

By Senator Albritton

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1 A bill to be entitled
2 An act relating to child welfare; amending s. 39.001,
3 F.S.; expanding the purpose of ch. 39, F.S.; providing
4 for the name of a child's guardian ad litem or
5 attorney ad litem to be entered on court orders in
6 dependency proceedings; amending s. 39.0136, F.S.;
7 requiring cooperation between certain parties and the
8 court to achieve permanency for a child as soon as
9 possible; requiring the Department of Children and
10 Families to ensure that parents have the information
11 necessary to contact their case manager; requiring
12 that a new case manager who is assigned to a case
13 notify the parent and provide updated contact
14 information; specifying that continuances and
15 extensions of time by the court on its own motion may
16 not exceed a certain period of time; amending s.
17 39.402, F.S.; specifying that time limitations
18 governing placement of a child in a shelter do not
19 include continuances requested by the court; requiring
20 the court to advise parents in plain language what is
21 expected of them to achieve reunification with their
22 child; expanding the requirements that parents must
23 meet to achieve reunification with their child;
24 amending s. 39.507, F.S.; requiring the court during
25 an adjudicatory hearing to advise parents in plain
26 language of certain requirements to achieve
27 reunification with their child; expanding the
28 requirements that parents must meet to achieve
29 reunification with their child; amending s. 39.521,

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30 F.S.; requiring the department to serve copies of the
31 case plan and the family functioning assessment on the
32 parents of the child and provide copies of the plan
33 and assessment to the other parties; amending s.
34 39.522, F.S.; specifying that a postdisposition
35 hearing, if needed, must occur before a child achieves
36 a permanency placement; amending s. 39.6011, F.S.;
37 requiring that the written notice in a case plan
38 include certain responsibilities and actions required
39 of the parents and inform the parent that a breach of
40 the case plan by the parent's action or inaction may
41 result in an earlier filing of a petition for
42 termination of parental rights; requiring the
43 department to ensure that the parent has certain
44 contact information and to explain certain strategies
45 included in the case plan; providing a timeframe for
46 referrals for services; amending s. 39.6012, F.S.;
47 expanding the tasks and services a case plan must
48 describe; amending s. 39.6013, F.S.; conforming a
49 cross-reference; amending s. 39.621, F.S.; requiring
50 the court to hold permanency hearings within specified
51 timeframes; requiring that the case plan be updated at
52 a permanency hearing unless the child will achieve
53 permanency within a specified timeframe; amending s.
54 39.806, F.S.; specifying that grounds for termination
55 of parental rights may be established when a case plan
56 is materially breached by a parent or parents' action
57 or inaction; amending s. 39.811, F.S.; requiring the
58 court to enter a written order of disposition within a

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59 specified timeframe following termination of parental
60 rights; providing an effective date.

61

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

63

64 Section 1. Subsection (7) of section 39.001, Florida
65 Statutes, is amended, paragraph (q) is added to subsection (1)
66 of that section, and paragraph (j) is added to subsection (3) of
67 that section, to read:

68 39.001 Purposes and intent; personnel standards and
69 screening.—

70 (1) PURPOSES OF CHAPTER.—The purposes of this chapter are:

71 (q) To recognize the responsibility of:

72 1. The parent from whose custody a child has been taken to
73 take action to comply with the case plan so reunification with
74 the child may occur within the shortest period of time possible,
75 but no later than 1 year after removal or adjudication of the
76 child.

77 2. The department and its community-based care providers to
78 make reasonable efforts to finalize a family's permanency plan,
79 including assisting parents with developing strategies to
80 overcome barriers to case plan compliance.

81 3. The court to affirmatively determine what the barriers
82 are to timely reunification and address such barriers as
83 frequently as needed to ensure compliance with the time
84 limitations established in this chapter.

85 (3) GENERAL PROTECTIONS FOR CHILDREN.—It is a purpose of
86 the Legislature that the children of this state be provided with
87 the following protections:

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88 (j) The ability to contact their guardian ad litem or
89 attorney ad litem, if appointed, by having that individual's
90 name entered on all orders of the court.

