

CHAMBER ACTION

1 The Civil Justice Committee recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to children in out-of-home placements;
7 amending s. 39.402, F.S.; providing that a court must be
8 provided with a name and location of an individual who
9 might be considered for placement of a child; amending s.
10 39.521, F.S.; deleting a requirement to use diligent
11 efforts to locate an adult relative to care for a child;
12 amending s. 39.522, F.S.; providing a standard for
13 changing the custody of a child; providing for an
14 evidentiary hearing when there is an objection to the
15 placement of a child; providing factors a court must
16 consider in determining a change of placement to any
17 person other than a parent; amending s. 63.082, F.S.;
18 providing for consideration of certain factors in
19 determining whether the best interest of the child will be
20 served by transferring custody of the child when the child
21 has resided in the same out-of-home placement for more
22 than 1 year; amending s. 120.80, F.S.; requiring that an
23 administrative hearing be conducted by an administrative

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24 law judge assigned by the Division of Administrative
25 Hearings in cases involving children with developmental
26 disabilities under certain circumstances; providing an
27 effective date.

28
29 Be It Enacted by the Legislature of the State of Florida:

30
31 Section 1. Subsection (17) is added to section 39.402,
32 Florida Statutes, to read:

33 39.402 Placement in a shelter.--

34 (17) The court shall inquire of the parent as to whether
35 the child has any relatives who might be considered as a
36 placement. The parent shall provide the name and location
37 information of any such relative or other adult who might be
38 considered a placement to the court and all parties. The court
39 shall advise the parent that if the parent knows of any relative
40 or other adult who wishes to be considered as a placement, the
41 parent must notify the court and assist the department in
42 locating the relative or other adult.

43 Section 2. Paragraph (d) of subsection (1) of section
44 39.521, Florida Statutes, is amended to read:

45 39.521 Disposition hearings; powers of disposition.--

46 (1) A disposition hearing shall be conducted by the court,
47 if the court finds that the facts alleged in the petition for
48 dependency were proven in the adjudicatory hearing, or if the
49 parents or legal custodians have consented to the finding of
50 dependency or admitted the allegations in the petition, have
51 failed to appear for the arraignment hearing after proper

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52 | notice, or have not been located despite a diligent search
53 | having been conducted.

54 | (d) The court shall, in its written order of disposition,
55 | include all of the following:

56 | 1. The placement or custody of the child.

57 | 2. Special conditions of placement and visitation.

58 | 3. Evaluation, counseling, treatment activities, and other
59 | actions to be taken by the parties, if ordered.

60 | 4. The persons or entities responsible for supervising or
61 | monitoring services to the child and parent.

62 | 5. Continuation or discharge of the guardian ad litem, as
63 | appropriate.

64 | 6. The date, time, and location of the next scheduled
65 | review hearing, which must occur within the earlier of:

66 | a. Ninety days after the disposition hearing;

67 | b. Ninety days after the court accepts the case plan;

68 | c. Six months after the date of the last review hearing;

69 | or

70 | d. Six months after the date of the child's removal from
71 | his or her home, if no review hearing has been held since the
72 | child's removal from the home.

73 | 7. If the child is in an out-of-home placement, child
74 | support to be paid by the parents, or the guardian of the
75 | child's estate if possessed of assets which under law may be
76 | disbursed for the care, support, and maintenance of the child.

77 | The court may exercise jurisdiction over all child support
78 | matters, shall adjudicate the financial obligation, including
79 | health insurance, of the child's parents or guardian, and shall

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80 enforce the financial obligation as provided in chapter 61. The
81 state's child support enforcement agency shall enforce child
82 support orders under this section in the same manner as child
83 support orders under chapter 61. Placement of the child shall
84 not be contingent upon issuance of a support order.

85 8.a. If the court does not commit the child to the
86 temporary legal custody of an adult relative, legal custodian,
87 or other adult approved by the court, the disposition order
88 shall include the reasons for such a decision and shall include
89 a determination as to whether diligent efforts were made by the
90 department to locate an adult relative, legal custodian, or
91 other adult willing to care for the child in order to present
92 that placement option to the court instead of placement with the
93 department.

94 b. If ~~diligent efforts are made to locate an adult~~
95 ~~relative willing and able to care for the child but, because no~~
96 suitable relative is found and, the child is placed with the
97 department or a legal custodian ~~or other adult~~ approved by the
98 court, both the department and the court shall consider
99 transferring temporary legal custody to an adult relative
100 approved by the court at a later date, but ~~neither~~ the
101 department and ~~nor~~ the court may not ~~is obligated to~~ so place
102 the child if it is in the child's best interest to remain in the
103 current placement.

