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CHAMBER ACTION

Senate

House

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Floor: 1b/RE/2R
4/23/2008 10:07 PM

1 Senator Storms moved the following **amendment to amendment**
2 **(784706)** :

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

5 Delete line(s) 514-886
6 and insert:

7
8 (5) Judicial review and approval is required within 24
9 hours after placement for all nonrelative placements. A
10 nonrelative placement must be for a specific and predetermined
11 period of time, not to exceed 12 months, and shall be reviewed by
12 the court at least every 6 months. If the nonrelative placement
13 continues for longer than 12 months, the department shall request
14 the court to establish permanent guardianship or require that the
15 nonrelative seek licensure as a foster care provider within 30
16 days after the court decision. Failure to establish permanent
17 guardianship or obtain licensure does not require the court to



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18 | change a child's placement unless it is in the best interest of
19 | the child to do so.

20 | Section 9. Subsection (17) of section 39.502, Florida
21 | Statutes, is amended to read:

22 | 39.502 Notice, process, and service.--

23 | (17) The parent or legal custodian of the child, the
24 | attorney for the department, the guardian ad litem, the foster or
25 | preadoptive parents, and all other parties and participants shall
26 | be given reasonable notice of all proceedings and hearings
27 | provided for under this part. All foster or preadoptive parents
28 | must be provided with at least 72 hours' notice, verbally or in
29 | writing, of all proceedings or hearings relating to children in
30 | their care or children they are seeking to adopt to ensure the
31 | ability to provide input to the court.

32 | Section 10. Subsection (6) of section 39.503, Florida
33 | Statutes, is amended to read:

34 | 39.503 Identity or location of parent unknown; special
35 | procedures.--

36 | (6) The diligent search required by subsection (5) must
37 | include, at a minimum, inquiries of all relatives of the parent
38 | or prospective parent made known to the petitioner, inquiries of
39 | all offices of program areas of the department likely to have
40 | information about the parent or prospective parent, inquiries of
41 | other state and federal agencies likely to have information about
42 | the parent or prospective parent, inquiries of appropriate
43 | utility and postal providers, a thorough search of at least one
44 | electronic database specifically designed for locating persons,
45 | and inquiries of appropriate law enforcement agencies. Pursuant
46 | to s. 453 of the Social Security Act, 42 U.S.C. s. 653(c)(4), the
47 | department, as the state agency administering Titles IV-B and IV-



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48 E of the act, shall be provided access to the federal and state
49 parent locator service for diligent search activities.

50 Section 11. Section 39.504, Florida Statutes, is amended to
51 read:

52 39.504 Injunction pending disposition of petition;
53 penalty.--

54 (1) ~~(a)~~ At any time after a protective investigation has
55 been initiated pursuant to part III of this chapter ~~When a~~
56 ~~petition for shelter placement or a petition for dependency has~~
57 ~~been filed or when a child has been taken into custody and~~
58 ~~reasonable cause, as defined in paragraph (b), exists,~~ the court,
59 upon the request of the department, a law enforcement officer,
60 the state attorney, or other responsible person, or upon its own
61 motion, may, if there is reasonable cause, ~~shall have the~~
62 ~~authority to~~ issue an injunction to prevent any act of child
63 abuse ~~or any unlawful sexual offense involving a child.~~

64 ~~(b)~~ Reasonable cause for the issuance of an injunction
65 exists if there is evidence of child abuse ~~or an unlawful sexual~~
66 ~~offense involving a child~~ or if there is a reasonable likelihood
67 of such abuse ~~or offense~~ occurring based upon a recent overt act
68 or failure to act.

69 (2) Notice shall be provided to the parties as set forth in
70 the Florida Rules of Juvenile Procedure, unless the child is
71 reported to be in imminent danger, in which case the court may
72 issue an injunction immediately. A judge may issue an emergency
73 injunction pursuant to this section without notice if at times
74 ~~when~~ the court is closed for the transaction of judicial
75 business. If ~~When such~~ an immediate injunction is issued, the
76 court must ~~shall~~ hold a hearing on the next day of judicial
77 business ~~either~~ to dissolve the injunction or to continue or



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78 modify it in accordance with ~~the other provisions of this~~
79 section.

