

By Senator Baxley

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1 A bill to be entitled
2 An act relating to court proceedings; amending s.
3 39.013, F.S.; authorizing individuals to appear at or
4 attend hearings or conferences relating to children
5 through audio-video communication technology, except
6 under certain circumstances; amending s. 39.0131,
7 F.S.; requiring parties in certain proceedings to
8 designate their primary e-mail addresses with the
9 court; authorizing courts to excuse a party from the
10 requirement for good cause shown; amending s. 39.402,
11 F.S.; requiring that court notices for shelter
12 placement hearings held through audio-video
13 communication technology include certain information;
14 amending s. 39.502, F.S.; specifying how parties to
15 certain hearings involving children may consent to
16 service or notice by e-mail; requiring that certain
17 summonses or notices contain instructions for
18 appearance through audio-video communications
19 technology; amending s. 39.506, F.S.; requiring
20 parties at arraignment hearings to provide the court
21 with a primary e-mail address; authorizing the court
22 to excuse a party from the requirement for good cause;
23 conforming provisions to changes made by the act;
24 amending ss. 39.521 and 39.801, F.S.; conforming
25 provisions to changes made by the act; amending s.
26 92.54, F.S.; authorizing the use of audio-video
27 communication technology for showing testimonies in
28 proceedings involving a victim or witness under the
29 age of 18 or who has an intellectual disability;

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30 amending s. 985.319, F.S.; requiring that summonses
31 for juvenile delinquency hearings held through audio-
32 video communication technology provide certain
33 information; providing an effective date.
34

35 Be It Enacted by the Legislature of the State of Florida:
36

37 Section 1. Subsection (13) is added to section 39.013,
38 Florida Statutes, to read:

39 39.013 Procedures and jurisdiction; right to counsel.—

40 (13) Except as otherwise provided in this chapter, an
41 individual's appearance or attendance at a hearing or conference
42 may be through his or her physical appearance or, at the
43 discretion of the court, through audio-video communication
44 technology, unless the court determines that appearance through
45 audio-video communication technology is inconsistent with the
46 United States Constitution, the State Constitution, a statute, a
47 rule of court, or a court order.

48 Section 2. Section 39.0131, Florida Statutes, is amended to
49 read:

50 39.0131 Permanent mailing and primary e-mail address
51 designation.—Upon the first appearance before the court, each
52 party shall provide to the court a permanent mailing address and
53 primary e-mail address. The court shall advise each party that
54 these addresses ~~this address~~ will be used by the court and the
55 petitioner for notice purposes unless and until the party
56 notifies the court and the petitioner in writing of a new
57 mailing or e-mail address. The court may excuse a party from the
58 requirement to provide an e-mail address for good cause shown.

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59 Section 3. Subsection (16) of section 39.402, Florida
60 Statutes, is amended to read:

61 39.402 Placement in a shelter.—

62 (16) At the conclusion of a shelter hearing, the court
63 shall notify all parties in writing of the next scheduled
64 hearing to review the shelter placement. If the hearing will be
65 held through audio-video communication technology, the written
66 notice must include all relevant information to attend the
67 proceeding. The hearing shall be held no later than 30 days
68 after placement of the child in shelter status, in conjunction
69 with the arraignment hearing, and at such times as are otherwise
70 provided by law or determined by the court to be necessary.

71 Section 4. Subsections (1), (4), (5), (18), and (19) of
72 section 39.502, Florida Statutes, are amended to read:

73 39.502 Notice, process, and service.—

74 (1) Unless parental rights have been terminated, all
75 parents must be notified of all proceedings or hearings
76 involving the child. Notice in cases involving shelter hearings
77 and hearings resulting from medical emergencies must be that
78 most likely to result in actual notice to the parents. A party
79 may consent to service or notice by e-mail by providing a
80 primary e-mail address to the clerk of the court. In all other
81 dependency proceedings, notice must be provided in accordance
82 with subsections (4)-(9), except when a relative requests
83 notification pursuant to s. 39.301(14)(b), in which case notice
84 shall be provided pursuant to subsection (19).

