

IN THE SUPREME COURT OF FLORIDA

**IN RE: AMENDMENTS TO THE FLORIDA
RULES OF JUVENILE PROCEDURE
(2009 LEGISLATIVE AMENDMENTS)**

CASE NO:

**LEGISLATIVE FAST-TRACK REPORT OF
THE JUVENILE COURT RULES COMMITTEE**

Charles H. Davis, Chair, Juvenile Court Rules Committee, and John F. Harkness, Jr., Executive Director, The Florida Bar, file this 2009 fast-track legislative report of the Juvenile Court Rules Committee, as requested by Clerk Thomas D. Hall in his letter of May 28, 2009. (See Appendix A.) The proposed amendments have been approved by the Committee and the voting record is shown with the discussion of each amendment. They have also been approved by the The Florida Bar Board of Governors by a vote of 38-0. The amendments are attached in full-page format in Appendix B and in the two-column format in Appendix C. The specific amendments and the reasons for each are as follows.

Rule 8.292, Appointment and Discharge of Surrogate Parent.

Section 39.0016(3), Florida Statutes, created by section 1 of Chapter 2009-35, Laws of Florida (see Appendix D), provides for appointment of a surrogate parent for a dependent child with educational disabilities to ensure that the child receives appropriate educational services under the Individuals

with Disabilities Education Act, 20 U.S.C. § 1400 *et seq.* *Rule 8.292* creates a procedure for appointment and discharge of a surrogate parent as provided in section 39.0016(3)(b), Florida Statutes. The committee vote on this new rule was 28-0-0.

Rule 8.305, Shelter Hearing, Petition, And Order. Section 3 of Chapter 2009-35, Laws of Florida, created sections 39.402(11)(b)–(11)(c), Florida Statutes, to require that the court request that parents provide access to a child’s medical and educational records when the child is being placed in shelter. *Rules 8.305(b)(11)–(b)(12)* have been created to include these provisions in the list of the court’s responsibilities at the shelter hearing.

Section 3 of Chapter 2009-35, Laws of Florida, also created section 39.402(11)(d), Florida Statutes, to provide for appointment of a surrogate parent at the shelter hearing. That provision has been incorporated into *Rule 8.305(b)(13)*.

The committee vote on this rule was 28-0-0.

Form 8.958, Order Appointing Surrogate Parent. This new form provides an order for the court’s use in appointing a surrogate parent for a child who has or is suspected of having an educational disability. It conforms to section 39.0016(3), Florida Statutes, as created by section 1,

Chapter 2009-35, Laws of Florida. The committee vote on this new form was 23-0-0.

Form 8.961. Shelter Order. Item 9 in the findings section and item 8 in the ordered and adjudged section of the Shelter Order have been amended to add provisions notifying relatives providing out-of-home care for children of their right to attend hearings, submit reports to the court, and speak to the court regarding the children. This amendment tracks language added as section 39.402(8)(h)8, Florida Statutes, by section 7 of Chapter 2009-43, Laws of Florida (see Appendix E). The committee vote on this amendment was 25-0-0.

In item 9., Relative Placement, of the findings section of the form blanks are missing before the listed items. They are also missing from the last amendment to the form in *In re Amendments to the Florida Rules of Juvenile Procedure*, 951 So. 2d 804 (Fla. 2007). As with the preceding sections of this form, they should be there and have been added.

Form 8.961(a). Order Authorizing Access to Child's Medical and Educational Records. The committee has created a new form order authorizing release of a child's medical and educational records to the Department of Children and Family Services, its contract agencies, the

guardian ad litem, and the child's attorney. This amendment conforms to amendments to section 39.402(11), Florida Statutes, by section 3 of Chapter 2009-35, Laws of Florida (see Appendix D). The committee chose to create a new form rather than amending the shelter order because it believed that information in the shelter order about the circumstances of the dependency allegations should not be shared with medical or educational providers.

The Juvenile Court Rules Committee respectfully requests that the Court amend the Florida Rules of Juvenile Procedure as provided in this report.

Respectfully submitted _____.

CHARLES HUGH DAVIS

Chair

Juvenile Court Rules Committee

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APPENDIX A



Supreme Court of Florida

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TANYA CARROLL
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May 28, 2009

Mr. John G. White, III
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Mr. John F. Harkness, Jr.
Executive Director, The Florida Bar
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Re: Rule Changes Required by New Legislation

Dear Mr. White and Mr. Harkness:

This letter is to advise you about legislation passed during the 2009 session that may impact court rules or require rule changes. The attached chart identifies as specifically as possible rules potentially impacted by new legislation, and states the projected effective date of each new law. Action by the Governor is still required for many of these bills. Expedited review of this legislation by the appropriate rules committees will ensure that rules are adopted by the Supreme Court before the effective date of new laws.

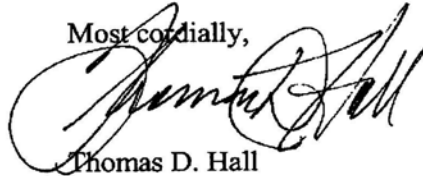
As in the past, the court requests that rules committees, in drafting rules in response to new legislation, not simply restate legislation as a rule, but instead consider whether a rule is needed to implement substantive law provisions. If legislation contains procedures, rules committees should not feel constrained to

Mr. John G. White, II.
Mr. John F. Harkness, Jr.
May 18, 2009
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automatically propose rule language that mirrors procedures suggested by the Legislature.

Please do not hesitate to call me if you have questions.

Most cordially,



Thomas D. Hill

TDH/vbv
Enclosure

cc: Honorable Peggy A. Quince, Chief Justice
John S. Mills, Chair, Appellate Court Rules Committee
Ms. Marianne A. Trussell, Chair, Civil Procedure Rules Committee
Dominic C. Mackenzie, Chair, Code and Rules of Evidence Committee
Hon. Thomas H. Bateman, III, Chair, Criminal Procedure Rules Committee
Robyn L. Vines, Chair, Family Law Rules Committee
Hon. Lisa Davidson, Chair, Judicial Ethics Advisory Committee
David N. Silverstein, Chair, Juvenile Procedure Rules Committee
Frank T. Pilotte, Chair, Probate Rules Committee
Scott M. Dimond, Chair, Rules Of Judicial Administration Committee
Hon. Debra Roberts, Chair, Small Claims Rules Committee
Kathy A. Jimenez-Morales, Chair, Traffic Court Rules Committee
Tracy Raffles Gunn, Chair, Standard Jury Instructions - Civil Cases
Hon. Thomas B. Smith, Chair, Standard Jury Instructions – Contract &
Business Cases
Hon. Lisa T. Munyon, Chair, Standard Jury Instructions - Criminal Cases
Ricardo "Rick" Morales, Chair, Workers' Compensation Rules Advisory
Committee
✓ Paul Hill, General Counsel, The Florida Bar
Lisa Goodner, State Courts Administrator
Brenda Johnson, Director of Community & Intergovernmental Relations
Laura Rush, General Counsel
Deborah J. Meyer, Director of Central Staff

APPENDIX B

**RULE 8.292 APPOINTMENT AND DISCHARGE OF
SURROGATE PARENT**

(a) Appointment. Unless appointed by the district school superintendent, the court must appoint a surrogate parent for a child known to the department who has or is suspected of having a disability when

(1) after reasonable efforts, no parent can be located; or

(2) a court of competent jurisdiction over a child under Chapter 39, Florida Statutes, has determined that no person has the authority under the Individuals with Disabilities Education Act, including the parent or parents subject to the dependency action or no person has the authority, willingness, or ability to serve as the educational decision maker for the child without judicial action.

(b) Who May Be Appointed. The surrogate parent must meet the minimum criteria established by law.

(c) Recognition of Surrogate Parent. The dependency court and school district must recognize the initial individual appointed as surrogate parent.

(d) Duties and Responsibilities. The surrogate parent must be acquainted with the child and become knowledgeable about the child's disability and educational needs and

(1) must represent the child in all matters relating to identification, evaluation, and educational placement and the provision of a free and appropriate education to the child;

(2) must represent the interests and safeguard the rights of the child in educational decisions that affect the child, and enjoy all the procedural safeguards afforded a parent regarding the identification, evaluation, and educational placement of a student with a disability or a student who is suspected of having a disability; and

(3) does not have the authority to represent the interests of the child regarding the child's care, maintenance, custody, residential

placement, or any other area not specifically related to the education of the child, unless the same person is appointed by the court for these other purposes.

(e) Notice of Appointment. When the court appoints a surrogate parent, notice must be provided as soon as practicable to the child's school.

(f) Substitution or Discharge. The court may, through a determination of the best interest of the child or as otherwise established by law, find that it is appropriate to substitute or discharge the surrogate parent. The surrogate parent must continue in the appointed role until discharged.

RULE 8.305. SHELTER PETITION, HEARING, AND ORDER

(a) Shelter Petition. If a child has been or is to be removed from the home and maintained in an out-of-home placement for more than 24 hours, the person requesting placement shall file a written petition that shall:

- (1) specify the name, address, date of birth, and sex of the child or, if unknown, designate the child by any name or description by which he or she can be identified with reasonable certainty;
- (2) specify the name and address, if known, of the child's parents or legal custodian and how each was notified of the shelter hearing;
- (3) if the child has been removed from the home, state the date and time of the removal;
- (4) specify that the child is of an age subject to the jurisdiction of the court;
- (5) state the reasons the child needs to be placed in a shelter;
- (6) list the reasonable efforts, if any, that were made by the department to prevent or eliminate the need for the removal or continued removal of the child from the home or, if no such efforts were made, a description of the emergency that prevented these efforts;
- (7) recommend where the child is to be placed or the agency to be responsible for placement; and
- (8) be signed by the petitioner and, if represented by counsel, by the petitioner's attorney.

(b) Shelter Hearing.

(1) The parents or legal custodians of the child, shall be given actual notice of the date, time, and location of the shelter hearing. If the parents are outside the jurisdiction of the court, are not known, 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 shelter hearing. If the parents or legal custodians are not present at the hearing, the

person providing, or attempting to provide, notice to the parents or legal custodians shall advise the court in person or by sworn affidavit of the attempts made to provide notice and the results of those attempts.

(2) The court shall conduct an informal hearing on the petition within the time limits provided by law. The court shall determine at the hearing the existence of probable cause to believe the child is dependent and whether the other criteria provided by law for placement in a shelter have been met. The shelter hearing may be continued for up to 72 hours with the child remaining in shelter care if either:

(A) the parents or legal custodians appear for the shelter hearing without legal counsel and request a continuance to consult with legal counsel; or

(B) the court determines that additional time is necessary to obtain and review documents pertaining to the family to appropriately determine the risk to the child.

(3) The issue of probable cause shall be determined in a nonadversarial manner, applying the standard of proof necessary for an arrest warrant.

(4) At the hearing, all interested persons present shall have an opportunity to be heard and present evidence on the criteria for placement provided by law.