91 (7) PARENTAL, CUSTODIAL, AND GUARDIAN RESPONSIBILITIES.—
92 Parents, custodians, and guardians are deemed by the state to be
93 responsible for providing their children with sufficient
94 support, guidance, and supervision. The state further recognizes
95 that the ability of parents, custodians, and guardians to
96 fulfill those responsibilities can be greatly impaired by
97 economic, social, behavioral, emotional, and related problems.
98 It is therefore the policy of the Legislature that it is the
99 state's responsibility to ensure that factors impeding the
100 ability of caregivers to fulfill their responsibilities are
101 identified through the dependency process and that appropriate
102 recommendations and services to address those problems are
103 considered in any judicial or nonjudicial proceeding. The
104 Legislature also recognizes that time is of the essence for
105 establishing permanency for a child in the dependency system.
106 Therefore, parents must take action to comply with the case plan
107 so reunification with the child may occur within the shortest
108 period of time possible, but no later than 1 year after removal
109 or adjudication of the child, including by notifying the parties
110 and the court of barriers to case plan compliance.

111 Section 2. Section 39.0136, Florida Statutes, is amended to
112 read:

113 39.0136 Time limitations; continuances.—

114 (1) The Legislature finds that time is of the essence for
115 establishing permanency for a child in the dependency system.
116 Time limitations are a right of the child which may not be

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117 waived, extended, or continued at the request of any party
118 except as provided in this section.

119 (2) (a) All parties and the court must work together to
120 ensure that permanency is achieved as soon as possible for every
121 child through timely performance of their responsibilities under
122 this chapter.

123 (b) The department shall ensure that parents have the
124 information necessary to contact their case manager. When a new
125 case manager is assigned to a case, the case manager must make a
126 timely and diligent effort to notify the parent and provide
127 updated contact information.

128 (3) ~~(2)~~ The time limitations in this chapter do not include:

129 (a) Periods of delay resulting from a continuance granted
130 at the request of the child's counsel or the child's guardian ad
131 litem or, if the child is of sufficient capacity to express
132 reasonable consent, at the request or with the consent of the
133 child. The court must consider the best interests of the child
134 when determining periods of delay under this section.

135 (b) Periods of delay resulting from a continuance granted
136 at the request of any party if the continuance is granted:

137 1. Because of an unavailability of evidence that is
138 material to the case if the requesting party has exercised due
139 diligence to obtain evidence and there are substantial grounds
140 to believe that the evidence will be available within 30 days.
141 However, if the requesting party is not prepared to proceed
142 within 30 days, any other party may move for issuance of an
143 order to show cause or the court on its own motion may impose
144 appropriate sanctions, which may include dismissal of the
145 petition.

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146 2. To allow the requesting party additional time to prepare
147 the case and additional time is justified because of an
148 exceptional circumstance.

149 (c) Reasonable periods of delay necessary to accomplish
150 notice of the hearing to the child's parent or legal custodian;
151 however, the petitioner shall continue regular efforts to
152 provide notice to the parents during the periods of delay.

153 ~~(4)~~~~(3)~~ Notwithstanding subsection (3) ~~(2)~~, in order to
154 expedite permanency for a child, the total time allowed for
155 continuances or extensions of time, including continuances or
156 extensions by the court on its own motion, may not exceed 60
157 days within any 12-month period for proceedings conducted under
158 this chapter. A continuance or extension of time may be granted
159 only for extraordinary circumstances in which it is necessary to
160 preserve the constitutional rights of a party or if substantial
161 evidence exists to demonstrate that without granting a
162 continuance or extension of time the child's best interests will
163 be harmed.

164 ~~(5)~~~~(4)~~ Notwithstanding subsection (3) ~~(2)~~, a continuance or
165 an extension of time is limited to the number of days absolutely
166 necessary to complete a necessary task in order to preserve the
167 rights of a party or the best interests of a child.

