

1 A bill to be entitled

2 An act relating to dependency proceedings and child
3 protection services; amending s. 39.01, F.S.; revising
4 the definition of "parent"; amending s. 39.205, F.S.;
5 removing a reporting requirement to the Legislature;
6 amending s. 39.407, F.S.; transferring certain duties
7 to the department rather than the Agency for Health
8 Care Administration; amending ss. 39.503 and 39.803,
9 F.S.; revising procedures and requirements relating to
10 the unknown identity or location of a parent of a
11 dependent child; removing standing to file a sworn
12 affidavit to establish parenthood after the entry of a
13 certain judgment; creating s. 39.5035, F.S.; providing
14 procedures and requirements relating to deceased
15 parents of a dependent child; amending s. 39.6011,
16 F.S.; providing timeframes in which case plans must be
17 filed with the court and provided to specified
18 parties; amending s. 39.6221, F.S.; revising the
19 conditions under which a court determines permanent
20 guardian placement for a child; amending s. 39.801,
21 F.S.; conforming provisions to changes made by the
22 act; amending s. 39.806, F.S.; providing that efforts
23 to preserve or reunify a family are not required under
24 specified circumstances; conforming cross-references;
25 amending s. 39.811, F.S.; providing that the court

26 retains jurisdiction under certain circumstances;
27 providing when certain decisions relating to adoption
28 are reviewable; amending s. 39.812, F.S.; authorizing
29 certain actions without a court order; providing that
30 certain persons may file a petition to adopt a child
31 without the department's consent; providing standing;
32 providing a standard of proof; providing
33 responsibilities of the court in such cases; amending
34 s. 39.820, F.S.; revising the definition of the term
35 "guardian ad litem;" amending s. 63.062, F.S.;
36 requiring the department to consent to certain
37 adoptions; providing exceptions; amending s. 63.082,
38 F.S.; requiring a home study of a stepparent or
39 relative under certain circumstances; amending s.
40 409.1451, F.S.; removing a reporting requirement of
41 the department and the Independent Living Services
42 Advisory Council; creating s. 742.0211, F.S.; defining
43 the term "dependent child"; providing requirements for
44 the determination of paternity when a child is
45 dependent; requiring a hearing and written order
46 within a specified time; providing the burden of proof
47 for certain paternity complaints; providing
48 applicability; providing an effective date.

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

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Section 1. Subsection (56) of section 39.01, Florida Statutes, is amended to read:

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

(56) "Parent" means a woman who gives birth to a child and a man whose consent to the adoption of the child would be required under s. 63.062(1). The term "parent" also means legal father as defined in this section. If a child has been legally adopted, the term "parent" means the adoptive mother or father of the child. For purposes of this chapter only, when the phrase "parent or legal custodian" is used, it refers to rights or responsibilities of the parent and, only if there is no living parent with intact parental rights, to the rights or responsibilities of the legal custodian who has assumed the role of the parent. The term does not include an individual whose parental relationship to the child has been legally terminated, or an alleged or prospective parent, unless:

~~(a) The parental status falls within the terms of s. 39.503(1) or s. 63.062(1); or~~

~~(b) parental status is applied for the purpose of determining whether the child has been abandoned.~~

Section 2. Subsection (7) of section 39.205, Florida Statutes, is amended to read:

39.205 Penalties relating to reporting of child abuse,

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76 abandonment, or neglect.—

77 (7) The department shall establish procedures for
78 determining whether a false report of child abuse, abandonment,
79 or neglect has been made and for submitting all identifying
80 information relating to such a report to the appropriate law
81 enforcement agency ~~and shall report annually to the Legislature~~
82 ~~the number of reports referred.~~

83 Section 3. Subsection (6) of section 39.407, Florida
84 Statutes, is amended to read:

85 39.407 Medical, psychiatric, and psychological examination
86 and treatment of child; physical, mental, or substance abuse
87 examination of person with or requesting child custody.—

88 (6) Children who are in the legal custody of the
89 department may be placed by the department, without prior
90 approval of the court, in a residential treatment center
91 licensed under s. 394.875 or a hospital licensed under chapter
92 395 for residential mental health treatment only as provided in
93 ~~pursuant to~~ this section or may be placed by the court in
94 accordance with an order of involuntary examination or
95 involuntary placement entered under ~~pursuant to~~ s. 394.463 or s.
96 394.467. All children placed in a residential treatment program
97 under this subsection must have a guardian ad litem appointed.

98 (a) As used in this subsection, the term:

99 1. "Residential treatment" means placement for
100 observation, diagnosis, or treatment of an emotional disturbance

101 in a residential treatment center licensed under s. 394.875 or a
102 hospital licensed under chapter 395.

103 2. "Least restrictive alternative" means the treatment and
104 conditions of treatment that, separately and in combination, are
105 no more intrusive or restrictive of freedom than reasonably
106 necessary to achieve a substantial therapeutic benefit or to
107 protect the child or adolescent or others from physical injury.

108 3. "Suitable for residential treatment" or "suitability"
109 means a determination concerning a child or adolescent with an
110 emotional disturbance as defined in s. 394.492(5) or a serious
111 emotional disturbance as defined in s. 394.492(6) that each of
112 the following criteria is met:

113 a. The child requires residential treatment.

114 b. The child is in need of a residential treatment program
115 and is expected to benefit from mental health treatment.

116 c. An appropriate, less restrictive alternative to
117 residential treatment is unavailable.

118 (b) Whenever the department believes that a child in its
119 legal custody is emotionally disturbed and may need residential
120 treatment, an examination and suitability assessment must be
121 conducted by a qualified evaluator who is appointed by the
122 department ~~Agency for Health Care Administration~~. This
123 suitability assessment must be completed before the placement of
124 the child in a residential treatment center for emotionally
125 disturbed children and adolescents or a hospital. The qualified

126 evaluator must be a psychiatrist or a psychologist licensed in
127 Florida who has at least 3 years of experience in the diagnosis
128 and treatment of serious emotional disturbances in children and
129 adolescents and who has no actual or perceived conflict of
130 interest with any inpatient facility or residential treatment
131 center or program.

