

## CHAPTER 2019-128

### Committee Substitute for Senate Bill No. 262

An act relating to child welfare; amending s. 39.001, F.S.; providing for the name of a child's guardian ad litem or attorney ad litem to be entered on court orders in dependency proceedings; amending s. 39.0136, F.S.; requiring cooperation between certain parties and the court to achieve permanency for a child as soon as possible; requiring the Department of Children and Families to ensure that parents have the information necessary to contact their case manager; requiring that a new case manager who is assigned to a case notify the parent and provide updated contact information; specifying that continuances and extensions of time by the court on its own motion may not exceed a certain period of time; amending s. 39.402, F.S.; specifying that time limitations governing placement of a child in a shelter do not include continuances requested by the court; requiring the court to advise parents in plain language what is expected of them to achieve reunification with their child; expanding the requirements that parents must meet to achieve reunification with their child; amending s. 39.507, F.S.; requiring the court during an adjudicatory hearing to advise parents in plain language of certain requirements to achieve permanency with their child; expanding the requirements that parents must meet to achieve reunification with their child; amending s. 39.521, F.S.; requiring the department to serve copies of the case plan and the family functioning assessment on the parents of the child and provide copies of the plan and assessment to the other parties; amending s. 39.522, F.S.; specifying that a postdisposition hearing, if needed, must occur before a child achieves a permanency placement; amending s. 39.6011, F.S.; requiring that the written notice in a case plan include certain responsibilities and actions required of the parents and inform the parent that a breach of the case plan by the parent's action or inaction may result in an earlier filing of a petition for termination of parental rights; requiring the department to ensure that the parent has certain contact information and to explain certain strategies included in the case plan; providing a timeframe for referrals for services; amending s. 39.6012, F.S.; expanding the tasks and services a case plan must describe; amending s. 39.6013, F.S.; conforming a cross-reference; amending s. 39.621, F.S.; revising when a court must hold certain hearings relating to dependency cases; amending s. 39.806, F.S.; specifying that grounds for termination of parental rights may be established when a case plan is materially breached by a parent or parents' action or inaction; amending s. 39.811, F.S.; requiring the court to enter a written order of disposition within a specified timeframe following termination of parental 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 establishing permanency for a child in the dependency system. Therefore, parents must take action to comply with the case plan so permanency with the child may occur within the shortest period of time possible, but no later than 1 year after removal or adjudication of the child, including by notifying the parties and the court of barriers to case plan compliance.

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

39.0136 Time limitations; continuances.—

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

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

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

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

(a) Periods of delay resulting from a continuance granted at the request of the child's counsel or the child's guardian ad litem or, if the child is of sufficient capacity to express reasonable consent, at the request or with the consent of the child. The court must consider the best interests of the child when determining periods of delay under this section.

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

1. Because of an unavailability of evidence that is material to the case if the requesting party has exercised due diligence to obtain evidence and there are substantial grounds to believe that the evidence will be available within 30 days. However, if the requesting party is not prepared to proceed within 30 days, any other party 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 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; however, the petitioner shall continue regular efforts to provide notice to the parents during the periods of delay.

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

~~(5)~~<sup>(4)</sup> Notwithstanding subsection ~~(3)~~ <sup>(2)</sup>, a continuance or an extension of time is 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.

Section 3. Paragraph (f) of subsection (14) and subsections (15) and (18) 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:

(f) Continuances or extensions of time may not total more than 60 days for all parties and the court on its own motion 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.

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

(18) The court shall advise the parents in plain language what is expected of them to achieve reunification with their child, including that;

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

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

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

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

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

39.507 Adjudicatory hearings; orders of adjudication.—

(7)

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

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

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

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

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

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

39.521 Disposition hearings; powers of disposition.—

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

(a) A written case plan and a family functioning assessment prepared by an authorized agent of the department must be approved by the court. The department must file the case plan and the family functioning assessment with the court, serve copies ~~a copy of the case plan~~ on the parents of the child, and provide copies ~~a copy of the case plan to the representative of the guardian ad litem program, if the program has been appointed, and a copy to~~ all other parties:

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

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

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

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

(1) At any time before a child is residing in the permanent placement approved at the permanency hearing, a child who has been placed in the child's own home under the protective supervision of an authorized agent of the department, in the home of a relative, in the home of a legal custodian, or in some other place may be brought before the court by the department or by any other interested person, upon the filing of a motion ~~petition~~ alleging a need for a change in the conditions of protective supervision or the placement. If the parents or other legal custodians deny the need for a change, the court shall hear all parties in person or by counsel, or both. Upon the admission of a need for a change or after such hearing, the court shall enter an order changing the placement, modifying the conditions of protective supervision, or continuing the conditions of protective supervision as ordered. The standard for changing custody of the child shall be the best interest of the child. When applying this standard, the court shall consider the continuity of the child's placement in the same out-of-home residence as a factor when determining the best interests of the child. If the child is not placed in foster care, then the new placement for the child must meet the home study criteria and court approval pursuant to this chapter.

