

2009 Legislative Changes to Chapter 39, F.S.

SB 1128	Education for Children in Shelter or Foster Care
HB 381	Grandparents and Relatives
SB 126	Records Concerning Children
HB 1409	ICPC, Interstate Compact on the Placement of Children (Upon Passing by 35 States)

Notification to Relatives

- Hotline: A component of quality assurance program must analyze unaccepted reports to the hotline by identified relatives as part of the review of screened out calls. **F.S. 39.201(7)**
- After commencement of the investigation, a relative may submit a request in writing to the CPI or Case Manager to receive notification of all proceedings and hearings **F.S. 39.301(15)(b)**
- Request must include relative's name, address, phone number, and relationship to the child **F.S. 39.301(15)(b)**
- CPI or Case Manager must forward the request for notification to Children's Legal Services who will notify relative of all hearings **39.502(19)**
- Children's Legal Services must notify relative of all hearings either in writing or orally and must inform relative that he or she has the right to: **F.S. 39.502(19)**
 - attend all subsequent hearings
 - submit written reports to the court
 - speak to the court regarding the child
- Court may release attorney from this obligation if relative's involvement is impeding the dependency process or detrimental to the child's well-being **F.S. 39.502(19)**
- Failure to provide notice must not result in any previous action of the court being set aside, reversed, modified, or changed unless court makes a finding that a change is in the child's best interest **F.S. 39.301(15)(b)**
- Court must provide notice of next hearing to relatives providing out-of-home care to the child **F.S. 39.402(8)(h)(6), 39.506(9)**
- At shelter, court must notify the parents, legal custodian, and relatives providing out-of-home care of the importance of the active participation of the relative. **F. S. 39.402(8)(h)6.**
- **Court** must notify relatives providing out-of-home care following a shelter petition being granted that relative has the right to: **F.S. 39.402(8)(h)8.**
 - attend all subsequent hearings
 - submit reports to the court
 - speak to the court regarding the child

Children's Records

- Children's records must contain at a minimum:
 - child's case plan
 - full name and street address of all shelters, foster parents, group homes, treatment centers or locations where child has been placed **F.S. 39.00145(1)**
- Case record must be made available and, upon request, provided at no cost to the child, child's attorney, caregiver, and GAL
- Provided to child in a manner and setting that are appropriate for the age and maturity of the child
- Court may authorize release of the record to others to ensure appropriate services or for the safety of the child **F.S. 39.00145**
- Agencies which may share with each other confidential records under Chapter 119: **F.S. 39.00145(4)**
 - Department of Juvenile Justice
 - Department of Health
 - Agency for Health Care Administration
 - Agency for Persons with Disabilities
 - Department of Education
 - School Districts
 - Department of Revenue
 - Guardian ad Litem
 - Any provider contracting with such agencies
- Records that may **not** be shared:
 - records of information made **confidential by federal law F.S. 39.00145(4)(a)**
 - Information concerning clients
 - records of certified **domestic violence centers F.S. 39.00145(4)(b)**
- Access to reports and records of child abuse (excluding reporter information) must be granted to: **F.S. 39.202(2)s**
 - foster parents with approved home study (if being considered for placement)
 - designee of a licensed residential group home
 - approved relative or non-relative with whom the child is placed
 - pre-adoptive parents with favorable preliminary adoptive home study and adoption entity acting on their behalf
 - adoptive parents
 - an adoption entity acting on behalf of pre-adoptive or adoptive parents
- Reports and records of all cases under Chapter 39 pertaining to a child and family must be **preserved** until the **child** who is the subject of the record is **30 years of age F.S. 39.202(7)**
- Within **90 days** after the child leaves Department custody, Department must give **notice** to the person having legal custody of the child or to the young adult who was in the Department's custody **how the records may be obtained F.S. 39.202(7)(a)**

- If a parent refuses to or is unavailable to consent to access to the child's **medical records** by the Department, its contract providers, or the GAL, then court may order such access. **F.S. 39.402(11)(b)**
- If a parent refuses to or is unavailable to consent to access to the child's **educational records** by the Department, its contract providers, or the GAL, then court may order such access. **F.S. 39.402(11)(c)**

Reporters (required to provide name) F.S. 39.201(1)(b)

- CPI must provide contact information to reporters listed in F.S. 39.201(1)(b) within 24 hours of case assignment: **F.S. 39.301(6)**
- CPI must inform reporters listed in F.S. 39.201(1)(b) of their right to provide written summary of report to investigator for inclusion in master file **F.S. 39.301(6)**

Case Management

- Case plan must include a task for the Case Manager to forward relative's request to Children's Legal Services. **F.S. 39.6011(4)(b)**
- Court Appointed Surrogate Parent: (children who have or are suspected to have a disability) **39.0016(3)(b); 39.402(11)(d); 39.701(9)(d)**
 - "Surrogate parent" means an individual appointed to act in the place of a parent in educational decision making and in safeguarding a child's rights under the Individuals with Disabilities Education Act **F.S. 39.0016(1)(c)**
- Surrogate parent **can** include **foster parent** or **relative caregiver** even if employed by one of these agencies
- Surrogate parent can include guardian ad litem, relative or non-relative
- Surrogate parent must be at least 18 years old. **F.S. 39.0016(3)(b)2.**
- Surrogate parent's **responsibility** is to be an educational decision maker for the child unless appointed for an additional purpose - not responsible for care, maintenance, custody, or residential placement of the child **F.S. 39.0016(3)(b)9.**
- Surrogate parents are not liable for actions taken in good faith on behalf of the student in protecting the special education rights of the child. **F.S. 39.0016(3)(b)11.**
- Surrogate parents must:
 - be acquainted with the child and become knowledgeable about his or her disability and educational needs
 - represent the child in all matters relating to identification, evaluation, and educational placement
 - represent the interests and safeguard the rights of the child in educational decisions that affect the child. **F.S. 39.0016(3)(b)8.**
 - successfully complete training using materials developed by the Department of Education to ensure adequate representation of the child **F.S. 39.0016(3)(b)2.**
- If "exceptional student" (one with a disability) is placed in a private residential care facility by an agency, within **10 business days** the **agency must provide written notification** of the placement to the **school** district where the student is currently counted for funding purposes under **F.S. 1011.62.**
- Child must be enrolled in school and receive a free and appropriate public education while notice and procedures regarding payment are pending