

**PART X
JUDICIAL REVIEWS**

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39.701 Judicial review.--

(1)(a) The court shall have continuing jurisdiction in accordance with this section and shall review the status of the child at least every 6 months as required by this subsection or more frequently if the court deems it necessary or desirable.

(b) The court shall retain jurisdiction over a child returned to his or her parents for a minimum period of 6 months following the reunification, but, at that time, based on a report of the social service agency and the guardian ad litem, if one has been appointed, and any other relevant factors, the court shall make a determination as to whether supervision by the department and the court's jurisdiction shall continue or be terminated.

(2)(a) The court shall review the status of the child and shall hold a hearing as provided in this part at least every 6 months until the child reaches permanency status. The court may dispense with the attendance of the child at the hearing, but may not dispense with the hearing or the presence of other parties to the review unless before the review a hearing is held before a citizen review panel.

(b) Citizen review panels may conduct hearings to review the status of a child. The court shall select the cases appropriate for referral to the citizen review panels and may order the attendance of the parties at the review panel hearings. However, any party may object to the referral of a case to a citizen review panel. Whenever such an objection has been filed with the court, the court shall review the substance of the objection and may conduct the review itself or refer the review to a citizen review panel. All parties retain the right to take exception to the findings or recommended orders of a citizen review panel in accordance with Rule 1.490(h), Florida Rules of Civil Procedure.

(c) Notice of a hearing by a citizen review panel must be provided as set forth in subsection (5). At the conclusion of a citizen review panel hearing, each party may propose a recommended order to the chairperson of the panel. Thereafter, the citizen review panel shall submit its report, copies of the proposed recommended orders, and a copy of the panel's recommended order to the court. The citizen review panel's recommended order must be limited to the dispositional options available to the court in subsection ~~(10)~~(9). Each party may file exceptions to the report and recommended order of the citizen review panel in accordance with Rule 1.490, Florida Rules of Civil Procedure.

(3)(a) The initial judicial review hearing must be held no later than 90 days after the date of the disposition hearing or after the date of the hearing at which the court approves the case plan, whichever comes first, but in no event shall the review be held later than 6 months after the date the child was removed from the home. Citizen review panels shall not conduct more than two consecutive reviews without the child and the parties coming before the court for a judicial review.

(b) If the citizen review panel recommends extending the goal of reunification for any case plan beyond 12 months from the date the child was removed from the home or the case plan was adopted, whichever date came first, the court must schedule a judicial review hearing to be conducted by the court within 30 days after receiving the recommendation from the citizen review panel.

(c) If the child is placed in the custody of the department or a licensed child-placing agency for the purpose of adoptive placement, judicial reviews must be held at least every 6 months until the adoption is finalized.

(d) If the department and the court have established a formal agreement that includes specific authorization for particular cases, the department may conduct administrative reviews instead of the judicial reviews for children in out-of-home care. Notices of such administrative reviews must be provided to all parties. However, an administrative review may not be substituted for the first judicial review, and in every case the court must conduct a judicial review at least every 6 months. Any party dissatisfied with the results of an administrative review may petition for a judicial review.

(e) The clerk of the circuit court shall schedule judicial review hearings in order to comply with the mandated times cited in this section.

(f) In each case in which a child has been voluntarily placed with the licensed child-placing agency, the agency shall notify the clerk of the court in the circuit where the child resides of such placement within 5 working days. Notification of the court is not required for any child who will be in out-of-home care no longer than 30 days unless that child is placed in out-of-home care a second time within a 12-month period. If the child is returned to the custody of the parents before the scheduled review hearing or if the child is placed for adoption, the child-placing agency shall notify the court of the child's return or placement within 5 working days, and the clerk of the court shall cancel the review hearing.

(4) The court shall schedule the date, time, and location of the next judicial review during the judicial review hearing and shall list same in the judicial review order.

(5) Notice of a judicial review hearing or a citizen review panel hearing, and a copy of the motion for judicial review, if any, must be served by the clerk of the court upon all of the following persons, if available to be served, regardless of whether the person was present at the previous hearing at which the date, time, and location of the hearing was announced:

(a) The social service agency charged with the supervision of care, custody, or guardianship of the child, if that agency is not the movant.

