FLORIDA JUVENILE LAWS 1979-80

CHAPTER 39–CHAPTER 959
SECTIONS OF 409 & 827

STATE OF FLORIDA
DEPARTMENT OF HEALTH AND REHABILITATIVE SERVICES
YOUTH SERVICES PROGRAM OFFICE

CHAPTER 39
PROCEEDINGS RELATING TO JUVENILES

PART I

GENERAL PROVISIONS

39.001 Short title, purposes, and intent.-

(1) This chapter shall be known and may be cited as the "Florida Juvenile Justice Act."

(2) The purposes of this chapter are:

(a) To protect society more effectively by substituting for retributive punishment, whenever possible, methods of offender rehabilitation and rehabilitative restitution, recognizing that the application of sanctions which are consistent with the seriousness of the offense is appropriate in all cases.

(b) To assure to all children brought to the attention of the courts, either as a result of their misconduct or because of neglect or mistreatment by those responsible for their care, the care, guidance, and control, preferably in each child's own home, which will best serve the moral, emotional, mental, and physical welfare of the child and the best interests of the state.

(c) To preserve and strengthen the child's family ties whenever possible, removing him from the custody of his parents only when his welfare or the safety and protection of the public cannot be adequately safeguarded without such removal; and, when the child is removed from his own family, to secure for him custody, care, and discipline as nearly as possible equivalent to that which should have been given by his parents; and to assure, in all cases in which a child must be permanently removed from the custody of his parents, that the child be placed in an approved family home and be made a member of the family by adoption.

(d) To provide procedures by which the provisions of the law are executed and enforced as will assure the parties fair hearings at which their rights as citizens are recognized and protected.

(e) To assure that the prosecution and disposition of a child charged and found to have committed a violation of Florida law be exercised with appropriate discretion and in keeping with the seriousness of the offense and that all findings made under this chapter be based upon facts presented at a hearing that meets the constitutional standard of fundamental fairness.

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

History. -s. 1, ch. 26880, 1951; s. 1, ch. 73-231; s. 1, ch. 78-414.

Note. -Former s. 39.20.

39.01 Definitions.—When used in this chapter:

(1) "Abandoned" means a situation in which a parent who, while being able, makes no provision for the child's support and makes no effort to communicate with the child for a period of 6 months or longer. If a parent's efforts to support and communicate with the child during such a 6-month period are, in the opinion of the court, only marginal efforts that do not evince a settled purpose to assume all parental duties, the court may declare the child to be abandoned.

(2) "Abuse" means any willful act that results in any physical, mental, or sexual injury that causes or is likely to cause the child's physical, mental, or emotional health to be significantly impaired.

(3) "Adjudicatory hearing" means a hearing provided for under s. 39.09(1), in delinquency cases, or s. 39.408(1), in dependency cases.

(4) "Adult" means any natural person other than a child.

(5) "Authorized agent of the department" means a person assigned or designated by the department to perform duties or exercise powers pursuant to this chapter.

(6) "Caretaker/homemaker" means an authorized agent of the department who shall remain in the child's home with the child until a parent, legal guardian, or relative of the child enters the home and is capable of assuming and agrees to assume charge of the child.

(7) "Child" means any unmarried person under the age of 18 alleged to be dependent or any married or unmarried person who is charged with a violation of law occurring prior to the time that person reached the age of 18 years.

(8) "Child who has committed a delinquent act" means a child who, pursuant to the provisions of this chapter, is found by a court to have committed a felony, a misdemeanor, contempt of court, or a violation of a local penal ordinance, other than a juvenile traffic offense, and whose case has not been prosecuted as an adult case.

(9) "Child who is found to be dependent" means a child who, pursuant to this chapter, is found by the court:

(a) To have been abandoned, abused, or neglected by his parents or other custodians.

(b) To have been surrendered to the department or a licensed child-placing agency for purpose of adoption.

(c) To have persistently run away from his parents or legal guardian.

(d) To be habitually truant from school while being subject to compulsory school attendance.

(e) To have persistently disobeyed the reasonable and lawful demands of his parents or other legal custodians and to be beyond their control.

(10) "Community control" means the legal status of probation created by law and court order in cases involving a child who has been found to have committed a delinquent act. Community control is an individualized program where the freedom of the child is limited and the child is restricted to noninstitutional quarters or restricted to the child's home in lieu of commitment to the custody of the department in a training school, halfway house, or other residential program of the department.

(11) "Court," unless otherwise expressly stated, means the circuit court.

(12) "Crisis home" means a homelike facility authorized by the department and approved by the court for the temporary placement and care of a child who does not require detention or shelter care but who is not able to remain in his own home. A crisis home need not be a licensed facility.

(13) "Department" means the Department of Health and Rehabilitative Services.

(14) "Detention care" means the temporary care of a child in a detention home or nonsecure detention program, including home detention and attention homes as authorized by chapter 959, pending court disposition or execution of a court order.

(15) "Detention hearing" means a hearing provided for under s. 39.032, in delinquency cases, or s. 39.402, in dependency cases.

(16) "Detention home" means a facility used pending court disposition or execution of court order for the temporary care of a child alleged or found to have committed a violation of law. A detention home may provide secure or nonsecure custody. A facility used for the commitment of adjudicated delinquents shall not be considered a detention home.

(17) "Disposition hearing" means a hearing provided for under s. 39.09(3), in delinquency cases, or s. 39.408(2), in dependency cases.

(18) "Intake" means the acceptance of a law enforcement report or complaint and the screening thereof to determine whether action by the court is warranted, the disposition of the report or complaint without court or public agency action when appropriate, the referral of the child to another public or private agency when appropriate, and the recommendation by the intake officer of court action when appropriate.

(19) "Intake officer" means the authorized agent of the department performing the intake function for a child alleged to be delinquent or dependent.

(20) "Judge" means the circuit judge exercising jurisdiction pursuant to this chapter.

(21) "Juvenile traffic offense" means a violation by a child of a state law or local ordinance pertaining to the operation of a motor vehicle; however, the following offenses shall not be considered juvenile traffic offenses but shall be considered delinquent acts for the purposes of this chapter:

(a) Fleeing or attempting to elude a law enforcement officer or failing or refusing to comply with any lawful order or direction of any police officer or member of the fire department, in violation of s. 316.072(3).

(b) Leaving the scene of a collision or an accident involving death or personal injuries or with an unattended vehicle.

(c) Driving while under the influence of alcoholic beverages, narcotic drugs, barbiturates, or other stimulants in violation of s. 316.193.

(d) Driving without a restricted operator's license if under the age of 16 years.

(e) Driving without a valid operator's license or while the license is suspended or revoked.

(22) "Legal custody" means a legal status created by court order or letter of guardianship which vests in a custodian of the person or guardian, whether an agency or an individual, the right to have physical custody of the child and the right and duty to protect, train, and discipline him and to provide him with food, shelter, education, and ordinary medical, dental, psychiatric, and psychological care.

(23) "Licensed child-caring agency" means a person, society, association, or agency licensed by the department to care for, receive, and board children.

(24) "Licensed child-placing agency" means a person, society, association, or institution licensed by the department to care for, receive, or board children and to place children in a licensed child-caring institution or a foster or adoptive home.

(25) "Likely to injure oneself" means that, as evidenced by violent or other actively self-destructive behavior, it is more likely than not that within a 24-hour period the child will attempt to commit suicide or inflict serious bodily harm on himself.

(26) "Likely to injure others" means that it is more likely than not that within a 24-hour period the child will inflict serious and unjustified bodily harm on another person.

(27) "Neglect" occurs when a parent or other legal custodian, though financially able, deprives a child of, or allows a child to be deprived of, necessary food, clothing, shelter, or medical treatment or permits a child to live in an environment when such deprivation or environment causes the child's physical, mental, or emotional health to be significantly impaired or to be in danger of being significantly impaired. A parent or guardian legitimately practicing his religious beliefs in accordance with a recognized church or religious organization who thereby does not provide specific medical treatment for a child shall not, for that reason alone, be considered a negligent parent or guardian; however, such an exception shall not preclude a court from ordering, when the health of the child requires it, the provision of medical services by a physician as defined herein or treatment by a duly accredited practitioner who relies solely on spiritual means for healing in accordance with the tenets and practices of a well-recognized church or religious organization.

(28) "Nonsecure shelter" means a place for the temporary care of a child alleged to be, or found to be, dependent pending court disposition, which may be before or after adjudication, or execution of a court order.

(29) "Parent" means the natural father or natural mother of a child. If a child has been legally adopted, the term "parent" means the adoptive mother or father of the child.

(30) "Protective supervision" means a legal status created by court order in dependency cases which permits the child to remain in his own home or other placement under the supervision of an agent of the department, subject to being returned to the court during the period of supervision.

(31) "Secure shelter" means a physically restricting facility which provides 24-hour continual supervision for the temporary care of a child who is a runaway likely to injure himself or others or in need of care and treatment

and who lacks sufficient capacity to determine what course of action is in his own best interest.

(32) "Shelter" includes both nonsecure and secure shelter.

(33) "Taken into custody" means the status of a child immediately when temporary physical control over the child is attained by a person authorized by law, pending the child's release, detention, placement, or other disposition as authorized by law.

(34) "Violation of law" means a violation of any law of the United States or of the state or of an ordinance which would be an infraction, a misdemeanor, or a felony if the violation were committed by an adult.

(35) "Waiver hearing" means a hearing provided for under s. 39.09(2).

History.-s. 1, ch. 26880, 1951; ss. 1, 2, ch. 67-585; s. 3, ch. 69-353; s. 4, ch. 69-365; ss. 19, 35, ch. 69-106; s. 1, ch. 71-117; s. 1, ch. 71-130; s. 10, ch. 71-355; ss. 4, 5, ch. 72-179; ss. 19, 30, ch. 72-404; ss. 2, 23, ch. 73-231; s. 1, ch. 74-368; ss. 15, 27, 28, ch. 75-48; s. 4, ch. 77-147; s. 2, ch. 78-414; s. 9, ch. 79-164; s. 2, ch. 79-203.

PART II

DELINQUENCY CASES

39.02 Jurisdiction.-

(1) The circuit court shall have exclusive original jurisdiction of proceedings in which a child is alleged to have committed a delinquent act or violation of law. The circuit court shall have jurisdiction in cases involving offenses described in s. 39.01(21)(a)-(e) and may have jurisdiction in those cases where the child has been found guilty of two or more previous juvenile traffic offenses within 6 months only if the court having jurisdiction over traffic offenses waives jurisdiction and certifies the case to the circuit court. In such case, a petition of delinquency, which may include or consist of the uniform traffic complaint, shall be filed in the circuit court, and the case shall be heard de novo as a delinquency proceeding.

(2) During the prosecution of any violation of law, except for a juvenile traffic offense, against any person who has been presumed to be an adult, if it is shown that the person was a child at the time the offense was committed, then the court shall forthwith transfer the case, together with the physical custody of the child and all physical evidence, papers, documents, and testimony, original and duplicate, connected therewith, to the appropriate court for proceeding under this chapter. The circuit court is exclusively authorized to assume jurisdiction over any delinquent child arrested and charged with violating a federal law or a law of the District of Columbia, who is found or living or domiciled in a county in which the circuit court is established, when the child is surrendered to the circuit court as provided in 18 U.S.C. s. 5001.

(3)(a) Petitions filed under this chapter shall be filed in the county where the delinquent act or violation of law

occurred, but the circuit court for that county may, prior to or after adjudication, transfer the case to the circuit court of the circuit in which the child resides or will reside at the time of detention or placement. If the child has been detained, he shall be transferred to the appropriate detention home, crisis home, or other placement directed by the receiving court.

(b) The jurisdiction to be exercised by the court when a child is taken into custody before the filing of a petition under s. 39.06(7) shall be exercised by the circuit court for the county in which the child is taken into custody. This court shall have personal jurisdiction of the child. Upon the filing of a petition in the appropriate circuit court, the court which is exercising such initial jurisdiction of the person of the child shall, if the child has been detained or placed in a crisis home, forthwith cause the child to be transferred to the detention home or other placement as ordered by the court having subject matter jurisdiction of the case.

(4) Notwithstanding the provisions of s. 743.07, when the jurisdiction of any child who is alleged to have committed a delinquent act is obtained, the court shall retain jurisdiction, unless relinquished by its order, until the child reaches 19 years of age, with the same power over the child that the court had prior to the child becoming an adult. This subsection shall not be construed to prevent the exercise of jurisdiction by any other court having jurisdiction of the child if the child, after becoming an adult, commits a violation of law.

(5)(a) If the court finds, after a waiver hearing, that a child who was 14 years of age or older at the time the alleged violation was committed and who is alleged to have committed a violation of Florida law should be charged and tried as an adult, then the court may enter an order transferring the case and certifying the case for trial as if the child were an adult. The child shall thereafter be subject to prosecution, trial, and sentencing as if the child were an adult but subject to the provisions of s. 39.111(6).

(b) The court shall transfer and certify the case for trial as if the child were an adult if the child is alleged to have committed a violation of law and, prior to the commencement of an adjudicatory hearing, the child, joined by a parent or, in the absence of a parent, by his guardian or guardian ad litem, demands in writing to be tried as an adult.

(c) A child of any age charged with a violation of Florida law punishable by death or by life imprisonment shall be subject to the jurisdiction of the court as set forth in s. 39.06(7) unless and until an indictment on such charge is returned by the grand jury. When an indictment is returned, the petition for delinquency, if any, shall be dismissed and the child shall be tried and handled in every respect as if he were an adult. No adjudicatory hearing shall be held within 21 days from the date that the child is taken into custody and charged with having committed a capital or life felony unless the state attorney advises the court in writing that he does not intend to present the case to the grand jury or that he has presented the case to the grand jury and that the grand jury has returned a no true

bill. If the court receives such a notice from the state attorney, or if the grand jury fails to act within the 21-day period, the court may proceed as otherwise authorized under this chapter.

(d) Once a child has been transferred for criminal prosecution pursuant to a waiver hearing, indictment, or information and has been found to have committed the offense for which he is transferred or a lesser-included offense, the child shall thereafter be handled in every respect as if he were an adult for any subsequent violation of Florida law.

(6) When a child has been transferred for criminal prosecution as an adult and the child has been found to have committed a violation of Florida law, the disposition of the case shall be made pursuant to s. 39.111(6).

(7) Nothing in this chapter shall be deemed to take away from the court any jurisdiction or duties conferred upon the court by general law.

History.--s. 1, ch. 26880, 1951; s. 1, ch. 28172, 1953; ss. 1, 2, ch. 29900, 1955; s. 1, ch. 63-12; s. 1, ch. 65-219; s. 1, ch. 67-71; s. 1, ch. 69-146; s. 6, ch. 72-179; s. 3, ch. 73-231; s. 5, ch. 73-334; s. 2, ch. 74-368; s. 16, ch. 75-48; s. 3, ch. 78-414.

39.03 Taking a child into custody; detention.--

(1) A child may be taken into custody:

(a) Pursuant to an order of the circuit court issued pursuant to the provisions of this chapter, based upon sworn testimony, either before or after a petition is filed.

(b) For a delinquent act or violation of law, pursuant to Florida law pertaining to arrest.

(c) By an authorized agent of the department when he has reasonable grounds to believe a child in a community control program has violated in a material way a condition or term of the program imposed by the court or otherwise required by law. Any child taken into custody for a violation of the terms or conditions of the community control program shall not be detained longer than 48 hours without an order by the court directing such detention.

(2) Unless otherwise ordered by the court, if the child is not detained or placed in a crisis home pursuant to s. 39.032(2), the person taking the child into custody shall release the child to a parent, a responsible adult relative, a responsible agent of an approved crisis home, or an adult approved by the court upon agreement of the person to whom the child is released to produce the child in court at such time as the court may direct. When a child is released to an adult who is not a parent or responsible adult relative of the child, the adult may be selected by the department from a list of persons previously approved by the court as authorized agents of the department to receive children for temporary placement. Unless otherwise accomplished pursuant to subsection (4), the person taking the child into custody and detaining the child shall, within 3 days, make a written report to the appropriate intake officer, stating the facts by reason of which the child was taken into custody. The report shall:

(a) Identify the child, his parents, and the person to whom he was released.

(b) Contain sufficient information to establish the jurisdiction of the court and to make a prima facie showing that the child has committed a violation of law or delinquent act.

(3) If the person taking the child into custody determines, pursuant to s. 39.032(2), that the child should be detained or placed in a crisis home, that person shall make a reasonable effort to immediately notify the parents or legal custodians of the child and shall, without unreasonable delay, deliver the child to the appropriate intake officer or, if the court has so ordered, to a detention home or crisis home. Upon delivery of the child to such place, the person taking the child into custody shall make a report in writing to the appropriate intake officer. The report shall:

(a) Identify the child and, if known, his parents and legal custodians.

(b) Show that the child was legally taken into custody pursuant to subsection (1).

(4)(a) A copy of a sworn complaint by a law enforcement agency shall be filed by the law enforcement agency making the complaint with the clerk of the circuit court for the county in which the child was taken into custody or in which the complaint is made within 24 hours after the child is taken into custody if the child is detained, and within 1 week after the child is taken into custody and released or after the complaint is made, excluding Saturdays, Sundays, and legal holidays. Such complaint shall be a case for the purpose of this section.

(b) Upon the filing of a copy of a sworn complaint by a law enforcement agency with the clerk of the circuit court, the clerk shall forthwith assign a uniform case number to the complaint, forward a copy to the state attorney, and forward a copy to the intake office of the department which serves the county in which the case arose.

(c) Each letter of recommendation, written notice, report, or other paper pertaining to the case shall bear the uniform case number of the case, and a copy shall be filed with the clerk of the circuit court by the issuing agency. The issuing agency shall furnish copies to the intake officer and state attorney.

(d) Upon the filing of a petition based on the allegations of a previously filed complaint, the agency filing the petition shall include the appropriate uniform case number on said petition.

(5) Nothing in this section shall prohibit the proper use of police diversion programs.

History.--s. 1, ch. 26880, 1951; ss. 3, 4, ch. 29900, 1955; s. 1, ch. 59-441; s. 1, ch. 61-54; s. 1, ch. 67-116; s. 3, ch. 67-2207; s. 1, ch. 69-113; ss. 20, 35, ch. 69-106; s. 4, ch. 69-365; s. 1, ch. 70-353; s. 2, ch. 71-130; s. 10, ch. 71-355; ss. 4-9, ch. 73-231; s. 17, ch. 75-48; s. 1, ch. 75-198; s. 8, ch. 76-236; s. 1, ch. 77-174; ss. 4, 5, ch. 78-414; s. 10, ch. 79-164.

39.031 Fingerprinting and photographing.--

(1) Any law enforcement agency may fingerprint and photograph a child taken into custody upon probable cause that such child has committed a violation of law. The

fingerprint records and photographs so taken shall be retained by the law enforcement agency in a separate file maintained only for that purpose. These records including all copies thereof shall be marked "Juvenile Confidential." These records shall not be available for public disclosure and inspection under s. 119.07, but such records shall be available to other law enforcement agencies, state attorneys, the courts, the child, the parents or legal custodians of the child, their attorneys, or any other person authorized by the court to have access to such records. These records may, in the discretion of the court, be opened to inspection by anyone upon a showing of good cause. The fingerprint and photograph records shall be produced in the court whenever directed by the court. Any photograph taken pursuant to this section may be shown by a law enforcement officer to any victim or witness of a crime for the purpose of identifying the person who committed such crime.

(2) If the child is not referred to the court, or if the child is found not to have committed an offense or delinquent act, the court may, after notice to the law enforcement agency involved, order the originals and copies of the fingerprints and photographs destroyed. Unless otherwise ordered by the court, if the child is found to have committed an offense which would be a felony if it had been committed by an adult, then the law enforcement agency having custody of the fingerprint and photograph records shall retain the originals and immediately thereafter forward adequate duplicate copies to the court along with the written offense report relating to the matter for which the child was taken into custody. Except as otherwise provided by this subsection, the court, after the disposition hearing on the case, shall forward duplicate copies of the fingerprints and photographs, together with the child's name, address, date of birth, age, and sex, to the following agencies:

(a) The Department of Law Enforcement.

(b) The sheriff of the county in which the child was taken into custody, in order to maintain a central child identification file in that county.

(c) The law enforcement agency of each municipality having a population in excess of 50,000 persons and located in the county of arrest, if so requested specifically or by a general request by that agency.

(3) All law enforcement agencies and the Department of Law Enforcement shall use these fingerprint and photograph records only for identification purposes. If an identification is made, the Department of Law Enforcement shall advise the forwarding law enforcement agency of this fact and of the name and last known address of the child. Fingerprint and photograph records received pursuant to this section by the Department of Law Enforcement shall be retained, used, stored, disseminated, and purged in the same manner as other criminal history information.

(4) Nothing contained in this section shall prohibit the fingerprinting or photographing of child traffic violators. All records of juvenile traffic violations shall be kept in the full name of the violator and shall be open to inspection and publication in the same manner as adult

traffic violations. Nothing contained in this section shall apply to photographing of children by the department.

History.—s. 6, ch. 78-414; s. 7, ch. 79-8; s. 11, ch. 79-164.

39.032 Detention.—

(1) The intake officer shall review the facts in the law enforcement report or complaint and make such further inquiry as necessary to determine the need for detention or shelter care of the child. Unless detention care or a crisis home is required under subsection (2), the child shall be released by the intake officer in accordance with s. 39.03(2). If the child cannot be released, the intake officer shall authorize detention care for any child alleged to have committed a violation of law, except as provided in paragraph (2)(b). If the child is alleged to be both dependent and to have committed a violation of law, the intake officer may authorize either detention care or shelter care. Under no circumstances shall the intake officer authorize the detention of any child in a jail or other facility intended or used for the detention of adults. When a child is charged with a felony pursuant to s. 39.04(2)(e)4. or 5., the court may order detention of such child in a jail or other facility intended or used for the detention of adults; however, no child shall be placed in the same cell with any adult or other child alleged to have committed, or who has been adjudged to have committed, a crime.

(2) Unless ordered by the court, a child taken into custody shall not be placed or retained in detention care prior to the court's disposition unless detention or a crisis home is required:

(a) To protect the person or property of others or of the child;

(b) Because the child has no parent, guardian, responsible adult relative, or other adult approved by the court able to provide supervision and care for him. If a child is to be detained pursuant to this paragraph alone, a crisis home only may be used;

(c) To secure his presence at the next hearing;

(d) Because the child has been twice previously adjudicated to have committed a delinquent act and has been charged with a third subsequent delinquent act which would constitute a felony if the child were an adult; or

(e) To hold for another jurisdiction a delinquent child escapee or an absconder from probation, a community control program, or parole supervision or a child who is wanted by another jurisdiction for an offense which, if committed by an adult, would be a violation of law.

A child who is charged with a violation of law and is detained under this subsection shall be given a detention hearing within 48 hours of his being taken into custody, excluding Sundays and legal holidays, to determine the need for continued detention. The circuit court, or the county court if previously designated by order of the chief judge of the circuit court, shall hold the detention hearing. The criteria for placement in detention care or a crisis home given above shall govern the decision of all persons

responsible for determining whether detention care or a crisis home is warranted prior to the court's disposition.

(3) Except in emergency situations, a child shall not be placed or transported in any police car or other similar vehicle which at the same time contains an adult under arrest unless the adult is alleged or believed to be involved in the same offense or transaction as the child.

(4)(a) The court shall order the delivery of a child to a jail or other facility intended or used for the detention of adults:

1. When the child has been transferred for criminal prosecution as an adult pursuant to this chapter, or

2. When the court determines, upon the recommendation of the superintendent of the detention home, that the child would be beyond the control of the detention home staff.

The receiving facility shall contain a separate section for juvenile offenders and have an adequate staff to supervise and monitor the child's activities at all times.