(5) The court may base its determination on a sworn complaint, testimony, or an affidavit and may hear relevant and material evidence, including oral and written reports, to the extent of its probative value even though it would not be competent at an adjudicatory hearing.

(6) The court shall advise the parent or legal custodian of:

(A) the right to be represented by counsel as provided by law;

(B) the reason the child is in custody and why continued placement is requested;

(C) the right to present placement alternatives; and

(D) the time, date, and location of the next hearing and of the importance of the parents' or legal custodians' active participation in subsequent proceedings and hearings.

(7) The court shall appoint:

(A) a guardian ad litem to represent the child unless the court finds representation unnecessary;

(B) an attorney ad litem to represent the child if the court finds the appointment necessary and authorized by law; and

(C) an attorney for indigent parents unless waived by the parent.

(8) The court shall determine visitation rights absent a clear and convincing showing that visitation is not in the best interest of the child.

(9) The court shall inquire of the parents whether the parents have relatives who might be considered for placement of the child. The parents shall provide to the court and all parties identification and location information regarding the relatives. The court shall advise the parents that the parents have a continuing duty to inform the department of any relative who should be considered for placement of the child.

(10) The court shall advise the parents that if the parents fail to substantially comply with the case plan their parental rights may be terminated and the child's out-of-home placement may become permanent.

(11) The court must request that the parents consent to provide access to the child's medical and educational records and provide information to the court, the department, or its contract agencies, and any guardian ad litem or attorney for the child. If a parent is unavailable, is unable to consent, or withholds consent and the court determines access to the records and information is necessary to provide services for the child, the court shall issue an order granting access.

(12) The court may order the parents to provide all known

medical information to the department and to any others granted access.

(13) If the child has or is suspected of having a disability and the parent is unavailable pursuant to law, the court must appoint a surrogate parent or refer the child to the district school superintendent for appointment of a surrogate parent.

~~(11)~~(14) If the shelter hearing is conducted by a judge other than a judge assigned to hear dependency cases, a judge assigned to hear dependency cases shall hold a shelter review on the status of the child within 2 working days after the shelter hearing.

(c) **Shelter Order.** An order granting shelter care must identify the parties present at the hearing and contain written findings that:

- (1) placement in shelter care is necessary based on the criteria provided by law;
- (2) placement in shelter care is in the best interest of the child;
- (3) 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 that cannot be mitigated by the provision of preventative services;
- (4) there is probable cause to believe the child is dependent;
- (5) the department has made reasonable efforts to prevent or eliminate the need for removal of the child from the home, including a description of which specific services, if available, could prevent or eliminate the need for removal or continued removal from the home, the date by which the services are expected to become available, and, if services are not available to prevent or eliminate the need for removal or continued removal of the child from the home, an explanation of why the services are not available for the child;
- (6) the court notified the parents or legal custodians of the time, date, and location of the next dependency hearing, and of the importance of their active participation in all subsequent proceedings and

hearings; and

(7) the court notified the parents or legal custodians of their right to counsel as provided by law.

(d) Release from Shelter Care. No child shall be released from shelter care after a shelter order has been entered except on order of the court unless the shelter order authorized release by the department.

ORDER APPOINTING SURROGATE PARENT FOR DEPENDENT CHILD WHO HAS OR IS SUSPECTED OF HAVING A DISABILITY

The court finds that:

1. The child has, or is suspected of having, a disability as defined in the Individuals with Disabilities in Education Act (“IDEA”) and F.S. 1003.01(3).

2. A surrogate parent is needed to act in the place of a parent in educational decision-making and in safeguarding the child’s rights under the IDEA.

3. The child is entitled, under the Individuals with Disabilities in Education Act (“IDEA”), 20 U.S.C. §1415(b)(2); 34 C.F.R. §§300.515 and 303.406; F.S. 39.0016(3)-(4), 39.4085(17); and Fla. Admin. Code 6A-6.0333, to the assistance of a surrogate parent because (check all that apply):

- Parental rights have been terminated
- Parents cannot be located
- No parent is available to make education decisions related to the child’s disability
- Foster parent is unwilling or unable to make educational decisions related to the child’s disability
- Relative or non-relative caregiver is unwilling or unable to make educational decisions related to the child’s disability
- Child resides in a group home or therapeutic foster home
- Other:

ACCORDINGLY, it is ORDERED that:

1.(Name)..... is appointed as a surrogate parent for(child’s name).....

2. The surrogate parent named above has the following rights, duties, and responsibilities:

- a. to request or respond to requests for evaluations of the child;
- b. to review and keep confidential the child’s educational records;
- c. to request and participate in school meetings including Individual Education Plan (IEP) meetings;
- d. to express approval or disapproval of a child’s educational placement or IEP;
- f. to monitor the child’s educational development;
- g. to help the child access available and needed educational services;
- h. to aid the child in securing all rights provided the child under the IDEA;

- i. to meet the child face-to-face
- j. to be afforded all of the due process rights parents hold under the IDEA

3. The surrogate parent may also do the following: (check all that apply)

..... attend appropriate court hearings to address the educational needs of the child. The surrogate parent will be provided notice of all dependency court hearings.

..... attend dependency staffings. The community-based care provider will invite the surrogate parent to all permanency staffings and any other staffings when the child's educational needs will be addressed. See F.A.C. 65C-28.006.

.....

.....

4. As to issues affecting the provision of a Free Appropriate Public Education, principals, teachers, administrators, and other employees of the County Public Schools shall communicate with the surrogate parent and accept the requests or decisions of the surrogate parent in the same manner as if he or she were the child's parent.

5. Unless the court explicitly orders otherwise, the surrogate parent does not have the right and responsibility to register the child in school, and grant or withhold consent for ordinary school decisions not related to IDEA (such as field trips, sports and club activities, medical care, etc.).

6. The surrogate parent must have access to and keep confidential the child's records including, but not limited to, records from the school system, community-based care provider or agency, and any mental health or medical evaluations or assessments.

7. By law, the surrogate parent has no liability for actions taken in good faith on behalf of the child in protecting the special education rights of the child.

ORDERED on(date)....., in, County, Florida.

Circuit Judge

Copies to:

County Public Schools c/o Director, Exceptional Student Education,
Surrogate parent named above

(Check all that apply)

..... Attorney for DCF:(name).....

..... DCF caseworker:(name).....

..... Guardian ad Litem:(name).....

..... Attorney for mother:(name).....

..... Attorney for father:(name).....

..... Attorney for child:(name).....

..... Child named above(name).....

..... Foster parent:(name).....

..... Relative caregiver:(name).....

..... Child's principal:(name)..... at School

..... Other:

..... Other:

FORM 8.961. SHELTER ORDER

ORDER FOR PLACEMENT IN SHELTER

THIS CAUSE came on to be heard under chapter 39, Florida Statutes, on the sworn AFFIDAVIT AND PETITION FOR PLACEMENT IN SHELTER CARE filed by(petitioner's name)....., on(date).....The following persons appeared before the court:

- Petitioner
- Petitioner’s attorney
- Mother
- Father(s)
- Legal custodian(s)
- Guardian ad litem
- GAL attorney
- Other:

and the Court having reviewed its file and having been otherwise duly advised in the premises finds as follows:

1. The minor child(ren),, was/were found within the jurisdiction of this court and is/are of an age subject to the jurisdiction of this court.

2. PLACEMENT IN SHELTER.

..... The minor child(ren) was/were placed in shelter on(date)..... at a.m./p.m. by(name)....., a duly authorized agent of the department.

..... The minor child(ren) need(s) to be placed in shelter at the request of the petitioner for the reasons stated in this order.

3. PARENTS/CUSTODIANS. The parents/custodians of the minor child(ren) are:

Name	Address
Mother:
Father of(child's name).....:	
.....
Other:(relationship and to which child).....	
.....

4. INABILITY TO NOTIFY AND/OR LOCATE PARENTS/CUSTODIANS. The petitioner has made a good faith effort to notify and/or

locate, but was unable to notify and/or locate(name(s))....., a parent or legal custodian of the minor child(ren).

5. NOTIFICATION. Each parent/legal custodian not listed in #4 above was:

- duly notified that the child(ren) was/were taken into custody;
- duly notified to be present at this hearing;
- served with a statement setting forth a summary of procedures involved in dependency cases;
- advised of their right to counsel; and
 - was represented by counsel, (name).....
 - knowingly, voluntarily, and intelligently waived the right; or
 - the court declined to accept the waiver because
 - requested appointment of counsel, but the court declined appointment because he/she did not qualify as indigent.
 - requested appointment of counsel and counsel was appointed.

6. PROBABLE CAUSE.

- Based on the allegations in the Affidavit and Petition for Placement in Shelter, there is probable cause to believe that the child(ren) is/are dependent based on allegations of abuse, abandonment, or neglect or substantial risk of same.
- A finding of probable cause cannot be made at this time and the court requires additional information to determine the risk to the child(ren). The following information must be provided to the court during the continuation of this hearing:.....(information to be provided)..... This hearing is continued for 72 hours, until(date and time)..... The children will remain in shelter care.

7. NEED FOR PLACEMENT. Placement of the child(ren) in shelter care is in the best interest of the child(ren). Continuation in the home is contrary to the welfare of the child(ren) because the home situation presents a substantial and immediate danger which cannot be mitigated by the provision of preventive services and placement is necessary to protect the child(ren) as shown by the following facts:

- the child(ren) was/were abused, abandoned, or neglected, or is/are suffering from or in imminent danger of injury or illness as a result of abuse, abandonment, or neglect, specifically:
- the custodian has materially violated a condition of placement imposed by the court, specifically:

..... the child(ren) has/have no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care, specifically:
.....

8, REASONABLE EFFORTS.

..... Reasonable efforts to prevent or eliminate the need for removing the child(ren) from the home have been made by the department, which provided the following services to the family:

..... The following specific services, if available, could prevent or eliminate the need for removal or continued removal of the child from the home

..... The date these services are expected to be available is

..... The department is deemed to have made reasonable efforts to prevent or eliminate the need for removal from the home because:

..... The first contact with the department occurred during an emergency.

..... The appraisal of the home situation by the department indicates a substantial and immediate danger to the child(ren) which cannot be mitigated by the provision of preventive services.

..... The child(ren) cannot safely remain at home because no services exist that can ensure the safety of the child(ren). Services are not available because

..... Even with appropriate services, the child(ren)'s safety cannot be ensured.

9. RELATIVE PLACEMENT

..... The court asked any parents present whether the parents have relatives that might be considered as a placement for the child(ren)

..... The court advised any parents present that the parents have a continuing duty to inform the department of any relative who should be considered for placement of the child.

..... By this order, the court notifies the relatives who are providing out-of-home care for the child(ren) of the right to attend all subsequent hearings, to submit reports to the court, and to speak to the court regarding the child(ren), if they so desire.

