be serving. A prisoner may be charged with, convicted of, and sentenced for a violation of this subsection in addition to any other criminal offense committed while detained in a county or municipal detention facility.

(b) Upon a prisoner's classification in a county or municipal detention facility, he or she must be provided with a printed copy of the rules governing the conduct of prisoners. Translation assistance must be provided, as needed.

(c) As used in this subsection, the term "rules governing the conduct of prisoners" means any of the rules relating to order and discipline provided in the Florida Model Jail Standards, adopted pursuant to subsection (4) and effective on October 1, 1997.

Section 2. *(1) The following trust funds and fund accounts are terminated on July 1, 1998:*

(a) Within the state courts system:

1. Appellate Opinion Distribution Trust Fund, SAMAS number 222215.

2. Working Capital Trust Fund, SAMAS number 222792.

(b) Within the Department of Corrections:

1. Hurricane Andrew Recovery and Rebuilding Trust Fund, SAMAS number 702205.

2. Working Capital Trust Fund, SAMAS number 702792.

(2) All current balances remaining in, and all revenues of, the trust funds and fund accounts terminated by this act shall be transferred to the General Revenue Fund.

(3) For each trust fund or fund account terminated by this act, the state courts system or Department of Corrections, as applicable, shall pay any outstanding debts or obligations of the terminated fund or account as soon as practicable, and the Comptroller shall close out and remove the terminated fund or account from the various state accounting systems using generally accepted accounting principles concerning warrants outstanding, assets, and liabilities.

Section 3. Section 216.272, Florida Statutes, is amended to read:

216.272 Working Capital Trust Funds.—

(1) There are hereby created Working Capital Trust Funds for the purpose of providing sufficient funds for the operation of data processing centers, which may include the creation of a reserve account within the Working Capital Trust Fund to pay for future information technology resource acquisitions as appropriated by the Legislature. Such funds shall be created from moneys budgeted for data processing services and equipment by those agencies~~, and the judicial branch,~~ to be served by the data processing center.

(2) The funds so allocated shall be in an amount sufficient to finance the center's operation; however, each agency ~~or judicial branch~~ served by the center shall contribute an amount equal to its proportionate share of cost of operating such data processing center. Each agency~~, or the judicial branch,~~ utilizing the services of the data processing center shall pay such moneys into the appropriate Working Capital Trust Fund on a quarterly basis or such other basis as may be determined by the Executive Office of the Governor ~~or the Chief Justice as appropriate~~.

Section 4. Section 945.215, Florida Statutes, is amended to read:

945.215 Inmate welfare and employee benefit trust funds.—

(1) *INMATE WELFARE TRUST FUND; DEPARTMENT OF CORRECTIONS.*—

(a) *The Inmate Welfare Trust Fund constitutes a trust held by the department for the benefit and welfare of offenders and inmates under the jurisdiction of the Department of Corrections. Funds shall be credited to the trust fund as follows:*

1. All *funds* ~~moneys~~ held in any auxiliary, canteen, welfare, or similar fund in any *correctional facility operated directly by the department* ~~state institution under the jurisdiction of the Department of~~

~~Corrections shall be deposited in the Inmate Welfare Trust Fund of the department, which fund is created in the State Treasury, to be appropriated annually by the Legislature and deposited in the Department of Corrections Grants and Donations Trust Fund~~.

2. All net proceeds from operating inmate canteens, vending machines used primarily by inmates, hobby shops, and other such facilities; however, *funds necessary to* ~~moneys budgeted by the department for the~~ purchase ~~of~~ items for resale at *inmate* canteens *and* ~~or~~ vending machines must be deposited into local bank accounts designated by the department. ~~The department shall submit to the President of the Senate and the Speaker of the House of Representatives by January 1 of each year a report that documents the receipts and expenditures, including a verification of telephone commissions, from the Inmate Welfare Trust Fund for the previous fiscal year. The report must present this information by program, by institution, and by type of receipt.~~

3. All proceeds from contracted telephone commissions. The department shall develop and update, as necessary, administrative procedures to verify that:

a. Contracted telephone companies accurately record and report all telephone calls made by inmates incarcerated in correctional facilities under the department's jurisdiction;

b. Persons who accept collect calls from inmates are charged the contracted rate; and

c. The department receives the contracted telephone commissions.

4. Any funds that may be assigned by inmates or donated to the department by the general public or an inmate service organization; however, the department shall not accept any donation from, or on behalf of, any individual inmate.

5. Repayment of the one-time sum of $500,000 appropriated in fiscal year 1996-1997 from the Inmate Welfare Trust Fund for correctional work programs pursuant to s. 946.008.

6. All proceeds from:

a. The confiscation and liquidation of any contraband found upon, or in the possession of, any inmate:

b. Disciplinary fines imposed against inmates;

c. Forfeitures of inmate earnings; and

d. Unexpended balances in individual inmate trust fund accounts of less than $1.

7. All interest earnings and other proceeds derived from investments of funds deposited in the trust fund. In the manner authorized by law for fiduciaries, the secretary of the department, or the secretary's designee, may invest any funds in the trust fund when it is determined that such funds are not needed for immediate use.

(b) *Funds* ~~Beginning with the legislative appropriation for fiscal year 1995-1996 and thereafter, the money~~ in the Inmate Welfare Trust Fund must be used exclusively *for the following purposes at correctional facilities operated directly by the department*:

1. To *operate inmate canteens and vending machines, including purchasing* ~~purchase~~ items for resale at ~~the~~ inmate canteens *and* ~~or~~ vending machines, ~~maintained at the correctional facilities;~~

~~2.~~ *employing* ~~To employ~~ personnel and inmates to manage, supervise, and operate *inmate* ~~the~~ canteens and vending machines, ~~at the correctional facilities;~~

~~3.~~ *and covering other* ~~For~~ operating and fixed capital *outlay* expenses associated with *operating* ~~the operation of~~ inmate canteens and vending machines;

2.~~4.~~ To employ personnel to manage and supervise the proceeds from telephone commissions;

3. To develop, implement, and maintain the medical copayment accounting system;

4.~~5.~~ ~~To employ personnel for correctional education~~ To provide literacy programs, vocational training *programs*, and *educational* ~~academic~~ programs that comply with standards of the Department of Education*, including employing personnel and covering other*~~;~~

~~6. For~~ operating and fixed capital *outlay* expenses associated with *providing such programs* ~~the delivery to inmates of literacy programs, vocational training, and academic programs that comply with standards of the Department of Education~~;

5.~~7.~~ *To operate inmate chapels, faith-based programs, visiting pavilions, libraries, and law libraries, including employing personnel and covering other* ~~For~~ operating and fixed capital *outlay* expenses associated with *operating* ~~the operation of~~ inmate chapels, *faith-based programs, visiting pavilions*, libraries, and *law libraries* ~~visiting pavilions~~;

~~8. To employ personnel to operate the libraries, chapels, and visiting pavilions;~~

6.~~9.~~ *To provide* for expenses associated with various inmate clubs;

7.~~10.~~ *To provide* for expenses associated with legal services for inmates;

8.~~11.~~ ~~To employ personnel~~ To provide inmate substance abuse treatment *programs* and transition and life skills training programs*, including employing personnel*~~;~~ and

~~12.~~ *covering other* ~~For~~ operating and fixed capital *outlay* expenses associated with *providing such programs* ~~the delivery of inmate substance abuse treatment and transition and life skills training programs~~.

(c) The *Legislature shall annually appropriate the funds deposited in the Inmate Welfare Trust Fund. It is the intent of the Legislature that* total annual expenditures for *providing literacy programs, vocational training programs, and educational programs exceed the combined* ~~items listed in subparagraphs 5. and 6. must exceed the~~ total annual expenditures for *operating inmate chapels, faith-based programs, visiting pavilions, libraries, and law libraries, covering expenses associated with inmate clubs, and providing inmate substance abuse treatment programs and transition and life skills training programs* ~~items listed in subparagraphs 7. through 12~~.

(d) Funds in the Inmate Welfare Trust Fund or any other fund may not be used to purchase cable television service, to rent or purchase videocassettes, videocassette recorders, or other audiovisual or electronic equipment used primarily for recreation purposes. This paragraph does not preclude the purchase or rental of electronic or audiovisual equipment for inmate training or educational programs. ~~The department shall develop administrative procedures to verify that contracted telephone commissions are being received, that persons who have accepted collect calls from inmates are being charged the contracted rate, and that contracted telephone companies are accurately and completely recording and reporting all inmate telephone calls made.~~

~~(c) There shall be deposited in the Inmate Welfare Trust Fund all net proceeds from the operation of canteens, vending machines, hobby shops, and other such facilities and any moneys that may be assigned by the inmates or donated to the department by the general public or an inmate service organization for deposit in the fund. However, the department shall refuse to accept any donations from or on behalf of any individual inmate. The moneys of the fund shall constitute a trust held by the department for the benefit and welfare of the inmates of the institutions under the jurisdiction of the department.~~

~~(d) There shall be deposited in the Inmate Welfare Trust Fund such moneys as constitute repayment of the one-time sum appropriated pursuant to s. 946.008.~~

~~(e) Any contraband found upon, or in the possession of, any inmate in any institution under the jurisdiction of the department shall be confiscated and liquidated, and the proceeds thereof shall be deposited in the Inmate Welfare Trust Fund of the department.~~

~~(f) The secretary of the department or the secretary's designee may invest in the manner authorized by law for fiduciaries any money in the Inmate Welfare Trust Fund of the department that in his or her opinion is not necessary for immediate use, and the interest earned and other increments derived from such investments made pursuant to this section shall be deposited in the Inmate Welfare Trust Fund of the department.~~

(e)~~(g)~~ Items for resale at ~~the~~ inmate canteens *and* ~~or~~ vending machines maintained at the correctional facilities shall be priced comparatively with like items for retail sale at fair market prices.

(f)~~(h)~~ Notwithstanding any other provision of law, inmates with sufficient balances in their individual inmate bank trust fund accounts, after all debts against the account are satisfied, shall be allowed to request a weekly draw of up to $45 to be expended for personal use on canteen *and vending machine* items.

(g) The department shall annually compile a report that specifically documents Inmate Welfare Trust Fund receipts and expenditures. This report shall be compiled at both the statewide and institutional levels. The department must submit this report for the previous fiscal year by September 1 of each year to the chairs of the appropriate substantive and fiscal committees of the Senate and the House of Representatives and to the Executive Office of the Governor.

(2) *PRIVATELY OPERATED INSTITUTIONS INMATE WELFARE TRUST FUND; PRIVATE CORRECTIONAL FACILITIES.—*

(a) For purposes of this subsection, privately operated institutions or private correctional facilities are those correctional facilities under contract with the department pursuant to chapter 944 or the Correctional Privatization Commission pursuant to chapter 957.

(b)1. The net proceeds derived from inmate canteens, vending machines used primarily by inmates, telephone commissions, and similar sources at private correctional facilities shall be deposited in the Privately Operated Institutions Inmate Welfare Trust Fund.

2. Funds in the Privately Operated Institutions Inmate Welfare Trust Fund shall be expended only pursuant to legislative appropriation.

(c) The Correctional Privatization Commission shall annually compile a report that documents Privately Operated Institutions Inmate Welfare Trust Fund receipts and expenditures at each private correctional facility. This report must specifically identify receipt sources and expenditures. The Correctional Privatization Commission shall compile this report for the prior fiscal year and shall submit the report by September 1 of each year to the chairs of the appropriate substantive and fiscal committees of the Senate and House of Representatives and to the Executive Office of the Governor.

(3) EMPLOYEE BENEFIT TRUST FUND; DEPARTMENT OF CORRECTIONS.—

(a) The department may establish an Employee Benefit Trust Fund. Trust fund sources may be derived from any of the following:

1.~~(a)~~ Proceeds of vending machines or other such services not intended for use by inmates.

2.~~(b)~~ Donations, except donations by, or on behalf of, an individual inmate.

3.~~(c)~~ Additional trust funds and grants which may become available.

(b) Funds from the Employee Benefit Trust Fund ~~Such fund shall be maintained and audited separately and apart from the Inmate Welfare Trust Fund. Portions of the fund~~ may be used to construct, *operate, and maintain* training and recreation facilities at *correctional facilities for the exclusive use of department employees* ~~respective institutions~~. Such facilities *are* ~~shall be~~ the property of the department and *must* ~~shall~~ provide the maximum benefit to *all* interested employees, *regardless of gender* ~~of both sexes, including teachers, clerical staff, medical and psychological services personnel, and officers and administrators~~.

Section 5. Paragraph (d) of subsection (2) of section 944.803, Florida Statutes, is amended to read:

944.803 Faith-based programs for inmates.—

(2) It is the intent of the Legislature that the Department of Corrections and the private vendors operating private correctional facilities shall continuously:

(d) Fund through the use of ~~the~~ inmate welfare trust *funds* ~~fund~~ pursuant to s. 945.215 an adequate number of chaplains and support staff to operate *faith-based* ~~chaplaincy~~ programs in ~~state~~ correctional institutions.

Section 6. Section 945.31, Florida Statutes, is amended to read:

945.31 Restitution and other payments.—The department may establish bank accounts outside the State Treasury for the purpose of collecting and disbursing restitution and other court-ordered payments from persons in its custody or under its supervision, and may collect an administrative processing fee in an amount equal to 4 percent of the gross amounts of such payments. Such administrative processing fee shall be deposited in the department's *Operating* ~~Grants and Donations~~ Trust Fund and shall be used to offset the cost of the department's services.

Section 7. Section 945.76, Florida Statutes, is amended to read:

945.76 Certification and monitoring of batterers' intervention programs; fees.—

(1) Pursuant to s. 741.32, the Department of Corrections is authorized to assess and collect*:*

(a) An annual certification *fee* ~~fees~~ not to exceed $300 for the certification and monitoring of *batterers' intervention* programs ~~certified by the Department of Corrections' Office of Certification and Monitoring of Batterers' Intervention Programs and~~.

(b) An annual certification fee not to exceed $200 for the certification and monitoring of assessment personnel providing direct services to persons who:

1.~~(a)~~ Are ordered by the court to participate in a domestic violence prevention program;

2.~~(b)~~ Are adjudged to have committed an act of domestic violence as defined in s. 741.28;

3.~~(c)~~ Have an injunction entered for protection against domestic violence; or

4.~~(d)~~ Agree to attend a program as part of a diversion or pretrial intervention agreement by the offender with the state attorney.

(2) All persons required by the court to attend domestic violence programs certified by the Department of Corrections' Office of Certification and Monitoring of Batterers' Intervention Programs shall pay an additional $30 fee for each 29-week program to the Department of Corrections.

(3) The *fees assessed and collected under this section* ~~fee~~ shall be deposited in the *department's Operating* ~~Grants and Donations~~ Trust Fund ~~to be used by the department~~ to fund the cost of certifying and monitoring batterers' intervention programs.

Section 8. Subsection (7) of section 944.10, Florida Statutes, is amended to read:

944.10 Department of Corrections to provide buildings; sale and purchase of land; contracts to provide services and inmate labor.—

(7) The department may enter into contracts with federal, state, or local governmental entities or subdivisions to provide services and inmate labor for the construction of buildings, parks, roads, any detention or commitment facilities, or any other project deemed to be appropriate by the Department of Corrections, which may include, but is not limited to, the planning, design, site acquisition or preparation, management, or construction of such projects. The department may

charge fees for providing such services. All fees collected must be placed in the *Correctional Work Program* ~~Grants and Donations~~ Trust Fund.

Section 9. Subsection (2) of section 948.09, Florida Statutes, is amended to read:

948.09 Payment for cost of supervision and rehabilitation.—

(2) Any person being electronically monitored by the department as a result of placement on community control shall be required to pay a $1-per-day surcharge in addition to the cost of supervision fee as directed by the sentencing court. The surcharge shall be deposited in the *Operating* ~~Grants and Donations~~ Trust Fund to be used by the department for purchasing and maintaining electronic monitoring devices.

Section 10. Subsection (10) of section 951.23, Florida Statutes, is amended to read:

951.23 County and municipal detention facilities; definitions; administration; standards and requirements.—

(10) Nothing in this section prohibits the governing board of a county or municipality to enter into an agreement with the Department of Corrections authorizing the department to inspect the local detention facilities under the jurisdiction of the governing body. A governing board of a county or municipality may enter into such agreements with the department upon consultation with the sheriff if the sheriff operates the detention facility. The inspections performed by the department shall be consultatory in nature and for the purpose of advising the local governing bodies concerning compliance with the standards adopted by the detention facility's chief correctional officer. Such agreements must include, but are not limited to, provisions for the physical and operational standards that were adopted by the chief correctional officer of the detention facility, the manner and frequency of inspections to be conducted by the department, whether such inspections are to be announced or unannounced by the department, the type of access the department may have to the detention facility, and the amount of payment by the local governing body, if any, for the services rendered by the department. Inspections and access to local detention facilities shall not interfere with custody of inmates or the security of the facilities as determined by the chief correctional officer of each facility. Any fees collected by the department pursuant to such agreements must be deposited into the *Operating* ~~Grants and Donations~~ Trust Fund and shall be used to pay the cost of the services provided by the department to monitor local detention facilities pursuant to such agreements. This subsection shall be repealed effective October 1, 1999.

Section 11. *There is appropriated $550,000 from the Inmate Welfare Trust Fund to the Department of Corrections for the New Horizon Community Mental Health Center's Family Intervention, Preservation, and Support Program for fiscal year 1998-1999.*

Section 12. *There is appropriated $770,000 from the Inmate Welfare Trust Fund to the Department of Corrections for the fixed capital outlay needs of the AGAPE program in Dade County, including the purchase of new housing units and renovations to existing AGAPE facilities, for fiscal year 1998-1999.*

Section 13. Section 386.213, Florida Statutes, is created to read:

386.213 Smoking prohibited inside state correctional facilities.—

(1) The purpose of this section is to protect the health, comfort, and environment of employees of the Department of Corrections, employees of privately operated correctional facilities, employees of the Correctional Privatization Commission, and inmates by prohibiting inmates from using tobacco products inside any offices or buildings within state correctional facilities, and by ensuring that employees and visitors do not use tobacco products inside any office or building within state correctional facilities. Scientific evidence links the use of tobacco products with numerous significant health risks. The use of tobacco products by inmates, employees, or visitors is contrary to efforts by the Department of Corrections to reduce the costs of inmate health care and to limit unnecessary litigation. The Department of Corrections and the private vendors operating correctional facilities shall make smoking cessation assistance available to inmates in order to implement this section. The Department of Corrections and the private vendors operating correctional facilities shall implement this section as soon as possible, and all provisions of this section must be fully implemented by January 1, 1999.

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

(a) "Department" means the Department of Corrections.

(b) "Employee" means an employee of the department or a private vendor in a contractual relationship with either the Department of Corrections or the Correctional Privatization Commission, and includes persons such as contractors, volunteers, or law enforcement officers who are within a state correctional facility to perform a professional service.

(c) "State correctional facility" means a state or privately operated correctional institution as defined in s. 944.02, or a correctional institution or facility operated under s. 944.105 or chapter 957.

(d) "Tobacco products" means items such as cigars, cigarettes, snuff, loose tobacco, or similar goods made with any part of the tobacco plant, which are prepared or used for smoking, chewing, dipping, sniffing, or other personal use.

(e) "Visitor" means any person other than an inmate or employee who is within a state correctional facility for a lawful purpose and includes, but is not limited to, persons who are authorized to visit state correctional institutions pursuant to s. 944.23, and persons authorized to visit as prescribed by departmental rule or vendor policy.

(f) "Prohibited areas" means any indoor areas of any building, portable or other enclosed structure within a state correctional facility.

(3)(a) An inmate within a state correctional facility may not use tobacco products in prohibited areas at any time while in the custody of the department or under the supervision of a private vendor operating a correctional facility.

(b)1. An employee or visitor may not use any tobacco products in prohibited areas.

2. The superintendent, warden, or supervisor of a state correctional facility shall take reasonable steps to ensure that the tobacco prohibition for employees and visitors is strictly enforced.

(4) An inmate who violates this section commits a disciplinary infraction and is subject to punishment determined to be appropriate by the disciplinary authority in the state correctional facility, including, but not limited to, forfeiture of gain-time or the right to earn gain-time in the future under s. 944.28.

(5) The department may adopt rules and the private vendors operating correctional facilities may adopt policies and procedures for the designation of prohibited areas and smoking areas and for the imposition of penalties pursuant to this section. For the purposes of this section, the designation of prohibited areas shall not include employee housing on the grounds of a state correctional facility or maximum security inmate housing areas.

Section 14. Subsection (1) of section 386.203, Florida Statutes, is amended to read:

386.203 Definitions.—As used in this part:

(1) "Public place" means the following enclosed, indoor areas used by the general public:

(a) Government buildings;

(b) Public means of mass transportation and their associated terminals not subject to federal smoking regulation;

(c) Elevators;

(d) Hospitals;

(e) Nursing homes;

(f) Educational facilities;

(g) Public school buses;

(h) Libraries;

(i) Courtrooms;

(j) Jury waiting and deliberation rooms;

(k) Museums;

(l) Theaters;

(m) Auditoriums;

(n) Arenas;

(o) Recreational facilities;

(p) Restaurants which seat more than 50 persons;

(q) Retail stores, except a retail store the primary business of which is the sale of tobacco or tobacco related products;

(r) Grocery stores;

(s) Places of employment;

(t) Health care facilities;

(u) Day care centers; ~~and~~

(v) Common areas of retirement homes and condominiums.*; and*

(w) State correctional facilities.

Section 15. Subsection (1) of section 921.141, Florida Statutes, is amended to read:

921.141 Sentence of death or life imprisonment for capital felonies; further proceedings to determine sentence.—

(1) SEPARATE PROCEEDINGS ON ISSUE OF PENALTY.—

(a) Upon conviction or adjudication of guilt of a defendant of a capital felony, the court shall conduct a separate sentencing proceeding to determine whether the defendant should be sentenced to death or life imprisonment as authorized by s. 775.082. The proceeding shall be conducted by the trial judge before the trial jury as soon as practicable. If, through impossibility or inability, the trial jury is unable to reconvene for a hearing on the issue of penalty, having determined the guilt of the accused, the trial judge may summon a special juror or jurors as provided in chapter 913 to determine the issue of the imposition of the penalty. If the trial jury has been waived, or if the defendant pleaded guilty, the sentencing proceeding shall be conducted before a jury impaneled for that purpose, unless waived by the defendant. In the proceeding, evidence may be presented as to any matter that the court deems relevant to the nature of the crime and the character of the defendant and shall include matters relating to any of the aggravating or mitigating circumstances enumerated in subsections (5) and (6). Any such evidence which the court deems to have probative value may be received, regardless of its admissibility under the exclusionary rules of evidence, provided the defendant is accorded a fair opportunity to rebut any hearsay statements. However, this subsection shall not be construed to authorize the introduction of any evidence secured in violation of the Constitution of the United States or the Constitution of the State of Florida. The state and the defendant or the defendant's counsel shall be permitted to present argument for or against sentence of death.

(b) If the court determines, by a preponderance of the evidence, that the defendant suffers from mental retardation, and has an IQ less than 55 the court shall sentence the defendant to life imprisonment.

Section 16. Subsection (2) of section 921.142, Florida Statutes, is amended to read:

921.142 Sentence of death or life imprisonment for capital drug trafficking felonies; further proceedings to determine sentence.—

(2) SEPARATE PROCEEDINGS ON ISSUE OF PENALTY.—

(a) Upon conviction or adjudication of guilt of a defendant of a capital felony under s. 893.135, the court shall conduct a separate sentencing proceeding to determine whether the defendant should be sentenced to death or life imprisonment as authorized by s. 775.082. The proceeding shall be conducted by the trial judge before the trial jury as soon as practicable. If, through impossibility or inability, the trial jury is unable to reconvene for a hearing on the issue of penalty, having determined the guilt of the accused, the trial judge may summon a special juror or jurors as provided in chapter 913 to determine the issue of the imposition of the penalty. If the trial jury has been waived, or if the defendant pleaded guilty, the sentencing proceeding shall be conducted before a jury impaneled for that purpose, unless waived by the defendant. In the proceeding, evidence may be presented as to any matter that the court deems relevant to the nature of the crime and the character of the defendant and shall include matters relating to any of the aggravating or mitigating circumstances enumerated in subsections (6) and (7). Any such evidence which the court deems to have probative value may be received, regardless of its admissibility under the exclusionary rules of evidence, provided the defendant is accorded a fair opportunity to rebut any hearsay statements. However, this subsection shall not be construed to authorize the introduction of any evidence secured in violation of the Constitution of the United States or the Constitution of the State of Florida. The state and the defendant or the defendant's counsel shall be permitted to present argument for or against sentence of death.

(b) If the court determines, by a preponderance of the evidence, that the defendant suffers from mental retardation, and has an IQ less than 55 the court shall sentence the defendant to life imprisonment.

Section 17. Paragraph (m) is added to subsection (1) of section 924.07, Florida Statutes, to read:

924.07 Appeal by state.—

(1) The state may appeal from:

(m) An order pursuant to s. 921.141(1)(a) or s. 921.142(2)(a) declaring a defendant mentally retarded.

Section 18. *For purposes of sections 921.141 and 921.142, Florida Statutes, the term "mental retardation" means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the period from conception to age 18. The term "significantly subaverage general intellectual functioning," for the purpose of this definition, means an intelligence quotient of 55 or less on a standardized intelligence test specified in the rules of the Department of Children and Family Services. The term "adaptive behavior," for the purpose of this definition, means the effectiveness or degree with which an individual meets the standards of personal independence and social responsibility expected of the individual's age, cultural group, and community.*

Section 19. Section 945.10, Florida Statutes, is amended to read:

945.10 Confidential information*; illegal acts; penalties*.—

(1) Except as otherwise provided by law or in this section, the following records and information of the Department of Corrections are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

(a) Mental health, medical, or substance abuse records of an inmate or an offender.

(b) Preplea, pretrial intervention, presentence or postsentence investigative records.

(c) Information regarding a person in the federal witness protection program.

(d) Parole Commission records which are confidential or exempt from public disclosure by law.

(e) Information which if released would jeopardize a person's safety.

(f) Information concerning a victim's statement and identity.

(g) The identity of an executioner.

(h) Records that are otherwise confidential or exempt from public disclosure by law.

