

By Senator Rich

34-00987-09

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1 A bill to be entitled
2 An act relating to the termination of parental rights;
3 amending s. 39.806, F.S.; revising a ground for
4 terminating parental rights relating to how long a
5 parent will be incarcerated; providing an effective
6 date.

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

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10 Section 1. Paragraph (d) of subsection (1) of section
11 39.806, Florida Statutes, is amended to read:

12 39.806 Grounds for termination of parental rights.—

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

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

18 1. The total period of the parent's incarceration is
19 significant to the child considering the child's age and the
20 child's need for a permanent stable home. The court shall
21 calculate the period of incarceration beginning on the date that
22 the parent enters the correctional institution or facility ~~time~~
23 ~~for which the parent is expected to be incarcerated will~~
24 ~~constitute a substantial portion of the period of time before~~
25 ~~the child will attain the age of 18 years;~~

26 2. The incarcerated parent has been determined by a ~~the~~
27 court to be a violent career criminal as defined in s. 775.084,
28 a habitual violent felony offender as defined in s. 775.084, or
29 a sexual predator as defined in s. 775.21; has been convicted of

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30 first degree or second degree murder in violation of s. 782.04
31 or a sexual battery that constitutes a capital, life, or first
32 degree felony violation of s. 794.011; or has been convicted of
33 an offense in another jurisdiction which is substantially
34 similar to one of the offenses listed in this paragraph. As used
35 in this section, the term "substantially similar offense" means
36 any offense that is substantially similar in elements and
37 penalties to one of those listed in this subparagraph, and that
38 is in violation of a law of any other jurisdiction, whether that
39 of another state, the District of Columbia, the United States or
40 any possession or territory thereof, or any foreign
41 jurisdiction; or

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

47 Section 2. This act shall take effect July 1, 2009.