(b) The chief judge, or, where a specialized juvenile division exists, the presiding or supervising judge of that division, shall, at monthly intervals, inform the board of county commissioners or other governing body of the county, in writing, of the number of, and the reasons for, deliveries of children to jail in that county, identifying children only by initials and court case numbers.

(5)(a) No child shall be held in detention or shelter care longer than 48 hours, excluding Sundays or legal holidays, unless an order is entered by the court after a detention hearing finding that detention care or a crisis home is required based on the criteria in subsection (2). The order shall state the reasons for such findings of the court. The order shall be reviewable by appeal pursuant to s. 39.14 and the Florida Appellate Rules.

(b) Unless otherwise specifically ordered by the court having jurisdiction of the case, during the period of time from the taking of the child into custody to the date of the detention hearing held pursuant to paragraph (a), the decision as to the detention, continued detention, or release from detention of the child shall be made by the intake officer in accordance with subsection (2) and any administrative order of court, after consultation with the state attorney.

(c) No child shall be held in detention care or a crisis home under a special detention order for more than 21 days unless an adjudicatory hearing for the case has been commenced by the court.

(d) No child shall be held in detention care or a crisis home for more than 15 days following the entry of an order of adjudication unless an order of disposition pursuant to s. 39.11 has been entered by the court or unless a continuance, which shall not exceed 15 days, has been granted for good cause. After notifying the court, the detention home superintendent shall release any child held beyond 15 days without a grant of continuance.

(e) The time limitations in paragraphs (c) and (d) shall not include:

1. Periods of delay resulting from a continuance granted at the request or with the consent of the child and his counsel.

2. Periods of delay resulting from a continuance granted at the request of the state attorney if the continuance is granted:

a. Because of an unavailability of evidence material to his case, if the state attorney has exercised due diligence to obtain such evidence and there are substantial grounds to believe that such evidence will be available within 30 days; or

b. To allow the state attorney additional time to prepare his case and additional time is justified because of the exceptional circumstances of the case.

History.--s. 6, ch. 78-414.

39.04 Intake.-

(1) Intake shall be performed by the department. A report or complaint alleging that a child has committed a delinquent act shall be made to the intake office operating in the county in which the child is found or in which the delinquent act occurred. Any person or agency having knowledge of the facts may make a complaint. If not required otherwise by s. 39.03(4), the complainant shall furnish the intake office facts sufficient to establish the jurisdiction of the court and to support a finding by the court that the child has committed a delinquent act.

(2) The intake officer shall make a preliminary determination as to whether the report or complaint is complete, consulting with the state attorney or assistant state attorney as may be necessary. In any case where the intake officer or the state attorney finds that the report or complaint is incomplete, the intake officer or state attorney shall return the report or complaint, without delay, to the person or agency originating the report or complaint or having knowledge of the facts, or to the appropriate law enforcement agency having investigative jurisdiction of the offense, and request, and the agency shall promptly thereafter furnish, additional information in order to complete the report or complaint.

(a) If the intake officer determines that the report or complaint is complete, he may in the case of a child who is alleged to have committed a delinquent act, recommend that the state attorney file a petition of delinquency or an information or seek an indictment by the grand jury.

(b) If the intake officer determines that the report or complaint is complete, but that in his judgment the interest of the child and the public will be best served by providing the child care, a diversionary or mediation program, or other treatment voluntarily accepted by the child and his parents or legal custodians, the intake officer with the approval of the state attorney may refer the child for such care, diversionary or mediation program, or other treatment.

(c) If the intake officer determines that the report or complaint is complete and in his judgment the interest of the child and the public will be best served, he may recommend that a delinquency petition not be filed. If such a recommendation is made, the intake officer shall advise in writing the complainant, the victim, if any, and the law enforcement agency having investigative jurisdiction of the offense of the recommendation and the reasons therefor; and

that person or agency may submit, within 10 days from the receipt of such notice, the complaint to the state attorney for special review. The state attorney, upon receiving a request for special review, shall consider the facts presented by the complainant or agency and by the intake officer who made the recommendation that no petition or information be filed before such attorney makes a final decision as to whether a petition or information should or should not be filed.

(d) In all cases in which the child is alleged to have committed a delinquent act and is not detained, the intake officer shall submit a written report to the state attorney, including the original report or complaint or a copy thereof, within 20 days from the date the child is taken into custody or the report or complaint is made to the intake office, whichever date shall last occur. In cases where the child is in detention, the intake office report shall be submitted within 48 hours of the detention. The intake office report shall recommend that a petition or information be filed or that no petition or information be filed, and it shall set forth reasons for such recommendation.

(e) The state attorney shall in all such cases, after receiving and considering the recommendation of the intake officer, have the right to take action, regardless of the action or lack of action of the intake officer, and shall determine the action which is in the best interest of the public. The state attorney may:

1. File a petition for dependency;

2. File a petition for delinquency;

3. File a petition for delinquency with a motion to transfer and certify the child pursuant to s. 39.02(5) and s. 39.09(2) for prosecution as an adult;

4. With respect to any child who at the time of commission of the alleged offense was 16 or 17 years of age, file an information when in his judgment and discretion the public interest requires that adult sanctions be considered or imposed. Upon motion of the child, the case shall be transferred for adjudicatory proceedings as a child pursuant to s. 39.09(1) if it is shown by the child that he had not previously been found to have committed two delinquent acts, one of which involved an offense classified under Florida law as a felony;

5. Refer the case to a grand jury;

6. Refer the child to a diversionary, pretrial intervention, or mediation program or to some other treatment or care program if such program commitment is voluntarily accepted by the child or his parents or legal guardians; or

7. Dismiss the case.

(f) In cases in which a delinquency complaint is filed by a law enforcement agency and the state attorney determines not to file a petition, the state attorney shall advise the clerk of the circuit court in writing that no petition will be filed on the complaint.

History.--s. 1, ch. 26880, 1951; s. 3, ch. 71-130; s. 10, ch. 73-231; s. 18, ch. 75-48; s. 1, ch. 77-174; s. 7, ch. 78-414.

39.05 Petition.-

(1) All proceedings seeking a finding that a child has committed a delinquent act shall be initiated by the state by the filing of a petition for delinquency by the state attorney.

(2) The petition shall be in writing and shall be signed by the state attorney under oath. The petition may be signed and proceedings initiated by the state attorney or by an assistant state attorney.

(3) The state attorney shall represent the state in all proceedings in which a petition alleges delinquency.

(4) When a petition has been filed and the child or his counsel has advised the state attorney that the truth of the allegations is admitted and that no contest is to be made of the allegations in the petition, the state attorney may request that the case be set for an adjudicatory hearing. At this hearing, should there be a change in the plea by the child, the court shall continue the hearing to permit the state attorney to prepare and present the case for the state.

(5) The form of the petition and its contents shall be determined by rules of procedure adopted by the Supreme Court.

(6) On motions by or in behalf of a child, a petition alleging delinquency shall be dismissed with prejudice if it was not filed within 45 days from the date the complaint was referred to the intake office. However, the court may grant an extension of time not to exceed an additional 15 days upon such motion by the state attorney when, in the opinion of the court, such additional time is justified because of exceptional circumstances.

(7)(a) If a petition has been filed alleging a child to be delinquent, the adjudicatory hearing on the petition shall be commenced within 90 days of the earliest of the following dates:

1. The date the child was taken into custody.

2. The date the petition was filed.

(b) If the adjudicatory hearing is not begun within 90 days or an extension thereof as hereinafter provided, the petition shall be dismissed with prejudice.

(c) The court may extend the period of time prescribed in paragraph (a) on motion of any party, after hearing, on a finding of good cause or that the interest of the child will be served by such extension. The order extending such period shall recite the reasons for such extension. The general congestion of the court's docket, lack of diligent preparation, failure to obtain available witnesses, or other avoidable or foreseeable delays shall not constitute good cause for such extension.

History.-s. 1, ch. 26880, 1951; s. 4, ch. 71-130; s. 11, ch. 73-231; s. 19, ch. 75-48; s. 6, ch. 77-147; s. 8, ch. 78-414.

39.06 Process and service.-

(1) Personal appearance of any person in a hearing before the court shall obviate the necessity of serving process on that person.

(2) Upon the filing of a petition containing allegations of facts which, if true, would constitute the child therein

named as having committed a delinquent act, and upon the request of the petitioner, the clerk or deputy clerk shall issue a summons.

(3) The summons shall require the person on whom it is served to appear for a hearing at a time and place specified. Except in cases of medical emergency, the time shall not be less than 24 hours after service of the summons. If the child is not detained by an order of the court, the summons shall require the custodian to produce the child at the said time and place. A copy of the petition shall be attached to the summons.

(4) The summons shall be directed to, and shall be served upon, the following persons:

(a) The child, in the same manner as if he were an adult, when the petition alleges delinquency;

(b) The parents; and

(c) The legal custodians, actual custodians, and guardians ad litem, if there be any other than the parents.

(5) If the petition alleges that the child has committed a violation of law and the judge deems it advisable to do so, the judge may, by endorsement upon the summons and after the entry of an order in which valid reasons are specified, order the child to be taken into custody immediately, and in such case the person serving the summons shall forthwith take the child into custody.

(6) It shall not be necessary to the validity of a proceeding covered by this chapter that the parents or legal custodians be present if their identity or residence is unknown after a diligent search and inquiry have been made, if they are residents of a state other than Florida, or if they evade service or ignore a summons, but in this event the person who made the search and inquiry shall file in the case a certificate of those facts, and the court shall appoint a guardian ad litem for the child.

(7) The jurisdiction of the court shall attach to the child and the case when the summons is served upon the child, a parent, or legal or actual custodian of the child or when the child is taken into custody with or without service of summons and before or after filing of a petition, whichever first occurs, and thereafter the court may control the child and case in accordance with this chapter.

(8) Upon the application of the child or the state attorney, the clerk or deputy clerk shall issue, and the court on its own motion may issue, subpoenas requiring attendance and testimony of witnesses and production of records, documents, or other tangible objects at any hearing.

(9) All process and orders issued by the court shall be served or executed as other process and orders of the circuit court, and, in addition, may be served or executed by authorized agents of the department at the department's discretion.

(10) Subpoenas may be served within the state by any person over 18 years of age who is not a party to the proceeding.

(11) No fee shall be paid for service of any process or other papers by an agent of the department. If any process, orders, or any other papers are served or executed by any sheriff, the sheriff's fees shall be paid by the county.

History.–s. 1, ch. 26880, 1951; s. 10, ch. 27991, 1953; ss. 19, 35, ch. 69-106; s. 4, ch. 69-365; s. 5, ch. 71-130; s. 12, ch. 73-231; s. 5, ch. 73-334; s. 20, ch. 75-48; s. 2, ch. 77-121; s. 7, ch. 77-147; s. 25, ch. 77-433; s. 9, ch. 78-414.

39.07 No answer required.–No answer to the petition for delinquency need be filed by any child, parent, or legal custodian, but any matters which might be set forth in an answer or other pleading may be pleaded orally before the court. An answer admitting the allegations of the petition may be filed by the child joined by a parent or the child's counsel. The answer must acknowledge that the child has been advised of his right to counsel, of his right to remain silent, and of the possible dispositions available to the court. It shall provide for a waiver of the adjudicatory hearing, a statement of consent to an order of adjudication, and an authorization for the court to proceed with a dispositional hearing. Upon the filing of such an order, a dispositional hearing shall be set at the earliest practicable time that will allow for the completion of a predisposition study.

History.–s. 1, ch. 26880, 1951; s. 13, ch. 73-231; s. 10, ch. 78-414.

39.071 Right to counsel.–A child shall be entitled to representation by legal counsel at all stages of any proceedings under this part. If the child and his parents or other legal custodians are insolvent and are unable to employ counsel for the child, or if the parents of an insolvent child are solvent but refuse to employ counsel, the court shall appoint counsel for him pursuant to s. 27.52. Costs of representation shall be assessed as provided by s. 27.52 and s. 27.56. If a child appears without counsel, the court shall advise him of his rights with respect to representation of court-appointed counsel.

History.–s. 11, ch. 78-414.

39.08 Medical, psychiatric, and psychological examination and treatment.–

(1) After a petition for delinquency has been filed, the court may order the child named in the petition to be examined by a physician willing to do so. The court may also order the child to be evaluated by a psychiatrist, a psychologist, or the department's developmental disabilities diagnostic and evaluation team. If it is necessary to place a child in a residential facility for such evaluation, then the criteria and procedures established in s. 394.463(2) or chapter 393 shall be used, whichever is applicable.

(2) After a child has been adjudicated to be delinquent, or before such adjudication with the consent of any parent or legal custodian of the child, the court may order the child to be treated by a physician willing to do so. The court may also order the child to receive mental health or retardation services from a psychiatrist, psychologist, or other appropriate service provider. If it is necessary to place the child in a residential facility for such services,

then the procedures and criteria established in s. 394.467 or chapter 393 shall be used, whichever is applicable.

(3) For the purpose of either examination or treatment, the court may order the child to be detained in a suitable place. When any child is detained pending a hearing, the person in charge of the detention facility or his designated representative may authorize a triage examination as a preliminary screening device to determine if the child is in need of medical care or isolation or provide or cause to be provided such medical or surgical services as may be deemed necessary by a physician.

(4) Whenever a child who is found to be delinquent is placed by order of the court within the care and custody or under the supervision of a youth services counselor for the state in which such child resides and it appears to the court that there is no parent, guardian, or person standing in loco parentis who is capable of authorizing or willing to authorize medical, surgical, dental, or other remedial care or treatment for the child, the court may, after due notice to the parent, guardian, or person standing in loco parentis, if any, order that a representative of the department may authorize such medical, surgical, dental, or other remedial care for the child by licensed practitioners as may from time to time appear necessary.

(5) A physician shall be immediately notified by the person taking the juvenile into custody or the person having custody if there are indications of physical injury or illness, or the child shall be taken to the nearest available hospital for emergency care. A child may be provided mental health or retardation services, in emergency situations, pursuant to the procedures and criteria contained in s. 394.463(1) or chapter 393, whichever is applicable. After a hearing, the court may order the custodial parent or parents, guardian, or other custodian, if found able to do so, to reimburse the county or state for the expense involved in such emergency medical or surgical treatment or care.

(6) Nothing in this section shall be deemed to eliminate the right of the parents or the child to consent to examination or treatment for the child, except that consent of a parent shall not be required if the physician determines there is an injury or illness requiring immediate treatment and the child consents to such treatment or an ex parte court order is obtained authorizing said treatment.

(7) Nothing in this section shall be construed to authorize the permanent sterilization of the child unless such sterilization is the result of or incidental to medically necessary treatment to protect or preserve the life of the child.

(8) Except as provided in this section, nothing in this section shall be deemed to alter the provisions of s. 458.21 or to preclude a court from ordering services or treatment to be provided to the child by a duly accredited practitioner who relies solely on spiritual means for healing in accordance with the tenets and practices of a church or religious organization when his health requires it and when requested by the child.

History.--s. 1, ch. 26880, 1951; s. 14, ch. 73-231; s. 21, ch. 75-48; s. 12, ch. 78-414.

39.09 Hearings.-

(1) ADJUDICATORY HEARING.-

(a) The adjudicatory hearing shall be held as soon as practicable after the petition for delinquency is filed and in accordance with the Florida Rules of Juvenile Procedure, but reasonable delay for the purpose of investigation, discovery, or procuring counsel or witnesses shall be granted. If the child is being detained, the time limitations provided for in s. 39.032(5)(c) and (d) shall apply. The right to a speedy trial shall be governed by the provisions of s. 39.05(7), but such right may be voluntarily waived by the child in accordance with the Florida Rules of Juvenile Procedure.

(b) Adjudicatory hearings shall be conducted by the court without a jury applying in delinquency cases the rules of evidence in use in this state in criminal cases; adjourning the hearings from time to time as necessary; and conducting a fundamentally fair hearing in language understandable, to the fullest extent practicable, to the child before the court.

1. In a hearing on a petition in which it is alleged that the child has committed a delinquent act, the evidence must establish such findings beyond a reasonable doubt.

2. The child is entitled to the opportunity to introduce evidence and otherwise be heard in his own behalf and to cross-examine witnesses.

3. A child charged with a delinquent act need not be a witness against or otherwise incriminate himself. Evidence illegally seized or obtained shall not be received to establish the allegations made against him.

(c) All hearings, except as hereinafter provided, shall be open to the public, and no person shall be excluded therefrom except on special order of the court. The court, in its discretion, may close any hearing to the public when the public interest and the welfare of the child is best served by so doing. Hearings involving more than one child may be held simultaneously when the several children involved were involved in the same transactions.

(2) WAIVER HEARING.-

(a) Within 7 days, excluding Saturdays, Sundays, or legal holidays, of the date a delinquency petition has been filed and before an adjudicatory hearing, and after considering the recommendation of the intake officer, the state attorney may file a motion requesting the court to transfer the child for criminal prosecution if the child was 14 or more years of age at the alleged time of commission of the violation of law for which he is charged. If the child has been previously adjudicated delinquent for a violent crime against a person, to wit: Murder, sexual battery, armed or strong-armed robbery, aggravated battery, or aggravated assault, and is currently charged with a second or subsequent such offense, the state attorney shall file a motion requesting the court to transfer the child for criminal prosecution or shall file an information pursuant to s. 39.04(2)(e)4., if applicable.

(b) Following the filing of the motion of the state attorney, summonses shall be issued and served in conformity with the provision of s. 39.06. A copy of the motion and a copy of the delinquency petition, if not already served, shall be attached to each summons.

(c) The court shall conduct a hearing on all such motions for the purpose of determining whether a child should be transferred. In making its determination the court shall consider:

1. The seriousness of the alleged offense to the community and whether the protection of the community is best served by transferring the child for adult sanctions.

2. Whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner.

3. Whether the alleged offense was against persons or against property, greater weight being given to offenses against persons, especially if personal injury resulted.

4. The prosecutive merit of the complaint.

5. The desirability of trial and disposition of the entire offense in one court when the child's associates in the alleged crime are adults or children who are to be tried as adults who will be or have been charged with a crime.

6. The sophistication and maturity of the child, as determined by consideration of his home, environmental situation, emotional attitude, and pattern of living.

7. The record and previous history of the child, including:

a. Previous contacts with the department, other law enforcement agencies, and courts;

b. Prior periods of probation or community control;

c. Prior adjudications that the child committed a delinquent act or violation of law, greater weight being given if the child had previously been found by a court to have committed a delinquent act involving an offense classified as a felony or had twice previously been found to have committed a delinquent act involving an offense classified as a misdemeanor; and

d. Prior commitments to institutions.

8. The prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the child, if he is found to have committed the alleged offenses, by the use of procedures, services, and facilities currently available to the court.

(d) Prior to a hearing, on the motion by the state attorney, a study and report to the court, in writing, relevant to the factors in paragraph (c) shall be made by an authorized agent of the department. The child or his parents, guardians, or counsel and the state attorney shall have the right to examine these reports and to question the parties responsible for them at the hearing.

(e) Any decision to transfer for criminal prosecution shall be in writing and shall include consideration of, and findings of fact with respect to, each of the foregoing criteria. The court shall render an order including a specific finding of fact and the reasons for a decision to impose adult sanctions. The order shall be reviewable on appeal pursuant to s. 39.14 and the Florida Appellate Rules.

(3) DISPOSITION HEARING FOR DELINQUENCY CASES.-When a child has been found to have committed a delinquent act, the following procedures shall be applicable to the disposition of the case:

(a) At the disposition hearing the court shall consider a predisposition report, prepared and presented by the department, regarding the suitability of the child for disposition other than by adjudication and commitment to the

department. The report shall be submitted to the court prior to the disposition hearing.

(b) The court shall consider the child's entire predispositional report and review the records of earlier judicial proceedings prior to making a final disposition of the case. The court may, by order, require additional evaluations and studies to be performed by the department, by the county school system, or by any other social, psychological, or psychiatric agencies of the state.

(c) Before the court determines and announces the disposition to be imposed, it shall:

1. State clearly, and in nonlegal terms, the purpose of the hearing and the right of certain of those present to comment at the appropriate time on the issues before the court;

2. Discuss with the child his compliance with any home release plan or other similar plan that had been imposed since the date of the offense;

3. Discuss with the child his feeling about the offense he has committed, the harm caused to the victim or others, and what penalty he should be required to pay for such transgression; and

4. Give all parties present at the hearing an opportunity to comment on the issue of disposition and any proposed rehabilitative plan. These parties shall include, if present: The parents or guardians of the child, the child's counsel, the state attorney or assistant state attorney, representatives of the department, the victim or his representative, if any, representatives of the school system, and the law enforcement officers involved in the case.

(d) The first determination to be made by the court shall be a determination of the suitability or nonsuitability for adjudication and commitment of the child to the department. This determination shall be made based upon the following criteria:

1. The seriousness of the offense to the community.

2. Whether the protection of the community requires adjudication and commitment to the department.

3. Whether the offense was committed in an aggressive, violent, premeditated, or willful manner.

4. Whether the offense was against persons or against property, greater weight being given to offenses against persons, especially if personal injury resulted.

5. The sophistication and maturity of the child, as determined by consideration of his home, environmental situation, emotional attitude, and pattern of living.

6. The child record and previous criminal history of the child, including without limitations:

a. Previous contacts with the department, the Department of Corrections, other law enforcement agencies, and courts,

b. Prior periods of probation or community control,

c. Prior adjudications of delinquency, and

d. Prior commitments to institutions.

7. The prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the child if he is committed to a community services program or facility.

(e) If the court determines that the child should be adjudicated as having committed a delinquent act and that he

should be committed to the department, such determination shall be in writing or on the record of the hearing. The determination shall include a specific finding on reasons for the decision to adjudicate and to commit the child to the department.

(f) If the court determines not to adjudicate and commit to the department, then the court shall determine what community-based penal sanctions it will impose in a community control program for the child. Community-based penal sanctions may include, but are not limited to, rehabilitative restitution, curfew, revocation or suspension of the child's driver's license, community service, the deprivation from the child of nonessential activities or privileges, or other appropriate restraints of the child's liberty.

(g) After appropriate sanctions for the offense are determined, the court shall develop, approve, and order a plan of community control which will contain rules, requirements, conditions, and programs that are designed to encourage noncriminal and functional behavior and that will promote the rehabilitation of the child and the protection of the community.

(h) The court may receive and consider any other relevant and material evidence, including other written or oral reports or statements, in its effort to determine the appropriate disposition to be made with regard to the child. The court may rely upon such evidence to the extent of its probative value, even though such evidence may not be technically competent in an adjudicatory hearing.

(i) The court shall notify the victim of the offense, if such person is known and within the jurisdiction of the court, of the hearing and shall notify and summon or subpoena, if necessary, the parents or legal custodians of the child to attend the disposition hearing if they reside in the state.

(j) The predisposition report shall be made available to the child's legal counsel and the state attorney upon completion of the report and at a reasonable time prior to the disposition hearing.

(k) It is the intent of the Legislature that the criteria set forth in paragraph (d) are intended as general guidelines to be followed at the discretion of the court. These criteria shall not be mandatory requirements of procedure. It is not the intent of the Legislature to provide for the appeal of the disposition made pursuant to this subsection.

(4) Except as provided in paragraph (1)(c), nothing in this section shall prohibit the publication of proceedings in a hearing.

History.—s. 1, ch. 26880, 1951; s. 1, ch. 57-257; s. 1, ch. 67-509; s. 15, ch. 73-231; s. 22, ch. 75-48; s. 13, ch. 78-414; s. 3, ch. 79-3.

39.10 Adjudication.—

(1) If the court finds that the child named in a petition has not committed a delinquent act, it shall enter an order so finding and dismissing the case.