132 (c) Before a child is admitted under this subsection, the
133 child shall be assessed for suitability for residential
134 treatment by a qualified evaluator who has conducted a personal
135 examination and assessment of the child and has made written
136 findings that:

137 1. The child appears to have an emotional disturbance
138 serious enough to require residential treatment and is
139 reasonably likely to benefit from the treatment.

140 2. The child has been provided with a clinically
141 appropriate explanation of the nature and purpose of the
142 treatment.

143 3. All available modalities of treatment less restrictive
144 than residential treatment have been considered, and a less
145 restrictive alternative that would offer comparable benefits to
146 the child is unavailable.

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148 A copy of the written findings of the evaluation and suitability
149 assessment must be provided to the department, to the guardian
150 ad litem, and, if the child is a member of a Medicaid managed

151 care plan, to the plan that is financially responsible for the
152 child's care in residential treatment, all of whom must be
153 provided with the opportunity to discuss the findings with the
154 evaluator.

155 (d) Immediately upon placing a child in a residential
156 treatment program under this section, the department must notify
157 the guardian ad litem and the court having jurisdiction over the
158 child and must provide the guardian ad litem and the court with
159 a copy of the assessment by the qualified evaluator.

160 (e) Within 10 days after the admission of a child to a
161 residential treatment program, the director of the residential
162 treatment program or the director's designee must ensure that an
163 individualized plan of treatment has been prepared by the
164 program and has been explained to the child, to the department,
165 and to the guardian ad litem, and submitted to the department.
166 The child must be involved in the preparation of the plan to the
167 maximum feasible extent consistent with his or her ability to
168 understand and participate, and the guardian ad litem and the
169 child's foster parents must be involved to the maximum extent
170 consistent with the child's treatment needs. The plan must
171 include a preliminary plan for residential treatment and
172 aftercare upon completion of residential treatment. The plan
173 must include specific behavioral and emotional goals against
174 which the success of the residential treatment may be measured.
175 A copy of the plan must be provided to the child, to the

176 guardian ad litem, and to the department.

177 (f) Within 30 days after admission, the residential
178 treatment program must review the appropriateness and
179 suitability of the child's placement in the program. The
180 residential treatment program must determine whether the child
181 is receiving benefit toward the treatment goals and whether the
182 child could be treated in a less restrictive treatment program.
183 The residential treatment program shall prepare a written report
184 of its findings and submit the report to the guardian ad litem
185 and to the department. The department must submit the report to
186 the court. The report must include a discharge plan for the
187 child. The residential treatment program must continue to
188 evaluate the child's treatment progress every 30 days thereafter
189 and must include its findings in a written report submitted to
190 the department. The department may not reimburse a facility
191 until the facility has submitted every written report that is
192 due.

193 (g)1. The department must submit, at the beginning of each
194 month, to the court having jurisdiction over the child, a
195 written report regarding the child's progress toward achieving
196 the goals specified in the individualized plan of treatment.

197 2. The court must conduct a hearing to review the status
198 of the child's residential treatment plan no later than 60 days
199 after the child's admission to the residential treatment
200 program. An independent review of the child's progress toward

201 achieving the goals and objectives of the treatment plan must be
 202 completed by a qualified evaluator and submitted to the court
 203 before its 60-day review.

204 3. For any child in residential treatment at the time a
 205 judicial review is held under ~~pursuant to~~ s. 39.701, the child's
 206 continued placement in residential treatment must be a subject
 207 of the judicial review.

208 4. If at any time the court determines that the child is
 209 not suitable for continued residential treatment, the court
 210 shall order the department to place the child in the least
 211 restrictive setting that is best suited to meet his or her
 212 needs.

213 (h) After the initial 60-day review, the court must
 214 conduct a review of the child's residential treatment plan every
 215 90 days.

216 (i) The department must adopt rules for:

217 1. Implementing timeframes for the completion of
 218 suitability assessments by qualified evaluators. ~~and~~

219 2. A procedure that includes timeframes for completing the
 220 60-day independent review by the qualified evaluators of the
 221 child's progress toward achieving the goals and objectives of
 222 the treatment plan which review must be submitted to the court.

223 3. ~~The Agency for Health Care Administration must adopt~~
 224 ~~rules for~~ The registration of qualified evaluators, the
 225 procedure for selecting the evaluators to conduct the reviews

226 required under this section, and a reasonable, cost-efficient
227 fee schedule for qualified evaluators.

228 Section 4. Section 39.503, Florida Statutes, is amended to
229 read:

230 39.503 Identity or location of parent unknown; special
231 procedures.—

232 (1) If the identity or location of a parent is unknown and
233 a petition for dependency ~~or shelter~~ is filed, the court shall
234 conduct under oath an ~~the following~~ inquiry of the parent or
235 legal custodian who is available, or, if no parent or legal
236 custodian is available, of any relative or custodian of the
237 child who is present at the hearing and likely to have any of
238 the following information:

239 (a) Whether the mother of the child was married at the
240 probable time of conception of the child or at the time of birth
241 of the child.

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

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

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

250 (e) Whether any man has acknowledged or claimed paternity

251 of the child in a jurisdiction in which the mother resided at
252 the time of or since conception of the child, or in which the
253 child has resided or resides.

254 (f) Whether a man is named on the birth certificate of the
255 child under ~~pursuant to~~ s. 382.013(2).

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

258 (h) Whether a man has been determined to be the father of
259 the child by the Department of Revenue as provided in s.
260 409.256.

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

264 (3) If the inquiry under subsection (1) identifies any
265 person as a parent or prospective parent and that person's
266 location is known, the court shall require notice of the hearing
267 to be provided to that person. However, notice is not required
268 to be provided to a prospective parent if there is an identified
269 legal father, as defined in s. 39.01, of the child.