80 (3) ~~(a)~~ If in every instance in which an injunction is
81 issued under this section, the primary purpose of the injunction
82 must be ~~shall be primarily~~ to protect and promote the best
83 interests of the child, taking the preservation of the child's
84 immediate family into consideration. ~~The effective period of the~~
85 ~~injunction shall be determined by the court, except that the~~
86 ~~injunction will expire at the time of the disposition of the~~
87 ~~petition for shelter placement or dependency.~~

88 ~~(a)(b)~~ The injunction shall apply to the alleged or actual
89 offender in a case of child abuse or acts of domestic violence ~~an~~
90 ~~unlawful sexual offense involving a child~~. The conditions of the
91 injunction shall be determined by the court, which conditions may
92 include ordering the alleged or actual offender to:

93 1. Refrain from further abuse or acts of domestic violence
94 ~~unlawful sexual activity involving a child~~.

95 2. Participate in a specialized treatment program.

96 3. Limit contact or communication with the child victim,
97 other children in the home, or any other child.

98 4. Refrain from contacting the child at home, school, work,
99 or wherever the child may be found.

100 5. Have limited or supervised visitation with the child.

101 6. Pay temporary support for the child or other family
102 members; the costs of medical, psychiatric, and psychological
103 treatment for the child ~~victim~~ incurred as a result of the
104 offenses; and similar costs for other family members.

105 7. Vacate the home in which the child resides.

106 ~~(b)(e)~~ If the intent of the injunction is to protect the
107 child from domestic violence, the conditions may also include:



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108 1. Awarding the exclusive use and possession of the
109 dwelling to the caregiver or excluding the alleged or actual
110 offender from the residence of the caregiver.

111 2. Awarding temporary custody of the child to the
112 caregiver.

113 3. Establishing temporary support for the child. ~~At any~~
114 ~~time prior to the disposition of the petition, the alleged or~~
115 ~~actual offender may offer the court evidence of changed~~
116 ~~circumstances as a ground to dissolve or modify the injunction.~~

117
118 This paragraph does not preclude the adult victim of domestic
119 violence from seeking protection under s. 741.30.

120 (c) The terms of the injunction shall remain in effect
121 until modified or dissolved by the court. The petitioner,
122 respondent, or caregiver may move at any time to modify or
123 dissolve the injunction. The injunction is valid and enforceable
124 in all counties in the state.

125 (4) Service of process on the respondent shall be carried
126 out pursuant to s. 741.30. The department shall deliver a copy of
127 any injunction issued pursuant to this section ~~shall be delivered~~
128 to the protected party, ~~or to a parent, or~~ caregiver, or
129 individual acting in the place of a parent who is not the
130 respondent, ~~and to any law enforcement agency having jurisdiction~~
131 ~~to enforce such injunction. Law enforcement officers may exercise~~
132 ~~their arrest powers as provided in s. 901.15(6) to enforce the~~
133 ~~terms of the injunction. Upon delivery of the injunction to the~~
134 ~~appropriate law enforcement agency, the agency shall have the~~
135 ~~duty and responsibility to enforce the injunction.~~

136 (5) Any person who fails to comply with an injunction
137 issued pursuant to this section commits ~~is guilty of~~ a



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138 misdemeanor of the first degree, punishable as provided in s.
139 775.082 or s. 775.083.

140 Section 12. Subsection (7) of section 39.507, Florida
141 Statutes, is amended to read:

142 39.507 Adjudicatory hearings; orders of adjudication.--

143 (7)(a) For as long as a court maintains jurisdiction over a
144 dependency case, only one order adjudicating each child in the
145 case dependent shall be entered. This order establishes the legal
146 status of the child for purposes of proceedings under this
147 chapter and may be based on the conduct of one parent, both
148 parents, or a legal custodian.

149 (b) However, the court must determine whether each parent
150 or legal custodian identified in the case abused, abandoned, or
151 neglected the child in a subsequent evidentiary hearing. If the
152 evidentiary hearing is conducted subsequent to the adjudication
153 of the child, the court shall supplement the adjudicatory order,
154 disposition order, and the case plan, as necessary. With the
155 exception of proceedings pursuant to s. 39.811, the child's
156 dependency status may not be retried or readjudicated.