(2) The records and information specified in paragraphs (1)(b)-(h) may be released as follows unless expressly prohibited by federal law:

(a) Information specified in paragraphs (1)(b), (d), and (f) to the Office of the Governor, the Legislature, the Parole Commission, the Department of Health and Rehabilitative Services, a private correctional facility or program that operates under a contract, the Department of Legal Affairs, a state attorney, the court, or a law enforcement agency. A request for records or information pursuant to this paragraph need not be in writing.

(b) Information specified in paragraphs (1)(c), (e), and (h) to the Office of the Governor, the Legislature, the Parole Commission, the Department of Health and Rehabilitative Services, a private correctional facility or program that operates under contract, the Department of Legal Affairs, a state attorney, the court, or a law enforcement agency. A request for records or information pursuant to this paragraph must be in writing and a statement provided demonstrating a need for the records or information.

(c) Information specified in paragraph (1)(b) to an attorney representing an inmate under sentence of death, except those portions of the records containing a victim's statement or address, or the statement or address of a relative of the victim. A request for records of information pursuant to this paragraph must be in writing and a statement provided demonstrating a need for the records or information.

(d) Information specified in paragraph (1)(b) to a public defender representing a defendant, except those portions of the records containing a victim's statement or address, or the statement or address of a relative of the victim. A request for records or information pursuant to this paragraph need not be in writing.

(e) Information specified in paragraph (1)(b) to state or local governmental agencies. A request for records or information pursuant to this paragraph must be in writing and a statement provided demonstrating a need for the records or information.

(f) Information specified in paragraph (1)(b) to a person conducting legitimate research. A request for records and information pursuant to this paragraph must be in writing, the person requesting the records or information must sign a confidentiality agreement, and the department must approve the request in writing.

Records and information released under this subsection remain confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution when held by the receiving person or entity.

(3) Due to substantial concerns regarding institutional security and unreasonable and excessive demands on personnel and resources if an inmate or an offender has unlimited or routine access to records of the Department of Corrections, an inmate or an offender who is under the jurisdiction of the department may not have unrestricted access to the department's records or to information contained in the department's records. However, except as to another inmate's or offender's records, the department may permit limited access to its records if an inmate or an offender makes a written request and demonstrates an exceptional need for information contained in the department's records and the information is otherwise unavailable. Exceptional circumstances include, but are not limited to:

(a) The inmate or offender requests documentation to resolve a conflict between the inmate's court documentation and the commitment papers or court orders received by the department regarding the inmate or offender.

(b) The inmate's or offender's release is forthcoming and a prospective employer requests, in writing, documentation of the inmate's or offender's work performance.

(c) The inmate or offender needs information concerning the amount of victim restitution paid during the inmate's or offender's incarceration.

(d) The requested records contain information required to process an application or claim by the inmate or offender with the Internal Revenue Service, the Social Security Administration, the Department of Labor and Employment Security, or any other similar application or claim with a state agency or federal agency.

(e) The inmate or offender wishes to obtain the current address of a relative whose address is in the department's records and the relative has not indicated a desire not to be contacted by the inmate or offender.

(f) Other similar circumstances that do not present a threat to the security, order, or rehabilitative objectives of the correctional system or to any person's safety.

(4) The Department of Corrections shall adopt rules to prevent disclosure of confidential records or information to unauthorized persons.

(5) The Department of Corrections and the Parole Commission shall mutually cooperate with respect to maintaining the confidentiality of records that are exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(6)(a) As used in this subsection:

1. The term "personal information about another person" means the home addresses, telephone numbers, social security numbers, and photographs of health care clinicians of the Department of Corrections who are licensed or certified pursuant to chapter 458, chapter 459, chapter 464, chapter 465, chapter 466, or chapter 490 and of educational personnel of the Department of Corrections who are certified pursuant to s. 231.17 and of other state officers and employees whose duties are performed in whole or in part in state correctional institutions; the home addresses, telephone numbers, social security numbers, photographs, and places of employment of the spouses and children of such persons; and the names and locations of schools and day care facilities attended by the children of such persons.

2. The terms "another person" and "such person" mean any person described in subparagraph 1.

3. The term "harass" means engaging in a course of conduct directed at another person which causes substantial emotional distress to such person and serves no legitimate purpose.

(b) An inmate or offender in the correctional system or under correctional supervision, whether on parole, probation, postrelease supervision, or any other form of supervision, is prohibited from disclosing or using personal information about another person with the intent to obtain a benefit from, harass, harm, or defraud such person. Any inmate or offender who violates this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) An inmate or offender who has been convicted of an offense under paragraph (b) is prohibited from subsequently participating in any correctional work or other correctional program that provides inmates or offenders with access to personal information about persons who are not in the correctional system or under correctional supervision. If, during a term of imprisonment, an inmate or offender is convicted of the offense under paragraph (b), the inmate or offender shall be subject to forfeiture of all or any part of his or her gain-time pursuant to rules adopted by the department. The department may adopt rules to prohibit the subsequent participation of an inmate who has been convicted of an offense under paragraph (b) in any correctional work or other correctional program that provides inmates access to personal information about another person. The department may also adopt rules to implement the forfeiture or deletion of gain-time.

Section 20. Subsection (5) of section 99.012, Florida Statutes, is amended to read:

99.012 Restrictions on individuals qualifying for public office.—

(5)*(a)* A person who is a subordinate officer, deputy sheriff, or police officer *must* ~~need not~~ resign *effective upon qualifying, pursuant to Chapter 99, F.S., if* ~~pursuant to this section unless~~ the person is seeking to qualify for a public office which is currently held by an officer who has authority to appoint, employ, promote, or otherwise supervise that person and who has qualified as a candidate for reelection to that office.

(b) ~~However,~~ Upon qualifying *pursuant to Chapter 99, F.S., a* ~~the~~ subordinate officer, deputy sheriff, or police officer *who is seeking public office and who is not required to resign under paragraph (a)* must take a leave of absence without pay during the period in which he or she is a candidate for office.

Section 21. *There is appropriated from the General Revenue Fund to Hillsborough County the sum of $500,000 for fiscal year 1998-1999 for the planning, design, development, acquisition and construction of the Hillsborough County Sheriff's District 4 Office with such sums released only upon a two to one matching funding commitment from Hillsborough County for the completion of such project.*

Section 22. This act shall take effect upon becoming a law.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to criminal justice; amending s. 951.23, F.S.; providing a criminal penalty for refusing to obey jail rules and regulations; requiring that a printed copy of rules be provided to prisoners; providing a definition; terminating specified trust funds and fund accounts within the state courts system and the Department of Corrections; providing for the transfer of current balances to general revenue, the paying of outstanding debts and obligations, and the removal of the terminated funds and accounts from the various state accounting systems; modifying provisions relating to specified trust funds and fund accounts within the state courts system and the Department of Corrections; amending s. 216.272, F.S., relating to Working Capital Trust Funds used to fund data processing centers; removing reference to the judicial branch; amending s. 945.215, F.S.; providing sources of funds and purposes of the Inmate Welfare Trust Fund, the Privately Owned Institutions Inmate Welfare Trust Fund, and the Employee Benefit Trust Fund within the department; providing for annual appropriation of funds deposited in the Inmate Welfare Trust Fund; requiring certain annual reports; amending s. 944.803, F.S., relating to faith-based programs for inmates; revising a reference, to conform; amending s. 945.31, F.S.; providing for deposit of the department's administrative processing fee in the department's Operating Trust Fund; amending s. 945.76, F.S.; revising provisions relating to fees for certification and monitoring of batterers' intervention programs; providing for deposit of such fees in the department's Operating Trust Fund; amending s. 944.10, F.S.; providing for deposit of contractual service and inmate labor fees in the Correctional Work Program Trust Fund; amending s. 948.09, F.S.; providing for deposit of the electronic monitoring surcharge in the department's Operating Trust Fund; amending s. 951.23, F.S.; providing for deposit of fees collected pursuant to local detention facility inspection agreements in the department's Operating Trust Fund; creating s. 386.213, F.S.; providing legislative intent; requiring the Department of Corrections and private vendors operating state correctional facilities to make smoking-cessation assistance available to inmates; requiring full implementation of the act by a specified date; providing definitions; prohibiting an inmate within a state correctional facility from using tobacco products in prohibited areas; prohibiting employees or visitors from using tobacco products in prohibited areas; providing penalties; authorizing the department to adopt rules; amending s. 386.203 (1), F.S.; adding state correctional facilities to the definition of public place; amending ss. 921.141, 921.142, F.S.; prescribing the penalty to be imposed if the defendant is determined to be mentally retarded; amending s. 924.07, F.S.; providing that the state may appeal a determination that a defendant is mentally retarded; providing a definition of mental retardation; amending s. 945.10, F.S., relating to confidential information and other information available to inmates and offenders in the correctional system or under supervision; defining terms; prohibiting certain disclosure or use of certain "personal information about another person," as defined, by an inmate or offender with intent to obtain a benefit from, harass, harm, or defraud such person; providing penalties; providing that an inmate or offender convicted of such offense is prohibited from subsequent participation in correctional work programs or other programs; providing that an inmate or offender convicted of such offense is subject to forfeiture of gain-time; providing for adoption of rules by the department; amending s. 99.012, F.S.; requiring a subordinate officer, deputy sheriff, or police officer seeking to qualify for a public office to resign or take a leave of absence, depending on certain circumstances relating to the office sought; providing an appropriation; providing an effective date.

Representative(s) Trovillion offered the following:

House Amendment 1 to Senate Amendment 1 (with title amendment)—
remove: the entire amendment

and insert in lieu thereof:

Section 1. Subsection (11) is added to section 951.23, Florida Statutes, to read:

951.23 County and municipal detention facilities; definitions; administration; standards and requirements.—

(11)(a) Any prisoner in a county or municipal detention facility who knowingly and willfully refuses on three or more occasions to obey or comply with any rule governing the conduct of prisoners commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Such punishment must be in addition to any sentence he or she may be serving. A prisoner may be charged with, convicted of, and sentenced for a violation of this subsection in addition to any other criminal offense committed while detained in a county or municipal detention facility.

(b) Upon a prisoner's classification in a county or municipal detention facility, he or she must be provided with a printed copy of the rules governing the conduct of prisoners. Translation assistance must be provided, as needed.

(c) As used in this subsection, the term "rules governing the conduct of prisoners" means any of the rules relating to order and discipline provided in the Florida Model Jail Standards, adopted pursuant to subsection (4) and effective on October 1, 1997.

Section 2. *(1) The following trust funds and fund accounts are terminated on July 1, 1998:*

(a) Within the state courts system:

1. Appellate Opinion Distribution Trust Fund, SAMAS number 222215.

2. Working Capital Trust Fund, SAMAS number 222792.

(b) Within the Department of Corrections:

1. Hurricane Andrew Recovery and Rebuilding Trust Fund, SAMAS number 702205.

2. Working Capital Trust Fund, SAMAS number 702792.

(2) All current balances remaining in, and all revenues of, the trust funds and fund accounts terminated by this act shall be transferred to the General Revenue Fund.

(3) For each trust fund or fund account terminated by this act, the state courts system or Department of Corrections, as applicable, shall pay any outstanding debts or obligations of the terminated fund or account as soon as practicable, and the Comptroller shall close out and remove the terminated fund or account from the various state accounting systems using generally accepted accounting principles concerning warrants outstanding, assets, and liabilities.

Section 3. Section 216.272, Florida Statutes, is amended to read:

216.272 Working Capital Trust Funds.—

(1) There are hereby created Working Capital Trust Funds for the purpose of providing sufficient funds for the operation of data processing

centers, which may include the creation of a reserve account within the Working Capital Trust Fund to pay for future information technology resource acquisitions as appropriated by the Legislature. Such funds shall be created from moneys budgeted for data processing services and equipment by those agencies~~, and the judicial branch,~~ to be served by the data processing center.

(2) The funds so allocated shall be in an amount sufficient to finance the center's operation; however, each agency ~~or judicial branch~~ served by the center shall contribute an amount equal to its proportionate share of cost of operating such data processing center. Each agency~~, or the judicial branch,~~ utilizing the services of the data processing center shall pay such moneys into the appropriate Working Capital Trust Fund on a quarterly basis or such other basis as may be determined by the Executive Office of the Governor ~~or the Chief Justice as appropriate~~.

Section 4. Section 945.215, Florida Statutes, is amended to read:

945.215 Inmate welfare and employee benefit trust funds.—

(1) *INMATE WELFARE TRUST FUND; DEPARTMENT OF CORRECTIONS.*—

(a) *The Inmate Welfare Trust Fund constitutes a trust held by the department for the benefit and welfare of offenders and inmatesunder the jurisdiction of the Department of Corrections. Funds shall be credited to the trust fund as follows:*

1. All *funds* ~~moneys~~ held in any auxiliary, canteen, welfare, or similar fund in any *correctional facility operated directly by the department* ~~state institution under the jurisdiction of the Department of Corrections shall be deposited in the Inmate Welfare Trust Fund of the department, which fund is created in the State Treasury, to be appropriated annually by the Legislature and deposited in the Department of Corrections Grants and Donations Trust Fund~~.

2. All net proceeds from operating inmate canteens, vending machines used primarily by inmates, hobby shops, and other such facilities; however, *funds necessary to* ~~moneys budgeted by the department for the~~ purchase ~~of~~ items for resale at *inmate* canteens *and* ~~or~~ vending machines must be deposited into local bank accounts designated by the department. ~~The department shall submit to the President of the Senate and the Speaker of the House of Representatives by January 1 of each year a report that documents the receipts and expenditures, including a verification of telephone commissions, from the Inmate Welfare Trust Fund for the previous fiscal year. The report must present this information by program, by institution, and by type of receipt.~~

3. All proceeds from contracted telephone commissions. The department shall develop and update, as necessary, administrative procedures to verify that:

a. Contracted telephone companies accurately record and report all telephone calls made by inmates incarcerated in correctional facilities under the department's jurisdiction;

b. Persons who accept collect calls from inmates are charged the contracted rate; and

c. The department receives the contracted telephone commissions.

4. Any funds that may be assigned by inmates or donated to the department by the general public or an inmate service organization; however, the department shall not accept any donation from, or on behalf of, any individual inmate.

5. Repayment of the one-time sum of $500,000 appropriated in fiscal year 1996-1997 from the Inmate Welfare Trust Fund for correctional work programs pursuant to s. 946.008.

6. All proceeds from:

a. The confiscation and liquidation of any contraband found upon, or in the possession of, any inmate:

b. Disciplinary fines imposed against inmates;

c. Forfeitures of inmate earnings; and

d. Unexpended balances in individual inmate trust fund accounts of less than $1.

7. All interest earnings and other proceeds derived from investments of funds deposited in the trust fund. In the manner authorized by law for fiduciaries, the secretary of the department, or the secretary's designee, may invest any funds in the trust fund when it is determined that such funds are not needed for immediate use.

(b) *Funds* ~~Beginning with the legislative appropriation for fiscal year 1995-1996 and thereafter, the money~~ in the Inmate Welfare Trust Fund must be used exclusively *for the following purposes at correctional facilities operated directly by the department*:

1. To *operate inmate canteens and vending machines, including purchasing* ~~purchase~~ items for resale at ~~the~~ inmate canteens *and* ~~or~~ vending machines, ~~maintained at the correctional facilities;~~

~~2.~~ *employing* ~~To employ~~ personnel and inmates to manage, supervise, and operate *inmate* ~~the~~ canteens and vending machines, ~~at the correctional facilities;~~

~~3.~~ *and covering other* ~~For~~ operating and fixed capital *outlay* expenses associated with *operating* ~~the operation of~~ inmate canteens and vending machines;

2.~~4.~~ To employ personnel to manage and supervise the proceeds from telephone commissions;

3. To develop, implement, and maintain the medical copayment accounting system;

4.~~5.~~ ~~To employ personnel for correctional education~~ To provide literacy programs, vocational training *programs,* and *educational* ~~academic~~ programs that comply with standards of the Department of Education, *including employing personnel and covering other*~~;~~

~~6. For~~ operating and fixed capital *outlay* expenses associated with *providing such programs* ~~the delivery to inmates of literacy programs, vocational training, and academic programs that comply with standards of the Department of Education~~;

5.~~7.~~ *To operate inmate chapels, faith-based programs, visiting pavilions, libraries, and law libraries, including employing personnel and covering other* ~~For~~ operating and fixed capital *outlay* expenses associated with *operating* ~~the operation of~~ inmate chapels, *faith-based programs, visiting pavilions,* libraries, and *law libraries* ~~visiting pavilions~~;

~~8. To employ personnel to operate the libraries, chapels, and visiting pavilions;~~

6.~~9.~~ *To provide* for expenses associated with various inmate clubs;

7.~~10.~~ *To provide* for expenses associated with legal services for inmates;

8.~~11.~~ ~~To employ personnel~~ To provide inmate substance abuse treatment *programs* and transition and life skills training programs, *including employing personnel*~~;~~ and

~~12.~~ *covering other* ~~For~~ operating and fixed capital *outlay* expenses associated with *providing such programs* ~~the delivery of inmate substance abuse treatment and transition and life skills training programs~~.

(c) The *Legislature shall annually appropriate the funds deposited in the Inmate Welfare Trust Fund. It is the intent of the Legislature that* total annual expenditures for *providing literacy programs, vocational training programs, and educational programs exceed the combined* ~~items listed in subparagraphs 5. and 6. must exceed the~~ total annual expenditures for *operating inmate chapels, faith-based programs, visiting pavilions, libraries, and law libraries, covering expenses associated with inmate clubs, and providing inmate substance abuse treatment programs and transition and life skills training programs* ~~items listed in subparagraphs 7. through 12~~.

(d) Funds in the Inmate Welfare Trust Fund or any other fund may not be used to purchase cable television service, to rent or purchase videocassettes, videocassette recorders, or other audiovisual or electronic equipment used primarily for recreation purposes. This paragraph does not preclude the purchase or rental of electronic or audiovisual equipment for inmate training or educational programs. ~~The department shall develop administrative procedures to verify that contracted telephone commissions are being received, that persons who have accepted collect calls from inmates are being charged the contracted rate, and that contracted telephone companies are accurately and completely recording and reporting all inmate telephone calls made.~~

~~(c) There shall be deposited in the Inmate Welfare Trust Fund all net proceeds from the operation of canteens, vending machines, hobby shops, and other such facilities and any moneys that may be assigned by the inmates or donated to the department by the general public or an inmate service organization for deposit in the fund. However, the department shall refuse to accept any donations from or on behalf of any individual inmate. The moneys of the fund shall constitute a trust held by the department for the benefit and welfare of the inmates of the institutions under the jurisdiction of the department.~~

~~(d) There shall be deposited in the Inmate Welfare Trust Fund such moneys as constitute repayment of the one-time sum appropriated pursuant to s. 946.008.~~

~~(e) Any contraband found upon, or in the possession of, any inmate in any institution under the jurisdiction of the department shall be confiscated and liquidated, and the proceeds thereof shall be deposited in the Inmate Welfare Trust Fund of the department.~~

~~(f) The secretary of the department or the secretary's designee may invest in the manner authorized by law for fiduciaries any money in the Inmate Welfare Trust Fund of the department that in his or her opinion is not necessary for immediate use, and the interest earned and other increments derived from such investments made pursuant to this section shall be deposited in the Inmate Welfare Trust Fund of the department.~~

(e)~~(g)~~ Items for resale at ~~the~~ inmate canteens *and* ~~or~~ vending machines maintained at the correctional facilities shall be priced comparatively with like items for retail sale at fair market prices.

(f)~~(h)~~ Notwithstanding any other provision of law, inmates with sufficient balances in their individual inmate bank trust fund accounts, after all debts against the account are satisfied, shall be allowed to request a weekly draw of up to $45 to be expended for personal use on canteen *and vending machine* items.

(g) The department shall annually compile a report that specifically documents Inmate Welfare Trust Fund receipts and expenditures. This report shall be compiled at both the statewide and institutional levels. The department must submit this report for the previous fiscal year by September 1 of each year to the chairs of the appropriate substantive and fiscal committees of the Senate and the House of Representatives and to the Executive Office of the Governor.

(2) *PRIVATELY OPERATED INSTITUTIONS INMATE WELFARE TRUST FUND; PRIVATE CORRECTIONAL FACILITIES.—*

(a) For purposes of this subsection, privately operated institutions or private correctional facilities are those correctional facilities under contract with the department pursuant to chapter 944 or the Correctional Privatization Commission pursuant to chapter 957.

(b)1. The net proceeds derived from inmate canteens, vending machines used primarily by inmates, telephone commissions, and similar sources at private correctional facilities shall be deposited in the Privately Operated Institutions Inmate Welfare Trust Fund.

2. Funds in the Privately Operated Institutions Inmate Welfare Trust Fund shall be expended only pursuant to legislative appropriation.

(c) The Correctional Privatization Commission shall annually compile a report that documents Privately Operated Institutions Inmate Welfare Trust Fund receipts and expenditures at each private correctional facility. This report must specifically identify receipt sources and expenditures. The Correctional Privatization Commission shall compile this report for the prior fiscal year and shall submit the report by September 1 of each year to the chairs of the appropriate substantive and fiscal committees of the Senate and House of Representatives and to the Executive Office of the Governor.

(3) EMPLOYEE BENEFIT TRUST FUND; DEPARTMENT OF CORRECTIONS.—

(a) The department may establish an Employee Benefit Trust Fund. Trust fund sources may be derived from any of the following:

1.~~(a)~~ Proceeds of vending machines or other such services not intended for use by inmates.

2.~~(b)~~ Donations, except donations by, or on behalf of, an individual inmate.

3.~~(c)~~ Additional trust funds and grants which may become available.

(b) Funds from the Employee Benefit Trust Fund ~~Such fund shall be maintained and audited separately and apart from the Inmate Welfare Trust Fund. Portions of the fund~~ may be used to construct, *operate, and maintain* training and recreation facilities at *correctional facilities for the exclusive use of department employees* ~~respective institutions~~. Such facilities *are* ~~shall be~~ the property of the department and *must* ~~shall~~ provide the maximum benefit to *all* interested employees, *regardless of gender* ~~of both sexes, including teachers, clerical staff, medical and psychological services personnel, and officers and administrators~~.

Section 5. Paragraph (d) of subsection (2) of section 944.803, Florida Statutes, is amended to read:

944.803 Faith-based programs for inmates.—

(2) It is the intent of the Legislature that the Department of Corrections and the private vendors operating private correctional facilities shall continuously:

(d) Fund through the use of ~~the~~ inmate welfare trust *funds* ~~fund~~ pursuant to s. 945.215 an adequate number of chaplains and support staff to operate *faith-based* ~~chaplaincy~~ programs in ~~state~~ correctional institutions.

Section 6. Section 945.31, Florida Statutes, is amended to read:

945.31 Restitution and other payments.—The department may establish bank accounts outside the State Treasury for the purpose of collecting and disbursing restitution and other court-ordered payments from persons in its custody or under its supervision, and may collect an administrative processing fee in an amount equal to 4 percent of the gross amounts of such payments. Such administrative processing fee shall be deposited in the department's *Operating* ~~Grants and Donations~~ Trust Fund and shall be used to offset the cost of the department's services.

Section 7. Section 945.76, Florida Statutes, is amended to read:

945.76 Certification and monitoring of batterers' intervention programs; fees.—

(1) Pursuant to s. 741.32, the Department of Corrections is authorized to assess and collect*:*

(a) An annual certification *fee* ~~fees~~ not to exceed $300 for the certification and monitoring of *batterers' intervention* programs ~~certified by the Department of Corrections' Office of Certification and Monitoring of Batterers' Intervention Programs and~~.

(b) An annual certification fee not to exceed $200 for the certification and monitoring of assessment personnel providing direct services to persons who:

1.~~(a)~~ Are ordered by the court to participate in a domestic violence prevention program;

2.~~(b)~~ Are adjudged to have committed an act of domestic violence as defined in s. 741.28;

3.~~(c)~~ Have an injunction entered for protection against domestic violence; or

4.~~(d)~~ Agree to attend a program as part of a diversion or pretrial intervention agreement by the offender with the state attorney.

(2) All persons required by the court to attend domestic violence programs certified by the Department of Corrections' Office of Certification and Monitoring of Batterers' Intervention Programs shall pay an additional $30 fee for each 29-week program to the Department of Corrections.

(3) The *fees assessed and collected under this section* ~~fee~~ shall be deposited in the *department's Operating* ~~Grants and Donations~~ Trust Fund ~~to be used by the department~~ to fund the cost of certifying and monitoring batterers' intervention programs.

Section 8. Subsection (7) of section 944.10, Florida Statutes, is amended to read:

944.10 Department of Corrections to provide buildings; sale and purchase of land; contracts to provide services and inmate labor.—

(7) The department may enter into contracts with federal, state, or local governmental entities or subdivisions to provide services and inmate labor for the construction of buildings, parks, roads, any detention or commitment facilities, or any other project deemed to be appropriate by the Department of Corrections, which may include, but is not limited to, the planning, design, site acquisition or preparation, management, or construction of such projects. The department may charge fees for providing such services. All fees collected must be placed in the *Correctional Work Program* ~~Grants and Donations~~ Trust Fund.

Section 9. Subsection (2) of section 948.09, Florida Statutes, is amended to read:

948.09 Payment for cost of supervision and rehabilitation.—

(2) Any person being electronically monitored by the department as a result of placement on community control shall be required to pay a $1-per-day surcharge in addition to the cost of supervision fee as directed by the sentencing court. The surcharge shall be deposited in the *Operating* ~~Grants and Donations~~ Trust Fund to be used by the department for purchasing and maintaining electronic monitoring devices.

Section 10. Subsection (10) of section 951.23, Florida Statutes, is amended to read:

951.23 County and municipal detention facilities; definitions; administration; standards and requirements.—

(10) Nothing in this section prohibits the governing board of a county or municipality to enter into an agreement with the Department of Corrections authorizing the department to inspect the local detention facilities under the jurisdiction of the governing body. A governing board of a county or municipality may enter into such agreements with the department upon consultation with the sheriff if the sheriff operates the detention facility. The inspections performed by the department shall be consultatory in nature and for the purpose of advising the local governing bodies concerning compliance with the standards adopted by the detention facility's chief correctional officer. Such agreements must include, but are not limited to, provisions for the physical and operational standards that were adopted by the chief correctional officer of the detention facility, the manner and frequency of inspections to be conducted by the department, whether such inspections are to be announced or unannounced by the department, the type of access the department may have to the detention facility, and the amount of payment by the local governing body, if any, for the services rendered by the department. Inspections and access to local detention facilities shall not interfere with custody of inmates or the security of the facilities as determined by the chief correctional officer of each facility. Any fees collected by the department pursuant to such agreements must be deposited into the *Operating* ~~Grants and Donations~~ Trust Fund and shall be used to pay the cost of the services provided by the department to monitor local detention facilities pursuant to such agreements. This subsection shall be repealed effective October 1, 1999.