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

(c) The parents.

(d) The guardian ad litem for the child, or the representative of the guardian ad litem program if the program has been appointed.

(e) The attorney for the child.

(f) The child, if the child is 13 years of age or older.

(g) Any preadoptive parent.

(h) Such other persons as the court may direct.

(6) The attorney for the department shall notify a relative who submits a request for notification of all proceedings and hearings pursuant to s. 39.301(15)(b). The notice shall include the date, time, and location of the next judicial review hearing.

~~(7)(6)~~(a) In addition to paragraphs (1)(a) and (2)(a), the court shall hold a judicial review hearing within 90 days after a child's 17th birthday. The court shall also issue an order, separate from the order on judicial review, that the disability of nonage of the youth has been removed pursuant to s. 743.045. The court shall continue to hold timely judicial review hearings thereafter. In addition, the court may review the status of the child more frequently during the year prior to the child's 18th birthday if necessary. At each review held under this subsection, in addition to any information or report provided to the court, the foster parent, legal custodian, guardian ad litem, and the child shall be given the opportunity to address the court with any

information relevant to the child's best interests, particularly as it relates to independent living transition services. In addition to any information or report provided to the court, the department shall include in its judicial review social study report written verification that the child:

1. Has been provided with a current Medicaid card and has been provided all necessary information concerning the Medicaid program sufficient to prepare the youth to apply for coverage upon reaching age 18, if such application would be appropriate.
2. Has been provided with a certified copy of his or her birth certificate and, if the child does not have a valid driver's license, a Florida identification card issued under s. 322.051.
3. Has been provided information relating to Social Security Insurance benefits if the child is eligible for these benefits. If the child has received these benefits and they are being held in trust for the child, a full accounting of those funds must be provided and the child must be informed about how to access those funds.
4. Has been provided with information and training related to budgeting skills, interviewing skills, and parenting skills.
5. Has been provided with all relevant information related to the Road-to-Independence Program, including, but not limited to, eligibility requirements, forms necessary to apply, and assistance in completing the forms. The child shall also be informed that, if he or she is eligible for the Road-to-Independence Program, he or she may reside with the licensed foster family or group care provider with whom the child was residing at the time of attaining his or her 18th birthday or may reside in another licensed foster home or with a group care provider arranged by the department.
6. Has an open bank account, or has identification necessary to open an account, and has been provided with essential banking skills.
7. Has been provided with information on public assistance and how to apply.
8. Has been provided a clear understanding of where he or she will be living on his or her 18th birthday, how living expenses will be paid, and what educational program or school he or she will be enrolled in.
9. Has been provided with notice of the youth's right to petition for the court's continuing jurisdiction for 1 year after the youth's 18th birthday as specified in s. 39.013(2) and with information on how to obtain access to the court.
10. Has been encouraged to attend all judicial review hearings occurring after his or her 17th birthday.

(b) At the first judicial review hearing held subsequent to the child's 17th birthday, in addition to the requirements of subsection ~~(8)(7)~~, the department shall provide the court with an updated case plan that includes specific information related to independent living services that have been provided since the child's 13th birthday, or since the date the child came into foster care, whichever came later.

(c) At the time of a judicial review hearing held pursuant to this subsection, if, in the opinion of the court, the department has not complied with its obligations as specified in the written case plan or in the provision of independent living services as required by s. 409.1451 and this subsection, the court shall issue a show cause order. If cause is shown for failure to comply, the court shall give the department 30 days within which to comply and, on failure to comply with this or any subsequent order, the department may be held in contempt.

