

By the Committee on Child & Family Security and
Representatives Cusack and Lynn

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 ~~the parent~~ may move for issuance of an order to show
12 cause or the court on its own motion may impose appropriate
13 sanctions, which may include dismissal of the petition.
14 2. To allow the attorney for the department or
15 petitioner additional time to prepare the case and additional
16 time is justified because of an exceptional circumstance.
17 (c) Reasonable periods of delay necessary to
18 accomplish notice of the hearing to the child's parents;
19 however, the petitioner shall continue regular efforts to
20 provide notice to the parents during such periods of delay.
21 (d) Reasonable periods of delay resulting from a
22 continuance granted at the request of the parent or legal
23 custodian of a subject child.
24 (e) Notwithstanding the foregoing, continuances and
25 extensions of time are limited to the number of days
26 absolutely necessary to complete a necessary task in order to
27 preserve the rights of a party or the best interests of a
28 child. Time is of the essence for the best interests of
29 dependent children in conducting dependency proceedings in
30 accordance with the time limitations set forth in this
31 chapter. Time limitations are a right of the child which may

1 not be waived, extended, or continued at the request of any
2 party in advance of the particular circumstances or need
3 arising upon which delay of the proceedings may be warranted.

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

14 Section 2. Subsections (14) and (16) of section
15 39.402, Florida Statutes, are amended to read:

16 39.402 Placement in a shelter.--

17 (14) The time limitations in this section do not
18 include:

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

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

29 1. Because of an unavailability of evidence material
30 to the case when the requesting party ~~attorney for the~~
31 ~~department~~ has exercised due diligence to obtain such evidence

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

8 2. To allow the attorney for the department additional
9 time to prepare the case and additional time is justified
10 because of an exceptional circumstance.

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

16 (d) Reasonable periods of delay resulting from a
17 continuance granted at the request of the parent or legal
18 custodian of a subject child.

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

30 (f) A party may not be granted more than 60 days in
31 continuances or extensions of time within any 12-month period

1 during dependency proceedings except under extraordinary
2 circumstances necessary to preserve the constitutional rights
3 of a party or when substantial evidence demonstrates that the
4 child's best interests will be affirmatively harmed without
5 the granting of a continuance or extension of time. Any
6 continuance or extension of time granted under this subsection
7 must be strictly limited to the number of days necessary under
8 the circumstances.

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

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

19 39.506 Arraignment hearings.--

20 (8) At the arraignment hearing, ~~and no more than every~~
21 ~~15 days thereafter until the child is returned home or a~~
22 ~~disposition hearing has been conducted,~~ the court shall review
23 the necessity for the child's continued placement in the
24 shelter. The court shall also make a written determination
25 regarding the child's continued placement in shelter within 24
26 hours after any violation of the time requirements for the
27 filing of a petition or prior to the court's granting any
28 continuance as specified in subsection (5).

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

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