

1 A bill to be entitled
 2 An act relating to termination of parental rights;
 3 amending s. 39.806, F.S.; revising provisions providing
 4 for termination of parental rights based on a parent's
 5 incarceration; revising language concerning the
 6 consideration of a parent's failure to substantially
 7 comply with a case plan as evidence of continuing abuse,
 8 neglect, or abandonment in certain circumstances;
 9 providing an effective date.

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

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13 Section 1. Paragraphs (d) and (e) of subsection (1) of
 14 section 39.806, Florida Statutes, are amended to read:

15 39.806 Grounds for termination of parental rights.--

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

18 (d) When the parent of a child is incarcerated in a
 19 federal, state, or county ~~federal~~ correctional institution or
 20 facility and either:

21 1. The total period of the parent's incarceration is
 22 significant to the child, considering the child's age and the
 23 child's need for a permanent stable home. The court shall
 24 calculate the total period of incarceration beginning on the
 25 date the parent enters any federal, state, or county
 26 correctional institution or facility ~~The period of time for~~
 27 ~~which the parent is expected to be incarcerated will constitute~~

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28 ~~a substantial portion of the period of time before the child~~
29 ~~will attain the age of 18 years;~~

30 2. The incarcerated parent has been determined by a ~~the~~
31 court of competent jurisdiction to be a violent career criminal
32 as defined in s. 775.084, a habitual violent felony offender as
33 defined in s. 775.084, or a sexual predator as defined in s.
34 775.21; has been convicted of first degree or second degree
35 murder in violation of s. 782.04 or a sexual battery that
36 constitutes a capital, life, or first degree felony violation of
37 s. 794.011; or has been convicted of an offense in another
38 jurisdiction which is substantially similar to one of the
39 offenses listed in this paragraph. As used in this section, the
40 term "substantially similar offense" means any offense that is
41 substantially similar in elements and penalties to one of those
42 listed in this subparagraph, and that is in violation of a law
43 of any other jurisdiction, whether that of another state, the
44 District of Columbia, the United States or any possession or
45 territory thereof, or any foreign jurisdiction; or

46 3. The court determines by clear and convincing evidence
47 that continuing the parental relationship with the incarcerated
48 parent would be harmful to the child and, for this reason, that
49 termination of the parental rights of the incarcerated parent is
50 in the best interest of the child.

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

53 1. The child continues to be abused, neglected, or
54 abandoned by the parents. If 12 months pass from the ~~In this~~
55 ~~case, the failure of the parents to substantially comply for a~~

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56 ~~period of 12 months after an~~ adjudication of the child as a
57 dependent child or the child's placement into shelter care,
58 whichever ~~comes~~ came first, the court shall consider the
59 parent's failure to substantially comply with the case plan as
60 ~~constitutes~~ evidence of continuing abuse, neglect, or
61 abandonment unless the failure to substantially comply with the
62 case plan was due either to the lack of financial resources of
63 the parents or to the failure of the department to make
64 reasonable efforts to reunify the parent and child. ~~The 12 month~~
65 ~~period begins to run only after the child's placement into~~
66 ~~shelter care or the entry of a disposition order placing the~~
67 ~~custody of the child with the department or a person other than~~
68 ~~the parent and the approval by the court of a case plan with a~~
69 ~~goal of reunification with the parent, whichever came first; or~~
70 2. The parent has materially breached the case plan by
71 making it unlikely that he or she will be able to substantially
72 comply with the case plan before the time for compliance
73 expires. Time is of the essence for permanency of children in
74 the dependency system. In order to prove the parent has
75 materially breached the case plan, the court must find by clear
76 and convincing evidence that the parent is unlikely or unable to
77 substantially comply with the case plan before time expires to
78 comply with the case plan.

79 Section 2. This act shall take effect July 1, 2008.