

2014 SUMMARY OF LAW CHANGES DIRECTLY RELATED TO CHILD WELFARE PRACTICE

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NEW AND REVISED DEFINITIONS

Juvenile sexual abuse

~~(7) “Alleged juvenile sexual offender” means:~~

~~(a) A child 12 years of age or younger who is alleged to have committed a violation of chapter 794, chapter 796, chapter 800, s. 827.071, or s. 847.0133;~~

~~or~~

~~(b) A child who is alleged to have committed any violation of law or delinquent act involving juvenile sexual abuse. “Juvenile sexual abuse” means any sexual behavior by a child which occurs without consent, without equality, or as a result of coercion. For purposes of this subsection ~~paragraph~~, the following definitions apply:~~

~~(a)1.~~ “Coercion” means the exploitation of authority or the use of bribes, threats of force, or intimidation to gain cooperation or compliance.

~~(b)2.~~ “Equality” means two participants operating with the same level of power in a relationship, neither being controlled nor coerced by the other.

~~(c)3.~~ “Consent” means an agreement, including all of the following:

~~1.a.~~ Understanding what is proposed based on age, maturity, developmental level, functioning, and experience.

~~2.b.~~ Knowledge of societal standards for what is being proposed.

~~3.c.~~ Awareness of potential consequences and alternatives.

~~4.d.~~ Assumption that agreement or disagreement will be accepted equally.

~~5.e.~~ Voluntary decision.

~~6.f.~~ Mental competence.

Juvenile sexual ~~offender~~ behavior ranges from noncontact sexual behavior such as making obscene phone calls, exhibitionism, voyeurism, and the showing or taking of lewd photographs to varying degrees of direct sexual contact, such as frottage, fondling, digital penetration, rape, fellatio, sodomy, and various other sexually aggressive acts.

Child who has exhibited inappropriate sexual behavior

“Child who has exhibited inappropriate sexual behavior” means a child ~~who is 12 years of age or younger and~~ who has been found by the department or the court to have committed an inappropriate sexual act.

Comprehensive assessment

“Comprehensive assessment” or “assessment” means the gathering of information for the evaluation of a child’s and caregiver’s physical, psychiatric, psychological, or mental health; developmental delays or challenges; and, educational, vocational, and social condition and family environment as they relate to the child’s and caregiver’s need for rehabilitative and treatment services, including substance abuse treatment services, mental health services,

developmental services, literacy services, medical services, family services, and other specialized services, as appropriate.

Diligent efforts by a parent

“Diligent efforts by a parent” means a course of conduct which results in a meaningful change in the behavior of a parent that reduces ~~reduction in~~ risk to the child in the child’s home to the extent that ~~would allow~~ the child may to be safely placed permanently back in the home as set forth in the case plan.

Impending danger

“Impending danger” means a situation in which family behaviors, attitudes, motives, emotions, or situations pose a threat that may not be currently active but that can be anticipated to become active and to have severe effects on a child at any time.

Medical neglect

“Medical neglect” means the failure to provide or the failure to allow needed care as recommended by a health care practitioner for a physical injury, illness, medical condition, or impairment, or the failure to seek timely and appropriate medical care for a serious health problem that a reasonable person would have recognized as requiring professional medical attention. Medical neglect does not occur if the parent or legal guardian of the child has made reasonable attempts to obtain necessary health care services or the immediate health condition giving rise to the allegation of neglect is a known and expected complication of the child’s diagnosis or treatment and:

(a) The recommended care offers limited net benefit to the child and the morbidity or other side effects of the treatment may be considered to be greater than the anticipated benefit; or
(b) The parent or legal guardian received conflicting medical recommendations for treatment from multiple practitioners and did not follow all recommendations.

Present danger

Present danger” means a significant and clearly observable family condition that is occurring at the current moment and is already endangering or threatening to endanger the child. Present danger threats are conspicuous and require that an immediate protective action be taken to ensure the child’s safety.

Prevention services

“Preventive services” means social services and other supportive and rehabilitative services provided to the parent or legal custodian of the child and to the child for the purpose of averting the removal of the child from the home or disruption of a family which will or could result in the placement of a child in foster care. Social services and other supportive and

rehabilitative services shall promote the child's developmental needs and need for physical, mental, and emotional health and a safe, stable, living environment; shall promote family autonomy; and shall strengthen family life, whenever possible.

