

By Senator Book

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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 dependency proceedings through audio-video
5 communication technology; providing an exception to
6 such authorization; amending s. 39.0131, F.S.;
7 requiring parties in certain proceedings to provide
8 their primary e-mail address to the court; requiring
9 the court to advise parties on how such addresses will
10 be used; authorizing the court to excuse such
11 requirement for good cause shown; requiring the court
12 to excuse such requirement under certain
13 circumstances; amending s. 39.402, F.S.; requiring
14 that court notices for shelter hearings held through
15 audio-video communication technology include certain
16 information; amending s. 39.502, F.S.; authorizing
17 parties to consent to service or notice by e-mail for
18 shelter hearings and hearings regarding medical
19 emergencies; requiring that certain summons or notices
20 include instructions for appearing through audio-video
21 communication technology, if applicable; authorizing a
22 party to consent to service of a summons by e-mail;
23 requiring the court to provide certain instructions
24 for hearings conducted through audio-video
25 communication technology; requiring the attorney for
26 the Department of Children and Families to provide
27 instructions for appearance through audio-video
28 communication technology to certain relatives, if
29 applicable; making technical changes; amending s.

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30 39.506, F.S.; conforming provisions to changes made by
31 the act; requiring each party to provide a permanent
32 e-mail address at an arraignment hearing; requiring
33 the court to advise parties on how such addresses will
34 be used; authorizing the court to excuse such
35 requirement for good cause shown; requiring the court
36 to excuse such requirement under certain
37 circumstances; amending s. 39.521, F.S.; requiring
38 that disposition orders issued by the court include
39 instructions for appearance at certain hearings
40 through audio-video communication technology, if
41 applicable; amending s. 39.801, F.S.; requiring that
42 notices for advisory hearings for petition for
43 termination of parental rights include instructions
44 for appearance through audio-video communication
45 technology, if applicable; authorizing a party to
46 consent to service or notice of such advisory hearing
47 by e-mail; conforming provisions to changes made by
48 the act; specifying that if a person fails to appear
49 at an advisory hearing either physically or through
50 audio-video communication technology, it constitutes
51 consent to termination of parental rights; requiring
52 the court to provide instructions for appearance by
53 audio-video communication technology, if applicable,
54 at an adjudicatory hearing for the petition of
55 termination of parental rights; specifying that
56 failure to appear, either physically or through audio-
57 video communication technology, at an adjudicatory
58 hearing constitutes consent to termination of parental

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59 rights; amending s. 92.54, F.S.; authorizing that the
 60 testimony of children be given through audio-video
 61 communication technology under certain circumstances;
 62 amending s. 985.319, F.S.; requiring that a summons
 63 provide instruction on how to attend a hearing if the
 64 hearing is to be held through audio-video
 65 communication technology; providing an effective date.
 66

67 Be It Enacted by the Legislature of the State of Florida:
 68

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

71 39.013 Procedures and jurisdiction; right to counsel.—

72 (13) Except as otherwise provided in this chapter, an
 73 individual's appearance or attendance at dependency proceedings
 74 may be through his or her physical appearance or attendance or,
 75 at the discretion of the court, through audio-video
 76 communication technology, unless the court determines that
 77 appearance through audio-video communication technology is
 78 inconsistent with the United States Constitution, the State
 79 Constitution, a statute, a rule of court, or a court order.

80 Section 2. Section 39.0131, Florida Statutes, is amended to
 81 read:

82 39.0131 Permanent mailing and primary e-mail address
 83 designation.—Upon the first appearance before the court, each
 84 party shall provide to the court a permanent mailing address and
 85 primary e-mail address. The court shall advise each party that
 86 these addresses ~~this address~~ will be used by the court and the
 87 petitioner for notice purposes unless and until the party

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88 notifies the court and the petitioner in writing of a new
89 mailing or e-mail address. The court may excuse a party from the
90 requirement to provide an e-mail address for good cause shown.
91 The court must excuse a party who is incarcerated and is not
92 represented by an attorney from the requirement to provide an e-
93 mail address.

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

96 39.402 Placement in a shelter.—

97 (16) At the conclusion of a shelter hearing, the court
98 shall notify all parties in writing of the next scheduled
99 hearing to review the shelter placement. If the hearing will be
100 held through audio-video communication technology, the written
101 notice must include all relevant information needed to attend
102 the proceeding. The hearing must ~~shall~~ be held no later than 30
103 days after placement of the child in shelter status, in
104 conjunction with the arraignment hearing, and at such times as
105 are otherwise provided by law or determined by the court to be
106 necessary.