Section 11. Section 386.213, Florida Statutes, is created to read:

386.213 Smoking prohibited inside state correctional facilities.—

(1) The purpose of this section is to protect the health, comfort, and environment of employees of the Department of Corrections, employees of privately operated correctional facilities, employees of the Correctional Privatization Commission, and inmates by prohibiting inmates from using tobacco products inside any offices or buildings within state correctional facilities, and by ensuring that employees and visitors do not use tobacco products inside any office or building within state correctional facilities. Scientific evidence links the use of tobacco products with numerous significant health risks. The use of tobacco products by inmates, employees, or visitors is contrary to efforts by the Department of Corrections to reduce the costs of inmate health care and to limit unnecessary litigation. The Department of Corrections and the private vendors operating correctional facilities shall make smoking cessation assistance available to inmates in order to implement this section. The Department of Corrections and the private vendors operating correctional facilities shall implement this section as soon as possible, and all provisions of this section must be fully implemented by January 1, 1999.

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

(a) "Department" means the Department of Corrections.

(b) "Employee" means an employee of the department or a private vendor in a contractual relationship with either the Department of Corrections or the Correctional Privatization Commission, and includes persons such as contractors, volunteers, or law enforcement officers who are within a state correctional facility to perform a professional service.

(c) "State correctional facility" means a state or privately operated correctional institution as defined in s. 944.02, or a correctional institution or facility operated under s. 944.105 or chapter 957.

(d) "Tobacco products" means items such as cigars, cigarettes, snuff, loose tobacco, or similar goods made with any part of the tobacco plant, which are prepared or used for smoking, chewing, dipping, sniffing, or other personal use.

(e) "Visitor" means any person other than an inmate or employee who is within a state correctional facility for a lawful purpose and includes, but is not limited to, persons who are authorized to visit state correctional institutions pursuant to s. 944.23, and persons authorized to visit as prescribed by departmental rule or vendor policy.

(f) "Prohibited areas" means any indoor areas of any building, portable or other enclosed structure within a state correctional facility.

(3)(a) An inmate within a state correctional facility may not use tobacco products in prohibited areas at any time while in the custody of the department or under the supervision of a private vendor operating a correctional facility.

(b)1. An employee or visitor may not use any tobacco products in prohibited areas.

2. The superintendent, warden, or supervisor of a state correctional facility shall take reasonable steps to ensure that the tobacco prohibition for employees and visitors is strictly enforced.

(4) An inmate who violates this section commits a disciplinary infraction and is subject to punishment determined to be appropriate by the disciplinary authority in the state correctional facility, including, but not limited to, forfeiture of gain-time or the right to earn gain-time in the future under s. 944.28.

(5) The department may adopt rules and the private vendors operating correctional facilities may adopt policies and procedures for the designation of prohibited areas and smoking areas and for the imposition of penalties pursuant to this section. For the purposes of this section, the designation of prohibited areas shall not include employee housing on the grounds of a state correctional facility or maximum security inmate housing areas.

Section 12. Subsection (1) of section 386.203, Florida Statutes, is amended to read:

386.203 Definitions.—As used in this part:

(1) "Public place" means the following enclosed, indoor areas used by the general public:

(a) Government buildings;

(b) Public means of mass transportation and their associated terminals not subject to federal smoking regulation;

(c) Elevators;

(d) Hospitals;

(e) Nursing homes;

(f) Educational facilities;

(g) Public school buses;

(h) Libraries;

(i) Courtrooms;

(j) Jury waiting and deliberation rooms;

(k) Museums;

(l) Theaters;

(m) Auditoriums;

(n) Arenas;

(o) Recreational facilities;

(p) Restaurants which seat more than 50 persons;

(q) Retail stores, except a retail store the primary business of which is the sale of tobacco or tobacco related products;

(r) Grocery stores;

(s) Places of employment;

(t) Health care facilities;

(u) Day care centers; ~~and~~

(v) Common areas of retirement homes and condominiums.~~;~~ *; and*

(w) State correctional facilities.

Section 13. Section 945.10, Florida Statutes, is amended to read:

945.10 Confidential information*; illegal acts; penalties*.—

(1) Except as otherwise provided by law or in this section, the following records and information of the Department of Corrections are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

(a) Mental health, medical, or substance abuse records of an inmate or an offender.

(b) Preplea, pretrial intervention, presentence or postsentence investigative records.

(c) Information regarding a person in the federal witness protection program.

(d) Parole Commission records which are confidential or exempt from public disclosure by law.

(e) Information which if released would jeopardize a person's safety.

(f) Information concerning a victim's statement and identity.

(g) The identity of an executioner.

(h) Records that are otherwise confidential or exempt from public disclosure by law.

(2) The records and information specified in paragraphs (1)(b)-(h) may be released as follows unless expressly prohibited by federal law:

(a) Information specified in paragraphs (1)(b), (d), and (f) to the Office of the Governor, the Legislature, the Parole Commission, the Department of Health and Rehabilitative Services, a private correctional facility or program that operates under a contract, the Department of Legal Affairs, a state attorney, the court, or a law enforcement agency. A request for records or information pursuant to this paragraph need not be in writing.

(b) Information specified in paragraphs (1)(c), (e), and (h) to the Office of the Governor, the Legislature, the Parole Commission, the Department of Health and Rehabilitative Services, a private correctional facility or program that operates under contract, the Department of Legal Affairs, a state attorney, the court, or a law enforcement agency. A request for records or information pursuant to this paragraph must be in writing and a statement provided demonstrating a need for the records or information.

(c) Information specified in paragraph (1)(b) to an attorney representing an inmate under sentence of death, except those portions of the records containing a victim's statement or address, or the statement or address of a relative of the victim. A request for records of information pursuant to this paragraph must be in writing and a statement provided demonstrating a need for the records or information.

(d) Information specified in paragraph (1)(b) to a public defender representing a defendant, except those portions of the records containing a victim's statement or address, or the statement or address of a relative of the victim. A request for records or information pursuant to this paragraph need not be in writing.

(e) Information specified in paragraph (1)(b) to state or local governmental agencies. A request for records or information pursuant to this paragraph must be in writing and a statement provided demonstrating a need for the records or information.

(f) Information specified in paragraph (1)(b) to a person conducting legitimate research. A request for records and information pursuant to this paragraph must be in writing, the person requesting the records or information must sign a confidentiality agreement, and the department must approve the request in writing.

Records and information released under this subsection remain confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution when held by the receiving person or entity.

(3) Due to substantial concerns regarding institutional security and unreasonable and excessive demands on personnel and resources if an inmate or an offender has unlimited or routine access to records of the Department of Corrections, an inmate or an offender who is under the jurisdiction of the department may not have unrestricted access to the department's records or to information contained in the department's records. However, except as to another inmate's or offender's records, the department may permit limited access to its records if an inmate or an offender makes a written request and demonstrates an exceptional need for information contained in the department's records and the information is otherwise unavailable. Exceptional circumstances include, but are not limited to:

(a) The inmate or offender requests documentation to resolve a conflict between the inmate's court documentation and the commitment papers or court orders received by the department regarding the inmate or offender.

(b) The inmate's or offender's release is forthcoming and a prospective employer requests, in writing, documentation of the inmate's or offender's work performance.

(c) The inmate or offender needs information concerning the amount of victim restitution paid during the inmate's or offender's incarceration.

(d) The requested records contain information required to process an application or claim by the inmate or offender with the Internal Revenue Service, the Social Security Administration, the Department of Labor and Employment Security, or any other similar application or claim with a state agency or federal agency.

(e) The inmate or offender wishes to obtain the current address of a relative whose address is in the department's records and the relative has not indicated a desire not to be contacted by the inmate or offender.

(f) Other similar circumstances that do not present a threat to the security, order, or rehabilitative objectives of the correctional system or to any person's safety.

(4) The Department of Corrections shall adopt rules to prevent disclosure of confidential records or information to unauthorized persons.

(5) The Department of Corrections and the Parole Commission shall mutually cooperate with respect to maintaining the confidentiality of records that are exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(6)(a) As used in this subsection:

1. The term "personal information about another person" means the home addresses, telephone numbers, social security numbers, and photographs of health care clinicians of the Department of Corrections who are licensed or certified pursuant to chapter 458, chapter 459, chapter 464, chapter 465, chapter 466, or chapter 490 and of educational personnel of the Department of Corrections who are certified pursuant to s. 231.17 and of other state officers and employees whose duties are performed in whole or in part in state correctional institutions; the home addresses, telephone numbers, social security numbers, photographs, and places of employment of the spouses and children of such persons; and the names and locations of schools and day care facilities attended by the children of such persons.

2. The terms "another person" and "such person" mean any person described in subparagraph 1.

3. The term "harass" means engaging in a course of conduct directed at another person which causes substantial emotional distress to such person and serves no legitimate purpose.

(b) An inmate or offender in the correctional system or under correctional supervision, whether on parole, probation, postrelease supervision, or any other form of supervision, is prohibited from disclosing or using personal information about another person with the intent to obtain a benefit from, harass, harm, or defraud such person. Any inmate or offender who violates this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) An inmate or offender who has been convicted of an offense under paragraph (b) is prohibited from subsequently participating in any correctional work or other correctional program that provides inmates or offenders with access to personal information about persons who are not in the correctional system or under correctional supervision. If, during a term of imprisonment, an inmate or offender is convicted of the offense under paragraph (b), the inmate or offender shall be subject to forfeiture of all or any part of his or her gain-time pursuant to rules adopted by the department. The department may adopt rules to prohibit the subsequent participation of an inmate who has been convicted of an offense under paragraph (b) in any correctional work or other correctional program that provides inmates access to personal information about another person. The department may also adopt rules to implement the forfeiture or deletion of gain-time.

Section 14. Subsection (5) of section 99.012, Florida Statutes, is amended to read:

99.012 Restrictions on individuals qualifying for public office.—

(5)*(a)* A person who is a subordinate officer, deputy sheriff, or police officer *must* ~~need not~~ resign *effective upon qualifying, pursuant to Chapter 99, F.S., if* ~~pursuant to this section unless~~ the person is seeking to qualify for a public office which is currently held by an officer who has authority to appoint, employ, promote, or otherwise supervise that person and who has qualified as a candidate for reelection to that office.

(b) ~~However,~~ Upon qualifying *pursuant to Chapter 99, F.S., a* ~~the~~ subordinate officer, deputy sheriff, or police officer *who is seeking public office and who is not required to resign under paragraph (a)* must take a leave of absence without pay during the period in which he or she is a candidate for office.

Section 15. Section 922.11, Florida Statutes, is amended to read:

922.11 Regulation of execution.—

(1) The superintendent of the state prison or a deputy designated by him or her shall be present at the execution. The superintendent shall set the day for execution within the week designated by the Governor in the warrant.

(2) Twelve citizens selected by the superintendent shall witness the execution. A qualified physician shall be present and announce when death has been inflicted. Counsel for the convicted person and ministers of religion requested by the convicted person may be present. Representatives of news media may be present under rules approved by the Secretary of Corrections. All other persons, except prison officers and correctional officers, shall be excluded during the execution.

(3) The body of the executed person shall be delivered to the medical examiner for an autopsy. After completion of the autopsy, the body shall be prepared for burial and, if requested, released to relatives of the deceased. If a coffin has not been provided by relatives, the body shall be delivered in a plain coffin. If the body is not claimed by relatives, it shall be given to physicians who have requested it for dissection or to be disposed of in the same manner as are bodies of prisoners dying in the state prison.

(4) No electronic or mechanical devices, including, but not limited to, still or moving picture recorders, videotape recorders, or similar devices, or artistic paraphernalia shall be permitted in the execution observation room.

Section 16. *The proviso language immediately preceding Specific Appropriation 962 and the proviso language following Specific Appropriation 620 in the Conference Report On House Bill 4201 which is the General Appropriations Act for fiscal year 1998-1999, shall not be deemed, in whole or in part, to be repealed, nullified or modified in any way by legislation passed during the 1998 regular session of the Legislature unless the legislation makes specific reference to this section. If either the proviso language immediately preceding Specific Appropriation 962 and the proviso language following Specific Appropriation 620 in the Conference Report On House Bill 4201 are repealed or amended by substantive legislation passed during the 1998 regular session of the Legislature, then both sections of proviso are hereby reenacted in full and shall have their full effect as written in the Conference Report On House Bill 4201. This section is hereby repealed on June 30, 1999.*

Section 17. Paragraph (f) of subsection (3) and paragraph (c) of subsection (4) of section 957.03, Florida Statutes, are amended, and paragraphs (d), (e), and (f) are added to subsection (4) of said section, to read:

957.03 Correctional Privatization Commission.—

(3) TERMS, ORGANIZATION, AND MEETINGS.—

(f) The commission shall meet upon the call of the chair or a majority of the members of the commission. A majority of the members of the commission constitutes a quorum. *An action of the commission is not binding unless the action is taken pursuant to an affirmative vote of a majority of the members present, but not fewer than three members of the commission must be present. The vote must be recorded in the minutes of the meeting.*

(4) DUTIES.—

(c) The commission must report to the Speaker of the House of Representatives and the President of the Senate by December 1 each

year on the status and effectiveness of the facilities under its management. ~~Each report must also include a comparison of recidivism rates for inmates of private correctional facilities to the recidivism rates for inmates of comparable facilities managed by the department.~~

(d) In its request for proposals, the commission may authorize the contractor to use inmate labor to assist in the construction of the facility. The Department of Corrections shall assign inmate work crews at the request of the commission and the contractor.

(e) In the renegotiation or origination of contracts on or after the effective date of this act, the commission may authorize the contractors to use selected inmates in public work programs pursuant to ss. 946.40 and 946.41. If inmates are placed in public work programs, the private contractor shall develop security procedures which shall ensure the safety of the public, and the commission and the department shall approve such procedures.

(f) In the renegotiation or origination of contracts on or after the effective date of this act, the commission shall require each contractor to develop and annually report to the Legislature outcome performance measures similar to those included in the General Appropriations Act for the department pursuant to s. 216.0166.

Section 18. Section 957.031, Florida Statutes, is created to read:

957.031 Prohibited conduct by commission member, employee, consultant, or adviser.—

(1) Any commission member, employee, or consultant who reviews, monitors, or approves private correctional facility contracts, or who advises the commission in any manner with respect to private correctional facilities, may not:

(a) Solicit or accept, directly or indirectly, any personal benefit or promise of benefit from any bidders, potential bidders, or contractors; or

(b) Be an officer, director, trustee, stockholder, or investor in any business entity that:

1. Has a business relationship of any kind with the commission;

2. Is owned or controlled by a business entity that has a business relationship of any kind with the commission; or

3. Is owned or controlled by one or more individuals or business entities who, separately or collectively, own or control a business entity that has a business relationship of any kind with the commission.

(2) This section shall not be construed to conflict with s. 112.313, s. 112.3145, or s. 112.3148.

Section 19. Section 957.06, Florida Statutes, is amended to read:

957.06 Powers and duties not delegable to contractor.—A contract entered into under this chapter does not authorize, allow, or imply a delegation of authority to the contractor to:

(1) Make a final determination on the custody classification of an inmate. The contractor may submit a recommendation for a custody change on an inmate; however, any recommendation made shall be in compliance with the department's custody classification system.

(2) Choose the facility to which an inmate is initially assigned or subsequently transferred. The contractor may request, in writing, that an inmate be transferred to a facility operated by the department. ~~The commission, the contractor, and a representative of the department shall develop and implement a cooperative agreement for transferring inmates between a correctional facility operated by the department and a private correctional facility. The department, the commission, and the contractor must comply with the cooperative agreement.~~

(3) Develop or adopt disciplinary rules or penalties that differ from the disciplinary rules and penalties that apply to inmates housed in correctional facilities operated by the department.

(4) Make a final determination on a disciplinary action that affects the liberty of an inmate. The contractor may remove an inmate from the general prison population during an emergency, before final resolution of a disciplinary hearing, or in response to an inmate's request for assigned housing in protective custody.

(5) Make a decision that affects the sentence imposed upon or the time served by an inmate, including a decision to award, deny, or forfeit gain-time.

(6) Make recommendations to the Parole Commission with respect to the denial or granting of parole, control release, conditional release, or conditional medical release. However, the contractor may submit written reports to the Parole Commission and must respond to a written request by the Parole Commission for information.

(7) Develop and implement requirements that inmates engage in any type of work *or develop and implement any work program*, except to the extent *provided by law or approved* ~~that those requirements are accepted~~ by the commission.

(8) Determine inmate eligibility for any form of conditional, temporary, or permanent release from a correctional facility.

Section 20. Section 957.061, Florida Statutes, is created to read:

957.061 Cooperative transfer agreement.—The commission, the contractor, and a representative of the department shall develop and implement a cooperative transfer agreement for each private correctional facility for transferring inmates between a correctional facility operated by the department and the private correctional facility. The department, the commission, and the contractor must comply with the cooperative transfer agreement.

Section 21. Section 957.08, Florida Statutes, is amended to read:

957.08 Capacity requirements.—The department shall transfer and assign *inmates* ~~prisoners~~, at a rate ~~to be~~ determined by *contract* ~~the commission~~, to each private correctional facility opened pursuant to this chapter in an amount not less than 90 percent or more than 100 percent of the capacity of the facility pursuant to the contract with the commission. The *types of inmates* ~~prisoners~~ transferred by the department shall *conform to the cooperative transfer agreement developed pursuant to s. 957.061 and* represent a cross section of the general inmate population, based on the grade of custody or the offense of conviction, *the physical and mental health grade, and the level of education,* at the most comparable facility operated by the department.

Section 22. Subsection (2) of section 957.125, Florida Statutes, is amended to read:

957.125 Correctional facilities for youthful offenders.—

(2) ~~These~~ Youthful offender facilities *contracted under this chapter* shall be designed to provide the optimum capacity for programs for youthful offenders designed to reduce recidivism, including, but not limited to: educational and vocational programs, substance abuse and mental health counseling, prerelease orientation and planning, job and career counseling, physical exercise, dispute resolution, and life skills training. In order to ensure this quality programming, the commission shall give no more than 30 percent weight to cost in evaluating proposals.

Section 23. *The Corrections Commission shall conduct an in-depth analysis and develop legislative proposals for the fiscal year 1999-2000 on the future and expanded use of technology and private services contracts in all aspects of corrections ranging from prison management, mobile surgical units, prison industry, health care, food services, inmate transportation, pharmaceutical products, canteen services, distance learning programs, victim notification hotlines, satellite tracking of offenders, inmate legal services, and community supervision. The analysis shall, at a minimum: identify cost efficiencies, technological innovations, and best corrections practices at both private and public correctional programs; identify bureaucratic and legal barriers that prevent or nullify effective cost containment strategies in both private and public corrections; determine ways to reduce inmate idleness through partnerships with private industries; and produce plans for the most effective use of general and specialized private sector services in corrections. The Corrections Commission shall report its findings and*

recommendations to the Governor and Legislature in its 1998 annual report.

Section 24. *For fiscal year 1998-1999, the Correctional Privatization Commission shall contract with an academic researcher to produce a study comparing recidivism rates for inmates of private correctional facilities to recidivism rates for inmates of comparable facilities managed by the Department of Corrections. Beginning fiscal year 1998-1999, the methodology and sampling strategy shall be developed by consensus and unanimously approved by the director of the Division of Economic and Demographic Research of the Joint Legislative Management Committee, or successor entity, one professional staff person who has research expertise from the Department of Corrections, and the academic researcher retained by the Correctional Privatization Commission. The methodology and sampling strategy developed shall be adhered to in all subsequent and independent analyses or reports produced for the commission on such recidivism rates. The academic researcher under contract to the commission as well as the researchers for the Department of Corrections and the Division of Economic and Demographic Research, or successor entity, shall independently analyze the data collected pursuant to this section and shall collaborate on a single report. This report shall be submitted to the Speaker of the House of Representatives and the President of the Senate not later than February 1, 1999. The December 1, 1998, report by the commission pursuant to s. 957.03(4)(c), Florida Statutes, need not contain a comparison of recidivism rates for inmates of private correctional facilities to the recidivism rates for inmates of comparable facilities managed by the Department of Corrections.*

Section 25. *Subsections (1), (3), and (4) of section 957.125, section 944.711, and subsection (8) of section 957.04, Florida Statutes, are repealed.*

Section 26. Section 945.603, Florida Statutes, is amended to read:

945.603 Powers and duties of authority.—The purpose of the authority is to assist in the delivery of health care services for inmates in *the legal custody of* the Department of Corrections by advising the Secretary of Corrections *and the chairman of the Correctional Privatization Commission* on the professional conduct of primary, convalescent, dental, and mental health care and the management of costs consistent with quality care, by advising the Governor and the Legislature on the status of the *inmate* ~~Department of Corrections'~~ health care delivery system, and by assuring that adequate standards of physical and mental health care for inmates are maintained at all Department of Corrections institutions *and at all private correctional facilities*. For this purpose, the authority has the authority to:

(1) Review and advise the Secretary of Corrections on cost containment measures the Department of Corrections could implement.

(2) Review and make recommendations regarding health care for the delivery of health care services including, but not limited to, acute hospital-based services and facilities, primary and tertiary care services, ancillary and clinical services, dental services, mental health services, intake and screening services, medical transportation services, and the use of nurse practitioner and physician assistant personnel to act as physician extenders as these relate to inmates in *the legal custody of* the Department of Corrections.

(3) Develop and recommend to the Governor and the Legislature an annual budget for all or part of the operation of the State of Florida prison health care system.

(4) Review and advise the Secretary of Corrections *and the Correctional Privatization Commission* on contracts between the Department of Corrections *or private vendors* and third parties for quality management programs.

(5) Review and advise the Secretary of Corrections *and the Correctional Privatization Commission* on minimum standards needed to ensure that an adequate physical and mental health care delivery system is maintained by the Department of Corrections *and by the private vendors under contract pursuant to chapters 957 and 944*.

(6) Review and advise the Secretary of Corrections on the sufficiency, adequacy, and effectiveness of the Department of Corrections' Office of Health Services' quality management program.

(7) Review and advise the Secretary of Corrections on the projected medical needs of the inmate population and the types of programs and resources required to meet such needs.

(8) Review and advise the Secretary of Corrections on the adequacy of preservice, inservice, and continuing medical education programs for all health care personnel and, if necessary, recommend changes to such programs within the Department of Corrections.

(9) Identify and recommend to the Secretary of Corrections the professional incentives required to attract and retain qualified professional health care staff within the prison health care system.

(10) Coordinate the development of prospective payment arrangements as described in s. 408.50 when appropriate for the acquisition of inmate health care services.

(11) Review the Department of Corrections' health services plan and advise the Secretary of Corrections on its implementation.

(12) Sue and be sued in its own name and plead and be impleaded.

(13) Make and execute agreements of lease, contracts, deeds, mortgages, notes, and other instruments necessary or convenient in the exercise of its powers and functions under this act.

(14) Employ or contract with health care providers, medical personnel, management consultants, consulting engineers, architects, surveyors, attorneys, accountants, financial experts, and such other employees, entities, or agents as may be necessary in its judgment to carry out the mandates of the Correctional Medical Authority and fix their compensation.

(15) Recommend to the Legislature such performance and financial audits of the Office of Health Services in the Department of Corrections as the authority considers advisable.

Section 27. Section 945.6031, Florida Statutes, is amended to read:

945.6031 Required reports and surveys.—

(1) Not less than annually, the authority shall report to the Governor and the Legislature the status of the ~~Department of Corrections'~~ health care delivery system *provided by the Department of Corrections and by vendors operating private correctional facilities under contract pursuant to chapters 957 and 944*. The report must include, but need not be limited to:

(a) Recommendations regarding cost containment measures the Department of Corrections could implement; and

(b) Recommendations regarding performance and financial audits of the Department of Corrections' Office of Health Services.

(2) The authority shall conduct surveys of the physical and mental health care system at each *publicly operated and privately operated* correctional institution *or facility* at least triennially and shall report the survey findings for each institution to the Secretary of Corrections *or the Correctional Privatization Commission*.

(3) Deficiencies found by the authority to be life-threatening or otherwise serious shall be immediately reported to the Secretary of Corrections *or the Correctional Privatization Commission*. The Department of Corrections *and the Correctional Privatization Commission* shall take immediate action to correct life-threatening or otherwise serious deficiencies identified by the authority and within 3 calendar days file a written corrective action plan with the authority indicating the actions that will be taken to address the deficiencies. Within 60 calendar days following a survey, the authority shall submit a report to the Secretary of Corrections *or the Correctional Privatization Commission* indicating deficiencies found at the institution *or facility*.

(4) Within 30 calendar days after the receipt of a survey report from the authority, the Department of Corrections shall file a written corrective action plan with the authority, indicating the actions which will be taken to address deficiencies determined by the authority to exist at an institution *or facility*. Each plan shall set forth an estimate of the time and resources needed to correct identified deficiencies.

(5) The authority shall monitor the ~~Department of Corrections'~~ implementation of corrective actions which have been taken at each institution to address deficiencies related to the ~~Department of Corrections'~~ provision of physical and mental health care services found to exist by the authority.

(6) Failure ~~of the Department of Corrections~~ to file a corrective action plan or to timely implement the provisions of a corrective action plan correcting identified deficiencies may result in the initiation of the dispute resolution procedures by the authority pursuant to s. 945.6035.

Section 28. Section 945.6035, Florida Statutes, is amended to read:

945.6035 Dispute resolution.—

(1) The authority and *either* the Assistant Secretary for Health Services *or the Executive Director of the Correctional Privatization Commission, whoever is appropriate,* shall attempt to expeditiously resolve any disputes arising between the authority and the department *or the Correctional Privatization Commission* regarding the physical and mental health care of inmates.