Reunification services

"Reunification services" means social services and other supportive and rehabilitative services provided to the parent of the child, to the child, and, where appropriate, to the relative placement, nonrelative placement, or foster parents of the child, for the purpose of enabling a child who has been placed in out-of-home care to safely return to his or her parent at the earliest possible time. The health and safety of the child shall be the paramount goal of social services and other supportive and rehabilitative services. The services shall promote the child's need for physical, developmental, mental, and emotional health and a safe, stable, living environment; shall promote family autonomy; and shall strengthen family life, whenever possible.

Safety plan

"Safety plan" means a plan created to control present or impending danger using the least intrusive means appropriate to protect a child when a parent, caregiver, or legal custodian is unavailable, unwilling, or unable to do so.

Sibling

"Sibling" means:

- (a) A child who shares a birth parent or legal parent with one or more other children; or
- (b) A child who has lived together in a family with one or more other children whom he or she identifies as siblings.

Safe foster home

"Safe foster home" means a foster home certified by the department under this section to care for sexually exploited children.

Safe house

"Safe house" means a group residential placement certified by the department under this section to care for sexually exploited children.

Sexually exploited child

"Sexually exploited child" means a child who has suffered sexual exploitation as defined in s. 39.01(67)(g) and is ineligible for relief and benefits under the federal Trafficking Victims Protection Act, 22 U.S.C. ss. 7101 et seq.

NEW PRACTICE-RELATED CONTENT

Revised purpose statement for Chapter 39, safety as paramount concern

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

(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 keep the safety of the child or children as the paramount concern ~~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, the courts, law enforcement agencies, service providers, and local communities.

(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 and provides all medical and educational information, or consent for access thereto, needed to help the child.

(k) To make every possible effort, if 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 while under the care or supervision of the department or in a permanent placement, to keep them in contact with each other.

(o) To preserve and strengthen families who are caring for medically complex children.

(p) To provide protective investigations that are conducted by trained persons in a complete and fair manner, that are promptly concluded, and that consider the purposes of this subsection and the general protections provided by law relating to child welfare.

Services for medically complex children

(f) Access to sufficient supports and services for medically complex children to allow them to remain in the least restrictive and most nurturing environment, which includes services in an amount and scope comparable to those services the child would receive in out-of-home care placement.

(4) SERVICES FOR MEDICALLY COMPLEX CHILDREN.—The department shall maintain a program of family-centered services and supports for medically complex children. The purpose of the program is to prevent abuse and neglect of medically complex children while enhancing the

capacity of families to provide for their children's needs. Program services must include outreach, early intervention, and the provision of other supports and services to meet the child's needs. The department shall collaborate with all relevant state and local agencies to provide needed services.

Reports involving juvenile sexual abuse

Reports involving ~~a known or suspected~~ juvenile sexual abuse offender or a child who has exhibited inappropriate sexual behavior shall be made and received by the department. An alleged incident of juvenile sexual abuse involving a child who is in the custody of or protective supervision of the department shall be reported to the department's central abuse hotline.

~~1. The department shall determine the age of the alleged offender, if known.~~

~~2. If the alleged offender is 12 years of age or younger, The central abuse hotline shall immediately electronically transfer the report or call to the county sheriff's office. The department shall conduct an assessment and assist the family in receiving appropriate services pursuant to s. 39.307, and send a written report of the allegation to the appropriate county sheriff's office within 48 hours after the initial report is made to the central abuse hotline.~~

2. The department shall ensure that the facts and results of any investigation of child sexual abuse involving a child in the custody of or under the protective supervision of the department are made known to the court at the next hearing or included in the next report to the court concerning the child.

