

**PART VIII
CASE PLANS**

39.6011	Case plan development.
39.6012	Case plan tasks; services.
39.6013	Case plan amendments.
39.602	Case planning when parents do not participate and the child is in out-of-home care.
39.603	Court approvals of case planning.
39.604	Rilya Wilson Act; short title; legislative intent; requirements; attendance and reporting responsibilities.

39.6011 Case plan development.--

(1) The department shall prepare a draft of the case plan for each child receiving services under this chapter. A parent of a child may not be threatened or coerced with the loss of custody or parental rights for failing to admit in the case plan of abusing, neglecting, or abandoning a child. Participating in the development of a case plan is not an admission to any allegation of abuse, abandonment, or neglect, and it is not a consent to a finding of dependency or termination of parental rights. The case plan shall be developed subject to the following requirements:

(a) The case plan must be developed in a face-to-face conference with the parent of the child, any court-appointed guardian ad litem, and, if appropriate, the child and the temporary custodian of the child.

(b) The parent may receive assistance from any person or social service agency in preparing the case plan. The social service agency, the department, and the court, when applicable, shall inform the parent of the right to receive such assistance, including the right to assistance of counsel.

(c) If a parent is unwilling or unable to participate in developing a case plan, the department shall document that unwillingness or inability to participate. The documentation must be provided in writing to the parent when available for the court record, and the department shall prepare a case plan conforming as nearly as possible with the requirements set forth in this section. The unwillingness or inability of the parent to participate in developing a case plan does not preclude the filing of a petition for dependency or for termination of parental rights. The parent, if available, must be provided a copy of the case plan and be advised that he or she may, at any time before the filing of a petition for termination of parental rights, enter into a case plan and that he or she may request judicial review of any provision of the case plan with which he or she disagrees at any court hearing set for the child.

(2) The case plan must be written simply and clearly in English and, if English is not the principal language of the child's parent, to the extent possible in the parent's principal language. Each case plan must contain:

(a) A description of the identified problem being addressed, including the parent's behavior or acts resulting in risk to the child and the reason for the intervention by the department.

(b) The permanency goal.

(c) If concurrent planning is being used, a description of the permanency goal of reunification with the parent or legal custodian in addition to a description of one of the remaining permanency goals described in s. 39.01.

(d) The date the compliance period expires. The case plan must be limited to as short a period as possible for accomplishing its provisions. The plan's compliance period expires no later than 12 months after the date the child was initially removed from the home or the date the case plan was accepted by the court, whichever occurs sooner.

(e) A written notice to the parent that failure of the parent to substantially comply with the case plan may result in the termination of parental rights, and that a material breach of the case plan may result in the filing of a petition for termination of parental rights sooner than the compliance period set forth in the case plan.

(3) The case plan must be signed by all parties, except that the signature of a child may be waived if the child is not of an age or capacity to participate in the case-planning process. Signing the case plan constitutes an acknowledgement that the case plan has been developed by the parties and that they are in agreement as to the terms and conditions contained in the case plan. The refusal of a parent to sign the case plan does not prevent the court from accepting the case plan if the case plan is otherwise acceptable to the court. Signing the case plan does not constitute an admission to any allegation of abuse, abandonment, or neglect and does not constitute consent to a finding of dependency or termination of parental rights. Before signing the case plan, the department shall explain the provisions of the plan to all persons involved in its implementation, including, when appropriate, the child.

(4) The case plan must describe:

(a) The role of the foster parents or legal custodians when developing the services that are to be provided to the child, foster parents, or legal custodians;

(b) The responsibility of the case manager to forward a relative's request to receive notification of all proceedings and hearings submitted pursuant to s. 39.301(15)(b) to the attorney for the department;

~~(c)(b)~~ The minimum number of face-to-face meetings to be held each month between the parents and the department's family services counselors to review the progress of the plan, to eliminate barriers to progress, and to resolve conflicts or disagreements; and

~~(d)(e)~~ The parent's responsibility for financial support of the child, including, but not limited to, health insurance and child support. The case plan must list the costs associated with any services or treatment that the parent and child are expected to receive which are the financial responsibility of the parent. The determination of child support and other financial support shall be made independently of any determination of indigency under s. 39.013.

(5) When the permanency goal for a child is adoption, the case plan must include documentation of the steps the agency is taking to find an adoptive family or other permanent living arrangement for the child. At a minimum, the documentation shall include recruitment efforts that are specific to the child, such as the use of state, regional, and national adoption exchanges, including electronic exchange systems.

