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# **Children, Families & Seniors Subcommittee**

**Tuesday, December 5, 2023  
4:00 PM-6:00 PM  
Reed Hall (102 HOB)**

**Meeting Packet**

# Committee Meeting Notice

## HOUSE OF REPRESENTATIVES

### Children, Families & Seniors Subcommittee

**Start Date and Time:** Tuesday, December 05, 2023 04:00 pm

**End Date and Time:** Tuesday, December 05, 2023 06:00 pm

**Location:** Reed Hall (102 HOB)

**Duration:** 2.00 hrs

**Consideration of the following bill(s):**

HB 73 Supported Decisionmaking Authority by Tant, Koster

HB 185 Dependent Children by Trabulsy

Pursuant to rule 7.11, the deadline for amendments to bills on the agenda by non-appointed members shall be 6:00 p.m., Monday, December 4, 2023.

By request of the Chair, all committee members are asked to have amendments to bills on the agenda submitted to staff by 6:00 p.m., Monday, December 4, 2023.

To submit an electronic appearance form, and for information about attending or testifying at a committee meeting, please see the "Visiting the House" tab at [www.myfloridahouse.gov](http://www.myfloridahouse.gov).

**NOTICE FINALIZED on 11/28/2023 3:30PM by Clenord.Judeline**



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 185 Dependent Children

**SPONSOR(S):** Trabulsy

**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Children, Families & Seniors Subcommittee		DesRochers	Brazzell
2) Civil Justice Subcommittee			
3) Health & Human Services Committee			

### SUMMARY ANALYSIS

When a child lives in an unsafe home as a victim of abuse, neglect, or abandonment, state officials temporarily transfer the rights of physical custody to that child from the primary caregiver(s) to the Florida Department of Children and Families. This event initiates the dependency court process. Early in the dependency court process, the presiding judge evaluates whether the allegations of wrongdoing are well-founded and decides whether guardian ad litem and attorney ad litem appointments are necessary.

The guardian ad litem serves as the child's fiduciary representative in court to speak for the child's best interests. The "guardian ad litem" is typically a multidisciplinary team involving a lay volunteer, a staff attorney, and a case manager. The court may appoint an attorney ad litem to serve as the child's independent legal representative in court to speak for the child's express wishes. When an attorney is appointed to provide independent legal representation to a child in a ch. 39 proceeding, that attorney provides the child with the complete range of legal services under an attorney-client relationship governed by the Florida Bar's Rules of Professional Conduct.

HB 185 repeals the statutory right of court-appointed, independent legal representation of certain children and the court's discretion to appoint attorneys to certain other children in dependency court. Instead, the bill requires children to meet a competency standard and have a need for court-appointed, independent legal representation to be appointed such representation. HB 185 gives the Statewide GAL Office responsibility for oversight and technical assistance of attorneys providing independent legal representation as attorneys ad litem.

The bill makes guardian ad litem appointment to a child mandatory. The bill expands the Statewide Guardian Ad Litem Office's scope of duties. HB 185 also establishes the Pathway to Prosperity grant program to help youth transition from foster care to independent adult living and requires increased GAL involvement in and court attention to ensuring a youth aging out of care has a permanent connections to a caring adult.

The bill has an indeterminate fiscal impact on state government and no fiscal impact on local governments. See Fiscal Comments.

The bill provides an effective date of July 1, 2024.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Background**

#### **Florida's Child Welfare System**

Chapter 39, F.S., creates the dependency system charged with protecting child welfare. The Florida Legislature has declared four main purposes of the dependency system:<sup>1</sup>

- to provide for the care, safety, and protection of children in an environment that fosters healthy social, emotional, intellectual, and physical development;
- to ensure secure and safe custody;
- to promote the health and well-being of all children under the state's care; and
- to prevent the occurrence of child abuse, neglect, and abandonment.

Florida's dependency system identifies children and families in need of services through reports to the central abuse hotline and child protective investigations. The Department of Children and Families (DCF) works with those families to address the problems endangering children, if possible. DCF's practice model is based on the safety of the child within the home by using in-home services, such as parenting coaching and counseling, to maintain and strengthen that child's natural supports in his or her environment. If the problems are not addressed, the child welfare system finds safe out-of-home placements for these children.

DCF contracts with community-based care lead agencies (CBCs) for case management, out-of-home services, and related services. The outsourced provision of child welfare services is intended to increase local community ownership of service delivery and design. CBCs in turn contract with a number of subcontractors for case management and direct care services to children and their families. DCF remains responsible for a number of child welfare functions, including operating the central abuse hotline, performing child protective investigations, and providing children's legal services.<sup>2</sup> Ultimately, DCF is responsible for program oversight and the overall performance of the child welfare system.<sup>3</sup>

During state fiscal year (SFY) 2022-23, there were a total of 618,916 Florida Abuse Hotline contacts for potential child abuse and neglect, and 35 percent of those contacts were screened in because they met criteria to trigger an investigation or assessment.<sup>4</sup> Ultimately, 10 percent of children who were investigated or assessed were found to be victims of maltreatment.<sup>5</sup>

Approximately 59,000 children statewide receive child welfare services. Of those children, roughly 48 percent are in in-home care and 52 percent are in out-of-home care.<sup>6</sup>

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<sup>1</sup> S. 39.001(1)(a), F.S.

<sup>2</sup> OPPAGA, report 06-50.

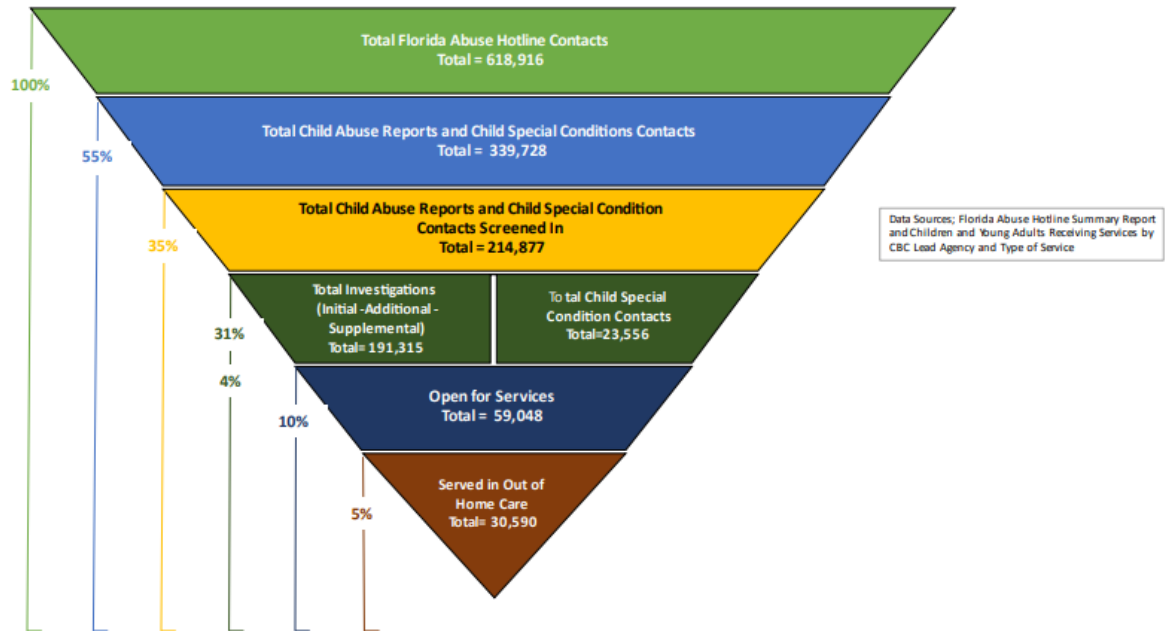
<sup>3</sup> *Id.*

<sup>4</sup> Florida Department of Children and Families, *Child Welfare Key Indicators Monthly Report October 2023: A Results-Oriented Accountability Report*, Office of Child Welfare, p. 9 (Oct. 2023), [https://www.myflfamilies.com/sites/default/files/2023-11/KI\\_Monthly\\_Report\\_Oct2023.pdf](https://www.myflfamilies.com/sites/default/files/2023-11/KI_Monthly_Report_Oct2023.pdf) (last visited Dec. 1, 2023).

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

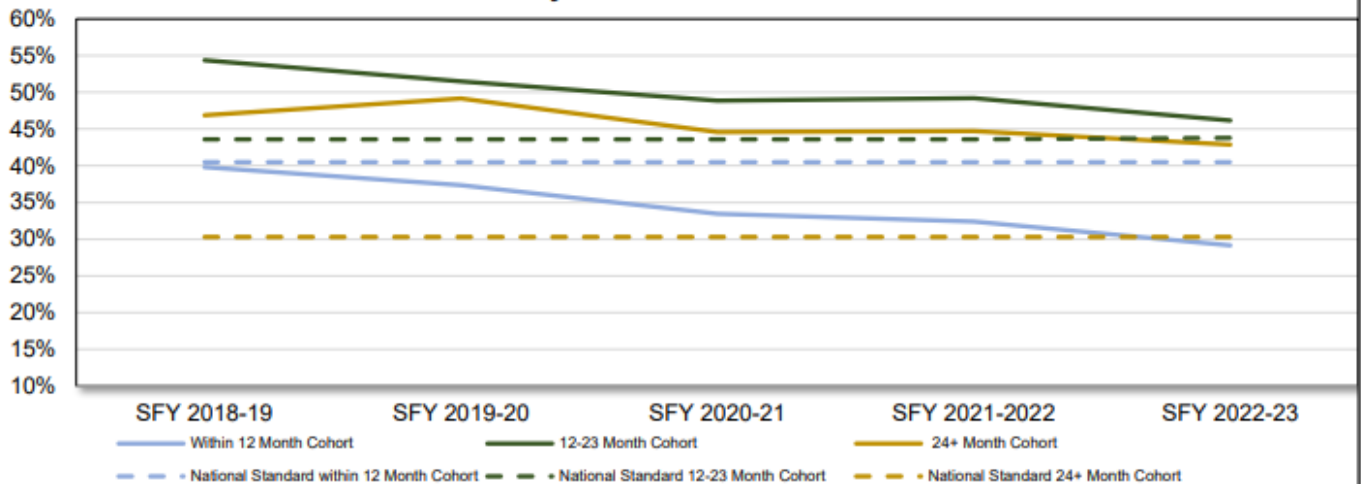
## Florida Child Protection System Overview 2022-23 SFY



Data Sources; Florida Abuse Hotline Summary Report and Children and Young Adults Receiving Services by CBC Lead Agency and Type of Service

Also for SFY 2022-23, DCF’s permanency report describes Florida’s performance for three cohorts of children entering care (children in care within 12 months; children in care 12-23 months; and children in care 24 months of longer).<sup>7</sup> As the below chart illustrates, Florida’s performance for each cohort generally declined over the past several years, with the children within the 12 months cohort declining most notably and falling below national standards.<sup>8</sup>

### Indicators of Permanency within 12 Months: From Entry, In Care 12-23 Months, In Care 24+ Months by State Fiscal Year



<sup>7</sup> Florida Department of Children and Families, *Results-Oriented Accountability 2023 Annual Performance Report*, Office of Quality and Innovation, p. 26, (Nov. 21, 2023), <https://www.myflfamilies.com/sites/default/files/2023-11/ROA%20Annual%20Performance%20Report%202022-23.pdf> (last visited Dec. 1, 2023).

<sup>8</sup> *Id.*

## Dependency Case Process

When child welfare necessitates that DCF remove a child from the home, a series of dependency court proceedings must occur to adjudicate the child dependent and place that child in out-of-home care.

Steps in the dependency process may include:

- A report to the Florida Abuse Hotline.
- A child protective investigation to determine the safety of the child.
- The court finding the child dependent.
- Case planning for the parents to address the problems resulting in their child's dependency.
- Placement in out-of-home care, if necessary.
- Reunification with the child's parent or another option to establish permanency, such as adoption after termination of parental rights.<sup>9</sup>

### **The Dependency Court Process**

<b>Dependency Proceeding</b>	<b>Description of Process</b>	<b>Controlling Statute</b>
Removal	A child protective investigation determines the child's home is unsafe, and the child is removed.	s. 39.401, F.S.
Shelter Hearing	A shelter hearing occurs within 24 hours after removal. The judge determines whether to keep the child out-of-home.	s. 39.401, F.S.
Petition for Dependency	A petition for dependency occurs within 21 days of the shelter hearing. This petition seeks to find the child dependent.	s. 39.501, F.S.
Arraignment Hearing and Shelter Review	An arraignment and shelter review occurs within 28 days of the shelter hearing. This allows the parent to admit, deny, or consent to the allegations within the petition for dependency and allows the court to review any shelter placement.	s. 39.506, F.S.
Adjudicatory Trial	An adjudicatory trial is held within 30 days of arraignment. The judge determines whether a child is dependent during trial.	s. 39.507, F.S.
Disposition Hearing	If the child is found dependent, disposition occurs within 15 days of arraignment or 30 days of adjudication. The judge reviews the case plan and placement of the child. The judge orders the case plan for the family and the appropriate placement of the child.	s. 39.506, F.S. s. 39.521, F.S.
Postdisposition hearing	The court may change temporary placement at a postdisposition hearing any time after disposition but before the child is residing in the permanent placement approved at a permanency hearing.	s. 39.522, F.S.
Judicial Review Hearings	The court must review the case plan and placement every 6 months, or upon motion of a party.	s. 39.701, F.S.
Petition for Termination of Parental Rights	Once the child has been out-of-home for 12 months, if DCF determines that reunification is no longer a viable goal, termination of parental rights is in the best interest of the child, and other requirements are met, a petition for termination of parental rights is filed.	s. 39.802, F.S. s. 39.8055, F.S. s. 39.806, F.S. s. 39.810, F.S.
Advisory Hearing	This hearing is set as soon as possible after all parties have been served with the petition for termination of parental rights. The hearing allows the parent to admit, deny, or consent to the allegations within the petition for termination of parental rights.	s. 39.808, F.S.

<sup>9</sup> The state has a compelling interest in providing stable and permanent homes for adoptive children in a prompt manner, in preventing the disruption of adoptive placements, and in holding parents accountable for meeting the needs of children. S. 63.022, F.S.

Adjudicatory Hearing	An adjudicatory trial shall be set within 45 days after the advisory hearing. The judge determines whether to terminate parental rights to the child at this trial.	s. 39.809, F.S.
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### Parties to Dependency Cases

The Florida Constitution requires that the courts “be open to every person for redress of any injury, and justice shall be administered without sale, denial, or delay.”<sup>10</sup> Generally, persons with an interest in the outcome of legal action, and who are necessary or proper to a complete resolution of the case, are parties to the legal action.<sup>11</sup>

In Chapter 39 court cases, the terms “party” and “parties” include the petitioner, the child who is the subject of the dependency case, the child’s parent(s), DCF, the guardian ad litem, or the representative of the guardian ad litem program (when appointed).<sup>12</sup> Any party to a Chapter 39 proceeding who is affected by a court order may appeal to the appropriate appellate court.<sup>13</sup>

### Multidisciplinary Teams

The use of a multidisciplinary team (MDT) in child welfare settings is a concept that has been an established practice for over 60 years with hospital-based child protection teams<sup>14</sup> and, more recently, child advocacy centers.<sup>15</sup> Because of the complex nature of child abuse and neglect investigations and family assessments and interventions, MDTs are used to enhance and improve child protective investigations and responses necessary for children and families to recover and succeed. MDT’s are becoming more widely used to involve a variety of individuals, both professional and non-professional, that interact and coordinate their efforts to plan for children and families receiving child welfare services.

Using an MDT approach builds upon existing family-centered approaches to care. The use of a strengths-based, family-centered multidisciplinary process is important in engaging children, youth and families in the development and implementation of their individual case or treatment plans or other related services designed to meet their needs.<sup>16</sup> By sharing decision-making and working together, it is more likely that positive and lasting outcomes will be achieved.<sup>17</sup>

MDTs can help eliminate, or at least reduce, many barriers to effective action, including a lack of understanding by the members of one profession of the objectives, standards, conceptual bases, and ethics of the others; lack of effective communication; confusion over roles and responsibilities; interagency competition; mutual distrust; and institutional relationships that limit interprofessional contact.<sup>18</sup> As a result, a number of states<sup>19</sup> are using a MDT team model, also known as a “Child and

<sup>10</sup> Art. I, s. 21, Fla. Const.

<sup>11</sup> See Fla. R. Civ. P. 1.210(a).

<sup>12</sup> S. 39.01(58), F.S.; Fla. R. Juv. P. 8.210(a).

<sup>13</sup> S. 39.510(1), F.S.; S. 39.815(1), F.S.

<sup>14</sup> The Kempe Foundation, *Child Protection Team Celebrates 60 Years*, <http://www.kempe.org/child-protection-team-celebrates-60-years/> (last visited November 30, 2023).

<sup>15</sup> The National Children’s Alliance, *History of NCA*, <https://www.nationalchildrensalliance.org/history-of-nca/#:~:text=The%20history%20of%20National%20Children’s,system%20to%20help%20abused%20children> (last visited November 30, 2023).

<sup>16</sup> The Kinship Center, *The Importance of the Child and Family Team*, <http://www.kinshipcenter.org/about-kinship-center/news-and-events/breaking-news/the-importance-of-the-child-and-family-team-cft.html> (last visited November 30, 2023).

<sup>17</sup> *Id.*

<sup>18</sup> National Center on Child Abuse and Neglect, U.S. Children’s Bureau, Administration for Children, Youth and Families, Office of Human Development Services, U.S. Department of Health, Education, and Welfare, *Multidisciplinary Teams In Child Abuse And Neglect Programs*, 1978, <https://www.ojp.gov/pdffiles1/Digitization/51625NCJRS.pdf> (last visited November 30, 2023).

<sup>19</sup> See Clark County Department of Family Services, *Child and Family Team Meetings Nevada Case Planning and Assessment Policies*, [https://www.childwelfare.gov/pubPDFs/NV\\_CaseManagementTrainingFacilitator.pdf](https://www.childwelfare.gov/pubPDFs/NV_CaseManagementTrainingFacilitator.pdf); State of Tennessee Department of Children’s Services, *Administrative Policies and Procedures: 31.7*, <https://files.dcs.tn.gov/policies/chap31/31.7.pdf>; Indiana Department of Child Services, *Child Welfare Policy*, Jan. 1, 2020, <https://www.in.gov/dcs/files/5.07%20Child%20and%20Family%20Team%20Meetings.pdf> (all sites last visited March 11, 2023).



Family Team”. This model is premised on the notion that children and families have the capacity to resolve their problems if given sufficient support and resources to help them do so.<sup>20</sup>

Currently, Florida law and DCF rules provide for the use of MDT’s in a number of circumstances, such as:

- Child Protection Teams under s. 39.303, F.S.;
- Child advocacy center multidisciplinary case review teams under s. 39.3035, F.S.;
- Initial placement decisions for a child who is placed in out-of-home care, changes in physical custody after the child is placed in out-of-home care, changes in a child’s educational placement, and any other important, complex decisions in the child’s life for which an MDT would be necessary, under s. 39.4022, F.S.; and
- When a child is suspected of being a victim of human trafficking under ss. 39.524 and 409.1754, F.S.

The multidisciplinary team (MDT) approach to representing children is increasingly popular and widely considered a good practice, dramatically improving case outcomes and a child’s experience in foster care. Research shows that MDTs led to quicker case resolution and preserved family connections more often.<sup>21</sup> Children served by an MDT had fewer removals after intervention, fewer adjudications of jurisdiction, and fewer petitions to terminate parental rights.<sup>22</sup> When children were removed from the home, and an MDT was assigned to the cases, they were more likely to be placed with relatives and less likely to be placed in foster care.<sup>23</sup>

## Well-being of Children in Florida’s Child Welfare System

### *Significant Relationships*

The Legislature recognizes the need to focus on creating and preserving family relationships so that young adults have a permanent, lifelong connection with at least one committed adult who provides a safe and stable parenting relationship.<sup>24</sup> Studies indicate children who do well despite serious hardship have had at least one stable and committed relationship with a supportive adult.<sup>25</sup> These relationships buffer children from developmental disruption and help them develop “resilience,” or the set of skills needed to respond to adversity and thrive.

While there are no standardized definitions or measures for well-being, there is general consensus in the literature and among stakeholders regarding common elements, including financial security, obtaining education, securing housing, finding and maintaining stable employment, independence from public assistance, permanent connections and social supports.<sup>26</sup>

### *Florida Child Welfare System Performance Serving Children*

The DCF infographic below scores the health of Florida’s child welfare system at the circuit level.<sup>27</sup> DCF identifies areas with the most significant systemic impact on improving permanency and well-

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<sup>20</sup> California Department of Social Services, *About Child and Family Teams*, <https://www.cdss.ca.gov/inforesources/foster-care/child-and-family-teams/about> (last visited November 30, 2023).

<sup>21</sup> Duquette, et al., *Children’s Justice: How to Improve Legal Representation for Children in the Child Welfare System* [NACC E-version, 2021], secs. 12.5 and 13.8, available at [Children’s Justice: How to Improve Legal Representation of Children in the Child Welfare System \(umich.edu\)](https://www.umich.edu/~childrensjustice/ChildrensJusticeHowtoImproveLegalRepresentationofChildrenintheChildWelfareSystem.pdf).

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

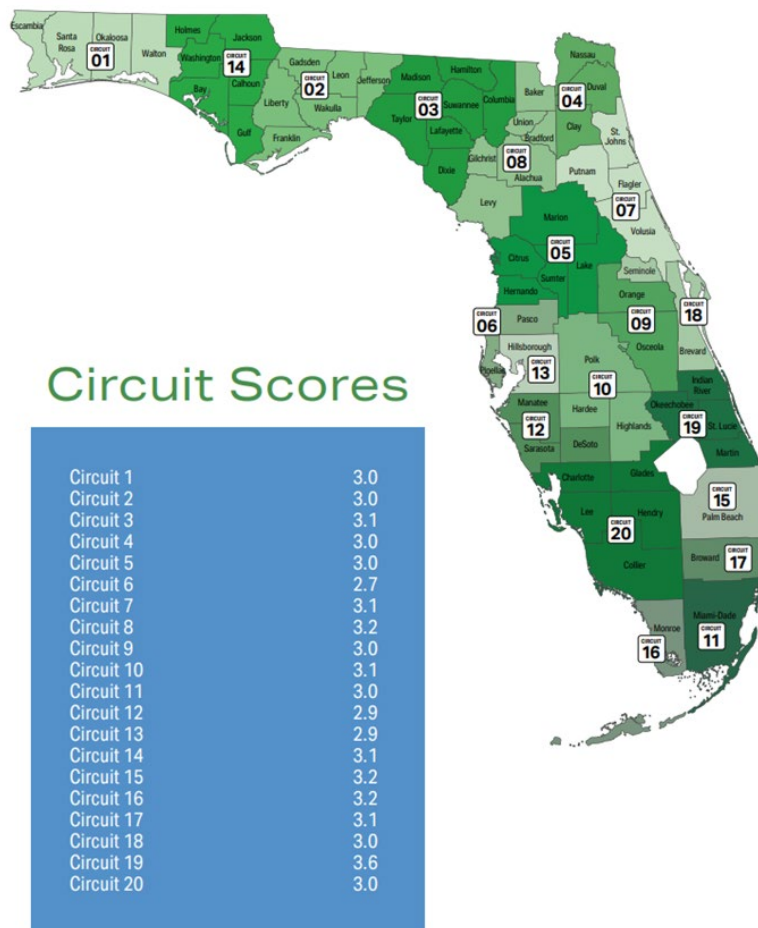
<sup>24</sup> S. 409.1451, F.S.

<sup>25</sup> National Scientific Council on the Developing Child (2015). Supportive Relationships and Active Skill-Building Strengthen the Foundations of Resilience: Working Paper No. 13. <https://harvardcenter.wpenginepowered.com/wp-content/uploads/2015/05/The-Science-of-Resilience2.pdf>. (last visited November 30, 2023).

<sup>26</sup> OPPAGA, Independent Living Services-Presentation to the Senate Committee on Children, Families, and Elder Affairs, January 24, 2023, available at [https://oppaga.fl.gov/Documents/Presentations/OPPAGA%20ILS%20Senate%20Presentation\\_final.pdf](https://oppaga.fl.gov/Documents/Presentations/OPPAGA%20ILS%20Senate%20Presentation_final.pdf).

<sup>27</sup> Florida Department of Children and Families, *Annual Accountability Report on the Health of Florida’s Child Welfare System: Fiscal Year 2021-2022*, p. 6 (Dec. 12, 2022) [https://www.myflfamilies.com/sites/default/files/2022-12/Accountability\\_System\\_Report\\_2022-revision12DEC22.pdf](https://www.myflfamilies.com/sites/default/files/2022-12/Accountability_System_Report_2022-revision12DEC22.pdf) (last visited Nov. 28, 2023).

being<sup>28</sup> and evaluates progress toward achieving permanency, safety, and well-being for children in the welfare system. The overall score for each of the 20 circuits aggregates individual circuit performance scores on permanency, safety, and well-being. For FY21-22, the overall median score is 3.1 out of a possible 5, and 85% of circuits earned a 3.0 or higher.<sup>29</sup> A score over 3.50 indicates the circuit's performance exceeds established standards.<sup>30</sup> A score between 3.00-3.349 indicates the circuit's performance meets established standards.<sup>31</sup> A score of 2.00-2.99 indicated the circuit's performance does not meet established standards.<sup>32</sup> In FY 2021-2022, DCF gave 17 of 20 circuits a score of 3 or higher, indicating that the circuit's performance exceeds established standards.



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## Transition to Adulthood

Young adults who age out of the foster care system more frequently have challenges achieving self-sufficiency compared to young adults who never came to the attention of the foster care system. Young adults who age out of the foster care system are less likely to earn a high school diploma or GED and more likely to have lower rates of college attendance.<sup>34</sup> They have more mental health problems, have a higher rate of involvement with the criminal justice system, and are more likely to have difficulty achieving financial independence.<sup>35</sup> These young adults also have a higher need for public assistance and are more likely to experience housing instability and homelessness.<sup>36</sup>

<sup>28</sup> *Id.* at p. 3.

<sup>29</sup> *Id.* at p. 2.

<sup>30</sup> *Id.* at p. 7.

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> *Id.* at pg. 6.

<sup>34</sup> Gyphen, L., Vanderfaeillie, J., et al., "Outcomes of Children Who Grew Up in Foster Care: Systematic-Review", *Children and Youth Services Review*, vol. 76, pp. 74-83, <http://dx.doi.org/10.1016/j.childyouth.2017.02.035> (last visited November 30, 2023).

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

In federal fiscal year 2021, the federal Children’s Bureau within the U.S. Department of Health & Human Services reported 46,694 teens and young adults entered foster care in the United States,<sup>37</sup> with 2,167 teens and young adults entering Florida’s foster care system.<sup>38</sup> The Children’s Bureau also collects information and outcomes on youth and young adults currently or formerly in foster care who received independent living services supported by federal funds.<sup>39</sup> To this end, the Children’s Bureau’s National Youth in Transition Database (NYTD) representation tracks the independent living services each state provides to foster youth in care and assesses each state’s performance in providing independent living and transition services.

DCF will establish its fifth NYTD report (Oct. 2022 – Sept. 2023) that surveys youth in Florida’s foster care system beginning on their 17<sup>th</sup> birthday.<sup>40</sup> In the interim, the most recent Florida NYTD available on DCF’s website is the 2018 report.<sup>41</sup> In the chart below, the 2018 Florida NYTD documented outcomes related to education, employment, housing, finances and transportation, health and well-being, and connections:<sup>42</sup>

Outcomes of Young Adults who Aged Out of Care	
Area	Outcome
<b>Education</b>	<ul style="list-style-type: none"> <li>• 74% were enrolled in and attending high school, GED classes, post-high school vocational training, or college.</li> <li>• 12% experienced barriers that prevented them from continuing education. The top three reported barriers included the need to work full-time, not having transportation, and having academic difficulties.</li> </ul>
<b>Employment</b>	<ul style="list-style-type: none"> <li>• 15% were employed full-time (35 hours per week or more).</li> <li>• 26% were employed part-time.</li> <li>• 78% had a paid job over the last year.</li> <li>• 22% completed an apprenticeship, internship, or other on-the-job training, either paid or unpaid.</li> </ul>
<b>Housing</b>	<ul style="list-style-type: none"> <li>• The top three current living situations included living in their own apartment, house, or trailer; living with friends or a roommate; and living in a group care setting (including a group home or residential care facility).</li> <li>• 41% had to couch surf or move from house to house because they did not have a permanent place to stay.</li> <li>• 27% experienced some type of homelessness in the past year.<sup>43</sup></li> </ul>
<b>Financial &amp; Transportation</b>	<ul style="list-style-type: none"> <li>• 46% received public food assistance.</li> <li>• 10% received social security payments (Supplemental Security Income, Social Security Disability Insurance, or dependents’ payments).</li> <li>• 83% had a reliable means of transportation to school/work.</li> <li>• 76% had an open bank account.</li> </ul>

<sup>37</sup> Children’s Bureau, *The Adoption and Foster Care Analysis and Reporting System (AFCARS) FY 2021 data*, U.S. Department of Health and Human Services, p. 2, June 28, 2022, <https://www.acf.hhs.gov/sites/default/files/documents/cb/afcars-report-29.pdf> (last accessed Dec. 3, 2023).

<sup>38</sup> Children’s Bureau, *The Adoption and Foster Care Analysis and Reporting System (AFCARS) FY 2021 data: Florida*, U.S. Department of Health and Human Services, p. 1, June 28, 2022, <https://www.acf.hhs.gov/sites/default/files/documents/cb/afcars-tar-fl-2021.pdf> (last accessed Dec. 3, 2023).

<sup>39</sup> Children’s Bureau, *Data and Statistics: National Youth in Transition Database*, U.S. Department of Health & Human Services, [https://www.acf.hhs.gov/cb/data-research/data-and-statistics-nytd#FL\\_26606](https://www.acf.hhs.gov/cb/data-research/data-and-statistics-nytd#FL_26606) (last visited Dec. 3, 2023).

<sup>40</sup> Florida Department of Children and Families, *Independent Living Services Annual Report*, Office of Child Welfare, Feb. 2023, p. 15 [https://www.myflfamilies.com/sites/default/files/2023-07/Independent\\_Living\\_Services\\_Report\\_2022.pdf](https://www.myflfamilies.com/sites/default/files/2023-07/Independent_Living_Services_Report_2022.pdf) (last visited Dec. 4, 2023).

<sup>41</sup> Florida Department of Children and Families, *Annual Reports for Independent Living*, Child and Family Services, <https://www.myflfamilies.com/services/child-family/independent-living/annual-reports-for-independent-living> (last visited Dec. 4, 2023).

<sup>42</sup> Florida Department of Children and Families, *Florida National Youth in Transition Database, 2018 Survey Data Report*, <https://www.myflfamilies.com/sites/default/files/2023-06/2018%20Florida%20NYTD%20Statewide%20Report%20Final.pdf> (last visited Dec. 4, 2023).

<sup>43</sup> *Id.*

<b>Health &amp; Well-Being</b>	<ul style="list-style-type: none"> <li>• 85% were on Medicaid.</li> <li>• 18% had children.</li> <li>• 34% had not received medical care for a physical health problem, treatment for a mental health problem, or dental care in the past two years for some health problem needing to be addressed.</li> <li>• 24% were confined in a jail, prison, correctional facility, or juvenile detention facility within the past two years.</li> </ul>
<b>Connections</b>	<ul style="list-style-type: none"> <li>• 85% had at least one adult in their life, other than their case manager, to go to for advice or emotional support.</li> <li>• 67% had a close relationship with biological family members.</li> </ul>

Office of Continuing Care

The Office of Continuing Care at DCF helps individuals who have aged out of the child welfare system, until age 26. The office provides ongoing support and care coordination needed for young adults to achieve self-sufficiency. Duties of the office include, but are not limited to:

- Informing young adults who age out of the foster care system of the purpose of the office, the types of support the office provides, and how to contact the office.
- Serving as a direct contact to the young adult in order to provide information on how to access services to support the young adult’s self-sufficiency, including but not limited to, food assistance, behavioral health services, housing, Medicaid, and educational services.
- Assisting in accessing services and supports for the young adult to attain self-sufficiency, including, but not limited to, completing documentation required to apply for services.
- Collaborating with CBC’s to identify local resources that can provide support to young adults served by the office.
- Developing and administering the Step into Success Workforce Education and Internship Pilot Program for foster youth and former foster youth as required under s. 409.1455.<sup>44</sup>

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<sup>44</sup> S. 414.56, F.S.  
**STORAGE NAME:** h0185.CFS  
**DATE:** 12/4/2023

## Disability of Non-age and Legal Counsel for Minors

The principal disability of nonage relates to the power of a minor to contract.<sup>45</sup> At common law, unemancipated children generally lack the legal capacity to enter into binding contractual agreements.<sup>46</sup> A minor's agreements generally are voidable, and not void.<sup>47</sup> The disability of non-age is expressly recognized in the Florida Constitution and in statute.<sup>48</sup> Due to the disability of non-age, "an adult person of reasonable judgment and integrity" must conduct any litigation for the minor in judicial proceedings."<sup>49</sup> It follows that unemancipated minors cannot engage legal counsel on their own unless there is a constitutional right or legislative act allowing such engagement.<sup>50</sup>

The U.S. Supreme Court has only found a constitutional right to counsel for minors in delinquency proceedings.<sup>51</sup> The Supreme Court held in *In re Gault* that juveniles need counsel in delinquency proceedings because such actions may result in a loss of liberty, which is comparable in seriousness to a felony prosecution for adults.<sup>52</sup>

However, in addition to those proceedings governed by the *In re Gault* decision, Florida law authorizes the appointment of legal counsel for minors in certain other situations:

- If the disability of non-age has been removed under chapter 743, F.S.,<sup>53</sup>
- At the discretion of the judge in domestic relations cases, under s. 61.401, F.S.,
- At the discretion of the judge in a dependency proceeding, under s. 39.4085, F.S.,
- When the child's parents are subject to a petition for termination of parental rights,
- When the child's change of placement from a foster parent is being contested under s. 39.522(3), F.S., or
- If the child is within one of the five categories requiring mandatory appointment in dependency proceedings (discussed further below).<sup>54</sup>

In all other circumstances, "an adult person of reasonable judgment and integrity should conduct the litigation for the minor in judicial proceedings."<sup>55</sup>

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<sup>45</sup> Fla. Jur. 2d Family Law § 252 (Dec. 2023 Update) (Accessed Westlaw Nov. 30, 2023).