~~3. If the alleged offender is 13 years of age or older, the central abuse hotline shall immediately electronically transfer the report or call to the appropriate county sheriff's office and send a written report to the appropriate county sheriff's office within 48 hours after the initial report to the central abuse hotline.~~

Safety plan development

Document the present and impending dangers to each child based on the identification of inadequate protective capacity through utilization of a standardized safety assessment instrument. If present or impending danger is identified, the child protective investigator must implement a safety plan or take the child into custody. If present danger is identified and the child is not removed, the child protective investigator shall create and implement a safety plan before leaving the home or the location where there is present danger. If impending danger is identified, the child protective investigator shall create and implement a safety plan as soon as necessary to protect the safety of the child. The child protective investigator may modify the safety plan if he or she identifies additional impending danger.

a. If the child protective investigator implements a safety plan, the plan must be specific, sufficient, feasible, and sustainable in response to the realities of the present or impending danger. A safety plan may be an in-home plan or an out-of-home plan, or a combination of both. A safety plan may include tasks or responsibilities for a parent, caregiver, or legal custodian. However, a safety plan may not rely on promissory commitments by the parent, caregiver, or legal custodian who is currently not able to protect the child or on services that are not available or will not result in the safety of the child. A safety plan may not be

implemented if for any reason the parents, guardian, or legal custodian lacks the capacity or ability to comply with the plan. If the department is not able to develop a plan that is specific, sufficient, feasible, and sustainable, the department shall file a shelter petition. A child protective investigator shall implement separate safety plans for the perpetrator of domestic violence and the parent who is a victim of domestic violence as defined in s. 741.28. If the perpetrator of domestic violence is not the parent, guardian, or legal custodian of the child, the child protective investigator shall seek issuance of an injunction authorized by s. 39.504 to implement a safety plan for the perpetrator and impose any other conditions to protect the child. The safety plan for the parent who is a victim of domestic violence may not be shared with the perpetrator. If any party to a safety plan fails to comply with the safety plan resulting in the child being unsafe, the department shall file a shelter petition.

b. The child protective investigator shall collaborate with the community-based care lead agency in the development of the safety plan as necessary to ensure that the safety plan is specific, sufficient, feasible, and sustainable. The child protective investigator shall identify services necessary for the successful implementation of the safety plan. The child protective investigator and the community-based care lead agency shall mobilize service resources to assist all parties in complying with the safety plan. The community-based care lead agency shall prioritize safety plan services to families who have multiple risk factors, including, but not limited to, two or more of the following:

(I) The parent or legal custodian is of young age;

(II) The parent or legal custodian, or an adult currently living in or frequently visiting the home, has a history of substance abuse, mental illness, or domestic violence;

(III) The parent or legal custodian, or an adult currently living in or frequently visiting the home, has been previously found to have physically or sexually abused a child;

(IV) The parent or legal custodian or an adult currently living in or frequently visiting the home has been the subject of multiple allegations by reputable reports of abuse or neglect;

(V) The child is physically or developmentally disabled; or

(VI) The child is 3 years of age or younger.

The child protective investigator shall monitor the implementation of the plan to ensure the child's safety until the case is transferred to the lead agency at which time the lead agency shall monitor the implementation.

~~(b) Upon completion of the immediate safety assessment, the department shall determine the additional activities necessary to assess impending dangers, if any, and close the investigation.~~

Referrals when a delay or disability is suspected

Whenever a delay or disability of the child is suspected, the parent must be referred to a local child developmental screening program, such as the Child Find program of the Florida Diagnostic and Learning Resource System, for screening of the child.

Cases involving domestic violence

As applicable, child protective investigators must inform parents and caregivers how and when to use the injunction process under s. 741.30 to remove a perpetrator of domestic violence from the home as an intervention to protect the child.

1. If the department or the sheriff providing child protective investigative services determines that the interests of the child and the public will be best served by providing the child care or other treatment voluntarily accepted by the child and the parents or legal custodians, the parent or legal custodian and child may be referred for such care, case management, or other community resources.

2. If the department or the sheriff providing child protective investigative services determines that the child is in need of protection and supervision, the department may file a petition for dependency.

3. If a petition for dependency is not being filed by the department, the person or agency originating the report shall be advised of the right to file a petition pursuant to this part.

4. At the close of an investigation, the department or the sheriff providing child protective services shall provide to the person who is alleged to have caused the abuse, neglect, or abandonment and the parent or legal custodian a summary of findings from the investigation and provide information about their right to access confidential reports in accordance with s. (14)(a) If the department or its agent determines that a child requires immediate or long-term protection through:

~~1.~~ medical or other health care; or

~~2.~~ homemaker care, day care, protective supervision, or other services to stabilize the home environment, including intensive family preservation services through the Intensive Crisis Counseling Program, such services shall first be offered for voluntary acceptance unless:

1. There are high-risk factors that may impact the ability of the parents or legal custodians to exercise judgment. Such factors may include the parents' or legal custodians' young age or history of substance abuse, mental illness, or domestic violence; or

2. There is a high likelihood of lack of compliance with voluntary services, and such noncompliance would result in the child being unsafe.