85 (4) The summons shall require the person on whom it is
86 served to appear for a hearing at a time and place specified,
87 not less than 72 hours after service of the summons. If

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88 applicable, the summons must also include instructions for
89 appearing at the hearing through audio-video communication
90 technology. A copy of the petition shall be attached to the
91 summons.

92 (5) The summons shall be directed to, and shall be served
93 upon, all parties other than the petitioner. A party may consent
94 to service by e-mail by providing a primary e-mail address to
95 the clerk of the court.

96 (18) In all proceedings under this part, the court shall
97 provide to the parent or legal custodian of the child, at the
98 conclusion of any hearing, a written notice containing the date
99 of the next scheduled hearing. The court shall also include the
100 date of the next hearing in any order issued by the court. If
101 the hearing is to be conducted through audio-video communication
102 technology, the instructions for appearance must also be
103 included.

104 (19) In all proceedings and hearings under this chapter,
105 the attorney for the department shall notify, orally or in
106 writing, a relative requesting notification pursuant to s.
107 39.301(14) (b) of the date, time, and location of such
108 proceedings and hearings and, if applicable, the instructions
109 for appearance through audio-video communication technology, and
110 notify the relative that he or she has the right to attend all
111 subsequent proceedings and hearings, to submit reports to the
112 court, and to speak to the court regarding the child, if the
113 relative so desires. The court has the discretion to release the
114 attorney for the department from notifying a relative who
115 requested notification pursuant to s. 39.301(14) (b) if the
116 relative's involvement is determined to be impeding the

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117 dependency process or detrimental to the child's well-being.

118 Section 5. Subsections (3) and (4) of section 39.506,
119 Florida Statutes, are amended to read:

120 39.506 Arraignment hearings.—

121 (3) Failure of a person served with notice to ~~personally~~
122 appear at the arraignment hearing constitutes the person's
123 consent to a dependency adjudication. The document containing
124 the notice to respond or appear must contain, in type at least
125 as large as the balance of the document, the following or
126 substantially similar language: "FAILURE TO ~~PERSONALLY~~ APPEAR AT
127 THE ARRAIGNMENT HEARING CONSTITUTES CONSENT TO THE ADJUDICATION
128 OF THIS CHILD (OR CHILDREN) AS A DEPENDENT CHILD (OR CHILDREN)
129 AND MAY ULTIMATELY RESULT IN LOSS OF CUSTODY OF THIS CHILD (OR
130 CHILDREN)." If a person appears for the arraignment hearing and
131 the court orders that person to ~~personally~~ appear, either
132 physically or through audio-video communication technology, at
133 the adjudicatory hearing for dependency, stating the date, time,
134 and place, and, if applicable, the instructions for appearance
135 through audio-video communication technology, of the
136 adjudicatory hearing, then that person's failure to appear for
137 the scheduled adjudicatory hearing constitutes consent to a
138 dependency adjudication.

139 (4) At the arraignment hearing, each party shall provide to
140 the court a permanent mailing address and a primary e-mail
141 address. The court shall advise each party that these addresses
142 ~~this address~~ will be used by the court and the petitioner for
143 notice purposes unless and until the party notifies the court
144 and the petitioner in writing of a new mailing or e-mail
145 address. The court may, for good cause shown, excuse a party

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146 from the requirement to provide an e-mail address.

147 Section 6. Paragraph (e) of subsection (1) of section
148 39.521, Florida Statutes, is amended to read:

149 39.521 Disposition hearings; powers of disposition.—

150 (1) A disposition hearing shall be conducted by the court,
151 if the court finds that the facts alleged in the petition for
152 dependency were proven in the adjudicatory hearing, or if the
153 parents or legal custodians have consented to the finding of
154 dependency or admitted the allegations in the petition, have
155 failed to appear for the arraignment hearing after proper
156 notice, or have not been located despite a diligent search
157 having been conducted.

