

By the Committee on Rules; and Senator Book

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

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30 F.S.; authorizing the use of audio-video communication
31 technology for showing testimonies in proceedings
32 involving a victim or witness under the age of 18 or
33 who has an intellectual disability; amending s.
34 985.319, F.S.; requiring that summonses for juvenile
35 delinquency hearings held through audio or audio-video
36 communication technology provide certain information;
37 providing an effective date.
38

39 Be It Enacted by the Legislature of the State of Florida:
40

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

43 39.013 Procedures and jurisdiction; right to counsel.-
44 (13) Except as otherwise provided in this chapter, an
45 individual's appearance or attendance at dependency proceedings
46 may be through his or her physical appearance or attendance or,
47 by agreement of the parties or at the discretion of the court,
48 through audio or audio-video communication technology, unless
49 the court determines that appearance through audio or audio-
50 video communication technology is inconsistent with the United
51 States Constitution, the State Constitution, a statute, a rule
52 of court, or a court order.

53 Section 2. Section 39.0131, Florida Statutes, is amended to
54 read:

55 39.0131 Permanent mailing and primary e-mail address
56 designation.-Upon the first appearance before the court, each
57 party shall provide to the court a permanent mailing address and
58 primary e-mail address. The court shall advise each party that

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59 these addresses ~~this address~~ will be used by the court and the
60 petitioner for notice purposes unless and until the party
61 notifies the court and the petitioner in writing of a new
62 mailing or e-mail address. The court may excuse a party from the
63 requirement to provide an e-mail address for good cause shown.
64 The court must excuse a party who is incarcerated and is not
65 represented by an attorney from the requirement to provide an e-
66 mail address.

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

69 39.402 Placement in a shelter.—

70 (16) At the conclusion of a shelter hearing, the court
71 shall notify all parties in writing of the next scheduled
72 hearing to review the shelter placement. If the hearing will be
73 held through audio or audio-video communication technology, the
74 written notice must include all relevant information needed to
75 appear at the proceeding. The hearing must ~~shall~~ be held no
76 later than 30 days after placement of the child in shelter
77 status, in conjunction with the arraignment hearing, and at such
78 times as are otherwise provided by law or determined by the
79 court to be necessary.

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

82 39.502 Notice, process, and service.—

83 (1) Unless parental rights have been terminated, all
84 parents must be notified of all proceedings or hearings
85 involving the child. Notice in cases involving shelter hearings
86 and hearings resulting from medical emergencies must be provided
87 in the manner ~~that~~ most likely to result in actual notice to the

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88 parents. A party may consent to service or notice by e-mail by
89 providing a primary e-mail address to the clerk of the court. In
90 all other dependency proceedings, notice must be provided in
91 accordance with subsections (4)-(9), except when a relative
92 requests notification pursuant to s. 39.301(14)(b), in which
93 case notice shall be provided pursuant to subsection (19).

94 (4) The summons must ~~shall~~ require the person on whom it is
95 served to appear for a hearing at a time and place specified,
96 not less than 72 hours after service of the summons. If
97 applicable, the summons must also include instructions for
98 appearing at the hearing through audio or audio-video
99 communication technology. A copy of the petition must ~~shall~~ be
100 attached to the summons.

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

105 (18) In all proceedings under this part, the court shall
106 provide to the parent or legal custodian of the child, at the
107 conclusion of any hearing, a written notice containing the date
108 of the next scheduled hearing. The court shall also include the
109 date of the next hearing in any order issued by the court. If
110 the hearing is to be conducted through audio or audio-video
111 communication technology, the instructions for appearance must
112 also be included.

113 (19) In all proceedings and hearings under this chapter,
114 the attorney for the department shall notify, orally or in
115 writing, a relative requesting notification pursuant to s.
116 39.301(14)(b) of the date, time, and location of such

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117 proceedings and hearings and, if applicable, the instructions
118 for appearance through audio or audio-video communication
119 technology, and notify the relative that he or she has the right
120 to attend all subsequent proceedings and hearings, to submit
121 reports to the court, and to speak to the court regarding the
122 child, if the relative so desires. The court has the discretion
123 to release the attorney for the department from notifying a
124 relative who requested notification pursuant to s. 39.301(14)(b)
125 if the relative's involvement is determined to be impeding the
126 dependency process or detrimental to the child's well-being.

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

129 39.506 Arraignment hearings.—

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

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146 the scheduled adjudicatory hearing constitutes consent to a
147 dependency adjudication.

148 (4) At the arraignment hearing, each party shall provide to
149 the court a permanent mailing address and a primary e-mail
150 address. The court shall advise each party that these addresses
151 ~~this address~~ will be used by the court and the petitioner for
152 notice purposes unless and until the party notifies the court
153 and the petitioner in writing of a new mailing or e-mail
154 address. The court may, for good cause shown, excuse a party
155 from the requirement to provide an e-mail address. The court
156 must excuse a party who is incarcerated and is not represented
157 by an attorney from the requirement to provide an e-mail
158 address.

159 Section 6. Paragraph (e) of subsection (1) of section
160 39.521, Florida Statutes, is amended to read:

161 39.521 Disposition hearings; powers of disposition.—

162 (1) A disposition hearing shall be conducted by the court,
163 if the court finds that the facts alleged in the petition for
164 dependency were proven in the adjudicatory hearing, or if the
165 parents or legal custodians have consented to the finding of
166 dependency or admitted the allegations in the petition, have
167 failed to appear for the arraignment hearing after proper
168 notice, or have not been located despite a diligent search
169 having been conducted.

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

- 172 1. The placement or custody of the child.
- 173 2. Special conditions of placement and visitation.
- 174 3. Evaluation, counseling, treatment activities, and other

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175 actions to be taken by the parties, if ordered.