(2) If the court finds that the child named in the petition has committed a delinquent act, it may, in its

discretion, enter an order briefly stating the facts upon which its finding is based but withholding adjudication of a delinquent act and placing the child in a community control program under the supervision of the department. The court may, as a condition of the program, impose a curfew, require restitution or public service, or revoke or suspend the child's driver's license. If the court later finds that the child has not complied with the rules, restrictions, or conditions of the community-based program, the court may, after a hearing to establish the lack of compliance, but without further evidence of the state of delinquency, enter an adjudication and shall thereafter have full authority under this chapter to deal with the child as adjudicated.

(3) If the court finds that the child named in a petition has committed a delinquent act, but shall elect not to proceed under subsection (2), it shall incorporate that finding in an order of adjudication entered in the case, briefly stating the facts upon which the finding is made, and the court shall thereafter have full authority under this chapter to deal with the child as adjudicated.

(4) Except for use in a subsequent proceeding under this chapter, an adjudication by a court that a child has committed a delinquent act shall not be deemed a conviction, nor shall the child be deemed to have been found guilty or to be a criminal by reason of that adjudication, nor shall that adjudication operate to impose upon the child any of the civil disabilities ordinarily imposed by or resulting from conviction or disqualify or prejudice the child in any civil service application or appointment.

History.--s. 1, ch. 26880, 1951; s. 16, ch. 73-231; s. 23, ch. 75-48; s. 8, ch. 77-147; s. 14, ch. 78-414.

39.11 Powers of disposition.--

(1) When any child shall be adjudicated by the court to have committed a delinquent act, the court having jurisdiction of the child shall have the power, by order in which is stated the facts upon which a determination of a sanction and rehabilitative program was made at the disposition hearing, to:

(a) Place a child in a community control program under the supervision of an authorized agent of the department, either in the child's own home or, the prospective custodian being willing, in the home of a relative of the child or in some other suitable place under such reasonable conditions as the court may direct. A community control program is as defined in s. 39.01(10) and shall include a penalty such as restitution, curfew, revocation or suspension of the child's driver's license, or other noninstitutional punishment appropriate to the offense and a rehabilitative program.

1. Community control programs for children shall be supervised by the department or by any other person or agency specifically authorized by the court. These programs shall include, but shall not be limited to, structured or restricted activities designed to encourage acceptable and functional social behavior, restitution in money or in kind, or public service.

2. There shall be established in each judicial circuit a community control program advisory council which shall periodically advise the court of the diversion programs and

dispositional alternatives for children available within that circuit. The presiding judge of the circuit may appoint seven members to constitute the council. The council shall include as ex officio members the state attorney, superintendents of schools within the circuit, and an intake officer of the department or their designees.

Should the conditions of the program be violated, the agent supervising his community control program or the state attorney may bring the child before the court on a petition alleging a violation of the program. If the child denies that he has violated the conditions of his program, the court shall give him an opportunity to be fully heard in person or through counsel, or both. Upon his admission or after such hearing, the court shall enter an order revoking, modifying, or continuing the program. In all cases after a revocation, the court shall enter a new disposition order and shall have full power at that time to make any disposition it might have made at the original disposition hearing. Notwithstanding the provisions of s. 743.07, the term of any order placing a child in a community control program shall be until his 19th birthday unless he is sooner released upon the recommendation of the department or by the court on the motion of an interested party or on its own motion.

(b) Commit the child to a licensed child-caring agency willing to receive the child, but the court shall not commit the child to a jail or to a facility used primarily as a detention home or shelter.

(c) Commit the child to the department. Said commitment shall be for the purpose of exercising active control, including, but not limited to, custody, care, training, treatment, and furlough into the community. Notwithstanding the provisions of s. 743.07, the term of said commitment shall be until said child is discharged by the department or until he reaches the age of 19.

(d) Order the natural or adoptive parents of such child, the natural father of a child born out of wedlock who has acknowledged his paternity in writing before the court or whose paternity has been proven in court, or the guardian of such child's estate, if possessed of assets which under law may be disbursed for the care, support, and maintenance of the child, to pay the person or institution having custody of the child reasonable sums of money at such intervals as the court may consider adequate and proper for the care, support, maintenance, training, and education of the child. The court, in making such order, shall consider the circumstances and ability of the parents to pay and the value of assets of the guardianship estate of the child, and when the order affects the guardianship estate, a certified copy of the order shall be delivered to the judge having jurisdiction of the guardianship estate.

(e) Revoke or suspend the child's driver's license.

(f) In the case of a traffic offense:

1. Reprimand the child or counsel the child with his parents or guardian;

2. Upon notifying the Department of Highway Safety and Motor Vehicles of such action, suspend the child's privilege to drive or restrict the child's privilege to drive under

stated conditions and limitations for a period not to exceed that authorized for an adult for the same offense;

3. Require the child to attend and successfully complete a driver improvement school conducted by a public agency; or

4. Order the child to remit to the fine and forfeiture fund of the county in which the offense was committed an amount of money not to exceed the maximum amount applicable to an adult for the same offense. Fines and forfeitures remitted under this subparagraph shall be subject to the provisions of s. 316.660.

(g) Require the child to render a public service in a public service program.

(h) Order, as part of the community sanction and rehabilitative program to be implemented by the department counselor, the child to make restitution for the damage or loss caused by his offense in a reasonable amount or manner to be determined by the court. The court may require the clerk of the circuit court to be the receiving and dispensing agent.

(i) Order the child to participate in a community work project, either as an alternative to monetary restitution or as part of the rehabilitative or community control program.

(2) Any order made pursuant to subsection (1) may thereafter be modified or set aside by the court.

(3) Any commitment of a delinquent child to the department shall be for an indeterminate period of time, but the time shall not exceed the maximum term of imprisonment which an adult may serve for the same offense. Any child so committed may be discharged from institutional confinement or a program upon the direction of the department. Notwithstanding the provisions of s. 743.07, no child shall be held under a commitment from a court pursuant to this section after becoming 19 years of age. The department shall give the court which committed the child to the department reasonable notice, in writing, prior to discharging the child from a commitment to the department. The court which committed the child may thereafter resume personal jurisdiction of the child and make such orders for the after-care supervision of the child as will be in the best interest of the child and for the protection of society.

(4) In carrying out the provisions of this chapter, the court may order the natural parents or legal guardian of a child who is found to have committed a delinquent act to participate in family counseling and other professional counseling activities deemed necessary for the rehabilitation of the child.

(5) The court may at any time enter an order ending its jurisdiction over any child.

(6) Whenever a child is required by the court to participate in any work program under the provisions of this chapter, or volunteers to work in a specified state, county, municipal, or community service organization supervised work program for the purpose of making restitution, such child shall be considered an employee of said state, county, municipal, or community service organization for the purposes of chapter 440. However, in determining the child's average weekly wage unless otherwise determined by a specific funding program, all remuneration received from the employer shall be considered a gratuity, and the child shall

not be entitled to any benefits otherwise payable under s. 440.15, regardless of whether the child may be receiving wages and remuneration from other employment with another employer and regardless of his future wage-earning capacity.

(7) The court upon motion of the child, or upon its own motion, may within 60 days after imposition of a disposition of commitment suspend the further execution of the disposition and place the child on probation in a community control program upon such terms as the court may require. The department shall forward to the court all relevant material on the child's progress while in custody not later than 3 working days prior to the hearing on the motion.

(8) The nonconsent of the child to commitment or treatment in a drug control program shall in no way preclude the court from ordering such commitment or treatment.

History.--s. 1, ch. 26880, 1951; s. 5, ch. 29900, 1955; s. 7, ch. 63-449; s. 1, ch. 65-462; s. 3, ch. 67-585; s. 1, ch. 67-61; ss. 5, 6, ch. 69-365; ss. 19, 35, ch. 69-106; s. 6, ch. 71-130; s. 17, ch. 73-231; ss. 3-6, ch. 74-368; s. 24, ch. 75-48; s. 1, ch. 75-114; s. 1, ch. 75-135; s. 1, ch. 75-159; s. 1, ch. 75-166; s. 18, ch. 77-104; s. 9, ch. 77-147; s. 1, ch. 77-313; s. 15, ch. 78-414; s. 12, ch. 79-164.

39.111 Community control or commitment of children prosecuted as adults.--

(1) A child who is found to have committed a criminal offense may, as an alternative to other dispositions, be committed to the department for treatment in a youth program outside the correctional system as defined in s. 944.02, be placed in a community control program, or be classified as a youthful offender.

(2) Upon a plea of guilty or a finding of guilt, the court may refer the case to the department for investigation and recommendation as to the suitability of its programs for the child.

(3) In order to utilize this section, the court shall stay and withhold adjudication of guilt and instead shall adjudge the defendant to have committed a delinquent act. Such adjudication shall not be deemed a conviction, nor shall it operate to impose any of the civil disabilities ordinarily resulting from a conviction.

(4) The court shall have the power by order to:

(a) Place the child in a community control program under the supervision of the department for an indeterminate period of time until the child is 19 or until sooner discharged by order of the court.

(b) Commit the child to the department for treatment in a youth program for an indeterminate period of time until the child is 19 or until sooner discharged by the department.

(5)(a) If a child proves not to be suitable to treatment or the program is not suitable for the child under the provisions of paragraph (4)(a), the court shall have the power to commit the child to the department as described in paragraph (4)(b).

(b) If a child proves not to be suitable to treatment or the program is not suitable for the child under the provisions of paragraph (4)(b), the court shall have the power to revoke the previous adjudication, impose an adjudication of guilt, classifying the child as a youthful

offender when appropriate, and impose any sentence which it may lawfully impose, giving credit for all time in the department.

(6) When a child has been transferred for criminal prosecution and the child has been found to have committed a violation of Florida law, the following procedure shall govern the disposition of the case:

(a) At the disposition hearing the court shall receive and consider a predisposition report by the department regarding the suitability of the child for disposition as a child.

(b) After considering the predisposition report, the court, in order to determine suitability, shall give all parties present at the hearing an opportunity to comment on the issue of sentence and any proposed rehabilitative plan. These parties shall include, if present: The parents or guardians of the child, the child's counsel, the state attorney or assistant state attorney, representatives of the department, the victim or his representative, if any, representatives of the school system, and the law enforcement officers involved in the case.

(c) Suitability or nonsuitability for adult sanctions shall be determined by the court before any other determination of disposition. The suitability determination shall be made by reference to the following criteria:

1. The seriousness of the offense to the community and whether the protection of the community requires adult disposition.

2. Whether the offense was committed in an aggressive, violent, premeditated, or willful manner.

3. Whether the offense was against persons or against property, greater weight being given to offenses against persons, especially if personal injury resulted.

4. The sophistication and maturity of the child, as determined by consideration of his home, environmental situation, emotional attitude, and pattern of living.

5. The record and previous history of the child, including:

a. Previous contacts with the department, the Department of Corrections, other law enforcement agencies, and courts,

b. Prior periods of probation or community control,

c. Prior adjudications that the child committed a violation of law, and

d. Prior commitments to institutions.

6. The prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the child if he is assigned to juvenile services and facilities.

(d) Any decision to impose adult sanctions shall be in writing, and it shall be in conformity with each of the above criteria. The court shall render a specific finding of fact and the reasons for the decision to impose adult sanctions. Such order shall be reviewable on appeal by the child pursuant to s. 39.14.

(e) If the court determines not to impose adult sanctions, then the court must next determine what juvenile sanctions it will impose. If the court determines not to adjudicate and commit to the department, the court shall then determine what community-based penal sanctions it will impose in a community control program. Community-based penal sanctions may include, but are not limited to,

rehabilitative restitution, curfew, revocation or suspension of the child's driver's license, community or public service, the deprivation from the child of nonessential activities or privileges, or other appropriate restraints on the child's liberty.

(f) After appropriate sanctions for the offense are determined, the court shall develop, approve, and order a plan of community control which will contain rules, requirements, conditions, and programs that are designed to encourage noncriminal and functional behavior and that will promote the rehabilitation of the child and the protection of the community.

(g) The court may receive and consider any other relevant and material evidence, including other written or oral reports, in its effort to determine the action to be taken with regard to the child, and may rely upon such evidence to the extent of its probative value, even though not competent in an adjudicatory hearing.

(h) The court shall notify the victim of the offense of the hearing and shall notify, or subpoena if necessary, the parents or legal custodians of the child to attend the disposition hearing if they reside in the state.

(i) The predisposition report shall be made available to the child's counsel and the state attorney by the department upon completion of the report and prior to the disposition hearing.

(j) It is the intent of the Legislature that the foregoing criteria and guidelines shall be deemed mandatory and that a determination of disposition pursuant to this subsection is subject to the right of the child to appellate review pursuant to s. 39.14.

History.—s. 6, ch. 70-353; s. 1, ch. 70-439; s. 12, ch. 72-179; s. 8, ch. 73-241; s. 44, ch. 73-334; s. 16, ch. 78-84; s. 16, ch. 78-414; s. 4, ch. 79-3.

Note.—Former s. 959.115.

39.112 Escapes from a juvenile facility.—An escape from any training school or secure detention facility maintained for the treatment, rehabilitation, or detention of children who are alleged or found to have committed delinquent acts or violations of law constitutes escape within the intent and meaning of s. 944.40 and is a felony in the third degree.

History.—s. 17, ch. 78-414.

39.12 Oaths; records; confidential information.—

(1) Authorized agents of the department shall each have power to administer oaths and affirmations.

(2) The court shall make and keep records of all cases brought before it pursuant to this chapter. The court shall preserve the records pertaining to a child charged with committing a delinquent act until he reaches 19 years of age or until 5 years after the last entry was made, whichever date is last reached, and may then destroy them, except that records made of traffic offenses in which there is no allegation of delinquency may be destroyed as soon as this can be reasonably accomplished. The court shall make official records, consisting of all petitions and orders

filed in a case arising pursuant to this chapter and any other pleadings, certificates, proofs of publication, summonses, warrants, and writs which may be filed therein.

(3) The clerk shall keep all official records required by this statute separate from other records of the circuit court, except those records pertaining to any and all motor vehicle violations, including those listed in s. 39.01(21), which shall be forwarded to the Department of Highway Safety and Motor Vehicles. All official records required by this act shall not be open to inspection by the public. All records shall be inspected only upon order of the court by persons deemed by the court to have a proper interest therein, except that a child and the parents or legal custodians of the child and their attorneys, law enforcement agencies, the department and its designees, and the Department of Corrections shall always have the right to inspect and copy any official record pertaining to the child. The court may permit authorized representatives of recognized organizations compiling statistics for proper purposes to inspect and make abstracts from official records under whatever conditions upon their use and disposition the court may deem proper and may punish by contempt proceedings any violation of those conditions.

(4) All information obtained pursuant to this chapter in the discharge of official duty by any judge, any employee of the court, any authorized agent of the department, the Department of Corrections, or any law enforcement agent shall be confidential and shall not be disclosed to anyone other than the authorized personnel of the court, the department and its designees, the Department of Corrections, law enforcement, and others entitled under this chapter to receive that information, except upon order of the court.

(5) All orders of the court entered pursuant to this chapter shall be in writing and signed by the judge, except that the clerk or deputy clerk may sign a summons or notice to appear.

(6) No court record of proceedings under this chapter shall be admissible in evidence in any other civil or criminal proceeding, except that:

(a) Orders transferring a child for trial as an adult shall be admissible in evidence in the court in which he is tried, but shall create no presumption as to the guilt of the child, nor shall the same be read to, or commented upon in the presence of, the jury in any trial.

(b) Orders binding an adult over for trial on a criminal charge, made by the judge as a committing magistrate, shall be admissible in evidence in the court to which the adult is bound over.

(c) Records of proceedings under this chapter forming a part of the record on appeal shall be used in the appellate court in the manner hereinafter provided.

(d) Records necessary therefor shall be admissible in evidence in any case in which a person is being tried upon a charge of having committed perjury.

(7) The provisions of this chapter shall not be construed to prohibit the publication of the name and address of a child who is alleged to have committed a violation of law.

History.--s. 1, ch. 26880, 1951; s. 6, ch. 29900, 1955; s. 2, ch. 61-54; s. 7, ch. 63-449; s. 1, ch. 67-60; ss. 19, 35, ch. 69-106; s. 7, ch. 71-130; ss. 8, 9, ch. 72-179; s.

20, ch. 72-404; s. 18, ch. 73-231; s. 3, ch. 77-121; s. 10, ch. 77-147; s. 18, ch. 78-414; s. 5, ch. 79-3; s. 13, ch. 79-164.

39.13 Contempt.-The court may punish for contempt any person interfering with the administration of or violating any provision of this chapter or order of the court relative thereto.

History. -s. 1, ch. 26880, 1951; s. 19, ch. 73-231.

39.14 Appeal.-

(1) Any child, and any parent or legal custodian of any child, affected by an order of the court may appeal to the appropriate district court of appeal within the time and in the manner prescribed by the Florida Appellate Rules.

(2) The Department of Legal Affairs shall represent the state upon appeal. The Department of Legal Affairs shall be notified of the appeal by the clerk when the notice of appeal is filed in the circuit court.

(3) The taking of an appeal shall not operate as a supersedeas in any case unless pursuant to an order of the court.

(4) The case on appeal shall be docketed, and any papers filed in the appellate court shall be entitled, with the initials but not the name of the child and the court case number, and the papers shall remain sealed in the office of the clerk of the appellate court when not in use by the appellate court and shall not be open to public inspection. The decision of the appellate court shall be likewise entitled and shall refer to the child only by initials and court case number.

(5) The original order of the appellate court, with all papers filed in the case on appeal, shall remain in the office of the clerk of the said court, sealed and not open to inspection except by order of the appellate court. The clerk of the appellate court shall return to the circuit court all papers transmitted to the appellate court from the circuit court, together with a certified copy of the order of the appellate court.

History.-s. 1, ch. 26880, 1951; s. 7, chs. 63-449, 63-559; s. 4, ch. 69-353; ss. 11, 19, 35, ch. 69-106; s. 20, ch. 73-231; s. 11, ch. 77-147; s. 19, ch. 78-414.

39.19 Court and witness fees.-In all proceedings under this chapter no court fees shall be charged against, and no witness fees shall be allowed to, any party to a petition or any parent or legal custodian or child named in a summons. Other witnesses shall be paid the witness fees fixed by law.

History.-s. 1, ch. 26880, 1951; s. 22, ch. 73-231.

39.33 Purpose.-The purpose of this act is to provide a system by which children who commit certain minor offenses may be dealt with in a speedy and informal manner at the community or neighborhood level, in an attempt to reduce the ever-increasing instances of juvenile crime and permit the

judicial system to deal effectively with cases which are more serious in nature.

History.—s. 1, ch. 77-435.

39.331 Community arbitration program.—

(1) Any county may establish a community arbitration program designed to complement the juvenile intake process provided in this chapter. The program shall provide one or more community juvenile arbitrators or community juvenile arbitration panels to hear cases informally involving alleged commissions of certain offenses by children.

(2) Cases which may be heard by a community juvenile arbitrator or arbitration panel shall be limited to those involving misdemeanors and violations of local ordinances which have been agreed upon, in writing, as being subject to community arbitration by the state attorney, senior circuit court judge assigned to juvenile cases in the circuit, and the Department of Health and Rehabilitative Services.

History.—s. 1, ch. 77-435.

39.332 Community juvenile arbitrators.—

(1) Each community juvenile arbitrator or member of a community arbitration panel shall be selected by the chief judge of the circuit, the senior circuit court judge assigned to juvenile cases in the circuit, and the state attorney.

(2) A community juvenile arbitrator or member of a community arbitration panel may be a person specially trained or experienced in juvenile causes and the problems of persons likely to appear before him, but shall be:

(a) Either a graduate of an accredited law school or of an accredited school with a degree in behavioral social work or trained in conflict resolution techniques; and

(b) A person of the temperament necessary to deal properly with the cases and persons likely to appear before him.

History.—s. 1, ch. 77-435.

39.333 Procedure for initiating cases for arbitration.—

(1) Any law enforcement officer or other person authorized under the program may issue a complaint, along with a recommendation for arbitration against any child whom such officer or person has reason to believe has committed any offense that is eligible for arbitration. The complaint shall specify the offense and the reasons why the law enforcement officer or authorized person feels that the offense should be handled by arbitration. A copy of the complaint shall be forwarded to the appropriate intake officer and the parent or legal guardian of the child. In addition to the complaint, the child's parent or legal guardian shall be informed of the objectives of the arbitration process, the conditions and procedures under which it will be conducted, and the fact that it is not obligatory. The intake officer shall contact the child's parent or legal guardian within 3 days after the date on which the complaint was forwarded. At this time, the child's parent or legal guardian shall inform the intake

officer of the decision to approve or reject the handling of the complaint through arbitration.

(2) If the child's parent or legal guardian rejects the handling of the complaint through arbitration, the intake officer shall consult with the state attorney or assistant state attorney for the possible filing of formal juvenile proceedings.

(3) If the child's parent or legal guardian accepts the handling of the complaint through arbitration, the intake officer shall provide copies of the complaint to the arbitrator or panel within 24 hours.

(4) The arbitrator or panel shall, upon receipt of the complaint, set a time and date for a hearing within 7 days and shall inform the child's parent or legal guardian, the complaining witness, and any victims of the time, date, and place of the hearing.

History.--s. 1, ch. 77-435.

39.334 Arbitration hearings.--

(1) The law enforcement officer or authorized person who issued the complaint need not appear at the scheduled hearing. However, prior to the hearing, he shall file with the community arbitrator or the community arbitration panel a comprehensive report setting forth the facts and circumstances surrounding the allegation.

(2) Records and reports submitted by interested agencies and parties, including, but not limited to, complaining witnesses and victims, may be received in evidence before the community arbitrator or the community arbitration panel without the necessity of formal proof.

(3) The testimony of the complaining witness and any alleged victim may be received when available, and these individuals may be present during the entire course of the proceedings.

(4) Any statement or admission made by the child appearing before the community arbitrator or the community arbitration panel relating to the offense for which he was cited is privileged and may not be used as evidence against him either in a subsequent juvenile proceeding or in any subsequent civil or criminal action.

(5) If a child fails to appear on the original hearing date, the matter shall be referred back to the intake officer who shall consult with the state attorney or an assistant state attorney regarding possible filing of formal juvenile proceedings.

History.--s. 1, ch. 77-435.

39.335 Disposition of cases.--

(1) Subsequent to any hearing held as provided in s. 39.334, the community arbitrator or community arbitration panel may:

(a) Dismiss the case.

(b) Dismiss the case with a warning to the child.

(c) Refer the child for placement in a community-based program.

(d) Refer the child to community counseling.

(e) Refer the child to a safety and education program related to juvenile offenders.

(f) Refer the child to a work program related to juvenile offenders.

(g) Refer the child to a nonprofit organization for volunteer work in the community.

(h) Order restitution in case of property damage.

(i) Continue the case for further investigation.

(j) Impose any other restrictions or sanctions that are designed to encourage noncriminal behavior and are agreed upon by the participants of the arbitration proceedings.

(2) Any person or agency to whom a child is referred pursuant to this section shall periodically report the progress of the child to the referring arbitrator or panel in the manner prescribed by such arbitrator or panel.

(3) If a child consents to an informal adjustment and, with his parent or legal guardian and the community arbitrator or community arbitration panel, agrees to comply with any disposition suggested or ordered by the arbitrator or panel and subsequently fails to abide by the terms of such agreement, the arbitrator or panel may, after a careful review of the circumstances, forward the case back to the intake officer who shall consult with the state attorney or the assistant state attorney regarding the possible filing of formal juvenile proceedings.

History.--s. 1, ch. 77-435.

39.336 Review.--Any interested agency or party, including, but not limited to, the complaining witness and victim, who is dissatisfied with the disposition provided by the community arbitrator or the community arbitration panel may request a review of the disposition to the appropriate intake officer within 15 days of the community arbitration hearing. Upon receipt of the request for review, the intake officer shall consult with the state attorney or assistant state attorney who shall consider the request for review and may file formal juvenile proceedings or take such other action as may be warranted.

History.--s. 1, ch. 77-435.