168 Section 3. Paragraph (f) of subsection (14) and subsections
169 (15) and (18) of section 39.402, Florida Statutes, are amended
170 to read:

171 39.402 Placement in a shelter.—

172 (14) The time limitations in this section do not include:

173 (f) Continuances or extensions of time may not total more
174 than 60 days for all parties and the court on its own motion

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175 within any 12-month period during proceedings under this
176 chapter. A continuance or extension beyond the 60 days may be
177 granted only for extraordinary circumstances necessary to
178 preserve the constitutional rights of a party or when
179 substantial evidence demonstrates that the child's best
180 interests will be affirmatively harmed without the granting of a
181 continuance or extension of time.

182 (15) The department, at the conclusion of the shelter
183 hearing, shall make available to parents or legal custodians
184 seeking voluntary services, ~~any~~ referral information necessary
185 for participation in such identified services to allow the
186 parents or legal custodians to begin the services as soon as
187 possible. The parents' or legal custodians' participation in the
188 services may ~~shall~~ not be considered an admission or other
189 acknowledgment of the allegations in the shelter petition.

190 (18) The court shall advise the parents in plain language
191 what is expected of them to achieve reunification with their
192 child, including that:~~;~~

193 (a) Parents must take action to comply with the case plan
194 so reunification with the child may occur within the shortest
195 period of time possible, but no later than 1 year after removal
196 or adjudication of the child.

197 (b) Parents must stay in contact with their attorney and
198 their case manager and provide updated contact information if
199 the parents' phone number, address, or e-mail address changes.

200 (c) Parents must notify the parties and the court of
201 barriers to completing case plan tasks within a reasonable time
202 after discovering such barriers.

203 (d) If the parents fail to substantially comply with the

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204 case plan, their parental rights may be terminated and that the
205 child's out-of-home placement may become permanent.

206 Section 4. Paragraph (c) of subsection (7) of section
207 39.507, Florida Statutes, is amended to read:

208 39.507 Adjudicatory hearings; orders of adjudication.—

209 (7)

210 (c) If a court adjudicates a child dependent and the child
211 is in out-of-home care, the court shall inquire of the parent or
212 parents whether the parents have relatives who might be
213 considered as a placement for the child. The parent or parents
214 shall provide the court and all parties with identification and
215 location information for such relatives. The court shall advise
216 the parents in plain language that: 7

217 1. Parents must take action to comply with the case plan so
218 reunification with the child may occur within the shortest
219 period of time possible, but no later than 1 year after removal
220 or adjudication of the child.

221 2. Parents must stay in contact with their attorney and
222 their case manager and provide updated contact information if
223 the parents' phone number, address, or e-mail address changes.

224 3. Parents must notify the parties and the court of
225 barriers to completing case plan tasks within a reasonable time
226 after discovering such barriers.

227 4. If the parents fail to substantially comply with the
228 case plan, their parental rights may be terminated and that the
229 child's out-of-home placement may become permanent. ~~The parent~~
230 ~~or parents shall provide to the court and all parties~~
231 ~~identification and location information of the relatives.~~

232 Section 5. Paragraph (a) of subsection (1) of section

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233 39.521, Florida Statutes, is amended to read:

234 39.521 Disposition hearings; powers of disposition.—

235 (1) A disposition hearing shall be conducted by the court,
236 if the court finds that the facts alleged in the petition for
237 dependency were proven in the adjudicatory hearing, or if the
238 parents or legal custodians have consented to the finding of
239 dependency or admitted the allegations in the petition, have
240 failed to appear for the arraignment hearing after proper
241 notice, or have not been located despite a diligent search
242 having been conducted.

243 (a) A written case plan and a family functioning assessment
244 prepared by an authorized agent of the department must be
245 approved by the court. The department must file the case plan
246 and the family functioning assessment with the court, serve
247 copies ~~a copy of the case plan~~ on the parents of the child, and
248 provide copies ~~a copy of the case plan to the representative of~~
249 ~~the guardian ad litem program, if the program has been~~
250 ~~appointed, and a copy~~ to all other parties:

251 1. Not less than 72 hours before the disposition hearing,
252 if the disposition hearing occurs on or after the 60th day after
253 the date the child was placed in out-of-home care. All such case
254 plans must be approved by the court.