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

109 39.502 Notice, process, and service.—

110 (1) Unless parental rights have been terminated, all
111 parents must be notified of all proceedings or hearings
112 involving the child. Notice in cases involving shelter hearings
113 and hearings resulting from medical emergencies must be provided
114 in the manner ~~that~~ most likely to result in actual notice to the
115 parents. A party may consent to service or notice by e-mail by
116 providing a primary e-mail address to the clerk of the court. In

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117 all other dependency proceedings, notice must be provided in
118 accordance with subsections (4)-(9), except when a relative
119 requests notification pursuant to s. 39.301(14)(b), in which
120 case notice shall be provided pursuant to subsection (19).

121 (4) The summons must ~~shall~~ require the person on whom it is
122 served to appear for a hearing at a time and place specified,
123 not less than 72 hours after service of the summons. If
124 applicable, the summons must also include instructions for
125 appearing at the hearing through audio-video communication
126 technology. A copy of the petition shall be attached to the
127 summons.

128 (5) The summons must ~~shall~~ be directed to, and must ~~shall~~
129 be served upon, all parties other than the petitioner. A party
130 may consent to service by e-mail by providing a primary e-mail
131 address to the clerk of the court.

132 (18) In all proceedings under this part, the court shall
133 provide to the parent or legal custodian of the child, at the
134 conclusion of any hearing, a written notice containing the date
135 of the next scheduled hearing. The court shall also include the
136 date of the next hearing in any order issued by the court. If
137 the hearing is to be conducted through audio-video communication
138 technology, the instructions for appearance must also be
139 included.

140 (19) In all proceedings and hearings under this chapter,
141 the attorney for the department shall notify, orally or in
142 writing, a relative requesting notification pursuant to s.
143 39.301(14)(b) of the date, time, and location of such
144 proceedings and hearings and, if applicable, the instructions
145 for appearance through audio-video communication technology, and

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146 notify the relative that he or she has the right to attend all
147 subsequent proceedings and hearings, to submit reports to the
148 court, and to speak to the court regarding the child, if the
149 relative so desires. The court has the discretion to release the
150 attorney for the department from notifying a relative who
151 requested notification pursuant to s. 39.301(14)(b) if the
152 relative's involvement is determined to be impeding the
153 dependency process or detrimental to the child's well-being.

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

156 39.506 Arraignment hearings.—

157 (3) Failure of a person served with notice to ~~personally~~
158 appear at the arraignment hearing constitutes the person's
159 consent to a dependency adjudication. The document containing
160 the notice to respond or appear must contain, in type at least
161 as large as the balance of the document, the following or
162 substantially similar language: "FAILURE TO ~~PERSONALLY~~ APPEAR AT
163 THE ARRAIGNMENT HEARING CONSTITUTES CONSENT TO THE ADJUDICATION
164 OF THIS CHILD (OR CHILDREN) AS A DEPENDENT CHILD (OR CHILDREN)
165 AND MAY ULTIMATELY RESULT IN LOSS OF CUSTODY OF THIS CHILD (OR
166 CHILDREN)." If a person appears for the arraignment hearing and
167 the court orders that person to ~~personally~~ appear, either
168 physically or through audio-video communication technology, at
169 the adjudicatory hearing for dependency, stating the date, time,
170 and place, and, if applicable, the instructions for appearance
171 through audio-video communication technology, of the
172 adjudicatory hearing, then that person's failure to appear for
173 the scheduled adjudicatory hearing constitutes consent to a
174 dependency adjudication.

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175 (4) At the arraignment hearing, each party shall provide to
176 the court a permanent mailing address and a primary e-mail
177 address. The court shall advise each party that these addresses
178 ~~this address~~ will be used by the court and the petitioner for
179 notice purposes unless and until the party notifies the court
180 and the petitioner in writing of a new mailing or e-mail
181 address. The court may, for good cause shown, excuse a party
182 from the requirement to provide an e-mail address. The court
183 must excuse a party who is incarcerated and is not represented
184 by an attorney from the requirement to provide an e-mail
185 address.

