

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

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

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rights; providing an effective date.

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

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

39.001 Purposes and intent; personnel standards and screening.—

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

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

(7) PARENTAL, CUSTODIAL, AND GUARDIAN RESPONSIBILITIES.—Parents, custodians, and guardians are deemed by the state to be responsible for providing their children with sufficient support, guidance, and supervision. The state further recognizes that the ability of parents, custodians, and guardians to fulfill those responsibilities can be greatly impaired by economic, social, behavioral, emotional, and related problems. It is therefore the policy of the Legislature that it is the state's responsibility to ensure that factors impeding the ability of caregivers to fulfill their responsibilities are identified through the dependency process and that appropriate recommendations and services to address those problems are considered in any judicial or nonjudicial proceeding. The Legislature also recognizes that time is of the essence for

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88 establishing permanency for a child in the dependency system.
89 Therefore, parents must take action to comply with the case plan
90 so permanency with the child may occur within the shortest
91 period of time possible, but no later than 1 year after removal
92 or adjudication of the child, including by notifying the parties
93 and the court of barriers to case plan compliance.

94 Section 2. Section 39.0136, Florida Statutes, is amended to
95 read:

96 39.0136 Time limitations; continuances.—

97 (1) The Legislature finds that time is of the essence for
98 establishing permanency for a child in the dependency system.
99 Time limitations are a right of the child which may not be
100 waived, extended, or continued at the request of any party
101 except as provided in this section.

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

106 (b) The department shall ensure that parents have the
107 information necessary to contact their case manager. When a new
108 case manager is assigned to a case, the case manager must make a
109 timely and diligent effort to notify the parent and provide
110 updated contact information.

111 (3) ~~(2)~~ The time limitations in this chapter do not include:

112 (a) Periods of delay resulting from a continuance granted
113 at the request of the child's counsel or the child's guardian ad
114 litem or, if the child is of sufficient capacity to express
115 reasonable consent, at the request or with the consent of the
116 child. The court must consider the best interests of the child

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117 when determining periods of delay under this section.

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

120 1. Because of an unavailability of evidence that is
121 material to the case if the requesting party has exercised due
122 diligence to obtain evidence and there are substantial grounds
123 to believe that the evidence will be available within 30 days.
124 However, if the requesting party is not prepared to proceed
125 within 30 days, any other party may move for issuance of an
126 order to show cause or the court on its own motion may impose
127 appropriate sanctions, which may include dismissal of the
128 petition.

129 2. To allow the requesting party additional time to prepare
130 the case and additional time is justified because of an
131 exceptional circumstance.

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

136 (4)~~(3)~~ Notwithstanding subsection (3) ~~(2)~~, in order to
137 expedite permanency for a child, the total time allowed for
138 continuances or extensions of time, including continuances or
139 extensions by the court on its own motion, may not exceed 60
140 days within any 12-month period for proceedings conducted under
141 this chapter. A continuance or extension of time may be granted
142 only for extraordinary circumstances in which it is necessary to
143 preserve the constitutional rights of a party or if substantial
144 evidence exists to demonstrate that without granting a
145 continuance or extension of time the child's best interests will

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146 be harmed.

147 (5)~~(4)~~ Notwithstanding subsection (3) ~~(2)~~, a continuance or
148 an extension of time is limited to the number of days absolutely
149 necessary to complete a necessary task in order to preserve the
150 rights of a party or the best interests of a child.

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

154 39.402 Placement in a shelter.—

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

156 (f) Continuances or extensions of time may not total more
157 than 60 days for all parties and the court on its own motion
158 within any 12-month period during proceedings under this
159 chapter. A continuance or extension beyond the 60 days may be
160 granted only for extraordinary circumstances necessary to
161 preserve the constitutional rights of a party or when
162 substantial evidence demonstrates that the child's best
163 interests will be affirmatively harmed without the granting of a
164 continuance or extension of time.

165 (15) The department, at the conclusion of the shelter
166 hearing, shall make available to parents or legal custodians
167 seeking voluntary services, ~~any~~ referral information necessary
168 for participation in such identified services to allow the
169 parents or legal custodians to begin the services as soon as
170 possible. The parents' or legal custodians' participation in the
171 services may ~~shall~~ not be considered an admission or other
172 acknowledgment of the allegations in the shelter petition.