255 2. Not less than 72 hours before the case plan acceptance
256 hearing, if the disposition hearing occurs before the 60th day
257 after the date the child was placed in out-of-home care and a
258 case plan has not been submitted pursuant to this paragraph, or
259 if the court does not approve the case plan at the disposition
260 hearing. The case plan acceptance hearing must occur within 30
261 days after the disposition hearing to review and approve the

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262 case plan.

263 Section 6. Subsection (1) of section 39.522, Florida
264 Statutes, is amended to read:

265 39.522 Postdisposition change of custody.—The court may
266 change the temporary legal custody or the conditions of
267 protective supervision at a postdisposition hearing, without the
268 necessity of another adjudicatory hearing.

269 (1) At any time before a child achieves the permanency
270 placement approved at the permanency hearing, a child who has
271 been placed in the child's own home under the protective
272 supervision of an authorized agent of the department, in the
273 home of a relative, in the home of a legal custodian, or in some
274 other place may be brought before the court by the department or
275 by any other interested person, upon the filing of a motion
276 ~~petition~~ alleging a need for a change in the conditions of
277 protective supervision or the placement. If the parents or other
278 legal custodians deny the need for a change, the court shall
279 hear all parties in person or by counsel, or both. Upon the
280 admission of a need for a change or after such hearing, the
281 court shall enter an order changing the placement, modifying the
282 conditions of protective supervision, or continuing the
283 conditions of protective supervision as ordered. The standard
284 for changing custody of the child shall be the best interest of
285 the child. When applying this standard, the court shall consider
286 the continuity of the child's placement in the same out-of-home
287 residence as a factor when determining the best interests of the
288 child. If the child is not placed in foster care, then the new
289 placement for the child must meet the home study criteria and
290 court approval pursuant to this chapter.

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291 Section 7. Present subsections (4) through (8) of section
292 39.6011, Florida Statutes, are redesignated as subsections (5)
293 through (9), respectively, paragraph (e) of subsection (2) and
294 present subsection (6) of that section are amended, and a new
295 subsection (4) is added to that section, to read:

296 39.6011 Case plan development.—

297 (2) The case plan must be written simply and clearly in
298 English and, if English is not the principal language of the
299 child's parent, to the extent possible in the parent's principal
300 language. Each case plan must contain:

301 (e) A written notice to the parent that it is the parent's
302 responsibility to take action to comply with the case plan so
303 reunification with the child may occur within the shortest
304 period of time possible, but no later than 1 year after removal
305 or adjudication of the child; the parent must notify the parties
306 and the court in writing of barriers to completing case plan
307 tasks within a reasonable time after discovering such barriers
308 if the parties are not actively working to overcome them;
309 failure of the parent to substantially comply with the case plan
310 may result in the termination of parental rights;~~7~~ and ~~that~~ a
311 material breach of the case plan by the parent's action or
312 inaction may result in the filing of a petition for termination
313 of parental rights sooner than the compliance period set forth
314 in the case plan.

315 (4) Before signing the case plan, the department shall
316 explain the provisions of the plan to all persons involved in
317 its implementation, including, when appropriate, the child. The
318 department shall ensure that the parent has contact information
319 for all entities necessary to complete the tasks in the plan.

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320 The department shall explain the strategies included in the plan
321 which the parent can use to overcome barriers to case plan
322 compliance and shall explain that if a barrier is discovered and
323 the parties are not actively working to overcome such barrier,
324 the parent must notify the parties and the court in writing
325 within a reasonable time after discovering such barrier.

326 (7)~~(6)~~ After the case plan has been developed, the
327 department shall adhere to the following procedural
328 requirements:

329 (a) If the parent's substantial compliance with the case
330 plan requires the department to provide services to the parents
331 or the child and the parents agree to begin compliance with the
332 case plan before the case plan's acceptance by the court, the
333 department shall make the appropriate referrals for services
334 that will allow the parents to begin the agreed-upon tasks and
335 services immediately.