270 (4) If the inquiry under subsection (1) identifies a
271 person as a legal father, as defined in s. 39.01, the court
272 shall enter an order establishing the paternity of the father.
273 Once an order establishing paternity has been entered, the court
274 may not take any action to disestablish this paternity in the
275 absence of an action filed under chapter 742. An action filed

276 under chapter 742 concerning a child who is the subject in a
277 dependency proceeding must comply with s. 742.0211.

278 (5)-(4) If the inquiry under subsection (1) fails to
279 identify any person as a parent or prospective parent, the court
280 shall so find and may proceed without further notice and the
281 petitioner is relieved of performing any further search.

282 (6)-(5) If the inquiry under subsection (1) identifies a
283 parent or prospective parent, and that person's location is
284 unknown, the court shall direct the petitioner to conduct a
285 diligent search for that person before scheduling a disposition
286 hearing regarding the dependency of the child unless the court
287 finds that the best interest of the child requires proceeding
288 without notice to the person whose location is unknown. However,
289 a diligent search is not required to be conducted for a
290 prospective parent if there is an identified legal father, as
291 defined in s. 39.01, of the child.

292 (7)-(6) The diligent search required by subsection (6)-(5)
293 must include, at a minimum, inquiries of all relatives of the
294 parent or prospective parent made known to the petitioner,
295 inquiries of all offices of program areas of the department
296 likely to have information about the parent or prospective
297 parent, inquiries of other state and federal agencies likely to
298 have information about the parent or prospective parent,
299 inquiries of appropriate utility and postal providers, a
300 thorough search of at least one electronic database specifically

301 designed for locating persons, a search of the Florida Putative
302 Father Registry, and inquiries of appropriate law enforcement
303 agencies. Pursuant to s. 453 of the Social Security Act, 42
304 U.S.C. s. 653(c)(4), the department, as the state agency
305 administering Titles IV-B and IV-E of the act, shall be provided
306 access to the federal and state parent locator service for
307 diligent search activities.

308 (8)~~(7)~~ Any agency contacted by a petitioner with a request
309 for information under ~~pursuant to~~ subsection (7)~~(6)~~ must ~~shall~~
310 release the requested information to the petitioner without the
311 necessity of a subpoena or court order.

312 (9) If the inquiry and diligent search identifies and
313 locates a parent, that person is considered a parent for all
314 purposes under this chapter and must be provided notice of all
315 hearings.

316 (10)~~(8)~~ If the inquiry and diligent search identifies and
317 locates a prospective parent and there is no legal father, that
318 person must be given the opportunity to become a party to the
319 proceedings by completing a sworn affidavit of parenthood and
320 filing it with the court or the department. A prospective parent
321 who files a sworn affidavit of parenthood while the child is a
322 dependent child but no later than at the time of or before the
323 adjudicatory hearing in any termination of parental rights
324 proceeding for the child shall be considered a parent for all
325 purposes under this chapter ~~section~~ unless the other parent

326 | contests the determination of parenthood. A person does not have
 327 | standing to file a sworn affidavit of parenthood or otherwise
 328 | establish parenthood, except through adoption, after entry of a
 329 | judgment terminating the parental rights of the legal father for
 330 | a child. If the known parent contests the recognition of the
 331 | prospective parent as a parent, the court having jurisdiction
 332 | over the dependency matter shall conduct a determination of
 333 | parentage under chapter 742. The prospective parent may not be
 334 | recognized as a parent until proceedings to determine maternity
 335 | or paternity ~~under chapter 742~~ have been concluded. However, the
 336 | prospective parent shall continue to receive notice of hearings
 337 | as a participant pending results of the ~~chapter 742~~ proceedings
 338 | to determine maternity or paternity.

339 | ~~(11)(9)~~ If the diligent search under subsection ~~(6)(5)~~
 340 | fails to ~~identify and~~ locate a parent or prospective parent who
 341 | was identified during the inquiry under subsection (1), the
 342 | court shall so find and may proceed without further notice and
 343 | the petitioner is relieved from performing any further search.

344 | Section 5. Section 39.5035, Florida Statutes, is created
 345 | to read:

346 | 39.5035 Deceased parents; special procedures.-

347 | (1) (a) 1. If both parents of a child are deceased and a
 348 | legal custodian has not been appointed for the child through a
 349 | probate or guardianship proceeding, then the attorney for any
 350 | person who has knowledge of the facts alleged or is informed of

351 the alleged facts, and believes them to be true, may initiate a
352 proceeding by filing a petition for adjudication and permanent
353 commitment.

354 2. If a child has been placed in shelter status by order
355 of the court but has not yet been adjudicated, a petition for
356 adjudication and permanent commitment must be filed within 21
357 days after the shelter hearing. In all other cases, the petition
358 must be filed within a reasonable time after the date the child
359 was referred to protective investigation or after the petitioner
360 first becomes aware of the facts that support the petition for
361 adjudication and permanent commitment.

362 (b) If both parents die or the last living parent dies
363 after a child has already been adjudicated dependent, any person
364 who has knowledge of the facts alleged or is informed of the
365 alleged facts, and believes them to be true, may file a petition
366 for permanent commitment.

367 (2) The petition:

368 (a) Must be in writing, identify the alleged deceased
369 parents, and provide facts that establish that both parents of
370 the child are deceased and that a legal custodian has not been
371 appointed for the child through a probate or guardianship
372 proceeding.

373 (b) Must be signed by the petitioner under oath stating
374 the petitioner's good faith in filing the petition.

375 (3) When a petition for adjudication and permanent

376 commitment or a petition for permanent commitment has been
377 filed, the clerk of court shall set the case before the court
378 for an adjudicatory hearing. The adjudicatory hearing must be
379 held as soon as practicable after the petition is filed, but no
380 later than 30 days after the filing date.

381 (4) Notice of the date, time, and place of the
382 adjudicatory hearing and a copy of the petition must be served
383 on the following persons:

384 (a) Any person who has physical custody of the child.

385 (b) A living relative of each parent of the child, unless
386 a living relative cannot be found after a diligent search and
387 inquiry.

388 (c) The guardian ad litem for the child or the
389 representative of the guardian ad litem program, if the program
390 has been appointed.

