

HB 773

2011

1 A bill to be entitled
2 An act relating to termination of parental rights;
3 amending s. 39.401, F.S.; providing that only in cases
4 involving an immediate threat to the health or safety of
5 the child may a person take a child alleged to be
6 dependant into custody; providing additional exceptions;
7 amending s. 39.702, F.S.; requiring formation of citizen
8 review panels and deleting a requirement that a citizen
9 review panel be authorized through an administrative order
10 by the chief judge of the circuit; authorizing citizen
11 review panels to make recommendations in adjudicatory
12 hearings or trials under a specified provision; amending
13 s. 39.809, F.S.; providing for recommendations by citizen
14 review panels in hearings or trials on petitions for
15 termination of parental rights; limiting continuances;
16 providing an exception; providing that hearings or trials
17 involving termination of parental rights are open to the
18 public; providing an exception; requiring that reports and
19 recommended orders from citizen review panels accompany
20 the written orders in certain proceedings; providing an
21 effective date.

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

24
25 Section 1. Subsection (1) of section 39.401, Florida
26 Statutes, is amended to read:

27 39.401 Taking a child alleged to be dependent into
28 custody; law enforcement officers and authorized agents of the

HB 773

2011

29 department.-

30 (1) Only in cases involving an immediate threat to the
 31 health or safety of a child may a person, including a law
 32 enforcement officer, a duly authorized person, or any other
 33 officer of the court or of the state, take a child ~~may only be~~
 34 ~~taken~~ into custody unless the child is taken into custody:

35 (a) Pursuant to the provisions of this part, based upon
 36 sworn testimony, either before or after a petition is filed
 37 resulting in a court order issued after a finding of probable
 38 cause by the court authorizing taking a child into custody; or

39 (b) By a law enforcement officer, or an authorized agent
 40 of the department, if the officer or authorized agent has
 41 probable cause resulting in a court order issued supporting ~~to~~
 42 ~~support~~ a finding:

43 1. That the child has been abused, neglected, or
 44 abandoned, or is suffering from or is in imminent danger of
 45 illness or injury as a result of abuse, neglect, or abandonment;

46 2. That the parent or legal custodian of the child has
 47 materially violated a condition of placement imposed by the
 48 court; or

49 3. That the child has no parent, legal custodian, or
 50 responsible adult relative immediately known and available to
 51 provide supervision and care.

52 Section 2. Subsection (1) of section 39.702, Florida
 53 Statutes, is amended to read:

54 39.702 Citizen review panels.-

55 (1) Citizen review panels shall ~~may~~ be established in each
 56 judicial circuit ~~and shall be authorized by an administrative~~

57 ~~order executed by the chief judge of each circuit.~~ The court
 58 shall administer an oath of office to each citizen review panel
 59 member which shall authorize the panel member to participate in
 60 citizen review panels and make recommendations to the court
 61 pursuant to ~~the provisions of this section and~~ s. 39.809.

62 Section 3. Section 39.809, Florida Statutes, is amended to
 63 read:

64 39.809 Adjudicatory hearing or trial.-

65 (1) In a hearing or trial on a petition for termination of
 66 parental rights, the court shall consider, assisted by a report
 67 and a recommended order from the citizen review panel, the
 68 elements required for termination. Each of these elements must
 69 be established by clear and convincing evidence before the
 70 petition is granted.

71 (2) The adjudicatory hearing must be held within 120 ~~45~~
 72 days after the advisory hearing, but reasonable continuances for
 73 the purpose of investigation, discovery, or procuring counsel or
 74 witnesses may, when necessary, be granted. Continuances may not
 75 extend beyond 1 year after the advisory hearing unless there are
 76 compelling reasons or extraordinary circumstances,
 77 notwithstanding s. 39.0136.

78 (3) The adjudicatory hearing or trial must be conducted by
 79 the judge without a jury, unless a demand for a jury is made by
 80 either party, applying the rules of evidence in use in civil
 81 cases and adjourning the case from time to time as necessary.
 82 For purposes of the adjudicatory hearing or trial, to avoid
 83 unnecessary duplication of expense, the judge may consider in-
 84 court testimony previously given at any properly noticed

HB 773

2011

85 hearing, without regard to the availability or unavailability of
86 the witness at the time of the actual adjudicatory hearing or
87 trial, if the recorded testimony itself is made available to the
88 judge. Consideration of such testimony does not preclude the
89 witness being subpoenaed to answer supplemental questions.

90 (4) All hearings or trials involving termination of
91 parental rights are open ~~confidential and closed~~ to the public,
92 except upon the written motion to the court by the parents or
93 guardian of the child or children who are the subject of the
94 hearing or trial that it be made confidential and closed.

95 Hearings or trials involving more than one child may be held
96 simultaneously when the children involved are related to each
97 other or were involved in the same case. The child and the
98 parents may be examined separately and apart from each other.

99 (5) The judge shall enter a written order with the
100 findings of fact and conclusions of law. The report and
101 recommended order from the citizen review panel must accompany
102 the written order.

103 Section 4. This act shall take effect July 1, 2011.