(2) If the authority and *either* the Assistant Secretary for Health Services *or the Executive Director of the Correctional Privatization Commission* are unable to resolve a dispute regarding inmate physical or mental health care, the authority may submit a written notice to the Assistant Secretary for Health Services *or the Executive Director of the Correctional Privatization Commission,* setting forth each issue in controversy and the position of the authority. The Assistant Secretary for Health Services *or the Executive Director of the Correctional Privatization Commission* shall respond to the authority within 30 days after receipt of such written notice. The authority shall place the assistant secretary's *or the executive director's* response on the agenda of the next regularly scheduled meeting of the authority. If the dispute remains unresolved, the authority may submit a written report to the secretary detailing the authority's objections. The Assistant Secretary for Health Services *or the Executive Director of the Correctional Privatization Commission* shall submit a written report setting forth his or her position to the secretary on the issue or issues raised by the authority within 5 working days after receipt of the submission by the authority.

(3) The secretary *or the chair of the Correctional Privatization Commission* shall review any disputes between the authority and the Assistant Secretary for Health Services *or the Executive Director of the Correctional Privatization Commission,* ~~,~~ and shall provide written notice to the authority of his or her decision regarding such disputes within 40 days after the date when the authority provides written notice of the dispute to the secretary *or to the chair of the Correctional Privatization Commission.*

(4) If, at the end of the 40-day period, no resolution has been reached, the authority is authorized to appeal to the Administration Commission for a review and resolution of the dispute between the department *or the Correctional Privatization Commission* and the authority.

(5) The authority, within 30 days after receiving written notice of the action of the secretary *or of the chair of the Correctional Privatization Commission* or, if no response is received, within 30 days after the secretary's *or the chair's* response is due pursuant to subsection (3), may file an appeal by petition to the Administration Commission, filed with the Secretary of the Administration Commission. The petition shall set forth the issues in controversy between the authority and *either the Correctional Privatization Commission or* the department, in the form and manner prescribed by the Administration Commission, and shall contain the reasons for the appeal. The department *or the Correctional Privatization Commission* has 5 days after delivery of a copy of any such petition to file its reply with the Secretary of the Administration Commission, and the department *or the Correctional Privatization Commission* shall also deliver a copy of its reply to the authority.

(6) The issues which may be raised by the authority on appeal to the Administration Commission are:

(a) Adoption or implementation by the department *or by the Correctional Privatization Commission* of a health care standard which does not conform to the standard of care generally accepted in the professional health community at large.

(b) Failure of the department *or the commission* to comply with an adopted health care standard.

(c) Failure to timely file a corrective action plan regarding all deficiencies which are determined by the authority to exist at an institution *or facility,* as required pursuant to s. 945.6031.

(d) Failure to implement a corrective action plan filed pursuant to s. 945.6031.

(7) Within 30 days after receipt of a petition from the authority, the Secretary of the Administration Commission, or his or her designee, shall conduct an informal hearing to consider the matters presented in the petition and the reply, and after the informal hearing shall promptly submit a report of the findings and recommendations to the Administration Commission. Within 30 days after the informal hearing, the Administration Commission shall approve either the position of the authority or that of the *Correctional Privatization Commission or the* department. If the position of the authority is approved, the Administration Commission shall set forth whatever remedial measures it deems appropriate and the department shall implement such remedial measures. The decision of the Administration Commission is final and binding on the authority and *on either* the department *or the Correctional Privatization Commission* and shall not be subject to appeal pursuant to s. 120.68.

Section 29. Section 957.041, Florida Statutes, is created to read:

957.041 Requirement for department to provide notice of anticipated inmate profile.—

(1) Prior to the commission issuing a request for proposals, the department shall notify the commission, in writing, of the projected profile of the inmates anticipated to be housed in the private correctional facility. The anticipated inmate profile shall include, but not be limited to, the:

(a) Education grade and literacy level;

(b) Gender;

(c) Custody grades;

(d) Medical and psychological grades and classification; and

(e) Age range.

The commission shall negotiate and enter into contracts for private correctional services based upon the anticipated inmate profile provided by the department.

Section 30. Section 957.18, Florida Statutes, is created to read:

957.18 Revenues generated returned to State Treasury.—

(1) The commission shall require the vendors to return to the State Treasury any revenue generated at the private correctional facility from:

(a) Profits from inmate commissaries and telephone commissions;

(b) Inmate copayments pursuant to s. 945.6037;

(c) Incarceration reimbursements pursuant to s. 946.006(3)(a); and

(d) Any other revenue generated from inmate labor or from purchases deemed appropriate by the commission which has the potential to reduce state costs.

Section 31. *There is appropriated $550,000 from the Inmate Welfare Trust Fund to the Department of Corrections for the New Horizon Community Mental Health Center's Family Intervention, Preservation, and Support Program for fiscal year 1998-1999.*

Section 32. *There is appropriated $770,000 from the Inmate Welfare Trust Fund to the Department of Corrections for the fixed capital outlay needs of the AGAPE program in Dade County, including the purchase of*

new housing units and renovations to existing AGAPE facilities, for fiscal year 1998-1999.

Section 33. *If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.*

Section 34. This act shall take effect upon becoming a law.

And the title is amended as follows:
remove from the title of the amendment: the entire title

and insert in lieu thereof: A bill to be entitled An act relating to criminal justice; amending s. 951.23, F.S.; providing a criminal penalty for refusing to obey jail rules and regulations; requiring that a printed copy of rules be provided to prisoners; providing a definition; terminating specified trust funds and fund accounts within the state courts system and the Department of Corrections; providing for the transfer of current balances to general revenue, the paying of outstanding debts and obligations, and the removal of the terminated funds and accounts from the various state accounting systems; modifying provisions relating to specified trust funds and fund accounts within the state courts system and the Department of Corrections; amending s. 216.272, F.S., relating to Working Capital Trust Funds used to fund data processing centers; removing reference to the judicial branch; amending s. 945.215, F.S.; providing sources of funds and purposes of the Inmate Welfare Trust Fund, the Privately Owned Institutions Inmate Welfare Trust Fund, and the Employee Benefit Trust Fund within the department; providing for annual appropriation of funds deposited in the Inmate Welfare Trust Fund; requiring certain annual reports; amending s. 944.803, F.S., relating to faith-based programs for inmates; revising a reference, to conform; amending s. 945.31, F.S.; providing for deposit of the department's administrative processing fee in the department's Operating Trust Fund; amending s. 945.76, F.S.; revising provisions relating to fees for certification and monitoring of batterers' intervention programs; providing for deposit of such fees in the department's Operating Trust Fund; amending s. 944.10, F.S.; providing for deposit of contractual service and inmate labor fees in the Correctional Work Program Trust Fund; amending s. 948.09, F.S.; providing for deposit of the electronic monitoring surcharge in the department's Operating Trust Fund; amending s. 951.23, F.S.; providing for deposit of fees collected pursuant to local detention facility inspection agreements in the department's Operating Trust Fund; creating s. 386.213, F.S.; providing legislative intent; requiring the Department of Corrections and private vendors operating state correctional facilities to make smoking-cessation assistance available to inmates; requiring full implementation of the act by a specified date; providing definitions; prohibiting an inmate within a state correctional facility from using tobacco products in prohibited areas; prohibiting employees or visitors from using tobacco products in prohibited areas; providing penalties; authorizing the department to adopt rules; amending s. 386.203(1), F.S.; adding state correctional facilities to the definition of public place; amending s. 945.10, F.S., relating to confidential information and other information available to inmates and offenders in the correctional system or under supervision; defining terms; prohibiting certain disclosure or use of certain "personal information about another person," as defined, by an inmate or offender with intent to obtain a benefit from, harass, harm, or defraud such person; providing penalties; providing that an inmate or offender convicted of such offense is prohibited from subsequent participation in correctional work programs or other programs; providing that an inmate or offender convicted of such offense is subject to forfeiture of gain-time; providing for adoption of rules by the department; amending s. 99.012, F.S.; requiring a subordinate officer, deputy sheriff, or police officer seeking to qualify for a public office to resign or take a leave of absence, depending on certain circumstances relating to the office sought; amending s. 922.11, F.S.; prohibiting videotape recorders and other electronic or mechanical devices and artistic paraphernalia in the execution observation room; providing that certain proviso language contained in the Conference Report On House Bill 4201 may not be modified through substantive legislation passed during the 1998 regular session of the Legislature unless certain conditions are met; providing that certain proviso language contained in the Conference Report On House Bill 4201 is reenacted if repealed or amended by substantive legislation passed during the 1998 regular session of the Legislature; providing for repeal of section on June 30, 1999; amending s. 957.03, F.S.; specifying circumstances under which an act of the commission is binding; eliminating the requirement for the commission to include certain recidivism data in the annual report to the Legislature; permitting the commission to authorize contractors to use inmate labor in facility construction and in public work programs, under specified circumstances; requiring the department to assign available inmate work crews at the request of the commission and the contractor, under specified circumstances; providing for approval of security procedures; requiring the reporting of outcome performance measures; creating s. 957.031, F.S.; prohibiting specified conduct by a commission member, employee, or consultant who reviews, monitors, or approves private correctional facility contracts, or otherwise advises the commission with respect to private correctional facilities; providing for construction; amending s. 957.06, F.S.; removing provisions relating to the cooperative transfer agreement; providing that certain contracts do not authorize development and implementation of work programs; providing exceptions; creating s. 957.061, F.S.; providing for cooperative transfer agreements; amending s. 957.08, F.S.; restricting the types of inmates to be assigned and transferred to private correctional facilities; amending s. 957.125, F.S.; providing for applicability of certain program requirements to contracted youthful offender facilities; directing the Florida Corrections Commission to conduct an in-depth analysis on technology and private services contracts, develop certain proposals, and report its findings to the Legislature; requiring the commission to contract with an academic researcher for fiscal year 1998-1999 to produce a comparative recidivism rate study; providing for development by consensus and approval of a methodology and sampling strategy by the researcher, the director of the Division of Economic and Demographic Research of the Joint Legislative Management Committee, or successor entity, and a Department of Corrections staff person; prescribing certain uses of the methodology and sampling strategy; providing for a report to the Legislature; repealing s. 957.125(1), (3) and (4), F.S., relating to the original authorization to enter into contracts and transfer arrangements for youthful offender facilities; removing obsolete provisions; repealing s. 944.711, F.S., relating to requests for proposals and construction of certain departmental facilities; repealing s. 957.04(8), F.S., relating to an expenditure to defray impact costs; removing obsolete provisions; amending s. 945.603, F.S.; authorizing the Correctional Medical Authority to review and advise the Correctional Privatization Commission on inmate health care; revising powers and duties of the authority; conforming terminology; amending s. 945.6031, F.S.; revising responsibilities of the authority and guidelines for required reports and surveys; requiring the authority to conduct surveys of the physical and mental health care system at private correctional facilities; requiring certain reports; amending s. 945.6035, F.S.; requiring the authority and either the Assistant Secretary of Health Services of the department or the Executive Director of the Correctional Privatization Commission to attempt to expeditiously resolve any disputes between the authority and the department or the commission regarding the physical and mental health care of inmates in private prisons; providing for appeal, review, and resolution; requiring the decision of the Administration Commission to be final and binding; creating s. 957.041, F.S.; requiring the department to notify the commission of the profile of the inmates anticipated to be housed in a private correctional facility; requiring the commission to negotiate and enter into contracts for private correctional services based upon the inmate profile; creating s. 957.18, F.S.; requiring the commission and the vendor to return to the State Treasury certain revenues generated at the private correctional facility; providing severability; providing appropriations; providing an effective date.

Rep. Trovillion moved the adoption of the amendment to the amendment.

Further consideration of **CS/HB 3527**, with pending amendments, was temporarily postponed under Rule 147.

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS/CS/HB 271, with amendment, and requests the concurrence of the House.

Faye W. Blanton, Secretary

CS/CS/HB 271—A bill to be entitled An act relating to public assistance; creating s. 414.103, F.S.; providing for drug testing under the "Work and Gain Economic Self-sufficiency (WAGES) Act" for illegal use of controlled substances; providing legislative intent and findings; directing the Department of Children and Family Services to implement a program to screen and test WAGES Program applicants; requiring certain notice; providing procedures for screening, testing, retesting, and appeal of test results; providing for notice of local substance abuse programs; requiring the department to provide a rehabilitation treatment program for certain persons; specifying circumstances resulting in termination of temporary assistance or services; providing limitations; providing for rules; providing an effective date.

Unengrossed Senate Amendment 1 (with title amendment)—Delete everything after the enacting clause and insert:

Section 1. *Legislative intent and findings.—*

(1) It is the intent of the Legislature that the provisions of this act enhance the employability of participants in the WAGES Program through drug screening, testing, and treatment.

(2) The Legislature finds that there is a perception on the part of employers that the individuals who receive temporary assistance or services under the WAGES Program are likely to use drugs, and that such perception adds to the difficulties such individuals have in securing employment.

(3) The Legislature also finds that the failure of individuals to achieve the independence provided by gainful employment results in welfare costs that burden the state's taxpayers.

(4) The Legislature further finds that drug use adversely effects a significant portion of the workforce, which results in billions of dollars of lost productivity each year and poses a threat to the safety of the workplace and to public safety and security.

(5) In balancing the interests of taxpayers, participants in the WAGES Program, and potential employers against the interests of those who will be screened and tested under this act, the Legislature finds that drug screening, testing, and treatment as provided for in this act are in the greater interests of all concerned.

Section 2. *Drug testing and screening program; procedures.—*

(1) The Department of Children and Family Services, in consultation with local WAGES coalitions 3 and 8, shall develop and, as soon as possible after January 1, 1999, implement a demonstration project in WAGES regions 3 and 8 to screen each applicant and test applicants for temporary cash assistance provided under chapter 414, Florida Statutes, who the department has reasonable cause to believe, based on the screening, engage in illegal use of controlled substances. Unless reauthorized by the Legislature, this demonstration project expires June 30, 2001. As used in this act, the term "applicant" means an individual who first applies for assistance or services under the WAGES Program. Screening and testing for the illegal use of controlled substances is not required if the individual reapplies during any continuous period in which the individual receives assistance or services. However, an individual may volunteer for drug testing and treatment if funding is available.

(2) Under the demonstration project the Department of Children and Family Services shall:

(a) Provide notice of drug screening and the potential for possible drug testing to each applicant at the time of application. The notice must advise the applicant that drug screening and possibly drug testing will be conducted as a condition for receiving temporary assistance or services under chapter 414, Florida Statutes, and shall specify the assistance or services that are subject to this requirement. The notice must also advise the applicant that a prospective employer may require the applicant to submit to a pre-employment drug test. The applicant shall be advised that the required drug screening and possible drug testing may be avoided if the applicant does not apply for or receive assistance or services. The drug screening and testing program is not applicable in child-only cases.

(b) Develop a procedure for drug screening and conducting drug testing of applicants for temporary assistance or services under the WAGES Program.

(c) Provide a procedure to advise each person to be tested, before the test is conducted, that he or she may, but is not required to, advise the agent administering the test of any prescription or over-the-counter medication he or she is taking.

(d) Require each person to be tested to sign a written acknowledgment that he or she has received and understood the notice and advice provided under paragraphs (a) and (c).

(e) Provide a procedure to assure each person being tested a reasonable degree of dignity while producing and submitting a sample for drug testing, consistent with the state's need to ensure the reliability of the sample.

(f) Specify circumstances under which a person who fails a drug test has the right to take one or more additional tests.

(g) Provide a procedure for appealing the results of a drug test by a person who fails a test and for advising the appellant that he or she may, but is not required to, advise appropriate staff of any prescription or over-the-counter medication he or she has been taking.

(h) Notify each person who fails a drug test of the local substance abuse treatment programs that may be available to such person.

Section 3. *Children.—*

(1) If a parent is deemed ineligible for cash assistance due to the failure of a drug test under this act, his or her dependent child's eligibility for cash assistance is not affected.

(2) If a parent is deemed ineligible for cash assistance due to the failure of a drug test, an appropriate protective payee will be established for the benefit of the child.

(3) If the parent refuses to cooperate in establishing an appropriate protective payee for the child, the Department of Children and Family Services will appoint one.

Section 4. *Treatment.—*

(1) Subject to the availability of funding, the Department of Children and Family Services shall provide a substance-abuse-treatment program for a person who fails a drug test conducted under this act and is eligible to receive temporary assistance or services under the WAGES Program. The department shall provide for a retest at the end of the treatment period. Failure to pass the retest will result in the termination of temporary assistance or services provided under chapter 414, Florida Statutes, and of any right to appeal the termination.

(2) The Department of Children and Family Services shall develop rules regarding the disclosure of information concerning applicants who enter treatment, including the requirement that applicants sign a consent to release information to the Department of Children and Family Services or the Department of Labor and Employment Security, as necessary, as a condition of entering the treatment program.

(3) The Department of Children and Family Services may develop rules for assessing the status of persons formerly treated under this act who reapply for assistance or services under the WAGES act as well as the need for drug testing as a part of the reapplication process.

Section 5. *Evaluations and recommendations.—*

(1) The Department of Children and Family Services, in conjunction with the local WAGES coalitions in service areas 3 and 8, shall conduct a comprehensive evaluation of the demonstration projects operated under

this act. By January 1, 2000, the department, in conjunction with the local WAGES coalitions involved, shall report to the WAGES Program State Board of Directors and to the Legislature on the status of the initial implementation of the demonstration projects and shall specifically describe the problems encountered and the funds expended during the first year of operation.

(2) By January 1, 2001, the department, in conjunction with the local WAGES coalitions involved, shall provide a comprehensive evaluation to the WAGES Program State Board of Directors and to the Legislature, which must include:

(a) The impact of the drug screening and testing program on employability, job placement, job retention, and salary levels of program participants.

(b) Recommendations, based in part on a cost and benefit analysis, as to the feasibility of expanding the program to other local WAGES service areas, including specific recommendations for implementing such expansion of the program.

Section 6. *In the event of a conflict between the implementation procedures described in this program and federal requirements and regulations, federal requirements and regulations shall control.*

Section 7. This act shall take effect October 1, 1998.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to public assistance; providing legislative intent and findings; providing for demonstration projects to be implemented which require drug screening and possibly drug testing for individuals who apply for temporary assistance or services under the "Work and Gain Economic Self-sufficiency (WAGES) Act"; providing for expiration of the demonstration projects unless reauthorized by the Legislature; directing the Department of Children and Family Services to implement the demonstration projects in specified local WAGES coalitions; requiring certain notice; providing procedures for screening, testing, retesting, and appeal of test results; providing for notice of local substance abuse programs; providing that, if a parent is deemed ineligible due to a failure of a drug test, the eligibility of the children of the parent will not be affected; requiring the department to provide for substance abuse treatment programs for certain persons; giving the Department of Children and Family Services rulemaking authority; specifying circumstances resulting in termination of temporary assistance or services; requiring the department and the local WAGES coalitions to evaluate the demonstration projects and report to the WAGES Program State Board of Directors and the Legislature; providing that, in the event of conflict, federal requirements and regulations control; providing an effective date.

Senate Amendment 1A (with title amendment)—On page 6, between lines 9 and 10, insert:

Section 7. *From the funds appropriated in Specific Appropriations 361, Grants and Aid - Community Substance Abuse Services, and 1892, Grants and Aid - WAGES Coalitions, the Department of Children and Family Services and the WAGES Program State Board of Directors, in consultation with the Department of Labor and Employment Security, shall provide a substance abuse treatment program for a person who fails a drug test conducted under this act and is eligible to receive temporary assistance or services under the WAGES Program. The Department of Children and Family Services shall provide for a retest at the end of the treatment period. Failure to pass the retest will result in the termination of temporary assistance or services provided under chapter 414, Florida Statutes, and of any right to appeal the termination. Implementation of this project is subject to the availability of funding.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 7, line 19, after the semicolon (;) insert: providing for a substance abuse treatment program, subject to the availability of funding;

Senate Amendment 1B (with title amendment)—On page 6, delete line 10 and insert:

Section 7. Paragraph (b) of subsection (1) and paragraph (c) of subsection (9) of section 61.13, Florida Statutes, are amended to read:

61.13 Custody and support of children; visitation rights; power of court in making orders.—

(1)

(b) Each order for child support shall contain a provision for health insurance for the minor child when the insurance is reasonably available. Insurance is reasonably available if either the obligor or obligee has access at a reasonable rate to group insurance. The court may require the obligor either to provide health insurance coverage or to reimburse the obligee for the cost of health insurance coverage for the minor child when coverage is provided by the obligee. In either event, the court shall apportion the cost of coverage, *and any noncovered medical, dental, and prescription medication expenses of the child,* to both parties by adding the cost to the basic obligation determined pursuant to s. 61.30(6). *The court may order that payment of uncovered medical, dental, and prescription medication expenses of the minor child be made directly to the payee on a percentage basis.*

(9)

(c) Beginning July 1, 1997, in any subsequent Title IV-D child support enforcement action between the parties, upon sufficient showing that diligent effort has been made to ascertain the location of such a party, *the court of competent jurisdiction shall* ~~the tribunal may~~ deem state due process requirements for notice and service of process to be met with respect to the party, upon delivery of written notice to the most recent residential or employer address filed with the tribunal and State Case Registry pursuant to paragraph (a). Beginning October 1, 1998, in any subsequent non-Title IV-D child support enforcement action between the parties, the same requirements for service shall apply.

Section 8. Section 61.1301, Florida Statutes, is amended to read:

61.1301 Income deduction *orders*.—

(1) *ISSUANCE IN CONJUNCTION WITH* ~~REQUIREMENT FOR INCOME DEDUCTION AS PART OF~~ AN ORDER ESTABLISHING, ENFORCING, OR MODIFYING AN OBLIGATION FOR ALIMONY OR CHILD SUPPORT.—

(a) Upon the entry of an order establishing, enforcing, or modifying an obligation for alimony, for child support, or for alimony and child support, *other than a temporary order,* the court shall *enter a separate order* ~~include provisions~~ for income deduction *if one has not been entered* ~~of the alimony and/or child support in the order~~. Copies of the orders shall be served on the obligee and obligor. *If* the order establishing, enforcing, or modifying the obligation *directs* ~~shall direct~~ that payments be made through the depository,~~.~~ the court shall provide to the depository a copy of the order establishing, enforcing, or modifying the obligation. If the obligee is a *recipient of Title* IV-D *services* ~~applicant~~, the court shall furnish to the *Title* IV-D agency a copy of the *income deduction* order *and the order* establishing, enforcing, or modifying the obligation.

1. *The obligee or, in Title IV-D cases, the Title IV-D agency may implement income deduction after receiving a copy of an order from the court under this paragraph or a forwarding agency under UIFSA, URESA, or RURESA by issuing an income deduction notice to the payor.*

2. The income deduction notice must state that it is based upon a valid support order and that it contains an income deduction requirement or upon a separate income deduction order. The income deduction notice must contain the notice to payor provisions specified by paragraph (2)(e). The income deduction notice must contain the following information from the income deduction order upon which the notice is based: the case number, the court that entered the order, and the date entered.

3. Payors shall deduct support payments from income, as specified in the income deduction notice, in the manner provided under paragraph (2)(e).

4. In non-Title IV-D cases, the income deduction notice must be accompanied by a copy of the support order upon which the notice is based. In Title IV-D cases, upon request of a payor, the Title IV-D agency shall furnish the payor a copy of the income deduction order. ~~The income deduction shall be implemented by serving an income deduction notice upon the payor.~~

5.~~2.~~ If a support order entered before *January 1, 1994,* ~~October 1, 1996,~~ in a non-Title IV-D case does not specify income deduction, income deduction may be initiated upon a delinquency without the need for any amendment to the support order or any further action by the court. In such case the obligee may implement income deduction by serving a notice of delinquency on the obligor as provided for under paragraph (f).

(b) ~~Provisions for income deduction.~~ The *income deduction* order ~~entered pursuant to paragraph (a)~~ shall:

1. Direct a payor to deduct from all income due and payable to an obligor the amount required by the court to meet the obligor's support obligation including any attorney's fees or costs owed and forward the deducted amount pursuant to the order.

2. State the amount of arrearage owed, if any, and direct a payor to withhold an additional 20 percent or more of the periodic amount specified in the order establishing, enforcing, or modifying the obligation, until full payment is made of any arrearage, attorney's fees and costs owed, provided no deduction shall be applied to attorney's fees and costs until the full amount of any arrearage is paid;

3. Direct a payor not to deduct in excess of the amounts allowed under s. 303(b) of the Consumer Credit Protection Act, 15 U.S.C. s. 1673(b), as amended;

4. Direct whether a payor shall deduct all, a specified portion, or no income which is paid in the form of a bonus or other similar one-time payment, up to the amount of arrearage reported in the income deduction notice or the remaining balance thereof, and forward the payment to the governmental depository. For purposes of this subparagraph, "bonus" means a payment in addition to an obligor's usual compensation and which is in addition to any amounts contracted for or otherwise legally due and shall not include any commission payments due an obligor; and

5. In Title IV-D cases, direct a payor to provide to the court depository the date on which each deduction is made.

(c) The income deduction *order* is effective immediately unless the court upon good cause shown finds that *the* income deduction *order* shall be effective upon a delinquency in an amount specified by the court but not to exceed 1 month's payment, *pursuant to the order establishing, enforcing, or modifying the obligation*. In order to find good cause, the court must at a minimum make written findings that:

1. Explain why implementing immediate income deduction would not be in the child's best interest;

2. There is proof of timely payment of the previously ordered obligation without an income deduction order in cases of modification; and

3.a. There is an agreement by the obligor to advise the IV-D agency and court depository of any change in payor and health insurance; or

b. There is a signed written agreement providing an alternative arrangement between the obligor and the obligee and, at the option of the IV-D agency, by the IV-D agency in IV-D cases in which there is an assignment of support rights to the state, reviewed and entered in the record by the court.

(d) The income deduction *order* shall be effective *as long as the order upon which it is based is effective or* until further order of the court.

(e) Statement of obligor's rights. When the court orders the income deduction to be effective immediately, the court shall furnish to the obligor a statement of his or her rights, remedies, and duties in regard to the income deduction *order*. The statement shall state:

1. All fees or interest which shall be imposed.

2. The total amount of income to be deducted for each pay period until the arrearage, if any, is paid in full and shall state the total amount of income to be deducted for each pay period thereafter. The amounts deducted may not be in excess of that allowed under s. 303(b) of the Consumer Credit Protection Act, 15 U.S.C. s. 1673(b), as amended.

3. That the income deduction *order* ~~notice~~ applies to current and subsequent payors and periods of employment.

4. That a copy of the income deduction *order or, in Title IV-D cases, the income deduction* notice will be served on the obligor's payor or payors.