391 (5) The court shall conduct adjudicatory hearings without
392 a jury and apply the rules of evidence in use in civil cases.
393 The court must determine whether the petitioner has established
394 by clear and convincing evidence that both parents of the child
395 are deceased and that a legal custodian has not been appointed
396 for the child through a probate or guardianship proceeding. A
397 certified copy of the death certificate for each parent is
398 sufficient evidence of the parents' deaths.

399 (6) Within 30 days after an adjudicatory hearing on a
400 petition for adjudication and permanent commitment:

401 (a) If the court finds that the petitioner has met the
402 clear and convincing standard, the court shall enter a written
403 order adjudicating the child dependent and permanently
404 committing the child to the custody of the department for the
405 purpose of adoption. A disposition hearing shall be scheduled no
406 later than 30 days after the entry of the order, in which the
407 department shall provide a case plan that identifies the
408 permanency goal for the child to the court. Reasonable efforts
409 must be made to place the child in a timely manner in accordance
410 with the permanency plan and to complete all steps necessary to
411 finalize the permanent placement of the child. Thereafter, until
412 the adoption of the child is finalized or the child reaches the
413 age of 18 years, whichever occurs first, the court shall hold
414 hearings every 6 months to review the progress being made toward
415 permanency for the child as provided in s. 39.701.

416 (b) If the court finds that clear and convincing evidence
417 does not establish that both parents of a child are deceased and
418 that a legal custodian has not been appointed for the child
419 through a probate or guardianship proceeding, but that a
420 preponderance of the evidence establishes that the child does
421 not have a parent or legal custodian capable of providing
422 supervision or care, the court shall enter a written order
423 adjudicating the child dependent. A disposition hearing shall be
424 scheduled no later than 30 days after the entry of the order as
425 provided in s. 39.521.

426 (c) If the court finds that clear and convincing evidence
427 does not establish that both parents of a child are deceased and
428 that a legal custodian has not been appointed for the child
429 through a probate or guardianship proceeding and that a
430 preponderance of the evidence does not establish that the child
431 does not have a parent or legal custodian capable of providing
432 supervision or care, the court shall enter a written order so
433 finding and dismiss the petition.

434 (7) Within 30 days after an adjudicatory hearing on a
435 petition for permanent commitment:

436 (a) If the court finds that the petitioner has met the
437 clear and convincing standard, the court shall enter a written
438 order permanently committing the child to the custody of the
439 department for purposes of adoption. A disposition hearing shall
440 be scheduled no later than 30 days after the entry of the order,
441 in which the department shall provide an amended case plan that
442 identifies the permanency goal for the child to the court.
443 Reasonable efforts must be made to place the child in a timely
444 manner in accordance with the permanency plan and to complete
445 all steps necessary to finalize the permanent placement of the
446 child. Thereafter, until the adoption of the child is finalized
447 or the child reaches the age of 18 years, whichever occurs
448 first, the court shall hold hearings every 6 months to review
449 the progress being made toward permanency for the child.

450 (b) If the court finds that clear and convincing evidence

451 does not establish that both parents of a child are deceased and
452 that a legal custodian has not been appointed for the child
453 through a probate or guardianship proceeding, the court shall
454 enter a written order denying the petition. The order has no
455 effect on the child's prior adjudication. The order does not bar
456 the petitioner from filing a subsequent petition for permanent
457 commitment based on newly-discovered evidence that establishes
458 that both parents of a child are deceased and that a legal
459 custodian has not been appointed for the child through a probate
460 or guardianship proceeding.

461 Section 6. Subsection (8) of section 39.6011, Florida
462 Statutes, is amended to read:

463 39.6011 Case plan development.—

464 (8) The case plan must be filed with the court and copies
465 provided to all parties, including the child if appropriate;7
466 ~~not less than 3 business days before the disposition hearing.~~

467 (a) Not less than 72 hours before the disposition hearing,
468 if the disposition hearing occurs on or after the 60th day after
469 the date the child was placed in out-of-home care; or

470 (b) Not less than 72 hours before the case plan acceptance
471 hearing, if the disposition hearing occurs before the 60th day
472 after the date the child was placed in out-of-home care and a
473 case plan has not been submitted under this subsection, or if
474 the court does not approve the case plan at the disposition
475 hearing.

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476 Section 7. Paragraph (a) of subsection (1) of section
477 39.6221, Florida Statutes, is amended to read:

478 39.6221 Permanent guardianship of a dependent child.—

479 (1) If a court determines that reunification or adoption
480 is not in the best interest of the child, the court may place
481 the child in a permanent guardianship with a relative or other
482 adult approved by the court if all of the following conditions
483 are met:

484 (a) The child has been in the placement for not less than
485 the preceding 6 months, or the preceding 3 months if the
486 caregiver has been named as the successor guardian on the
487 child's Guardianship Assistance Agreement.

488 Section 8. Paragraph (a) of subsection (3) of section
489 39.801, Florida Statutes, is amended to read:

490 39.801 Procedures and jurisdiction; notice; service of
491 process.—

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

495 (a) Notice of the date, time, and place of the advisory
496 hearing for the petition to terminate parental rights and a copy
497 of the petition must be personally served upon the following
498 persons, specifically notifying them that a petition has been
499 filed:

500 1. The parents of the child.

- 501 2. The legal custodians of the child.
- 502 3. If the parents who would be entitled to notice are dead
503 or unknown, a living relative of the child, unless upon diligent
504 search and inquiry no such relative can be found.
- 505 4. Any person who has physical custody of the child.
- 506 5. Any grandparent entitled to priority for adoption under
507 s. 63.0425.
- 508 6. Any prospective parent who has been identified and
509 located under s. 39.503 or s. 39.803, unless a court order has
510 been entered under s. 39.503(5) or (11) or s. 39.803(5) or (11)
511 ~~pursuant to s. 39.503(4) or (9) or s. 39.803(4) or (9)~~ which
512 indicates no further notice is required. Except as otherwise
513 provided in this section, if there is not a legal father, notice
514 of the petition for termination of parental rights must be
515 provided to any known prospective father who is identified under
516 oath before the court or who is identified and located by a
517 diligent search of the Florida Putative Father Registry. Service
518 of the notice of the petition for termination of parental rights
519 is not required if the prospective father executes an affidavit
520 of nonpaternity or a consent to termination of his parental
521 rights which is accepted by the court after notice and
522 opportunity to be heard by all parties to address the best
523 interests of the child in accepting such affidavit.
- 524 7. The guardian ad litem for the child or the
525 representative of the guardian ad litem program, if the program

526 | has been appointed.