173 (18) The court shall advise the parents in plain language
174 what is expected of them to achieve reunification with their

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175 child, including that:

176 (a) Parents must take action to comply with the case plan
177 so permanency with the child may occur within the shortest
178 period of time possible, but no later than 1 year after removal
179 or adjudication of the child.

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

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

186 (d) If the parents fail to substantially comply with the
187 case plan, their parental rights may be terminated and that the
188 child's out-of-home placement may become permanent.

189 Section 4. Paragraph (c) of subsection (7) of section
190 39.507, Florida Statutes, is amended to read:

191 39.507 Adjudicatory hearings; orders of adjudication.-

192 (7)

193 (c) If a court adjudicates a child dependent and the child
194 is in out-of-home care, the court shall inquire of the parent or
195 parents whether the parents have relatives who might be
196 considered as a placement for the child. The parent or parents
197 shall provide the court and all parties with identification and
198 location information for such relatives. The court shall advise
199 the parents in plain language that:

200 1. Parents must take action to comply with the case plan so
201 permanency with the child may occur within the shortest period
202 of time possible, but no later than 1 year after removal or
203 adjudication of the child.

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

207 3. Parents must notify the parties and the court of
208 barriers to completing case plan tasks within a reasonable time
209 after discovering such barriers.

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

215 Section 5. Paragraph (a) of subsection (1) of section
216 39.521, Florida Statutes, is amended to read:

217 39.521 Disposition hearings; powers of disposition.—

218 (1) A disposition hearing shall be conducted by the court,
219 if the court finds that the facts alleged in the petition for
220 dependency were proven in the adjudicatory hearing, or if the
221 parents or legal custodians have consented to the finding of
222 dependency or admitted the allegations in the petition, have
223 failed to appear for the arraignment hearing after proper
224 notice, or have not been located despite a diligent search
225 having been conducted.

226 (a) A written case plan and a family functioning assessment
227 prepared by an authorized agent of the department must be
228 approved by the court. The department must file the case plan
229 and the family functioning assessment with the court, serve
230 copies ~~a copy of the case plan~~ on the parents of the child, and
231 provide copies ~~a copy of the case plan to the representative of~~
232 ~~the guardian ad litem program, if the program has been~~

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233 ~~appointed, and a copy~~ to all other parties:

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

238 2. Not less than 72 hours before the case plan acceptance
239 hearing, if the disposition hearing occurs before the 60th day
240 after the date the child was placed in out-of-home care and a
241 case plan has not been submitted pursuant to this paragraph, or
242 if the court does not approve the case plan at the disposition
243 hearing. The case plan acceptance hearing must occur within 30
244 days after the disposition hearing to review and approve the
245 case plan.

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

248 39.522 Postdisposition change of custody.—The court may
249 change the temporary legal custody or the conditions of
250 protective supervision at a postdisposition hearing, without the
251 necessity of another adjudicatory hearing.

252 (1) At any time before a child achieves the permanency
253 placement approved at the permanency hearing, a child who has
254 been placed in the child's own home under the protective
255 supervision of an authorized agent of the department, in the
256 home of a relative, in the home of a legal custodian, or in some
257 other place may be brought before the court by the department or
258 by any other interested person, upon the filing of a motion
259 ~~petition~~ alleging a need for a change in the conditions of
260 protective supervision or the placement. If the parents or other
261 legal custodians deny the need for a change, the court shall

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262 hear all parties in person or by counsel, or both. Upon the
263 admission of a need for a change or after such hearing, the
264 court shall enter an order changing the placement, modifying the
265 conditions of protective supervision, or continuing the
266 conditions of protective supervision as ordered. The standard
267 for changing custody of the child shall be the best interest of
268 the child. When applying this standard, the court shall consider
269 the continuity of the child's placement in the same out-of-home
270 residence as a factor when determining the best interests of the
271 child. If the child is not placed in foster care, then the new
272 placement for the child must meet the home study criteria and
273 court approval pursuant to this chapter.