(6) After the case plan has been developed, the department shall adhere to the following procedural requirements:

(a) If the parent's substantial compliance with the case plan requires the department to provide services to the parents or the child and the parents agree to begin compliance with the case plan before the case plan's acceptance by the court, the department shall make the appropriate referrals for services that will allow the parents to begin the agreed-upon tasks and services immediately.

(b) After the case plan has been agreed upon and signed by the parties, a copy of the plan must be given immediately to the parties, including the child if appropriate, and to other persons as directed by the court.

1. A case plan must be prepared, but need not be submitted to the court, for a child who will be in care no longer than 30 days unless that child is placed in out-of-home care a second time within a 12-month period.

2. In each case in which a child has been placed in out-of-home care, a case plan must be prepared within 60 days after the department removes the child from the home and shall be submitted to the court before the disposition hearing for the court to review and approve.

3. After jurisdiction attaches, all case plans must be filed with the court and a copy provided to all the parties whose whereabouts are known not less than 3 business days before the disposition hearing. The department shall file with the court, and provide copies to the parties, all case plans prepared before jurisdiction of the court attached.

(7) The case plan must be filed with the court and copies provided to all parties, including the child if appropriate, not less than 3 business days before the disposition hearing.

(8) The case plan must describe a process for making available to all physical custodians and family services counselors the information required by s. 39.6012(2) and for ensuring that this information follows the child until permanency has been achieved.

History.—s. 15, ch. 2006-86; s. 27, ch. 2008-245; s. 11, ch. 2009-43.

39.6012 Case plan tasks; services.--

(1) The services to be provided to the parent and the tasks that must be completed are subject to the following:

(a) The services described in the case plan must be designed to improve the conditions in the home and aid in maintaining the child in the home, facilitate the child's safe return to the home, ensure proper care of the child, or facilitate the child's permanent placement. The services offered must be the least intrusive possible into the life of the parent and child, must focus on clearly defined objectives, and must provide the most efficient path to quick reunification or permanent placement given the circumstances of the case and the child's need for safe and proper care.

(b) The case plan must describe each of the tasks with which the parent must comply and the services to be provided to the parent, specifically addressing the identified problem, including:

1. The type of services or treatment.
2. The date the department will provide each service or referral for the service if the service is being provided by the department or its agent.
3. The date by which the parent must complete each task.
4. The frequency of services or treatment provided. The frequency of the delivery of services or treatment provided shall be determined by the professionals providing the services or treatment on a case-by-case basis and adjusted according to their best professional judgment.
5. The location of the delivery of the services.
6. The staff of the department or service provider accountable for the services or treatment.
7. A description of the measurable objectives, including the timeframes specified for achieving the objectives of the case plan and addressing the identified problem.

(2) The case plan must include all available information that is relevant to the child's care including, at a minimum:

(a) A description of the identified needs of the child while in care.

(b) A description of the plan for ensuring that the child receives safe and proper care and that services are provided to the child in order to address the child's needs. To the extent available and accessible, the following health, mental health, and education information and records of the child must be attached to the case plan and updated throughout the judicial-review process:

1. The names and addresses of the child's health, mental health, and educational providers;
2. The child's grade-level performance;

3. The child's school record;
4. Assurances that the child's placement takes into account proximity to the school in which the child is enrolled at the time of placement;
5. A record of the child's immunizations;
6. The child's known medical history, including any known problems;
7. The child's medications, if any; and
8. Any other relevant health, mental health, and education information concerning the child.

(3) In addition to any other requirement, if the child is in an out-of-home placement, the case plan must include:

- (a) A description of the type of placement in which the child is to be living.
- (b) A description of the parent's visitation rights and obligations and the plan for sibling visitation if the child has siblings and is separated from them.
- (c) When appropriate, for a child who is 13 years of age or older, a written description of the programs and services that will help the child prepare for the transition from foster care to independent living.
- (d) A discussion of the safety and the appropriateness of the child's placement, which placement is intended to be safe, and the least restrictive and the most family-like setting available consistent with the best interest and special needs of the child and in as close proximity as possible to the child's home.

History.—s. 16, ch. 2006-86.

39.6013 Case plan amendments.--

(1) After the case plan has been developed under s. 39.6011, the tasks and services agreed upon in the plan may not be changed or altered in any way except as provided in this section.

(2) The case plan may be amended at any time in order to change the goal of the plan, employ the use of concurrent planning, add or remove tasks the parent must complete to substantially comply with the plan, provide appropriate services for the child, and update the child's health, mental health, and education records required by s. 39.6012.

