

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 288

SPONSOR: Senator Campbell

SUBJECT: Children

DATE: November 5, 2001

REVISED: 12/05/01

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Barnes</u>	<u>Whiddon</u>	<u>CF</u>	<u>Fav/ 2 Amendments</u>
2.	<u></u>	<u></u>	<u>JU</u>	<u></u>
3.	<u></u>	<u></u>	<u>AHS</u>	<u></u>
4.	<u></u>	<u></u>	<u>AP</u>	<u></u>
5.	<u></u>	<u></u>	<u></u>	<u></u>
6.	<u></u>	<u></u>	<u></u>	<u></u>

I. Summary:

SB 288 expands the parties who can request continuances for all court proceedings under ch. 39, F.S., while limiting the circumstances and number of continuances that can be requested. The required 15-day hearing to review shelter placement and the statutory specifications for the case plan are removed. The Department of Children and Family Services is directed to adopt rules governing the content and format of case plans to comply with Title IV-E of the Social Security Act, 42 U.S.C. 671 and 675 (1980), as amended.

This bill substantially amends sections 39.013, 39.402, 39.506, 39.601 and 39.602, of the Florida Statutes.

II. Present Situation:

Time Frames for the Dependency Proceedings Under Ch. 39, F.S.

The federal Adoption and Safe Families Act requires the Department of Children and Family Services (department) to establish court-approved permanency goals for each child within the first 12 months a child is in the department's custody. The department must determine for the court's approval if the child should be returned to the parent, continued in foster care for a specified period, placed for adoption or continued in foster care on a permanent or long-term basis because of the child's special needs or circumstances. Section 39.001(1)(h), F.S., identifies one of the purposes of ch. 39, F.S., as "to ensure that permanent placement with the biological and adoptive family is achieved as soon as possible for every child in foster care and that no child remains in foster care longer than 1 year."

Chapter 39, F.S., has established the following time frames to guide the court’s involvement in the child safety and permanency process.

Shelter Hearing	Within 24 hours after removal of the child from home
Petition Filed Seeking Adjudication that Child is Dependent	Within 21 days after shelter hearing
Arraignment Hearing Held	Within 28 days after Shelter Hearing
Hearing to Review Shelter Placement	Every 15 days after arraignment hearing until child is released
Adjudicatory Trial	No later than 30 days after arraignment
Case Plan must be filed (if not filed earlier)	Within 60 days after the removal of the child
Disposition Hearing and Case Plan Acceptance	30 days after Adjudicatory hearing
Judicial Review	90 days after the disposition hearing, but no later than 6 months after the child is removed from the home
Judicial Review for Permanency	No later than 12 months after the date the child was placed in foster care, unless there is an extraordinary situation.

Sections 39.013(10) and 39.402(14), F.S., permit delays to the above time requirements of the chapter and the shelter hearing provisions respectively as a result of continuances granted. Continuances may be granted at the request of the child, the child’s counsel or the child’s guardian ad litem, the parent or legal custodian. Continuances may also be requested by the attorney for the department or the petitioner due to the unavailability of evidence material and to allow the attorney for the department or petitioner time to prepare. One problem raised by observers of the dependency process is that while time frames have been established to provide for a child’s permanency within 12 months, continuances lengthen that process well beyond the statutory time frames.

Case Plans

Section 471 of Title IV-E of the Social Security Act (42. U.S.C. 671) requires the development of a case plan as defined in section 475 (42 U.S.C. 675). Sections 39.601 and 39.602, F.S., set forth Florida’s requirements for a case plan that must be developed for every child receiving services pursuant to ch. 39. F.S. The requirements for the case plan as delineated in each of these provisions is outlined below:

Florida Requirements for Case Plan	Federal Requirements for Case Plan
<i>s. 39.601(1)</i>	
Developed in conference with parent	Not Addressed
Written simply and in principal language	“
Describes planned face-to-face meetings between parents and department	“
Subject to change	“

<i>s. 39.601(2)</i>	
Reasonable, accurate and in compliance with other court orders	“
Description of problem being addressed by department’s intervention	“
Description of tasks for parents and services, including type, frequency, location and person accountable for service	“
Measurable objectives	“
<i>s.39.601(3)</i>	
Description of permanency goal and type of placement. Plans for adoptive placement may be made concurrently with efforts to return child safely home	“
Description of type of home or institution child is to be placed	Description of type of home or institution child is to be placed
Description of financial support obligation to the child	Not Addressed
Description of visitation rights and obligations of parents	“
Discussion of the safety and appropriateness of the placement, that it is least restrictive and most family-like.	Discussion of safety and appropriateness of the placement
Role of the foster parents or legal custodians in development of services	Not Addressed
Description of efforts to maintain stability of child’s educational placement	“
Discussion of department’s plans to carry out the judicial determination of the court	Description of how the agency responsible for the child plans to carry out the voluntary placement agreement or judicial determination.
Description of plan for assuring that services will be provided to improve the conditions of the home and facilitate the safe return of the child to the home or permanent placement	A plan for assuring that the child receives safe and proper care and that services are provided to improve the conditions, facilitate the safe return of the child to the home or permanent placement.
Description of plan assuring that service will be provided to address the needs of the child while in out-of-home placement	Discussion of the appropriateness of the services provided to the child
Written notice to parents that failure to substantially comply with case plan may result in termination of parental rights	Not Addressed
For a child whose permanency plan is adoption or placement in another permanent home, documentation of the steps being taken to find to an adoptive family or other permanent living arrangement, to place the	For a child whose permanency plan is adoption or placement in another permanent home, documentation of the steps being taken to find an adoptive home or other permanent living arrangement, to place the child in a planned

child in a planned permanent living arrangement and finalize the adoption, legal guardianship or long term custodial relationship.	permanent living arrangement and finalize the adoption or legal guardianship.
<i>s. 39.602 (Case Plans when Parents do not participate)</i>	
Specific services to be provided, the goals, plans for the child, and time for accomplishing the goals of the plan and permanence for the child	Not Addressed
<i>Other</i>	
Not Addressed	Include the child’s health and educational records
“	Where appropriate, for a child over 16 years, a description of the services that will help prepare for the transition from foster care to independent living.