<sup>46</sup> *Id.* at § 495.

<sup>47</sup> *Id.*

<sup>48</sup> Fla. Const. Art. III, § 11(a)(17); s. 743.01, 07, F.S.

<sup>49</sup> *Garner v. I. E. Schilling Co.*, 174 So. 837, 839 (Fla. 1937).

<sup>50</sup> *Buckner v. Family Services of Central Florida, Inc.*, 876 So.2d 1285 (Fla. 5<sup>th</sup> DCA 2004).

<sup>51</sup> *In re Gault*, 387 U.S. 1, 41 (1967).

<sup>52</sup> *Id.* at p. 36.

<sup>53</sup> A circuit court has jurisdiction to remove the disabilities of nonage of a minor age 16 or older residing in Florida. To do so, the minor's natural guardian, legal guardian, or guardian ad litem must file a petition to remove the child's disability of nonage. S. 743.015, F.S.

<sup>54</sup> S. 39.01305, F.S., requires an attorney to be appointed for a dependent child who:

- Resides in a skilled nursing facility or is being considered for placement in a skilled nursing home;
- Is prescribed a psychotropic medication but declines assent to the psychotropic medication;
- Has a diagnosis of a developmental disability as defined in s. [393.063](#);
- Is being placed in a residential treatment center or being considered for placement in a residential treatment center; or
- Is a victim of human trafficking as defined in s. [787.06](#)(2)(d).

<sup>55</sup> *Garner v. I. E. Schilling Co.*, 174 So. 837, 839 (Fla. 1937).

## Best Interest Considerations in the Child Welfare System

In Florida, the state government collectively pursues a best interest standard in a Chapter 39 dependency proceeding to determine what course of action is in the child's best interest.<sup>56</sup> The term "best interests of a child" generally refers to deliberations undertaken by courts in making decisions about the services, actions, and orders that will best serve a child and who is best suited to care for that child.<sup>57</sup>

The best interest standard contemplates many nuanced factors of each child's physical, mental, emotional, and social well-being to determine each child's best permanency outcome. Possible permanency outcomes include family reunification, out-of-home foster care, permanent guardianship, or adoption. The best interest standard prioritizes a safe and sustainable environment for the child's upbringing and development. Variables of consideration include sibling connections, school continuity, extracurricular activities of importance to the child, and consistent access to necessary health care services. If the child is of a sufficient age and capacity to express a preference, then the child's preference will be considered.<sup>58</sup>

## Representation of Children in the Child Welfare System

The two primary models of child representation in the child welfare system are best interest and expressed wishes.

There are two types of best interest representation: Attorney or Professional<sup>59</sup> and Lay Volunteer.<sup>60</sup>

Expressed wishes or client-directed<sup>61</sup> representation occurs when an attorney is appointed to represent a child's expressed wishes.

Due to the variety of models of representation used nationally, differing structures of child welfare systems among states, designs of studies, and multiplicity of factors impacting the outcomes of children in the child welfare system, research is inconclusive regarding whether one approach is overall more beneficial.<sup>62</sup>

Florida's child representation system authorizes both types of representation. Current law requires best interest representation through guardians ad litem (GALs), who are to be appointed at the earliest possible time in any (all) abuse and neglect proceedings, though not all children in Florida's

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<sup>56</sup> See Ss. 39.01375, F.S., 39.820(1), F.S.

<sup>57</sup> Office of Program Policy Analysis and Government Accountability (OPPAGA) Research Memorandum, OPPAGA Review of Florida's Guardian ad Litem Program (December 2020), <https://www-media.floridabar.org/uploads/2021/03/OPPAGA-Guardian-Ad-Litem-Program.pdf>.

<sup>58</sup> S. 39.01375, F.S.

<sup>59</sup> Children in states with this representation model always receive a GAL who is required to be either an attorney or a professional (e.g., professional GAL or mental health counselor). These states may also allow for the appointment of a client-directed attorney at the discretion of the judge or in certain circumstances. See, OPPAGA Research Memorandum, *OPPAGA Review of Florida's Guardian ad Litem Program* (December 2020), [OPPAGA Review of Florida's Guardian ad Litem Program \(floridabar.org\)](https://www-media.floridabar.org/uploads/2021/03/OPPAGA-Guardian-Ad-Litem-Program.pdf), Exhibit 3.

<sup>60</sup> Children in states with this representation model always receive a GAL, who is not required to be an attorney. These states may also allow for the appointment of a client-directed attorney at the discretion of the judge or in certain circumstances.

<sup>61</sup> OPPAGA Research Memorandum, *OPPAGA Review of Florida's Guardian ad Litem Program* (December 2020), <https://www-media.floridabar.org/uploads/2021/03/OPPAGA-Guardian-Ad-Litem-Program.pdf>.

<sup>62</sup> See generally research cited in OPPAGA research memorandum, *id.*, and OPPAGA report 21-07, *Literature Review of Studies on the Effectiveness of Advocacy Models for Children in Dependency*, December 2021, <https://oppaga.fl.gov/Documents/Reports/21-07.pdf>. For example, in at least one state, only attorneys are Guardians ad Litem; in other state systems, children may be assigned representation because of their more challenged situation, which makes a study design involving comparisons to children without representation inappropriate. However, OPPAGA reported, "A consistent theme in studies and documents regardless of the advocacy model deployed is the benefits of having strong advocates with in-depth knowledge of social and legal systems." p. ii, *Literature Review*.



dependency system have GALs.<sup>63</sup> As described previously, certain children in Florida's child welfare system are required to have attorneys, or may be appointed one at the discretion of the court.<sup>64</sup>

### Guardians ad Litem

In such actions which involve an allegation of child abuse, abandonment, or neglect as defined in section 39.01, F.S., which allegation is verified and determined by the court to be well-founded, the court must appoint a guardian ad litem for the child, unless the court determines representation to be unnecessary.<sup>65</sup> The guardian ad litem is a party to any judicial proceeding from the date of the appointment until the date of discharge. The guardian ad litem appointment is for the limited purpose of a particular child welfare case. While the guardian ad litem generally does not represent the child in any other legal matters, they are not precluded from choosing to represent the child in other matters. Once appointed, the guardian ad litem serves as the child's fiduciary<sup>66</sup> representative in court to speak for the child's best interest.

During their appointment, the guardian ad litem must fulfill three primary responsibilities:<sup>67</sup>

- To investigate the case and file a written report with the court that summarizes the GAL's findings, a statement of child's wishes, and the GAL's recommendations.
- To be present at all court hearings unless excused by the court.
- To represent the interests of the child until the jurisdiction of the court over the child terminates, or until excused by the court.

Florida law outlines requirements to serve as a GAL.<sup>68</sup> A person appointed as GAL must be:

- certified by the GAL Program pursuant to s. 39.821;
- certified by a not-for-profit legal aid organization as defined in s. 68.096; or
- an attorney who is a member in good standing of The Florida Bar.

#### *Florida's Statewide GAL Office*

The Statewide GAL Office manages a network of volunteer advocates and professional staff representing the best interest of abused, abandoned, and neglected children. The Statewide GAL Office within the Justice Administrative Commission has oversight responsibilities for and provides technical assistance to all guardian ad litem programs located within the judicial circuits.<sup>69</sup>

In Florida, when the court appoints the Statewide GAL Office to represent the best interests of the child, the Office assigns the child a guardian ad litem multidisciplinary team. With this team, the child typically receives the services of a lay volunteer, a staff advocate (case manager), and a staff attorney. This model has evolved over the years from what used to be a volunteer-only approach.<sup>70</sup>

The Statewide GAL Office employs more than 180 staff attorneys and relies on more than 200 pro bono attorneys volunteering their services.<sup>71</sup> In 2021, the GAL served more than 37,000 kids and had more than 13,000 volunteers.<sup>72</sup> Typically, a GAL volunteer represents 1 or 2 children.<sup>73</sup>

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<sup>63</sup> S. 39.822(1), F.S.

<sup>64</sup> S. 39.01305, F.S.

<sup>65</sup> S. 39.402(8)(c)1., F.S.

<sup>66</sup> Fiduciary representation contemplates a legally cognizable relationship of trust where an intermediary figure advances the interests of a principal for the primary and direct benefit of the principal's designated beneficiary.

<sup>67</sup> Fla. R. Juv. P. 8.215(c)(1-3).

<sup>68</sup> S. 61.402, F.S.

<sup>69</sup> S. 39.8296(2)(b), F.S.

<sup>70</sup> *Supra* note 51.

<sup>71</sup> Florida Statewide Guardian ad Litem Office, About Us, available at <https://guardianadlitem.org/about/> (last viewed on March 11, 2023).

<sup>72</sup> *Id.*

<sup>73</sup> Florida Statewide Guardian Ad Litem Office, Agency Analysis of SB 1920 (2020), p. 4 (Mar. 14, 2021).

Federal and Florida law provide that a GAL must be appointed to represent the child in every case.<sup>74</sup> The Child Abuse Prevention and Treatment Act (CAPTA) makes the approval of CAPTA grants contingent on an eligible state plan, which must include provisions and procedures to appoint a GAL in every case.<sup>75</sup> The GAL must be appointed to:

- Obtain first-hand knowledge of the child’s situation and needs; and
- Make recommendations to the court regarding the best interest of the child.<sup>76</sup>

Under Florida law, a court must appoint a GAL at the earliest possible time to represent the child in a dependency proceeding.<sup>77</sup> The FY 23-24 Long Range Program Plan for the GAL details the following statistics regarding FY 2021-22:

- The program represented on average:
  - 24,993 children per month, and 36,948 total children during that fiscal year.<sup>78</sup>
  - 85.2% of children in the dependency system each month.<sup>79</sup>
- 1,671 new volunteers were certified, with a total of 9,342 volunteers active each month on average.<sup>80</sup>

Additionally, the Statewide GAL Program reported representing 93.4% of children at the beginning of FY 2023-24.<sup>81</sup>

In some cases, the GAL may discharge from a case when a child’s permanency goal has been established and the child is in a stable placement.<sup>82</sup>

Chapter 39 defines “guardian ad litem” as the Statewide Guardian Ad Litem Office, which includes circuit guardian ad litem programs, a duly certified volunteer, a staff member, a staff attorney, a contract attorney, pro bono attorney working on behalf of a GAL; court-appointed attorney; or responsible adult who is appointed by the court to represent the best interest of a child<sup>83</sup> in a proceeding as provided by law including ch. 39, F.S., until discharged by the court.<sup>84</sup> The Florida Supreme Court has recognized that a GAL is appointed to serve as the child’s representative in court to present what is in the child’s best interest.<sup>85</sup> Chapter 39 provisions describe the role of the guardian ad litem as either representing the child, or representing the child’s best interest, depending on the specific section.

### *Leadership, Appropriations, and Fundraising*

A Governor-appointed executive director helms the Statewide GAL Office.<sup>86</sup> The executive director must have knowledge of dependency law and social service delivery systems available to meet the needs of children who are abused, neglected, or abandoned.<sup>87</sup> As a full-time official appointed to a three-year term, the director has the following eight duties:<sup>88</sup>

- Collect, track, and report reliable and consistent case data.
- Compare and contrast Florida’s GAL program with other states.
- Develop statewide performance measures and standards, with local GAL office input.

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<sup>74</sup> 42 U.S.C. 67 §5106a.(b)(2)(xiii); S. 39.822(1), F.S.

<sup>75</sup> 42 U.S.C. 67 §5106a.(b)(2)(xiii).

<sup>76</sup> *Id.*

<sup>77</sup> S. 39.822(1), F.S.

<sup>78</sup> Statewide Guardian ad Litem Office, *Long Range Program Plan*, Fiscal Years 2023-24 through 2027-28; Sept. 30, 2022, pg. 14 <http://floridafiscalportal.state.fl.us/Document.aspx?ID=24413&DocType=PDF> (last viewed on March 13, 2023).

<sup>79</sup> *Id.*

<sup>80</sup> *Id.*

<sup>81</sup> Justice Administration Commission, *Long-Range Program Plan, FY 2024-25*, p. 16

<http://floridafiscalportal.state.fl.us/Document.aspx?ID=26899&DocType=PDF> (accessed Dec. 3, 2023).

<sup>82</sup> OPPAGA Memo at p. 15

<sup>83</sup> *Supra* note 51 at 3.

<sup>84</sup> S. 39.820(1), F.S.

<sup>85</sup> *D.H. v. Adept Cmty. Servs.*, 271 So. 3d 870, 879 (Fla. 2018) (citing *C.M. v Dep’t of Children & Family Servs.*, 854 So.2d 777, 779 (Fla. 4th DCA 2003).

<sup>86</sup> S. 39.8296(2)(a), F.S.

<sup>87</sup> *Id.*

<sup>88</sup> *Id.*; S. 39.8296(2)(b), F.S.



- Develop head trauma and brain injury recognition and response training for the guardian ad litem program.
- Maximize funding sources and evaluate the services offered in each judicial circuit.
- Exercise awareness and innovation to preserve civil and constitutional rights.
- Promote normalcy and trust between children and the court-appointed volunteer guardian ad litem by allowing the court-appointed volunteer guardian ad litem to transport a child.
- Submit annual reports to the Governor, Senate President, Speaker of the House of Representatives, and Chief Justice of the Supreme Court.

Since the executive director reports to the Governor, the Governor may remove him or her for cause.<sup>89</sup> Any person appointed to serve as the executive director may be permitted to serve more than one term.<sup>90</sup> The Governor appoints an executive director from a shortlist of at least three eligible applicants submitted by the Guardian Ad Litem Qualifications Committee.<sup>91</sup> This five-person committee solicits applications for the executive director position by statewide advertisement.<sup>92</sup> The Governor may appoint an executive director from the shortlist or may reject nominations and request new nominees.<sup>93</sup>

### *GAL Program Direct Support Organization*

Pursuant to authority in s. 39.8298, F.S., the Statewide GAL Office maintains a direct-support organization (DSO) known as the Florida Guardian ad Litem Foundation.<sup>94</sup> The DSO is a Florida nonprofit corporation and operates to fundraise, manage a portfolio of investments in securities, funds, and assets, and spend for the direct or indirect benefit of the Statewide GAL Office.<sup>95</sup> Established by contract, the DSO must operate consistently with the goals and purposes of the Statewide GAL Office.<sup>96</sup> The DSO's board of directors are appointed by, and serve at the pleasure of, the Statewide GAL Office executive director,<sup>97</sup> who also approves the DSO's articles of incorporation, bylaws, and annual budget.<sup>98</sup> If a DSO ceases to exist or if the contract is terminated by the executive director, all moneys and property held in trust revert to the Statewide GAL Office.<sup>99</sup>

### Attorneys Ad Litem

An attorney ad litem (AAL) is an attorney appointed to provide legal services to a person such as a parent, a child, or an incapacitated person. The AAL has an attorney-client relationship with the person whom the AAL is appointed to represent and owes that person the duties of her undivided loyalty, confidentiality, and competent representation. The AAL is an advocate for the person whom the AAL is appointed to represent and will express the person's wishes to the court or jury. Like other attorneys, including attorneys employed by the GAL program, AAL's practice is subject to regulation.

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<sup>89</sup> S. 39.8296(2)(a), F.S.

<sup>90</sup> *Id.*

<sup>91</sup> *Id.*

<sup>92</sup> *Id.*

<sup>93</sup> *Id.*

<sup>94</sup> S. 39.8298(1), F.S.; see s. 39.8296(2)(b)5.-6., F.S.; Dennis Moore, *RE: Report of Guardian ad Litem Direct-Support Organization, Florida Statewide Guardian ad Litem Office*, August 15, 2023, <https://guardianadlitem.org/wp-content/uploads/2023/10/DSO-Report-2023.pdf> (last visited Dec. 3, 2023).

<sup>95</sup> S. 39.8298(1)(a)-(b), F.S.

<sup>96</sup> Ss. 39.8298(1)(c), 39.8298(2), F.S.

<sup>97</sup> S. 39.8298(3), F.S.

<sup>98</sup> S. 39.8298(2)(a)-(c), F.S.

<sup>99</sup> S. 39.8298(2)(c), F.S.

## The Practice of Law in Florida

The Florida Constitution vests the Florida Supreme Court with exclusive jurisdiction to regulate the admission of persons to the practice of law and the discipline of persons admitted.<sup>100</sup> The Court performs those official functions through two separate arms: the Florida Board of Bar Examiners, which screens, tests, and certifies candidates for admission to the practice, and The Florida Bar, the investigative and prosecutorial authority in the lawyer regulatory practice.<sup>101</sup>

The Supreme Court exercises inherent supervisory power to prohibit the unauthorized practice of law.<sup>102</sup> The unauthorized practice of law covers both lawyers not licensed by the Supreme Court and non-lawyers who lack court authorization to practice law.<sup>103</sup> An example of non-lawyers who obtain court authorization to practice law is qualified law students authorized to represent clients in legal intern programs.<sup>104</sup> Ultimately, the purpose of regulating the practice of law to protect the public “from incompetent, unethical, or irresponsible representation.”<sup>105</sup>

Attorneys are officers of the court.<sup>106</sup> To this end, the Supreme Court – through The Florida Bar – governs the attorney-client relationship by the *Florida Rules of Professional Conduct*.<sup>107</sup>

The client must receive the following services from their attorney:

- *Client-Directed Representation* – the client’s attorney must abide by a client’s decisions concerning the objectives of representation and to reasonably consult with the client as to the means by which they are to be pursued.<sup>108</sup>
- *Competent Representation* – legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation.<sup>109</sup>
- *Confidentiality* – the client’s attorney must preserve confidentiality unless the client gives informed consent or a specifically listed mandatory or discretionary exception applies.<sup>110</sup>
- *Diligent Representation* – the client’s attorney must act with reasonable diligence and promptness. This rule expects the attorney to keep a controlled workload, to prioritize faithful advocacy, and to carry through to conclusion all matters undertaken for a client.<sup>111</sup>
- *Independence* – the client’s attorney cannot permit the person who recommends, employs, or pays the attorney to render legal services for the client to direct or regulate the lawyer’s professional judgment in rendering such legal services.<sup>112</sup>
- *Prevent or Overcome Conflicts* – An attorney presumptively cannot represent a new client if there is a substantial risk that representing the new client would materially limit the attorney’s responsibilities to a current client.<sup>113</sup> But, even when a conflict of interest exists, it is possible for the attorney overcome this presumption. To do so, four criteria must be met:<sup>114</sup>
  1. The attorney reasonably believes that they can provide competent and diligent representation to each affected client;
  2. The representation is not prohibited by law;
  3. The representation does not involve the assertion of a position adverse to another client when the lawyer represents both clients in the same proceeding before a tribunal; and

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<sup>100</sup> Art. V, s. 15, Fla. Const.

<sup>101</sup> The Florida Bar, “Frequently Asked Questions.” <https://www.floridabar.org/about/faq/> (last visited Nov. 8, 2023).

<sup>102</sup> *The Florida Bar v. Moses*, 380 So.2d 412, 417 (Fla. 1989).

<sup>103</sup> *Id.*

<sup>104</sup> *Id.*

<sup>105</sup> *The Florida Bar v. Moses*, 380 So.2d 412, 417 (Fla. 1989).

<sup>106</sup> *Petition of Florida State Bar Ass’n*, 40 So.2d 902, 907 (Fla. 1949).

<sup>107</sup> The Florida Supreme Court, “Rules Regulating the Florida Bar: Chapter 4 – Rules of Professional Conduct.” [https://www-media.floridabar.org/uploads/2023/11/2024\\_05-NOV-RRTFB-11-6-2023.pdf](https://www-media.floridabar.org/uploads/2023/11/2024_05-NOV-RRTFB-11-6-2023.pdf) (last visited Nov. 8, 2023).

<sup>108</sup> *Id.* at Rule 4-1.2(a) Objectives and Scope of Representation – Lawyer to Abide by Client’s Decisions.

<sup>109</sup> *Id.* at Rule 4-1.1 Competence.

<sup>110</sup> *Id.* at Rule 4-1.6 Confidentiality of Information.

<sup>111</sup> *Id.* at Rule 4-1.3 Diligence, Comments.

<sup>112</sup> *Id.* at Rule 4-5.4 Professional Independence of a Lawyer.

<sup>113</sup> The Florida Supreme Court, “Rules Regulating the Florida Bar: Chapter 4- Rules of Professional Conduct, Rule 4-1.7(a)(2) Conflicts of Interests.” [https://www-media.floridabar.org/uploads/2023/11/2024\\_05-NOV-RRTFB-11-6-2023.pdf](https://www-media.floridabar.org/uploads/2023/11/2024_05-NOV-RRTFB-11-6-2023.pdf) (last visited Nov. 8, 2023).

<sup>114</sup> *Id.* at Rule 4-1.7(b)(1)-(4).

4. Each affected client gives informed consent, confirmed in writing or clearly stated on the record at a hearing.

Additionally, the Supreme Court specifically addresses those attorney-client relationships where the client is an organization,<sup>115</sup> when the client is not represented by counsel,<sup>116</sup> and when the client suffers diminished capacity.<sup>117</sup> When a client's capacity to make adequately considered decisions in connection with legal representation is diminished because of minority, the attorney must maintain a normal attorney-client relationship with the client as much as possible.<sup>118</sup> For example, comments to the Florida Bar rule suggest children as young as 5 or 6 years of age are regarded as having opinions that are entitled to weight in legal proceedings concerning their custody. The comments to the rule also state that if a legal representative has already been appointed for an incapacitated or minor client, the lawyer should ordinarily look to any appointed legal representative for decisions on behalf of the client.<sup>119</sup>

## **Appointment of Attorneys in the Child Welfare System**

Section 39.01305, F.S., requires the court to appoint attorneys for children subject to ch. 39 proceedings who have one or more statutorily-defined "special needs". To qualify as a special-needs child, the child must:<sup>120</sup>

- Reside in a skilled nursing facility or be considered for placement in a skilled nursing home;
- Be prescribed a psychotropic medication but decline assent to the psychotropic medication;
- Have a diagnosis of a developmental disability as defined in s. 393.063, F.S.;
- Be placed in, or being considered for placement in, a residential treatment center; or
- Be a victim of human trafficking.

The Legislature appropriates funds for appointments for dependent children with certain special needs. The FY 2023-24 GAA appropriated \$2.1 million in general revenue for attorney representation for children with special needs, plus \$1.2 million in trust funds.<sup>121</sup> Operationally, the Justice Administrative Commission manages these funds, contracting with appointed attorneys, whose fees are limited to \$1,450 per child per year, subject to appropriations and to review by the Commission for reasonableness.<sup>122</sup> However, s. 39.01305, F.S., requires the court to ask the Statewide Guardian Ad Litem Office for a recommendation for an attorney willing to work without additional compensation, or pro bono, prior to the court appointing an attorney on a compensated basis. The pro bono attorney must be available for services within 15 days after the court's request. If, however, the Statewide Guardian Ad Litem Office does not make a recommendation within 15 days after the court's request, the court may appoint a compensated attorney.

The attorney representing the child under s. 39.01305, F.S., provides the complete range of legal services from removal from the home or initial appointment through all appellate proceedings. With court permission, the attorney is authorized to arrange for supplemental or separate counsel to handle appellate matters.

The court has discretionary authority to appoint attorneys for other dependent children who do not qualify as having special needs.<sup>123</sup>

## **Effect of the Bill**

### **Attorneys ad Litem Appointment for Children in the Child Welfare System**

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<sup>115</sup> *Id.* at Rule 4-1.13(a) Organization as Client – Representation of Organization.

<sup>116</sup> *Id.* at Rule 4-4.3 Dealing with Unrepresented Persons.

<sup>117</sup> *Id.* at Rule 4-1.14 Client with Diminished Capacity.

<sup>118</sup> *Id.*

<sup>119</sup> *Id.* at Comments.

<sup>120</sup> S. 39.01305(3)(a)-(e), F.S.

<sup>121</sup> Chapter 2023-239, Laws of Fla., Specific Appropriation 769 "Legal Representation for Dependent Children with Special Needs."

<sup>122</sup> *Id.*

<sup>123</sup> S. 39.01305(8), F.S.; Fla. R. Juv. P. 8.217(b).

The bill changes all references to “attorneys” for children in the dependency system to “attorneys ad litem”, which under the bill are lawyers with an attorney-client relationship with the child. The bill also makes all attorney ad litem appointments optional, rather than requiring such appointments under certain circumstances.

The bill creates a competency standard for the court to apply when determining whether a child is appointed an attorney ad litem. This competency standard limits the court’s ability to appoint an attorney ad litem. The bill allows the court to appoint an attorney ad litem for a child if:

- the court believes the child is in need of such representation, and
- determines that the child has a rational and factual understanding of the proceedings and sufficient present ability to consult with an attorney with a reasonable degree of rational understanding.

The bill removes the current mandatory attorney ad litem appointments, reflecting a shift to a case-by-case need and competency determination, rather than per se eligibility based on certain events or types of residency status. The bill removes mandatory attorney ad litem appointments for children:

- residing in a skilled nursing facility or being considered for placement in a skilled nursing home;
- prescribed a psychotropic medication when they decline assent to the psychotropic medication;
- diagnosed with a developmental disability as defined in s. 393.063, F.S.;
- placed in a residential treatment center or being considered for placement in a residential treatment center;
- victims of human trafficking as defined in s. 787.06(2)(d), F.S.;
- subject to a termination of parental rights petition; and
- subject to a proceeding under s. 39.522(3), F.S., regarding their removal from a foster home under certain conditions.

Additionally, the court may appoint attorneys ad litem on a discretionary to children in the child welfare system without “special needs” only if they meet the competency standard in the bill. The changes to the court’s attorney ad litem appointment power affect any appointments made after June 30, 2024.

The court must discharge an attorney ad litem when the need for attorney ad litem representation is resolved.

If an attorney ad litem is appointed, the attorney ad litem may represent the child in other judicial proceedings to secure the services and benefits that provide for the care, safety, and protection of the child.

The bill requires the Statewide GAL Office to provide oversight and technical assistance to AALs. The Statewide GAL Office’s responsibilities include, but are not limited to:

- developing an attorney ad litem training program in collaboration with dependency judges, representatives from legal aid providing attorney ad litem representation, and an attorney ad litem appointed from a registry maintained by the chief judge.
- offering consultation and technical assistance to chief judges in maintaining attorney registries for the selection of attorneys ad litem.
- assisting as needed with recruitment and mentoring of AALs.

## **Guardian Ad Litem Role**

The bill makes the guardian ad litem appointment mandatory rather than optional for the court. This means courts will have no discretion regarding appointing a guardian ad litem for a child, and will increase the number of children in the child welfare system who have a GAL by approximately 7%.

The bill conforms references to a GAL's role in chapter 39 to specify that the GAL represents the *child*, rather than the child's *best interest*. This representation is to use a best interest standard.

The bill authorizes a child's GAL to represent a child in other judicial proceedings to secure the services and benefits that provide for the care, safety, and protection of the child. It authorizes the school district to involve the GAL of a child who has, or is suspected to have, a disability in any transition planning for that child.

The bill requires multidisciplinary teams led by DCF or a CBC to include the GAL.

## **Statewide GAL Office**

The bill changes references from the "GAL Program" to the "Statewide GAL Office".

### Executive Director

The bill allows the Statewide GAL Office executive director to serve more than one term without convening the Guardian ad Litem Qualification Committee.

### Multidisciplinary Teams

The bill requires the Statewide GAL Office to assign an attorney to each case. As available resources allow, the Statewide GAL Office is to assign a multidisciplinary team to represent the child. The bill includes mentors, pro bono attorneys, social workers, and volunteers as part of the MDT.

### Training

The bill:

- gives the Statewide GAL Office unilateral authority to regularly update the GAL training program by eliminating the existing curriculum committee.
- requires GAL to complete specialized training in the dynamics of child sexual abuse when serving children who have been sexually abused and are subject to proceedings regarding establishing visitation with the child's abuser under s. 39.0139, F.S.

### Direct Support Organizations

The bill designates the direct support organization (DSO) that the Statewide GAL Office is authorized to establish under current law as a state DSO, and additionally authorizes the GAL executive director to create or designate local direct-support organizations. The bill makes the executive director responsible for the local DSOs, with the local DSO's board members serving at the pleasure of the executive director. The bill gives the executive director permission to devote the personal services of employees to the DSOs. For purposes of this bill, personal services means full-time personnel and part-time personnel as well as payroll processing.

## Transition-Age Youth

### Case planning

The bill mandates that any case plan tailored for a transition to independent living must include a written description of age-appropriate activities for the child's development of relationships, coping skills, and emotional well-being.

### Mentors for older foster youth

For youths aged 16 and up who are transitioning out of foster care into independent living, the bill requires the Statewide GAL Office to help those children establish a mentorship with at least one supportive adult. And if the child cannot identify a supportive adult, the bill compels the Statewide GAL Office to work with DCF OCC to find at least one supportive adult. The bill requires documented evidence of a formal agreement in the child's court file.

### Pathway to Prosperity grants

The bill establishes the Pathway to Prosperity program to administer grants to youth and young adults aging out of foster care for:

- Financial literacy instruction using a curriculum developed by the Department of Financial Services.
- SAT/ACT preparation, including one-on-one support and fee waivers for the examinations.
- Pursuing trade careers or paid apprenticeships.

Even if a youth later reunifies with the youth's parents, the grants remain available for the youth for up to 6 months.

## Other Provisions

The bill also makes numerous conforming changes to give effect to the substantive provisions of the bill.

The bill requests the Division of Law Revision to prepare a reviser's bill for the 2025 Regular Session to substitute the term "Statewide Guardian ad Litem Office" for the term "Guardian Ad Litem Program" or "Statewide Guardian Ad Litem Program" throughout the Florida Statutes.

The bill provides an effective date of July 1, 2024.

## B. SECTION DIRECTORY:

**Section 1:** Amending s. 39.001, F.S., relating to purposes and intent; personnel standards and screening.

**Section 2:** Amending s. 39.00145, F.S., relating to records concerning children.

**Section 3:** Amending s. 39.00146, F.S., relating to case record face sheet.

**Section 4:** Amending s. 39.0016, F.S., relating to education of abused, neglected, and abandoned children; agency agreements; children having or suspected of having a disability.

**Section 5:** Amending s. 39.01, F.S., relating to definitions.

**Section 6:** Amending s. 39.013, F.S., relating to procedures and jurisdiction; right to counsel; guardian ad litem and attorney ad litem.

**Section 7:** Amending s. 39.01305, F.S., relating to appointment of an attorney for a dependent child.

**Section 8:** Creates an unnumbered section of law.

**Section 9:** Amending s. 39.0132, F.S., relating to oaths, records, and confidential information.

**Section 10:** Amending s. 39.0136, F.S., relating to time limitations; continuances.

**Section 11:** Amending s. 39.01375, F.S., relating to best interest determination for placement.

**Section 12:** Amending s. 39.0139, F.S., relating to visitation or other contact; restrictions.

- Section 13:** Amending s. 39.202, F.S., relating to confidentiality of reports and records in cases of child abuse or neglect; exception.
- Section 14:** Amending s. 39.402, F.S., relating to placement in a shelter.
- Section 15:** Amending s. 39.4022, F.S., relating to multidisciplinary teams; staffings; assessments; report.
- Section 16:** Amending s. 39.4023, F.S., relating to placement and education transitions; transition plans.
- Section 17:** Amending, s. 39.407, F.S., relating to medical, psychiatric, and psychological examination and treatment of child; physical, mental, or substance abuse examination of person with or requesting child custody.
- Section 18:** Amending s. 39.4085, F.S., relating to goals for dependent children; responsibilities; education; Office of the Children's Ombudsman.
- Section 19:** Amending s. 39.502, F.S., relating to notice, process, and service.
- Section 20:** Amending s. 39.522, F.S., relating to postdisposition change of custody.
- Section 21:** Amending s. 39.6012, F.S., relating to case plan tasks; services.
- Section 22:** Creates s. 39.6036, F.S., relating to supportive adults for children transitioning out of foster care.
- Section 23:** Amending s. 39.621, F.S., relating to permanency determination by the court.
- Section 24:** Amending s. 39.6241, F.S., relating to another planned permanent living arrangement.
- Section 25:** Amending s. 39.701, F.S., relating to judicial review.
- Section 26:** Amending s. 39.801, F.S., relating to procedures and jurisdiction; notice; service of process.
- Section 27:** Amending s. 39.807, F.S., relating to right to counsel; guardian ad litem.
- Section 28:** Amending s. 39.808, F.S., relating to advisory hearing; pretrial status conference.
- Section 29:** Amending s. 39.815, F.S., relating to appeals.
- Section 30:** Repealing s. 39.820, F.S., relating to definitions.
- Section 31:** Amending s. 39.821, F.S., relating to qualifications of guardians ad litem.
- Section 32:** Amending s. 39.822, F.S., relating to appointment of guardian ad litem for abused, abandoned, or neglected child.
- Section 33:** Amending s. 39.827, F.S., relating to hearing for appointment of a guardian advocate.
- Section 34:** Amending s. 39.8296, F.S., relating to Statewide Guardian Ad Litem Office; legislative findings and intent; creation; appointment of executive director; duties of office.
- Section 35:** Amending s. 39.8297, F.S., relating to county funding for guardian ad litem employees.
- Section 36:** Amending s. 39.8298, F.S., relating to guardian ad litem direct-support organizations.
- Section 37:** Amending s. 1009.898, F.S., relating to Pathway to Prosperity grants.
- Section 38:** Amending s. 29.008, F.S., relating to county funding of court-related functions.
- Section 39:** Amending s. 39.6011, F.S., relating to case plan development.
- Section 40:** Amending s. 40.24, F.S., relating to compensation and reimbursement policy.
- Section 41:** Amending s. 43.16, F.S., relating to Justice Administrative Commission; membership, powers, and duties.
- Section 42:** Amending s. 61.402, F.S., relating to qualifications of guardians ad litem.
- Section 43:** Amending s. 110.205, F.S., relating to career service; exemptions.
- Section 44:** Amending s. 320.08058, F.S., relating to specialty license plates.
- Section 45:** Amending s. 943.053, F.S., relating to dissemination of criminal justice information; fees.
- Section 46:** Amending s. 985.43, F.S., relating to predisposition reports; other evaluations.
- Section 47:** Amending s. 985.441, F.S., relating to commitment.
- Section 48:** Amending s. 985.455, F.S., relating to other dispositional issues.
- Section 49:** Amending s. 985.461, F.S., relating to transition to adulthood.
- Section 50:** Amending s. 985.48, F.S., relating to juvenile sexual offender commitment programs; sexual abuse intervention networks.
- Section 51:** Amending s. 39.302, F.S., relating to protective investigations of institutional child abuse, abandonment, or neglect.
- Section 52:** Amending s. 39.521, F.S., relating to disposition of hearings; powers of disposition.
- Section 53:** Amending s. 61.13, F.S., relating to support of children; parenting and time-sharing; powers of court.
- Section 54:** Amending s. 119.071, F.S., relating to general exemptions from inspection or copying of public records.