39.337 Funding.--Funding for the provisions of this act shall be provided through federal grant or through any appropriations as authorized by the county participating in the community arbitration program.

History.--s. 1, ch. 77-435.

PART III

DEPENDENCY CASES

39.40 Procedures and jurisdiction.--

(1) All procedures, including petitions, pleadings, subpoenas, summonses, and hearings, in dependency cases shall be according to the Florida Rules of Juvenile Procedure unless otherwise provided by law.

(2) The circuit court shall have exclusive original jurisdiction of proceedings in which a child is alleged to be dependent. When the jurisdiction of any child who has been found to be dependent is obtained, the court shall

retain jurisdiction, unless relinquished by its order, until the child reaches 18 years of age.

History.—s. 20, ch. 78-414.

39.401 Taking a child alleged to be dependent into custody.—

(1) A child may be taken into custody:

(a) Pursuant to an order of the circuit court issued pursuant to the provisions of this part, based upon sworn testimony, either before or after a petition is filed.

(b) By a law enforcement officer, or an authorized agent of the department, if the officer or agent has reasonable grounds to believe that the child has been abandoned, abused, or neglected, is suffering from illness or injury, or is in immediate danger from his surroundings and that his removal is necessary to protect the child.

(c) By a law enforcement officer when the officer has reasonable grounds to believe that the child has run away from his parents, guardian, or other legal custodian.

(d) By an authorized agent of the department when he has reasonable grounds to believe the custodian of a child under protective supervision has violated in a material way a condition of the placement imposed by the court.

(e) By a law enforcement officer, when he has reasonable grounds to believe that the child is absent from school without authorization, for the purpose of delivering the child without unreasonable delay to the school system.

(2) If the person taking the child into custody is not an intake officer, he shall:

(a) Release the child to a parent, guardian, legal custodian, responsible adult approved by the court when limited to temporary emergency situations, responsible adult relative, responsible adult approved by the department, or court-approved runaway shelter if the person taking the child into custody has reasonable grounds to believe the child has run away from a parent, guardian, or legal custodian; following such release, the person taking the child into custody shall make a full written report to the intake office of the department within 3 days; or

(b) Deliver the child to an intake officer of the department, stating the facts by reason of which the child was taken into custody and sufficient information to establish probable cause that the child is dependent, and make a full written report to the intake office of the department within 3 days.

(3) If the child is taken into custody by, or is delivered to, an intake officer, the intake officer shall review the facts and make such further inquiry as necessary to determine whether the child should remain in custody or be released. Unless shelter is required as provided in s. 39.402(1), the intake officer shall:

(a) Release the child to his parent, guardian, or legal custodian, a responsible adult relative, a responsible adult approved by the department, or a court-approved runaway shelter; or

(b) Authorize placement of a caretaker/homemaker in the home of a child alleged to be dependent until the parent or legal custodian assumes care of the child.

History.—s. 20, ch. 78-414.

39.402 Placement in a shelter.-

(1) Unless ordered by the court pursuant to the provisions of this chapter, a child taken into custody shall not be placed in a shelter prior to a court hearing unless such placement is required:

(a) To protect the child; or

(b) Because he has no parent, legal custodian, or responsible adult relative to provide supervision and care for him.

(2) If the intake officer determines that placement in a shelter is necessary according to the provisions of subsection (1), the intake officer shall authorize placement of the child in a shelter and shall immediately notify the parents or legal custodians that the child was taken into custody.

(3) If the child is alleged to be both dependent and delinquent, the intake officer may authorize either detention or placement in a shelter.

(4) Any child who is a runaway and who is likely to injure himself or others or who is in need of care and treatment and lacks sufficient capacity to determine what course of action is in his own best interest may be placed in a secure shelter or in a detention home for a period of time not to exceed 24 hours. If neither a secure shelter nor a detention home is available to receive the child, the child may be placed in a jail for a period of time not to exceed 24 hours. However, no child in a detention home or jail shall be placed in a cell with any child or adult alleged to have committed, or who has been adjudged to have committed, a crime.

(5) The circuit court, or the county court, if previously designated by the chief judge of the circuit court for such purpose, shall hold the detention hearing. When the county judge is not an attorney, the chief judge may designate a member of the bar to hold the detention hearing. The reasons for placement in a shelter provided in subsection (1) shall govern the decision of all persons responsible for determining whether placement in a shelter is warranted prior to the court's disposition.

(6)(a) No child shall be held in a shelter longer than 24 hours, excluding Sundays or legal holidays, unless an order so directing is made by the court after a detention hearing finding that placement in a shelter is necessary based on the criteria in subsection (1), that placement in a shelter is in the best interest of the child, and that there is probable cause that the child is dependent.

(b) In the interval until the detention hearing is held pursuant to paragraph (a), the decision as to placement in a shelter or release of the child from a shelter shall lie with the intake officer in accordance with subsection (2).

(7) No child shall be held in a shelter under an order so directing for more than 14 days unless an order of adjudication for the case has been entered by the court.

(8) No child shall be held in a shelter for more than 30 days following the entry of an order of adjudication unless an order of disposition pursuant to s. 39.41 has been entered by the court.

(9) The time limitations in subsections (6) and (7) shall not include:

(a) Periods of delay resulting from a continuance granted at the request or with the consent of the child's counsel or, if the child is of sufficient capacity to express reasonable consent, at the request or with the consent of the child's attorney and the child.

(b) Periods of delay resulting from a continuance granted at the request of the state attorney, or the attorney designated by the state attorney, if the continuance is granted:

1. Because of an unavailability of evidence material to his case when the state attorney, or the attorney designated by the state attorney, has exercised due diligence to obtain such evidence and there are substantial grounds to believe that such evidence will be available within 30 days; or

2. To allow the state attorney, or the attorney designated by the state attorney, additional time to prepare his case and additional time is justified because of the exceptional circumstances of the case.

History.--s. 20, ch. 78-414.

39.403 Intake.-

(1) Intake shall be performed by the department. A report or complaint alleging that a child is dependent shall be made to the intake office operating in the county in which the child is found or in which the case arose. Any person or agency having knowledge of the facts may make a report or complaint. The complainant shall furnish the intake office facts sufficient to establish the jurisdiction of the court and to support a finding by the court that the child is dependent.

(2) The intake officer shall make a preliminary determination as to whether the report or complaint is complete, consulting with the state attorney or assistant state attorney when necessary. In any case in which the intake officer or the state attorney finds that the report or complaint is incomplete, the intake officer or state attorney shall return the report or complaint without delay to the person or agency originating the report or complaint or having knowledge of the facts or to the appropriate law enforcement agency having investigative jurisdiction and request additional information in order to complete the report or complaint; however, the confidentiality of any report filed in accordance with s. 827.07 shall not be violated.

(a) If the intake officer determines that the report or complaint is complete, he may, after determining that such action would be in the best interests of the child, file a petition for dependency.

(b) If the intake officer determines that the report or complaint is complete, but that in his judgment the interest of the child and the public will be best served by providing the child care or other treatment voluntarily accepted by the child and his parents or legal custodians, the intake officer may refer the child for such care or other treatment.

(c) If the intake officer refuses to file a petition for dependency, the complainant shall be advised of his right to file a petition pursuant to this part.

History.--s. 20, ch. 78-414.

39.404 Petition for dependency.-

(1) All proceedings seeking an adjudication that a child is dependent shall be initiated by the filing of a petition by the state attorney, an authorized agent of the department, or any other person who has knowledge of the facts alleged or is informed of them and believes that they are true.

(2) The petition shall be in writing and shall be signed by the petitioner under oath stating his good faith in filing the petition. When the petition is filed by the state attorney, it may be signed by the state attorney or by an assistant state attorney.

(3) The state attorney or the attorney designated by the state attorney shall represent the state in any proceeding in which the petition alleges dependency whenever a party denies the allegations of the petition and contests the adjudication.

(4) When a petition for dependency has been filed and the parents or custodians of the child have advised the intake office that the truth of the allegations is acknowledged and that no contest is to be made of the adjudication, the intake officer may set the case before the court for an adjudicatory hearing. Neither the state attorney nor an assistant state attorney shall be required to be present at the adjudicatory hearing. Should there be a change in the plea at this hearing, the court shall continue the hearing to permit the state attorney to prepare and present the case for the state.

(5) The form of the petition and its contents shall be determined by rules of procedure adopted by the Supreme Court.

History.-s. 20, ch. 78-414.

39.405 Process and service.-

(1) Personal appearance of any person in a hearing before the court shall obviate the necessity of serving process on that person.

(2) Upon the filing of a petition containing allegations of facts which, if true, would constitute the child therein named as a dependent child, and upon the request of the petitioner, the clerk or deputy clerk shall issue a summons.

(3) The summons shall require the person on whom it is served to appear for a hearing at a time and place specified. Except in cases of medical emergency, the time shall not be less than 24 hours after service of the summons. The summons may require the custodian to bring the child to court if the court determines that the child's presence is necessary. A copy of the petition shall be attached to the summons.

(4) The summons shall be directed to, and shall be served upon, the following persons:

(a) The parents; and

(b) The legal custodians, actual custodians, and guardians ad litem, if there be any other than the parents.

(5) If it appears from the petition that the child named therein is suffering from illness or injury or that he is in immediate danger from his surroundings and that his removal is necessary, the judge shall issue an order stating the reasons why the child is being taken into custody. Upon the

issuance of the summons, the person serving the summons shall forthwith take the child into custody.

(6) It shall not be necessary to the validity of a proceeding covered by this part that the parents or legal custodians be present if their identity or residence is unknown after a diligent search and inquiry have been made, if they are residents of a state other than Florida, or if they evade service or ignore a summons, but in this event the person who made the search and inquiry shall file in the case a certificate of those facts, and the court may appoint a guardian ad litem for the child. This subsection shall not apply to a proceeding permanently to commit a child to a licensed child-placing agency or to the department for adoption placement nor to a proceeding under the Uniform Child Custody Jurisdiction Act.

(7) The jurisdiction of the court shall attach to the child and the case when the summons is served upon the child, a parent, or legal or actual custodian of the child or when the child is taken into custody with or without service of summons and before or after filing of a petition for dependency, whichever first occurs, and thereafter the court may control the child and case in accordance with this chapter.

(8) Upon the application of a party, the state attorney, or the petitioner, the clerk or deputy clerk shall issue, and the court on its own motion may issue, subpoenas requiring attendance and testimony of witnesses and production of records, documents, or other tangible objects at any hearing.

(9) All process and orders issued by the court shall be served or executed as other process and orders of the circuit court and, in addition, may be served or executed by authorized agents of the department.

(10) Subpoenas may be served within the state by any person over 18 years of age who is not a party to the proceeding.

(11) No fee shall be paid for service of any process or other papers by an agent of the department. If any process, orders, or any other papers are served or executed by any sheriff, the sheriff's fees shall be paid by the county.

History.—s. 20, ch. 78-414.

39.406 No answer required.—No answer to the petition or any other pleading need be filed by any child, parent, or legal custodian, but any matters which might be set forth in an answer or other pleading may be pleaded orally before the court or filed in writing as any such person may choose. Notwithstanding the filing of an answer or any pleading, the child or parent shall, prior to an adjudicatory hearing, be advised by the court of his right to counsel and shall be given an opportunity to deny the allegations in the petition for dependency or to enter a plea to allegations in the petition before the court.

History.—s. 20, ch. 78-414.

39.407 Medical, psychiatric, and psychological examination and treatment.—After a petition for dependency has been filed, the judge may order the child named in the

petition to be examined by a physician. The judge may also order such child to be evaluated by a psychiatrist, a psychologist, or the department's developmental disability diagnostic and evaluation team. If it is necessary to place a child in a residential facility for such evaluation, then the criteria and procedure established in s. 394.463(2) or chapter 393 shall be used, whichever is applicable. After a child has been adjudicated to be a dependent child, or before such adjudication with the consent of any parent or legal custodian of the child, the judge may order the child to be treated by a physician. The judge may also order such child to receive mental health or retardation services from a psychiatrist, psychologist, or other appropriate service provider. If it is necessary to place the child in a residential facility for such services, then the procedures and criteria established in s. 394.467 or chapter 393 shall be used, whichever is applicable. For the purpose of either examination or treatment, the judge may order the child to be placed for treatment. When any child is placed in a shelter pending a hearing, the person in charge of the shelter or his designated representative may provide or cause to be provided such medical or surgical services as may be deemed necessary by a physician. A physician shall be immediately called if there are indications of physical injury or illness, or the child shall be taken to the nearest available hospital for emergency care. A child may be provided mental health or retardation services, in emergency situations, pursuant to the procedures and criteria contained in s. 394.463(1) or chapter 393, whichever is applicable. After a hearing, the court may order the parents, guardian, or custodian, if found able to do so, to reimburse the county for the expense involved in such emergency medical or surgical treatment. Nothing in this section shall be deemed to eliminate the right of the parents or the child to consent to examination or treatment for the child, except that consent of a parent shall not be required if the physician determines there is a serious injury or illness requiring immediate treatment and the child consents to such treatment or an ex parte court order is obtained authorizing said treatment. Nothing in this section shall be construed to authorize the permanent sterilization of the child unless such sterilization is the result of or incidental to medically necessary treatment to protect or preserve the life of the child. Except as provided in this section, nothing in this section shall be deemed to alter the provisions of s. 458.21 to eliminate the right of the juvenile or his parents, guardian, or legal custodian to consent to diagnostic examination and medical or surgical treatment or care; nor shall it preclude a court from ordering services or treatment to be provided to the juvenile by a duly accredited practitioner who relies solely on spiritual means for healing in accordance with the tenets and practices of a church or religious organization when his health requires it and when requested by the juvenile.

History.--s. 20, ch. 78-414.

39.408 Hearings for dependency cases.--

(1) ADJUDICATORY HEARING.--

(a) The adjudicatory hearing shall be held as soon as practicable after the petition for dependency is filed and in accordance with the Florida Rules of Juvenile Procedure, but reasonable delay for the purpose of investigation, discovery, or procuring counsel or witnesses shall, whenever practicable, be granted.

(b) Adjudicatory hearings shall be conducted by the judge without a jury, applying the rules of evidence in use in civil cases and adjourning the hearings from time to time as necessary. In a hearing on a petition in which it is alleged that the child is dependent, a preponderance of evidence will be required to establish the state of dependency.

(c) All hearings, except as hereinafter provided, shall be open to the public, and no person shall be excluded therefrom except on special order of the judge, who, in his discretion, may close any hearing to the public when the public interest or the welfare of the child, in his opinion, is best served by so doing. All hearings involving unwed mothers, custody, sexual abuse, or permanent placement of children shall remain confidential and closed to the public. Hearings involving more than one child may be held simultaneously when the several children involved are related to each other or were involved in the same case. The child and the parents or legal custodians of the child may be examined separately and apart from each other.

(2) DISPOSITION HEARING.--The court finds that the facts alleged in the petition for dependency are proven in the adjudicatory hearing. At the disposition hearing, the court shall receive and consider a predisposition study, which shall be in writing and be presented by an authorized agent of the department. The predisposition study shall cover for any dependent child all factors specified in s. 61.13(3). A copy of this report will be furnished to the person having custody of the child at the time such person is notified of the disposition hearing. If placement of the child with anyone other than the child's parent or custodian is being considered, the study shall include the designation of a specific length of time as to when custody by the parent or custodian will be reconsidered. This study shall not be made prior to the adjudication of dependency unless the parents or custodians of the child consent thereto. Any other relevant and material evidence, including other written or oral reports, may be received by the court in its effort to determine the action to be taken with regard to the child and may be relied upon to the extent of its probative value, even though not competent in an adjudicatory hearing.

(3) Except as provided in paragraph (1)(c), nothing in this section shall prohibit the publication of proceedings in a hearing.

History.--s. 20, ch. 78-414.

39.409 Orders of adjudication.--

(1) If the court finds that the child named in a petition is not dependent, it shall enter an order so finding and dismissing the case.

(2) If the court finds that the child named in the petition is dependent, but finds that no action other than

supervision in his own home is required, it may enter an order briefly stating the facts upon which its finding is based, but withholding an order of adjudication and placing the child's home under the supervision of the department. If the court later finds that the custodians of the child have not complied with the conditions of supervision imposed, the court may, after a hearing to establish the noncompliance, but without further evidence of the state of dependency, enter an order of adjudication and shall thereafter have full authority under this chapter to provide for the child as adjudicated.

(3) If the court finds that the child named in a petition is dependent, but shall elect not to proceed under subsection (2), it shall incorporate that finding in an order of adjudication entered in the case, briefly stating the facts upon which the finding is made, and the court shall thereafter have full authority under this chapter to provide for the child as adjudicated.

(4) An order of adjudication by a court that a child is dependent shall not be deemed a conviction, nor shall the child be deemed to have been found guilty or to be a criminal by reason of that adjudication, nor shall that adjudication operate to impose upon the child any of the civil disabilities ordinarily imposed by or resulting from conviction or disqualify or prejudice the child in any civil service application or appointment.

History.--s. 20, ch. 78-414.

39.41 Powers of disposition.--

(1) When any child is adjudicated by a court to be dependent, the court having jurisdiction of the child shall have the power, by order, to:

(a) Place a child under the protective supervision of an authorized agent of a department, either in the child's own home or, the prospective custodian being willing, in the home of a relative of the child or in some other suitable place under such reasonable conditions as the court may direct. A child who has been placed in his own home under the protective supervision of an authorized agent of the department, in the home of a relative, or in some other place may be brought before the court by the agent of the department supervising the placement or by any other interested person on a petition alleging a need for a change in the placement. If the parents or other custodians deny the need for a change, the court shall hear all parties in person or by counsel, or both. Upon the admission of a need for change or after such hearing, the court shall enter an order changing the placement, modifying the condition of it, or continuing it as ordered.

(b) Commit the child to a licensed child-caring agency willing to receive the child.

(c) Commit the child to the temporary legal custody of the department. Such commitment shall invest in the department all rights and responsibilities of a legal custodian. The department shall not return any child to the physical care and custody of the person from whom he was removed, except for short visitation periods, without the approval of the court. The term of said commitment shall

continue until terminated by the court or until the child reaches the age of 18.

(d) 1. Permanently commit the child to the department or a licensed child-placing agency willing to receive the child for subsequent adoption:

a. (I) If the court finds that the parent has abandoned, abused, or neglected the child;

(II) If the persons served with notice under subsection (3) fail to respond to the notice as provided in paragraph (3)(d); or

(III) If the parent or parents have voluntarily executed a written surrender of the child before two witnesses and a notary public or other officer authorized to take acknowledgments; and

b. If the court finds that it is manifestly to the best interest of the child to do so.

2. The department shall prescribe a written surrender form which shall be written in layman's terms in the principal language of the surrendering party and which shall clearly and unambiguously advise the surrendering party of the consequences of the surrender.

(e) Order the natural or adoptive parents of such child or the natural father of a child born out of wedlock who has acknowledged his paternity in writing before the court, or the guardian of such child's estate, if possessed of assets which under law may be disbursed for the care, support, and maintenance of such child, to pay the person or institution having custody of such child reasonable sums of money at such intervals as the court may consider adequate and proper for the care, support, maintenance, training, and education of such child. The court, in making such order, shall consider the circumstances and ability of such parents, or the natural father of a child born out of wedlock, to pay and the value of assets of the guardianship estate of such child, and when such order affects the guardianship estate, a certified copy of such order shall be delivered to the judge having jurisdiction of such guardianship estate. The court may from time to time, after considering the financial resources of the persons financially responsible for the child's care, order them, or any of them, to pay a reasonable amount for attorney's fees and the cost of the party maintaining any proceeding under this paragraph or for the care, support, and maintenance of such child, including enforcement and modification proceedings. The court may order the amount to be paid directly to the attorney, who may enforce the order in his name.

(2) An agency granted legal custody shall have the right to determine where and with whom the child shall live, but an individual granted legal custody shall exercise all rights and duties personally unless otherwise ordered by the court.

(3) Before the court may permanently commit a child who is dependent to a licensed child-placing agency or the department for subsequent adoption, in addition to the other requirements set forth in this part, the following requirements shall be met:

(a) Notice and a copy of the petition shall be personally served upon the following persons, or forwarded to their addresses by registered mail, specifically notifying them that a petition has been filed:

1. The mother of the child.
2. The father of the child, if:
a. The child was conceived or born while the father was married to the mother;
b. The child is his by adoption;
c. The child has been established by a court proceeding to be his child;
d. He has acknowledged in writing, signed in the presence of a competent witness, that he is the father of the child and has filed such acknowledgment with the Office of Vital Statistics of the Department of Health and Rehabilitative Services; or
e. He has provided the child with support in a repetitive, customary manner.
3. The legal custodians or guardian of the child.
4. If the natural parents who would be entitled to notice are dead or unknown, a living relative of such child, unless upon diligent search and inquiry no such relative can be found.

(b) In the event a person required to be served with notice in the manner prescribed in paragraph (a) cannot be served, notice of hearings shall be given as prescribed by the rules of civil procedure, and service of process shall be made as specified by law for civil actions.

(c) Notice as prescribed by this section may be waived in the discretion of the judge, with regard to any person to whom notice must be given pursuant to subsection 1(2), if said person executes, before two witnesses and a notary public or other officer authorized to take acknowledgments, a written surrender of the child to a licensed child-placing agency or the department.

(d) If the person served with notice under this section fails to respond within the time prescribed by the rules of civil procedure, the failure to respond shall constitute consent to permanent commitment on the part of the person given notice.

(4) A licensed child-placing agency or the department to which a child is permanently committed for subsequent adoption in accordance with this chapter may place the child in a family home for prospective subsequent adoption and may thereafter become a party to any proceeding for the legal adoption of the child and appear in any court where the adoption proceeding is pending and consent to the adoption, and that consent alone shall in all cases be sufficient. A permanent order of commitment, whether pursuant to consent or after notice served as herein prescribed, shall permanently deprive the parents and legal guardian of any right to the child. In any subsequent adoption proceedings, the parents and legal guardian shall not be entitled to any notice thereof, nor shall they be entitled to knowledge at any time after the permanent order of commitment is entered of the whereabouts of the child or of the identity or location of any person having the custody of or having adopted the child, and in any habeas corpus or other proceeding involving the child brought by any parent or legal guardian of the child, no agent of the licensed child-placing agency or department shall be compelled to divulge that information, but may be compelled to produce the child before a court of competent jurisdiction if the child is still subject to the guardianship of the licensed child-

placing agency or department. The entry of the permanent order of commitment shall not entitle the licensed child-placing agency or department to guardianship of the estate or property of the child, but the licensed child-placing agency or department shall be the guardian of the person of the child, and the court shall no longer exercise jurisdiction over the child after entry of such order.

(5) In carrying out the provisions of this chapter, the court may order the natural parents or legal guardian of a child who is found to be dependent to participate in family counseling and other professional counseling activities deemed necessary for the rehabilitation of the child.

(6) The court may at any time enter an order ending its jurisdiction over any child.

History.—s. 20, ch. 78-414; s. 14, ch. 79-164.

[1]Note.—As a result of a Conference Committee amendment to C.S. for C.S. for S.B 119, subsection (2) was renumbered as subsection (3). Reference to subsection (2) will be corrected in a subsequent reviser's bill.

39.411 Oaths, records, and confidential information.—

(1) The judge, clerks or deputy clerks, or authorized agents of the department shall each have the power to administer oaths and affirmations.

(2) The court shall make and keep records of all cases brought before it pursuant to this chapter and shall preserve the records pertaining to a dependent child until 10 years after the last entry was made, or until the child is 18 years of age, whichever date is first reached, and may then destroy them, except that records of cases where orders were entered permanently depriving a parent of the custody of a juvenile shall be preserved permanently. The court shall make official records, consisting of all petitions and orders filed in a case arising pursuant to this part and any other pleadings, certificates, proofs of publication, summonses, warrants, and other writs which may be filed therein.

