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**HOUSE OF REPRESENTATIVES
COUNCIL FOR HEALTHY COMMUNITIES
ANALYSIS**

BILL #: CS/CS/HB 511
RELATING TO: Children/Continuances/Case Plans
SPONSOR(S): Council for Healthy Communities and Representatives Cusack & others
TIED BILL(S): none

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) CHILD & FAMILY SECURITY YEAS 7 NAYS 0
 - (2) JUDICIAL OVERSIGHT YEAS 9 NAYS 0
 - (3) COUNCIL FOR HEALTHY COMMUNITIES YEAS 16 NAYS 0
 - (4)
 - (5)
-

I. SUMMARY:

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

The purpose of this bill is to improve the timeliness and handling of court cases for children in foster care.

This committee substitute to committee substitute for HB 511 expands to all parties in child dependency court proceedings the ability to request a continuance due to lack of material evidence, but limits continuances by all parties to no more than 60 days per year. The bill removes the required shelter placement reviews every 15 days.

The effective date of the bill is July 1, 2002.

This bill has no fiscal impact on state or local governments.

On March 1, 2002, the Council for Healthy Communities reported the bill favorably as a committee substitute to the committee substitute that incorporated five amendments that made technical changes and limited the total continuances granted to all parties to 60 days per year.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

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

The federal Adoption and Safe Families Act of 1997 requires the Department of Children and Family Services (DCF) to establish court-approved permanency goals for each child within the first 12 months that a child is in the department's custody. The department must determine whether 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 of removal of the child from home
- Petition Filed, seeking adjudication that child is dependent --Within 21 days after shelter hearing
- Arraignment Hearing --Within 28 days after shelter hearing
- Hearing to review shelter placement --Every 15 days after arraignment hearing until child is released
- Adjudicatory Hearing --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 & Case Plan Acceptance --30 days after adjudicatory hearing
- Judicial Review --90 days after disposition hearing--no later than 6 months after the child is removed from home
- Judicial Review for Permanency --No later than 12 months after child is placed in foster care unless extraordinary situation

Parties to the Proceedings

Section 39.01(51), F.S., provides that "party" to the proceedings means the parent or parents of the child, the petitioner, the department, the guardian ad litem or the representative of the guardian ad litem program, and the child.

Continuances

Sections 39.013(10) and 39.402(14), F.S., permit delays to the above time requirements as a result of continuances granted to parties to the proceedings. Continuances can be granted to the child and parents and their counsel for reasonable delays. Continuances can be granted to the department or petitioner because of lack of material evidence or exceptional circumstance. Section 39.013(10) and 39.402(14), F.S., provide that exceptions to the time limitations of ch. 39 can be made for:

- Reasonable delays for continuances granted at the request of the child or the child's counsel or the child's guardian ad litem.
- Reasonable delays for continuances granted at the request of the parent or legal custodian.
- Delays for continuances granted at the request of the attorney for the department or petitioner, if the continuance is granted because of an unavailability of material evidence despite due diligence and the evidence will be available within 30 days, in order to allow the attorney for the department or petitioner additional time to prepare the case because of an exceptional circumstance.
- Reasonable delays to provide notice of the hearing to the child's parents.

Observers of the dependency process report that while statutory time frames provide for a child's permanency within 12 months, continuances are problematic and typically lengthen that process considerably.

Shelter Reviews

Upon removal of a child from the home of his or her parents, the court must review the appropriateness of maintaining that child in an out-of-home placement, both at the arraignment hearing and every 15 days thereafter until the child is returned home or a disposition hearing is held. This provision was enacted in 1998 because children were being left in out-of-home placements for 6 months to a year without an adjudication of dependency due to multiple continuances. Frequent shelter reviews were instituted to serve as a reminder to the court of the delays.

C. EFFECT OF PROPOSED CHANGES:

This committee substitute to the committee substitute for HB 511 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. Total continuances for all parties are limited to 60 days per year.

This bill substantially amends ss. 39.013, 39.402 and 39.506, of the Florida Statutes.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends subsection (10) of section 39.013, F.S., relating to procedures, jurisdiction, and right to counsel, to expand to any party to a dependency hearing the ability to request a continuance due to material evidence being unavailable.

The section limits continuances and extensions to the number of days absolutely necessary to complete a task to preserve rights of a party or best interests of the child, and specifies that time limitations are a right of the child and specifies that the best interests of the child are the timely handling of dependency proceedings as provided in ch. 39, F.S.

The section also requires that all parties may not be granted a total of more than 60 days in continuances or extensions during dependency proceedings, within any 12-month period, except under extraordinary circumstances that are necessary to preserve the constitutional rights or best interests of the child.

Section 2. Amends subsections (14) and (16) of section 39.402, F.S., relating to placement in shelter, to expand to any party to a dependency hearing the ability to request a continuance due to material evidence being unavailable.

The section limits continuances and extensions to the number of days absolutely necessary to complete a task to preserve rights of a party or best interests of the child, and specifies that time limitations are a right of the child and specifies that the best interests of the child are the timely handling of dependency proceedings as provided in ch. 39, F.S.

The section also requires that all parties may not be granted a total of more than 60 days in continuances or extensions during dependency proceedings, within any 12-month period, except under extraordinary circumstances that are necessary to preserve the constitutional rights or best interests of the child.

Section 3. Amends subsection (8) of section 39.506, F.S., relating to arraignment, to remove the requirement that the court continue to review the need to continue a child in a shelter placement every 15 days.

Section 4. Provides for an effective date of July 1, 2002.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The Department of Children and Family Services 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 cost savings for the judicial system and a savings of staff time for the department.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On January 24, 2002, the Committee on Child & Family Security reported the bill favorably as a committee substitute that incorporated amendments expanding to all parities in dependency hearings the ability to request continuances, and removing sections of the bill relating to case plans.

On March 1, 2002, the Council for Healthy Communities reported the bill favorably as a committee substitute to the committee substitute that incorporated five amendments that made technical changes and limited the total continuances granted to all parties to 60 days per year.

VII. SIGNATURES:

COMMITTEE ON CHILD & FAMILY SECURITY:

Prepared by:

Staff Director:

Glenn Mitchell

Robert Brown-Barrios

AS REVISED BY THE COMMITTEE ON JUDICIAL OVERSIGHT:

Prepared by:

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Carol Preston

Nathan L. Bond, J.D.

AS FURTHER REVISED BY THE COUNCIL FOR HEALTHY COMMUNITIES:

Prepared by:

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