- Section 55:** Amending s. 322.09, F.S., relating to application of minors; responsibility for negligence or misconduct of minor.
- Section 56:** Amending s. 394.495, F.S., relating to child and adolescent mental health system of care; programs and services.
- Section 57:** Amending s. 627.746, F.S., relating to coverage for minors who have a learner's driver license; additional premium prohibited.
- Section 58:** Amending s. 934.255, F.S., relating to subpoenas in investigations of sexual offenses.
- Section 59:** Amending s. 960.065, F.S., relating to eligibility for awards.
- Section 60:** Creating an unnumbered section of law.
- Section 61:** Creating an unnumbered section of law.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Any impacts on the Statewide Guardian ad Litem program regarding the increase in GAL appointments and Pathways to Prosperity Grants can be absorbed within current resources.

Impacts to the Justice Administrative Commission are indeterminate.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Some children currently represented by attorneys ad litem will no longer receive independent legal representation through an AAL appointment (such as toddlers, or older children with significant intellectual disabilities). However, other children who have capacity may begin to be assessed by the court to need attorneys ad litem. Thus the bill's impact on employment and wages of attorneys ad litem and revenues and expenditures of organizations providing attorney ad litem services is indeterminate.

### D. FISCAL COMMENTS:

The Statewide GAL Office anticipates increased revenues due to eligibility for federal Title IV-E matching funds upon the approval of the DCF cost allocation plan by the federal government.<sup>124</sup>

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

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<sup>124</sup> *Supra* note 84, at 39.



2. Other:

None.

B. RULE-MAKING AUTHORITY:

DCF has sufficient rulemaking authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**



26 | appointment of an attorney for certain children;  
27 | authorizing the court to appoint an attorney ad litem  
28 | after making certain determinations; providing  
29 | requirements for the appointment and discharge of an  
30 | attorney ad litem; authorizing an attorney ad litem to  
31 | represent a child in other proceedings to secure  
32 | certain services and benefits; conforming provisions  
33 | to changes made by the act; providing applicability;  
34 | amending s. 39.0132, F.S.; authorizing a child's  
35 | attorney ad litem to inspect certain records; amending  
36 | s. 39.0136, F.S.; revising the parties who may request  
37 | a continuance in a proceeding; amending s. 39.01375,  
38 | F.S.; conforming provisions to changes made by the  
39 | act; amending s. 39.0139, F.S.; conforming provisions  
40 | to changes made by the act; amending s. 39.202, F.S.;  
41 | requiring that certain confidential records be  
42 | released to the guardian ad litem and attorney ad  
43 | litem; conforming a cross-reference; amending s.  
44 | 39.402, F.S.; requiring parents to consent to provide  
45 | certain information to the guardian ad litem and  
46 | attorney ad litem; conforming provisions to changes  
47 | made by the act; amending s. 39.4022, F.S.; revising  
48 | the participants who must be invited to a  
49 | multidisciplinary team staffing; amending s. 39.4023,  
50 | F.S.; requiring notice of a multidisciplinary team

51 staffing be provided to a child's guardian ad litem  
52 and attorney ad litem; conforming provisions to  
53 changes made by the act; amending s. 39.407, F.S.;  
54 conforming provisions to changes made by the act;  
55 amending s. 39.4085, F.S.; providing a goal of  
56 permanency; conforming provisions to changes made by  
57 the act; amending ss. 39.502 and 39.522, F.S.;  
58 conforming provisions to changes made by the act;  
59 amending s. 39.6012, F.S.; requiring a case plan to  
60 include written descriptions of certain activities;  
61 conforming a cross-reference; creating s. 39.6036,  
62 F.S.; providing legislative findings and intent;  
63 requiring the Statewide Guardian ad Litem Office to  
64 work with certain children to identify a supportive  
65 adult to enter into a specified agreement; requiring  
66 such agreement be documented in the child's court  
67 file; requiring the office to coordinate with the  
68 Office of Continuing Care for a specified purpose;  
69 amending s. 39.621, F.S.; conforming provisions to  
70 changes made by the act; amending s. 39.6241, F.S.;  
71 requiring a guardian ad litem to advise the court  
72 regarding certain information and to ensure a certain  
73 agreement has been documented in the child's court  
74 file; amending s. 39.701, F.S.; requiring certain  
75 notice be given to an attorney ad litem; requiring a

76 | court to give a guardian ad litem an opportunity to  
77 | address the court in certain proceedings; requiring  
78 | the court to inquire and determine if a child has a  
79 | certain agreement documented in his or her court file  
80 | at a specified hearing; conforming provisions to  
81 | changes made by the act; amending s. 39.801, F.S.;  
82 | conforming provisions to changes made by the act;  
83 | amending s. 39.807, F.S.; requiring a court to appoint  
84 | a guardian ad litem to represent a child; revising a  
85 | guardian ad litem's responsibilities and authorities;  
86 | deleting provisions relating to bonds and service of  
87 | pleadings or papers; amending s. 39.808, F.S.;  
88 | conforming provisions to changes made by the act;  
89 | amending s. 39.815, F.S.; conforming provisions to  
90 | changes made by the act; repealing s. 39.820, F.S.,  
91 | relating to definitions of the terms "guardian ad  
92 | litem" and "guardian advocate"; amending s. 39.821,  
93 | F.S.; conforming provisions to changes made by the  
94 | act; amending s. 39.822, F.S.; providing that a  
95 | guardian ad litem is a fiduciary and must provide  
96 | independent representation to a child; revising  
97 | responsibilities of a guardian ad litem; requiring  
98 | that guardians ad litem have certain access to the  
99 | children the guardians ad litem represent; providing  
100 | actions that a guardian ad litem does or does not have

101 to fulfill; amending s. 39.827, F.S.; authorizing a  
102 child's guardian ad litem and attorney ad litem to  
103 inspect certain records; amending s. 39.8296, F.S.;  
104 revising the duties and appointment of the executive  
105 director of the Statewide Guardian ad Litem Office;  
106 requiring the training program for guardians ad litem  
107 to be updated regularly; requiring the office to  
108 provide oversight and technical assistance to  
109 attorneys ad litem; specifying certain requirements of  
110 the office; amending s. 39.8297, F.S.; conforming  
111 provisions to changes made by the act; amending s.  
112 39.8298, F.S.; authorizing the executive director of  
113 the Statewide Guardian ad Litem Office to create or  
114 designate local direct-support organizations;  
115 providing responsibilities for the executive director  
116 of the office; requiring that certain moneys be held  
117 in a separate depository account; conforming  
118 provisions to changes made by the act; creating s.  
119 1009.898, F.S.; authorizing the Pathway to Prosperity  
120 program to provide certain grants to youth and young  
121 adults who are aging out of foster care; requiring  
122 grants to extend for a certain period of time after a  
123 recipient is reunited with his or her parents;  
124 amending ss. 29.008, 39.6011, 40.24, 43.16, 61.402,  
125 110.205, 320.08058, 943.053, 985.43, 985.441, 985.455,

126 985.461, and 985.48, F.S.; conforming provisions to  
 127 changes made by the act; amending ss. 39.302, 39.521,  
 128 61.13, 119.071, 322.09, 394.495, 627.746, 934.255, and  
 129 960.065, F.S.; conforming cross-references; providing  
 130 a directive to the Division of Law Revision; providing  
 131 an effective date;

132

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

134

135 Section 1. Paragraph (j) of subsection (1), paragraph (j)  
 136 of subsection (3), and paragraph (a) of subsection (10) of  
 137 section 39.001, Florida Statutes, are amended to read:

138 39.001 Purposes and intent; personnel standards and  
 139 screening.—

140 (1) PURPOSES OF CHAPTER.—The purposes of this chapter are:

141 (j) To ensure that, when reunification or adoption is not  
 142 possible, the child will be prepared for alternative permanency  
 143 goals or placements, to include, but not be limited to, long-  
 144 term foster care, independent living, custody to a relative on a  
 145 permanent basis with or without legal guardianship, or custody  
 146 to a foster parent or legal custodian on a permanent basis with  
 147 or without legal guardianship. Permanency for a child who is  
 148 transitioning from foster care to independent living includes  
 149 naturally occurring, lifelong, kin-like connections between the  
 150 child and a supportive adult.

151 (3) GENERAL PROTECTIONS FOR CHILDREN.—It is a purpose of  
 152 the Legislature that the children of this state be provided with  
 153 the following protections:

154 (j) The ability to contact their guardian ad litem and ~~or~~  
 155 attorney ad litem, if one is appointed, by having that  
 156 individual's name entered on all orders of the court.

157 (10) PLAN FOR COMPREHENSIVE APPROACH.—

158 (a) The office shall develop a state plan for the  
 159 promotion of adoption, support of adoptive families, and  
 160 prevention of abuse, abandonment, and neglect of children. The  
 161 Department of Children and Families, the Department of  
 162 Corrections, the Department of Education, the Department of  
 163 Health, the Department of Juvenile Justice, the Department of  
 164 Law Enforcement, the Statewide Guardian ad Litem Office, and the  
 165 Agency for Persons with Disabilities shall participate and fully  
 166 cooperate in the development of the state plan at both the state  
 167 and local levels. Furthermore, appropriate local agencies and  
 168 organizations shall be provided an opportunity to participate in  
 169 the development of the state plan at the local level.

170 Appropriate local groups and organizations shall include, but  
 171 not be limited to, community mental health centers; circuit  
 172 guardian ad litem offices ~~programs for children under the~~  
 173 ~~circuit court~~; the school boards of the local school districts;  
 174 the Florida local advocacy councils; community-based care lead  
 175 agencies; private or public organizations or programs with



176 recognized expertise in working with child abuse prevention  
177 programs for children and families; private or public  
178 organizations or programs with recognized expertise in working  
179 with children who are sexually abused, physically abused,  
180 emotionally abused, abandoned, or neglected and with expertise  
181 in working with the families of such children; private or public  
182 programs or organizations with expertise in maternal and infant  
183 health care; multidisciplinary Child Protection Teams; child day  
184 care centers; law enforcement agencies; and the circuit courts,  
185 ~~when guardian ad litem programs are not available in the local~~  
186 ~~area.~~ The state plan to be provided to the Legislature and the  
187 Governor shall include, as a minimum, the information required  
188 of the various groups in paragraph (b).

189 Section 2. Subsection (2) of section 39.00145, Florida  
190 Statutes, is amended to read:

191 39.00145 Records concerning children.—

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

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

201 if one is appointed.

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

208 (c) If a child or the child's caregiver, guardian ad  
209 litem, or attorney ad litem, if one is appointed, requests  
210 access to the child's case record, any person or entity that  
211 fails to provide any record in the case record under assertion  
212 of a claim of exemption from the public records requirements of  
213 chapter 119, or fails to provide access within a reasonable  
214 time, is subject to sanctions and penalties under s. 119.10.

215 (d) For the purposes of this subsection, the term  
216 "caregiver" is limited to parents, legal custodians, permanent  
217 guardians, or foster parents; employees of a residential home,  
218 institution, facility, or agency at which the child resides; and  
219 other individuals legally responsible for a child's welfare in a  
220 residential setting.

221 Section 3. Paragraph (a) of subsection (2) of section  
222 39.00146, Florida Statutes, is amended to read:

223 39.00146 Case record face sheet.—

224 (2) The case record of every child under the supervision  
225 or in the custody of the department or the department's

226 authorized agents, including community-based care lead agencies  
 227 and their subcontracted providers, must include a face sheet  
 228 containing relevant information about the child and his or her  
 229 case, including at least all of the following:

230 (a) General case information, including, but not limited  
 231 to, all of the following:

232 1. The child's name and date of birth .;

233 2. The current county of residence and the county of  
 234 residence at the time of the referral .;

235 3. The reason for the referral and any family safety  
 236 concerns .;

237 4. The personal identifying information of the parents or  
 238 legal custodians who had custody of the child at the time of the  
 239 referral, including name, date of birth, and county of  
 240 residence .;

241 5. The date of removal from the home .; ~~and~~

242 6. The name and contact information of the attorney or  
 243 attorneys assigned to the case in all capacities, including the  
 244 attorney or attorneys that represent the department and the  
 245 parents, and the guardian ad litem, ~~if one has been appointed.~~

246 Section 4. Paragraph (b) of subsection (2) and paragraph  
 247 (b) of subsection (3) of section 39.0016, Florida Statutes, are  
 248 amended to read:

249 39.0016 Education of abused, neglected, and abandoned  
 250 children; agency agreements; children having or suspected of

251 | having a disability.—

252 |       (2) AGENCY AGREEMENTS.—

253 |       (b) The department shall enter into agreements with  
 254 | district school boards or other local educational entities  
 255 | regarding education and related services for children known to  
 256 | the department who are of school age and children known to the  
 257 | department who are younger than school age but who would  
 258 | otherwise qualify for services from the district school board.

259 | Such agreements must ~~shall~~ include, but are not limited to:

260 |       1. A requirement that the department shall:

261 |       a. Ensure that children known to the department are  
 262 | enrolled in school or in the best educational setting that meets  
 263 | the needs of the child. The agreement must ~~shall~~ provide for  
 264 | continuing the enrollment of a child known to the department at  
 265 | the school of origin when possible if it is in the best interest  
 266 | of the child, with the goal of minimal disruption of education.

267 |       b. Notify the school and school district in which a child  
 268 | known to the department is enrolled of the name and phone number  
 269 | of the child known to the department caregiver and caseworker  
 270 | for child safety purposes.

271 |       c. Establish a protocol for the department to share  
 272 | information about a child known to the department with the  
 273 | school district, consistent with the Family Educational Rights  
 274 | and Privacy Act, since the sharing of information will assist  
 275 | each agency in obtaining education and related services for the

276 benefit of the child. The protocol must require the district  
277 school boards or other local educational entities to access the  
278 department's Florida Safe Families Network to obtain information  
279 about children known to the department, consistent with the  
280 Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. s.  
281 1232g.

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

288 e. Show no prejudice against a caregiver who desires to  
289 educate at home a child placed in his or her home through the  
290 child welfare system.

291 2. A requirement that the district school board shall:

292 a. Provide the department with a general listing of the  
293 services and information available from the district school  
294 board to facilitate educational access for a child known to the  
295 department.

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

300 c. Determine whether transportation is available for a

301 child known to the department when such transportation will  
302 avoid a change in school assignment due to a change in  
303 residential placement. Recognizing that continued enrollment in  
304 the same school throughout the time the child known to the  
305 department is in out-of-home care is preferable unless  
306 enrollment in the same school would be unsafe or otherwise  
307 impractical, the department, the district school board, and the  
308 Department of Education shall assess the availability of  
309 federal, charitable, or grant funding for such transportation.

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

316 3. A requirement that the department and the district  
317 school board shall cooperate in accessing the services and  
318 supports needed for a child known to the department who has or  
319 is suspected of having a disability to receive an appropriate  
320 education consistent with the Individuals with Disabilities  
321 Education Act and state implementing laws, rules, and  
322 assurances. Coordination of services for a child known to the  
323 department who has or is suspected of having a disability may  
324 include:

325 a. Referral for screening.

326           b. Sharing of evaluations between the school district and  
327 the department where appropriate.

328           c. Provision of education and related services appropriate  
329 for the needs and abilities of the child known to the  
330 department.

331           d. Coordination of services and plans between the school  
332 and the residential setting to avoid duplication or conflicting  
333 service plans.

334           e. Appointment of a surrogate parent, consistent with the  
335 Individuals with Disabilities Education Act and pursuant to  
336 subsection (3), for educational purposes for a child known to  
337 the department who qualifies.

338           f. For each child known to the department 14 years of age  
339 and older, transition planning by the department and all  
340 providers, including the department's independent living program  
341 staff and the guardian ad litem of the child, to meet the  
342 requirements of the local school district for educational  
343 purposes.

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

345           (b)1. Each district school superintendent or dependency  
346 court must appoint a surrogate parent for a child known to the  
347 department who has or is suspected of having a disability, as  
348 defined in s. 1003.01(9), when:

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

350           b. A court of competent jurisdiction over a child under

351 | this chapter has determined that no person has the authority  
352 | under the Individuals with Disabilities Education Act, including  
353 | the parent or parents subject to the dependency action, or that  
354 | no person has the authority, willingness, or ability to serve as  
355 | the educational decisionmaker for the child without judicial  
356 | action.

357 |       2. A surrogate parent appointed by the district school  
358 | superintendent or the court must be at least 18 years old and  
359 | have no personal or professional interest that conflicts with  
360 | the interests of the student to be represented. Neither the  
361 | district school superintendent nor the court may appoint an  
362 | employee of the Department of Education, the local school  
363 | district, a community-based care provider, the Department of  
364 | Children and Families, or any other public or private agency  
365 | involved in the education or care of the child as appointment of  
366 | those persons is prohibited by federal law. This prohibition  
367 | includes group home staff and therapeutic foster parents.  
368 | However, a person who acts in a parental role to a child, such  
369 | as a foster parent or relative caregiver, is not prohibited from  
370 | serving as a surrogate parent if he or she is employed by such  
371 | agency, willing to serve, and knowledgeable about the child and  
372 | the exceptional student education process. The surrogate parent  
373 | may be a court-appointed guardian ad litem or a relative or  
374 | nonrelative adult who is involved in the child's life regardless  
375 | of whether that person has physical custody of the child. Each



376 person appointed as a surrogate parent must have the knowledge  
377 and skills acquired by successfully completing training using  
378 materials developed and approved by the Department of Education  
379 to ensure adequate representation of the child.

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

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

397 5. For a child known to the department, the responsibility  
398 to appoint a surrogate parent resides with both the district  
399 school superintendent and the court with jurisdiction over the  
400 child. If the court elects to appoint a surrogate parent, notice

401 shall be provided as soon as practicable to the child's school.  
402 At any time the court determines that it is in the best  
403 interests of a child to remove a surrogate parent, the court may  
404 appoint a new surrogate parent for educational decisionmaking  
405 purposes for that child.

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

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

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

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

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

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

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

425 7. The appointment and termination of appointment of a

426 surrogate under this paragraph shall be entered as an order of  
427 the court with a copy of the order provided to the child's  
428 school as soon as practicable.

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

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

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

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

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

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

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

451 Section 5. Subsections (8) through (30) and (31) through  
452 (87) of section 39.01, Florida Statutes, are renumbered as  
453 subsections (9) through (31) and (34) through (90),  
454 respectively, present subsections (9), (36), and (58) are  
455 amended, and new subsections (8), (32), and (33) are added to  
456 that section, to read:

457 39.01 Definitions.—When used in this chapter, unless the  
458 context otherwise requires:

459 (8) "Attorney ad litem" means an attorney appointed by the  
460 court to represent a child in a dependency case who has an  
461 attorney-client relationship with the child under the rules  
462 regulating The Florida Bar.

463 (10)~~(9)~~ "Caregiver" means the parent, legal custodian,  
464 permanent guardian, adult household member, or other person  
465 responsible for a child's welfare as defined in subsection  
466 (57)~~(54)~~.

467 (32) "Guardian ad litem" means a person or an entity that  
468 is a fiduciary appointed by the court to represent a child in  
469 any civil, criminal, or administrative proceeding to which the  
470 child is a party, including, but not limited to, under this  
471 chapter, which uses a best interest standard for decisionmaking  
472 and advocacy. For purposes of this chapter, the term includes,  
473 but is not limited to, the Statewide Guardian ad Litem Office,  
474 which includes all circuit guardian ad litem offices and the  
475 duly certified volunteers, staff, and attorneys assigned by the

476 Statewide Guardian ad Litem Office to represent children; a  
 477 court-appointed attorney; or a responsible adult who is  
 478 appointed by the court. A guardian ad litem is a party to the  
 479 judicial proceeding as a representative of the child and serves  
 480 until the jurisdiction of the court over the child terminates or  
 481 until excused by the court.

482 (33) "Guardian advocate" means a person appointed by the  
 483 court to act on behalf of a drug-dependent newborn under part XI  
 484 of this chapter.

485 (39)-(36) "Institutional child abuse or neglect" means  
 486 situations of known or suspected child abuse or neglect in which  
 487 the person allegedly perpetrating the child abuse or neglect is  
 488 an employee of a public or private school, public or private day  
 489 care center, residential home, institution, facility, or agency  
 490 or any other person at such institution responsible for the  
 491 child's welfare as defined in subsection (57)-(54).

492 (61)-(58) "Party" means the parent or parents of the child,  
 493 the petitioner, the department, the guardian ad litem ~~or the~~  
 494 ~~representative of the guardian ad litem program when the program~~  
 495 ~~has been appointed~~, and the child. The presence of the child may  
 496 be excused by order of the court when presence would not be in  
 497 the child's best interest. Notice to the child may be excused by  
 498 order of the court when the age, capacity, or other condition of  
 499 the child is such that the notice would be meaningless or  
 500 detrimental to the child.

501 Section 6. Subsection (11) of section 39.013, Florida  
 502 Statutes, is amended and subsection (14) is added to that  
 503 section, to read:

504 39.013 Procedures and jurisdiction; right to counsel;  
 505 guardian ad litem and attorney ad litem.—

506 (11) The court shall appoint a guardian ad litem at the  
 507 earliest possible time to represent a child throughout the  
 508 proceedings, including any appeals. The guardian ad litem may  
 509 represent the child in proceedings outside of the dependency  
 510 case to secure the services and benefits that provide for the  
 511 care, safety, and protection of the child ~~encourage the~~  
 512 ~~Statewide Guardian Ad Litem Office to provide greater~~  
 513 ~~representation to those children who are within 1 year of~~  
 514 ~~transferring out of foster care.~~

515 (14) The court may appoint an attorney ad litem for a  
 516 child if the court believes the child is in need of such  
 517 representation and determines that the child has a rational and  
 518 factual understanding of the proceedings and sufficient present  
 519 ability to consult with an attorney with a reasonable degree of  
 520 rational understanding. The attorney ad litem may represent the  
 521 child in proceedings outside of the dependency case to secure  
 522 services and benefits that provide for the care, safety, and  
 523 protection of the child.

524 Section 7. Section 39.01305, Florida Statutes, is amended  
 525 to read:

526 39.01305 Appointment of an attorney ad litem for a  
527 dependent child ~~with certain special needs.~~

528 (1)~~(a)~~ The Legislature finds that:

529 ~~1.~~ all children in proceedings under this chapter have  
530 important interests at stake, such as health, safety, and well-  
531 being and the need to obtain permanency. While such children are  
532 represented by the Statewide Guardian ad Litem Office using a  
533 best interest standard of decisionmaking and advocacy, some  
534 children may also need representation by an attorney ad litem in  
535 proceedings under this chapter.

536 (2) The court may appoint an attorney ad litem for a child  
537 if the court believes the child is in need of such  
538 representation and determines that the child has a rational and  
539 factual understanding of the proceedings and sufficient present  
540 ability to consult with an attorney with a reasonable degree of  
541 rational understanding.

542 ~~2. A dependent child who has certain special needs has a~~  
543 ~~particular need for an attorney to represent the dependent child~~  
544 ~~in proceedings under this chapter, as well as in fair hearings~~  
545 ~~and appellate proceedings, so that the attorney may address the~~  
546 ~~child's medical and related needs and the services and supports~~  
547 ~~necessary for the child to live successfully in the community.~~

548 ~~(b) The Legislature recognizes the existence of~~  
549 ~~organizations that provide attorney representation to children~~  
550 ~~in certain jurisdictions throughout the state. Further, the~~

551 ~~statewide Guardian Ad Litem Program provides best interest~~  
552 ~~representation for dependent children in every jurisdiction in~~  
553 ~~accordance with state and federal law. The Legislature,~~  
554 ~~therefore, does not intend that funding provided for~~  
555 ~~representation under this section supplant proven and existing~~  
556 ~~organizations representing children. Instead, the Legislature~~  
557 ~~intends that funding provided for representation under this~~  
558 ~~section be an additional resource for the representation of more~~  
559 ~~children in these jurisdictions, to the extent necessary to meet~~  
560 ~~the requirements of this chapter, with the cooperation of~~  
561 ~~existing local organizations or through the expansion of those~~  
562 ~~organizations. The Legislature encourages the expansion of pro~~  
563 ~~bono representation for children. This section is not intended~~  
564 ~~to limit the ability of a pro bono attorney to appear on behalf~~  
565 ~~of a child.~~

566 ~~(2) As used in this section, the term "dependent child"~~  
567 ~~means a child who is subject to any proceeding under this~~  
568 ~~chapter. The term does not require that a child be adjudicated~~  
569 ~~dependent for purposes of this section.~~

570 ~~(3) An attorney shall be appointed for a dependent child~~  
571 ~~who:~~

572 ~~(a) Resides in a skilled nursing facility or is being~~  
573 ~~considered for placement in a skilled nursing home;~~

574 ~~(b) Is prescribed a psychotropic medication but declines~~  
575 ~~assent to the psychotropic medication;~~



576 ~~(c) Has a diagnosis of a developmental disability as~~  
577 ~~defined in s. 393.063;~~

578 ~~(d) Is being placed in a residential treatment center or~~  
579 ~~being considered for placement in a residential treatment~~  
580 ~~center; or~~

581 ~~(e) Is a victim of human trafficking as defined in s.~~  
582 ~~787.06(2)(d).~~

583 (3)(a)~~(4)(a)~~ Before a court may appoint an attorney ad  
584 litem, who may be compensated pursuant to this section, the  
585 court must request a recommendation from the Statewide Guardian  
586 ad Litem Office for an attorney who is willing to represent a  
587 child without additional compensation. If such an attorney is  
588 available within 15 days after the court's request, the court  
589 must appoint that attorney. However, the court may appoint a  
590 compensated attorney within the 15-day period if the Statewide  
591 Guardian ad Litem Office informs the court that the office is  
592 unable ~~it will not be able~~ to recommend an attorney within that  
593 time period.

594 (b) A court order appointing ~~After~~ an attorney ad litem  
595 must be in writing. ~~is appointed, the appointment continues in~~  
596 ~~effect until the attorney is allowed to withdraw or is~~  
597 ~~discharged by~~ The court must discharge ~~or until the case is~~  
598 ~~dismissed.~~ an attorney ad litem who is appointed under this  
599 section if the need for such representation is resolved. The  
600 attorney ad litem may represent the child in proceedings outside

601 of the dependency case to secure services and benefits that  
602 provide for the care, safety, and protection of the child ~~to~~  
603 ~~represent the child shall provide the complete range of legal~~  
604 ~~services, from the removal from home or from the initial~~  
605 ~~appointment through all available appellate proceedings.~~ With  
606 the permission of the court, the attorney ad litem ~~for the~~  
607 ~~dependent child~~ may arrange for supplemental or separate counsel  
608 to represent the child in appellate proceedings. ~~A court order~~  
609 ~~appointing an attorney under this section must be in writing.~~

610 ~~(4)-(5)~~ Unless the attorney ad litem has agreed to provide  
611 pro bono services, an appointed attorney ad litem or  
612 organization must be adequately compensated. All appointed  
613 attorneys ad litem and organizations, including pro bono  
614 attorneys, must be provided with access to funding for expert  
615 witnesses, depositions, and other due process costs of  
616 litigation. Payment of attorney fees and case-related due  
617 process costs are subject to appropriations and review by the  
618 Justice Administrative Commission for reasonableness. The  
619 Justice Administrative Commission shall contract with attorneys  
620 ad litem appointed by the court. Attorney fees may not exceed  
621 \$1,000 per child per year.

622 ~~(6)~~ ~~The department shall develop procedures to identify a~~  
623 ~~dependent child who has a special need specified under~~  
624 ~~subsection (3) and to request that a court appoint an attorney~~  
625 ~~for the child.~~

626 ~~(7) The department may adopt rules to administer this~~  
 627 ~~section.~~

628 ~~(8) This section does not limit the authority of the court~~  
 629 ~~to appoint an attorney for a dependent child in a proceeding~~  
 630 ~~under this chapter.~~

631 (5)~~(9)~~ Implementation of this section is subject to  
 632 appropriations expressly made for that purpose.

633 Section 8. The amendments made by this act to s. 39.01305,  
 634 Florida Statutes, apply only to attorney ad litem appointments  
 635 made on or after July 1, 2024.

636 Section 9. Subsection (3) of section 39.0132, Florida  
 637 Statutes, is amended to read:

638 39.0132 Oaths, records, and confidential information.—

639 (3) The clerk shall keep all court records required by  
 640 this chapter separate from other records of the circuit court.  
 641 All court records required by this chapter may ~~shall~~ not be open  
 642 to inspection by the public. All records may ~~shall~~ be inspected  
 643 only upon order of the court by persons deemed by the court to  
 644 have a proper interest therein, except that, subject to ~~the~~  
 645 ~~provisions of s. 63.162, a child,~~ and the parents of the child  
 646 and their attorneys, the guardian ad litem, criminal conflict  
 647 and civil regional counsels, law enforcement agencies, ~~and~~ the  
 648 department and its designees, and the attorney ad litem, if one  
 649 is appointed, ~~shall~~ always have the right to inspect and copy  
 650 any official record pertaining to the child. The Justice

651 Administrative Commission may inspect court dockets required by  
652 this chapter as necessary to audit compensation of court-  
653 appointed attorneys ad litem. If the docket is insufficient for  
654 purposes of the audit, the commission may petition the court for  
655 additional documentation as necessary and appropriate. The court  
656 may permit authorized representatives of recognized  
657 organizations compiling statistics for proper purposes to  
658 inspect and make abstracts from official records, under whatever  
659 conditions upon their use and disposition the court may deem  
660 proper, and may punish by contempt proceedings any violation of  
661 those conditions.

662 Section 10. Paragraph (a) of subsection (3) of section  
663 39.0136, Florida Statutes, is amended to read:

664 39.0136 Time limitations; continuances.—

665 (3) The time limitations in this chapter do not include:

666 (a) Periods of delay resulting from a continuance granted  
667 at the request of the child's counsel, ~~or the child's guardian~~  
668 ~~ad litem, or attorney ad litem, if one is appointed, if the~~  
669 ~~child is of sufficient capacity to express reasonable consent,~~  
670 ~~at the request or with the consent of the child.~~ The court must  
671 consider the best interests of the child when determining  
672 periods of delay under this section.

673 Section 11. Subsection (7) of section 39.01375, Florida  
674 Statutes, is amended to read:

675 39.01375 Best interest determination for placement.—The

676 department, community-based care lead agency, or court shall  
677 consider all of the following factors when determining whether a  
678 proposed placement under this chapter is in the child's best  
679 interest:

680 (7) The recommendation of the child's guardian ad litem,  
681 ~~if one has been appointed.~~

682 Section 12. Paragraphs (a) and (b) of subsection (4) of  
683 section 39.0139, Florida Statutes, are amended to read:

684 39.0139 Visitation or other contact; restrictions.—

685 (4) HEARINGS.—A person who meets any of the criteria set  
686 forth in paragraph (3) (a) who seeks to begin or resume contact  
687 with the child victim shall have the right to an evidentiary  
688 hearing to determine whether contact is appropriate.

689 (a) Before ~~Prior to~~ the hearing, the court shall appoint  
690 ~~an attorney ad litem or~~ a guardian ad litem for the child if one  
691 has not already been appointed. The guardian ad litem and Any  
692 attorney ad litem, if one is ~~or guardian ad litem~~ appointed,  
693 must ~~shall~~ have special training in the dynamics of child sexual  
694 abuse.

695 (b) At the hearing, the court may receive and rely upon  
696 any relevant and material evidence submitted to the extent of  
697 its probative value, including written and oral reports or  
698 recommendations from the Child Protection Team, the child's  
699 therapist, the child's guardian ad litem, or the child's  
700 attorney ad litem, if one is appointed, even if these reports,

701 recommendations, and evidence may not be admissible under the  
 702 rules of evidence.

703 Section 13. Paragraphs (d) and (t) of subsection (2) of  
 704 section 39.202, Florida Statutes, are amended to read:

705 39.202 Confidentiality of reports and records in cases of  
 706 child abuse or neglect; exception.—

707 (2) Except as provided in subsection (4), access to such  
 708 records, excluding the name of, or other identifying information  
 709 with respect to, the reporter which may only ~~shall~~ be released  
 710 ~~only~~ as provided in subsection (5), may only ~~shall~~ be granted  
 711 ~~only~~ to the following persons, officials, and agencies:

712 (d) The parent or legal custodian of any child who is  
 713 alleged to have been abused, abandoned, or neglected; the child;  
 714 the child's guardian ad litem; the child's attorney ad litem, if  
 715 one is appointed; or, ~~and the child, and their attorneys,~~  
 716 ~~including~~ any attorney representing a child in civil or criminal  
 717 proceedings. This access must ~~shall~~ be made available no later  
 718 than 60 days after the department receives the initial report of  
 719 abuse, neglect, or abandonment. However, any information  
 720 otherwise made confidential or exempt by law may ~~shall~~ not be  
 721 released pursuant to this paragraph.

722 (t) Persons with whom the department is seeking to place  
 723 the child or to whom placement has been granted, including  
 724 foster parents for whom an approved home study has been  
 725 conducted, the designee of a licensed child-caring agency as

726 defined in s. 39.01 ~~s. 39.01(41)~~, an approved relative or  
727 nonrelative with whom a child is placed pursuant to s. 39.402,  
728 preadoptive parents for whom a favorable preliminary adoptive  
729 home study has been conducted, adoptive parents, or an adoption  
730 entity acting on behalf of preadoptive or adoptive parents.

731 Section 14. Paragraph (c) of subsection (8), paragraphs  
732 (b) and (c) of subsection (11), and paragraph (a) of subsection  
733 (14) of section 39.402, Florida Statutes, are amended to read:

734 39.402 Placement in a shelter.—

735 (8)

736 (c) At the shelter hearing, the court shall:

737 1. Appoint a guardian ad litem to represent the best  
738 interest of the child, ~~unless the court finds that such~~  
739 ~~representation is unnecessary;~~

740 2. Inform the parents or legal custodians of their right  
741 to counsel to represent them at the shelter hearing and at each  
742 subsequent hearing or proceeding, and the right of the parents  
743 to appointed counsel, pursuant to the procedures set forth in s.  
744 39.013;

745 3. Give the parents or legal custodians an opportunity to  
746 be heard and to present evidence; and

747 4. Inquire of those present at the shelter hearing as to  
748 the identity and location of the legal father. In determining  
749 who the legal father of the child may be, the court shall  
750 inquire under oath of those present at the shelter hearing

751 whether they have any of the following information:

752 a. Whether the mother of the child was married at the  
753 probable time of conception of the child or at the time of birth  
754 of the child.

