

**Title V
JUDICIAL BRANCH**

**Chapter 39
PROCEEDINGS RELATING TO CHILDREN**

39.001 Purposes and intent; personnel standards and screening.--

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

- (a) 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.
- (b) To recognize that most families desire to be competent caregivers and providers for their children and that children achieve their greatest potential when families are able to support and nurture the growth and development of their children. Therefore, the Legislature finds that policies and procedures that provide for prevention and intervention through the department's child protection system should be based on the following principles:
 - 1. The health and safety of the children served shall be of paramount concern.
 - 2. The prevention and intervention should engage families in constructive, supportive, and nonadversarial relationships.
 - 3. The prevention and intervention should intrude as little as possible into the life of the family, be focused on clearly defined objectives, and take the most parsimonious path to remedy a family's problems.
 - 4. The prevention and intervention should be based upon outcome evaluation results that demonstrate success in protecting children and supporting families.
- (c) To provide a child protection system that reflects a partnership between the department, other agencies, and local communities.
- (d) To provide a child protection system that is sensitive to the social and cultural diversity of the state.
- (e) To provide procedures which allow the department to respond to reports of child abuse, abandonment, or neglect in the most efficient and effective manner that ensures the health and safety of children and the integrity of families.
- (f) To preserve and strengthen the child's family ties whenever possible, removing the child from parental custody only when his or her welfare cannot be adequately safeguarded without such removal.
- (g) To ensure that the parent or legal custodian from whose custody the child has been taken assists the department to the fullest extent possible in locating relatives suitable to serve as caregivers for the child.
- (h) To ensure that permanent placement with the biological or adoptive family is achieved as soon as possible for every child in foster care and that no child remains in foster care longer than 1 year.
- (i) To secure for the child, when removal of the child from his or her own family is necessary, custody, care, and discipline as nearly as possible equivalent to that which should have been given by the parents; and to ensure, in all cases in which a child must be removed from parental custody, that the child is placed in an approved relative home, licensed foster home, adoptive home, or independent living program that provides the most stable and potentially permanent living arrangement for the child, as determined by the court. All placements shall be in a safe environment where drugs and alcohol are not abused.
- (j) To ensure that, when reunification or adoption is not possible, the child will be prepared for alternative permanency goals or placements, to include, but not be limited to, long-term foster care, independent living, custody to a relative on a permanent basis with or without legal guardianship, or custody to a foster parent or legal custodian on a permanent basis with or without legal guardianship.
- (k) To make every possible effort, when two or more children who are in the care or under the supervision of the department are siblings, to place the siblings in the same home; and in the event of permanent placement of the siblings, to place them in the same adoptive home or, if the siblings are separated, to keep them in contact with each other.
- (l) To provide judicial and other procedures to assure due process through which children, parents, and guardians and other interested parties are assured fair hearings by a respectful and respected court or other tribunal and the recognition, protection, and enforcement of their constitutional and other legal rights, while ensuring that public safety interests and the authority and dignity of the courts are adequately protected.
- (m) To ensure that children under the jurisdiction of the courts are provided equal treatment with respect to goals, objectives, services, and case plans, without regard to the location of their placement. It is the further intent of the Legislature that, when children are removed from their homes, disruption to their education be minimized to the extent possible.

(n) To create and maintain an integrated prevention framework that enables local communities, state agencies, and organizations to collaborate to implement efficient and properly applied evidence-based child abuse prevention practices.

(2) DEPARTMENT CONTRACTS.--The department may contract with the Federal Government, other state departments and agencies, county and municipal governments and agencies, public and private agencies, and private individuals and corporations in carrying out the purposes of, and the responsibilities established in, this chapter.

(a) When the department contracts with a provider for any program for children, all personnel, including owners, operators, employees, and volunteers, in the facility must be of good moral character. A volunteer who assists on an intermittent basis for less than 40 hours per month need not be screened if the volunteer is under direct and constant supervision by persons who meet the screening requirements.

(b) The department shall require employment screening, and rescreening no less frequently than once every 5 years, pursuant to chapter 435, using the level 2 standards set forth in that chapter for personnel in programs for children or youths.

(c) The department may grant exemptions from disqualification from working with children as provided in s. [435.07](#).

(d) The department shall require all job applicants, current employees, volunteers, and contract personnel who currently perform or are seeking to perform child protective investigations to be drug tested pursuant to the procedures and requirements of s. [112.0455](#), the Drug-Free Workplace Act. The department is authorized to adopt rules, policies, and procedures necessary to implement this paragraph.

