

By Representative Sanderson

1 A bill to be entitled
2 An act relating to adoption; amending s.
3 39.001, F.S.; providing legislative intent;
4 amending s. 39.01, F.S.; providing a
5 definition; amending s. 39.45, F.S.;
6 prohibiting the delay of an adoption because a
7 sibling is not also placed in the same home;
8 amending s. 39.451, F.S.; providing for
9 adoptive placement by a licensed child-placing
10 agency or an intermediary; amending s. 39.454,
11 F.S.; prescribing time for judicial review of
12 parental rights proceedings; amending s.
13 39.456, F.S.; conforming provisions; amending
14 s. 39.469, F.S.; providing that licensed
15 child-placing agencies and intermediaries have
16 exclusive authority for adoptive placement of
17 children committed to the Department of
18 Children and Family Services; amending s.
19 39.47, F.S.; providing procedures; amending ss.
20 39.471, 39.473, F.S.; conforming provisions;
21 providing an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Paragraphs (b) and (e) of subsection (1) of
26 section 39.001, Florida Statutes, 1996 Supplement, are amended
27 to read:

28 39.001 Purposes and intent; personnel standards and
29 screening.--

30 (1) The purposes of this chapter are:

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1 (b) To provide for the care, safety, and protection of
2 children in an environment that fosters healthy social,
3 emotional, intellectual, and physical development; to ensure
4 secure and safe custody; and to promote the health and
5 well-being of all children within ~~under~~ the state and under
6 the jurisdiction of the state's courts ~~state's care~~.

7 (e)1. To assure that the adjudication and disposition
8 of a child alleged or found to have committed a violation of
9 Florida law be exercised with appropriate discretion and in
10 keeping with the seriousness of the offense and the need for
11 treatment services, and that all findings made under this
12 chapter be based upon facts presented at a hearing that meets
13 the constitutional standards of fundamental fairness and due
14 process.

15 2. To assure that the sentencing and placement of a
16 child tried as an adult be appropriate and in keeping with the
17 seriousness of the offense and the child's need for
18 rehabilitative services, and that the proceedings and
19 procedures applicable to such sentencing and placement be
20 applied within the full framework of constitutional standards
21 of fundamental fairness and due process.

22 3. To assure that all children who are the subject of
23 an Order Terminating Parental Rights are expeditiously placed
24 into permanent homes and adopted.

25 4. To assure that no child remains in the department's
26 custody longer than absolutely necessary.

27 5. To reduce long-term emotional and psychological
28 damage to children by mandating that a permanent adoptive
29 placement plan be immediately effectuated for each dependent
30 child upon termination of his or her parents' rights.

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1 6. To assure that a termination of parental rights
2 will be effectuated no later than 12 months following a child
3 being declared dependent.

4 7. To mandate the department's cooperation with
5 private child-placing agencies and intermediaries who will be
6 solely responsible for adoptive placements of all children
7 whose parents' rights have been terminated.

8 8. To assure that all prospective adoptive parents are
9 considered for placement of such children.

10 9. To maximize the likelihood of success in adoptive
11 placements.

12 Section 2. Present subsections (35) through (76) of
13 section 39.01, Florida Statutes, 1996 Supplement, are
14 redesignated as subsections (36) through (77), respectively,
15 and a new subsection (35) is added to that section to read:

16 39.01 Definitions.--When used in this chapter:

17 (35) "Intermediary" means a licensed attorney who is a
18 member of The Florida Bar and authorized by chapter 63 to
19 place a child for adoption.

20 Section 3. Subsection (2) of section 39.45, Florida
21 Statutes, is amended to read:

22 39.45 Legislative intent.--

23 (2) It is the intent of the Legislature that each
24 child be assured the care, guidance, and control in a
25 permanent home which will serve the best interests of the
26 child's moral, emotional, mental, and physical welfare and
27 that such home preferably be the child's own home or, if that
28 is not possible, an adoptive home. It is the further intent of
29 the Legislature that, if neither of those options is
30 achievable, other options for the child as set out in this
31 section be pursued. When a child must be taken into foster

1 care, it is the intent of the Legislature that the parent or
2 guardian from whose custody the child has been taken assist
3 the department to the fullest extent possible to locate
4 relatives suitable to serve as caretakers for the child. It is
5 the intent of the Legislature that permanent placement with
6 the biological or adoptive family be achieved as soon as
7 possible for every child in foster care and that no child
8 remain in foster care longer than 1 year. It is the further
9 intent of the Legislature that a child be reunited with the
10 child's natural family whenever possible and, when not
11 possible, that the child be permanently placed for adoption
12 or, when neither option is achievable, that the child be
13 prepared for alternative permanency goals or placements to
14 include, but not be limited to, long-term foster care,
15 independent living, custody to a relative on a permanent basis
16 with or without legal guardianship, or custody to a foster
17 parent on a permanent basis with or without legal
18 guardianship. It is the intent of the Legislature, therefore,
19 to help ensure a permanent home for a child in foster care by
20 requiring a case plan or, if the child's natural parents will
21 not or cannot participate in a case plan, a permanent
22 placement plan and a periodic review and report to the court
23 on the child's status. When two or more children in foster
24 care are siblings, ~~every~~ reasonable effort must ~~attempt shall~~
25 be made to place them in the same foster home. ~~In the event~~
26 of permanent placement, reasonable effort must also be made to
27 place of the siblings, to place them in the same adoptive
28 home; ~~and, if the siblings are separated, to keep them in~~
29 ~~contact with each other.~~ The inability to place siblings in
30 the same adoptive home must not delay or preclude the
31