(3) The clerk shall keep all court records required by this part separate from other records of the circuit court. All court records required by this part shall not be open to inspection by the public. All records shall be inspected only upon order of the court by persons deemed by the court to have a proper interest therein, except that, subject to the provisions of s. 63.162, a child and the parents or legal custodians of the child and their attorneys, law enforcement agencies, and the department and its designees shall always have the right to inspect and copy any official record pertaining to the child. The court may permit authorized representatives of recognized organizations compiling statistics for proper purposes to inspect and make abstracts from official records, under whatever conditions upon their use and disposition the court may deem proper, and may punish by contempt proceedings any violation of those conditions.

(4) All information obtained pursuant to this part in the discharge of official duty by any judge, employee of the court, authorized agent of the department, or law enforcement agent shall be confidential and shall not be disclosed to anycne other than the authorized personnel of

the court, the department and its designees, law enforcement agents, and others entitled under this chapter to receive that information, except upon order of the court.

(5) All orders of the court entered pursuant to this chapter shall be in writing and signed by the judge, except that the clerk or deputy clerk may sign a summons or notice to appear.

(6) No court record of proceedings under this chapter shall be admissible in evidence in any other civil or criminal proceeding, except that:

(a) Orders permanently terminating the rights of a parent and committing the child to a licensed child-placing agency or the department for adoption shall be admissible in evidence in subsequent adoption proceedings relating to the child.

(b) Records of proceedings under this part forming a part of the record on appeal shall be used in the appellate court in the manner hereinafter provided.

(c) Records necessary therefor shall be admissible in evidence in any case in which a person is being tried upon a charge of having committed perjury.

History.--s. 20, ch. 78-414; s. 15, ch. 79-164.

39.412 Contempt.--The court may punish for contempt any person interfering with the administration of or violating any provision of this part or order of the court relative thereto.

History.--s. 20, ch. 78-414.

39.413 Appeal.--

(1) Any child, and any parent or legal custodian of any child, affected by an order of the court may appeal to the appropriate district court of appeal within the time and in the manner prescribed by the Florida Appellate Rules.

(2) The Department of Legal Affairs or an attorney designated by the Department of Legal Affairs shall represent the state and the court upon appeal and shall be notified of the appeal by the clerk when the notice of appeal is filed in the circuit court.

(3) The taking of an appeal shall not operate as a supersedeas in any case unless pursuant to an order of the court, except that a permanent order of commitment to a licensed child-placing agency or the department for subsequent adoption shall be suspended while the appeal is pending, but the child shall continue in custody under the order until the appeal is decided.

(4) The case on appeal shall be docketed, and any papers filed in the appellate court shall be entitled, with the initials but not the name of the child and the court case number, and the papers shall remain sealed in the office of the clerk of the appellate court when not in use by the appellate court and shall not be open to public inspection. The decision of the appellate court shall be likewise entitled and shall refer to the child only by initials and court case number.

(5) The original order of the appellate court, with all papers filed in the case on appeal, shall remain in the office of the clerk of the said court, sealed and not open

to inspection except by order of the appellate court. The clerk of the appellate court shall return to the circuit court all papers transmitted to the appellate court from the circuit court, together with a certified copy of the order of the appellate court.

History.—s. 20, ch. 78-414.

39.414 Court and witness fees.—In all proceedings under this chapter, no court fees shall be charged against, and no witness fees shall be allowed to, any party to a petition or any parent or legal custodian or child named in a summons. Other witnesses shall be paid the witness fees fixed by law.

History.—s. 20, ch. 78-414.

PART IV

INTERSTATE COMPACT ON JUVENILES

39.51 Interstate compact on juveniles; implementing legislation; legislative findings and policy.—

(1) It is hereby found and declared:

(a) That juveniles who are not under proper supervision and control, or who have absconded, escaped or run away, are likely to endanger their own health, morals, and welfare, and the health, morals, and welfare of others;

(b) That the cooperation of this state with other states is necessary to provide for the welfare and protection of juveniles and of the people of this state.

(2) It shall therefore be the policy of this state, in adopting the Interstate Compact on Juveniles, to cooperate fully with other states:

(a) In returning juveniles to such other states whenever their return is sought; and

(b) In accepting the return of juveniles whenever a juvenile residing in this state is found or apprehended in another state and in taking all measures to initiate proceedings for the return of such juveniles.

History.—s. 1, ch. 57-298; s. 26, ch. 78-414.

Note.—Former s. 39.25.

39.511 Execution of compact.—The governor is hereby authorized and directed to execute a compact on behalf of this state with any other state or states legally joining therein in the form substantially as follows:

INTERSTATE COMPACT ON JUVENILES

ARTICLE I

FINDINGS AND PURPOSES.—Juveniles who are not under proper supervision and control, or who have absconded, escaped or run away, are likely to endanger their own health, morals and welfare, and the health, morals and welfare of others. The cooperation of the states party to this compact is therefore necessary to provide for the welfare and protection of juveniles and of the public with respect to (1) cooperative supervision of delinquent juveniles on probation or parole; (2) the return, from one state to another, of delinquent juveniles who have escaped or absconded; (3) the return, from one state to another, of

nondelinquent juveniles who have run away from home; and (4) additional measures for the protection of juveniles and of the public, which any two or more of the party states may find desirable to undertake cooperatively. In carrying out the provisions of this compact the party states shall be guided by the noncriminal, reformative and protective policies which guide their laws concerning delinquent, neglected or dependent juveniles generally. It shall be the policy of the states party to this compact to cooperate and observe their respective responsibilities for the prompt return and acceptance of juveniles and delinquent juveniles who become subject to the provisions of this compact. The provisions of this compact shall be reasonably and liberally construed to accomplish the foregoing purposes.

ARTICLE II

EXISTING RIGHTS AND REMEDIES.-All remedies and procedures provided by this compact shall be in addition to and not in substitution for other rights, remedies and procedures, and shall not be in derogation of parental rights and responsibilities.

ARTICLE III

DEFINITIONS.-For the purposes of this compact, "delinquent juveniles" means any juvenile who has been adjudged delinquent and who, at the time the provisions of this compact are invoked, is still subject to the jurisdiction of the court that has made such adjudication or to the jurisdiction or supervision of an agency or institution pursuant to an order of such court; "probation or parole" means any kind of conditional release of juveniles authorized under the laws of the states party hereto; "court" means any court having jurisdiction over delinquent, neglected or dependent children; "state" means any state, territory or possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico; and "residence" or any variant thereof means a place at which a home or regular place of abode is maintained.

ARTICLE IV

RETURN OF RUNAWAYS.-

(1) The parent, guardian, person or agency entitled to legal custody of a juvenile who has not been adjudged delinquent but who has run away without the consent of such parent, guardian, person or agency may petition the appropriate court in the demanding state for the issuance of a requisition for his return. The petition shall state the name and age of the juvenile, the name of the petitioner and the basis of entitlement to the juvenile's custody, the circumstances of his running away, his location if known at the time application is made, and such other facts as may tend to show that the juvenile who has run away is endangering his own welfare or the welfare of others and is not an emancipated minor. The petition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the document or documents on which the petitioner's entitlement to the juvenile's custody is based, such as birth certificates, letters of guardianship, or custody decrees. Such further affidavits and other documents as may be deemed proper may be submitted with such petition. The judge of the court to which this application is made may hold a hearing thereon to determine whether for the purposes of this compact the

petitioner is entitled to the legal custody of the juvenile, whether or not it appears that the juvenile has in fact run away without consent, whether or not he is an emancipated minor, and whether or not it is in the best interest of the juvenile to compel his return to the state. If the judge determines, either with or without a hearing, that the juvenile should be returned, he shall present to the appropriate court or to the executive authority of the state where the juvenile is alleged to be located a written requisition for the return of such juvenile. Such requisition shall set forth the name and age of the juvenile, the determination of the court that the juvenile has run away without the consent of a parent, guardian, person or agency entitled to his legal custody, and that it is in the best interest and for the protection of such juvenile that he is returned. In the event that a proceeding for the adjudication of the juvenile as a delinquent, neglected or dependent juvenile is pending in the court at the time when such juvenile runs away, the court may issue a requisition for the return of such juvenile upon its own motion, regardless of the consent of the parent, guardian, person or agency entitled to legal custody, reciting therein the nature and circumstances of the pending proceeding. The requisition shall in every case be executed in duplicate and shall be signed by the judge. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of such court. Upon the receipt of a requisition demanding the return of a juvenile who has run away, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No juvenile detained upon such order shall be delivered over to the officer whom the court demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of a court in the state, who shall inform him of the demand made for his return, and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such juvenile over to the officer whom the court demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a juvenile who has run away from another state party to this compact without the consent of a parent, guardian, person or agency entitled to his legal custody, such juvenile may be taken into custody without a requisition and brought forthwith before a judge of the appropriate court who may appoint counsel or guardian ad litem for such juvenile and who shall determine after a hearing whether sufficient cause exists to hold the person, subject to the order of the court, for his own protection and welfare, for such a time not exceeding 90 days as will enable his return to another state party to this compact pursuant to a requisition for his return from a court of that state. If, at the time when a state seeks the

return of a juvenile who has run away, there is pending in the state wherein he is found any criminal charge, or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the juvenile being returned, shall be permitted to transport such juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he ran away, the juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

(2) The state to which a juvenile is returned under this article shall be responsible for payment of the transportation costs of such return.

(3) "Juvenile" as used in this article means any person who is a minor under the law of the state of residence of the parent, guardian, person or agency entitled to the legal custody of such minor.

ARTICLE V

RETURN OF ESCAPEES AND ABSCONDERS.-

(1) The appropriate person or authority from whose probation or parole supervision a delinquent juvenile has absconded or from whose institutional custody he has escaped shall present to the appropriate court or to executive authority of the state where the delinquent juvenile is alleged to be located a written requisition for the return of such delinquent juvenile. Such requisition shall state the name and age of the delinquent juvenile, the particulars of his adjudication as a delinquent juvenile, the circumstances of the breach of the terms of his probation or parole or of his escape from an institution or agency vested with his legal custody or supervision, and the location of such delinquent juvenile, if known, at the time requisition is made. The requisition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the judgment, formal adjudication, or order of commitment which subjects such delinquent juvenile to probation or parole or to the legal custody of the institution or agency concerned. Such further affidavits and other documents as may be deemed proper may be submitted with such requisition. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of the appropriate court. Upon the receipt of a requisition demanding the return of a delinquent juvenile who has absconded or escaped the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such delinquent juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No delinquent juvenile detained upon such order shall be delivered over to the officer whom the appropriate person or authority demanding

him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of an appropriate court in the state, who shall inform him of the demand made for his return and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such delinquent juvenile over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, such person may be taken into custody in any other state party to this compact without a requisition. But in such event, he must be taken forthwith before a judge of the appropriate court, who may appoint counsel or guardian ad litem for such person and who shall determine, after a hearing, whether sufficient cause exists to hold the person subject to the order of the court for such a time, not exceeding 90 days, as will enable his detention under a detention order issued on a requisition pursuant to this article. If, at the time when a state seeks the return of a delinquent juvenile who has either absconded while on probation or parole or escaped from an institution or agency vested with his legal custody or supervision, there is pending in the state wherein he is detained any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the delinquent juvenile being returned, shall be permitted to transport such delinquent juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he escaped or absconded, the delinquent juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

(2) The state to which a delinquent juvenile is returned under this article shall be responsible for payment of the transportation costs of such return.

ARTICLE VI

VOLUNTARY RETURN PROCEDURE.—Any delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, and any juvenile who has run away from any state party to this compact, who is taken into custody without a requisition in another state party to this compact under the provisions of article IV(1) or of article V(1), may consent to his immediate return to the state from which he absconded, escaped or ran away. Such consent shall be given by the juvenile or delinquent juvenile and his counsel or guardian

ad litem if any, by executing or subscribing a writing, in the presence of a judge of the appropriate court, which states that the juvenile or delinquent juvenile and his counsel or guardian ad litem, if any, consent to his return to the demanding state. Before such consent shall be executed or subscribed, however, the judge, in the presence of counsel or guardian ad litem, if any, shall inform the juvenile or delinquent juvenile of his rights under this compact. When the consent has been duly executed, it shall be forwarded to and filed with the compact administrator of the state in which the court is located and the judge shall direct the officer having the juvenile or delinquent juvenile in custody to deliver him to the duly accredited officer or officers of the state demanding his return, and shall cause to be delivered to such officer or officers a copy of the consent. The court may, however, upon the request of the state to which the juvenile or delinquent juvenile is being returned, order him to return unaccompanied to such state and shall provide him with a copy of such court order; in such event a copy of the consent shall be forwarded to the compact administrator of the state to which said juvenile or delinquent juvenile is ordered to return.

ARTICLE VII

COOPERATIVE SUPERVISION OF PROBATIONERS AND PAROLEES.-

(1) The duly constituted judicial and administrative authorities of a state party to this compact (herein called "sending state") may permit any delinquent juvenile within such state, placed on probation or parole, to reside in any other state party to this compact (herein called "receiving state") while on probation or parole, and the receiving state shall accept such delinquent juvenile, if the parent, guardian or person entitled to the legal custody of such delinquent juvenile is residing or undertakes to reside within the receiving state. Before granting such permission, opportunity shall be given to the receiving state to make such investigations as it deems necessary. The authorities of the sending state shall send to the authorities of the receiving state copies of pertinent court orders, social case studies and all other available information which may be of value to and assist the receiving state in supervising a probationer or parolee under this compact. A receiving state, in its discretion, may agree to accept supervision of a probationer or parolee in cases where the parent, guardian or person entitled to the legal custody of the delinquent juvenile is not a resident of the receiving state, and if so accepted the sending state may transfer supervision accordingly.

(2) Each receiving state will assume the duties of visitation and of supervision over any such delinquent juvenile and in the exercise of those duties will be governed by the same standards of visitation and supervision that prevail for its own delinquent juveniles released on probation or parole.

(3) After consultation between the appropriate authorities of the sending state and of the receiving state as to the desirability and necessity of returning such a delinquent juvenile, the duly accredited officers of a sending state may enter a receiving state and there apprehend and retake any such delinquent juvenile on

probation or parole. For that purpose, no formalities will be required, other than establishing the authority of the officer and the identity of the delinquent juvenile to be retaken and returned. The decision of the sending state to retake a delinquent juvenile on probation or parole shall be conclusive upon and not reviewable within the receiving state, but if, at the time the sending state seeks to retake a delinquent juvenile on probation or parole, there is pending against him within the receiving state any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for any act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned, without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment, detention, or supervision for such offense or juvenile delinquency. The duly accredited officers of the sending state shall be permitted to transport delinquent juveniles being so returned through any and all states party to this compact, without interference.

(4) The sending state shall be responsible under this article for paying the costs of transporting any delinquent juvenile to the receiving state or of returning any delinquent juvenile to the sending state.

ARTICLE VIII

RESPONSIBILITY FOR COSTS.-

(1) The provisions of articles IV(2), V(2) and VII(4) of this compact shall not be construed to alter or affect any internal relationship among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

(2) Nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to articles IV(2), V(2) or VII(4) of this compact.

ARTICLE IX

DETENTION PRACTICES.-To every extent possible, it shall be the policy of states party to this compact that no juvenile or delinquent juvenile shall be placed or detained in any prison, jail or lockup nor be detained or transported in association with criminal, vicious or dissolute persons.

ARTICLE X

SUPPLEMENTARY AGREEMENTS.-The duly constituted administrative authorities of a state party to this compact may enter into supplementary agreements with any other state or states party hereto for the cooperative care, treatment, and rehabilitation of delinquent juveniles whenever they shall find that such agreements will improve the facilities or programs available for such care, treatment and rehabilitation. Such care, treatment and rehabilitation may be provided in an institution located within any state entering into such supplementary agreement. Such supplementary agreements shall (1) provide the rates to be paid for the care, treatment, and custody of such delinquent juveniles, taking into consideration the character of facilities, services and subsistence furnished; (2) provide that the delinquent juvenile shall be given a court hearing

prior to his being sent to another state for care, treatment and custody; (3) provide that the state receiving such a delinquent juvenile in one of its institutions shall act solely as agent for the state sending such delinquent juvenile; (4) provide that the sending state shall at all times retain jurisdiction over delinquent juveniles sent to an institution in another state; (5) provide for reasonable inspection of such institutions by the sending state; (6) provide that the consent of the parent, guardian, person or agency entitled to the legal custody of said delinquent juvenile shall be secured prior to his being sent to another state; and (7) make provision for such other matters and details as shall be necessary to protect the rights and equities of such delinquent juveniles and of the cooperating states.

ARTICLE XI

ACCEPTANCE OF FEDERAL AND OTHER AID.-Any state party to this compact may accept any and all donations, gifts and grants of money, equipment and services from the federal or any local government, or any agency thereof and from any person, firm or corporation, for any of the purposes and functions of this compact, and may receive and utilize the same subject to the terms, conditions and regulations governing such donations, gifts and grants.

ARTICLE XII

COMPACT ADMINISTRATORS.-The governor of each state party to this compact shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

ARTICLE XIII

EXECUTION OF COMPACT.-This compact shall become operative immediately upon its execution by any state as between it and any other state or states so executing. When executed it shall have the full force and effect of law within such state, the form of execution to be in accordance with the laws of the executing state.

ARTICLE XIV

RENUNCIATION.-This compact shall continue in force and remain binding upon each executing state until renounced by it. Renunciation of this compact shall be by the same authority which executed it, by sending 6 months' notice in writing of its intention to withdraw from the compact to the other states party hereto. The duties and obligations of a renouncing state under article VII hereof shall continue as to parolees and probationers residing therein at the time of withdrawal until retaken or finally discharged. Supplementary agreements entered into under article X hereof shall be subject to renunciation as provided by such supplementary agreements, and shall not be subject to the 6 months' renunciation notice of the present article.

ARTICLE XV

SEVERABILITY.-The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance

shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

ARTICLE XVI

ADDITIONAL ARTICLE.-This article shall provide additional remedies, and shall be binding only as among and between those party states which specifically execute the same.

For the purposes of this article, "child," as used herein, means any minor within the jurisdictional age limits of any court in the home state.

When any child is brought before a court of a state of which such child is not a resident, and such state is willing to permit such child's return to the home state of such child, such home state, upon being so advised by the state in which such proceeding is pending, shall immediately institute proceedings to determine the residence and jurisdictional facts as to such child in such home state, and upon finding that such child is in fact a resident of said state and subject to the jurisdiction of the court thereof, shall within 5 days authorize the return of such child to the home state, and to the parent or custodial agency legally authorized to accept such custody in such home state, and at the expense of such home state, to be paid from such funds as such home state may procure, designate, or provide, prompt action being of the essence.

ARTICLE XVII

ADDITIONAL ARTICLE.-

(1) This amendment shall provide additional remedies, and shall be binding only as among and between those party states which specifically execute the same.

(2) All provisions and procedures of articles V and VI of the interstate compact on juveniles shall be construed to apply to any juvenile charged with being a delinquent by reason of a violation of any criminal law. Any juvenile, charged with being a delinquent by reason of violating any criminal law, shall be returned to the requesting state upon a requisition to the state where the juvenile may be found. A petition in such case shall be filed in a court of competent jurisdiction in the requesting state where the violation of criminal law is alleged to have been committed. The petition may be filed regardless of whether the juvenile has left the state before or after the filing of the petition. The requisition described in article V of the compact shall be forwarded by the judge of the court in which the petition has been filed.

ARTICLE XVIII

OUT-OF-STATE CONFINEMENT AMENDMENT.-

(1)(a) Whenever the duly constituted judicial or administrative authorities in a sending state shall determine that confinement of a probationer or reconfinement of a parolee is necessary or desirable, said officials may direct that the confinement or reconfinement be in an appropriate institution for delinquent juveniles within the territory of the receiving state, such receiving state to act in that regard solely as agent for the sending state.

(b) Escapees and absconders who would otherwise be returned pursuant to Article V of the compact may be confined or reconfined in the receiving state pursuant to

this amendment. In any such case the information and allegations required to be made and furnished in a requisition pursuant to such article shall be made and furnished, but in place of the demand pursuant to Article V, the sending state shall request confinement or reconfinement in the receiving state. Whenever applicable, detention orders as provided in Article V may be employed pursuant to this paragraph preliminary to disposition of the escapee or absconder.

(c) The confinement or reconfinement of a parolee, probationer, escapee, or absconder pursuant to this amendment shall require the concurrence of the appropriate judicial or administrative authorities of the receiving state.

(d) As used in this amendment:

1. "Sending state" means sending state as that term is used in Article VII of the compact or the state from which a delinquent juvenile has escaped or absconded within the meaning of Article V of the compact;

2. "Receiving state" means any state, other than the sending state, in which a parolee, probationer, escapee, or absconder may be found, provided that said state is a party to this amendment.

(e) Every state which adopts this amendment shall designate at least one of its institutions for delinquent juveniles as a "compact institution" and shall confine persons therein as provided in paragraph (a) hereof unless the sending and receiving state in question shall make specific contractual arrangements to the contrary. All states party to this amendment shall have access to "compact institutions" at all reasonable hours for the purpose of inspecting the facilities thereof and for the purpose of visiting such of said state's delinquents as may be confined in the institution.

(f) Persons confined in "compact institutions" pursuant to the terms of this compact shall at all times be subject to the jurisdiction of the sending state and may at any time be removed from said "compact institution" for transfer to an appropriate institution within the sending state, for return to probation or parole, for discharge, or for any purpose permitted by the laws of the sending state.

(g) All persons who may be confined in a "compact institution" pursuant to the provisions of this amendment shall be treated in a reasonable and humane manner. The fact of confinement or reconfinement in a receiving state shall not deprive any person so confined or reconfined of any rights which said person would have had if confined or reconfined in an appropriate institution of the sending state; nor shall any agreement to submit to confinement or reconfinement pursuant to the terms of this amendment be construed as a waiver of any rights which the delinquent would have had if he had been confined or reconfined in any appropriate institution of the sending state, except that the hearing or hearings, if any, to which a parolee, probationer, escapee, or absconder may be entitled (prior to confinement or reconfinement) by the laws of the sending state may be had before the appropriate judicial or administrative officers of the receiving state. In this event, said judicial and administrative officers shall act

as agents of the sending state after consultation with appropriate officers of the sending state.

(h) Any receiving state incurring costs or other expenses under this amendment shall be reimbursed in the amount of such costs or other expenses by the sending state unless the states concerned shall specifically otherwise agree. Any two or more states party to this amendment may enter into supplementary agreements determining a different allocation of costs as among themselves.

(i) This amendment shall take initial effect when entered into by any two or more states party to the compact and shall be effective as to those states which have specifically enacted this amendment. Rules and regulations necessary to effectuate the terms of this amendment may be promulgated by the appropriate officers of those states which have enacted this amendment.

(2) In addition to any institution in which the authorities of this state may otherwise confine or order the confinement of a dependent or delinquent juvenile, such authorities may, pursuant to the out-of-state confinement amendment to the interstate compact on juveniles, confine or order the confinement of a delinquent or dependent juvenile in a compact institution within another party state.

History.—s. 2, ch. 57-298; s. 1, ch. 74-22; s. 26, ch. 78-414.

Note.—Former s. 39.26.

39.512 Juvenile compact administrator.—Pursuant to said compact, the governor is hereby authorized and empowered to designate an officer who shall be the compact administrator and who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms of the compact. Said compact administrator shall serve subject to the pleasure of the governor. The compact administrator is hereby authorized, empowered and directed to cooperate with all departments, agencies and officers of and in the government of this state and its subdivisions in facilitating the proper administration of the compact or of any supplementary agreement or agreements entered into by this state thereunder.

History.—s. 3, ch. 57-298; s. 26, ch. 78-414.

Note.—Former s. 39.27.