755 b. Whether the mother was cohabiting with a male at the  
756 probable time of conception of the child.

757 c. Whether the mother has received payments or promises of  
758 support with respect to the child or because of her pregnancy  
759 from a man who claims to be the father.

760 d. Whether the mother has named any man as the father on  
761 the birth certificate of the child or in connection with  
762 applying for or receiving public assistance.

763 e. Whether any man has acknowledged or claimed paternity  
764 of the child in a jurisdiction in which the mother resided at  
765 the time of or since conception of the child or in which the  
766 child has resided or resides.

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

769 g. Whether a man has been determined by a court order to  
770 be the father of the child.

771 h. Whether a man has been determined to be the father of  
772 the child by the Department of Revenue as provided in s.  
773 409.256.

774 (11)

775 (b) The court shall request that the parents consent to



776 provide access to the child's medical records and provide  
777 information to the court, the department or its contract  
778 agencies, and the any guardian ad litem and ~~or~~ attorney ad  
779 litem, if one is appointed, for the child. If a parent is  
780 unavailable or unable to consent or withholds consent and the  
781 court determines access to the records and information is  
782 necessary to provide services to the child, the court shall  
783 issue an order granting access. The court may also order the  
784 parents to provide all known medical information to the  
785 department and to any others granted access under this  
786 subsection.

787 (c) The court shall request that the parents consent to  
788 provide access to the child's child care records, early  
789 education program records, or other educational records and  
790 provide information to the court, the department or its contract  
791 agencies, and the any guardian ad litem and ~~or~~ attorney ad  
792 litem, if one is appointed, for the child. If a parent is  
793 unavailable or unable to consent or withholds consent and the  
794 court determines access to the records and information is  
795 necessary to provide services to the child, the court shall  
796 issue an order granting access.

797 (14) The time limitations in this section do not include:

798 (a) Periods of delay resulting from a continuance granted  
799 at the request or with the consent of the child's ~~counsel or the~~  
800 ~~child's~~ guardian ad litem or attorney ad litem, if one is ~~has~~

801 ~~been appointed by the court, or, if the child is of sufficient~~  
802 ~~capacity to express reasonable consent, at the request or with~~  
803 ~~the consent of the child's attorney or the child's guardian ad~~  
804 ~~litem, if one has been appointed by the court, and the child.~~

805 Section 15. Paragraphs (a) and (b) of subsection (4) of  
806 section 39.4022, Florida Statutes, are amended to read:

807 39.4022 Multidisciplinary teams; staffings; assessments;  
808 report.—

809 (4) PARTICIPANTS.—

810 (a) Collaboration among diverse individuals who are part  
811 of the child's network is necessary to make the most informed  
812 decisions possible for the child. A diverse team is preferable  
813 to ensure that the necessary combination of technical skills,  
814 cultural knowledge, community resources, and personal  
815 relationships is developed and maintained for the child and  
816 family. The participants necessary to achieve an appropriately  
817 diverse team for a child may vary by child and may include  
818 extended family, friends, neighbors, coaches, clergy, coworkers,  
819 or others the family identifies as potential sources of support.

820 1. Each multidisciplinary team staffing must invite the  
821 following members:

822 a. The child, unless he or she is not of an age or  
823 capacity to participate in the team, and the child's guardian ad  
824 litem;

825 b. The child's family members and other individuals

826 identified by the family as being important to the child,  
827 provided that a parent who has a no contact order or injunction,  
828 is alleged to have sexually abused the child, or is subject to a  
829 termination of parental rights may not participate;

830 c. The current caregiver, provided the caregiver is not a  
831 parent who meets the criteria of one of the exceptions under  
832 sub-subparagraph b.;

833 d. A representative from the department other than the  
834 Children's Legal Services attorney, when the department is  
835 directly involved in the goal identified by the staffing;

836 e. A representative from the community-based care lead  
837 agency, when the lead agency is directly involved in the goal  
838 identified by the staffing;

839 f. The case manager for the child, or his or her case  
840 manager supervisor; and

841 g. A representative from the Department of Juvenile  
842 Justice, if the child is dually involved with both the  
843 department and the Department of Juvenile Justice.

844 2. The multidisciplinary team must make reasonable efforts  
845 to have all mandatory invitees attend. However, the  
846 multidisciplinary team staffing may not be delayed if the  
847 invitees in subparagraph 1. fail to attend after being provided  
848 reasonable opportunities.

849 (b) Based on the particular goal the multidisciplinary  
850 team staffing identifies as the purpose of convening the

851 staffing as provided under subsection (5), the department or  
 852 lead agency may also invite to the meeting other professionals,  
 853 including, but not limited to:

854 1. A representative from Children's Medical Services;

855 ~~2. A guardian ad litem, if one is appointed;~~

856 2.3. A school personnel representative who has direct  
 857 contact with the child;

858 3.4. A therapist or other behavioral health professional,  
 859 if applicable;

860 4.5. A mental health professional with expertise in  
 861 sibling bonding, if the department or lead agency deems such  
 862 expert is necessary; or

863 5.6. Other community providers of services to the child or  
 864 stakeholders, when applicable.

865 Section 16. Paragraph (d) of subsection (3) and paragraph  
 866 (c) of subsection (4) of section 39.4023, Florida Statutes, are  
 867 amended to read:

868 39.4023 Placement and education transitions; transition  
 869 plans.—

870 (3) PLACEMENT TRANSITIONS.—

871 (d) Transition planning.—

872 1. If the supportive services provided pursuant to  
 873 paragraph (c) have not been successful to make the maintenance  
 874 of the placement suitable or if there are other circumstances  
 875 that require the child to be moved, the department or the

876 community-based care lead agency must convene a  
 877 multidisciplinary team staffing as required under s. 39.4022  
 878 before the child's placement is changed, or within 72 hours of  
 879 moving the child in an emergency situation, for the purpose of  
 880 developing an appropriate transition plan.

881 2. A placement change may occur immediately in an  
 882 emergency situation without convening a multidisciplinary team  
 883 staffing. However, a multidisciplinary team staffing must be  
 884 held within 72 hours after the emergency situation arises.

885 3. The department or the community-based care lead agency  
 886 must provide written notice of the planned move at least 14 days  
 887 before the move or within 72 hours after an emergency situation,  
 888 to the greatest extent possible and consistent with the child's  
 889 needs and preferences. The notice must include the reason a  
 890 placement change is necessary. A copy of the notice must be  
 891 filed with the court and be provided to all of the following:

892 a. The child, unless he or she, due to age or capacity, is  
 893 unable to comprehend the written notice, which will necessitate  
 894 the department or lead agency to provide notice in an age-  
 895 appropriate and capacity-appropriate alternative manner.~~;~~

896 b. The child's parents, unless prohibited by court order.~~;~~

897 c. The child's out-of-home caregiver.~~;~~

898 d. The guardian ad litem.~~;~~~~if one is appointed;~~

899 e. The attorney ad litem for the child, if one is  
 900 appointed.~~;~~~~and~~

901 f. The attorney for the department.  
 902 4. The transition plan must be developed through  
 903 cooperation among the persons included in subparagraph 3., and  
 904 such persons must share any relevant information necessary for  
 905 its development. Subject to the child's needs and preferences,  
 906 the transition plan must meet the requirements of s.  
 907 409.1415(2)(b)8. and exclude any placement changes that occur  
 908 between 7 p.m. and 8 a.m.

909 5. The department or the community-based care lead agency  
 910 shall file the transition plan with the court within 48 hours  
 911 after the creation of such plan and provide a copy of the plan  
 912 to the persons included in subparagraph 3.

913 (4) EDUCATION TRANSITIONS.—

914 (c) Minimizing school changes.—

915 1. Every effort must be made to keep a child in the school  
 916 of origin if it is in the child's best interest. Any placement  
 917 decision must include thoughtful consideration of which school a  
 918 child will attend if a school change is necessary.

919 2. Members of a multidisciplinary team staffing convened  
 920 for a purpose other than a school change must determine the  
 921 child's best interest regarding remaining in the school or  
 922 program of origin if the child's educational options are  
 923 affected by any other decision being made by the  
 924 multidisciplinary team.

925 3. The determination of whether it is in the child's best

926 interest to remain in the school of origin, and if not, of which  
927 school the child will attend in the future, must be made in  
928 consultation with the following individuals, including, but not  
929 limited to, the child; the parents; the caregiver; the child  
930 welfare professional; the guardian ad litem, ~~if appointed~~; the  
931 educational surrogate, if appointed; child care and educational  
932 staff, including teachers and guidance counselors; and the  
933 school district representative or foster care liaison. A  
934 multidisciplinary team member may contact any of these  
935 individuals in advance of a multidisciplinary team staffing to  
936 obtain his or her recommendation. An individual may remotely  
937 attend the multidisciplinary team staffing if one of the  
938 identified goals is related to determining an educational  
939 placement. The multidisciplinary team may rely on a report from  
940 the child's current school or program district and, if  
941 applicable, any other school district being considered for the  
942 educational placement if the required school personnel are not  
943 available to attend the multidisciplinary team staffing in  
944 person or remotely.

945 4. The multidisciplinary team and the individuals listed  
946 in subparagraph 3. must consider, at a minimum, all of the  
947 following factors when determining whether remaining in the  
948 school or program of origin is in the child's best interest or,  
949 if not, when selecting a new school or program:

950 a. The child's desire to remain in the school or program

951 of origin.

952 b. The preference of the child's parents or legal  
953 guardians.

954 c. Whether the child has siblings, close friends, or  
955 mentors at the school or program of origin.

956 d. The child's cultural and community connections in the  
957 school or program of origin.

958 e. Whether the child is suspected of having a disability  
959 under the Individuals with Disabilities Education Act (IDEA) or  
960 s. 504 of the Rehabilitation Act of 1973, or has begun receiving  
961 interventions under this state's multitiered system of supports.

962 f. Whether the child has an evaluation pending for special  
963 education and related services under IDEA or s. 504 of the  
964 Rehabilitation Act of 1973.

965 g. Whether the child is a student with a disability under  
966 IDEA who is receiving special education and related services or  
967 a student with a disability under s. 504 of the Rehabilitation  
968 Act of 1973 who is receiving accommodations and services and, if  
969 so, whether those required services are available in a school or  
970 program other than the school or program of origin.

971 h. Whether the child is an English Language Learner  
972 student and is receiving language services and, if so, whether  
973 those required services are available in a school or program  
974 other than the school or program of origin.

975 i. The impact a change to the school or program of origin



976 would have on academic credits and progress toward promotion.

977 j. The availability of extracurricular activities  
978 important to the child.

979 k. The child's known individualized educational plan or  
980 other medical and behavioral health needs and whether such plan  
981 or needs are able to be met at a school or program other than  
982 the school or program of origin.

983 l. The child's permanency goal and timeframe for achieving  
984 permanency.

985 m. The child's history of school transfers and how such  
986 transfers have impacted the child academically, emotionally, and  
987 behaviorally.

988 n. The length of the commute to the school or program from  
989 the child's home or placement and how such commute would impact  
990 the child.

991 o. The length of time the child has attended the school or  
992 program of origin.

993 5. The cost of transportation cannot be a factor in making  
994 a best interest determination.

995 Section 17. Paragraph (f) of subsection (3) of section  
996 39.407, Florida Statutes, is amended to read:

997 39.407 Medical, psychiatric, and psychological examination  
998 and treatment of child; physical, mental, or substance abuse  
999 examination of person with or requesting child custody.—

1000 (3)

1001 (f)1. The department shall fully inform the court of the  
 1002 child's medical and behavioral status as part of the social  
 1003 services report prepared for each judicial review hearing held  
 1004 for a child for whom psychotropic medication has been prescribed  
 1005 or provided under this subsection. As a part of the information  
 1006 provided to the court, the department shall furnish copies of  
 1007 all pertinent medical records concerning the child which have  
 1008 been generated since the previous hearing. On its own motion or  
 1009 on good cause shown by any party, including the ~~any~~ guardian ad  
 1010 litem, ~~attorney,~~ or attorney ad litem, if one is ~~who has been~~  
 1011 appointed ~~to represent the child or the child's interests,~~ the  
 1012 court may review the status more frequently than required in  
 1013 this subsection.

1014 2. The court may, in the best interests of the child,  
 1015 order the department to obtain a medical opinion addressing  
 1016 whether the continued use of the medication under the  
 1017 circumstances is safe and medically appropriate.

1018 Section 18. Paragraphs (m), (t), and (u) of subsection (1)  
 1019 of section 39.4085, Florida Statutes, are amended to read:

1020 39.4085 Goals for dependent children; responsibilities;  
 1021 education; Office of the Children's Ombudsman.—

1022 (1) The Legislature finds that the design and delivery of  
 1023 child welfare services should be directed by the principle that  
 1024 the health and safety of children, including the freedom from  
 1025 abuse, abandonment, or neglect, is of paramount concern and,

1026 therefore, establishes the following goals for children in  
 1027 shelter or foster care:

1028 (m) To receive meaningful case management and planning  
 1029 that will quickly return the child to his or her family or move  
 1030 the child on to other forms of permanency. For a child who is  
 1031 transitioning from foster care to independent living, permanency  
 1032 includes establishing naturally occurring, lifelong, kin-like  
 1033 connections between the child and a supportive adult.

1034 (t) To have a guardian ad litem appointed ~~to represent,~~  
 1035 ~~within reason, their best interests~~ and, if appropriate, an  
 1036 attorney ad litem ~~appointed to represent their legal interests;~~  
 1037 the guardian ad litem and attorney ad litem, if one is  
 1038 appointed, shall have immediate and unlimited access to the  
 1039 children they represent.

1040 (u) To have all their records available for review by  
 1041 their guardian ad litem and attorney ad litem, if one is  
 1042 appointed, if they deem such review necessary.

1043  
 1044 This subsection establishes goals and not rights. This  
 1045 subsection does not require the delivery of any particular  
 1046 service or level of service in excess of existing  
 1047 appropriations. A person does not have a cause of action against  
 1048 the state or any of its subdivisions, agencies, contractors,  
 1049 subcontractors, or agents, based upon the adoption of or failure  
 1050 to provide adequate funding for the achievement of these goals

1051 by the Legislature. This subsection does not require the  
 1052 expenditure of funds to meet the goals established in this  
 1053 subsection except those funds specifically appropriated for such  
 1054 purpose.

1055 Section 19. Subsection (8) of section 39.502, Florida  
 1056 Statutes, is amended to read:

1057 39.502 Notice, process, and service.—

1058 (8) It is not necessary to the validity of a proceeding  
 1059 covered by this part that the parents be present if their  
 1060 identity or residence is unknown after a diligent search has  
 1061 been made; however, ~~but in this event~~ the petitioner must ~~shall~~  
 1062 file an affidavit of diligent search prepared by the person who  
 1063 made the search and inquiry, and the court must ~~may~~ appoint a  
 1064 guardian ad litem for the child if a guardian ad litem has not  
 1065 previously been appointed.

1066 Section 20. Paragraph (c) of subsection (3) of section  
 1067 39.522, Florida Statutes, is amended to read:

1068 39.522 Postdisposition change of custody.—

1069 (3)

1070 (c)1. The department or community-based care lead agency  
 1071 must notify a current caregiver who has been in the physical  
 1072 custody placement for at least 9 consecutive months and who  
 1073 meets all the established criteria in paragraph (b) of an intent  
 1074 to change the physical custody of the child, and a  
 1075 multidisciplinary team staffing must be held in accordance with

1076 ss. 39.4022 and 39.4023 at least 21 days before the intended  
1077 date for the child's change in physical custody, unless there is  
1078 an emergency situation as defined in s. 39.4022(2)(b). If there  
1079 is not a unanimous consensus decision reached by the  
1080 multidisciplinary team, the department's official position must  
1081 be provided to the parties within the designated time period as  
1082 provided for in s. 39.4022.

1083 2. A caregiver who objects to the department's official  
1084 position on the change in physical custody must notify the court  
1085 and the department or community-based care lead agency of his or  
1086 her objection and the intent to request an evidentiary hearing  
1087 in writing in accordance with this section within 5 days after  
1088 receiving notice of the department's official position provided  
1089 under subparagraph 1. The transition of the child to the new  
1090 caregiver may not begin before the expiration of the 5-day  
1091 period within which the current caregiver may object.

1092 3. Upon the department or community-based care lead agency  
1093 receiving written notice of the caregiver's objection, the  
1094 change to the child's physical custody must be placed in  
1095 abeyance and the child may not be transitioned to a new physical  
1096 placement without a court order, unless there is an emergency  
1097 situation as defined in s. 39.4022(2)(b).

1098 4. Within 7 days after receiving written notice from the  
1099 caregiver, the court must conduct an initial case status  
1100 hearing, at which time the court must do all of the following:

1101 a. Grant party status to the current caregiver who is  
 1102 seeking permanent custody and has maintained physical custody of  
 1103 that child for at least 9 continuous months for the limited  
 1104 purpose of filing a motion for a hearing on the objection and  
 1105 presenting evidence pursuant to this subsection. †

1106 ~~b. Appoint an attorney for the child who is the subject of~~  
 1107 ~~the permanent custody proceeding, in addition to the guardian ad~~  
 1108 ~~litem, if one is appointed;†~~

1109 ~~b.e.~~ Advise the caregiver of his or her right to retain  
 1110 counsel for purposes of the evidentiary hearing. † ~~and~~

1111 ~~c.d.~~ Appoint a court-selected neutral and independent  
 1112 licensed professional with expertise in the science and research  
 1113 of child-parent bonding.

1114 Section 21. Paragraph (c) of subsection (1) and paragraph  
 1115 (c) of subsection (3) of section 39.6012, Florida Statutes, are  
 1116 amended to read:

1117 39.6012 Case plan tasks; services.—

1118 (1) The services to be provided to the parent and the  
 1119 tasks that must be completed are subject to the following:

1120 (c) If there is evidence of harm as defined in s.  
 1121 39.01(37)(g) ~~s. 39.01(34)(g)~~, the case plan must include as a  
 1122 required task for the parent whose actions caused the harm that  
 1123 the parent submit to a substance abuse disorder assessment or  
 1124 evaluation and participate and comply with treatment and  
 1125 services identified in the assessment or evaluation as being

1126 necessary.

1127 (3) In addition to any other requirement, if the child is  
1128 in an out-of-home placement, the case plan must include:

1129 (c) When appropriate, for a child who is 13 years of age  
1130 or older, a written description of the programs and services  
1131 that will help the child prepare for the transition from foster  
1132 care to independent living. The written description must include  
1133 age-appropriate activities for the child's development of  
1134 relationships, coping skills, and emotional well-being.

1135 Section 22. Section 39.6036, Florida Statutes, is created  
1136 to read:

1137 39.6036 Supportive adults for children transitioning out  
1138 of foster care.—

1139 (1) The Legislature finds that a committed, caring adult  
1140 provides a lifeline for a child transitioning out of foster care  
1141 to live independently. Accordingly, it is the intent of the  
1142 Legislature that the Statewide Guardian ad Litem Office help  
1143 children connect with supportive adults with the hope of  
1144 creating an ongoing relationship that lasts into adulthood.

1145 (2) The Statewide Guardian ad Litem Office shall work with  
1146 a child who is transitioning out of foster care to identify at  
1147 least one supportive adult with whom the child can enter into a  
1148 formal agreement for an ongoing relationship and document such  
1149 agreement in the child's court file. If the child cannot  
1150 identify a supportive adult, the Statewide Guardian ad Litem

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1151 Office shall work in coordination with the Office of Continuing  
1152 Care to identify at least one supportive adult with whom the  
1153 child can enter into a formal agreement for an ongoing  
1154 relationship and document such agreement in the child's court  
1155 file.

1156 Section 23. Paragraph (c) of subsection (10) of section  
1157 39.621, Florida Statutes, is amended to read:

1158 39.621 Permanency determination by the court.—

1159 (10) The permanency placement is intended to continue  
1160 until the child reaches the age of majority and may not be  
1161 disturbed absent a finding by the court that the circumstances  
1162 of the permanency placement are no longer in the best interest  
1163 of the child.

1164 (c) The court shall base its decision concerning any  
1165 motion by a parent for reunification or increased contact with a  
1166 child on the effect of the decision on the safety, well-being,  
1167 and physical and emotional health of the child. Factors that  
1168 must be considered and addressed in the findings of fact of the  
1169 order on the motion must include:

1170 1. The compliance or noncompliance of the parent with the  
1171 case plan;

1172 2. The circumstances which caused the child's dependency  
1173 and whether those circumstances have been resolved;

1174 3. The stability and longevity of the child's placement;

1175 4. The preferences of the child, if the child is of



1176 sufficient age and understanding to express a preference;  
 1177 5. The recommendation of the current custodian; and  
 1178 6. Any ~~The~~ recommendation of the guardian ad litem, ~~if one~~  
 1179 ~~has been appointed.~~

1180 Section 24. Subsection (2) of section 39.6241, Florida  
 1181 Statutes, is amended to read:

1182 39.6241 Another planned permanent living arrangement.—

1183 (2) The department and the guardian ad litem must provide  
 1184 the court with a recommended list and description of services  
 1185 needed by the child, such as independent living services and  
 1186 medical, dental, educational, or psychological referrals, and a  
 1187 recommended list and description of services needed by his or  
 1188 her caregiver. The guardian ad litem must also advise the court  
 1189 whether the child has been connected with a supportive adult  
 1190 and, if the child has been connected with a supportive adult,  
 1191 whether the child has entered into a formal agreement with the  
 1192 adult. If the child has entered into a formal agreement pursuant  
 1193 to s. 39.6036, the guardian ad litem must ensure that the  
 1194 agreement is documented in the child's court file.

1195 Section 25. Paragraphs (b) and (f) of subsection (1),  
 1196 paragraph (c) of subsection (2), subsection (3), and paragraph  
 1197 (e) of subsection (4) of section 39.701, Florida Statutes, are  
 1198 amended to read:

1199 39.701 Judicial review.—

1200 (1) GENERAL PROVISIONS.—

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1201 (b)1. The court shall retain jurisdiction over a child  
1202 returned to his or her parents for a minimum period of 6 months  
1203 after ~~following~~ the reunification, but, at that time, based on a  
1204 report of the social service agency and the guardian ad litem,  
1205 ~~if one has been appointed,~~ and any other relevant factors, the  
1206 court shall make a determination as to whether supervision by  
1207 the department and the court's jurisdiction shall continue or be  
1208 terminated.

1209 2. Notwithstanding subparagraph 1., the court must retain  
1210 jurisdiction over a child if the child is placed in the home  
1211 with a parent or caregiver with an in-home safety plan and such  
1212 safety plan remains necessary for the child to reside safely in  
1213 the home.

1214 (f) Notice of a judicial review hearing or a citizen  
1215 review panel hearing, and a copy of the motion for judicial  
1216 review, if any, must be served by the clerk of the court upon  
1217 all of the following persons, if available to be served,  
1218 regardless of whether the person was present at the previous  
1219 hearing at which the date, time, and location of the hearing was  
1220 announced:

1221 1. The social service agency charged with the supervision  
1222 of care, custody, or guardianship of the child, if that agency  
1223 is not the movant.

1224 2. The foster parent or legal custodian in whose home the  
1225 child resides.

1226           3. The parents.  
 1227           4. The guardian ad litem for the child, ~~or the~~  
 1228 ~~representative of the guardian ad litem program if the program~~  
 1229 ~~has been appointed.~~

1230           5. The attorney ad litem for the child, if one is  
 1231 appointed.

1232           6. The child, if the child is 13 years of age or older.

1233           7. Any preadoptive parent.

1234           8. Such other persons as the court may direct.

1235           (2) REVIEW HEARINGS FOR CHILDREN YOUNGER THAN 18 YEARS OF  
 1236 AGE.—

1237           (c) Review determinations.—The court and any citizen  
 1238 review panel shall take into consideration the information  
 1239 contained in the social services study and investigation and all  
 1240 medical, psychological, and educational records that support the  
 1241 terms of the case plan; testimony by the social services agency,  
 1242 the parent, the foster parent or caregiver, the guardian ad  
 1243 litem, the ~~or~~ surrogate parent for educational decisionmaking if  
 1244 one has been appointed for the child, and any other person  
 1245 deemed appropriate; and any relevant and material evidence  
 1246 submitted to the court, including written and oral reports to  
 1247 the extent of their probative value. These reports and evidence  
 1248 may be received by the court in its effort to determine the  
 1249 action to be taken with regard to the child and may be relied  
 1250 upon to the extent of their probative value, even though not

1251 competent in an adjudicatory hearing. In its deliberations, the  
 1252 court and any citizen review panel shall seek to determine:

1253 1. If the parent was advised of the right to receive  
 1254 assistance from any person or social service agency in the  
 1255 preparation of the case plan.

1256 2. If the parent has been advised of the right to have  
 1257 counsel present at the judicial review or citizen review  
 1258 hearings. If not so advised, the court or citizen review panel  
 1259 shall advise the parent of such right.

1260 3. If a guardian ad litem needs to be appointed for the  
 1261 child in a case in which a guardian ad litem has not previously  
 1262 been appointed ~~or if there is a need to continue a guardian ad~~  
 1263 ~~litem in a case in which a guardian ad litem has been appointed.~~

1264 4. Who holds the rights to make educational decisions for  
 1265 the child. If appropriate, the court may refer the child to the  
 1266 district school superintendent for appointment of a surrogate  
 1267 parent or may itself appoint a surrogate parent under the  
 1268 Individuals with Disabilities Education Act and s. 39.0016.

1269 5. The compliance or lack of compliance of all parties  
 1270 with applicable items of the case plan, including the parents'  
 1271 compliance with child support orders.

1272 6. The compliance or lack of compliance with a visitation  
 1273 contract between the parent and the social service agency for  
 1274 contact with the child, including the frequency, duration, and  
 1275 results of the parent-child visitation and the reason for any

1276 noncompliance.

1277         7. The frequency, kind, and duration of contacts among  
1278 siblings who have been separated during placement, as well as  
1279 any efforts undertaken to reunite separated siblings if doing so  
1280 is in the best interests of the child.

1281         8. The compliance or lack of compliance of the parent in  
1282 meeting specified financial obligations pertaining to the care  
1283 of the child, including the reason for failure to comply, if  
1284 applicable.

1285         9. Whether the child is receiving safe and proper care  
1286 according to s. 39.6012, including, but not limited to, the  
1287 appropriateness of the child's current placement, including  
1288 whether the child is in a setting that is as family-like and as  
1289 close to the parent's home as possible, consistent with the  
1290 child's best interests and special needs, and including  
1291 maintaining stability in the child's educational placement, as  
1292 documented by assurances from the community-based care lead  
1293 agency that:

1294             a. The placement of the child takes into account the  
1295 appropriateness of the current educational setting and the  
1296 proximity to the school in which the child is enrolled at the  
1297 time of placement.

1298             b. The community-based care lead agency has coordinated  
1299 with appropriate local educational agencies to ensure that the  
1300 child remains in the school in which the child is enrolled at

1301 the time of placement.

1302 10. A projected date likely for the child's return home or  
1303 other permanent placement.

1304 11. When appropriate, the basis for the unwillingness or  
1305 inability of the parent to become a party to a case plan. The  
1306 court and the citizen review panel shall determine if the  
1307 efforts of the social service agency to secure party  
1308 participation in a case plan were sufficient.

1309 12. For a child who has reached 13 years of age but is not  
1310 yet 18 years of age, the adequacy of the child's preparation for  
1311 adulthood and independent living. For a child who is 15 years of  
1312 age or older, the court shall determine if appropriate steps are  
1313 being taken for the child to obtain a driver license or  
1314 learner's driver license.

1315 13. If amendments to the case plan are required.  
1316 Amendments to the case plan must be made under s. 39.6013.

1317 14. If the parents and caregivers have developed a  
1318 productive relationship that includes meaningful communication  
1319 and mutual support.

1320 (3) REVIEW HEARINGS FOR CHILDREN 16 AND 17 YEARS OF AGE.—  
1321 At each review hearing held under this subsection, the court  
1322 shall give the child and the guardian ad litem the opportunity  
1323 to address the court and provide any information relevant to the  
1324 child's best interest, particularly in relation to independent  
1325 living transition services. The foster parent or legal

1326 | custodian, ~~or guardian ad litem~~ may also provide any information  
1327 | relevant to the child's best interest to the court. In addition  
1328 | to the review and report required under paragraphs (1)(a) and  
1329 | (2)(a), respectively, and the review and report required under  
1330 | s. 39.822(2)(a)2., the court shall:

1331 |       (a) Inquire about the life skills the child has acquired  
1332 | and whether those services are age appropriate, at the first  
1333 | judicial review hearing held subsequent to the child's 16th  
1334 | birthday. At the judicial review hearing, the department shall  
1335 | provide the court with a report that includes specific  
1336 | information related to the life skills that the child has  
1337 | acquired since the child's 13th birthday or since the date the  
1338 | child came into foster care, whichever came later. For any child  
1339 | who may meet the requirements for appointment of a guardian  
1340 | advocate under s. 393.12 or a guardian under chapter 744, the  
1341 | updated case plan must be developed in a face-to-face conference  
1342 | with the child, if appropriate; the child's attorney ad litem,  
1343 | if one is appointed; the child's; ~~any court-appointed~~ guardian  
1344 | ad litem; the temporary custodian of the child; and the parent  
1345 | of the child, if the parent's rights have not been terminated.

1346 |       (b) The court shall hold a judicial review hearing within  
1347 | 90 days after a child's 17th birthday. The court shall issue an  
1348 | order, separate from the order on judicial review, that the  
1349 | disability of nonage of the child has been removed under ss.  
1350 | 743.044-743.047 for any disability that the court finds is in

1351 the child's best interest to remove. The department shall  
1352 include in the social study report for the first judicial review  
1353 that occurs after the child's 17th birthday written verification  
1354 that the child has:

1355 1. A current Medicaid card and all necessary information  
1356 concerning the Medicaid program sufficient to prepare the child  
1357 to apply for coverage upon reaching the age of 18, if such  
1358 application is appropriate.

1359 2. A certified copy of the child's birth certificate and,  
1360 if the child does not have a valid driver license, a Florida  
1361 identification card issued under s. 322.051.

1362 3. A social security card and information relating to  
1363 social security insurance benefits if the child is eligible for  
1364 those benefits. If the child has received such benefits and they  
1365 are being held in trust for the child, a full accounting of  
1366 these funds must be provided and the child must be informed as  
1367 to how to access those funds.

1368 4. All relevant information related to the Road-to-  
1369 Independence Program under s. 409.1451, including, but not  
1370 limited to, eligibility requirements, information on  
1371 participation, and assistance in gaining admission to the  
1372 program. If the child is eligible for the Road-to-Independence  
1373 Program, he or she must be advised that he or she may continue  
1374 to reside with the licensed family home or group care provider  
1375 with whom the child was residing at the time the child attained



1376 his or her 18th birthday, in another licensed family home, or  
 1377 with a group care provider arranged by the department.

1378 5. An open bank account or the identification necessary to  
 1379 open a bank account and to acquire essential banking and  
 1380 budgeting skills.

1381 6. Information on public assistance and how to apply for  
 1382 public assistance.

1383 7. A clear understanding of where he or she will be living  
 1384 on his or her 18th birthday, how living expenses will be paid,  
 1385 and the educational program or school in which he or she will be  
 1386 enrolled.

1387 8. Information related to the ability of the child to  
 1388 remain in care until he or she reaches 21 years of age under s.  
 1389 39.013.

1390 9. A letter providing the dates that the child is under  
 1391 the jurisdiction of the court.

1392 10. A letter stating that the child is in compliance with  
 1393 financial aid documentation requirements.

1394 11. The child's educational records.

1395 12. The child's entire health and mental health records.

1396 13. The process for accessing the child's case file.

1397 14. A statement encouraging the child to attend all  
 1398 judicial review hearings.

1399 15. Information on how to obtain a driver license or  
 1400 learner's driver license.

1401 (c) At the first judicial review hearing held subsequent  
1402 to the child's 17th birthday, if the court determines pursuant  
1403 to chapter 744 that there is a good faith basis to believe that  
1404 the child qualifies for appointment of a guardian advocate,  
1405 limited guardian, or plenary guardian for the child and that no  
1406 less restrictive decisionmaking assistance will meet the child's  
1407 needs:

1408 1. The department shall complete a multidisciplinary  
1409 report which must include, but is not limited to, a psychosocial  
1410 evaluation and educational report if such a report has not been  
1411 completed within the previous 2 years.

1412 2. The department shall identify one or more individuals  
1413 who are willing to serve as the guardian advocate under s.  
1414 393.12 or as the plenary or limited guardian under chapter 744.  
1415 Any other interested parties or participants may make efforts to  
1416 identify such a guardian advocate, limited guardian, or plenary  
1417 guardian. The child's biological or adoptive family members,  
1418 including the child's parents if the parents' rights have not  
1419 been terminated, may not be considered for service as the  
1420 plenary or limited guardian unless the court enters a written  
1421 order finding that such an appointment is in the child's best  
1422 interests.

1423 3. Proceedings may be initiated within 180 days after the  
1424 child's 17th birthday for the appointment of a guardian  
1425 advocate, plenary guardian, or limited guardian for the child in

1426 a separate proceeding in the court division with jurisdiction  
1427 over guardianship matters and pursuant to chapter 744. The  
1428 Legislature encourages the use of pro bono representation to  
1429 initiate proceedings under this section.

1430 4. In the event another interested party or participant  
1431 initiates proceedings for the appointment of a guardian  
1432 advocate, plenary guardian, or limited guardian for the child,  
1433 the department shall provide all necessary documentation and  
1434 information to the petitioner to complete a petition under s.  
1435 393.12 or chapter 744 within 45 days after the first judicial  
1436 review hearing after the child's 17th birthday.

1437 5. Any proceedings seeking appointment of a guardian  
1438 advocate or a determination of incapacity and the appointment of  
1439 a guardian must be conducted in a separate proceeding in the  
1440 court division with jurisdiction over guardianship matters and  
1441 pursuant to chapter 744.

1442 (d) If the court finds at the judicial review hearing  
1443 after the child's 17th birthday that the department has not met  
1444 its obligations to the child as stated in this part, in the  
1445 written case plan, or in the provision of independent living  
1446 services, the court may issue an order directing the department  
1447 to show cause as to why it has not done so. If the department  
1448 cannot justify its noncompliance, the court may give the  
1449 department 30 days within which to comply. If the department  
1450 fails to comply within 30 days, the court may hold the

1451 department in contempt.