(b) The parents or legal custodians shall be informed of the right to refuse services, as well as the responsibility of the department to protect the child regardless of the acceptance or refusal of services. If the services are refused, a collateral contact shall include a relative, if the protective investigator has knowledge of and the ability to contact a relative. If the services are refused and the department deems that the child's need for protection so requires services, the department shall take the child into protective custody or petition the court as provided in this chapter. At any time after the commencement of a protective investigation, a relative may submit in writing to the protective investigator or case manager a request to receive notification of all proceedings and hearings in accordance with s. 39.502. The request shall include the relative's name, address, and phone number and the relative's relationship to the child. The protective investigator or case manager shall forward such request to the attorney for the department. The failure to provide notice to either a relative who requests it pursuant to this subsection or to a relative who is providing out-of-home care for a child may not result in any previous action of the court at any stage or proceeding in dependency or termination of

parental rights under any part of this chapter being set aside, reversed, modified, or in any way changed absent a finding by the court that a change is required in the child's best interests.

(c) The department, in consultation with the judiciary, shall adopt by rule:

1. Criteria that are factors requiring that the department take the child into custody, petition the court as provided in this chapter, or, if the child is not taken into custody or a petition is not filed with the court, conduct an administrative review. Such factors must include, but are not limited to, noncompliance with a safety plan or the case plan developed by the department, and the family under this chapter, and prior abuse reports with findings that involve the child, the child's sibling, or the child's caregiver.

2. Requirements that if after an administrative review the department determines not to take the child into custody or petition the court, the department shall document the reason for its decision in writing and include it in the investigative file. For all cases that were accepted by the local law enforcement agency for criminal investigation pursuant to subsection (2), the department must include in the file written documentation that the administrative review included input from law enforcement. In addition, for all cases that must be referred to child protection teams pursuant to s.39.303(2) and (3), the file must include written documentation that the administrative review included the results of the team's evaluation. ~~Factors that must be included in the development of the rule include noncompliance with the case plan developed by the department, or its agent, and the family under this chapter and prior abuse reports with findings that involve the child or caregiver.~~

Cases involving medical neglect

Reports of medical neglect.

(1) Upon receiving a report alleging medical neglect, the department or sheriff's office shall assign the case to a child protective investigator who has specialized training in addressing medical neglect or working with medically complex children if such investigator is available. If a child protective investigator with specialized training is not available, the child protective investigator shall consult with department staff with such expertise.

(2) The child protective investigator who has interacted with the child and the child's family shall promptly contact and provide information to the child protection team. The child protection team shall assist the child protective investigator in identifying immediate responses to address the medical needs of the child with the priority of maintaining the child in the home if the parents will be able to meet the needs of the child with additional services. The child protective investigator and the child protection team must use a family centered approach to assess the capacity of the family to meet those needs. A family-centered approach is intended to increase independence on the part of the family, accessibility to programs and services within the community, and collaboration between families and their service providers. The ethnic, cultural, economic, racial, social, and religious diversity of families must be respected and considered in the development and provision of services.

(3) The child shall be evaluated by the child protection team as soon as practicable. After receipt of the report from the child protection team, the department shall convene a case staffing which shall be attended, at a minimum, by the child protective investigator; department legal staff; and representatives from the child protection team that evaluated the

child, Children’s Medical Services, the Agency for Health Care Administration, the community-based care lead agency, and any providers of services to the child. However, the Agency for Health Care Administration is not required to attend the staffing if the child is not Medicaid eligible. The staffing shall consider, at a minimum, available services, given the family’s eligibility for services; services that are effective in addressing conditions leading to medical neglect allegations; and services that would enable the child to safely remain at home. Any services that are available and effective shall be provided.

Cases involving child-on-child sexual abuse

Reports of child-on-child sexual abuse.

(1) Upon receiving a report alleging juvenile sexual abuse or inappropriate sexual behavior as defined in s. 39.01, the department shall assist the family, child, and caregiver in receiving appropriate services to address the allegations of the report.