It is, therefore, ORDERED AND ADJUDGED, as follows:

1. The child(ren) shall remain/be placed in the shelter custody of:

..... the department, with the department having the discretion to shelter the child(ren) with a relative or other responsible adult on completion of a positive homestudy, abuse registry, and criminal background checks.

..... Other:

2. The child(ren) may may not be returned to the parent/custodian without further order of this court.

3. The Guardian Ad Litem Program is appointed.
4. The parents, within 28 days of the date of this order , shall provide to the department the information necessary to accurately calculate child support under section 61.30, Florida Statutes. The parents shall pay child support in accordance with Florida Statutes.
5. The legal custodian, or in the absence of the legal custodian, the department and its agents, are hereby authorized to provide consent for and to obtain ordinary and necessary medical and dental treatment and examination for the above child(ren) including blood testing deemed medically appropriate, and necessary preventive care, including ordinary immunizations and tuberculin testing.
6. Visitation with the child(ren) shall be as follows:
7. The parents shall provide to the court and all parties identification and location information regarding potential relative placements.
8. The relatives who are providing out-of-home care for the child(ren) have the right to attend all subsequent hearings, to submit reports to the court, and to speak to the court regarding the child(ren), if they so desire.
89. **IF THE PARENTS FAIL TO SUBSTANTIALLY COMPLY WITH THE CASE PLAN, THEIR PARENTAL RIGHTS MAY BE TERMINATED AND THE CHILD(REN)'S OUT-OF-HOME PLACEMENT MAY BECOME PERMANENT.**
910. Special conditions:
4011. This court retains jurisdiction over this matter to enter any other and further orders as may be deemed to be in the best interest and welfare of this/these child(ren).
4412. If a Petition for Dependency is subsequently filed in this cause, **the Arraignment Hearing is scheduled for(date)...., at a.m./p.m. at(location of arraignment)..... The parents have a right to be represented by an attorney at the arraignment hearing and during the dependency proceedings.**

ORDERED in County, Florida on(date)....., at a.m./p.m.

Circuit Judge

FORM 8.961(a) ORDER AUTHORIZING ACCESS TO CHILD'S MEDICAL AND EDUCATIONAL RECORDS

ORDER AUTHORIZING ACCESS TO CHILD'S MEDICAL AND EDUCATIONAL RECORDS

THIS CAUSE came on to be heard under sec. 39.402, Florida Statutes, concerning access to the medical and educational records of, a child.

The Court finds:

A. As to medical records and information:

....., mother/father of, the child, consents to the entry of this order, and to the court's providing access to the child's medical records to the department, its contract agencies, and any guardian ad litem and attorney for the child, and to provide the child's medical information to the court.

No parent or legal guardian of the child is available or able to consent to the entry of this order, or the parents withhold consent to providing access to the child's medical records and/or to providing the requested medical information.

Access to the child's medical records and information is necessary to provide services to the child.

B. As to educational records and information:

....., mother/father of, the child, consents to the entry of this order, and to the court's providing access to the child's educational records to the department, its contract agencies, and any guardian ad litem and attorney for the child, and to provide the child's educational information to the court.

No parent or legal guardian of the child is available or able to consent to the entry of this order, or the parents withhold consent to providing access to the child's educational records and/or to providing the requested educational information.

Access to the child's educational records and information is necessary to provide services to the child.

Therefore, it is ORDERED:

The department,(name of CBC)....., its contract agencies,.....(name)....., guardian ad litem, and(name)....., attorney for child, are authorized to access(child's name)....'s medical and educational records and information, until further order of this court.

..... This order does not address the child's privacy rights to any of these records or information that may exist under Florida law. The child may assert to this court any objection under privacy rights to the release of this information.

ORDERED on(date)....., in, County, Florida.

Circuit Judge

Copies to:

(Check all that apply)

- Attorney for DCF:(name).....
- Caseworker:(name).....
- Guardian ad Litem:(name).....
- Attorney for mother:(name).....
- Attorney for father:(name).....
- Attorney ad litem for child:(name).....
- Child named above(name).....
- Other:
- Other:

APPENDIX C

Proposed rule

Reasons for change

RULE 8.292 APPOINTMENT AND DISCHARGE OF SURROGATE PARENT

(a) Appointment. Unless appointed by the district school superintendent, the court must appoint a surrogate parent for a child known to the department who has or is suspected of having a disability when

(1) after reasonable efforts, no parent can be located; or

(2) a court of competent jurisdiction over a child under Chapter 39, Florida Statutes, has determined that no person has the authority under the Individuals with Disabilities Education Act, including the parent or parents subject to the dependency action, or no person has the authority, willingness, or ability to serve as the educational decision maker for the child without judicial action.

(b) Who May Be Appointed. The surrogate parent must meet the minimum criteria established by law.

(c) Recognition of Surrogate Parent. The dependency court and school district must recognize the initial individual appointed as surrogate parent.

(d) Duties and Responsibilities. The surrogate

This new rule implements creation of section 39.0016(3), Florida Statutes, by section 1 of Chapter 2009-35, Laws of Florida. It provides for appointment of a surrogate parent to make educational decisions for a child known to have an educational disability, outlines duties and responsibilities of the surrogate parent, and provides for substitution or discharge of the surrogate parent. See also section 39.402(11)(d), Florida Statutes, as created by section 3, Chapter 2009-35, Laws of Florida.

parent must be acquainted with the child and become knowledgeable about the child's disability and educational needs and

(1) must represent the child in all matters relating to identification, evaluation, and educational placement and the provision of a free and appropriate education to the child;

(2) must represent the interests and safeguard the rights of the child in educational decisions that affect the child, and enjoy all the procedural safeguards afforded a parent regarding the identification, evaluation, and educational placement of a student with a disability or a student who is suspected of having a disability; and

(3) does not have the authority to represent the interests of the child regarding the child's care, maintenance, custody, residential placement, or any other area not specifically related to the education of the child, unless the same person is appointed by the court for these other purposes.

(e) **Notice of Appointment.** When the court appoints a surrogate parent, notice must be provided as soon as practicable to the child's school.

(f) **Substitution or Discharge.** The court may, through a determination of the best interest of the child or as otherwise established by law, find that it is appropriate to substitute or discharge the surrogate parent. The surrogate parent must continue in the appointed role until discharged.

Proposed rule

Reasons for change

RULE 8.305. SHELTER PETITION, HEARING, AND ORDER

(a) [No change]

(b) Shelter Hearing.

(1) The parents or legal custodians of the child, shall be given actual notice of the date, time, and location of the shelter hearing. If the parents are outside the jurisdiction of the court, are not known, 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 shelter hearing. If the parents or legal custodians are not present at the hearing, the person providing, or attempting to provide, notice to the parents or legal custodians shall advise the court in person or by sworn affidavit of the attempts made to provide notice and the results of those attempts.

(2) The court shall conduct an informal hearing on the petition within the time limits provided by law. The court shall determine at the hearing the existence of probable cause to believe the child is dependent and whether the other criteria provided by law for placement in a shelter have been met. The shelter hearing may be continued for up to 72 hours with the child remaining in shelter care if either:

(A) the parents or legal custodians appear for the shelter hearing without legal counsel and request

a continuance to consult with legal counsel; or

(B) the court determines that additional time is necessary to obtain and review documents pertaining to the family to appropriately determine the risk to the child.

(3) The issue of probable cause shall be determined in a nonadversarial manner, applying the standard of proof necessary for an arrest warrant.

(4) At the hearing, all interested persons present shall have an opportunity to be heard and present evidence on the criteria for placement provided by law.

(5) The court may base its determination on a sworn complaint, testimony, or an affidavit and may hear relevant and material evidence, including oral and written reports, to the extent of its probative value even though it would not be competent at an adjudicatory hearing.

(6) The court shall advise the parent or legal custodian of:

(A) the right to be represented by counsel as provided by law;

(B) the reason the child is in custody and why continued placement is requested;

(C) the right to present placement

alternatives; and

(D) the time, date, and location of the next hearing and of the importance of the parents' or legal custodians' active participation in subsequent proceedings and hearings.

(7) The court shall appoint:

(A) a guardian ad litem to represent the child unless the court finds representation unnecessary;

(B) an attorney ad litem to represent the child if the court finds the appointment necessary and authorized by law; and

(C) an attorney for indigent parents unless waived by the parent.

(8) The court shall determine visitation rights absent a clear and convincing showing that visitation is not in the best interest of the child.

(9) The court shall inquire of the parents whether the parents have relatives who might be considered for placement of the child. The parents shall provide to the court and all parties identification and location information regarding the relatives. The court shall advise the parents that the parents have a continuing duty to inform the department of any relative who should be considered for placement of the child.

(10) The court shall advise the parents that if the parents fail to substantially comply with the case plan their parental rights may be terminated and the child's out-of-home placement may become permanent.

(11) The court must request that the parents consent to provide access to the child's medical and educational records and provide information to the court, the department, or its contract agencies, and any guardian ad litem or attorney for the child. If a parent is unavailable, is unable to consent, or withholds consent and the court determines access to the records and information is necessary to provide services for the child, the court shall issue an order granting access.

(12) The court may order the parents to provide all known medical information to the department and to any others granted access.

(13) If the child has or is suspected of having a disability and the parent is unavailable pursuant to law, the court must appoint a surrogate parent or refer the child to the district school superintendent for appointment of a surrogate parent.

~~(11)~~(14) If the shelter hearing is conducted by a judge other than a judge assigned to hear dependency cases, a judge assigned to hear dependency cases shall hold a shelter review on the status of the child within 2 working days after the shelter hearing.

(c) [No changes]

Incorporates provisions of sections 39.402(11)(b)–(11)(c), Florida Statutes, as created by section 3 of Chapter 2009-35, Laws of Florida.

Incorporates provisions of sections 39.402(11)(c), Florida Statutes, as created by section 3 of Chapter 2009-35, Laws of Florida.

Incorporates provisions of section 39.402(11)(d), Florida Statutes, as created by section 3 of Chapter 2009-35, Laws of Florida.