5. That enforcement of the income deduction *order* ~~notice~~ may only be contested on the ground of mistake of fact regarding the amount owed pursuant to the order establishing, enforcing, or modifying the obligation, the arrearages, or the identity of the obligor*, the payor, or the obligee*.

6. That the obligor is required to notify the obligee and, when the obligee is receiving IV-D services, the IV-D agency within 7 days of changes in the obligor's address, payors, and the addresses of his or her payors.

(f) Notice of delinquency. *If a support order was entered before January 1, 1994, or* ~~When~~ the court orders the income deduction to be effective upon a delinquency as provided in ~~subparagraph (a)2. or~~ paragraph (c), the obligee *or, in Title IV-D cases, the Title IV-D agency* may enforce the income deduction by serving a notice of delinquency on the obligor *under this subsection*.

1. The notice of delinquency shall state:

a. The terms of the order establishing, enforcing, or modifying the obligation.

b. The period of delinquency and the total amount of the delinquency as of the date the notice is mailed.

c. All fees or interest which may be imposed.

d. The total amount of income to be deducted for each pay period until the arrearage, and all applicable fees and interest, is paid in full and shall state the total amount of income to be deducted for each pay period thereafter. The amounts deducted may not be in excess of that allowed under s. 303(b) of the Consumer Credit Protection Act, 15 U.S.C. s. 1673(b), as amended.

e. That the income deduction *order* ~~notice~~ applies to current and subsequent payors and periods of employment.

f. That a copy of the notice of delinquency will be served on the obligor's payor or payors, together with a copy of the income deduction *order or, in Title IV-D cases, the income deduction* notice, unless the obligor applies to the court to contest enforcement of the income deduction. The application shall be filed within 15 days after the date the notice of delinquency was served.

g. That enforcement of the income deduction *order* ~~notice~~ may only be contested on the ground of mistake of fact regarding the amount owed pursuant to the order establishing, enforcing, or modifying the obligation, the amount of arrearages, or the identity of the obligor*, the payor, or the obligee.*

h. That the obligor is required to notify the obligee of the obligor's current address and current payors and of the address of current payors. All changes shall be reported by the obligor within 7 days. If the IV-D agency is enforcing the order, the obligor shall make these notifications to the agency instead of to the obligee.

2. The failure of the obligor to receive the notice of delinquency does not preclude subsequent service of the income deduction *order or, in*

Title IV-D cases, the income deduction notice on the obligor's payor. A notice of delinquency which fails to state an arrearage does not mean that an arrearage is not owed.

(g) At any time, any party, including the IV-D agency, may apply to the court to:

1. Modify, suspend, or terminate the income deduction *order* ~~notice~~ in accordance with a modification, suspension, or termination of the support provisions in the underlying order; or

2. Modify the amount of income deducted when the arrearage has been paid.

(2) ENFORCEMENT OF INCOME DEDUCTION *ORDERS*.—

(a) The obligee or his or her agent shall serve an income deduction *order and notice to payor, or, in Title IV-D cases, the Title IV-D agency shall issue an income deduction* notice, and in the case of a delinquency a notice of delinquency, on the obligor's payor unless the obligor has applied for a hearing to contest the enforcement of the income deduction pursuant to paragraph (c).

(b)1. Service by or upon any person who is a party to a proceeding under this section shall be made in the manner prescribed in the Florida Rules of Civil Procedure for service upon parties.

2. Service upon an obligor's payor or successor payor under this section shall be made by prepaid certified mail, return receipt requested, or in the manner prescribed in chapter 48.

(c)1. The obligor, within 15 days after service of a notice of delinquency, may apply for a hearing to contest the enforcement of the income deduction on the ground of mistake of fact regarding the amount owed pursuant to an order establishing, enforcing, or modifying an obligation for alimony, for child support, or for alimony and child support, the amount of the arrearage, or the identity of the obligor, *the payor, or the obligee.* The obligor shall send a copy of the pleading to the obligee and, if the obligee is receiving IV-D services, to the IV-D agency. The timely filing of the pleading shall stay ~~the~~ service of an income deduction *order or, in Title IV-D cases, income deduction* notice on all payors of the obligor until a hearing is held and a determination is made as to whether enforcement of the income deduction order is proper. The payment of a delinquent obligation by an obligor upon *entry* ~~issuance~~ of an income deduction *order* ~~notice~~ shall not preclude service of the income deduction *order or, in Title IV-D cases, an income deduction* notice on the obligor's payor.

2. When an obligor timely requests a hearing to contest enforcement of *an* income deduction *order*, the court, after due notice to all parties and the IV-D agency if the obligee is receiving IV-D services, shall hear the matter within 20 days after the application is filed. The court shall enter an order resolving the matter within 10 days after the hearing. A copy of this order shall be served on the parties and the IV-D agency if the obligee is receiving IV-D services. If the court determines that ~~service of an~~ income deduction ~~notice~~ is proper, it shall specify the date the income deduction *order* ~~notice~~ must be served on the obligor's payor.

(d) When a court determines that an income deduction *order* ~~notice~~ is proper pursuant to paragraph (c), the obligee or his or her agent shall cause a copy of the notice of delinquency to be served on the obligor's payors. A copy of the income deduction *order or, in Title IV-D cases, income deduction* notice, and in the case of a delinquency a notice of delinquency, shall also be furnished to the obligor.

(e) *Notice to payor and* income deduction notice. The *notice to payor or, in Title IV-D cases,* income deduction notice shall contain only information necessary for the payor to comply with the order providing for income deduction. The notice shall:

1. Provide the obligor's social security number.

2. Require the payor to deduct from the obligor's income the amount specified in the ~~order providing for~~ income deduction *order*, and in the case of a delinquency the amount specified in the notice of delinquency, and to pay that amount to the obligee or to the depository, as appropriate. The amount actually deducted plus all administrative charges shall not be in excess of the amount allowed under s. 303(b) of the Consumer Credit Protection Act, 15 U.S.C. s. 1673(b);

3. Instruct the payor to implement income deduction no later than the first payment date which occurs more than 14 days after the date the income deduction notice was served on the payor, and the payor shall conform the amount specified in the income deduction order *or, in Title IV-D cases, income deduction notice* to the obligor's pay cycle;

4. Instruct the payor to forward, within 2 days after each date the obligor is entitled to payment from the payor, to the obligee or to the depository the amount deducted from the obligor's income, a statement as to whether the amount totally or partially satisfies the periodic amount specified in the income deduction *order or, in Title IV-D cases, income deduction* notice, and the specific date each deduction is made. If the IV-D agency is enforcing the order, the payor shall make these notifications to the agency instead of the obligee;

5. Specify that if a payor fails to deduct the proper amount from the obligor's income, the payor is liable for the amount the payor should have deducted, plus costs, interest, and reasonable attorney's fees;

6. Provide that the payor may collect up to $5 against the obligor's income to reimburse the payor for administrative costs for the first income deduction and up to $2 for each deduction thereafter;

7. State that the *notice to payor or, in Title IV-D cases,* income deduction notice, and in the case of a delinquency the notice of delinquency, are binding on the payor until further notice by the obligee, IV-D agency, or the court or until the payor no longer provides income to the obligor;

8. Instruct the payor that, when he or she no longer provides income to the obligor, he or she shall notify the obligee and shall also provide the obligor's last known address and the name and address of the obligor's new payor, if known; and that, if the payor violates this provision, the payor is subject to a civil penalty not to exceed $250 for the first violation or $500 for any subsequent violation. If the IV-D agency is enforcing the order, the payor shall make these notifications to the agency instead of to the obligee. Penalties shall be paid to the obligee or the IV-D agency, whichever is enforcing the income deduction order;

9. State that the payor shall not discharge, refuse to employ, or take disciplinary action against an obligor because of *the requirement for* ~~an~~ income deduction ~~notice~~ and shall state that a violation of this provision subjects the payor to a civil penalty not to exceed $250 for the first violation or $500 for any subsequent violation. Penalties shall be paid to the obligee or the IV-D agency, whichever is enforcing the income deduction ~~notice~~, if any alimony or child support obligation is owing. If no alimony or child support obligation is owing, the penalty shall be paid to the obligor;

10. State that an obligor may bring a civil action in the courts of this state against a payor who refuses to employ, discharges, or otherwise disciplines an obligor because of ~~an~~ income deduction ~~notice~~. The obligor is entitled to reinstatement and all wages and benefits lost, plus reasonable attorney's fees and costs incurred;

11. Inform the payor that the *requirement for* income deduction ~~notice~~ has priority over all other legal processes under state law pertaining to the same income and that payment, as required by the *notice to payor or* income deduction notice, is a complete defense by the payor against any claims of the obligor or his or her creditors as to the sum paid;

12. Inform the payor that, when the payor receives *notices to payor or* income deduction notices requiring that the income of two or more obligors be deducted and sent to the same depository, the payor may combine the amounts that are to be paid to the depository in a single payment as long as the payments attributable to each obligor are clearly identified; and

13. Inform the payor that if the payor receives more than one *notice to payor or* income deduction notice against the same obligor, the payor shall contact the court *or, in Title IV-D cases, the Title IV-D agency* for

further instructions. Upon being so contacted, the court *or, in Title IV-D cases when all the cases upon which the notices are based are Title IV-D cases, the Title IV-D agency* shall allocate amounts available for income deduction as provided in subsection (4).

(f) At any time *an* income deduction *order* is being enforced, the obligor may apply to the court for a hearing to contest the continued enforcement of the income deduction on the same grounds set out in paragraph (c), with a copy to the obligee and, in IV-D cases, to the IV-D agency. The application does not affect the continued enforcement of the income deduction until the court enters an order granting relief to the obligor. The obligee or the IV-D agency is released from liability for improper receipt of moneys pursuant to *an* income deduction *order* upon return to the appropriate party of any moneys received.

(g) An obligee or his or her agent shall enforce *an* income deduction *order* against an obligor's successor payor who is located in this state in the same manner prescribed in this section for the enforcement of an income deduction order against a payor.

(h)1. When *an* income deduction *order* is to be enforced against a payor located outside the state, the obligee who is receiving IV-D services or his or her agent shall promptly request the agency responsible for income deduction in the other state to enforce the income deduction *order*. The request shall contain all information necessary to enforce the income deduction *order*, including the amount to be periodically deducted, a copy of the order establishing, enforcing, or modifying the obligation, and a statement of arrearages, if applicable.

2. When the IV-D agency is requested by the agency responsible for income deduction in another state to enforce *an* income deduction *order* against a payor located in this state for the benefit of an obligee who is being provided IV-D services by the agency in the other state, the IV-D agency shall act promptly pursuant to the applicable provisions of this section.

3. When an obligor who is subject to *an* income deduction *order* enforced against a payor located in this state for the benefit of an obligee who is being provided IV-D services by the agency responsible for income deduction in another state terminates his or her relationship with his or her payor, the IV-D agency shall notify the agency in the other state and provide it with the name and address of the obligor and the address of any new payor of the obligor, if known.

4.a. The procedural rules and laws of this state govern the procedural aspects of income deduction whenever the agency responsible for income deduction in another state requests the enforcement of an income deduction order in this state.

b. Except with respect to when withholding must be implemented, which is controlled by the state where the order establishing, enforcing, or modifying the obligation was entered, the substantive law of this state shall apply whenever the agency responsible for income deduction in another state requests the enforcement of an income deduction in this state.

c. When the IV-D agency is requested by an agency responsible for income deduction in another state to implement income deduction against a payor located in this state for the benefit of an obligee who is being provided IV-D services by the agency in the other state or when the IV-D agency in this state initiates an income deduction request on behalf of an obligee receiving IV-D services in this state against a payor in another state, *pursuant to this section or the Uniform Interstate Family Support Act,* the IV-D agency shall file the interstate income deduction documents, or an affidavit of such request when the income deduction documents are not available, with the depository and if the IV-D agency in this state is responding to a request from another state, provide copies to the payor and obligor in accordance with subsection (1). The depository created pursuant to s. 61.181 shall accept the interstate income deduction documents or affidavit and shall establish an account for the receipt and disbursement of child support or child support and alimony payments and advise the IV-D agency of the account number in writing within 2 days after receipt of the documents or affidavit.

(i) Certified copies of payment records maintained by a depository shall, without further proof, be admitted into evidence in any legal proceeding in this state.

(j)1. A person may not discharge, refuse to employ, or take disciplinary action against an employee because of the enforcement of *an* income deduction *order*. An employer who violates this subsection is subject to a civil penalty not to exceed $250 for the first violation or $500 for any subsequent violation. Penalties shall be paid to the obligee or the IV-D agency, whichever is enforcing the income deduction ~~order~~, if any alimony or child support is owing. If no alimony or child support is owing, the penalty shall be paid to the obligor.

2. An employee may bring a civil action in the courts of this state against an employer who refuses to employ, discharges, or otherwise disciplines an employee because of *an* income deduction *order*. The employee is entitled to reinstatement and all wages and benefits lost plus reasonable attorney's fees and costs incurred.

(k) When a payor no longer provides income to an obligor, he or she shall notify the obligee and, if the obligee is a IV-D applicant, the IV-D agency and shall also provide the obligor's last known address and the name and address of the obligor's new payor, if known. A payor who violates this subsection is subject to a civil penalty not to exceed $250 for the first violation or $500 for a subsequent violation. Penalties shall be paid to the obligee or the IV-D agency, whichever is enforcing the income deduction *order*.

(3) It is the intent of the Legislature that this section may be used to collect arrearages in child support payments or in alimony payments which have been accrued against an obligor.

(4) When there is more than one income deduction notice against the same obligor, the ~~court shall allocate~~amounts available for income deduction *must be allocated* among all obligee families as follows:

(a) For computation purposes, ~~the court shall convert~~ all obligations *must be converted* to a common payroll frequency and ~~determine~~ the percentage of deduction allowed under s. 303(b) of the Consumer Credit Protection Act, 15 U.S.C. s. 1673(b), as amended*, must be determined*. ~~The court shall determine~~ The amount of income available for deduction *is determined* by multiplying that percentage ~~figure~~ by the obligor's net income ~~and determine the sum of all of the support obligations~~.

(b) If the *total monthly support obligation to all families is less than the amount of income available for deduction, the full amount of each obligation must be deducted.* ~~sum of the support obligations is less than the amount of income available for deduction, the court shall order that the full amount of each obligation shall be deducted.~~

(c) If the *total monthly support obligation to all families is greater than the amount of income available for deduction, the amount of the deduction must be prorated, giving priority to current support, so that each family is allocated a percentage of the amount deducted. The percentage to be allocated to each family is determined by dividing each current support obligation by the total of all current support obligations. If the total of all current support obligations is less than the income available for deduction, and past due support is owed to more than one family, then the remainder of the available income must be prorated so that each family is allocated a percentage of the remaining income available for deduction. The percentage to be allocated to each family is determined by dividing each past-due support obligation by the total of all past-due support obligations.* ~~sum of the support obligations is greater than the amount of income available for deduction, the court shall determine a prorated percentage for each support obligation by dividing each obligation by the sum total of all the support obligations. The court shall then determine the prorated deduction amount for each support obligation by multiplying the prorated percentage for each support obligation by the amount of income available for deduction. The court shall then order that the resultant amount for each support obligation shall be deducted from the obligor's income.~~

Section 9. Section 63.181, Florida Statutes, is amended to read:

61.181 Central depository for receiving, recording, reporting, monitoring, and disbursing alimony, support, maintenance, and child support payments; fees.—

(1) The office of the clerk of the court shall operate a depository unless the depository is otherwise created by special act of the

Legislature or unless, prior to June 1, 1985, a different entity was established to perform such functions. The department shall, no later than July 1, 1998, extend participation in the federal child support cost reimbursement program to the central depository in each county, to the maximum extent possible under existing federal law. The depository shall receive reimbursement for services provided under a cooperative agreement with the department as provided by federal law.

(2)(a) The depository shall impose and collect a fee on each payment made for receiving, recording, reporting, disbursing, monitoring, or handling alimony or child support payments as required under this section, which fee shall be a flat fee based, to the extent practicable, upon estimated reasonable costs of operation. The fee shall be reduced in any case in which the fixed fee results in a charge to any party of an amount greater than 3 percent of the amount of any support payment made in satisfaction of the amount which the party is obligated to pay, except that no fee shall be less than $1 nor more than $5 per payment made. The fee shall be considered by the court in determining the amount of support that the obligor is, or may be, required to pay.

(b)1. For the period of July 1, 1992, through June 30, 1999, the fee imposed in paragraph (a) shall be increased to 4 percent of the support payments which the party is obligated to pay, except that no fee shall be more than $5.25. The fee shall be considered by the court in determining the amount of support that the obligor is, or may be, required to pay. Notwithstanding the provisions of s. 145.022, 75 percent of the additional revenues generated by this paragraph shall be remitted monthly to the Clerk of the Court Child Support Enforcement Collection System Trust Fund administered by the department as provided in subparagraph 2. These funds shall be used exclusively for the development, implementation, and operation of an automated child support enforcement collections system to be operated by the depositories. The department shall contract with the Florida Association of Court Clerks ~~and Comptrollers~~ and the depositories to design, establish, operate, upgrade, and maintain the automation of the depositories to include, but not be limited to, the provision of on-line electronic transfer of information to the IV-D agency as otherwise required by this chapter. Each depository created under this section shall fully participate in the automated child support enforcement collection system on or before July 1, 1997, and transmit data in a readable format as required by the contract between the Florida Association of Court Clerks ~~and Comptrollers~~ and the department. ~~The department may at its discretion exempt a depository from compliance with full participation in the automated child support enforcement collection system.~~

2. No later than December 31, 1996, moneys to be remitted to the department by the depository shall be done daily by electronic funds transfer and calculated as follows:

a. For each support payment of less than $33, 18.75 cents.

b. For each support payment between $33 and $140, an amount equal to 18.75 percent of the fee charged.

c. For each support payment in excess of $140, 18.75 cents.

3. Prior to June 30, 1995, the depositories and the department shall provide the Legislature with estimates of the cost of continuing the collection and maintenance of information required by this act.

4. The fees established by this section shall be set forth and included in every order of support entered by a court of this state which requires payment to be made into the depository.

(3)(a) The depository shall collect and distribute all support payments paid into the depository to the appropriate party. On or after July 1, 1998, if a payment *on a Title IV-D case* is made which is not accompanied by the required transaction fee, the depository shall not deduct any moneys from the support payment for payment of the fee. Nonpayment of the required fee shall be considered a delinquency, and when the total of fees and costs which are due but not paid exceeds $50, the judgment by operation of law process set forth in s. 61.14(6)(a) shall become applicable and operational. As part of its collection and distribution functions, the depository shall maintain records listing:

1. The obligor's name, address, social security number, place of employment, and any other sources of income.

2. The obligee's name, address, and social security number.

3. The amount of support due as provided in the court order.

4. The schedule of payment as provided in the court order.

5. The actual amount of each support payment received, the date of receipt, the amount disbursed, and the recipient of the disbursement.

6. The unpaid balance of any arrearage due as provided in the court order.

7. Other records as necessary to comply with federal reporting requirements.

(b) The depository may require a payor or obligor to complete an information form, which shall request the following about the payor or obligor who provides payment by check:

1. Full name, address, and home phone number.

2. Driver's license number.

3. Social security number.

4. Name, address, and business phone number of obligor's employer.

5. Date of birth.

6. Weight and height.

7. Such other information as may be required by the State Attorney if prosecution for an insufficient check becomes necessary.

If the depository requests such information, and a payor or obligor does not comply, the depository may refuse to accept personal checks from the payor or obligor.

(c) Parties using the depository for support payments shall inform the depository of changes in their names or addresses. An obligor shall, additionally, notify the depository of all changes in employment or sources of income, including the payor's name and address, and changes in the amounts of income received. Notification of all changes shall be made in writing to the depository within 7 days of a change.

(d) When custody of a child is relinquished by a custodial parent who is entitled to receive child support moneys from the depository to a licensed or registered long-term care child agency, that agency may request from the court an order directing child support payments which would otherwise be distributed to the custodial parent be distributed to the agency for the period of custody of the child by the agency. Thereafter, payments shall be distributed to the agency as if the agency were the custodial parent until further order of the court.

(4) The depository shall provide to the IV-D agency, at least once a month, a listing of IV-D accounts which identifies all delinquent accounts, the period of delinquency, and total amount of delinquency. The list shall be in alphabetical order by name of obligor, shall include the obligee's name and case number, and shall be provided at no cost to the IV-D agency.

(5) The depository shall accept a support payment tendered in the form of a check drawn on the account of a payor or obligor, unless the payor or obligor has previously remitted a check which was returned to the depository due to lack of sufficient funds in the account. If the payor or obligor has had a check returned for this reason, the depository shall accept payment by cash, cashier's check, or money order, or may accept a check upon deposit by the payor or obligor of an amount equal to 1 month's payment. Upon payment by cash, cashier's check, or money order, the depository shall disburse the proceeds to the obligee within 2 working days. Payments drawn by check on the account of a payor or obligor shall be disbursed within 4 working days. Notwithstanding the provisions of s. 28.243, the administrator of the depository shall not be personally liable if the check tendered by the payor or obligor is not paid by the bank.

(6) Certified copies of payment records maintained by a depository shall without further proof be admitted into evidence in any legal proceeding in this state.

(7) The depository shall provide to the Title IV-D agency the date provided by a payor, as required in s. 61.1301, for each payment received and forwarded to the agency. If no date is provided by the payor, the depository shall provide the date of receipt by the depository and shall report to the Title IV-D agency those payors who fail to provide the date the deduction was made.

(8) On or before July 1, 1994, the depository shall provide information required by this chapter to be transmitted to the Title IV-D agency by on-line electronic transmission pursuant to rules promulgated by the Title IV-D agency.

(9) If the increase in fees as provided by paragraph (2)(b) expires or is otherwise terminated, the depository shall not be required to provide the Title IV-D agency the date provided by a payor as required by s. 61.1301.

(10) Compliance with the requirements of this section shall be included as part of the annual county audit required pursuant to s. 11.45.

(11) The Office of Program Policy Analysis and Government Accountability shall conduct a program audit of the central child support enforcement depositories operating pursuant to this section. This audit shall include, but not be limited to, an analysis of current and pending federal requirements for the child support enforcement depository and a review of the adequacy of the present depository and funds distribution system to meet those requirements; a cost analysis of the current system; and a review of all strategies, including federal reimbursement, distribution of funds by the local depository, and privatization, to increase efficiency in payment processing. The audit must be completed and a report must be submitted to the Senate and the House of Representatives before December 1, 1996. This subsection shall not affect the implementation of any other parts of this section.

(12) The Office of Program Policy Analysis and Government Accountability is directed to evaluate the Dade County Child Support Enforcement demonstration project administered by the state attorney for the eleventh judicial circuit, and the Manatee County Child Support Enforcement demonstration project administered by the clerk of the circuit court. The office shall report its findings to the Governor, the President of the Senate, and the Speaker of the House of Representatives, no later than January 1, 1999.

Section 10. Paragraph (a) of subsection (1) and subsections (8) and (17) of section 61.30, Florida Statutes, are amended to read:

61.30 Child Support guidelines; retroactive child support.—

(1)(a) The child support guideline amount as determined by this section presumptively establishes the amount the trier of fact shall order as child support in an initial proceeding for such support or in a proceeding for modification of an existing order for such support, whether the proceeding arises under this or another chapter. The trier of fact may order payment of child support which varies, plus or minus 5 percent, from the guideline amount, after considering all relevant factors, including the needs of the child or children, age, station in life, standard of living, and the financial status and ability of each parent. The trier of fact may order payment of child support in an amount which varies more than 5 percent from such guideline amount only upon a written finding~~, or a specific finding on the record,~~ explaining why ordering payment of such guideline amount would be unjust or inappropriate.

(8) Health insurance costs resulting from coverage ordered pursuant to s. 61.13(1)(b), *and any noncovered medical, dental, and prescription medication expenses of the child,* shall be added to the basic obligation *unless these expenses have been ordered to be separately paid on a percentage basis*. After the health insurance costs are added to the basic obligation, any moneys prepaid by the noncustodial parent for *health-related costs* ~~health insurance~~ for the child or children of this action shall be deducted from that noncustodial parent's child support obligation for that child or those children.

(17) In an initial determination of child support, whether in a paternity action, dissolution of marriage action, or petition for support during the marriage, the court has discretion to award child support retroactive to the date when the parents did not reside together in the same household with the child, *not to exceed a period of 24 months preceding the filing of the petition*, regardless of whether that date precedes the filing of the petition. In determining the retroactive award in such cases, the court shall consider the following:

(a) The court shall apply the guidelines in effect at the time of the hearing subject to the obligor's demonstration of his or her actual income, as defined by s. 61.30(2), during the retroactive period. Failure of the obligor to so demonstrate, shall result in the court using the obligor's income at the time of the hearing, in computing child support for the retroactive period.

(b) All actual payments made by the noncustodial parent to the custodial parent or the child or third parties for the benefit of the child throughout the proposed retroactive period.

(c) The court should consider an installment payment plan for the payment of retroactive child support.

Section 11. Subsection (4) of section 69.041, Florida Statutes, is amended to read:

69.041 State named party; lien foreclosure, suit to quiet title.—

(4)(a) The Department of Revenue has the right to participate in the disbursement of funds remaining in the registry of the court after distribution pursuant to s. 45.031(7). The department shall participate in accordance with applicable procedures in any mortgage foreclosure action in which the department has a duly filed tax warrant, *or interests under a lien arising from a judgment, order, or decree for child support,* against the subject property and with the same priority, regardless of whether a default against the department has been entered for failure to file an answer or other responsive pleading.

(b) *With respect to a duly filed tax warrant,* paragraph (a) applies only to mortgage foreclosure actions initiated on or after July 1, 1994, and to those mortgage foreclosure actions initiated before July 1, 1994, in which no default has been entered against the Department of Revenue before July 1, 1994. *With respect to mortgage foreclosure actions initiated based upon interests under a lien arising from a judgment, order, or decree for child support, paragraph (a) applies only to mortgage foreclosure actions initiated on or after July 1, 1998, and to those mortgage foreclosure actions initiated before July 1, 1998, in which no default has been entered against the Department of Revenue before July 1, 1998.*

Section 12. Subsection (4) of section 319.24, Florida Statutes, is amended to read:

319.24 Issuance in duplicate; delivery; liens and encumbrances.—

(4) If the owner of the motor vehicle or mobile home, as shown on the title certificate, or the director of the state child support enforcement program, *or the director's designee,* desires to place a second or subsequent lien or encumbrance against the motor vehicle or mobile home when the title certificate is in the possession of the first lienholder, the owner shall send a written request to the first lienholder by certified mail, and such first lienholder shall forward the certificate to the department for endorsement. If the title certificate is in the possession of the owner, the owner shall forward the certificate to the department for endorsement. The department shall return the certificate to either the first lienholder or to the owner, as indicated in the notice of lien filed by the first lienholder, after endorsing the second or subsequent lien on the certificate and on the duplicate. If the first lienholder or owner fails, neglects, or refuses to forward the certificate of title to the department within 10 days from the date of the owner's or the director's *or designee's* request, the department, on the written request of the subsequent lienholder or an assignee thereof, shall demand of the first lienholder the return of such certificate for the notation of the second or subsequent lien or encumbrance.