157 (c) If a court adjudicates a child dependent and the child
158 is in out-of-home care, the court shall inquire of the parent or
159 parents whether the parents have relatives who might be
160 considered as a placement for the child. The court shall advise
161 the parents that, if the parents fail to substantially comply
162 with the case plan, their parental rights may be terminated and
163 that the child's out-of-home placement may become permanent. The
164 parent or parents shall provide to the court and all parties
165 identification and location information of the relatives.



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166 Section 13. Paragraphs (a) and (f) of subsection (1) and
167 paragraph (c) of subsection (3) of section 39.521, Florida
168 Statutes, are amended to read:

169 39.521 Disposition hearings; powers of disposition.--

170 (1) A disposition hearing shall be conducted by the court,
171 if the court finds that the facts alleged in the petition for
172 dependency were proven in the adjudicatory hearing, or if the
173 parents or legal custodians have consented to the finding of
174 dependency or admitted the allegations in the petition, have
175 failed to appear for the arraignment hearing after proper notice,
176 or have not been located despite a diligent search having been
177 conducted.

178 (a) A written case plan and a predisposition study prepared
179 by an authorized agent of the department must be filed with the
180 court, ~~and~~ served upon the parents of the child, provided to the
181 representative of the guardian ad litem program, if the program
182 has been appointed, and provided to all other parties, not less
183 than 72 hours before the disposition hearing. All such case plans
184 must be approved by the court. If the court does not approve the
185 case plan at the disposition hearing, the court must set a
186 hearing within 30 days after the disposition hearing to review
187 and approve the case plan. The court may grant an exception to
188 the requirement for a predisposition study by separate order or
189 within the judge's order of disposition upon finding that all the
190 family and child information required by subsection (2) is
191 available in other documents filed with the court.

192 (f) If the court places the child in an out-of-home
193 placement, the disposition order must include a written
194 determination that the child cannot safely remain at home with
195 reunification or family preservation services and that removal of



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196 the child is necessary to protect the child. If the child is ~~has~~
197 ~~been~~ removed before the disposition hearing, the order must also
198 include a written determination as to whether, after removal, the
199 department ~~has~~ made a reasonable effort to reunify the parent and
200 child, ~~if reasonable efforts are required~~. Reasonable efforts to
201 reunify are not required if the court finds ~~has found~~ that any of
202 the acts listed in s. 39.806(1)(f)-(l) ~~s. 39.806(1)(f)-(i)~~ have
203 occurred. The department has the burden of demonstrating that it
204 ~~has~~ made reasonable efforts ~~under this paragraph~~.

205 1. For the purposes of this paragraph, the term "reasonable
206 effort" means the exercise of reasonable diligence and care by
207 the department to provide the services ordered by the court or
208 delineated in the case plan.

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

211 a. Enter written findings as to whether ~~or not~~ prevention
212 or reunification efforts were indicated.

213 b. If prevention or reunification efforts were indicated,
214 include a brief written description of what appropriate and
215 available prevention and reunification efforts were made.

216 c. Indicate in writing why further efforts could or could
217 not have prevented or shortened the separation of the parent and
218 child.

219 3. A court may find that the department ~~has~~ made a
220 reasonable effort to prevent or eliminate the need for removal
221 if:

222 a. The first contact of the department with the family
223 occurs during an emergency;

224 b. The appraisal by the department of the home situation
225 indicates ~~that it presents~~ a substantial and immediate danger to



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226 the child's safety or physical, mental, or emotional health which
227 cannot be mitigated by the provision of preventive services;

228 c. The child cannot safely remain at home, ~~either~~ because
229 there are no preventive services that can ensure the health and
230 safety of the child or, even with appropriate and available
231 services being provided, the health and safety of the child
232 cannot be ensured; or

233 d. The parent is alleged to have committed any of the acts
234 listed as grounds for expedited termination of parental rights
235 under s. 39.806(1)(f)-(l) in s. 39.806(1)(f)-(i).

