

By Senator Rich

34-1132A-06

1 A bill to be entitled
2 An act relating to children in out-of-home
3 placements; amending s. 39.522, F.S.; providing
4 that a rebuttable presumption arises to
5 continue placement with the custodian of a
6 child in an out-of-home placement as in the
7 best interest of the child if the child has
8 resided in the same out-of-home placement for
9 more than 1 year and the custodian is eligible
10 to be the permanent custodian; providing that
11 the presumption is not rebutted solely by the
12 expressed wishes of a parent or by placing the
13 child with a person who is biologically related
14 to the child but who is not living with a
15 parent; amending s. 63.082, F.S.; conforming
16 provisions to changes made by the act; amending
17 s. 120.80, F.S.; requiring that an
18 administrative hearing be conducted by an
19 administrative law judge assigned by the
20 Division of Administrative Hearings in cases
21 involving children with developmental
22 disabilities who are in the custody of the
23 department and placed in out-of-home care who
24 apply for, are denied, or receive reduced
25 developmental disability services under ch.
26 393, F.S.; providing an effective date.

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

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30 Section 1. Section 39.522, Florida Statutes, is
31 amended to read:

1 39.522 Postdisposition change of custody.--The court
2 may change the temporary legal custody or the conditions of
3 protective supervision at a postdisposition hearing, without
4 the necessity of another adjudicatory hearing.

5 (1) A child who has been placed in the child's own
6 home under the protective supervision of an authorized agent
7 of the department, in the home of a relative, in the home of a
8 legal custodian, or in some other place, including a foster
9 home, may be brought before the court by the department or by
10 any other interested person, upon the filing of a petition
11 alleging a need for a change in the conditions of protective
12 supervision or the placement. If the parents, ~~or other legal~~
13 custodians, or guardian denies deny the need for a change, the
14 court shall hear all parties, the custodian, and the
15 interested persons in person or by counsel, or both. Upon the
16 admission of a need for a change or after the such hearing,
17 the court shall enter an order changing the placement,
18 modifying the conditions of protective supervision, or
19 continuing the conditions of protective supervision as
20 ordered. The standard for changing custody of the child shall
21 be the best interest of the child. If a child has resided in
22 the same out-of-home placement for more than 1 year and the
23 custodian of the child in that out-of-home placement requests
24 and is eligible for consideration as a permanent custodian for
25 the child, a rebuttable presumption arises that continuing the
26 out-of-home placement is in the best interest of the child.
27 This presumption may not be rebutted solely by the expressed
28 wishes of a parent or by placing the child with a person who
29 is biologically related to the child but who is not living
30 with a parent. If the child is not placed in foster care, ~~then~~

1 the new placement for the child must meet the home study
2 criteria and court approval pursuant to this chapter.

3 (2) In cases where the issue before the court is
4 whether a child should be reunited with a parent, the court
5 shall determine whether the parent has substantially complied
6 with the terms of the case plan to the extent that the safety,
7 well-being, and physical, mental, and emotional health of the
8 child is not endangered by the return of the child to the
9 home.

10 Section 2. Paragraph (d) of subsection (6) of section
11 63.082, Florida Statutes, is amended to read:

12 63.082 Execution of consent to adoption or affidavit
13 of nonpaternity; family social and medical history; withdrawal
14 of consent.--

15 (6)

16 (d) Subject to s. 39.522(1), when ~~in~~ determining
17 whether the best interest of the child will be served by
18 transferring the custody of the minor child to the prospective
19 adoptive parent selected by the birth parent, the court shall
20 give consideration to the rights of the birth parent to
21 determine an appropriate placement for the child, the
22 permanency offered, the child's bonding with any potential
23 adoptive home that the child has been residing in, and the
24 importance of maintaining sibling relationships, if possible.

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

27 120.80 Exceptions and special requirements;
28 agencies.--

29 (18) AGENCY FOR PERSONS WITH
30 DISABILITIES.--Notwithstanding s. 120.80(7), hearings shall be
31 conducted by an administrative law judge assigned by the

1 division in cases involving children with developmental
2 disabilities who are in the custody of the department and
3 placed in out-of-home care who apply for, are denied, or
4 receive reduced developmental disability services under
5 chapter 393.

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

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9 SENATE SUMMARY

10 Provides that a rebuttable presumption arises to continue
11 placement with the custodian in an out-of-home placement
12 custodian as in the best interest of the child if the
13 child has resided in the same out-of-home placement for
14 more than 1 year and the custodian is eligible to be the
15 permanent custodian. Provides that the presumption is not
16 rebutted solely by the expressed wishes of the parent or
17 by placing the child with a person who is biologically
18 related to the child but who is not living with a parent.
19 Requires that an administrative hearing within the
20 Department of Children and Family Services be conducted
21 by an administrative law judge assigned by the Division
22 of Administrative Hearings in cases involving children
23 with developmental disabilities who are in the custody of
24 the department and placed in out-of-home care who apply
25 for, are denied, or receive reduced developmental
26 disability services.
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