1452 (e) If necessary, the court may review the status of the  
1453 child more frequently during the year before the child's 18th  
1454 birthday. At the last review hearing before the child reaches 18  
1455 years of age, and in addition to the requirements of subsection  
1456 (2), the court shall:

1457 1. Address whether the child plans to remain in foster  
1458 care, and, if so, ensure that the child's transition plan  
1459 includes a plan for meeting one or more of the criteria  
1460 specified in s. 39.6251 and determine if the child has entered  
1461 into a formal agreement for an ongoing relationship with a  
1462 supportive adult.

1463 2. Ensure that the transition plan includes a supervised  
1464 living arrangement under s. 39.6251.

1465 3. Ensure the child has been informed of:

1466 a. The right to continued support and services from the  
1467 department and the community-based care lead agency.

1468 b. The right to request termination of dependency  
1469 jurisdiction and be discharged from foster care.

1470 c. The opportunity to reenter foster care under s.  
1471 39.6251.

1472 4. Ensure that the child, if he or she requests  
1473 termination of dependency jurisdiction and discharge from foster  
1474 care, has been informed of:

1475 a. Services or benefits for which the child may be

1476 eligible based on his or her former placement in foster care,  
 1477 including, but not limited to, the assistance of the Office of  
 1478 Continuing Care under s. 414.56.

1479 b. Services or benefits that may be lost through  
 1480 termination of dependency jurisdiction.

1481 c. Other federal, state, local, or community-based  
 1482 services or supports available to him or her.

1483 (4) REVIEW HEARINGS FOR YOUNG ADULTS IN FOSTER CARE.—  
 1484 During each period of time that a young adult remains in foster  
 1485 care, the court shall review the status of the young adult at  
 1486 least every 6 months and must hold a permanency review hearing  
 1487 at least annually.

1488 (e)1. Notwithstanding the provisions of this subsection,  
 1489 if a young adult has chosen to remain in extended foster care  
 1490 after he or she has reached 18 years of age, the department may  
 1491 not close a case and the court may not terminate jurisdiction  
 1492 until the court finds, following a hearing, that the following  
 1493 criteria have been met:

1494 ~~a.1.~~ Attendance of the young adult at the hearing; or

1495 ~~b.2.~~ Findings by the court that:

1496 ~~(I)a.~~ The young adult has been informed by the department  
 1497 of his or her right to attend the hearing and has provided  
 1498 written consent to waive this right; and

1499 ~~(II)b.~~ The young adult has been informed of the potential  
 1500 negative effects of early termination of care, the option to

1501 reenter care before reaching 21 years of age, the procedure for,  
1502 and limitations on, reentering care, and the availability of  
1503 alternative services, and has signed a document attesting that  
1504 he or she has been so informed and understands these provisions;  
1505 or

1506 (III)~~e.~~ The young adult has voluntarily left the program,  
1507 has not signed the document in sub-subparagraph b., and is  
1508 unwilling to participate in any further court proceeding.

1509 ~~2.3.~~ In all permanency hearings or hearings regarding the  
1510 transition of the young adult from care to independent living,  
1511 the court shall consult with the young adult regarding the  
1512 proposed permanency plan, case plan, and individual education  
1513 plan for the young adult and ensure that he or she has  
1514 understood the conversation. The court shall also inquire of the  
1515 young adult regarding his or her relationship with the  
1516 supportive adult with whom the young adult has entered into a  
1517 formal agreement for an ongoing relationship, if such agreement  
1518 exists.

1519 Section 26. Paragraph (a) of subsection (3) of section  
1520 39.801, Florida Statutes, is amended to read:

1521 39.801 Procedures and jurisdiction; notice; service of  
1522 process.—

1523 (3) Before the court may terminate parental rights, in  
1524 addition to the other requirements set forth in this part, the  
1525 following requirements must be met:

1526 (a) Notice of the date, time, and place of the advisory  
 1527 hearing for the petition to terminate parental rights; if  
 1528 applicable, instructions for appearance through audio-video  
 1529 communication technology; and a copy of the petition must be  
 1530 personally served upon the following persons, specifically  
 1531 notifying them that a petition has been filed:

- 1532 1. The parents of the child.
- 1533 2. The legal custodians of the child.
- 1534 3. If the parents who would be entitled to notice are dead  
 1535 or unknown, a living relative of the child, unless upon diligent  
 1536 search and inquiry no such relative can be found.
- 1537 4. Any person who has physical custody of the child.
- 1538 5. Any grandparent entitled to priority for adoption under  
 1539 s. 63.0425.
- 1540 6. Any prospective parent who has been identified under s.  
 1541 39.503 or s. 39.803, unless a court order has been entered  
 1542 pursuant to s. 39.503(4) or (9) or s. 39.803(4) or (9) which  
 1543 indicates no further notice is required. Except as otherwise  
 1544 provided in this section, if there is not a legal father, notice  
 1545 of the petition for termination of parental rights must be  
 1546 provided to any known prospective father who is identified under  
 1547 oath before the court or who is identified by a diligent search  
 1548 of the Florida Putative Father Registry. Service of the notice  
 1549 of the petition for termination of parental rights is not  
 1550 required if the prospective father executes an affidavit of

1551 nonpaternity or a consent to termination of his parental rights  
 1552 which is accepted by the court after notice and opportunity to  
 1553 be heard by all parties to address the best interests of the  
 1554 child in accepting such affidavit.

1555 7. The guardian ad litem for the child ~~or the~~  
 1556 ~~representative of the guardian ad litem program, if the program~~  
 1557 ~~has been appointed.~~

1558  
 1559 A party may consent to service or notice by e-mail by providing  
 1560 a primary e-mail address to the clerk of the court. The document  
 1561 containing the notice to respond or appear must contain, in type  
 1562 at least as large as the type in the balance of the document,  
 1563 the following or substantially similar language: "FAILURE TO  
 1564 APPEAR AT THIS ADVISORY HEARING CONSTITUTES CONSENT TO THE  
 1565 TERMINATION OF PARENTAL RIGHTS OF THIS CHILD (OR CHILDREN). IF  
 1566 YOU FAIL TO APPEAR ON THE DATE AND TIME SPECIFIED, YOU MAY LOSE  
 1567 ALL LEGAL RIGHTS AS A PARENT TO THE CHILD OR CHILDREN NAMED IN  
 1568 THE PETITION ATTACHED TO THIS NOTICE."

1569 Section 27. Subsection (2) of section 39.807, Florida  
 1570 Statutes, is amended to read:

1571 39.807 Right to counsel; guardian ad litem.—

1572 (2)(a) The court shall appoint a guardian ad litem to  
 1573 represent the ~~best interest of the~~ child in any termination of  
 1574 parental rights proceedings and shall ascertain at each stage of  
 1575 the proceedings whether a guardian ad litem has been appointed.



1576 (b) The guardian ad litem has the ~~following~~  
 1577 responsibilities and authorities listed in s. 39.822.÷

1578 ~~1. To investigate the allegations of the petition and any~~  
 1579 ~~subsequent matters arising in the case and,~~

1580 (c) Unless excused by the court, the guardian ad litem  
 1581 must ~~to~~ file a written report. This report must include a  
 1582 statement of the wishes of the child and the recommendations of  
 1583 the guardian ad litem and must be provided to all parties and  
 1584 the court at least 72 hours before the disposition hearing.

1585 ~~2. To be present at all court hearings unless excused by~~  
 1586 ~~the court.~~

1587 ~~3. To represent the best interests of the child until the~~  
 1588 ~~jurisdiction of the court over the child terminates or until~~  
 1589 ~~excused by the court.~~

1590 ~~(c) A guardian ad litem is not required to post bond but~~  
 1591 ~~shall file an acceptance of the office.~~

1592 ~~(d) A guardian ad litem is entitled to receive service of~~  
 1593 ~~pleadings and papers as provided by the Florida Rules of~~  
 1594 ~~Juvenile Procedure.~~

1595 (d)(e) This subsection does not apply to any voluntary  
 1596 relinquishment of parental rights proceeding.

1597 Section 28. Subsection (2) of section 39.808, Florida  
 1598 Statutes, is amended to read:

1599 39.808 Advisory hearing; pretrial status conference.—

1600 (2) At the hearing the court shall inform the parties of

1601 their rights under s. 39.807, ~~shall~~ appoint counsel for the  
 1602 parties in accordance with legal requirements, and ~~shall~~ appoint  
 1603 a guardian ad litem to represent the ~~interests of the~~ child if  
 1604 one has not already been appointed.

1605 Section 29. Subsection (2) of section 39.815, Florida  
 1606 Statutes, is amended to read:

1607 39.815 Appeal.—

1608 (2) An attorney for the department shall represent the  
 1609 state upon appeal. When a notice of appeal is filed in the  
 1610 circuit court, the clerk shall notify the attorney for the  
 1611 department, ~~together with~~ the attorney for the parent, the  
 1612 guardian ad litem, and the any attorney ad litem for the child,  
 1613 if one is appointed.

1614 Section 30. Section 39.820, Florida Statutes, is repealed.

1615 Section 31. Subsections (1) and (3) of section 39.821,  
 1616 Florida Statutes, are amended to read:

1617 39.821 Qualifications of guardians ad litem.—

1618 (1) Because of the special trust or responsibility placed  
 1619 in a guardian ad litem, the Statewide Guardian ad Litem Office  
 1620 ~~Program~~ may use any private funds collected by the office  
 1621 ~~program~~, or any state funds so designated, to conduct a security  
 1622 background investigation before certifying a volunteer to serve.  
 1623 A security background investigation must include, but need not  
 1624 be limited to, employment history checks, checks of references,  
 1625 local criminal history records checks through local law

1626 enforcement agencies, and statewide criminal history records  
1627 checks through the Department of Law Enforcement. Upon request,  
1628 an employer shall furnish a copy of the personnel record for the  
1629 employee or former employee who is the subject of a security  
1630 background investigation conducted under this section. The  
1631 information contained in the personnel record may include, but  
1632 need not be limited to, disciplinary matters and the reason why  
1633 the employee was terminated from employment. An employer who  
1634 releases a personnel record for purposes of a security  
1635 background investigation is presumed to have acted in good faith  
1636 and is not liable for information contained in the record  
1637 without a showing that the employer maliciously falsified the  
1638 record. A security background investigation conducted under this  
1639 section must ensure that a person is not certified as a guardian  
1640 ad litem if the person has an arrest awaiting final disposition  
1641 for, been convicted of, regardless of adjudication, entered a  
1642 plea of nolo contendere or guilty to, or been adjudicated  
1643 delinquent and the record has not been sealed or expunged for,  
1644 any offense prohibited under the provisions listed in s. 435.04.  
1645 All applicants must undergo a level 2 background screening  
1646 pursuant to chapter 435 before being certified to serve as a  
1647 guardian ad litem. In analyzing and evaluating the information  
1648 obtained in the security background investigation, the office  
1649 ~~program~~ must give particular emphasis to past activities  
1650 involving children, including, but not limited to, child-related

1651 criminal offenses or child abuse. The office ~~program~~ has sole  
 1652 discretion in determining whether to certify a person based on  
 1653 his or her security background investigation. The information  
 1654 collected pursuant to the security background investigation is  
 1655 confidential and exempt from s. 119.07(1).

1656 (3) It is a misdemeanor of the first degree, punishable as  
 1657 provided in s. 775.082 or s. 775.083, for any person to  
 1658 willfully, knowingly, or intentionally fail, by false statement,  
 1659 misrepresentation, impersonation, or other fraudulent means, to  
 1660 disclose in any application for a volunteer position or for paid  
 1661 employment with the Statewide Guardian ad Litem Office ~~Program~~,  
 1662 any material fact used in making a determination as to the  
 1663 applicant's qualifications for such position.

1664 Section 32. Section 39.822, Florida Statutes, is amended  
 1665 to read:

1666 39.822 Appointment of guardian ad litem for abused,  
 1667 abandoned, or neglected child.—

1668 (1) A guardian ad litem shall be appointed by the court at  
 1669 the earliest possible time to represent the child in any child  
 1670 abuse, abandonment, or neglect judicial proceeding, whether  
 1671 civil or criminal. A guardian ad litem is a fiduciary and must  
 1672 provide independent representation of the child using a best  
 1673 interest standard of decisionmaking and advocacy.

1674 (2)(a) A guardian ad litem must:

1675 1. Be present at all court hearings unless excused by the

1676 court.

1677 2. Investigate issues related to the best interest of the  
1678 child who is the subject of the appointment, review all  
1679 disposition recommendations and changes in placement, and,  
1680 unless excused by the court, file written reports and  
1681 recommendations in accordance with general law.

1682 3. Represent the child until the court's jurisdiction over  
1683 the child terminates or until excused by the court.

1684 4. Advocate for the child's participation in the  
1685 proceedings and to report the child's preferences to the court,  
1686 to the extent the child has the ability and desire to express  
1687 his or her preferences.

1688 5. Perform other duties that are consistent with the scope  
1689 of the appointment.

1690 (b) A guardian ad litem shall have immediate and unlimited  
1691 access to the children he or she represents.

1692 (c) A guardian ad litem is not required to post bond but  
1693 must file an acceptance of the appointment.

1694 (d) A guardian ad litem is entitled to receive service of  
1695 pleadings and papers as provided by the Florida Rules of  
1696 Juvenile Procedure.

1697 (3) Any person participating in a civil or criminal  
1698 judicial proceeding resulting from such appointment shall be  
1699 presumed prima facie to be acting in good faith and in so doing  
1700 shall be immune from any liability, civil or criminal, that

1701 otherwise might be incurred or imposed.

1702 (4)~~(2)~~ In those cases in which the parents are financially  
 1703 able, the parent or parents of the child shall reimburse the  
 1704 court, in part or in whole, for the cost of provision of  
 1705 guardian ad litem representation ~~services~~. Reimbursement to the  
 1706 individual providing guardian ad litem representation is not  
 1707 ~~services shall not be~~ contingent upon successful collection by  
 1708 the court from the parent or parents.

1709 (5)~~(3)~~ Upon presentation by a guardian ad litem of a court  
 1710 order appointing the guardian ad litem:

1711 (a) An agency, as defined in chapter 119, shall allow the  
 1712 guardian ad litem to inspect and copy records related to the  
 1713 best interests of the child who is the subject of the  
 1714 appointment, including, but not limited to, records made  
 1715 confidential or exempt from s. 119.07(1) or s. 24(a), Art. I of  
 1716 the State Constitution. The guardian ad litem shall maintain the  
 1717 confidential or exempt status of any records shared by an agency  
 1718 under this paragraph.

1719 (b) A person or an organization, other than an agency  
 1720 under paragraph (a), shall allow the guardian ad litem to  
 1721 inspect and copy any records related to the best interests of  
 1722 the child who is the subject of the appointment, including, but  
 1723 not limited to, confidential records.

1724  
 1725 For the purposes of this subsection, the term "records related

1726 to the best interests of the child" includes, but is not limited  
 1727 to, medical, mental health, substance abuse, child care,  
 1728 education, law enforcement, court, social services, and  
 1729 financial records.

1730 ~~(4) The guardian ad litem or the program representative~~  
 1731 ~~shall review all disposition recommendations and changes in~~  
 1732 ~~placements, and must be present at all critical stages of the~~  
 1733 ~~dependency proceeding or submit a written report of~~  
 1734 ~~recommendations to the court. Written reports must be filed with~~  
 1735 ~~the court and served on all parties whose whereabouts are known~~  
 1736 ~~at least 72 hours prior to the hearing.~~

1737 Section 33. Subsection (4) of section 39.827, Florida  
 1738 Statutes, is amended to read:

1739 39.827 Hearing for appointment of a guardian advocate.—

1740 (4) The hearing under this section must ~~shall~~ remain  
 1741 confidential and closed to the public. The clerk shall keep all  
 1742 court records required by this part separate from other records  
 1743 of the circuit court. All court records required by this part  
 1744 are ~~shall be~~ confidential and exempt from ~~the provisions of s.~~  
 1745 119.07(1). ~~All~~ Records may only ~~shall~~ be inspected ~~only~~ upon  
 1746 order of the court by persons deemed by the court to have a  
 1747 proper interest therein, except that a child and the parents or  
 1748 custodians of the child and their attorneys, the guardian ad  
 1749 litem, and the department and its designees, and the attorney ad  
 1750 litem, if one is appointed, ~~shall~~ always have the right to

1751 inspect and copy any official record pertaining to the child.  
 1752 The court may permit authorized representatives of recognized  
 1753 organizations compiling statistics for proper purposes to  
 1754 inspect and make abstracts from official records, under whatever  
 1755 conditions upon their use and disposition the court may deem  
 1756 proper, and may punish by contempt proceedings any violation of  
 1757 those conditions. All information obtained pursuant to this part  
 1758 in the discharge of official duty by any judge, employee of the  
 1759 court, or authorized agent of the department is ~~shall be~~  
 1760 confidential and exempt from ~~the provisions of~~ s. 119.07(1) and  
 1761 may ~~shall~~ not be disclosed to anyone other than the authorized  
 1762 personnel of the court or the department and its designees,  
 1763 except upon order of the court.

1764 Section 34. Paragraphs (a), (b), and (d) of subsection (1)  
 1765 and subsection (2) of section 39.8296, Florida Statutes, are  
 1766 amended to read:

1767 39.8296 Statewide Guardian ad Litem Office; legislative  
 1768 findings and intent; creation; appointment of executive  
 1769 director; duties of office.—

1770 (1) LEGISLATIVE FINDINGS AND INTENT.—

1771 (a) The Legislature finds that for the past 20 years, the  
 1772 Statewide Guardian Ad Litem Office ~~Program~~ has been the only  
 1773 mechanism for best interest representation for children in  
 1774 Florida who are involved in dependency proceedings.

1775 (b) The Legislature also finds that while the Statewide



1776 Guardian Ad Litem Office Program has been supervised by court  
1777 administration within the circuit courts since the office's  
1778 ~~program's~~ inception, there is a perceived conflict of interest  
1779 created by the supervision of program staff by the judges before  
1780 whom they appear.

1781 (d) It is therefore the intent of the Legislature to place  
1782 the Statewide Guardian Ad Litem Office Program in an appropriate  
1783 place and provide a statewide infrastructure to increase  
1784 functioning and standardization among the local offices ~~programs~~  
1785 currently operating in the 20 judicial circuits.

1786 (2) STATEWIDE GUARDIAN AD LITEM OFFICE.—There is created a  
1787 Statewide Guardian ad Litem Office within the Justice  
1788 Administrative Commission. The Justice Administrative Commission  
1789 shall provide administrative support and service to the office  
1790 to the extent requested by the executive director within the  
1791 available resources of the commission. The Statewide Guardian ad  
1792 Litem Office is not subject to control, supervision, or  
1793 direction by the Justice Administrative Commission in the  
1794 performance of its duties, but the employees of the office are  
1795 governed by the classification plan and salary and benefits plan  
1796 approved by the Justice Administrative Commission.

1797 (a) The head of the Statewide Guardian ad Litem Office is  
1798 the executive director, who shall be appointed by the Governor  
1799 from a list of a minimum of three eligible applicants submitted  
1800 by a Guardian ad Litem Qualifications Committee. The Guardian ad

1801 Litem Qualifications Committee shall be composed of five  
1802 persons, two persons appointed by the Governor, two persons  
1803 appointed by the Chief Justice of the Supreme Court, and one  
1804 person appointed by the Statewide Guardian ad Litem Office  
1805 ~~Association~~. The committee shall provide for statewide  
1806 advertisement and the receiving of applications for the position  
1807 of executive director. The Governor shall appoint an executive  
1808 director from among the recommendations, or the Governor may  
1809 reject the nominations and request the submission of new  
1810 nominees. The executive director must have knowledge in  
1811 dependency law and knowledge of social service delivery systems  
1812 available to meet the needs of children who are abused,  
1813 neglected, or abandoned. The executive director shall serve on a  
1814 full-time basis and shall personally, or through representatives  
1815 of the office, carry out the purposes and functions of the  
1816 Statewide Guardian ad Litem Office in accordance with state and  
1817 federal law and the state's long-established policy of  
1818 prioritizing children's best interests. The executive director  
1819 shall report to the Governor. The executive director shall serve  
1820 a 3-year term, subject to removal for cause by the Governor. Any  
1821 person appointed to serve as the executive director may be  
1822 permitted to serve more than one term without the necessity of  
1823 convening the Guardian ad Litem Qualifications Committee.

1824 (b) The Statewide Guardian ad Litem Office shall, within  
1825 available resources, have oversight responsibilities for and

1826 provide technical assistance to all guardian ad litem and  
1827 attorney ad litem offices ~~programs~~ located within the judicial  
1828 circuits.

1829 1. The office shall identify the resources required to  
1830 implement methods of collecting, reporting, and tracking  
1831 reliable and consistent case data.

1832 2. The office shall review the current guardian ad litem  
1833 offices ~~programs~~ in Florida and other states.

1834 3. The office, in consultation with local guardian ad  
1835 litem offices, shall develop statewide performance measures and  
1836 standards.

1837 4. The office shall develop and maintain a guardian ad  
1838 litem training program, which must be updated regularly, ~~which~~  
1839 ~~shall include, but is not limited to, training on the~~  
1840 ~~recognition of and responses to head trauma and brain injury in~~  
1841 ~~a child under 6 years of age. The office shall establish a~~  
1842 ~~curriculum committee to develop the training program specified~~  
1843 ~~in this subparagraph. The curriculum committee shall include,~~  
1844 ~~but not be limited to, dependency judges, directors of circuit~~  
1845 ~~guardian ad litem programs, active certified guardians ad litem,~~  
1846 ~~a mental health professional who specializes in the treatment of~~  
1847 ~~children, a member of a child advocacy group, a representative~~  
1848 ~~of a domestic violence advocacy group, an individual with a~~  
1849 ~~degree in social work, and a social worker experienced in~~  
1850 ~~working with victims and perpetrators of child abuse.~~

1851           5. The office shall review the various methods of funding  
 1852 guardian ad litem offices ~~programs~~, maximize the use of those  
 1853 funding sources to the extent possible, and review the kinds of  
 1854 services being provided by circuit guardian ad litem offices  
 1855 ~~programs~~.

1856           6. The office shall determine the feasibility or  
 1857 desirability of new concepts of organization, administration,  
 1858 financing, or service delivery designed to preserve the civil  
 1859 and constitutional rights and fulfill other needs of dependent  
 1860 children.

1861           7. The office shall ensure that each child has an attorney  
 1862 assigned to his or her case and, within available resources, is  
 1863 represented using multidisciplinary teams that may include  
 1864 volunteers, pro bono attorneys, social workers, and mentors.

1865           8. The office shall provide oversight and technical  
 1866 assistance to attorneys ad litem, including, but not limited to,  
 1867 all of the following:

1868           a. Develop an attorney ad litem training program in  
 1869 collaboration with dependency court stakeholders, including, but  
 1870 not limited to, dependency judges, representatives from legal  
 1871 aid providing attorney ad litem representation, and an attorney  
 1872 ad litem appointed from a registry maintained by the chief  
 1873 judge. The training program must be updated regularly with or  
 1874 without convening the stakeholders group.

1875           b. Offer consultation and technical assistance to chief

1876 judges in maintaining attorney registries for the selection of  
 1877 attorneys ad litem.

1878 c. Assist with recruitment, training, and mentoring of  
 1879 attorneys ad litem as needed.

1880 9.7. In an effort to promote normalcy and establish trust  
 1881 between a ~~court-appointed volunteer~~ guardian ad litem and a  
 1882 child alleged to be abused, abandoned, or neglected under this  
 1883 chapter, a guardian ad litem may transport a child. However, a  
 1884 guardian ad litem ~~volunteer~~ may not be required by a guardian ad  
 1885 litem circuit office or ordered by ~~or directed by the program or~~  
 1886 a court to transport a child.

1887 10.8. The office shall submit to the Governor, the  
 1888 President of the Senate, the Speaker of the House of  
 1889 Representatives, and the Chief Justice of the Supreme Court an  
 1890 interim report describing the progress of the office in meeting  
 1891 the goals as described in this section. The office shall submit  
 1892 to the Governor, the President of the Senate, the Speaker of the  
 1893 House of Representatives, and the Chief Justice of the Supreme  
 1894 Court a proposed plan including alternatives for meeting the  
 1895 state's guardian ad litem and attorney ad litem needs. This plan  
 1896 may include recommendations for less than the entire state, may  
 1897 include a phase-in system, and shall include estimates of the  
 1898 cost of each of the alternatives. Each year the office shall  
 1899 provide a status report and provide further recommendations to  
 1900 address the need for guardian ad litem representation ~~services~~

1901 and related issues.

1902 Section 35. Section 39.8297, Florida Statutes, is amended  
 1903 to read:

1904 39.8297 County funding for guardian ad litem employees.—

1905 (1) A county and the executive director of the Statewide  
 1906 Guardian ad Litem Office may enter into an agreement by which  
 1907 the county agrees to provide funds to the local guardian ad  
 1908 litem office in order to employ persons who will assist in the  
 1909 operation of the guardian ad litem office ~~program~~ in the county.

1910 (2) The agreement, at a minimum, must provide that:

1911 (a) Funding for the persons who are employed will be  
 1912 provided on at least a fiscal-year basis.

1913 (b) The persons who are employed will be hired,  
 1914 supervised, managed, and terminated by the executive director of  
 1915 the Statewide Guardian ad Litem Office. The statewide office is  
 1916 responsible for compliance with all requirements of federal and  
 1917 state employment laws, and shall fully indemnify the county from  
 1918 any liability under such laws, as authorized by s. 768.28(19),  
 1919 to the extent such liability is the result of the acts or  
 1920 omissions of the Statewide Guardian ad Litem Office or its  
 1921 agents or employees.

1922 (c) The county is the employer for purposes of s. 440.10  
 1923 and chapter 443.

1924 (d) Employees funded by the county under this section and  
 1925 other county employees may be aggregated for purposes of a

1926 flexible benefits plan pursuant to s. 125 of the Internal  
 1927 Revenue Code of 1986.

1928 (e) Persons employed under this section may be terminated  
 1929 after a substantial breach of the agreement or because funding  
 1930 to the guardian ad litem office ~~program~~ has expired.

1931 (3) Persons employed under this section may not be counted  
 1932 in a formula or similar process used by the Statewide Guardian  
 1933 ad Litem Office to measure personnel needs of a judicial  
 1934 circuit's guardian ad litem office ~~program~~.

1935 (4) Agreements created pursuant to this section do not  
 1936 obligate the state to allocate funds to a county to employ  
 1937 persons in the guardian ad litem office ~~program~~.

1938 Section 36. Section 39.8298, Florida Statutes, is amended  
 1939 to read:

1940 39.8298 Guardian ad Litem direct-support organizations  
 1941 ~~organization~~.—

1942 (1) AUTHORITY.—The Statewide Guardian ad Litem Office  
 1943 created under s. 39.8296 is authorized to create a state direct-  
 1944 support organization and to create or designate local direct-  
 1945 support organizations. The executive director of the Statewide  
 1946 Guardian ad Litem Office is responsible for designating local  
 1947 direct-support organizations under this subsection.

1948 (a) The state direct-support organization and the local  
 1949 direct-support organizations must be a Florida corporations  
 1950 ~~corporation~~ not for profit, incorporated under ~~the provisions of~~

1951 chapter 617. The state direct-support organization and the local  
 1952 direct-support organizations ~~are shall~~ be exempt from paying  
 1953 fees under s. 617.0122.

1954 (b) The state direct-support organization and each local  
 1955 direct-support organization ~~must shall~~ be organized and operated  
 1956 to conduct programs and activities; raise funds; request and  
 1957 receive grants, gifts, and bequests of moneys; acquire, receive,  
 1958 hold, invest, and administer, in its own name, securities,  
 1959 funds, objects of value, or other property, real or personal;  
 1960 and make expenditures to or for the direct or indirect benefit  
 1961 of the Statewide Guardian ad Litem Office, including the local  
 1962 guardian ad litem offices.

1963 (c) If the executive director of the Statewide Guardian ad  
 1964 Litem Office determines that the state direct-support  
 1965 organization or a local direct-support organization is operating  
 1966 in a manner that is inconsistent with the goals and purposes of  
 1967 the Statewide Guardian ad Litem Office or not acting in the best  
 1968 interest of the state, the executive director may terminate the  
 1969 organization's contract and thereafter the organization may not  
 1970 use the name of the Statewide Guardian ad Litem Office.

1971 (2) CONTRACTS ~~CONTRACT~~.—The state direct-support  
 1972 organization and the local direct-support organizations shall  
 1973 operate under a written contract with the Statewide Guardian Ad  
 1974 Litem Office. The written contract must, at a minimum, provide  
 1975 for:



1976 (a) Approval of the articles of incorporation and bylaws  
 1977 of the direct-support organization by the executive director of  
 1978 the Statewide Guardian ad Litem Office.

1979 (b) Submission of an annual budget for the approval by the  
 1980 executive director of the Statewide Guardian ad Litem Office.

1981 (c) The reversion without penalty to the Statewide  
 1982 Guardian ad Litem Office, or to the state if the Statewide  
 1983 Guardian ad Litem Office ceases to exist, of all moneys and  
 1984 property held in trust by the state direct-support organization  
 1985 for the Statewide Guardian Ad Litem Office if the direct-support  
 1986 organization ceases to exist or if the contract is terminated.

1987 (d) The fiscal year of the state direct-support  
 1988 organization and the local direct-support organizations, which  
 1989 must begin July 1 of each year and end June 30 of the following  
 1990 year.

1991 (e) The disclosure of material provisions of the contract  
 1992 and the distinction between the Statewide Guardian ad Litem  
 1993 Office and the state direct-support organization or the local  
 1994 direct-support organization to donors of gifts, contributions,  
 1995 or bequests, as well as on all promotional and fundraising  
 1996 publications.

1997 (3) BOARD OF DIRECTORS.—The executive director of the  
 1998 Statewide Guardian ad Litem Office shall appoint a board of  
 1999 directors for the state direct-support organization. The  
 2000 executive director may designate employees of the Statewide

2001 Guardian ad Litem Office to serve on the board of directors of  
 2002 the state direct-support organization or a local direct-support  
 2003 organization. Members of the board of the state direct-support  
 2004 organization or a local direct-support organization shall serve  
 2005 at the pleasure of the executive director.

2006 (4) USE OF PROPERTY AND SERVICES.—The executive director  
 2007 of the Statewide Guardian ad Litem Office:

2008 (a) May authorize the use of facilities and property other  
 2009 than money that are owned by the Statewide Guardian ad Litem  
 2010 Office to be used by the state direct-support organization or a  
 2011 local direct-support organization.

2012 (b) May authorize the use of personal services provided by  
 2013 employees of the Statewide Guardian ad Litem Office to be used  
 2014 by the state direct-support organization or a local direct-  
 2015 support organization. For the purposes of this section, the term  
 2016 "personal services" includes full-time personnel and part-time  
 2017 personnel as well as payroll processing.

2018 (c) May prescribe the conditions by which the state  
 2019 direct-support organization or a local direct-support  
 2020 organization may use property, facilities, or personal services  
 2021 of the office or the state direct-support organization.

2022 (d) May ~~shall~~ not authorize the use of property,  
 2023 facilities, or personal services by the state ~~of the~~ direct-  
 2024 support organization or a local direct-support organization if  
 2025 the organization does not provide equal employment opportunities

2026 to all persons, regardless of race, color, religion, sex, age,  
 2027 or national origin.

2028 (5) MONEYS.—Moneys of the state direct-support  
 2029 organization or a local direct-support organization must ~~may~~ be  
 2030 held in a separate depository account in the name of the direct-  
 2031 support organization and subject to the provisions of the  
 2032 contract with the Statewide Guardian ad Litem Office.

2033 (6) ANNUAL AUDIT.—The state direct-support organization  
 2034 and a local direct-support organization must ~~shall~~ provide for  
 2035 an annual financial audit in accordance with s. 215.981.

2036 (7) LIMITS ON DIRECT-SUPPORT ORGANIZATIONS ~~ORGANIZATION~~.—  
 2037 The state direct-support organization and a local direct-support  
 2038 organization may ~~shall~~ not exercise any power under s.  
 2039 617.0302(12) or (16). A ~~No~~ state employee may not ~~shall~~ receive  
 2040 compensation from the state direct-support organization or a  
 2041 local direct-support organization for service on the board of  
 2042 directors or for services rendered to the direct-support  
 2043 organization.

2044 Section 37. Section 1009.898, Florida Statutes, is created  
 2045 to read:

2046 1009.898 Pathway to Prosperity grants.—

2047 (1) The Pathway to Prosperity program shall administer the  
 2048 following grants to youth and young adults aging out of foster  
 2049 care:

2050 (a) Grants to provide financial literacy instruction using

2051 a curriculum developed by the Department of Financial Services.

2052 (b) Grants to provide SAT and ACT preparation, including  
 2053 one-on-one support and fee waivers for the examinations.

2054 (c) Grants to youth and young adults planning to pursue  
 2055 trade careers or paid apprenticeships.

2056 (2) If a youth who is aging out of foster care is reunited  
 2057 with his or her parents, the grants remain available for the  
 2058 youth for up to 6 months after reunification.

2059 Section 38. Subsection (1) of section 29.008, Florida  
 2060 Statutes, is amended to read:

2061 29.008 County funding of court-related functions.—

2062 (1) Counties are required by s. 14, Art. V of the State  
 2063 Constitution to fund the cost of communications services,  
 2064 existing radio systems, existing multiagency criminal justice  
 2065 information systems, and the cost of construction or lease,  
 2066 maintenance, utilities, and security of facilities for the  
 2067 circuit and county courts, public defenders' offices, state  
 2068 attorneys' offices, guardian ad litem offices, and the offices  
 2069 of the clerks of the circuit and county courts performing court-  
 2070 related functions. For purposes of this section, the term  
 2071 "circuit and county courts" includes the offices and staffing of  
 2072 the guardian ad litem offices ~~programs~~, and the term "public  
 2073 defenders' offices" includes the offices of criminal conflict  
 2074 and civil regional counsel. The county designated under s.  
 2075 35.05(1) as the headquarters for each appellate district shall

2076 fund these costs for the appellate division of the public  
 2077 defender's office in that county. For purposes of implementing  
 2078 these requirements, the term:

2079 (a) "Facility" means reasonable and necessary buildings  
 2080 and office space and appurtenant equipment and furnishings,  
 2081 structures, real estate, easements, and related interests in  
 2082 real estate, including, but not limited to, those for the  
 2083 purpose of housing legal materials for use by the general public  
 2084 and personnel, equipment, or functions of the circuit or county  
 2085 courts, public defenders' offices, state attorneys' offices, and  
 2086 court-related functions of the office of the clerks of the  
 2087 circuit and county courts and all storage. The term "facility"  
 2088 includes all wiring necessary for court reporting services. The  
 2089 term also includes access to parking for such facilities in  
 2090 connection with such court-related functions that may be  
 2091 available free or from a private provider or a local government  
 2092 for a fee. The office space provided by a county may not be less  
 2093 than the standards for space allotment adopted by the Department  
 2094 of Management Services, except this requirement applies only to  
 2095 facilities that are leased, or on which construction commences,  
 2096 after June 30, 2003. County funding must include physical  
 2097 modifications and improvements to all facilities as are required  
 2098 for compliance with the Americans with Disabilities Act. Upon  
 2099 mutual agreement of a county and the affected entity in this  
 2100 paragraph, the office space provided by the county may vary from

2101 | the standards for space allotment adopted by the Department of  
 2102 | Management Services.