1 immediate placement of one child in an otherwise appropriate
2 and available home.

3 Section 4. Subsection (1) of section 39.451, Florida
4 Statutes, is amended to read:

5 39.451 Case planning for children in foster care.--

6 (1) In presenting the case plan to the court, the
7 purpose of a case plan is to ensure permanency for children
8 through recording the actions to be taken by the parties
9 involved in order to quickly assure the safe return of the
10 child to the parents or, if this is not possible, the
11 termination of parental rights and the placement of the child
12 with the department pending adoptive placement by ~~or~~ a
13 licensed child-placing agency or an intermediary for the
14 purpose of finding a permanent adoptive home. Permanent
15 adoptive placement is the primary permanency goal when a child
16 is permanently placed with the department pending an adoptive
17 placement by ~~or~~ a licensed child-placing agency or an
18 intermediary. If no fewer than 6 licensed child-placing
19 agencies or intermediaries certify in writing to the court
20 that the child cannot be placed for adoption, the court shall
21 place the child with the department for an alternative
22 permanency plan approved by the court.~~if it is not possible~~
23 ~~to find a permanent adoptive home, the case plan must record~~
24 ~~the actions taken for preparing the child for alternative~~
25 ~~permanency goals or placements such as long-term foster care~~
26 ~~or independent living.~~

27 Section 5. Subsection (2) of section 39.454, Florida
28 Statutes, is amended to read:

29 39.454 Initiation of termination of parental rights
30 proceedings.--

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1 (2) If, at the time of the 12-month ~~18-month~~ judicial
2 review hearing, a child is not returned to the physical
3 custody of the natural parents, the social service agency
4 shall initiate termination of parental rights proceedings
5 under part VI of this chapter within 30 days. Only if the
6 court finds that the situation of the child is so
7 extraordinary and that the best interests of the child will be
8 met by such action at the time of the judicial review may the
9 case plan be extended. If the court decides to extend the
10 plan, the court shall enter detailed findings justifying the
11 decision to extend, as well as the length of the extension.
12 Failure to initiate termination of parental rights proceedings
13 at the time of the 12-month ~~18-month~~ judicial review or within
14 30 days after such review does not prohibit initiating
15 termination of parental rights proceedings at any other time.

16 Section 6. Section 39.456, Florida Statutes, is
17 amended to read:

18 39.456 Exemptions.--This part does not apply to:

19 (1) Minors who have been placed in adoptive homes by
20 the department or by a licensed child-placing agency or an
21 intermediary;

22 (2) Minors who are refugees or entrants to whom
23 federal regulations apply and who are in the care of a social
24 service agency; or

25 (3) Minors who are the subjects of termination of
26 parental rights cases pursuant to s. 39.464.

27 Section 7. Paragraph (a) of subsection (1) of section
28 39.464, Florida Statutes, is amended to read:

29 39.464 Grounds for termination of parental rights.--

30 (1) The department, the guardian ad litem, a licensed
31 child-placing agency, or any person who has knowledge of the

1 facts alleged or who is informed of said facts and believes
2 that they are true, may petition for the termination of
3 parental rights under any of the following circumstances:

4 (a) When the parent or parents have voluntarily
5 executed a written surrender of the child and consented to the
6 entry of an order giving custody of the child to the
7 department for placement for adoption by ~~or to~~ a licensed
8 child-placing agency or intermediary ~~for subsequent adoption~~
9 and the department ~~or licensed child-placing agency~~ is willing
10 to accept custody of the child.

11 1. The surrender document must be executed before two
12 witnesses and a notary public or other person authorized to
13 take acknowledgments.

14 2. The surrender and consent may be withdrawn ~~after~~
15 ~~acceptance by the department or licensed child-placing agency~~
16 only after a finding by the court that the surrender and
17 consent were obtained by fraud or duress.

18 Section 8. Subsection (2) of section 39.469, Florida
19 Statutes, is amended to read:

20 39.469 Powers of disposition; order of disposition.--

21 (2) If the court finds that the grounds for
22 termination of parental rights have been established by clear
23 and convincing evidence, the court shall, by order, place the
24 child in the custody of the department pending an adoptive
25 placement by ~~for the purpose of adoption or place the child in~~
26 ~~the custody of~~ a licensed child-placing agency or an
27 intermediary for the purpose of adoption. The department shall
28 immediately notify all licensed child-placing agencies and
29 intermediaries of the availability of the child. The licensed
30 child-placing agencies and intermediaries have exclusive
31 authority for adoptive placement of all children committed to

1 the department, unless no fewer than 6 agencies or
2 intermediaries have certified that a child cannot be placed
3 for adoption, at which time the department must provide the
4 court with an alternative long-term placement plan.

