

1                                   A bill to be entitled  
 2           An act relating to termination of parental rights;  
 3           amending s. 39.806, F.S.; revising provisions providing  
 4           for termination of parental rights based on a parent's  
 5           incarceration; revising language concerning the  
 6           consideration of a parent's failure to substantially  
 7           comply with a case plan as evidence of continuing abuse,  
 8           neglect, or abandonment in certain circumstances;  
 9           providing an effective date.

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

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13           Section 1. Paragraphs (d) and (e) of subsection (1) of  
 14 section 39.806, Florida Statutes, are amended to read:

15           39.806 Grounds for termination of parental rights.--

16           (1) Grounds for the termination of parental rights may be  
 17 established under any of the following circumstances:

18           (d) When the parent of a child is incarcerated in a  
 19 federal, state, or county ~~federal~~ correctional institution or  
 20 facility and either:

21           1. The total period of the parent's incarceration is  
 22 significant to the child, considering the child's age and the  
 23 child's need for a permanent stable home. The court shall  
 24 calculate the total period of incarceration beginning on the  
 25 date the parent enters any federal, state, or county  
 26 correctional institution or facility ~~The period of time for~~  
 27 ~~which the parent is expected to be incarcerated will constitute~~

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28 ~~a substantial portion of the period of time before the child~~  
29 ~~will attain the age of 18 years;~~

30 2. The incarcerated parent has been determined by a ~~the~~  
31 court of competent jurisdiction to be a violent career criminal  
32 as defined in s. 775.084, a habitual violent felony offender as  
33 defined in s. 775.084, or a sexual predator as defined in s.  
34 775.21; has been convicted of first degree or second degree  
35 murder in violation of s. 782.04 or a sexual battery that  
36 constitutes a capital, life, or first degree felony violation of  
37 s. 794.011; or has been convicted of an offense in another  
38 jurisdiction which is substantially similar to one of the  
39 offenses listed in this paragraph. As used in this section, the  
40 term "substantially similar offense" means any offense that is  
41 substantially similar in elements and penalties to one of those  
42 listed in this subparagraph, and that is in violation of a law  
43 of any other jurisdiction, whether that of another state, the  
44 District of Columbia, the United States or any possession or  
45 territory thereof, or any foreign jurisdiction; or

46 3. The court determines by clear and convincing evidence  
47 that continuing the parental relationship with the incarcerated  
48 parent would be harmful to the child and, for this reason, that  
49 termination of the parental rights of the incarcerated parent is  
50 in the best interest of the child.

51 (e) When a child has been adjudicated dependent, a case  
52 plan has been filed with the court, and:

53 1. The child continues to be abused, neglected, or  
54 abandoned by the parents. If 12 months pass from the ~~In this~~  
55 ~~case, the failure of the parents to substantially comply for a~~

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56 ~~period of 12 months after an~~ adjudication of the child as a  
57 dependent child or the child's placement into shelter care,  
58 whichever ~~comes~~ came first, the court shall consider the  
59 parent's failure to substantially comply with the case plan as  
60 ~~constitutes~~ evidence of continuing abuse, neglect, or  
61 abandonment unless the failure to substantially comply with the  
62 case plan was due either to the lack of financial resources of  
63 the parents or to the failure of the department to make  
64 reasonable efforts to reunify the parent and child. ~~The 12 month~~  
65 ~~period begins to run only after the child's placement into~~  
66 ~~shelter care or the entry of a disposition order placing the~~  
67 ~~custody of the child with the department or a person other than~~  
68 ~~the parent and the approval by the court of a case plan with a~~  
69 ~~goal of reunification with the parent, whichever came first; or~~  
70 2. The parent has materially breached the case plan by  
71 making it unlikely that he or she will be able to substantially  
72 comply with the case plan before the time for compliance  
73 expires. Time is of the essence for permanency of children in  
74 the dependency system. In order to prove the parent has  
75 materially breached the case plan, the court must find by clear  
76 and convincing evidence that the parent is unlikely or unable to  
77 substantially comply with the case plan before time expires to  
78 comply with the case plan.

79 Section 2. This act shall take effect July 1, 2008.