274 Section 7. Present subsections (4) through (8) of section
275 39.6011, Florida Statutes, are redesignated as subsections (5)
276 through (9), respectively, paragraph (e) of subsection (2) and
277 present subsection (6) of that section are amended, and a new
278 subsection (4) is added to that section, to read:

279 39.6011 Case plan development.—

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

284 (e) A written notice to the parent that it is the parent's
285 responsibility to take action to comply with the case plan so
286 permanency with the child may occur within the shortest period
287 of time possible, but no later than 1 year after removal or
288 adjudication of the child; the parent must notify the parties
289 and the court of barriers to completing case plan tasks within a
290 reasonable time after discovering such barriers if the parties

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291 are not actively working to overcome them; failure of the parent
292 to substantially comply with the case plan may result in the
293 termination of parental rights;~~;~~ ~~and that~~ a material breach of
294 the case plan by the parent's action or inaction may result in
295 the filing of a petition for termination of parental rights
296 sooner than the compliance period set forth in the case plan.

297 (4) Before signing the case plan, the department shall
298 explain the provisions of the plan to all persons involved in
299 its implementation, including, when appropriate, the child. The
300 department shall ensure that the parent has contact information
301 for all entities necessary to complete the tasks in the plan.
302 The department shall explain the strategies included in the plan
303 which the parent can use to overcome barriers to case plan
304 compliance and shall explain that if a barrier is discovered and
305 the parties are not actively working to overcome such barrier,
306 the parent must notify the parties and the court within a
307 reasonable time after discovering such barrier.

308 (7)~~(6)~~ After the case plan has been developed, the
309 department shall adhere to the following procedural
310 requirements:

311 (a) If the parent's substantial compliance with the case
312 plan requires the department to provide services to the parents
313 or the child and the parents agree to begin compliance with the
314 case plan before the case plan's acceptance by the court, the
315 department shall make the appropriate referrals for services
316 that will allow the parents to begin the agreed-upon tasks and
317 services immediately.

318 (b) All other referrals for services must be completed as
319 soon as possible, but no later than 7 days after the date of the

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320 case plan approval, unless the case plan specifies that a task
321 may not be undertaken until another specified task has been
322 completed or otherwise approved by the court.

323 (c)-(b) After the case plan has been agreed upon and signed
324 by the parties, a copy of the plan must be given immediately to
325 the parties, including the child if appropriate, and to other
326 persons as directed by the court.

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

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

336 3. After jurisdiction attaches, all case plans must be
337 filed with the court, and a copy provided to all the parties
338 whose whereabouts are known, not less than 3 business days
339 before the disposition hearing. The department shall file with
340 the court, and provide copies to the parties, all case plans
341 prepared before jurisdiction of the court attached.

342 Section 8. Paragraph (b) of subsection (1) of section
343 39.6012, Florida Statutes, is amended to read:

344 39.6012 Case plan tasks; services.—

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

347 (b) The case plan must describe each of the tasks with
348 which the parent must comply and the services to be provided to

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349 the parent, specifically addressing the identified problem,
350 including:

- 351 1. The type of services or treatment.
- 352 2. The date the department will provide each service or
353 referral for the service if the service is being provided by the
354 department or its agent.
- 355 3. The date by which the parent must complete each task.
- 356 4. The frequency of services or treatment provided. The
357 frequency of the delivery of services or treatment provided
358 shall be determined by the professionals providing the services
359 or treatment on a case-by-case basis and adjusted according to
360 their best professional judgment.
- 361 5. The location of the delivery of the services.
- 362 6. The staff of the department or service provider
363 accountable for the services or treatment.
- 364 7. A description of the measurable objectives, including
365 the timeframes specified for achieving the objectives of the
366 case plan and addressing the identified problem.
- 367 8. Strategies to overcome barriers to case plan compliance
368 and an explanation that the parent must notify the parties and
369 the court within a reasonable time after discovering a barrier
370 that the parties are not actively working to overcome such
371 barrier.