(d) [No changes]

APPENDIX D

CHAPTER 2009-35

Committee Substitute for Committee Substitute for
Committee Substitute for Senate Bill No. 1128

An act relating to the education for children in shelter care or foster care and exceptional students; amending s. 39.0016, F.S.; defining the term “surrogate parent”; requiring the Department of Education and district school boards to access the Florida Safe Families Net-work to obtain information about children known to the Department of Children and Family Services; providing legislative intent; providing conditions and requirements for district school superintendent or court appointment of a surrogate parent for educational decisionmaking for a child who has or is suspected of having a disability; providing requirements for educational placement; providing requirements relating to qualifications and responsibilities of surrogate parents; limiting liability; amending s. 39.202, F.S.; providing for access to certain records to liaisons between school districts and the Department of Children and Family Services; amending s. 39.402, F.S.; requiring access to a child’s medical records and educational records if a child is placed in a shelter; authorizing appointment of a surrogate parent; amending s. 39.701, F.S.; requiring the court and citizen review panel in judicial reviews to consider testimony by a surrogate parent for educational decisionmaking; providing for additional deliberations relating to appointment of an educational decisionmaker; requiring certain documentation relating to the educational setting; amending s. 1003.21, F.S.; providing access to free public education for children known to the department; authorizing a temporary exemption relating to school attendance; amending s. 1003.22, F.S.; authorizing a temporary exemption from school-entry health examinations for children known to the department; amending s. 1003.57, F.S.; providing definitions; requiring the Department of Children and Family Services, the Agency for Health Care Administration, and residential facilities licensed by the Agency for Persons with Disabilities to notify certain school districts following the placement of an exceptional student in a private residential care facility; requiring that an exceptional student be enrolled in school; requiring review of the student’s individual educational plan; providing for determining responsibility for educational instruction; requiring the school district to report the student for funding purposes; requiring the Department of Education, in consultation with specified agencies, to develop procedures for the placement of students in residential care facilities; requiring the State Board of Education to adopt rules; requiring a cooperative agreement between the Department of Education and agencies, to be executed on or before January 1, 2010; prescribing conditions and requirements for the agreement; providing an effective date.

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

Section 1. Section 39.0016, Florida Statutes, is amended to read:

39.0016 Education of abused, neglected, and abandoned children; agency agreements; children having or suspected of having a disability.—

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

(a) “Children known to the department” means children who are found to be dependent or children in shelter care.

(b) “Department” means the Department of Children and Family Services or a community-based care lead agency acting on behalf of the Department of Children and Family Services, as appropriate.

(c) “Surrogate parent” means an individual appointed to act in the place of a parent in educational decisionmaking and in safeguarding a child’s rights under the Individuals with Disabilities Education Act and this section.

~~(2) The provisions of this section establish goals and not rights. This section does not require the delivery of any particular service or level of service in excess of existing appropriations. A person may not maintain a cause of action against the state or any of its subdivisions, agencies, contractors, subcontractors, or agents based upon this section becoming law or failure by the Legislature to provide adequate funding for the achievement of these goals. This section does not require the expenditure of funds to meet the goals established in this section except funds specifically appropriated for such purpose.~~

(2) AGENCY AGREEMENTS.—

~~(a)(3)~~—The department shall enter into an agreement with the Department of Education regarding the education and related care of children known to the department. Such agreement shall be designed to provide educational access to children known to the department for the purpose of facilitating the delivery of services or programs to children known to the department. The agreement shall avoid duplication of services or programs and shall provide for combining resources to maximize the availability or delivery of services or programs. The agreement must require the Department of Education to access the department’s Florida Safe Families Network to obtain information about children known to the department, consistent with the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. s. 1232g.

~~(b)(4)~~—The department shall enter into agreements with district school boards or other local educational entities regarding education and related services for children known to the department who are of school age and children known to the department who are younger than school age but who would otherwise qualify for services from the district school board. Such agreements shall include, but are not limited to:

1.(a)—A requirement that the department shall:

a.1.—Enroll children known to the department in school. The agreement shall provide for continuing the enrollment of a child known to the department at the same school, if possible, with the goal of avoiding disruption of education.

~~b.2.~~ Notify the school and school district in which a child known to the department is enrolled of the name and phone number of the child known to the department caregiver and caseworker for child safety purposes.

~~c.3.~~ Establish a protocol for the department to share information about a child known to the department with the school district, consistent with the Family Educational Rights and Privacy Act, since the sharing of information will assist each agency in obtaining education and related services for the benefit of the child. The protocol must require the district school boards or other local educational entities to access the department's Florida Safe Families Network to obtain information about children known to the department, consistent with the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. s. 1232g.

~~d.4.~~ Notify the school district of the department's case planning for a child known to the department, both at the time of plan development and plan review. Within the plan development or review process, the school district may provide information regarding the child known to the department if the school district deems it desirable and appropriate.

~~2.(b)~~-A requirement that the district school board shall:

~~a.1.~~ Provide the department with a general listing of the services and information available from the district school board, ~~including, but not limited to, the current Sunshine State Standards, the Surrogate Parent Training Manual, and other resources accessible through the Department of Education or local school districts~~ to facilitate educational access for a child known to the department.

~~b.2.~~ Identify all educational and other services provided by the school and school district which the school district believes are reasonably necessary to meet the educational needs of a child known to the department.

~~c.3.~~ Determine whether transportation is available for a child known to the department when such transportation will avoid a change in school assignment due to a change in residential placement. Recognizing that continued enrollment in the same school throughout the time the child known to the department is in out-of-home care is preferable unless enrollment in the same school would be unsafe or otherwise impractical, the department, the district school board, and the Department of Education shall assess the availability of federal, charitable, or grant funding for such transportation.

~~d.4.~~ Provide individualized student intervention or an individual educational plan when a determination has been made through legally appropriate criteria that intervention services are required. The intervention or individual educational plan must include strategies to enable the child known to the department to maximize the attainment of educational goals.

~~3.(e)~~-A requirement that the department and the district school board shall cooperate in accessing the services and supports needed for a child known to the department who has or is suspected of having a disability to receive an appropriate education consistent with the Individuals with Disabilities Education Act and state implementing laws, rules, and assurances.

Coordination of services for a child known to the department who has or is suspected of having a disability may include:

~~a.1. Referral for screening.~~

~~b.2. Sharing of evaluations between the school district and the department where appropriate.~~

~~c.3. Provision of education and related services appropriate for the needs and abilities of the child known to the department.~~

~~d.4. Coordination of services and plans between the school and the residential setting to avoid duplication or conflicting service plans.~~

~~e.5. Appointment of a surrogate parent, consistent with the Individuals with Disabilities Education Act and pursuant to subsection (3), for educational purposes for a child known to the department who qualifies as soon as the child is determined to be dependent and without a parent to act for the child. The surrogate parent shall be appointed by the school district without regard to where the child known to the department is placed so that one surrogate parent can follow the education of the child known to the department during his or her entire time in state custody.~~

~~f.6. For each child known to the department 14 years of age and older, transition planning by the department and all providers, including the department's independent living program staff, to meet the requirements of the local school district for educational purposes.~~

(c) This subsection establishes standards and not rights. This subsection does not require the delivery of any particular service or level of service in excess of existing appropriations. A person may not maintain a cause of action against the state or any of its subdivisions, agencies, contractors, subcontractors, or agents based upon this subsection becoming law or failure by the Legislature to provide adequate funding for the achievement of these standards. This subsection does not require the expenditure of funds to meet the standards established in this subsection except funds specifically appropriated for such purpose.

(3) CHILDREN HAVING OR SUSPECTED OF HAVING A DISABILITY.—

(a)1. The Legislature finds that disability is a natural part of the human experience and in no way diminishes the right of individuals to participate in or contribute to society. Improving educational results for children with disabilities is an essential element of our public policy of ensuring equality of opportunity, full participation, independent living, and economic self-sufficiency for individuals with disabilities.

2. The Legislature also finds that research and experience have shown that the education of children with disabilities can be made more effective by:

a. Having high expectations for these children and ensuring their access to the general

education curriculum in the regular classroom, to the maximum extent possible.

b. Providing appropriate exceptional student education, related services, and aids and supports in the least restrictive environment appropriate for these children.

c. Having a trained, interested, and consistent educational decision-maker for the child when the parent is determined to be legally unavailable or when the foster parent is unwilling, has no significant relationship with the child, or is not trained in the exceptional student education process.

3. It is, therefore, the intent of the Legislature that all children with disabilities known to the department, consistent with the Individuals with Disabilities Education Act, have available to them a free, appropriate public education that emphasizes exceptional student education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living and that the rights of children with disabilities are protected.

(b)1. Each district school superintendent or dependency court must appoint a surrogate parent for a child known to the department who has or is suspected of having a disability, as defined in s. 1003.01(3), when:

a. After reasonable efforts, no parent can be located; or

b. A court of competent jurisdiction over a child under this chapter has determined that no person has the authority under the Individuals with Disabilities Education Act, including the parent or parents subject to the dependency action, or that no person has the authority, willingness, or ability to serve as the educational decisionmaker for the child without judicial action.

2. A surrogate parent appointed by the district school superintendent or the court must be at least 18 years old and have no personal or professional interest that conflicts with the interests of the student to be represented. Neither the district school superintendent nor the court may appoint an employee of the Department of Education, the local school district, a community-based care provider, the Department of Children and Family Services, or any other public or private agency involved in the education or care of the child as appointment of those persons is prohibited by federal law. This prohibition includes group home staff and therapeutic foster parents. However, a person who acts in a parental role to a child, such as a foster parent or relative caregiver, is not prohibited from serving as a surrogate parent if he or she is employed by such agency, willing to serve, and knowledgeable about the child and the exceptional student education process. The surrogate parent may be a court-appointed guardian ad litem or a relative or nonrelative adult who is involved in the child's life regardless of whether that person has physical custody of the child. Each person appointed as a surrogate parent must have the knowledge and skills acquired by successfully completing training using materials developed and approved by the Department of Education to ensure adequate representation of the child.

3. If a guardian ad litem has been appointed for a child, the district school superintendent must first consider the child's guardian ad litem when appointing a surrogate parent. The district school superintendent must accept the appointment of the court if he or she has not previously appointed a surrogate parent. Similarly, the court must accept a surrogate parent duly appointed by a district school superintendent.

4. A surrogate parent appointed by the district school superintendent or the court must be accepted by any subsequent school or school district without regard to where the child is receiving residential care so that a single surrogate parent can follow the education of the child during his or her entire time in state custody. Nothing in this paragraph or in rule shall limit or prohibit the continuance of a surrogate parent appointment when the responsibility for the student's educational placement moves among and between public and private agencies.

5. For a child known to the department, the responsibility to appoint a surrogate parent resides with both the district school superintendent and the court with jurisdiction over the child. If the court elects to appoint a surrogate parent, notice shall be provided as soon as practicable to the child's school. At any time the court determines that it is in the best interests of a child to remove a surrogate parent, the court may appoint a new surrogate parent for educational decisionmaking purposes for that child.

6. The surrogate parent shall continue in the appointed role until one of the following occurs:

a. The child is determined to no longer be eligible or in need of special programs, except when termination of special programs is being contested.

b. The child achieves permanency through adoption or legal guardianship and is no longer in the custody of the department.

c. The parent who was previously unknown becomes known, whose whereabouts were unknown is located, or who was unavailable is determined by the court to be available.

d. The appointed surrogate no longer wishes to represent the child or is unable to represent the child.

e. The superintendent of the school district in which the child is attending school, the Department of Education contract designee, or the court that appointed the surrogate determines that the appointed surrogate parent no longer adequately represents the child.

f. The child moves to a geographic location that is not reasonably accessible to the appointed surrogate.

7. The appointment and termination of appointment of a surrogate under this paragraph shall be entered as an order of the court with a copy of the order provided to the child's school as soon as practicable.