236 4. A reasonable effort by the department for reunification
237 ~~of the parent and child~~ has been made if the appraisal of the
238 home situation by the department indicates that the severity of
239 the conditions of dependency is such that reunification efforts
240 are inappropriate. The department has the burden of demonstrating
241 to the court that reunification efforts were inappropriate.

242 5. If the court finds that the prevention or reunification
243 effort of the department would not have permitted the child to
244 remain safely at home, the court may commit the child to the
245 temporary legal custody of the department or take any other
246 action authorized by this chapter.

247 (3) When any child is adjudicated by a court to be
248 dependent, the court shall determine the appropriate placement
249 for the child as follows:

250 (c) If no fit parent is willing or available to assume care
251 and custody of the child, place the child in the temporary legal
252 custody of an adult relative, the adoptive parent of the child's
253 sibling, or ~~other~~ another adult approved by the court who is
254 willing to care for the child, under the protective supervision
255 of the department. The department must supervise this placement



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256 | until the child reaches permanency status in this home, and in no
257 | case for a period of less than 6 months. Permanency in a relative
258 | placement shall be by adoption, long-term custody, or
259 | guardianship.

260 |
261 | Protective supervision continues until the court terminates it or
262 | until the child reaches the age of 18, whichever date is first.
263 | Protective supervision shall be terminated by the court whenever
264 | the court determines that permanency has been achieved for the
265 | child, whether with a parent, another relative, or a legal
266 | custodian, and that protective supervision is no longer needed.
267 | The termination of supervision may be with or without retaining
268 | jurisdiction, at the court's discretion, and shall in either case
269 | be considered a permanency option for the child. The order
270 | terminating supervision by the department shall set forth the
271 | powers of the custodian of the child and shall include the powers
272 | ordinarily granted to a guardian of the person of a minor unless
273 | otherwise specified. Upon the court's termination of supervision
274 | by the department, no further judicial reviews are required, so
275 | long as permanency has been established for the child.

276 | Section 14. Subsection (5) of section 39.701, Florida
277 | Statutes, is amended to read:

278 | 39.701 Judicial review.--

279 | (5) Notice of a judicial review hearing or a citizen review
280 | panel hearing, and a copy of the motion for judicial review, if
281 | any, must be served by the clerk of the court upon all of the
282 | following persons, if available to be served, regardless of
283 | whether the person was present at the previous hearing at which
284 | the date, time, and location of the hearing was announced:



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285 (a) The social service agency charged with the supervision
286 of care, custody, or guardianship of the child, if that agency is
287 not the movant.

288 (b) The foster parent or legal custodian in whose home the
289 child resides.

290 (c) The parents.

291 (d) The guardian ad litem for the child, or the
292 representative of the guardian ad litem program if the program
293 has been appointed.

294 (e) The attorney for the child.

295 (f) The child, if the child is 13 years of age or older.

296 (g) ~~(e)~~ Any preadoptive parent.

297 (h) ~~(f)~~ Such other persons as the court may ~~in its~~
298 ~~discretion~~ direct.

299
300 ~~Service of notice is not required on any of the persons listed in~~
301 ~~paragraphs (a)-(f) if the person was present at the previous~~
302 ~~hearing during which the date, time, and location of the hearing~~
303 ~~was announced.~~

304 Section 15. Subsection (1) of section 39.8055, Florida
305 Statutes, is amended to read:

306 39.8055 Requirement to file a petition to terminate
307 parental rights; exceptions.--

308 (1) The department shall file a petition to terminate
309 parental rights within 60 days after any of the following if:

310 (a) At the time of the 12-month judicial review hearing, a
311 child is not returned to the physical custody of the parents;

312 (b) A petition for termination of parental rights has not
313 otherwise been filed, and the child has been in out-of-home care
314 under the responsibility of the state for 12 ~~15~~ of the most



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315 recent 22 months, calculated on a cumulative basis, but not
316 including any trial home visits or time during which the child
317 was a runaway;

318 (c) A parent has been convicted of the murder ~~of the other~~
319 ~~parent~~, manslaughter ~~of the other parent~~, aiding or abetting the
320 murder, or conspiracy or solicitation to murder the other parent
321 or another child of the parent, or a felony battery that resulted
322 in serious bodily injury to the child or to another ~~any other~~
323 child of the parent; or

324 (d) A court determines that reasonable efforts to reunify
325 the child and parent are not required.