(a) The department shall ensure that information describing the history of child sexual abuse is included in the child’s electronic record. This record must also include information describing the services the child has received as a result of his or her involvement with child sexual abuse.

(b) Placement decisions for a child who has been involved with child sexual abuse must include consideration of the needs of the child and any other children in the placement.

(c) The department shall monitor the occurrence of child sexual abuse and the provision of service to children involved in child sexual abuse, juvenile sexual abuse, or who have displayed inappropriate sexual behavior.

(2) The department, contracted sheriff’s office providing protective investigation services, or contracted case management personnel responsible for providing services, at a minimum, shall adhere to the following procedures:

(a) The purpose of the response to a report alleging juvenile sexual abuse behavior or inappropriate sexual behavior shall be explained to the caregiver.

1. The purpose of the response shall be explained in a manner consistent with legislative purpose and intent provided in this chapter.

2. The name and office telephone number of the person responding shall be provided to the caregiver of the alleged abuser ~~juvenile sexual offender~~ or child who has exhibited inappropriate sexual behavior and the victim’s caregiver.

3. The possible consequences of the department’s response, including outcomes and services, shall be explained to the caregiver of the alleged abuser ~~juvenile sexual offender~~ or child who has exhibited inappropriate sexual behavior and the victim’s caregiver.

(b) The caregiver of the alleged abuser ~~juvenile sexual offender~~ or child who has exhibited inappropriate sexual behavior and the victim’s caregiver shall be involved to the fullest extent possible in determining the nature of the sexual behavior concerns and the nature of any problem or risk to other children.

(c) The assessment of risk and the perceived treatment needs of the alleged abuser ~~juvenile sexual offender~~ or child who has exhibited inappropriate sexual behavior, the victim, and respective caregivers shall be conducted by the district staff, the child protection team of the Department of Health, and other providers under contract with the department to provide services to the caregiver of the alleged offender, the victim, and the victim’s caregiver.

(d) The assessment shall be conducted in a manner that is sensitive to the social, economic, and cultural environment of the family.

(e) If necessary, the child protection team of the Department of Health shall conduct a physical examination of the victim, which is sufficient to meet forensic requirements.

(f) Based on the information obtained from the alleged ~~abuser juvenile sexual offender~~ or child who has exhibited inappropriate sexual behavior, his or her caregiver, the victim, and the victim's caregiver, an assessment of service and treatment needs must be completed and, if needed, a case plan developed within 30 days.

(g) The department shall classify the outcome of the report as follows:

1. Report closed. Services were not offered because the department determined that there was no basis for intervention.

2. Services accepted by alleged ~~abuser juvenile sexual offender~~. Services were offered to the alleged ~~abuser juvenile sexual offender~~ or child who has exhibited inappropriate sexual behavior and accepted by the caregiver.

3. Report closed. Services were offered to the alleged ~~abuser juvenile sexual offender~~ or child who has exhibited inappropriate sexual behavior, but were rejected by the caregiver.

4. Notification to law enforcement. The risk to the victim's safety and well-being cannot be reduced by the provision of services or the caregiver rejected services, and notification of the alleged delinquent act or violation of law to the appropriate law enforcement agency was initiated.

5. Services accepted by victim. Services were offered to the victim and accepted by the caregiver.

6. Report closed. Services were offered to the victim but were rejected by the caregiver.

(3) If services have been accepted by the alleged ~~abuser juvenile sexual offender~~ or child who has exhibited inappropriate sexual behavior, the victim, and respective caregivers, the department shall designate a case manager and develop a specific case plan.

(a) Upon receipt of the plan, the caregiver shall indicate its acceptance of the plan in writing.

(b) The case manager shall periodically review the progress toward achieving the objectives of the plan in order to:

1. Make adjustments to the plan or take additional action as provided in this part; or

2. Terminate the case if indicated by successful or substantial achievement of the objectives of the plan.

(4) Services provided to the alleged ~~abuser juvenile sexual offender~~ or child who has exhibited inappropriate sexual behavior, the victim, and respective caregivers or family must be voluntary and of necessary duration.