Section 13. Subsection (4) of section 319.32, Florida Statutes, is renumbered as subsection (5), and a new subsection (4) is added to said section to read:

319.32 Fees; service charges; disposition.—

(4) The department shall charge a fee of $7 for each lien placed on a motor vehicle by the state child support enforcement program pursuant to s. 319.24.

Section 14. Subsection (2) of section 372.561, Florida Statutes, is amended to read:

372.561 Issuance of licenses to take wild animal life or freshwater aquatic life; costs; reporting.—

(2) The commission shall issue licenses and permits to take wild animal life or freshwater aquatic life upon proof by the applicant for licensure that she or he is entitled to such license or permit. The commission shall establish the forms for such licenses and permits. *Each applicant for a license, permit, or authorization shall provide the applicant's social security number on the application form. Disclosure of social security numbers obtained through this requirement shall be limited to the purpose of administration of the Title IV-D program for child support enforcement and use by the commission, and as otherwise provided by law.*

Section 15. The introductory paragraph of section 372.57, Florida Statutes, is amended to read:

372.57 Licenses and permits; exemptions; fees.—No person, except as provided herein, shall take game, freshwater fish, or fur-bearing animals within this state without having first obtained a license, permit, or authorization and paid the fees hereinafter set forth, unless such license is issued without fee as provided in s. 372.561. Such license, permit, or authorization shall authorize the person to whom it is issued to take game, freshwater fish, or fur-bearing animals in accordance with law and commission rules. Such license, permit, or authorization is not transferable. Each license or permit must bear on its face in indelible ink the name of the person to whom it is issued and other information requested by the commission. Such license, permit, or authorization issued by the commission or any agent must be in the personal possession of the person to whom issued while taking game, freshwater fish, or fur-bearing animals. The failure of such person to exhibit such license, permit, or authorization to the commission or its wildlife officers, when such person is found taking game, freshwater fish, or fur-bearing animals, is a violation of law. A positive form of identification is required when using an authorization, a lifetime license, a 5-year license, or when otherwise required by the license or permit. The lifetime licenses and 5-year licenses provided herein shall be embossed with the name, date of birth, the date of issuance, and other pertinent information as deemed necessary by the commission. A certified copy of the applicant's birth certificate shall accompany all applications for a lifetime license for residents 12 years of age and younger. *Each applicant for a license, permit, or authorization shall provide the applicant's social security number on the application form. Disclosure of social security numbers obtained through this requirement shall be limited to the purpose of administration of the Title IV-D child support enforcement program and use by the commission, and as otherwise provided by law.*

Section 16. Section 372.574, Florida Statutes, is amended to read:

372.574 Appointment of subagents for the sale of hunting, fishing, and trapping licenses and permits.—

(1) A county tax collector who elects to sell licenses and permits may appoint any person as a subagent for the sale of fishing, hunting, and trapping licenses and permits that the tax collector is allowed to sell. The following are requirements for subagents:

(a) Each subagent must serve at the pleasure of the county tax collector.

(b) Neither an employee of the county tax collector nor her or his relative or next of kin, by blood or otherwise, may be appointed as a subagent.

(c) The tax collector may require each subagent to post an appropriate bond as determined by the tax collector, using an insurance company acceptable to the tax collector. In lieu of such bond, the tax collector may purchase blanket bonds covering all or selected subagents or may allow a subagent to post such other security as is required by the tax collector.

(d) A subagent may sell licenses and permits as are determined by the tax collector at such specific locations within the county and in states contiguous to Florida as will best serve the public interest and convenience in obtaining licenses and permits. The commission may uniformly prohibit subagents from selling certain licenses or permits.

(e) It is unlawful for any person to handle licenses or permits for a fee or compensation of any kind unless she or he has been appointed as a subagent.

(f) Any person who willfully violates any of the provisions of this law is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(g) A subagent may charge and receive as her or his compensation 50 cents for each license or permit sold. This charge is in addition to the sum required by law to be collected for the sale and issuance of each license or permit.

(h) A subagent shall submit payment for and report the sale of licenses and permits to the tax collector as prescribed by the tax collector but no less frequently than monthly.

(i) Subagents shall submit an activity report, for sales made during the reporting period on forms prescribed or approved by the commission. Periodic audits may be performed at the discretion of the commission.

(2) If a tax collector elects not to appoint subagents, the commission may appoint subagents within that county. Subagents shall serve at the pleasure of the commission. The commission may establish, by rule, procedures for selection of subagents. The following are requirements for subagents so appointed:

(a) The commission may require each subagent to post an appropriate bond as determined by the commission, using an insurance company acceptable to the commission. In lieu of the bond, the commission may purchase blanket bonds covering all or selected subagents or may allow a subagent to post other security as required by the commission.

(b) A subagent may sell licenses and permits as authorized by the commission at specific locations within the county and in states as will best serve the public interest and convenience in obtaining licenses and permits. The commission may prohibit subagents from selling certain licenses or permits.

(c) It is unlawful for any person to handle licenses or permits for a fee or compensation of any kind unless he or she has been appointed as a subagent.

(d) Any person who willfully violates any of the provisions of this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(e) A subagent may charge and receive as his or her compensation 50 cents for each license or permit sold. This charge is in addition to the sum required by law to be collected for the sale and issuance of each license or permit. In addition, no later than July 1, 1997, a subagent fee for the sale of licenses over the telephone by credit card shall be established by competitive bid procedures which are overseen by the Game and Fresh Water Fish Commission.

(f) A subagent shall submit payment for and report the sale of licenses and permits to the commission as prescribed by the commission.

(g) Subagents shall maintain records of all licenses and permits sold and all stamps issued, voided, stolen, or lost. Subagents are responsible to the commission for the fees for all licenses and permits sold and for the value of all stamps reported as lost. Subagents must report all stolen validation stamps to the appropriate law enforcement agency. The subagent shall submit a written report and a copy of the law enforcement agency's report to the commission within 5 days after discovering the theft. The value of a lost validation stamp is $5.

(h) Subagents shall submit an activity report, for sales made during the reporting period on forms prescribed or approved by the commission. Periodic audits may be performed at the discretion of the commission.

(i) By July 15 of each year, each subagent shall submit to the commission all unissued stamps for the previous year along with a written audit report, on forms prescribed or approved by the commission, on the numbers of the unissued stamps.

(3) All social security numbers which are provided pursuant to ss. 372.561 and 372.57 and are contained in records of any subagent appointed pursuant to this section are confidential as provided in those sections.

Section 17. Subsection (1) of section 382.008, Florida Statutes, is amended to read:

382.008 Death and fetal death registration.—

(1) A certificate for each death and fetal death which occurs in this state shall be filed on a form prescribed by the department with the local registrar of the district in which the death occurred within 5 days after such death and prior to final disposition, and shall be registered by such registrar if it has been completed and filed in accordance with this chapter or adopted rules. *The certificate shall include the decedent's social security number, if available. Disclosure of social security numbers obtained through this requirement shall be limited to the purpose of administration of the Title IV-D program for child support enforcement and as otherwise provided by law.* In addition, each certificate of death or fetal death:

(a) If requested by the informant, shall include aliases or "also known as" (AKA) names of a decedent in addition to the decedent's name of record. Aliases shall be entered on the face of the death certificate in the space provided for name if there is sufficient space. If there is not sufficient space, aliases may be recorded on the back of the certificate and shall be considered part of the official record of death;

(b) If the place of death is unknown, shall be registered in the registration district in which the dead body or fetus is found within 5 days after such occurrence; and

(c) If death occurs in a moving conveyance, shall be registered in the registration district in which the dead body was first removed from such conveyance.

Section 18. Section 382.013, Florida Statutes, is amended to read:

382.013 Birth registration.—A certificate for each live birth that occurs in this state shall be filed within 5 days after such birth with the local registrar of the district in which the birth occurred and shall be registered by the local registrar if the certificate has been completed and filed in accordance with this chapter and adopted rules. *The information regarding registered births shall be used for comparison with information in the state case registry, as defined in chapter 61.*

(1) FILING.—

(a) If a birth occurs in a hospital, birth center, or other health care facility, or en route thereto, the person in charge of the facility shall be responsible for preparing the certificate, certifying the facts of the birth, and filing the certificate with the local registrar. Within 48 hours after the birth, the physician, midwife, or person in attendance during or immediately after the delivery shall provide the facility with the medical information required by the birth certificate.

(b) If a birth occurs outside a facility and the child is not taken to the facility within 3 days after delivery, the certificate shall be prepared and filed by one of the following persons in the indicated order of priority:

1. The physician or midwife in attendance during or immediately after the birth.

2. In the absence of persons described in subparagraph 1., any other person in attendance during or immediately after the birth.

3. In the absence of persons described in subparagraph 2., the father or mother.

4. In the absence of the father and the inability of the mother, the person in charge of the premises where the birth occurred.

(c) If a birth occurs in a moving conveyance and the child is first removed from the conveyance in this state, the birth shall be filed and registered in this state and the place to which the child is first removed shall be considered the place of birth.

(d) At least one of the parents of the child shall attest to the accuracy of the personal data entered on the certificate in time to permit the timely registration of the certificate.

(e) If a certificate of live birth is incomplete, the local registrar shall immediately notify the health care facility or person filing the certificate and shall require the completion of the missing items of information if they can be obtained prior to issuing certified copies of the birth certificate.

(f) Regardless of any plan to place a child for adoption after birth, the information on the birth certificate as required by this section must be as to the child's birth parents unless and until an application for a new birth record is made under s. 63.152.

(2) PATERNITY.—

(a) If the mother is married at the time of birth, the name of the husband shall be entered on the birth certificate as the father of the child, unless paternity has been determined otherwise by a court of competent jurisdiction.

(b) If the husband of the mother dies while the mother is pregnant but before the birth of the child, the name of the deceased husband shall be entered on the birth certificate as the father of the child, unless paternity has been determined otherwise by a court of competent jurisdiction.

(c) If the mother is not married at the time of birth, the name of the father may not be entered on the birth certificate without the execution of a consenting affidavit signed by both the mother and the person to be named as the father. *After giving notice orally or through the use of video or audio equipment, and in writing, of the alternatives to, the legal consequences of, and the rights, including, if one parent is a minor, any rights afforded due to minority status, and responsibilities that arise from signing an acknowledgment of paternity,* the facility shall provide the mother and the person to be named as the father with the affidavit, as well as information provided by the Title IV-D agency established pursuant to s. 409.2557, regarding the benefits of voluntary establishment of paternity. Upon request of the mother and the person to be named as the father, the facility shall assist in the execution of the affidavit.

(d) If the paternity of the child is determined by a court of competent jurisdiction as provided under s. 382.015, the name of the father and the surname of the child shall be entered on the certificate in accordance with the finding and order of the court. If the court fails to specify a surname for the child, the surname shall be entered in accordance with subsection (3).

(e) If the father is not named on the certificate, no other information about the father shall be entered on the certificate.

(3) NAME OF CHILD.—

(a) If the mother is married at the time of birth, the mother and father whose names are entered on the birth certificate shall select the given names and surname of the child if both parents have custody of the child, otherwise the parent who has custody shall select the child's name.

(b) If the mother and father whose names are entered on the birth certificate disagree on the surname of the child and both parents have custody of the child, the surname selected by the father and the surname selected by the mother shall both be entered on the birth certificate, separated by a hyphen, with the selected names entered in alphabetical order. If the parents disagree on the selection of a given name, the given name may not be entered on the certificate until a joint agreement that lists the agreed upon given name and is notarized by both parents is

submitted to the department, or until a given name is selected by a court.

(c) If the mother is not married at the time of birth, the *parent* ~~person~~ who will have custody of the child shall select the child's given name and surname.

(d) If multiple names of the child exceed the space provided on the face of the birth certificate they shall be listed on the back of the certificate. Names listed on the back of the certificate shall be part of the official record.

(e) Unless the child is of undetermined parentage under subsection (4), the child's given surname or, if the child's given surname is hyphenated, one of the names in that hyphenated surname must be the surname of the child's mother or the child's father as entered on the birth certificate under subsection (2).

(4) UNDETERMINED PARENTAGE.—A birth certificate shall be registered for every child of undetermined parentage showing all known or approximate facts relating to the birth. To assist in later determination, information concerning the place and circumstances under which the child was found shall be included on the portion of the birth certificate relating to marital status and medical details. In the event the child is later identified to the satisfaction of the department, a new birth certificate shall be prepared which shall bear the same number as the original birth certificate, and the original certificate shall be sealed and filed, shall be confidential and exempt from the provisions of s. 119.07(1), and shall not be opened to inspection by, nor shall certified copies of the same be issued except by court order to, any person other than the registrant if of legal age.

(5) DISCLOSURE.—The original certificate of live birth shall contain all the information required by the department for legal, social, and health research purposes. However, all information concerning parentage, marital status, and medical details shall be confidential and exempt from the provisions of s. 119.07(1), except for health research purposes as approved by the department, nor shall copies of the same be issued except as provided in s. 382.025.

Section 19. Subsection (3) is added to section 409.2557, Florida Statutes, to read:

409.2557 State agency for administering child support enforcement program.—

(3) Specific rulemaking authority.-- The department has the authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement all laws administered by the department in its capacity as the Title IV-D agency for this state including, but not limited to, the following:

(a) background screening of department employees and applicants, including criminal records checks;

(b) confidentiality and retention of department records; access to records; record requests;

(c) department trust funds;

(d) federal funding procedures;

(e) agreements with law enforcement and other state agencies; National Crime Information Center (NCIC) access; Parent Locator Service access;

(f) written agreements entered into between the department and child support obligors in establishment, enforcement, and modification proceedings;

(g) procurement of services by the department, pilot programs, and demonstration projects;

(h) management of cases by the department involving any documentation or procedures required by federal or state law, including but not limited to, cooperation; review and adjustment; audits; interstate actions; diligent efforts for service of process;

(i) department procedures for orders for genetic testing; subpoenas to establish, enforce or modify orders; increasing the amount of monthly obligations to secure delinquent support; suspending or denying driver's and professional licenses and certificates; fishing and hunting license suspensions; suspending vehicle and vessel registrations, screening applicants for new or renewal licenses, registrations, or certificates; income deduction; credit reporting and accessing; tax refund intercepts; passport denials; liens; financial institution data matches; expedited procedures; medical support; and all other responsibilities of the department as required by state or federal law;

(j) collection and disbursement of child support and alimony payments by the department as required by federal law; collection of genetic testing costs and other costs awarded by the court;

(k) report information to and receive information from other agencies and entities;

(l) provide location services, including accessing from and reporting to federal and state agencies;

(m) privatizing location, establishment, enforcement, modification and other functions;

(n) state case registry;

(o) state disbursement unit; and

(p) all other responsibilities of the department as required by state or federal law;

Section 20. Section 409.2558, Florida Statutes, is created to read:

409.2558 Child support distribution and disbursement.—The department shall distribute and disburse child support payments collected in Title IV-D cases in accordance with 42 U.S.C. s. 657 and regulations adopted thereunder by the Secretary of the United States Department of Health and Human Services.

Section 21. Section 409.2559, Florida Statutes, is created to read:

409.2559 State disbursement unit.—The department shall establish and operate a state disbursement unit by October 1, 1999, as required by 42 U.S.C. s. 654(27).

Section 22. Subsection (1) of section 409.2561, Florida Statutes, is amended to read:

409.2561 *Child support obligations when public assistance is paid* ~~Public assistance payments; reimbursement of obligation to department~~; assignment of rights; subrogation; medical and health insurance information.—

(1) Any payment of public assistance money made to, or for the benefit of, any dependent child creates an obligation in an amount equal to the amount of public assistance paid. *In accordance with 42 U.S.C. s. 657, the state shall retain amounts collected only to the extent necessary to reimburse amounts paid to the family as assistance by the state.* If there has been a prior court order or final judgment of dissolution of marriage establishing an obligation of support, the obligation is limited to the amount provided by such court order or decree. ~~pursuant to the applicable child support guidelines in s. 61.30.~~ The obligor shall discharge the reimbursement obligation. If the obligor fails to discharge the reimbursement obligation, the department may apply for a contempt order to enforce reimbursement for support furnished. The extraordinary remedy of contempt is applicable in child support enforcement cases because of the public necessity for ensuring that dependent children be maintained from the resources of their parents, thereby relieving, at least in part, the burden presently borne by the general citizenry through the public assistance program. If there is no prior court order establishing an obligation of support, the court shall establish the liability of the obligor, if any, for reimbursement of public assistance moneys paid~~, by applying the child support guidelines in s. 61.30 for the public assistance period.~~ Priority shall be given to establishing continuing reasonable support for the dependent child. The department may apply for modification of a court order on the same grounds as either party to the cause and shall have the right to settle and compromise actions brought pursuant to law.

Section 23. Subsections (8) and (9) of section 409.2564, Florida Statutes, are amended to read:

409.2564 Actions for support.—

(8) The director of the Title IV-D agency, or the director's designee, is authorized to subpoena *from any person* financial and other information ~~from any person~~ necessary to establish, modify, or enforce a child support order. ~~The agency is authorized to impose a fine for failure to comply with the subpoena.~~

(a) For the purpose of any investigation under this chapter, any designated employee may administer oaths or affirmations, subpoena witnesses and compel their attendance, take evidence and require the production of any matter which is relevant to the *child support enforcement* investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts or any other matter reasonably calculated to lead to the discovery of material evidence.

(b) Prior to *making application to the court for an order compelling compliance with a subpoena* ~~imposition of a fine~~, the department shall issue a written notification of noncompliance. Failure to comply within 15 days *after* ~~of~~ receipt of the written notification without good cause may result in the ~~agency taking the following actions:~~

~~1. Imposition of an administrative fine of not more than $500;~~

~~2. The~~ application by the Title IV-D agency to the circuit court for an order compelling compliance with the subpoena. The person who is determined to be in noncompliance with the subpoena shall be liable for reasonable attorney's fees and costs associated with the department bringing this action upon showing by the department that the person failed to comply with the request without good cause.

~~(c) All fines collected pursuant to this section shall be made payable to the Child Support Enforcement Application Fee and Program Revenue Trust Fund.~~

(9) In cases in which support is subject to an assignment as *provided under 45 C.F.R. s. 301.1* ~~required under s. 409.2561(2)~~, the Title IV-D agency shall, upon providing notice to the obligor and obligee, direct the obligor or other payor to change the payee to the appropriate depository.

Section 24. Subsection (1) of section 409.25641, Florida Statutes, is amended to read:

409.25641 Procedures for processing *automated administrative* ~~interstate~~ enforcement requests.—

(1) *The Title IV-D agency shall use automated administrative enforcement in response to a request from another state to enforce a support order and shall promptly report the results of enforcement action to the requesting state. "Automated administrative enforcement" means the use of automated data processing to search state databases and determine whether information is available regarding the parent who owes a child support obligation.* ~~The Title IV-D agency shall respond within 5 business days to a request from another state to enforce a support order.~~

Section 25. Section 409.25658, Florida Statutes, is created to read:

409.25658 Use of unclaimed property for past-due child support.—

(1) In a joint effort to facilitate the collection and payment of past-due child support, the Department of Revenue, in cooperation with the Department of Banking and Finance, shall identify persons owing child support collected through a court who are presumed to have abandoned property held by the Department of Banking and Finance.

(2) The department shall periodically provide the Department of Banking and Finance with an electronic file of child support obligors who owe past-due child support. The Department of Banking and Finance shall conduct a data match of the file against all apparent owners of abandoned property under chapter 717 and provide the resulting match list to the department.

(3) Upon receipt of the data match list, the department shall provide to the Department of Banking and Finance the obligor's last known address. The Department of Banking and Finance shall follow the notification procedures under s. 717.118.

(4) Prior to paying an obligor's approved claim, the Department of Banking and Finance shall notify the department that such claim has been approved. Upon confirmation that the Department of Banking and Finance has approved the claim, the department shall immediately send a notice by certified mail to the obligor, with a copy to the Department of Banking and Finance, advising the obligor of the department's intent to intercept the approved claim up to the amount of the past-due child support, and informing the obligor of the obligor's right to request a hearing under chapter 120. The Department of Banking and Finance shall retain custody of the property until a final order has been entered and any appeals thereon have been concluded. If the obligor fails to request a hearing, the department shall enter a final order instructing the Department of Banking and Finance to transfer to the department the property in the amount stated in the final order. Upon such transfer, the Department of Banking and Finance shall be released from further liability related to the transferred property.

(5) The provisions of this section provide a supplemental remedy and the department may use this remedy in conjunction with any other method of collecting child support.

Section 26. Section 409.2567, Florida Statutes, is amended to read:

409.2567 Services to individuals not otherwise eligible.—All child support services provided by the department shall be made available on behalf of all dependent children. Services shall be provided upon acceptance of public assistance or upon proper application filed with the department. The department shall adopt rules to provide for the payment of a $25 application fee from each applicant who is not a public assistance recipient. The application fee shall be deposited in the Child Support Enforcement Application and *Program Revenue* ~~User Fee~~ Trust Fund within the Department of Revenue to be used for the Child Support Enforcement Program. The obligor is responsible for all administrative costs, as defined in s. 409.2554. The court shall order payment of administrative costs without requiring the department to have a member of the bar testify or submit an affidavit as to the reasonableness of the costs. An attorney-client relationship exists only between the department and the legal services providers in Title IV-D cases. The attorney shall advise the obligee in Title IV-D cases that the attorney represents the agency and not the obligee. In Title IV-D cases, any costs, including filing fees, recording fees, mediation costs, service of process fees, and other expenses incurred by the clerk of the circuit court, shall be assessed only against the nonprevailing obligor after the court makes a determination of the nonprevailing obligor's ability to pay such costs and fees. In any case where the court does not award all costs, the court shall state in the record its reasons for not awarding the costs. The Department of Revenue shall not be considered a party for purposes of this section; however, fees may be assessed against the department pursuant to s. 57.105(1). The department shall submit a monthly report to the Governor and the chairs of the *Health and Human Services Fiscal* ~~Appropriations~~ Committee of the House of Representatives and the Ways and Means Committee of the Senate specifying the funds identified for collection from the noncustodial parents of children receiving temporary assistance and the amounts actually collected.

Section 27. Subsection (4) is added to section 409.2572, Florida Statutes, to read:

409.2572 Cooperation.—

(4) The Title IV-D agency shall determine whether an applicant for or recipient of public assistance for a dependent child has good cause for failing to cooperate with the Title IV-D agency as required by this section.

Section 28. Section 409.2575, Florida Statutes, is amended to read:

409.2575 Liens on motor vehicles and vessels.—

(1) The director of the state IV-D program, *or the director's designee,* may cause a lien for unpaid and delinquent support to be placed upon motor vehicles, as defined in chapter 320, and upon vessels, as defined

in chapter 327, that are registered in the name of an obligor who is delinquent in support payments, if the title to the property is held by a lienholder, in the manner provided in chapter 319 or chapter 328. Notice of lien shall not be mailed unless the delinquency in support exceeds $600.

(2) If the first lienholder fails, neglects, or refuses to forward the certificate of title to the appropriate department as requested pursuant to s. 319.24 or s. 328.15, the director of the IV-D program, *or the director's designee,* may apply to the circuit court for an order to enforce the requirements of s. 319.24 or s. 328.15, whichever applies.

Section 29. Paragraph (c) of subsection (3) of section 409.2576, Florida Statutes, is amended to read:

409.2576 State Directory of New Hires; definitions; furnishing reports and data; matches to state registry; service of deduction notices; national registry; disclosure of information; rulemaking authority.—

(3) EMPLOYERS TO FURNISH REPORTS.—

(c) Pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, each party is required to provide his or her social security number in accordance with this section. Disclosure of social security numbers obtained through this requirement shall be limited to the purpose of administration of the Title IV-D program for child support enforcement *and those programs listed in subsection (9).*

(9) DISCLOSURE OF INFORMATION.—

(a) New hire information shall be disclosed to the state agency administering the following programs for the purposes of determining eligibility under those programs:

1. Any state program funded under part A of Title IV of the Social Security Act;

2. The Medicaid program under Title XIX of the Social Security Act;

3. The unemployment compensation program under s. 3304 of the Internal Revenue Code of 1954;

4. The food stamp program under the Food Stamp Act of 1977; and

5. Any state program under a plan approved under Title I (Old-Age Assistance for the Aged), Title X (Aid to the Blind), Title XIV (Aid to the Permanently and Totally Disabled), or Title XVI (Aid to the Aged, Blind, or Disabled; Supplemental Security Income for the Aged, Blind, and Disabled) of the Social Security Act.

(b) New hire information shall be disclosed to the state agencies operating employment security and workers' compensation programs for the purposes of administering such programs.

Section 30. Paragraph (b) of subsection (2) and subsection (3) of section 409.2578, Florida Statutes, are amended to read:

409.2578 Access to employment information; administrative fine.—

(2) Prior to imposition of a fine, the department shall issue a written notification of noncompliance. Failure to comply with the request within 15 days of receipt of the written notification without good cause may result in the agency taking the following actions:

(b) The application by the Title IV-D agency or its designee, to the circuit court for an *order* ~~court~~ compelling compliance. The person who is determined to be in noncompliance with the request shall be liable for reasonable attorney's fees and costs associated with the department bringing this action upon showing by the department that the person failed to comply with the request without good cause.

(3) All fines collected pursuant to this section shall be made payable to the Child Support Enforcement Application ~~Fee~~ and Program Revenue Trust Fund.