2103 |       1. As of July 1, 2005, equipment and furnishings shall be  
 2104 | limited to that appropriate and customary for courtrooms,  
 2105 | hearing rooms, jury facilities, and other public areas in  
 2106 | courthouses and any other facility occupied by the courts, state  
 2107 | attorneys, public defenders, guardians ad litem, and criminal  
 2108 | conflict and civil regional counsel. Court reporting equipment  
 2109 | in these areas or facilities is not a responsibility of the  
 2110 | county.

2111 |       2. Equipment and furnishings under this paragraph in  
 2112 | existence and owned by counties on July 1, 2005, except for that  
 2113 | in the possession of the clerks, for areas other than  
 2114 | courtrooms, hearing rooms, jury facilities, and other public  
 2115 | areas in courthouses and any other facility occupied by the  
 2116 | courts, state attorneys, and public defenders, shall be  
 2117 | transferred to the state at no charge. This provision does not  
 2118 | apply to any communications services as defined in paragraph  
 2119 | (f).

2120 |       (b) "Construction or lease" includes, but is not limited  
 2121 | to, all reasonable and necessary costs of the acquisition or  
 2122 | lease of facilities for all judicial officers, staff, jurors,  
 2123 | volunteers of a tenant agency, and the public for the circuit  
 2124 | and county courts, the public defenders' offices, state  
 2125 | attorneys' offices, and for performing the court-related

2126 functions of the offices of the clerks of the circuit and county  
 2127 courts. This includes expenses related to financing such  
 2128 facilities and the existing and future cost and bonded  
 2129 indebtedness associated with placing the facilities in use.

2130 (c) "Maintenance" includes, but is not limited to, all  
 2131 reasonable and necessary costs of custodial and groundskeeping  
 2132 services and renovation and reconstruction as needed to  
 2133 accommodate functions for the circuit and county courts, the  
 2134 public defenders' offices, and state attorneys' offices and for  
 2135 performing the court-related functions of the offices of the  
 2136 clerks of the circuit and county court and for maintaining the  
 2137 facilities in a condition appropriate and safe for the use  
 2138 intended.

2139 (d) "Utilities" means all electricity services for light,  
 2140 heat, and power; natural or manufactured gas services for light,  
 2141 heat, and power; water and wastewater services and systems,  
 2142 stormwater or runoff services and systems, sewer services and  
 2143 systems, all costs or fees associated with these services and  
 2144 systems, and any costs or fees associated with the mitigation of  
 2145 environmental impacts directly related to the facility.

2146 (e) "Security" includes but is not limited to, all  
 2147 reasonable and necessary costs of services of law enforcement  
 2148 officers or licensed security guards and all electronic,  
 2149 cellular, or digital monitoring and screening devices necessary  
 2150 to ensure the safety and security of all persons visiting or

2151 working in a facility; to provide for security of the facility,  
 2152 including protection of property owned by the county or the  
 2153 state; and for security of prisoners brought to any facility.

2154 This includes bailiffs while providing courtroom and other  
 2155 security for each judge and other quasi-judicial officers.

2156 (f) "Communications services" are defined as any  
 2157 reasonable and necessary transmission, emission, and reception  
 2158 of signs, signals, writings, images, and sounds of intelligence  
 2159 of any nature by wire, radio, optical, audio equipment, or other  
 2160 electromagnetic systems and includes all facilities and  
 2161 equipment owned, leased, or used by judges, clerks, public  
 2162 defenders, state attorneys, guardians ad litem, criminal  
 2163 conflict and civil regional counsel, and all staff of the state  
 2164 courts system, state attorneys' offices, public defenders'  
 2165 offices, and clerks of the circuit and county courts performing  
 2166 court-related functions. Such system or services shall include,  
 2167 but not be limited to:

2168 1. Telephone system infrastructure, including computer  
 2169 lines, telephone switching equipment, and maintenance, and  
 2170 facsimile equipment, wireless communications, cellular  
 2171 telephones, pagers, and video teleconferencing equipment and  
 2172 line charges. Each county shall continue to provide access to a  
 2173 local carrier for local and long distance service and shall pay  
 2174 toll charges for local and long distance service.

2175 2. All computer networks, systems and equipment, including



2176 computer hardware and software, modems, printers, wiring,  
2177 network connections, maintenance, support staff or services  
2178 including any county-funded support staff located in the offices  
2179 of the circuit court, county courts, state attorneys, public  
2180 defenders, guardians ad litem, and criminal conflict and civil  
2181 regional counsel; training, supplies, and line charges necessary  
2182 for an integrated computer system to support the operations and  
2183 management of the state courts system, the offices of the public  
2184 defenders, the offices of the state attorneys, the guardian ad  
2185 litem offices, the offices of criminal conflict and civil  
2186 regional counsel, and the offices of the clerks of the circuit  
2187 and county courts; and the capability to connect those entities  
2188 and reporting data to the state as required for the transmission  
2189 of revenue, performance accountability, case management, data  
2190 collection, budgeting, and auditing purposes. The integrated  
2191 computer system shall be operational by July 1, 2006, and, at a  
2192 minimum, permit the exchange of financial, performance  
2193 accountability, case management, case disposition, and other  
2194 data across multiple state and county information systems  
2195 involving multiple users at both the state level and within each  
2196 judicial circuit and be able to electronically exchange judicial  
2197 case background data, sentencing scoresheets, and video evidence  
2198 information stored in integrated case management systems over  
2199 secure networks. Once the integrated system becomes operational,  
2200 counties may reject requests to purchase communications services

2201 included in this subparagraph not in compliance with standards,  
2202 protocols, or processes adopted by the board established  
2203 pursuant to former s. 29.0086.

2204 3. Courier messenger and subpoena services.

2205 4. Auxiliary aids and services for qualified individuals  
2206 with a disability which are necessary to ensure access to the  
2207 courts. Such auxiliary aids and services include, but are not  
2208 limited to, sign language interpretation services required under  
2209 the federal Americans with Disabilities Act other than services  
2210 required to satisfy due-process requirements and identified as a  
2211 state funding responsibility pursuant to ss. 29.004-29.007,  
2212 real-time transcription services for individuals who are hearing  
2213 impaired, and assistive listening devices and the equipment  
2214 necessary to implement such accommodations.

2215 (g) "Existing radio systems" includes, but is not limited  
2216 to, law enforcement radio systems that are used by the circuit  
2217 and county courts, the offices of the public defenders, the  
2218 offices of the state attorneys, and for court-related functions  
2219 of the offices of the clerks of the circuit and county courts.  
2220 This includes radio systems that were operational or under  
2221 contract at the time Revision No. 7, 1998, to Art. V of the  
2222 State Constitution was adopted and any enhancements made  
2223 thereafter, the maintenance of those systems, and the personnel  
2224 and supplies necessary for operation.

2225 (h) "Existing multiagency criminal justice information

2226 systems" includes, but is not limited to, those components of  
 2227 the multiagency criminal justice information system as defined  
 2228 in s. 943.045, supporting the offices of the circuit or county  
 2229 courts, the public defenders' offices, the state attorneys'  
 2230 offices, or those portions of the offices of the clerks of the  
 2231 circuit and county courts performing court-related functions  
 2232 that are used to carry out the court-related activities of those  
 2233 entities. This includes upgrades and maintenance of the current  
 2234 equipment, maintenance and upgrades of supporting technology  
 2235 infrastructure and associated staff, and services and expenses  
 2236 to assure continued information sharing and reporting of  
 2237 information to the state. The counties shall also provide  
 2238 additional information technology services, hardware, and  
 2239 software as needed for new judges and staff of the state courts  
 2240 system, state attorneys' offices, public defenders' offices,  
 2241 guardian ad litem offices, and the offices of the clerks of the  
 2242 circuit and county courts performing court-related functions.

2243 Section 39. Paragraph (a) of subsection (1) of section  
 2244 39.6011, Florida Statutes, is amended to read:

2245 39.6011 Case plan development.—

2246 (1) The department shall prepare a draft of the case plan  
 2247 for each child receiving services under this chapter. A parent  
 2248 of a child may not be threatened or coerced with the loss of  
 2249 custody or parental rights for failing to admit in the case plan  
 2250 of abusing, neglecting, or abandoning a child. Participating in

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2251 the development of a case plan is not an admission to any  
2252 allegation of abuse, abandonment, or neglect, and it is not a  
2253 consent to a finding of dependency or termination of parental  
2254 rights. The case plan shall be developed subject to the  
2255 following requirements:

2256 (a) The case plan must be developed in a face-to-face  
2257 conference with the parent of the child, the ~~any~~ court-appointed  
2258 guardian ad litem, and, if appropriate, the child and the  
2259 temporary custodian of the child.

2260 Section 40. Subsection (8) of section 40.24, Florida  
2261 Statutes, is amended to read:

2262 40.24 Compensation and reimbursement policy.—

2263 (8) In circuits that elect to allow jurors to donate their  
2264 jury service fee upon conclusion of juror service, each juror  
2265 may irrevocably donate all of the juror's compensation to the 26  
2266 U.S.C. s. 501(c)(3) organization specified by the Statewide  
2267 Guardian ad Litem Office ~~program~~ or to a domestic violence  
2268 shelter as specified annually on a rotating basis by the clerk  
2269 of court in the circuit for the juror's county of residence. The  
2270 funds collected may not reduce or offset the amount of  
2271 compensation that the Statewide Guardian ad Litem Office ~~program~~  
2272 or domestic violence shelter would otherwise receive from the  
2273 state. The clerk of court shall ensure that all jurors are given  
2274 written notice at the conclusion of their service that they have  
2275 the option to so donate their compensation, and that the

2276 applicable program specified by the Statewide Guardian ad Litem  
 2277 Office ~~program~~ or a domestic violence shelter receives all funds  
 2278 donated by the jurors. Any circuit guardian ad litem office  
 2279 ~~program~~ receiving donations of juror compensation must expend  
 2280 such moneys on services for children for whom guardians ad litem  
 2281 have been appointed.

2282 Section 41. Subsections (5), (6), and (7) of section  
 2283 43.16, Florida Statutes, are amended to read:

2284 43.16 Justice Administrative Commission; membership,  
 2285 powers and duties.—

2286 (5) The duties of the commission shall include, but not be  
 2287 limited to, the following:

2288 (a) The maintenance of a central state office for  
 2289 administrative services and assistance when possible to and on  
 2290 behalf of the state attorneys and public defenders of Florida,  
 2291 the capital collateral regional counsel of Florida, the criminal  
 2292 conflict and civil regional counsel, and the Statewide Guardian  
 2293 Ad Litem Office ~~Program~~.

2294 (b) Each state attorney, public defender, and criminal  
 2295 conflict and civil regional counsel and the Statewide Guardian  
 2296 Ad Litem Office ~~Program~~ shall continue to prepare necessary  
 2297 budgets, vouchers that represent valid claims for reimbursement  
 2298 by the state for authorized expenses, and other things  
 2299 incidental to the proper administrative operation of the office,  
 2300 such as revenue transmittals to the Chief Financial Officer and

2301 automated systems plans, but will forward such items to the  
 2302 commission for recording and submission to the proper state  
 2303 officer. However, when requested by a state attorney, a public  
 2304 defender, a criminal conflict and civil regional counsel, or the  
 2305 Statewide Guardian Ad Litem Office Program, the commission will  
 2306 either assist in the preparation of budget requests, voucher  
 2307 schedules, and other forms and reports or accomplish the entire  
 2308 project involved.

2309 (6) The commission, each state attorney, each public  
 2310 defender, the criminal conflict and civil regional counsel, the  
 2311 capital collateral regional counsel, and the Statewide Guardian  
 2312 Ad Litem Office Program shall establish and maintain internal  
 2313 controls designed to:

2314 (a) Prevent and detect fraud, waste, and abuse as defined  
 2315 in s. 11.45(1).

2316 (b) Promote and encourage compliance with applicable laws,  
 2317 rules, contracts, grant agreements, and best practices.

2318 (c) Support economical and efficient operations.

2319 (d) Ensure reliability of financial records and reports.

2320 (e) Safeguard assets.

2321 (7) ~~The provisions contained in~~ This section ~~is~~ shall be  
 2322 supplemental to ~~those of~~ chapter 27, relating to state  
 2323 attorneys, public defenders, criminal conflict and civil  
 2324 regional counsel, and capital collateral regional counsel; to  
 2325 ~~those of~~ chapter 39, relating to the Statewide Guardian Ad Litem

2326 ~~Office Program~~; or to other laws pertaining hereto.

2327 Section 42. Paragraph (a) of subsection (1) and subsection  
2328 (4) of section 61.402, Florida Statutes, are amended to read:

2329 61.402 Qualifications of guardians ad litem.—

2330 (1) A person appointed as a guardian ad litem pursuant to  
2331 s. 61.401 must be:

2332 (a) Certified by the Statewide Guardian Ad Litem Office  
2333 ~~Program~~ pursuant to s. 39.821;

2334 (4) Nothing in this section requires the Statewide  
2335 Guardian Ad Litem Office ~~Program~~ or a not-for-profit legal aid  
2336 organization to train or certify guardians ad litem appointed  
2337 under this chapter.

2338 Section 43. Paragraph (x) of subsection (2) of section  
2339 110.205, Florida Statutes, is amended to read:

2340 110.205 Career service; exemptions.—

2341 (2) EXEMPT POSITIONS.—The exempt positions that are not  
2342 covered by this part include the following:

2343 (x) All officers and employees of the Justice  
2344 Administrative Commission, Office of the State Attorney, Office  
2345 of the Public Defender, regional offices of capital collateral  
2346 counsel, offices of criminal conflict and civil regional  
2347 counsel, and Statewide Guardian Ad Litem Office, including the  
2348 circuit guardian ad litem offices ~~programs~~.

2349 Section 44. Paragraph (b) of subsection (96) of section  
2350 320.08058, Florida Statutes, is amended to read:

2351 320.08058 Specialty license plates.—  
 2352 (96) GUARDIAN AD LITEM LICENSE PLATES.—  
 2353 (b) The annual use fees from the sale of the plate shall  
 2354 be distributed to the Florida Guardian Ad Litem Foundation,  
 2355 Inc., a direct-support organization and a nonprofit corporation  
 2356 under s. 501(c)(3) of the Internal Revenue Code. Up to 10  
 2357 percent of the proceeds may be used for administrative costs and  
 2358 the marketing of the plate. The remainder of the proceeds must  
 2359 be used in this state to support the mission and efforts of the  
 2360 Statewide Guardian Ad Litem Office Program ~~Program~~ to represent abused,  
 2361 abandoned, and neglected children and advocate for their best  
 2362 interests; recruit and retain volunteer child advocates; and  
 2363 meet the unique needs of the dependent children the program  
 2364 serves.  
 2365 Section 45. Paragraph (e) of subsection (3) of section  
 2366 943.053, Florida Statutes, is amended to read:  
 2367 943.053 Dissemination of criminal justice information;  
 2368 fees.—  
 2369 (3)  
 2370 (e) The fee per record for criminal history information  
 2371 provided pursuant to this subsection and s. 943.0542 is \$24 per  
 2372 name submitted, except that the fee for the Statewide Guardian  
 2373 Ad Litem Office ~~program~~ and vendors of the Department of  
 2374 Children and Families, the Department of Juvenile Justice, the  
 2375 Agency for Persons with Disabilities, and the Department of



2376 Elderly Affairs is \$8 for each name submitted; the fee for a  
 2377 state criminal history provided for application processing as  
 2378 required by law to be performed by the Department of Agriculture  
 2379 and Consumer Services is \$15 for each name submitted; and the  
 2380 fee for requests under s. 943.0542, which implements the  
 2381 National Child Protection Act, is \$18 for each volunteer name  
 2382 submitted. An office of the public defender or an office of  
 2383 criminal conflict and civil regional counsel may not be assessed  
 2384 a fee for Florida criminal history information or wanted person  
 2385 information.

2386 Section 46. Subsection (2) of section 985.43, Florida  
 2387 Statutes, is amended to read:

2388 985.43 Predisposition reports; other evaluations.—

2389 (2) The court shall consider the child's entire assessment  
 2390 and predisposition report and shall review the records of  
 2391 earlier judicial proceedings before making a final disposition  
 2392 of the case. If the child is under the jurisdiction of a  
 2393 dependency court, the court may receive and consider any  
 2394 information provided by the Statewide Guardian Ad Litem Office  
 2395 ~~Program~~ and the child's attorney ad litem, if one is appointed.  
 2396 The court may, by order, require additional evaluations and  
 2397 studies to be performed by the department; the county school  
 2398 system; or any social, psychological, or psychiatric agency of  
 2399 the state. The court shall order the educational needs  
 2400 assessment completed under s. 985.18(2) to be included in the

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2401 assessment and predisposition report.

2402 Section 47. Subsection (4) of section 985.441, Florida  
2403 Statutes, is amended to read:

2404 985.441 Commitment.—

2405 (4) The department may transfer a child, when necessary to  
2406 appropriately administer the child's commitment, from one  
2407 facility or program to another facility or program operated,  
2408 contracted, subcontracted, or designated by the department,  
2409 including a postcommitment nonresidential conditional release  
2410 program, except that the department may not transfer any child  
2411 adjudicated solely for a misdemeanor to a residential program  
2412 except as provided in subsection (2). The department shall  
2413 notify the court that committed the child to the department and  
2414 any attorney of record for the child, in writing, of its intent  
2415 to transfer the child from a commitment facility or program to  
2416 another facility or program of a higher or lower restrictiveness  
2417 level. If the child is under the jurisdiction of a dependency  
2418 court, the department shall also provide notice to the  
2419 dependency court, ~~and~~ the Department of Children and Families,  
2420 ~~and, if appointed,~~ the Statewide Guardian Ad Litem Office,  
2421 ~~Program~~ and the child's attorney ad litem, if one is appointed.  
2422 The court that committed the child may agree to the transfer or  
2423 may set a hearing to review the transfer. If the court does not  
2424 respond within 10 days after receipt of the notice, the transfer  
2425 of the child shall be deemed granted.

2426           Section 48. Subsection (3) of section 985.455, Florida  
 2427 Statutes, is amended to read:  
 2428           985.455 Other dispositional issues.—  
 2429           (3) Any commitment of a delinquent child to the department  
 2430 must be for an indeterminate period of time, which may include  
 2431 periods of temporary release; however, the period of time may  
 2432 not exceed the maximum term of imprisonment that an adult may  
 2433 serve for the same offense, except that the duration of a  
 2434 minimum-risk nonresidential commitment for an offense that is a  
 2435 misdemeanor of the second degree, or is equivalent to a  
 2436 misdemeanor of the second degree, may be for a period not to  
 2437 exceed 6 months. The duration of the child's placement in a  
 2438 commitment program of any restrictiveness level shall be based  
 2439 on objective performance-based treatment planning. The child's  
 2440 treatment plan progress and adjustment-related issues shall be  
 2441 reported to the court quarterly, unless the court requests  
 2442 monthly reports. If the child is under the jurisdiction of a  
 2443 dependency court, the court may receive and consider any  
 2444 information provided by the Statewide Guardian Ad Litem Office  
 2445 ~~Program~~ or the child's attorney ad litem, if one is appointed.  
 2446 The child's length of stay in a commitment program may be  
 2447 extended if the child fails to comply with or participate in  
 2448 treatment activities. The child's length of stay in the program  
 2449 shall not be extended for purposes of sanction or punishment.  
 2450 Any temporary release from such program must be approved by the

2451 court. Any child so committed may be discharged from  
2452 institutional confinement or a program upon the direction of the  
2453 department with the concurrence of the court. The child's  
2454 treatment plan progress and adjustment-related issues must be  
2455 communicated to the court at the time the department requests  
2456 the court to consider releasing the child from the commitment  
2457 program. The department shall give the court that committed the  
2458 child to the department reasonable notice, in writing, of its  
2459 desire to discharge the child from a commitment facility. The  
2460 court that committed the child may thereafter accept or reject  
2461 the request. If the court does not respond within 10 days after  
2462 receipt of the notice, the request of the department shall be  
2463 deemed granted. This section does not limit the department's  
2464 authority to revoke a child's temporary release status and  
2465 return the child to a commitment facility for any violation of  
2466 the terms and conditions of the temporary release.

2467 Section 49. Paragraph (b) of subsection (4) of section  
2468 985.461, Florida Statutes, is amended to read:

2469 985.461 Transition to adulthood.—

2470 (4) As part of the child's treatment plan, the department  
2471 may provide transition-to-adulthood services to children  
2472 released from residential commitment. To support participation  
2473 in transition-to-adulthood services and subject to  
2474 appropriation, the department may:

2475 (b) Use community reentry teams to assist in the

2476 development of a list of age-appropriate activities and  
 2477 responsibilities to be incorporated in the child's written case  
 2478 plan for any youth who is under the custody or supervision of  
 2479 the department. Community reentry teams may include  
 2480 representatives from school districts, law enforcement,  
 2481 workforce development services, community-based service  
 2482 providers, the Statewide Guardian Ad Litem Office ~~Program~~, and  
 2483 the youth's family. Such community reentry teams must be created  
 2484 within existing resources provided to the department. Activities  
 2485 may include, but are not limited to, life skills training,  
 2486 including training to develop banking and budgeting skills,  
 2487 interviewing and career planning skills, parenting skills,  
 2488 personal health management, and time management or  
 2489 organizational skills; educational support; employment training;  
 2490 and counseling.

2491 Section 50. Paragraph (h) of subsection (11) of section  
 2492 985.48, Florida Statutes, is amended to read:

2493 985.48 Juvenile sexual offender commitment programs;  
 2494 sexual abuse intervention networks.—

2495 (11) Membership of a sexual abuse intervention network  
 2496 shall include, but is not limited to, representatives from:

2497 (h) The Statewide Guardian Ad Litem Office ~~program~~;

2498 Section 51. Subsection (1) of section 39.302, Florida  
 2499 Statutes, is amended to read:

2500 39.302 Protective investigations of institutional child

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2501 abuse, abandonment, or neglect.-

2502 (1) The department shall conduct a child protective

2503 investigation of each report of institutional child abuse,

2504 abandonment, or neglect. Upon receipt of a report that alleges

2505 that an employee or agent of the department, or any other entity

2506 or person covered by s. 39.01(39) or (57) ~~s. 39.01(36) or (54)~~,

2507 acting in an official capacity, has committed an act of child

2508 abuse, abandonment, or neglect, the department shall initiate a

2509 child protective investigation within the timeframe established

2510 under s. 39.101(2) and notify the appropriate state attorney,

2511 law enforcement agency, and licensing agency, which shall

2512 immediately conduct a joint investigation, unless independent

2513 investigations are more feasible. When conducting investigations

2514 or having face-to-face interviews with the child, investigation

2515 visits shall be unannounced unless it is determined by the

2516 department or its agent that unannounced visits threaten the

2517 safety of the child. If a facility is exempt from licensing, the

2518 department shall inform the owner or operator of the facility of

2519 the report. Each agency conducting a joint investigation is

2520 entitled to full access to the information gathered by the

2521 department in the course of the investigation. A protective

2522 investigation must include an interview with the child's parent

2523 or legal guardian. The department shall make a full written

2524 report to the state attorney within 3 business days after making

2525 the oral report. A criminal investigation shall be coordinated,

2526 whenever possible, with the child protective investigation of  
2527 the department. Any interested person who has information  
2528 regarding the offenses described in this subsection may forward  
2529 a statement to the state attorney as to whether prosecution is  
2530 warranted and appropriate. Within 15 days after the completion  
2531 of the investigation, the state attorney shall report the  
2532 findings to the department and shall include in the report a  
2533 determination of whether or not prosecution is justified and  
2534 appropriate in view of the circumstances of the specific case.

2535 Section 52. Paragraph (c) of subsection (1) of section  
2536 39.521, Florida Statutes, is amended to read:

2537 39.521 Disposition hearings; powers of disposition.—

2538 (1) A disposition hearing shall be conducted by the court,  
2539 if the court finds that the facts alleged in the petition for  
2540 dependency were proven in the adjudicatory hearing, or if the  
2541 parents or legal custodians have consented to the finding of  
2542 dependency or admitted the allegations in the petition, have  
2543 failed to appear for the arraignment hearing after proper  
2544 notice, or have not been located despite a diligent search  
2545 having been conducted.

2546 (c) When any child is adjudicated by a court to be  
2547 dependent, the court having jurisdiction of the child has the  
2548 power by order to:

2549 1. Require the parent and, when appropriate, the legal  
2550 guardian or the child to participate in treatment and services

2551 identified as necessary. The court may require the person who  
2552 has custody or who is requesting custody of the child to submit  
2553 to a mental health or substance abuse disorder assessment or  
2554 evaluation. The order may be made only upon good cause shown and  
2555 pursuant to notice and procedural requirements provided under  
2556 the Florida Rules of Juvenile Procedure. The mental health  
2557 assessment or evaluation must be administered by a qualified  
2558 professional as defined in s. 39.01, and the substance abuse  
2559 assessment or evaluation must be administered by a qualified  
2560 professional as defined in s. 397.311. The court may also  
2561 require such person to participate in and comply with treatment  
2562 and services identified as necessary, including, when  
2563 appropriate and available, participation in and compliance with  
2564 a mental health court program established under chapter 394 or a  
2565 treatment-based drug court program established under s. 397.334.  
2566 Adjudication of a child as dependent based upon evidence of harm  
2567 as defined in s. 39.01(37)(g) ~~s. 39.01(34)(g)~~ demonstrates good  
2568 cause, and the court shall require the parent whose actions  
2569 caused the harm to submit to a substance abuse disorder  
2570 assessment or evaluation and to participate and comply with  
2571 treatment and services identified in the assessment or  
2572 evaluation as being necessary. In addition to supervision by the  
2573 department, the court, including the mental health court program  
2574 or the treatment-based drug court program, may oversee the  
2575 progress and compliance with treatment by a person who has



2576 custody or is requesting custody of the child. The court may  
2577 impose appropriate available sanctions for noncompliance upon a  
2578 person who has custody or is requesting custody of the child or  
2579 make a finding of noncompliance for consideration in determining  
2580 whether an alternative placement of the child is in the child's  
2581 best interests. Any order entered under this subparagraph may be  
2582 made only upon good cause shown. This subparagraph does not  
2583 authorize placement of a child with a person seeking custody of  
2584 the child, other than the child's parent or legal custodian, who  
2585 requires mental health or substance abuse disorder treatment.

2586 2. Require, if the court deems necessary, the parties to  
2587 participate in dependency mediation.

2588 3. Require placement of the child either under the  
2589 protective supervision of an authorized agent of the department  
2590 in the home of one or both of the child's parents or in the home  
2591 of a relative of the child or another adult approved by the  
2592 court, or in the custody of the department. Protective  
2593 supervision continues until the court terminates it or until the  
2594 child reaches the age of 18, whichever date is first. Protective  
2595 supervision shall be terminated by the court whenever the court  
2596 determines that permanency has been achieved for the child,  
2597 whether with a parent, another relative, or a legal custodian,  
2598 and that protective supervision is no longer needed. The  
2599 termination of supervision may be with or without retaining  
2600 jurisdiction, at the court's discretion, and shall in either

2601 case be considered a permanency option for the child. The order  
2602 terminating supervision by the department must set forth the  
2603 powers of the custodian of the child and include the powers  
2604 ordinarily granted to a guardian of the person of a minor unless  
2605 otherwise specified. Upon the court's termination of supervision  
2606 by the department, further judicial reviews are not required if  
2607 permanency has been established for the child.

2608 4. Determine whether the child has a strong attachment to  
2609 the prospective permanent guardian and whether such guardian has  
2610 a strong commitment to permanently caring for the child.

2611 Section 53. Paragraph (c) of subsection (2) of section  
2612 61.13, Florida Statutes, is amended to read:

2613 61.13 Support of children; parenting and time-sharing;  
2614 powers of court.—

2615 (2)

2616 (c) The court shall determine all matters relating to  
2617 parenting and time-sharing of each minor child of the parties in  
2618 accordance with the best interests of the child and in  
2619 accordance with the Uniform Child Custody Jurisdiction and  
2620 Enforcement Act, except that modification of a parenting plan  
2621 and time-sharing schedule requires a showing of a substantial  
2622 and material change of circumstances.

2623 1. It is the public policy of this state that each minor  
2624 child has frequent and continuing contact with both parents  
2625 after the parents separate or the marriage of the parties is

2626 dissolved and to encourage parents to share the rights and  
2627 responsibilities, and joys, of childrearing. Unless otherwise  
2628 provided in this section or agreed to by the parties, there is a  
2629 rebuttable presumption that equal time-sharing of a minor child  
2630 is in the best interests of the minor child. To rebut this  
2631 presumption, a party must prove by a preponderance of the  
2632 evidence that equal time-sharing is not in the best interests of  
2633 the minor child. Except when a time-sharing schedule is agreed  
2634 to by the parties and approved by the court, the court must  
2635 evaluate all of the factors set forth in subsection (3) and make  
2636 specific written findings of fact when creating or modifying a  
2637 time-sharing schedule.

2638 2. The court shall order that the parental responsibility  
2639 for a minor child be shared by both parents unless the court  
2640 finds that shared parental responsibility would be detrimental  
2641 to the child. In determining detriment to the child, the court  
2642 shall consider:

2643 a. Evidence of domestic violence, as defined in s. 741.28;

2644 b. Whether either parent has or has had reasonable cause  
2645 to believe that he or she or his or her minor child or children  
2646 are or have been in imminent danger of becoming victims of an  
2647 act of domestic violence as defined in s. 741.28 or sexual  
2648 violence as defined in s. 784.046(1)(c) by the other parent  
2649 against the parent or against the child or children whom the  
2650 parents share in common regardless of whether a cause of action

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2651 has been brought or is currently pending in the court;

2652 c. Whether either parent has or has had reasonable cause  
2653 to believe that his or her minor child or children are or have  
2654 been in imminent danger of becoming victims of an act of abuse  
2655 ~~as defined in s. 39.01(2), abandonment as defined in s.~~  
2656 ~~39.01(1),~~ or neglect, as those terms are defined in s. 39.01, ~~s.~~  
2657 ~~39.01(50)~~ by the other parent against the child or children whom  
2658 the parents share in common regardless of whether a cause of  
2659 action has been brought or is currently pending in the court;  
2660 and

2661 d. Any other relevant factors.

2662 3. The following evidence creates a rebuttable presumption  
2663 that shared parental responsibility is detrimental to the child:

2664 a. A parent has been convicted of a misdemeanor of the  
2665 first degree or higher involving domestic violence, as defined  
2666 in s. 741.28 and chapter 775;

2667 b. A parent meets the criteria of s. 39.806(1)(d); or  
2668 c. A parent has been convicted of or had adjudication  
2669 withheld for an offense enumerated in s. 943.0435(1)(h)1.a., and  
2670 at the time of the offense:

2671 (I) The parent was 18 years of age or older.  
2672 (II) The victim was under 18 years of age or the parent  
2673 believed the victim to be under 18 years of age.

2674  
2675 If the presumption is not rebutted after the convicted parent is

2676 advised by the court that the presumption exists, shared  
2677 parental responsibility, including time-sharing with the child,  
2678 and decisions made regarding the child, may not be granted to  
2679 the convicted parent. However, the convicted parent is not  
2680 relieved of any obligation to provide financial support. If the  
2681 court determines that shared parental responsibility would be  
2682 detrimental to the child, it may order sole parental  
2683 responsibility and make such arrangements for time-sharing as  
2684 specified in the parenting plan as will best protect the child  
2685 or abused spouse from further harm. Whether or not there is a  
2686 conviction of any offense of domestic violence or child abuse or  
2687 the existence of an injunction for protection against domestic  
2688 violence, the court shall consider evidence of domestic violence  
2689 or child abuse as evidence of detriment to the child.

2690 4. In ordering shared parental responsibility, the court  
2691 may consider the expressed desires of the parents and may grant  
2692 to one party the ultimate responsibility over specific aspects  
2693 of the child's welfare or may divide those responsibilities  
2694 between the parties based on the best interests of the child.  
2695 Areas of responsibility may include education, health care, and  
2696 any other responsibilities that the court finds unique to a  
2697 particular family.

2698 5. The court shall order sole parental responsibility for  
2699 a minor child to one parent, with or without time-sharing with  
2700 the other parent if it is in the best interests of the minor

2701 child.

2702 6. There is a rebuttable presumption against granting  
 2703 time-sharing with a minor child if a parent has been convicted  
 2704 of or had adjudication withheld for an offense enumerated in s.  
 2705 943.0435(1)(h)1.a., and at the time of the offense:

2706 a. The parent was 18 years of age or older.

2707 b. The victim was under 18 years of age or the parent  
 2708 believed the victim to be under 18 years of age.

2709

2710 A parent may rebut the presumption upon a specific finding in  
 2711 writing by the court that the parent poses no significant risk  
 2712 of harm to the child and that time-sharing is in the best  
 2713 interests of the minor child. If the presumption is rebutted,  
 2714 the court must consider all time-sharing factors in subsection  
 2715 (3) when developing a time-sharing schedule.

2716 7. Access to records and information pertaining to a minor  
 2717 child, including, but not limited to, medical, dental, and  
 2718 school records, may not be denied to either parent. Full rights  
 2719 under this subparagraph apply to either parent unless a court  
 2720 order specifically revokes these rights, including any  
 2721 restrictions on these rights as provided in a domestic violence  
 2722 injunction. A parent having rights under this subparagraph has  
 2723 the same rights upon request as to form, substance, and manner  
 2724 of access as are available to the other parent of a child,  
 2725 including, without limitation, the right to in-person

2726 | communication with medical, dental, and education providers.