8. The person appointed as a surrogate parent under this paragraph must:

a. Be acquainted with the child and become knowledgeable about his or her disability and educational needs.

b. Represent the child in all matters relating to identification, evaluation, and educational placement and the provision of a free and appropriate education to the child.

c. Represent the interests and safeguard the rights of the child in educational decisions that affect the child.

9. The responsibilities of the person appointed as a surrogate parent shall not extend to the care, maintenance, custody, residential placement, or any other area not specifically related to the education of the child, unless the same person is appointed by the court for such other purposes.

10. A person appointed as a surrogate parent shall enjoy all of the procedural safeguards afforded a parent with respect to the identification, evaluation, and educational placement of a student with a disability or a student who is suspected of having a disability.

11. A person appointed as a surrogate parent shall not be held liable for actions taken in good faith on behalf of the student in protecting the special education rights of the child.

~~(4)(5)~~-TRAINING.—The department shall incorporate an education component into all training programs of the department regarding children known to the department. Such training shall be coordinated with the Department of Education and the local school districts. The department shall offer opportunities for education personnel to participate in such training. Such coordination shall include, but not be limited to, notice of training sessions, opportunities to purchase training materials, proposals to avoid duplication of services by offering joint training, and incorporation of materials available from the Department of Education and local school districts into the department training when appropriate. The department training components shall include:

(a) Training for surrogate parents to include how an ability to learn of a child known to the department is affected by abuse, abandonment, neglect, and removal from the home.

(b) Training for parents in cases in which reunification is the goal, or for preadoptive parents when adoption is the goal, so that such parents learn how to access the services the child known to the department needs and the importance of their involvement in the education of the child known to the department.

(c) Training for caseworkers and foster parents to include information on the right of the child known to the department to an education, the role of an education in the development and adjustment of a child known to the department, the proper ways to access education and related services for the child known to the department, and the

importance and strategies for parental involvement in education for the success of the child known to the department.

(d) Training of caseworkers regarding the services and information available through the Department of Education and local school districts, including, but not limited to, the current Sunshine State Standards, the Surrogate Parent Training Manual, and other resources accessible through the Department of Education or local school districts to facilitate educational access for a child known to the department.

Section 2. Paragraph (p) of subsection (2) of section 39.202, Florida Statutes, is amended to read:

39.202 Confidentiality of reports and records in cases of child abuse or neglect.—

(2) Except as provided in subsection (4), access to such records, excluding the name of the reporter which shall be released only as provided in subsection (5), shall be granted only to the following persons, officials, and agencies:

(p) An employee of the local school district who is designated as a liaison between the school district and the department pursuant to an interagency agreement required under s. 39.0016 and the principal of a public school, private school, or charter school where the child is a student. Information contained in the records which the liaison or the principal determines are necessary for a school employee to effectively provide a student with educational services may be released to that employee.

Section 3. Subsection (11) of section 39.402, Florida Statutes, is amended to read:

39.402 Placement in a shelter.—

(11)(a) If a child is placed in a shelter pursuant to a court order following a shelter hearing, the court shall require in the shelter hearing order that 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. The shelter order shall also require the parents to provide to the department and any other state agency or party designated by the court, within 28 days after entry of the shelter order, the financial information necessary to accurately calculate child support pursuant to s. 61.30.

(b) The court shall request that the parents consent to provide access to the child's medical records and provide information to the court, the department or its contract agencies, and any guardian ad litem or attorney for the child. If a parent is unavailable or unable to consent or withholds consent and the court determines access to the records and information is necessary to provide services to the child, the court shall issue an order granting access. The court may also order the parents to ~~The parent or legal guardian shall provide all known medical information to the department and to any others granted access under this subsection.~~

(c) The court shall request that the parents consent to provide access to the child's educational records and provide information to the court, the department or its contract agencies, and any guardian ad litem or attorney for the child. If a parent is unavailable or unable to consent or withholds consent and the court determines access to the records and information is necessary to provide services to the child, the court shall issue an order granting access.

(d) The court may appoint a surrogate parent or may refer the child to the district school superintendent for appointment of a surrogate parent if the child has or is suspected of having a disability and the parent is unavailable pursuant to s. 39.0016(3)(b).

Section 4. Subsection (8) of section 39.701, Florida Statutes, is amended to read:

39.701 Judicial review.—

(8) The court and any citizen review panel 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, the foster parent or legal custodian, the guardian ad litem or surrogate parent for educational decisionmaking 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. These reports and evidence 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 their probative value, even though not competent in an adjudicatory hearing. In its deliberations, the court and any citizen review panel shall seek to determine:

(a) If the parent 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 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 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) Who holds the rights to make educational decisions for the child. If appropriate, the court may refer the child to the district school superintendent for appointment of a surrogate parent or may itself appoint a surrogate parent under the Individuals with Disabilities Education Act and s. 39.0016.(e).

~~(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.

~~(f)(e)~~ The compliance or lack of compliance with a visitation contract between the

parent 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.

~~(g)(f)~~—The compliance or lack of compliance of the parent in meeting specified financial obligations pertaining to the care of the child, including the reason for failure to comply if such is the case.

~~(h)(g)~~—Whether the child is receiving safe and proper care according to s. 39.6012, including, but not limited to, the appropriateness of the child’s current placement, including whether the child is in a setting that 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, as documented by assurances from the community-based care provider that:

1. The placement of the child takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement.

2. The community-based care agency has coordinated with appropriate local educational agencies to ensure that the child remains in the school in which the child is enrolled at the time of placement.

~~(i)(h)~~—A projected date likely for the child’s return home or other permanent placement.

~~(j)(i)~~—When appropriate, the basis for the unwillingness or inability of the parent to become a party to a case plan. The court and the citizen review panel shall determine if the efforts of the social service agency to secure party participation in a case plan were sufficient.

~~(k)(j)~~—For a child who has reached 13 years of age but is not yet 18 years of age, the adequacy of the child’s preparation for adulthood and independent living.

~~(l)(k)~~—If amendments to the case plan are required. Amendments to the case plan must be made under s. 39.6013.

Section 5. Section 5. Paragraph (f) of subsection (1) and paragraph (g) of subsection (4) of section 1003.21, Florida Statutes, are amended to read:

1003.21 School attendance.—

(1)

(f) Homeless children, as defined in s. 1003.01, and children who are known to the department, as defined in s. 39.0016, must have access to a free public education and must be admitted to school in the school district in which they or their families live. School districts shall assist homeless children and children who are known to the department to meet the requirements of subsection (4) and s. 1003.22, as well as local requirements for documentation.

(4) Before admitting a child to kindergarten, the principal shall require evidence that

the child has attained the age at which he or she should be admitted in accordance with the provisions of subparagraph (1)(a)2. The district school superintendent may require evidence of the age of any child whom he or she believes to be within the limits of compulsory attendance as provided for by law. If the first prescribed evidence is not available, the next evidence obtainable in the order set forth below shall be accepted:

(g) If none of these evidences can be produced, an affidavit of age sworn to by the parent, accompanied by a certificate of age signed by a public health officer or by a public school physician, or, if neither of these is available in the county, by a licensed practicing physician designated by the district school board, which certificate states that the health officer or physician has examined the child and believes that the age as stated in the affidavit is substantially correct. A homeless child, as defined in s. 1003.01, and a child who is known to the department, as defined in s. 39.0016, shall be given temporary exemption from this section for 30 school days.

Section 6. Subsection (1) and paragraph (e) of subsection (5) of section 1003.22, Florida Statutes, are amended to read:

1003.22 School-entry health examinations; immunization against communicable diseases; exemptions; duties of Department of Health.—

(1) Each district school board and the governing authority of each private school shall require that each child who is entitled to admittance to kindergarten, or is entitled to any other initial entrance into a public or private school in this state, present a certification of a school-entry health examination performed within 1 year prior to enrollment in school. Each district school board, and the governing authority of each private school, may establish a policy that permits a student up to 30 school days to present a certification of a school-entry health examination. A homeless child, as defined in s. 1003.01, and a child who is known to the department, as defined in s. 39.0016, shall be given a temporary exemption for 30 school days. Any district school board that establishes such a policy shall include provisions in its local school health services plan to assist students in obtaining the health examinations. However, any child shall be exempt from the requirement of a health examination upon written request of the parent of the child stating objections to the examination on religious grounds.

(5) The provisions of this section shall not apply if:

(e) An authorized school official issues a temporary exemption, for a period not to exceed 30 school days, to permit a student who transfers into a new county to attend class until his or her records can be obtained. A homeless child, as defined in s. 1003.01, and a child who is known to the department, as defined in s. 39.0016, shall be given a temporary exemption for 30 school days. The public school health nurse or authorized private school official is responsible for followup of each such student until proper documentation or immunizations are obtained. An exemption for 30 days may be issued for a student who enters a juvenile justice program to permit the student to attend class until his or her records can be obtained or until the immunizations can

be obtained. An authorized juvenile justice official is responsible for followup of each student who enters a juvenile justice program until proper documentation or immunizations are obtained.

Section 7. Subsections (3) and (4) are added to section 1003.57, Florida Statutes, to read:

1003.57 Exceptional students instruction.—

(3)(a) For purposes of this subsection and subsection (4), the term:

1. “Agency” means the Department of Children and Family Services or its contracted lead agency, the Agency for Persons with Disabilities, and the Agency for Health Care Administration.

2. “Exceptional student” means an exceptional student, as defined in s. 1003.01, who has a disability.

3. “Receiving school district” means the district in which a private residential care facility is located.

4. “Placement” means the funding or arrangement of funding by an agency for all or a part of the cost for an exceptional student to reside in a private residential care facility and the placement crosses school district lines.

(b) Within 10 business days after an exceptional student is placed in a private residential care facility by an agency, the agency or private residential care facility licensed by the agency, as appropriate, shall provide written notification of the placement to the school district where the student is currently counted for funding purposes under s. 1011.62 and the receiving school district. The exceptional student shall be enrolled in school and receive a free and appropriate public education, special education, and related services while the notice and procedures regarding payment are pending. This paragraph applies when the placement is for the primary purpose of addressing residential or other noneducational needs and the placement crosses school district lines.

(c) Within 10 business days after receiving the notification, the receiving school district must review the student’s individual educational plan (IEP) to determine if the student’s IEP can be implemented by the receiving school district or by a provider or facility under contract with the receiving school district. The receiving school district shall:

1. Provide educational instruction to the student;

2. Contract with another provider or facility to provide the educational instruction;

3. Contract with the private residential care facility in which the student resides to provide the educational instruction; or

4. Decline to provide or contract for educational instruction.

If the receiving school district declines to provide or contract for the educational instruction, the school district in which the legal residence of the student is located shall provide or contract for the educational instruction to the student. The school district that provides educational instruction or contracts to provide educational instruction shall report the student for funding purposes pursuant s. 1011.62.