336 (b) All other referrals for services must be completed as
337 soon as possible, but no later than 7 days after the date of the
338 case plan approval, unless the case plan specifies that a task
339 may not be undertaken until another specified task has been
340 completed or otherwise approved by the court.

341 (c)~~(b)~~ After the case plan has been agreed upon and signed
342 by the parties, a copy of the plan must be given immediately to
343 the parties, including the child if appropriate, and to other
344 persons as directed by the court.

345 1. A case plan must be prepared, but need not be submitted
346 to the court, for a child who will be in care no longer than 30
347 days unless that child is placed in out-of-home care a second
348 time within a 12-month period.

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349 2. In each case in which a child has been placed in out-of-
350 home care, a case plan must be prepared within 60 days after the
351 department removes the child from the home and shall be
352 submitted to the court before the disposition hearing for the
353 court to review and approve.

354 3. After jurisdiction attaches, all case plans must be
355 filed with the court, and a copy provided to all the parties
356 whose whereabouts are known, not less than 3 business days
357 before the disposition hearing. The department shall file with
358 the court, and provide copies to the parties, all case plans
359 prepared before jurisdiction of the court attached.

360 Section 8. Paragraph (b) of subsection (1) of section
361 39.6012, Florida Statutes, is amended to read:

362 39.6012 Case plan tasks; services.—

363 (1) The services to be provided to the parent and the tasks
364 that must be completed are subject to the following:

365 (b) The case plan must describe each of the tasks with
366 which the parent must comply and the services to be provided to
367 the parent, specifically addressing the identified problem,
368 including:

369 1. The type of services or treatment.

370 2. The date the department will provide each service or
371 referral for the service if the service is being provided by the
372 department or its agent.

373 3. The date by which the parent must complete each task.

374 4. The frequency of services or treatment provided. The
375 frequency of the delivery of services or treatment provided
376 shall be determined by the professionals providing the services
377 or treatment on a case-by-case basis and adjusted according to

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378 their best professional judgment.

379 5. The location of the delivery of the services.

380 6. The staff of the department or service provider
381 accountable for the services or treatment.

382 7. A description of the measurable objectives, including
383 the timeframes specified for achieving the objectives of the
384 case plan and addressing the identified problem.

385 8. Strategies to overcome barriers to case plan compliance
386 and an explanation that the parent must notify the parties and
387 the court in writing within a reasonable time after discovering
388 a barrier that the parties are not actively working to overcome
389 such barrier.

390 Section 9. Subsection (8) of section 39.6013, Florida
391 Statutes, is amended to read:

392 39.6013 Case plan amendments.—

393 (8) Amendments must include service interventions that are
394 the least intrusive into the life of the parent and child, must
395 focus on clearly defined objectives, and must provide the most
396 efficient path to quick reunification or permanent placement
397 given the circumstances of the case and the child's need for
398 safe and proper care. A copy of the amended plan must be
399 immediately given to the persons identified in s. 39.6011(7)(c)
400 ~~s. 39.6011(6)(b)~~.

401 Section 10. Present subsections (7) through (10) of section
402 39.621, Florida Statutes, are redesignated as subsections (8)
403 through (11), respectively, present subsections (9), (10), and
404 (11) of that section are amended, and a new subsection (7) is
405 added to that section, to read:

406 39.621 Permanency determination by the court.—

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407 (7) If the court determines that the child's goal is
408 appropriate but the child will be in out-of-home care for more
409 than 12 months before achieving permanency, in those cases where
410 the goal is reunification or adoption, the court must hold
411 permanency status hearings for the child every 60 days until the
412 child reaches the specified permanency goal or the court
413 determines it is in the child's best interest to change the
414 permanency goal.