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

39.6011 Case plan development.—

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

(e) A written notice to the parent that it is the parent's responsibility to take action to comply with the case plan so permanency with the child may occur within the shortest period of time possible, but no later than 1 year after removal or adjudication of the child; the parent must notify the parties and the court of barriers to completing case plan tasks within a reasonable time after discovering such barriers if the parties are not actively working to overcome them; failure of the parent to substantially comply with the case plan may result in the termination of parental rights; ~~and that a material breach of the case plan by the parent's action or inaction may result in the filing of a petition for termination of parental rights sooner than the compliance period set forth in the case plan.~~

(4) Before signing the case plan, the department shall explain the provisions of the plan to all persons involved in its implementation, including, when appropriate, the child. The department shall ensure that the parent has contact information for all entities necessary to complete the tasks in the plan. The department shall explain the strategies included in the plan which the parent can use to overcome barriers to case plan compliance and shall explain that if a barrier is discovered and the parties are not actively working to overcome such barrier, the parent must notify the

parties and the court within a reasonable time after discovering such barrier.

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

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

(b) All other referrals for services must be completed as soon as possible, but no later than 7 days after the date of the case plan approval, unless the case plan specifies that a task may not be undertaken until another specified task has been completed or otherwise approved by the court.

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

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

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

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

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

39.6012 Case plan tasks; services.—

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

(b) The case plan must describe each of the tasks with which the parent must comply and the services to be provided to the parent, specifically addressing the identified problem, including:

1. The type of services or treatment.

2. The date the department will provide each service or referral for the service if the service is being provided by the department or its agent.

3. The date by which the parent must complete each task.

4. The frequency of services or treatment provided. The frequency of the delivery of services or treatment provided shall be determined by the professionals providing the services or treatment on a case-by-case basis and adjusted according to their best professional judgment.

5. The location of the delivery of the services.

6. The staff of the department or service provider accountable for the services or treatment.

7. A description of the measurable objectives, including the timeframes specified for achieving the objectives of the case plan and addressing the identified problem.

8. Strategies to overcome barriers to case plan compliance and an explanation that the parent must notify the parties and the court within a reasonable time after discovering a barrier that the parties are not actively working to overcome such barrier.

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

39.6013 Case plan amendments.—

(8) Amendments must include service interventions that are the least intrusive into the life of the parent and child, must focus on clearly defined objectives, and must provide the most efficient path to quick reunification or permanent placement given the circumstances of the case and the child's need for safe and proper care. A copy of the amended plan must be immediately given to the persons identified in s. 39.6011(7)(c) ~~s. 39.6011(6)(b)~~.

Section 10. Present subsection (12) of section 39.621, Florida Statutes, is redesignated as subsection (11), and subsection (10) and present subsection (11) of that section are amended, to read:

39.621 Permanency determination by the court.—

(10) The permanency placement is intended to continue until the child reaches the age of majority and may not be disturbed absent a finding by the court that the circumstances of the permanency placement are no longer in the best interest of the child.

(a) If, after a child is residing in the permanent placement approved at the permanency hearing, a parent who has not had his or her parental rights terminated makes a motion for reunification or increased contact with the



child, the court shall hold a hearing to determine whether the dependency case should be reopened and whether there should be a modification of the order.

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

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

- 1.(a) The compliance or noncompliance of the parent with the case plan;
- 2.(b) The circumstances which caused the child’s dependency and whether those circumstances have been resolved;
- 3.(e) The stability and longevity of the child’s placement;
- 4.(d) The preferences of the child, if the child is of sufficient age and understanding to express a preference;
- 5.(e) The recommendation of the current custodian; and
- 6.(f) The recommendation of the guardian ad litem, if one has been appointed.

Section 11. Paragraph (e) of subsection (1) of section 39.806, Florida Statutes, is amended to read:

39.806 Grounds for termination of parental rights.—

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

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

1. The child continues to be abused, neglected, or abandoned by the parent or parents. The failure of the parent or parents to substantially comply with the case plan for a period of 12 months after an adjudication of the child as a dependent child or the child’s placement into shelter care, whichever occurs first, constitutes evidence of continuing abuse, neglect, or abandonment unless the failure to substantially comply with the case plan was due to the parent’s lack of financial resources or to the failure of the department to make reasonable efforts to reunify the parent and child. The 12-month period begins to run only after the child’s placement into shelter care or the entry of a disposition order placing the custody of the child with the department or a person other than the parent and the court’s approval of

a case plan having the goal of reunification with the parent, whichever occurs first; or

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

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

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

39.811 Powers of disposition; order of disposition.—

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

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

Approved by the Governor June 25, 2019.

Filed in Office Secretary of State June 25, 2019.