

DEPENDENCY UPDATES 2024



HIGHLIGHTS



- Changes to the GAL Office
- Emergency Placement, Placement Changes, and the GAP Program
- AARC Process Revised

See SB 1224 and Chapter 2024-177

GAL CHANGES



- K/N/A GAL Office
(f/k/a "GAL Program")
- Fiduciary Representing best interest of the child
- "Independent representation" (not a DCF rubber stamp)

See F.S. 39.01(32), 39.820, 39.822(1)

MANDATORY APPOINTMENT



- No longer discretionary for the Court to appoint a GAL (unless there is a finding it is “unnecessary”).
- Appointment shall be made ASAP

See F.S. 39.402(8)(c)(1), 39.013(11), 39.822(1) and 39.502(8)

BROADER RESPONSIBILITY



- GAL may represent child outside of Dependency (i.e. Medicaid/APD hearing, Social Security appeals, schooling issues, etc.)
- GAL Office must identify a “supportive adult” to assist child transitioning out of foster care.
- Oversight responsibilities of the Office are expanded

See F.S. 39.013(11), 39.822(2)(a), 39.6036, 39.8296(2)(b)



EMERGENCY PLACEMENT AFTER SHELTER

- After shelter has already occurred
- Placement is proposed for “a private individual, including a neighbor, friend, or relative”
- A “name-based” background check is required for all adults in household to determine if any adult is disqualified
- Placement can occur if no one is disqualified

THEN COME THE FINGERPRINTS . . .



- Within 7 *calendar* days after name-based search, all adults in the home must submit to fingerprint background search
- Within that same 7 *calendar* days after name-based search, fingerprints must be submitted to FDLE
- Within 15 *calendar* days FDLE must send the fingerprints to FBI

. . . OR NOT

- DCF “shall seek” an order to “immediately remove” child IF
- Any adult who is “not exempt” fails to provide their fingerprints within “15 *calendar* days” after the name-based check is conducted.
- So is it **7 days or 15?**

See F. S. 39.01(88) re: “visitor” definition – is this part of the mix?

CHANGE OF PLACEMENT AFTER DISPOSITION

Immediate Removal

- If requested by caregiver:
 - Case Manager, authorized agent of DCF, or law enforcement officer can remove child, or
- If probable cause for shelter:
 - Agent of DCF or law enforcement officer can remove child.
- Motion in 1 business day. Must have hearing within 24 hours

YOU STILL HAVE TO HAVE A HEARING

- You still have to have the 39.522(2) “or” (3) hearing unless waived by all and caregiver
- This bill appears to address the “emergency” situation referred to in 39.522(3)(c)1 (created in 2021.)
- What are the provisions of 39.522(2) “or” (3)?

GUARDIANSHIP ASSISTANCE PROGRAM

“Mind the GAP”

- Requires guardianship assistance program between age 14-18
- Important if GAP home study is delayed up to 18th birthday!

POST DISPOSITION RELIEF (f/k/a AARC)



As of July 1, 2024, the Court is exclusive means for review – there will no longer be an AARC process under Chapter 120

The COURT now has *discretion* to:

- Review placement if GAL shows good cause.
- Review DCF denial of a petition to adopt

See F.S. 39.812(4)(a)-(b)

NOTICE OF DENIAL AND REVIEW

- If DCF denies adoption application, it must file written notice within 10 *business* days.
- Denied applicant has 30 *business* days to file a “Motion to Review” with the Court, which must allege “unreasonable denial” and request the Court authorize the applicant to adopt “without the Department’s consent”

STANDING OF PARTIES

- The denied applicant's standing is restricted to the Motion, and to presenting evidence in support of the Motion. Their standing terminates upon entry of the Court's decision.
- The selected applicant (the prospective adoptive parent as chosen by DCF) may be part of the hearing as a "participant" and may be heard without need of a motion to intervene

HEARING REQUIREMENTS



- The hearing shall be held within 30 *business* days of the date of the denied applicant's Motion.
- Scope of Review is limited to:
 - Whether the denial was consistent with DCF policies (*See Administrative Code Chapter ADOPTIONS (65C-16)*).
 - Whether the decision was “expeditious”
 - Whether DCF abused its discretion

TIMELY DECISION

- Within 15 *business* days after conclusion of the hearing, the Court MUST enter a written order.

MAGISTRATE JOSHUA SOILEAU
MARION COUNTY – 5TH JUDICIAL CIRCUIT

MAGISTRATE KEITH SCHENCK
CITRUS COUNTY – 5TH JUDICIAL CIRCUIT

MAGISTRATE LISA SMITH BEDWELL
ORANGE COUNTY – 9TH JUDICIAL CIRCUIT