(5) If the family or caregiver of the alleged ~~abuser juvenile sexual offender~~ or child who has exhibited inappropriate sexual behavior fails to adequately participate or allow for the adequate participation of the child in the services or treatment delineated in the case plan, the case manager may recommend that the department:

i. Close the case;

ii. Refer the case to mediation or arbitration, if available; or

iii. iii. Notify the appropriate law enforcement agency of failure to comply.

(6) At any time, as a result of additional information, findings of facts, or changing conditions, the department may pursue a child protective investigation as provided in this chapter.

Sibling placement and visitation

That the department has made reasonable efforts to keep siblings together if they are removed and placed in out-of-home care unless such placement is not in the best interest of each child. It is preferred that siblings be kept together in a foster home, if available. Other reasonable efforts shall include short-term placement in a group home with the ability to accommodate sibling groups if such a placement is available. The department shall report to the court its efforts to place siblings together unless the court finds that such placement is not in the best interest of a child or his or her sibling.

If siblings who are removed from the home cannot be placed together, the department shall provide to the court a recommendation for frequent visitation or other ongoing interaction between the siblings unless this interaction would be contrary to a sibling's safety or well-being. If visitation among siblings is ordered but will not commence within 72 hours after the shelter hearing, the department shall provide justification to the court for the delay.

(The court and any citizen review panel shall seek to determine) The frequency, kind, and duration of contacts among siblings who have been separated during placement, as well as any efforts undertaken to reunite separated siblings if doing so is in the best interest of the child.

Relative caregiver program

Recognize that a child may have a close relationship with a person who is not a blood relative or a relative by marriage and that such person should be eligible for financial assistance under this section if he or she is able and willing to care for the child and provide a safe, stable home environment.

Nonrelatives who are willing to assume custody and care of a dependent child in the role of substitute parent as a result of a court's determination of child abuse, neglect, or abandonment and subsequent placement with the nonrelative caregiver under this chapter. The court must find that a proposed placement under this subparagraph is in the best interest of the child.

Rilya Wilson Act

REQUIREMENTS.—A child from birth to the age of ~~who is age 3 years to~~ school entry, under court-ordered ~~court-ordered~~ protective supervision or in the custody of the Family Safety Program Office of the Department of Children and Families ~~Family Services~~ or a community-based lead agency, and enrolled in a licensed early education or child care program must attend ~~be enrolled to participate in~~ the program 5 days a week. Notwithstanding ~~the requirements of~~ s. 39.202, the Department of Children and Families ~~Family Services~~ must notify operators of the licensed early education or child care program, subject to the reporting requirements of this act, of the enrollment of any child from birth to the age of ~~age 3 years to~~ school entry, under court-ordered ~~court-ordered~~ protective supervision or in the custody of the Family Safety

Program Office of the Department of Children and ~~Families~~ Family Services or a community-based lead agency. When a child is enrolled in an early education or child care program regulated by the department, the child's attendance in the program must be a required action in the safety plan or the case plan developed for the a child pursuant to this chapter who is enrolled in a licensed early education or child care program must contain the participation in this program as a required action. An exemption to participating in the licensed early education or child care program 5 days a week may be granted by the court.

Grounds for termination of parental rights

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

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

1. The child continues to be abused, neglected, or abandoned by the parent or parents. The failure of the parent or parents to substantially comply with the case plan for a period of 12 months after an adjudication of the child as a dependent child or the child's placement into shelter care, whichever occurs first, constitutes evidence of continuing abuse, neglect, or abandonment unless the failure to substantially comply with the case plan was due to the parent's lack of financial resources or to the failure of the department to make reasonable efforts to reunify the parent and child. The 12-month period begins to run only after the child's placement into shelter care or the entry of a disposition order placing the custody of the child with the department or a person other than the parent and the court's approval of a case plan having the goal of reunification with the parent, whichever occurs first; or
2. The parent or parents have materially breached the case plan. Time is of the essence for permanency of children in the dependency system. In order to prove the parent or parents have materially breached the case plan, the court must find by clear and convincing evidence that the parent or parents are unlikely or unable to substantially comply with the case plan before time to comply with the case plan expires.
3. The child has been in care for any 12 of the last 22 months and the parents have not substantially complied with the case plan so as to permit reunification under s. 39.522(2) unless the failure to substantially comply with the case plan was due to the parent's lack of financial resources or to the failure of the department to make reasonable efforts to reunify the parent and child.