~~(8)(7)~~(a) Before every judicial review hearing or citizen review panel hearing, the social service agency shall make an investigation and social study concerning all pertinent details relating to the child and shall furnish to the court or citizen review panel a written report that includes, but is not limited to:

1. A description of the type of placement the child is in at the time of the hearing, including the safety of the child and the continuing necessity for and appropriateness of the placement.
2. Documentation of the diligent efforts made by all parties to the case plan to comply with each applicable provision of the plan.
3. The amount of fees assessed and collected during the period of time being reported.
4. The services provided to the foster family or legal custodian in an effort to address the needs of the child as indicated in the case plan.
5. A statement that either:
 - a. The parent, though able to do so, did not comply substantially with the case plan, and the agency recommendations;
 - b. The parent did substantially comply with the case plan; or
 - c. The parent has partially complied with the case plan, with a summary of additional progress needed and the agency recommendations.
6. A statement from the foster parent or legal custodian providing any material evidence concerning the return of the child to the parent or parents.
7. A statement concerning the frequency, duration, and results of the parent-child visitation, if any, and the agency recommendations for an expansion or restriction of future visitation.
8. The number of times a child has been removed from his or her home and placed elsewhere, the number and types of placements that have occurred, and the reason for the changes in placement.
9. The number of times a child's educational placement has been changed, the number and types of educational placements which have occurred, and the reason for any change in placement.
10. If the child has reached 13 years of age but is not yet 18 years of age, the results of the preindependent-living, life-skills, or independent-living assessment, the specific services needed, and the status of the delivery of the identified services.
11. Copies of all medical, psychological, and educational records that support the terms of the case plan and that have been produced concerning the parents or any caregiver since the last judicial review hearing.
12. Copies of the child's current health, mental health, and education records as identified in s. 39.6012.

(b) A copy of the social service agency's written report and the written report of the guardian ad litem must be served on all parties whose whereabouts are known; to the foster parents or legal custodians; and to the citizen review panel, at least 72 hours before the judicial review hearing or citizen review panel hearing. The requirement for providing parents with a copy of the written report does not apply to those parents who have voluntarily surrendered their child for adoption or who have had their parental rights to the child terminated.

(c) In a case in which the child has been permanently placed with the social service agency, the agency shall furnish to the court a written report concerning the progress being made to place the child for adoption. If the child cannot be placed for adoption, a report on the progress made by the child towards alternative permanency goals or placements, including, but not limited to, guardianship, long-term custody, long-term licensed custody, or independent living, must be submitted to the court. The report must be submitted to the court at least 72 hours before each scheduled judicial review.

(d) In addition to or in lieu of any written statement provided to the court, the foster parent or legal custodian, or any preadoptive parent, shall be given the opportunity to address the court with any information relevant to the best interests of the child at any judicial review hearing.

~~(9)(8)~~ The court and any citizen review panel shall take into consideration the information contained in the social services study and investigation and all medical, psychological, and educational records that support the terms of the case plan; testimony by the social services agency, the parent, the foster parent or legal

custodian, the guardian ad litem or surrogate parent for educational decisionmaking if one has been appointed for the child, and any other person deemed appropriate; and any relevant and material evidence submitted to the court, including written and oral reports to the extent of their probative value. These reports and evidence 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 their probative value, even though not competent in an adjudicatory hearing. In its deliberations, the court and any citizen review panel shall seek to determine:

(a) If the parent was advised of the right to receive assistance from any person or social service agency in the preparation of the case plan.

(b) If the parent has been advised of the right to have counsel present at the judicial review or citizen review hearings. If not so advised, the court or citizen review panel shall advise the parent of such right.

(c) If a guardian ad litem needs to be appointed for the child in a case in which a guardian ad litem has not previously been appointed or if there is a need to continue a guardian ad litem in a case in which a guardian ad litem has been appointed.

(d) Who holds the rights to make educational decisions for the child. If appropriate, the court may refer the child to the district school superintendent for appointment of a surrogate parent or may itself appoint a surrogate parent under the Individuals with Disabilities Education Act and s. 39.0016.(e).

~~(d)~~ The compliance or lack of compliance of all parties with applicable items of the case plan, including the parents' compliance with child support orders.

~~(f)(e)~~ The compliance or lack of compliance with a visitation contract between the parent and the social service agency for contact with the child, including the frequency, duration, and results of the parent-child visitation and the reason for any noncompliance.

~~(g)(f)~~ The compliance or lack of compliance of the parent in meeting specified financial obligations pertaining to the care of the child, including the reason for failure to comply if such is the case.