(d)1. The Department of Education, in consultation with the agencies and school districts, shall develop procedures for written notification to school districts regarding the placement of an exceptional student in a residential care facility. The procedures must:

- a. Provide for written notification of a placement that crosses school district lines; and
- b. Identify the entity responsible for the notification for each facility that is operated, licensed, or regulated by an agency.

2. The State Board of Education shall adopt the procedures by rule pursuant to ss. 120.536(1) and 120.54 and the agencies shall implement the procedures.

The requirements of paragraphs (c) and (d) do not apply to written agreements among school districts which specify each school district's responsibility for providing and paying for educational services to an exceptional student in a residential care facility. However, each agreement must require a school district to review the student's IEP within 10 business days after receiving the notification required under paragraph (b).

(4) The Department of Education and agencies shall enter into an agreement for interagency coordination regarding the placement of exceptional students in residential facilities, consistent with federal law and regulations, on or before January 1, 2010. The agreement shall identify the responsibilities of each party and ensure that students receive special education and related services necessary to receive a free appropriate public education. The agreement shall also establish procedures for:

- (a) Resolving interagency disputes;
- (b) Ensuring the provision of services during the pendency of a dispute; and
- (c) Ensuring continued Medicaid eligibility as deemed appropriate.

Section 8. This act shall take effect July 1, 2009.

Approved by the Governor May 14, 2009.

Filed in Office Secretary of State May 14, 2009.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

APPENDIX E

CHAPTER 2009-43

House Bill No. 381

An act relating to care of children; creating the “Zahid Jones, Jr., Give Grandparents and Other Relatives a Voice Act”; creating s. 39.00145, F.S.; requiring that the case record of a child under the supervision or in the custody of the Department of Children and Family Services be maintained in a complete and accurate manner; specifying who has access to the case record; authorizing the court to directly release the child’s records to certain entities; providing that entities that have access to confidential information concerning a child may share it with other entities that provide services benefiting children; providing for exceptions for the sharing of confidential information under certain circumstances; amending s. 39.201, F.S.; providing for the Department of Children and Family Services to analyze certain unaccepted reports to the central abuse hotline; amending s. 39.202, F.S.; expanding the list of persons or entities that have access to child abuse records; revising how long the department must keep such records; requiring the department to provide notice of how the child’s records may be obtained after the child leaves the department’s custody; authorizing the department to adopt rules; amending s. 39.301, F.S.; requiring information to be provided to a reporter; authorizing the submission of a written report; providing conditions for a relative to be a collateral contact in certain child protective investigations; providing for a relative to request notice of proceedings and hearings relating to protective investigations under certain circumstances; specifying content of the request; providing that the failure to provide notice to a relative does not undo any previous action of the court absent a finding that a change is in the child’s best interests; conforming cross-references; amending s. 39.304, F.S.; providing for preservation in department records of certain photographs and X rays and reports on medical examinations and treatments of an abused child; amending s. 39.402, F.S.; requiring notification of certain relatives in an order for placement of a child in shelter care of their right to attend hearings, submit reports to the court, and speak to the court; amending s. 39.502, F.S.; providing for certain relatives to receive notice of dependency hearings under certain circumstances; providing an opportunity for certain relatives to be heard in court; providing an exception; amending s. 39.506, F.S.; providing for certain relatives to receive notice of arraignment hearings under certain circumstances; amending s. 39.5085, F.S.; revising legislative intent with regard to the Relative Caregiver Program; authorizing the department to develop liaison functions for certain relatives; amending s. 39.6011, F.S.; requiring a case plan for a child receiving services from the department to include a protocol for notification of certain relatives of proceedings and hearings; amending s. 39.6013, F.S.; conforming a cross-reference; amending s. 39.701, F.S.; requiring an attorney for the department to provide notice to certain relatives of the child regarding upcoming judicial hearings; conforming cross-references; amending s. 39.823, F.S.; conforming a cross-reference; amending s.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

683.10, F.S.; designating the first Sunday after Labor Day as “Grandparents’ and Family Caregivers’ Day”; authorizing the Governor to issue proclamations commemorating the occasion; amending s. 409.147, F.S.; renaming “children’s zones” as “children’s initiatives”; revising legislative findings and intent; requiring the governing body to establish a children’s initiative planning team and to develop and adopt a strategic community plan; revising provisions relating to the powers and responsibilities of the initiative planning team; revising provisions relating to the strategic community plan; revising requirement provisions relating to the children’s initiative corporation; changing the name of the Magic City Children’s Zone, Inc., to the Miami Children’s Initiative, Inc.; providing for the corporation to be administratively housed within the Department of Children and Family Services, but not to be subject to control, supervision, or direction by the department; providing for the department to enter into a contract with a not-for-profit corporation to implement the children’s initiative project; deleting provisions relating to the geographic boundaries and the board of directors; providing for the reappropriation of funds; providing an effective date.

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

Section 1. This act may be cited as the “Zahid Jones, Jr., Give Grandparents and Other Relatives a Voice Act.”

Section 2. Section 39.00145, Florida Statutes, is created to read:

39.00145 Records concerning children.—

(1) The case record of every child under the supervision of or in the custody of the department, the department’s authorized agents, or providers contracting with the department, including community-based care lead agencies and their subcontracted providers, must be maintained in a complete and accurate manner. The case record must contain, at a minimum, the child’s case plan required under part VIII of this chapter and the full name and street address of all shelters, foster parents, group homes, treatment facilities, or locations where the child has been placed.

(2) Notwithstanding any other provision of this chapter, all records in a child’s case record must be made available for inspection, upon request, to the child who is the subject of the case record and to the child’s caregiver, guardian ad litem, or attorney.

(a) A complete and accurate copy of any record in a child’s case record must be provided, upon request and at no cost, to the child who is the subject of the case record and to the child’s caregiver, guardian ad litem, or attorney.

(b) The department shall release the information in a manner and setting that are appropriate to the age and maturity of the child and the nature of the information being released, which may include the release of information in a therapeutic setting, if appropriate. This paragraph does not deny the child access to his or her records.

(c) If a child or the child’s caregiver, guardian ad litem, or attorney requests access to the child’s case record, any person or entity that fails to provide any record in the case record under assertion of a claim of exemption from the public-records requirements of chapter 119, or fails to provide access within a reasonable time, is subject to sanctions and penalties under s. 119.10.

(d) For purposes of this subsection, the term “caregiver” is limited to parents, legal custodians, permanent guardians, foster parents, employees of a residential home, institution, facility, or agency at which the child resides and other individuals legally responsible for a child’s welfare in a residential setting.

(3) If a court determines that sharing information in the child’s case record is necessary to ensure access to appropriate services for the child or for the safety of the child, the court may approve the release of confidential records or information contained in them.

(4) Notwithstanding any other provision of law, all state and local agencies and programs that provide services to children or that are responsible for a child’s safety, including the Department of Juvenile Justice, the Department of Health, the Agency for Health Care Administration, the Agency for Persons with Disabilities, the Department of Education, the Department of Revenue, the school districts, the Statewide Guardian Ad Litem Office, and any provider contracting with such agencies, may share with each other confidential records or information that are confidential or exempt from disclosure under chapter 119 if the records or information are reasonably necessary to ensure access to appropriate services for the child, including child support enforcement services, or for the safety of the child. However:

(a) Records or information made confidential by federal law may not be shared.

(b) This subsection does not apply to information concerning clients and records of certified domestic violence centers, which are confidential under s. 39.908 and privileged under s. 90.5036.

Section 3. Subsection (7) of section 39.201, Florida Statutes, is amended to read:

39.201 Mandatory reports of child abuse, abandonment, or neglect; mandatory reports of death; central abuse hotline.—

(7) On an ongoing basis, the department’s quality assurance program shall review calls, fax reports, and web-based reports to the hotline involving three or more unaccepted reports on a single child, where jurisdiction applies, in order to detect such things as harassment and situations that warrant an investigation because of the frequency or variety of the source of the reports. A component of the quality assurance program shall analyze unaccepted reports to the hotline by identified relatives as a part of the review of screened out calls. The Program Director for Family Safety may refer a case for investigation when it is determined, as a result of this review, that an investigation may be warranted.

Section 4. Subsection (7) of section 39.202, Florida Statutes, is amended, and paragraphs (r) and (s) are added to subsection (2) of that section, to read:

39.202 Confidentiality of reports and records in cases of child abuse or neglect.—

(2) Except as provided in subsection (4), access to such records, excluding the name of the reporter which shall be released only as provided in subsection (5), shall be granted only to the following persons, officials, and agencies:

(r) A physician licensed under chapter 458 or chapter 459, a psychologist licensed under chapter 490, or a mental health professional licensed under chapter 491 engaged in the care or treatment of the child.

(s) Persons with whom the department is seeking to place the child or to whom placement has been granted, including foster parents for whom an approved home study has been conducted, the designee of a licensed residential group home described in s. 39.523, an approved relative or nonrelative with whom a child is placed pursuant to s. 39.402, preadoptive parents for whom a favorable preliminary adoptive home study has been conducted, adoptive parents, or an adoption entity acting on behalf of preadoptive or adoptive parents.

(7) 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 who is the subject of the record is 30 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.~~

(a) Within 90 days after the child leaves the department's custody, the department shall give a notice to the person having legal custody of the child, or to the young adult who was in the department's custody, which specifies how the records may be obtained.

(b) The department may adopt rules regarding the format, storage, retrieval, and release of such records.

Section 5. Subsections (6) through (23) of section 39.301, Florida Statutes, are renumbered as subsections (7) through (24), respectively, paragraph (c) of present subsection (9), present subsection (10), and paragraph

(b) of present subsection (14) are amended, and a new subsection (6) is added to that section, to read:

39.301 Initiation of protective investigations.—

(6) Upon commencing an investigation under this part, if a report was received from a reporter under s. 39.201(1)(b), the protective investigator must provide his or her contact information to the reporter within 24 hours after being assigned to the investigation. The investigator must also advise

the reporter that he or she may provide a written summary of the report made to the central abuse hotline to the investigator which shall become a part of the master file.

(10)(9)

(c) The determination that a report requires an investigation as provided in this subsection and does not require an enhanced onsite child protective investigation pursuant to subsection (11) ~~(10)~~ must be approved in writing by the supervisor with documentation specifying why additional investigative activities are not necessary.

(11)~~(10)~~(a) For each report that meets one or more of the following criteria, the department shall perform an enhanced onsite child protective investigation:

1. Any allegation that involves physical abuse, sexual abuse, domestic violence, substance abuse or substance exposure, medical neglect, a child younger than 3 years of age, or a child who is disabled or lacks communication skills.
2. Any report that involves an individual who has been the subject of a prior report containing some indicators or verified findings of abuse, neglect, or abandonment.
3. Any report that does not contain compelling evidence that the maltreatment did not occur.
4. Any report that does not meet the criteria for an onsite child protective investigation as set forth in subsection (10) ~~(9)~~.