158 (e) The court shall, in its written order of disposition,
159 include all of the following:

- 160 1. The placement or custody of the child.
- 161 2. Special conditions of placement and visitation.
- 162 3. Evaluation, counseling, treatment activities, and other
163 actions to be taken by the parties, if ordered.
- 164 4. The persons or entities responsible for supervising or
165 monitoring services to the child and parent.
- 166 5. Continuation or discharge of the guardian ad litem, as
167 appropriate.
- 168 6. The date, time, and location of the next scheduled
169 review hearing and, if applicable, instructions for appearance
170 through audio-video communication technology, which hearing must
171 occur within the earlier of:
 - 172 a. Ninety days after the disposition hearing;
 - 173 b. Ninety days after the court accepts the case plan;
 - 174 c. Six months after the date of the last review hearing; or

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175 d. Six months after the date of the child's removal from
176 his or her home, if no review hearing has been held since the
177 child's removal from the home.

178 7. If the child is in an out-of-home placement, child
179 support to be paid by the parents, or the guardian of the
180 child's estate if possessed of assets which under law may be
181 disbursed for the care, support, and maintenance of the child.
182 The court may exercise jurisdiction over all child support
183 matters, shall adjudicate the financial obligation, including
184 health insurance, of the child's parents or guardian, and shall
185 enforce the financial obligation as provided in chapter 61. The
186 state's child support enforcement agency shall enforce child
187 support orders under this section in the same manner as child
188 support orders under chapter 61. Placement of the child shall
189 not be contingent upon issuance of a support order.

190 8.a. If the court does not commit the child to the
191 temporary legal custody of an adult relative, legal custodian,
192 or other adult approved by the court, the disposition order must
193 include the reasons for such a decision and shall include a
194 determination as to whether diligent efforts were made by the
195 department to locate an adult relative, legal custodian, or
196 other adult willing to care for the child in order to present
197 that placement option to the court instead of placement with the
198 department.

199 b. If no suitable relative is found and the child is placed
200 with the department or a legal custodian or other adult approved
201 by the court, both the department and the court shall consider
202 transferring temporary legal custody to an adult relative
203 approved by the court at a later date, but neither the

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204 department nor the court is obligated to so place the child if
205 it is in the child's best interest to remain in the current
206 placement.

207
208 For the purposes of this section, "diligent efforts to locate an
209 adult relative" means a search similar to the diligent search
210 for a parent, but without the continuing obligation to search
211 after an initial adequate search is completed.

212 9. Other requirements necessary to protect the health,
213 safety, and well-being of the child, to preserve the stability
214 of the child's child care, early education program, or any other
215 educational placement, and to promote family preservation or
216 reunification whenever possible.

217 Section 7. Paragraphs (a) and (d) of subsection (3) of
218 section 39.801, Florida Statutes, are amended to read:

219 39.801 Procedures and jurisdiction; notice; service of
220 process.—

221 (3) Before the court may terminate parental rights, in
222 addition to the other requirements set forth in this part, the
223 following requirements must be met:

224 (a) Notice of the date, time, and place of the advisory
225 hearing for the petition to terminate parental rights; if
226 applicable, instructions for appearance through audio-video
227 communication technology; and a copy of the petition must be
228 personally served upon the following persons, specifically
229 notifying them that a petition has been filed:

- 230 1. The parents of the child.
- 231 2. The legal custodians of the child.
- 232 3. If the parents who would be entitled to notice are dead

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233 or unknown, a living relative of the child, unless upon diligent
234 search and inquiry no such relative can be found.

235 4. Any person who has physical custody of the child.

236 5. Any grandparent entitled to priority for adoption under
237 s. 63.0425.

238 6. Any prospective parent who has been identified under s.
239 39.503 or s. 39.803, unless a court order has been entered
240 pursuant to s. 39.503(4) or (9) or s. 39.803(4) or (9) which
241 indicates no further notice is required. Except as otherwise
242 provided in this section, if there is not a legal father, notice
243 of the petition for termination of parental rights must be
244 provided to any known prospective father who is identified under
245 oath before the court or who is identified by a diligent search
246 of the Florida Putative Father Registry. Service of the notice
247 of the petition for termination of parental rights is not
248 required if the prospective father executes an affidavit of
249 nonpaternity or a consent to termination of his parental rights
250 which is accepted by the court after notice and opportunity to
251 be heard by all parties to address the best interests of the
252 child in accepting such affidavit.

253 7. The guardian ad litem for the child or the
254 representative of the guardian ad litem program, if the program
255 has been appointed.

