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CS/HB 1571

2023 Legislature

1  
2 An act relating to juvenile court proceedings;  
3 amending s. 39.013, F.S.; authorizing individuals to  
4 appear at or attend dependency proceedings through  
5 audio or audio-video communication technology, except  
6 under certain circumstances; amending s. 39.0131,  
7 F.S.; requiring parties in certain proceedings to  
8 provide their primary e-mail addresses to the court;  
9 authorizing the court to excuse parties from such  
10 requirement for good cause shown; requiring the court  
11 to excuse certain parties from such requirement;  
12 amending s. 39.402, F.S.; requiring that court notices  
13 for shelter placement hearings held through audio or  
14 audio-video communication technology include certain  
15 information; amending s. 39.502, F.S.; specifying how  
16 parties to certain hearings involving children may  
17 consent to service or notice by e-mail; requiring that  
18 certain summonses and notices contain instructions for  
19 appearance through audio or audio-video communication  
20 technology; amending s. 39.506, F.S.; requiring  
21 parties at arraignment hearings to provide their  
22 primary e-mail addresses to the court; authorizing the  
23 court to excuse parties from such requirement for good  
24 cause shown; requiring the court to excuse certain  
25 parties from such requirement; conforming provisions

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26 to changes made by the act; amending ss. 39.521 and  
 27 39.801, F.S.; conforming provisions to changes made by  
 28 the act; amending s. 92.54, F.S.; authorizing the use  
 29 of audio-video communication technology for showing  
 30 testimonies in proceedings involving a victim or  
 31 witness under the age of 18 or who has an intellectual  
 32 disability; amending s. 985.319, F.S.; requiring that  
 33 summonses for juvenile delinquency hearings held  
 34 through audio or audio-video communication technology  
 35 provide certain information; providing an effective  
 36 date.

37

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

39

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

42 39.013 Procedures and jurisdiction; right to counsel.—

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

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51 of court, or a court order.

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

54 39.0131 Permanent mailing address and primary e-mail  
55 address designation.—Upon the first appearance before the court,  
56 each party shall provide to the court a permanent mailing  
57 address and primary e-mail address. The court shall advise each  
58 party that these addresses ~~this address~~ will be used by the  
59 court and the petitioner for notice purposes unless and until  
60 the party notifies the court and the petitioner in writing of a  
61 new mailing address or e-mail address. The court may excuse a  
62 party from the requirement to provide an e-mail address for good  
63 cause shown. The court must excuse a party who is incarcerated  
64 and not represented by an attorney from the requirement to  
65 provide an e-mail address.

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

68 39.402 Placement in a shelter.—

69 (16) At the conclusion of a shelter hearing, the court  
70 shall notify all parties in writing of the next scheduled  
71 hearing to review the shelter placement. If the hearing will be  
72 held through audio or audio-video communication technology, the  
73 written notice must include all relevant information needed to  
74 attend the proceeding. The hearing must ~~shall~~ be held no later  
75 than 30 days after placement of the child in shelter status, in

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76 conjunction with the arraignment hearing, and at such times as  
 77 are otherwise provided by law or determined by the court to be  
 78 necessary.

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

81 39.502 Notice, process, and service.—

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

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

100 (5) The summons must ~~shall~~ be directed to, and ~~shall be~~

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101 served upon, all parties other than the petitioner. A party may  
102 consent to service by e-mail by providing a primary e-mail  
103 address to the clerk of the court.

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

112 (19) In all proceedings and hearings under this chapter,  
113 the attorney for the department shall notify, orally or in  
114 writing, a relative requesting notification pursuant to s.  
115 39.301(14) (b) of the date, time, and location of such  
116 proceedings and hearings and, if applicable, the instructions  
117 for appearance through audio or audio-video communication  
118 technology, and notify the relative that he or she has the right  
119 to attend all subsequent proceedings and hearings, to submit  
120 reports to the court, and to speak to the court regarding the  
121 child, if the relative so desires. The court has the discretion  
122 to release the attorney for the department from notifying a  
123 relative who requested notification pursuant to s. 39.301(14) (b)  
124 if the relative's involvement is determined to be impeding the  
125 dependency process or detrimental to the child's well-being.

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

128 39.506 Arraignment hearings.—

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

147 (4) At the arraignment hearing, each party shall provide  
 148 to the court a permanent mailing address and a primary e-mail  
 149 address. The court shall advise each party that these addresses  
 150 ~~this address~~ will be used by the court and the petitioner for

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151 notice purposes unless and until the party notifies the court  
 152 and the petitioner in writing of a new mailing or e-mail  
 153 address. The court may excuse a party from the requirement to  
 154 provide an e-mail address for good cause shown. The court must  
 155 excuse a party who is incarcerated and not represented by an  
 156 attorney from the requirement to provide an e-mail address.

157 Section 6. Paragraph (e) of subsection (1) of section  
 158 39.521, Florida Statutes, is amended to read:

159 39.521 Disposition hearings; powers of disposition.—

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

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

- 170 1. The placement or custody of the child.
- 171 2. Special conditions of placement and visitation.
- 172 3. Evaluation, counseling, treatment activities, and other  
 173 actions to be taken by the parties, if ordered.
- 174 4. The persons or entities responsible for supervising or  
 175 monitoring services to the child and parent.

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176           5. Continuation or discharge of the guardian ad litem, as  
177 appropriate.

178           6. The date, time, and location of the next scheduled  
179 review hearing and, if applicable, instructions for appearance  
180 through audio or audio-video communication technology, which  
181 must occur within the earlier of:

- 182           a. Ninety days after the disposition hearing;
- 183           b. Ninety days after the court accepts the case plan;
- 184           c. Six months after the date of the last review hearing;

185 or

186           d. Six months after the date of the child's removal from  
187 his or her home, if no review hearing has been held since the  
188 child's removal from the home.