(e) The department shall develop and implement a written and performance-based testing and evaluation program to ensure measurable competencies of all employees assigned to manage or supervise cases of child abuse, abandonment, and neglect.

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

(a) Protection from abuse, abandonment, neglect, and exploitation.

(b) A permanent and stable home.

(c) A safe and nurturing environment which will preserve a sense of personal dignity and integrity.

(d) Adequate nutrition, shelter, and clothing.

(e) Effective treatment to address physical, social, and emotional needs, regardless of geographical location.

(f) Equal opportunity and access to quality and effective education, which will meet the individual needs of each child, and to recreation and other community resources to develop individual abilities.

(g) Access to preventive services.

(h) An independent, trained advocate, when intervention is necessary and a skilled guardian or caregiver in a safe environment when alternative placement is necessary.

(4) SUBSTANCE ABUSE SERVICES.--

(a) The Legislature recognizes that early referral and comprehensive treatment can help combat substance abuse in families and that treatment is cost-effective.

(b) The Legislature establishes the following goals for the state related to substance abuse treatment services in the dependency process:

1. To ensure the safety of children.

2. To prevent and remediate the consequences of substance abuse on families involved in protective supervision or foster care and reduce substance abuse, including alcohol abuse, for families who are at risk of being involved in protective supervision or foster care.

3. To expedite permanency for children and reunify healthy, intact families, when appropriate.

4. To support families in recovery.

(c) The Legislature finds that children in the care of the state's dependency system need appropriate health care services, that the impact of substance abuse on health indicates the need for health care services to include substance abuse services to children and parents where appropriate, and that it is in the state's best interest that such children be provided the services they need to enable them to become and remain independent of state care. In order to provide these services, the state's dependency system must have

the ability to identify and provide appropriate intervention and treatment for children with personal or family-related substance abuse problems.

(d) It is the intent of the Legislature to encourage the use of the drug court program model established by s. [397.334](#) and authorize courts to assess children and persons who have custody or are requesting custody of children where good cause is shown to identify and address substance abuse problems as the court deems appropriate at every stage of the dependency process. Participation in treatment, including a treatment-based drug court program, may be required by the court following adjudication. Participation in assessment and treatment prior to adjudication shall be voluntary, except as provided in s. [39.407](#)(16).

(e) It is therefore the purpose of the Legislature to provide authority for the state to contract with community substance abuse treatment providers for the development and operation of specialized support and overlay services for the dependency system, which will be fully implemented and used as resources permit.

(f) Participation in the treatment-based drug court program does not divest any public or private agency of its responsibility for a child or adult, but is intended to enable these agencies to better meet their needs through shared responsibility and resources.

(5) PARENTAL, CUSTODIAL, AND GUARDIAN RESPONSIBILITIES.--Parents, custodians, and guardians are deemed by the state to be responsible for providing their children with sufficient support, guidance, and supervision. The state further recognizes that the ability of parents, custodians, and guardians to fulfill those responsibilities can be greatly impaired by economic, social, behavioral, emotional, and related problems. It is therefore the policy of the Legislature that it is the state's responsibility to ensure that factors impeding the ability of caregivers to fulfill their responsibilities are identified through the dependency process and that appropriate recommendations and services to address those problems are considered in any judicial or nonjudicial proceeding.

(6) LEGISLATIVE INTENT FOR THE PREVENTION OF ABUSE, ABANDONMENT, AND NEGLECT OF CHILDREN.--The incidence of known child abuse, abandonment, and neglect has increased rapidly over the past 5 years. The impact that abuse, abandonment, or neglect has on the victimized child, siblings, family structure, and inevitably on all citizens of the state has caused the Legislature to determine that the prevention of child abuse, abandonment, and neglect shall be a priority of this state. To further this end, it is the intent of the Legislature that an Office of Adoption and Child Protection be established.

(7) OFFICE OF ADOPTION AND CHILD PROTECTION.--

(a) For purposes of **establishing a comprehensive statewide approach for the promotion of adoption, support of adoptive families,** and prevention of child abuse, abandonment, and neglect, the Office of Adoption and Child Protection is created within the Executive Office of the Governor. The Governor shall appoint a Chief Child Advocate for the office.

