

HB 1521

2006

1 A bill to be entitled
2 An act relating to children in out-of-home placements;
3 amending s. 39.522, F.S.; providing that a rebuttable
4 presumption arises to continue placement with the
5 custodian of a child in an out-of-home placement as in the
6 best interest of the child if the child has resided in the
7 same out-of-home placement for more than 1 year and the
8 custodian is eligible to be the permanent custodian;
9 providing that the presumption is not rebutted solely by
10 the expressed wishes of a parent or by placing the child
11 with a person who is biologically related to the child but
12 who is not living with a parent; amending s. 63.082, F.S.;
13 conforming provisions to changes made by the act; amending
14 s. 120.80, F.S.; requiring that an administrative hearing
15 be conducted by an administrative law judge assigned by
16 the Division of Administrative Hearings in cases involving
17 children with developmental disabilities who are in the
18 custody of the department and placed in out-of-home care
19 who apply for, are denied, or receive reduced
20 developmental disability services under ch. 393, F.S.;
21 providing an effective date.

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

24
25 Section 1. Section 39.522, Florida Statutes, is amended to
26 read:

27 39.522 Postdisposition change of custody.--The court may
28 change the temporary legal custody or the conditions of

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29 protective supervision at a postdisposition hearing, without the
30 necessity of another adjudicatory hearing.

31 (1) A child who has been placed in the child's own home
32 under the protective supervision of an authorized agent of the
33 department, in the home of a relative, in the home of a legal
34 custodian, or in some other place, including a foster home, may
35 be brought before the court by the department or by any other
36 interested person, upon the filing of a petition alleging a need
37 for a change in the conditions of protective supervision or the
38 placement. If the parents, ~~or other legal custodians,~~ or
39 guardian denies deny the need for a change, the court shall hear
40 all parties, the custodian, and the interested persons in person
41 or by counsel, or both. Upon the admission of a need for a
42 change or after the ~~such~~ hearing, the court shall enter an order
43 changing the placement, modifying the conditions of protective
44 supervision, or continuing the conditions of protective
45 supervision as ordered. The standard for changing custody of the
46 child shall be the best interest of the child. If a child has
47 resided in the same out-of-home placement for more than 1 year
48 and the custodian of the child in that out-of-home placement
49 requests and is eligible for consideration as a permanent
50 custodian for the child, a rebuttable presumption arises that
51 continuing the out-of-home placement is in the best interest of
52 the child. This presumption may not be rebutted solely by the
53 expressed wishes of a parent or by placing the child with a
54 person who is biologically related to the child but who is not
55 living with a parent. If the child is not placed in foster care,
56 ~~then~~ the new placement for the child must meet the home study

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57 criteria and court approval pursuant to this chapter.

58 (2) In cases where the issue before the court is whether a
59 child should be reunited with a parent, the court shall
60 determine whether the parent has substantially complied with the
61 terms of the case plan to the extent that the safety, well-
62 being, and physical, mental, and emotional health of the child
63 is not endangered by the return of the child to the home.

64 Section 2. Paragraph (d) of subsection (6) of section
65 63.082, Florida Statutes, is amended to read:

66 63.082 Execution of consent to adoption or affidavit of
67 nonpaternity; family social and medical history; withdrawal of
68 consent.--

69 (6)

70 (d) Subject to s. 39.522(1), when ~~In~~ determining whether
71 the best interest of the child will be served by transferring
72 the custody of the minor child to the prospective adoptive
73 parent selected by the birth parent, the court shall give
74 consideration to the rights of the birth parent to determine an
75 appropriate placement for the child, the permanency offered, the
76 child's bonding with any potential adoptive home that the child
77 has been residing in, and the importance of maintaining sibling
78 relationships, if possible.

79 Section 3. Subsection (18) is added to section 120.80,
80 Florida Statutes, to read:

81 120.80 Exceptions and special requirements; agencies.--

82 (18) AGENCY FOR PERSONS WITH

83 DISABILITIES.--Notwithstanding subsection (7), hearings shall be
84 conducted by an administrative law judge assigned by the

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85 division in cases involving children with developmental
86 disabilities who are in the custody of the department and placed
87 in out-of-home care who apply for, are denied, or receive
88 reduced developmental disability services under chapter 393.

89 Section 4. This act shall take effect July 1, 2006.