527 |

528 | The document containing the notice to respond or appear must
 529 | contain, in type at least as large as the type in the balance of
 530 | the document, the following or substantially similar language:

531 | "FAILURE TO PERSONALLY APPEAR AT THIS ADVISORY HEARING
 532 | CONSTITUTES CONSENT TO THE TERMINATION OF PARENTAL RIGHTS OF
 533 | THIS CHILD (OR CHILDREN). IF YOU FAIL TO APPEAR ON THE DATE AND
 534 | TIME SPECIFIED, YOU MAY LOSE ALL LEGAL RIGHTS AS A PARENT TO THE
 535 | CHILD OR CHILDREN NAMED IN THE PETITION ATTACHED TO THIS
 536 | NOTICE."

537 | Section 9. Section 39.803, Florida Statutes, is amended to
 538 | read:

539 | 39.803 Identity or location of parent unknown after filing
 540 | of termination of parental rights petition; special procedures.-

541 | (1) If the identity or location of a parent is unknown,
 542 | ~~and~~ a petition for termination of parental rights is filed, and
 543 | the court has not previously conducted an inquiry or entered an
 544 | order relieving the petitioner of further search or notice under
 545 | s. 39.503, the court shall conduct under oath the following
 546 | inquiry of the parent who is available, or, if no parent is
 547 | available, of any relative, caregiver, or legal custodian of the
 548 | child who is present at the hearing and likely to have the
 549 | information:

550 | (a) Whether the mother of the child was married at the

551 | probable time of conception of the child or at the time of birth
552 | of the child.

553 | (b) Whether the mother was cohabiting with a male at the
554 | probable time of conception of the child.

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

558 | (d) Whether the mother has named any man as the father on
559 | the birth certificate of the child or in connection with
560 | applying for or receiving public assistance.

561 | (e) Whether any man has acknowledged or claimed paternity
562 | of the child in a jurisdiction in which the mother resided at
563 | the time of or since conception of the child, or in which the
564 | child has resided or resides.

565 | (f) Whether a man is named on the birth certificate of the
566 | child under ~~pursuant to~~ s. 382.013(2).

567 | (g) Whether a man has been determined by a court order to
568 | be the father of the child.

569 | (h) Whether a man has been determined to be the father of
570 | the child by the Department of Revenue as provided in s.
571 | 409.256.

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

575 | (3) If the inquiry under subsection (1) identifies any

576 | person as a parent or prospective parent and that person's
577 | location is known, the court shall require notice of the hearing
578 | to be provided to that person. However, notice is not required
579 | to be provided to a prospective parent if there is an identified
580 | legal father, as defined in s. 39.01, of the child.

581 | (4) If the inquiry under subsection (1) identifies a
582 | person as a legal father, as defined in s. 39.01, the court
583 | shall enter an order establishing the paternity of the father.
584 | Once an order establishing paternity has been entered, the court
585 | may not take any action to disestablish this paternity in the
586 | absence of an action filed under chapter 742. An action filed
587 | under chapter 742 concerning a child who is the subject in a
588 | dependency proceeding must comply with s. 742.0211.

589 | ~~(5)~~~~(4)~~ If the inquiry under subsection (1) fails to
590 | identify any person as a parent or prospective parent, the court
591 | shall so find and may proceed without further notice and the
592 | petitioner is relieved of performing any further search.

593 | ~~(6)~~~~(5)~~ If the inquiry under subsection (1) identifies a
594 | parent or prospective parent, and that person's location is
595 | unknown, the court shall direct the petitioner to conduct a
596 | diligent search for that person before scheduling an
597 | adjudicatory hearing regarding the petition for termination of
598 | parental rights to the child unless the court finds that the
599 | best interest of the child requires proceeding without actual
600 | notice to the person whose location is unknown. However, a

601 diligent search is not required to be conducted for a
602 prospective parent if there is an identified legal father, as
603 defined in s. 39.01, of the child.

604 ~~(7)(6)~~ The diligent search required by subsection ~~(6)(5)~~
605 must include, at a minimum, inquiries of all known relatives of
606 the parent or prospective parent, inquiries of all offices of
607 program areas of the department likely to have information about
608 the parent or prospective parent, inquiries of other state and
609 federal agencies likely to have information about the parent or
610 prospective parent, inquiries of appropriate utility and postal
611 providers, a thorough search of at least one electronic database
612 specifically designed for locating persons, a search of the
613 Florida Putative Father Registry, and inquiries of appropriate
614 law enforcement agencies. Pursuant to s. 453 of the Social
615 Security Act, 42 U.S.C. s. 653(c)(4), the department, as the
616 state agency administering Titles IV-B and IV-E of the act,
617 shall be provided access to the federal and state parent locator
618 service for diligent search activities.

619 ~~(8)(7)~~ Any agency contacted by petitioner with a request
620 for information under ~~pursuant to~~ subsection ~~(7)(6)~~ shall
621 release the requested information to the petitioner without the
622 necessity of a subpoena or court order.

623 (9) If the inquiry and diligent search identifies and
624 locates a parent, that person is considered a parent for all
625 purposes under this chapter and must be provided notice of all

626 hearings.