(f) The parent or parents engaged in egregious conduct or had the opportunity and capability to prevent and knowingly failed to prevent egregious conduct that threatens the life, safety, or physical, mental, or emotional health of the child or the child's sibling. Proof of a nexus between egregious conduct to a child and the potential harm to the child's sibling is not required.

1. As used in this subsection, the term "sibling" means another child who resides with or is cared for by the parent or parents regardless of whether the child is related legally or by consanguinity.

2. As used in this subsection, the term "egregious conduct" means abuse, abandonment, neglect, or any other conduct that is deplorable, flagrant, or outrageous by a normal standard

of conduct. Egregious conduct may include an act or omission that occurred only once but was of such intensity, magnitude, or severity as to endanger the life of the child.

(h) The parent or parents have committed the murder, manslaughter, aiding or abetting the murder, or conspiracy or solicitation to murder the other parent or another child, or a felony battery that resulted in serious bodily injury to the child or to another child. Proof of a nexus between the murder, manslaughter, aiding or abetting the murder, or conspiracy or solicitation to murder the other parent or another child, or a felony battery to a child and the potential harm to a child or another child is not required.

(n) The parent is convicted of an offense that requires the parent to register as a sexual predator under s. 775.21.

Child welfare outcomes

CHILD PROTECTION AND CHILD WELFARE OUTCOMES.—It is the goal of the department to protect the best interest of children by achieving the following outcomes in conjunction with the community-based care lead agency, community-based subcontractors, and the community alliance:

(a) Children are first and foremost protected from abuse and neglect.

(b) Children are safely maintained in their homes, if possible and appropriate.

(c) Services are provided to protect children and prevent their removal from their home.

(d) Children have permanency and stability in their living arrangements.

(e) Family relationships and connections are preserved for children.

(f) Families have enhanced capacity to provide for their children's needs.

(g) Children receive appropriate services to meet their educational needs.

(h) Children receive services to meet their physical and mental health needs.

(i) Children develop the capacity for independent living and competence as an adult.

Unlawful desertion of a child

Unlawful desertion of a child.—

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

(a) "Care" means support and services necessary to maintain the child's physical and mental health, including, but not limited to, food, nutrition, clothing, shelter, supervision, medicine, and medical services that a prudent person would consider essential for the well-being of the child.

(b) "Caregiver" has the same meaning as provided in s. 39.01.

(c) "Child" means a child for whose care the caregiver is legally responsible.

(d) "Desertion" or "deserts" means to leave a child in a place or with a person other than a relative with the intent not to return to the child and with the intent not to provide for the care of the child.

(e) "Relative" has the same meaning as provided in s. 39.01.

(2) A caregiver who deserts a child under circumstances in which the caregiver knew or should have known that the desertion exposes the child to unreasonable risk of harm commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) This section does not apply to a person who surrenders a newborn infant in compliance with s. 383.50.

(4) This section does not preclude prosecution for a criminal act under any other law, including, but not limited to, prosecution of child abuse or neglect of a child under s. 827.03.

Cases involving sexual exploitation

Sexually exploited children; screening and assessment; training; case management; task forces.

(1) SCREENING AND ASSESSMENT. —

(a) The department shall develop or adopt one or more initial screening and assessment instruments to identify, determine the needs of, plan services for, and determine the appropriate placement for sexually exploited children. The department shall consult state and local agencies, organizations, and individuals involved in the identification and care of sexually exploited children when developing or adopting initial screening and assessment instruments. Initial screening and assessment instruments shall assess the appropriate placement of a sexually exploited child, including whether placement in a safe house or safe foster home is appropriate, and shall consider, at a minimum, the following factors:

1. Risk of the child running away.
2. Risk of the child recruiting other children into the commercial sex trade.
3. Level of the child's attachment to his or her exploiter.
4. Level and type of trauma that the child has endured.
5. Nature of the child's interactions with law enforcement.
6. Length of time that the child was sexually exploited.
7. Extent of any substance abuse by the child.

(b) The initial screening and assessment instruments shall be validated, if possible, and must be used by the department, juvenile assessment centers as provided in s. 985.135, and community-based care lead agencies.

(c) The department shall adopt rules that specify the initial screening and assessment instruments to be used and provide requirements for their use and for the reporting of data collected through their use.