415 (10)~~(9)~~ The case plan must list the tasks necessary to
416 finalize the permanency placement and shall be updated at the
417 permanency hearing unless the child will achieve permanency
418 within 60 days after the hearing ~~if necessary~~. If a concurrent
419 case plan is in place, the court may choose between the
420 permanency goal options presented and shall approve the goal
421 that is in the child's best interest.

422 (11)~~(10)~~ The permanency placement is intended to continue
423 until the child reaches the age of majority and may not be
424 disturbed absent a finding by the court that the circumstances
425 of the permanency placement are no longer in the best interest
426 of the child.

427 (a) If, after a child has achieved the permanency placement
428 approved at the permanency hearing, a parent who has not had his
429 or her parental rights terminated makes a motion for
430 reunification or increased contact with the child, the court
431 shall hold a hearing to determine whether the dependency case
432 should be reopened and whether there should be a modification of
433 the order.

434 (b) At the hearing, the parent must demonstrate that the
435 safety, well-being, and physical, mental, and emotional health

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436 of the child is not endangered by the modification.

437 (c) ~~(11)~~ The court shall base its decision concerning any
438 motion by a parent for reunification or increased contact with a
439 child on the effect of the decision on the safety, well-being,
440 and physical and emotional health of the child. Factors that
441 must be considered and addressed in the findings of fact of the
442 order on the motion must include:

443 1. ~~(a)~~ The compliance or noncompliance of the parent with
444 the case plan;

445 2. ~~(b)~~ The circumstances which caused the child's dependency
446 and whether those circumstances have been resolved;

447 3. ~~(c)~~ The stability and longevity of the child's placement;

448 4. ~~(d)~~ The preferences of the child, if the child is of
449 sufficient age and understanding to express a preference;

450 5. ~~(e)~~ The recommendation of the current custodian; and

451 6. ~~(f)~~ The recommendation of the guardian ad litem, if one
452 has been appointed.

453 Section 11. Paragraph (e) of subsection (1) of section
454 39.806, Florida Statutes, is amended to read:

455 39.806 Grounds for termination of parental rights.—

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

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

460 1. The child continues to be abused, neglected, or
461 abandoned by the parent or parents. The failure of the parent or
462 parents to substantially comply with the case plan for a period
463 of 12 months after an adjudication of the child as a dependent
464 child or the child's placement into shelter care, whichever

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465 occurs first, constitutes evidence of continuing abuse, neglect,
466 or abandonment unless the failure to substantially comply with
467 the case plan was due to the parent's lack of financial
468 resources or to the failure of the department to make reasonable
469 efforts to reunify the parent and child. The 12-month period
470 begins to run only after the child's placement into shelter care
471 or the entry of a disposition order placing the custody of the
472 child with the department or a person other than the parent and
473 the court's approval of a case plan having the goal of
474 reunification with the parent, whichever occurs first; or

475 2. The parent or parents have materially breached the case
476 plan by their action or inaction. Time is of the essence for
477 permanency of children in the dependency system. In order to
478 prove the parent or parents have materially breached the case
479 plan, the court must find by clear and convincing evidence that
480 the parent or parents are unlikely or unable to substantially
481 comply with the case plan before time to comply with the case
482 plan expires.

483 3. The child has been in care for any 12 of the last 22
484 months and the parents have not substantially complied with the
485 case plan so as to permit reunification under s. 39.522(2)
486 unless the failure to substantially comply with the case plan
487 was due to the parent's lack of financial resources or to the
488 failure of the department to make reasonable efforts to reunify
489 the parent and child.

490 Section 12. Subsection (5) of section 39.811, Florida
491 Statutes, is amended to read:

492 39.811 Powers of disposition; order of disposition.—

493 (5) If the court terminates parental rights, the court

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494 shall enter a written order of disposition within 30 days after
495 conclusion of the hearing briefly stating the facts upon which
496 its decision to terminate the parental rights is made. An order
497 of termination of parental rights, whether based on parental
498 consent or after notice served as prescribed in this part,
499 permanently deprives the parents of any right to the child.

500 Section 13. This act shall take effect October 1, 2019.