

Bill No. CS for CS for SB 1080

Barcode 683190

	CHAMBER ACTION	
<u>Senate</u>		<u>House</u>

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3	Floor: 4/AD/2R
4	04/20/2006 12:11 PM
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11 Senator Campbell moved the following amendment:

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13 **Senate Amendment (with title amendment)**

14 On page 73, line 9, through

15 page 82, line 4, delete those lines

16

17 and insert:

18 (d) There are compelling reasons to show that

19 placement in another planned permanent living arrangement is

20 the most appropriate permanency goal. Compelling reasons for

21 such placement may include, but are not limited to:

22 1. The case of a parent and child who have a

23 significant bond but the parent is unable to care for the

24 child because of an emotional or physical disability, and the

25 child's foster parents have committed to raising him or her to

26 the age of majority and to facilitate visitation with the

27 disabled parent;

28 2. The case of a child for whom an Indian tribe has

29 identified another planned permanent living arrangement for

30 the child; or

31 3. The case of a foster child who is 16 years of age

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1 or older who chooses to remain in foster care, and the child's
2 foster parents are willing to care for the child until the
3 child reaches 18 years of age.

4 (2) The department and the guardian ad litem must
5 provide the court with a recommended list and description of
6 services needed by the child, such as independent living
7 services and medical, dental, educational, or psychological
8 referrals, and a recommended list and description of services
9 needed by his or her caregiver.

10 (3) The department shall continue to supervise the
11 planned permanent living arrangement until the court orders
12 otherwise. The court shall continue to review the placement at
13 least once every 6 months.

14 Section 23. Paragraph (a) of subsection (7), paragraph
15 (g) of subsection (8), and subsection (9) of section 39.701,
16 Florida Statutes, are amended, and paragraph (k) is added to
17 subsection (8) of that section, to read:

18 39.701 Judicial review.--

19 (7)(a) Before ~~Prior to~~ every judicial review hearing
20 or citizen review panel hearing, the social service agency
21 shall make an investigation and social study concerning all
22 pertinent details relating to the child and shall furnish to
23 the court or citizen review panel a written report that
24 includes, but is not limited to:

25 1. A description of the type of placement the child is
26 in at the time of the hearing, including the safety of the
27 child and the continuing necessity for and appropriateness of
28 the placement.

29 2. Documentation of the diligent efforts made by all
30 parties to the case plan to comply with each applicable
31 provision of the plan.

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1 3. The amount of fees assessed and collected during
2 the period of time being reported.

3 4. The services provided to the foster family or legal
4 custodian in an effort to address the needs of the child as
5 indicated in the case plan.

6 5. A statement that either:

7 a. The parent, though able to do so, did not comply
8 substantially with the ~~provisions of the~~ case plan, and the
9 agency recommendations;

10 b. The parent did substantially comply with the
11 ~~provisions of the~~ case plan; or

12 c. The parent has partially complied with the
13 ~~provisions of the~~ case plan, with a summary of additional
14 progress needed and the agency recommendations.

15 6. A statement from the foster parent or legal
16 custodian providing any material evidence concerning the
17 return of the child to the parent or parents.

18 7. A statement concerning the frequency, duration, and
19 results of the parent-child visitation, if any, and the agency
20 recommendations for an expansion or restriction of future
21 visitation.

22 8. The number of times a child has been removed from
23 his or her home and placed elsewhere, the number and types of
24 placements that have occurred, and the reason for the changes
25 in placement.

26 9. The number of times a child's educational placement
27 has been changed, the number and types of educational
28 placements which have occurred, and the reason for any change
29 in placement.

30 10. If the child has reached 13 years of age but is
31 not yet 18 years of age, the results of the preindependent

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1 living, life skills, or independent living assessment; the
2 specific services needed; and the status of the delivery of
3 the identified services.

4 11. Copies of all medical, psychological, and
5 educational records that support the terms of the case plan
6 and that have been produced concerning the ~~child~~, parents, or
7 any caregiver since the last judicial review hearing.

8 12. Copies of the child's current health, mental
9 health, and education records as identified in s. 39.6012.