627 (10)-(8) If the inquiry and diligent search identifies and
628 locates a prospective parent and there is no legal father, that
629 person must be given the opportunity to become a party to the
630 proceedings by completing a sworn affidavit of parenthood and
631 filing it with the court or the department. A prospective parent
632 who files a sworn affidavit of parenthood while the child is a
633 dependent child but no later than at the time of or before the
634 adjudicatory hearing in the termination of parental rights
635 proceeding for the child shall be considered a parent for all
636 purposes under this chapter section. A person does not have
637 standing to file a sworn affidavit of parenthood or otherwise
638 establish parenthood, except through adoption, after the entry
639 of a judgment terminating the parental rights of the legal
640 father for a child. If the known parent contests the recognition
641 of the prospective parent as a parent, the court having
642 jurisdiction over the dependency matter shall conduct a
643 determination of parentage proceeding under chapter 742. The
644 prospective parent may not be recognized as a parent until
645 proceedings to determine maternity or paternity have been
646 concluded. However, the prospective parent shall continue to
647 receive notice of hearings as a participant pending results of
648 the proceedings to determine maternity or paternity.

649 (11)-(9) If the diligent search under subsection (6)-(5)
650 fails to identify and locate a parent or prospective parent who

651 was identified during the inquiry under subsection (1), the
652 court shall so find and may proceed without further notice and
653 the petitioner is relieved from performing any further search.

654 Section 10. Paragraph (e) of subsection (1) and subsection
655 (2) of section 39.806, Florida Statutes, are amended to read:

656 39.806 Grounds for termination of parental rights.—

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

659 (e) When a child has been adjudicated dependent, a case
660 plan has been filed with the court, and:

661 1. The child continues to be abused, neglected, or
662 abandoned by the parent or parents. The failure of the parent or
663 parents to substantially comply with the case plan for a period
664 of 12 months after an adjudication of the child as a dependent
665 child or the child's placement into shelter care, whichever
666 occurs first, constitutes evidence of continuing abuse, neglect,
667 or abandonment unless the failure to substantially comply with
668 the case plan was due to the parent's lack of financial
669 resources or to the failure of the department to make reasonable
670 efforts to reunify the parent and child. The 12-month period
671 begins to run only after the child's placement into shelter care
672 or the entry of a disposition order placing the custody of the
673 child with the department or a person other than the parent and
674 the court's approval of a case plan having the goal of
675 reunification with the parent, whichever occurs first; ~~or~~

676 2. The parent or parents have materially breached the case
677 plan by their action or inaction. Time is of the essence for
678 permanency of children in the dependency system. In order to
679 prove the parent or parents have materially breached the case
680 plan, the court must find by clear and convincing evidence that
681 the parent or parents are unlikely or unable to substantially
682 comply with the case plan before time to comply with the case
683 plan expires; or.

684 3. The child has been in care for any 12 of the last 22
685 months and the parents have not substantially complied with the
686 case plan so as to permit reunification under s. 39.522(3) ~~s.~~
687 ~~39.522(2)~~ unless the failure to substantially comply with the
688 case plan was due to the parent's lack of financial resources or
689 to the failure of the department to make reasonable efforts to
690 reunify the parent and child.

691 (2) Reasonable efforts to preserve and reunify families
692 are not required if a court of competent jurisdiction has
693 determined that any of the events described in paragraphs
694 (1) (b) - (d) or paragraphs (1) (f) - (n) ~~(1) (f) - (m)~~ have occurred.

695 Section 11. Subsection (9) of section 39.811, Florida
696 Statutes, is amended to read:

697 39.811 Powers of disposition; order of disposition.—

698 (9) After termination of parental rights or a written
699 order of permanent commitment entered under s. 39.5035, the
700 court shall retain jurisdiction over any child for whom custody

701 is given to a social service agency until the child is adopted.
702 The court shall review the status of the child's placement and
703 the progress being made toward permanent adoptive placement. As
704 part of this continuing jurisdiction, for good cause shown by
705 the guardian ad litem for the child, the court may review the
706 appropriateness of the adoptive placement of the child. The
707 department's decision to deny an application to adopt a child
708 who is under the court's jurisdiction is reviewable only through
709 a motion to file a chapter 63 petition as provided in s.
710 39.812(4), and is not subject to chapter 120.

711 Section 12. Subsections (1), (4), and (5) of section
712 39.812, Florida Statutes, are amended to read:

713 39.812 Postdisposition relief; petition for adoption.—

714 (1) If the department is given custody of a child for
715 subsequent adoption in accordance with this chapter, the
716 department may place the child with an agency as defined in s.
717 63.032, with a child-caring agency registered under s. 409.176,
718 or in a family home for prospective subsequent adoption without
719 the need for a court order unless otherwise required under this
720 section. The department may allow prospective adoptive parents
721 to visit with a child in the department's custody without a
722 court order to determine whether the adoptive placement would be
723 appropriate. The department may thereafter become a party to any
724 proceeding for the legal adoption of the child and appear in any
725 court where the adoption proceeding is pending and consent to

726 the adoption, and that consent alone shall in all cases be
727 sufficient.

728 (4) The court shall retain jurisdiction over any child
729 placed in the custody of the department until the child is
730 adopted. After custody of a child for subsequent adoption has
731 been given to the department, the court has jurisdiction for the
732 purpose of reviewing the status of the child and the progress
733 being made toward permanent adoptive placement. As part of this
734 continuing jurisdiction, for good cause shown by the guardian ad
735 litem for the child, the court may review the appropriateness of
736 the adoptive placement of the child.

737 (a) If the department has denied a person's application to
738 adopt a child, the denied applicant may file a motion with the
739 court within 30 days after the issuance of the written
740 notification of denial. This motion allows the denied applicant
741 to file a chapter 63 petition to adopt a child without the
742 department's consent. The denied applicant must allege in its
743 motion that the department unreasonably withheld its consent to
744 the adoption. The court, as part of its continuing jurisdiction,
745 may review and rule on the motion.

746 1. The denied applicant only has standing in the chapter
747 39 proceeding to file the motion in paragraph (a) and to present
748 evidence in support of the motion at a hearing, which must be
749 held within 30 days after the filing of the motion.

750 2. At the hearing on the motion, the court may only

751 consider whether the department's review of the application was
752 consistent with its policies and made in an expeditious manner.
753 The standard of review by the court is whether the department's
754 denial of the application is an abuse of discretion. The court
755 may not compare the denied applicant against another applicant
756 to determine which placement is in the best interests of the
757 child.

