

By Representative Cusack

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; amending s. 39.601,
14 F.S.; modifying case-plan requirements;
15 requiring the department to adopt rules
16 governing the content and format of case plans;
17 amending s. 39.602, F.S.; eliminating certain
18 criteria in case plans when parents do not
19 participate and the child is in out-of-home
20 care; providing an effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:
23

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

26 39.013 Procedures and jurisdiction; right to
27 counsel.--

28 (10) The time limitations in this chapter do not
29 include:

30 (a) Periods of delay resulting from a continuance
31 granted at the request or with the consent of the child's

1 counsel or the child's guardian ad litem, if one has been
2 appointed by the court, or, if the child is of sufficient
3 capacity to express reasonable consent, at the request or with
4 the consent of the child.

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

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

18 2. To allow the attorney for the department or
19 petitioner additional time to prepare the case and additional
20 time is justified because of an exceptional circumstance.

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

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

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

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

8 (f) A party may not be granted more than 60 days in
9 continuances or extensions of time within any 12-month period
10 during dependency proceedings except under extraordinary
11 circumstances necessary to preserve the constitutional rights
12 of a party or when substantial evidence demonstrates that the
13 child's best interests will be affirmatively harmed without
14 the granting of a continuance or extension of time. Any
15 continuance or extension of time granted under this subsection
16 must be strictly limited to the number of days necessary under
17 the circumstances.

18 Section 2. Subsections (14) and (16) of section
19 39.402, Florida Statutes, are amended to read:

20 39.402 Placement in a shelter.--

21 (14) The time limitations in this section do not
22 include:

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

30
31

1 (b) Periods of delay resulting from a continuance
2 granted at the request of any party ~~the attorney for the~~
3 ~~department~~, 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~~ has exercised due diligence to obtain such evidence
7 and there are substantial grounds to believe that such
8 evidence will be available within 30 days. However, if the
9 requesting party ~~department~~ is not prepared to proceed ~~present~~
10 ~~its case~~ within 30 days, the parent or legal custodian may
11 move for issuance of an order to show cause or the court on
12 its own motion may impose appropriate sanctions, which may
13 include dismissal of the petition.

14 2. To allow the attorney for the department additional
15 time to prepare the case and additional time is justified
16 because of an exceptional circumstance.

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

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

25 (e) Notwithstanding the foregoing, continuances and
26 extensions of time are limited to the number of days
27 absolutely necessary to complete a necessary task in order to
28 preserve the rights of a party or the best interests of a
29 child. Time is of the essence for the best interests of
30 dependent children in conducting dependency proceedings in
31 accordance with the time limitations set forth in this

1 chapter. Time limitations are a right of the child which may
2 not be waived, extended, or continued at the request of any
3 party in advance of the particular circumstances or need
4 arising upon which delay of the proceedings may be warranted.

5 (f) A party may not be granted more than 60 days in
6 continuances or extensions of time within any 12-month period
7 during dependency proceedings except under extraordinary
8 circumstances necessary to preserve the constitutional rights
9 of a party or when substantial evidence demonstrates that the
10 child's best interests will be affirmatively harmed without
11 the granting of a continuance or extension of time. Any
12 continuance or extension of time granted under this subsection
13 must be strictly limited to the number of days necessary under
14 the circumstances.

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

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

25 39.506 Arraignment hearings.--

26 (8) At the arraignment hearing, ~~and no more than every~~
27 ~~15 days thereafter until the child is returned home or a~~
28 ~~disposition hearing has been conducted,~~ the court shall review
29 the necessity for the child's continued placement in the
30 shelter. The court shall also make a written determination
31 regarding the child's continued placement in shelter within 24

1 hours after any violation of the time requirements for the
2 filing of a petition or prior to the court's granting any
3 continuance as specified in subsection (5).

4 Section 4. Subsections (2) and (3) of section 39.601,
5 Florida Statutes, are amended and subsection (11) is added to
6 that section to read:

7 39.601 Case plan requirements.--

8 (2) When the child or parent is receiving services,
9 the case plan shall be filed with the court, for approval by
10 the court, at least 72 hours prior to the disposition hearing.
11 The case plan must be served on all parties whose whereabouts
12 are known at least 72 hours prior to the disposition hearing.
13 ~~and must include, in addition to the requirements in~~
14 ~~subsection (1), at a minimum:~~

15 ~~(a) A description of the problem being addressed that~~
16 ~~includes the behavior or act of a parent resulting in risk to~~
17 ~~the child and the reason for the department's intervention.~~

18 ~~(b) A description of the tasks with which the parent~~
19 ~~must comply and the services to be provided to the parent and~~
20 ~~child specifically addressing the identified problem,~~
21 ~~including:~~

- 22 1. ~~Type of services or treatment.~~
- 23 2. ~~Frequency of services or treatment.~~
- 24 3. ~~Location of the delivery of the services.~~
- 25 4. ~~The accountable department staff or service~~
26 ~~provider.~~

27 ~~(c) A description of the measurable objectives,~~
28 ~~including timeframes for achieving objectives, addressing the~~
29 ~~identified problem.~~

30 (3) When the child is receiving services in an
31 out-of-home placement, the case plan must be filed with the

1 court, for approval by the court, at least 72 hours prior to
2 the disposition hearing. The case plan must be served on all
3 parties whose whereabouts are known at least 72 hours prior to
4 the disposition hearing, and must include, in addition to the
5 ~~requirements in subsections (1) and (2), at a minimum:~~