10 (8) The court and any citizen review panel shall take
11 into consideration the information contained in the social
12 services study and investigation and all medical,
13 psychological, and educational records that support the terms
14 of the case plan; testimony by the social services agency, the
15 parent, the foster parent or legal custodian, the guardian ad
16 litem if one has been appointed for the child, and any other
17 person deemed appropriate; and any relevant and material
18 evidence submitted to the court, including written and oral
19 reports to the extent of their probative value. These reports
20 and evidence may be received by the court in its effort to
21 determine the action to be taken with regard to the child and
22 may be relied upon to the extent of their probative value,
23 even though not competent in an adjudicatory hearing. In its
24 deliberations, the court and any citizen review panel shall
25 seek to determine:

26 (g) Whether the child is receiving safe and proper
27 care according to s. 39.6012, including, but not limited to,
28 the appropriateness of the child's current placement,
29 including whether the child is in a setting that ~~which~~ is as
30 family-like and as close to the parent's home as possible,
31 consistent with the child's best interests and special needs,

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1 and including maintaining stability in the child's educational
2 placement.

3 (k) If amendments to the case plan are required.

4 Amendments to the case plan must be made under s. 39.6013.

5 (9)(a) Based upon the criteria set forth in subsection
6 (8) and the recommended order of the citizen review panel, if
7 any, the court shall determine whether or not the social
8 service agency shall initiate proceedings to have a child
9 declared a dependent child, return the child to the parent,
10 continue the child in out-of-home care for a specified period
11 of time, or initiate termination of parental rights
12 proceedings for subsequent placement in an adoptive home.

13 Amendments ~~Modifications~~ to the case plan must be prepared
14 ~~handled~~ as prescribed in s. 39.6013 ~~s. 39.601~~. If the court
15 finds that the prevention or reunification efforts of the
16 department will allow the child to remain safely at home or be
17 safely returned to the home, the court shall allow the child
18 to remain in or return to the home after making a specific
19 finding of fact that the reasons for the creation of the case
20 plan have been remedied to the extent that the child's safety,
21 well-being, and physical, mental, and emotional health will
22 not be endangered.

23 (b) The court shall return the child to the custody of
24 the parents at any time it determines that they have
25 substantially complied with the case plan, if the court is
26 satisfied that reunification will not be detrimental to the
27 child's safety, well-being, and physical, mental, and
28 emotional health.

29 (c) If, in the opinion of the court, the social
30 service agency has not complied with its obligations as
31 specified in the written case plan, the court may find the

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1 social service agency in contempt, shall order the social
 2 service agency to submit its plans for compliance with the
 3 agreement, and shall require the social service agency to show
 4 why the child could not safely be returned to the home of the
 5 parents.

6 ~~(d) The court may extend the time limitation of the~~
 7 ~~case plan, or may modify the terms of the plan, based upon~~
 8 ~~information provided by the social service agency, and the~~
 9 ~~guardian ad litem, if one has been appointed, the parent or~~
 10 ~~parents, and the foster parents or legal custodian, and any~~
 11 ~~other competent information on record demonstrating the need~~
 12 ~~for the amendment. If the court extends the time limitation of~~
 13 ~~the case plan, the court must make specific findings~~
 14 ~~concerning the frequency of past parent-child visitation, if~~
 15 ~~any, and the court may authorize the expansion or restriction~~
 16 ~~of future visitation. Modifications to the plan must be~~
 17 ~~handled as prescribed in s. 39.601. Any extension of a case~~
 18 ~~plan must comply with the time requirements and other~~
 19 ~~requirements specified by this chapter.~~

20 ~~(d)(e)~~ If, at any judicial review, the court finds
 21 that the parents have failed to substantially comply with the
 22 case plan to the degree that further reunification efforts are
 23 without merit and not in the best interest of the child, on
 24 its own motion, the court ~~it~~ may order ~~authorize~~ the filing of
 25 a petition for termination of parental rights, whether or not
 26 the time period as contained in the case plan for substantial
 27 compliance has expired ~~elapsed~~.