Section 31. Subsections (1), (3), (4), and (5) of section 409.2579, Florida Statutes, are amended to read:

409.2579 Safeguarding Title IV-D case file information.—

(1) Information concerning applicants for or recipients of Title IV-D child support services is confidential and exempt from the provisions of s. 119.07(1). The use or disclosure of such information by the IV-D program is limited to purposes directly connected with:

(a) The administration of the plan or program approved under part A, part B, part D, part E, or part F of Title IV; under Title II, Title X, Title XIV, Title XVI, Title XIX, or Title XX; or under the supplemental security income program established under Title XVI of the Social Security Act;

(b) Any investigation, prosecution, or criminal or civil proceeding connected with the administration of any such plan or program;

(c) The administration of any other federal or federally assisted program which provides service or assistance, in cash or in kind, directly to individuals on the basis of need; ~~and~~

(d) Reporting to an appropriate agency or official, information on known or suspected instances of physical or mental injury, child abuse, sexual abuse or exploitation, or negligent treatment or maltreatment of a child who is the subject of a child support enforcement activity under circumstances which indicate that the child's health or welfare is threatened thereby*; and*~~.~~

(e) Mandatory disclosure of identifying and location information as provided in s. 61.13(9) by the IV-D program when providing Title IV-D services.

(3) As required by federal law, 42 U.S.C. s. 654*(26)*, upon notice that such an order exists, the IV-D program shall not disclose information on the whereabouts of one party *or the child* to the other party against whom a protective order with respect to the former party *or the child* has been entered.

(4) As required by federal law, 42 U.S.C. s. 654*(26)*, the IV-D program shall not disclose information on the whereabouts of one party *or the child* to another *person* ~~party~~ if the program has reason to believe that the release of information *to that person* may result in physical or emotional harm to the ~~former~~ party *or the child*.

(5) The Department of *Revenue* ~~Children and Family Services~~ is authorized to establish, by rule, procedures to implement this section.

(6) Any person who willfully and knowingly violates any of the provisions of this section is guilty of a misdemeanor of the first degree punishable as provided in s. 775.082 or s. 775.083.

Section 32. Subsection (7) of section 414.095, Florida Statutes, is amended to read:

414.095 Determining eligibility for the WAGES Program.—

(7) CHILD SUPPORT ENFORCEMENT.—As a condition of eligibility for *public* ~~temporary cash~~ assistance, the family must cooperate with the state agency responsible for administering the child support enforcement program in establishing the paternity of the child, if the child is born out of wedlock, and in obtaining support for the child or for the parent or caretaker relative and the child. Cooperation is defined as:

(a) Assisting in identifying and locating a noncustodial parent and providing complete and accurate information on that parent;

(b) Assisting in establishing paternity; and

(c) Assisting in establishing, modifying, or enforcing a support order with respect to a child of a family member.

This subsection does not apply if the state agency that administers the child support enforcement program determines that the parent or caretaker relative has good cause for failing to cooperate.

Section 33. Paragraph (a) of subsection (1) of section 414.32, Florida Statutes, is amended to read:

414.32 Prohibitions and restrictions with respect to food stamps.—

(1) COOPERATION WITH CHILD SUPPORT ENFORCEMENT AGENCY.—

(a) A parent or caretaker relative who receives temporary cash assistance or food stamps on behalf of a child under 18 years of age who has an absent parent is ineligible for food stamps unless the parent or caretaker relative cooperates with the state agency that administers the child support enforcement program in establishing the paternity of the child, if the child is born out of wedlock, and in obtaining support for the child or for the parent or caretaker relative and the child. This paragraph does not apply if the state agency that administers the child support enforcement program determines that the parent or caretaker relative has good cause for failing to cooperate ~~in establishing the paternity of the child~~.

Section 34. Paragraph (b) of subsection (3) of section 443.051, Florida Statutes, is amended to read:

443.051 Benefits not alienable; exception, child support intercept.—

(3) EXCEPTION, CHILD SUPPORT INTERCEPT.—

(b) The division shall deduct and withhold from any unemployment compensation otherwise payable to an individual who owes child support obligations:

1. The amount specified by the individual to the division to be deducted and withheld under this section;

2. The amount determined pursuant to an agreement submitted to the division under s. 454(20)(B)(i) of the Social Security Act by the state or local child support enforcement agency; or

3. Any amount otherwise required to be deducted and withheld from such unemployment compensation through legal process as defined in *s. 459* ~~s. 462(e)~~ of the Social Security Act.

Section 35. Subsection (2) of section 443.1715, Florida Statutes, is amended to read:

443.1715 Disclosure of information; confidentiality.—

(2) DISCLOSURE OF INFORMATION.—Subject to such restrictions as the division prescribes by rule, information declared confidential under this section may be made available to any agency of this or any other state, or any federal agency, charged with the administration of any unemployment compensation law or the maintenance of a system of public employment offices, or the Bureau of Internal Revenue of the United States Department of the Treasury, or the Florida Department of Revenue and information obtained in connection with the administration of the employment service may be made available to persons or agencies for purposes appropriate to the operation of a public employment service or a job-preparatory or career education or training program. The division shall on a quarterly basis, furnish the National Directory of New Hires with *information* ~~extracts of the reports required under s. 303(a)(6) of the Social Security Act (42 U.S.C. s. 503) to be made to the Secretary of Labor~~ concerning the wages and unemployment compensation paid to individuals, by such dates, in such format and containing such information as the Secretary of Health and Human Services shall specify in regulations. Upon request therefor, the division shall furnish any agency of the United States charged with the administration of public works or assistance through public employment, and may furnish to any state agency similarly charged, the name, address, ordinary occupation, and employment status of each recipient of benefits and such recipient's rights to further benefits under this chapter. Except as otherwise provided by law, the receiving agency must retain the confidentiality of such information as provided in this section. The division may request the Comptroller of the Currency of the United States to cause an examination of the correctness of any return or report of any national banking association rendered pursuant to the provisions of this chapter and may in connection with such request transmit any such report or return to the Comptroller of the Currency of the United States as provided in s. 3305(c) of the federal Internal Revenue Code.

Section 36. Subsection (9) of section 455.213, Florida Statutes, is amended to read:

455.213 General licensing provisions.—

(9) Pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, each party is required to provide his or her social security number in accordance with this section. Disclosure of social security numbers obtained through this requirement shall be limited to the purpose of administration of the Title IV-D program for child support enforcement *and use by the Department of Business and Professional Regulation, and as otherwise provided by law*.

Section 37. Section 741.04, Florida Statutes, is amended to read:

741.04 Marriage license issued.—No county court judge or clerk of the circuit court in this state shall issue a license for the marriage of any person unless there shall be first presented and filed with him or her an affidavit in writing, signed by both parties to the marriage, providing the social security numbers *or other identification numbers* of each party, made and subscribed before some person authorized by law to administer an oath, reciting the true and correct ages of such parties; unless both such parties shall be over the age of 18 years, except as provided in s. 741.0405; and unless one party is a male and the other party is a female. Pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, each party is required to provide his or her social security number in accordance with this section. *However, when an individual is not a citizen of the United States and does not have a social security number, alien registration documentation, or other proof of immigration registration from the United States Immigration and Naturalization Service that contains the individual's alien admission number or alien file number, or such other documents as the state determines constitutes reasonable evidence indicating a satisfactory immigration status, shall be provided in lieu of the social security number.* Disclosure of social security numbers *or other identification numbers* obtained through this requirement shall be limited to the purpose of administration of the Title IV-D program for child support enforcement.

Section 38. Subsection (2) of section 742.032, Florida Statutes, is amended to read:

742.032 Filing of location information.—

(2) Beginning July 1, 1997, in any subsequent Title IV-D child support enforcement action between the parties, upon sufficient showing that diligent effort has been made to ascertain the location of such a party, the *court of competent jurisdiction shall* ~~tribunal may~~ deem state due process requirements for notice and service of process to be met with respect to the party upon delivery of written notice to the most recent residential or employer address filed with the tribunal and State Case Registry under subsection (1). Beginning October 1, 1998, in any subsequent non-Title IV-D child support enforcement action between the parties, the same requirements for service shall apply.

Section 39. Subsection (6) of section 61.14, Florida Statutes, is amended to read:

61.14 Enforcement and modification of support, maintenance, or alimony agreements or orders.—

(6)(a)1. When support payments are made through the local depository, any payment or installment of support which becomes due and is unpaid under any support order is delinquent; and this unpaid payment or installment, and all other costs and fees herein provided for, become, after notice to the obligor and the time for response as set forth in this subsection, a final judgment by operation of law, which has the full force, effect, and attributes of a judgment entered by a court in this state for which execution may issue. *No deduction shall be made by the local depository from any payment made for costs and fees accrued in the judgment by operation of law process under paragraph (b) until the total amount of support payments due the obligee under the judgment has been paid.*

2. A certified copy of the support order and a certified statement by the local depository evidencing a delinquency in support payments constitute evidence of the final judgment under this paragraph.

3. The judgment under this paragraph is a final judgment as to any unpaid payment or installment of support which has accrued up to the time either party files a motion with the court to alter or modify the support order, and such judgment may not be modified by the court. The court may modify such judgment as to any unpaid payment or installment of support which accrues after the date of the filing of the motion to alter or modify the support order. This subparagraph does not prohibit the court from providing relief from the judgment pursuant to Florida Rule of Civil Procedure 1.540.

(b)1. When an obligor is 15 days delinquent in making a payment or installment of support, the local depository shall serve notice on the obligor informing him or her of:

a. The delinquency and its amount.

b. An impending judgment by operation of law against him or her in the amount of the delinquency and all other amounts which thereafter become due and are unpaid, together with costs and a fee of $5, for failure to pay the amount of the delinquency.

c. The obligor's right to contest the impending judgment and the ground upon which such contest can be made.

d. The local depository's authority to release information regarding the delinquency to one or more credit reporting agencies.

2. The local depository shall serve the notice by mailing it by first class mail to the obligor at his or her last address of record with the local depository. If the obligor has no address of record with the local depository, service shall be by publication as provided in chapter 49.

3. When service of the notice is made by mail, service is complete on the date of mailing.

(c) Within 15 days after service of the notice is complete, the obligor may file with the court that issued the support order, or with the court in the circuit where the local depository which served the notice is located, a motion to contest the impending judgment. An obligor may contest the impending judgment only on the ground of a mistake of fact regarding an error in whether a delinquency exists, in the amount of the delinquency, or in the identity of the obligor.

(d) The court shall hear the obligor's motion to contest the impending judgment within 15 days after the date of the filing of the motion. Upon the court's denial of the obligor's motion, the amount of the delinquency and all other amounts which thereafter become due, together with costs and a fee of $5, become a final judgment by operation of law against the obligor. The depository shall charge interest at the rate established in s. 55.03 on all judgments for child support.

(e) If the obligor fails to file a motion to contest the impending judgment within the time limit prescribed in paragraph (c) and fails to pay the amount of the delinquency and all other amounts which thereafter become due, together with costs and a fee of $5, such amounts become a final judgment by operation of law against the obligor at the expiration of the time for filing a motion to contest the impending judgment.

(f)1. Upon request of any person, the local depository shall issue, upon payment of a fee of $5, a payoff statement of the total amount due under the judgment at the time of the request. The statement may be relied upon by the person for up to 30 days from the time it is issued unless proof of satisfaction of the judgment is provided.

2. When the depository records show that the obligor's account is current, the depository shall record a satisfaction of the judgment upon request of any interested person and upon receipt of the appropriate recording fee. Any person shall be entitled to rely upon the recording of the satisfaction.

3. The local depository, at the direction of the department, or the obligee in a non-IV-D case, may partially release the judgment as to specific real property, and the depository shall record a partial release upon receipt of the appropriate recording fee.

4. The local depository is not liable for errors in its recordkeeping, except when an error is a result of unlawful activity or gross negligence by the clerk or his or her employees.

Section 40. Section 61.046, Florida Statutes, is amended to read:

61.046 Definitions.—As used in this chapter:

(1) "Business day" means any day other than a Saturday, Sunday, or legal holiday.

(2) "Clerk of Court Child Support Collection System" or "CLERC System" means the automated system established pursuant to s. 61.181(2)(b)1., integrating all clerks of court and depositories and through which payment data and State Case Registry data is transmitted to the department's automated child support enforcement system.

(3)~~(1)~~ "Custodial parent" or "primary residential parent" means the parent with whom the child maintains his or her primary residence.

(4)~~(2)~~ "Department" means the Department of Revenue.

(5)~~(3)~~ "Depository" means the central governmental depository established pursuant to s. 61.181, *created by special act of the Legislature or other entity established before June 1, 1985, to perform depository functions and* to receive, record, report, disburse, monitor, and otherwise handle alimony and child support payments *not otherwise required to be processed by the State Disbursement Unit.*

(6) "Federal Case Registry of Child Support Orders" means the automated registry of support order abstracts and other information established and maintained by the United States Department of Health and Human Services as provided by 42 U.S.C. s. 653(h).

(7)~~(4)~~ "Income" means any form of payment to an individual, regardless of source, including, but not limited to: wages, salary, commissions and bonuses, compensation as an independent contractor, worker's compensation, disability benefits, annuity and retirement benefits, pensions, dividends, interest, royalties, trusts, and any other payments, made by any person, private entity, federal or state government, or any unit of local government. United States Department of Veterans Affairs disability benefits and unemployment compensation, as defined in chapter 443, are excluded from this definition of income except for purposes of establishing an amount of support.

(8)~~(5)~~ "IV-D" means services provided pursuant to Title IV-D of the Social Security Act, 42 U.S.C. *ss. 651 et seq* ~~s. 1302~~.

(9)~~(6)~~ "Local officer" means an elected or appointed constitutional or charter government official including, but not limited to, the state attorney and clerk of the circuit court.

(10)~~(7)~~ "Noncustodial parent" means the parent with whom the child does not maintain his or her primary residence.

(11)~~(8)~~ "Obligee" means the person to whom payments are made pursuant to an order establishing, enforcing, or modifying an obligation for alimony, for child support, or for alimony and child support.

(12)~~(9)~~ "Obligor" means a person responsible for making payments pursuant to an order establishing, enforcing, or modifying an obligation for alimony, for child support, or for alimony and child support.

(13)~~(10)~~ "Payor" means an employer or former employer or any other person or agency providing or administering income to the obligor.

(14)~~(11)~~ "Shared parental responsibility" means a court-ordered relationship in which both parents retain full parental rights and responsibilities with respect to their child and in which both parents confer with each other so that major decisions affecting the welfare of the child will be determined jointly.

(15)~~(12)~~ "Sole parental responsibility" means a court-ordered relationship in which one parent makes decisions regarding the minor child.

(16)~~(13)~~ "State Case Registry" means *the automated* ~~a~~ registry maintained by the Title IV-D agency, *containing records of each Title IV-D case and of each support order established or modified in the state on or after October 1, 1998. Such records shall consist of data elements as required by the United States Secretary of Health and Human*

Services. ~~for information related to paternity and child support orders for Title IV-D. Beginning October 1, 1998, information related to non-Title IV-D cases established or modified in the state shall be maintained in the registry.~~

(17) "State Disbursement Unit" means the unit established and operated by the Title IV-D agency to provide one central address for collection and disbursement of child support payments made in cases enforced by the department pursuant to Title IV-D of the Social Security Act and in cases not being enforced by the department in which the support order was initially issued in this state on or after January 1, 1994, and in which the obligor's child support obligation is being paid through income deduction order.

(18) "Support order" means a judgment, decree, or order, whether temporary or final, issued by a court of competent jurisdiction for the support and maintenance of a child which provides for monetary support, health care, arrearages, or past support.

Section 41. Subsections (1) and (2) and paragraph (a) of subsection (3) of section 61.181, Florida Statutes, are amended to read:

61.181 Central depository for receiving, recording, reporting, monitoring, and disbursing alimony, support, maintenance, and child support payments; fees.—

(1) The office of the clerk of the court shall operate a depository unless the depository is otherwise created by special act of the Legislature or unless, prior to June 1, 1985, a different entity was established to perform such functions. The department shall, no later than July 1, 1998, extend participation in the federal child support cost reimbursement program to the central depository in each county, to the maximum extent possible under existing federal law. The depository shall receive reimbursement for services provided under a cooperative agreement with the department *pursuant to s. 61.1826. Each depository shall participate in the State Disbursement Unit and shall implement all statutory and contractual duties imposed on the State Disbursement Unit. Each depository shall receive from and transmit to the State Disbursement Unit required data through the Clerk of Court Child Support Enforcement Collection System. Payments on non-Title IV-D cases without income deduction orders shall not be sent to the State Disbursement Unit* ~~as provided by federal law~~.

(2)(a) *For payments not required to be processed through the State Disbursement Unit,* the depository shall impose and collect a fee on each payment made for receiving, recording, reporting, disbursing, monitoring, or handling alimony or child support payments as required under this section, which fee shall be a flat fee based, to the extent practicable, upon estimated reasonable costs of operation. The fee shall be reduced in any case in which the fixed fee results in a charge to any party of an amount greater than 3 percent of the amount of any support payment made in satisfaction of the amount which the party is obligated to pay, except that no fee shall be less than $1 nor more than $5 per payment made. The fee shall be considered by the court in determining the amount of support that the obligor is, or may be, required to pay.

(b)1. For the period of July 1, 1992, through June 30, *2002* ~~1999~~, the fee imposed in paragraph (a) shall be increased to 4 percent of the support payments which the party is obligated to pay, except that no fee shall be more than $5.25. The fee shall be considered by the court in determining the amount of support that the obligor is, or may be, required to pay. Notwithstanding the provisions of s. 145.022, 75 percent of the additional revenues generated by this paragraph shall be remitted monthly to the Clerk of the Court Child Support Enforcement Collection System Trust Fund administered by the department as provided in subparagraph 2. These funds shall be used exclusively for the development, implementation, and operation of *the Clerk of the Court* ~~an automated~~ Child Support Enforcement *Collection* ~~Collections~~ System to be operated by the depositories, *including the automation of civil case information necessary for the State Case Registry*. The department shall contract with the Florida Association of Court Clerks ~~and Comptrollers~~ and the depositories to design, establish, operate, upgrade, and maintain the automation of the depositories to include, but not be limited to, the provision of on-line electronic transfer of information to the IV-D agency as otherwise required by this chapter. *The department's obligation to fund the automation of the depositories is limited to the state share of funds available in the Clerk of the Court Child Support Enforcement Collection System Trust Fund.* Each depository created under this section shall fully participate in the *Clerk of the Court* ~~automated~~ Child Support Enforcement Collection System ~~on or before July 1, 1997,~~ and transmit data in a readable format as required by the contract between the Florida Association of Court Clerks ~~and Comptrollers~~ and the department. ~~The department may at its discretion exempt a depository from compliance with full participation in the automated child support enforcement collection system.~~

2. No later than December 31, 1996, moneys to be remitted to the department by the depository shall be done daily by electronic funds transfer and calculated as follows:

a. For each support payment of less than $33, 18.75 cents.

b. For each support payment between $33 and $140, an amount equal to 18.75 percent of the fee charged.

c. For each support payment in excess of $140, 18.75 cents.

3. Prior to June 30, 1995, the depositories and the department shall provide the Legislature with estimates of the cost of continuing the collection and maintenance of information required by this act.

4. The fees established by this section shall be set forth and included in every order of support entered by a court of this state which requires payment to be made into the depository.

(3)(a) *For payments not required to be processed through the State Disbursement Unit,* the depository shall collect and distribute all support payments paid into the depository to the appropriate party. On or after July 1, 1998, if a payment is made *on a Title IV-D case* which is not accompanied by the required transaction fee, the depository shall not deduct any moneys from the support payment for payment of the fee. Nonpayment of the required fee shall be considered a delinquency, and when the total of fees and costs which are due but not paid exceeds $50, the judgment by operation of law process set forth in s. 61.14(6)(a) shall become applicable and operational. As part of its collection and distribution functions, the depository shall maintain records listing:

1. The obligor's name, address, social security number, place of employment, and any other sources of income.

2. The obligee's name, address, and social security number.

3. The amount of support due as provided in the court order.

4. The schedule of payment as provided in the court order.

5. The actual amount of each support payment received, the date of receipt, the amount disbursed, and the recipient of the disbursement.

6. The unpaid balance of any arrearage due as provided in the court order.

7. Other records as necessary to comply with federal reporting requirements.

Section 42. Section 61.1824, Florida Statutes, is created to read:

61.1824 State Disbursement Unit.—

(1) The State Disbursement Unit is hereby created and shall be operated by the Department of Revenue or by a contractor responsible directly to the department. The State Disbursement Unit shall be responsible for the collection and disbursement of payments for:

(a) All child support cases enforced by the department pursuant to Title IV-D of the Social Security Act; and

(b) All child support cases not being enforced by the department pursuant to Title IV-D of the Social Security Act in which the initial support order was issued in this state on or after January 1, 1994, and in which the obligor's child support obligation is being paid through income deduction.

(2) The State Disbursement Unit must be operated in coordination with the department's child support enforcement automated system in Title IV-D cases.

(3) The State Disbursement Unit shall perform the following functions:

(a) Disburse all receipts from intercepts, including, but not limited to, United States Internal Revenue Service, unemployment compensation, lottery, and administrative offset intercepts.

(b) Provide employers and payors with one address to which all income deduction collections are sent.

(c) When there is more than one income deduction order being enforced against the same obligor by the payor, allocate the amounts available for income deduction in the manner set forth in s. 61.1301.

(d) To the extent feasible, use automated procedures for the collection and disbursement of support payments, including, but not limited to, having procedures for:

1. Receipt of payments from obligors, employers, other states and jurisdictions, and other entities.

2. Timely disbursement of payments to obligees, the department, and other state Title IV-D agencies.

3. Accurate identification of payment source and amount.

4. Furnishing any parent, upon request, timely information on the current status of support payments under an order requiring payments to be made by or to the parent, except that in cases described in paragraph (1)(b), prior to the date the State Disbursement Unit becomes fully operational, the State Disbursement Unit shall not be required to convert and maintain in automated form records of payments kept pursuant to s. 61.181.

(e) Information regarding disbursement must be transmitted in the following manner:

1. In Title IV-D cases, the State Disbursement Unit shall transmit, in an electronic format as prescribed by the department, all required information to the department on the same business day the information is received from the employer or other source of periodic income, if sufficient information identifying the payee is provided. The department shall determine distribution allocation of a collection and shall electronically transmit that information to the State Disbursement Unit, whereupon the State Disbursement Unit shall disburse the collection. The State Disbursement Unit may delay the disbursement of payments toward arrearages until the resolution of any timely appeal with respect to such arrearages. The State Disbursement Unit may delay the disbursement of Title IV-D collections until authorization by the Title IV-D agency has been received.

2. In non-Title IV-D cases payment information is not transmitted to the department. The State Disbursement Unit may delay the disbursement of payments toward arrearages until the resolution of any timely appeal with respect to such arrearages.

(f) Reconcile all cash receipts and all disbursements daily and provide the department with a daily reconciliation report in a format as prescribed by the department.

(g) Disburse child support payments to foreign countries as may be required.

(h) Receive and convert child support payments made in foreign currency.

(i) Remit to the department payments for costs due the department.

(j) Handle insufficient funds payments, claims of lost or stolen checks, and stop payment orders.

(k) Issue billing notices and statements of account, in accordance with federal requirements, in a format and frequency prescribed by the department to persons who pay and receive child support in Title IV-D cases.

(l) Provide the department with a weekly report that summarizes and totals all financial transaction activity.

(m) Provide toll-free access to customer assistance representatives and an automated voice response system that will enable the parties to a child support case to obtain payment information.

(4) For cases in which the obligor or payor fails to submit payment directly to the central address provided by the State Disbursement Unit, the depositories shall have procedures for accepting a support payment tendered in the form of cash or a check drawn on the account of a payor or obligor, unless the payor or obligor has previously remitted a check which was returned to the depository due to lack of sufficient funds in the account. If the payor or obligor has had a check returned for this reason, the depository shall accept payment by cash, cashier's check, or money order, or may accept a check upon deposit by the payor or obligor of an amount equal to 1 month's payment. Upon payment by cash, cashier's check, or money order, the depository shall remit the payment to the State Disbursement Unit within 1 business day after receipt.

(5) Obligees receiving payments through the State Disbursement Unit shall inform the State Disbursement Unit of changes in their names and addresses. Notification of all changes must be made directly to the State Disbursement Unit within 7 business days after a change. In Title IV-D cases, the State Disbursement Unit shall transmit the information to the department, in an electronic format prescribed by the department, within 1 business day after receipt.

Section 43. Section 61.1825, Florida Statutes, is created to read:

61.1825 State Case Registry.—

(1) The Department of Revenue or its agent shall operate and maintain a State Case Registry as provided by 42 U.S.C. s. 654A. The State Case Registry must contain records for:

(a) Each case in which services are being provided by the department as the state's Title IV-D agency; and

(b) By October 1, 1998, each support order established or modified in the state on or after October 1, 1998, in which services are not being provided by the Title IV-D agency.

The department shall maintain that part of the State Case Registry that includes support order information for Title IV-D cases on the department's child support enforcement automated system.

(2) By October 1, 1998, for each support order established or modified by a court of this state on or after October 1, 1998, the depository for the court that enters the support order in a non-Title IV-D case shall provide, in an electronic format prescribed by the department, the following information to that component of the State Case Registry that receives, maintains, and transmits support order information for non-Title IV-D cases:

(a) The name of the obligor, obligee, and child or children;

(b) The social security number of the obligor, obligee, and child or children;

(c) The date of birth of the obligor, obligee, and child or children;

(d) Whether a family violence indicator is present or if a court order has been entered against a party in a domestic violence or protective action;

(e) The date the support order was established or modified;

(f) The case identification number, which is the two-digit numeric county code followed by the civil circuit case number:

(g) The federal information processing system numeric designation for the county and state where the support order was established or modified; and

(h) Any other data as may be required by the United States Secretary of Health and Human Services.

(3) The depository, using standardized data elements, shall provide the support order information required by subsection (2) to the entity that maintains the non-Title IV-D support order information for the State Case Registry at a frequency and in a format prescribed by the department.

(4) The entity that maintains State Case Registry information for non-Title IV-D cases shall make the information available to the department in a readable and searchable electronic format that is compatible with the department's automated child support enforcement system.

(5) State Case Registry information must be transmitted electronically to the Federal Case Registry of Child Support Orders by the department in a manner and frequency prescribed by the United States Secretary of Health and Human Services.