176 4. The persons or entities responsible for supervising or
177 monitoring services to the child and parent.

178 5. Continuation or discharge of the guardian ad litem, as
179 appropriate.

180 6. The date, time, and location of the next scheduled
181 review hearing and, if applicable, instructions for appearance
182 through audio or audio-video communication technology, which
183 must occur within the earlier of:

184 a. Ninety days after the disposition hearing;

185 b. Ninety days after the court accepts the case plan;

186 c. Six months after the date of the last review hearing; or

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

190 7. If the child is in an out-of-home placement, child
191 support to be paid by the parents, or the guardian of the
192 child's estate if possessed of assets which under law may be
193 disbursed for the care, support, and maintenance of the child.
194 The court may exercise jurisdiction over all child support
195 matters, shall adjudicate the financial obligation, including
196 health insurance, of the child's parents or guardian, and shall
197 enforce the financial obligation as provided in chapter 61. The
198 state's child support enforcement agency shall enforce child
199 support orders under this section in the same manner as child
200 support orders under chapter 61. Placement of the child is not
201 ~~shall not be~~ contingent upon issuance of a support order.

202 8.a. If the court does not commit the child to the
203 temporary legal custody of an adult relative, legal custodian,

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204 or other adult approved by the court, the disposition order must
205 include the reasons for such a decision and must ~~shall~~ include a
206 determination as to whether diligent efforts were made by the
207 department to locate an adult relative, legal custodian, or
208 other adult willing to care for the child in order to present
209 that placement option to the court instead of placement with the
210 department.

211 b. If no suitable relative is found and the child is placed
212 with the department or a legal custodian or other adult approved
213 by the court, both the department and the court must ~~shall~~
214 consider transferring temporary legal custody to an adult
215 relative approved by the court at a later date, but neither the
216 department nor the court is obligated to so place the child if
217 it is in the child's best interest to remain in the current
218 placement.

219
220 For the purposes of this section, "diligent efforts to locate an
221 adult relative" means a search similar to the diligent search
222 for a parent, but without the continuing obligation to search
223 after an initial adequate search is completed.

224 9. Other requirements necessary to protect the health,
225 safety, and well-being of the child, to preserve the stability
226 of the child's child care, early education program, or any other
227 educational placement, and to promote family preservation or
228 reunification whenever possible.

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

231 39.801 Procedures and jurisdiction; notice; service of
232 process.—

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

236 (a) Notice of the date, time, and place of the advisory
237 hearing for the petition to terminate parental rights; if
238 applicable, instructions for appearance through audio-video
239 communication technology; and a copy of the petition must be
240 personally served upon the following persons, specifically
241 notifying them that a petition has been filed:

242 1. The parents of the child.

243 2. The legal custodians of the child.

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

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

248 5. Any grandparent entitled to priority for adoption under
249 s. 63.0425.

250 6. Any prospective parent who has been identified under s.
251 39.503 or s. 39.803, unless a court order has been entered
252 pursuant to s. 39.503(4) or (9) or s. 39.803(4) or (9) which
253 indicates no further notice is required. Except as otherwise
254 provided in this section, if there is not a legal father, notice
255 of the petition for termination of parental rights must be
256 provided to any known prospective father who is identified under
257 oath before the court or who is identified by a diligent search
258 of the Florida Putative Father Registry. Service of the notice
259 of the petition for termination of parental rights is not
260 required if the prospective father executes an affidavit of
261 nonpaternity or a consent to termination of his parental rights

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262 which is accepted by the court after notice and opportunity to
263 be heard by all parties to address the best interests of the
264 child in accepting such affidavit.

265 7. The guardian ad litem for the child or the
266 representative of the guardian ad litem program, if the program
267 has been appointed.

268

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

279 (d) If the person served with notice under this section
280 fails to ~~personally~~ appear at the advisory hearing, either
281 physically or, by agreement of the parties or at the discretion
282 of the court, through audio-video communication technology, the
283 failure to ~~personally~~ appear constitutes ~~shall constitute~~
284 consent for termination of parental rights by the person given
285 notice. If a parent appears for the advisory hearing and the
286 court orders that parent to ~~personally~~ appear at the
287 adjudicatory hearing for the petition for termination of
288 parental rights, stating the date, time, and location of the
289 ~~said~~ hearing and, if applicable, instructions for appearance
290 through audio-video communication technology, ~~then~~ failure of

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291 that parent to ~~personally~~ appear, either physically or, by
292 agreement of the parties or at the discretion of the court,
293 through audio-video communication technology, at the
294 adjudicatory hearing constitutes ~~shall constitute~~ consent for
295 termination of parental rights.

296 Section 8. Subsections (1) and (4) of section 92.54,
297 Florida Statutes, are amended to read:

298 92.54 Use of closed-circuit television and audio-video
299 communication technology in proceedings involving a victim or
300 witness under the age of 18 or who has an intellectual
301 disability.-

302 (1) Upon motion and hearing in camera and upon a finding
303 that there is a substantial likelihood that a victim or witness
304 under the age of 18 or who has an intellectual disability will
305 suffer at least moderate emotional or mental harm due to the
306 presence of the defendant if such victim or witness is required
307 to testify in open court, or is unavailable as defined in s.
308 90.804(1), the trial court may order that the testimony of the
309 victim or witness be taken outside of the courtroom and shown by
310 means of closed-circuit television or through audio-video
311 communication technology.

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

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320 direct communication with counsel conducting cross-examination,
321 must be protected and, upon the defendant's request, such
322 communication must be provided by any appropriate electronic
323 method.

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

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