39.513 Supplementary agreements.—The compact administrator is hereby authorized and empowered to enter into supplementary agreements with appropriate officials of other states pursuant to the compact. In the event that such supplementary agreement shall require or contemplate the use of any institution or facility of this state or require or contemplate the provision of any service by this state, said supplementary agreement shall have no force or effect until approved by the head of the department or agency under whose jurisdiction said institution or facility is operated or whose department or agency will be charged with the rendering of such service.

History.—s. 4, ch. 57-298; s. 26, ch. 78-414.

Note.—Former s. 39.28.

39.514 Financial arrangements.-The compact administrator, subject to the approval of the chief state fiscal officer, may make or arrange for any payments necessary to discharge any financial obligations imposed upon this state by the compact or by any supplementary agreement entered into thereunder.

History.-s. 5, ch. 57-298; s. 26, ch. 78-414.

Note.-Former s. 39.29.

39.515 Responsibilities of state departments, agencies and officers.-The courts, departments, agencies, and officers of this state and its subdivisions shall enforce this compact and shall do all things appropriate to the effectuation of its purposes and intent which may be within their respective jurisdictions.

History.-s. 6, ch. 57-298; s. 26, ch. 78-414.

Note.-Former s. 39.30.

39.516 Additional procedures not precluded. -In addition to any procedure provided in articles IV and VI of the compact for the return of any runaway juvenile, the particular states, the juvenile or his parents, the courts, or other legal custodian involved may agree upon and adopt any other plan or procedure legally authorized under the laws of this state and the other respective party states for the return of any such runaway juvenile.

History.-s. 7, ch. 57-298; s. 26, ch. 78-414.

Note.-Former s. 39.31.

TITLE XXIX
SOCIAL WELFARE
CHAPTER 409
SOCIAL AND ECONOMIC ASSISTANCE

409.016 Definitions.--As used in this chapter:

(1) "Department," unless otherwise specified, means the Department of Health and Rehabilitative Services.

(2) "Secretary" means the secretary of the Department of Health and Rehabilitative Services.

(3) "Social and economic services," within the meaning of this chapter, means the providing of financial assistance as well as preventive and rehabilitative social services for children, adults, and families.

History.--s. 1, ch. 70-255; s. 2, ch. 78-433.

409.026 General functions of the department.--

(1) The department shall conduct, supervise, and administer all social and economic services within the state which are or will be carried on by the use of federal or state funds or funds from any other source and receive and distribute food stamps and commodities donated by the United States or any agency thereof. The department shall determine the benefits each applicant or recipient of assistance is entitled to receive under this chapter, provided that each such applicant or recipient is a resident of this state and is a citizen of the United States or is an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law.

(2) The department shall cooperate fully with the United States Government and its agencies and instrumentalities to the end that the department may receive the benefit of all federal financial allotments and assistance possible to carry out the purposes of this chapter.

(3) The department shall investigate, study the causes of the dependence of indigents, encourage them to support themselves whenever possible, and provide supportive services to enable them to make and carry out plans for their permanent rehabilitation to the end that they may cease to be a charge upon the community whenever possible.

(4) The department is authorized to conduct or participate in work, training, or other rehabilitative programs and to participate in the cost of such programs administered by other public or private agencies.

(5) The department shall administer all social and economic services in compliance with Title VI of the Civil Rights Act in such manner that no person shall, on the grounds of race, color, sex, or national origin, be excluded from participation in any assistance, care, services, or other benefits or be otherwise subjected to discrimination.

(6) The department may:

(a) Accept such duties with respect to social and economic services as may be delegated to it by any agency of the Federal Government or any state, county, or municipal government;

(b) Act as agent of, or contract with, the Federal Government, state government, or any county or municipal

government in the conduct and administration of social and economic services activities in securing the benefits of any public assistance that is available from the Federal Government or any of its agencies and in the disbursement of funds received from the Federal Government, state government, or any county or municipal government for social and economic services purposes within the state; and

(c) Accept from any person or organization all offers of personal services or other aid or assistance.

(7) Nothing in this chapter shall be construed to limit, abrogate, or abridge the powers and duties of any other state agency.

History.—s. 1, ch. 69-268; ss. 19, 35, ch. 69-106; s. 1, ch. 70-255; s. 4, ch. 72-48; s. 3, ch. 78-433.

Note.—Former s. 409.045.

409.145 Care of children.—

(1) The department shall conduct, supervise, and administer a program for dependent children and their families. The services of the department are to be directed toward the following goals:

(a) The prevention of separation of children from their families.

(b) The reunification of families who have had children placed in foster homes or institutions.

(c) The permanent placement of children who cannot be reunited with their families or when reunification would not be in the best interest of the child.

(d) The protection of dependent children or children alleged to be dependent, including provision of emergency and long-term alternate living arrangements.

(2) The following dependent children shall be subject to the protection, care, guidance, and supervision of the department or any duly licensed public or private agency:

(a) Any child who has been temporarily or permanently taken from the custody of his parents, custodians, or guardians in accordance with those provisions in chapter 39 that relate to dependent children.

(b) Any child who is in need of the protective supervision of the department as determined by intake or by the court in accordance with those provisions of chapter 39 that relate to dependent children.

(c) Any child who is voluntarily placed, with the written consent of his parents or guardians, in the department's foster care program or the foster care program of a licensed private agency.

(3) The circuit courts exercising juvenile jurisdiction in the various counties of this state shall cooperate with the department and its employees in carrying out the purposes and intent of this chapter.

(4) The department is authorized to accept permanent commitment of children by order of a court of competent jurisdiction for the single purpose of adoption placement of said children. The department is authorized to provide the necessary services to place these permanently committed children for adoption.

(5) Any funds appropriated by counties for child welfare services may be matched by state and federal funds, such funds to be utilized by the department for the benefit of children in said counties.

(6) Whenever any child is placed under the protection, care, and guidance of the department or a duly licensed public or private agency, or as soon thereafter as is practicable, the department or agency, as the case may be, shall endeavor to obtain such information concerning the family medical history of the child and the natural parents as is available or readily obtainable. Such information shall be kept on file by the department or agency for possible future use as provided in ss. 63.082 and 63.162 or as may be otherwise provided by law.

History.--s. 1, ch. 69-268; ss. 19, 35, ch. 69-106; s. 1, ch. 70-255; s. 26, ch. 73-334; s. 3, ch. 76-168; s. 273, ch. 77-147; s. 1, ch. 77-457; s. 4, ch. 78-190; s. 5, ch. 78-433; s. 101, ch. 79-164.

[1]Note.--Repealed by s. 3, ch. 76-168, as amended by s. 1, ch. 77-457, effective July 1, 1982, except for the possible effect of laws affecting this section prior to that date.

[1]409.165 Alternate care for children.--

(1) Within funds appropriated, the department shall establish and supervise a program of emergency shelters, foster homes, group homes, and other appropriate facilities to provide shelter and care for dependent children who must be placed away from their families. The department, in

accordance with established goals, shall contract for the provision of such shelter and care by counties, municipalities, nonprofit corporations, and other entities capable of providing needed services if services so provided are available and meet the following criteria:

(a) Are more cost-effective than those provided by the department; and

(b) Unless otherwise provided by law, such providers of shelter and care are licensed by the department.

(2) The department may cooperate with all child service institutions or agencies within the state which meet the rules for proper care and supervision prescribed by the department for the well-being of children.

(3) With the written consent of parents, custodians, or guardians, or in accordance with those provisions in chapter 39 that relate to dependent children, the department, under rules properly adopted, may place a child with a relative; a person who is considering the adcption of a child in the manner provided for by law; when limited to temporary emergency situations, a responsible adult approved by the court; or a person, institution, society, or association licensed by the department in accordance with s. 409.175, under such conditions as shall be determined to be for the best interests or the welfare of the child. Any child placed in an institution or in a family home by the department or its agency may be removed by like authority and such disposition made as shall be for the best interest of the child, including the transfer to another institution, another home, or the home of the child.

History.--s. 1, ch. 69-268; ss. 19, 35, ch. 69-106; s. 1, ch. 70-255; s. 3, ch. 76-168; s. 275, ch. 77-147; s. 1, ch. 77-457; s. 6, ch. 78-433; s. 102, ch. 79-164.

[1]Note.--Repealed by s. 3, ch. 76-168, as amended by s. 1, ch. 77-457, effective July 1, 1982, except for the possible effect of laws affecting this section prior to that date.

409.166 Special needs children; subsidized adoption program.--

(1) LEGISLATIVE INTENT.--It is the intent of the Legislature to protect and promote every child's right to the security and stability of a permanent family home. The Legislature intends to make available to prospective adoptive parents financial aid which will enable them to adopt a child in foster care who, because of his special needs, has proven difficult to place in an adoptive home. In providing subsidies for children with special needs in foster homes, it is the intent of the Legislature to reduce state expenditures for long-term foster care.

(2) DEFINITIONS.--As used in this section:

(a) "Special needs child" means a child whose permanent custody has been awarded to the department or to a licensed child-placing agency and

1. Who has established significant emotional ties with his or her foster parents; or

2. Is not likely to be adopted because he or she is:

a. Six years of age or older;

b. Mentally retarded;

c. Physically or emotionally handicapped;

d. Of black or racially mixed parentage; or

e. A member of a sibling group of any age, provided two or more members of a sibling group remain together for purposes of adoption.

(b) "Department" means the Department of Health and Rehabilitative Services.

(c) "Subsidy" means special services or money payments.

(3) ADMINISTRATION OF PROGRAM.-

(a) The department shall establish and administer an adoption program for the special needs child to be carried out by the department or by contract with a licensed child-placing agency. The program shall attempt to increase the number of persons seeking to adopt the special needs child and the number of adoption placements and shall extend subsidies and services, when needed, to the adopting parents of a special needs child.

(b) Authorization for subsidized adoption placement is to be granted only when all other resources available to place the child in question have been thoroughly explored and when it can be clearly established that this is the most acceptable plan for providing permanent placement for the child. Adoption subsidy will not be used as a substitute for adoptive parent recruitment or as an inducement tc adopt a child who might be placed through nonsubsidized means. It shall be the policy of the department that no child shall be denied adoption when subsidy would make adoption possible. The best interest of the child shall be the deciding factor in all instances. Nothing contained herein shall prohibit foster parents from applying to adopt a special needs child placed in their care.

(c) The department shall keep the necessary records to evaluate the program's effectiveness in encouraging and promoting the adoption of the special needs child and shall make annual reports to the Legislature by January 1 of each year regarding the cost and benefits of the program.

(4) ELIGIBILITY FOR SERVICES.-

(a) The department may pay either one or both of the following subsidies to the adopting parents:

1. For support and maintenance of a special needs child until the 18th birthday of such child, a monthly payment in an amount not more than the maximum monthly amount paid for foster care for the child if the adoption placement had not taken place.

2. For medical, surgical, hospital, and related services needed as a result of a physical or mental condition of the child which existed before the adoption, a subsidy which may be initiated at any time but shall terminate on or before the child's 18th birthday.

(b) As a condition for continuation of the subsidy, the adoptive parents shall file a sworn statement with the department at least once each year to include any social or financial conditions which may have changed.

(c) A child who is handicapped at the time of adoption shall be eligible for services of the children's medical services program if the child was eligible for such services prior to the adoption.

(5) WAIVER OF ADOPTION FEES.-The adoption fees shall be waived for all adoptive parents who participate in the program.

(6) The department shall promulgate all necessary rules to implement the provisions of this section.

History.--ss. 1-6, ch. 76-203; s. 1, ch. 77-174; s. 1, ch. 77-293; s. 1, ch. 78-362.

409.168 Children in foster care; department report and court review of status.--

(1) The Legislature finds that 7 out of 10 children placed in foster care do not return to their biological families after the first year and that permanent homes could be found for many of these children if their status were reviewed periodically and they were found eligible for adoption. It is the intent of the Legislature, therefore, to help ensure a permanent home for children in foster care by requiring a periodic review and report on their status.

(2) As used in this section:

(a) "Foster care" means care provided a child in a foster family or boarding home, group home, agency boarding home, child care institution, or any combination thereof.

(b) "Child" means a person under the age of 18 years whose legal custody has been awarded to the department or a licensed child-placing agency by order of a court or who has been committed temporarily to the care of the department by a parent, guardian, or relative within the second degree.

(c) "Court" means the Circuit Court.

(d) "Department" means the Department of Health and Rehabilitative Services.

(e) "Licensed child-placing agency" means any child welfare agency that the department determines to be qualified to place minors for adoption pursuant to s. 63.202.

(3)(a) In each case in which the custody of a child has been awarded to the department or a licensed child-placing agency and such child has remained in foster care for a continuous period of 6 months, the department or licensed child-placing agency shall petition the court in the county where the child resides to review the status of the child. The department shall make an investigation and social study concerning all pertinent details relating to the child and shall furnish the court with a written report including its recommendations. The court shall then review the status of the child and may hold a hearing to determine if the child should be continued in foster care or returned to a parent, guardian, or relative, or if proceedings should be instituted to terminate parental rights and legally free such child for adoption.

(b) The court may dispense with the attendance of the child at the hearing or may, with the consent of the parties, dispense with the hearing and make a determination based upon the report of the department and any affidavits submitted to the court.

(4) Notice of the hearing and a copy of the petition including a statement of the dispositional alternatives of the court shall be served upon:

(a) The department or licensed child-placing agency charged with the supervision of care, custody, or guardianship of such child, if such authorized agency is not the petitioner.

(b) The foster parent or parents in whose home the child resides.

(c) The parent, guardian, or relative who transferred the care and custody of such child to the department.

(d) Such other persons as the court may in its discretion direct.

(5) The court may issue a protective order in assistance, or as a condition, of any other order made under this act. The protective order may set forth reasonable conditions of behavior to be observed for a specified time by a person or agency who is before the court and may require any such person or agency to make periodic reports to the court containing such information as the court in its discretion may prescribe.

(6) The court shall have continuing jurisdiction in proceedings under this section, and, in the case of a child who is continued in foster care, shall review the status of the child whenever it deems necessary or desirable, but at least annually.

History.--ss. 1-6, ch. 76-258; s. 1, ch. 77-174.

1409.175 Licenses.--

(1) The department may, by rule, set minimum standards for the care of dependent children away from their own homes, and for dependent children in the care of child-placing agencies, and shall prescribe, amend, or alter such rules as may be necessary for the care and supervision of such children.

(2) No person other than a relative, a person who is considering the adoption of a child in the manner provided for by law, or, when limited to temporary emergency situations, a responsible adult approved by the court and no institution, society, or association, may receive a dependent child for boarding or custody unless such person, society, association, or institution shall first have procured a license from the department empowering or authorizing such person, association, institution, or society to care for, receive, or board a child or children.

(3) Application for license shall be made on blanks provided by the department. The application may be approved by the department only after inspection of health and sanitary conditions. A copy of the license so issued, which shall be provided by the department without charge, shall be on the approved form established by the department and shall be kept readily available by the licensee. Such license shall be valid for not more than 1 year after the date of issue, but may be renewed or extended as provided for by the rules of the department.

(4) Any such license may be revoked by order of the department for violation of the regulations of the department governing the activities of the licensee.

(5) If such order of revocation is not complied with within a reasonable time, or if any person, society, association, or institution shall receive a dependent child for boarding or custody without first having procured a license from the department or without the approval of the department as herein provided, then, after a reasonable notice, the department shall apply to a circuit court having jurisdiction over the person, society, association, or institution, and such circuit court shall hear and determine

the case and grant such relief, mandatory or injunctive, as the case may require.

History.—s. 1, ch. 69-268; ss. 19, 35, ch. 69-106; s. 1, ch. 70-255; s. 3, ch. 76-168; s. 276, ch. 77-147; s. 1, ch. 77-457; s. 7, ch. 78-433.

[1]Note.—Repealed by s. 3, ch. 76-168, as amended by s. 1, ch. 77-457, effective July 1, 1982, except for the possible effect of laws affecting this section prior to that date.

409.401 Interstate Compact on the Placement of Children.-The Interstate Compact on the Placement of Children is hereby enacted into law and entered into with all other jurisdictions legally joining therein in form substantially as follows:

INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN

ARTICLE I. Purpose and Policy

It is the purpose and policy of the party states to cooperate with each other in the interstate placement of children to the end that:

(a) Each child requiring placement shall receive the maximum opportunity to be placed in a suitable environment and with persons or institutions having appropriate qualifications and facilities to provide a necessary and desirable degree and type of care.

(b) The appropriate authorities in a state where a child is to be placed may have full opportunity to ascertain the circumstances of the proposed placement, thereby promoting full compliance with applicable requirements for the protection of the child.

(c) The proper authorities of the state from which the placement is made may obtain the most complete information on the basis on which to evaluate a projected placement before it is made.

(d) Appropriate jurisdictional arrangements for the care of children will be promoted.

ARTICLE II. Definitions

As used in this compact:

(a) "Child" means a person who, by reason of minority, is legally subject to parental, guardianship or similar control.

(b) "Sending agency" means a party state, officer or employee thereof; a subdivision of a party state, or officer or employee thereof; a court of a party state; a person, corporation, association, charitable agency or other entity which sends, brings, or causes to be sent or brought any child to another party state.

(c) "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought, whether by public authorities or private persons or agencies, and whether for placement with state or local public authorities or for placement with private agencies or persons.

(d) "Placement" means the arrangement for the care of a child in a family free or boarding home or in a child-caring

agency or institution but does not include any institution caring for the mentally ill, mentally defective or epileptic or any institution primarily educational in character, and any hospital or other medical facility.

ARTICLE III. Conditions for Placement

(a) No sending agency shall send, bring, or cause to be sent or brought into any other party state any child for placement in foster care or as a preliminary to a possible adoption unless the sending agency shall comply with each and every requirement set forth in this article and with the applicable laws of the receiving state governing the placement of children therein.

(b) Prior to sending, bringing, or causing any child to be sent or brought into a receiving state for placement in foster care or as a preliminary to a possible adoption, the sending agency shall furnish the appropriate public authorities in the receiving state written notice of the intention to send, bring, or place the child in the receiving state. The notice shall contain:

(1) The name, date and place of birth of the child.

(2) The identity and address or addresses of the parents or legal guardian.

(3) The name and address of the person, agency or institution to or with which the sending agency proposes to send, bring, or place the child.

(4) A full statement of the reasons for such proposed action and evidence of the authority pursuant to which the placement is proposed to be made.

(c) Any public officer or agency in a receiving state which is in receipt of a notice pursuant to paragraph (b) of this article may request of the sending agency, or any other appropriate officer or agency of or in the sending agency's state, and shall be entitled to receive therefrom, such supporting or additional information as it may deem necessary under the circumstances to carry out the purpose and policy of this compact.

(d) The child shall not be sent, brought, or caused to be sent or brought into the receiving state until the appropriate public authorities in the receiving state shall notify the sending agency, in writing, to the effect that the proposed placement does not appear to be contrary to the interests of the child.

ARTICLE IV. Penalty for Illegal Placement

The sending, bringing, or causing to be sent or brought into any receiving state of a child in violation of the terms of this compact shall constitute a violation of the laws respecting the placement of children of both the state in which the sending agency is located or from which it sends or brings the child and of the receiving state. Such violation may be punished or subjected to penalty in either jurisdiction in accordance with its laws. In addition to liability for any such punishment or penalty, any such violation shall constitute full and sufficient grounds for the suspension or revocation of any license, permit, or other legal authorization held by the sending agency which empowers or allows it to place, or care for children.

ARTICLE V. Retention of Jurisdiction

(a) The sending agency shall retain jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, treatment and disposition of the

child which it would have had if the child had remained in the sending agency's state, until the child is adopted, reaches majority, becomes self-supporting or is discharged with the concurrence of the appropriate authority in the receiving state. Such jurisdiction shall also include the power to effect or cause the return of the child or its transfer to another location and custody pursuant to law. The sending agency shall continue to have financial responsibility for support and maintenance of the child during the period of the placement. Nothing contained herein shall defeat a claim of jurisdiction by a receiving state sufficient to deal with an act of delinquency or crime committed therein.

(b) When the sending agency is a public agency, it may enter into an agreement with an authorized public or private agency in the receiving state providing for the performance of one or more services in respect of such case by the latter as agent for the sending agency.

(c) Nothing in this compact shall be construed to prevent a private charitable agency authorized to place children in the receiving state from performing services or acting as agent in that state for a private charitable agency of the sending state; nor to prevent the agency in the receiving state from discharging financial responsibility for the support and maintenance of a child who has been placed on behalf of the sending agency without relieving the responsibility set forth in paragraph (a) hereof.

ARTICLE VI. Institutional Care of Delinquent Children

A child adjudicated delinquent may be placed in an institution in another party jurisdiction pursuant to this compact but no such placement shall be made unless the child is given a court hearing on notice to the parent or guardian with opportunity to be heard, prior to his being sent to such other party jurisdiction for institutional care and the court finds that:

1. Equivalent facilities for the child are not available in the sending agency's jurisdiction; and

2. Institutional care in the other jurisdiction is in the best interest of the child and will not produce undue hardship.

ARTICLE VII. Compact Administrator

The executive head of each jurisdiction party to this compact shall designate an officer who shall be general coordinator of activities under this compact in his jurisdiction and who, acting jointly with like officers of other party jurisdictions, shall have power to promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

ARTICLE VIII. Limitations

This compact shall not apply to:

(a) The sending or bringing of a child into a receiving state by his parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or his guardian and leaving the child with any such relative or nonagency guardian in the receiving state.

(b) Any placement, sending or bringing of a child into a receiving state pursuant to any other interstate compact to which both the state from which the child is sent or brought

and the receiving state are party, or to any other agreement between said states which has the force of law.

ARTICLE IX. Enactment and Withdrawal

This compact shall be open to joinder by any state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and, with the consent of Congress, the Government of Canada or any province thereof. It shall become effective with respect to any such jurisdiction when such jurisdiction has enacted the same into law. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until two years after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the Governor of each other party jurisdiction. Withdrawal of a party state shall not affect the rights, duties and obligations under this compact of any sending agency therein with respect to a placement made prior to the effective date of withdrawal.

ARTICLE X. Construction and Severability

The provisions of this compact shall be liberally construed to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

History.--s. 1, ch. 74-317.

409.402 Financial responsibility for child.--Financial responsibility for any child placed pursuant to the provisions of the Interstate Compact on the Placement of Children shall be determined in accordance with the provisions of Article V thereof in the first instance. However, in the event of partial or complete default of performance thereunder, the provisions of state laws fixing responsibility for the support of children also may be invoked.

History.--s. 2, ch. 74-317.

409.403 Definitions; Interstate Compact on the Placement of Children.--

(1) The "appropriate public authorities" as used in Article III of the Interstate Compact on the Placement of Children shall, with reference to this state, mean the Department of Health and Rehabilitative Services, and said department shall receive and act with reference to notices required by said Article III.

(2) As used in paragraph (a) of Article V of the Interstate Compact on the Placement of Children, the phrase "appropriate authority in the receiving state" with

reference to this state shall mean the Department of Health and Rehabilitative Services.

(3) As used in Article VII of the Interstate Compact on the Placement of Children, the term "executive head" means the Governor. The Governor is hereby authorized to appoint a compact administrator in accordance with the terms of said Article VII.

History.--ss. 3, 4, 8, ch. 74-317; s. 288, ch. 77-147.

409.404 Agreements between party state officers and agencies.--

(1) The officers and agencies of this state and its subdivisions having authority to place children are hereby empowered to enter into agreements with appropriate officers or agencies of or in other party states pursuant to paragraph (b) of Article V of the Interstate Compact on the Placement of Children, s. 409.401. Any such agreement which contains a financial commitment or imposes a financial obligation on this state or subdivision or agency thereof shall not be binding unless it has the approval in writing of the secretary of Health and Rehabilitative Services in the case of the state.