(b) The Chief Child Advocate shall:

1. Assist in developing rules pertaining to the promotion of adoption, support of adoptive families, and implementation of child abuse prevention efforts.
2. Act as the Governor's liaison with state agencies, other state governments, and the public and private sectors on matters that relate to the promotion of adoption, support of adoptive families, and child abuse prevention.
3. Work to secure funding and other support for the state's promotion of adoption, support of adoptive families, and child abuse prevention efforts, including, but not limited to, establishing cooperative relationships among state and private agencies.
4. Develop a strategic program and funding initiative that links the separate jurisdictional activities of state agencies with respect to promotion of adoption, support of adoptive families, and child abuse prevention. The office may designate lead and contributing agencies to develop such initiatives.
5. Advise the Governor and the Legislature on statistics related to the promotion of adoption, support of adoptive families, and child abuse prevention trends in this state; the status of current adoption programs and services, current child abuse prevention programs and services, the funding of adoption, support of adoptive families, and child abuse prevention programs and services; and the status of the office with regard to the development and implementation of the state strategy for the promotion of adoption, support of adoptive families, and child abuse prevention.
6. Develop public awareness campaigns to be implemented throughout the state for the promotion of adoption, support of adoptive families, and child abuse prevention.

(c) The office is authorized and directed to:

1. Oversee the preparation and implementation of the state plan established under subsection (8) and revise and update the state plan as necessary.
2. Provide for or make available continuing professional education and training in the prevention of child abuse and neglect.

3. Work to secure funding in the form of appropriations, gifts, and grants from the state, the Federal Government, and other public and private sources in order to ensure that sufficient funds are available for the promotion of adoption, support of adoptive families, and child abuse prevention efforts.
4. Make recommendations pertaining to agreements or contracts for the establishment and development of:
 - a. Programs and services for the promotion of adoption, support of adoptive families, and prevention of child abuse and neglect.
 - b. Training programs for the prevention of child abuse and neglect.
 - c. Multidisciplinary and discipline-specific training programs for professionals with responsibilities affecting children, young adults, and families.
 - d. Efforts to promote adoption.
 - e. Postadoptive services to support adoptive families.
5. Monitor, evaluate, and review the development and quality of local and statewide services and programs for the promotion of adoption, support of adoptive families, and prevention of child abuse and neglect and shall publish and distribute an annual report of its findings on or before January 1 of each year to the Governor, the Speaker of the House of Representatives, the President of the Senate, the secretary of each state agency affected by the report, and the appropriate substantive committees of the Legislature. The report shall include:
 - a. A summary of the activities of the office.
 - b. A summary of the adoption data collected and reported to the federal Adoption and Foster Care Analysis and Reporting System (AFCARS) and the federal Administration for Children and Families.
 - c. A summary of the child abuse prevention data collected and reported to the National Child Abuse and Neglect Data System (NCANDS) and the federal Administration for Children and Families.
 - d. A summary detailing the timeliness of the adoption process for children adopted from within the child welfare system.
 - e. Recommendations, by state agency, for the further development and improvement of services and programs for the promotion of adoption, support of adoptive families, and prevention of child abuse and neglect.
 - f. Budget requests, adoption promotion and support needs, and child abuse prevention program needs by state agency.
6. Work with the direct-support organization established under s. 39.0011 to receive financial assistance.

(8) PLAN FOR COMPREHENSIVE APPROACH.--

- (a) The office shall develop a state plan for the promotion of adoption, support of adoptive families, and prevention of abuse, abandonment, and neglect of children and shall submit the state plan to the Speaker of the House of Representatives, the President of the Senate, and the Governor no later than December 31, 2008. The Department of Children and Family Services, the Department of Corrections, the Department of Education, the Department of Health, the Department of Juvenile Justice, the Department of Law Enforcement, the Agency for Persons with Disabilities, and the Agency for Workforce Innovation shall participate and fully cooperate in the development of the state plan at both the state and local levels. Furthermore, appropriate local agencies and organizations shall be provided an opportunity to participate in the development of the state plan at the local level. Appropriate local groups and organizations shall include, but not be limited to, community mental health centers; guardian ad litem programs for children under the circuit court; the school boards of the local school districts; the Florida local advocacy councils; community-based care lead agencies; private or public organizations or programs with recognized expertise in working with child abuse prevention programs for children and families; private or public organizations or programs with recognized expertise in working with children who are sexually abused, physically abused, emotionally abused, abandoned, or neglected and with expertise in working with the families of such children; private or public programs or organizations with expertise in maternal and infant health care; multidisciplinary child protection teams; child day care centers; law enforcement agencies; and the circuit courts, when guardian ad litem programs are not available in the local area. The state plan to be provided to the Legislature and the Governor shall include, as a minimum, the information required of the various groups in paragraph (b).
- (b) The development of the state plan shall be accomplished in the following manner:
 1. The office shall establish a **Child Abuse Prevention and Permanency Advisory Council** composed of an adoptive parent who has adopted a child from within the child welfare system and representatives from each state agency and appropriate local agencies and organizations specified in paragraph (a). The advisory council shall serve as the research arm of the office and shall be responsible for:

- a. Assisting in developing a plan of action for better coordination and integration of the goals, activities, and funding pertaining to the promotion and support of adoption and the prevention of child abuse, abandonment, and neglect conducted by the office in order to maximize staff and resources at the state level. The plan of action shall be included in the state plan.
 - b. Assisting in providing a basic format to be utilized by the districts in the preparation of local plans of action in order to provide for uniformity in the district plans and to provide for greater ease in compiling information for the state plan.
 - c. Providing the districts with technical assistance in the development of local plans of action, if requested.
 - d. Assisting in examining the local plans to determine if all the requirements of the local plans have been met and, if they have not, informing the districts of the deficiencies and requesting the additional information needed.
 - e. Assisting in preparing the state plan for submission to the Legislature and the Governor. Such preparation shall include the incorporation into the state plan of information obtained from the local plans, the cooperative plans with the members of the advisory council, and the plan of action for coordination and integration of state departmental activities. The state plan shall include a section reflecting general conditions and needs, an analysis of variations based on population or geographic areas, identified problems, and recommendations for change. In essence, the state plan shall provide an analysis and summary of each element of the local plans to provide a statewide perspective. The state plan shall also include each separate local plan of action.
 - f. Conducting a feasibility study on the establishment of a Children's Cabinet.
 - g. Working with the specified state agency in fulfilling the requirements of subparagraphs 2., 3., 4., and 5.
2. The office, the department, the Department of Education, and the Department of Health shall work together in developing ways to inform and instruct parents of school children and appropriate district school personnel in all school districts in the detection of child abuse, abandonment, and neglect and in the proper action that should be taken in a suspected case of child abuse, abandonment, or neglect, and in caring for a child's needs after a report is made. The plan for accomplishing this end shall be included in the state plan.
 3. The office, the department, the Department of Law Enforcement, and the Department of Health shall work together in developing ways to inform and instruct appropriate local law enforcement personnel in the detection of child abuse, abandonment, and neglect and in the proper action that should be taken in a suspected case of child abuse, abandonment, or neglect.
 4. Within existing appropriations, the office shall work with other appropriate public and private agencies to emphasize efforts to educate the general public about the problem of and ways to detect child abuse, abandonment, and neglect and in the proper action that should be taken in a suspected case of child abuse, abandonment, or neglect. The plan for accomplishing this end shall be included in the state plan.
 5. The office, the department, the Department of Education, and the Department of Health shall work together on the enhancement or adaptation of curriculum materials to assist instructional personnel in providing instruction through a multidisciplinary approach on the identification, intervention, and prevention of child abuse, abandonment, and neglect. The curriculum materials shall be geared toward a sequential program of instruction at the four progressional levels, K-3, 4-6, 7-9, and 10-12. Strategies for encouraging all school districts to utilize the curriculum are to be included in the state plan for the prevention of child abuse, abandonment, and neglect.
 6. Each district of the department shall develop a plan for its specific geographical area. The plan developed at the district level shall be submitted to the advisory council for utilization in preparing the state plan. The district local plan of action shall be prepared with the involvement and assistance of the local agencies and organizations listed in this paragraph, as well as representatives from those departmental district offices participating in the promotion of adoption, support of adoptive families, and treatment and prevention of child abuse, abandonment, and neglect. In order to accomplish this, the office shall establish a task force on the promotion of adoption, support of adoptive families, and prevention of child abuse, abandonment, and neglect. The office shall appoint the members of the task force in accordance with the membership requirements of this section. The office shall ensure that individuals from both urban and rural areas and an adoptive parent who has adopted a child from within the child welfare system are represented on the task force. The task force shall develop a written statement clearly identifying its operating procedures, purpose, overall responsibilities, and method of meeting responsibilities. The district plan of action to be prepared by the task force shall include, but shall not be limited to:
 - a. Documentation of the magnitude of the problems of child abuse, including sexual abuse, physical abuse, and emotional abuse, and child abandonment and neglect in its geographical area.
 - b. A description of programs currently serving abused, abandoned, and neglected children and their families and a description of programs for the prevention of child abuse, abandonment, and neglect, including information on the impact, cost-effectiveness, and sources of funding of such programs.