5 Section 9. Section 39.47, Florida Statutes, is amended
6 to read:

7 39.47 Post disposition relief.--

8 (1) A licensed child-placing agency or an intermediary
9 with authority to place ~~the department which is given custody~~
10 ~~of a child for subsequent adoption in accordance with this~~
11 ~~chapter~~ may place a ~~the~~ child in a family home for prospective
12 subsequent adoption provided that:

13 (a) All the procedures and prerequisites for an
14 adoptive placement under chapter 63 are completed;

15 (b) All documents evidencing compliance with chapter
16 63 are filed with the court;

17 (c) The court approves the prospective adoptive home
18 and determines that the prospective adoptive parents have
19 received full disclosure concerning the history of the child
20 and are willing and able to provide for all current and future
21 recommendations of the mental health providers working with
22 the child; and

23 (d) The adoption is in the best interest of the child
24 ~~and may thereafter become a party to any proceeding for the~~
25 ~~legal adoption of the child and appear in any court where the~~
26 ~~adoption proceeding is pending and consent to the adoption;~~
27 ~~and that consent alone shall in all cases be sufficient.~~

28 (2) In any subsequent adoption proceeding, the parents
29 and legal guardian shall not be entitled to any notice
30 thereof, nor shall they be entitled to knowledge at any time
31 after the order terminating parental rights is entered of the

1 whereabouts of the child or of the identity or location of any
2 person having the custody of or having adopted the child,
3 except as provided by order of the court pursuant to this
4 chapter or chapter 63; and in any habeas corpus or other
5 proceeding involving the child brought by any parent or legal
6 guardian of the child, no agent of the licensed child-placing
7 agency, intermediary, or department shall be compelled to
8 divulge that information, but may be compelled to produce the
9 child before a court of competent jurisdiction if the child is
10 still subject to the guardianship of the licensed
11 child-placing agency, intermediary, or department.

12 (3) The entry of the custody order to the department
13 ~~or licensed child-placing agency~~ shall not entitle the
14 ~~licensed child-placing agency or~~ department to guardianship of
15 the estate or property of the child, but the ~~licensed~~
16 ~~child-placing agency or~~ department shall be the guardian of
17 the person of the child.

18 (4) The court shall retain jurisdiction over any child
19 who remains in for whom custody is given to a licensed
20 child-placing agency or to the department's custody pending an
21 adoptive placement by a licensed child-placing agency or
22 intermediary until the adoption is final ~~department until the~~
23 ~~child is adopted. After custody of a child for subsequent~~
24 ~~adoption has been given to an agency or the department, The~~
25 court may at any time review ~~has jurisdiction for the purpose~~
26 ~~of reviewing~~ the status of the child and the progress being
27 made toward ~~permanent adoptive~~ placement. Upon a petition
28 being filed by a licensed child-placing agency or intermediary
29 ~~As part of this continuing jurisdiction, for good cause shown~~
30 ~~by the guardian ad litem for the child, the court may enter an~~
31 order approving the petition if it determines that it is in

1 ~~the best interest~~ review ~~the appropriateness of the adoptive~~
2 ~~placement~~ of the child.

3 (5) The Legislature finds that children are most
4 likely to realize their potential when they have the ability
5 provided by good permanent families rather than spending long
6 periods of time in temporary placements or unnecessary
7 institutions. It is the intent of the Legislature that
8 decisions be consistent with the child's best interests and
9 that the licensed child-placing agency or intermediary
10 ~~department~~ make proper adoptive placements as expeditiously as
11 possible following a final judgment terminating parental
12 rights.

13 Section 10. Paragraph (a) of subsection (6) of section
14 39.471, Florida Statutes, 1996 Supplement, is amended to read:

15 39.471 Oaths, records, and confidential information.--

16 (6) No court record of proceedings under this part
17 shall be admissible in evidence in any other civil or criminal
18 proceeding, except that:

19 (a) Orders terminating the rights of a parent and
20 committing the child to a licensed child-placing agency or the
21 department for adoptive placement by a licensed child-placing
22 agency or intermediary ~~for adoption~~ shall be admissible in
23 evidence in subsequent adoption proceedings relating to the
24 child.

25 Section 11. Subsection (3) of section 39.473, Florida
26 Statutes, is amended to read:

27 39.473 Appeal.--

28 (3) The taking of an appeal does not operate as a
29 supersedeas in any case unless the court so orders. However, a
30 termination of parental rights order with placement of the
31 child with a licensed child-placing agency or an intermediary