(b) The enhanced onsite child protective investigation shall include, but is not limited to:

1. A face-to-face interview with the child, other siblings, parents or legal custodians or caregivers, and other adults in the household;
2. Collateral contacts;
3. Contact with the reporter as required by rule;
4. An onsite assessment of the child's residence in accordance with paragraph (10)~~(9)~~(b); and
5. An updated assessment.

Detailed documentation is required for the investigative activities.

(15)~~(14)~~

(b) The parents or legal custodians 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, a collateral contact required

under subparagraph (11)(b)2. shall include a

relative, if the protective investigator has knowledge of and the ability to contact a relative. 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. At any time after the commencement of a protective investigation, a relative may submit in writing to the protective investigator or case manager a request to receive notification of all proceedings and hearings in accordance with s. 39.502. The request shall include the relative's name, address, and phone number and the relative's relationship to the child. The protective investigator or case manager shall forward such request to the attorney for the department. The failure to provide notice to either a relative who re-requests it pursuant to this subsection or to a relative who is providing out-of-home care for a child shall not result in any previous action of the court at any stage or proceeding in dependency or termination of parental rights under any part of this chapter being set aside, reversed, modified, or in any way changed absent a finding by the court that a change is required in the child's best interests.

Section 6. Subsection (4) of section 39.304, Florida Statutes, is amended to read:

39.304 Photographs, medical examinations, X rays, and medical treatment of abused, abandoned, or neglected child.—

(4) 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 and shall be preserved in permanent form in records held by the department.

Section 7. Paragraph (h) of subsection (8) of section 39.402, Florida Statutes, is amended to read:

39.402 Placement in a shelter.—

(8)

(h) 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 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 or that the court needs additional

time, which may not exceed 72 hours, in which to obtain and review documents pertaining to the family in order to appropriately determine the risk to the child.

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 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; or

d. The parent or legal custodian is alleged to have committed any of the acts listed as grounds for expedited termination of parental rights in s. 39.806(1)(f)-(i).

6. That the court notified the parents, relatives that are providing out-of-home care for the child, or legal custodians of the time, date, and location of the next dependency hearing and of the importance of the active participation of the parents, relatives that are providing out-of-home care for the child, or legal custodians in all 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.

8. That the court notified relatives who are providing out-of-home care for a child as a result of the shelter petition being granted that they have the right to attend all subsequent hearings, to submit reports to the court, and to speak to the court regarding the child, if they so desire.

Section 8. Subsection (1) of section 39.502, Florida Statutes, is amended, and subsection (19) is added to that section, to read:

39.502 Notice, process, and service.—

(1) Unless parental rights have been terminated, all parents 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. In all other dependency proceedings, notice must be provided

in accordance with subsections (4)-(9), except when a relative requests notification pursuant to s. 39.301(15)(b), in which case notice shall be provided pursuant to subsection (19).

(19) In all proceedings and hearings under this chapter, the attorney for the department shall notify, orally or in writing, a relative requesting notification pursuant to s. 39.301(15)(b) of the date, time, and location of such proceedings and hearings, and notify the relative that he or she has the right to attend all subsequent proceedings and hearings, to submit reports to the court, and to speak to the court regarding the child, if the relative so desires. The court has the discretion to release the attorney for the department from notifying a relative who requested notification pursuant to s. 39.301(15)(b) if the relative's involvement is determined to be impeding the dependency process or detrimental to the child's well-being.

Section 9. Subsection (9) of section 39.506, Florida Statutes, is amended to read:

39.506 Arraignment hearings.—

(9) At the conclusion of the arraignment hearing, all parties and the relatives who are providing out-of-home care for the child shall be notified in writing by the court of the date, time, and location for the next scheduled hearing.

Section 10. Paragraphs (a) through (d) of subsection (1) of section 39.5085, Florida Statutes, are redesignated as paragraphs (b) through (e), respectively, a new paragraph (a) is added to subsection (1), and paragraph (g) of subsection (2) of that section is amended, to read:

39.5085 Relative Caregiver Program.—

(1) It is the intent of the Legislature in enacting this section to:

(a) Provide for the establishment of procedures and protocols that serve to advance the continued safety of children by acknowledging the valued resource uniquely available through grandparents and relatives of children.

(2)

(g) The department may use appropriate available state, federal, and private funds to operate the Relative Caregiver Program. The department may develop liaison functions to be available to relatives who care for children pursuant to this chapter to ensure placement stability in extended family settings.

Section 11. Subsection (4) of section 39.6011, Florida Statutes, is amended to read:

39.6011 Case plan development.—

(4) The case plan must describe:

(a) The role of the foster parents or legal custodians when developing the services that are to be provided to the child, foster parents, or legal custodians;

(b) The responsibility of the case manager to forward a relative's request to receive notification of all proceedings and hearings submitted pursuant to s. 39.301(15)(b) to the attorney for the department;

~~(c)(b)~~—The minimum number of face-to-face meetings to be held each month between the parents and the department's family services counselors to review the progress of the plan, to eliminate barriers to progress, and to resolve conflicts or disagreements; and

~~(d)(e)~~—The parent's responsibility for financial support of the child, including, but not limited to, health insurance and child support. The case plan must list the costs associated with any services or treatment that the parent and child are expected to receive which are the financial responsibility of the parent. The determination of child support and other financial support shall be made independently of any determination of indigency under s. 39.013.

Section 12. Subsection (6) of section 39.6013, Florida Statutes, is amended to read:

39.6013 Case plan amendments.—

(6) The case plan is deemed amended as to the child's health, mental health, and education records required by s. 39.6012 when the child's up-dated health and education records are filed by the department under s. 39.701~~(8)(7)~~(a).

Section 13. Subsections (6) through (9) of section 39.701, Florida Statutes, are renumbered as subsections (7) through (10), respectively, a new subsection (6) is added to that section, and paragraph (c) of subsection (2), paragraph (b) of present subsection (6), and paragraph (a) of present subsection (9) are amended, to read:

39.701 Judicial review.—

(2)

(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 ~~(10)(9)~~. 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.

(6) The attorney for the department shall notify a relative who submits a request for notification of all proceedings and hearings pursuant to s. 39.301(15)(b). The notice shall include the date, time, and location of the next judicial review hearing.

~~(7)(6)~~

(b) At the first judicial review hearing held subsequent to the child's 17th birthday, in addition to the requirements of subsection ~~(8)~~ (7), the department shall provide the court with an updated case plan that includes specific information related to independent living services that have been provided since the child's 13th birthday, or since the date the child came into foster care, whichever came later.

~~(10)(9)~~(a) Based upon the criteria set forth in subsection ~~(9)~~ (8) and the recommended order of the citizen review panel, if any, 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, continue the child in out-of-home care for a specified period of time, or initiate termination of parental rights proceedings for subsequent placement in an adoptive home. Amendments to the case plan must be prepared as prescribed in s. 39.6013. 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 the creation of the case plan have been remedied to the extent that the child's safety, well-being, and physical, mental, and emotional health will not be endangered.

Section 14. Section 39.823, Florida Statutes, is amended to read:

39.823 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~~(15)~~(14). 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 15. Section 683.10, Florida Statutes, is amended to read:

683.10 Grandparents' and Family Caregivers' Grandmother's Day.—

(1) The first Sunday after Labor Day ~~second Sunday of October~~ of each year is designated "Grandparents' and Family Caregivers' Grandmother's Day."

(2) The Governor may issue annually a proclamation designating the first Sunday after Labor Day ~~second Sunday of October~~ as Grandparents' and Family Caregivers' Grandmother's Day and calling upon public schools and citizens of the state to observe the occasion.

Section 16. Section 409.147, Florida Statutes, is amended to read:

409.147 Children's initiatives zones.—

(1) LEGISLATIVE FINDINGS AND INTENT.—

(a) The Legislature finds that:

1. There are neighborhoods in the state where the infrastructure and opportunities that middle-class communities take for granted are nonexistent or so marginal that they are ineffective.

2. Children living in these neighborhoods are not read to by an adult on a regular basis and attend a prekindergarten education program at a much lower rate than children in other communities. These children experience below-average performance on standardized tests and graduate from high school in fewer numbers. Most of these children are eligible for the free or reduced-price school lunch program.

3. Children in these neighborhoods often suffer from high rates of asthma, a higher risk of lead poisoning, and inadequate health care, and they are routinely exposed to violence and crime.

4. In spite of these obstacles, these neighborhoods are many times home to strong individuals and institutions that are committed to making a difference in the lives of children and their families.

(b) It is therefore the intent of the Legislature to assist disadvantaged areas within the state in creating a community-based service network that develops, coordinates, and provides quality education, accessible health care, youth development programs, opportunities for employment, and safe and affordable housing for children and families living within its boundaries.

(2) POLICY AND PURPOSE.—It is the policy of this state to provide the necessary means to assist local communities, the children and families who live in those communities, and the private sector in creating a sound educational, social, and economic environment. To achieve this objective, the state intends to provide investments sufficient to encourage community partners to commit financial and other resources to severely disadvantaged areas. The purpose of this section is to establish a process that clearly identifies the severely disadvantaged areas and provides guidance for developing a new social service paradigm that systematically coordinates programs that address the critical needs of children and their families and for directing efforts to rebuild the basic infrastructure of the community. The Legislature, therefore, declares the creation of children's initiatives zones, through the collaborative efforts of government and the private sector, to be a public purpose.

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

(a) "Governing body" means the commission or other legislative body charged with governing a county or municipality.

(b) "Ounce" means the Ounce of Prevention Fund of Florida, Inc.

(c) “Planning team” means a children’s initiative zone planning team established under this section.

(d) “Resident” means a person who lives or operates a small community-based business or organization within the boundaries of the children’s initiative zone.

(4) CHILDREN’S INITIATIVE ZONE NOMINATING PROCESS.—A county or municipality, or a county and one or more municipalities together, may apply to the Ounce to designate an area as a children’s initiative zone after the governing body:

(a) Adopts a resolution that:

1. Finds that an area exists in such county or municipality, or in the county and one or more municipalities, that chronically exhibits extreme and unacceptable levels of poverty, unemployment, physical deterioration, as well as limited access to quality educational, health care, and social services.

2. Determines that the rehabilitation, conservation, or redevelopment, or a combination thereof, of the area is necessary in the interest of improving the health, wellness, education, living conditions, and livelihoods of the children and families who live in the county or municipality.

3. Determines that the revitalization of the area can occur only if the state and the private sector invest resources to improve infrastructure and the provision of services.

(b) Establishes a children’s initiative zone planning team as provided in subsection (5).

(c) Develops and adopts a strategic community plan as provided in subsection (6).

(d) Creates a corporation not for profit as provided in subsection (7).

(5) CHILDREN’S INITIATIVE ZONE PLANNING TEAM.—

(a) After the governing body adopts the resolution described in subsection (4), the county or municipality shall establish a children’s initiative zone planning team.

(b) The planning team shall include residents and representatives from community-based organizations and other community institutions. At least half of the members of the planning team must be residents.

(c) The planning team shall:

1. Develop a planning process that sets the direction for, builds a commitment to, and develops the capacity to realize the children’s initiative zone concept.