326 Section 16. Paragraphs (e) through (h) of subsection (1) of
327 section 39.806, Florida Statutes, are amended, paragraphs (j),
328 (k), and (l) are added to that subsection, and subsections (2),
329 (3), and (4) of that section are amended, to read:

330 39.806 Grounds for termination of parental rights.--

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

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

335 1. The child continues to be abused, neglected, or
336 abandoned by the parent or parents. ~~In this case~~, The failure of
337 the parent or parents to substantially comply with the case plan
338 for a period of 9 ~~12~~ months after an adjudication of the child as
339 a dependent child or the child's placement into shelter care,
340 whichever occurs ~~came~~ first, constitutes evidence of continuing
341 abuse, neglect, or abandonment unless the failure to
342 substantially comply with the case plan was due ~~either~~ to the
343 parent's lack of financial resources ~~of the parents~~ or to the
344 failure of the department to make reasonable efforts to reunify



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345 the parent and child. The 9-month ~~12-month~~ period begins to run
346 only after the child's placement into shelter care or the entry
347 of a disposition order placing the custody of the child with the
348 department or a person other than the parent and the court's
349 approval ~~by the court~~ of a case plan having the ~~with a~~ goal of
350 reunification with the parent, whichever occurs ~~came~~ first; ~~or~~

351 2. The parent or parents have ~~has~~ materially breached the
352 case plan ~~by making it unlikely that he or she will be able to~~
353 ~~substantially comply with the case plan before the time for~~
354 ~~compliance expires~~. Time is of the essence for permanency of
355 children in the dependency system. In order to prove the parent
356 or parents have ~~has~~ materially breached the case plan, the court
357 must find by clear and convincing evidence that the parent or
358 parents are ~~is~~ unlikely or unable to substantially comply with
359 the case plan before time ~~expires~~ to comply with the case plan
360 expires.

361 (f) ~~When~~ The parent or parents engaged in egregious conduct
362 or had the opportunity and capability to prevent and knowingly
363 failed to prevent egregious conduct that threatens the life,
364 safety, or physical, mental, or emotional health of the child or
365 the child's sibling.

366 1. As used in this subsection, the term "sibling" means
367 another child who resides with or is cared for by the parent or
368 parents regardless of whether the child is related legally or by
369 consanguinity.

370 2. As used in this subsection, the term "egregious conduct"
371 means abuse, abandonment, neglect, or any other conduct ~~of the~~
372 ~~parent or parents~~ that is deplorable, flagrant, or outrageous by
373 a normal standard of conduct. Egregious conduct may include an
374 act or omission that occurred only once but was of such



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375 intensity, magnitude, or severity as to endanger the life of the
376 child.

377 (g) ~~When~~ The parent or parents have subjected the child or
378 another child to aggravated child abuse as defined in s. 827.03,
379 sexual battery or sexual abuse as defined in s. 39.01, or chronic
380 abuse.

381 (h) ~~When~~ The parent or parents have committed the murder,
382 manslaughter, aiding or abetting the murder, or conspiracy or
383 solicitation to murder the other parent or another child, or a
384 felony battery that resulted in serious bodily injury to the
385 child or to another child ~~committed murder or voluntary~~
386 ~~manslaughter of another child, or a felony assault that results~~
387 ~~in serious bodily injury to the child or another child, or aided~~
388 ~~or abetted, attempted, conspired, or solicited to commit such a~~
389 ~~murder or voluntary manslaughter or felony assault.~~

390
391 ===== T I T L E A M E N D M E N T =====

392 And the title is amended as follows:

393 Delete line(s) 1417-1425

394 and insert:

395
396 findings; amending s. 39.521, F.S.; providing an exception
397 from the requirement for a predisposition study in
398 dependency proceedings; conforming cross-references;
399 authorizing the court to place a dependent child with the
400 adoptive parent of the child's sibling if no fit parent is
401 willing or available to assume care and custody; amending
402 s. 39.701, F.S.; requiring that notice