

By the Committee on Judiciary; and Senator Campbell

308-2017-02

1 A bill to be entitled
2 An act relating to children; amending s.
3 39.013, F.S.; providing that time limitations
4 under ch. 39, F.S., do not include continuances
5 requested by any party; providing limitations
6 on continuances; amending s. 39.402, F.S.;
7 providing that time limitations governing
8 placement of a child in a shelter do not
9 include continuances requested by any party;
10 providing limitations on continuances; amending
11 s. 39.506, F.S.; eliminating the requirement
12 for a court's continued review of a child's
13 placement in a shelter; providing an effective
14 date.

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16 Be It Enacted by the Legislature of the State of Florida:

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18 Section 1. Subsection (10) of section 39.013, Florida
19 Statutes, is amended to read:

20 39.013 Procedures and jurisdiction; right to
21 counsel.--

22 (10) The time limitations in this chapter do not
23 include:

24 (a) Periods of delay resulting from a continuance
25 granted at the request or with the consent of the child's
26 counsel or the child's guardian ad litem, if one has been
27 appointed by the court, or, if the child is of sufficient
28 capacity to express reasonable consent, at the request or with
29 the consent of the child.

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1 (b) Periods of delay resulting from a continuance
2 granted at the request of any party ~~the attorney for the~~
3 ~~department or petitioner~~, if the continuance is granted:

4 1. Because of an unavailability of evidence material
5 to the case when the requesting party ~~attorney for the~~
6 ~~department or petitioner~~ has exercised due diligence to obtain
7 such evidence and there are substantial grounds to believe
8 that such evidence will be available within 30 days. However,
9 if the requesting party ~~department or petitioner~~ is not
10 prepared to proceed ~~present its case~~ within 30 days, any other
11 party, inclusive of the parent or legal custodian,~~the parent~~
12 may move for issuance of an order to show cause or the court
13 on its own motion may impose appropriate sanctions, which may
14 include dismissal of the petition.

15 2. To allow the requesting party ~~attorney for the~~
16 ~~department or petitioner~~ additional time to prepare the case
17 and additional time is justified because of an exceptional
18 circumstance.

19 (c) Reasonable periods of delay necessary to
20 accomplish notice of the hearing to the child's parent or
21 legal custodian ~~parents~~; however, the petitioner shall
22 continue regular efforts to provide notice to the parents
23 during such periods of delay.

24 (d) Reasonable periods of delay resulting from a
25 continuance granted at the request of the parent or legal
26 custodian of a subject child.

27 (e) Notwithstanding the foregoing, continuances and
28 extensions of time are limited to the number of days
29 absolutely necessary to complete a necessary task in order to
30 preserve the rights of a party or the best interests of a
31 child. Time is of the essence for the best interests of

1 dependent children in conducting dependency proceedings in
2 accordance with the time limitations set forth in this
3 chapter. Time limitations are a right of the child which may
4 not be waived, extended, or continued at the request of any
5 party in advance of the particular circumstances or need
6 arising upon which delay of the proceedings may be warranted.

7 (f) Continuances or extensions of time may not total
8 more than 60 days for all parties within any 12-month period
9 during proceedings under this chapter. A continuance or
10 extension of time beyond the 60 days may be granted only for
11 extraordinary circumstances necessary to preserve the
12 constitutional rights of a party or when substantial evidence
13 demonstrates that the child's best interests will be
14 affirmatively harmed without the granting of a continuance or
15 extension of time.

16 Section 2. Subsections (14) and (16) of section
17 39.402, Florida Statutes, are amended to read:

18 39.402 Placement in a shelter.--

19 (14) The time limitations in this section do not
20 include:

21 (a) Periods of delay resulting from a continuance
22 granted at the request or with the consent of the child's
23 counsel or the child's guardian ad litem, if one has been
24 appointed by the court, or, if the child is of sufficient
25 capacity to express reasonable consent, at the request or with
26 the consent of the child's attorney or the child's guardian ad
27 litem, if one has been appointed by the court, and the child.

28 (b) Periods of delay resulting from a continuance
29 granted at the request of any party ~~the attorney for the~~
30 ~~department~~, if the continuance is granted:

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1 1. Because of an unavailability of evidence material
2 to the case when the requesting party ~~attorney for the~~
3 ~~department~~ has exercised due diligence to obtain such evidence
4 and there are substantial grounds to believe that such
5 evidence will be available within 30 days. However, if the
6 requesting party ~~department~~ is not prepared to proceed ~~present~~
7 ~~its case~~ within 30 days, any other party, inclusive of the
8 parent or legal custodian, may move for issuance of an order
9 to show cause or the court on its own motion may impose
10 appropriate sanctions, which may include dismissal of the
11 petition.

12 2. To allow the requesting party ~~attorney for the~~
13 ~~department~~ additional time to prepare the case and additional
14 time is justified because of an exceptional circumstance.

15 (c) Reasonable periods of delay necessary to
16 accomplish notice of the hearing to the child's parents or
17 legal custodians; however, the petitioner shall continue
18 regular efforts to provide notice to the parents or legal
19 custodians during such periods of delay.

20 (d) Reasonable periods of delay resulting from a
21 continuance granted at the request of the parent or legal
22 custodian of a subject child.

23 (e) Notwithstanding the foregoing, continuances and
24 extensions of time are limited to the number of days
25 absolutely necessary to complete a necessary task in order to
26 preserve the rights of a party or the best interests of a
27 child. Time is of the essence for the best interests of
28 dependent children in conducting dependency proceedings in
29 accordance with the time limitations set forth in this
30 chapter. Time limitations are a right of the child which may
31 not be waived, extended, or continued at the request of any

1 party in advance of the particular circumstances or need
2 arising upon which delay of the proceedings may be warranted.

3 (f) Continuances or extensions of time may not total
4 more than 60 days for all parties within any 12-month period
5 during proceedings under this chapter. A continuance or
6 extension beyond the 60 days may be granted only for
7 extraordinary circumstances necessary to preserve the
8 constitutional rights of a party or when substantial evidence
9 demonstrates that the child's best interests will be
10 affirmatively harmed without the granting of a continuance or
11 extension of time.

12 (16) At the conclusion of a shelter hearing, the court
13 shall notify all parties in writing of the next scheduled
14 hearing to review the shelter placement. Such hearing shall be
15 held no later than 30 days after placement of the child in
16 shelter status, in conjunction with the arraignment hearing,
17 and at such times as are otherwise provided by law or
18 determined by the court to be necessary and every 15 days
19 ~~thereafter until the child is released from shelter status.~~

20 Section 3. Subsection (8) of section 39.506, Florida
21 Statutes, is amended to read:

22 39.506 Arraignment hearings.--

23 (8) At the arraignment hearing, ~~and no more than every~~
24 ~~15 days thereafter until the child is returned home or a~~
25 ~~disposition hearing has been conducted,~~ the court shall review
26 the necessity for the child's continued placement in the
27 shelter. The court shall also make a written determination
28 regarding the child's continued placement in shelter within 24
29 hours after any violation of the time requirements for the
30 filing of a petition or prior to the court's granting any
31 continuance as specified in subsection (5).

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Section 4. This act shall take effect July 1, 2002.

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 288

- Reinstates existing statutory language regarding case plan requirements;
- Clarifies that continuances or extensions of time in chapter 39, F.S., proceedings may not exceed 60 days cumulatively within any 12-month period.