189           7. If the child is in an out-of-home placement, child  
190 support to be paid by the parents, or the guardian of the  
191 child's estate if possessed of assets which under law may be  
192 disbursed for the care, support, and maintenance of the child.  
193 The court may exercise jurisdiction over all child support  
194 matters, shall adjudicate the financial obligation, including  
195 health insurance, of the child's parents or guardian, and shall  
196 enforce the financial obligation as provided in chapter 61. The  
197 state's child support enforcement agency shall enforce child  
198 support orders under this section in the same manner as child  
199 support orders under chapter 61. Placement of the child is ~~shall~~  
200 not ~~be~~ contingent upon issuance of a support order.



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

210           b. If a ~~ne~~ suitable relative is not found and the child is  
 211 placed with the department or a legal custodian or other adult  
 212 approved by the court, both the department and the court must  
 213 ~~shall~~ consider transferring temporary legal custody to an adult  
 214 relative approved by the court at a later date, but neither the  
 215 department nor the court is obligated to so place the child if  
 216 it is in the child's best interest to remain in the current  
 217 placement.

218  
 219 For the purposes of this section, "diligent efforts to locate an  
 220 adult relative" means a search similar to the diligent search  
 221 for a parent, but without the continuing obligation to search  
 222 after an initial adequate search is completed.

223           9. Other requirements necessary to protect the health,  
 224 safety, and well-being of the child, to preserve the stability  
 225 of the child's child care, early education program, or any other

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226 | educational placement, and to promote family preservation or  
 227 | reunification whenever possible.

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

230 |             39.801 Procedures and jurisdiction; notice; service of  
 231 | process.—

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

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

- 241 |             1. The parents of the child.
- 242 |             2. The legal custodians of the child.
- 243 |             3. If the parents who would be entitled to notice are dead  
 244 | or unknown, a living relative of the child, unless upon diligent  
 245 | search and inquiry no such relative can be found.
- 246 |             4. Any person who has physical custody of the child.
- 247 |             5. Any grandparent entitled to priority for adoption under  
 248 | s. 63.0425.
- 249 |             6. Any prospective parent who has been identified under s.  
 250 | 39.503 or s. 39.803, unless a court order has been entered

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251 | pursuant to s. 39.503(4) or (9) or s. 39.803(4) or (9) which  
 252 | indicates no further notice is required. Except as otherwise  
 253 | provided in this section, if there is not a legal father, notice  
 254 | of the petition for termination of parental rights must be  
 255 | provided to any known prospective father who is identified under  
 256 | oath before the court or who is identified by a diligent search  
 257 | of the Florida Putative Father Registry. Service of the notice  
 258 | of the petition for termination of parental rights is not  
 259 | required if the prospective father executes an affidavit of  
 260 | nonpaternity or a consent to termination of his parental rights  
 261 | which is accepted by the court after notice and opportunity to  
 262 | be heard by all parties to address the best interests of the  
 263 | child in accepting such affidavit.

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

267 |  
 268 | A party may consent to service or notice by e-mail by providing  
 269 | a primary e-mail address to the clerk of the court. The document  
 270 | containing the notice to respond or appear must contain, in type  
 271 | at least as large as the type in the balance of the document,  
 272 | the following or substantially similar language: "FAILURE TO  
 273 | ~~PERSONALLY~~ APPEAR AT THIS ADVISORY HEARING CONSTITUTES CONSENT  
 274 | TO THE TERMINATION OF PARENTAL RIGHTS OF THIS CHILD (OR  
 275 | CHILDREN). IF YOU FAIL TO APPEAR ON THE DATE AND TIME SPECIFIED,

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276 YOU MAY LOSE ALL LEGAL RIGHTS AS A PARENT TO THE CHILD OR  
277 CHILDREN NAMED IN THE PETITION ATTACHED TO THIS NOTICE."

278 (d) If the person served with notice under this section  
279 fails to ~~personally~~ appear at the advisory hearing, either  
280 physically or, by agreement of the parties or at the discretion  
281 of the court, through audio-video communication technology, the  
282 failure to ~~personally~~ appear constitutes ~~shall constitute~~  
283 consent for termination of parental rights by the person given  
284 notice. If a parent appears for the advisory hearing and the  
285 court orders that parent to ~~personally~~ appear at the  
286 adjudicatory hearing for the petition for termination of  
287 parental rights, stating the date, time, and location of the  
288 ~~said~~ hearing and, if applicable, instructions for appearance  
289 through audio-video communication technology, then failure of  
290 that parent to ~~personally~~ appear, either physically or, by  
291 agreement of the parties or at the discretion of the court,  
292 through audio-video communication technology, at the  
293 adjudicatory hearing constitutes ~~shall constitute~~ consent for  
294 termination of parental rights.

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

297 92.54 Use of closed-circuit television and audio-video  
298 communication technology in proceedings involving a victim or  
299 witness under the age of 18 or who has an intellectual  
300 disability.-

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301 (1) Upon motion and hearing in camera and upon a finding  
 302 that there is a substantial likelihood that a victim or witness  
 303 under the age of 18 or who has an intellectual disability will  
 304 suffer at least moderate emotional or mental harm due to the  
 305 presence of the defendant if such victim or witness is required  
 306 to testify in open court, or is unavailable as defined in s.  
 307 90.804(1), the trial court may order that the testimony of the  
 308 victim or witness be taken outside of the courtroom and shown by  
 309 means of closed-circuit television or through audio-video  
 310 communication technology.

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

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

325 985.319 Process and service.—

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

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