758 3. If the denied applicant establishes by a preponderance
759 of the evidence that the department unreasonably withheld its
760 consent, the court shall enter an order authorizing the denied
761 applicant to file a petition to adopt the child under chapter 63
762 without the department's consent.

763 4. If the denied applicant does not prove by a
764 preponderance of the evidence that the department unreasonably
765 withheld its consent, the court shall enter an order so finding
766 and dismiss the motion.

767 5. The standing of the denied applicant in a proceeding
768 under this chapter is terminated upon entry of the court's
769 order.

770 (b) When a licensed foster parent or court-ordered
771 custodian has applied to adopt a child who has resided with the
772 foster parent or custodian for at least 6 months and who has
773 previously been permanently committed to the legal custody of
774 the department and the department does not grant the application
775 to adopt, the department may not, in the absence of a prior

776 court order authorizing it to do so, remove the child from the
777 foster home or custodian, except when:

778 1.~~(a)~~ There is probable cause to believe that the child is
779 at imminent risk of abuse or neglect;

780 2.~~(b)~~ Thirty days have expired following written notice to
781 the foster parent or custodian of the denial of the application
782 to adopt, within which period no formal challenge of the
783 department's decision has been filed; ~~or~~

784 3.~~(c)~~ The foster parent or custodian agrees to the child's
785 removal; or.

786 4. The department has selected another prospective
787 adoptive parent to adopt the child and either the foster parent
788 or custodian has not filed a motion with the court to allow him
789 or her to file a chapter 63 petition to adopt a child without
790 the department's consent, as provided under paragraph (a), or
791 the court has denied such a motion.

792 (5) The petition for adoption must be filed in the
793 division of the circuit court which entered the judgment
794 terminating parental rights, unless a motion for change of venue
795 is granted under ~~pursuant to~~ s. 47.122. A copy of the consent
796 executed by the department must be attached to the petition,
797 unless such consent is waived under subsection (4) ~~pursuant to~~
798 ~~s. 63.062(7)~~. The petition must be accompanied by a statement,
799 signed by the prospective adoptive parents, acknowledging
800 receipt of all information required to be disclosed under s.

801 63.085 and a form provided by the department which details the
802 social and medical history of the child and each parent and
803 includes the social security number and date of birth for each
804 parent, if such information is available or readily obtainable.
805 The prospective adoptive parents may not file a petition for
806 adoption until the judgment terminating parental rights becomes
807 final. An adoption proceeding under this subsection is governed
808 by chapter 63.

809 Section 13. Subsection (1) of section 39.820, Florida
810 Statutes, is amended to read:

811 39.820 Definitions.—As used in this chapter part, the
812 term:

813 (1) "Guardian ad litem" as referred to in any civil or
814 criminal proceeding includes the following: the Statewide
815 Guardian ad Litem Office, which includes circuit a certified
816 guardian ad litem programs; program, a duly certified volunteer,
817 a staff member, a staff attorney, a contract attorney, or a
818 ~~certified~~ pro bono attorney working on behalf of a guardian ad
819 litem ~~or the program; staff members of a program office;~~ a
820 court-appointed attorney; or a responsible adult who is
821 appointed by the court to represent the best interests of a
822 child in a proceeding as provided for by law, including, but not
823 limited to, this chapter, who is a party to any judicial
824 proceeding as a representative of the child, and who serves
825 until discharged by the court.

826 Section 14. Subsection (7) of section 63.062, Florida
 827 Statutes, is amended to read:

828 63.062 Persons required to consent to adoption; affidavit
 829 of nonpaternity; waiver of venue.—

830 (7) If parental rights to the minor have previously been
 831 terminated, the adoption entity with which the minor has been
 832 placed for subsequent adoption may provide consent to the
 833 adoption. In such case, no other consent is required. If the
 834 minor has been permanently committed to the department for
 835 subsequent adoption, the department must consent to the adoption
 836 or, in the alternative, the court order entered under s.
 837 39.812(4) finding that the department ~~The consent of the~~
 838 ~~department shall be waived upon a determination by the court~~
 839 ~~that such consent is being~~ unreasonably withheld its consent
 840 must be attached to the petition to adopt and ~~if~~ the petitioner
 841 must file ~~has filed with the court~~ a favorable preliminary
 842 adoptive home study as required under s. 63.092.

843 Section 15. Paragraph (b) of subsection (6) of section
 844 63.082, Florida Statutes, is amended to read:

845 63.082 Execution of consent to adoption or affidavit of
 846 nonpaternity; family social and medical history; revocation of
 847 consent.—

848 (6)

849 (b) Upon execution of the consent of the parent, the
 850 adoption entity is ~~shall be~~ permitted to intervene in the

851 dependency case as a party in interest and must provide the
852 court that acquired jurisdiction over the minor, pursuant to the
853 shelter order or dependency petition filed by the department, a
854 copy of the preliminary home study of the prospective adoptive
855 parents and any other evidence of the suitability of the
856 placement. The preliminary home study must be maintained with
857 strictest confidentiality within the dependency court file and
858 the department's file. A preliminary home study must be provided
859 to the court in all cases in which an adoption entity has
860 intervened under ~~pursuant to~~ this section. The exemption in s.
861 63.092(3) from the home study for a stepparent or relative does
862 not apply if a minor is under the supervision of the department
863 or is otherwise subject to the jurisdiction of the dependency
864 court as a result of the filing of a shelter petition,
865 dependency petition, or termination of parental rights petition
866 under chapter 39. Unless the court has concerns regarding the
867 qualifications of the home study provider, or concerns that the
868 home study may not be adequate to determine the best interests
869 of the child, the home study provided by the adoption entity is
870 ~~shall be deemed to be~~ sufficient and no additional home study
871 needs to be performed by the department.

