

Committee Substitute for Senate Bill No. 288

An act relating to children; amending s. 39.013, F.S.; providing that time limitations under ch. 39, F.S., do not include continuances requested by any party; providing limitations on continuances; amending s. 39.402, F.S.; providing that time limitations governing placement of a child in a shelter do not include continuances requested by any party; providing limitations on continuances; amending s. 39.506, F.S.; eliminating the requirement for a court's continued review of a child's placement in a shelter; providing an effective date.

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

Section 1. Subsection (10) of section 39.013, Florida Statutes, is amended to read:

39.013 Procedures and jurisdiction; right to counsel.—

(10) The time limitations in this chapter do not include:

(a) Periods of delay resulting from a continuance granted at the request or with the consent of the child's counsel or the child's guardian ad litem, if one has been appointed by the court, or, if the child is of sufficient capacity to express reasonable consent, at the request or with the consent of the child.

(b) Periods of delay resulting from a continuance granted at the request of any party ~~the attorney for the department or petitioner~~, if the continuance is granted:

1. Because of an unavailability of evidence material to the case when the requesting party ~~attorney for the department or petitioner~~ has exercised due diligence to obtain such evidence and there are substantial grounds to believe that such evidence will be available within 30 days. However, if the requesting party ~~department or petitioner~~ is not prepared to proceed ~~present its case~~ within 30 days, any other party, inclusive of the parent or legal custodian, ~~the parent~~ may move for issuance of an order to show cause or the court on its own motion may impose appropriate sanctions, which may include dismissal of the petition.

2. To allow the requesting party ~~attorney for the department or petitioner~~ additional time to prepare the case and additional time is justified because of an exceptional circumstance.

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

(d) Reasonable periods of delay resulting from a continuance granted at the request of the parent or legal custodian of a subject child.

(e) Notwithstanding the foregoing, continuances and extensions of time are limited to the number of days absolutely necessary to complete a necessary task in order to preserve the rights of a party or the best interests of a child. Time is of the essence for the best interests of dependent children in conducting dependency proceedings in accordance with the time limitations set forth in this chapter. Time limitations are a right of the child which may not be waived, extended, or continued at the request of any party in advance of the particular circumstances or need arising upon which delay of the proceedings may be warranted.

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

Section 2. Subsections (14) and (16) of section 39.402, Florida Statutes, are amended to read:

39.402 Placement in a shelter.—

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

(a) Periods of delay resulting from a continuance granted at the request or with the consent of the child's counsel or the child's guardian ad litem, if one has been appointed by the court, or, if the child is of sufficient capacity to express reasonable consent, at the request or with the consent of the child's attorney or the child's guardian ad litem, if one has been appointed by the court, and the child.

(b) Periods of delay resulting from a continuance granted at the request of any party ~~the attorney for the department~~, if the continuance is granted:

1. Because of an unavailability of evidence material to the case when the requesting party ~~attorney for the department~~ has exercised due diligence to obtain such evidence and there are substantial grounds to believe that such evidence will be available within 30 days. However, if the requesting party ~~department~~ is not prepared to proceed ~~present its case~~ within 30 days, any other party, inclusive of the parent or legal custodian, may move for issuance of an order to show cause or the court on its own motion may impose appropriate sanctions, which may include dismissal of the petition.

2. To allow the requesting party ~~attorney for the department~~ additional time to prepare the case and additional time is justified because of an exceptional circumstance.

(c) Reasonable periods of delay necessary to accomplish notice of the hearing to the child's parents or legal custodians; however, the petitioner shall continue regular efforts to provide notice to the parents or legal custodians during such periods of delay.

(d) Reasonable periods of delay resulting from a continuance granted at the request of the parent or legal custodian of a subject child.

(e) Notwithstanding the foregoing, continuances and extensions of time are limited to the number of days absolutely necessary to complete a necessary task in order to preserve the rights of a party or the best interests of a child. Time is of the essence for the best interests of dependent children in conducting dependency proceedings in accordance with the time limitations set forth in this chapter. Time limitations are a right of the child which may not be waived, extended, or continued at the request of any party in advance of the particular circumstances or need arising upon which delay of the proceedings may be warranted.

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

(16) At the conclusion of a shelter hearing, the court shall notify all parties in writing of the next scheduled hearing to review the shelter placement. Such hearing shall be held no later than 30 days after placement of the child in shelter status, in conjunction with the arraignment hearing, and at such times as are otherwise provided by law or determined by the court to be necessary and every 15 days thereafter until the child is released from shelter status.

Section 3. Subsection (8) of section 39.506, Florida Statutes, is amended to read:

39.506 Arraignment hearings.—

(8) At the arraignment hearing, ~~and no more than every 15 days thereafter until the child is returned home or a disposition hearing has been conducted,~~ the court shall review the necessity for the child's continued placement in the shelter. The court shall also make a written determination regarding the child's continued placement in shelter within 24 hours after any violation of the time requirements for the filing of a petition or prior to the court's granting any continuance as specified in subsection (5).

Section 4. This act shall take effect July 1, 2002.

Approved by the Governor May 1, 2002.

Filed in Office Secretary of State May 1, 2002.