104
105 For the purposes of this subparagraph, "diligent efforts to
106 locate an adult relative" means a search similar to the diligent

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107 search for a parent, but without the continuing obligation to
108 search after an initial adequate search is completed.

109 9. Other requirements necessary to protect the health,
110 safety, and well-being of the child, to preserve the stability
111 of the child's educational placement, and to promote family
112 preservation or reunification whenever possible.

113 Section 3. Section 39.522, Florida Statutes, is amended to
114 read:

115 39.522 Postdisposition change of custody.--The court may
116 change the temporary legal custody or the conditions of
117 protective supervision at a postdisposition hearing, without the
118 necessity of another adjudicatory hearing. The standard for
119 changing the custody of the child shall be the best interest of
120 the child.

121 (1) (a) A child who has been placed in the child's own home
122 under the protective supervision of an authorized agent of the
123 department, in the home of a relative, in the home of a legal
124 custodian, or in some other place, including a foster home, may
125 be brought before the court by the department or by any other
126 interested person, upon the filing of a petition alleging a need
127 for a change in the conditions of protective supervision or the
128 placement.

129 (b) If any party or the actual custodian of the child
130 objects to a change in placement ~~If the parents or other legal~~
131 ~~eustodians deny the need for a change~~, the court shall conduct
132 an evidentiary hearing and hear all parties and the actual
133 custodian in person or by counsel, or both.

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134 (c) When the proposed change of placement is to any person
135 other than a parent, the decision may not be based solely on the
136 existence of a biological or prospective adoptive relationship
137 with a placement or on the expressed wishes of a parent,
138 caregiver, or relative. The court's best interest determination
139 shall be based on evidence admitted at the hearing and shall
140 include an evaluation of, and entry of findings as to, all
141 factors affecting the welfare of the child, including but not
142 limited to:

143 1. The ability of the current and proposed custodians to
144 provide for the safety, well-being, and physical, mental, and
145 emotional health of the child.

146 2. The love, affection, and other emotional ties existing
147 between the child and the current and proposed custodians.

148 3. The length of time the child has lived in a stable,
149 satisfactory environment and the desirability of maintaining
150 continuity.

151 4. The preference of the child, if the court deems the
152 child to be of sufficient intelligence, understanding, and
153 experience to express a preference.

154 (2) Upon the admission of a need for a change or after the
155 such hearing, the court shall enter an order changing the
156 placement, modifying the conditions of protective supervision,
157 or continuing the conditions of protective supervision as
158 ordered. ~~The standard for changing custody of the child shall be~~
159 ~~the best interest of the child.~~ If the child is not placed in
160 foster care, ~~then~~ the new placement for the child must meet the
161 home study criteria and court approval pursuant to this chapter.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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162 ~~(3)(2)~~ In cases where the issue before the court is
 163 whether a child should be reunited with a parent, the court
 164 shall determine whether the parent has substantially complied
 165 with the terms of the case plan to the extent that the safety,
 166 well-being, and physical, mental, and emotional health of the
 167 child is not endangered by the return of the child to the home.

168 Section 4. Paragraph (d) of subsection (6) of section
 169 63.082, Florida Statutes, is amended to read:

170 63.082 Execution of consent to adoption or affidavit of
 171 nonpaternity; family social and medical history; withdrawal of
 172 consent.--

173 (6)

174 (d) Subject to consideration of the factors listed in s.
 175 39.522(1), when any child has resided in the same out-of-home
 176 placement for more than 1 year prior to the filing of a motion
 177 under this subsection, in determining whether the best interest
 178 of the child will be served by transferring the custody of the
 179 minor child to the prospective adoptive parent selected by the
 180 birth parent, the court shall give consideration to the rights
 181 of the birth parent to determine an appropriate placement for
 182 the child, the permanency offered, the child's bonding with any
 183 potential adoptive home that the child has been residing in, and
 184 the importance of maintaining sibling relationships, if
 185 possible.

186 Section 5. Subsection (18) is added to section 120.80,
 187 Florida Statutes, to read:

188 120.80 Exceptions and special requirements; agencies.--

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189 (18) AGENCY FOR PERSONS WITH
190 DISABILITIES.--Notwithstanding subsection (7), hearings shall be
191 conducted by an administrative law judge assigned by the
192 division in cases involving children with developmental
193 disabilities who are in the custody of the department and placed
194 in out-of-home care who apply for, are denied, or receive
195 reduced developmental disability services under chapter 393.

196 Section 6. This act shall take effect July 1, 2006.