~~(h)(g)~~ Whether the child is receiving safe and proper care according to s. 39.6012, including, but not limited to, the appropriateness of the child's current placement, including whether the child is in a setting that is as family-like and as close to the parent's home as possible, consistent with the child's best interests and special needs, and including maintaining stability in the child's educational placement, as documented by assurances from the community-based care provider that:

1. The placement of the child takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement.

2. The community-based care agency has coordinated with appropriate local educational agencies to ensure that the child remains in the school in which the child is enrolled at the time of placement.

~~(i)(h)~~ A projected date likely for the child's return home or other permanent placement.

~~(j)(i)~~ When appropriate, the basis for the unwillingness or inability of the parent to become a party to a case plan. The court and the citizen review panel shall determine if the efforts of the social service agency to secure party participation in a case plan were sufficient.

~~(k)(j)~~ For a child who has reached 13 years of age but is not yet 18 years of age, the adequacy of the child's preparation for adulthood and independent living.

~~(l)(k)~~ If amendments to the case plan are required. Amendments to the case plan must be made under s. 39.6013.

~~(10)(9)(a)~~ Based upon the criteria set forth in subsection ~~(9)(8)~~ and the recommended order of the citizen review panel, if any, the court shall determine whether or not the social service agency shall initiate proceedings to have a child declared a dependent child, return the child to the parent, continue the child in out-of-home care for a specified period of time, or initiate termination of parental rights proceedings for subsequent placement in an adoptive home. Amendments to the case plan must be prepared as prescribed in s. 39.6013. If the court finds that the prevention or reunification efforts of the department will allow the child to remain safely at home or be safely returned to the home, the court shall allow the child to remain in

or return to the home after making a specific finding of fact that the reasons for the creation of the case plan have been remedied to the extent that the child's safety, well-being, and physical, mental, and emotional health will not be endangered.

(b) The court shall return the child to the custody of the parents at any time it determines that they have substantially complied with the case plan, if the court is satisfied that reunification will not be detrimental to the child's safety, well-being, and physical, mental, and emotional health.

(c) If, in the opinion of the court, the social service agency has not complied with its obligations as specified in the written case plan, the court may find the social service agency in contempt, shall order the social service agency to submit its plans for compliance with the agreement, and shall require the social service agency to show why the child could not safely be returned to the home of the parents.

(d) If, at any judicial review, the court finds that the parents have failed to substantially comply with the case plan to the degree that further reunification efforts are without merit and not in the best interest of the child, on its own motion, the court may order the filing of a petition for termination of parental rights, whether or not the time period as contained in the case plan for substantial compliance has expired.

(e) No later than 6 months after the date that the child was placed in shelter care, the court shall conduct a judicial review hearing to review the child's permanency goal as identified in the case plan. At the hearing the court shall make findings regarding the likelihood of the child's reunification with the parent or legal custodian within 12 months after the removal of the child from the home. If, at this hearing, the court makes a written finding that it is not likely that the child will be reunified with the parent or legal custodian within 12 months after the child was removed from the home, the department must file with the court, and serve on all parties, a motion to amend the case plan under s. 39.6013 and declare that it will use concurrent planning for the case plan. The department must file the motion no later than 10 business days after receiving the written finding of the court. The department must attach the proposed amended case plan to the motion. If concurrent planning is already being used, the case plan must document the efforts the department is taking to complete the concurrent goal.

(f) The court may issue a protective order in assistance, or as a condition, of any other order made under this part. In addition to the requirements included in the case plan, the protective order may set forth requirements relating to reasonable conditions of behavior to be observed for a specified period of time by a person or agency who is before the court; and the order may require any person or agency to make periodic reports to the court containing such information as the court in its discretion may prescribe.

History.--s. 9, ch. 87-289; s. 11, ch. 90-306; s. 3, ch. 90-309; s. 3, ch. 91-183; s. 49, ch. 92-58; s. 6, ch. 92-158; s. 27, ch. 94-164; s. 78, ch. 98-403; s. 38, ch. 99-193; s. 32, ch. 2000-139; s. 2, ch. 2004-362; s. 7, ch. 2005-2; s. 2, ch. 2005-179; s. 23, ch. 2006-86; s. 8, ch. 2006-194; s. 14, ch. 2008-245; s. 4, ch. 2009-35; s. 13, ch. 2009-43.