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

374 39.6013 Case plan amendments.—

375 (8) Amendments must include service interventions that are
376 the least intrusive into the life of the parent and child, must
377 focus on clearly defined objectives, and must provide the most

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378 efficient path to quick reunification or permanent placement
379 given the circumstances of the case and the child's need for
380 safe and proper care. A copy of the amended plan must be
381 immediately given to the persons identified in s. 39.6011(7)(c)
382 ~~s. 39.6011(6)(b)~~.

383 Section 10. Present subsections (7) through (10) of section
384 39.621, Florida Statutes, are redesignated as subsections (8)
385 through (11), respectively, present subsections (9), (10), and
386 (11) of that section are amended, and a new subsection (7) is
387 added to that section, to read:

388 39.621 Permanency determination by the court.—

389 (7) If the court determines that the child's goal is
390 appropriate but the child will be in out-of-home care for more
391 than 12 months before achieving permanency, in those cases where
392 the goal is reunification or adoption, the court must hold
393 permanency status hearings for the child every 60 days until the
394 child reaches the specified permanency goal or the court
395 determines it is in the child's best interest to change the
396 permanency goal.

397 ~~(10)(9)~~ The case plan must list the tasks necessary to
398 finalize the permanency placement and shall be updated at the
399 permanency hearing unless the child will achieve permanency
400 within 60 days after the hearing if necessary. If a concurrent
401 case plan is in place, the court may choose between the
402 permanency goal options presented and shall approve the goal
403 that is in the child's best interest.

404 ~~(11)(10)~~ The permanency placement is intended to continue
405 until the child reaches the age of majority and may not be
406 disturbed absent a finding by the court that the circumstances

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407 of the permanency placement are no longer in the best interest
408 of the child.

409 (a) If, after a child is residing in the permanent
410 placement approved at the permanency hearing, a parent who has
411 not had his or her parental rights terminated makes a motion for
412 reunification or increased contact with the child, the court
413 shall hold a hearing to determine whether the dependency case
414 should be reopened and whether there should be a modification of
415 the order.

416 (b) At the hearing, the parent must demonstrate that the
417 safety, well-being, and physical, mental, and emotional health
418 of the child is not endangered by the modification.

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

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

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

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

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

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

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

435 Section 11. Paragraph (e) of subsection (1) of section

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436 39.806, Florida Statutes, is amended to read:

437 39.806 Grounds for termination of parental rights.—

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

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

442 1. The child continues to be abused, neglected, or
443 abandoned by the parent or parents. The failure of the parent or
444 parents to substantially comply with the case plan for a period
445 of 12 months after an adjudication of the child as a dependent
446 child or the child's placement into shelter care, whichever
447 occurs first, constitutes evidence of continuing abuse, neglect,
448 or abandonment unless the failure to substantially comply with
449 the case plan was due to the parent's lack of financial
450 resources or to the failure of the department to make reasonable
451 efforts to reunify the parent and child. The 12-month period
452 begins to run only after the child's placement into shelter care
453 or the entry of a disposition order placing the custody of the
454 child with the department or a person other than the parent and
455 the court's approval of a case plan having the goal of
456 reunification with the parent, whichever occurs first; or

457 2. The parent or parents have materially breached the case
458 plan by their action or inaction. Time is of the essence for
459 permanency of children in the dependency system. In order to
460 prove the parent or parents have materially breached the case
461 plan, the court must find by clear and convincing evidence that
462 the parent or parents are unlikely or unable to substantially
463 comply with the case plan before time to comply with the case
464 plan expires.

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465 3. The child has been in care for any 12 of the last 22
466 months and the parents have not substantially complied with the
467 case plan so as to permit reunification under s. 39.522(2)
468 unless the failure to substantially comply with the case plan
469 was due to the parent's lack of financial resources or to the
470 failure of the department to make reasonable efforts to reunify
471 the parent and child.

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

474 39.811 Powers of disposition; order of disposition.—

475 (5) If the court terminates parental rights, the court
476 shall enter a written order of disposition within 30 days after
477 conclusion of the hearing briefly stating the facts upon which
478 its decision to terminate the parental rights is made. An order
479 of termination of parental rights, whether based on parental
480 consent or after notice served as prescribed in this part,
481 permanently deprives the parents of any right to the child.

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