(3) The case plan may be amended upon approval of the court if all parties are in agreement regarding the amendments to the plan and the amended plan is signed by all parties and submitted to the court with a memorandum of explanation.

(4) The case plan may be amended by the court or upon motion of any party at any hearing to change the goal of the plan, employ the use of concurrent planning, or add or remove tasks the parent must complete in order to substantially comply with the plan if there is a preponderance of evidence demonstrating the need for the amendment. The need to amend the case plan may be based on information discovered or circumstances arising after the approval of the case plan for:

- (a) A previously unaddressed condition that, without services, may prevent the child from safely returning to the home or may prevent the child from safely remaining in the home;
- (b) The child's need for permanency, taking into consideration the child's age and developmental needs;
- (c) The failure of a party to substantially comply with a task in the original case plan, including the ineffectiveness of a previously offered service; or
- (d) An error or oversight in the case plan.

(5) The case plan may be amended by the court or upon motion of any party at any hearing to provide appropriate services to the child if there is competent evidence demonstrating the need for the amendment. The reason for amending the case plan may be based on information discovered or circumstances arising after the approval of the case plan regarding the provision of safe and proper care to the child.

(6) The case plan is deemed amended as to the child's health, mental health, and education records required by s. 39.6012 when the child's updated health and education records are filed by the department under s. 39.701(8)(7)(a).

(7) Amendments must include service interventions that are the least intrusive into the life of the parent and child, must focus on clearly defined objectives, and must provide the most efficient path to quick reunification or permanent placement given the circumstances of the case and the child's need for safe and proper care. A copy of the amended plan must be immediately given to the persons identified in s. 39.6011(6)(b).

History.—s. 17, ch. 2006-86; s. 3, ch. 2007-5; s. 12, ch. 2009-43.

39.602 Case planning when parents do not participate and the child is in out-of-home care.--

(1) In the event the parents will not or cannot participate in preparation of a case plan, the department shall submit a full explanation of the circumstances and state the nature of its efforts to secure such persons' participation in the preparation of a case plan.

(2) In a case in which the physical, emotional, or mental condition or physical location of the parent is the basis for the parent's nonparticipation, it is the burden of the department to provide substantial evidence to the court that such condition or location has rendered the parent unable or unwilling to participate in the preparation of a case plan, either pro se or through counsel. The supporting documentation must be submitted to the court at the time the plan is filed.

(3) The plan must include, but need not be limited to, the specific services to be provided by the department, the goals and plans for the child, and the time for accomplishing the provisions of the plan and for accomplishing permanence for the child.

(4)(a) At least 72 hours prior to the hearing in which the court will consider approval of the case plan, all parties must be provided with a copy of the plan developed by the department. If the location of one or both parents is unknown, this must be documented in writing and included in the plan submitted to the court. After the filing of the plan, if the location of an absent parent becomes known, that parent must be served with a copy of the plan.

(b) Before the filing of the plan, the department shall advise each parent, both orally and in writing, that the failure of the parents to substantially comply with a plan may result in the termination of parental rights, but only after notice and hearing as provided in this chapter. If, after the plan has been submitted to the court, an absent parent is located, the department shall advise the parent, both orally and in writing, that the failure of the parents to substantially comply with a plan may result in termination of parental rights, but only after notice and hearing as provided in this chapter. Proof of written notification must be filed with the court.

History.—s. 9, ch. 87-289; s. 32, ch. 88-337; s. 26, ch. 94-164; s. 17, ch. 95-228; s. 12, ch. 98-280; s. 75, ch. 98-403; s. 36, ch. 99-193.

Note.—Former s. 39.452(1)-(4).

39.603 Court approvals of case planning.--

(1) All case plans and amendments to case plans must be approved by the court. At the hearing on the case plan, which shall occur in conjunction with the disposition hearing unless otherwise directed by the court, the court shall determine:

(a) All parties who were notified and are in attendance at the hearing, either in person or through a legal representative. The court may appoint a guardian ad litem under Rule 1.210, Florida Rules of Civil Procedure, to represent the interests of any parent, if the location of the parent is known but the parent is not present at the hearing and the development of the plan is based upon the physical, emotional, or mental condition or physical location of the parent.

(b) If the plan is consistent with previous orders of the court placing the child in care.

(c) If the plan is consistent with the requirements for the content of a plan as specified in this chapter.