(2) Any requirements for visitation, inspection, or supervision of children, homes, institutions, or other agencies in another party state which may apply under the provisions of chapters 63 and 409 shall be deemed to be met if performed pursuant to an agreement entered into by appropriate agencies of this state or a subdivision thereof as contemplated by paragraph (b) of Article V of the Interstate Compact on the Placement of Children, s. 409.401.

History.--ss. 5, 6, ch. 74-317.

409.405 Court placement of delinquent children.--Any court having jurisdiction to place delinquent children may place such a child in an institution in another state pursuant to Article VI of the Interstate Compact on the Placement of Children, s. 409.401, and shall retain jurisdiction as provided in Article V thereof.

History.--s. 7, ch. 74-317.

827.07 Abuse or neglect of children.-

(1) LEGISLATIVE INTENT.-The intent of this section is to provide for comprehensive protective services for abused or neglected children found in the state by requiring that reports of each abused or neglected child be made to the Department of Health and Rehabilitative Services in an effort to prevent further harm to the child or any other children living in the home and to preserve the family life of the parents and children, to the maximum extent possible, by enhancing the parental capacity for adequate child care.

(2) DEFINITIONS.-As used in this section:

(a) "Child" means any person under the age of 18 years.

(b) "Child abuse or neglect" means harm or threatened harm to a child's physical or mental health or welfare by the acts or omissions of the parent or other person responsible for the child's welfare.

(c) "Abused or neglected child" means a child whose physical or mental health or welfare is harmed, or threatened with harm, by the acts or omissions of the parent or other person responsible for the child's welfare.

(d) "Harm" to a child's health or welfare can occur when the parent or other person responsible for the child's welfare:

1. Inflicts, or allows to be inflicted, upon the child physical or mental injury, including injury sustained as a result of excessive corporal punishment;

2. Commits, or allows to be committed, sexual battery, as defined in chapter 794, against the child;

3. Exploits a child, or allows a child to be exploited, for pornographic purposes as provided in ss. 847.014 and 450.151, or for prostitution;

4. Abandons the child;

5. Fails to provide the child with supervision or guardianship by specific acts or omissions of a serious nature requiring the intervention of the department or the court; or

6. Fails to supply the child with adequate food, clothing, shelter, or health care, although financially able to do so or although offered financial or other means to do so; however, a parent or other person responsible for the child's welfare legitimately practicing his religious beliefs, who by reason thereof does not provide specified medical treatment for a child, shall not be considered abusive or neglectful for that reason alone, but such an exception shall not:

a. Eliminate the requirement that such a case be reported to the department;

b. Prevent the department from investigating such a case; or

c. Preclude a court from ordering, when the health of the child requires it, the provision of medical services by a physician, as defined herein, or treatment by a duly accredited practitioner who relies solely on spiritual means for healing in accordance with the tenets and practices of a well-recognized church or religious organization.

(e) "Other person responsible for a child's welfare" includes the child's legal guardian, legal custodian, or foster parent; an employee of a public or private child day care center, residential home, institution, or agency; or

any other person legally responsible for the child's welfare in a residential setting.

(f) "Physical injury" means death, permanent or temporary disfigurement, or impairment of any bodily part.

(g) "Mental injury" means an injury to the intellectual or psychological capacity of a child as evidenced by a discernible and substantial impairment in his ability to function within his normal range of performance and behavior, with due regard to his culture.

(h) "Physician" means any licensed physician, dentist, podiatrist, or optometrist and [2]includes any intern or resident.

(i) "Department" means the Department of Health and Rehabilitative Services.

(j) "Unfounded report" means a report made pursuant to this section when an investigation determines that no indication of abuse or neglect exists.

(k) "Indicated report" means a report made pursuant to this section when a child protective investigation determines that some indication of abuse or neglect exists.

(l) "Institutional child abuse [1]or neglect" means situations of known or suspected child abuse or neglect in which the person allegedly perpetrating the child abuse or neglect is an employee of a public or private day care center, residential home, institution, or agency responsible for the child's care.

(3) REPORTS OF CHILD ABUSE OR NEGLECT REQUIRED.--Any person, including, but not limited to, any:

(a) Physician, osteopath, medical examiner, chiropractor, nurse, or hospital personnel engaged in the admission, examination, care, or treatment of persons;

(b) Health or mental health professional other than one listed in paragraph (a);

(c) Practitioner who relies solely on spiritual means for healing;

(d) School teacher or other school official or personnel;

(e) Social worker, day care center worker, or other professional child care, foster care, residential, or institutional worker; or

(f) Law enforcement officer,

who knows, or has reasonable cause to suspect, that a child is an abused or neglected child shall report such knowledge or suspicion to the department in the manner prescribed in subsection (9).

(4) MANDATORY REPORTING OF DEATH AND POSTMORTEM INVESTIGATION BY MEDICAL EXAMINER.--Any person required to report or investigate cases of suspected child abuse or neglect who has reasonable cause to suspect that a child died as a result of child abuse or neglect shall report his suspicion to the appropriate medical examiner. The medical examiner shall accept the report for investigation pursuant to s. 406.11 and shall report his findings, in writing, to the local law enforcement agency, the appropriate state attorney, and the department. Autopsy reports maintained by the medical examiner shall not be subject to the confidentiality requirements provided for in this section.

(5) PHOTOGRAPHS, MEDICAL EXAMINATIONS, AND X RAYS.--Any person required to investigate cases of suspected child abuse or neglect may take or cause to be taken photographs

of the areas of trauma visible on a child who is the subject of a report and, if the areas of trauma visible on a child indicate a need for a medical examination, may cause the child to be referred for diagnosis to a licensed physician or an emergency department in a hospital without the consent of the child's parents, legal guardian, or legal custodian. Any licensed physician who has reasonable cause to suspect that an injury was the result of child abuse may authorize a radiological examination to be performed on the child without the consent of the child's parent, legal guardian, or legal custodian. The county in which the child is a resident shall bear the initial costs of the examination of the allegedly abused child; however, the parents, legal guardian, or legal custodian of the child shall be required to reimburse the county for the costs of such examination and to reimburse the Department of Health and Rehabilitative Services for the cost of the photographs taken pursuant to this subsection. Any photograph or report on examinations made or X rays taken pursuant to this subsection, or copies thereof, shall be sent to the department as soon as possible.

(6) PROTECTIVE CUSTODY.--A law enforcement officer or authorized agent of the department may take a child into custody as provided in chapter 39. Any person in charge of a hospital or similar institution or any physician treating a child may keep that child in his custody without the consent of the parents, legal guardian, or legal custodian, whether or not additional medical treatment is required, if the circumstances are such, or if the condition of the child is such, that continuing the child in the child's place of residence or in the care or custody of the parents, legal guardian, or legal custodian presents an imminent danger to the child's life or physical or mental health. Any person taking a child into protective custody shall immediately notify the department, whereupon the department shall immediately begin a child protective investigation in accordance with the provisions of subsection (10) and shall make every reasonable effort to immediately notify the parents, legal guardian, or legal custodian that such child has been taken into protective custody. If the department determines, according to the criteria set forth in s. 39.402, that the child should remain in protective custody longer than 24 hours, it shall petition the court for an order authorizing such custody in the same manner as if the child were placed in a shelter. The department shall attempt to avoid the placement of a child in an institution whenever possible.

(7) IMMUNITY FROM LIABILITY.--Any person, official, or institution participating in good faith in any act authorized or required by this section shall be immune from any civil or criminal liability which might otherwise result by reason of such action.

(8) ABROGATION OF PRIVILEGED COMMUNICATIONS.--The privileged quality of communication between husband and wife and between any professional person and his patient or client, and any other privileged communication except that between attorney and client, as such communication relates both to the competency of the witness and to the exclusion of confidential communications, shall not apply to any situation involving known or suspected child abuse or

neglect and shall not constitute grounds for failure to report as required by this section, failure to cooperate with the department in its activities pursuant to this section, or failure to give evidence in any judicial proceeding relating to child abuse or neglect.

(9) INITIAL REPORTING PROCEDURE.-

(a) Each report of known or suspected child abuse or neglect pursuant to this section shall be made immediately to the department's abuse registry on the single statewide tollfree telephone number or directly to the local office of the department responsible for investigation of reports made pursuant to this section.

(b) Each report made by a person in an occupation designated in subsection (3) shall be confirmed in writing to the local office of the department within 48 hours of the initial report.

(c) Reports involving known or suspected institutional child abuse or neglect shall be made and received in the same manner as all other reports made pursuant to this section.

(10) CHILD PROTECTIVE INVESTIGATIONS.-

(a) The department shall be capable of receiving and investigating reports of known or suspected child abuse or neglect 24 hours a day, 7 days a week. If it appears that the immediate safety or well-being of a child is endangered, that the family may flee or the child will be unavailable for purposes of conducting a child protective investigation, or that the facts otherwise so warrant, the department shall commence an investigation immediately, regardless of the time of day or night. In all other child abuse or neglect cases, a child protective investigation shall be commenced within 24 hours of receipt of the report.

(b) For each report it receives, the department shall perform an onsite child protective investigation to:

1. Determine the composition of the family or household, including the name, address, age, sex, and race of each child named in the report; any siblings or other children in the same household or in the care of the same adults; the parents or other persons responsible for the child's welfare; and any other adults in the same household.

2. Determine whether there is indication that any child in the family or household is abused or neglected, including a determination of harm or threatened harm to each child; the nature and extent of present or prior injuries, abuse, or neglect, and any evidence thereof; and a determination as to the person or persons apparently responsible for the abuse or neglect.

3. Determine the immediate and long-term risk to each child if the child remains in the existing home environment.

4. Determine the protective, treatment, and ameliorative services necessary to safeguard and ensure the child's well-being and development and, if possible, to preserve and stabilize family life.

(c) The department may develop and coordinate one or more multidisciplinary child protection teams in each of the department's service districts. The department may convene such teams when necessary to assist in its diagnostic, assessment, service, and coordination responsibilities. Members of the team may include representatives of

appropriate health, mental health, social service, legal service, and law enforcement agencies.

(d) If the department is denied reasonable access to a child by the parents or other persons responsible for the child's welfare and the department deems that the best interests of the child so require, it shall seek an appropriate court order or other legal authority to examine and interview the child.

(e) If the department determines that a child requires immediate or long-term protection through:

1. Medical or other health care;

2. Homemaker care, day care, protective supervision, or other services to stabilize the home environment; or

3. Foster care, shelter care, or other substitute care to remove the child from his parents' custody,

such services shall first be offered for the voluntary acceptance of the parents or other person responsible for the child's welfare, who shall be informed of the right to refuse services as well as the department's responsibility to protect the child regardless of the acceptance or refusal of services. If the services are refused or the department deems that the child's need for protection so requires, the department shall take the child into protective custody or petition the court as provided in chapter 39.

(f) No later than 30 days after receiving the initial report, the local office of the department shall complete its investigation, determine whether the reported abuse was indicated or unfounded, and report its findings to the department's abuse registry.

(g) Immediately upon receipt of a report alleging, or immediately upon learning during the course of an investigation, that:

1. A child died as a result of abuse or neglect;

2. A child is a victim of aggravated child abuse as defined in s. 827.03;

3. A child received an observable injury as a result of child abuse or neglect; or

4. A child is a victim of sexual battery,

the department shall orally notify the appropriate state attorney and may notify the appropriate law enforcement agency in order that they may begin a criminal investigation concurrent with the agency's child protective investigation. The department shall make a full written report to the state attorney within 3 days of the oral report. The department may notify the state attorney or law enforcement agency of any other child abuse or neglect case in which a criminal investigation is deemed appropriate by the department.

(11) RESPONSIBILITIES OF PUBLIC AGENCIES.-

(a) The department shall:

1. Have prime responsibility for strengthening and improving child abuse and neglect prevention and treatment efforts.

2. Seek and encourage the development of improved or additional programs and activities, the assumption of prevention and treatment responsibilities by additional agencies and organizations, and the coordination of existing programs and activities.

3. To the fullest extent possible, cooperate with and seek cooperation of all appropriate public and private agencies, including health, education, social services, and law enforcement agencies, and courts, organizations, or programs providing or concerned with human services related to the prevention, identification, or treatment of child abuse or neglect.

4. Provide ongoing protective, treatment, and ameliorative services to, and on behalf of, children in need of protection to safeguard and ensure their well-being and, whenever possible, to preserve and stabilize family life.

(b) All state, county, and local agencies have a duty to give such cooperation, assistance, and information to the department as will enable it to fulfill its responsibilities under this section.

(12) EDUCATION AND TRAINING.—The department shall, within available appropriations, conduct a continuing publicity and education program for district staff and officials required to report and any other appropriate persons to encourage the fullest degree of reporting of suspected child abuse or neglect. The program shall include, but not be limited to, information concerning the responsibilities, obligations, and powers provided under this chapter; the methods for diagnosis of child abuse or neglect; and the procedures of the child protective service program, the circuit court, and other duly authorized agencies. In developing training programs for district staff, the department shall place emphasis on preservice and inservice training for single intake, protective services, and foster care staff which would include skills in diagnosis and treatment of child abuse and neglect and procedures of the child protective system and judicial process.

(13) ABUSE REGISTRY.-

(a) The department shall establish and maintain a central abuse registry which shall receive reports made pursuant to this section in writing or through a single statewide tollfree telephone number which any person may use to report known or suspected child abuse or neglect at any hour of the day or night, any day of the week. The abuse registry shall be operated in such a manner as to enable the department to:

1. Immediately identify and locate prior reports or cases of child abuse or neglect.

2. Regularly evaluate the effectiveness of the department's program for abused and neglected children through the development and analysis of statistical and other information.

(b) Upon receiving an oral or written report of known or suspected child abuse or neglect, the abuse registry shall immediately notify the local office of the department with respect to the report, any previous report concerning a subject of the present report, or any other pertinent information relative thereto.

(c) Upon completion of its investigation, the local office of the department shall classify reports as indicated or unfounded. All identifying information in the abuse registry maintained in unfounded reports shall be expunged immediately. All identifying information in the abuse registry maintained in indicated reports shall be expunged from the registry 7 years from the date of the last indicated report concerning the same child, siblings, or the

same perpetrator. All information, other than identifying information, maintained in indicated or unfounded reports at the time of expunction shall be disposed of in a manner deemed appropriate by the department and pursuant to ss. 119.041 and s. 267.051(6). Nothing in this section is intended to require the expunction or destruction of case records or information required by the Federal Government to be retained for future audit.

(14) REPORTS OF INSTITUTIONAL CHILD ABUSE OR NEGLECT.-The department shall conduct a child protective investigation of each report of institutional child abuse or neglect. Upon receipt of a report which alleges that an employee or agent of the department acting in an official capacity, including, but not limited to, a foster parent, has committed an act of child abuse or neglect, the department shall immediately initiate a child protective investigation and notify the state attorney in whose circuit the alleged child abuse or neglect occurred. The state attorney shall immediately investigate the report and, no later than 15 days after completing the investigation, shall report his findings to the department.

(15) CONFIDENTIALITY OF REPORTS AND RECORDS.-

(a) In order to protect the rights of the child and his parents or other persons responsible for the child's welfare, all records concerning reports of child abuse or neglect, including reports made to the abuse registry and to local offices of the department and all records generated as a result of such reports, shall be confidential and exempt from the provisions of s. 119.07(1), and shall not be disclosed except as specifically authorized by this section.

(b) Access to such records, excluding the name of the reporter which shall be released only as provided in paragraph (e), shall be granted only to the following persons, officials, and agencies for the following purposes:

1. Employees or agents of the department responsible for carrying out child protective investigations, ongoing child protective services, or licensure or approval of adoptive homes, foster homes, or other homes used for the care of children.

2. A law enforcement agency investigating a report of known or suspected child abuse or neglect.

3. The state attorney of the judicial circuit in which the child resides or in which the alleged abuse or neglect occurred.

4. Any child, parent, or perpetrator who is the subject of a report or the subject's guardian, custodian, guardian ad litem, or counsel.

5. A court, by subpoena, upon its finding that access to such records may be necessary for the determination of an issue before the court; however, such access shall be limited to in camera inspection, unless the court determines that public disclosure of the information contained therein is necessary for the resolution of an issue then pending before it.

6. A grand jury, by subpoena, upon its determination that access to such records is necessary in the conduct of its official business.

7. Any appropriate official of the department responsible for:

a. Administration or supervision of the department's program for the prevention, investigation, or treatment of child abuse or neglect when carrying out his official function; or

b. Taking appropriate administrative action concerning an employee of the department alleged to have perpetrated institutional child abuse or neglect.

8. Any person engaged in bona fide research or audit purposes. However, no information identifying the subjects of the report shall be made available to the researcher unless such information is absolutely essential to the research purpose, suitable provision is made to maintain the confidentiality of the data, and the department has given written approval.

(c) The department may release to professional persons such information as is necessary for the diagnosis and treatment of the child or the person perpetrating the abuse.

(d) The department shall, with the written consent of a person applying to a licensed child-placing agency for the adoption of a child or for licensure as a foster home, search its abuse registry for the existence of an indicated report and advise the licensed child-placing agency of any such report found and the results of the investigation conducted pursuant thereto.

(e) The name of any person reporting child abuse or neglect shall in no case be released to any person other than employees of the department responsible for child protective services, the abuse registry, or the appropriate state attorney without the written consent of the person reporting. This shall not prohibit the subpoenaing of a person reporting child abuse or neglect when deemed necessary by the state attorney or the department to protect a child who is the subject of a report, provided that the fact that such person made the report is not disclosed.

(16) GUARDIAN AD LITEM.-A guardian ad litem shall be appointed by the court to represent the child in any child abuse or neglect judicial proceeding. Any person participating in a judicial proceeding resulting from such appointment shall be presumed prima facie to be acting in good faith and in so doing shall be immune from any liability, civil or criminal, that otherwise might be incurred or imposed. In those cases in which the parents are financially able, the parent or parents of the child shall reimburse the court, in part or in whole, for the cost of provision of guardian ad litem services. Reimbursement to the individual providing guardian ad litem services shall not be contingent upon successful collection by the court from the parent or parents.

(17) RULES.-The department shall, by October 1, 1979, promulgate rules in furtherance of the purpose of this section and may amend such rules as may be necessary.

(18) PENALTIES.-

(a) Any person required by this section to report known or suspected child abuse or neglect who knowingly and willfully fails to do so, or who knowingly and willfully prevents another person from doing so, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Any person who knowingly and willfully makes public or discloses any confidential information contained in the

abuse registry or in the records of any child abuse or neglect case, except as provided in this section, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.--ss. 1-6, ch. 63-24; s. 941, ch. 71-136; ss. 1, 1A, ch. 71-97; s. 32, ch. 73-334; s. 65, ch. 74-383; s. 1, ch. 75-101; s. 1, ch. 75-185; s. 4, ch. 76-237; s. 1, ch. 77-77; s. 3, ch. 77-429; ss. 1, 2, ch. 78-322; s. 3, ch. 78-326; s. 22, ch. 78-361; s. 1, ch. 78-379; s. 181, ch. 79-164; s. 1, ch. 79-203.

[1]Note.--The word "or" was substituted for "and" by the editors.

[2]Note.--The word "includes" was inserted by the editors.

Note.--Former s. 828.041.

CHAPTER 959
YOUTH SERVICES

959.001 Definitions.—When used in this chapter unless the context clearly requires otherwise:

(1) "Department" means the Department of Health and Rehabilitative Services as defined in s. 20.19.

(2) "Intake" means the acceptance and screening of complaints to determine the action to be taken in the best interest of the child and the community, including such alternatives as:

(a) The disposition of the complaint without court action when appropriate;

(b) The referral of the child to another public or private agency when appropriate; and

(c) The instigation of court action when necessary.

Also included in intake is the performance of necessary activities to further the prevention of juvenile delinquency.

(3) "Child" means a child as defined in chapter 39, who is alleged to be, or has been adjudicated, delinquent.

(4) "Detention facilities" means the county or state facilities used for detention, including the physical plant, fixtures, equipment, and properties on which such facilities are located, and shall include the outdoor areas customarily used by the detention facility.

(5) "Court" means the circuit court with juvenile jurisdiction.

(6) "Detention care" means the temporary care of children in secure or nonsecure custody.

(7) "Volunteer" means a person screened and selected by the department to advise and assist in programs for the prevention, control, and treatment of juvenile delinquency.

(8) "Secure facility" means a physically restricting facility for the temporary care of children, pending adjudication or court disposition.

(9) "Nonsecure facility" means a physically unrestricting facility for the temporary care of children, pending adjudication or court disposition.

(10) "Attention home" means a residence in the community to house one or more, but not exceeding six, children in a physically unrestricting environment, pending adjudication.

(11) "Home detention" means any child, pending adjudication, released to the custody of his parents, guardian, or custodian under the supervision of a community youth leader.

History.—s. 1, ch. 73-230; s. 1, ch. 73-241; s. 257, ch. 77-104; s. 478, ch. 77-147.

959.011 Administration.—

(1) The [1][department] shall be responsible for the planning, development, and coordination of a statewide, comprehensive youth services program for the prevention, control, and treatment of juvenile delinquency.

(2) The [1][department] shall develop and implement diversified and innovative programs in order to provide for the treatment of persons referred or committed to the

[2]division. Such programs may include, but shall not be limited to, training schools, foster homes, halfway houses, forestry camps, training ships, regional diagnostic and classification centers, detention care, aftercare, intake, probation, shelter care, individual and group counseling, volunteer assistance, prevention services, and other state and local community-based residential and nonresidential programs.

(3) The [1][department] shall have exclusive supervisory care, custody, and active control of persons committed to it. Pursuant to such regulations as the department may provide, the [1][department] is authorized to transfer persons from one facility or program to another facility or program within the [1][department], including, but not limited to, furlough in the community and the revocation of such furlough.

(4) The [1][department] is authorized to receive and expend state, federal or private funds which are appropriated, awarded, or designed primarily for use in juvenile delinquency programs or facilities. The [1][department] is also authorized to receive and expend federal funds under programs of the Federal Government or its agencies which require the state or appropriate state agency to provide supporting or matching funds if said supporting or matching funds are appropriated by the legislature.

(5) In order to instill the virtues of work, thriftiness, and responsibility for the management of their own funds in persons in its care, and to further prepare these persons for return to the community, the department is authorized to provide payment to these persons of reasonable sums of money for work performed while employed through its work programs, which either benefit the [2]division, the department, or the state or their properties, provided the funds shall be specifically provided to make such payments and that payments are made pursuant to a plan approved by the Department of Health and Rehabilitative Services and the Executive Office of the Governor.

(6) The department shall maintain a close and continuing relationship with the State Department of Education for the purposes of benefiting from the consultant services available therein and of cooperation with the commissioner of education and public school systems in preventing truancy and dropouts.

(7) The [1][department] shall make studies and prepare social histories of persons when commitment to the [3][youth services programs of the department] is being considered by the court.

(8) The [1][department] may provide consultation services and technical assistance to courts, law enforcement agencies, and other public and private organizations. The [1][department] shall develop programs to stimulate community action relating to the prevention, control, and treatment of juvenile delinquency.

(9) The department shall study all available statistical data for the purpose of a continuing evaluation of all programs relating to the prevention, control, and treatment of juvenile delinquency. The department shall also develop, and annually revise, Florida's comprehensive plan for the prevention, control, and treatment of juvenile delinquency,

to include the evaluation of programs together with recommendations and comprehensive multiyear planning.

History.—s. 1, ch. 69-365; ss. 19, 31, 35, ch. 69-106; s. 8, ch. 71-130; s. 2, ch. 73-241; s. 148, ch. 79-190.

[1]Note.—Bracketed word substituted by the editors for "division." See s. 3(3), ch. 75-48.

[2]Note.—The Division of Youth Services was abolished and its functions assigned. See s. 3(3), ch. 75-48.

[3]Note.—Bracketed language substituted for "Division of Youth Services." See s. 3(3), ch. 75-48.