- c. Information concerning the number of children within the child welfare system available for adoption who need child-specific adoption promotion efforts.
- d. A description of programs currently promoting and supporting adoptive families, including information on the impact, cost-effectiveness, and sources of funding of such programs.
- e. A description of a comprehensive approach for providing postadoption services. The continuum of services shall include, but not be limited to, sufficient and accessible parent and teen support groups; case management, information, and referral services; and educational advocacy.
- f. A continuum of programs and services necessary for a comprehensive approach to the promotion of adoption and the prevention of all types of child abuse, abandonment, and neglect as well as a brief description of such programs and services.
- g. A description, documentation, and priority ranking of local needs related to the promotion of adoption, support of adoptive families, and prevention of child abuse, abandonment, and neglect based upon the continuum of programs and services.
- h. A plan for steps to be taken in meeting identified needs, including the coordination and integration of services to avoid unnecessary duplication and cost, and for alternative funding strategies for meeting needs through the reallocation of existing resources, utilization of volunteers, contracting with local universities for services, and local government or private agency funding.
- i. A description of barriers to the accomplishment of a comprehensive approach to the promotion of adoption, support of adoptive families, and prevention of child abuse, abandonment, and neglect.
- j. Recommendations for changes that can be accomplished only at the state program level or by legislative action.

(9) FUNDING AND SUBSEQUENT PLANS.--

(a) All budget requests submitted by the office, the department, the Department of Health, the Department of Education, the Department of Juvenile Justice, the Department of Corrections, the Agency for Persons with Disabilities, the Agency for Workforce Innovation, or any other agency to the Legislature for funding of efforts for the promotion of adoption, support of adoptive families, and prevention of child abuse, abandonment, and neglect shall be based on the state plan developed pursuant to this section.

(b) The office and the other agencies and organizations listed in paragraph (8)(a) shall readdress the state plan and make necessary revisions every 5 years, at a minimum. Such revisions shall be submitted to the Speaker of the House of Representatives and the President of the Senate no later than June 30 of each year divisible by 5. At least biennially, the office shall review the state plan and make any necessary revisions based on changing needs and program evaluation results. An annual progress report shall be submitted to update the state plan in the years between the 5-year intervals. In order to avoid duplication of effort, these required plans may be made a part of or merged with other plans required by either the state or Federal Government, so long as the portions of the other state or Federal Government plan that constitute the state plan for the promotion of adoption, support of adoptive families, and prevention of child abuse, abandonment, and neglect are clearly identified as such and are provided to the Speaker of the House of Representatives and the President of the Senate as required above.

(10) LIBERAL CONSTRUCTION.--It is the intent of the Legislature that this chapter be liberally interpreted and construed in conformity with its declared purposes.

(11) RULEMAKING.-- The Executive Office of the Governor shall adopt rules pursuant to ss. [120.536\(1\)](#) and [120.54](#) to implement the provisions of this section.

(12) EVALUATION.-- By February 1, 2009, the Legislature shall evaluate the office and determine whether it should continue to be housed in the Executive Office of the Governor or transferred to a state agency.

History.--s. 1, ch. 26880, 1951; s. 1, ch. 73-231; s. 1, ch. 78-414; s. 1, ch. 82-62; s. 62, ch. 85-81; s. 1, ch. 85-206; s. 10, ch. 85-248; s. 19, ch. 86-220; s. 1, ch. 90-53; ss. 1, 2, ch. 90-208; s. 2, ch. 90-306; s. 2, ch. 91-33; s. 68, ch. 91-45; s. 13, ch. 91-57; s. 5, ch. 93-156; s. 23, ch. 93-200; s. 19, ch. 93-230; s. 14, ch. 94-134; s. 14, ch. 94-135; ss. 9, 10, ch. 94-209; s. 1332, ch. 95-147; s. 7, ch. 95-152; s. 8, ch. 95-158; ss. 15, 30, ch. 95-228; s. 116, ch. 95-418; s. 1, ch. 96-268; ss. 128, 156, ch. 97-101; s. 69, ch. 97-103; s. 3, ch. 97-237; s. 119, ch. 97-238; s. 8, ch. 98-137; s. 18, ch. 98-403; s. 1, ch. 99-193; s. 13, ch. 2000-139; s. 5, ch. 2000-151; s. 5, ch. 2000-263; s. 34, ch. 2004-267; s. 2, ch. 2006-97; s. 1, ch. 2006-194; s. 2, ch. 2006-227; s. 1, ch. 2007-124.

¹**Note.--**Chapter 2007-40 redesignated the Secretary of Health as the State Surgeon General.

Note.--Former s. 39.20; subsections (3)-(5) former s. 39.002, s. 409.70, subsections (6)-(8) former s. 415.501.