Note.--Former s. 39.453.

39.702 Citizen review panels.--

(1) Citizen review panels may be established in each judicial circuit and shall be authorized by an administrative order executed by the chief judge of each circuit. The court shall administer an oath of office to each citizen review panel member which shall authorize the panel member to participate in citizen review panels and make recommendations to the court pursuant to the provisions of this section.

(2) Citizen review panels shall be administered by an independent not-for-profit agency. For the purpose of this section, an organization that has filed for nonprofit status under the provisions of s. 501(c)(3) of the United States Internal Revenue Code is an independent not-for-profit agency for a period of 1 year after the date of filing. At the end of that 1-year period, in order to continue conducting citizen reviews, the organization must have qualified for nonprofit status under s. 501(c)(3) of the United States Internal Revenue Code and must submit to the chief judge of the circuit court a consumer's certificate of exemption that was issued to the organization by the Florida Department of Revenue and a report of the organization's progress. If the agency has not qualified for nonprofit status, the court must rescind its administrative order

that authorizes the agency to conduct citizen reviews. All independent not-for-profit agencies conducting citizen reviews must submit citizen review annual reports to the court.

(3) For the purpose of this section, a citizen review panel shall be composed of five volunteer members and shall conform with the requirements of this chapter. The presence of three members at a panel hearing shall constitute a quorum. Panel members shall serve without compensation.

(4) Based on the information provided to each citizen review panel pursuant to s. 39.701, each citizen review panel shall provide the court with a report and recommendations regarding the placement and dispositional alternatives the court shall consider before issuing a judicial review order.

(5) The independent not-for-profit agency authorized to administer each citizen review panel shall:

(a) In collaboration with the department, develop policies to assure that citizen review panels comply with all applicable state and federal laws.

(b) Establish policies for the recruitment, selection, retention, and terms of volunteer panel members. Final selection of citizen review panel members shall, to the extent possible, reflect the multicultural composition of the community which they serve. A criminal background check and personal reference check shall be conducted on each citizen review panel member prior to the member serving on a citizen review panel.

(c) In collaboration with the department, develop, implement, and maintain a training program for citizen review volunteers and provide training for each panel member prior to that member serving on a review panel. Such training may include, but shall not be limited to, instruction on dependency laws, departmental policies, and judicial procedures.

(d) Ensure that all citizen review panel members have read, understood, and signed an oath of confidentiality relating to written or verbal information provided to the panel members for review hearings.

(e) Establish policies to avoid actual or perceived conflicts of interest by panel members during the review process and to ensure accurate, fair reviews of each child dependency case.

(f) Establish policies to ensure ongoing communication with the department and the court.

(g) Establish policies to ensure adequate communication with the parent, the foster parent or legal custodian, the guardian ad litem, and any other person deemed appropriate.

(h) Establish procedures that encourage attendance and participation of interested persons and parties, including the parents, foster parents, or legal custodian with whom the child is placed, at citizen review hearings.

(i) Coordinate with existing citizen review panels to ensure consistency of operating procedures, data collection, analysis, and report generation.

(j) Make recommendations as necessary to the court concerning attendance of essential persons at the review and other issues pertinent to an effective review process.

(k) Ensure consistent methods of identifying barriers to the permanent placement of the child and delineation of findings and recommendations to the court.

(6) The department and agents of the department shall submit information to the citizen review panel when requested and shall address questions asked by the citizen review panel to identify barriers to the permanent placement of each child.

History.--s. 12, ch. 90-306; s. 50, ch. 92-58; s. 79, ch. 98-403; s. 39, ch. 99-193.

Note.--Former s. 39.4531.

39.704 Exemptions from judicial review.--Judicial review does not apply to:

(1) Minors who have been placed in adoptive homes by a licensed child-placing agency; or

(2) Minors who are refugees or entrants to whom federal regulations apply and who are in the care of a social service agency.

History.--s. 9, ch. 87-289; s. 14, ch. 90-306; s. 81, ch. 98-403; s. 41, ch. 99-193.

Note.--Former s. 39.456.