(d) The department, the Department of Juvenile Justice, and community-based care lead agencies may use additional assessment instruments in the course of serving sexually exploited children.

(2) TRAINING; CASE MANAGEMENT; TASK FORCES.

(a)1. The department and community-based care lead agencies shall ensure that cases in which a child is alleged, suspected, or known to have been sexually exploited are assigned to child protective investigators and case managers who have specialized intensive training in handling cases involving a sexually exploited child. The department and lead agencies shall ensure that child protective investigators and case managers receive this training before accepting a case involving a sexually exploited child.

2. The Department of Juvenile Justice shall ensure that juvenile probation staff or contractors administering the detention risk assessment instrument pursuant to s. 985.14 receive specialized intensive training in identifying and serving sexually exploited children.

(b) The department and community-based care lead agencies shall conduct regular multidisciplinary staffings relating to services provided for sexually exploited children to ensure that all parties possess relevant information and services are coordinated across systems. The department or community-based care lead agency, as appropriate, shall coordinate these staffings and invite individuals involved in the child's care, including, but not limited to, the child's guardian ad litem, juvenile justice system staff, school district staff, service providers, and victim advocates.

(c)1. Each region of the department and each community-based care lead agency shall jointly assess local service capacity to meet the specialized service needs of sexually exploited children and establish a plan to develop the necessary capacity. Each plan shall be developed in consultation with local law enforcement officials, local school officials, runaway and homeless youth program providers, local probation departments, children's advocacy centers, guardians ad litem, public defenders, state attorneys' offices, safe houses, and child advocates and service providers who work directly with sexually exploited children.

2. Each region of the department and each community-based care lead agency shall establish local protocols and procedures for working with sexually exploited children which are responsive to the individual circumstances of each child. The protocols and procedures shall take into account the varying types and levels of trauma endured; whether the sexual exploitation is actively occurring, occurred in the past, or are inactive but likely to recur; and the differing community resources and degrees of familial support that are available. Child protective investigators and case managers must use these protocols and procedures when working with a sexually exploited child.

Attorneys for children with special needs

39.01305 Appointment of an attorney for a dependent child with certain special needs.—

(1)(a) The Legislature finds that:

1. All children in proceedings under this chapter have important interests at stake, such as health, safety, and well-being and the need to obtain permanency.

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

(b) The Legislature recognizes the existence of organizations that provide attorney representation to children in certain jurisdictions throughout the state. Further, the statewide Guardian Ad Litem Program provides best interest representation for dependent children in every jurisdiction in accordance with state and federal law. The Legislature, therefore, does not intend that funding provided for representation under this section supplant proven and existing organizations representing children. Instead, the Legislature intends that funding provided for representation under this section be an additional resource for the representation of more children in these jurisdictions, to the extent necessary to meet the requirements of this chapter, with the cooperation of existing local organizations or through the expansion of those organizations. The Legislature encourages the expansion of pro bono representation for

children. This section is not intended to limit the ability of a pro bono attorney to appear on behalf of a child.

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

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

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

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

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

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

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

(4)(a) Before a court may appoint an attorney, who may be compensated pursuant to this section, the court must request a recommendation from the Statewide Guardian Ad Litem Office for an attorney who is willing to represent a child without additional compensation. If such an attorney is available within 15 days after the court’s request, the court must appoint that attorney. However, the court may appoint a compensated attorney within the 15-day period if the Statewide Guardian Ad Litem Office informs the court that it will not be able to recommend an attorney within that time period.

(b) After an attorney is appointed, the appointment continues in effect until the attorney is allowed to withdraw or is discharged by the court or until the case is dismissed. An attorney who is appointed under this section to represent the child shall provide the complete range of legal services, from the removal from home or from the initial appointment through all available appellate proceedings. With the permission of the court, the attorney for the dependent child may arrange for supplemental or separate counsel to represent the child in appellate proceedings. A court order appointing an attorney under this section must be in writing.

(5) Except if the attorney has agreed to provide pro bono services, an appointed attorney or organization must be adequately compensated and provided with access to funding for expert witnesses, depositions, and other costs of litigation. Payment to an attorney is subject to appropriations and subject to review by the Justice Administrative Commission for reasonableness.

The Justice Administrative Commission shall contract with attorneys appointed by the court. Attorney fees may not exceed \$1,000 per child per year.

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

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

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

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