959.021 Authority of department; regulations; annual report.—

(1) The department shall be responsible for the implementation of law and policy relating to youth services and for the coordination of its efforts with those of the Federal Government and other state departments and agencies, county governments, municipal governments, and private agencies concerned with providing youth services. It shall be responsible for establishing standards, providing technical assistance, and exercising the requisite supervision, as it relates to youth services programs, over all state-supported juvenile facilities.

(2) The department shall employ such personnel as is necessary to implement diversified programs for the training, care, and treatment of persons committed or referred to it.

(3) The department shall promulgate its own rules, regulations, and policies as are needed for the efficient government and maintenance of all facilities and programs. Said rules, regulations, and policies shall be in accord, insofar as possible, with currently accepted standards of juvenile care and treatment.

History.—s. 1, ch. 69-365; ss. 19, 35, ch. 69-106; s. 3, ch. 73-241; s. 479, ch. 77-147.

959.022 State-operated detention.—

(1) The Department of Health and Rehabilitative Services is authorized to develop and implement a state-operated, regionally administered system of detention services for children.

(2)(a) The department shall develop a comprehensive plan for the implementation of the regional administration of all detention services in the state. The plan shall provide for the availability of detention services for all counties, and shall be fully implemented by December 31, 1973.

(b) The initial implementation plan shall be comprised of 18 catchment areas, with each area having a secure facility, attention homes, and a home detention program. The department shall have the authority to alter or modify the initial implementation plan.

(c) The department shall establish the catchment areas under the initial implementation plan as follows:

1. Area 1. —Escambia, Santa Rosa, and Okaloosa Counties;

2. Area 2.—Walton, Holmes, Jackson, Calhoun, Gulf, Bay, and Washington Counties;

3. Area 3.—Gadsden, Leon, Jefferson, Madison, Liberty, Franklin, Wakulla, and Taylor Counties;

4. Area 4.—Hamilton, Lafayette, Dixie, Columbia, Suwannee, Union, Gilchrist, Levy, Alachua, Bradford, and Putnam Counties;
5. Area 5.—Nassau, Baker, Duval, Clay, and St. Johns Counties;
6. Area 6.—Flagler and Volusia Counties;
7. Area 7.—Seminole, Orange, and Osceola Counties;
8. Area 8.—Marion, Sumter, Lake, Citrus, and Hernando Counties;
9. Area 9.—Pinellas County;
10. Area 10.—Pasco and Hillsborough Counties;
11. Area 11.—Polk County;
12. Area 12.—Brevard and Indian River Counties;
13. Area 13.—Manatee, Hardee, Okeechobee, and Highlands Counties;
14. Area 14.—Sarasota and DeSoto Counties;
15. Area 15.—Charlotte, Glades, Lee, Hendry, and Collier Counties;
16. Area 16.—Palm Beach, St. Lucie, and Martin Counties;
17. Area 17.—Broward County;
18. Area 18.—Dade and Monroe Counties.

This designation of catchment areas shall not be construed to restrict the department from temporarily placing or transferring children from one catchment area into another.

(d) The department shall, if it has not already done so by the effective date of this act, assume the operation of the secure detention facilities in the counties of Alachua, Bay, Brevard, Broward, Dade (Youth Hall until the new county-built facility is completed), Duval, Escambia (Youth Harbor until the new county-built facility is completed), Highlands, Hillsborough (Seffner facility only), Lake, Lee, Leon, Manatee, Marion, Orange, Palm Beach, Pinellas, Polk, Sarasota, Seminole (when county-built facility is completed), and Volusia. In Monroe County, the department shall close the current secure detention facility and change the location of detention to another facility provided by the county.

(e) In assuming the operation of secure and nonsecure detention facilities, the department shall accept the facilities on one of the following conditions at the option of the county:

1. That the department accept full title for the county detention facility; or
2. That the state and county enter into a token lease agreement of $1 per year for a period as long as this statute remains in effect, with the exception that should the need outgrow the existing facility and it appear unrealistic to add or build new facilities on the same property, the facility would then revert to the county.

Under either option, it shall be the responsibility of the state to maintain the property and buildings at no cost to the county.

(f) In counties where the need for new secure detention facilities has been determined by the county prior to the effective date of this act, or where the need for modifications to existing buildings has been determined by the department prior to the effective date of this act, the department shall notify the affected counties, and such

counties shall obtain the necessary construction plans and bids as prescribed by law. The plans shall be approved by the department, and the counties shall proceed with the required construction or modification and shall be responsible for the full construction or modification cost of the facility.

(g) The department shall develop federal funding proposals and assist the counties in applying for all available federal funds to carry out the purposes of this section.

(3) Nothing in this section shall be construed to abridge the powers granted local units of government in chapters 39 and 416 and other applicable provisions of law to operate detention programs, except that on the implementation date, the counties within the region where the state has assumed detention services shall lose the statutory authority to provide such services, whether such authority is granted by chapter 39, chapter 416, or other applicable law. On said implementation date the statutory authority to provide operation of detention services in that region shall be transferred to and be vested in the department.

(4) Any employee of a county detention facility who is performing services which the department will begin to perform as a result of this section will be offered a position with comparable duties, at no decrease in salary, by the department. For the purpose of this section, a salary shall be construed to include the cash equivalent of employee benefits. Any county employee who desires employment pursuant to the provisions of this subsection must elect this option prior to the implementation date.

History.--s. 1, ch. 72-216; s. 1, ch. 73-230; s. 4, ch. 73-241; s. 258, ch. 77-104; s. 1, ch. 77-174; s. 13, ch. 79-12; s. 197, ch. 79-164.

959.05 Consultants.--The department may hire consultants to advise and confer with the judges of the circuit courts upon request of any such court and for the purpose of advising the department on programs, institutions, care, control, and all manner of treatment of children committed to the department's care.

History.--s. 1, ch. 69-365; ss. 19, 35, ch. 69-106; s. 44, ch. 73-334; s. 481, ch. 77-147.

959.06 Legal representative; contracting powers.--

(1) The Department of Legal Affairs shall be the legal representative of the [1][Department of Health and Rehabilitative Services].

(2) The Department of Health and Rehabilitative Services may contract with the federal government, other state departments and agencies, and with county and municipal governments and agencies, public and private agencies, and with private individuals and corporations in carrying out the purposes and the responsibilities of the youth services programs of the department.

History.--s. 1, ch. 69-365; ss. 11, 35, ch. 69-106; s. 14, ch. 79-12.

[1]Note.--Bracketed language substituted for "division." See s. 3(3), ch. 75-48.

959.10 Discipline at department facilities; security units.-

(1) The department shall establish policies for the maintenance of good order and discipline in its youth services programs. Said policies shall be in accordance with currently accepted standards of juvenile care and treatment and due process of law.

(2) The department may approve any appropriate facilities for use as security units. When any person is committed to the department and is thereafter found incorrigible, or his continued presence in a facility of the department is deemed injurious to its management and discipline, the department may, in its discretion, transfer such person to any one of such security units, there to be kept, disciplined, and supervised. The department shall have the discretionary authority to transfer any such person from one security unit to another, and may at any time transfer him to a youth services program. The department may make transfers as herein provided under such procedures as the department may prescribe.

(3) The department shall provide for a record of the use of security and adjustment units.

History.-s. 1, ch. 69-365; ss. 19, 35, ch. 69-106; s. 7, ch. 73-241; s. 15, ch. 79-12.

959.116 Transfer of minors from the Department of Corrections to the Department of Health and Rehabilitative Services.-

(1) When any person under the age of 18 years is sentenced by any court of competent jurisdiction to the Department of Corrections, the secretary of the Department of Health and Rehabilitative Services may transfer such person to the youth services programs of the Department of Health and Rehabilitative Services for the remainder of his sentence, or until his [1]21st birthday, whichever results in the shorter term. If, upon such person's attaining his [1]21st birthday, his sentence has not terminated, he shall be transferred to the Department of Corrections for placement in a youthful offender program or, with the commission's consent, to the supervision of the department or be given any other transfer which may lawfully be made.

(2) If such person is under sentence for a term of years, after the [2][Department of Health and Rehabilitative Services] has supervised such person for a sufficient length of time to ascertain that such person has attained satisfactory rehabilitation, the [3]director of the Division of Youth Services, upon determination that such action is in the best interest of the person and society, may relieve such person from making further reports.

(3) When such person has, in the opinion of the Department of Health and Rehabilitative Services, so conducted himself as to deserve a pardon, a commutation of sentence, or the remission in whole or in part of any fine, forfeiture, or penalty, the secretary may recommend that such clemency be extended to such person. In such case the secretary shall fully advise the governor of the facts upon which such recommendation is based.

(4) The [2][Department of Health and Rehabilitative Services] shall grant gain-time for good conduct, may grant

extra good-time allowances, and may declare a forfeiture of same, as described in ss. 944.27-944.29. Any person transferred to the [2][department] who is released pursuant to s. 944.291 shall be supervised by the [2][department]. If any person is transferred to the [2][department] who was sentenced pursuant to s. 921.18, the [3]director of the Division of Youth Services shall have the authority to determine the exact sentence of such person, but the sentence shall not be longer than the maximum sentence which was imposed by the court pursuant to s. 921.18. All time spent in the [2][department] shall count toward the expiration of sentence. Any person so transferred to the [2][department] may, at the discretion of the secretary, be returned to the Department of Corrections.

(5) Any person who has been convicted of a capital felony while under the age of 18 years shall not be furloughed on juvenile parole without the consent of the governor and three members of the cabinet.

History.—s. 11, ch. 72-179; s. 17, ch. 78-84; s. 120, ch. 79-3.

[1]Note.—Ch. 73-21, Laws of Florida, removed the disability of nonage for persons 18 years of age and older.

[2]Note.—The Division of Youth Services was abolished and its functions assigned. See s. 3(3), ch. 75-48. Bracketed language substituted by the editors to reflect these changes.

[3]Note.—The division, of which the director was head, was abolished by s. 3(3), ch. 75-48.

cf.—s. 1.01 Definition of minor.

s. 743.07 Rights, privileges and obligations of persons 18 years of age or older.

959.12 Term of commitment.—When any child is committed to the department, the commitment shall be for such period of time as the department deems proper, or until he reaches his [1]21st birthday, unless otherwise discharged as required by law.

History.—s. 1, ch. 69-365; ss. 19, 35, ch. 69-106; s. 483, ch. 77-147.

[1]Note.—Ch. 73-21, Laws of Florida, removed the disability of nonage for persons 18 years of age and older.

cf.—s. 1.01 Definition of minor.

s. 743.07 Rights, privileges and obligations of persons 18 years of age or older.

959.13 Transfer to mental health and retardation services.—Any person committed to youth services programs of the department may be transferred to mental health and retardation facilities for diagnosis and evaluation pursuant to the procedures and criteria provided in chapters 394 and 393, respectively, for a period not to exceed 90 days.

History.—s. 1, ch. 69-365; ss. 19, 35, ch. 69-106; s. 4, ch. 70-353; s. 9, ch. 73-241; s. 22, ch. 78-414.

959.15 Detention of furloughed person or escapee on authority of the department.—

(1) If an authorized agent of the department has reasonable ground to believe that any delinquent child committed to the department has committed an act for which he could be adjudicated delinquent, violated his furlough agreement in a material respect, or escaped from a facility of the department, such agent may take such person into his active custody. The superintendent, warden, or jailer of any facility, state, county, or municipal, is authorized to take such child into custody for the purpose of assuring that the child is delivered to the appropriate intake office or appropriate facility of the department. However, no child shall be held in detention longer than 48 hours, excluding Sundays and legal holidays, unless a special order so directing is made by the judge after a detention hearing finding that detention is required based on the criteria in s. 39.032(2). The order shall state the reasons for such finding. The reasons shall be reviewable by appeal or in habeas corpus proceedings in the district court of appeal.

(2) Any sheriff or other peace officer shall, upon request of the director of the [1][department] or his duly authorized agent, assist in the apprehension and detention of any escapee from the [1][department], any person who has violated his furlough agreement in a material respect, or any child who there is reasonable cause to believe has committed an act for which he could be adjudicated delinquent.

History.--s. 1, ch. 69-365; ss. 19, 35, ch. 69-106; s. 3, ch. 70-353; s. 10, ch. 73-241; s. 259, ch. 77-104; s. 25, ch. 78-414.

[1]Note.--Bracketed word substituted by the editors for "division." See s. 3(3), ch. 75-48.

959.156 Furlough revocation hearing.--Upon a recommendation that a person committed to the department have his furlough revoked, the department shall, within 30 days from the date the recommendation was made, hold an administrative hearing pursuant to chapter 120.

History.--s. 11, ch. 73-241; s. 19, ch. 78-95.

959.185 Service of process.--Any summons, subpoena, or other process requiring the presence or the taking into custody of a person committed to the department and placed in a residential treatment facility shall be served by delivering two copies of such process to the person in charge of the facility, who shall deliver one of the copies to the committed person and be responsible for said committed person's compliance with the process.

History.--s. 12, ch. 73-241; s. 16, ch. 79-12.

959.19 Contracts for the transfer of Florida juveniles under federal custody.--To the extent that maintenance costs are borne entirely from federal funds, the department is empowered to contract with federal authorities for the return of juvenile citizens of Florida who are in the custody of a federal court or a federal correctional institution for violations of a federal law. Said juveniles under contract are to be transferred to the exclusive

custody and active control of the department, under the terms, agreements and provisions of the aforementioned contract.

History.-s. 1, ch. 69-365; ss. 19, 35, ch. 69-106; s. 484, ch. 77-147.

959.20 Form of commitment.-When any child is committed to the department, the commitment form to be used by the judge of the committing court shall be as prescribed by the department.

History.-s. 1, ch. 69-365; ss. 19, 35, ch. 69-106; s. 485, ch. 77-147.

959.21 Certified copy of charge to be attached to the commitment.-The clerk of each court committing a child to the department, or the judge thereof if it has no clerk, shall prepare and attach to each commitment form a certified copy of the petition upon which the person is being committed to the department.

History.-s. 1, ch. 69-365; s. 17, ch. 79-12.

959.22 Case history of each child committed.-In addition to the requirements of ss. 959.20 and 959.21, the clerk of each court, or the judge thereof if it has no clerk, shall prepare and forward to the department, at the time of committing a child to the active control of the department, a case history of said child, in such form as prescribed by the department. Said case history shall include information about:

(1) The sociopsychological history of each child committed.

(2) The medical history of the child.

(3) The educational and homelife history of each child committed, including his schcol records.

(4) Such other information deemed necessary by the department and requested in writing to be submitted by the court.

History.-s. 1, ch. 69-365; ss. 4, 19, 35, ch. 69-106; s. 286, ch. 71-377; s. 486, ch. 77-147.

959.225 Records; privileged information.-

(1) The Department of Health and Rehabilitative Services shall make records regarding the persons it serves pursuant to this chapter. Records pertaining to persons committed to or supervised by the department pursuant to a court order shall be preserved until the person reaches the age of 21. Records pertaining to all other children served pursuant to this chapter shall be preserved in accordance with rules and regulations promulgated by the secretary. The destruction of all records shall be subject to the provisions of the Florida Archives and History Act, chapter 267.

(2) Records regarding children shall not be open to inspection by the public. Such records shall be inspected only upon order of the secretary of the Department of Health and Rehabilitative Services or his authorized agent by persons determined to have a sufficient reason and upon such

conditions for their use and disposition as the secretary or his authorized agent may deem proper. The secretary or his authorized agent may permit properly qualified persons to inspect and make abstracts from records for statistical purposes under whatever conditions upon their use and disposition the secretary or his authorized agent may deem proper, provided adequate assurances are given that children's names and other identifying information will not be disclosed by the applicant.

(3) All information obtained in the discharge of official duty relating to youth services by an employee of the Department of Health and Rehabilitative Services is privileged. Such information may be disclosed only to other employees of the department who have a need therefor in order to perform their official duty and to other persons as authorized by the rules and regulations of the department.

History.--s. 7, ch. 72-179; s. 13, ch. 73-241; s. 487, ch. 77-147.

[1]Note.--Ch. 73-21, Laws of Florida, removed the disability of nonage for persons 18 years of age and older.

cf.--s. 1.01 Definition of minor.

s. 743.07 Rights, privileges and obligations of persons 18 years of age or older.

959.23 Duty of juvenile detention inspectors.--

(1) Juvenile detention inspectors shall, under the direction of the Department of Health and Rehabilitative Services, inspect all juvenile detention facilities at least semiannually and on other occasions as directed.

(2) The juvenile detention inspectors shall make written reports to the department and send duplicate copies of said reports to:

(a) The board of county commissioners of the appropriate county;

(b) The judge of the circuit court exercising juvenile jurisdiction;

(c) The person in charge of the detention facility; and

(d) The sheriff of the appropriate county.

Such reports shall at all times be open to public inspection.

History.--s. 2, ch. 70-353; s. 1, ch. 70-439; s. 44, ch. 73-334; s. 488, ch. 75-147.

959.24 County and state detention facilities. --

(1) "Juvenile detention facility" means a detention home as defined in s. 39.01(16) or a county detention facility as defined in s. 951.23 if such detention home or county detention facility is used for the detention of children adjudicated delinquent or children awaiting hearing in delinquency proceedings in a circuit court exercising juvenile jurisdiction.

(2)(a) The Department of Health and Rehabilitative Services is authorized and directed to adopt rules and regulations prescribing standards and requirements with reference to:

1. The construction, equipping, maintenance, staffing, programming, and operation of juvenile detention facilities;

2. The treatment, training, and education of children confined therein;

3. The cleanliness and sanitation of juvenile detention facilities;

4. The number of children who may be housed in such facilities per specified unit of floor space;

5. The quality, quantity and supply of bedding furnished to children housed in such facilities;

6. The quality, quantity and diversity of food served and the manner in which it is served;

7. The furnishing of medical attention and health and comfort items; and

8. The disciplinary treatment administered.

(b) In setting standards and requirements, the department shall consult with officers of counties which operate juvenile detention facilities. After standards and requirements are changed, counties which operate juvenile detention facilities shall be provided with copies of such standards and requirements. After the adoption or alteration of standards and requirements, a reasonable time shall be allowed for counties to implement any required changes.

(3) The department shall enforce such rules and regulations and shall designate personnel of the department to inspect all such detention facilities in order to determine whether such standards and requirements are being met. If the standards and requirements are not being met, the use of such facility may be prohibited by an order of the judge of the circuit court. In the absence of such an order, the department may file a complaint in circuit court, whereupon an injunction may be granted to prohibit the confinement of any child in any juvenile detention facility which does not meet such standards and requirements.

(4)(a) If the department finds that children are detained in any juvenile detention facility which does not meet such standards and requirements, it may so certify to the circuit court and thereupon the court shall either order such deficiency corrected so as to meet minimum standards and requirements or order such children, or any part of them, removed to and confined in a juvenile detention facility which does meet such standards and requirements, whether it is in the same or another county, if such county is willing to receive such child or children.

(b) The expense of maintaining children who are removed to another county under the provisions of paragraph (a) shall be borne by the county from which they are removed.

(c) Promptly upon the issuing of any order authorized by paragraph (a), copies thereof shall be sent to the officer in charge of the detention facility from which the children affected by such order are required to be removed, to the board of county commissioners and sheriff of the county in which such detention facility is situated, to the officer in charge of the county detention facility to which they are required to be removed, and to the parents or guardians of all children required to be moved. If the order requires the removal of children to a detention facility in another county, a copy thereof shall also be promptly sent to the board of county commissioners and sheriff of the county in which it is situated and to the judge of the circuit court.

History.—s. 2, ch. 70-353; s. 1, ch. 70-439; s. 44, ch. 73-334; s. 259, ch. 77-104; s. 489, ch. 77-147; s. 305, ch. 79-400.

959.25 Exceptional child educational program.—

(1) The Legislature recognizes that the wards of the Department of Health and Rehabilitative Services, by reason of their commitment to state custody, are as a group the most seriously socially maladjusted children within the state. It is recognized that a meaningful compensatory educational and work readiness program is an essential component of the treatment process for youthful offenders. High priority should be given to the development of innovative educational techniques in order to remedy the deficiencies of children within the department. It is the intent of the Legislature that sufficient funds and personnel be provided for an exceptional child educational program for children in the custody of the department. The educational resources for the department should be equal to or greater than the resources available in the public schools for the education of children with similar social maladjustments and learning disabilities. Funds shall annually be appropriated to the department from the General Revenue Fund by the methods and for the educational purposes hereinafter specified. Nothing in this section shall be construed to prevent, upon demonstration of need, the appropriation of moneys for educational purposes in addition to those moneys and purposes provided in this section. Moneys for construction and maintenance of physical plant, transportation, and food shall be appropriated separately from this section.

(2) The department shall establish an exceptional child educational program pursuant to the Florida School Code and the regulations of the State Board of Education. The department shall each year, prior to April 1, submit to the Department of Education a plan for the exceptional child educational program. Upon approval of such plan by the Department of Education, the funds appropriated pursuant to this section shall be released to the department.

(3) Each year there shall be appropriated from the General Revenue Fund, educational moneys for the department. Such funds shall be made available for educational programs in facilities under the control and supervision of the department. The procedures for determining such appropriation, for expenditures other than for construction and maintenance of physical plants, transportation, food, and salaries for instructional personnel pursuant to subsection (4) shall be as follows:

(a) The number of instructional units shall be projected by the department and certified by the Department of Education for the fiscal year for which funds are being appropriated, and funds shall be appropriated based on such projections. For each 10 children, or major fraction thereof, in average daily attendance for 228 days, the department shall earn one instructional unit. Average daily attendance shall include all children receiving educational services provided by the department.

(b) For each four instructional units, or fraction thereof, the department shall earn one unit for special teacher services.

(c) The sum of the instructional units and units for special teacher services shall be multiplied by the amount provided per instruction unit for current expenses other than instructional salaries and transportation pursuant to s. 236.07(5).

(d) For each two units, determined as provided in paragraphs (a) and (b), the department may employ one teacher aide, to be paid from funds appropriated pursuant to subsection (4).

(4)(a) There shall annually be appropriated from the General Revenue Fund to the department sufficient moneys for salaries for instructional personnel.

(b) The department may request positions and salary levels for a director of education, an assistant director of education, specialists in exceptional child education, vocational education, and the evaluation of educational programs, and such other educational personnel as may be needed to exercise administrative and supervisory authority over all educational programs of the department. Moneys shall be appropriated for such positions in addition to the moneys provided for in paragraph (a) of this subsection.

(5) It is the intent of the Legislature that the curriculum utilized in such institutions shall be consistent with that of the public school system, but with emphasis on direct job-related vocational-technical education. The department shall conduct continuous evaluation of its educational programs and shall report annually to the Legislature and to the Commissioner of Education. Such reports shall be submitted to the Commissioner of Education and the chairmen of the appropriate education committees of the Legislature.

History.—s. 5, ch. 70-353; s. 1, ch. 70-439; s. 14, ch. 73-241; s. 18, ch. 79-12.

959.28 Field services.—

(1) The department shall establish intake services for the circuit courts of Florida for the purpose of conducting preliminary screening for future action on the case, to include possible alternatives of filing a petition for court action, nonjudicial supervision, nonresidential treatment, shelter care, and individual and group counseling.

(2) With regard to persons referred or committed to the department, the function of the department may include, but shall not be limited to:

(a) Providing counseling and such other services as may be necessary for said persons brought before the intake section of the court of persons referred or committed to the department.

(b) Providing nonjudicial supervision or voluntary counseling services for said persons in the absence of a judicial proceeding, but only if the parents and child agree to such supervision.

(c) Providing counseling and other services as may be necessary for the families of persons brought before the court or persons referred or committed to the department and preparing their homes for the return of the person, in order

that the value of the training he has received shall not be lost.

(d) Supervising any person furloughed into the community from a facility of the department.

History.—s. 10, ch. 71-130; s. 15, ch. 73-241; s. 44, ch. 73-334; s. 19, ch. 79-12.

END