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CHAMBER ACTION

Senate

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House

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1 The Committee on Judiciary (Fasano) recommended the following
2 **amendment:**

3
4 **Senate Amendment (with title amendments)**

5 Between line(s) 86-87,
6 insert:

7 Section 5. Paragraph (h) of subsection (8) of section
8 39.402, Florida Statutes, is amended to read:

9 39.402 Placement in a shelter.--

10 (8)

11 (h) The order for placement of a child in shelter care must
12 identify the parties present at the hearing and must contain
13 written findings:

14 1. That placement in shelter care is necessary based on the
15 criteria in subsections (1) and (2).

16 2. That placement in shelter care is in the best interest
17 of the child.



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18 3. That continuation of the child in the home is contrary
19 to the welfare of the child because the home situation presents a
20 substantial and immediate danger to the child's physical, mental,
21 or emotional health or safety which cannot be mitigated by the
22 provision of preventive services.

23 4. That based upon the allegations of the petition for
24 placement in shelter care, there is probable cause to believe
25 that the child is dependent or that the court needs additional
26 time, which may not exceed 72 hours, in which to obtain and
27 review documents pertaining to the family in order to
28 appropriately determine the risk to the child.

29 5. That the department has made reasonable efforts to
30 prevent or eliminate the need for removal of the child from the
31 home. A finding of reasonable effort by the department to prevent
32 or eliminate the need for removal may be made and the department
33 is deemed to have made reasonable efforts to prevent or eliminate
34 the need for removal if:

35 a. The first contact of the department with the family
36 occurs during an emergency;

37 b. The appraisal of the home situation by the department
38 indicates that the home situation presents a substantial and
39 immediate danger to the child's physical, mental, or emotional
40 health or safety which cannot be mitigated by the provision of
41 preventive services;

42 c. The child cannot safely remain at home, either because
43 there are no preventive services that can ensure the health and
44 safety of the child or because, even with appropriate and
45 available services being provided, the health and safety of the
46 child cannot be ensured; or



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47 | d. The parent or legal custodian is alleged to have
48 | committed any of the acts listed as grounds for expedited
49 | termination of parental rights in s. 39.806(1) (f)-(j)~~(f)-(i)~~.

50 | 6. That the court notified the parents or legal custodians
51 | of the time, date, and location of the next dependency hearing
52 | and of the importance of the active participation of the parents
53 | or legal custodians in all proceedings and hearings.

54 | 7. That the court notified the parents or legal custodians
55 | of their right to counsel to represent them at the shelter
56 | hearing and at each subsequent hearing or proceeding, and the
57 | right of the parents to appointed counsel, pursuant to the
58 | procedures set forth in s. 39.013.

59 | Section 6. Paragraph (f) of subsection (1) of section
60 | 39.521, Florida Statutes, is amended to read:

61 | 39.521 Disposition hearings; powers of disposition.--

62 | (1) A disposition hearing shall be conducted by the court,
63 | if the court finds that the facts alleged in the petition for
64 | dependency were proven in the adjudicatory hearing, or if the
65 | parents or legal custodians have consented to the finding of
66 | dependency or admitted the allegations in the petition, have
67 | failed to appear for the arraignment hearing after proper notice,
68 | or have not been located despite a diligent search having been
69 | conducted.

70 | (f) If the court places the child in an out-of-home
71 | placement, the disposition order must include a written
72 | determination that the child cannot safely remain at home with
73 | reunification or family preservation services and that removal of
74 | the child is necessary to protect the child. If the child has
75 | been removed before the disposition hearing, the order must also
76 | include a written determination as to whether, after removal, the



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77 | department has made a reasonable effort to reunify the parent and
78 | child, if reasonable efforts are required. Reasonable efforts to
79 | reunify are not required if the court has found that any of the
80 | acts listed in s. 39.806(1) (f)-(j)~~(f)-(i)~~ have occurred. The
81 | department has the burden of demonstrating that it has made
82 | reasonable efforts under this paragraph.

83 | 1. For the purposes of this paragraph, the term "reasonable
84 | effort" means the exercise of reasonable diligence and care by
85 | the department to provide the services ordered by the court or
86 | delineated in the case plan.

87 | 2. In support of its determination as to whether reasonable
88 | efforts have been made, the court shall:

89 | a. Enter written findings as to whether or not prevention
90 | or reunification efforts were indicated.

91 | b. If prevention or reunification efforts were indicated,
92 | include a brief written description of what appropriate and
93 | available prevention and reunification efforts were made.

94 | c. Indicate in writing why further efforts could or could
95 | not have prevented or shortened the separation of the parent and
96 | child.

97 | 3. A court may find that the department has made a
98 | reasonable effort to prevent or eliminate the need for removal
99 | if:

100 | a. The first contact of the department with the family
101 | occurs during an emergency;

102 | b. The appraisal by the department of the home situation
103 | indicates that it presents a substantial and immediate danger to
104 | the child's safety or physical, mental, or emotional health which
105 | cannot be mitigated by the provision of preventive services;



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106 c. The child cannot safely remain at home, either because
107 there are no preventive services that can ensure the health and
108 safety of the child or, even with appropriate and available
109 services being provided, the health and safety of the child
110 cannot be ensured; or

111 d. The parent is alleged to have committed any of the acts
112 listed as grounds for expedited termination of parental rights in
113 s. 39.806(1) (f)-(j) ~~(f)-(i)~~.

114 4. A reasonable effort by the department for reunification
115 of the parent and child has been made if the appraisal of the
116 home situation by the department indicates that the severity of
117 the conditions of dependency is such that reunification efforts
118 are inappropriate. The department has the burden of demonstrating
119 to the court that reunification efforts were inappropriate.

120 5. If the court finds that the prevention or reunification
121 effort of the department would not have permitted the child to
122 remain safely at home, the court may commit the child to the
123 temporary legal custody of the department or take any other
124 action authorized by this chapter.

125
126 (Redesignate subsequent sections)

127
128 ===== T I T L E A M E N D M E N T =====

129 And the title is amended as follows:

130 On line 10, after the semicolon
131 insert:

132 amending ss. 39.402 and 39.521, F.S.; conforming cross-
133 references;