2727 | Section 54. Paragraph (d) of subsection (4) of section  
2728 | 119.071, Florida Statutes, is amended to read:

2729 | 119.071 General exemptions from inspection or copying of  
2730 | public records.—

2731 | (4) AGENCY PERSONNEL INFORMATION.—

2732 | (d)1. For purposes of this paragraph, the term:

2733 | a. "Home addresses" means the dwelling location at which  
2734 | an individual resides and includes the physical address, mailing  
2735 | address, street address, parcel identification number, plot  
2736 | identification number, legal property description, neighborhood  
2737 | name and lot number, GPS coordinates, and any other descriptive  
2738 | property information that may reveal the home address.

2739 | b. "Judicial assistant" means a court employee assigned to  
2740 | the following class codes: 8140, 8150, 8310, and 8320.

2741 | c. "Telephone numbers" includes home telephone numbers,  
2742 | personal cellular telephone numbers, personal pager telephone  
2743 | numbers, and telephone numbers associated with personal  
2744 | communications devices.

2745 | 2.a. The home addresses, telephone numbers, dates of  
2746 | birth, and photographs of active or former sworn law enforcement  
2747 | personnel or of active or former civilian personnel employed by  
2748 | a law enforcement agency, including correctional and  
2749 | correctional probation officers, personnel of the Department of  
2750 | Children and Families whose duties include the investigation of

2751 abuse, neglect, exploitation, fraud, theft, or other criminal  
 2752 activities, personnel of the Department of Health whose duties  
 2753 are to support the investigation of child abuse or neglect, and  
 2754 personnel of the Department of Revenue or local governments  
 2755 whose responsibilities include revenue collection and  
 2756 enforcement or child support enforcement; the names, home  
 2757 addresses, telephone numbers, photographs, dates of birth, and  
 2758 places of employment of the spouses and children of such  
 2759 personnel; and the names and locations of schools and day care  
 2760 facilities attended by the children of such personnel are exempt  
 2761 from s. 119.07(1) and s. 24(a), Art. I of the State  
 2762 Constitution.

2763       b. The home addresses, telephone numbers, dates of birth,  
 2764 and photographs of current or former nonsworn investigative  
 2765 personnel of the Department of Financial Services whose duties  
 2766 include the investigation of fraud, theft, workers' compensation  
 2767 coverage requirements and compliance, other related criminal  
 2768 activities, or state regulatory requirement violations; the  
 2769 names, home addresses, telephone numbers, dates of birth, and  
 2770 places of employment of the spouses and children of such  
 2771 personnel; and the names and locations of schools and day care  
 2772 facilities attended by the children of such personnel are exempt  
 2773 from s. 119.07(1) and s. 24(a), Art. I of the State  
 2774 Constitution.

2775       c. The home addresses, telephone numbers, dates of birth,



2776 and photographs of current or former nonsworn investigative  
2777 personnel of the Office of Financial Regulation's Bureau of  
2778 Financial Investigations whose duties include the investigation  
2779 of fraud, theft, other related criminal activities, or state  
2780 regulatory requirement violations; the names, home addresses,  
2781 telephone numbers, dates of birth, and places of employment of  
2782 the spouses and children of such personnel; and the names and  
2783 locations of schools and day care facilities attended by the  
2784 children of such personnel are exempt from s. 119.07(1) and s.  
2785 24(a), Art. I of the State Constitution.

2786 d. The home addresses, telephone numbers, dates of birth,  
2787 and photographs of current or former firefighters certified in  
2788 compliance with s. 633.408; the names, home addresses, telephone  
2789 numbers, photographs, dates of birth, and places of employment  
2790 of the spouses and children of such firefighters; and the names  
2791 and locations of schools and day care facilities attended by the  
2792 children of such firefighters are exempt from s. 119.07(1) and  
2793 s. 24(a), Art. I of the State Constitution.

2794 e. The home addresses, dates of birth, and telephone  
2795 numbers of current or former justices of the Supreme Court,  
2796 district court of appeal judges, circuit court judges, and  
2797 county court judges, ~~and~~ ~~of~~ current judicial assistants; the  
2798 names, home addresses, telephone numbers, dates of birth, and  
2799 places of employment of the spouses and children of current or  
2800 former justices and judges and ~~of~~ current judicial assistants;

2801 and the names and locations of schools and day care facilities  
2802 attended by the children of current or former justices and  
2803 judges and of current judicial assistants are exempt from s.  
2804 119.07(1) and s. 24(a), Art. I of the State Constitution. This  
2805 sub-subparagraph is subject to the Open Government Sunset Review  
2806 Act in accordance with s. 119.15 and shall stand repealed on  
2807 October 2, 2028, unless reviewed and saved from repeal through  
2808 reenactment by the Legislature.

2809 f. The home addresses, telephone numbers, dates of birth,  
2810 and photographs of current or former state attorneys, assistant  
2811 state attorneys, statewide prosecutors, or assistant statewide  
2812 prosecutors; the names, home addresses, telephone numbers,  
2813 photographs, dates of birth, and places of employment of the  
2814 spouses and children of current or former state attorneys,  
2815 assistant state attorneys, statewide prosecutors, or assistant  
2816 statewide prosecutors; and the names and locations of schools  
2817 and day care facilities attended by the children of current or  
2818 former state attorneys, assistant state attorneys, statewide  
2819 prosecutors, or assistant statewide prosecutors are exempt from  
2820 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

2821 g. The home addresses, dates of birth, and telephone  
2822 numbers of general magistrates, special magistrates, judges of  
2823 compensation claims, administrative law judges of the Division  
2824 of Administrative Hearings, and child support enforcement  
2825 hearing officers; the names, home addresses, telephone numbers,

2826 | dates of birth, and places of employment of the spouses and  
2827 | children of general magistrates, special magistrates, judges of  
2828 | compensation claims, administrative law judges of the Division  
2829 | of Administrative Hearings, and child support enforcement  
2830 | hearing officers; and the names and locations of schools and day  
2831 | care facilities attended by the children of general magistrates,  
2832 | special magistrates, judges of compensation claims,  
2833 | administrative law judges of the Division of Administrative  
2834 | Hearings, and child support enforcement hearing officers are  
2835 | exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
2836 | Constitution.

2837 |       h. The home addresses, telephone numbers, dates of birth,  
2838 | and photographs of current or former human resource, labor  
2839 | relations, or employee relations directors, assistant directors,  
2840 | managers, or assistant managers of any local government agency  
2841 | or water management district whose duties include hiring and  
2842 | firing employees, labor contract negotiation, administration, or  
2843 | other personnel-related duties; the names, home addresses,  
2844 | telephone numbers, dates of birth, and places of employment of  
2845 | the spouses and children of such personnel; and the names and  
2846 | locations of schools and day care facilities attended by the  
2847 | children of such personnel are exempt from s. 119.07(1) and s.  
2848 | 24(a), Art. I of the State Constitution.

2849 |       i. The home addresses, telephone numbers, dates of birth,  
2850 | and photographs of current or former code enforcement officers;

2851 the names, home addresses, telephone numbers, dates of birth,  
2852 and places of employment of the spouses and children of such  
2853 personnel; and the names and locations of schools and day care  
2854 facilities attended by the children of such personnel are exempt  
2855 from s. 119.07(1) and s. 24(a), Art. I of the State  
2856 Constitution.

2857 j. The home addresses, telephone numbers, places of  
2858 employment, dates of birth, and photographs of current or former  
2859 guardians ad litem, as defined in s. 39.01 ~~s. 39.820~~; the names,  
2860 home addresses, telephone numbers, dates of birth, and places of  
2861 employment of the spouses and children of such persons; and the  
2862 names and locations of schools and day care facilities attended  
2863 by the children of such persons are exempt from s. 119.07(1) and  
2864 s. 24(a), Art. I of the State Constitution.

2865 k. The home addresses, telephone numbers, dates of birth,  
2866 and photographs of current or former juvenile probation  
2867 officers, juvenile probation supervisors, detention  
2868 superintendents, assistant detention superintendents, juvenile  
2869 justice detention officers I and II, juvenile justice detention  
2870 officer supervisors, juvenile justice residential officers,  
2871 juvenile justice residential officer supervisors I and II,  
2872 juvenile justice counselors, juvenile justice counselor  
2873 supervisors, human services counselor administrators, senior  
2874 human services counselor administrators, rehabilitation  
2875 therapists, and social services counselors of the Department of

2876 Juvenile Justice; the names, home addresses, telephone numbers,  
 2877 dates of birth, and places of employment of spouses and children  
 2878 of such personnel; and the names and locations of schools and  
 2879 day care facilities attended by the children of such personnel  
 2880 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
 2881 Constitution.

2882       1. The home addresses, telephone numbers, dates of birth,  
 2883 and photographs of current or former public defenders, assistant  
 2884 public defenders, criminal conflict and civil regional counsel,  
 2885 and assistant criminal conflict and civil regional counsel; the  
 2886 names, home addresses, telephone numbers, dates of birth, and  
 2887 places of employment of the spouses and children of current or  
 2888 former public defenders, assistant public defenders, criminal  
 2889 conflict and civil regional counsel, and assistant criminal  
 2890 conflict and civil regional counsel; and the names and locations  
 2891 of schools and day care facilities attended by the children of  
 2892 current or former public defenders, assistant public defenders,  
 2893 criminal conflict and civil regional counsel, and assistant  
 2894 criminal conflict and civil regional counsel are exempt from s.  
 2895 119.07(1) and s. 24(a), Art. I of the State Constitution.

2896       m. The home addresses, telephone numbers, dates of birth,  
 2897 and photographs of current or former investigators or inspectors  
 2898 of the Department of Business and Professional Regulation; the  
 2899 names, home addresses, telephone numbers, dates of birth, and  
 2900 places of employment of the spouses and children of such current

2901 or former investigators and inspectors; and the names and  
 2902 locations of schools and day care facilities attended by the  
 2903 children of such current or former investigators and inspectors  
 2904 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
 2905 Constitution.

2906 n. The home addresses, telephone numbers, and dates of  
 2907 birth of county tax collectors; the names, home addresses,  
 2908 telephone numbers, dates of birth, and places of employment of  
 2909 the spouses and children of such tax collectors; and the names  
 2910 and locations of schools and day care facilities attended by the  
 2911 children of such tax collectors are exempt from s. 119.07(1) and  
 2912 s. 24(a), Art. I of the State Constitution.

2913 o. The home addresses, telephone numbers, dates of birth,  
 2914 and photographs of current or former personnel of the Department  
 2915 of Health whose duties include, or result in, the determination  
 2916 or adjudication of eligibility for social security disability  
 2917 benefits, the investigation or prosecution of complaints filed  
 2918 against health care practitioners, or the inspection of health  
 2919 care practitioners or health care facilities licensed by the  
 2920 Department of Health; the names, home addresses, telephone  
 2921 numbers, dates of birth, and places of employment of the spouses  
 2922 and children of such personnel; and the names and locations of  
 2923 schools and day care facilities attended by the children of such  
 2924 personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of  
 2925 the State Constitution.

2926           p. The home addresses, telephone numbers, dates of birth,  
2927 and photographs of current or former impaired practitioner  
2928 consultants who are retained by an agency or current or former  
2929 employees of an impaired practitioner consultant whose duties  
2930 result in a determination of a person's skill and safety to  
2931 practice a licensed profession; the names, home addresses,  
2932 telephone numbers, dates of birth, and places of employment of  
2933 the spouses and children of such consultants or their employees;  
2934 and the names and locations of schools and day care facilities  
2935 attended by the children of such consultants or employees are  
2936 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
2937 Constitution.

2938           q. The home addresses, telephone numbers, dates of birth,  
2939 and photographs of current or former emergency medical  
2940 technicians or paramedics certified under chapter 401; the  
2941 names, home addresses, telephone numbers, dates of birth, and  
2942 places of employment of the spouses and children of such  
2943 emergency medical technicians or paramedics; and the names and  
2944 locations of schools and day care facilities attended by the  
2945 children of such emergency medical technicians or paramedics are  
2946 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
2947 Constitution.

2948           r. The home addresses, telephone numbers, dates of birth,  
2949 and photographs of current or former personnel employed in an  
2950 agency's office of inspector general or internal audit

2951 department whose duties include auditing or investigating waste,  
 2952 fraud, abuse, theft, exploitation, or other activities that  
 2953 could lead to criminal prosecution or administrative discipline;  
 2954 the names, home addresses, telephone numbers, dates of birth,  
 2955 and places of employment of spouses and children of such  
 2956 personnel; and the names and locations of schools and day care  
 2957 facilities attended by the children of such personnel are exempt  
 2958 from s. 119.07(1) and s. 24(a), Art. I of the State  
 2959 Constitution.

2960 s. The home addresses, telephone numbers, dates of birth,  
 2961 and photographs of current or former directors, managers,  
 2962 supervisors, nurses, and clinical employees of an addiction  
 2963 treatment facility; the home addresses, telephone numbers,  
 2964 photographs, dates of birth, and places of employment of the  
 2965 spouses and children of such personnel; and the names and  
 2966 locations of schools and day care facilities attended by the  
 2967 children of such personnel are exempt from s. 119.07(1) and s.  
 2968 24(a), Art. I of the State Constitution. For purposes of this  
 2969 sub-subparagraph, the term "addiction treatment facility" means  
 2970 a county government, or agency thereof, that is licensed  
 2971 pursuant to s. 397.401 and provides substance abuse prevention,  
 2972 intervention, or clinical treatment, including any licensed  
 2973 service component described in s. 397.311(26).

2974 t. The home addresses, telephone numbers, dates of birth,  
 2975 and photographs of current or former directors, managers,



2976 supervisors, and clinical employees of a child advocacy center  
 2977 that meets the standards of s. 39.3035(2) and fulfills the  
 2978 screening requirement of s. 39.3035(3), and the members of a  
 2979 Child Protection Team as described in s. 39.303 whose duties  
 2980 include supporting the investigation of child abuse or sexual  
 2981 abuse, child abandonment, child neglect, and child exploitation  
 2982 or to provide services as part of a multidisciplinary case  
 2983 review team; the names, home addresses, telephone numbers,  
 2984 photographs, dates of birth, and places of employment of the  
 2985 spouses and children of such personnel and members; and the  
 2986 names and locations of schools and day care facilities attended  
 2987 by the children of such personnel and members are exempt from s.  
 2988 119.07(1) and s. 24(a), Art. I of the State Constitution.

2989 u. The home addresses, telephone numbers, places of  
 2990 employment, dates of birth, and photographs of current or former  
 2991 staff and domestic violence advocates, as defined in s.  
 2992 90.5036(1)(b), of domestic violence centers certified by the  
 2993 Department of Children and Families under chapter 39; the names,  
 2994 home addresses, telephone numbers, places of employment, dates  
 2995 of birth, and photographs of the spouses and children of such  
 2996 personnel; and the names and locations of schools and day care  
 2997 facilities attended by the children of such personnel are exempt  
 2998 from s. 119.07(1) and s. 24(a), Art. I of the State  
 2999 Constitution.

3000 v. The home addresses, telephone numbers, dates of birth,

3001 and photographs of current or former inspectors or investigators  
 3002 of the Department of Agriculture and Consumer Services; the  
 3003 names, home addresses, telephone numbers, dates of birth, and  
 3004 places of employment of the spouses and children of current or  
 3005 former inspectors or investigators; and the names and locations  
 3006 of schools and day care facilities attended by the children of  
 3007 current or former inspectors or investigators are exempt from s.  
 3008 119.07(1) and s. 24(a), Art. I of the State Constitution. This  
 3009 sub-subparagraph is subject to the Open Government Sunset Review  
 3010 Act in accordance with s. 119.15 and shall stand repealed on  
 3011 October 2, 2028, unless reviewed and saved from repeal through  
 3012 reenactment by the Legislature.

3013 3. An agency that is the custodian of the information  
 3014 specified in subparagraph 2. and that is not the employer of the  
 3015 officer, employee, justice, judge, or other person specified in  
 3016 subparagraph 2. must maintain the exempt status of that  
 3017 information only if the officer, employee, justice, judge, other  
 3018 person, or employing agency of the designated employee submits a  
 3019 written and notarized request for maintenance of the exemption  
 3020 to the custodial agency. The request must state under oath the  
 3021 statutory basis for the individual's exemption request and  
 3022 confirm the individual's status as a party eligible for exempt  
 3023 status.

3024 4.a. A county property appraiser, as defined in s.  
 3025 192.001(3), or a county tax collector, as defined in s.

3026 | 192.001(4), who receives a written and notarized request for  
 3027 | maintenance of the exemption pursuant to subparagraph 3. must  
 3028 | comply by removing the name of the individual with exempt status  
 3029 | and the instrument number or Official Records book and page  
 3030 | number identifying the property with the exempt status from all  
 3031 | publicly available records maintained by the property appraiser  
 3032 | or tax collector. For written requests received on or before  
 3033 | July 1, 2021, a county property appraiser or county tax  
 3034 | collector must comply with this sub-subparagraph by October 1,  
 3035 | 2021. A county property appraiser or county tax collector may  
 3036 | not remove the street address, legal description, or other  
 3037 | information identifying real property within the agency's  
 3038 | records so long as a name or personal information otherwise  
 3039 | exempt from inspection and copying pursuant to this section is  
 3040 | not associated with the property or otherwise displayed in the  
 3041 | public records of the agency.

3042 |       b. Any information restricted from public display,  
 3043 | inspection, or copying under sub-subparagraph a. must be  
 3044 | provided to the individual whose information was removed.

3045 |       5. An officer, an employee, a justice, a judge, or other  
 3046 | person specified in subparagraph 2. may submit a written request  
 3047 | for the release of his or her exempt information to the  
 3048 | custodial agency. The written request must be notarized and must  
 3049 | specify the information to be released and the party authorized  
 3050 | to receive the information. Upon receipt of the written request,

3051 the custodial agency must release the specified information to  
3052 the party authorized to receive such information.

3053 6. The exemptions in this paragraph apply to information  
3054 held by an agency before, on, or after the effective date of the  
3055 exemption.

3056 7. Information made exempt under this paragraph may be  
3057 disclosed pursuant to s. 28.2221 to a title insurer authorized  
3058 pursuant to s. 624.401 and its affiliates as defined in s.  
3059 624.10; a title insurance agent or title insurance agency as  
3060 defined in s. 626.841(1) or (2), respectively; or an attorney  
3061 duly admitted to practice law in this state and in good standing  
3062 with The Florida Bar.

3063 8. The exempt status of a home address contained in the  
3064 Official Records is maintained only during the period when a  
3065 protected party resides at the dwelling location. Upon  
3066 conveyance of real property after October 1, 2021, and when such  
3067 real property no longer constitutes a protected party's home  
3068 address as defined in sub-subparagraph 1.a., the protected party  
3069 must submit a written request to release the removed information  
3070 to the county recorder. The written request to release the  
3071 removed information must be notarized, must confirm that a  
3072 protected party's request for release is pursuant to a  
3073 conveyance of his or her dwelling location, and must specify the  
3074 Official Records book and page, instrument number, or clerk's  
3075 file number for each document containing the information to be

3076 released.

3077           9. Upon the death of a protected party as verified by a  
3078 certified copy of a death certificate or court order, any party  
3079 can request the county recorder to release a protected  
3080 decedent's removed information unless there is a related request  
3081 on file with the county recorder for continued removal of the  
3082 decedent's information or unless such removal is otherwise  
3083 prohibited by statute or by court order. The written request to  
3084 release the removed information upon the death of a protected  
3085 party must attach the certified copy of a death certificate or  
3086 court order and must be notarized, must confirm the request for  
3087 release is due to the death of a protected party, and must  
3088 specify the Official Records book and page number, instrument  
3089 number, or clerk's file number for each document containing the  
3090 information to be released. A fee may not be charged for the  
3091 release of any document pursuant to such request.

3092           10. Except as otherwise expressly provided in this  
3093 paragraph, this paragraph is subject to the Open Government  
3094 Sunset Review Act in accordance with s. 119.15 and shall stand  
3095 repealed on October 2, 2024, unless reviewed and saved from  
3096 repeal through reenactment by the Legislature.

3097           Section 55. Subsection (4) of section 322.09, Florida  
3098 Statutes, is amended to read:

3099           322.09 Application of minors; responsibility for  
3100 negligence or misconduct of minor.—

3101 (4) Notwithstanding subsections (1) and (2), if a  
 3102 caregiver of a minor who is under the age of 18 years and is in  
 3103 out-of-home care as defined in s. 39.01 ~~s. 39.01(55)~~, an  
 3104 authorized representative of a residential group home at which  
 3105 such a minor resides, the caseworker at the agency at which the  
 3106 state has placed the minor, or a guardian ad litem specifically  
 3107 authorized by the minor's caregiver to sign for a learner's  
 3108 driver license signs the minor's application for a learner's  
 3109 driver license, that caregiver, group home representative,  
 3110 caseworker, or guardian ad litem does not assume any obligation  
 3111 or become liable for any damages caused by the negligence or  
 3112 willful misconduct of the minor by reason of having signed the  
 3113 application. Before signing the application, the caseworker,  
 3114 authorized group home representative, or guardian ad litem shall  
 3115 notify the caregiver or other responsible party of his or her  
 3116 intent to sign and verify the application.

3117 Section 56. Paragraph (p) of subsection (4) of section  
 3118 394.495, Florida Statutes, is amended to read:

3119 394.495 Child and adolescent mental health system of care;  
 3120 programs and services.—

3121 (4) The array of services may include, but is not limited  
 3122 to:

3123 (p) Trauma-informed services for children who have  
 3124 suffered sexual exploitation as defined in s. 39.01(80)(g) ~~s.~~  
 3125 ~~39.01(77)(g)~~.

3126 Section 57. Section 627.746, Florida Statutes, is amended  
 3127 to read:

3128 627.746 Coverage for minors who have a learner's driver  
 3129 license; additional premium prohibited.—An insurer that issues  
 3130 an insurance policy on a private passenger motor vehicle to a  
 3131 named insured who is a caregiver of a minor who is under the age  
 3132 of 18 years and is in out-of-home care as defined in s. 39.01 ~~s.~~  
 3133 ~~39.01(55)~~ may not charge an additional premium for coverage of  
 3134 the minor while the minor is operating the insured vehicle, for  
 3135 the period of time that the minor has a learner's driver  
 3136 license, until such time as the minor obtains a driver license.

3137 Section 58. Paragraph (c) of subsection (1) of section  
 3138 934.255, Florida Statutes, is amended to read:

3139 934.255 Subpoenas in investigations of sexual offenses.—

3140 (1) As used in this section, the term:

3141 (c) "Sexual abuse of a child" means a criminal offense  
 3142 based on any conduct described in s. 39.01(80) ~~s. 39.01(77)~~.

3143 Section 59. Subsection (5) of section 960.065, Florida  
 3144 Statutes, is amended to read:

3145 960.065 Eligibility for awards.—

3146 (5) A person is not ineligible for an award pursuant to  
 3147 paragraph (2)(a), paragraph (2)(b), or paragraph (2)(c) if that  
 3148 person is a victim of sexual exploitation of a child as defined  
 3149 in s. 39.01(80)(g) ~~s. 39.01(77)(g)~~.

3150 Section 60. The Division of Law Revision is requested to

HB 185

2024

3151 prepare a reviser's bill for the 2025 Regular Session of the  
3152 Legislature to substitute the term "Statewide Guardian ad Litem  
3153 Office" for the term "Guardian Ad Litem Program" or "Statewide  
3154 Guardian Ad Litem Program" throughout the Florida Statutes.

3155 Section 61. This act shall take effect July 1, 2024.



Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

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

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1 Committee/Subcommittee hearing bill: Children, Families &  
 2 Seniors Subcommittee

3 Representative Trabulsy offered the following:

4

5 **Amendment**

6 Between lines 2043 and 2044, insert:

7 Section 37. Section 414.56, Florida Statutes, is amended  
 8 to read:

9 414.56 Office of Continuing Care.—The department shall  
 10 establish an Office of Continuing Care to ensure young adults  
 11 who age out of the foster care system between 18 and 21 years of  
 12 age, or 22 years of age with a documented disability, have a  
 13 point of contact until the young adult reaches the age of 26 in  
 14 order to receive ongoing support and care coordination needed to  
 15 achieve self-sufficiency. Duties of the office include, but are  
 16 not limited to:

Amendment No.

17 (1) Informing young adults who age out of the foster care  
18 system of the purpose of the office, the types of support the  
19 office provides, and how to contact the office.

20 (2) Serving as a direct contact to the young adult in  
21 order to provide information on how to access services to  
22 support the young adult's self-sufficiency, including, but not  
23 limited to, food assistance, behavioral health services,  
24 housing, Medicaid, and educational services.

25 (3) Assisting in accessing services and supports for the  
26 young adult to attain self-sufficiency, including, but not  
27 limited to, completing documentation required to apply for  
28 services.

29 (4) Collaborating with community-based care lead agencies  
30 to identify local resources that can provide support to young  
31 adults served by the office and to assist young adults in  
32 accessing these supports.

33 (5) Developing and administering the Step into Success  
34 Workforce Education and Internship Pilot Program for foster  
35 youth and former foster youth as required under s. 409.1455.

36 (6) Work in coordination with the Statewide Guardian ad  
37 Lite Office to identify supportive adults for children  
38 transitioning out of foster care to live independently, in  
39 accordance with s. 39.6036.

40



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 73 Supported Decisionmaking Authority

**SPONSOR(S):** Tant and others

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 446

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Children, Families & Seniors Subcommittee		Lloyd	Brazzell
2) Civil Justice Subcommittee			
3) Health & Human Services Committee			

### SUMMARY ANALYSIS

Supported decisionmaking authority (SDM) is a person-driven decisionmaking model that empowers a person with a disability to make life choices with help from a supporter, while the values, priorities, and wishes of the decisionmaker drive the process. The supporter identified in the SDM agreement helps the person with a disability understand and explore options, to know risks and benefits associated with options, to receive recommendations, and to independently exercise his or her rights with appropriate assistance based on his or her unique needs and abilities. The SDM agreement model does not provide the designated agent or supporter the authority to bind or act on behalf of the adult with a disability on any subject matter.

HB 73 creates an SDM agreement as a type of power of attorney. The bill permits an adult to seek an SDM agreement and authorize an agent to do any or all of the following:

- Assist the decisionmaker in understanding the options, responsibilities, and consequences of life decisions;
- Assist the decisionmaker in accessing, collecting, and obtaining information and records relevant to a life decision including, but not limited to, medical, psychological, financial, educational, or treatment records, to which the decisionmaker is entitled, from any person or entity;
- Assist the decisionmaker in exercising his or her rights;
- Assist the decisionmaker in communicating his or her decisions; or
- Access the decisionmaker's personal information, to the extent authorized by the SDM agreement.

73 also requires the circuit court to consider the specific needs and abilities of a person with developmental disabilities when determining whether to approve a request for a guardian advocate. When a guardian advocate court order is issued, the order must address why other alternatives were not sufficient and why the SDM option was not appropriate for the situation.

For petitions to determine incapacity, the bill adds a requirement to address whether the alleged incapacitated person uses assistance to exercise his or her rights, including SDM, and whether or not this level of assistance is appropriate or insufficient for the situation. HB 73 also permits the examining committee, which determines incapacity, to allow a person to assist with communication with the individual with a disability, when requested by the court-appointed counsel for the alleged incapacitated person.

HB 73 does not appear to have a fiscal impact on state or local governments.

The bill has an effective date of July 1, 2024.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Background**

##### **Developmental Disabilities**

A developmental disability is defined as a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, Down syndrome, Phelan-McDermid syndrome, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.<sup>1</sup>

##### **Guardianship**

When a court deems an individual legally incompetent,<sup>2</sup> a third party or a guardian, may be appointed to make decisions on that individual's behalf.<sup>3</sup> Current state law defines a "guardian" as a person who has been appointed by the court to act on behalf of a ward's person, property, or both.<sup>4</sup> The process to determine an individual's incapacity and the possible appointment of a guardian begins with a verified petition. The petition must provide detailed, factual information supporting the reasons the petitioner believes the individual to be incapacitated, including the specific rights or activities the alleged incapacitated person is incapable of managing on their own behalf.<sup>5</sup> Once a person has been found to be incapacitated, a specific guardianship order is issued with details on what is or is not restricted and the name of the guardian.<sup>6</sup> The order must:

- Be consistent with the ward's welfare and safety;
- Clearly state the rights removed from the ward and delegated to the guardian;
- Be the least restrictive and appropriate alternative; and
- Reserve to the ward the right to make decisions in all matters commensurate with his or her ability to do so.<sup>7</sup>

A guardian coordinates and monitors his or her ward's services and needs, including his or her funds, as directed by the guardianship court order.<sup>8</sup> The funds and property of the guardian's ward belong to the guardian and do not become the property of the guardian and must be kept separate from and accounted for from any of the guardian's funds. Guardianships can be grouped into different types based on the level of authority granted to the guardian:

- *Limited or partial guardianship*<sup>9</sup> occurs when an individual has been deemed incapable of making decisions in only specific areas of life, and a guardian has the authority to decide for the individual in those specific areas only. The grants of legal authority granted or not granted to a guardian are specially noted.

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<sup>1</sup> Section 393.063(9), F.S.

<sup>2</sup> Current state law defines an "incapacitated person" to mean a person who has been judicially determined to lack the capacity to manage at least some of the property or to meet at least some of the essential health and safety requirements of the person. See s. 744.102(12), F.S.

<sup>3</sup> Martinis, J., *Supported decisionmaking: Protecting rights, ensuring choices*, BIFOCAL: A Journal of the ABA Commission on Law and Aging, 36(5), pgs. 107-110 (2015), available at [Supported Decision-Making: Protecting Rights, Ensuring Choices \(americanbar.org\)](https://www.americanbar.org/publications/bifocal/2015/05/protecting-rights-ensuring-choices/) (last visited December 2, 2023).

<sup>4</sup> S. 744.102(9), F.S.

<sup>5</sup> S. 744.3201, F.S.

<sup>6</sup> SS. 744.3371-.345, F.S.

<sup>7</sup> S. 744.2005, F.S.

<sup>8</sup> National Guardianship Association, *What is Guardianship?*, [What Is Guardianship? | National Guardianship Association](https://www.nagac.org/what-is-guardianship/) (last visited December 2, 2023).

<sup>9</sup> See S. 744.102(9)(a), F.S.: A "Limited guardian" means a guardian who has been appointed by the court to exercise the legal rights and powers specifically designated by court order entered after the court has found that the ward lacks the capacity to do some, but not all, of the tasks necessary to care for his or her person or property, or after the person has voluntarily petitioned for appointment of a limited guardian.

- *Full or plenary guardianship*<sup>10</sup> occurs when the court has found that an individual lacks capacity to make all legal decisions, and the guardian is authorized to make all decisions for the ward.<sup>11</sup>

Once awarded guardianship, an individual guardian may be further categorized based on how he or she reaches decisions for his or her ward. A guardian may substitute his or her own understanding of the ward’s wishes. These substitute decisionmakers generally follow one of two standards:

- *A substituted judgement standard* means the guardian makes decisions he or she believes the ward would have wanted, if capable.
- *A best interest judgement* standard means the guardian makes decisions based on what the guardian determines to be in the ward’s best interest.<sup>12</sup>

In 1987, then-United States Congressman and Chair of the *United States Committee and Abuses in Guardianship of the Elderly and Infirm: A National Disgrace*, Representative Claude Pepper described the guardianship relationship:

*The typical ward has fewer rights than the typical convicted felon . . . . By appointing a guardian, the court entrusts to someone else the power to choose where they will live, what medical treatment they will get and, in rare cases, when they will die. It is, in one short sentence, the most punitive civil penalty that can be levied against an American citizen, with the exception . . . of the death penalty.*<sup>13</sup>

The guardian, as fiduciary, must:

- Act within the scope of the authority granted by the court and as provided by law;
- Act in good faith;
- Act in a manner in the ward's best interests under the circumstances; and
- Use any special skills or expertise the guardian possesses when acting on behalf of the ward.<sup>14</sup>

Additionally, the fiduciary relationship between the guardian and the ward may not be used for the guardian’s private gain, other than the remuneration for fees and expenses provided by law.<sup>15</sup> Should a guardian breach his or her fiduciary duty to the ward, the court is authorized to intervene.<sup>16</sup>

The following chart details some of the guardian’s powers, either with or without court approval:

Examples of Powers That May Be Exercised by a Guardian	
Upon Court Approval <sup>17</sup>	Without Court Approval <sup>18</sup>
<ul style="list-style-type: none"> <li>• Enter into contracts that are appropriate for, and in the best interest of, the ward.</li> <li>• Perform, compromise, or refuse performance of a ward’s existing contracts.</li> </ul>	<ul style="list-style-type: none"> <li>• Retain assets owned by the ward.</li> <li>• Receive assets from fiduciaries or other sources.</li> <li>• Insure the assets of the estate against damage, loss, and liability.</li> </ul>

<sup>10</sup> See S. 744.102(9)(b), F.S.; “Plenary guardian” means a person who has been appointed by the court to exercise all delegable legal rights and powers of the ward after the court has found that the ward lacks the capacity to perform all of the tasks necessary to care for his or her person or property.

<sup>11</sup> Blanck, P, and Martinis, J, “*The right to make choices*”: *The National Resource Center for Supported Decisionmaking*, Inclusion, 3, pgs. 24-33 (2015), available at; [The Right to Make Choices: The National Resource Center for Supported Decision-Making | National Resource Center \(supporteddecisionmaking.org\)](#) (last visited December 2, 2023).

<sup>12</sup> Shalowitz, DI, et al., *The accuracy of surrogate decision makers: A systematic review*, Archives of Internal Medicine, 166(5), pgs. 493-497 (2006), available at [The Accuracy of Surrogate Decision Makers: A Systematic Review | End of Life | JAMA Internal Medicine | JAMA Network](#) (last visited December 2, 2023).

<sup>13</sup> Id.; Original citation of quote from H.R.Rep.No.100-641, at 1 (1987).

<sup>14</sup> S. 744.361(1), F.S.

<sup>15</sup> S.744.446, F.S.

<sup>16</sup> S. 744.446(4), F.S.

<sup>17</sup> S. 744.441, F.S.

<sup>18</sup> S. 744.444, F.S.