(d) In involuntary placements, whether each parent was notified of the right to counsel at each stage of the dependency proceedings, in accordance with the Florida Rules of Juvenile Procedure.

(e) Whether each parent whose location was known was notified of the right to participate in the preparation of a case plan and of the right to receive assistance from any other person in the preparation of the case plan.

(f) Whether the plan is meaningful and designed to address facts and circumstances upon which the court based the finding of dependency in involuntary placements or the plan is meaningful and designed to address facts and circumstances upon which the child was placed in out-of-home care voluntarily.

(2) When the court determines that any of the elements considered at the hearing related to the plan have not been met, the court shall require the parties to make necessary amendments to the plan under s. 39.6013. The amended plan must be submitted to the court for review and approval within 30 days after the hearing. A copy of the amended plan must also be provided to each party, if the location of the party is known, at least 3 business days before filing with the court.

(3) A parent who has not participated in the development of a case plan must be served with a copy of the plan developed by the department, if the parent can be located, at least 72 hours prior to the court hearing. Any parent is entitled to, and may seek, a court review of the plan prior to the initial judicial review and must be informed of this right by the department at the time the department serves the parent with a copy of the plan. If the location of an absent parent becomes known to the department, the department shall inform the parent of the right to a court review at the time the department serves the parent with a copy of the case plan.

History.--s. 9, ch. 87-289; s. 32, ch. 88-337; s. 26, ch. 94-164; s. 17, ch. 95-228; s. 76, ch. 98-403; s. 37, ch. 99-193; s. 27, ch. 2000-139; s. 18, ch. 2006-86.

Note.--Former s. 39.452(5).

39.604 Rilya Wilson Act; short title; legislative intent; requirements; attendance and reporting responsibilities.--

(1) **SHORT TITLE.**--This section may be cited as the "Rilya Wilson Act."

(2) **LEGISLATIVE INTENT.**-- The Legislature recognizes that children who are in the care of the state due to abuse, neglect, or abandonment are at increased risk of poor school performance and other behavioral and social problems. It is the intent of the Legislature that children who are currently in the care of the state be provided with an age-appropriate education program to help ameliorate the negative consequences of abuse, neglect, or abandonment.

(3) REQUIREMENTS.--A child who is age 3 years to school entry, under court ordered protective supervision or in the custody of the Family Safety Program Office of the Department of Children and Family Services or a community-based lead agency, and enrolled in a licensed early education or child care program must be enrolled to participate in the program 5 days a week. Notwithstanding the requirements of s. 39.202, the Department of Children and Family Services must notify operators of the licensed early education or child care program, subject to the reporting requirements of this act, of the enrollment of any child age 3 years to school entry, under court ordered protective supervision or in the custody of the Family Safety Program Office of the Department of Children and Family Services or a community-based lead agency. The case plan developed for a child pursuant to this chapter who is enrolled in a licensed early education or child care program must contain the participation in this program as a required action. An exemption to participating in the licensed early education or child care program 5 days a week may be granted by the court.

(4) ATTENDANCE AND REPORTING REQUIREMENTS.--

(a) A child enrolled in a licensed early education or child care program who meets the requirements of subsection (3) may not be withdrawn from the program without the prior written approval of the Family Safety Program Office of the Department of Children and Family Services or the community-based lead agency.

(b)1. If a child covered by this section is absent from the program on a day when he or she is supposed to be present, the person with whom the child resides must report the absence to the program by the end of the business day. If the person with whom the child resides, whether the parent or caregiver, fails to timely report the absence, the absence is considered to be unexcused. The program shall report any unexcused absence or seven consecutive excused absences of a child who is enrolled in the program and covered by this act to the local designated staff of the Family Safety Program Office of the Department of Children and Family Services or the community-based lead agency by the end of the business day following the unexcused absence or seventh consecutive excused absence.

2. The department or community-based lead agency shall conduct a site visit to the residence of the child upon receiving a report of two consecutive unexcused absences or seven consecutive excused absences.

3. If the site visit results in a determination that the child is missing, the department or community-based lead agency shall report the child as missing to a law enforcement agency and proceed with the necessary actions to locate the child pursuant to procedures for locating missing children.

4. If the site visit results in a determination that the child is not missing, the parent or caregiver shall be notified that failure to ensure that the child attends the licensed early education or child care program is a violation of the case plan. If more than two site visits are conducted pursuant to this subsection, staff shall initiate action to notify the court of the parent or caregiver's noncompliance with the case plan.

History.—s. 1, ch. 2003-292.