28 ~~(e)(f)~~ No later than 6 ~~12~~ months after the date that
 29 the child was placed in shelter care, the court shall conduct
 30 a judicial review hearing to review ~~plan for~~ the child's
 31 permanency goal as identified in the case plan. At the hearing

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1 the court shall make findings regarding the likelihood of the
2 child's reunification with the parent or legal custodian
3 within 12 months after the removal of the child from the home.
4 If, at this hearing, the court makes a written finding that it
5 is not likely that the child will be reunified with the parent
6 or legal custodian within 12 months after the child was
7 removed from the home, the department must file with the
8 court, and serve on all parties, a motion to amend the case
9 plan under s. 39.6013 and declare that it will use concurrent
10 planning for the case plan. The department must file the
11 motion no later than 10 business days after receiving the
12 written finding of the court. The department must attach the
13 proposed amended case plan to the motion. If concurrent
14 planning is already being used, the case plan must document
15 the efforts the department is taking to complete the
16 concurrent goal. ~~At this hearing, if the child is not returned~~
17 ~~to the physical custody of the parents, the case plan may be~~
18 ~~extended with the same goals only if the court finds that the~~
19 ~~situation of the child is so extraordinary that the plan~~
20 ~~should be extended. The case plan must document steps the~~
21 ~~department is taking to find an adoptive parent or other~~
22 ~~permanent living arrangement for the child.~~

23 (f)(g) The court may issue a protective order in
24 assistance, or as a condition, of any other order made under
25 this part. In addition to the requirements included in the
26 case plan, the protective order may set forth requirements
27 relating to reasonable conditions of behavior to be observed
28 for a specified period of time by a person or agency who is
29 before the court; and the ~~such~~ order may require any ~~such~~
30 person or agency to make periodic reports to the court
31 containing such information as the court in its discretion may

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1 prescribe.

2 Section 24. Section 39.8055, Florida Statutes, is
3 created to read:

4 39.8055 Requirement to file a petition to terminate
5 parental rights; exceptions.--

6 (1) The department shall file a petition to terminate
7 parental rights within 60 days after any of the following if:

8 (a) At the time of the 12-month judicial review
9 hearing, a child is not returned to the physical custody of
10 the parents;

11 (b) A petition for termination of parental rights has
12 not otherwise been filed, and the child has been in
13 out-of-home care under the responsibility of the state for 15
14 of the most recent 22 months, calculated on a cumulative
15 basis, but not including any trial home visits or time during
16 which the child was a runaway;

17 (c) A parent has been convicted of murder of the other
18 parent, manslaughter of the other parent, aiding or abetting
19 or conspiracy or solicitation to murder the other parent, or a
20 felony battery that resulted in serious bodily injury to the
21 child or to any other child of the parent; or

22 (d) A court determines that reasonable efforts to
23 reunify the child and parent are not required.

24 (2) Notwithstanding subsection (1), the department may
25 choose not to file or join in a petition to terminate the
26 parental rights of a parent if:

27 (a) The child is being cared for by a relative under
28 s. 39.6231; or

29 (b) The department has documented in the report to the
30 court a compelling reason for determining that filing such a
31 petition is not in the best interests of the child. Compelling

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1 reasons for not filing or joining a petition to terminate

2 parental rights may include, but are not limited to:

3 1. Adoption is not the appropriate permanency goal for
4 the child.

5 2. No grounds to file a petition to terminate parental
6 rights exist.

7 3. The child is an unaccompanied refugee minor as
8 defined in 45 C.F.R. 400.111.

9 4. There are international legal obligations or
10 compelling foreign-policy reasons that would preclude
11 terminating parental rights.

12 5. The department has not provided to the family,
13 consistent with the time period in the case plan, services
14 that the department deems necessary for the safe return of the
15 child to the home.

16 (3) Upon good cause shown by any party or on its own
17 motion, the court may review the decision by the department
18 that compelling reasons exist for not filing or joining a
19 petition for termination of parental rights.

20 (4) Upon good cause shown by any party or on its own
21 motion, the court may review the determination by the
22 department that compelling reasons exist for not filing a
23 petition for termination of parental rights.

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25

26 ===== T I T L E A M E N D M E N T =====

27 And the title is amended as follows:

28 On page 4, lines 19 through 24, delete those lines
29
30 and insert:

31 shelter care; creating s. 39.8055, F.S.;

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1 requiring the department to file a petition or
2 to join in a petition to terminate parental
3 rights within a specified number of days under
4 certain circumstances; providing exceptions;
5 providing examples of compelling reasons for
6 the department not to file or to join a
7 petition to terminate parental rights;
8 authorizing the court to review the decision by
9 the department for not filing or joining a
10 petition for termination of parental rights;
11 amending s. 39.806, F.S.;

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