872 Section 16. Subsection (6) and paragraphs (b) and (e) of
873 subsection (7) of section 409.1451, Florida Statutes, are
874 amended to read:

875 409.1451 The Road-to-Independence Program.—

876 (6) ACCOUNTABILITY.—The department shall develop outcome
877 measures for the program and other performance measures ~~in order~~
878 to maintain oversight of the program. ~~No later than January 31~~
879 ~~of each year, the department shall prepare a report on the~~
880 ~~outcome measures and the department's oversight activities and~~
881 ~~submit the report to the President of the Senate, the Speaker of~~
882 ~~the House of Representatives, and the committees with~~
883 ~~jurisdiction over issues relating to children and families in~~
884 ~~the Senate and the House of Representatives. The report must~~
885 ~~include:~~

886 ~~(a) An analysis of performance on the outcome measures~~
887 ~~developed under this section reported for each community-based~~
888 ~~care lead agency and compared with the performance of the~~
889 ~~department on the same measures.~~

890 ~~(b) A description of the department's oversight of the~~
891 ~~program, including, by lead agency, any programmatic or fiscal~~
892 ~~deficiencies found, corrective actions required, and current~~
893 ~~status of compliance.~~

894 ~~(c) Any rules adopted or proposed under this section since~~
895 ~~the last report. For the purposes of the first report, any rules~~
896 ~~adopted or proposed under this section must be included.~~

897 (7) INDEPENDENT LIVING SERVICES ADVISORY COUNCIL.—The
898 secretary shall establish the Independent Living Services
899 Advisory Council for the purpose of reviewing and making
900 recommendations concerning the implementation and operation of

901 the provisions of s. 39.6251 and the Road-to-Independence
902 Program. The advisory council shall function as specified in
903 this subsection until the Legislature determines that the
904 advisory council can no longer provide a valuable contribution
905 to the department's efforts to achieve the goals of the services
906 designed to enable a young adult to live independently.

907 ~~(b) The advisory council shall report to the secretary on~~
908 ~~the status of the implementation of the Road-to-Independence~~
909 ~~Program, efforts to publicize the availability of the Road-to-~~
910 ~~Independence Program, the success of the services, problems~~
911 ~~identified, recommendations for department or legislative~~
912 ~~action, and the department's implementation of the~~
913 ~~recommendations contained in the Independent Living Services~~
914 ~~Integration Workgroup Report submitted to the appropriate~~
915 ~~substantive committees of the Legislature by December 31, 2013.~~
916 ~~The department shall submit a report by December 31 of each year~~
917 ~~to the Governor, the President of the Senate, and the Speaker of~~
918 ~~the House of Representatives which includes a summary of the~~
919 ~~factors reported on by the council and identifies the~~
920 ~~recommendations of the advisory council and either describes the~~
921 ~~department's actions to implement the recommendations or~~
922 ~~provides the department's rationale for not implementing the~~
923 ~~recommendations.~~

924 ~~(c) The advisory council report required under paragraph~~
925 ~~(b) must include an analysis of the system of independent living~~

926 ~~transition services for young adults who reach 18 years of age~~
927 ~~while in foster care before completing high school or its~~
928 ~~equivalent and recommendations for department or legislative~~
929 ~~action. The council shall assess and report on the most~~
930 ~~effective method of assisting these young adults to complete~~
931 ~~high school or its equivalent by examining the practices of~~
932 ~~other states.~~

933 Section 17. Section 742.0211, Florida Statutes, is created
934 to read:

935 742.0211 Proceedings applicable to dependent children.—

936 (1) As used in this section, the term "dependent child"
937 means a child who is the subject of any proceeding under chapter
938 39.

939 (2) In addition to the other requirements of this chapter,
940 any paternity proceeding filed under this chapter that concerns
941 a dependent child must also comply with the requirements of this
942 section.

943 (3) Notwithstanding s. 742.021(1), a paternity proceeding
944 filed under this chapter that concerns a dependent child may be
945 filed in the circuit court of the county that is exercising
946 jurisdiction over the chapter 39 proceeding, even if the
947 plaintiff or defendant does not reside in that county.

948 (4) The court having jurisdiction over the dependency
949 matter may conduct any paternity proceeding filed under this
950 chapter either as part of the chapter 39 proceeding or as a

951 separate action under this chapter.

952 (5) A person does not have standing to file a complaint
953 under this chapter after the entry of a judgment terminating the
954 parental rights of the legal father, as defined in s. 39.01, for
955 the dependent child in the chapter 39 proceeding.

956 (6) The court must hold a hearing on the complaint
957 concerning a dependent child as required under s. 742.031 within
958 30 days after the complaint is filed.

959 (7) (a) If the dependent child has a legal father, as
960 defined in s. 39.01, and a different man, who has reason to
961 believe that he is the father of the dependent child, has filed
962 a complaint to establish paternity under this chapter and
963 disestablish the paternity of the legal father, the alleged
964 father must prove at the hearing held under s. 742.031 that:

965 1. He has acted with diligence in seeking the
966 establishment of paternity.

967 2. He is the father of the dependent child.

968 3. He has manifested a substantial and continuing concern
969 for the welfare of the dependent child.

970 (b) If the alleged father establishes the facts under
971 paragraph (a), he must then prove by clear and convincing
972 evidence that there is a clear and compelling reason to
973 disestablish the legal father's paternity and instead establish
974 paternity with him by considering the best interest of the
975 dependent child.

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976 (c) There is a rebuttable presumption that it is not in
977 the dependent child's best interest to disestablish the legal
978 father's paternity if:

979 1. The dependent child has been the subject of a chapter
980 39 proceeding for 12 months or more before the alleged father
981 files a complaint under this chapter.

982 2. The alleged father does not pass a preliminary home
983 study as required under s. 63.092 to be a placement for the
984 dependent child.

985 (8) The court must enter a written order on the paternity
986 complaint within 30 days after the conclusion of the hearing.

987 (9) If the court enters an order disestablishing the
988 paternity of the legal father and establishing the paternity of
989 the alleged father, then the newly established father shall be
990 considered a parent, as defined in s. 39.01, for all purposes of
991 the chapter 39 proceeding.

992 Section 18. This act shall take effect October 1, 2020.