

By Senator Wise

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1                   A bill to be entitled  
2           An act relating to dependency procedures; amending s.  
3           39.401, F.S.; prohibiting a child from being taken  
4           into custody unless there is an immediate threat to  
5           the health or safety of the child or pursuant to a  
6           court order that is based on certain findings;  
7           amending s. 39.702, F.S.; requiring the establishment  
8           of citizen review panels; amending s. 39.809, F.S.;  
9           providing for a trial on the issue of terminating  
10          parental rights; requiring the court to consider the  
11          report and recommendations of a citizen review panel;  
12          limiting continuances; providing an exception;  
13          providing that hearings or trials involving the  
14          termination of parental rights be open to the public;  
15          providing an exception; requiring that the report and  
16          recommendations of a citizen review panel be attached  
17          to a written order relating to a termination of  
18          parental rights; providing an effective date.

19  
20 Be It Enacted by the Legislature of the State of Florida:

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22           Section 1. Subsection (1) of section 39.401, Florida  
23 Statutes, is amended to read:

24           39.401 Taking a child alleged to be dependent into custody;  
25 law enforcement officers and authorized agents of the  
26 department.—

27           (1) Unless there is an immediate threat to the health or  
28 safety of a child, no person, including a law enforcement  
29 officer, an authorized person, or any other officer of the court

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30 or the state, may take a child ~~may only be taken~~ into custody  
31 except pursuant to court order. Such order may be issued only if  
32 the court:

33 ~~(a) Pursuant to the provisions of this part, based upon~~  
34 ~~Sworn testimony, either before or after a petition is filed; or~~

35 ~~(b) By A law enforcement officer, or an authorized agent of~~  
36 ~~the department, if the officer or authorized agent has probable~~  
37 ~~cause to support a finding that:~~

38 (a)1. ~~That~~ The child has been abused, neglected, or  
39 abandoned, or is suffering from or is in imminent danger of  
40 illness or injury as a result of abuse, neglect, or abandonment;

41 (b)2. ~~That~~ The parent or legal custodian of the child has  
42 materially violated a condition of placement imposed by the  
43 court; or

44 (c)3. ~~That~~ The child has no parent, legal custodian, or  
45 responsible adult relative ~~immediately~~ known and available to  
46 provide supervision and care.

47 Section 2. Subsection (1) of section 39.702, Florida  
48 Statutes, is amended to read:

49 39.702 Citizen review panels.—

50 (1) Citizen review panels shall ~~may~~ be established in each  
51 judicial circuit ~~and shall be authorized by an administrative~~  
52 ~~order executed by the chief judge of each circuit.~~ The court  
53 shall administer an oath of office to each citizen review panel  
54 member which authorizes ~~shall authorize~~ the panel member to  
55 participate in citizen review panels and make recommendations to  
56 the court pursuant to ~~the provisions of~~ this section.

57 Section 3. Section 39.809, Florida Statutes, is amended to  
58 read:

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59 39.809 Adjudicatory hearing or trial.-

60 (1) In a hearing or trial on a petition for termination of  
61 parental rights, the court, assisted by a report and the  
62 recommendations of a citizen review panel established under s.  
63 39.702, shall consider the elements required for termination.  
64 Each of these elements must be established by clear and  
65 convincing evidence before the petition is granted.

66 (2) The adjudicatory hearing must be held within 120 ~~45~~  
67 days after the advisory hearing, but reasonable continuances for  
68 the purpose of investigation, discovery, or procuring counsel or  
69 witnesses may, when necessary, be granted. However,  
70 notwithstanding s. 39.0136, continuances may not extend beyond 1  
71 year after the advisory hearing unless there are compelling  
72 reasons or extraordinary circumstances.

73 (3) The adjudicatory hearing or trial must be conducted by  
74 the judge without a jury, applying the rules of evidence in use  
75 in civil cases and adjourning the case ~~from time to time~~ as  
76 necessary. For purposes of the adjudicatory hearing or trial, to  
77 avoid unnecessary duplication of expense, the judge may consider  
78 in-court testimony previously given at any properly noticed  
79 hearing, without regard to the availability or unavailability of  
80 the witness at the time of the actual adjudicatory hearing or  
81 trial, if the recorded testimony ~~itself~~ is made available to the  
82 judge. Consideration of such testimony does not preclude the  
83 witness being subpoenaed to answer supplemental questions.

84 (4) All hearings or trials involving termination of  
85 parental rights must be open ~~are confidential and closed~~ to the  
86 public, except upon the written motion that the hearing or trial  
87 be made confidential and closed which is submitted to the court

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88 by the parents or guardian of the child or children who are the  
89 subject of the hearing or trial. Hearings or trials involving  
90 more than one child may be held simultaneously if ~~when~~ the  
91 children ~~involved~~ are related to each other or were involved in  
92 the same case. The child and the parents may be examined  
93 separately and apart from each other.

94 (5) The judge shall enter a written order with the findings  
95 of fact and conclusions of law. The report and recommended order  
96 from the citizen review panel must be attached to the written  
97 order.

98 Section 4. This act shall take effect July 1, 2010.