256
257 A party may consent to service or notice by e-mail by providing
258 a primary e-mail address to the clerk of the court. The document
259 containing the notice to respond or appear must contain, in type
260 at least as large as the type in the balance of the document,
261 the following or substantially similar language: "FAILURE TO

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262 ~~PERSONALLY~~ APPEAR AT THIS ADVISORY HEARING CONSTITUTES CONSENT
263 TO THE TERMINATION OF PARENTAL RIGHTS OF THIS CHILD (OR
264 CHILDREN). IF YOU FAIL TO APPEAR ON THE DATE AND TIME SPECIFIED,
265 YOU MAY LOSE ALL LEGAL RIGHTS AS A PARENT TO THE CHILD OR
266 CHILDREN NAMED IN THE PETITION ATTACHED TO THIS NOTICE."

267 (d) If the person served with notice under this section
268 fails to ~~personally~~ appear at the advisory hearing, either
269 physically or, at the discretion of the court, through audio-
270 video communication technology, the failure to ~~personally~~ appear
271 shall constitute consent for termination of parental rights by
272 the person given notice. If a parent appears for the advisory
273 hearing and the court orders that parent to ~~personally~~ appear at
274 the adjudicatory hearing for the petition for termination of
275 parental rights, stating the date, time, and location of the
276 said hearing and, if applicable, instructions for appearance
277 through audio-video communication technology, then failure of
278 that parent to ~~personally~~ appear, either physically or, at the
279 discretion of the court, through audio-video communication
280 technology, at the adjudicatory hearing shall constitute consent
281 for termination of parental rights.

282 Section 8. Section 92.54, Florida Statutes, is amended to
283 read:

284 92.54 Use of closed-circuit television and audio-video
285 communication technology in proceedings involving a victim or
286 witness under the age of 18 or who has an intellectual
287 disability.—

288 (1) Upon motion and hearing in camera and upon a finding
289 that there is a substantial likelihood that a victim or witness
290 under the age of 18 or who has an intellectual disability will

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291 suffer at least moderate emotional or mental harm due to the
292 presence of the defendant if such victim or witness is required
293 to testify in open court, or is unavailable as defined in s.
294 90.804(1), the trial court may order that the testimony of the
295 victim or witness be taken outside of the courtroom and shown by
296 means of closed-circuit television or through audio-video
297 communication technology.

298 (2) The motion may be filed by the victim or witness; the
299 attorney, parent, legal guardian, or guardian ad litem of the
300 victim or witness; the prosecutor; the defendant or the
301 defendant's counsel; or the trial judge on his or her own
302 motion.

303 (3) Only the judge, the prosecutor, the defendant, the
304 attorney for the defendant, the operators of the videotape
305 equipment, an interpreter, and some other person who, in the
306 opinion of the court, contributes to the well-being of the child
307 or the person who has an intellectual disability and who will
308 not be a witness in the case may be in the room during the
309 recording of the testimony.

310 (4) During the victim's or witness's testimony by closed-
311 circuit television or through audio-video communication
312 technology, the court may require the defendant to view the
313 testimony from the courtroom. In such a case, the court shall
314 permit the defendant to observe and hear the testimony of the
315 victim or witness, but must ensure that the victim or witness
316 cannot hear or see the defendant. The defendant's right to
317 assistance of counsel, which includes the right to immediate and
318 direct communication with counsel conducting cross-examination,
319 must be protected and, upon the defendant's request, such

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320 communication must be provided by any appropriate electronic
321 method.

322 (5) The court shall make specific findings of fact, on the
323 record, as to the basis for its ruling under this section.

324 Section 9. Subsection (3) of section 985.319, Florida
325 Statutes, is amended to read:

326 985.319 Process and service.—

327 (3) The summons shall have a copy of the petition attached
328 and shall require the person on whom it is served to appear for
329 a hearing at a time and place specified. If the hearing is to be
330 held through audio-video communication technology, the summons
331 must provide instructions on how to attend the hearing. Except
332 in cases of medical emergency, the time may not be less than 24
333 hours after service of the summons. If the child is not detained
334 by an order of the court, the summons shall require the
335 custodian of the child to produce the child at the said time and
336 place.

337 Section 10. This act shall take effect upon becoming a law.