Section 44. Section 61.1826, Florida Statutes, is created to read:

61.1826 Procurement of services for State Disbursement Unit and the non-Title IV-D component of the State Case Registry; contracts and cooperative agreements; penalties; withholding payment.—

(1) LEGISLATIVE FINDINGS.—The Legislature finds that the clerks of court play a vital role, as essential participants in the establishment, modification, collection, and enforcement of child support, in securing the health, safety, and welfare of the children of this state. The Legislature further finds and declares that:

(a) It is in the state's best interest to preserve the essential role of the clerks of court in disbursing child support payments and maintaining official records of child support orders entered by the courts of this state.

(b) As official recordkeeper for matters relating to court-ordered child support, the clerks of court are necessary parties to obtaining, safeguarding, and providing child support payment and support order information.

(c) As provided by the Federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, the state must establish and operate a State Case Registry in full compliance with federal law by October 1, 1998, and a State Disbursement Unit by October 1, 1999.

(d) Noncompliance with federal law could result in a substantial loss of federal funds for the state's child support enforcement program and the temporary assistance for needy families welfare block grant.

(e) The potential loss of substantial federal funds poses a direct and immediate threat to the health, safety, and welfare of the children and citizens of the state and constitutes an emergency for purposes of s. 287.057(3)(a).

(f) The clerks of court maintain the official payment record of the court for amounts received, payments credited, arrearages owed, liens attached, and current mailing addresses of all parties, payor, obligor, and payee.

(g) The clerks of court have established a statewide Clerk of Court Child Support Enforcement Collection System for the automation of all payment processing using state and local government funds as provided under s. 61.181(2)(b)1.

(h) The Legislature acknowledges the improvements made by and the crucial role of the Clerk of the Court Child Support Enforcement Collection System in speeding payments to the children of Florida.

(i) There is no viable alternative to continuing the role of the clerks of court in collecting, safeguarding, and providing essential child support payment information.

For these reasons, the Legislature hereby directs the Department of Revenue, subject to the provisions of subsection (6), to contract with the Florida Association of Court Clerks and each depository to perform duties with respect to the operation and maintenance of a State Disbursement Unit and the non-Title IV-D component of the State Case Registry as further provided by this section.

(2) COOPERATIVE AGREEMENTS.—Each depository shall enter into a standard cooperative agreement with the department for participation in the State Disbursement Unit and the non-Title IV-D component of the State Case Registry through the Clerk of Court Child Support Enforcement Collection System within 60 days after the effective date of this section. The cooperative agreement shall be a uniform document, mutually developed by the department and the Florida Association of Court Clerks, that applies to all depositories and complies with all state and federal requirements. Each depository shall also enter into a written agreement with the Florida Association of Court Clerks and the department within 60 days after the effective date of this section that requires each depository to participate fully in the State Disbursement Unit and the non-Title IV-D component of the State Case Registry.

(3) CONTRACT.—The Florida Association of Court Clerks shall enter into a written contract with the department that fully complies with all federal and state laws within 60 days after the effective date of this section. The contract shall be mutually developed by the department and the Florida Association of Court Clerks. As required by s. 287.057 and 45 C.F.R. s. 74.43, any subcontracts entered into by the Florida Association of Court Clerks, except for a contract between the Florida Association of Court Clerks and its totally owned subsidiary corporation, must be procured through competitive bidding.

(4) COOPERATIVE AGREEMENT AND CONTRACT TERMS.—The contract between the Florida Association of Court Clerks and the department, and cooperative agreements entered into by the depositories and the department, must contain, but are not limited to, the following terms:

(a) The initial term of the contract and cooperative agreements is for 5 years. The subsequent term of the contract and cooperative agreements is for 3 years, with the option of two 1-year renewal periods, at the sole discretion of the department.

(b) The duties and responsibilities of the Florida Association of Court Clerks, the depositories, and the department.

(c) Under s. 287.058(1)(a), all providers and subcontractors shall submit to the department directly, or through the Florida Association of Court Clerks, a report of monthly expenditures in a format prescribed by the department and in sufficient detail for a proper preaudit and postaudit thereof.

(d) All providers and subcontractors shall submit to the department directly, or through the Florida Association of Court Clerks, management reports in a format prescribed by the department.

(e) All subcontractors shall comply with chapter 280, as may be required.

(f) Federal financial participation for eligible Title IV-D expenditures incurred by the Florida Association of Court Clerks and the depositories shall be at the maximum level permitted by federal law for expenditures incurred for the provision of services in support of child support enforcement in accordance with 45 C.F.R., part 74 and Federal Office of Management and Budget Circulars A-87 and A-122 and based on an annual cost allocation study of each depository. The depositories shall submit directly, or through the Florida Association of Court Clerks, claims for Title IV-D expenditures monthly to the department in a standardized format as prescribed by the department. The Florida Association of Court Clerks shall contract with a certified public accounting firm, selected by the Florida Association of Court Clerks and the department, to audit and certify quarterly to the department all claims for expenditures submitted by the depositories for Title IV-D reimbursement.

(g) Upon termination of the contracts between the department and the Florida Association of Court Clerks or the depositories, the Florida Association of Court Clerks, its agents, and the depositories shall assist the department in making an orderly transition to a private vendor.

(h) Interest on late payment by the department shall be in accordance with s. 215.422.

If either the department or the Florida Association of Court Clerks objects to a term of the standard cooperative agreement or contract specified in subsections (2) and (3), the disputed term or terms shall be presented jointly by the parties to the Attorney General or the Attorney General's designee, who shall act as special master. The special master shall resolve the dispute in writing within 10 days. The resolution of a dispute by the special master is binding on the department and the Florida Association of Court Clerks.

(5) PERFORMANCE REVIEWS.—As provided by this subsection, the Office of Program Policy Analysis and Government Accountability shall conduct comprehensive performance reviews of the State Disbursement Unit and State Case Registry. In addition to the requirements of chapter 11, the review must include, but not be limited to, an analysis of state and federal requirements, the effectiveness of the current system in meeting those requirements; a cost analysis of the State Disbursement Unit and the non-Title IV-D component of the State Case Registry; a review and comparison of available alternative methodologies as utilized by other states; and a review of all strategies, including privatization, to increase the efficiency and cost effectiveness of the State Disbursement Unit and the non-Title IV-D component of the State Case Registry. A review must be completed and a written report submitted to the Governor, President of the Senate, and the Speaker of the House of Representatives by October 1, 1999, pertaining to the State Case Registry and October 1, 2000, pertaining to the State Disbursement Unit, and every 2 years thereafter beginning October 1, 2002, pertaining to both the State Case Registry and the State Disbursement Unit.

(6) CONTRACT TERMINATION.—If any of the following events occur, the department may discontinue its plans to contract, or terminate its contract, with the Florida Association of Court Clerks and the depositories upon 30 days' written notice by the department and may, through competitive bidding, procure services from a private vendor to perform functions necessary for the department to operate the State Disbursement Unit and the non-Title IV-D component of the State Case Registry with a minimum amount of disruption in service to the children and citizens of the state:

(a) Receipt by the department of final notice by the United States Secretary of Health and Human Services or the secretary's designee that the contractual arrangement between the department, the Florida Association of Court Clerks, and the depositories, does not satisfy federal requirements for a State Disbursement Unit or a State Case Registry and that the state's Title IV-D State Plan will not be approved, or that federal Title IV-D funding is not made available to fund the non-Title IV-D component of the State Case Registry or the State Disbursement Unit;

(b) The Florida Association of Court Clerks, a depository or any subcontractor fails to comply with any material contractual term or state or federal requirement;

(c) The non-Title IV-D component of the State Case Registry is not established and operational, consistent with the terms of the contract, by October 1, 1998; or

(d) The State Disbursement Unit is not established and operational, consistent with the terms of the contract, by October 1, 1999.

If either event specified in paragraph (a) occurs, the depositories are relieved of all responsibilities and duties under this chapter relating to Title IV-D payment processing and data transmission to the department.

(7) PARTICIPATION BY DEPOSITORIES.—

(a) Each depository shall participate in the non-Title IV-D component of the State Case Registry by using an automated system compatible with the department's automated child support enforcement system.

(b) For participation in the State Disbursement Unit, each depository shall:

1. Use the CLERC System;

2. Receive electronically and record payment information from the State Disbursement Unit for each support order entered by the court.

(8) TITLE IV-D PROGRAM INCOME.—Pursuant to 45 C.F.R. s. 304.50, all transaction fees and interest income realized by the State Disbursement Unit constitute and must be reported as program income under federal law and must be transmitted to the Title IV-D agency for deposit in the Child Support Enforcement Application and Program Revenue Trust Fund.

(9) PENALTIES.—All depositories must participate in the State Disbursement Unit and the non-Title IV-D component of the State Case Registry as provided in this chapter. If a depository fails to comply with this requirement or with any material contractual term or other state or federal requirement, the failure constitutes misfeasance which subjects the county officer or officers responsible for the depository to suspension under Article IV of the State Constitution. The department shall report any continuing acts of misfeasance by a depository to the Governor and Cabinet, and to the Florida Association of Court Clerks.

(10) WITHHOLDING PAYMENT UNDER CONTRACTS.—If the Florida Association of Court Clerks, its agent, a subcontractor, or a depository does not comply with any material contractual term or state or federal requirement, the department may withhold funds otherwise due under the individual contract with the Florida Association of Court Clerks or the individual cooperative agreement with the depository, or both, at the department's election, to enforce compliance. The department shall provide written notice of noncompliance before withholding funds. Within 10 business days after receipt of written notification of noncompliance, the department must be provided with a written proposed corrective action plan. Within 10 business days after receipt of a corrective action plan, the department shall accept the plan or allow 5 business days within which a revised plan may be submitted. Upon the department's acceptance of a corrective action plan, the agreed-upon plan must be fully completed within 30 business days unless a longer period is permitted by the department. If a proposed corrective action plan is not submitted, is not accepted, or is not fully completed, any funds withheld by the department for noncompliance are forfeited to the department. Withholding or forfeiture of funds may be contested by filing a petition or request for a hearing under the applicable provisions of chapter 120. For the purposes of this section, no party to a dispute involving less than $5,000 in withheld or forfeited funds is deemed to be substantially affected by the dispute or to have a substantial interest in the decision resolving the dispute.

Section 45. *Subsection (1) and paragraph (b) of subsection (2) of section 382.013, Florida Statutes, as amended by chapter 97-170, Laws of Florida, is hereby repealed.*

Section 46. This act shall take effect July 1, 1998, except that section 1 shall take effect October 1, 1998.

And the title is amended as follows:

On page 6, line 18, through page 7, line 19, delete those lines and insert: A bill to be entitled An act relating to social welfare; providing legislative intent and findings; providing for demonstration projects to be implemented which require drug screening and possibly drug testing for individuals who apply for temporary assistance or services under the "Work and Gain Economic Self-sufficiency (WAGES) Act"; providing for expiration of the demonstration projects unless reauthorized by the Legislature; directing the Department of Children and Family Services to implement the demonstration projects in specified local WAGES coalitions; requiring certain notice; providing procedures for screening, testing, retesting, and appeal of test results; providing for notice of local substance abuse programs; providing that, if a parent is deemed ineligible due to a failure of a drug test, the eligibility of the children of the parent will not be affected; requiring the department to provide for substance abuse treatment programs for certain persons; giving the Department of Children and Family Services rulemaking authority; specifying circumstances resulting in termination of temporary assistance or services; requiring the department and the local WAGES coalitions to evaluate the demonstration projects and report to the WAGES Program State Board of Directors and the Legislature; providing that, in the event of conflict, federal requirements and regulations control; amending s. 61.13, F.S.; requiring child support orders to apportion certain medical expenses; providing requirements for notice and service of process; amending s. 61.1301, F.S.; revising

provisions relating to income deduction orders and notices; amending s. 61.181, F.S.; requiring evaluation of certain child support enforcement demonstration projects; requiring a report; amending s. 61.30, F.S.; requiring certain information to accompany child support determinations; providing a limitation on retroactive awards; amending s. 69.041, F.S.; authorizing Department of Revenue participation in mortgage foreclosures based upon interests in a child support lien; amending ss. 319.24 and 409.2575, F.S.; authorizing the director of the state child support enforcement program to delegate certain responsibilities with respect to motor vehicle liens; amending s. 319.32, F.S.; providing a fee for motor vehicle liens; amending ss. 372.561 and 372.57, F.S.; requiring applicants for certain game and freshwater fish licenses to provide social security numbers; amending s. 372.574, F.S.; providing for confidentiality of records contained in records of subagents; amending s. 382.008, F.S.; requiring death and fetal death registrations to include social security numbers, if available; restricting use of such numbers; amending s. 382.013, F.S.; providing for certain use of birth registration information; providing certain notice relating to paternity affidavits; amending s. 409.2557, F.S.; providing specific rulemaking authority; creating s. 409.2558, F.S.; providing for the department's distribution and disbursement of child support payments; creating s. 409.2559, F.S.; providing for establishment of a state disbursement unit; amending s. 409.2561, F.S., relating to child support obligations when public assistance is paid; amending s. 409.2564, F.S., relating to subpoenas in child support actions; providing for challenges; providing for enforcement; providing for fines; amending s. 409.25641, F.S.; providing for processing of automated administrative enforcement requests; creating s. 409.25658, F.S.; providing for use of certain unclaimed property for past-due child support; providing duties of the department and the Department of Banking and Finance; providing for notice and hearings; amending ss. 409.2567, 409.2578, and 443.051, F.S.; correcting and conforming references; amending ss. 409.2572, 414.095, and 414.32, F.S.; providing for determinations of good cause for failure to cooperate with the child support enforcement agency; amending ss. 409.2576 and 455.213, F.S.; clarifying conditions for disclosure of social security numbers; amending s. 409.2579, F.S.; revising provisions which limit or prohibit disclosure of the identity and whereabouts of certain persons; providing a penalty; amending s. 443.1715, F.S., relating to disclosure of wage and unemployment compensation information; amending s. 741.04, F.S., relating to information required for issuance of a marriage license; amending s. 742.032, F.S., relating to requirements for notice and service of process; amending s. 61.14, F.S.; prohibiting deductions by local depositories for certain costs and fees until the total due the obligee has been paid; amending s. 61.046, F.S.; revising definitions; amending s. 61.181, F.S.; providing for processing of certain central depository payments through the Department of Revenue's State Disbursement Unit; continuing a fee through a specified date; providing for the use of funds; creating s. 61.1824, F.S.; providing for a State Disbursement Unit; providing responsibilities; creating s. 61.1825, F.S.; providing for operation of a State Case Registry; providing requirements; creating s. 61.1826, F.S.; providing legislative findings; providing for department cooperative agreements and contracts for operation of the State Disbursement Unit and the non-Title IV-D component of the State Case Registry; providing contract requirements; providing for performance reviews; requiring a report; providing for termination of contracts under specified conditions; providing for report of program income; providing penalties; authorizing the department to withhold funds for noncompliance with contractual terms; requiring notice; providing for a corrective action plan; repealing s. 382.013(1) and (2)(b), F.S., as amended by ch. 97-170, Laws of Florida, to clarify legislative intent with respect to conflicting enactments; providing effective dates.

Representative(s) Arnall offered the following:

House Amendment 1 to unengrossed Senate Amendment 1—
On page 38, lines 15-20,
remove from the amendment: all of said lines

Rep. Arnall moved the adoption of the amendment to the amendment, which was adopted.

Representative(s) Arnall offered the following:

House Amendment 2 to unengrossed Senate Amendment 1—
On page 3, line 12,
remove from the amendment: *The obligee or, in*

and insert in lieu thereof: *In*

Rep. Arnall moved the adoption of the amendment to the amendment, which was adopted.

On motion by Rep. Arnall, the House concurred in unengrossed Senate Amendment 1, as amended. The question recurred on the passage of CS/CS/HB 271. The vote was:

Yeas—100

The Chair	Cosgrove	Kosmas	Rojas
Albright	Crady	Lacasa	Safley
Alexander	Crist	Lawson	Sanderson
Andrews	Crow	Littlefield	Saunders
Argenziano	Culp	Livingston	Sembler
Arnall	Diaz de la Portilla	Lynn	Sindler
Arnold	Dockery	Mackenzie	Smith
Bainter	Edwards	Mackey	Spratt
Ball	Fasano	Maygarden	Stabins
Barreiro	Feeney	Melvin	Stafford
Betancourt	Fischer	Merchant	Starks
Bitner	Flanagan	Minton	Sublette
Boyd	Fuller	Morroni	Tamargo
Bradley	Futch	Morse	Thrasher
Brennan	Gay	Murman	Tobin
Bronson	Goode	Ogles	Trovillion
Brooks	Greene	Peaden	Turnbull
Brown	Hafner	Posey	Valdes
Bullard	Harrington	Prewitt, D.	Villalobos
Burroughs	Healey	Pruitt, K.	Wallace
Byrd	Heyman	Putnam	Warner
Carlton	Horan	Rayson	Westbrook
Casey	Jones	Reddick	Wiles
Clemons	Kelly	Ritchie	Wise
Constantine	King	Rodriguez-Chomat	Ziebarth

Nays—17

Bloom	Effman	Logan	Silver
Bush	Frankel	Meek	Wasserman Schultz
Chestnut	Gottlieb	Miller	
Dawson-White	Hill	Ritter	
Dennis	Jacobs	Roberts-Burke	

So the bill passed, as amended. The action, together with the bill and amendments thereto, was immediately certified to the Senate.

CS/HB 945 was temporarily postponed under Rule 147.

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS/HB 3035, with amendment, and requests the concurrence of the House.

Faye W. Blanton, Secretary

CS/HB 3035—A bill to be entitled An act for the relief of Freddie Lee Pitts and Wilbert Lee; providing for a hearing to be conducted by the Division of Administrative Hearings; requiring the Department of Legal Affairs to represent the state; providing a contingent appropriation to compensate Freddie Lee Pitts and Wilbert Lee, if appropriate; providing a contingent appropriation for the payment of attorneys' fees; providing an effective date.

Senate Amendment 1—Delete everything after the enacting clause

and insert:

Section 1. *This act may be cited as the "Maurice Rosen Act."*

Section 2. *The Division of Administrative Hearings is directed to appoint an administrative law judge to conduct a hearing and determine whether a basis for equitable relief exists for the purpose of compensating claimants Freddie Lee Pitts and Wilbert Lee for any wrongful act or omission of the State of Florida, or officials thereof, which affected the*

fundamental fairness of the criminal proceedings against the claimants and resulted in their convictions. In conducting the hearing, the administrative law judge shall review the trial and appellate record of the criminal cases against the claimants, the record of the legislative proceedings, and the Cabinet pardon proceedings and shall report on the fundamental fairness thereof. The Department of Legal Affairs is directed to provide representation for the State of Florida.

Section 3. *If the administrative law judge determines by a preponderance of the evidence that the State of Florida, or officials, thereof, committed a wrongful act and that a basis for equitable relief exists, the administrative law judge is authorized to award claimants Freddie Lee Pitts and Wilbert Lee the amount of $500,000 each. The determination of the administrative law judge shall be reported to the President of the Florida Senate and the Speaker of the Florida House of Representatives no later than July 1, 1998. The Comptroller is authorized to draw a warrant in satisfaction of the relief awarded by the administrative law judge as provided in this act, and the State Treasurer is directed to pay the same out of funds appropriated in section 4 of this act.*

Section 4. *The amount of $1,250,000 is hereby appropriated from the General Revenue Fund in the State Treasury to fund any amounts awarded to Freddie Lee Pitts and Wilbert Lee pursuant to this act, including amounts awarded pursuant to section 5 of this act.*

Section 5. *In addition to any funds awarded to claimants, if the claimants are determined to be prevailing parties, the administrative law judge is authorized to award a reasonable attorney's fee including all costs to the claimants in an amount not to exceed 25 percent of the compensation awarded.*

Section 6. This act shall take effect upon becoming a law.

On motion by Rep. Meek, the House concurred in Senate Amendment 1.

REPRESENTATIVE WARNER IN THE CHAIR

The question recurred on the passage of CS/HB 3035. The vote was:

Yeas—105

The Chair	Dawson-White	King	Rojas
Albright	Dennis	Kosmas	Safley
Alexander	Diaz de la Portilla	Lacasa	Sanderson
Argenziano	Edwards	Lawson	Saunders
Arnall	Effman	Littlefield	Sembler
Arnold	Eggelletion	Livingston	Silver
Bainter	Fasano	Logan	Sindler
Barreiro	Feeney	Lynn	Spratt
Betancourt	Fischer	Mackenzie	Stabins
Bitner	Flanagan	Mackey	Stafford
Bloom	Frankel	Meek	Starks
Boyd	Fuller	Miller	Tamargo
Bradley	Futch	Minton	Thrasher
Brennan	Garcia	Morse	Tobin
Brooks	Gay	Murman	Trovillion
Brown	Goode	Ogles	Turnbull
Bullard	Gottlieb	Peaden	Valdes
Bush	Greene	Posey	Villalobos
Byrd	Hafner	Prewitt, D.	Wallace
Carlton	Harrington	Pruitt, K.	Wasserman Schultz
Casey	Healey	Putnam	Webster
Chestnut	Heyman	Rayson	Wiles
Constantine	Hill	Reddick	Wise
Cosgrove	Horan	Ritchie	Ziebarth
Crist	Jacobs	Ritter	
Crow	Jones	Roberts-Burke	
Culp	Kelly	Rodriguez-Chomat	

Nays—11

Ball	Dockery	Merchant	Sublette
Burroughs	Maygarden	Morroni	Westbrook
Crady	Melvin	Smith	

Votes after roll call:
Nays—Andrews, Clemons

So the bill passed, as amended. The action was immediately certified to the Senate and the bill was ordered enrolled after engrossment.

THE SPEAKER IN THE CHAIR

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS/HB 747 and CS/HB 1381; passed CS/CS/CS/HB 3075 by the required Constitutional three-fifths vote of the membership; passed CS/HB 4147 and HBs 4261, 4315, and 4833.

Faye W. Blanton, Secretary

The above bills were ordered enrolled.

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has concurred in House Amendment 1 to Senate Amendment 1 and passed CS/HB 823, as amended; receded from Senate Amendment 2 and passed CS/HB 3107, as amended.

Faye W. Blanton, Secretary

The above bills were ordered enrolled after engrossment.

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has concurred in the House amendments and passed CS for SB 244; CS for CS for SB 484; CS for SB 812; CS for SB 1054; and CS for SB 1144, as further amended; CS for CS for SB 1406, as amended; CS for SB 1458; and SB 1944, as further amended.

Faye W. Blanton, Secretary

Motion to Adjourn

Rep. Thrasher moved that the House adjourn for the purpose of holding committee meetings and conducting other House business, to reconvene at 8:30 a.m., Friday, May 1. The motion was agreed to.

Recorded Votes

Rep. Alexander:

Yea—CS/HB 3535; CS/HB 3663; HB 4673; HB 4795

Rep. Arnold:

Yea—CS for SB 244; passage of CS/HB 823 after concurrence in Senate Amendment 1, as amended; passage of CS/HB 1213 after concurrence in Senate amendment(s); passage of CS/CS/HB 3229 after concurrence in Senate amendment(s)

Rep. Barreiro:

Yea—CS for SB 244; passage of CS/HB 3671 after concurrence in Senate Amendment 1, as amended; passage of HB 3951 after concurrence in Senate amendment(s)

Rep. Bloom:

Yea—CS for SB 244

Rep. Boyd:

Yea—CS/HB 4267

Rep. Brennan:

Yea—CS for SB 368

Rep. Carlton:

Yea—SB 756; passage of HB 3125 after concurrence in Senate amendment(s); passage of CS/CS/HB 3229 after concurrence in Senate amendment(s)

Rep. Chestnut:

Change from Yea to Nay—passage of CS/HB 3065 after concurrence in Senate amendment(s)

Rep. Cosgrove:

Yea—CS for SB 244; CS for SB 498

Rep. Diaz de la Portilla:

Yea—CS for SB 28; passage of CS/HB 209 after concurrence in Senate amendment(s); CS for SB's 312 & 2298; passage of CS/CS/HB 315 after concurrence in Senate amendment(s); CS for SB 552; SB 704; passage of HB 755 after concurrence in Senate amendment(s); CS for SB 1230; CS for SB 1564; CS for SB 1684; CS for SB 1710; CS for CS for SB 1796; CS for SB 1992; passage of CS/HB 3085 after concurrence in Senate amendment(s); passage of HB 3509 after concurrence in Senate Amendments 1, 3, 4, and 6 and Senate Amendment 5, as amended; passage of HB 3737 after concurrence in Senate amendment(s); HB 4155; passage of CS/CS/HB 4407 after concurrence in Senate Amendment 1, as amended; passage of HB 4837 after concurrence in Senate amendment(s)

Rep. Mackenzie:

Yea—CS for CS for SB 1366

Rep. Ogles:

Change from Nay to Yea—CS/HB 1889

Rep. Rodriguez-Chomat:

Yea—CS for SB 1450

Rep. Starks:

Yea—CS for SB 244

Nay—CS for SB 152

Rep. Sublette:

Yea—SB 704; HB 4155

Rep. Turnbull:

Yea—CS for SB's 312 & 2298; CS for SB 552; SB 704; CS for SB 1684; CS for SB 1992; passage of HB 3737 after concurrence in Senate amendment(s)

Change from Nay to Yea—HB 1269

Rep. Wiles:

Change from Nay to Yea—CS for SB 152

Introduction and Reference

By Representative Lippman—

HM 4841—A memorial to the President and Congress of the United States, urging the President and Congress to seek certain commitments from the governments of Poland, Hungary, and the Czech Republic regarding payment of insurance benefits owed by the state-owned insurance companies of these countries to victims of the Nazis and to the beneficiaries and heirs of these victims.

First reading by publication (Art. III, s. 7, Florida Constitution).

Enrolling Reports

CS/HB 4147 has been enrolled, signed by the required constitutional officers, and presented to the Governor on April 30, 1998.

John B. Phelps, Clerk

Communications

The Governor advised that he had filed in the Office of the Secretary of State HB 4205, which became law on April 30 without his signature.

Excused

Rep. Lippman

Conference Committee Managers Excused

The following Conference Committee Managers were excused from time to time: CS/SB 874 (tort reform): Rep. Warner (Chair), Rep. Clemons, Rep. Thrasher, Rep. Byrd, Rep. Safley, Rep. Bradley, Rep. Bitner, and Rep. Lippman (alternate).

Adjourned

Pursuant to the motion previously agreed to, the House adjourned at 5:54 p.m., to reconvene at 8:30 a.m., Friday, May 1.