186 Section 6. Paragraph (e) of subsection (1) of section
187 39.521, Florida Statutes, is amended to read:

188 39.521 Disposition hearings; powers of disposition.—

189 (1) A disposition hearing shall be conducted by the court,
190 if the court finds that the facts alleged in the petition for
191 dependency were proven in the adjudicatory hearing, or if the
192 parents or legal custodians have consented to the finding of
193 dependency or admitted the allegations in the petition, have
194 failed to appear for the arraignment hearing after proper
195 notice, or have not been located despite a diligent search
196 having been conducted.

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

- 199 1. The placement or custody of the child.
- 200 2. Special conditions of placement and visitation.
- 201 3. Evaluation, counseling, treatment activities, and other
202 actions to be taken by the parties, if ordered.
- 203 4. The persons or entities responsible for supervising or

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204 monitoring services to the child and parent.

205 5. Continuation or discharge of the guardian ad litem, as
206 appropriate.

207 6. The date, time, and location of the next scheduled
208 review hearing and, if applicable, instructions for appearance
209 through audio-video communication technology, which must occur
210 within the earlier of:

- 211 a. Ninety days after the disposition hearing;
- 212 b. Ninety days after the court accepts the case plan;
- 213 c. Six months after the date of the last review hearing; or
- 214 d. Six months after the date of the child's removal from
215 his or her home, if no review hearing has been held since the
216 child's removal from the home.

217 7. If the child is in an out-of-home placement, child
218 support to be paid by the parents, or the guardian of the
219 child's estate if possessed of assets which under law may be
220 disbursed for the care, support, and maintenance of the child.
221 The court may exercise jurisdiction over all child support
222 matters, shall adjudicate the financial obligation, including
223 health insurance, of the child's parents or guardian, and shall
224 enforce the financial obligation as provided in chapter 61. The
225 state's child support enforcement agency shall enforce child
226 support orders under this section in the same manner as child
227 support orders under chapter 61. Placement of the child is not
228 ~~shall not be~~ contingent upon issuance of a support order.

229 8.a. If the court does not commit the child to the
230 temporary legal custody of an adult relative, legal custodian,
231 or other adult approved by the court, the disposition order must
232 include the reasons for such a decision and shall include a

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233 determination as to whether diligent efforts were made by the
234 department to locate an adult relative, legal custodian, or
235 other adult willing to care for the child in order to present
236 that placement option to the court instead of placement with the
237 department.

238 b. If no suitable relative is found and the child is placed
239 with the department or a legal custodian or other adult approved
240 by the court, both the department and the court must ~~shall~~
241 consider transferring temporary legal custody to an adult
242 relative approved by the court at a later date, but neither the
243 department nor the court is obligated to so place the child if
244 it is in the child's best interest to remain in the current
245 placement.

246
247 For the purposes of this section, "diligent efforts to locate an
248 adult relative" means a search similar to the diligent search
249 for a parent, but without the continuing obligation to search
250 after an initial adequate search is completed.

251 9. Other requirements necessary to protect the health,
252 safety, and well-being of the child, to preserve the stability
253 of the child's child care, early education program, or any other
254 educational placement, and to promote family preservation or
255 reunification whenever possible.

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

258 39.801 Procedures and jurisdiction; notice; service of
259 process.—

260 (3) Before the court may terminate parental rights, in
261 addition to the other requirements set forth in this part, the

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262 following requirements must be met:

263 (a) Notice of the date, time, and place of the advisory
264 hearing for the petition to terminate parental rights; if
265 applicable, instructions for appearance through audio-video
266 communication technology; and a copy of the petition must be
267 personally served upon the following persons, specifically
268 notifying them that a petition has been filed:

269 1. The parents of the child.

270 2. The legal custodians of the child.

271 3. If the parents who would be entitled to notice are dead
272 or unknown, a living relative of the child, unless upon diligent
273 search and inquiry no such relative can be found.

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

275 5. Any grandparent entitled to priority for adoption under
276 s. 63.0425.

277 6. Any prospective parent who has been identified under s.
278 39.503 or s. 39.803, unless a court order has been entered
279 pursuant to s. 39.503(4) or (9) or s. 39.803(4) or (9) which
280 indicates no further notice is required. Except as otherwise
281 provided in this section, if there is not a legal father, notice
282 of the petition for termination of parental rights must be
283 provided to any known prospective father who is identified under
284 oath before the court or who is identified by a diligent search
285 of the Florida Putative Father Registry. Service of the notice
286 of the petition for termination of parental rights is not
287 required if the prospective father executes an affidavit of
288 nonpaternity or a consent to termination of his parental rights
289 which is accepted by the court after notice and opportunity to
290 be heard by all parties to address the best interests of the

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291 child in accepting such affidavit.