2. Develop a vision of what the children’s initiative zone will look like when the challenges, problems, and opportunities in the children’s initiative zone are successfully addressed.

3. Identify important opportunities, strengths, challenges, and problems in the children's initiative zone.

4. Develop a strategic community plan consisting of goals, objectives, tasks, the designation of responsible parties, the identification of resources needed, timelines for implementation of the plan, and procedures for monitoring outcomes.

(d) The planning team shall designate working groups to specifically address each of the following focus areas:

1. Early development and care of children.
2. Education of children and youth.
3. Health and wellness.
4. Youth support.
5. Parent and guardian support.
6. Adult education, training, and jobs.
7. Community safety.
8. Housing and community development.

(6) CHILDREN'S INITIATIVE ZONE STRATEGIC COMMUNITY PLAN.—After the governing body adopts the resolution described in subsection (4), the working groups shall develop objectives and identify strategies for each focus area. The objectives, specified by focus area, for a working group may include, but not be limited to:

(a) Early development and care of children.

1. Providing resources to enable every child to be adequately nurtured during the first 3 years of life.

2. Ensuring that all schools are ready for children and all children are ready for school.

3. Facilitating enrollment in half-day or full-day prekindergarten for all 3-year-old and 4-year-old children.

4. Strengthening parent and guardian relationships with care providers.

5. Providing support and education for families and child care providers.

(b) Education of children and youth.

1. Increasing the level and degree of accountability of persons who are responsible for the development and well-being of all children in the children's initiative zone.
2. Changing the structure and function of schools to increase the quality and amount of time spent on instruction and increase programmatic options and offerings.
3. Creating a safe and respectful environment for student learning.
4. Identifying and supporting points of alignment between the children's initiative zone community plan and the school district's strategic plan.

(c) Health and wellness.

1. Facilitating enrollment of all eligible children in the Florida Kidcare program and providing full access to high-quality drug and alcohol treatment services.
2. Eliminating health disparities between racial and cultural groups, including improving outcomes and increasing interventions.
3. Providing fresh, good quality, affordable, and nutritious food within the children's initiative zone.
4. Providing all children in the children's initiative zone with access to safe structured and unstructured recreation.

(d) Youth support.

1. Increasing the high school graduation rate.
2. Increasing leadership development and employment opportunities for youth.

(e) Parent and guardian support.

1. Increasing parent and adult literacy.
2. Expanding access for parents to critical resources, such as jobs, transportation, day care, and after-school care.
3. Improving the effectiveness of the ways in which support systems communicate and collaborate with parents and the ways in which parents communicate and collaborate with support systems.
4. Making the services of the Healthy Families Florida program available to provide multiyear support to expectant parents and persons caring for infants and toddlers.

(f) Adult education, training, and jobs.

1. Creating job opportunities for adults that lead to career development.
2. Establishing a career and technical school, or a satellite of such a school in the children's initiative zone, which includes a one-stop career center.

(g) Community safety.

1. Providing a safe environment for all children at home, in school, and in the community.
2. Eliminating the economic, political, and social forces that lead to a lack of safety within the family, the community, schools, and institutional structures.
3. Assessing policies and practices, including sentencing, incarceration, detention, and data reporting, in order to reduce youth violence, crime, and recidivism.

(h) Housing and community development.

1. Strengthening the residential real estate market.
2. Building on existing efforts to promote socioeconomic diversity when developing a comprehensive land use strategic plan.
3. Promoting neighborhood beautification strategies.

(7) CHILDREN'S INITIATIVE ZONE CORPORATION.—After the governing body adopts the resolution described in subsection (4), establishes the planning team as provided in subsection (5), and develops and adopts the strategic community plan as provided in subsection (6), the county or municipality shall create a corporation not for profit which shall be registered, incorporated, organized, and operated in compliance with chapter 617. The purpose of the corporation is to facilitate fundraising, to secure broad community ownership of the children's initiative zone, and, if the area selected by the governing body is designated as a children's initiative zone, to:

(a) Begin to transfer responsibility for planning from the planning team to the corporation.

(b) Begin the implementation and governance of the children's initiative zone community plan.

(8) CREATION OF MIAMI MAGIC CITY CHILDREN'S INITIATIVE ZONE, INC.; PILOT PROJECT.—

(a) There is created within the Liberty City neighborhood in Miami-Dade County a 10-year pilot project zone that, ~~by November 1, 2008,~~ shall be managed by an entity organized as a corporation not for profit which shall be registered, incorporated, organized, and operated in compliance with chapter 617. An entity may not be incorporated until the governing body has adopted the resolution described in subsection

(4), has established the plan-ning team as provided in subsection (5), and has developed and adopted the strategic community plan as provided in subsection (6). The corporation shall be known as the ~~Miami Magic City Children's Initiative Zone~~, Inc., and shall be administratively housed within the ~~Department of Children and Family Services Belafonte Tacooley Center~~. However, ~~Miami Magic City Children's Initiative Zone~~, Inc., is not subject to control, supervision, or direction by the ~~Department of Children and Family Services Belafonte Tacooley Center~~ in any manner. The Legislature determines, however, that public policy dictates that the corporation operate in the most open and accessible manner consistent with its public purpose. Therefore, the Legislature specifically declares that the corporation is subject to chapter 119, relating to public records, chapter 286, relating to public meetings and records, and chapter 287, relating to procurement of commodities or contractual services.

(b) This ~~initiative pilot project zone~~ is designed to encompass an area that is large enough to include all of the necessary components of community life, including, but not limited to, schools, places of worship, recreational facilities, commercial areas, and common space, yet small enough to allow programs and services to reach every willing member of the neighborhood. ~~Therefore, the geographic boundaries of the pilot project zone are:~~

- ~~1. Northwest 79th Street to the north;~~
- ~~2. Northwest 36th Street to the south;~~
- ~~3. North Miami Avenue to the east; and~~
- ~~4. Northwest 27th Avenue to the west.~~

~~(c)1. The corporation shall be governed by a 15-member board of directors. The board of directors shall consist of the following members:-~~

- ~~a. The chief executive officer of the Belafonte Tacooley Center.~~
- ~~b. The executive director of the Carrie P. Meek Entrepreneurial Education Center, Miami Dade College.~~
- ~~c. The director of the Parks and Recreation Department of the City of Miami.~~
- ~~d. The director of the Miami Dade Cultural Arts Center.~~
- ~~e. The chief executive officer of the Urban League of Greater Miami.~~
- ~~f. The director of the Liberty City Service Partnership.~~
- ~~g. The regional superintendent of the Miami Dade County Public Schools.~~
- ~~h. The president of the Student Government Association of Northwestern High School.~~

- ~~i. — The president of the Student Government Association of Edison High School.~~
- ~~—j. — The president of the Parent Teacher Student Association of Northwestern High School.~~
- ~~k. — The president of the Parent Teacher Student Association of Edison High School.~~
- ~~l. — Four members from the local private business sector, to be appointed by a majority vote of the members designated in sub-subparagraphs a. k., all of whom must have significant experience in one of the focus areas specified in subsection (6).~~
- ~~2. — All members of the board of directors shall be appointed no later than 90 days following the incorporation of the Magic City Children’s Zone, Inc., and:~~
 - ~~—a. — Eleven members initially appointed pursuant to this paragraph shall each serve a 4 year term.~~
 - ~~—b. — The remaining initial four appointees shall each serve a 2 year term.~~
 - ~~c. — Each member appointed thereafter shall serve a 4 year term.~~
 - ~~—d. — A vacancy shall be filled in the same manner in which the original appointment was made, and a member appointed to fill a vacancy shall serve for the remainder of that term.~~
 - ~~e. — A member may not serve more than 8 years in consecutive terms.~~
- ~~—3. — The board of directors shall annually elect a chairperson and a vice chairperson from among the board’s members. The members may, by a vote of eight members, remove a member from the position of chairperson or vice chairperson before the expiration of his or her term as chairperson or vice chairperson. His or her successor shall be elected to serve for the balance of the term of the chairperson or vice chairperson who was removed.~~
- ~~4. — The board of directors shall meet at least four times each year upon the call of the chairperson, at the request of the vice chairperson, or at the request of a majority of the membership. A majority of the membership constitutes a quorum. The board of directors may take official action by a majority vote of the members present at any meeting at which a quorum is present. The board may conduct its meetings through teleconferences or other similar means.~~
- ~~5. A member of the board of directors may be removed by a majority of the membership. Absence from three consecutive meetings results in automatic removal.~~
- ~~6. Each member of the board of directors shall serve without compensation but is entitled to reimbursement for per diem and travel expenses as provided in s. 112.061 while in the performance of his or her duties.~~

~~7. The corporation shall create a standing advisory board to assist in any part of its delegated duties. The membership of the standing advisory board shall reflect the expertise necessary for the implementation of the children's zone pilot project.~~

~~8. The board of directors has the power and duty to:~~

~~a. Adopt articles of incorporation and bylaws necessary to govern its activities.~~

~~b. Begin to transfer responsibility for planning from the children's zone planning team to the corporation.~~

~~c. Begin the implementation and governance of the children's zone community plan.~~

~~d. Enter into a contract with a management consultant who has experience working with social service and educational entities for the purpose of developing a 10-year comprehensive business plan to carry out the provisions of this section.~~

~~(d) Magic City Children's Zone, Inc., shall submit an annual report to the President of the Senate and the Speaker of the House of Representatives by January 31, 2009, and by January 31 of each year thereafter, which shall include a comprehensive and detailed report of its operations, activities, and accomplishments for the prior year as well as its goals for the current year. The initial report shall also include information concerning the status of the development of a business plan.~~

(9) IMPLEMENTATION.—In order to implement ~~The implementation of this section, the Department of Children and Family Services shall contract is contingent upon a specific appropriation to provide a grant for a 3-year period for the purpose of implementing this section, which includes contracting with a not-for-profit corporation to work in collaboration with the governing body to adopt the resolution described in subsection (4), to establish the planning team as provided in subsection (5), and to develop and adopt the strategic community plan as provided in subsection (6). The not-for-profit corporation is also responsible for the development of a business plan and for the evaluation, fiscal management, and oversight of the~~ Miami Magic City Children's Initiative Zone, Inc., pilot project.

Section 17. The unexpended balance of funds in Specific Appropriation 345A of the General Appropriations Act for the 2008-2009 fiscal year passed in the 2008 Regular Session shall revert July 1, 2009, and such funds are reappropriated to the Department of Children and Family Services for the 2009-2010 fiscal year for the purpose of contracting with the Ounce in order to implement section 16 of this act.

Section 18. This act shall take effect July 1, 2009.

Approved by the Governor May 20, 2009.

Filed in Office Secretary of State May 20, 2009.

I certify that these rules and forms were read against West's *Florida Rules of Court – State* (2009).

Ellen H. Sloyer, Associate Editor
Legal Publications
The Florida Bar