The case plan is the document which drives the actions that will achieve permanency for the child. An accurate determination of needs and goals for the child, as well as the services to achieve these goals, is important to the success of this process and the case plan which articulates this process and the course of action. However, the department reports that questions have been raised regarding the value and impact of the detailed prescription of the content of the case plans contained in the Florida law. In particular, these questions have focused on the extent to which the level of prescriptiveness contributes to unnecessary paperwork and prevents the individualization of the case plan to each child.

While ch. 39, F.S., requires that case plans be individualized to the needs of the families involved and a unique map of how many families can be restored, a department audit of cases in eight of its districts found that only one district regularly maintained individualized case plans, with goals behaviorally stated and measurable. On the average, the remaining seven districts failed to do so in twenty-five percent of their cases. The audit revealed that case plans are routinely cookie cutter in nature, rather than being tailored to the specific needs of the children and families involved. In some cases, these poorly developed case plans, which obtain court approval, fail to comply with logic and the facts of the case.

Child welfare professionals in Florida and other states believe that the meticulous case plan requirements under ch. 39, F.S., and the inconsistent implementation by the department to carry out statutory requirements for case plans, have contributed to poor performance outcomes for abused children and their families. Other states, such as Ohio, have chosen to direct that case plans be standardized under rules developed by the child welfare agency which comply with content requirements of Title IV-E of the Social Security Act and the stated goals under federal laws for funding eligibility. Whether, as a result of this change, these states have experienced improvements in their child permanency outcomes is unknown.

III. Effect of Proposed Changes:

Time Frames for the Dependency Proceedings Under Ch. 39, F.S.

SB 288 amends ss. 39.013(10) and 39.402(14), F.S., to provide that any party, in lieu of the attorney for the department and the petitioner, can request a continuance due to evidence not being available. The department states that this change would restrict the continuance rights of the child or parent or legal custodian when requesting a continuance due to the unavailability of evidence because of the limitations specified in s. 39.013(10)(b)1., F.S.

The bill emphasizes the need to adhere to time frames and to limit extensions in order to preserve the rights of the child. Granting a continuance or extension of the time limitations in advance of the circumstances creating the delay is prohibited.

The bill limits the number of days for which continuances or extensions may be granted to 60 days within any 12 month period. Extraordinary circumstances necessary to preserve the constitutional rights of a party are recognized as exceptions to this limitation. The provisions of this section, while expanding the parties who can request continuances, should limit the circumstances under which continuances can be granted and limit the total number of days that can be granted.

Also, s. 39.402, F.S., is amended to eliminate the requirement that a shelter hearing be held every 15 days to review the shelter placement. In its place is the ability for the court to require a shelter hearing at any time, if necessary.

Case Plans

SB 288 eliminates many of the specific content requirements for the case plan as provided in ss. 39.601 and 39.602, F.S. The bill directs the department to adopt rules governing the content and format of the case plans which must, at a minimum, comply with the requirements of Title IV-E of the Social Security Act, 42 U.S.C. 671 and 675. The bill eliminates statutory requirements which are not specified under federal law such as: a description of the tasks and services in which parents are expected to participate, the problems which interventions will address, and the role of the foster parents in the development of services.

It is questionable whether removing specific content requirements for a case plan from ch. 39, F.S., will result in better case planning and improved performance outcomes for children and their families. Operational problems of this type often require other improvements for child protection staff such as higher professional standards, training, and greater staff supervision.

The department reports that the prescriptiveness of the case plan in ch. 39, F.S., has worked to Florida's advantage in convincing the federal courts that the state courts have adequate jurisdiction to decide the important issues in child protection cases.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The department reports that there would be one-time costs for rule promulgation when removing the case plan requirements from Florida Statutes and including them in Florida Administrative Code. These costs would again be incurred whenever these rules change to correspond with changing federal requirements. Costs are variable depending on the length and complexity of the rule and the necessity of public hearings.

The estimated cost of \$15,000 assumes the development of a relatively simple rule of approximately one page in length and assumes that public hearings would be held in north, central, and south Florida.

The department states that the bill has the potential to result in a cost savings for the state because a reduction in continuances could reduce the length of time that a child remains in the dependency system.

By eliminating the requirement that a shelter hearing be held every 15 days, the bill has the potential to result in a cost savings for the judicial system and save staff time for the department.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

1 by Children and Families:

Technical amendment that specifies that any party rather than just the parent may move for an issuance of an order to show cause which conforms s. 39.013(10)(b)1., F.S., to s. 39.013(10)(b), F.S.

2 by Children and Families:

Technical amendment that specifies that any party rather than just the parent or legal custodian may move for an issuance of an order to show cause which conforms s. 39.402(14)(b)1., F.S., to s. 39.402(14)(b), F.S.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