292 7. The guardian ad litem for the child or the
293 representative of the guardian ad litem program, if the program
294 has been appointed.

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296 A party may consent to service or notice by e-mail by providing
297 a primary e-mail address to the clerk of the court. The document
298 containing the notice to respond or appear must contain, in type
299 at least as large as the type in the balance of the document,
300 the following or substantially similar language: "FAILURE TO
301 ~~PERSONALLY~~ APPEAR AT THIS ADVISORY HEARING CONSTITUTES CONSENT
302 TO THE TERMINATION OF PARENTAL RIGHTS OF THIS CHILD (OR
303 CHILDREN). IF YOU FAIL TO APPEAR ON THE DATE AND TIME SPECIFIED,
304 YOU MAY LOSE ALL LEGAL RIGHTS AS A PARENT TO THE CHILD OR
305 CHILDREN NAMED IN THE PETITION ATTACHED TO THIS NOTICE."

306 (d) If the person served with notice under this section
307 fails to ~~personally~~ appear at the advisory hearing, either
308 physically or, at the discretion of the court, through audio-
309 video communication technology, the failure to ~~personally~~ appear
310 constitutes ~~shall constitute~~ consent for termination of parental
311 rights by the person given notice. If a parent appears for the
312 advisory hearing and the court orders that parent to ~~personally~~
313 appear at the adjudicatory hearing for the petition for
314 termination of parental rights, stating the date, time, and
315 location of the said hearing and, if applicable, instructions
316 for appearance through audio-video communication technology,
317 then failure of that parent to ~~personally~~ appear, either
318 physically or, at the discretion of the court, through audio-
319 video communication technology, at the adjudicatory hearing

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320 constitutes ~~shall constitute~~ consent for termination of parental
321 rights.

322 Section 8. Section 92.54, Florida Statutes, is amended to
323 read:

324 92.54 Use of closed-circuit television and audio-video
325 communication technology in proceedings involving a victim or
326 witness under the age of 18 or who has an intellectual
327 disability.—

328 (1) Upon motion and hearing in camera and upon a finding
329 that there is a substantial likelihood that a victim or witness
330 under the age of 18 or who has an intellectual disability will
331 suffer at least moderate emotional or mental harm due to the
332 presence of the defendant if such victim or witness is required
333 to testify in open court, or is unavailable as defined in s.
334 90.804(1), the trial court may order that the testimony of the
335 victim or witness be taken outside of the courtroom and shown by
336 means of closed-circuit television or through audio-video
337 communication technology.

338 (2) The motion may be filed by the victim or witness; the
339 attorney, parent, legal guardian, or guardian ad litem of the
340 victim or witness; the prosecutor; the defendant or the
341 defendant's counsel; or the trial judge on his or her own
342 motion.

343 (3) Only the judge, the prosecutor, the defendant, the
344 attorney for the defendant, the operators of the videotape
345 equipment, an interpreter, and some other person who, in the
346 opinion of the court, contributes to the well-being of the child
347 or the person who has an intellectual disability and who will
348 not be a witness in the case may be in the room during the

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349 recording of the testimony.

350 (4) During the victim's or witness's testimony by closed-
351 circuit television or through audio-video communication
352 technology, the court may require the defendant to view the
353 testimony from the courtroom. In such a case, the court shall
354 permit the defendant to observe and hear the testimony of the
355 victim or witness, but must ensure that the victim or witness
356 cannot hear or see the defendant. The defendant's right to
357 assistance of counsel, which includes the right to immediate and
358 direct communication with counsel conducting cross-examination,
359 must be protected and, upon the defendant's request, such
360 communication must be provided by any appropriate electronic
361 method.

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

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

366 985.319 Process and service.—

367 (3) The summons must ~~shall~~ have a copy of the petition
368 attached and must ~~shall~~ require the person on whom it is served
369 to appear for a hearing at a time and place specified. If the
370 hearing is to be held through audio-video communication
371 technology, the summons must provide instructions on how to
372 attend the hearing. Except in cases of medical emergency, the
373 time may not be less than 24 hours after service of the summons.
374 If the child is not detained by an order of the court, the
375 summons must ~~shall~~ require the custodian of the child to produce
376 the child at the said time and place.

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