

CHAPTER 2023-302

Committee Substitute for House Bill No. 1571

An act relating to juvenile court proceedings; amending s. 39.013, F.S.; authorizing individuals to appear at or attend dependency proceedings through audio or audio-video communication technology, except under certain circumstances; amending s. 39.0131, F.S.; requiring parties in certain proceedings to provide their primary e-mail addresses to the court; authorizing the court to excuse parties from such requirement for good cause shown; requiring the court to excuse certain parties from such requirement; amending s. 39.402, F.S.; requiring that court notices for shelter placement hearings held through audio or audio-video communication technology include certain information; amending s. 39.502, F.S.; specifying how parties to certain hearings involving children may consent to service or notice by e-mail; requiring that certain summonses and notices contain instructions for appearance through audio or audio-video communication technology; amending s. 39.506, F.S.; requiring parties at arraignment hearings to provide their primary e-mail addresses to the court; authorizing the court to excuse parties from such requirement for good cause shown; requiring the court to excuse certain parties from such requirement; conforming provisions to changes made by the act; amending ss. 39.521 and 39.801, F.S.; conforming provisions to changes made by the act; amending s. 92.54, F.S.; authorizing the use of audio-video communication technology for showing testimonies in proceedings involving a victim or witness under the age of 18 or who has an intellectual disability; amending s. 985.319, F.S.; requiring that summonses for juvenile delinquency hearings held through audio or audio-video communication technology provide certain information; providing an effective date.

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

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

39.013 Procedures and jurisdiction; right to counsel.—

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

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

39.0131 Permanent mailing address and primary e-mail address designation.—Upon the first appearance before the court, each party shall provide to the court a permanent mailing address and primary e-mail address. The court shall advise each party that these addresses this address will be used by the court and the petitioner for notice purposes unless and until the party notifies the court and the petitioner in writing of a new mailing address or e-mail address. The court may excuse a party from the requirement to provide an e-mail address for good cause shown. The court must excuse a party who is incarcerated and not represented by an attorney from the requirement to provide an e-mail address.

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

39.402 Placement in a shelter.—

(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. If the hearing will be held through audio or audio-video communication technology, the written notice must include all relevant information needed to attend the proceeding. The hearing ~~must~~ 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.

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

39.502 Notice, process, and service.—

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

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

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

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

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

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

39.506 Arraignment hearings.—

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

(4) At the arraignment hearing, each party shall provide to the court a permanent mailing address and a primary e-mail address. The court shall advise each party that these addresses ~~this address~~ will be used by the court and the petitioner for notice purposes unless and until the party notifies the court and the petitioner in writing of a new mailing or e-mail address. The court may excuse a party from the requirement to provide an e-mail address for good cause shown. The court must excuse a party who is incarcerated and

not represented by an attorney from the requirement to provide an e-mail address.

Section 6. Paragraph (e) 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.

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

1. The placement or custody of the child.
2. Special conditions of placement and visitation.
3. Evaluation, counseling, treatment activities, and other actions to be taken by the parties, if ordered.
4. The persons or entities responsible for supervising or monitoring services to the child and parent.
5. Continuation or discharge of the guardian ad litem, as appropriate.
6. The date, time, and location of the next scheduled review hearing and, if applicable, instructions for appearance through audio or audio-video communication technology, which must occur within the earlier of:
 - a. Ninety days after the disposition hearing;
 - b. Ninety days after the court accepts the case plan;
 - c. Six months after the date of the last review hearing; or
 - d. Six months after the date of the child's removal from his or her home, if no review hearing has been held since the child's removal from the home.
7. If the child is in an out-of-home placement, child support to be paid by the parents, or the guardian of the child's estate if possessed of assets which under law may be disbursed for the care, support, and maintenance of the child. The court may exercise jurisdiction over all child support matters, shall adjudicate the financial obligation, including health insurance, of the child's parents or guardian, and shall enforce the financial obligation as provided in chapter 61. The state's child support enforcement agency shall enforce child support orders under this section in the same manner as child

support orders under chapter 61. Placement of the child ~~is~~ shall not be contingent upon issuance of a support order.

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

b. If ~~a~~ ~~no~~ suitable relative is not found and the child is placed with the department or a legal custodian or other adult approved by the court, both the department and the court must ~~shall~~ consider transferring temporary legal custody to an adult relative approved by the court at a later date, but neither the department nor the court is obligated to so place the child if it is in the child’s best interest to remain in the current placement.

For the purposes of this section, “diligent efforts to locate an adult relative” means a search similar to the diligent search for a parent, but without the continuing obligation to search after an initial adequate search is completed.

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

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

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

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

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

1. The parents of the child.
2. The legal custodians of the child.
3. If the parents who would be entitled to notice are dead or unknown, a living relative of the child, unless upon diligent search and inquiry no such relative can be found.
4. Any person who has physical custody of the child.

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

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

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

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

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

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

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

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

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

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

985.319 Process and service.—

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

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

Approved by the Governor June 27, 2023.

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