- |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>• Alter the ward's property ownership interests, including selling, mortgaging, or leasing any real property (including the homestead), personal property, or any interest therein</li> <li>• Borrow money to be repaid from the property of the ward or the ward's estate.</li> <li>• Renegotiate, extend, renew, or modify the terms of any obligation owing to the ward.</li> <li>• Prosecute or defend claims or proceedings in any jurisdiction for the protection of the estate.</li> <li>• Exercise any option contained in any policy of insurance payable to the ward.</li> <li>• Make gifts of the ward's property to members of the ward's family in estate and income tax planning.</li> <li>• Pay reasonable funeral, interment, and grave marker expenses for the ward.</li> </ul> | <ul style="list-style-type: none"> <li>• Pay taxes and assessments on the ward's property.</li> <li>• Pay reasonable living expenses for the ward, taking into consideration the ward's current finances.</li> <li>• Pay incidental expenses in the administration of the estate.</li> <li>• Prudently invest liquid assets belonging to the ward.</li> <li>• Sell or exercise stock subscription or conversion rights.</li> <li>• Consent to the reorganization, consolidation, merger, dissolution, or liquidation of a corporation or other business enterprise of the ward.</li> <li>• Employ, pay, or reimburse persons, including attorneys, auditors, investment advisers, care managers, or agents, even if they are associated with the guardian, to advise or assist the guardian in the performance of his or her duties.</li> <li>• Consent on behalf of the ward to a sterilization or abortion procedure on the ward.<sup>19</sup></li> </ul> |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

The best estimate about the total number of American adults living under a guardianship or conservatorship comes from a 2011 report which had limited data from those states with centralized or computer-based accounting mechanisms for counting such documents. In this widely cited report, the authors claim that at least 1.3 million adults were living under either a guardianship or conservatorship, and courts controlled over \$50 billion in assets of those under these same guardianships or conservatorships. Researchers have estimated that approximately 1.5 million people in the United States are subject to guardianship at any one time.<sup>20</sup>

### Alternatives to Guardianship

Legislative intent in Florida's guardianship statutes, specifically under s. 744.1012, F.S., expresses a desire to find the least restrictive forms of guardianship to assist those who may be partially or fully incapacitated. In October 2016, Chief Justice Jorge Labarga of the Florida Supreme Court established a Guardianship Workgroup to better protect vulnerable people who are subject to guardianship and guardian advocacy. The workgroup was charged with examining "judicial procedures and best practices pertaining to guardianship," focusing on topics including, but not limited to, the use of least restrictive alternatives that address specific functional limitations.<sup>21</sup>

The workgroup recommended requiring the petitioner, in the petition for appointment of a guardian, to explain why alternatives to guardianship are insufficient and expanding the types of alternatives that must be addressed. The report specified alternatives to guardianship include SDM, durable powers of attorney, trusts, banking services, advance directives, medical proxies, and representative payees.<sup>22</sup>

Additionally, the workgroup recommended the petitioner specify whether he or she is aware of the existence of a designation of a preneed guardian and to identify his or her efforts in determining whether a designation exists in the petition for appointment of a guardian.<sup>23</sup>

<sup>19</sup> S. 744.3215, F.S.

<sup>20</sup> Van Duizend, R., *The Implications of an Aging Population on the State Courts*, "NCSC, *Future Trends in State Courts*, p. 76 (Williamsburg, VA: NCSC, 2008 (2011)), available at: [http://www.guardianship.org/reports/Uekert\\_Van\\_Duizend\\_Adult\\_Guardianships.pdf](http://www.guardianship.org/reports/Uekert_Van_Duizend_Adult_Guardianships.pdf), (last visited December 2, 2023).

<sup>21</sup> Judicial Management Council, Guardianship Workgroup Final Report, pg. 7 (June 2018) (on file with Health and Human Services Committee staff).

<sup>22</sup> *Id.* at Appendix B.

<sup>23</sup> *Id.*

Current Florida law recognizes several types of guardianships which can cover all areas of decisionmaking for both adults and minors.<sup>24</sup> For individuals with capacity,<sup>25</sup> an *Advance Directive* document can be written ahead of an expected need and express an individual's desires or provide decisionmaking authority to a trusted individual.<sup>26</sup> In either event, the individual making the advance directive must have the mental capacity to understand what he or she is doing at the time the directive is signed.

Similar to an *Advance Directive*, a *Durable Power of Attorney (POA)* is also special type of advance directive. An individual or grantor must demonstrate the capacity to understand the transfer of his or her decisionmaking rights to another individual or agent at the time of the document's execution. The rights granted can be as broad or as limited as the law allows and can include health care decisions. A POA is called "durable" when it is intended to continue even if the grantor becomes incapacitated.

A *Health Care Surrogate* arrangement identifies through a written document specifically one or more persons who represent another person in health care decisions if he or she becomes unable to make them. *Living Will*: This document sets out the maker's wishes for the withholding or withdrawal of life prolonging procedures in the event of a terminal condition.

For people with limited capacity, the following are less restrictive options to guardianship:

*Medical Proxy*: A medical proxy can make health care decisions for an incapacitated or developmentally disabled patient if there is no advance directive or, if there is an advanced directive, no surrogate is available to make health care decisions.<sup>27</sup> The statute does not require any legal action or document for appointment as proxy. Instead, there is a statutory priority, starting with a guardian, then moving to spouse, adult child, parent, adult sibling, adult relative "who has exhibited special care and concern," close friend, and finally a social worker selected by a bioethics committee.

*Client Advocate*: If a parent is unavailable, a family member or friend may be appointed as the client advocate for a person with developmental disabilities receiving services through the Agency for Persons with Disabilities.<sup>28</sup> This does not result in any legal authority, but allows the client advocate to participate in decisions related to services.

*Co-signer of Bank Accounts*: If a bank account is set up to require more than one signature, this is a way to exercise some control over expenditures while a co-signer is learning financial skills.

*Representative Payee*: The Social Security Administration may appoint a representative payee to receive and manage benefits for another. The "rep payee" must account for these benefits annually.

*Parent Representative*: Ordinarily, when a child in the public school system turns 18, parental rights are automatically transferred to the child. If the student does not have a guardian and also does not have the ability to provide informed consent on his or her educational program, the parent can be appointed to represent the educational interests of the student.

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<sup>24</sup> See Part III, Ch. 744, F.S.; other guardian relationships include natural guardians, guardians of minors, emergency temporary guardians, standby guardians, pre-need guardian for a minor; and foreign guardian.

<sup>25</sup> "Capacity" is defined for these purposes as the mental ability to make and understand important legal and other decisions.

<sup>26</sup> "Advanced Directives for health care decisions" is described and defined in s. 744.3115, F.S. An "advance directive" document, in general, is defined to mean a witnessed written document or oral statement in which instructions are given by a principal or in which the principal's desires are expressed concerning any aspect of the principal's health care or health information, and includes, but is not limited to, the designation of a health care surrogate, a living will, or an anatomical gift made pursuant to part V of this chapter.

<sup>27</sup> S. 765.401, F.S.

<sup>28</sup> S. 393.0651, F.S.



## Guardian Advocate

Guardian advocacy is a process for family members, caregivers, or friends of individuals with a developmental disability to obtain the legal authority to act on their behalf if the person lacks the decisionmaking ability to do some, but not all, of the decisionmaking tasks necessary to care for his or her person or property.<sup>29</sup> This status change can be accomplished without having to declare the person with a developmental disability incapacitated.

A petition to appoint a *guardian advocate* for a person with a developmental disability may be executed by an adult person who is a resident of this state.<sup>30</sup> The petition must be verified by the petitioner and must state:

- The name, age, and present address of the petitioner and the petitioner's relationship to the person with a developmental disability;
- The name, age, county of residence, and present address of the person with a developmental disability;
- That the petitioner believes that the person needs a guardian advocate and the factual information on which such belief is based;
- The exact areas in which the person lacks the ability to make informed decisions about the person's care and treatment services or to meet the essential requirements for the person's physical health or safety;
- The legal disabilities to which the person is subject;
- If authority is sought over any property of the person, a description of that property and the reason why management or control of that property should be placed with a guardian advocate;
- The name of the proposed guardian advocate, the relationship of the proposed guardian advocate to the person with a developmental disability, the relationship of the proposed guardian advocate with the providers of health care services, residential services, or other services to the person with developmental disabilities, and the reason why the proposed guardian advocate should be appointed. If a willing and qualified guardian advocate cannot be located, the petition must so state; and
- Whether the petitioner has knowledge, information, or belief that the person with a developmental disability has executed an advance directive or a durable power of attorney.<sup>31</sup>

Notice of the filing of the petition must be given to the person with a developmental disability, both verbally and in writing, in the language of the person and in English.<sup>32</sup> Notice must also be given to the person with a developmental disability's next of kin, any designated health care surrogate, an attorney-in-fact designated in a durable power of attorney, and such other persons as the court may direct.<sup>33</sup> A copy of the petition to appoint a guardian advocate must be served with the notice. The notice must state that a hearing will be held to inquire into the capacity of the person with a developmental disability to exercise the rights enumerated in the petition.<sup>34</sup> The notice must also state the date of the hearing on the petition.<sup>35</sup> The notice must state that the person with a developmental disability has the right to be represented by counsel of the person's own choice and the court must initially appoint counsel.<sup>36</sup>

Within 3 days after a petition has been filed, the court must appoint an attorney to represent a person with a developmental disability who is the subject of a petition to appoint a guardian advocate.<sup>37</sup> The person with a developmental disability may substitute his or her own attorney for the attorney appointed by the court.<sup>38</sup>

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<sup>29</sup> S. 393.12(2)(a), F.S.

<sup>30</sup> S. 393.12 (3), F.S.

<sup>31</sup> S. 393.12(3)(a)-(f), F.S.

<sup>32</sup> S. 393.12(4)(a), F.S.

<sup>33</sup> Id.

<sup>34</sup> S. 393.12(4)(b), F.S.

<sup>35</sup> Id.

<sup>36</sup> S. 393.12(4)(c), F.S.

<sup>37</sup> S. 393.12(5), F.S.

<sup>38</sup> Id.

If the court finds the person with a developmental disability requires the appointment of a *guardian advocate*<sup>39</sup>, the order appointing the guardian advocate must contain findings of facts and conclusions of law:

- The nature and scope of the person's inability to make decisions;
- The exact areas in which the person lacks ability to make informed decisions about care and treatment services or to meet the essential requirements for the individual's physical health and safety;
- If any property of the person is to be placed under the management or control of the guardian advocate, a description of that property, any limitations as to the extent of such management or control, and the reason why management or control by the guardian advocate of that property is in the best interest of the person;
- If the person has executed an advanced directive or durable power of attorney, a determination as to whether the documents sufficiently address the needs of the person and a finding that the advanced directive or durable power of attorney does not provide an alternative to the appointment of a guardian advocate that sufficiently addresses the needs of the person with a developmental disability;
- If a durable power of attorney exists, the powers of the attorney-in-fact, if any, that are suspended and granted to the guardian advocate;
- If an advanced directive exists and the court determines that the appointment of a guardian advocate is necessary, the authority, if any, the guardian advocate shall exercise over the health care surrogate;
- The specific legal disabilities to which the person with a developmental disability is subject;
- The name of the person selected as guardian advocate; and
- The powers, duties, and responsibilities of the guardian advocate, including bonding of the guardian advocate as provided by law.<sup>40</sup>

Generally, the difference between guardian advocacy and guardianship in Florida is the process to gain the authority. For guardian advocacy, the process does not include an adjudication of incapacity, while guardianship requires a finding of incapacity, at least in part. However, the duties and responsibilities are identical for guardian advocates and guardians.

### Supported Decisionmaking

The integration mandate of Title II of the American with Disabilities Act<sup>41</sup> and subsequent federal court cases, such as *Olmstead v. L.C.*,<sup>42</sup> on how States' have delivered services to those individuals with disabilities are 2 sources used to support other decisionmaking policy model that are less restrictive than those currently available.<sup>43</sup> Supported decisionmaking (SDM) is another example of a person-driven decisionmaking model that empowers persons with disabilities to make life choices with help from a supporter or advisor.

The SDM process and procedure also requires the assistance of a supporter, advisor, or agent to carry out each choice. Through an SDM agreement, the individual is empowered to ask for support from their supporter where, in what format, and when he or she needs help. The supporter, under this role, has an equal obligation to ensure that the client has the necessary support to be successful, at the level the client has requested, to make recommendations and suggestions as needed, and generally advise but not act on behalf of the client.

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<sup>39</sup> A "Guardian advocate" means a person appointed by a written order of the court to represent a person with developmental disabilities under s. 393.12, F.S. The term does not apply to a guardian advocate appointed for a person determined incompetent to consent to treatment under s. 394.4598, F.S.

<sup>40</sup> S. 393.12(8), F.S.

<sup>41</sup> 42 U.S.C. s.s. 12101 – 12213 (2006). Congress enacted the American with Disabilities Act in 1990 to address the continuing exclusion and isolation of individual with disabilities, and thus created a comprehensive mandate to end disability-based discrimination in employment, public accommodations, public services, benefits, and programs. *Quoting FN 2 from: Salzman, L., Rethinking Guardianship (Again): Substituted Decision Making as a Violation of the Integration Mandate of Title II of the Americans with Disabilities Act, Working Paper 282 (November 2009), available at [Microsoft Word - Salzman FINAL TPE \(supporteddecisionmaking.org\)](https://www.supporteddecisionmaking.org) (last visited December 2, 2023).*

<sup>42</sup> *Olmstead v. L.C. ex rel. Zimring*, 527 U.S. 581, 597–99 (1999).

<sup>43</sup> *Supra*, Note 55.

The SDM model assumes all persons seek advice and guidance with making decisions; that all persons, as long as they have the ability to communicate, have the ability and right to make choices; and that the choices of the individual should be honored.<sup>44</sup>

Initial promotion of SDM occurred in the early 1990s in British Columbia as a part of that country's disability's rights movement. This initial advocacy resulted in the first legislative recognition of the SDM agreement and option in the 1996 Representation Agreement Act in British Columbia. This act established a set of decisions regarding how individuals with cognitive disabilities may seek support, criteria for appointment of a supporter, and a mechanism by which decisions reached through SDM agreements would be legally recognized.<sup>45</sup> SDM achieved a significant breakthrough with the 2006 United Nations Convention on the Rights of Persons with Disabilities (UNCRPD). In a landmark statement, the UNCRPD declared that member states must assist individuals with disabilities so that they can exercise their right to legal capacity. Furthermore, UNCRPD identified SDM as a crucial legal mechanism toward achieving this basic human right. Spurred by this development, several countries—including Canada, Ireland, Israel, the United Kingdom, Germany, Australia, and the United States—have begun to promote integration of SDM into their respective legal systems.<sup>46</sup>

In 2009, the Texas legislature created a pilot program to “promote the provision of SDM services to persons with intellectual and developmental disabilities and persons with other cognitive disabilities who live in the community”.<sup>47</sup> After that program ended, Texas passed new laws recognizing the availability and effectiveness of SDM and required courts to find that a person cannot make decisions using SDM before appointing a guardian.<sup>48</sup>

In 2016, a similar law was passed and signed in Delaware. The Delaware law allows people with disabilities to designate a person as a supporter. The supporter is given legal status and authorization to assist the person in making life choices, including health, safety, and educational decisions, but is not allowed to make decisions on the individual's behalf.

Two private organizations have also endorsed the SDM option. In 2012, the American Bar Association (ABA) convened stakeholders “to explore concrete ways to move from a model of substituted decisionmaking, like guardianship, to one of supported decision making, consistent with the human right of legal capacity”.<sup>49</sup> In 2015, the ABA published an article calling for the use of SDM as an alternative to guardianship, stating, “In contrast to overbroad or undue guardianship, SDM can increase self-determination by ensuring that the person retains life control to the maximum extent possible”.<sup>50</sup>

In 2015, the National Guardianship Association (NGA), which represents over 1,000 guardians, conservators and fiduciaries from across the United States, also published a position paper on SDM. It states that “modern day respect for individual rights dictates that we must allow each individual to make or participate to the extent possible in personal decisions.” The NGA concluded “supported decisionmaking should be considered for the person before guardianship, and the SDM process should be incorporated as a part of the guardianship if guardianship is necessary”.<sup>51</sup> The NGA's position is

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<sup>44</sup> Blanck, P., and Martinis, J., *The Right to Make Choices: The National Resource Center for Supported Decisionmaking*, 3 Inclusion 24 (2015), available at [www.bbi.syr.edu/publications/2015/SDM\\_Overview.pdf](http://www.bbi.syr.edu/publications/2015/SDM_Overview.pdf).

<sup>45</sup> Browning, M., et al., *Supported Decision Making: Understanding How its Conceptual Link to Legal Capacity is Influencing the Development of Practice*, Research and Practice in Intellectual and Developmental Disabilities, 1(1), pgs. 34-45 (2014).

<sup>46</sup> Supra, FN 33.

<sup>47</sup> Tex. Government Code Ann. § 531.02446 (2009), expired on Sept. 1, 2013.

<sup>48</sup> Tex. Est. Code s. 1101.101(a)(D) and (E).

<sup>49</sup> American Bar Association, *Beyond Guardianship: Supported Decisionmaking by Individuals with Intellectual Disabilities: A Short Summary from the 2012 National Roundtable*, available at [http://www.americanbar.org/content/dam/aba/administrative/mental\\_physical\\_disability/SDMRRoundtable\\_Summary.auth\\_checkdam.pdf](http://www.americanbar.org/content/dam/aba/administrative/mental_physical_disability/SDMRRoundtable_Summary.auth_checkdam.pdf).

<sup>50</sup> Supra, FN 1.

<sup>51</sup> National Guardianship Association, *Position Statement on Guardianship, Surrogate Decision Making, and Supported Decision Making*, (2015), available at [http://www.guardianship.org/documents/NGA\\_Policy\\_Statement\\_052016.pdf](http://www.guardianship.org/documents/NGA_Policy_Statement_052016.pdf).

consistent with most state laws, which require that less restrictive alternatives be considered or attempted prior to placing a person under guardianship.

While SDM relationships can be of more or less formality and intensity ranging from informal support by people who speak with, rather than for, the individual with a disability<sup>52</sup> to more formalized micro boards and circles of support,<sup>53</sup> they share three common elements:

- Based on a set of guiding principles that emphasize the person with disability's autonomy, presumption of capacity, and right to make decisions on an equal basis with others;
- Recognize that a person's intent can form the basis of a decisionmaking process that does not entail removal of the individual's decisionmaking rights; and
- Acknowledge that individuals with disabilities will often need assistance in decisionmaking through such means as interpreter assistance, facilitated communication, assistive technologies and plain language.

Through these relationships, an individual with limitations in decisionmaking abilities can receive support to understand relevant information, issues, and available choices, to focus attention in making decisions, to help weigh options, to ensure that decisions are based on her own preferences, and, if necessary, to interpret and/or communicate her decisions to other parties.<sup>54</sup>

### *Supported Decisionmaking Agreement*

An SDM agreement is a written document evidencing an agreement between a person with disabilities and at least one supporter that describes, in detail, the type of help the person needs. The agreement outlines the terms and conditions of both parties and asks that third parties, including courts, recognize and respect the agreement. In an SDM agreement, those who can help in making decisions are called supporters; supporters agree to help explain information; answer questions; weigh options; and let others know about the decisions that are made. The supporter does not make the decisions.<sup>55</sup>

In general, all SDM relationships share 3 common features after varying for formality, types of support provided, or who provides the type of support and are:

1. The recognition that the person has the right to make his or her own decisions.
2. The acknowledgement that the person can enter into a decision-making process or relationship without surrendering his or her right to make decisions; and
3. The understanding that the person may need assistance in making or communicating decisions.<sup>56</sup>

## **Educational Transitions**

Section 1003.5716, F.S., governs the transition process for individuals with disabilities from public school. During the student's seventh grade year, or when the student attains the age of 12, whichever occurs first, an individual education plan (IEP) team must begin the process of, and develop an IEP for, identifying the need for transition services. The plan must be in place to begin implementation on the first day of the student's first year in high school.

As part of this process, by the date the student reaches age 17, the IEP team must provide information and instruction to the student and his or her parent on self-determination and the legal rights and responsibilities regarding the educational decisions that transfer to the student upon turning 18 years

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<sup>52</sup> Dinerstein, R, *Implementing legal capacity under article 12 of the UN Convention on the Rights of Persons with Disabilities: The difficult road from guardianship to supported decision making*, Human Rights Brief, 30, pgs. 8-12, 10 (2012).

<sup>53</sup> *Id.* at pgs. 10-11.

<sup>54</sup> *Infra*, FN 58, at pg. 306.

<sup>55</sup> Martinis, J., *Making it happen: Strategies for supported decisionmaking*, *Impact*, 32(1), 45 (2019).

<sup>56</sup> Martinis, J., *Supported Decision-Making: Protecting Rights, Ensuring Choices*, available at [Supported Decision-Making: Protecting Rights, Ensuring Choices \(americanbar.org\)](https://www.americanbar.org/publications/impact/2015/05/06/Supported-Decision-Making-Protecting-Rights-Ensuring-Choices), *Impact*, (Commission on Law and Aging, Vol. 36, No. 5, May-June 2015)(December 2, 2023).

old. The information must address the ways in which the student may provide informed consent to allow the student's parent to continue to participate in educational decisions, including:

- Informed consent to grant permission to access confidential records protected under the Family Educational Rights and Privacy Act (FERPA) as provided in s. 1002.22.
- Powers of attorney as provided in chapter 709.
- Guardian advocacy as provided in s. 393.12.
- Guardianship as provided in chapter 744.

### **Effect of the Bill**

HB 73 creates a new legal instrument for individuals who are able to make decisions with assistance, such as individuals who have a developmental disability.

The bill creates a new type of power of attorney, termed a supported decisionmaking agreement (SDM agreement). The "supporter" in an SDM agreement would provide information, recommendations, and assistance to the eligible individual in making decisions and exercising his or her rights, but that supporter does not have any authority to make any binding decisions for or on behalf of the individual. The SDM agreement limits the supporter's authority to only be able to:

- Obtain information on behalf of the principal, and
- Assist the principal in communicating with third parties, including conveying the principal's communications, decisions, and directions to third parties on behalf of the principal.

For petitions to determine incapacity under ch. 744, the bill also adds a provision which addresses whether the alleged incapacitated person uses assistance to exercise his or her own rights, including an SDM agreement, and whether or not this level of assistance is sufficient for the situation. HB 73 also permits the examining committee, which determines incapacity, to allow a person to assist with communication with the individual with a disability when requested by the court-appointed counsel for the alleged incapacitated person.

The bill further requires the circuit courts which hear guardianship requests and hearings for determinations of capacity to consider the specific needs and abilities of a person with developmental disabilities when deciding to assign a guardian or guardian advocate or when determining competency. The final order addressing the level of guardianship or decisionmaking option selected must address why a particular, especially a less restrictive, level of care was not selected instead of a more-restrictive choice.

The bill adds SDM agreements to the list of alternative methods for parental involvement in educational decisionmaking in s. 1003.5716, F.S., information about which an IEP team must share with parent during the process developing a transition plan for a student with a disability.

#### **B. SECTION DIRECTORY:**

- Section 1:** Amends s. 393.12, F.S., relating to capacity; appointment of guardian advocate.
- Section 2:** Amends s. 709.2201, F.S.; relating to authority of agent.
- Section 3:** Creates s. 702.2209, F.S.; relating to supported decisionmaking agreements.
- Section 4:** Amends s. 744.3201, F.S.; relating to petition to determine incapacity.
- Section 5:** Amends s. 744.331, F.S.; relating to procedures to determine incapacity.
- Section 6:** Amends s. 744.464, F.S.; relating to suggestion of capacity.
- Section 7:** Amends s. 1003.5716, F.S.; relating to transition to postsecondary education and career opportunities
- Section 8:** Provides an effective date of July 1, 2024.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None.

2. Expenditures: None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None.

2. Expenditures: None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: None.

D. FISCAL COMMENTS: None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision: Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other: None.

B. RULE-MAKING AUTHORITY: The bill does not require rulemaking to implement its provisions.

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**



26 person's ability to exercise his or her rights;  
 27 amending s. 744.464, F.S.; authorizing a suggestion of  
 28 capacity to include certain capabilities of the ward;  
 29 amending s. 1003.5716, F.S.; revising the requirements  
 30 for a specified process relating to individual  
 31 education plans for certain students to include  
 32 supported decisionmaking agreements; providing an  
 33 effective date.

34

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

36

37 Section 1. Paragraph (a) of subsection (2), paragraph (a)  
 38 of subsection (3), and subsection (8) of section 393.12, Florida  
 39 Statutes, are amended to read:

40 393.12 Capacity; appointment of guardian advocate.—

41 (2) APPOINTMENT OF A GUARDIAN ADVOCATE.—

42 (a) A circuit court may appoint a guardian advocate,  
 43 without an adjudication of incapacity, for a person with  
 44 developmental disabilities, if the person lacks the  
 45 decisionmaking ability to do some, but not all, of the  
 46 decisionmaking tasks necessary to care for his or her person or  
 47 property or if the person has voluntarily petitioned for the  
 48 appointment of a guardian advocate. In determining whether to  
 49 appoint a guardian advocate, the court shall consider the  
 50 person's unique needs and abilities, including, but not limited



51 to, the person's ability to independently exercise his or her  
52 rights with appropriate assistance, and may only delegate  
53 decisionmaking tasks that the person lacks the decisionmaking  
54 ability to exercise. Except as otherwise specified, the  
55 proceeding shall be governed by the Florida Rules of Probate  
56 Procedure.

57 (3) PETITION.—

58 (a) A petition to appoint a guardian advocate for a person  
59 with a developmental disability may be executed by an adult  
60 person who is a resident of this state. The petition must be  
61 verified and must:

62 1. State the name, age, and present address of the  
63 petitioner and his or her relationship to the person with a  
64 developmental disability;

65 2. State the name, age, county of residence, and present  
66 address of the person with a developmental disability;

67 3. Allege that the petitioner believes that the person  
68 needs a guardian advocate and specify the factual information on  
69 which such belief is based;

70 4. Specify the exact areas in which the person lacks the  
71 decisionmaking ability to make informed decisions about his or  
72 her care and treatment services or to meet the essential  
73 requirements for his or her physical health or safety;

74 5. Specify the legal disabilities to which the person is  
75 subject; ~~and~~

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76       6. Identify any other type of guardian advocacy or  
77 alternatives to guardian advocacy that the person has  
78 designated, is in currently, or has been in previously and the  
79 reasons why alternatives to guardian advocacy are insufficient  
80 to meet the needs of the person;

81       7. State whether the person uses assistance to exercise  
82 his or her rights, including, but not limited to, supported  
83 decisionmaking, and if so, why the assistance is inappropriate  
84 or insufficient to allow the person to independently exercise  
85 the person's rights; and

86       ~~8.6.~~ State the name of the proposed guardian advocate, the  
87 relationship of that person to the person with a developmental  
88 disability; the relationship that the proposed guardian advocate  
89 had or has with a provider of health care services, residential  
90 services, or other services to the person with a developmental  
91 disability; and the reason why this person should be appointed.  
92 The petition must also state if a willing and qualified guardian  
93 advocate cannot be located.

94       (8) COURT ORDER.—If the court finds the person with a  
95 developmental disability requires the appointment of a guardian  
96 advocate, the court shall enter a written order appointing the  
97 guardian advocate and containing the findings of facts and  
98 conclusions of law on which the court made its decision,  
99 including:

100       (a) The nature and scope of the person's lack of

101 decisionmaking ability;

102 (b) The exact areas in which the individual lacks  
 103 decisionmaking ability to make informed decisions about care and  
 104 treatment services or to meet the essential requirements for his  
 105 or her physical health and safety;

106 (c) The specific legal disabilities to which the person  
 107 with a developmental disability is subject;

108 (d) The identity of existing alternatives and a finding as  
 109 to the validity or sufficiency of such alternative to alleviate  
 110 the need for the appointment of a guardian advocate;

111 (e)~~(d)~~ The name of the person selected as guardian  
 112 advocate and the reasons for the court's selection; and

113 (f)~~(e)~~ The powers, duties, and responsibilities of the  
 114 guardian advocate, including bonding of the guardian advocate,  
 115 as provided in s. 744.351.

116 Section 2. Paragraph (d) is added to subsection (2) of  
 117 section 709.2201, Florida Statutes, to read:

118 709.2201 Authority of agent.—

119 (2) As a confirmation of the law in effect in this state  
 120 when this part became effective, such authorization may include,  
 121 without limitation, authority to:

122 (d) If such authority is specifically limited, grant a  
 123 supported decisionmaking agreement as defined in s. 709.2209(1).

124 Section 3. Section 709.2209, Florida Statutes, is created  
 125 to read:

126 709.2209 Supported decisionmaking agreements.-

127 (1) For purposes of this section, "supported  
 128 decisionmaking agreement" means an agreement in which the power  
 129 of attorney grants an agent the authority to receive information  
 130 and to communicate on behalf of the principal without granting  
 131 the agent the authority to bind or act on behalf of the  
 132 principal on any subject matter.

133 (2) A supported decisionmaking agreement is not a durable  
 134 power of attorney under s. 709.2104. Any language of durability  
 135 in a supported decisionmaking agreement is of no effect.

136 (3) A supported decisionmaking agreement may only include  
 137 the authority to:

138 (a) Obtain information on behalf of the principal,  
 139 including, but not limited to, protected health information  
 140 under the Health Insurance Portability and Accountability Act of  
 141 1996, 42 U.S.C. s. 1320d, as amended; educational records under  
 142 the Family Educational Rights and Privacy Act of 1974, 20 U.S.C.  
 143 s. 1232g; or information protected under 42 U.S.C. s. 290dd-2 or  
 144 42 C.F.R. part 2.

145 (b) Assist the principal in communicating with third  
 146 parties, including conveying the principal's communications,  
 147 decisions, and directions to third parties on behalf of the  
 148 principal.

149 (4) A communication made by the principal with the  
 150 assistance of or through an agent under a supported

151 decisionmaking agreement that is within the authority granted to  
 152 the agent may be recognized for as a communication of the  
 153 principal.

154 Section 4. Subsection (2) of section 744.3201, Florida  
 155 Statutes, is amended to read:

156 744.3201 Petition to determine incapacity.—

157 (2) The petition must be verified and must:

158 (a) State the name, age, and present address of the  
 159 petitioner and his or her relationship to the alleged  
 160 incapacitated person;

161 (b) State the name, age, county of residence, and present  
 162 address of the alleged incapacitated person;

163 (c) Specify the primary language spoken by the alleged  
 164 incapacitated person, if known;

165 (d) State whether the alleged incapacitated person uses  
 166 assistance to exercise his or her rights, including, but not  
 167 limited to, supported decisionmaking, and if so, why the  
 168 assistance is inappropriate or insufficient to allow the person  
 169 to independently exercise the person's rights;

170 (e)-(d) Allege that the petitioner believes the alleged  
 171 incapacitated person to be incapacitated and specify the factual  
 172 information on which such belief is based and the names and  
 173 addresses of all persons known to the petitioner who have  
 174 knowledge of such facts through personal observations;

175 (f)-(e) State the name and address of the alleged

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176 incapacitated person's attending or family physician, if known;  
177 ~~(g)(f)~~ State which rights enumerated in s. 744.3215 the  
178 alleged incapacitated person is incapable of exercising, to the  
179 best of petitioner's knowledge. If the petitioner has  
180 insufficient experience to make such judgments, the petition  
181 must so state; and

182 ~~(h)(g)~~ State the names, relationships, and addresses of  
183 the next of kin of the alleged incapacitated person, so far as  
184 are known, specifying the dates of birth of any who are minors.

185 Section 5. Paragraph (e) of subsection (3) of section  
186 744.331, Florida Statutes, is amended to read:

187 744.331 Procedures to determine incapacity.—

188 (3) EXAMINING COMMITTEE.—

189 (e) Each member of the examining committee shall examine  
190 the person. Each examining committee member must determine the  
191 alleged incapacitated person's ability to exercise those rights  
192 specified in s. 744.3215. An examining committee member may  
193 allow a person to assist in communicating with the alleged  
194 incapacitated person when requested by the court-appointed  
195 counsel for the alleged incapacitated person and shall identify  
196 the person who provided assistance and describe the nature and  
197 method of assistance provided in his or her report. In addition  
198 to the examination, each examining committee member must have  
199 access to, and may consider, previous examinations of the  
200 person, including, but not limited to, habilitation plans,

201 school records, and psychological and psychosocial reports  
 202 voluntarily offered for use by the alleged incapacitated person.  
 203 Each member of the examining committee must file his or her  
 204 report with the clerk of the court within 15 days after  
 205 appointment.

206 Section 6. Paragraph (a) of subsection (2) of section  
 207 744.464, Florida Statutes, is amended to read:

208 744.464 Restoration to capacity.—

209 (2) SUGGESTION OF CAPACITY.—

210 (a) Any interested person, including the ward, may file a  
 211 suggestion of capacity. The suggestion of capacity must state  
 212 that the ward is currently capable of exercising some or all of  
 213 the rights which were removed, including the capability to  
 214 independently exercise his or her rights with appropriate  
 215 assistance.

216 Section 7. Paragraph (d) of subsection (1) of section  
 217 1003.5716, Florida Statutes, is amended to read:

218 1003.5716 Transition to postsecondary education and career  
 219 opportunities.—All students with disabilities who are 3 years of  
 220 age to 21 years of age have the right to a free, appropriate  
 221 public education. As used in this section, the term "IEP" means  
 222 individual education plan.

223 (1) To ensure quality planning for a successful transition  
 224 of a student with a disability to postsecondary education and  
 225 career opportunities, during the student's seventh grade year or

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226 | when the student attains the age of 12, whichever occurs first,  
227 | an IEP team shall begin the process of, and develop an IEP for,  
228 | identifying the need for transition services before the student  
229 | with a disability enters high school or attains the age of 14  
230 | years, whichever occurs first, in order for his or her  
231 | postsecondary goals and career goals to be identified. The plan  
232 | must be operational and in place to begin implementation on the  
233 | first day of the student's first year in high school. This  
234 | process must include, but is not limited to:

235 |       (d) At least 1 year before the student reaches the age of  
236 | majority, provision of information and instruction to the  
237 | student and his or her parent on self-determination and the  
238 | legal rights and responsibilities regarding the educational  
239 | decisions that transfer to the student upon attaining the age of  
240 | 18. The information must include the ways in which the student  
241 | may provide informed consent to allow his or her parent to  
242 | continue to participate in educational decisions, including:

- 243 |       1. Informed consent to grant permission to access  
244 | confidential records protected under the Family Educational  
245 | Rights and Privacy Act (FERPA) as provided in s. 1002.22.  
246 |       2. Powers of attorney as provided in chapter 709.  
247 |       3. Guardian advocacy as provided in s. 393.12.  
248 |       4. Guardianship as provided in chapter 744.  
249 |       5. Supported decisionmaking agreements as provided in s.  
250 | 709.2209.



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252 The State Board of Education shall adopt rules to administer  
253 this paragraph.

254 Section 8. This act shall take effect July 1, 2024.