6 (a) ~~A description of the permanency goal for the~~
7 ~~child, including the type of placement. Reasonable efforts to~~
8 ~~place a child in a home that will serve as an adoptive~~
9 ~~placement if reunification is not successful, or with a legal~~
10 ~~custodian, may be made concurrently with reasonable efforts to~~
11 ~~prevent removal of the child from the home or make it possible~~
12 ~~for the child to return safely home.~~

13 (b) ~~A description of the type of home or institution~~
14 ~~in which the child is to be placed.~~

15 (c) ~~A description of the financial support obligation~~
16 ~~to the child, including health insurance, of the child's~~
17 ~~parents.~~

18 (d) ~~A description of the visitation rights and~~
19 ~~obligations of the parents during the period the child is in~~
20 ~~care.~~

21 (e) ~~A discussion of the safety and appropriateness of~~
22 ~~the child's placement, which placement is intended to be safe,~~
23 ~~the least restrictive and most family-like setting available~~
24 ~~consistent with the best interest and special needs of the~~
25 ~~child, and in as close proximity as possible to the child's~~
26 ~~home. The plan must also establish the role for the foster~~
27 ~~parents or legal custodians in the development of the services~~
28 ~~which are to be provided to the child, foster parents, or~~
29 ~~legal custodians. It must also address the child's need for~~
30 ~~services while under the jurisdiction of the court and~~
31 ~~implementation of these services in the case plan.~~

1 ~~(f) A description of the efforts to be undertaken to~~
2 ~~maintain the stability of the child's educational placement.~~

3 ~~(g) A discussion of the department's plans to carry~~
4 ~~out the judicial determination made by the court, with respect~~
5 ~~to the child, in accordance with this chapter and applicable~~
6 ~~federal regulations.~~

7 ~~(h) A description of the plan for assuring that~~
8 ~~services outlined in the case plan are provided to the child~~
9 ~~and the child's parent or parents, to improve the conditions~~
10 ~~in the home and facilitate either the safe return of the child~~
11 ~~to the home or the permanent placement of the child.~~

12 ~~(i) A description of the plan for assuring that~~
13 ~~services as outlined in the case plan are provided to the~~
14 ~~child, the child's parents, and the child's legal custodians,~~
15 ~~to address the needs of the child, and a discussion of the~~
16 ~~appropriateness of the services.~~

17 ~~(j) A description of the plan for assuring that~~
18 ~~services are provided to the child and the child's legal~~
19 ~~custodians or foster parents to address the needs of the child~~
20 ~~while in an out-of-home placement, which shall include an~~
21 ~~itemized list of costs to be borne by the parent associated~~
22 ~~with any services or treatment that the parent and child are~~
23 ~~expected to receive.~~

24 ~~(k) A written notice to the parent that failure of the~~
25 ~~parent to substantially comply with the case plan may result~~
26 ~~in the termination of parental rights, and that a material~~
27 ~~failure to substantially comply may result in the filing of a~~
28 ~~petition for termination of parental rights sooner than the~~
29 ~~compliance periods set forth in the case plan itself. The case~~
30 ~~staffing committee shall coordinate its efforts with the child~~
31 ~~protection team of the Department of Health.~~

1 ~~(1) In the case of a child for whom the permanency~~
2 ~~plan is adoption or placement in another permanent home,~~
3 ~~documentation of the steps the agency is taking to find an~~
4 ~~adoptive family or other permanent living arrangement for the~~
5 ~~child, to place the child with an adoptive family, with a fit~~
6 ~~and willing relative, with a legal custodian, or in another~~
7 ~~planned permanent living arrangement, and to finalize the~~
8 ~~adoption, legal guardianship, or long-term custodial~~
9 ~~relationship. At a minimum, such documentation shall include~~
10 ~~child-specific recruitment efforts such as the use of state,~~
11 ~~regional, and national adoption exchanges, including~~
12 ~~electronic exchange systems.~~

13 (11) The department shall adopt rules governing the
14 content and format of case plans and establishing procedures
15 for developing, implementing, and changing the case plans. The
16 plans at a minimum must comply with the requirements of Title
17 IV-E of the Social Security Act, 42 U.S.C. 671 and 675 (1980),
18 as amended.

19 Section 5. Section 39.602, Florida Statutes, is
20 amended to read:

21 39.602 Case planning when parents do not participate
22 and the child is in out-of-home care.--

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

28 (2) In a case in which the physical, emotional, or
29 mental condition or physical location of the parent is the
30 basis for the parent's nonparticipation, it is the burden of
31 the department to provide substantial evidence to the court

1 that such condition or location has rendered the parent unable
2 or unwilling to participate in the preparation of a case plan,
3 either pro se or through counsel. The supporting documentation
4 must be submitted to the court at the time the plan is filed.

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

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

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

30 Section 6. This act shall take effect July 1, 2002.

31

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

SENATE SUMMARY

Amends various sections of ch. 39, F.S., relating to procedures for out-of-home placement of a child. Provides that the provisions of ch. 39, F.S., relating to time limitations do not include continuances requested by any party. Specifies additional limitations. Deletes a requirement for a court's continued review of a child's placement in a shelter. Modifies case-plan requirements. Requires the department to adopt rules governing case plans. Eliminates certain criteria in case plans when parents do not participate and the child is in out-of-home care.